

**April 2, 2015**

**SPECIAL MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Special Session on April 2, 2015, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Ed Norden called the meeting to order at 9:30 A.M.

Edward H. Norden	Commissioner	Present
Debbie Bell	Commissioner	Present
Tim Payne	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Absent

Also present: George Sugars, County Manager; Bill Giordano, Planning and Zoning Director; and Jody Blauser, Chief Deputy Clerk.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

**APPROVAL OF AGENDA**

**Commissioner Bell** moved to approve the Agenda. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner Norden, aye. The motion carried.

**NEW BUSINESS**

1. Consideration of Adoption of Formal Findings and Decision regarding:
  - a. Request: SRU 14-004 Thressor, LLC  
Request approval of a Special Review Use (SRU) Permit, Department file SRU 14-004 Thressor LLC Medical Marijuana Infused Product Manufacturing and possibly a Marijuana Optional Premises Cultivation grow facility, which is an allowed use in the Business Zone District, by Chris Haight, for property owned by Ali Abrahamia, to allow for marijuana infused product manufacturing. The property is located on the east side of State Highway 115 and east of Fremont Street, bounded by 7<sup>th</sup> Street on the north side and Grant Street on the east side, in the Penrose Area. The SRU permit property contains 9.82 acres and is zoned Business.  
Representative: Matt Koch, Cornerstone Land Surveying, Inc. / Chris Haight
  - b. Request: MIP 14-001 Thressor, LLC (Marijuana Infused Products – Industry, Light)  
Request for issuance of a Marijuana Infused Products license, Department file #MIP 14-001 Thressor, LLC (Marijuana Infused Products (MIP's) – Industry, Light), by Thressor, LLC (Chris Haight), for property which is owned by Big Rocker, LLC. The property is located on the east side of State Highway 115 and east of Fremont Street, bounded by 7<sup>th</sup> Street on the north side, 4<sup>th</sup> Avenue on the south side and Grant Street on the east side, in the Penrose Area. The SRU permit property contains 9.82 acres and is zoned Business.  
Representative: Matt Koch, Cornerstone Land Surveying Inc, / Chris Haight

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- c. Request: OPC 14-004 Thressor, LLC (Optional Premises Cultivation – Commercial Greenhouse)  
Request for issuance of an Optional Premises Cultivation license, Department file #OPC 14-004 Thressor, LLC (Optional Premises Cultivation (OPC) – Commercial, Greenhouse), by Thressor, LLC (Chris Haight), for property which is owned by Big Rocker, LLC. The property is addressed as 708 Fremont Street, which is located east of State Highway 115 and east of Fremont Street, bounded by 7<sup>th</sup> Street on the north side, 4<sup>th</sup> Avenue on the south side and Grant Street on the east side, in the Penrose Area. The property is zoned Business and contains 10 acres more or less.  
Representative: Matt Koch, Cornerstone Land Surveying, Inc / Chris Haight

**Commissioner Norden** explained these items were tabled at the Commissioners Meeting on March 10<sup>th</sup> in order for the Commissioners to review all of the comments from the Public Hearing. The Board did meet twice to discuss the applications and findings to support any decision they would make. The Public Hearing was for all three items because if the SRU was not approved, neither the OPC license nor the MIP license would be approved.

**Commissioner Payne** moved to approve Resolution #14 adopting Findings of Fact and Approving OPC 14-004, Thressor, LLC Optional Premise, Cultivation License; MIP 14-001, Thressor, LLC Marijuana Infused Products License; SRU 14-004, Thressor, LLC Special Review Use Permit adopting the Conditions and Contingencies for OPC 14-004 and MIP 14-001 contained in the Resolution. Commissioner Bell seconded the motion. Commissioner Norden noted the Resolution contains Findings of Fact. Commissioner Norden asked for discussion.

**Commissioner Payne** explained he has put a lot of consideration into this matter. This application stands on its own merits. This industry has been legal in Colorado for 15 years. The zoning for this business is an allowed use. Personal Property rights are very important as is being a responsible property owner. If in a year there have been broken promises, he will take another look at this application.

**Commissioner Bell** said this is one of the hardest decisions she has had to make since being a County Commissioner. She believes this particular operation is exactly the kind of operation that most voters thought they were approving when medical marijuana was approved in 2000. The issues with odor, light, and water for the application have been addressed. She cannot disregard what the law says just because people do not want marijuana in their town.

**Commissioner Norden** said in comparison to other applications the BOCC has reviewed, this application was better prepared than others. The applicant addressed the concerns that were brought forth at the Planning Commission. His biggest concern is with the odor that may be caused due to the cultivation within the neighborhood. If odor issues do come up it will impact the ability of the applicant to continue to operate. The approval of this SRU comes with an elevated responsibility of the applicant to demonstrate that he will be a good neighbor to the citizens of Penrose. Norden noted there are separate contingencies and conditions listed for the two licenses.

**Upon Vote:** Commissioner Payne, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried. Resolution #14 is attached.

**Chairman Norden** adjourned the meeting at 9:45 A.M.

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RESOLUTION NO. 14, SERIES OF 2015

**RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING  
 OPC 14-004, THRESSOR, LLC, OPTIONAL PREMISE CULTIVATION LICENSE  
 MIP 14-001, THRESSOR, LLC MARIJUANA INFUSED PRODUCTS LICENSE  
 SRU 14-004, THRESSOR, LLC SPECIAL REVIEW USE PERMIT**

WHEREAS, on July 8, 2014, the Board of County Commissioners adopted Resolution No. 22, Series of 2014, enacting Medical Marijuana Business Licensing Regulations within the unincorporated areas of Fremont County; and

WHEREAS, an Application for a Medical Marijuana Business License was submitted by Thressor, LLC, requesting approval for an Optional Premise Cultivation (OPC) facility located at 708 Fremont St, Penrose, CO (OPC 14-004); and

WHEREAS, a second Application for a Medical Marijuana Business License was submitted by Thressor, LLC, requesting approval for a medical Marijuana Infused Products License (MIPS) located at 708 Fremont St, Penrose, CO (MIP 14-001); and

WHEREAS, an Application for a Special Review Use Permit (SRU) was submitted by Thressor, LLC, requesting approval to conduct a marijuana infused product manufacturing facility (light industry) on the property located at 708 Fremont St., Penrose, CO (SRU 14-004); and

WHEREAS, the Board of County Commissioners, in its capacity as the Local Licensing Authority of Medical Marijuana Business Licensing held a public hearing on March 10, 2015, for consideration of all three Applications, which were consolidated for purposes of the public hearing; and

WHEREAS, present at the hearing for the Applicant was Chris Haight, principal officer and representative for Thressor, LLC; and

WHEREAS, the Board of Commissioners conducted an extensive question and answer session with the applicant regarding the Application; and

WHEREAS, the Board of Commissioners considered all written and verbal comments from the public that were submitted regarding the Application, together with recommendations from county staff and comments and responses from the Applicant; and

WHEREAS, at the conclusion of the January 5, 2015 hearing, the Board voted to table all three Applications and continued the proceedings to April 2, 2015 at 9:30 a.m. for formal adoption of written findings and a vote for approval or disapproval of the Applications.

**Findings of Fact**

1. The subject property (hereinafter "property") is located in the unincorporated area of Penrose, Colorado, and is zoned in the Business Zone District, which allows the OPC as a permitted use, subject to state and local licensing approval, and allows the MIPS as a special review use, issued within the discretion of the Board of County Commissioners.

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2. The proposed marijuana business is not a recreational/retail marijuana facility, but is strictly a medical marijuana business that will be required to operate in compliance with state and local laws and licensing regulations. Retail/recreational marijuana businesses are not allowed in Fremont County. To the extent that comments contained in the record characterize these Applications as retail or recreational marijuana businesses, such assertions are unfounded.

3. On February 3, 2015, the Fremont County Planning Commission considered the land use issues relevant to the Special Review Use Application and also invited and heard public comments. The Planning Commission recommended approval of the SRU application by a vote of four to three.

4. The Board has received extensive public comment regarding the SRU and licensing applications. Written and oral citizen comments, whether favoring or opposing the proposal, have been received and seriously considered by the Board.

5. The nature of the three pending Applications is such that the requests are inextricably intertwined. Approval of the SRU is required in accordance with the Fremont County Zoning Resolution, to enable the Board to consider the MIPS license. The OPC request is specifically tied to the MIPS because the Applicant intends to cultivate the precise type and strain of marijuana to produce the extract/oil suitable for and requested by particular Medical Marijuana Centers and/or their patients.

6. Approval or denial of one or more of the Applications, but not all three Applications would materially change the business plan the Applicant has proposed for this location. In other words, the Board finds that the three Applications pending before the Board present an "all or nothing" proposal for the Board's consideration.

7. The Board has considered all three Applications together and has received public comments relating to the proposed operation as a whole. Therefore, the findings of fact contained herein are applicable to all three Applications and support the Board's decision with respect to all three Applications.

8. The front of the property faces Colorado Highway 115 and accesses off Fremont Street, a county road. The rear of the property contains a secondary access onto the county road, Grant Street. The entire property is enclosed with a six-foot high chain link fence, topped with 3 strands of barbed wire security fencing.

9. The property has been vacant for more than eight years with no active business operation on site. Prior to this time, the subject property was used for a restaurant and gift shop. Historically, the property was used for processing of agricultural products. The Board acknowledges the significant historical value of the property and that the Applicant has already begun to preserve and improve the property, including the grounds, structure and rocking chair, so that it will continue to have value in future years. Ultimately, it is the role of private property owners, rather than government, to preserve their properties and the inherent historical and other value of such property.

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10. The public park, owned and maintained by Penrose Park and Recreation District, is located to the east of the property, across Grant Street and within 1000 feet of the proposed facility. The location of an OPC and/or MIPS facility within 1000 feet of a public park is a factor that the Board has considered with much deliberation and caused the Board to more critically examine the SRU and license applications. The location of the park is not an automatic disqualifying factor for a marijuana business if the facility is not selling marijuana products to the public. Any business operation at this location must be conducted in strict compliance with all state and local laws and regulations.

11. There are two churches located in the vicinity of the property, one of which is in the immediate vicinity of the property. The location of an OPC and/or MIPS facility within 1000 feet or in the vicinity of one or more churches is another factor that the Board has considered with much deliberation and caused the Board to more critically examine the SRU and license applications. The location of the churches, like the park, is not an automatic disqualifying factor for a marijuana business. Any business operation at this location must be conducted in strict compliance with all state and local laws and regulations and will not materially interfere with or affect church activities and operations.

12. All proposed business operations will be conducted inside the building. No operations will occur outside, other than normal delivery and support services, and employee parking. The proposed business will not be open or accessible to the general public. No signage will indicate that a medical marijuana business occupies the building.

13. Restricting the Grant Street access for the business operations to emergency traffic and situations, while requiring all regular and normal business traffic to use the Fremont Street access, will minimize the inadvertent exposure of the proposed business activities to people using the park.

14. Since 2012, a disproportionate number of locally-unregulated medical marijuana cultivation businesses were established in the Penrose area (when compared with other areas of unincorporated Fremont County). These operations began prior to enactment of Fremont County medical marijuana licensing regulations. As a result and with some justification, many citizens in the area have expressed a belief that Penrose may be at or near a "saturation" point for medical marijuana businesses. The Board is aware of this situation, which likely arose due to the absence of local regulations.

15. There are no medical marijuana business operations licensed by Fremont County, or pending licensing, that are similar to the proposed business operation. Marijuana Infused Products facilities that have an optional premises cultivation license are prohibited from selling any of the cultivated medical marijuana, except for the medical marijuana that is contained in medical marijuana-infused products. (§12-43.3-404, C.R.S.). Applicant indicated at the March 24, 2015 public hearing that its intention is to produce only marijuana extracts and no edible products.

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16. Under the terms of the SRU, OPC License and MIPS License, the Applicant is prohibited from producing edible products. Should Applicant decide at a future date it desires to expand the business operations to include manufacturing of edible products, the Applicant would be required to apply for and receive formal approval to modify the SRU and the Marijuana Business Licenses before beginning such operations.

17. The Board must consider each application on its own merits under state law and local regulations. Evidence of questionable operations of other marijuana businesses is not relevant to the Board's consideration of the Applications pending before it.

18. The property is located within the boundaries of the Penrose Water District, which stated in its comment letter dated November 25, 2014, that the existing 3/4" x 5/8" water tap is sufficient for the proposed use, up to a maximum flow of 12 gallons/minute. The Applicant has indicated that the existing tap and water flow will be adequate for the proposed use. The applicant acknowledges that it bears full responsibility for compliance with any requirements of the Penrose Water District for any necessary future changes in water services.

19. The property is located within the boundaries of the Florence Fire Protection District (FFPD). In the District's comment letter, received February 12, 2015, the Chief of the District indicates that a fire suppression system is not needed for the operation, and the number and location of fire extinguishers exceeds the requirements set forth by the District.

20. The Board has heard numerous concerns about fire and explosion hazards arising from the operation. The Board finds that the credible evidence regarding prevention and suppression of fire and explosion hazards is the comment letter from the Florence Fire Protection District. Requiring Applicant to continue communications with the FFPD and comply with any recommended measures will adequately mitigate any such hazards.

21. The Board further finds that the quantity of butane proposed for the operation is insufficient to cause a significant safety hazard. To the best knowledge and information available to the Board, no butane explosions have occurred in licensed, regulated facilities. The Applicant further indicates all butane not actively in use will be stored and properly secured outside the building.

22. The property contains an on-site wastewater treatment system, which protects public health and is not anticipated to cause any surface or subsurface water contamination. No credible evidence before the Board indicates that there will be a health risk to the surrounding area.

23. Applicant's business operation includes a plan and method for disposal of any marijuana waste products in a secure and safe manner that will prevent risk of exposure of such products to the community.

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24. Since the OPC and MIPS operations are wholly contained inside the building, light emissions from the building will not significantly increase. The Applicant does not propose additional lighting in the building that potentially would emit additional light outdoors. All outdoor lighting pre-exists the current application and, therefore, will not cause additional light pollution to the surrounding area.

25. The potential odor problems are addressed in the report from the mechanical engineer, and compliance with any recommendations for odor mitigation is a licensing requirement.

26. The equipment proposed for extraction of marijuana extract/oil is state-approved and authorized for the purpose intended by Applicant.

27. The Applicant, through its manager and member Chris Haight, expressed a clear understanding of and concern for the issues raised by the Penrose residents regarding the proposed operation. The Applicant has demonstrated a willingness and readiness to address the issues that are capable of being resolved or mitigated, both through the representations made in the Applications and through the representations made to the Board on March 24, 2015.

28. The Department of Planning and Zoning has reviewed the Applications and has made recommendations regarding conditions and contingencies to be imposed upon each Application, should the Board vote to approve.

29. The recommended conditions and contingencies for SRU 14-004 are reasonable and appropriate, with the addition of a condition that access for the business operation shall be limited to Fremont Street. Grant Street shall be an access limited to emergency traffic and situations.

30. The recommended contingencies for OPC 14-004 are reasonable and appropriate, however access for OPC 14-004 shall be limited to Fremont Street. Grant Street shall be an access limited to emergency traffic and situations.

31. The recommended conditions and contingencies for MIP 14-001 are reasonable and appropriate, however access for OPC 14-004 shall be limited to Fremont Street. Grant Street shall be an access limited to emergency traffic and situations.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF FREMONT:

A. SRU 14-004, Thressor, LLC, Special Review Use Permit is approved, subject to conditions and contingencies as set forth herein. The Department of Planning and Zoning is hereby directed and instructed to prepare a resolution setting forth the conditions and contingencies applicable to the permit for the Board's consideration at its regular meeting on the April 14, 2015.

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B. MIP 14-001, Thressor, LLC, Marijuana Infused Products License is approved and granted, subject to the contingencies as recommended by the Department of Planning and Zoning and as supplemented herein. The Department of Planning and Zoning is hereby directed and instructed to issue the license at such time that the contingencies have been fulfilled by the Applicant.

C. OPC 14-004, Thressor, LLC, Optional Premise Cultivation License is approved and granted, subject to the contingencies as recommended by the Department of Planning and Zoning and as supplemented herein. The Department of Planning and Zoning is hereby directed and instructed to issue the license at such time that the contingencies have been fulfilled by the Applicant.

Commissioner Payne moved adoption of the foregoing Resolution, seconded by Commissioner Bell and approved by roll call vote as follows:

Debbie Bell	<u>Aye</u>	Nay	Absent	Abstain
Edward H. Norden	<u>Aye</u>	Nay	Absent	Abstain
Timothy R. Payne	<u>Aye</u>	Nay	Absent	Abstain

Date: 4/2/15

BOARD OF COUNTY COMMISSIONERS  
OF FREMONT COUNTY

ATTEST:

By: E.H. Norden  
Chairman

by: Katie E. Barr  
Clerk to the Board