

Planning Commission Meeting Minutes
October 9, 2019

Planning Commission Members in Attendance: Steve Shea, Steve Schrock, Layne Brones, Tom Kay, Jacob Gray

Absent Members: Angela Mackey, Kim Shay, Eli Wolcott, Tate Locke, Dick Gilmore

Planning Staff in Attendance: Community & Economic Development Director, Elyse Casselberry; Current Planning Manager, Kelly Yeager; Administrative Assistant, Vivian Archuleta.

Tom Kay opened the meeting at 5:30

Item #1: Approve Previous Meeting Minutes for September 25, 2019

Motion: Steve Shea moves to approve minutes as presented

Second: Layne Brones

Minutes Approved

Item #2: SUB19-031 Farmer Frank's Subdivision a Re-Sub of Lot 1 of SUB19-019 Martin Brodel Residence Subdivision

Mr. Yeager read the proposal:

The Applicant just completed a 2 lot subdivision creating Lot 1 containing 21.773 acres and Lot 2 which contains 1.05 acre The Applicants have been trying to sell Lot 1 for the last year and half. They have had 12 buyers of interest who either want the commercial buildings and a little acreage or they want the single family dwelling with farm land. The issue is Lot 1 is made up of two different types of land uses; commercial buildings and a little acreage in Lot 2 or a single family dwelling with farm land in Lot 1. Due to the two (2) types of uses, commercial which was Farmer Franks and the agriculture acreage with a single family dwelling require the creation of two (2) lots.

The Applicant requested a variance as a result of the density determination of 1.41 to subdivide the 21.773 acre Lot 1 into two (2) lots.

The Board of County Commissioners reviewed and acted on the variance on August 20, 2019.

Commissioner Roeber made a motion that the Board approve the variance request for the variance requested for SUB19-031 Re-Sub Lot 1 SUB19-019 Martin Brodel Residence Subdivision. Commissioner Lane seconded the motion.

Motion carried by a vote of 3 to 0.

14.758 acres will be residential/ agriculture use with a single family dwelling with all utilities known as Lot 1.

Commercial Buildings were owned and operated by current owner as Farmer Franks Shopping Center from 1963 to 2015. Seven acres with the commercial buildings will be agriculture retail known as Lot 2

All utilities (domestic water, irrigation water, onsite waste water treatment systems located on the property were issued permits from Delta County Permit numbers #007-14, #005-80, #66-73, #067-73, and #175-76, and DMEA) are existing and installed for Lots 1 and 2.

Access – Lot 1 in the original subdivision is being redeveloped due to the creation of two lots – CDOT is requiring both original assess points be closed and place a new access across from Delta County M35 Road. CDOT has to approve the access prior to final plat submittal.

The domestic water supplied to these parcels is from Farmer Frank's Spring, which is a private water system. No information was submitted as to the quality or sanitary construction for water supplied by this spring. Please submit data regarding the water quality to this office for review. Samples must be obtained from the water system by a water system consultant, or by a technician from this office. The information submitted to this office must contain a copy of the State Well Permit. The parameters tested must include those required by the Colorado Primary Drinking Water Regulations. We would discourage a shared well between lots as suggested in the application. If a shared well is provided, then a covenant or water company designating easements and responsibility for maintenance and repair of the water system is required.

Copy attached is the Deeded Items to the 15 acre Parcel – Lot 1 in regard to domestic and irrigation water

Copy attached is the Deeded Items to the 7 acre Parcel – Lot 2 in regard to domestic and irrigation water

Attached are the Deed Restrictions/Covenants for the following described property – Lots 1 and 2
Compliance with Density Standard: The Density Standard for this subdivision is 1.41. The Density Standard was created by a Variance granted by the BoCC. The maximum number of lots within this subdivision is 2

Presentation by the applicant: I've reviewed it all prior to the meeting, page by page agree with it all. I'd be happy to answer any questions.

Questions from Planning Commission Members:

Q: When was the first subdivision done?

A: July, I believe

Q: The Assessors are fine with the lot numbers?

A: Yes

Q: It's sort of unusual to do this so soon?

A: It wouldn't have happened but I suddenly had numerous buyers want to purchase the property separately. Through the summer we had 12 interests in the property. But then there was a family that just wanted the house but couldn't afford the entire property. I also have a commercial buyer that is interested in just the commercial part.

Q: Martin will still have access to 133?

A: Yes

Q: Where you supposed to remove the 2 access points

A: Yes & create 1, 30' access point directly across from M35 Rd

Q: So we're good on the CDOT access points?

A: Yes, the permits are in progress

Q: What about the residential parcel?

A: They'll both use the same access

Q: Is the access easement on the sketch?

A: Yes, it's there

Q: I thought the regulations said it needs to be 60 foot easement?

A: CDOT specifically said it would be 30, I have discussed getting a 50' easement & they won't allow it.

Q: Will the commercial buyer need to go through a specific development review?

A: I am meeting with them to see what they are going to be doing. It will be agricultural.

Q: So you're going to try & figure out if it's an agricultural exemption with respect to what they are doing? Which would exempt them under specific development?

A: Yes

Q: But for other categories under retail, it would not exempt them?

A: Yes

Q: Public or private roads serving 3 or more lots shall provide a minimum 60' right of way

A: This access will only be for 2 lots

Q: 3 if you include the original subdivision

A: No, he has his own separate access

Q: That means you could have a 60' right of way easement from the highway & it will only be 30'?

A: It'll only be 30, it depends on CDOT. I've been trying to get 50' but they will only give us 30'.

Q: The Shepard access easement, is that access for the ditch company?

A: Yes & anyone else that needs to get to the ditch. They actually haven't been there to clean for many, many years. We've hired it out to be cleaned or Strauss has cleaned it.

Q: Is part of the ditch buried?

A: No, but there is a culvert there

Q: So they'll have access? & always have access?

A: Yes, there is nothing prohibiting equipment or access.

Q: Where are the shares of water going?

A: There is 1 share staying with the 15 acres, 1 share of Sheppard-Wilmot ditch is enough to water 10 acres & Martin has a ½ share & he will share with the 15 acre parcel & the 15 acre lot has ½ share of Farmer's ditch that is piped from across the road to the property & the commercial lot has a ½ share of Sheppard-Wilmot ditch which is pumped from the ditch to their property. There is also the Brodel ditch & it's a ditch right for .5 cfs which is just below the Farmer's ditch for 20 acres of irrigation. I spoke with the Division of Water Resources & they said the way to divide it would be to put 35% with the commercial property for the 7 acre lot & the 15 acres will have 65% of that share. There is plenty of guaranteed water.

Q: How are they getting it?

A: It's piped.

Q: Is there a communal box?

A: No, the Sheppard ditch has never required us to have a measuring box. The commercial lot will have to pump. There is a pipe in the Farmer's ditch & we have legal right to do that. We have a pipe in the Brodel ditch & a box is not required. Martin does the irrigating & so he has been able to water both properties at the same time.

Q: Your covenants had language about the spring?

A: Yes, there were 5 families taking water from that spring for 45 years & it's been reliable. It's to protect everyone to those rights.

Q: Was the water tested back with the original subdivision?

A: Yes. We've sold the spring & sold it not warranting the water.

Q: Is the spring required to have an easement?

A: They have easements & each lot already has that in place, it's deeded. When the excavators came in I took pictures of everything & will give that to the new owners.

Open Public Comment:

Proponents: none

Opponents: none

Public Comment Closed

Deliberations of the Planning Commission:

Motion: Steve Schrock recommends approval of SUB19-031 Farmer Frank's Subdivision ReSub of the Martin Brodel Subdivision including the staff recommendations with mention for a need for more clarity about easements on the final plat in relationship to water & possibly with access between lots & that the commercial use of the commercial property may need specific development review in order needed to proceed.

**Second: Steve Shea
Unanimous Ayes
Motion carries**

To BoCC: October 29, 2019 @ 10:00 a.m.

Meeting adjourned at: 6:35 pm

Respectfully submitted by:
Vivian Archuleta