

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
OCTOBER 6, 2015**

**MEMBERS PRESENT**

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

**STAFF PRESENT**

Matt Koch, Planning Director  
Brenda Jackson, County Attorney  
Samantha Kozacek, Planning Assistant

**MEMBERS ABSENT**

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF MINUTES**

a. September 1, 2015 Planning Commission Meeting

**5. UNFINISHED BUSINESS**

NONE

**6. NEW BUSINESS**

**7. A. VPR 15-001 PARKMAN STREET & ALLEY**

Request approval of a **Vacation of Public Right of Way, Department file #VPR 15-001 Parkman Street & Alley, by Gary McWilliams**. All of Parkman Street lying south of the southerly right-of-way line of Frazier Avenue (formerly platted as Alabaster Avenue) and lying north of the northerly right-of-way line of Johnson Street, according recorded plat of The United Oil Co's Pike View Subdivision, filed for record September 22, 1900 at Reception No. 55083.

**REPRESENTATIVE:** Cardinal Points Surveying, Inc. /Gary McWilliams

**B. SRU 15-003 DEER MOUNTAIN FIRE PROTECTION DISTRICT (FIRE STATION NO 1)**. Requesting approval of a **Special Review Use permit, Department file # SRU 15-003, by Deer Mountain Fire Protection District,** to allow Fire and Emergency Medical Operations, an emergency Heli-Pad, and public meetings, gatherings and fundraisers.

**REPRESENTATIVE:** Karen McKee

**C. REQUEST: NINTH AMENDMENT TO THE FREMONT COUNTY ZONING RESOLUTION.** The ADU Overlay Zone will permit a total of 2 residences on a single

parcel, being a minimum of 0.5 acres in size. The ADU will not be allowed to be more than 900 sq. ft. and no more than 2 bedrooms and only 1 bathroom. The ADU will not be allowed to be sold separately or subdivided from the parcel or primary unit.

**6. ADJOURNMENT**

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**1. CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 3:01 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 October 6, 2015 Fremont County Planning Commission Meeting Agenda.

**MOTION**

Mr. Larry Baker moved to accept the October 6, 2015 Fremont County Planning Commission Meeting agenda as presented.

**SECOND**

Mr. Dennis Wied seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

**4. APPROVAL OF THE SEPTEMBER 1, 2015 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the September 1, 2015 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Michael Pullen moved to accept the September 1, 2015 Fremont County Planning Commission Meeting Minutes as written.

**SECOND**

Mr. Larry Brown seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed. (5 of 7)

Mr. Baker	Nay	Aye	<u>Abstain</u>
Mr. Alsup	Nay	Aye	<u>Abstain</u>
Mr. Wied	Nay	<u>Aye</u>	Abstain
Mr. Heffner	Nay	<u>Aye</u>	Abstain
Mr. Pullen	Nay	<u>Aye</u>	Abstain
Mr. Brown	Nay	<u>Aye</u>	Abstain
Mr. Fey	Nay	<u>Aye</u>	Abstain

**5. UNFINISHED BUSINESS**

The Planning Commission had no unfinished business.

6. **NEW BUSINESS**

**VPR 15-001 PARKMAN STREET & ALLEY**

Request approval of a **Vacation of Public Right of Way, Department file #VPR 15-001 Parkman Street & Alley, by Gary McWilliams.** All of Parkman Street lying south of the southerly right-of-way line of Frazier Avenue (formerly platted as Alabaster Avenue) and lying north of the northerly right-of-way line of Johnson Street, according recorded plat of The United Oil Co's Pike View Subdivision, filed for record September 22, 1900 at Reception No. 55083.

Mr. Gary McWilliams stated that he feels they have provided all of the necessary paperwork for this application and met all of the submittal requirements. The plans for this property were to vacate that right of way was so they could build a new house in the middle of the property like they wanted to.

Mr. Matt Koch stated that all of the submittal requirements were provided. All of the utility companies have been notified. The area that the application covers ends at the city limits of Florence. This application only has one contingency item which is having a Lot Line Adjustment completed.

Mr. Dennis Wied questioned if there was already an alley vacated in 78.

Mr. McWilliams stated that that was correct.

Mr. Gardener Fey inquired if there were any of the adjacent property owners at this meeting.

Mr. McWilliams stated there were no adjacent owners at this meeting.

Mr. Michael Pullen inquired if there was a revisionary map that was going to be submitted.

Mr. Koch stated that there was going to be a revisionary map submitted.

Ms. Tina Heffner inquired if the right of way was owned by Fremont County.

Mr. Koch stated that yes, the right of way is owned by Fremont County. There is not a street there and that spot has not been improved.

Ms. Heffner inquired if there would be some sort of compensation coming to the County from this being vacated.

Mr. Koch stated there would not be any compensation.

Mr. Larry Baker stated that he visited the site and he wouldn't know if they did want to put in a street where they would do that.

Mr. Koch stated this was an old Plat, this had been done early nineteen hundred.

Mr. Baker inquired what their plans were for the current house on the property.

Mr. McWilliams stated that they were donating it to the Florence Police and Fire Departments to use to train. The Police Department will use it first for training in room searches and then it will go to the Fire Department. This will be something that will benefit the area. Then the house will be gone which will improve the property.

Mr. Baker inquired whose approval they would need to burn the building.

Mr. McWilliams stated that with the EPA guidelines it is more difficult to just burn a building now. They would need to go in and remove asphalt shingles and the carpets to be able to burn the house. At this time they will be practicing forcible entry, ventilation cutting, wall breaching, and Fire Fighter window rescue training. The way my wife and I thought about it, it would be a benefit for the community as well as cleaning up the area.

Mr. Koch then showed the Planning Commission a map of the area. He stated there is a lot of rough terrain in this area.

Mr. McWilliams stated that all roads they are seeing are actually trails from dirt bikes.

#### **MOTION**

Mr. Wied moved to recommend approval of VPR 15-001 Parkman Street and Alley subject to the following:

#### **RECOMMENDED CONTINGENCIES:**

The Planning Commission recommended approval of the request contingent upon, at a minimum, the following items 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. If approval is granted it will be required that a Lot Line Adjustment application be submitted to the Department and approved as per the Fremont County Subdivision Regulations XV., H., 2.

#### **SECOND**

Mr. Michael Pullen seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

**SRU 15-003 DEER MOUNTAIN FIRE PROTECTION DISTRICT (FIRE STATION NO 1).** Requesting approval of a **Special Review Use permit, Department file # SRU 15-003, by Deer Mountain Fire Protection District,** to allow Fire and Emergency Medical Operations, an emergency Heli-Pad, and public meetings, gatherings and fundraisers.

Ms. Karen McKee introduced herself as the representative and as a Board Member of Deer Mountain Fire Protection District and a volunteer Fire Fighter. She then also introduced the men standing with her as Barry Cole as the District Board Chairman and the Captain of the Volunteer Fire Department and Joe Watts as the Boards Vice Chairman and the Fire Chief. Deer Mountain is planning on expanding Station 1 on County Road 28. We have already put in a Helipad across the road and are planning on adding a building to house the Fire

Apparatuses. We currently have 7 vehicles outside, and when it gets cold we have to decommission the fire trucks because water cannot be stored in them in the winter because it will freeze. They are applying for this permit so that the Station will be in compliance. They would like to ask for an extension of the Conditions and Contingencies to be granted due to financial constraints, and would like to ask the Board for it to be twelve (12) months instead of the normal six (6) to get everything completed.

Mr. Koch gives presentation. The Applicants were wanting to expedite this process so they have already done the mailings for the surrounding property owners. By doing this we have cut the time down by 2-3 weeks. They have completed a full submittal all of the requirements have been completed except the six (6) Contingency items.

Mr. Koch lists out all of the Contingency Items (1-6). They will be providing a detention facility it is shown on their map in the Red Box area. It is near Copper Gulch Road. Waiver requests they are asking for a waiver on buffering and landscaping wants it to remain as natural as possible. They are also asking for a waiver on surfacing, portions of the property are surfaced. The ADA spaces are already paved. They are providing a lighting plan so they are not requesting a waiver. They are requesting a waiver of the landscaping of the parking area because when responding to emergencies all parking needs to be in full view.

Mr. Wied inquired if there was already an existing septic system that would be adequate to support these new plan.

Mr. Koch stated that there was already an existing system that would be able to handle everything because there are not purposing any new facilities.

Mr. Wied inquired about the access to Copper Gulch Road. Would it be gravel all the way up to Copper Gulch Road, or is this asphalt and chip seal?

Mr. Koch stated that it was a mix of both. Mr. Tony Adamic of Fremont County Transportation did respond they would need to apply for access permits which would bring them up to compliance.

Mr. Wied inquired if it would be a good idea to have a hard surface apron coming off of the road.

Mr. Koch stated that the apron isn't something that is in their regulations, but the Planning Commission could discuss it and decide if it would be something that they felt should be added.

Mr. Pullen asked Mr. Wied if what he was talking about was an approach apron because he had similar concerns about the gravel "eating" away at the asphalt.

Mr. Wied stated that he would recommend an apron.

Mr. Koch stated that Attorney Brenda Jackson told him that the apron has been done in the past in lieu of paving the entire parking lot.

Attorney Jackson stated this method has been done in Penrose in the past by The Commissioners.

Mr. Gardener Fey inquired how deep the apron would have to be.

Mr. Wied stated that they are typically six (6) to (8) feet deep.

Mr. Koch then stated they would have to be as long as the longest vehicle that would be using it. So that the largest the apron would have to be is fifty (50) feet so that the rear wheels and front wheels would both be on the apron before hitting the road.

Mr. Wied stated that he doesn't feel the apron needs to be that big because the rear wheels will be on the apron before they approach the road.

Mr. Barry Cole stated that the longest vehicle they have is twenty-four (24) feet long.

Mr. Baker stated that then thirty (30) feet of an approach apron should be more than enough because the vehicle would be completely on the apron before hitting the road.

Mr. Wied stated that he didn't know why the apron would even have to be that big because if the tires are spinning they stop spinning once they get on solid ground.

Mr. Baker stated that is true but eventually the edge of the concrete will start breaking down as they are coming up and over.

Ms. McKee inquired why they would want an apron, were they concerned it might wash out.

Mr. Wied stated that it was to protect the road because if there is gravel on the approach to the road it chews up the edges of the asphalt.

Mr. Pullen stated that if you have trucks approaching, they tend to drag the gravel with them especially when they are turning. The apron would lessen the amount of gravel being taken onto the street as well because that aspect is a safety issue.

Mr. Fey inquired if now that they are in operation, have they seen any of these issues.

Mr. Joe Watts stated that that has never been an issue currently or in the past.

Mr. Cole then stated that the area of the parking lot and road are made of recycled asphalt and chip seal and gravel so it all pretty much blends in.

Chairman Alsup stated that he used to be the Chairman of that area and he knows that the road to parking lot area is not an issue.

Mr. Baker stated that they were having to leave some of the vehicles out over the winter months.

Ms. McKee stated that was correct. There are seven (7) left outside. If they are sitting outside they then have to fill them with water before responding. Also leaving them outside over the winter there are little critters that have been getting into them. Mr. Cole is our mechanic and he then has to spend a lot of time fixing the issues that occur when the vehicles have to sit outside during the winter.

Mr. Fey inquired what the altitude is up there.

Mr. Cole responded that it is seven thousand six hundred (7,600) feet.

Chairman Alsup inquired about the waste water treatment system. Are there adequate facilities for these new additions?

Ms. McKee stated that as far as she knows and has been told it should be fine. It appears that before they had applied for another permit for the septic in the past, but they were told they didn't need it because the current septic was enough.

Chairman Alsup stated that he was there during that time when they applied for that septic system. This application would not need anything new added to it for septic.

Mr. Koch stated that Mr. Sid Darden had some questions about the septic and it will all be taken care of through the contingencies.

Mr. Pullen stated that they just received a letter from the City of Cañon City.

Chairman Alsup inquired if the applicant had anything to say in regard to the letter from the City.

Mr. Koch stated that the letter was really just giving comments because part of the approval process is that they had to be notified. This is in response because of the Water Source Protection Program. What they have in that letter are suggestions more than anything.

Ms. McKee stated she didn't have any comments at this point.

Chairman Alsup asked Mr. Pullen if Ms. McKee's answers covered his question.

Mr. Pullen inquired if the applicant would be in compliance with the Canon City Water Department letter.

Mr. Cole stated they have to be.

Ms. McKee then stated they would be the definition of best management practices.

Mr. Koch stated that most of the Water Department's comments would be taken care of by the excavator. The silt fences, waddles, and things of that nature would be put in place before excavation takes place so dirt isn't washed down stream. He would surmise that the excavator would follow through with that and what the drainage report requires. Planning and Zoning

does not have anything in place to monitor such things, but it is part of the requirements through the engineering.

Mr. Pullen inquired if this becomes part of the process of approval.

Mr. Koch stated that is correct.

Mr. Baker stated that the special review use permit (SRU) was to make this a better Station for many reasons, but was it now also to build another building.

Chairman Alsup stated yes.

Mr. Koch stated that this is part of the process and it is shown on their plans.

Mr. Koch stated that since the applicant is expanding over 25% is why they had to apply for an SRU.

Chairman Alsup stated to Mr. Baker that in his packet there is a better map where you can see the plan better.

Mr. Baker inquired if all the adjacent land owners have been notified and there still hasn't been any response.

Mr. Koch stated that mailings were sent out, the signs have been posted, and there haven't been any responses.

Chairman Alsup stated he feels that they are trying to do everything they can do to be in compliance.

**MOTION**

Mr. Pullen moved to recommend approval of SRU 15-001 Deer Mountain Fire Protection District (Station One) subject to the following:

1. Comments from Planning and Zoning.
2. Where applicable comments from the City of Cañon City.

**RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of the 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. 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.
- D. 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.
- E. 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.
- F. 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 of Planning and Zoning 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 of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days of operation will be 7 days a week, 24 hours a day.
- I. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, and further the applicant shall implement and maintain the plan, if required.
- J. 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.

- K. 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.
- L. 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 8.14 of the Fremont County Zoning Resolution (complete reapplication).
- M. The SRU is issued binding both lots to the approval of the SRU. If for any reason one of the lots is transferred to another owner the SRU may be revoked or be required to be modified.

**RECOMMENDED CONTINGENCIES:**

The Planning Commission recommended approval of the request contingent upon, at a minimum, the following items 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. Approval and recording of a Lot Line Adjustment creating the boundary of the SRU on a legal parcel and a recorded deed showing ownership of said boundary.
2. Documentation as to compliance with the requirements from the Colorado Division of Water Resources.
3. Documentation as to compliance with any requirements of the Fremont County Environmental Health Office.
4. Documentation as to compliance with any requirements of the Fremont County Reviewing Engineer as per letter dated September 8, 2015.
5. Documentation from the design engineer to evidence that construction of the drainage facilities, if required, were completed and built to the specifications of the engineer's design.
6. Property owner shall execute a Quit-Claim deed with a deed restriction addressing the maintenance of any required drainage facilities, easements, rights-of-way, related structures and/or facilities. Such deed shall be recorded at the time of recording of the use permit. Fremont County will not accept maintenance of these facilities.

**WAIVER REQUESTS:**

*The Planning Commission recommended APPROVAL of waivers of the following:*

**Buffering & Landscaping Requirements:**

1. In conjunction with the issuance of a building permit or approval of a zone change to a Manufactured Home Park, Travel Trailer Park & Campground, Neighborhood Business, Rural Highway Business, Business, Industrial Park, Airport, or Industrial Zone Districts, and if the property is adjacent to any Agricultural Estates, Agricultural Suburban, Low Density Residence, Medium Density Residence or High Density Residence Zone District, 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** (of County Commissioners). 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 (evergreen)	4' height
Trees	2 and 1/2" caliper
Ground cover	2 and 1/2" 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 is requesting a waiver of the buffering and landscaping with the following justification: Buffering and landscape will remain as natural as possible.*

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 is requesting a waiver of the hard surfacing of the parking area, driveway and entrance areas with the following justification: Non-hard surface roads, parking, loading and driveways are to be gravel / natural. ADA spaces will be hard surfaced.*

**Note: It is required that the parking space for individuals with disabilities be hard surfaced along with a pedestrian walkway from the space to the door entrance as per the International Building Code.**

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 provided a lighting plan.*

**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 with the following justification: When responding to emergencies, all parking should be in full view.*

**Additional Notification Requirements:**

**This application was run through the expedited process allowing the notifications and posting to be completed prior to the Planning Commission meeting. All Notifications and postings have been completed.**

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

1. Colorado Parks & Wildlife
2. Fremont County Historical Society
3. Fremont County Sheriff's Office
4. City of Cañon City Water Department (water source protection)

**SECOND**

Mr. Larry Baker seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

**REQUEST: NINTH AMENDMENT TO THE FREMONT COUNTY ZONING RESOLUTION.** The ADU Overlay Zone will permit a total of 2 residences on a single parcel, being a minimum of 0.5 acres in size. The ADU will not be allowed to be more than 900 sq. ft. and no more than 2 bedrooms and only 1 bathroom. The ADU will not be allowed to be sold separately or subdivided from the parcel or primary unit.

Chairman Alsup stated that they were just given new information just before the meeting. Is this with just updated information/wording from Attorney Jackson?

Mr. Koch stated yes it was just updated with how Attorney Jackson wanted it to read.

Chairman Alsup inquired if there were any substantial changes to the document.

Attorney Jackson stated that the substance was the same the changes were to making it from passive voice to active voice and cleaned up the grammar a little bit.

Chairman Alsup asked Mr. Koch to explain this Amendment.

Mr. Koch stated that most places call these Affordable Dwelling Units, but the County has stuck to calling it Accessory Dwelling Units because we do not have the housing authority to call it Affordable Dwelling Units as of yet. Accessories are typically smaller than the primary unit. We would be doing this as an overlay zone district. The districts that would have this are Agricultural Forestry, Agricultural Farming and Ranching, Agricultural Living, Agricultural Estates, Agricultural Suburban, and in Low, Medium, High Density Residential.

Mr. Koch then read the list of the provisions for the Accessory Dwelling Unit (ADU) amendment.

Chairman Alsup asked Mr. Koch what would be the process for getting an existing ADU approved.

Mr. Koch stated the owner would have to apply for the ADU in our office through the Board of Zoning Adjustments (BOZA). BOZA would make the determination if it would meet the aspects of ADU. We currently have a fair amount of illegal ADU's here and all the owners have to do is come into compliance.

Mr. Fey stated that reiterated there is already have a fair amount here, say the owners don't want to come forward and admit they have an illegal residence. What would the legal action be then?

Mr. Koch stated then the Department would have to go through Code Enforcement processes.

Attorney Jackson stated that we do not go looking for these violations, however if we get a complaint about them we do go and investigate.

Chairman Alsup inquired why the ADU would need to be sealed off from the other unit. Say that this is a mother-in-law or "granny's" quarters; why would we require it be sealed off from the rest of the family's residence. Why would we require they seal the interior exits?

Mr. Koch stated that because later on, that residence may not always be used for that purpose. In order to bring it into conformance with these regulations they would need to do this. In the case of them using it for family members they may not have to seal it off. What makes it a second dwelling is the kitchen. Having it sealed is also a form of protection. If one unit is using their kitchen and starts a fire this will slow the fire down from spreading as fast.

Mr. Koch stated that most septic systems in Fremont County are not set up for another dwelling to be attached to them. So what they would need to do is either when building both dwellings have a system set up that can handle both or provide proof that the current system would be able to handle both dwellings.

Chairman Alsup inquired if that means there wouldn't be a requirement for a new septic system necessarily.

Mr. Koch stated that there wouldn't be that requirement but they would have to prove it was legal and safe.

Chairman Alsup stated that he thought there was a requirement in place that stated there would have to be a separate septic system.

Attorney Jackson stated Mr. Sid Darden would know more about that. The owners would need to have certification showing that they can tie into the existing septic or they will need to put in a new one.

Chairman Alsup inquired if there is a requirement that states they need an additional well.

Mr. Koch stated that most wells will state the number of households they can be used for. If they do not have this, they will need to go and have it validated and approved that it can support both dwellings.

Mr. Koch stated the ADU's will have to notify the adjacent owners only, not all owners within 500 feet. This is to let the adjacent property owners know what will be happening. If the neighbors have a problem, they can bring those to the Department. At that time we would be able to discuss the issues and see if the ADU is a good fit for the property/area or not. One of the biggest concerns is that the property cannot be subdivided. The applicant will still have to meet all of the zone district developmental requirements and subdivision regulations.

Chairman Alsup stated that with all of the issues that could have come from this, he didn't think that Fremont County would ever see something like this.

Mr. Koch stated that he has done a lot of research regarding the ADUs. He has contacted a lot of counties out east that are doing this. He contacted two (2) counties in Ohio, one (1) in Pennsylvania, and one (1) in New York. Everything they had to say was positive. They said that in some cases this was the best thing they could have done. This allowed some people to be able to take care of family members. They have people that rent the ADUs out. In a lot of communities that have the Affordable Housing Units, owners can look to the future with situations regarding tax incentives. A lot of the Housing Departments give owners a rebate if they are renting to low income families. In one community the ADU's were being used for prisoners that had been released and this was their first step to being reintroduced into the community.

Ms. Tina Heffner stated that she has several issues with this Amendment. She doesn't think it is enforceable and there are already issues currently with Code Enforcement. This may be opening the door to a lot more issues. This is entirely different than the "Tiny Homes" the Planning Commission discussed in workshops. The Tiny Homes were intended to be on lots that were already owned. Ms. Heffner doesn't believe that the County has a limited number of rentable properties and this is just going to turn into a lot of rental properties. She feels this will negatively impact Penrose and their water supply. Penrose just spent 10 million dollars on water to accommodate their 10 year plan which would put houses on 5 acre parcels. There are already a lot of code violations in Penrose that are taking up an extensive amount of water. To allow this in the unincorporated areas will have an extensive impact on the fabric of this area. She feels this will impact property values, the crime rate and social services will have issues if we allow this.

If our whole purpose was to be able to make it so that people could purchase property and put Tiny Homes on them, then ADU's are completely contradicting to that. Ms. Heffner feels that if the Planning Commission is considering something this large, we need to have public meetings. She personally has three (3) of these situations within a two (2) block area. She also doesn't know how Code Enforcement would be able to make sure that the owner would be living in the primary home. Nine hundred (900) square feet is a sizeable home; that is almost as large as hers on 10 acres. Ms. Heffner thinks there are a lot of unintended consequences if the Planning Commission is to go forward with this.

Mr. Fey inquired what the process would be to approve this proposed amendment. Would the County Commissioners approve it? Would there be further review from the public?

Mr. Koch stated that it would go before the Commissioners. This would be a public hearing so it would be posted and the public would have time to get comments together and go to the hearing. The main purpose for this is not Tiny Houses; that is just an added benefit. The ADU is to allow a second dwelling on the property to be rented to family members or others. Most people who want to build a Tiny House want to buy cheap land, construct a Tiny Home, and "live off the grid". That is not what the ADU is intended to do.

Ms. Heffner inquired if this was a tax generating idea, because there is a lot of rental property in Fremont County. So what would be the purpose of this?

Mr. Koch stated that the Department gets numerous calls a week asking why this isn't an allow use. People are always asking us why the County doesn't allow for a second home on their property. The ADU would be an added benefit to this community. The tax increase would be great and that is another added benefit while allowing people to use their property and get out of the way of their use of their property.

Ms. Heffner inquired if anyone else thinks there will be repercussions from this? Don't you think this will have an impact on neighborhoods and change them? The zoning regulations we already have in place are to protect property values. She feels that in Penrose we need to talk to the Water District, and have more public input on this subject. The Planning Commission needs to hear from the people and this will take a toll on Penrose's resources.

Mr. Koch stated that she has to realize that not everybody is going to be doing this. Not everybody in Penrose will want an ADU, but it will be there for the people who do want it.

Ms. Heffner stated for those who want to do it legally.

Mr. Koch stated that was correct.

Ms. Heffner stated that the County doesn't have enough enforcement. We only have two (2) Code Enforcement Officers, and they don't even take action on the issues she complains about. She sees this being an open can of worms.

Chairman Alsop stated that the problem he sees now is that these are being built illegally without restrictions on them. People don't know they cannot subdivide them and sell them.

With the ADU it will regulate the problems. He has wanted to see this for years and thinks this is a good thing; to allow for family members to live on the property in a septate dwelling. Up in Custer County he has heard residents saying you can have an additional house on the property and in Fremont you can't have that, so people are being directed away from Fremont County.

Ms. Heffner stated she feels the lot size that these will be allowed on should be increased then. She feels that half ( $\frac{1}{2}$ ) an acre would make the density too great; the minimum size should be five (5) to ten (10) acres.

Mr. Koch stated that in Penrose, the minimum to subdivide is four and a half ( $4 \frac{1}{2}$ ) acres. This is an overlay. So take into mind that Low Density Residential (LDR) has a minimum of eight thousand five hundred (8,500) square foot lots so they are still required to have a half of an acre. It won't affect the size of the lots.

Mr. Dennis Wied stated that if you look at the case studies Mr. Koch provided, down in Santa Cruz they require a minimum of five thousand (5,000) square feet to have an ADU.

Ms. Heffner stated that the income there is a lot higher than it is here and the housing market is also very different.

Mr. Wied stated that his point was that a half ( $\frac{1}{2}$ ) an acre is a pretty good sized lot. If there are places that allow five thousand (5,000) square foot lots than a twenty-four thousand (24,000) square foot lot is probably adequate as well.

Mr. Fey asked Mr. Koch if any of the Planners he had talked to back east stated any downsides to a regulation like this and how did they handle them?

Mr. Koch stated that some of the downsides that were mentioned were that some of the existing units had be forced to be brought into compliance. In one case the owner didn't have to live in either unit; one in particular was in a college community. You can see some of the issues they ran into there. Some of the other communities did however have it where the owner was on site and they found it very beneficial.

Ms. Heffner asked Mr. Koch what his plans are for enforcing these new regulations.

Mr. Koch stated they would be the same as they are now.

Ms. Heffner stated that how would the Department know that the owner isn't on site unless somebody complains. Would there be periodical checkups on the property or reviews on the ownership to see if that person is still living there.

Mr. Koch stated we would not be doing that, the Department doesn't do that with any other regulations in any other zone district.

Chairman Alsop stated that the County could never do something like that on all properties. There would never be enough time, money or man power to ever do something like that.

Mr. Koch stated the Department is trying to be progressive and to help make the County grow. As we expand and see a need for a new resource, the Department will take care of those things as they come along.

Mr. Wied stated that in the first part of the proposed Amendment, in the very last condition, semantically wouldn't it be clearer if it read "no more than two hundred (200) feet from the side of the nearest primary dwelling.

Mr. Koch stated that would be correct.

Mr. Wied asked Attorney Jackson if this would become use by right or would it be use by review?

Attorney Jackson stated it would be an overlay zone, so there would be conditions attached to it. So it is not exactly a use by right, those conditions need to be followed in order to do an ADU. If you cannot meet the requirements you would not be allowed to do it.

Mr. Wied stated that in Cañon City, they have overlay zones. And in order to take advantage of the overlay zone, you have to apply for that use.

Attorney Jackson stated that in this instance, the Building Department won't issue a permit until they have gone through the process. If they are going to do it illegally they are going to do it that way. But, if they come in for their building permit for their second dwelling and they haven't gone through the Planning and Zoning process, they will be referred to Planning and Zoning.

Mr. Wied stated that this would be no different than having a vacant lot and having to meet the requirements.

Attorney Jackson stated that in this case, if they cannot meet the requirements the ADU would not be allowed.

Mr. Wied inquired if the neighbors with a specific problem would have the ability to object to the application.

Attorney Jackson stated there are notification requirements that have to be met. The neighbors are notified and if their comments are negative then the comments get sent to the Commissioners. So it become discretionary.

Mr. Wied stated then so part of this becomes discretionary on the bases that they can either approve or disprove individual applications.

Attorney Jackson stated that not every application will be sent to the Commissioners. We need to incorporate that into the regulations stating that.

Mr. Wied inquired why attached garages aren't allowed.

Mr. Koch stated that when speaking with another county about their ADU's they had a restriction on the ADU being eight hundred (800) square feet but no restrictions on the garage. The problem they ran into was that people were building these tiny houses and having huge garages attached to them. We wanted to avoid that scenario, so we have it as the garage has to be its own structure.

Mr. Wied stated that his take on that would be if you want to build a three hundred (300) square foot garage and include that in the nine hundred (900) possible square feet why would we care.

Mr. Koch stated that this was the reason to keep the house/foot print size. There are actually building codes for square footage for different rooms. The nine hundred (900) square foot allotment allows for a good amount of useable space and not so much just a small box of space.

Mr. Wied stated he has two (2) houses in town that are around six hundred (600) square feet which is enough for a single person. His suggestion is the footprint being nine hundred (900) square feet. In the case studies, three (3) of them require owner occupancy, two (2) do not, and one (1) says the owner may occupy one of the units. Personally he doesn't like the requirement that one (1) of the units has to be owner occupied. He can easily foresee conditions where this could impose a real hardship on the person who owns the property. Say the owner wants to move and keep the property, then this would make them stuck with that property that would have an empty house on it.

Chairman Alsup stated that he feels Mr. Koch addressed that earlier showing that having an owner on the property helped regulate and insure the second dwelling was being used properly.

Mr. Wied inquired how this is any different than a house being rented on a parcel and it being to a big group of partiers, there are no restriction on that. He thinks it is more likely to find responsible owners that are looking for responsible tenants. Just addressing the issue of saying there are tons of places around town; that is the farthest from the truth. There is a group in town trying to help with the lack of housing around town. Mr. Wied believes there is also a lack of affordable, decent housing in Fremont County. It is nearly impossible to find a three (3) bedroom home around here.

Mr. Koch stated that Mr. Wied has a valid point, that a person who is willing to go through the process of building an ADU would want somebody who is going to take care of it. This could be an option to discuss to remove that requirement.

Mr. Wied stated there is absolutely no way to enforce the aspect of owner occupancy as far as he can tell.

Mr. Koch stated that the regulation is included to use if necessary.

Mr. Wied inquired what the enforcement would be.

Mr. Koch stated that it would be handled through the owners covenant that they sign stating that there are legal repercussions. It would be like the rest of our code enforcement, there are fines that can be imposed and court action taken.

Mr. Wied stated he would take the position of not having owner occupancy required.

Chairman Alsup stated that the Planning Commission does not have to accept it as is today. We can make changes as needed.

Mr. Pullen asked Mr. Koch if there is any discussion about property values.

Mr. Koch stated that that issue was not directly discussed. The commenters did however feel property values went up because they are improving the structures.

Mr. Fey stated he feels this opens up an opportunity for a lot of homeowners that have mountain properties and want to have two (2) homes on their property. There are also numerous pros and cons to this.

Mr. Koch stated we do get a lot of calls about regarding this issue. Having no regulations on it and constantly telling people no is not good progression for the County. We want to try and work with people the best we can. He feels this is a good starting place.

Chairman Alsup stated that he also has been asked about this numerous times in the west end of the County; at least twice that he can remember in the last month.

Mr. Pullen stated that this really is not about Tiny Houses, and he thinks that may be a misconception. Tiny Houses have different rules and regulations.

Mr. Baker stated this could be seen as including Tiny Homes, could it not?

Attorney Jackson stated it could be used for that too.

Mr. Koch stated it could be used like that but it would not be an individual tiny house on a lot. It will be secondary to the main dwelling. The man he spoke with in California stated that all these people have such grand ideas of living in a Tiny House and living "off grid." After a few months they change their minds, after they see they only have two hundred fifty (250) square feet of space to put all their stuff and themselves. We see a lot more positives coming from the purposed Amendment then negatives.

Chairman Alsup stated that people ask about this and they want to build the Tiny House first. Then build the larger home and use the Tiny House as a mother-in-law house. How would it fit into this?

Mr. Koch stated that we would probably have to add to the regulations stating they would have to go through the application process and give us the plot plan as to where everything would be located. They would be bound to that. We could also add a time period for them to get all of the building done.

Ms. Heffner stated that if she thought that these units would be being occupied by family, she probably would not have an objection. But most of the people coming to Fremont County are not like that. She feels ADU's are going to have a big impact.

Mr. Wied stated to look at the case studies.

Ms. Heffner stated the places in the case studies are looking for affordable living. The places shown in the case studies have a median income of six hundred thousand (600,000) dollars. We, as a County, cannot be compared to these places.

Mr. Wied stated that Fremont County has the lowest income of any county in the state. He can see this as a way of people trying to increase their income.

Ms. Heffner stated she can totally understand that aspect, but it will be a drain on our water resources and have a negative impact on property values.

Chairman Alsup stated that per regulations, the amendment stated they have to have an adequate water supply.

Mr. Baker inquired if the owner clause aspect is removed would we get people that will add to "cracker" box sized homes and renting them immediately.

Mr. Koch stated there is no way to say. All of the people we have had coming in wanting to add to structures are family based. It is possible it could go there other way.

Chairman Alsup stated sometimes these units are built above a garage. But here there is a height restriction in place.

Mr. Koch stated we did not account for the garage. We want them to be separate structures. We are trying to avoid making the ADU's the predominant structure on the property; the accessory dwelling is two stories and the primary is one.

Mr. Wied stated he could see a unit being built over a garage and meet the requirements. It is entirely possible.

Mr. Fey stated that he could see a lot of these going up in the hills/mountain areas. He feels there needs to be a provision for a garage.

Mr. Koch stated this all can be re-worked. It could be nine hundred (900) square feet including a garage or one thousand two hundred (1200) square feet including the garage.

Mr. Wied stated his recommendation would be to stick with the nine hundred (900) square foot footprint and the fourteen (14) feet height requirement and allow for people to build a six (6) foot tall garage.

Mr. Fey inquired about leaving the house footage alone and allowing them the option of a three hundred (300) square foot garage.

Mr. Koch stated this is all available to reconfigure as the Planning Commission sees fit. If you're having it as an unattached garage at three hundred (300) square feet, you are creating a one thousand two hundred (1,200) square foot footprint.

Chairman Alsup stated he liked Mr. Wied's idea of staying with the nine hundred (900) square feet.

Ms. Heffner stated if she was in agreement with this Amendment she feels Attorney Jackson and Mr. Koch did a very good job on the provisions.

Mr. Baker inquired if the Planning Commission members want to at this point accept a motion to go back to the drawing board and incorporate some of these ideas.

Mr. Koch stated that was the point to present this to the Planning Commission and get their concerns aired. He would like to see the Commission put our best foot forward, and to table this until next month would be fine. The only thing pushing us is the Commissioners wanting this to be taken care of.

Mr. Baker inquired if the Commission members would have time to review it with all the new changes.

Mr. Koch stated that as soon as he could get it all together he would have it out to them.

Mr. Wied stated that as an example, if he made the motion to approve a two thousand (2,000) square foot ADU and it goes to the Board of County Commissioners, would they at that time reject the size and change it?

Mr. Koch stated the Board will take Planning Commission's recommendation in mind along with what the public has to say.

Mr. Pullen inquired if the Commission tables this now, review it like before, will we be able to comment on it again.

Mr. Koch stated that the Department will try to have the ADU revised within the next week and get your comments added in. The revised ADU will be the packets for the next meeting.

Mr. Wied stated he would like to get a take on how the Commission members feel about this Amendment.

Chairman Alsup stated this would not be a formal motion to accept this but to see where the Planning Commission stood on this Amendment.

It was stated that Mr. Pullen, Mr. Wied, Chairman Alsup, and Mr. Fey were in favor of one building of nine hundred (900) square feet. Mr. Brown and Mr. Baker are unsure of their stance and Ms. Heffner is currently opposed to this Amendment.

It was also stated that Mr. Pullen, Mr. Brown, Chairman Alsup, Ms. Heffner, and Mr. Fey were in favor of the owner occupy clause. Mr. Baker and Mr. Wied were opposed to owner occupy.

**MOTION**

Mr. Baker moved to table the proposed 9<sup>th</sup> Amendment to the zoning resolution.

**SECOND**

Mr. Wied seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

**ADJOURNMENT**

Chairman Alsup adjourned the meeting at 4:33 p.m.

Byron Alsup 12-1-15  
CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION      DATE