

**Fremont County Planning
& Zoning Regular Meeting Minutes
March 8, 2010
6:00 pm
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular meeting on March 8, 2010. They met in the County Annex Building. **Members in attendance were:** Glen Pond (Chairman), John Nedrow (Vice-Chairman), Sam Davis, Jim Gerber, Larry Singleton, Steve Trafton, Cindy Miller, Stephen Loosli and Cathy Stegelemeier.

Staff and others present: Kurt Hibbert (Administrator), Lisa Benson (Planner)

1. Welcome

The Chairman called the meeting to order at 6:02 p.m.

2. Chapter 5 Development Code – stream corridor setbacks, lighting standards, commercial design standards, appendix R – wind energy systems

Mr. Pond stated that since Joshua Chase is not here the stream corridor setbacks and wind energy systems will be delayed until next meeting when Mr. Chase is here. Mr. Pond welcomed everyone here and turned the time over to Mr. Hibbert.

Mr. Hibbert stated that there are a lot of changes that have been made to the code. Chapter 5 is the performance standards of the code. There have been some changes made and some beefing up of the code. The board will be able to go over these standards and see if they seem adequate. Asked the board to not pay attention to the formatting of the code and that we are only talking about the content. Mr. Hibbert discussed the contents of Chapter 5 and asked for discussion on it.

Mr. Hibbert went through Class I and Class II permit requirements and procedures. Mr. Hibbert went through each point within the Chapter with discussion.

Mr. Hibbert stated that there are 9 divisions under the Performance Standards. Read through each division with discussion.

- Division 1 is general requirements – master planning, design, improvements, and property taxes.
- Division 2 is natural Assets and Critical Areas – Water quality, critical areas: water quality vulnerability – there are only 2 areas within the County that have the water quality vulnerability area.

Mr. Hibbert stated that he did not feel that the map is correct and that we need to re look at it. Mr. Hibbert stated that Joshua has updates and the original data on this; he will have them for the next meeting. All agreed that they needed that information for further discussion.

Runoff and erosion control – read through code.

Mr. Loosli stated that most of these projects are run by the EPA now and asked if we should be working with them more on this.

Mr. Hibbert stated that we already do work with them and have the information here for them if they do need a stormwater permit.

Mr. Loosli stated that what he was wondering is if the EPA had required them to do a professionally prepared plan then couldn't we accept that plan – would we reject it if it was missing some of the information.

Mr. Hibbert stated that we would not if it was professionally prepared.

Critical Areas: Wetlands– read and discussed the wetlands area within the Code.

Mr. Davis asked if we have a map to help us identify ordinary high water marks.

Mr. Hibbert stated that there are engineers that come in and have a wetlands delineation done on those properties to find that information and see where those lines are. Discussion on how a delineation map was done.

Mr. Nedrow asked if the County had a wetlands map or who says that it is wetlands.

Mr. Hibbert stated that what it has to do is demonstrate compliance with State, Local and Federal wetlands protection agency. You basically have incorporate knowledge which might come from an expert, farmer, photographs, or ect. They just want to know that you have knowledge of where that is.

Mr. Loosli asked what the difference was between the annual high water mark and the average high water mark.

Mr. Hibbert stated that he wasn't sure but that he would find out what the difference is between the two. Stated that he does not think that they are the same.

Mr. Trafton stated that this is where we should be referring to Policy 11 of the Comp plan. Stated that this is where the other state and federal agencies needed to come into place. Policy 11 was put in there so developer can't come in and say "my guy says this is where the high water mark is" and someone else says no it is

somewhere else. Stated that he believes this where the state and federal agencies need to be brought into the process.

Mr. Hibbert stated that all of these criteria came out of letters from the agencies and was what they had asked us to put in our code.

Mr. Pond asked if Mr. Trafton was suggesting making any changes to this.

Mr. Trafton stated that no he didn't have any specific recommendations at this time but that this is just getting at the question of deciding whose water mark is right when in dispute.

Mr. Hibbert stated that if you want a delineation than just ask for one. You can request one at anytime from the developers.

Critical Areas: Stream and Lakeshore Corridors/Floodplains –
Read through and had discussion on Corridors
Under 5.3 it was questioned why “A minimum disturbance of 24 feet shall be permitted on any lot or site.”

Mr. Nedrow stated that he had that sentence underlined and crossed out and had maximum in there instead.

Mr. Hibbert stated that the sentence should just be removed. All said that it would be a good idea to remove it from the code.

Mr. Hibbert stated that under 5.5 it should be changed to “shall be” and not “may be”. Mr. Hibbert stated that most of 5.7 will be removed but the sentence that starts with “Functional” will remain as a definition part.

Mr. Nedrow stated that the copy they had last time in 5.2 there was mention of roads running parallel to streams and lake shores shall be located the same distance from the water body as required for minimum building setbacks and I didn't see that in here now.

Mr. Hibbert asked what page it was on. It was stated it was on the memo Mr. Chase had passed out. Asked if it was ok to save this for next week when Joshua is back and will finish the rest of the stream setbacks the next time we met.

- Division 3 – Agricultural Resources and the Farm Economy-
Protecting agricultural operations, Agricultural Industries –

Mr. Hibbert asked if there were any thoughts on inserting CAFO standards in the ordinance.

Mrs. Miller asked if it is possible to be able to see them first.

Mr. Loosli stated that he would like to see the state statue on it.

Mr. Pond asked if everyone was ok with the expansion piece in there.

Mr. Davis asked why we are sticking with 100 head when that is hardly anything anymore.

Mr. Hibbert stated that we should wait to finish this discussion until he gets the state code on this. Stated that he feels we should have something to help protect the County.

Mr. Loosli stated that Mr. Davis point about certain areas – if we are not going to reference the zone shouldn't we just take that out.

Mr. Hibbert stated that sentence would be struck and the rest of this would be tabled until next meeting when he had the state statues on this.

Protecting Irrigation Systems – discussion on this part in the code.

Mr. Pond asked about the “no development shall be permitted to adversely impact the operation of any irrigation system.” So if you have sub-irrigation and the development of a piece of ground what is going to happen – can you sub anymore on the adjoining properties?

Mr. Loosli asked who would be the person to say they are adversely affected?

Mr. Hibbert stated that he didn't know how to answer that question and it would just have to be looked at on a case by case basis.

Subdivision of Irrigated Lands: Delivery of water –

Mr. Hibbert read through each instance - Group discussion on water rights, irrigation, and the language that needed to be changed such as Counties to County and Subdivision to Developments.

Mr. Hibbert stated that 2.2.4 would be removed completely.

Mr. Loosli asked why this is not in the appendix any more.

Mr. Hibbert stated that is because it is a development criteria that needs to be established, it is one of standards. In fact we pulled 2 that were in the appendix and put them in this chapter. Stated that we removed the requirement for the Model Resource Management Easement, it will no longer be part of our code.

Mr. Davis asked how this disclosure statement is going to be produced.

Mr. Hibbert stated that it could be done on a plat or development agreement. Will make sure that it is done and that they understand. Some places it would not be applicable.

Weed Control, Agricultural land – Mr. Hibbert read the code - no discussion.

Agricultural land and design – Mr. Hibbert read code – no discussion.

- Division 4 – Land Use Compatibility
Nuisances – no discussion
Light, Glare and Heat – Group Discussion

Mr. Hibbert explained what up lighting is and also explained about light trespass.

Mr. Pond questioned under 12.3 the electrical uses – how the County is going to know that this is an issue and who is being affected.

Mr. Hibbert stated that there could be a commercial subdivision and it was going to be using high frequencies then we know that could interfere with others around the area. This type of example would be what we are looking at for electrical issues.

Mr. Pond stated that he thought that they would need to get proof that is the issue and not someone else down the block.

Mr. Hibbert stated that all this is really saying is that if you do then you are in violation of your permit.

Mr. Loosli questioned 12.4 and 12.5 (solid waste) if it is a mandatory standard now. Mr. Loosli suggested that you give the solid waste its own heading and have sub-headings for residential and industrial.

Mr. Hibbert stated that it will be changed and that he thought this was left over from the Island Park planning area in the code.

Mr. Nedrow questioned if Island Park has some regulations on bear proof container laws.

Mr. Hibbert stated that there is some language in here that is going to address that but it is just not under Nuisances.

Hazardous Substances – Mr. Hibbert read through code

Mr. Hibbert asked what are critical areas as defined by this ordinance.

Mr. Loosli stated that it is under division 2 and is entitled natural assets.

Mr. Hibbert asked if that is well mapped.

Mr. Loosli stated that no it is not.

Mr. Hibbert the way that we are going to be approaching this area because of our wildlife overlays is that every area will be critical. So that language needs to be amended and just say that you need to be compliant in those areas.

Mr. Loosli stated that you should just say that the County is subject to this act. Asked what is this act?

Mr. Hibbert stated that to demonstrate continued compliance they have to report and didn't feel that he was an expert on this Act. It is the Communities right to know act so that if there is something there that is hazardous then they have to notify us and keep us informed. Questioned if we should just leave it that way it is and flush it out when we get into the critical areas.

Mr. Loosli asked if we could get a summary of the EPCRA for the next meeting.

Mr. Hibbert stated that yes, he could get that.

Mr. Trafton stated that he didn't see in division 2 on runoff where it says no development shall channel storm water.

Mr. Hibbert stated he would move 12.6 to division 2 under 3 page 60.

Livestock on Residential Lots – Mr. Hibbert read from code.

Mr. Hibbert stated that this has been changed. There has been added a certain distance from another house because there was no area defined.

Mr. Loosli asked if the temporary stock is horses and such for packing and how long is temporary.

Mr. Hibbert stated during big game hunting seasons.

Mr. Hibbert asked what we need do there and if it is still applicable.

Mr. Davis stated that he didn't know if 2 horses were enough.

Ms. Stegelemer questioned why you can have 10 llamas but only 2 horses?

Mr. Loosli stated that they have spent a lot of time trying to get the uncertainty out of this and here we still have a paragraph full of uncertainty.

Mr. Hibbert asked if they want to just define temporary keeping of stock for 30 days during local big game hunts. Ask what kind of stock it should be.

Mrs. Miller stated that it doesn't say how many pigs or chickens there can be.

Group discussion on the amount and kinds of animals that can be allowed.

Mr. Hibbert stated that he would get more information for this.

Home Occupation – Mr. Hibbert read from code.

Group discussion on Home based business

Residential Care facilities – Mr. Hibbert read from code.
No Discussion from group

Land Use Compatibility – Mr. Hibbert read from code.

Group discussion on the Land Use Compatibility –

Mr. Hibbert went over what restrictive covenants are and what problems they can cause also went over what changes were made within the code.

Mr. Loosli questioned if this doesn't introduce an opportunity for a variance because of this change in 2010 and he doesn't have enough room on his lot that he has owned for 10 years.

Mr. Hibbert stated that yes he can do that, it is just not covered under this criteria it covered under Chapter 3.

Buffering – Mr. Hibbert read from code.

Mr. Loosli questioned if the prohibition of spite strips needed to be added.

Mr. Hibbert stated that was a good idea. A Spite strip is when a developer plats a public road within 6 inches of his land and you would have to trespass to get to the next property. Which means the public loses control of what goes on with that road. Asked what the commission feels on this is.

Mr. Trafton asked if there is a technical term these days.

Mr. Hibbert stated that he thinks that everyone in the industry knows what a spite strip is.

Mr. Loosli stated that it was originally used to hold hostage the upstream land owner.

Mr. Pond agreed that it did need to be added.

- Division 5 – Visual Resources and Community Image
Mr. Hibbert read from code.

Mr. Hibbert asked if everyone understood the Visual Resource Assessment. Explained the study and what visual sensitive actual is. This will need to be revisited at a later date for a stronger discussion.

Mr. Loosli questioned if this is the section where the aesthetics rules should go.

Mr. Hibbert stated that it definitely overlaps and we can talk about it after we get everything numbered.

Sign Ordinance –

Mr. Hibbert discussed the Sign Ordinance and the need to change it and look at it later.

Mr. Pond asked if in Island Park their signs are regulated by the state.

Mr. Hibbert stated that yes within the highway corridors but there are multiple jurisdictional issues when you get within the city. There is a lot of private land where we can enforce our own standards?

- Division 6 – Public Facilities and Services
Central Water Supply, Individual Water supply, On-Site Sewage Disposal, Central Sewerage – Mr. Hibbert read from code.

Mr. Loosli asked would a short-plat be required to have central sewage?

Mr. Hibbert stated that this standard would only apply to that if we make it.

Mr. Loosli stated that the preference would be to just name what would apply to the short plat instead of excluding items from it.

Mr. Hibbert stated that yes that is right and each of those would just become a check box of things for the developer to do.

Mr. Loosli questioned if we do not anticipate any larger subdivisions of 10 or 15 lots where they can have individual septic tanks.

Mr. Hibbert stated that we still need to have this discussion and will need to add some special language for a short plat.

Private Utilities, Construction in Easements, Off-Street Parking and loading areas, Safe Access, Roads, Public Access –
Mr. Hibbert read from code.

Mr. Nedrow asked about the 2 points of access for anything over 6 lots. We have talked before asked if it would go here or somewhere else.

Mr. Hibbert stated that he thinks that it is in an Appendix but would add that from the old South Fremont Zoning code FF.

Mr. Loosli read South Fremont code FF page 27.

Mr. Hibbert stated that he would add that under 33.

Group discussion on the average number of trips and to have that language removed from the code. All agreed to remove.

Mr. Hibbert stated that he would get more information on the standards for Loop Roads. Mr. Hibbert read that no development shall eliminate historical access.

Mrs. Miller asked if there needed to be a definition on what historical means.

Mr. Hibbert stated what is new is the parking and private lands to trailheads on public lands when doing a subdivision/development.

Group discussion on the public lands and access and historical use. (25 minute discussion)

Mr. Hibbert stated that he would change the language of 33.2. to say - When part of an adopted County plan, the provision of access ...

Mr. Loosli asked if there could be some more homework done on this and how the County is able to take the land. Stated that he would e-mail information to Mr. Hibbert on some State Statues pertaining to this.

Mr. Hibbert stated that he could do this and it would make a really long meeting to talk about it.

Fire Protection - Mr. Hibbert read from code with group discussion

Mr. Loosli asked if on the Fire protection the County was still taking the position of the no response with the Fire Districts then no requirements.

Mr. Hibbert stated that no; a letter is needed and a no response is not acceptable.

Mr. Loosli asked if there were any talk about adopting the rural fire fighting rules.

Mr. Hibbert stated he wasn't sure what it was.

Mr. Loosli stated that he would e-mail it to Mr. Hibbert.

Mr. Hibbert stated that he thought it was already in here. Found it under appendix R. It still needs to be worked on with the Building Official on materials.

- Division 7 – Commercial Development – Architectural Design Standards Commercial Structures Less than 25,000 sq ft – Mr. Hibbert read from code - Discussion on commercial structures and commercial lighting.

Mr. Loosli suggested moving this division #7 into the appendix so that they can digest it and then make changes to it later.

Group decided to talk about this more at a later date.

Discussion to remove 26, 27, & 28 from this section of the code.

- Division 8 – Large-Scale Development
Discussion on moving this back to the respective categories.
Agreed.
- Division 9 – Residential Development
Asked if it was ok to discuss to another night – everyone agreed to that

3. Discussion on County Wide Trails & Pathways System

Mr. Hibbert stated that this has already been covered.

Mr. Loosli stated that he would like to cover it some more. Steve, Glen, and I developed a map with trails on it when they worked on the comp plan.

Mr. Hibbert asked who has that map. Suggested that Joshua might have the map. Stated that he did think that it needed to be integrated into the comp plan.

Mr. Loosli stated that it went right to the point so there wouldn't be orphan trails that no one used.

Mr. Hibbert asked if it is broken down into a system.

Mr. Trafton stated that it was really a recreation uses map that included all that.

Mr. Hibbert stated that he had seen a map like that and he will find this map to look at and review.

Mr. Trafton stated that it was more than just trails it was water ways and other accesses and things.

Mr. Hibbert stated that he would find that map and add it to his home work list.

4. Administrators Business

None

5. Adjourn

**Mr. Davis moved to adjourn. Mrs. Miller seconded. All in favor.
Motion Passed.**

Meeting adjourned at 9:08 pm