

## TWELFTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on May 9, 2006, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Michael Stiehl called the meeting to order at 9:30 A.M.

Michael J. Stiehl	Commissioner	Present
Edward H. Norden	Commissioner	Present
Larry Lasha	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Present

Also present Finance Director, Dana Angel; Bill Giordano, Planning and Zoning Director and Sharon Kendall, Deputy Clerk.

The Morning Prayer was given by Chaplain Hal Simmons from Hospital Chaplains Ministry of America.

The Pledge of Allegiance to the Flag of the United States of America was recited by those present.

### APPROVAL OF AGENDA

**Commissioner Lasha** moved to approve the Agenda. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

### CONSENT AGENDA

**Commissioner Norden** moved to approve the Consent Agenda:

1. Approval of Minutes April 25, 2006
2. Approval of Bills, May 9, 2006/\$932,964.95
3. LIQUOR LICENSES
4. Adoption of Resolution #32, Series of 2006, Resolution granting a variance from the Fremont County Subdivision regulations – File #SHV 06-001 Northwest EMS, Inc.
5. **SCHEDULING OF PUBLIC HEARING FOR MAY 23, 2006 AT 10:00 AM**  
**REQUEST: SRU 06-006 AQUILA'S PORTLAND ELECTRIC SUBSTATION REPLACEMENT TOWER**

Request approval of a **special review use permit to allow for the replacement of a fifty-five (55) foot wood tower with an eighty (80) foot self supporting (no guy wires) tower**, by Aquila, for their property which is *located one (1) mile south of the intersection of Colorado State Highway 120 and Fremont County Road #112, four-hundred (400) feet west of County Road #112, south of the Holcim Cement Plant.*

### **SCHEDULING OF PUBLIC HEARINGS FOR JUNE 13, 2006 AT 10:00 A.M.**

#### **REQUEST: CUP 06-002 ROCKBOTTOM GRAVEL PIT**

Request approval of a Conditional Use Permit, Department file #CUP 06-002, **Rockbottom Gravel Pit, to allow the open pit mining, processing, screening, crushing and hauling of gravel products**, by Rockbottom, LLC, for their property which is *located at the northeast corner of County Road #143, aka Oak Creek Grade Road and Grape Creek Drive south of Cañon City.*

#### **REQUEST: SRU 06-005 HONOR PAINTBALL SHOOTING FACILITY**

Request approval of a **Special Review Use Permit for the operation of a paintball shooting facility (recreational facility)**. By Ricardo & Fermina Fortson, for their property which is *located southeast of Colorado State Highway 115 along Olsen Road, then approximately six-hundred (600) feet southwest of the intersection of*

*Tepley Trail & Olsen Road, on the east side of Tepley Trail, in the Piñon Valley Subdivision, north of Beaver Park/Penrose area.*

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**OLD BUSINESS:**

**RESOLUTION #33/REQUEST: 23<sup>RD</sup> AMENDMENT TO ZONING RESOLUTION – Continued from the April 25, 2006 with BOCC amendments**

Consideration of approval of final draft of the 23<sup>rd</sup> amendment to the Fremont County Zoning resolution.

**Commissioner Stiehl** stated they had two Public Hearings on this issue and numerous work sessions.

**Commissioner Norden** stated he had no problem adopting the language they have been reviewing. He stated they had concerns on what would trigger the need for a traffic impact analysis, and would like to have the Planning Commission take a look as to whether there is any language to determine if there is any threshold at which traffic studies would be required.

**Commissioner Stiehl** stated that when the zoning was approved, there was no thought given to the traffic impact.

**Bill Giordano, Planning & Zoning Director**, stated that the only way you are going to know there is an impact, is to have the traffic analysis. If the Amendment is adopted as is, they will be requiring that traffic analysis. This will require a resolution to be prepared for the next meeting.

**Commissioner Norden** moved to approve the 23<sup>rd</sup> Amendment to the Fremont County Zoning Resolution and note that it does include that language for orchards and vineyards as a permitted use in all ag zones. If there is a concern about the size of the drawings, to at least remove that requirement from this language and refer that back to the Planning Commission. Adopt all of the other language as stated but also ask the Planning Commission for further review of the issue of whether any thresholds can be defined for requiring traffic impact analysis. **Bill Giordano** asked if Commissioner Norden wanted to remove the requirement of 24 x 36 and leave it where it is now where our regulations require 24 x 36 or 18 x 24? Commissioner Norden answered “Yes” and stated that he would like to have some further look as to whether there is any undo hardship put upon an individual. **Commissioner Lasha** seconded the motion. Commissioner Norden stated that any reference in the 23<sup>rd</sup> Amendment to requirements for traffic impact analysis, to ask the Planning Commission for further review as to whether any thresholds can be defined as to when the traffic impact analysis would be necessary. **Commissioner Stiehl** added that everything is as submitted except for the drawing size. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried and carried the adoption of **Resolution #33**.

**ADMINISTRATIVE/INFORMATIONAL**

1. Staff/Elected Officials

**RESOLUTION #34 – FREMONT COUNTY TREASURER & PUBLIC TRUSTEE – CANCELLATION OF DELINQUENT PERSONAL PROPERTY**

**Virginia Woltemath, Fremont County Treasurer & Public Trustee**, stated she was requesting a Resolution for the cancellation of delinquent personal property. This is

governed by Title 39, Article 10, 114(2)(a). Any taxes levied on personal property, including but not limited to mobile homes, which are determined to be uncollectible after a period of one year after the date of their becoming delinquent may be cancelled by the Board of County Commissioners. She presented a list to the Board and stated she had researched each one and these are uncollectible for tax year 2005 due in 2006. There are nine property schedules amounting to \$2,662.72. **Commissioner Lasha** moved to approve **Resolution #34**, for cancellation of delinquent personal property, and that Resolution would be prepared for the next meeting. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried and carried the adoption of **Resolution #34**.

**Norma Hatfield, Fremont County Clerk & Recorder**, submitted the Clerk's Report for the month of April. She stated that the total collected was \$642,445.27, which was down \$156,454.08, compared to collections in 2005. Sales tax collected was \$61,510.62, which was down \$36,894.88. Fees collected which are disbursed by the County was \$379,758.86, and that was down \$49,160.21. These fees are turned over to the Treasurer to be disbursed among the various entities. **Commissioner Norden** moved to approve the Clerk's Report for April. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**Commissioner Lasha** stated that their next Forum would be in Williamsburg Wednesday night at 6:30 P.M. They have another one scheduled May 30<sup>th</sup> at the Deer Mountain Fire Department. They are scheduling more for Florence and Cañon City. These Forums are to get County business out of the County Building and into the community and find out what concerns they have.

**Commissioner Norden** stated that he and the County Engineer had driven up Phantom Canyon to take a look at the construction progress on the bridge at the Fremont and Teller County line. Reynolds Construction is making great progress. They announced that the Phantom Canyon Road would possibly be closed until mid-June, but hopefully it will be reopening in the next ten days to two weeks. **Commissioner Lasha** stated that the funding for this project was \$50,000 from Mineral Impact Grant, \$10,000 from the County and \$10,000 from Cripple Creek Victor Mine.

**Commissioner Stiehl** stated that this Saturday would be another plastic recycling day at the Old City Hall (currently the museum) in the 600 block of Royal Gorge Blvd.

## 2. Citizens Not Scheduled

**William Simpson, S. 4<sup>th</sup> Street Resident**, stated that his taxes had doubled last year, and was concerned why they went up and why so much. He stated his house was 1000 square feet and the taxes went from \$234 to \$588. **Pam Gaunt, Deputy Assessor**, introduced herself to Mr. Simpson, and said she would meet with him.

**PUBLIC HEARING**  
**REQUEST: SRU 05-006 CODY PARK COMMUNITY CHURCH**  
**MAY 9, 2006 10:00 A.M.**  
**RESOLUTION #35**

**Commissioner Stiehl** stated that the Cody Park Community Church is in the west end off of Copper Gulch Road. He stated he wanted to recognize the Church for the service they provided over the years, including the help after the Iron Mountain Fire.

**Bill Giordano** stated they are doing an expansion on a non-conforming use. A religious institution requires a Special Review Use Permit in the zone district.

**John Shoemaker, Project Manager,** stated that the expansion is a planned one with no definite date. He stated he did not know the purpose for this exercise. He had spent six months and over \$1000.

**Commissioner Stiehl** stated that when they initiated zoning, those properties became non-conforming. He stated that they could continue to operate as they were but when they change, they need to recognize the non-conforming status. The applicant is then allowed to move forward with the expansion whenever that might be.

**Bill Giordano** stated that the regulations say that any non-conforming use that is going to be expanded, must comply with the regulations. A Special Review Use Permit is required for the enlargement. Any application for land use is to determine the impact of the neighborhood. This gives an opportunity to evaluate that the expansion is still compatible on the roads and capable of handling the additional people. If they are not going to do this expansion within six months to two years, it has to be approved by the Board. Mr. Giordano stated that he would recommend that if that is the case, they would give them two years to build automatically so they would not have to come back. If at the end of two years the building has not taken place, he could lose the approval of the SRU. The notifications, posting and publication have been completed. At the Planning Commission meeting on April 4<sup>th</sup>, the Planning Commission recommended approval with 10 conditions. He stated he would note again that on Condition F there be a cessation for up to two years to be added to the Condition. The Contingencies have been provided, and the Planning Commission waived the surfacing, lighting and landscaping. This will require a Resolution to be prepared for the next meeting.

**Commissioner Stiehl** asked for anyone wishing to speak for or against to come forward. Seeing none, he closed the Public Hearing and returned to the Regular Meeting.

**Commissioner Lasha** made the motion to approve SRU 05-006 Cody Park Community Church with Conditions A through J. Condition F to contain the two years of cessation. No action needed on the surfacing, lighting and landscaping. This will be **Resolution #35**.

#### **RECOMMENDED CONDITIONS**

- A. Special Review Use Permit shall be issued for life of use.
- B. The Department of Planning and Zoning shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board of County Commissioners for their review as required by regulations.
- C. Applicants shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. Applicants shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments, and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain and keep in effect all other permits required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder

shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners. It is noted that the Permit will be in a two-year cessation.

- G. If a Special Review Use is to be transferred, it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited however the general hours for services will be from 6:00 am to 12:00 pm.
- I. The County shall retain the right to modify any condition of the permit if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the applicant, at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- J. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

The motion was seconded by Commissioner Norden, and noted to Mr. Shoemaker that after two years if they have not initiated, he should seek an extension in writing. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried and carried the adoption of **Resolution #35**.

**PUBLIC HEARING**  
**REQUEST: CUP 06-001 BYZANTINE QUARRIES**  
**MAY 9, 2006 10:00 A.M.**  
**RESOLUTION #36**

**Jack Clark, Larsen Colorado, LLC**, stated that Larsen Colorado, LLC has submitted an application for a Conditional Use Permit to mine and process construction materials on 175 acres within a property of over 600 acres. The Byzantine Quarries will be operated by High County Pipeline. The Quarries will consist of mining and processing construction material from multiple pits. Access will be from Fremont County Road 69 north of U.S. Highway 50. The commodities to be mined would be limestone, granite, sandstone and decorative rock. Blasting would be required. About 25 workers are anticipated doing intermittent mining and processing.

**Bill Giordano** stated that the notifications, posting and publication had been completed. At the April 4<sup>th</sup> Planning Commission meeting, they did recommend approval with Conditions A through S and 5 Contingencies. When the Planning Commission and the Department asked for an agreement with the Road Foreman, it was more of a Memorandum of Understanding. The intent was they wanted to know what he would require and what both agreed to. That would make that conditions of the permit. He stated he recommended that any of the items that are addressed in the Agreement between the Road Foreman be incorporated into the Conditions. The Planning Commission waived the surfacing, lighting and landscaping. The Additional Notifications have been

completed. This will require a Resolution, if approved, to be prepared for the next meeting. He stated that the Board would probably want to move Contingency #2 to a Condition that they provide the multiple areas in the future phases.

**Commissioner Stiehl** asked for anyone wishing to speak for or against to come forward.

**Gary Riggin, Penrose Resident**, stated he had done business with High Country Pipeline and was treated fairly. He stated that the economic impact of this operation would be positive, and that he was in favor.

**Ken Smith, Ute Street Resident**, stated he was representing his in-laws, Fred and Jeri Kelly, who own property adjacent to the access road from County Road 69 to the proposed quarry. He stated they found Mr. Larsen to be honest and straightforward, and they supported the proposal for the quarry.

**Steve Smith, Q Street Resident**, stated that High Country Pipeline do a lot for the community and he was for the project.

**Paul Austin, County Road 69 Resident**, stated he lived adjacent from the property and he had no issues with the quarry. His main concern was with the road and the dust. He stated he was also concerned about the traffic, the curves and the blind corners.

**Steve Cool, Realtor**, stated that the amount of real estate that Mr. Larsen owns would cause 20 to 30 35-acre tracts in residential use. That would be for about 23 5-acre tracts of four cars a day or 92 cars a day. He asked the Board to be conscious of the trade off.

**Commissioner Stiehl** closed the Public Hearing and returned to the Regular Meeting.

**Commissioner Norden** stated that they had read the May 1<sup>st</sup> letter that Larsen had signed with Oscar Lee. He stated he would hate to forever close the door on the possibility of determining whether that road would need to be paved. The letter does not bind the County for Mr. Larsen, only the conditions set forth by the Board would be binding. He stated that there is some language in there that he would want to adopt and incorporate as far as conditions. He stated he would like to use a paragraph from the May 1<sup>st</sup> letter identified as Dust Abatement to replace Condition P and add "for future maintenance, the Road & Bridge Department will determine the appropriate amount and frequency of dust suppressant applications to adequately control dust on County Road 69 and Quarry access roads. Cost of any dust suppressant application would be paid by Larsen Colorado." He stated that regarding Condition Q, he would like to strike that and use the Maintenance language from the May 1<sup>st</sup> letter and add "The Road & Bridge Department shall monitor road conditions to determine if dust suppressant and gravel applications are providing sufficient dust control and maintenance. If that maintenance is determined to be inadequate, a Public Hearing will be scheduled to consider if asphalt surfacing is appropriate and should be imposed as a condition of the applicant's permit with provisions addressing all related issues such as time period for compliance and cost sharing if any." He stated that the intent of this is to make sure that the dust suppressant and the gravel do address the necessary road maintenance issues. Condition B to be replaced with the Cattle Guard Replacement paragraph from the May 1<sup>st</sup> letter. Contingency #2 will become Condition T. Commissioner Norden stated that he would make that his motion unless there was other discussion. He stated that with all the conditions as he detailed, he moved to approve CUP 06-001 Byzantine Quarries for life of the mine. This would be **Resolution #36**. Also include the 4 Contingencies and waiving surfacing, lighting and landscaping.

#### **RECOMMENDED CONDITIONS**

A. The term of the Conditional Use Permit shall be for life of the mine.

- B. Larsen Colorado will replace the existing cattle guard on County Road 69 with a new cattle guard which matches the road width and will withstand H-20 loading.
- C. Applicants shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. Applicants shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments, and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicant shall obtain and keep in effect all other permits required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- G. Hours of mining and processing will be limited to daylight hours between Sunrise and Sunset. Truck hauling will not be limited. **Recommended change to: Hours of mining and processing will not be limited however blasting operations will not be allowed on weekends. Truck hauling will be limited to 6:00 am to 6:00 pm Monday through Friday and 6:00 am to 3:00 pm on Saturday.**
- H. Days of operation will be limited to Monday through Saturday. **Eliminate this condition, included in revised Condition #7 above.**
- I. The number of haul truck trips shall not exceed 80 trucks per day. (A trip is considered one truck in and out of the site)
- J. If a conditional use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to, or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Planning Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- K. If a conditional use permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
- L. If it is found by judicial action or it is determined by any other proper authority that any easement used for access into the subject property is not valid, then termination of the Conditional Use Permit will result.
- M. Fremont County shall retain the right to modify any condition of the permit if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant, at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.

- N. Only the named party on the permit shall be allowed to operate this Conditional Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of the permit. All persons, entities or others requesting Board approval to operate under this Conditional Use permit must agree to abide by all terms and conditions of this Conditional Use Permit and shall be required to be named on this Conditional Use Permit as additional parties who are bound by the terms and conditions of this Conditional Use Permit.
- O. Provide a copy of the permit or license or documentation from the listed entity that the following are not required prior to operation:
- a. Copy of the approved Colorado Division of Minerals & Geology Reclamation Permit.
  - b. United States Department of Labor Mine Safety and Health Administration number.
  - c. License or permit to store and use explosives from the State Office of Labor.
  - d. Colorado Department of Public Health and Environment Stormwater Permit.
- P. Upon approval of the Byzantine Quarry application by the Board of Commissioners, the Fremont County Road and Bridge Department will schedule the road crew to prepare County Road 69 for the application of magnesium chloride from the intersection of State Highway 50 and County Road 69 to a point 2.3 miles north. Larsen Colorado will order, through the Road and Bridge, the appropriate amount of magnesium chloride to be applied to this section of road. All invoices for the magnesium chloride will be billed directly to Larsen Colorado, LLC. Once the magnesium chloride is received the County Road and Bridge crew will apply it to the entire section of County Road 69 previously noted. In addition, Larsen Colorado will prepare and apply magnesium chloride to all quarry access roads between the quarry and County Road 69. For future maintenance, the Road & Bridge Department will determine the appropriate amount and frequency of dust suppressant applications to adequately control dust on County Road 69 and Quarry access roads. Cost of any dust suppressant application would be paid by Larsen Colorado.
- Q. Larsen Colorado will provide base course to Fremont County Road and Bridge Department for the maintenance of County Road 69, on an as needed basis, for the maintenance of County Road 69 from Highway 50 to the quarry access. This material will be provided free of charge. Larsen Colorado will also assist Fremont County Road and Bridge Department with the maintenance of County Road 69 when equipment is located at the quarry and/or truck traffic from the quarry is present. The Road & Bridge Department shall monitor road conditions to determine if dust suppressant and gravel applications are providing sufficient dust control and maintenance. If that maintenance is determined to be inadequate, a Public Hearing will be scheduled to consider if asphalt surfacing is appropriate and should be imposed as a condition of the applicant's permit with provisions addressing all related issues such as time period for compliance and cost sharing if any.
- R. Compliance with the requirements of the Colorado Department of Transportation prior to operation.
- S. Notification to the Department along with an updated site plan drawing and revised, updated or new Division of Minerals and Geology Reclamation Permit prior to operation in a new phase of mining.
- T. Approximate location of the multiple areas to be mined shall be shown on the site plan drawing.

**RECOMMENDED CONTINGENCIES:**

It is recommended that this item be approved and referred to the Board of County Commissioners for scheduling of a public hearing provided the following contingencies are provided within six (6) months (**no extensions**) after final approval by the Board of County Commissioners:

1. Documentation as to approval of an acceptable sewage disposal source for employees from the Fremont County Environmental Health Department.
2. Copy of the Colorado Department of Transportation's approved application for a change of use for Fremont County Road #69, at the intersection of Road #69 and US Highway 50.
3. A metes and bounds deed for lot 4 and 5 to Larsen Colorado, LLC or Norbie Larsen shall be added as an owner to the application. (Deeds provided are for Twin Peaks Ranch which is not a recorded plat therefore the lots do not exist legally).
4. Correct the spelling of the word "occur" in the note located in lot 3.

**WAIVED:**

Surfacing	5.3.2
Lighting	5.3.3
Landscaping	5.3.4

Commissioner Lasha stated he would second the motion with the modified Conditions. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried and carried the adoption of **Resolution #36**.

**PUBLIC HEARING  
REQUEST: SRU 06-003 SEUFER TREE FARM  
MAY 9, 2006 10:00 A.M.  
RESOLUTION #37**

**Matt Koch, Cornerstone Surveying**, stated they were requesting a Special Review Use Permit for Seufer Tree Farm located on South Reynolds just north of the Arkansas River. The owners bought 4.75 acres south of their existing farm and expanded their nursery. The County required a Special Review Use. It was decided that they needed to add Lot 7 which is their existing farm to the SRU just because it was grandfathered in during the zoning.

**Bill Giordano** stated that the notifications, posting and publication has been completed. The Planning Commission did approve this at the meeting on April 4<sup>th</sup>. There are ten Conditions and 5 Contingencies. The Planning Commission did grant the waiver for surfacing, lighting and landscaping.

**Commissioner Stiehl** asked for anyone wishing to speak for or against to come forward. Seeing none, he closed the Public Hearing and returned to the Regular Meeting.

**Commissioner Lasha** moved to approve SRU 06-003 Seufer Tree Farm with 10 Conditions (A through J), 5 Contingencies and waive the surfacing, lighting and landscaping.

**RECOMMENDED CONDITIONS**

- A. Special Review Use Permit shall be issued for life of use.
- B. The Department of Planning and Zoning shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board of County Commissioners for their review as required by regulations.
- C. Applicants shall conform to all plans, drawings and presentations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.

- D. Applicants shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments, and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain and keep in effect all other permits required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation will not be limited.
- I. The County shall retain the right to modify any condition of the permit if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the applicant, at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- J. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.

**RECOMMENDED CONTINGENCIES:**

It is recommended that this item be approved and referred to the County Commissioners for scheduling of a public hearing, provided the following contingencies are provided within six (6) months (**no extensions**) after final approval by the Board of County Commissioners:

1. Documentation from the City of Cañon City as to whether a water tap is required for the nursery.
2. The site plan shall include Lot 7, Helm's Subdivision in the Special Review Use Permit Area. (This is the parcel that contains the non-conformance and if it is not included the expansion cannot take place).
3. Appropriate changes to the site plan reflecting the addition of Lot 7 Helm's Subdivision.
4. Amend the application appropriately, to include the additional lot. (An addendum to each application item affected is acceptable)

5. Deed of record and legal for Lot 7, Helm's Subdivision.

**WAIVED:**

Surfacing	5.3.2
Lighting	5.3.3
Landscaping	5.3.4

The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried and carried the adoption of **Resolution #37**.

**NEW BUSINESS:**

**CONSIDERATION OF BID AWARD – ASPHALT CONSTRUCTION – COUNTY ROAD 11 (HIGH PARK ROAD)**

**Dana Angel, Fremont County Finance Director**, stated that they opened bids on April 27<sup>th</sup> for estimated tonnage of 2500-3000 tons of asphalt for 1.2 miles of County Road 11. They received three bids, and Kiewit Western Company was the low bid of \$57.50 per ton. Kleinfelder, Inc. has approved the mix design. He stated that he would recommend they award the bid to Kiewit Western at the price of \$57.50 per ton. **Commissioner Norden** noted that the funding for this is with Colorado Gaming Impact Funds, and made the motion to approve the low bid from Kiewit Western Company at \$57.50 per ton in the asphalt for the High Park Road overlay paving project. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**PROFESSIONAL SERVICES AGREEMENT/ARMSTRONG CONSULTANTS, INC./FREMONT COUNTY AIRPORT IMPROVEMENTS**

**Commissioner Lasha** stated that Armstrong Consultants had been the consultant for several years, but the contract did expire. The Airport Board has made a recommendation to proceed with Armstrong. They have an Agreement between Owner and Armstrong. **Commissioner Lasha** moved to approve the Professional Services Agreement for Armstrong Consultants, Inc. for the Fremont County Airport Improvements. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

**BRUCE REDUS – FREMONT ECONOMIC DEVELOPMENT CORP. REPORT**

**Bruce Redus** stated that with the business assistance, they have had a spike with their referrals in the Small Business Development Center. They have also had a spike with the real estate broker and real estate developer inquiries, and that bodes well for the future. In the finance area they have done some referrals into the Small Business Development Center as well as USDA and lead banks in Fremont County. They completed the District meetings for the Southern Colorado Economic Development District. With the SBA programs, they are set with 11% of that portfolio as far as number of loans in Fremont County. There is about \$5.2 million of existing balances on those loans, which represents about 16% of that portfolio. Mr. Redus stated that within the last year, he had completed 12 news articles in regard to economic development. They are seeing an increase in building permits.

**RED ROCK SPIRITS, LLC/RETAIL LIQUOR STORE RENEWAL**

**Sharon Kendall, Deputy Clerk**, stated that this was a late filing and if the Board approved the renewal, they would need to waive the 45-day requirement. This is the third year in a row that this licensee has filed late. **Commissioner Norden** moved to approve the renewal for Red Rock Spirits, LLC and waiving the 45-day requirement. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**REQUEST: TUP 06-009 TEMPLE CANYON HILL CLIMB**

**Rick Amrosino, President, Colorado Hill Climb Association**, stated he was seeking approval for a Temporary Use Permit for the Temple Canyon Hill Climb scheduled for this weekend, May 13<sup>th</sup> and May 14<sup>th</sup>. This will be the 16<sup>th</sup> year for this event in Fremont County.

**Bill Giordano** stated that the application was in order. They are asking for a waiver of the clean up fee and the Board needs to accept the amount of the insurance policy.

**Commissioner Lasha** moved to approve TUP 06-009 Temple Canyon Hill Climb with the waiver of the clean up fee and the acceptance of the insurance amount. The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

**REQUEST: PP 05-003 MESAS ON SUNRISE RIDGE**

**Allan Miller, Manager, La Mesita Del Sol, LLC**, stated that he had received approval from the Planning Commission. He stated that all contingencies were satisfactory.

**Bill Giordano** stated the notifications had been completed adequately. At the Planning Commission meeting on April 4<sup>th</sup>, the Planning Commission did recommend approval with 23 Contingencies. The City of Cañon City had asked for 5' sidewalks, and Mr. Giordano stated that he thought Mr. Miller had agreed to that but he could not find it in the requirements. On the drawing it is 4', so they would probably ask that be reflected in the final plan. The Planning Commission did not specifically address the City's request that all utilities have underground, buried utilities. Mr. Giordano noted that they have not, to his knowledge, done this. It has been a long time that they have ever required utilities to be buried. The City also recommended that the intersection of Van Loo Road and Dozier Ave. be built out to completion in accordance with the City's Major Thoroughfare Plan. He stated that in the traffic analysis report and reviews by the County Engineer, there are a number of improvements that are being requested on the intersection of Dozier and Van Loo. The Planning Commission granted the waivers for Mineral Resource map report and Erosion Control Map and Report.

**Mr. Miller** stated he had no objection to the 5' sidewalks. As far as putting the utilities underground, that does not mean that they would put the existing power lines underground. Everything they put in will be underground.

**Commissioner Lasha** made the motion to approve PP 05-003 Mesas On Sunrise Ridge for an 89-lot preliminary plan with 23 Contingencies, with removing the wording of #14 and replacing it with the wording of the 5' sidewalk. Contingency #16 to be in compliance with the Fremont County engineering standards. **Commissioner Stiehl** asked if Commissioner Lasha would agree to add Contingency #24 that new interior utilities to be buried underground? Commissioner Lasha agreed to that and amended his motion.

**RECOMMENDED CONTINGENCIES:**

The following items shall be provided to the Department of Planning and Zoning within eighteen (18) months of preliminary plan approval by the Board or prior to submittal of the final plat:

1. Proof of payment to the Colorado Geological Survey for their review fee.
2. Documentation as to annexation into the Fremont Sanitation District.
3. Approved plans and profiles for sewer lines from existing sewer main and all mains within the subdivision.
4. A recorded copy of the water services contract from the City of Cañon City.
5. Water line plans and profiles, (approved by City of Cañon City Water District) including fire hydrants, (approved by the Cañon City Fire Authority) from the existing main to the site and all water lines and hydrants within the subdivision.
6. Compliance with the Colorado Geological Survey, Engineering Geologist, TC Wait, letters dated January 10, 2006 and February 2, 2006.
7. A thirty (30)-foot wide easement be given for the existing water main.

8. Erosion control or reseeding costs shall be included in the improvements cost estimates.
9. Compliance with the requirements of the Fremont County Engineer as related to the Traffic and Drainage Plan Review as per letters dated July 21, 2005 and March 22, 2006, respectively.
10. Compliance with the Cañon City Area Fire Protection District, Fire Chief Bill Guindon letter dated March 7, 2006.
11. A Colorado stormwater discharge permit as required in a letter from the Colorado Department of Public Health and Environment, Water Quality Control Division, Timothy J. Vrudny, P.E., District Engineer, dated January 19, 2006.
12. A 10-foot wide utility easement on all road frontages as required by Aquila, Warren Heifner, Electrical Estimator, dated December 28, 2005.
13. Documentation that information requested by the Cañon City School District RE-1 was provided to them as outlined in the letter provided from L.F. Buddy Lanbrecht, dated January 2, 2006. Additional requirements may result upon further response from the School District based on receipt of the additional information.
14. Requirement of 5-foot sidewalks.
15. Final plat shall contain a statement as to maintenance of all drainage facilities.
16. Roads to be paved in accordance with County standards.
17. If road improvements are not completed prior to recording of the final plat an improvement and escrow agreement may be provided. A letter from a Colorado Registered Engineer, who designed the improvements will be required stating the specified improvements were constructed to the above standards and his design, prior to recording of the final plat and/or release of escrow funds.
18. Construction of all required drainage facilities prior to recording of the final plat. If drainage facilities are not completed prior to recording of the final plat an improvement and escrow agreement may be provided. A letter from a Colorado Registered Engineer will be required stating that drainage facility was constructed to the design standards prior to recording of the final plat and/or release of escrow funds.
19. A Colorado Professional Registered Engineers estimate for installation of all improvements, road construction, drainage facilities, fire hydrants, water main extension, street signs, and etcetera.
20. A quit-deed addressing maintenance of all drainage facilities will be required prior to recording of the final plat.
21. The final plat shall contain a setback line for all wedge shaped lots. The setback line shall not be a curve.
22. The final plat shall contain a list of all lots that will have limited access to a street.
23. Erosion control plan and report.
24. All new interior utilities to be buried underground.

The motion was seconded by Commissioner Norden. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

**NOMINATION BY PUEBLO COMMUNITY COLLEGE, FREMONT CAMPUS ON PLAQUE OF OUTSTANDING CITIZENS.**

**Commissioner Norden** stated that the previous Board gave permission to posthumously honor citizens with a plaque recognizing their service in the community. The plaque is posted at the south entryway of the Fremont County Administration Building. The Pueblo Community College Advisory Committee has submitted a nomination letter naming Darryl Biggerstaff. Commissioner Norden read the letter of nomination signed by John Merriam and Marjorie Villani. **Commissioner Norden** moved to accept the nomination from the PCC Fremont Campus Advisory Committee to appropriately recognize Darryl Biggerstaff on the plaque to be placed in the County Administration Building. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**RESOLUTION #38 – PETITION FOR ABATEMENT OF TAXES – BR MGMT, LLC C/O LICHT AND COMPANY, INC.**

**Pam Gaunt, Deputy Assessor**, submitted a Petition for Abatement of Taxes and stated that this was the Super 8 Motel on Highway 67 in Florence. She stated that their revenue is not comparable to a lot of the motels in Cañon City and Florence. They have decided to adjust the taxes due to the income approach. Their actual value goes from \$711,000 down to \$576,686, and the assessed value goes from \$208,704 to \$167,239. The abatement amount is \$2,808.51 for 2005 taxes. **Commissioner Lasha** moved to approve **Resolution #38**, Petition for Abatement of Taxes for 2005 for BR Management, LLC c/o Licht and Company, Inc. in the amount of \$2,808.51. The motion was seconded by Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried and carried the adoption of **Resolution #38**.

**Commissioner Stiehl** adjourned the meeting at 12:19 P.M.

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County Clerk