

Special Fremont County Commissioners Meeting
Minutes
March 15, 2007

Present for the meeting were Commissioners Paul Romrell, and Skip Hurt, Commissioner Donald Trupp was excused he was out of town.

Also in attendance were Prosecuting Attorney Karl Lewies, Planning & Building Administrator Jeff Patlovich, and Clerk Abbie Mace.

Commissioner Romrell declared the meeting open.

The purpose of the meeting today is to review the Gunbarrel at Shotgun Appeal.

Commissioner Hurt disclosed that he rode with Planning & Building Administrator Jeff Patlovich to remove the Hearing Signs from the proposed subdivision property while he was going to another meeting.

The developer applicant Mr. Williams did not have an objection to Commissioner Hurt taking part in this appeal after disclosing he had been to the property.

Commissioners asked to review the original plats that were submitted as exhibits. Clerk Mace went and got the originals. Commissioners reviewed the original plats Shotgun Village Estates Division 5 & 8, Commissioner Romrell read the road dedication from the plats signed and the acceptance signed from the commission, and he also read that the statement on Division 8 only that the county would not maintain the roads until built to county standards. Cherokee Road is on Division 5, Ponca Road is on Division 8.

Commissioners discussed the testimony given at the hearing about the roads. The big question is if the roads met the standards.

Attorney Lewies stated in the Development Code VIII LL. Roads on page 53 is that the standard that must be met. He read the paragraph into the record. He went on to reference appendix B road standards that require 60 foot width for right of ways.

Testimony was given that stated the road was 50 feet in the hearing from Mr. Benton.

Commissioner Romrell asked if the Transportation Plan requirements are different from the development code requirements.

Attorney Lewies stated that that is reason the Planning & Zoning Board denied the development was the road standards. The question is because the road met the standards at the time if it is okay to approve this today.

Commissioner Hurt stated he feels they are public roads and would like to talk about Ponca Road. He stated the standard road width is 24 feet wide with a 60 foot right of

way for snow removal. He would like to propose accepting the development with a 24 foot road base 30 right of way built to county standards (safe all weather road); being built from beginning of the intersection on Cherokee Road.

Commissioner Romrell is concerned with the steep part of Ponca Road if there is enough room to build a safe road.

Commissioner Hurt feels that it can be managed and stay in the 30 right of way. He stated fill will ravel out 1 ½ foot out.

Attorney Lewies stated the plat show's a 30 foot right of way for Ponca road and also Cherokee Road has a 30 foot right of way.

Commissioner Hurt stated that the fill can be managed to stay within the 30 right of way. He would then put a gravel surface on the road. They referred to Exhibit 8 – Google photo of the area.

Commissioner Romrell stated that if they did something similar to Commissioners Hurts proposed would it require the developer to rearrange the layout of his lots.

Commissioner Hurt does not feel that it does.

They discussed the Ponca Roads and Chickasaw Road also.

Commissioner Romrell stated the developer said he would bring his roads in the proposed development to county 60 foot right of way standards.

Attorney Lewies reviewed that the Ponca and Cherokee roads would be built to 30 right of way standards and that the roads accessing in the developers subdivision would be built to county current standards.

Commissioner Romrell asked if this would require a variance from the County.

Attorney Lewies explained the code and said that the commissioners have the right to interpret the code to build the roads to surface standards and accept the roads or they could interpret to say that they have to have a 60 foot standard as written today.

Commissioner Hurt drew on the white board a map of the roads leading into the proposed subdivision and the existing roads. He stated the road would be built to 24 foot road surface gravel all weather road with 30 foot road of approximately 800 feet. Ponca would be a 30 foot right of way 24 foot road surface, with Chickasaw would be built to 60 foot right of way with 24 foot road surface. All the roads in the proposed subdivision would be built to county standards. He asked if we can change design of roads.

Attorney Lewies stated that they can only address decision not change the plats.

They reviewed the map Commissioner Hurt drew with all roads improved to 24 foot surface (Cherokee & Ponca) with 30 foot right of ways, with all new roads built and improvements to Chickasaw being built to current county standards.

Attorney Lewies referred to the decision they made on the Stephens Ranch Subdivision Appeal, he explained how the decision met State Law and explained how this would apply to this subdivision.

Commissioner Romrell asked if the county would build the roads if the developer would pay for it. That could be then extended the same offer to the rest of the Shotgun Village Subdivisions property owners.

Commissioner Hurt is concerned that it will add additional maintenance from the county.

Attorney Lewies stated the county has an obligation to maintain all county roads subject to funding.

Commissioner Hurt stated the county would build the road and if the developer would pay for the costs in reimbursement the county for the improvement to Cherokee and Ponca if he agrees. Then they could approve the subdivision, with the developer building his roads in the new subdivision to current standards.

Attorney Lewies stated they could do this. He feels he understands what the commissioners would like in a draft Facts Findings and Conclusion of Law similar to the decision of Stephens Ranch Appeal. He asked if the commissioners wanted the developer to foot 100% of the costs to rebuild Cherokee and Ponca roads.

Commissioners agreed that the road improvements would be 100% reimbursement from the developer.

Commissioners will review the score sheet to see if it meets all the requirements.

Commissioner Romrell is concerned that they are asking the developer to pay all the improvements to a road that services other people. In Stephens Ranch the developer only had to pay a portion of the improvement to Fish Creek Road. He is concerned that the developer has to pay all the costs and that not all the lots on Ponca are developed and if that is fair.

They will think this over until the next meeting and consider this.

Attorney Lewies stated there are some things similar to Ponca and Fish Creek and differences also Fish Creek road was not just for the subdivision more of a public road. Ponca is for access to homes only on a public road but not used by the general public for access to other places. Ponca will only be a gravel road not as a paved road as Fish Creek road is.

Commissioners next address safe access Development Code VIII KK3 on page 53 Access.

Attorney Lewies read the standard from the code.

They reviewed the score sheet and both the administrator and Planning & Zoning Board score that that it does comply.

Commissioner Romrell is concerned that there is approximately 500 foot of road that is a single point of access.

Attorney Lewies stated the exception of the one point of access is acceptable if there is a loop road system with less than 1000 daily trips.

Commissioners reviewed an aerial photo of the area.

Commissioners again reviewed that the score sheet show that the administrator and Planning & Zoning Board that it does comply. Commissioners agreed that it does comply.

The commissioners next discussed whether they need to go through each line item of the score sheet. Attorney Lewies stated that they should.

They took a 5 minute break.

Commissioners reviewed the score sheet of the administrator and Planning & Zoning Board.

The commissioners discussed and scored the following:

VIII C. Runoff – not relevant

D. 1 Wetlands – Commissioners discussed this in more detail. Surveyor Rick Byrem stated that they have set backs from the small wetland. Attorney Lewies asked if the commissioners are okay with that. They discussed the firefighter's testimony that he feels there are wetlands; but he is not an expert. They discussed the photo of the development and couldn't see any green color. Commissioners can make it a condition of approval that the developer has met the wetland requirements.

Attorney Lewies had the commissioners review the Development Code on page 13 as to what a Certificate of Compliance is. He read that to the commissioners.

Commissioner Romrell asked who makes issues the certificate of compliance.

Attorney Lewies stated the Planning & Building Administrator.

Attorney Lewies asked if they want a full blown wetland delineation study.

Commissioners took a 5 minute break.

Commissioner Romrell stated he can't see doing a \$10,000 study on a small wedge of property.

Attorney Lewies stated that having gone through litigation on this item in a previous appeal we need to make sure that we address this properly.

Commissioner Hurt stated to avoid going into a full study maybe they could have the stream delineation more defined. Commissioner Hurt drew a diagram of the wetlands from the creek at 202 foot. He would like to see it be done from the edge of the wetland not the center of the creek.

Attorney Lewies read a written narrative from the record for preliminary plat. It stated that wetlands will be protected on the final plat, but they did not indicate the size of the setbacks.

Commissioners would like to have this as a condition of approval.

Next score sheet item

VIII D.2 – Wetland Open Space Use – 0

VIII E. 1 - Stream Corridors/Floodplains: Setbacks – Condition of approval

VIII E. 2 – Stream Corridors – Open Space – 0

VIII E.3 Stream Corridors/Floodplains – Condition of approval

VIII F. Water Quality Vulnerability – 0

VIII G. Alluvial Fans – 0

VIII H.1 Slopes – 0

VIII H.2 Slopes - 0

VIII I.1 Wildfire Hazards: Individual Structure – Condition of approval

VIII I.2 Wildfire Hazards: Subdivision – Condition of approval

VIII J.1 Wildlife Habitat: - 0

VIII J.2 Wildlife Habitat: - 0

VIII K Native Plants Use Encouraged - 0

VIII L.1 Irrigation Systems: State Law – Not relevant

VIII L.2 Irrigation Systems: Runoff – Not relevant

VIII M. Agricultures Lands – 0

VIII N. Industrial Uses – Not Relevant

VIII O.1 Hazardous Substances – Not Relevant

VIII P.1 Noise – Condition of approval

VIII P.2a Light, Glare, Heat: Hazardous – Not Relevant

VIII P.2b Light, Glare, Heat: Fixtures – Condition of approval

VIII P.3 Electrical Interference – Condition of approval

VIII P.4 Solid Waste – Condition of approval

VIII P.5 Industrial/Commercial Solid Waste – Not Relevant

VIII P.6 Runoff – Not Relevant

VIII Q. Livestock on Residential Lots – Condition of approval
VIII R. Home Occupations – Not Relevant
VIII S. Residential Care Facilities – Not Relevant
VIII T.1 Land Use Compatibility-Lot Coverage – -1 Romrell, 0 Hurt
VIII T.2 Land Use Compatibility-Building Height – -1
VIII T.3 Land Use Compatibility-Building Bulk – 0
VIII T.4 Land Use Compatibility-Activity Level – 0
VIII T.5 Land Use Compatibility-Buffers – 0
VIII T.6 Land Use Compatibility-Routing Traffic – 0
VIII T.7 Land Use Compatibility-Views – -1
All of T Land Use Compatibility will be revisited.
VIII U. Commercial Development Areas – Not Relevant
VIII V.1 Commercial Development Scale – Not Relevant
VIII V.2 Commercial Development Activity – Not Relevant
VIII V.3 Commercial Development Buffers – Not Relevant
VIII V.4 Commercial Development Designs – Not Relevant
VIII V.5 Commercial Development Signs – Not Relevant
VIII W. Gravel Mining – Not Relevant
VIII X. Buffering: Retention of Vegetation – 0
VIII Y. RV Parks – Not Relevant
VIII Z. Connections – Complies
VIII AA.1. Visually Sensitive Areas: Residential – 0
VIII AA.2. Visually Sensitive Areas: Commercial – 0
VIII BB. Signs – Condition of approval

Commissioner took a break for lunch.

VIII CC.1. Central Water Supply: Encouraged – 0
VIII CC.2. Central Water Supply: Required – Not Relevant
VIII DD. Fire Fighting Water Supply – 0
VIII EE. Individual Water Supplies – Not Relevant
VIII FF.1. Central Sewerage: Connection – Not Relevant
VIII FF.2. Central Sewerage: Vulnerability Area – Not Relevant
VIII FF.3. Central Sewerage: Encouraged – 0
VIII GG. On-Site Sewage Disposal – Condition of approval
VIII HH. 1.1 Private Utilities: Access – Complies
VIII HH. 1.2 Private Utilities: Capacity – Complies
VIII HH. 3 Private Utilities: Underground – 0
VIII II. Construction in Easements – Condition of approval
VIII JJ. Off-Street Parking and Loading Areas – Condition of approval
VIII KK.1. Safe Access: Construct/TTD – Not Relevant
VIII KK.2. Safe Access: Arterials – 0
VIII KK.3. Safe Access: Two Point – 0
VIII LL. Roads – Condition of approval
VIII MM.1. Public Access: Existing – Not Relevant
VIII MM.2. Public Access: Provision – 0

VIII JJ. Roads – Needs to be removed from form in twice.
VIII NN.1. Fire Protection: FFD Comments – Complies
VIII NN.2. Fire Protection: Building Heights – Condition of approval
VIII NN.3. Fire Protection: In FFD – Not Relevant
VIII OO.1-3. Large – Scale Development: Facilities – Not Relevant
VIII OO.4. Large Scale Development: Employee Housing – Not Relevant
VIII OO.5. Large Scale Development: Employee Housing – Not Relevant

Commissioners readdress VIII Section T. 1-7

VIII T.1 Land Use Compatibility-Lot Coverage – -1
VIII T.2 Land Use Compatibility-Building Height – -1
VIII T.3 Land Use Compatibility-Building Bulk – -1
VIII T.4 Land Use Compatibility-Activity Level – 0
VIII T.5 Land Use Compatibility-Buffers – 0
VIII T.6 Land Use Compatibility-Routing Traffic – 0
VIII T.7 Land Use Compatibility-Views – 0

Total Score will be a -15 and does not pass.

Attorney Karl Lewies will write the draft Facts, Findings and Conclusions of Law for the commissioners to review at the next work meeting.

Commissioner Romrell made a motion to go into executive session pursuant to IC 67-2345 (e) at 2:50 p.m. Commissioner Hurt seconded the motion. A roll call vote was heard with Commissioner Romrell voting I and Commissioner Hurt voting I. Commissioner Romrell declared the meeting open at 3:41 p.m.

There being no further business to come before the board meeting was adjourned.

Paul Romrell, Chairman
Fremont County Commission

Attest: _____
Abbie Mace, Clerk

