

Francis Planning Commission Meeting
Thursday, October 21st, 2021 7:00 p.m.

This meeting will be held as an electronic meeting without allowing the public to enter the Community Center or another anchor location to participate, pursuant to Governor Herbert's Executive Order 2020-5.

Francis City is inviting you to attend by following the link below or by calling 1-301-715-8592

<https://us02web.zoom.us/j/86901417999?pwd=Q20rOXZOVWhqNExlYVY3UFJ2T1NjUT09>

Meeting ID: 869 0141 7999 Meeting Password: 090266

You can also comment by email to comments@francisutah.org

Attending: Chair Brian Henneuse, Co-chair Jan Brussel, Commissioners Bob Murphy and Sam Hunter, Planner Katie Henneuse, Engineer Scott Kettle.

Others Attending: Rex Campbell, Barry Primos, Harriet Natter, Jack Walkenhorst.

1. Call Meeting to Order

Chair Brian called the meeting to order at 7:02

2. Public Hearing – ADU and Short-term Rentals Code Text Amendment

Planner Katie read her staff report.

Chair Brian commented that Planner Katie has short term rentals and accessory dwelling units. He asked her to summarize what exactly she is trying to accomplish.

Planner Katie responded, yes, short term rentals are a newer part. She said for a little bit of background on both items, the city attorney had drafted both proposed codes, mostly by copying other cities, and then he and Planner Katie worked together on tweaking them to fit Francis City. She explained that short term rentals have become a problem in a lot of cities, especially resort towns. She said they can dominate any new houses and they are causing problems within neighborhoods. She said the intent of writing this code and implementing it, is to hopefully mitigate or prevent some of those problems.

Commissioner Bob questioned if a neighborhood HOA could prevent these.

Planner Katie responded, yes, this is just a base for the whole city. She said an HOA could overlay city code.

Chair Brian said coincidentally not knowing this was going to be on the agenda, has been looking into this in other places. He said different places in Colorado have done away with short term rentals, because in places that they used to have 80%+ homes that were primary use, they are now at 50%+ secondary or overnight rental units. He said with us being so close to Park City, he sees this as being a potential problem for Francis City. He said the problem that it creates is a prime investment opportunity, that does nothing to contribute to our affordability issues and workforce problems.

Commissioner Bob confirmed then there is potential for the city to add a tax to these nightly rentals. He then questioned who the code enforcement on the problems that would come with these.

Planner Katie responded that she would. She said that she is the code enforcement officer for Francis City, but anything above city code, as in law breaking issues (drinking, fighting, after hours issues), is handled by Summit County Sheriff's Office.

Commissioner Bob asked if there was anything in Stewart Ranches CCR's or HOA docs that regulated or prohibited nightly or short-term rentals.

Planner Katie said she has read them and believes that they are addressed in their HOA docs. She said she was looking for something specific regarding a different subject and can't remember exactly.

Commissioner Bob questioned if this is part of the HOA, then do they abide by it or city code?

Planner Katie said the way that works is that the HOA can be more restrictive than the city but cannot be less restrictive. At a minimum, city code is always followed.

Commissioner Bob talked about how a friend of his lives in Park City in a nice neighborhood and this guy had built a house right next to them that slept 40 people. He said he asked his friend why his HOA would be ok with that, and he responded that two years ago they had changed their HOA to allow Air B&B's and he can rent it for an average \$5,000 a night.

Chair Brian said he has been talking to a planner from Summit County Colorado, and in comparison, he said that Park City has really restrictive rules on short-term and overnight rentals. He said an HOA can't overrule city code, but that Park City Code is specific to which areas can and which cannot have them, it's not a rule city wide. He continued that in his research he has found that most cities are trying to be proactive and set a number they will allow or setup something that will allow control before they lose it.

Co-chair Jan commented that the city is at such a growth place right now, how do they set that.

Planner Katie said they can always regulate it and when it comes to a point in time that is getting to be a trend, they can amend the code and start adding restrictions.

Chair Brian responded that with that he says specifically in Summit County Colorado, they are so overwhelmed with them that now it is hard to control it because they are bombarded by real estate agents and developers fighting them.

Co-chair Jan said he agrees that they are not desirable and don't contribute to the city, but at this day and age doesn't know how to control them, especially when we are in a location that is so desirable to visit. He said he doesn't know if he sees it getting out of hand though, because it's not a ski in ski out kind of situation, you must sit in traffic forever to even get to the ski resort to be able to ski.

Chair Brian agreed you would think so, but Planner Katie just went to a Leagues of Cities and Towns meeting, and they said that overnight and short-term rentals have become a serious problem in Morgan and were closer to skiing than them. He said he doesn't have a problem with the family that can make some good money during, for example, Sundance and rent out their house for a week while going on vacation, what he has a problem with is houses that are bought up with pure intentions to be a short-term rental.

Co-chair Jan agreed and said he thinks the first step is understanding the problem, which he thinks they do. Now, what is the reasonable solution that can be reasonably enforced.

Chair Brian said reality is the people that follow the rules will follow what they set and the others their going to do what they want anyway. He thinks what they need to do is just set the rules for what they think is reasonable and take the enforcement as they can.

Co-Chair Jan said one thing to investigate with these different companies such as Air B&B and VRBO, is there some kind of agreement that they have to abide by with certain restrictions, like collecting payment and paying taxes on it.

Commissioner Bob responded they might have a 1099 or something, but that he didn't know for sure. He said that Park City operates with a software program, that monitors rentals.

Planner Katie said that interestingly, the city is not allowed to do code enforcement by going on to the rental websites and scouting out those violating code. Planner Katie said she will investigate that more, but she was informed they couldn't do that.

Engineer Scott confirmed with Planner Katie that is something he has heard as well.

Co-chair Jan said so what they are doing is trying to write a code that allows these, with a CUP, meaning with certain conditions.

Planner Katie responded, yes. She added that she wanted to comment on what Chair Brian said about putting a time limit on it, with doing that, it makes it very hard to enforce. She said that for instance, if they are made aware of one and then look into it, and its determined yes, they are renting it, but they say they are only renting it for the two weeks that city code allows, unless you watch daily, you'll never know what two weeks they are renting it out. She said for example, she is having an issue right now in the city that is similar. City code states that you can live in a trailer for two weeks per quarter of the year on someone's property, the problem then is she needs to try and determine when they started staying there and is it a specific 3-month quarter.

Co-chair Jan agreed and said that at that point you must go back to Chair Brian's comment that those that are going to be honest and follow it will and the smaller percentage that doesn't will maybe take some work to enforce. He said he is of the mind to write a reasonable code that is enforceable and impose a firm penalty for those that don't abide, and you won't be able to stop or catch everyone that is in violation, but you will the aggressive ones.

Engineer Scott read a section from the Salt Lake Tribune that said: Well, once again, the Utah Legislature has deprived cities across the state of the simplest means of enforcement. Because while it was easy for me to look at short-term rental listings and see which are illegally situated, in 2017 the Legislature enacted a law prohibiting cities from doing the same thing. The rationale was that, if someone's short-term rental isn't bothering anyone else, cities shouldn't arbitrarily be banning them.

Chair Brian said that is what is says now but he thinks that will change.

Co-chair Jan said at the end of the day as a municipality, are we concerned with the fact that people are doing it, or are we concerned with the fact that people are doing it and it is causing problems.

Chair Brian said they are concerned because they are causing problems, especially if they are sitting there vacant. He said also, for example, let's say we allow 16 townhomes to come into a conservation subdivision and those 16 townhomes are swept up by investors, then that becomes 16 of our more affordable housing units to be unavailable to those who live and contribute to our community.

Co-chair Jan said he understands that but doesn't buy into the idea that it is happening so much here.

Chair Brian said it is a fact though, that investors are eating them up the second they hit the market.

Planner Katie agreed with Co-chair Jan, that she doesn't think it's here yet.

Chair Brian agreed it may not be yet, but once it happens, they won't be able to stop it if they don't do something to control it now.

Planner Katie asked the commission how they felt about the code that has been proposed to them.

They all agreed that they liked it, and talked about adding a firm dollar amount, such as \$500, as a fine if found in violation.

Commissioner Sam asked if the fine should escalate per occurrence.

Co-chair Jan responded, they could, but then it usually turns into a bunch of legal problems.

Chair Brian said he thinks they should go with what is proposed adding a \$500 fine and see how that goes, if it gets to a point that it's not working and needs to be reevaluated, they will bring it back and modify it. He said different places have no restrictions or rules on ADU's with the exception that no short-term rentals are allowed. They need to be long-term, meaning at least 30 days or more.

Planner Katie asked if the commission had any corrections or something to add to the ADU portion. She said they had overlooked a couple things that needed addressed, like the mobile homes. She added that they have people call and ask if they can get a separate address for their ADU's, to which she responded no, they can add an A or B, but they are not issuing new addresses.

Engineer Scott said that written approval should be granted by the Summit County Health Department for septic tanks for IADU's.

Planner Katie said there is very few homes in Francis that are even on septic, that city code requires every home in city limits to be connected to city services, the only exceptions to that are those that have been grandfathered.

Chair Brian opened the public comment portion. No comment was made. Brian closed the public comment portion.

Co-chair Jan made a motion that they forward with a positive recommendation to the City Council as proposed, with the addition of the \$500 fine per violation and the septic tank amendment on Section 11 of the IADU portion of code. Commissioner Bob seconded the motion. All in favor, motion passed.

3. Blind Rabbit Commercial Concept Plan

Planner Katie read her staff report.

Engineer Scott commented that his only concern is the irrigation ditch on the south property line, they have complaints of it not being kept clean and causing backups and flooding. He said they need to work on fire protection with the fire department.

Chair Brian asked about the water retention.

Engineer Scott said that now they are changing the design to all paving from their original that showed gravel, they will need to upsize the retention pond.

Chair Brian asked the property owner if he would like to speak about this proposal.

Barry Primos responded that he had nothing to add but would be happy to answer any questions they have.

Co-chair Jan asked Planner Katie if this was adjacent to the new development Wes is proposing.

Planner Katie responded, yes. She said Wes's property is located directly north of this.

Chair Brian explained his driveway is the one that goes back to Nicks storage units.

Co-chair Jan thanked them and added his thoughts. He said he thinks it would be detrimental if this and Wes projects didn't complement each other. He would advise Barry to get in touch with Wes Harwood and maybe work together so to speak on making their project compatible.

Barry said he had spoken to a guy that was looking into the property in question, but that he didn't know if he had closed on it or not. Barry said that he had questions on whether the property would be zoned for what he wanted to do.

Planner Katie said that he had not closed on it, he is still waiting on getting wetland studies back. Planner Katie explained the zoning of the property Wes is looking at is entirely Commercial. She said she spoke to Wes this week and he is still planning on moving forward with the project and she agrees it would be nice if they worked on the design together.

Co-chair Jan said he has no intentions on telling Barry how to design his project or Wes likewise, but that it is in the best interest of Francis City if they compliment each other. He said he like the photos proposed and that he would like the concept plan to be more descriptive.

Chair Brian and Co-chair Jan commented on Barry's idea of what looks like mixed use per his concept plan, but that conversation of whether that it allowed is a conversation for a different day.

Co-chair Jan said he just makes the comment on the design of the buildings because it looks like the drawings Wes has provided look to be of a higher quality and that's why he would recommend them working together. He said he has no problem with the project in general and would love to see that property finally get developed but wants it to look nice.

Chair Brian said is concerned with the parking stalls proposed. He said if he was to do retail in those buildings, that he would be short spaces.

Planner Katie agreed, but said it is all based on use and that has yet to be decided.

Barry said he is not set in this design. He said he is working with an architect on the buildings and that is what he advised, was to ask for the most upfront and reduce it as required by the staff or city code.

Co-chair Jan said that he is not worried about the code on this, he said if he provides a certain amount of parking spaces and that it is not enough for what businesses he is proposing, then that is his problem, not the city's.

Commissioner Bob asked Barry if he planned on being the landlord, or does he plan on selling these.

Barry replied he is open to either. He said the way these specifically have been designed is to be built with all the utilities but basically an open floor that they can use as they wish. He said he is open to selling them but would entertain the idea of leasing them as well. He said it will mostly just depend on what the market is wanting.

Co-chair Jan asked Planner Katie for guidance on what the Planning Commission needs to cover tonight.

Planner Katie responded that they need to approve or not approve the concept plan, which is basically to get an idea of what the applicant is thinking and making sure that merges with city code and the ideas of the Planning Commission. She said they also want to look at the architectural review and give as much input as they can now, to give the applicant the best possible idea of what they are wanting to see.

Commissioner Bob commented that he thinks whether he is to do two or five of the proposed building, no matter what the whole property needs to be landscaped.

Chair Brian agreed.

Barry responded that is a given, he just hasn't landscaped yet because he didn't want to pay for it and then tear it up to build these buildings anyway. Barry questioned why on the front of the property there is mounds of dirt and rocks, what are they there for? He said he didn't know if he could remove that berm, or if he had to do something else.

Engineer Scott responded that it is not required to stay there, it was part of the original developers landscaping.

Chair Brian made a generic comment that is just for some reason what people do around here. He said that if you drive around all the neighborhoods here, that it seems every developer scrapes the ground and pushes all the dirt up to a mound. He said he doesn't know the reasoning behind it or even if there is any reasoning but finds it funny.

Barry asked if this project is approved, moving forward do they have any guidance on what to do with the berms.

Planner Katie responded he can take them down.

Co-chair Jan said better yet, this was his project and asked Barry what he had in mind for his landscaping.

Barry said he is not a cookie cutter kind of guy. He would like a mix of stones, woods, glass, and other materials throughout the whole project.

Planner Katie commented she thinks his design matches what Wes has proposed. She said maybe not necessarily the colors, but otherwise it compliments.

Chair Brian asked Planner Katie if the city would provide Barry with Wes's proposal.

Planner Katie responded she would. She said that this is actually pretty close. She said the drawings show something pretty plain, but that she like the descriptive materials he mentioned.

Chair Brian added he would recommend planning for the need for extra parking spaces, just to avoid figuring out later how to make something work.

Co-chair Jan agreed and said just build something more towards the back and then build forward as needed in the future.

Barry explained the way he is envisioning it, is to build the building that is facing the highway first. He said then he will move to building two.

Co-chair Jan asked if he was planning on using the first building as multi-purpose flex space. Such as, a small warehouse or small contractors use.

Barry responded that he sees it being utilized as something similar to interior design, private and professional offices, or a granite countertop shop, a hairstylist, a pet groomer, an audio-visual custom design shop, a private trainer and gym workout center. He said he sees it being diversified and open to all things.

Planner Katie advised him to be aware that every business that comes in will obtain their own business license. With that, it will go through code review and make sure it is meeting commercial zoning, it will need to meet those requirements to be issued the license and be able to operate there.

Commissioner Bob said he thinks Barry will find in investigating what to put there, that spaces that have been vacant for over a decade are now filling up, and he thinks this will fill up quick.

Barry agreed, he stated that he has lived here for about ten years and never thought he would see the kind of development that he has around here in his lifetime.

Co-chair Jan commented that he was golfing at Tuhaye the other day and was talking with a guy that is involved in the building up there. He told him that they have 1500 homes under construction and 1700 homes waiting to start. He said with that, he predicts that more and more people are coming this way, because Park City is getting less desirable.

Planner Katie wanted to mention something not related to this project at all, but because they are talking about growth and those type of concerns; she informed next month they are having a second council meeting and are reviewing the Hidden Meadows Annexation. She said they are also having a discussion with the developer who is looking to purchase the Ure's land. She said the Ure's land has been greatly talked about, they have approached Kamas to be annexed and propose that they are all about open space and conservation, but they are also wanting to add 1600 homes.

Chair Brian furthered on Planner Katie's comment that in comparison, the Hidden Meadows Annexation that they just seen proposes one home per four acres, he said with what this developer is proposing is less than one home per acre.

Planner Katie clarified it is equivalent to one home per .6 acres. She said regardless, they are wanting to discuss options of annexation with Francis City as well, so watch for that.

Commissioner Bob asked Barry for clarification on which building of the development he is proposing to do first and asked from there, what direction he was going to move.

Barry responded that SR 32 is to the left of the first building. He said he is hoping to keep the two along the front of SR 32 as the last.

Co-chair Jan agreed with him, he thinks that would be the best order as well.

Planner Katie asked Barry if he had any further questions for them.

Barry thanked them for their time and stated that he is a flexible person, that needs guidance and Katie has been great in giving that. He said he thinks he will have no problem working with the neighbor developing the property next to his as well. He wanted them to know he is open and willing to comply with whatever the request.

Planner Katie informed she will get Barry Wes's contact information and drawings of his proposal and then they can work together and see what they come up with. She asked the Planning Commission to make a formal recommendation of their thoughts to forward to the City Council.

Commissioner Bob made a motion to forward this to City Council with a positive recommendation following the changes as needed. Co-chair Jan seconded the motion. All in favor, motion passed.

4. Stewart Ranches Subdivision Phase 5, 6, and 7 Final Plats

Planner Katie read her staff report.

Engineer Scott read his staff report.

Co-chair Jan asked in the conservation easement is the open space. And if so, how does it work.

Planner Katie responded, yes. She said it will not be held by a conservation group, it will be held by the HOA. She said they have been discussing that with Stewart Ranches, it is required by the approval and by city code. She said since, the question has been asked if they need a conservation easement if we dedicate it as open space on the plats. In talking with the city attorney, Planner Katie said they want to have both, a conservation easement and it noted on the plat, just to cover all bases.

Co-chair Jan asked if their construction traffic is coming off State Road 35 or if it is going elsewhere. He said there is a reasonable amount of traffic coming through the neighborhood now.

Rex said the construction traffic is coming off State Road 35, but the did have to bore across the road recently so some traffic was diverted other directions.

Co-chair Jan commented that on top of the traffic, Gines Lane is in bad shape anyways, so this hasn't made it any better.

Chair Brian agreed and furthered especially with winter coming, to stay on top of keeping those roads clean.

Planner Katie said typically with bigger subdivisions like this, they will have a preconstruction meeting and will reiterate the usage of construction access and city code as it pertains to development and surrounding areas. She said they will be having a meeting with Ivory Homes, who they were informed is doing the building, to cover all those items.

Chair Brian recommended they use a track mat, it is what Benloch Ranches down the road is using to reduce the mud on the roads. Chair Brian asked Rex what his thoughts are on Engineer Scott's comments about the trails needing to be in place.

Rex said they will add it to the projects scope of work to be completed.

Engineer Scott said it is a little premature, but he wanted to point it out so that everyone knew the trails were part of the open space.

Planner Katie asked Rex, other than cutting trails, is he planning on disturbing the open space at all.

Rex responded no; they plan to leave it just like it is.

Commissioner Sam made a motion to forward this to the City Council with a positive recommendation to approve the Final Plats for Stewart Ranches: Phases 5, 6, and 7. Co-chair Jan seconded that motion. All in favor, motion passed.

Commissioner Bob asked Engineer Scott for an update on the well, he asked if it was online.

Engineer Scott responded no; they are working on getting the temporary online. He said they had issues getting through the road and getting the line constructed and inspected, which caused some delay. He said they have made it through the big push and will have it online in the Spring.

Commissioner Bob asked if they were building the tank.

Engineer Scott replied no; they are working on designing the tank, but it is not being constructed. He said depending on the price of it they are hoping it will be constructed next summer or fall.

5. Planner Update

Planner Katie said as of right now, she doesn't have anything on the agenda for next month but will keep everyone posted. She said there is a good chance the developer of Francis Cove, who they worked with on the Planned Development Code, will be applying to now implement that code on his development. She said they are working on it, but she doesn't know if they will have all the requirements in time to be on the agenda.

Commissioner Bob asked if the Harding RV Park would be on City Council agenda next month.

Planner Katie replied no; that was just a discussion. They could possibly be coming to Planning Commission next month with preliminary plan, but they have a lot of things to figure out and doesn't think it will be possible by the deadline.

Planner Katie presented Commissioner Bob with a photo, a gift of appreciation from Francis City to him for all his hard work during Francis Frontier Days.

6. Approval of September 16th, 2021, minutes.

The minutes were postponed to the next month's meeting, due to the Treasurer being out of the office.

Co-chair Jan made a motion to adjourn the meeting.

Meeting Ended.