

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
JUNE 2, 2015**

**MEMBERS PRESENT**

Byron Alsup, Chairman  
Larry Baker, Vice Chairman  
Larry Brown  
Michael Pullen  
Gardner Fey  
Dennis Wied

**STAFF PRESENT**

Matt Koch, Planning Director  
  
Samantha Kozacek, Planning Assistant

**MEMBERS ABSENT**

Tina Heffner

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF MINUTES**

- a. April 7, 2015 Planning Commission Meeting

**5. UNFINISHED BUSINESS**

NONE

**6. NEW BUSINESS**

**REQUEST: CUP 15-002 B&B SEPTAGE**

Request approval of a Conditional Use Permit, Department file #CUP 15-002 B & B Septage Treatment (Renewal of CUPs 05-001,95-5 & 93-13), by Byrd's Sewer Rooter & Septic Service LLC, for property owned by Vaughn R. Byrd.

This application is to renew and replace the existing Conditional Use Permit (CUP 05-001, which was a renewal of CUP 95-5, which was an amendment to CUP 93-13), and was approved for a ten (10) year term.

The site is located 1.5 miles east of the intersection of U.S. Highway 50 and Colorado State Highway 67, ½ mile north of U.S. Highway 50.

***REPRESENTATIVE: Angela Bellantoni Ph.D., Environmental Alternatives, Inc.***

**7. ADJOURNMENT**

**8. MASTER PLAN WORKSHOP**

Continue with review of the Master Plan *(if time allows)*

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**1. CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 3:07 pm.

2. **PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

3. **APPROVAL OF AGENDA**

Chairman Alsup asked if there were any changes, additions or corrections to the June 2, 2015 Fremont County Planning Commission Meeting Agenda.

**MOTION**

Mr. Larry Baker moved to accept the June 2, 2015 Fremont County Planning Commission Meeting agenda as presented.

**SECOND**

Mr. Larry Brown seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

4. **APPROVAL OF THE APRIL 7, 2015 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the April 7, 2015 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Baker moved to accept the April 7, 2015 Fremont County Planning Commission Meeting Minutes as written.

**SECOND**

Mr. Gardener Fey seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

5. **UNFINISHED BUSINESS**

The Planning Commission had no unfinished business.

6. **NEW BUSINESS**

7. **REQUEST: CUP 15-002 B&B SEPTAGE**

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This application is to renew and replace the existing Conditional Use Permit (CUP 05-001, which was a renewal of CUP 95-5, which was an amendment to CUP 93-13), and was approved for a ten (10) year term.

The site is located 1.5 miles east of the intersection of U.S. Highway 50 and Colorado State Highway 67, ½ mile north of U.S. Highway 50.

Dr. Angela Bellantoni introduced the applicants, Mr. Rick and Mrs. Wanda Byrd. This operation is a land application site for the recycling of treated domestic sewage. This is a renewal application. This application was first approved in 1993. It was renewed in 1995 and in 2005 and again here in 2015. There are no changes of the process. There are no changes to the anticipated volumes. No changes to anticipated truck traffic. Regarding existing permits in the packets provided for you, you will see the updated the State Land Board Access it is now good through 2025. The current conditions in the CUP (Conditional

Use Permit) requires annual soil sampling and testing. Mrs. Byrd makes sure this is done every year and a copy goes to Mr. Sid Darden every year for review. Mrs. Byrd always provides all the paperwork that is required. The original Access Permit approval was dated July 27, 1993. There is a current one from May 21, 2015 from Mr. Andrews. What this states is fairly close to the same wording used in the original permit issued. There are only items we would like to discuss. Item A. Mr. Byrd respectfully requests that this becomes a Life of Use Permit instead of a 10 (ten) year renewal. Item M. has been taken care of with a letter from the Weed Management stating there aren't any noxious weeds on the property. Box 28Q should be marked Yes instead of No. Mr. Don Moore questioned the recorded easements with this property. I was able to find 3 (three) and I gave them to Mr. Koch. This is ongoing business and has been for 22 (twenty two) years. I called CDPHE to ask if anything had changed regarding the treatment of domestic septage, he said absolutely nothing, just keep doing what local jurisdiction says to do.

Mr. Matt Koch gives his presentation on the applicant's property. This is an update to the original application. The terms of the Conditional Use Permit shall be for 10 (ten) years the applicant has requested that the CUP be a Life of Use permit. I reviewed the original minutes from the other two meetings and there was no definition why it was specified for 10 (ten) years. As Mrs. Bellantoni stated the applicants have been doing yearly reviews and there haven't been any complaints. As for Conditions B-K those are standard conditions. Condition L states that upon receipt of a written complaint concerning odor from the application of the septage to the land, the Environmental Officer will determine if it is a valid complaint. The Environmental Health Officer will report it to the Board of County Commissioners at their next regularly scheduled meeting, so the Board of Commissioners. Conditions M-P are standard conditions. Condition Q is related to the easements. The easement documents that were provided have a gap in them that doesn't run all the way to the property. We looked back in the original applications and it must have been caught at that point. Condition Q states that if it is found by judicial action or it is determined by any other proper authority that the easement for access into the subject property is not valid then termination of the Conditional Use Permit will result. This has been there for at least 40 years, so they have right to use. The recommended contingencies come from Mr. Moore as well.

Mr. Byron Alsup asked if there were any questions for Mr. Koch or for Dr. Bellantoni.

Mr. Dennis Wied asked if the property was basically a giant leech field. I was curious because Mr. Koch had reference to tanks.

Dr. Bellantoni stated that the septage is treated in tanks and then it is held at that pH for 2 (two) hours, and then at that time it is applied to the ground.

Mr. Gardener Fey asked was it being knifed into the ground or if it was being spread over the ground.

Dr. Bellantoni stated that it was going to be spread over the ground.

Mr. Fey then stated that most operations like this knife the septage into the ground.

Dr. Bellantoni stated that this was being used to fertilize the vegetation.

Mr. Fey asked if the pH of 12 was good for environment.

Dr. Bellantoni stated that as long as they have nitrogen fixing plants down there it will keep the environment healthy. The soil constituents is what Mr. Darden is checking and monitoring.

Mr. Alsup stated that Mr. Darden had concern because there seemed to be another business of removing grease from restaurants. He wanted to be sure that the grease was not being disposed of on this property.

Dr. Bellantoni stated that this site is only being used for the disposal of domestic septage. Mr. Byrd is aware of the restrictions of disposing of other materials.

Mr. Alsup stated that it was noted in the application that the other septage treatment facility did not have to have a CUP, however, Mr. Koch stated that they in fact do have a CUP but theirs is for Life of Use.

Mr. Alsup asked if the water monitoring for pollution has always been good, because he had not seen the results.

Dr. Bellantoni stated there isn't, because that would be a ground water well. What they are looking at is the soil constituents. The soil is within the appropriate range for plant life and treatment of septage.

Mr. Fey asked what the soil was on this property.

Dr. Bellantoni stated that the soil was sandy loam.

Mr. Alsup asked if they used access both way on the property.

Dr. Bellantoni stated that it doesn't meet.

### **MOTION**

Mr. Wied moved to recommend approval of CUP 15-002 B&B Septage subject to the following:

### **RECOMMENDED CONDITIONS:**

- A. The term of the Conditional Use Permit shall be for ten (10) years. The applicant has requested the permit be issued for life of use. **The applicant's justification for life of the use is "Because the other domestic septage service business in Fremont County has not been required to apply for a CUP while Mr. Byrd was required to apply in 1993 and has submitted three (3) renewals. Granting life of use will establish the spirit of fair and equitable application of regulations."**
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other

permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and/or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- C. The Applicant/owner shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant/Owner shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicant/Owner shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Conditional Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Conditional Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation will be limited to Sunrise to Sunset, Monday through Friday for land application of treated septage. Sunrise to Sunset, Sunday through Saturday for transfer of domestic septage to tanks.
- I. No materials may be stored on the property which are not associated with the approved use.

- J. If it is found by judicial action or it is determined by any other proper authority that the easement for access into the subject property is not valid then termination of the Conditional Use Permit will result.
- K. Access shall be limited to U.S. Highway 50.
- L. Upon receipt of a written complaint concerning odor from the application of the septage to the land, the Environmental Officer will determine if it is a valid complaint. The Environmental Health Officer will report it to the Board of County Commissioners at their next regularly scheduled meeting, so the Board of County Commissioners can determine if action should be taken on the Conditional Use Permit.
- M. Prior to and upon any updates or modifications to the operation the Applicant/Owner shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan.
- N. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- O. Only the named party on the permit shall be allowed to operate this Conditional Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Conditional Use Permit must agree to abide by all terms and conditions of this Conditional Use Permit and shall be required to be named on this Conditional Use Permit as additional parties who are bound by the terms and conditions of this Conditional Use Permit.
- P. A Conditional Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (*complete reapplication.*)
- Q. If it is found by judicial action or it is determined by any other proper authority that the easement for access into the subject property is not valid then termination of the Conditional Use Permit will result.

**RECOMMENDED CONTINGENCIES:**

It is recommended that this item be referred to the Board of County Commissioners for scheduling of a public hearing provided the following contingencies are provided within six (6) months after final approval by the Board of County Commissioners:

1. Compliance with the requirements of the County Reviewing Engineer as per his letter dated May 6, 2015.
2. Documentation as to compliance with any requirements of the Colorado Department of Transportation.

**WAIVER REQUESTS:** The applicant is requesting a waiver of the following:

- 5.2.6 BUFFERING & LANDSCAPING REQUIREMENTS:** The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board. Where, in these regulations, any such screening or buffering strip is required to be provided and maintained, such buffering strip shall consist of a row of trees or continuous un-pierced hedge row of evergreens or shrubs of such species as will produce within three (3) years a screen height of at least six (6) feet and shall be of the following minimum sizes at time of installation:

Deciduous shrubs	4' height
Spreading evergreens	30" spread
Tall evergreens	3' height
Screen planting ( <i>evergreen</i> )	4' height
Trees	2 and ½" caliper
Ground cover	2 and ½" pot

The entire buffer strip shall be immediately adjacent to the lot line or portion thereof, with consideration given to utility or drainage easements. The remainder of the strip shall be used for no other purpose than the planting of shrubs, flower beds, grass, or a combination thereof. The buffer strip shall be at least eight (8) feet in width and shall be graded and planted with grass seed or sod and such other shrubbery or trees. The entire area shall be attractively maintained and kept clean of all debris and rubbish.

In required buffer strips where a natural buffer strip is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer provided its specifications are approved by the Board.

**The applicant's justification for the waiver request of the buffering and landscaping is that the proposed site is remote, not warranting landscaping.**

- 5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

**The applicant's justification for the waiver request of the hard surfacing of the parking area is that the operation does not require vehicle parking or loading. Vehicles are on site to transfer septage to tanks and land.**

- 5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.

**The applicant's justification for the waiver request of the lighting of the parking area is that the site will operate only during daylight hours.**

