

THIRTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on July 13, 2004, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Larry Lasha.

Larry Lasha	Commissioner	Present
James R. Schauer	Commissioner	Present
Keith McNew	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 Pastor Don Farr from Church Alive.

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

AGENDA

Commissioner Schauer made the motion to approve the Agenda. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried.

CONSENT AGENDA

Commissioner McNew made the motion to approve the Consent Agenda:

1. Approval of Minutes, June 22, 2004
2. Approval of Bills, July 13, 2004/\$1,100,104.82
3. LIQUOR LICENSES
 Thuente Mary L
 Waterhole No 1
 1503 Elm Ave
 Canon City, CO 81212-4518
 Retail Liquor Store License Renewal – Malt, Vinous, and Spirituous

 Broken Spoke Event Center, Inc.
 13760 Hwy 115
 Penrose, CO 81240
 Hotel & Restaurant w/optional premises
 Transfer of Ownership

4. SCHEDULE PUBLIC HEARINGS/10:00 A.M., AUGUST 10, 2004:

REQUEST: CUP 04-002 RANCH LAND ROCK PIT #2 (AMENDMENT)

Request approval of a Conditional Use Permit, Department file # **CUP 04-002, Ranch Land Rock Pit #2 (amendment)**, by Ranch Land, LLC., for its property which is located in the SE ¼ SE ¼ of Section 32, S ½ S ½ of Section 33, S ½ SW ¼ of Section 34, Township 19 South, Range 68 West of the 6th P.M. and the N ½ NW ¼ of Section 3, NW ¼, N ½ NE ¼, S ½ SE ¼ NE ¼, W ½ NW ¼ SE ¼, N ½ SW ¼, SW ¼ SW ¼ of Section 4, and E ½ E ½ of Section 5, Township 20 South, Range 68 West of the 6th P.M. The amendment proposes to increase the permit boundary acreage from 240 acres to 920 acres and the number of trucks from 10 trucks per day to 300 trucks per

day. The property is accessed via Fremont County Road #112 and generally located approximately 3 miles southeasterly of Holcim Inc.

REQUEST; ZC 04-004 SHEPARD ZONE CHANGE

Request approval of a Zone Change from Low Density Residence to Business, file #ZC 04-004 Shepard, by Shepard Commercial Properties, LLC A Colorado Company, for property which is *located to the northwest of the intersection of Rhodes Avenue and East Main Street.*

The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Norma Hatfield, Fremont County Clerk & Recorder, submitted the Clerk's Report for June 2004 and stated that the revenues earned in the Clerk's Office were \$711,397.59 and that was up \$7,786.61. She stated that sales tax collected during June was \$27,389.34, which was up \$3,336 over a year ago. Mrs. Hatfield stated that she had a six-month report for January through June and total County earnings were \$3,839,135.34 and that was \$157,245 below the six month period last year. **Commissioner Lasha** made the motion to approve the Clerk's Report for June 2004. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner Lasha, aye; Commissioner Schauer, aye; Commissioner McNew, aye. The motion carried.

Virginia Woltemath, Fremont County Treasurer & Public Trustee, submitted the Quarterly Report of the Public Trustee for the period of April 1, 2004 through June 30, 2004 and the Semi-Annual Report of Fremont County Treasurer for January 1, 2004 through June 30, 2004. She stated that they released 1009 Deeds of Trust for a total of \$21,189.00 and they commenced 80 foreclosures. Mrs. Woltemath stated that they had commenced approximately 160 foreclosures so far this year. She stated that the beginning balance as of April 1, 2004 was \$25,157.92 and the ending balance as of June 30, 2004 was \$50,218.04. **Commissioner Schauer** made the motion to approve the Quarterly Report of the Public Trustee and the Semi-Annual Report of Fremont County Treasurer. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Schauer, aye; Commissioner Lasha, aye; Commissioner McNew, aye. The motion carried.

Commissioner Schauer stated that this was the middle of the West Nile season and there had been a confirmed case of the virus in Fremont County. He stated that J.R. Phillips is the coordinator for education on the West Nile virus. He stated that last year, most of the cases were in persons the age of 65 or older. The fourteen cases reported in the state of Colorado, one-third are in the 45-49 age group and 2/3 are female.

Commissioner Lasha stated that things were drying out quickly, and to be aware that the fire restrictions were still on.

2. Citizens Not Scheduled: None

NEW BUSINESS:

PAUL KENDALL/PROJECT GENESIS RENEWABLE ENERGY

Paul Kendall submitted a list of those people who derive income from the monthly electric bill and information on Project Genesis. He stated that the City of Canon City receives around \$600,000 per year from just electricity and natural gas in city sales tax and franchise fees. Mr. Kendall stated that the Project Genesis was a win-win-win situation.

TERRY SCANGA – UPPER ARKANSAS WATER CONSERVANCY DISTRICT UPDATE

Terry Scanga stated that in 1977 a drought occurred similar to the drought of 2002. An organization was formed so that the Upper Arkansas Valley would have a voice in water decisions. The Upper Arkansas Water Conservancy District was formed to administer the Frying Pan Arkansas Project and repay the debt on that project. The Upper Arkansas District was formed as an advocacy group to protect the water rights in the upper Arkansas basin. In 1979 the District was formed and includes Custer, Western Fremont and Chaffee Counties, but it excludes Eastern Fremont County. He stated a group had been circulating petitions and are 450 signatures shy of reaching the number required to petition for inclusion into the Upper Arkansas Water Conservancy District. The group has asked that the various public entities pass a resolution to support this petition process.

Commissioner McNew stated that he was in Fremont RE-3 School District and part of the Upper Arkansas Water Conservancy District. He stated that the District has protected the water interests in all of Fremont County.

APPOINTMENTS OF MEMBERS TO FREMONT COUNTY BOARD OF APPEALS

Commissioner Lasha stated that they had letters from Francis Williams and Tom Payne and that Mike Cox had made the recommendation for their appointments and have Tracy Gingerich as an alternate. **Commissioner Schauer** made the motion to approve the appointments of Francis Williams and Tom Payne to the Board of Appeals. The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried.

RESOLUTIONS #85 THROUGH #92/ASSESSOR'S OFFICE – PETITION FOR ABATEMENT OR REFUND OF TAXES:

Pamela Gaunt, Deputy Assessor, submitted the Petitions for Abatement or Refund. **Commissioner Lasha** made the motion to approve **Resolutions #85 through #92**. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner Lasha, aye; Commissioner Schauer, aye; Commissioner McNew, aye. The motion carried and carried with it the adoption of **Resolutions #85 through #92**:

RESOLUTION #85 – CHILDREN OF THE SON #770-13-900

RESOLUTION #86 – SAFEWAY STORES #996-04=009

RESOLUTION #87 – WAREHOUSE SERVICES OF PUEBLO #981-04-096

RESOLUTION #88 – JANOUSEK, CHESTER T. & LINDA I. - #690-03-560

RESOLUTION #89 – ALLEN, WALTER R. & SANDRA J. #981-00-126

RESOLUTION #90 – BRIGHT, AARON T. & KATHRYN J. #180-00-550

RESOLUTION #91 – CUSTY, MARY R. #110-30-340

RESOLUTION #92 – HADLEY, MICHAEL J. & CATHERINE #190-03-830

Commissioner Lasha stated that the new item was MS 04-002 Jordan Subdivision, but would be tabled until after the Public Hearings.

RESOLUTION #93 - APPROVAL OF FAA GRANT FOR RUNWAY EXTENSION & AUTHORIZATION FOR CHAIRMAN TO SIGN REQUIRED DOCUMENTS ON BEHALF OF THE COUNTY.

Richard Baker, Airport Manager, stated that this was a project they had been working on for about four years. He stated that it may happen this year after they get the aggregate appraisal and negotiations with the two landowners. **Commissioner McNew** made the motion to approve **Resolution #93** Approval of FAA Grant for Runway Extension and Authorization for Chairman to Sign Required Documents on Behalf of the County. The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner Schauer, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #93**.

**CONTRACT – CDBG #04-010 COMMUNITY DEVELOPMENT BLOCK GRANT
- \$300,000 BUILDING FACILITY FOR UAACOG OFFICES AND RELATED
HUMAN SERVICE PROGRAMS INCLUDING THE COLORADO WORKFORCE
CENTER ON W. INDEPENDENCE ROAD.**

Dana Angel, Finance Director, stated that this was a contract with the Colorado Department of Local Affairs for the Community Development Block Grant Funds for the building facility that is going to be constructed for the Upper Arkansas Area Council of Governments. The grant contract is for \$300,000 and the total project is about \$1.3 million. **Commissioner Schauer** made the motion to authorize the signature for the Contract CDBG #04-010 Community Development Block Grant. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Schauer, aye; Commissioner Lasha, aye; Commissioner McNew, aye. The motion carried.

**PUBLIC HEARING
ZC 04-003 VODOPICH ZONE CHANGE
JULY 13, 2004 10:00 A.M.
RESOLUTION #94**

Matt Koch, Cornerstone Land Surveying, stated they were requesting a zone change for the property located on the northwest corner of Sherman and Dewey in Lincoln Park. It is now zoned Agricultural Suburban, and they want a change to Low Density Residence. The property consists of Lot 4 which is vacant and there is a house being built on Lot 5.

Bill Giordano, Planning & Zoning Director, stated that at the Planning Commission meeting on June 1st, they did recommend approval with one contingency item. The posting, notifications and publication has been done. He stated it would require a resolution that would be prepared for the next meeting and Findings would be required.

Commissioner Lasha 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 Schauer made the motion to approve **Resolution #94** ZC 04-003 Vodopich Zone Change with 1 contingency and Findings 3 and C.

RECOMMENDED CONTINGENCIES

1. Copy of an executed water service contract from the City of Canon City.

FINDINGS:

There has been a material change in the neighborhood which justifies the requested zone change.

There will not be any effect on existing traffic.

The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #94**.

**PUBLIC HEARING
ZC 04-001 JORDAN SUBDIVISION ZONE CHANGE
JULY 13, 2004 10:00 A.M.
RESOLUTION #95**

Debra Greer, D.D. Greer Design Studio, stated they had an 0.8 acre lot which is currently occupied by a double wide and a garage. The owners would like to subdivide the property into three lots to build 2 three-plexes. She stated they were asking for a zone change from Agricultural Suburban to Medium Density Residence.

Bill Giordano stated that this was approved by the Planning Commission at the June 1st meeting with 6 contingencies. This would require a resolution to be prepared for the next meeting and would also require Findings. The posting and notification had been done, but the proof of publication had not been submitted. Mr. Giordano stated that the Board might want to add that as a contingency.

Commissioner Lasha 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 McNew made the motion to approve **Resolution #95** ZC 04-001 Jordan Subdivision Zone Change with Findings 3, C & E; 7 contingencies and waiving surfacing, lighting and landscaping.

FINDINGS

There has been a material change in the neighborhood which justified the requested zone change.

There will not be any effect on existing traffic.

The proposed development will be in harmony and compatible with the surrounding land uses and development in the area.

RECOMMENDED CONTINGENCIES

It is recommended that this zone change be approved and forwarded to the County Commissioners for scheduling of a public hearing with one of the following recommendations:

1. Place a statement on the final plat that when the building is removed or replaced it shall comply with applicable setback requirements.
2. An executed water service agreement from the City of Canon City will be required.
3. Remove or label the reference as to what it represents at the northeast corner of proposed Lot 2.
4. Five (5) off-street parking spaces, other than garage parking is required for proposed Lots 2 and 3.
5. Please provide the width for the driveway on proposed Lot 1 and locate it from a known point.
6. Approved driveway access permit for proposed Lots 2 and 3, from County Road Foreman.
7. Provide proof of publication.

WAIVED

Surfacing 5.3.2

Lighting 5.3.3

Landscaping 5.3.4

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner McNew, aye; Commissioner Lasha, aye; Commissioner Schauer, aye. The motion carried and carried with it the adoption of **Resolution #95**.

PUBLIC HEARING
SRU 04-004 MCCOMB LUMBER, LLC
JULY 13, 2004 10:00 A.M.
RESOLUTION #96

Chuck Rupp, Ponderosa Engineering, stated that this was a continuation of an existing use. The primary reason for this request is for an increase in area. This is the triangle where Red Canyon Road and Fields Avenue join. There is some industrial area just north of there.

Thomas L. McComb, Owner, stated that they wanted to go for the life of the operation and did not see it on the list of conditions. He stated that #8, days of operation for processing will be Monday through Friday and days for shipping and receiving will not be limited. Mr. McComb stated that they very seldom work on weekends, but would like to include Sundays with a time limit. He stated that #9, hours for processing shall be limited to sunrise to sunset and hours for shipping and receiving will be limited to 6 am to 10 pm. He stated that sometimes they have to work late, and he would like to have that option.

Bill Giordano stated that at the Planning Commission meeting on June 1st, they recommended approval with 16 conditions and 2 contingencies. The 7 additional notifications had been completed. The Planning Commission had concerns with issuing life of the use and only approved it through the existing what was issued originally which is to expire September 9, 2017. On Condition #10, he stated he wasn't sure they still needed to move the saw as long as they can keep the logs out of the right-of-way. The additional notifications have been completed. A letter had been received from the Corps of Engineers stating there could be waters for the United States on the site. Mr. Giordano stated that they might want to include that in one of the conditions and it be addressed within a certain time frame. The posting of the property, notification of property owners and publication had been done. This would require a resolution to be prepared for the next meeting.

Commissioner Lasha asked for anyone wishing to speaking for or against to come forward. Seeing none, he closed the Public Hearing and returned to the regular meeting.

Commissioner Schauer stated that regarding #9, they have in the past put a condition allowing work on 20-22 Sundays a year and request more if needed. Mr. McComb stated he would have no problem with that.

Commissioner McNew stated that with the life of the use, there is a substantial investment, and it takes awhile to recoup the investment. He stated that with yearly inspections, he had no problem with giving life of the use.

Commissioner Schauer made the motion to approve **Resolution #96**, SRU 04-004 McComb Lumber, LLC with changing Condition #1 to be for life of the use, Add to Condition #8: Allowed to process twenty Sundays a year, Add to Condition #9: Hours for processing shall be limited to 5:00 A.M. to 10:00 P.M. year round. Shipping and receiving will be 24 hours per day, Add to Condition #13: Applicant will have one year to complete the work. Condition #10: remove the requirement of the setback of the saw. Two contingencies and waive surface, lighting and landscaping.

RECOMMENDED CONDITIONS

1. Special Review Use Permit shall be issued for life of use.
2. 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.
3. 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.
4. 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.

5. 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.
6. 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.
7. If a Special Review Use is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
8. Days of operation for processing will be Monday through Friday and days for shipping and receiving will not be limited. Applicant allowed to process twenty Sundays per year.
9. Hours for processing, shall be limited from 5 am to 10 pm. Shipping and receiving will be 24 hours per day.
10. No materials and or equipment shall be stored within twenty-five (25) feet of any property line adjacent to a public right-of-way.
11. All materials, stored parts and other equipment that is not currently being used in association with the sawmill operation shall be removed or screened, in accordance with the Development Requirements of Section 5.6.15, of the Fremont County Resolution.
12. A linear fence at least four (4) feet in height shall be constructed, from the north entry of the McComb property to the north property line of the Miller property, from the south entry of the McComb property to the south property line along Red Canyon Road along the east side of the Miller property.
13. Applicant shall comply with any requirements of the Canon City Fire Protection District with one year to complete the required work.
14. Termination of any lease prior to termination of the Special Review Use Permit will result in the termination of the Special Review Use Permit.
15. 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.
16. 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. The term of the lease shall coincide with the term of the Special Review Use Permit or it may be for a longer term.
2. The lease shall note the terms of termination for both parties, the payment terms (monthly, yearly, etc.) and the what uses are allowed by the lease (log storage only, etc.).

WAIVED:

Surfacing 5.3.2
Lighting 5.3.3
Landscaping 5.3.4

The motion was seconded by Commissioner McNew. Upon vote: Commissioner Schauer, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #96**.

**PUBLIC HEARING
SRU 04-007 PENROSE GREAT DANES DOG KENNEL
JULY 13, 2004 10:00 A.M.
RESOLUTION #97**

Bobby Marshall stated they were an existing kennel, had a fire in February and found out they needed the Special Review Use to comply. The barn that burned down in the kennel area and do not plan to rebuild it.

Bill Giordano stated that at the June 1st meeting, the Planning Commission recommended approval with 14 conditions and 5 contingencies. They took no action on surfacing, lighting and landscaping. The publication, posting and notifications have been done. This would require a resolution to be prepared for the next meeting.

Commissioner Lasha 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 **Resolution #97** SRU 04-007 Penrose Great Danes Dog Kennel with 14 conditions, 5 contingencies and waiving surfacing, lighting and landscaping.

RECOMMENDED CONDITIONS

1. Special Review Use Permit shall be issued for life of use.
2. 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 (Board) for their review as required by regulations.
3. 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.

4. 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.
5. 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.
6. 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.
7. If a Special Review Use is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
8. Hours of operation for public visitation will be limited to 10 am to 4 pm by appointment only.
9. Days of operation will not be limited.
10. The existing residence shall be used as an accessory use, watchman's quarters for the kennel operation.
11. Access to the site shall be limited to M Street, unless a Colorado Department of Transportation permit is issued.
12. Dogs shall be housed in buildings from sunset to sunrise.
13. 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.
14. 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 that existing water tap is adequate for the proposed kennel and accessory uses.
2. Documentation from the Fremont County Environmental Health Officer that existing sewage disposal system is adequate for the existing uses.
3. A drainage system surrounding the kennels shall be completed within six (6) months.
4. A copy of a deed for the above property in the name of Terri Gordon.
5. The site plan shall contain a vicinity map.

WAIVED

Surfacing 5.3.2
Lighting 5.3.3
Landscaping 5.3.4

The motion was seconded by Commissioner McNew. Upon vote: Commissioner Lasha, aye; Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried and carried with in the adoption of **Resolution #97**.

**PUBLIC HEARING
CUP 04-001 AZCO PIT
JULY 13, 2004 10:00 A.M.
RESOLUTION #98**

Ron Walker stated that this was a 35-acre piece of property that they have applied and received the mine reclamation permit. The State does not require a permit for their own use but the County does. He stated this property was away from everybody, and it was gravel mainly for their own use and hopefully for the use of the south T-Bar property owners association. He stated this would be a better avenue for himself and those T-Bar property owners.

Bill Giordano stated that at the June 1st Planning Commission meeting, they recommended approval with 14 conditions, 3 contingencies. The Planning Commission took no action on surfacing, lighting and landscaping. The publication, posting and notifications had been done. He stated a resolution would be required and would be prepared for the next meeting.

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

Mark Trotta, Arrowhead Court Resident, stated he represented the South T-Bar Property Owners Association. He stated the gravel pit could have a serious impact on the property values and there would be a quality-of-life change. He stated there was a lack of notification. The initial State requirement they received on June 11th asking for comments, but the deadline was June 4th so they had no chance to express their concerns. They were also concerned about commercial vehicles traveling on private roads and causes wear and tear on their roads which they maintain. He stated they were concerned about safety, dust, noise and water supply. Mr. Trotta asked when the reclamation would be done and when does the operation have to cease.?

Jim Greenwood, South T-Bar Ranch, stated they had petitions that include over 80 signatures from owners, neighbors, associates of T-Bar Ranch objecting to this project. They are objecting to the 352 semi truckloads going through residential roads and the commercial operation of the mine.

Ron Walker stated they were required by the mine reclamation and have applied for all of the permits as far as air pollution, dust and water control. He stated this was a ten-year conditional permit with an annual review.

Commissioner Lasha closed the Public Hearing and returned to the Regular Meeting.

Commissioner McNew stated that gravel was a needed product in the subdivisions. When the source is close to where it is being used, it is better for the general public. Commissioner McNew made the motion to approve **Resolution #98** CUP 04-001 Azco Pit with 14 conditions, 3 contingencies, waive surfacing, lighting and landscaping and change Condition #9 to read: Days of operation will be Monday through Friday.

RECOMMENDED CONDITIONS

1. The term of the Conditional Use Permit be for a ten (10) year term.
2. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations.
3. 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.
4. 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.
5. 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.
6. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
7. There was not a Condition No. 7 in the Planning Commission minutes.
8. Hours of operation will be limited to daylight hours between Sunrise and Sunset.
9. Days of operation will be Monday through Friday.
10. 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.
11. If a conditional use permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
12. If it is found by judicial action or it is determined by any other proper authority that the easement for access into the subject property is not valid, then termination of the Conditional Use Permit will result.

13. 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.
14. 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.

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. Provide a copy of the permit or license or documentation that the following are not required:
 - a. Colorado Division of Minerals & Geology Reclamation Permit.
 - b. Colorado Department of Public Health and Environment Fugitive Dust Permit.
 - c. Colorado Department of Public Health and Environment APEN Permit.
 - d. Colorado Department of Public Health and Environment Storm Water Discharge Permit.
 - e. United States Army Corp of Engineers 404 Permit.
 - f. United States Department of Labor Mine Safety and Health Administration number.
2. Amend existing SRU 99-3 Top Rail Recreation Camp to note that this property will be excluded from the SRU property until all mining has been ceased until the property has been reclaimed to the satisfaction of the Colorado Division of Minerals and Geology.
3. Amend the existing SRU to either include or exclude all 35-acre subdivision lots that have been created with the SRU permit boundaries.

WAIVED

Surfacing	5.3.2
Lighting	5.3.3
Landscaping	5.3.4

The motion was seconded by Commissioner Schauer. Upon vote: Commissioner McNew, aye; Commissioner McNew, aye; Commissioner Lasha, aye. The motion carried and carried with it the adoption of **Resolution #98**.

NEW BUSINESS (CONTINUED)

REQUEST: MS 04-002 JORDAN SUBDIVISION

Debra Greer stated that the three lots all comply with County regulations on minimum lot size. She stated they had provided more parking than is actually required.

Bill Giordano stated that at the June 1st meeting, the Planning Commission recommended approval with 20 contingencies.

Commissioner Lasha made the motion to approve MS 04-002 Jordan Subdivision with 20 contingencies.

REQUIRED CONTINGENCIES

The following items shall be provided to the Department of Planning and Zoning, within six (6) months (*with no extensions*) after final approval by the Board of County Commissioners:

1. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations.
2. An updated title commitment issued within 30 days of recording of the final plat. An updated title commitment may result in additional requirements.
3. Statement on the final plat that notes when the building is removed or replaced it shall comply with applicable setback requirements.
4. Information adequate to enable the Department to compute addresses for proposed lots as per the Fremont County Subdivision Regulations (FCSR) Section XII.I.1.
5. A quitclaim deed to the County for a thirty-five (35) foot right-of-way, from the centerline of 15th Street and a thirty-(30) foot right-of-way from the centerline of South Street along the entire property frontage.
6. Compliance with the drainage requirements as per the reviewing engineer's comments in a letter dated June 1, 2004.
7. An executed water service contract from the City of Canon City.
8. The final plat shall note a centerline distance for both streets.
9. Please provide arrows at the end of all specified distances shown.
10. Provide ten (10) foot utility easement as modular home will eventually be moved and easement as required will be provided.
11. The common access, drainage and utilities easement shall connect to the west line, with a 5-foot utility easement along each side of the interior lot line between lots 2 & 3.
12. The 15-foot dimensions between lots 2 & 3, along the front shall be re-located as it appears that they are in addition to the overall length of the 85-foot lot width, when in fact they are to be included in the overall dimension.
13. The lettering at the northeast corner shall be corrected as they over run each other and are not readable.
14. Approval and recording of the zone change from Agricultural Suburban to Medium Density Residence for the subject property.
15. Curb, gutter and paving from the existing pavement to the curb shall be required along 15th street.
16. Plans and profiles for curb and gutter along 15th Street.
17. Engineers estimate for all improvements.
18. Escrow and improvement agreement for curb and gutter if improvement is not installed prior to recording of the final plat.
19. Approval of curb and gutter installation by design engineer.
20. Approval and acceptance of the improvements by County Road Foreman.

The motion was seconded by Commissioner McNew. Upon vote: Commissioner Lasha, aye; Commissioner McNew, aye; Commissioner Schauer, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 11:35 A.M.

County Clerk