

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
JULY 6, 2011 (WEDNESDAY)**

CHAIRMAN DEAN SANDOVAL BROUGHT THE JULY 6, 2011 MEETING OF THE PLANNING COMMISSION TO ORDER AT 4:00 P.M.

MEMBERS PRESENT

Steve Smith
Byron Alsup, Secretary
Dean Sandoval, Chairman
Mike Krauth, Jr.
Larry Baker

STAFF PRESENT

Bill Giordano, Planning Director
Vicki Alley, Planning Assistant

MEMBERS ABSENT

Daryl Robinson, Vice Chairman (*notice of absence was provided to the Chairman*)
Joe Lamanna (*notice of absence was provided to the Chairman*)

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. APPROVAL OF THE JUNE 7, 2011 PLANNING COMMISSION MEETING MINUTES

5. REQUEST: SRU 11-002 ROCKY MOUNTAIN GSP RESCUE KENNEL

Request approval of a **Special Review Use Permit, Department file #SRU 11-002 Rocky Mountain GSP Rescue Kennel**, by Kristen A. & Michael J. Schnobrich, to allow for a dog rescue kennel, which will house up to a total of twenty-five (25) dogs (German shorthair pointers), for the purpose of boarding until adopted. The property contains a single-family dwelling, a storage building (*that will be used to house the dogs at night, if necessary and during inclement weather*) a shed, a stall (*used for three (3) horses*) and three (3) enclosed kennels and two (2) fenced dog yards, one only being used for dogs that are recuperating from illness or injury. The property is located *on the north side of 4th Street, approximately 285 feet west of G Street (677 4th Street), in the Penrose Area.* The property is zoned Agricultural Rural and contains 0.5 acres.

REPRESENTATIVE: *Kris Schnobrich*

6. REQUEST: MS 11-001 PORCH SONG MINOR SUBDIVISION

Request approval of a **two (2) lot minor subdivision, Department file #MS 11-001 Porch Song Minor Subdivision**, by Erik A. and Jennifer L. Lang, for their property *which is located on the south side of U.S. Highway 50 approximately 800 feet west of Swissvale Road (3244 East U.S. Highway 50), in the Swissvale Area.* Proposed lot 1 will consist of 6.18 acres a single-family dwelling and two garages. Proposed lot 2 will consist of 4.58 acres and it is vacant. Both properties will be serviced from an existing driveway access from US Highway 50. A twenty (20) foot wide access and utility easement will be provided, by plat, for access to Proposed Lot #2. The property is currently zoned Agricultural Suburban with a total acreage of 10.76 acres. The property is currently being used for residential and agricultural purposes.

REPRESENTATIVE: Sydney A. Schieren, PLS, Landmark Surveying & Mapping

7. DISCUSSION ITEMS

Discussion of any items or concerns of the Planning Commission members.

8. ADJOURNMENT

9. PLANNING COMMISSION WORKSHOP

General Master Plan discussions.

1. CALL TO ORDER

Chairman Sandoval called the meeting to order at 4:00 pm.

2. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

Chairman Sandoval asked if there were any changes, additions or corrections to the agenda.

MOTION

Mr. Baker made a motion to accept the July 6, 2011 Fremont County Planning Commission Meeting agenda as written.

SECOND

Mr. Alsup seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (5 of 5)

4. APPROVAL OF THE JUNE 7, 2011 PLANNING COMMISSION MEETING MINUTES

Chairman Sandoval asked if there were any changes, additions or corrections to the June 7, 2011 Fremont County Planning Commission Meeting Minutes.

MOTION

Mr. Alsup moved to accept the June 7, 2011 Fremont County Planning Commission Meeting Minutes as written.

SECOND

Mr. Smith seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (5 of 5)

5. REQUEST: SRU 11-002 ROCKY MOUNTAIN GSP RESCUE KENNEL

Ms. Kristen Schnobrich was present to request approval of a Special Review Use Permit (SRU), Department file #SRU 11-002 Rocky Mountain GSP Rescue Kennel, by Kristen A. & Michael J. Schnobrich, to allow for a dog rescue kennel, which will house up to a total of twenty-five (25) dogs (German shorthair pointers), for the purpose of boarding until adopted. The property contains a single-family dwelling, a storage building (that will be used to house the dogs at night, if necessary and during inclement weather) a shed, a stall (used for three (3) horses) and three (3) enclosed kennels and two (2) fenced dog yards, one only being used for dogs that are recuperating from illness or injury. The property is located on the north side

of 4th Street, approximately 285 feet west of G Street (677 4th Street), in the Penrose Area. The property is zoned Agricultural Rural and contains 0.5 acres.

Ms. Schnobrich stated that she is applying for a kennel license to do a German shorthair pointer (GSP) rescue. In the course of a year I place approximately one-hundred dogs, all pure-bred German shorthair pointers. I house, rehab and find homes for these dogs and I need a kennel license.

Mr. Giordano showed a video of the proposed site, giving a general idea of the site location and neighboring areas. He briefly discussed the conditions, contingencies, waivers and additional notifications as per the Department Review. He specifically noted recommended condition C which states that each year, at the anniversary date, the Applicant shall pay a Kennel License Renewal Fee which includes an inspection of the kennel facilities. This condition is different from conditions for other types of SRUs. He also noted that the days of operation for this use are not limited, and noted that condition J requires that the Applicant house the dogs inside at night.

Mr. Giordano discussed the recommended contingencies, additional notifications and waiver requests.

He also noted that when Code Enforcement inspected the site, they noticed that there were three horses on the property, which is more animal units than are allowed in the zone district. If the horses were placed on the property prior to 1995, it would be considered a non-conforming use. If Ms. Schnobrich can provide that documentation, then there will not be a problem. This issue is still up in the air. Any code violation will have to be cleaned up prior to recording the SRU.

Mr. Baker asked the applicant if she is requesting up to twenty-five dogs, and do the dogs ever bark.

Ms. Schnobrich answered that twenty-five dogs is correct, and yes, they bark.

Mr. Baker asked if there have been any problems with the neighbors because of the barking dogs.

Ms. Schnobrich answered that she has had no problems with the neighbors.

Mr. Giordano added that the GSP rescue has been in operation for more than two years, and Code Enforcement was not aware of it as no complaints were received until recently. The complaint given to Code Enforcement by the Sheriffs Office. It should be noted that the applicant has offered to keep the dogs in at night and it is a condition of the permit. The approval of the SRU will bring the property uses into compliance with the regulations.

Mr. Baker asked if Ms. Schnobrich isolates injured dogs.

Ms. Schnobrich answered yes, a free-standing kennel is set aside for puppies or for dogs that have been injured or that are recovering from surgery.

Mr. Baker asked if females in season are isolated.

Ms. Schnobrich answered yes.

Mr. Baker stated that a large number of dogs can be a twenty-four / seven operation. Do you have assistants to help you?

Ms. Schnobrich answered that she has no assistants.

Mr. Baker asked if there is proper shade on these hot days.

Ms. Schnobrich answered that all the dogs have shade.

Mr. Giordano added that all the kennels have covers over them and most of the dogs were inside the building at the time of his visit.

Mr. Baker asked what is the maximum number of dogs that you have housed.

Ms. Schnobrich responded probably forty at one time, including puppies – three litters of puppies at one time.

Mr. Giordano added that puppies do not count against the number of twenty-five. When puppies are six months old they become adults, and if Ms. Schnobrich exceeds twenty-five dogs at any time, then she will be in violation of the permit. If she does not comply the potential violation will be placed on the agenda of the Board who has the option to change or add conditions which would attain compliance or compatibility, they can suspend the permit or they could terminate the permit.

Mr. Baker asked if Ms. Schnobrich wants to take a few days off, is there someone who can step in to look after things.

Ms. Schnobrich answered that she could probably ask her daughter, but in the number of years that she has done this, she hasn't taken time off.

Mr. Baker asked if a dog is injured, do you work with a veterinarian.

Ms. Schnobrich answered that she generally goes to Fremont Veterinary.

Mr. Smith stated that the video didn't show how dense the population is around the property. There are neighbors within thirty feet on the west side and neighbors behind. There are many houses right around the site. He asked Ms Schnobrich if she has had any complaints about the dogs barking.

Ms. Schnobrich stated that she has only had one complaint in all the time she has done this. That particular dog was a mixed breed, not a GSP, and he was moved to another shelter the next day after the incident.

Mr. Smith said his issue is the number of dogs she is asking to house on the property. I can't imagine myself living next to a house that has twenty-five dogs, as close as your neighbors are.

Ms. Schnobrich noted that she has informed all the closest neighbors that if they have a problem with my dogs, if they are barking, or you have an event planned and you don't want anyone to see the dogs, here's my cell phone number, give me a call and I will put them away.

Mr. Smith said he drove by the site and it looked like the neighborhood was very crowded. If this application goes before the Board, will the site be posted so the neighbors can give input?

Mr. Giordano answered that there will be a public hearing before the Board and signs will be posted on the property, neighbors within five-hundred feet will be by certified mail, and a public notice will be published in the newspaper.

Mr. Giordano noted that the only notice that goes out to the public at this point in the process (*the Planning Commission meeting*) is an agenda announced on the radio and posted on the internet. Prior to the Board meeting certified notifications go out to property owners within 500 foot of the property. In the past, the same notices happened prior to the Planning Commission meeting, however past Boards eliminated that process. At one time, there were two public hearings (*Planning Commission and BOCC*) and the Commissioners received a lot of complaints from the applicants. So the Commissioners elected not to do public notices for the Planning Commission meeting, so that the applicant would not have to go to the expense of two public hearings

Mr. Baker asked if the neighbors have been notified of this meeting.

Mr. Giordano answered no, they will be notified prior to the public hearing held by the Board.

Mr. Baker noted that there are three horses on the property, which is only half an acre, with structures. What is the limit on the number of horses and dogs?

Mr. Giordano answered the limit in the regulations is one animal unit per 15,000 square feet. There are no animal units for dogs. The term "animal unit" refers to horses, sheep, cows, pigs, chickens, rabbits, etc. A kennel license is required when you have five or more dogs. That is why this application is required. If the applicant had only four dogs, she wouldn't need a kennel license or a SRU. The only reason that the horses are mentioned is that the number of horses on this property could be a code violation. Under our regulations, when anyone submits an application, we make sure that the property is brought into compliance prior to issuance of the permit. This is a tool to force compliance without legal recourse. In this situation, the applicant will not get the kennel permit until she complies with regulations.

Mr. Smith asked the applicant if the facility is considered a rescue or a kennel.

Ms. Schnobrich answered that the facility is a rescue.

Mr. Smith stated that he called the Department of Agriculture and asked the difference between a rescue and a kennel, and anything over fifteen dogs is considered a kennel, not a rescue.

Mr. Giordano noted that the County does not address the terminology. If there are 5 or more dogs it is considered a kennel, which requires the issuance of a Special Review Use Permit. A license from the Department of Agriculture will also be required. The State regulations are much more stringent than the County regulations in terms of how the dogs are housed, etc. If Ms. Schnobrich complies with the State regulations, then she more than likely will comply with the County regulations. This however does not address the issue of twenty-five dogs being too many.

Mr. Smith pointed out that there is a cul-de-sac to the back of the property and there is a house there too. He told the applicant that he admires her for what she is doing, but the problem is there are way too many dogs for that area.

Chairman Sandoval asked whether the County or the Department of Agriculture is responsible for inspecting for numbers of dogs.

Mr. Giordano answered probably both, but I can't speak for the State. The number of dogs is tough to monitor as we can not be on site all of the time however if we receive a complaint that there are more than twenty-five dogs, then Code Enforcement would go out and count them.

Chairman Sandoval noted that the Planning Commission is not concerned with enforcement. We are concerned with land use, because there are five or more dogs at this property.

Mr. Giordano stated that the County Environmental Health Officer does kennel inspections. There are County Kennel Regulations which must be met. The State regulations are very much more restrictive than ours. If Ms. Schnobrich meets State regulations, she easily complies with ours. One of the conditions of the permit says she must be in compliance with all state and federal laws. If we get notification from the Department of Agriculture that she is in noncompliance, then she would be in noncompliance with our regulations as well.

Chairman Sandoval asked the applicant if the one complaint that was made against the facility was for barking.

Ms. Schnobrich responded that a dog got out of a pen and attacked a horse. I wasn't home at the time, so the neighbors called the sheriff.

Mr. Giordano said the incident went through the Sheriff's Office and they notified the Code Office.

Mr. Krauth asked if the applicant owns the property.

Ms. Schnobrich answered yes.

Mr. Krauth asked if her neighbors are aware that she is doing this activity.

Ms. Schnobrich answered that she thinks her neighbors are aware.

Mr. Krauth stated that the Planning Commission has done some other reviews where there has been concern about enforcement or restrictions, and the County is protected because the SRU comes up for an annual review. If there are complaints from the neighbors or noncompliance, those will be grounds to put further sanctions on the permit holder or even withdraw the SRU.

Mr. Giordano noted that the Department does not wait for one year to elapse if a complaint is received. If we get a complaint the first day of issuance of the permit, we will investigate it at that time. At the end of the year, if there are any documents that need to be updated, we review the file. If there are continuous complaints, even if the owner comes into compliance each time, we would look at that too. We haven't really had that problem. The complaints we have received are usually a one-time thing, and the owners come into compliance. Most

of the time, the owners don't realize they were in noncompliance. We usually don't have continuing problems.

Mr. Krauth commented that it looks like the applicant is trying to do something nice and do it the right way by going through this process. Twenty-five is a lot of dogs for a high density area, but the track record is two or three years with one problem that has been resolved.

Mr. Giordano noted that the Planning Commission could add conditions or modify the recommended conditions. If the applicant can't make the facility work (*with twenty-five dogs*) then we may bring this back to the Board and they may re-evaluate the conditions, and reduce the number of dogs. The Planning Commission has that option right now, to change or add conditions to make the use more compatible with the neighborhood. Past policy is to give the applicant the opportunity as requested in the application. If they can't make it happen, we will come in on the back end and change the permit.

Mr. Krauth said the number of dogs requested in the application must be a number the applicant is comfortable with. She has been doing this for two or three years, so she probably knows what a manageable number is. That is what the Department is going with because that is your recommendation to the Planning Commission. If we go with that number and it doesn't work, then it could be modified at a later date, if necessary.

Mr. Giordano said that we usually tell the applicant to give themselves a little leeway in preparing the application, because this is a rescue, she might end up with a few dogs she didn't anticipate. I assume the number twenty-five gives her some leeway.

Mr. Alsup asked the applicant how often she has twenty-five dogs.

Ms. Schnobrich answered I could consistently have twenty-five if I wanted to. Right now I have thirteen, with two coming in on Friday. I have the number I agree to take, because there are a lot of dogs out there that need help.

Mr. Baker asked if the metal building is divided up into kennels.

Ms. Schnobrich answered that it is a huge open building, and inside are the airline kennel crates which the dogs sleep in overnight on a bed of sawdust.

Mr. Alsup asked if the Planning Commission is being asked to address the horse issue today.

Mr. Giordano answered no, the number of horses is a contingency item that must be resolved before the permit is issued. The applicant will have to remove one or two of the horses or prove that they are legal which would allow them to remain on the property.

MOTION

Mr. Alsup said he agrees that there are a lot of dogs on the property, but the fact that the facility has worked as long as it has, with only one complaint that has been dealt with, he moved to approve SRU 11-002 Rocky Mountain GSP Rescue Kennel with the following:

RECOMMENDED CONDITIONS:

- A. Special Review Use Permit shall be issued for life of use.
- 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. Each year, at the anniversary date (approval date), the Applicant shall pay a Kennel License Renewal Fee, which includes an inspection of the kennel facilities.
- D. The Applicant 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.
- E. The Applicant 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.
- F. Applicants 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.
- G. If a Special Review 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 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.
- H. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- I. Days and hours of operation shall not be limited.

- J. Applicant shall house dogs inside at night.
- K. 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.
- L. Only the named party on the permit shall be allowed to operate this Special Review 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 Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- M. A Special Review 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 8.2 of the Fremont County Zoning Resolution (complete reapplication).

RECOMMENDED CONTINGENCIES:

The Planning Commission recommended that approval be contingent upon the following contingencies being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. Documentation from the Environmental Health Office as to compliance with the following requirements as noted in the memo, dated May 10, 2011, from the Fremont County Environmental Health Officer
 - a. Clarify whether this property is connected to Penrose Sanitation or if there is a septic system on the property.
 - b. Clarify if any of the kennel facilities, indoor and outdoor, will have floor drains or other plumbing that is connected to the sewage disposal system.
2. Copy of a license from the Colorado Department of Agriculture, Pet Animal Care Facilities, for the boarding of dogs or documentation from the Colorado Department of Agriculture, Pet Animal Care Facilities (PACFA) that the license is not required.
3. Documentation from the Fremont County Department of Transportation as to the requirement of a driveway access permit, due to the additional traffic created by the kennel.
4. Documentation from the Penrose Water District will be required so as to verify that existing water tap is adequate for residence and dog kennel.
5. Documentation from the Code Enforcement as to compliance with the allowed number of animal units as related to the three horses that are also housed on the property.

The Planning Commission recommended the following:

ADDITIONAL NOTIFICATION REQUIREMENTS:

In addition to the required notifications, the following shall also be notified in accordance with regulations:

1. Fremont County Sheriff's Office
2. Colorado Division of Wildlife
3. Fremont / Custer Historical Society
4. State Historic Preservation Office

The Planning Commission recommended waiving the following:

WAIVER REQUESTS:

1. **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 has requested a waiver of the buffering as a six foot wood privacy fence is already in place and there is a row of trees that line the back fence line. In addition, the building is already in place.

2. **5.3.2 Surfacing:** Surfacing for all business, commercial, or industrial off-street parking areas shall be graded and surfaced so as to control dust and provide proper drainage. The driveway and parking 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 so as to prevent parking vehicles from extending over any lot lines.

The applicant has requested a waiver of the hard surfacing of the parking area as the parking area is already gravel and there are two to three adopters per week. Rarely is there more than one adopter at the site at the same time.

3. **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 has noted that adopters are only scheduled to view dogs during daylight hours. There are large flood lamp lights on all four sides of the McCleary Building that light up the entire site area if needed.

4. **5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

The applicant has requested a waiver of the landscaping of the parking area. The justification is that only one to two adopters are at the site at a given time and because there are such a small number of parking spaces, there is no need to require landscaping of the designated parking area.

5. **Utility Plan:** Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.

The applicant has requested a waiver of this requirement due to the fact the utilities will not need to be upgraded or improved and that all necessary utilities are run to the existing structures and the new addition will not be significant enough to need improvements.

SECOND

Mr. Krauth seconded the motion.

Chairman Sandoval called for a roll call vote, with the following results:

Chairman Sandoval	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Alsup	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Krauth	Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Smith	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Baker	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain

Chairman Sandoval announced that the motion passed with three Aye votes and two Nay votes.

Mr. Baker gave as the reason for his Nay vote the number of dogs. That is the biggest problem I see.

Mr. Smith said he drove by the property and the population of the area is very dense. There are a lot of houses around the site. I got out of my vehicle and the dogs the applicant currently had were barking and there were seven dogs out there and it was pretty loud. I couldn't imagine having twenty-five dogs out there. I wouldn't want to be her neighbor. The population is just too dense around there for anyone to have twenty-five dogs. There are large kennels around me, but they are in a large area. This area is way too dense. I think that is going to be up to the neighbors. If the neighbors don't care then I don't care either.

Mr. Baker said he always looks at the properties, and that was the first thing he noticed. The proposed site is a very small piece of property. I didn't go on the property and I didn't hear any dogs barking at that time. It was during the day.

Mr. Smith said he had a concern about the big metal building. It doesn't have any drains. I can't imagine anybody taking the time to put twenty-five dogs up every night.

6. REQUEST: MS 11-001 PORCH SONG MINOR SUBDIVISION

Mr. Sydney A. Schieren, PLS, Landmark Surveying & Mapping, was present to request approval of a two (2) lot minor subdivision, Department file #MS 11-001 Porch Song Minor Subdivision, by Erik A. and Jennifer L. Lang, for their property which is located on the south side of U.S. Highway 50 approximately 800 feet west of Swissvale Road (3244 East U.S. Highway 50), in the Swissvale Area. Proposed lot 1 will consist of 6.18 acres with a single-family dwelling and two garages. Proposed lot 2 will consist of 4.58 acres and it is vacant. Both properties will be serviced from an existing driveway access from U.S. Highway 50. A twenty (20) foot wide access and utility easement will be provided, by plat, for access to proposed lot 2. The property is zoned Agricultural Suburban with a total acreage of 10.76 acres. The property is currently being used for residential and agricultural purposes.

Mr. Schieren stated that this project is splitting a lot with an existing residence into two lots. There is an existing driveway. We are proposing a driveway easement to access the new lot. The existing house is served by underground electric, so we will have a new electric easement created. There is existing telephone service. We have provided a utility easement down the side for future utilities to the new lot.

Mr. Giordano showed a video of the proposed site, giving a general idea of the site location and neighboring areas.

Mr. Alsup asked if the video showed the new driveway.

Mr. Schieren answered that the new driveway does not exist yet.

Mr. Giordano briefly discussed the recommended contingencies as per the Department Review:

Mr. Schieren stated that they are happy to add the required plat note as well as the recommended plat note about the well permit.

Continuing with the recommended contingencies, Mr. Giordano noted that County regulations are geared to streets being dedicated to the County. In this case, there are no streets being dedicated to the County, so we have asked that the normal plat language that is required in the regulations be changed to say this is a subdivision exemption and there are not going to be any public roads. This will ensure that we don't have complications later if someone wants the County to maintain the easement.

Mr. Schieren stated that they are happy to revise that language as well.

Mr. Giordano also mentioned a couple of contingencies having to do with minor changes to the plat, one of which is to remove the setback lines from the plat drawing. The reason for this change is that once the setback lines are on the plat, they are forever. If the regulations change, the setback lines on the plat could be misleading as to what current regulations require. We

would rather let the regulations regulate setbacks. The other plat change is to label the right-of-way width for U.S. Highway 50 along the property frontage.

Mr. Schieren stated that he has verified the right-of-way width with CDOT to be 100 feet. The plat will be revised to add that width.

Mr. Alsup asked that since the driveway has not been built yet, they ensure it is built properly for bringing a fire truck in there, which is a lot heavier than normal vehicles. Will this be an engineered driveway?

Mr. Giordano said that issue was not addressed. He noted that this application was sent to the fire district and they had no comments. Often the fire department will recommend that a driveway be built to handle any fire equipment, in addition to the width and radius of the turnaround. In this case, the fire department had no recommendations.

Mr. Alsup said he wants to make sure the fire trucks can get back in there.

Mr. Schieren noted that would be in everyone's best interest. He asked if a driveway permit is required at the time of building permit application.

Mr. Giordano answered that the driveway permit would be from the State Highway Department.

Mr. Schieren asked when someone pulls a building permit for the vacant lot, is there a driveway permit and review process. Will they look at the types of things Mr. Alsup is addressing?

Mr. Giordano answered that access will need to be addressed only as to right of use from the State, not how the driveway is constructed. We have no standards for private drives. For the owner's benefit, he should talk to the fire department and determine what is needed as related to fire protection even if they did not provide comments.

Mr. Krauth stated that the original parcel was given an in-house use only well permit.

Mr. Giordano stated that under regulations, it is my understanding that a 35 acre parcel gets a domestic well permit which may be traded in for three single-family wells. In this case, because this is a pre-existing lot that is not 35 acres or greater, the well permit was issued a household use only well. DWR cannot issue another well permit unless we treat this subdivision as an exemption, which a minor subdivision is considered an exemption.

Mr. Krauth said that the State will probably issue another in-house use only well permit provided that the County allows the applicant to have the exemption.

Mr. Giordano stated that the State letter requires a copy of the recorded plat, but we don't record the plat until the contingencies have been met, which puts the applicant in a catch 22; he can't record until all contingency items are met, however he cannot record until he has a well permit. I am hoping DWR will accept the Board minutes or a letter from the Department as a guarantee that the plat will be recorded upon the issuance of the well permit. We will also send them a copy after recording. We will get something worked out so it gets accomplished.

Mr. Krauth stated that what he got from the letter from the State was that the re-permitting process for the existing well would be to update the acreage for the lot. DWR is hesitant to issue a second well permit without knowing that the plat has been recorded because they do not want to issue two permits for one parcel of land.

Chairman Sandoval asked for any other questions. Hearing none, he called for a motion.

MOTION

Mr. Alsup moved to approve MS 11-001 Porch Song Minor Subdivision with the following:

RECOMMENDED CONTINGENCIES:

The Planning Commission recommended that approval be contingent upon the following items being provided to the Department of Planning and Zoning, within six (6) months (*with no extensions except through regulatory process*) 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 (FCSR).
2. An updated title insurance commitment or policy shall be required prior to the recording of the subdivision plat, if said recording date is more than sixty (60) days from the effective date of the title insurance commitment or policy. An updated title commitment may result in additional requirements of the applicant.
3. A copy of a recorded Release of Deed of Trust or an executed Ratification, Consent and Release form for document found at Reception Number 757945 of the Fremont County Clerk and Recorder's records.
4. Documentation from the Colorado Department of Transportation as to use of access from the existing driveway from US Highway 50 for both proposed properties.
5. As per letter dated June 6, 2011 from the Colorado Division of Water Resources, the following shall be provided:
 - a. The existing well owner, upon completion of the land use action, must re-permit the well consistent with the law as it applies to the size of the newly-created parcel on which it is located. Further, that requirement should be plainly visible on the plat such that the current owner and any prospective buyer will be aware of the requirement. **It is recommended that the applicant provide a copy of the re-permitted well as part of the approval.**
 - b. Documentation from the Colorado Division of Water Resources as to a valid well permit for proposed lot 2.
6. Compliance with the following requirements as recommended by the County Reviewing Engineer as noted in a letter dated June 7, 2011:
 - a. Diversion cuts at 200 foot intervals along the uphill side of the proposed driveway should be installed to divert flow into the adjacent field.
 - b. Plat statement such as "All new driveways shall have shallow berms or cuts along the uphill side to divert storm flow into adjacent area at intervals not exceeding 200 feet of driveway length" or a new engineered drainage plan.
7. Information to enable Department to compute addresses.
8. The Acknowledgement and Acceptance of Plat statement shall be changed to read as

follows: The undersigned Chairman of the Board of County Commissioners of Fremont County, Colorado hereby certifies that the subdivision exemption as depicted by this plat was approved as a minor subdivision and all easements for public purposes are hereby accepted.

- 9. Remove setback lines from plat drawing.
- 10. Label right-of-way width for US Highway 50 along property frontage.

Mr. Alsup added that he hopes there is a way to deal with the catch-22 situation.

Mr. Giordano noted that if we run into problems, we will have to go through Ms. Brenda Jackson, the County Attorney, as to how we handle it if DWR has to have a recorded plat. In that case, we will probably have to add plat statements. We don't like to put statements on the plat because they are forever and things change.

SECOND

Mr. Smith seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (5 of 5 members)

7. OTHER ITEMS FOR DISCUSSION

Chairman Sandoval called for any other items for discussion.

Mr. Giordano answered questions and discussed the Special/Conditional Use Permit process, the violation process, authority and tools the Planning Commission has when reviewing a use permit application, authority in regard to modifying or adding recommended conditions and contingencies of approval, etc. In addition, he noted the process and authority that the BOCC has when they receive a violation complaint and the process in modifying conditions of a recorded use permit, etc.

8. ADJOURNMENT

Chairman Sandoval adjourned the meeting at 5:08 p.m.

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

DATE