

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
November 8, 2023, AT 3:00 P.M.**

**MEMBERS PRESENT**

Mark Masar (Chairman)  
Dale McCullough  
Rudl Mergelman  
Larry Brown  
Gardner Fey  
Travis Payne

**STAFF PRESENT**

Dan Victoria, Planning Director  
Joanne Kohl, Office Manager

**1. CALL TO ORDER**

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

**2. PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

Chairman Masar asked if there were any changes, additions or corrections to the November 8, 2023, Fremont County Planning Commission Agenda.

**MOTION**

Mr. Fey motioned to accept the October 3, 2023, Fremont County Planning Commission Meeting agenda.

**SECOND**

Mr. Brown second the motion.

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

**4. APPROVAL OF THE October 3, 2023, PLANNING COMMISSION MEETING MINUTES**

Chairman Masar asked if there were any changes, additions or corrections to the October 3, 2023, Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. McCullough motioned for approval of the October 3, 2023, minutes.

**SECOND**

Mr. Brown second the motion.

Chairman Masar called for a roll call vote and the motion passed unanimously. (3 Abstained, Masar, Fey and Payne who were not present at the October 3, 2023, Planning Commission meeting, of 6) Need to re-vote at the next Planning Commission meeting on December 5, 2023.

**5. UNFINISHED BUSINESS**

None

## 6. NEW BUSINESS

### A. LLA 23-007 Dye-Robbins

Requesting a variance from the Fremont County Subdivision Regulations & Fremont County Zoning Regulations.

Chairman Masar asks Matt Koch to speak about this Lot Line Adjustment.

Mr. Koch states that they are requesting a variance for the lot width on this property. The owners own both of the lots with a house, well and septic on both lots.

Chairman Masar asks Director Victoria for the Staff report.

Director Victoria states that this is a request for a variance from the Fremont County Subdivision Regulations & Fremont County Zoning Regulations.

Lot 2: Fremont County Subdivision Regulations:

**I. DESIGN STANDARDS:** Except where modified by the Commission or the Board, each subdivision and the plat thereof shall be in conformity with these Subdivision Regulations, all adopted plans and policies, the Zoning Resolution and all other resolutions and regulations in effect in Fremont County.

**B. Lot Standards:**

**3. Wedge shaped lots:** In case of wedge shaped lots, no lot width shall be less than the permitted width of the existing or proposed zone district. The building setback line shall be located, by dimensions, at a point where the minimum lot width complies with the required lot width and required setback as per the zone district. The setback shall be from the closest property line.

**\*All structures would be in the unbuildable area on this lot, due to the width.**

**10.** Wherever possible, the depth of lots should not be greater than twice its width.

### Fremont County Zoning Regulations:

#### 4.4 Agricultural Rural Zone District

##### **4.4.5 DEVELOPMENT REQUIREMENTS:**

**4.4.5.1** Minimum lot area: Four and one-half (4 ½) acres.

**4.4.5.2** Maximum lot coverage: Fifteen (15) percent.

**4.4.5.3** Maximum building height: Thirty-five (35) feet.

**4.4.5.4** Minimum lot width: Three-hundred (300) feet.

**4.4.5.5** Minimum setback requirements:

**4.4.5.5.1** Front yard: Fifty (50) feet.

**4.4.5.5.2** Side yards: Twenty-five (25) feet for interior lot lines and fifty (50) feet for corner lot lines.

**4.4.5.5.3** Rear yard: Fifty (50) feet

The subject property is located in the Agriculture Rural zone district, on Mountain View Road, in Cotopaxi.

### Improvements:

Lot 1:

54'x44' (2,376 sq. ft.) Dwelling

20'x40' (800 sq. ft.) garage

Installed Septic System  
Permitted well (#135747-A) for ordinary household purposes.

Lot 2:

48'18' (864 sq. ft.) Dwelling

16'x12' (192 sq. ft.) Shed

12'x20 (240 sq. ft.) Barn

Installed Septic System

Unpermitted Well

**Comments Received:**

**Colorado Division of Water Resources:**

- Permit No. 135747-A, limited to ordinary household purposes inside one single family dwelling, whereas the groundwater shall not be used for irrigation or other purposes, registered to Darla Wixson, Lara Barnes, and David Barnes, upon Fremont County Parcel No. 77001600.
- The second well which is believed to be an unregistered/unpermitted well is situated upon Fremont County Parcel No. 77001600 and is viewable on the provided surveyor's map.

According to the submittal, the lot line adjustment would separate the two existing dwellings, currently situated upon one parcel, onto individual parcels. The dwelling on the adjusted Fremont County Parcel No. 77079446 would need to have a legal water source. If there are two wells, each associated with a dwelling, both wells would need to be registered and permitted. If there is only a single well on Fremont County Parcel No. 77001600 then a well would need to be drilled for the dwelling on the adjusted Fremont County Parcel No. 77079446.

According to the submittal, this action as proposed creates two distinct parcels **which may leave the residence identified as 96 Mountain View Road, Texas Creek, CO without a legally permitted source of water.** Therefore, the Division of Water Resources/Division 2 review concludes this action involves an expanded or changed use of permitted ground water warranting further attention and it this time does not recommend approval of said application only until remedied. Applicant(s) are directed to contact the Division of Water Resources permitting office to discuss options, and remedy permitting as appropriate to bring each of the affected parcels into full compliance.

**Planning & Zoning Department Recommendations:**

This department recommends approval for this variance to correct the setbacks on lot 1.

The department recommends the well permits be a contingency item if the LLA is approved.

The department recommends the owner of proposed lot 2 apply for a non-conforming status, as a contingency item.

**FCZR**

**5.7.1 CONTINUATION OF USE:** A non-conforming use may be continued and a nonconforming building may continue to be occupied, except as otherwise provided for in this section.

**5.7.5 RESTORATION:** A non-conforming building may be restored whenever necessary or desirable to the use of such building or structure, but if a nonconforming building is damaged by fire or other cause and the cost of replacement of the building is greater than eighty percent (80%) of the market value of the building prior to being damaged, a future structure or use on the

property shall conform to the provisions of Section 5.7. If the cost of replacement of the building is eighty percent (80%) or less than the market value of the building prior to being damaged, restoration must be started within twelve (12) months of such destruction and completed within twenty-four (24) months of initiating restoration

Fremont County Subdivision Regulations:

**Section XV. Lot Line or Boundary Adjustment**

**B. REVIEW OF THE LOT LINE OR BOUNDARY ADJUSTMENT:**

1. Application may be approved by the Planning Director if the following conditions are met:
  - a. The Lot Line or Boundary Line Adjustment shall not result in the creation of any additional lots or create any non-conforming lots.
  - b. The Lot Line or Boundary Adjustment shall not adversely affect adjoining lots.
  - c. The Lot Line or Boundary Adjustment shall meet the general intent of the Zoning & Subdivision Regulations.
2. If approval of a metes and bounds adjustment is granted, a letter of approval shall be recorded with the deeds creating the adjustment.
3. After review of all required information, if it is determined by the Department that the Commission and Boards review is not required, the Department upon satisfactory submission and review, will record the final plat in the office of the Clerk and Recorder of Fremont County. If the Commission and Boards review is required, it shall be in accordance with the procedures of Section XII., C. If Commission and Board review is not required, the review by the Department shall be completed within thirty (30) working days of receipt of a complete application. Final approval will not be granted until all deficiencies are adequately submitted. Upon submittal of all deficiencies and necessary documents and the same are approved by the Department, the final plat shall be recorded within five (5) working days.

Chairman Masar states that the variance is the lot width on lot 2, 148.5 2 ft. that's not in compliance with the regulations.

Mr. Koch states that is why they are asking for a variance and then they will file a non-conformance based on that.

Mr. McCollough asks if this new lot line adjustment will bring it into the new county standards they are working on. Director Victoria states that it will still be a non-conforming property. The existing structures will still be in a non-buildable zone. Any changes in the regulations would not affect that.

Chairman Masar states that if there are no more questions or comments, he is open to a motion.

**MOTION**

Mr. Fey motions to approve LLA 23-007 Dye-Robbins.

**SECOND**

Mr. McCullough second the motion.

Chairman Masar called for a roll call vote and the motion to approve LLA 23-07 Dye-Robbins passed unanimously (6 of 6).

Chairman Masar calls for the next item on the agenda.

**B. MS 23-004 Yoder Subdivision**

Mr. Koch states that they are requesting approval for minor subdivision that will create a total of 2 lots. Lot 1: 0.47 Acres 20,264 sq. ft. and Lot 2: 0.47 Acres 20,336 sq. ft. The subject property is located in the Agricultural Suburban Zone District, on Colvin Street & York Ave. in Canon City. There is an existing house on lot 2 that they just built. Lot 1 will be the vacant lot ready for a new house. It is in the Park Center Water District. They will run through lot 1 with an easement for services and they do have approval on that from the utility companies. In the process of preparing the survey, they did find a detention facility at the corner of lot 2, it has pipes and looks like it's been built in the past, it has not been maintained and needs some work. They are requesting a waiver of the drainage report since there is already a facility there that just needs to be maintained. There is a requirement for a fire hydrant, and they are going to install that prior to the recording of the plat. Just FYI it is going to be about \$10,000. That is what the client is putting into this.

Mr. McCullough asks if Colvin Road is the access point for the 2<sup>nd</sup> lot and is it built to county standards.

Mr. Koch replies yes Colvin Road will be the access but is not sure about the road being to county standards. They have recently graded it out. It is a public right of way and a public street.

Chairman Masar asks Director Victoria for the Staff report.

Director Victoria states that this is a request for a minor subdivision that will create a total of 2 lots.  
Lot 1: 0.47 Acres 20,264 sq. ft.  
Lot 2: 0.47 Acres 20,336 sq. ft.

The subject property is located in the Agricultural Suburban Zone District, on Colvin Street & York Ave. in Canon City.

**Utility Companies that will service this minor subdivision:**

Black Hills Energy  
Atmos Gas  
Century Link Telephone  
Spectrum Cable Television  
Canon City Fire District  
Canon City Area Metropolitan Recreation and Park District  
Park Center Water District  
Fremont Sanitation District

## **Zoning District Development Requirements:**

### **4.6.5 DEVELOPMENT REQUIREMENTS:**

\* **4.6.5.1** Minimum lot area: Fifteen-thousand (15,000) square feet.

\* **4.6.5.1.1** Lots comprising an area of fifteen thousand (15,000) square feet or more but less than one (1) acre shall be serviced by public water and public sewer systems. Lots comprising an area of one (1) acre or more but less than four and one half (4 ½) acres shall be serviced by a public domestic water system but may be serviced by an individual sewage disposal system. Lots comprising four and one half (4 ½) acres may be serviced by an individual well and individual sewage disposal system.

\* **4.6.5.2** Maximum lot coverage: Twenty-five (25) percent.

\* **4.6.5.3** Minimum lot width:

- \* **4.6.5.3.1** One-hundred (100) feet with public water and sewer service.
- **4.6.5.3.2** One-hundred and fifty (150) feet with public water service and individual sewage disposal.
- **4.6.5.3.3** Three-hundred (300) feet with individual well and sewage disposal.

\*Meets requirements

### **Improvements:**

Proposed lot 2: Dwelling

### **Applicants Waiver Requests:**

Drainage Plan & Report

### **Comments Received:**

### **County Engineer:**

The drainage plan should be designed and certified by a professional engineer and at a minimum should include:

1. Description/drawing of Lot 1 development.
2. Drainage improvements for Lot 1 to control drainage from proposed improvements of Lot 1 onto neighboring properties.
3. Hydrologic/rainfall analysis.
4. Detention pond and outlet design

### **Fremont County Department of Transportation:**

“Driveway access permit will be required for lot 2.”

### **Fremont Conservation District:**

Soil Health and erosion: due to the soil being excavated on this property, the Fremont Conservation District Board of Supervisors would like to know if there is a reclamation plan for future soil erosion due to the excavation. If there is, we would appreciate an email copy

**City Fire Protection District:**

Add a fire hydrant within 600 ft. of the property or extend existing public roadways to property.

**Planning & Zoning Department Recommends Approval with the following comments.:**

Per Subdivision Regulations of Fremont County, Colorado Section XIII D General Information REQUIREMENTS #1

- A title insurance commitment or policy with an effective date within thirty (30) days of the application submittal which shall set forth the names of all owners of property included in the proposed plat, and shall include a list of all mortgages, judgments, liens, easements, contracts, agreements, and other interests of record in the County, which affect the property covered by such plat.
- **Staff recommends an updated Title Commitment before recording of the minor subdivision.**

Per Subdivision Regulations of Fremont County, Colorado Section XIII D General Information REQUIREMENTS #4

- Proof of water, which may be a letter from a public water district indicating that the proposed lots can be provided water service, or a letter or a copy of a well permit from the Colorado Division of Water Resources, indicating that well permits will be issued for each lot.
- **Staff recommends the purchase of a water tap for lot 1 as a contingency item.**

Per Subdivision Regulations of Fremont County, Colorado Section XIII D General Information #8.

- DRAINAGE PLAN AND REPORT.
- **Staff recommends this as a contingency item.**

Per Subdivision Regulations of Fremont County, Colorado Section XIII D General Information REQUIREMENTS #9

- A fire protection plan addressing proposed method of fire protection, location of fire hydrants or other means of fire protection if the subdivision is not located within a Fire Protection District. If the subdivision is located within a Fire Protection District, the fire protection form, provided by the Department and completed by the district, shall be provided with the application.
- **Staff recommends the installation of a new fire hydrant within 600' feet of the proposed lots as a contingency item as well as an Improvement Location Certificate showing its location.**

Per Subdivision Regulations of Fremont County, Colorado Section XIII E ADDITIONAL REQUIREMENTS #1.

- Information as required on a form provided by the Department for the issuance of all property addresses.
- **Staff recommends this at the time of development of lot 1.**

Per Subdivision Regulations of Fremont County, Colorado Section XIII E ADDITIONAL REQUIREMENTS #2

- Closure sheets for each lot and the boundary of the proposed subdivision shall be provided prior to the recording of the plat.
- **Staff recommends this as a contingency item.**

Per Subdivision Regulations of Fremont County, Colorado Section XIII E ADDITIONAL REQUIREMENTS #3.

- An approved driveway access permit for any streets that intersect a County right-of-way or State Highway.
- **Staff recommends a driveway access permit be applied for and approved at time of development for lot 1.**

Per Subdivision Regulations of Fremont County, Colorado Section XIII E ADDITIONAL REQUIREMENTS #5.

- An executed Quit-Claim Deed with a deed restriction addressing the maintenance of any drainage facilities, easements, rights-of-way etcetera, required, such deed to be recorded at the time of recording of the plat, recording fees for the same will be the expense of the applicant.
- **Staff recommends this as a contingency item.**

Mr. Koch states he would like to discuss the water tap, Park Center Water did give them a letter saying they can supply the water, it does expire in February, rather having the applicant spend \$12,000 on a water tap, if they could just get an updated letter with a new date on that, that would be preferable.

Mr. McCullough asks if there is a water main going up Colvin Road that can be tapped into.

Mr. Koch replies no, not Colvin but going up York and allowing them to tap into that and run it up to the lot as a service.

Mr. McCullough asks if there is an easement for that to go into.

Mr. Koch replies, yes.

Chairman Masar asks if Colvin Road is a county road.

Mr. Koch says that as part of the Colvin Subdivision that this is part of, they dedicated 60 ft. to Fremont County for street. It is a public right of way built to a standard or accepted for maintenance by the county.

Director Victoria states that it is not to county standards but is in reasonable shape. When the fire Marshall stated that he either wanted the roadway improved or a hydrant installed. Staff felt that a hydrant would be a sufficient way to go.

Mr. Payne asks for a subdivision that the lot has to be facing a road, it's platted and a public right of way but it's not a road.



Mr. Koch states that the road it is an existing road in a public right of way weather it is built to maintenance or not, it is an existing road in a public right of way.

Director Victoria states he will research further.

Chairman Masar asks if it is a public road, should they not run public water down the road. Also, why would they run an easement through another property. Generally, the water line, if it faces a public road, the water line should be run down that road.

Mr. Koch states that the utilities understood that there won't be anymore development to the west of this, so putting a main in for one house wasn't cost effective. That is why they allowed them to run the services across an easement to the mains out on the road.

Chairman Masar asks if there are any properties to the north of Colvin that could possibly be subdivided at any point in time.

Mr. Koch states that there is one large lot there that could be yes.

Chairman Masar states that is the problem. If that eventually could be subdivided because they consider this a public road, and they have not done their due diligence, put a public utilities in that road if it is in fact public, if they develop that whole street, somebody is gong to have to put the utilities in the street.

Mr. Payne states that there would not be an issuance of a water tap without a recorded plat. In his opinion he feels they should delay it for a month to get things figured out before approving it. To figure out if that needs to be a built-out road or if having a right of way is enough. The water issue doesn't bother him as long as if Park Center's ok with it, if the sanitation district is ok with it, then ok. The road is what is more concerning. Obviously, the intent of that subdivision was to have that road built out.

Mr. Koch appreciates the Board taking the time to look at this, but if there is any way to make this a contingency rather, his client has that house for sale on the corner and he can't sell it until they get this done.

Mr. McCullough states that the frontage of the new lot would be on Colvin Road, so your front setback would be predicated on that, and the driveway access has to go into Colvin Road which has to be applied for and approved by the Transportation Department.

Director Victoria replies yes.

Chairman Masar states that he has a lot of questions on this and what does director Victoria recommend they do with this.

Director Victoria states that his initial staff report does recommend approval with a lot of contingencies. Maybe it would be best for staff to re-visit with FCDOT for their opinion of upgrading that roadway, since that seems like this Boards major concern.

Chairman Masar asks Mr. Koch where the water comes from for the current house at the end of Colvin Street.

Mr. Koch replies it is a service line from York and he believes it runs down Colvin Street to their house.

Director states the Colvin is an unmaintained County Road with no improvements.

Mr. Payne states that for a subdivision to happen on that unmaintained county road, by our code it should be brought to county standards.

Mr. McCullough states that the County Commissioners already denied a previous 40 acre Minor Subdivision because of this type of an issue.

Chairman Masar asks if they do table this, can the questions be answered in 30 days. Clarification on, if a personal water line is under a county road, who maintains it.

Mr. Koch replies he hopes so.

Mr. Payne stated that they did receive an updated comment from Fremont County Department of Transportation saying they needed a drainage utility for each lot that they were still waiting on.

Director Victoria states he will contact FCDOT for any comments.

Chairman Masar asks for any questions from the board. If not, he is open to a motion.

**MOTION**

Chairman Masar motioned to Table MS 23-004 Yoder Subdivision until the December 5, 2023, Planning Commission meeting.

**SECOND**


Mr. Fey second the motion.

Chairman Masar asked if there is further discussion.

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

**7. ADJOURNMENT**

Chairman Masar adjourned the meeting at 3:58 p.m.

  
\_\_\_\_\_  
CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

  
\_\_\_\_\_  
DATE