

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
NOVEMBER 4, 2015**

**MEMBERS PRESENT**

Byron Alsup (Chairman)  
Michael Pullen  
Larry Brown  
Larry Baker  
Gardner Fey  
Tina Heffner

**STAFF PRESENT**

Matt Koch, Planning Director  
Donna Monroe, Planning Assistant

**MEMBERS ABSENT**

Dennis Wied

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF MINUTES**

a. October 6, 2015 Planning Commission Meeting

**5. UNFINISHED BUSINESS**

Request approval of Proposed 9th Amendment to the Zoning Resolution that was tabled at the October 6, 2015 meeting.

**6. NEW BUSINESS**

None

**6. ADJOURNMENT**

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**1. CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 3:00 p.m.

**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 Brown moved to accept the October 6, 2015 Fremont County Planning Commission Meeting agenda as presented.

**SECOND**

Mr. Larry Baker seconded the motion.

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

4. **APPROVAL OF THE OCTOBER 6, 2015 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the October 6, 2015 Fremont County Planning Commission Meeting Agenda.

Hearing from no other Members, Chairman Alsup stated that on page 16, the first paragraph of the October 6th minutes, that it should be Chaffey County, not Custer County.

**MOTION**

Mr. Michael Pullen moved to accept the October 6, 2015 Fremont County Planning Commission Meeting Minutes as written.

**SECOND**

Mr. Brown seconded the motion.

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

5. **UNFINISHED BUSINESS**

Request approval of Proposed 9th Amendment to the Zoning Resolution that was tabled at the October 6, 2015 meeting.

Mr. Matt Koch stated that last month the Planning Commission Members had received packets of information regarding the proposed 9<sup>th</sup> Amendment to the Zoning Resolution. He stated that there were a few corrections that were made but they are more for regulatory requirements. There was a change to:

4.20.3.12.3 Prohibits modification of the size of the ADU **added without approval from the Department.**

The other modifications and changes were adding application requirements:

**4.20.4 APPLICATION REQUIREMENTS:**

**4.20.4.1 An application form as provided by the Department with the required application fee.**

**4.20.4.2 A copy of the deed showing ownership of the parcel.**

**4.20.4.3 A signed Declaration of Covenant and Restriction stating ADU restrictions shall be completed and recorded prior to issuance of a building permit.**

**4.20.4.4 Written proof from the appropriate entity or service provider that water and sewer/septic services are adequate for all uses on the parcel.**

**4.20.4.5 The Applicant shall notify adjoining property or lot owners to the intent to establish an ADU. Comments will be reviewed by the Department. If any comments state a valid, lawful objection to the**

**ADU, the ADU application will be referred to the Board of County Commissioners for review at a public meeting.**

**4.20.4.6 A plot plan showing:**

**4.20.4.6.1 All structures proposed or existing with dimensions to property lines.**

**4.20.4.6.2 All utilities for the structures, including electric, gas, water, and sanitary sewer/septic.**

**4.20.4.6.3 All parking areas.**

**4.20.4.6.4 All exterior access points.**

Mr. Koch stated that the proposed amendment was listed on the web site and this meeting was announced at the last Board of County Commissioner's meeting. He commented that word must have gotten out since that were people in the audience who wished to speak regarding the ADU. He did attach the many letters and emails that were received in the Department as well as an article from the County Planning Association. They are wanting some information regarding affordable housing and what Counties are doing to address the issue. Mr. Koch stated that depending on the outcome, he would like to use this meeting to submit an article to the organization.

Chairman Alsup inquired if any of the Planning Commission Members had any questions for Mr. Koch. Hearing none, he opened the floor to Public comment.

Mr. Rich Bandlow stated that reading the County Master Plan, he can see where it is to the County's advantage to infill rather than break new ground with infrastructure development. He can also see where a program like this will codify and bring in some of the less legal units out there which is also a plus. He stated that he can't say that he is either for or against the ADU in general.

Mr. Bandlow stated that one of the major items that he didn't see addressed in the amendment is the number of occupants.

Mr. Koch stated that there is no limit to the number of occupants but the ADU is limited to two bedrooms.

Mr. Bandlow stated that in Boulder's document, they limit it to two (2) occupants with a one thousand (1,000) square foot limit, which may be too restrictive. He suggests maybe three (3) occupants that way a couple with a small child could occupy one of these units without being overcrowded. You don't want to cram too many people into a small unit given that the ADUs are one thousand (1,000) square foot maximum.

Mr. Bandlow stated that there is are restriction for placement of the ADU; ten (10) foot minimum behind the primary unit and no more than two hundred (200) feet to the side but there

isn't anything for placing it in front of the primary. He stated that on the two story, he's trying to envision this in one thousand (1,000) square feet. You might say a second story loft that barely protrudes. While that might meet the requirement but he thinks it would look odd with five hundred (500) square feet on top of five hundred (500) square feet. This might be something that needs to be addressed. The other item would be whether the ADU can exceed the height of the original dwelling. It might create a strange effect if it is back behind. He has some experience with infills like this, not formal Accessory Dwelling Units but he's been to Miami and lived in Fairfax County, and Montgomery County Maryland. This type of housing infill is fairly common and it can be a good thing when you have a rising in rents and stagnant wages; the thought of putting more people into available space. He does know that it changes the character of the neighborhood and it's usually not for the better. It's not dramatically bad but it's something to consider.

Mr. Bandlow stated that there is the issue of parking. In his opinion, one parking space is not enough. In all three of the areas that he is familiar with, parking became a problem; there's more cars than people. He thinks that one (1) parking space per unit is not enough. In the document it states that the Board can waive regulatory requirements.

Mr. Koch stated that that is for existing ADU's.

Mr. Bandlow inquired if that is through a public hearing and a vote?

Mr. Koch explained that it is through the Board of Zoning Adjustment (BOZA). They will review it and see even if it doesn't meet these regulations, since its existing, they will see if it meets the intent of what we are trying to do.

Mr. Bandlow stated to he also noted that the adjoining owners have to be notified before an ADU is put on a property. He inquired if property owners directly across the road are included in that as well.

Mr. Koch stated that across the road is considered adjoining.

Mr. Bandlow inquired of which prevails, HOA, POA covenants or if a unit is approved by the County, can they move into an HOA, POA.

Mr. Koch stated that the County doesn't enforce HOA or POA covenants. If they meet our regulations but not the HOA, then the HOA would have to enforce their own restrictions on the unit.

Mr. Bandlow stated that the ADU is going to create a lot of landlord/tenant contracts with a lot of people inexperienced as being landlords. These requirements; taxes, insurance, are all items that he hasn't seen addressed. Since these are publicly available units is there be any provisions for American Disabilities Act (ADA) compliance or requirement for that.

Mr. Koch stated that the ADU's would have to meet the same requirements of a standard dwelling.

Mr. Bandlow stated that he noticed in Key West and a couple other cities out in California, and Boulder has a very good document online. He inquired if there is any movement toward rent control for these units.

Mr. Koch stated that usually there has to be a housing authority when rent control is governed. He stated that most of the regulations that Mr. Bandlow is speaking of are municipality regulations. We are talking about county regulations dealing with larger properties.

Mr. Bandlow stated that he noticed that this is kind of a top down program from Housing Urban Development (HUD) and while that doesn't automatically put him off from it, he's always a little skeptical of anything that comes from Washington down to the local level, so he would like to see this have the flavor of the local requirements instead of just going lock-step with what comes down over the Federal requirements.

Chairman Alsup stated that the regulations were drafted specifically for Fremont County and are different from most other places.

Mr. Bandlow stated that this County has a serious problem with Code Enforcement and this is going to open up a whole new can of worms with enforcing codes. A lot of these people are going to be well intentioned and well-meaning but he doesn't see people putting a lot of money into the ADU's to make them nice and presentable as they are in Boulder and other communities. That's probably his biggest concern, is that the Commission thinks seriously before they jump in with both feet. Maybe a limited program. He noticed that the overlay goes over the entire county except for mobile home parks and that's something that might need some consideration, where the best areas are to do a test program might be; where the need is the greatest or the landowners have actually come to Planning and Zoning and inquired if they could do this with their land. Go carefully and try to do what is best for the County and the people of the County.

Chairman Alsup opened the floor to Ms. Autumn Dever.

Ms. Dever stated that she is the Housing Director at the Upper Arkansas Area Council of Governments (UAACOG) and she deals in affordable housing. There is a need throughout the state for affordable housing and in Fremont County. She gave some statistics; every night Loaves & Fishes turns away people because they are at capacity. The current vacancy rate for rentals in Fremont County is 2.4%, a healthy vacancy rate is 5%. So Fremont County is well below the healthy rate. With the current high rents and wages that aren't increasing equally it's more and more difficult to find a place to live. It is taking an average of over one hundred twenty (120) days for somebody looking for a rental to find someplace to live. The person earning minimum wage, which is eight dollars and twenty-three cents (\$8.23) per hour here in Colorado has work seventy (70) hours a week to pay the fair market rent of seven hundred fifty (750) dollars a month for a two (2) bedroom in Fremont County. Also in Fremont County there are over sixty-five hundred households who are paying more than 30% of their income towards their rent and utilities for their housing costs. With zero affordable housing units being built over the past three (3) years in Fremont County the need is overwhelming and growing. So the ADU's are a flexible housing solution. Flexibility in housing is good for the environment, a lifestyle, and financial reasons. Many people buy houses and live in them for decades but over

time their needs change. Having an ADU, your Mother, your best friend, your grown kids can come live with you. This kind of support can really help as the population grows and ages. Most people want to stay in their homes as they age but finances and design doesn't always allow that. When seniors with disabilities or with long-term healthcare needs don't have access to affordable housing they are at risk of entering assisted living facilities prematurely. It is proven in other communities that ADU's have minimal impact on the neighborhood density and can blend seamlessly into the community. Bringing ADU's into Fremont County is a great start to helping with the housing crunch in our community, so let's open the door to more housing.

Mr. Alan Rule stated that he is in support of the amendment and would like to encourage the Planning Commission members to also support the amendment. He stated he thinks the ADU's would help eliminate the housing shortages around the Howard area where he lives. An ADU could provide a source of income for many homeowners through long-term rentals or renting to tourists which would be a new source of business. More importantly the ADU would be a benefit to anyone with dependent family members or those in need of onsite caregivers. You could go a long way to taking care of people who have been living in the house for a long time and it's time that they need some help. He doesn't have any kids that are going to come take care of him so he is going to need someplace to put the caregiver at some point. As far as the nuts and bolts of it, he doesn't see any problem with the two (2) story building as long as it doesn't bother the neighbors. He sees no reason to limit the ADU to one (1) bath or to not allow either an attached or detached garage, as long as the buildings conform to building code and setbacks it would give them a little more rein there. As for the separate meter, Mr. Rule stated that he thinks it should be up to the owner and how they use the building. As for not denying access from the larger home to the ADU, he doesn't see where the County is going with that. In a B & B it's common to have access to the visitor quarters from the main house in places he's stayed. For dependent or invalid people living in the ADU, the caregiver would have the choice to have easy access to the ADU. If you are in your house and your caregiver's out in the ADU, you want them to be able to get in there and take care of you. He thinks the ADU is a good thing that is being done here.

Ms. Jane Browning stated that she supports the amendment and hopes that it passes. She also thinks the ADU's can provide affordable entry level housing. In Howard it's pretty desperate there. It's a nice place to be and there's elbow room. There are multiple sheds and vehicles everywhere but an ADU wouldn't even be noticed in her neighborhood that somebody was living in one. Of course she always supports proper building codes. Everything they do is beyond building codes; they try to do a good job with their projects. She told about a resident in the Howard area who recently passed who was almost one hundred five (105) years old. Because she had an existing ADU on her property she had a full-time caregivers that were able to live there an Agnes Thornton was able to stay home. Ms. Browning went on to explain that Cheryl Evens who owns the Riverside Café in Howard and there are two (2) manufactured homes on her parcel, her parents have lived in the other one and Cheryl has been able to be their main caregiver the most affordable way possible. Ms. Browning thinks that there would have to be a really good reason not to pass the proposed ADU. Some of the benefits are priceless to people who don't have the money to move on to an expensive next step.

Mr. Kevin Watts stated that he is a resident of Fremont County and property owner. He has his real estate license but deals mostly in property management and is very happy to see what has

been proposed on the ADU amendment. The last home that he had come up for rent was in September, they had over seventy-three (73) people that were interviewed to rent that one property. It's housing, we have a lot of issues facing our Country right now, facing the people. Go look for a job and see what you can find and then try to figure out how to raise a family on that. The American citizens with these rights that we supposedly have, he's happy to see us trying to real in some of these laws that we've made that just inhibit people from just trying to live and property owners. He commends the Planning Commission on just trying to make things more workable. Code Enforcement is something that always comes up, people say we're concerned about junk and this and that. His thought on Code Enforcement is, he's not sure that if we continue to make rules and laws that are trying to protect... People who are going to break the rules and break the laws are going to continue to do that regardless of what the laws are. They already have, right? His thought is the biggest thing we need to do is see what we can do to give people the pride of ownership. Help them get their feet on the ground, have a place to live, that's a basic need of our children, grandparents, and parents. One thing that he would like to ask about is the two hundred (200) where it says the ADU has to be within two hundred (200) feet of the primary dwelling. What happens if you have a thirty-five (35) acre parcel and you want to be further away than that? Maybe you want to be up on a ridge or this or that. He's not even sure why we would even need to have the two hundred (200) feet, maybe you'd even want to be off the grid with it as long as you have septic. The biggie for him is 4.20.3.6 that says that the ADU shall not be constructed prior to the primary unit. He's built his own home before up in Park County, spent twelve (12) years doing it and it became one of the most beautiful homes up there. He had major issues with Park County to be able to live on his property while he was constructing his home. We have the same regulation here. How do people come here and buy a piece of land and then build a place to live. He is asking the Planning Commission to look at that and why not let an ADU be built, build a garage, build a little warehouse, put in a little apartment in there and allow people to buy a property, then live on that property in a little structure legally until they are able to build their home. Who of us was able to start building a home before you're, you know a mother-in-law cabin. He thinks this is a biggie. He thinks people should be able to allow, here's a funny word, you buy a piece of property and you're not allowed to live on it until you have a pretty large home. He's not sure what the current regulation is but he's just saying, if people could purchase property here, which they're already doing, now they're just camping on it and this and that, to allow them to build their ADU before their personal residence, that way they could save up their money and build their personal residence. He really appreciates everyone's hard work on this because it is something that's just well needed. People need hope, people need to be able to have a shot at the American Dream. His kids, it's a pretty rough world for them and parents. He thinks this is just strategic, be able to let people have a secondary unit on their property where they can bring in their parents, kids, or whoever. Let them have a little extra rental income.

Mr. Richard Hilderbrand stated that this is a bit of a spur of the moment. He was expecting that a representative from the Penrose Water would be here but that person is not here. He is on the Board of Penrose Water so he will speak not officially for them he knows that they have submitted in a letter to the Planning and Zoning Department concerning the water supply for these ADU's. The real background is that Penrose Water does require that each residence does have its own tap. That is a rule that has been in place for Penrose Water for many, many years. That certainly adds to the expense. The second thing is a concern on the septic systems. Penrose of course is built on shale and he notes that in the Master Plan they went through relatively

recently. Just a few months ago there was a statement that there was concern about potential pollution from the septic systems in the Penrose/Beaver Park District. He will just emphasize that if the ADU's are connected through the utilities of the primary residence that this may create a problem. Obviously a residence is built and the septic system is designed for the size of that residence, not for two residences or for an extra number of people. So to him it does create a problem of planning and what the sanitary systems will handle. His request, and he believes the request of Penrose Water District, is that the Penrose/Beaver Park District be exempt from this particular overlay. He thinks that the concerns that were expressed for the Master Plan relatively recently are still in place and Planning & Zoning does have the letter so if he is saying something a little different then please consider that this is a spur of the moment presentation. He also is concerned about the requirement that the owner occupy one of the residences. He sees that as being unenforceable in the long term. Initially when you're doing the planning for this, it's easy to say, well the owner is living here and then I'll build an ADU and we'll take care of the property while we live in one of the units. But people move every few years and many residences turn over every three (3) to four (4) years. He thinks they are a little more consistent than that in Penrose and Fremont County. The concern there is what happens at this point if you've got a fifty (50) or sixty (60) thousand dollar ADU and the owner gets transferred, perhaps they're Army, they take a job somewhere else, they get a divorce, all of these things that happen in real life. He is just expressing concern about that owner having to be there. He thinks it a good requirement to protect the property, and obviously it's been noted that there is a concern with Code Enforcement. In Penrose, he feels that it is the case. He's just not sure how all of the rules around this will be enforced in the long term. He is also aware of the subdivision that is at least planned for Walsenburg. It's a subdivision of these small units, smaller perhaps than what is being proposed with the ADU's, but this is an entire subdivision. It's not just the addition of a unit behind a primary house. He thinks it's a large number of lots but the developer of that is now looking at a ninety thousand (90,000) dollar price for each one of those small units. His point is that that will be developed as a subdivision as opposed to the subunits of an existing residence. He thinks Walsenburg is going about this in the right way to ensure that the infrastructure is there to support the water, sewer, electric needs for the community. He also concerned about the separation from the primary residence and for a number of reasons that the previous speakers have stated. If it is a mother-in-law, an adult child, or whoever is running this, he sees no reason for an apartment in a basement to be separated from the primary residence. He appreciates the time he was given for his comments.

Mr. Mick Gill stated that he lives in western Fremont County in Howard and he's been there for about twenty-three (23) years. His wife is a veterinarian that works in the area and they are one of the longest running businesses in the area. He knows Byron, his wife and Byron's wife worked together for many years. The idea of the ADU is an important idea in their area because there is absolutely no place to live for young people. We used to be the young people twenty (20) years ago. We could afford properties in those days but it is apparently out of reach for all young people who might want to, one, find employment if they can and two, find a place to live. If we don't consider something like this then our growth potential is severely limited. Just due to the fact that there is no opportunity for young people to move in and find a place to live. And Salida is no better. So we are a bedroom community to Salida. We are a little cheaper but we're not cheaper my much. The opportunity to find a livable unit is very limited. He wanted to congratulate Mr. Koch and the Planning Commission for this idea, whether they can work out the bugs, that's obviously their job and there are valid concerns, such as water and waste

disposal. Those are all manageable; most septic systems are over engineered anyway and the water too, if you just meter the wells would be one way to manage that. He just thinks that this is really important that the Department and the Commission continue this path and he is very much in support of it.

Mr. Eric Hagan stated that he is very much in support of the ADU's.

Ms. Tina Hefner stated that while she supports the proposal in general, she has some issues and she's been asked to speak on behalf of the Beaver Park Water Company and the Penrose Sanitation Districts. She wants to share some information with the other Commissioners. First of all she would like to refer to the Penrose/Beaver Park District which is District 2 in the Master Plan. She would like to bring to their attention some specific information; it says due to the fractured shale table throughout most of the platted portions of the District, septic systems are potential pollutants. Under B 1.5 We discourage the further subdivision of properties without access to public water supply. B 1.11 Consider land use compatibility issues when reviewing any application for development to plan for short and long-term impacts of the proposed use. In Penrose, the residential use water is available from the Penrose Water District to most of the sixty-nine thousand (69,000) square feet of platted Beaver Park and Penrose District. There are one thousand seven hundred seventy-seven (1,777) postal addresses in Penrose and Penrose Sanitation has one hundred twenty-two (122) sewer customers. The remaining one thousand six hundred fifty-five address have septic tanks on or other onsite sewage disposal systems.

Ms. Heffner stated that the Beaver Park Water Company opposes the overlay for the following reasons. They are concerned about the increased density and the impact it will have on their delivering of irrigation water. They're concerned about the septic system and leach field designs for each property that are based upon the number of bedrooms and bathrooms in the primary home and they will not be equipped to handle the demands of the ADU. On properties of less than thirty-five (35) acres well permits are expressly given based upon a single dwelling and the addition of an ADU will violate permit provisions. They are concerned that displaced irrigation water will damage roads and other infrastructure. They're concerned about the overload which will increase runoff of septic water which can pollute the water throughout Penrose and increase pollution of the Arkansas River. The Penrose Sanitation District also opposes the overlay. Therefore, in the event that this overlay is approved she would like to ask that the Penrose/Beaver Park District be exempt from the zoning resolution for future development. However, if it is approved she requests that enforcement of current and future non-compliant ADU's be addressed under Section 4.20.3.14 of this document and handled by Code Enforcement as they would throughout unincorporated Fremont County.

Mr. Fey inquired of Mr. Hilderbrand, where he stated that Penrose Water has a restriction, one (1) tap one (1) house, they would then have to enforce another tap for each of the ADU's.

Mr. Hilderbrand stated that that is correct and our water plan for the future can support buildout as currently designed with the acreage and the number of residences, we could not support and would not have the water at least at this time and perhaps in the foreseeable future to support the full requirement if there were a number of ADU's that went in.

Mr. Fay inquired if that would be a restrictive factor even if this was passed for that area. Same thing with the sewer systems, they have to be designed to handle the flow coming in them so that could additionally be a restricting factor for the Penrose area. We do acknowledge that you do have a problem.

Mr. Hilderbrand stated that Ms. Heffner had mentioned Beaver Park Water and their irrigation water. He wants to make sure that it is clear that Penrose Water District and Beaver Park Water are separate entities. Beaver Park is irrigation water and Penrose Water District is only domestic supply. Each residence does have to have its own tap.

Mr. Fey inquired of Ms. Heffner if the ADU's would adversely affect Beaver Park.

Ms. Heffner stated that it would and they are against it for the reasons that she outlined. They are concerned about irrigation water runoff, displacement of irrigation water for the properties that currently have water shares, and they're concerned about septic pollution. Those are all point that they brought up and that they feel would adversely it and therefore they are asking that Penrose be exempt as well. All three of the entities in Penrose.

Mr. Hilderbrand stated that he does believe that the small number of residences that are on the sanitation district is significant which means that essentially one thousand seven hundred (1,700) residents that are in that area are on septic systems.

Mr. Brown inquired of Mr. Koch if the health department would have to approve another unit being hooked up to that sewer system.

Mr. Koch stated that the ADU's have to meet all of the current required building codes. So in this case they would have to show that the existing septic can handle it, through an engineer and/or they would have to build a new one for the ADU. This is not bypassing any regulations, they still have to meet all of the health and building codes for this.

Mr. Brown address Mr. Hilderbrand inquiring if the water department wouldn't be able to self-regulate this on their won because if you're not allowing a secondary house on a particular piece of property, by that very virtue they couldn't put it in Penrose at all.

Mr. Hilderbrand stated that actually the requirement is the residence have its own tap and what that would mean is that a secondary tap would have to be installed for that second residence. It's not that we could prohibit it.

Mr. Brown inquired if it is okay by the water department. Do they have any say so as to who gets a tap and who doesn't?

Mr. Hilderbrand stated that yes, they do. A residence would come in a request a tap; he's not sure what their authority would be to deny it if they were coming in and buying the tap. The tap is twelve thousand (12,000) dollars plus the installation fee for the house; running the utility into the residence. You're looking at an additional cost of thirteen thousand (13,000) plus for an ADU just for the water tap.

Mr. Brown state that if somebody does have that thirteen thousand (13,000) dollars, then there is really no way the Water Department can not issue the tap to them.

Mr. Hilderbrand stated that he is a little hesitant to speak to that because he's not exactly sure how the manager handles those but he doesn't see that they would deny those if a person came in and wanted to buy the tap.

Mr. Brown stated that if the Water Department gets a bunch of them coming in and there's a bunch of taps, at some point then the Water Department would have to say "look we can't issue another tap" correct.

Mr. Hilderbrand stated that water supply would be the limiting factor.

Mr. Brown stated that by that virtue they are kind of restricting what can be built and what can't.

Mr. Hilderbrand stated that potentially.

Mr. Pullen stated that the same could be said for power. A lot of the older homes only have hundred amp services. To put another dwelling in would more than likely require an upgrade and a sub-meter. It goes along with that same issue. It would be the same thing for the rest of the utilities as well. If they are available and they've got water, he does know that we've gone through some rough times recently and there was some discussion of a moratorium but there was no building going on so it kind of evened itself out. But Mr. Pullen does think the utilities do control that part of it. It's something the County wouldn't do.

Mr. Hilderbrand stated that it brings up an interesting issue for the Water Department if there are two meters. Say the rental unit is delinquent in their account and we close down that service, they don't pay it and we go into foreclosure on the property, which is the Departments right, then the Department is foreclosing on an owner that was paying his bill. He can see some real problems with a rental property and he doesn't know exactly how that would be handled. He stated that he guesses that it would be similar to a rental apartment where the person just has to ensure that they are being paid. If the Water Department has a tap that is not paying their bill then they foreclose on it and there are several foreclosures going at this time.

Mr. Brown stated that again Mr. Hilderbrand is talking about the ADU and the house and you're say that you have to have separate taps for each one. If the main house doesn't pay their bill it really wouldn't have any effect on the ADU. The ADU has a different address.

Mr. Hilderbrand stated that the Water Department would foreclose on the property. If the main residence doesn't pay their bill then it would go into foreclosure. But that's the owner which is appreciate for a foreclosure. If it is the ADU that is not paying their bill and we foreclose on that property because of the ADU then it's the renter that is causing the property owner to lose their property.

Mr. Fey stated that it is the property owner's responsibility to take care of it though.

Mr. Koch state that it is usually taken care of through the rental agreements between the landlord and the renter.

Chairman Alsup stated that exists already in the County.

Mr. Baker inquired if a four (4) bedroom home with two (2) or three (3) bathrooms what size of tap must they have.

Mr. Hilderbrand stated that most of the taps are three quarter (3/4) inch, which is the standard residential. Then the commercial goes up to a two (2) inch tap.

Mr. Baker stated that what he is getting at is if you have a single family dwelling, two (2) bedroom, one (1) bath, and you add the ADU to it, it would be the same.

Mr. Hilderbrand stated that it would not exceed the ability of the three quarter (3/4) inch tap.

Mr. Baker stated that the Water Department would have to put a tap of sufficient size from the main into the other dwelling but quite frankly the amount being used wouldn't be any more than the four bedroom if you look at it that way. He would look at it as the same amount of use of a four (4) or a two (2) and a two (2). They aren't using any more water. Mr. Baker stated that Penrose Water will lose out on the tap fee of thirteen thousand (13,000) and he understands that that is an important thing because that's where the bucks come into play.

Mr. Hilderbrand stated that he would emphasize that the policy is that each residence, because of the backflow requirement and for the assurance that the connections are done properly, that each residence does have to have a separate tap. If there are two (2) residences side-by-side on different properties we don't allow people to go across to that next house and connect into that. Again, a lot of that is the health issues with the backflow.

Mr. Baker stated that he was going to take this a little further. What if a person build a unit and a house, each with two (2) bedrooms that are connected. Do they feed off of the same line; it's all on complex.

Mr. Hilderbrand stated that he is not sure if the Water Department has houses that have one (1) tap per two (2) residences like for a duplex. If it's all in one (1) building, it may well be just one (1) tap. If it's a second building then he's sure it would require a second tap.

Ms. Heffner wanted to clarify to Mr. Baker that with the ADU we are asking Penrose Water to police this and it is impacting their bylaws and their Master Plan. Penrose is a lot different than any other unincorporated area in Fremont County. She supports everything except for the fact that Penrose Water just can't do it with the water provisions that is available in the Penrose water district.

Chairman Alsup stated that what he thinks Mr. Brown was getting at was that it sounds like is that it could be enforced right there at the Water Districts level, if they refuse to provide a tap for a second house.

Ms. Heffner stated that she understands that but that Penrose Water prefer (“excuse me if I’m speaking on behalf of Penrose Water”) but they prefer not to be the bad guys in this whole thing. They would just as soon have Penrose excluded from these regulations so that they along with Beaver Park Water and Penrose Sanitation don’t have to be the policing agency.

Mr. Pullen stated that just to make sure it’s clear, it’s not the County, it’s not Planning and Zoning that’s making any restrictions. The restrictions, if there were any, would be made by any of the utility companies. So, because of shortage of water, getting into the draught season or whatever the reason is.

Ms. Heffner stated she isn’t asking that Planning and Zoning make any other stipulations other than the fact that they would prefer not to issue any additional taps based on what they already have in their Master Plan and their bylaws because their buildout Master Plan provides for one (1) residence per four and a half (4 ½) acres. That is what they acquired the water for, they spent millions of dollars doing that and they prefer that any zone changes do not impact that Master Plan.

Mr. Pullen stated that the ADU says one (1) acre or greater.

Ms. Heffner stated that it’s a four and one half (4 ½) acre minimum in Penrose.

Mr. Pullen stated that there was one other thing that Mr. Hilderbrand mentioned, the Walsenburg incident. He has looked into that himself and that project is similarly being proposed in Cañon City right now. It is more on a trailer park basis because small tiny houses, he doesn’t want this to be confused with Tiny Houses which are portable, their on wheels, so he wants to make sure they all understand it.

Chairman Alsup stated that not all Tiny Houses are on wheels.

Mr. Pullen stated that, not all of them are but that seems to be the phenomenon around here, are. He just wants to make sure that everyone is on the same page.

Chairman Alsup stated that he thinks that issue is taken care of where the ADU has to be built to code.

Mr. Brown stated that there is another point that was brought up about the ADU being built first. He thinks that it is an excellent idea and that it should be incorporated in the ADU Overlay. We shouldn’t restrict the building of the ADU first because as it was pointed out by one of the individuals in the audience, there are a lot of people that want to have a place to live while they are building their main house and this would be a great opportunity to do that.

Chairman Alsup stated that he is totally in favor of allowing that. He knows that Mr. Koch was concerned about how we regulate that. One of the ideas Chairman Alsup had was to require building plans and maybe require them to put a bond up to insure that the owner does that.

Mr. Brown stated that then the Building Department has to okay that regulation with it going through them.

Mr. Koch stated that the owner will have to go through the Building Department but that there is no way to enforce a bond per our regulations. He also thinks it is a great idea, which is exactly what was expressed, for the owner to be able to build the smaller unit first and then building the primary unit as they have the funds. We could try to incorporate something within the covenant that is required, stipulating that this is being assessed as the ADU to try to try to enforce that.

Chairman Alsup stated that several people have come up to him in the recent years, wanting to build a smaller home first as someplace to live while they are building their larger home. He doesn't have a problem with it if there is a way to inforce that the larger home will be built.

Mr. Koch stated that something can be added to the declaration along that line.

Mr. Brown stated that somebody had brought up the idea of an occupancy limit. They are right in that you can only put so many people in a one thousand (1,000) square foot home.

Mr. Koch stated that you have to be careful with this because you if you say only three people and there is a family of four then they can't live there and it's going to hurt them.

Mr. Pullen inquired who would enforce that anyway.

Mr. Pullen also stated that the one thing about building the ADU ahead of the main building, would there be a time constraint. It can't be over two years.

The Planning Commission members were in agreement that there should be some kind of time restriction.

Mr. Brown pointed out that a building permit is only good for a certain amount of time and then it has to be renewed. By that virtue, that would take care of the problem.

Chairman Alsup allowed one (1) more person from the public to speak.

Mr. Bill Christiansen stated, with due respect to Penrose, he understands their issue but that they will have the same issue if one hundred (100) people want to build houses in Penrose. They will still issue water taps for twelve thousand (12,000) dollars apiece. Not being critical at all, he doubts that anyone wanting to do an ADU would want to do it in Penrose with water taps at twelve thousand (12,000) dollars each. That prices it out. He's been a realtor in Cañon City for forty-one (41) years. When he started in the business the average priced house was thirty-seven thousand (37,000) dollars. The average priced house today is one hundred sixty-three thousand (163,000). To qualify for that means that you have to make about thirty-five thousand (35,000) dollars a year. They had a housing summit last fall, there will be another one this fall and all the Planning Commission members are invited to attend to listen to what our problems are in housing. Last year at this time the vacancy rate for rentals was zero percent. The State of Colorado Housing Department realized that the rentals happen so quickly and are gone so quick that we almost have no vacancy rate. It's great for those who own rental properties, it's great for investors. He has a couple moving here from Kansas. They found housing with his father and so a family of four (4) is living with their Dad/Grandpa. They are trying to find something, scrambling like crazy trying to find a place to live. They found a house last night that is one

thousand five hundred (1,500) dollars. The average rent for a three (3) bedroom house is about one thousand two hundred (1,200) dollars. If you do the math, it is hard for people to get into one.

Mr. Christiansen stated that a few of the people in the audience and himself have worked with Loaves and Fishes and some other organizations to try to figure out "Can we really provide affordable housing or is it just a pipe dream." An ADU is one way to attach the problem. His personal opinion is if the minimum size of a house is seven hundred fifty (750) square feet, if they build an ADU, why do they have to build a bigger house. What if something happens and they can't afford to build the two hundred thousand (200,000) dollar house down the road. We are taking away that persons property rights. It used to be, in the West, if you bought a piece of property, unless you had covenants, you could kind of do what you wanted with it. His feeling is less restriction and let's have an open mind. About ten (10) years ago he went to Phoenix, AZ which is a town he wouldn't want to live in but they were so far ahead of the curve from what we are doing. They didn't call them ADU's they called them casita's. Here they are building two hundred fifty thousand (250,000), three hundred thousand (300,000) dollar house with a casita right in front of it. Most of the casitas are about five hundred (500) to six hundred (600) square feet. They could have a little tiny insurance office, a little beauty shop, or they could have Mom who's in a wheelchair right next door to where they could take her in and out. It was such a good idea that if you want to look at a good code, it's in Maricopa County, the largest county in the country. They have a great code on casitas or ADU's. You drive through those neighborhoods today, ten (10) years later and they are still beautiful. If somebody isn't taking care of their weeds, they turn it into Code Enforcement. Our society is growing older at a rapid rate. His parents are both ninety-one (91) and they are still in their own home but he can easily see something happening to where he would need to bring one of them to his house. He lives in the County so right now he wouldn't be able to do that because they would have to stay downstairs and there's no way he would be able to pull his Dad back up the stairs. If he had a chance to do an ADU, that would be a really good option.

Mr. Fey stated that Penrose/Beaver Park has its own unique problems, they always seem to. The problem he has is, us as a government entity saying to the people in that area, "you can't have it." That's just big government stepping on their heads again. He understands the problems that are out there but he is really reluctant to just say everybody else can have it but you guys can't.

Mr. Brown stated there was another point that came up somewhere down the line that was regarding taxes for the ADU. Would that be taxed separately or with the primary unit? What happens with the County getting revenue from this additional unit?

Mr. Koch stated that he believes that it would be taxed along with the property and the primary unit.

Mr. Brown inquired if the assessor would come in and assess the property based on what the Building Department comes up with? But the County will get tax revenue from it.

Ms. Heffner inquired what the application fee with be for the ADU's.\

Mr. Koch stated that the application fee will be three hundred fifty (350) dollars unless it has to go to a public meeting with the Board of Zoning Adjustment, then it will be an additional one hundred fifty (150); the maximum cost could be five hundred (500) dollars.

Mr. Baker inquired about the one (1) parking space for the AUD, if it is set in stone.

Mr. Koch stated that it is one (1) designated space.

Mr. Baker inquired if it shouldn't be at least two (2), one for a husband and a wife.

Mr. Koch stated that the lots have to be a minimum of one (1) acre so there should be plenty of room to find an additional parking space. What we want to enforce is that there is one (1) designated space specifically for the ADU. That way there won't be a concern as to where they will be able to have a parking space. It could be more than one (1) but minimum is one (1).

Mr. Watts stated that he had a question for Penrose Water. If he built a house with twenty (20) bedrooms and fifteen (15) bathrooms if he had a ten (10) or twenty (20) acre parcel in Penrose. If they would, he doesn't understand the thinking behind a three (3) bedroom, two (2) bathroom home and a little tiny one (1) bedroom, one (1) bath unity with all these issues. Maybe Penrose Water needs to revisit some of their regulations and get some common sense back into what they're doing as well.

Ms. Heffner stated that Penrose Water District, in spending ten million (10,000,000,000) dollars to bring in water and water shares and water rights for Penrose based their expectations, their numbers on four and one half (4 ½) acre lots of average size houses. She would love it if somebody would build a twenty (20) bedroom, fifteen (15) bath house in Penrose. She thinks the Water District basically looks at it as three (3) to four (4) bedrooms, two (2) baths. Any time you add an additional unit to a piece of property in Penrose, you are now exceeding what the Master Plan calls for which is one resident per four and one half (4 ½) acres. Penrose Water acquired water based on that and the anticipation is to provide water for anyone who purchases a piece of property. With the ADU proposal, you are now cutting down the ability for us to be able to go through our ten (10) to twenty (20) year expansion. Ms. Heffner doesn't think Penrose Water is in a position to acquire additional water to support that kind of development. In fact, the Master Plan (was not specific as to which Master Plan, Fremont County or Penrose Water) addressed this very well. We appreciate the fact that the Planning Commission addressed it. It violates the Master Plan as we planned it, it violates the provisions and the planning that Penrose Water has done and it makes it very difficult.

Mr. Brown commented to Ms. Heffner that he doesn't see where the government can exclude one municipality from the ADU Overlay.

Chairman Alsup stated that in the first paragraph of the ADU amendment, about half way down, "The purpose of the ADU Overlay Zone District is to allow ADU's only when impacts to existing infrastructure, adjoining lands and uses, and neighborhoods are minimal and no life safety issues are created." He thinks the Commission has covered this with that language and if Penrose Water has to restrict the water taps they give in order to protect their water source out there, Chairman Alsup doesn't think that it is the Counties place to do that. He suspects

that if the Commission sent this to the County Commissioners and the County Attorney, they would have problems with it. He doesn't think that they can restrict one area of the County out of the amendment. Other people from Penrose would then be coming in saying "why did you leave us out? I would have been at the meeting if I would have known you were going to exempt us out."

Chairman Alsup stated that he has been supporting the idea of this for years, he just didn't think they would ever get it done. The first thing to him is that it's a private property right. Allowing people to make the best, wisest use of their property that they can as long as they don't impact harmfully their neighbors and their neighborhood. Secondly, it addresses affordable housing in which he thinks the county really does need in Fremont County. His son is an example; he was trying to find a place to rent in this County and he just couldn't afford anything that was decent at all other than some little hole. He was actually lucky enough to buy a very small house. But a lot of people can't afford to do that. He did find a decent place to live in this County. He doesn't expect there to be a flood of applications for this but if there are then that's kind of a little bonus because then it will put carpenters and electricians, plumbers and surveyors, and their assistants to work.

Mr. Fey stated that one other point he had is 4.20.3.15 "An ADU constructed or located within a larger dwelling shall have exterior access. Any interior access to the primary dwelling shall be closed off and sealed." He has a problem with that. Shouldn't that be the homeowners right; if that's his mother-in-law in there who's ninety (90), he doesn't want to have to run around the outside. Mr. Fey thinks that the last portion of that should be struck. Leave it up to the homeowner to lock the door if it's not someone they want see or have access to, in their own home.

Mr. Brown inquired of Mr. Koch if in the overlay district is 4.20.3.2 the same as 4.20.3.12.

**4.20.3.2 The property/land owner must live in one of the dwelling units.**

**4.20.3.12.4 Requires the property/land owner to live in one of the dwelling units;**

Mr. Koch stated that they are both the same but the second one is talking about what needs to be put in the declarations, so yes, they both need to be in there.

Mr. Fey inquired if they want to leave the owner occupied in.

Chairman Alsup stated that he was originally in favor of that but then Mr. Wied made a good point at the last meeting. He pointed out that right now the County isn't requiring landlords throughout the rest of the County to live on property that they rent out.

Mr. Fey stated that it isn't enforceable anyway.

Mr. Brown stated that in a way it's a good idea because the owner of the property is going to make sure that nothing is being torn apart but it would be very hard to enforce it.

Mr. Fey stated that if it becomes a problem, it would be a code violation.

Mr. Pullen stated that he personally agrees with Mr. Fey and that it doesn't need to be in there.

Ms. Heffner stated that on this one she disagrees and the main reason is because if you tie two (2) rental pieces of property together, and the utilities are going to be in the name of the renter, she thinks that by taking out the owner occupied aspect of it that you are just looking for a lot of problems with it; the maintenance of the property. Are we then just advocating apartments?

Mr. Brown asked her how it is supposed to be enforced.

Ms. Heffner stated that she understands that it may not be enforceable but by them signing the covenant would give them the intention of hopefully.

Chairman Alsop inquired what everyone wants to do with the two hundred (200) foot limit.

Mr. Fey stated that if the utilities are going to be tied together, that's the deciding factor.

Mr. Koch state that the whole point of that was for policing it. If the ADU is within two hundred (200) feet of the primary structure, the owner is going to keep a better eye on things.

Chairman Alsop stated that they need to address all of these issues in the motion.

### **MOTION**

Mr. Pullen moved to recommend approval of the proposed 9<sup>th</sup> Amendment to the Zoning Resolution Accessory Dwelling Unit Overlay Zone District with the following:

Remove: 4.20.3.2 The property/land owner must live in one of the dwelling units.

4.20.3.6 The ADU shall not be constructed prior to the primary unit.

Remove the last sentence of 4.20.3.15 An ADU constructed or located within a larger dwelling shall have exterior access. ~~Any interior access to the primary dwelling shall be closed off and sealed.~~

### **SECOND**

Mr. Baker seconded the motion.

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

**ADJOURNMENT**

Chairman Alsup adjourned the meeting at 4:20 p.m.

<i>Byron Alsup</i>	<i>12-1-15</i>
CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION	DATE