

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
OCTOBER 7, 2014**

**MEMBERS PRESENT**

Byron Alsup, Chairman  
Larry Baker, Vice Chairman  
Larry Brown  
Michael Pullen  
Tina Heffner

**STAFF PRESENT**

Bill Giordano, Planning Director  
Brenda Jackson, County Attorney  
Donna Monroe, Planning Assistant

**MEMBERS ABSENT**

Gardner Fey, Dennis Wied

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF MINUTES**

- a. June 3, 2014 Planning Commission Meeting

**5. UNFINISHED BUSINESS**

NONE

**6. NEW BUSINESS**

**a. REQUEST: ZC 14-002 GIFFORD ZONE CHANGE**

Request approval of a **Zone Change (ZC #1 application as per the Fremont County Zoning Resolution) from the Manufactured Home Park Zone District to the Agricultural Suburban Zone District, Department file #ZC 14-002 Gifford Zone Change**, by Fred & Jane Gifford, for their property which is *located on the east side of MacKenzie Avenue, 800 feet south of Grandview Avenue, in the Fourmile Area*. The proposal is to allow a hay field pasture for livestock and to sell hay. The existing zone district does not allow agricultural uses. The property is presently used as a hay field pasture for livestock and contains 5.18 acres. It should be noted that the Agricultural Suburban Zone District has an animal unit (FCZR 1.5.14) restriction, only one animal unit per 15,000 square feet can be housed on the property.  $(5.18 \times 43,560 = 225,640.8 \div 15,000 = 15.04)$

***REPRESENTATIVE: Fred and Jane Gifford, owners***

**b. REQUEST: AMENDMENT TO FREMONT COUNTY ZONING RESOLUTION**

Request approval of a proposed amendment to the Fremont County Zoning Resolution to create a new zone district. The purpose of the airport Overlay Zone District is to protect the

viability of the Fremont County Airport as a significant resource to the community by encouraging compatible land uses, densities, and reducing hazards that may endanger the lives and property of the public and aviation users.

*REPRESENTATIVE: Department of Planning & Zoning*

7. **ADJOURNMENT**

8. **MASTER PLAN WORKSHOP**

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

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1. **CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 4:02 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 7, 2014 Fremont County Planning Commission Meeting Agenda.

**MOTION**

Mr. Larry Brown moved to accept the October 7, 2014 Fremont County Planning Commission Meeting agenda as presented.

**SECOND**

Mr. Michael Pullen seconded the motion.

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

4. **APPROVAL OF THE JUNE 4, 2014 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the June 4, 2014 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Larry Baker moved to accept the June 4, 2014 Fremont County Planning Commission Meeting Minutes as presented.

**SECOND**

Mrs. Tina Heffner seconded the motion.

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

5. **UNFINISHED BUSINESS**

The Planning Commission had no unfinished business.

6. **NEW BUSINESS**

a. **REQUEST: ZC 14-002 GIFFORD ZONE CHANGE**

Mr. Fred Gifford stated that they are requesting approval of a zone change from Manufactured Home Park to Agricultural Suburban, for their property addressed as 350 Mackenzie Avenue. The property was previously a mobile home park. We purchased it about 4 years ago. We changed it into a hay field which is not an allowed use so we had to rezone it to Agricultural Suburban. He stated that the change is complimentary to the area. It's in accordance with the master plan. The surrounding area isn't all Agricultural but there are some agricultural uses interspersed in the area. We think it's a great benefit to the neighborhood to be agricultural rather than a mobile home park.

Mr. Bill Giordano stated we reviewed the application and it's an obvious fit for the area. The applicant has noted that the justification for the zone change is that it will be in compliance with the master plan and that there has been material change in the area.

The department is in agreement with the justifications. The reason for the zone change is Agricultural isn't allowed in the Manufactured Home Park Zone District. This request will bring the property into compliance. It does fit the area. In reference to the department review the only contingency item is the applicant shall comply with any requirements the Division of Water Resources. Obviously in this instance there isn't a dwelling or anything on the property that would require domestic water so there shouldn't be an issue with the Division of Water Resources.

In order for the Commission to grant approval, it is required that the Commission find that there is at least one justification item. In addition you can list any findings that are appropriate.

Mr. Larry Baker asked are you're raising hay? Are you going to be allowing grazing?

Mr. Gifford stated yes.

Mrs. Heffner stated it is my understanding that there is a barn on the property. Do you have a copy of the building permit with you?

Mr. Gifford stated I do not. But I do have a copy of the letter from Mike Cox. When we went in and talked to him it was determined that the property, as per the assessor's office, has been granted agricultural delectation, therefore a building permit was not required, as agricultural buildings are exempt from the requirement for a building permit if the property has an agricultural declaration.

Mrs. Heffner stated so there was no one who had a question about this? Under the manufactured home zoning this would not have been permitted, correct? But they did give you approval to construct it anyway.

Mr. Gifford stated we went in there three different occasions to ask about it. We asked if we needed to pull a permit, they said we didn't need one.

Mr. Giordano stated we would could not issue a permit if there is a violation. In this case this action would have to take place first since the use is not allowed under the present zone district, however in this case a permit is not required, so the point is mute.

Mrs. Heffner stated but yet it didn't.

Mrs. Brenda Jackson stated AG buildings are exempt from building permits.

Mrs. Heffner stated I understand that, but they erected the building anyway. Even though it was in violation of the zoning regulations.

Mrs. Jackson stated Agricultural buildings do not require a permit, so they wouldn't have to get a permit.

Mrs. Heffner stated Ok, according to the letter from Don Moore, if you erect a permanent structure it requires you to have a driveway access permit. Have you already gotten that?

Mr. Gifford stated I haven't gotten that. There has been an established driveway on that property for who knows how many years.

Mrs. Jackson stated they don't need a driveway permit because they have a driveway.

Mrs. Heffner stated then why would Don Moore, County Engineer put that in the letter?

Mrs. Jackson stated I don't know, ask him.

Mr. Gifford stated we are utilizing the same driveway that was there.

Mrs. Heffner stated my last question is you purchased the property in 2011, so why did you wait three years to request a zoning change?

Mr. Gifford stated to be quite honest I didn't realize we needed one. We went through the process with the assessor's office to get the taxes to Agriculture. We did that and at that point we moved forward with this. I guess the minute I started leveling the property and cleaning it up I was in violation of zoning regulations because agricultural uses were not allowed in a manufactured home park. It seemed to be the right thing to do not only for us but for the neighborhood. So in reality as soon as I started leveling, disking and planting hay I was probably in violation at that point. Truth be known.

Chairman Alsup stated but you were not aware of that?

Mr. Gifford stated No, I was not aware of that.

Mr. Giordano stated to answer your question Tina, a driveway permit is normally required for new buildings which is usually triggered by the requirement of the building permit but in this case a building permit is not required. Also in this case the property was previously developed so there was an existing access for the mobile home park so a new permit would not be required unless the existing access is a problem.

Chairman Alsop stated this is a very minor question, but the application states that acreage is 5.4 acres in one section and another says 5.18 acres. Which is correct? He stated it's not very important unless it came down to livestock. It would make a difference of one livestock unit, when you multiply and divide it out.

Mr. Giordano noted that the Agricultural Suburban Zone District has limits on the number of animals that can be housed on the property.

Mr. Gifford stated we aren't any sort of big time production and the restrictions work well for us.

### **MOTION**

Mr. Pullen made a motion to approve the zone change request ZC 14-002 Gifford Zone change, from Manufactured Home Park to Agricultural Suburban with the following justifications for the zone change; Item C, there has been a material change in the neighborhood and Item D, it is in conformance with the Master Plan, with no findings and with the one contingency item and the required notifications, which are as follows.

### **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. Documentation as to compliance with any requirements of the Colorado Division of Water Resources.

**REQUIRED NOTIFICATIONS:** Notification as per regulation by certified mail, return receipt requested to all property owners within 500 feet of the property boundaries and to any severed mineral interest owners.

### **SECOND**

Mr. Baker seconded the motion.

Chairman Alsop called for any further discussion. With no further discussion, Chairman Alsop called for a roll call vote, and the motion passed unanimously. (5 of 5)

### **b. REQUEST: AMENDMENT TO FREMONT COUNTY ZONING RESOLUTION**

Mr. Giordano presented the map of the airport overlay area noting the area of influence which extends into the north portion of the City of Florence, west to the western edge of the City of Canon (Four mile development) north to the landfill and eastward to the Well. The purpose of this overlay zone district is to regulate and restrict the height of objects and natural growth and otherwise regulating the use of the property in the vicinity of the airport. As part of the regulations new development will be subject to providing aviation easements and disclosure notices.

Mr. Giordano noted that Mr. Pullen has some experience in this type of regulation. He asked him if there's anything he would like to add.

Mr. Pullen stated he did actually review it and the consultant seemed to follow F.A.R Part 77 to the T. From my experience he did a really good job. One question I do have are there any existing structures that might be in violation with what's being presented here.

Mr. Giordano stated no, he is not aware of any.

Mr. Pullen stated I went out and drove the whole thing and I couldn't see any.

Mrs. Jackson stated other than the landfill there isn't. It's not a recommended use because of the birds.

Mr. Giordano stated that this regulation were precipitated by the new master plan that was adopted for the airport. The consulting firm, Armstrong Consultants Ic. requested some sort of protection from conflicting uses that development may occur in the area of the airport. Mr. Giordano noted that the overlay zone has additional special requirements, in addition to the requirements of the underlying zone districts.

Mrs. Jackson stated we need to be aware of the City of Florence annexation, which goes up the west side of the airport which is within the influence area. She asked Mr. Larry Baker if he could shed some light on this

Mr. Baker stated at this point I think of it as being a plan, I don't think they see any restrictions here. We are working on some different things. We have annexed to US Highway 50. Anything we are contemplating that may cause a problem would be the property north of US Highway 50. We may have to address that as the time comes. As of right now we are fine with what we have right here. The only thing that somebody might come up with is a noise problem. Occasionally there is a problem there.

Mr. Pullen stated this proposal is not only to protect the airport but to protect the adjacent property owners in the towns and cities so that everybody has same level footing.

Mr. Baker stated the only time there may be a problem is if we try to annex the airport.

Mr. Giordano highlighted only the sections that were directly related to land uses. He noted that much of the regulations are very technical and specific to only the airport and the influence area.

Chairman Alsup asked if we have received any comments from the public on this. Are they aware of this yet?

Mr. Giordano stated that they probably aren't aware of this yet. The newspaper only noted that the Planning Commission was meeting but there was nothing noted as to what was on the agenda, so I'm fairly sure nobody is aware of it. I did send copies of this out to Dick Baker, airport manager, the president/the chairman of the airport advisory board, Armstrong Consultants, Inc., airport consultants and to Don Moore, County Engineer and it is on the County web page. As to date we have not received any comments back.

Chairman Alsup stated some of these regulations seemed quite harsh at first and I was making notes furiously, until I read the exceptions. It sounded like you could not plant a bush or tree.

Mrs. Jackson stated obviously they get stricter the closer you get to the airport.

Chairman Alsup stated I have no problems with this, it is very technical.

Mr. Baker stated the other observation is it is FAR Part 77 seems to rule the land.

Mr. Pullen stated it's all based on funding. If you want to get ADEPF funds you have to follow the F.A.R. Part 77 unless you get a waiver. It's tied to future funding the county may be able to receive for the airport. This goes a long way in securing these funds.

Mrs. Jackson stated we have never really had a problem with that. It all has to do with updating the airport master plan this year. We are now zoning to fit the master plan. She stated that's what we are doing, is zoning the airspace.

Chairman Alsup asked if anybody in the audience would like to speak on this issue. There were no one that wished to speak.

Mr. Larry Brown asked, if the County adopts these rules and regulations will Florence have to? Once Florence annexes the property are they bound by these rules?

Mrs. Jackson stated I think that is something the governing bodies will have to decide. We would hope it would include the airspace since they are so close to the airport.

Mr. Baker stated we will be having a meeting with the county commissioners on the 13<sup>th</sup>. I will bring this up for discussion.

Mrs. Jackson stated that you could adopt the overlay zone intact, because it's not going to affect any of the outer boundaries or the underlying zoning.

Chairman Alsup stated what is the definition of an airport sponsor? Would that be the county?

Mrs. Jackson stated yes it is the county.

Chairman Alsup stated you didn't write this did you Brenda?

Mrs. Jackson stated no I didn't. I did edit it. We had a consultant write it. I can understand it. Drafting it is entirely different.

Chairman Alsup called for a motion.

### **MOTION**

Mr. Pullen moved to recommend approval the Airport Overlay Zone District as presented.

**SECOND**

Mrs. Heffner seconded the motion.

Chairman Alsup called for any further discussion. With no further discussion, Chairman Alsup called for a roll call vote, and the motion passed unanimously. (5 of 5)

**ADJOURNMENT**

Chairman Alsup adjourned the meeting at 4:50 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE