

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
FEBRUARY 2, 2010**

CHAIRMAN DEAN SANDOVAL BROUGHT THE FEBRUARY 2, 2010 MEETING OF THE PLANNING COMMISSION TO ORDER AT 7:00 P.M.

**MEMBERS PRESENT**

Dean Sandoval, Chairman  
Tom Doxey  
Daryl Robinson  
Mike Schnobrich  
Keith McNew  
Herm Lateer  
Joe Caruso

**STAFF PRESENT**

Bill Giordano, Planning Director  
Brenda Jackson, Fremont County Attorney  
Don Moore, Fremont County Engineer  
Vicki Alley, Planning Assistant

**MEMBERS ABSENT**

NONE

**1. APPROVAL OF THE JANUARY 5, 2010 PLANNING COMMISSION MEETING MINUTES**

**2. REQUEST: SDP 09-002 ALL ABOUT STORAGE SITE DEVELOPMENT PLAN**

**The application was tabled at the January 5, 2010 Planning Commission meeting in order to allow applicant to address the south access from Werner Street to Colorado State Highway 115 and to provide an acceptable drainage plan.**

The original request was for approval of a **Site Development Plan, Department file #SDP 09-002 All About Storage Site Development Plan, to allow a one-hundred and thirty (130) unit mini storage facility**, by Eagle Peaks Investments LLC, for their property which is *located on the west side of Werner Road, south of 7<sup>th</sup> Street, on the west side of Colorado State Highway 115, in the Penrose Area.* The property contains two framed garages which will be removed when the 5<sup>th</sup> phase is developed. The property is zoned Business and contains 1.94 acres. (A Site Development Plan application is required due to the fact that the property is undeveloped and is zoned Business, which is one of the criteria that requires the approval of a site development plan.)

**REPRESENTATIVE:** *Cornerstone Land Surveying, Matt Koch.*

**3. OTHER ITEMS FOR DISCUSSION**

Discuss any items or concerns of the Planning Commission members.

**4. DISCUSSION OF PLANNING COMMISSION 2010 CALENDAR**

Reconsider approval of Planning Commission meeting date calendar as attendance of members at the Planning Commission meetings in July and September may be affected by the Independence Day and Labor Day holidays.

**5. EXECUTIVE SESSION**

Executive Session for consultation with County Attorney to receive legal advice on conduct of meetings. §24-6-402(4)(b), C.R.S. (Executive Session will be held only upon approval of two-thirds of Planning Commission quorum present).

## 6. ADJOURNMENT

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Chairman Dean Sandoval called the meeting to order at 7:00 pm and the Pledge of Allegiance was recited.

### 1. APPROVAL OF THE JANUARY 5, 2010 PLANNING COMMISSION MEETING MINUTES

Chairman Sandoval asked if there were any changes, additions or corrections to the January 5, 2010 Fremont County Planning Commission Meeting Minutes. Hearing none he said the minutes stand approved as written.

### 2. REQUEST: SDP 09-002 ALL ABOUT STORAGE SITE DEVELOPMENT PLAN

The original request was for approval of a Site Development Plan, Department file #SDP 09-002 All About Storage Site Development Plan, to allow a one-hundred and thirty (130) unit mini storage facility, by Eagle Peaks Investments LLC, for their property which is located on the west side of Werner Road, south of 7<sup>th</sup> Street, on the west side of Colorado State Highway 115, in the Penrose Area. The application was tabled at the January 5, 2010 Planning Commission meeting in order to allow applicant to address the south access from Werner Street to Colorado State Highway 115 and to provide an acceptable drainage plan.

Mr. Giordano stated that the Department received a letter from Mr. Matt Koch, Cornerstone Land Surveying, who represents the applicant. The letter states “We would like to request that the proposal for the All About Storage mini-storage project be postponed until the March Planning Commission meeting. We are working through the engineering.”

Chairman Sandoval said since there is nothing to approve, we will move on to the next item on the agenda.

### 3. OTHER ITEMS FOR DISCUSSION

Chairman Sandoval called for any other items for discussion.

Mr. Giordano stated that the approval criteria handout for Special Review Use (SRU) Permits has been updated. (*Mr. Giordano distributed copies of the new approval criteria list.*) This is the same application criteria list we had before, but now it has a place for check marks and comments if desired. At the last meeting, the question arose whether the Planning Commission has the authority to require buffering, screening, or painting of a tower. This application criteria handout has a list of additional factors to be considered for granting a SRU for towers and antennas. These factors are: height of the tower, proximity of the tower to residential structures, surrounding topography, surrounding tree coverage and foliage, and design of tower, with particular reference to characteristics that have the effect of reducing or eliminating visual obtrusiveness. Mr. Giordano noted that these factors are contained in the Fremont County Zoning Resolution (FCZR), but they do not show up as a question in the SRU application form because they are additional factors to be considered during the review and not a question for the applicant to answer. All of the approval criteria in the first part of the handout (*Section A*) must be met in order to issue a SRU or a Conditional Use Permit. The second part of the handout (*Section B*) is optional. The Additional Factors for Towers and Antennas (*Section C*) is also optional. If there is nothing in the Department Review addressing these items, then you may want to recommend another condition or contingency to handle your concerns. The “Other off-

site impacts” consideration is pretty broad, so it does give you quite a bit of authority to put other conditions on SRU and Conditional Use Permits.

Mr. Giordano stated that a copy of the appropriate checklist will be included on the front of the application packets when they are sent to the Planning Commission, to use as a guide as you review the packet. The application has to meet the criteria.

Mr. Giordano raised another, unrelated issue. The information packages for applications are pretty thick, and most of the information is probably not pertinent to the Planning Commission review. Rather than having such large packets mailed to them, Mr. Giordano asked if the Planning Commission members would prefer that the Department sort through the information to determine what we feel is pertinent to their review. Obviously you will get the Department Review, you will always get the application, and you will always get the maps. If there are no issues with drainage or fire protection, these items probably wouldn’t be included. If there is a Fire Protection Plan, you will get that, because we don’t necessarily have someone approving that. If the Fire Department makes recommendations, would you want to see that? I don’t think you will want to override the Fire Department requests, but at least you would be aware of them. Regarding the traffic and drainage plans, as long as the County Engineer is satisfied, you will be provided with the map that shows the drainage plan, but you won’t get the report with all the calculations. Is that okay, or do you want the calculations? I think you will want to see the drawings that show the detention ponds, ditches, anything like that. I will include anything I think is pertinent, especially if there is a condition that addresses it. I will try to take everything else out, so it will require less time for you to sort through the information. The application form addresses the requirements in the regulations. You can go back to the Department Review to see how it fits. Maybe that will help you make a determination of what you want to approve and disapprove. We will try that, and if you don’t like it, then next meeting you can tell me what you want.

Mr. Schnobrich said he thinks that is a real good idea, because sometimes we get deeds, etc. (*that aren’t pertinent to the review*). That information should be available at the meeting in case we do have to refer to it.

Mr. Giordano said he could bring an extra copy (*of the application packet*) or the file copy is always available. With the file copy, it is a little harder to pull documents out because of the way the file is assembled, but information could be verified. If I bring an extra copy, we could pass it around.

Mr. Schnobrich asked if there is any way the Planning Commissioners could get a copy (*of an application package*) electronically. I would prefer that, it would make it so much easier.

Mr. Giordano responded that the problem is that until we change our regulations and require an electronic copy from the applicant, the Department would have to scan the entire application package and send it to you. That gets difficult, especially with the drawings. You see the magnitude of an application - they are thick. If we have to scan four or five applications, I don’t know if we could get them to you in time. Right now we require the applicant to give us the paper copies. The reason the copies contain everything is the applicant doesn’t want to pick and choose, so they copy the whole application package. The Department will take that chore on and we will pull out what we don’t think you need, so you will get a smaller package for review. If you miss something and want it, tell me and we will get it to you. I will bring a copy of the complete package to the meeting in case you need it.

Chairman Sandoval asked Mr. McNew, as a Planning Commission member and a former County Commissioner, how he feels about Mr. Giordano's proposal to streamline the application packets.

Mr. McNew said that first he would like to announce that this will be his last Planning Commission meeting. He has spent 35 years as a public servant in one capacity or another: school board, volunteer ambulance, etc. and it is time to quit. As to your question, I think that if the packet could come out that the applicant meets all of the criteria and the County Engineer signs off on it, and Mr. Giordano signs off on it, I don't know why we would want to go through a whole lot of that stuff. As far as getting into what is on the sheet here (*the Application Criteria*), does it meet the zoning requirements, etc., that might be for us to discuss. As far as getting into what the engineer does, we have a really good engineer and if it passes his review, he knows a lot more than I do about it, so I think a lot of this stuff is fluff. I read a little bit through it if I have time before the meeting, but as far as meeting the criteria, if the engineer passes it and Mr. Giordano passes it, the only thing we need to discuss is whether the property is in the right zone district and whether the application meets the Approval Criteria.

Chairman Sandoval called for any other comments on Mr. Giordano's proposal.

Mr. Caruso said he thinks it is a great idea. They are the experts, we're not.

Chairman Sandoval said it sounds like we are going to be okay with it.

Mr. Schnobrich said we have one responsibility as a Planning Commission, and that is to make sure that all those things have been done. We are not going to get into an argument with the County Engineer about whether something should be X to the third power or X to the second power, but at the same time I think we should be looking at - Has it been done? Has the fire plan been completed? Does it look reasonable and that sort of thing. That is a checklist. It is not just the controversial things that we should be concerned with. We should be concerned that the process is being followed. Our role, as the Planning Commission, is that we are Quality Control - a citizen group that is appointed by the Commissioners to make sure that the process is moving straight forward, to protect the staff from controversial stuff, to make sure that the "T"s are being crossed and "I"s dotted. I agree with what you say, but at the same time I think we should be looking at the fluff stuff, just not dwelling on it.

Mr. Doxey asked how this proposal would have worked out when the mini-warehouses came before us, with the shortcomings they already had with engineering, drainage, etc. If the Department screened it, Mr. Moore screened it, and it came to us as you are describing it now (*a streamlined package*) would we have had enough information to table the item?

Mr. Giordano answered you will have Mr. Moore's recommendation. In that particular instance, he got specific that there were calculations missing at first, the report didn't match the plan they had provided on the map. Obviously, those things are pretty major. I don't think you care about the calculations. In that particular instance I probably would have included the drainage plan because it is a problem. If the applicant is going to have an opportunity to argue, you should have something in front of you so you can see what his argument is. In situations like that, I will put the information in the packet. If there is something that supports a recommendation in the Department Review, I will be sure that is in there so you can make a reasonable decision. If I don't do that, then you are just trusting me.

Mr. Doxey asked Mr. Moore if he goes along with the proposal.

Mr. Moore answered as long as someone reads the comment letters. For instance, the mini-storage that you are talking about, at no point did I say this is great. I still said they had problems, and it could have been a contingency item. That was my recommendation, so they could move forward. It seemed to be a minor issue, but the two reports had to match. As it is, the applicant is completely changing the site at this point, but please read the reports.

Mr. Giordano said Mr. Moore's review will always be part of the package. Any outside review will be included.

Chairman Sandoval called for any other items for discussion. There were none.

#### **4. DISCUSSION OF PLANNING COMMISSION 2010 CALENDAR**

Ms. Alley stated that in years past, when Mr. Piltingsrud and Mr. Jackson were on the Planning Commission, if there was a Monday holiday before a scheduled Planning Commission meeting, their Council meetings (*Florence and Cañon City*) were postponed to Tuesday, and Mr. Piltingsrud and Mr. Jackson couldn't make the Planning Commission meetings, so it was sometimes very difficult to get a quorum. In that case we changed the Planning Commission meeting to the following Wednesday instead of Tuesday. We didn't do that in the 2010 calendar because Mr. Piltingsrud and Mr. Jackson left the Planning Commission, but it turns out that the people who replaced them, Mr. Robinson and Mr. Caruso, have the same conflict. There are only two meeting dates that have this problem: July 6, 2010 (*Independence Day celebrated on Monday July 5*) and September 7, 2010 (*Labor Day celebrated on Monday September 6*). We propose changing those meeting dates to the following Wednesdays (*July 7 and September 8*).

Mr. Giordano stated that the Planning Commission just approved the meeting dates at the January 5, 2010 meeting.

Mr. Robinson noted that the Workshop scheduled for Tuesday February 16 has the same conflict for Mr. Caruso.

Ms. Alley said that Tuesday February 16 is the only scheduled Workshop date with that conflict.

Mr. Robinson said that February 16 will not be a conflict for him since the City is not closed for Presidents Day.

Mr. Caruso stated that in two weeks, he will have another regular city council meeting to attend because of Presidents Day, so he will not be able to attend that Workshop. He does not think there are any other conflicts right now.

Mr. Giordano said that if we find out about other conflicts in enough time to post a different date on the web page, we can work around them. We need to make sure the public is aware of when the meetings are.

Chairman Sandoval summarized: the Planning Commission dates that are changing are July 6 to July 7 and September 7 to September 8. The only conflict we have is Mr. Caruso for the workshop in two weeks. Mr. Robinson is not affected by that date.

#### **MOTION**

Mr. Doxey moved to amend the 2010 Planning Commission calendar to change the meeting dates at issue from July 6 to July 7 and from September 7 to September 8.

**SECOND**

Mr. McNew seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously.

*(Note – the amendment to the 2010 Planning Commission calendar does not affect the Workshop scheduled for Tuesday February 16. It is too late to change that date.)*

**MOTION**

Chairman Sandoval stated that the next item on the agenda involves an Executive Session, so I am going to make a motion. I move to go into Executive Session for a conference with the County Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b). The topics on which legal advice will be requested are the appropriate conduct of meetings, legal implications involving the Master Plan and the Master Plan update process, legal responsibilities of a Planning Commissioner, and general Board member responsibilities. I further move and request that the Planning Department Staff be included in the Executive Session and the County Engineer, if he elects to participate.

**SECOND**

Mr. Robinson seconded the motion.

Chairman Sandoval called for a roll call vote and the vote was as follows:

Mr. Caruso	Nay	<input type="checkbox"/> Aye
Mr. Lateer	Nay	<input type="checkbox"/> Aye
Mr. Schnobrich	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Chairman Sandoval	Nay	<input type="checkbox"/> Aye
Mr. Robinson	Nay	<input type="checkbox"/> Aye
Mr. McNew	Nay	<input type="checkbox"/> Aye
Mr. Doxey	Nay	<input type="checkbox"/> Aye

The motion passed with a vote of 6 to 1.

Chairman Sandoval requested that the room be cleared except for the Planning Commission, Staff, County Engineer, and County Attorney. For all intents and purposes, gentlemen as you leave, the public hearing is over. We are going to adjourn immediately after this.

*All members of the public and Mr. McNew left the meeting at this time.*

Chairman Sandoval stated it is February 2, 2010 and the time is 7:30 pm. For the record, I am Dean Sandoval, Chairman of the Fremont County Planning Commission. As required by the Open Meetings Law, this executive session shall be recorded unless the Fremont County Attorney deems the communications to be privileged under the attorney-client privilege.

Also present at this executive session are the following persons:

Joe Caruso  
Herm Lateer  
Mike Schnobrich

Daryl Robinson  
Tom Doxey  
Bill Giordano  
Brenda Jackson  
Vicki Alley  
Don Moore

This is an executive session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b). The topics on which legal advice will be requested are the conduct of meetings, legal implications involving the Master Plan and the Master Plan update process, legal responsibilities of a Planning Commissioner, and general Board member responsibilities.

I caution each participant to confine all discussion to the stated purpose of the executive session, and that no formal action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.

Ms. Jackson stated as County Attorney, it is my opinion that this discussion is protected by the attorney-client communication privilege, and therefore I am recommending that no further record be kept of this executive session. The time is 7:31 pm. Would someone please turn off the tape recorder.

*The Executive Session occurred at this time.*

I am Dean Sandoval, Chairman of the Fremont County Planning Commission and do hereby attest that this recording reflects the actual contents of the discussion at the executive, except for portions that are protected by the attorney-client privilege. The tape has been made in lieu of any written minutes to satisfy the recording requirements of the Open Meetings Law.

The time is now 9:19 pm and we now conclude the executive session and return to the open meeting.

**3. ADJOURNMENT**

With no other items for discussion, Chairman Sandoval adjourned the meeting at 9:19 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE