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## TWENTY-FIRST MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on November 10, 2009, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Michael J. 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 Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Tina Taylor, Deputy Clerk.

Pastor Benny Soto from the Mountainview Baptist Church gave the Morning Prayer.

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

### APPROVAL OF AGENDA

**Commissioner Lasha** had two changes to the Agenda. Under New Business he added The Fremont County Adoption Day Proclamation as Item #3. Under Public Hearing moved #5 to #1 which is the 2010 Fremont County Budget Presentation.

**Commissioner Norden** had the Item #1 on the Consent Agenda removed. The Minutes from the meeting of October 27<sup>th</sup> have not been completed.

**Commissioner Lasha** moved to approve the Agenda with the changes under New Business of adding Item #3, moving number #5 to #1 under Public Hearings and removing Item #1 The Minutes from October 27<sup>th</sup> from the Consent Agenda. Commissioner Norden seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

### CONSENT AGENDA

Commissioner Norden moved to approve the Consent Agenda as amended absent Item #1. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

2. Approval of Bills, November 10, 2009 / \$855,406.73
3. LIQUOR LICENSES / None
4. **SCHEDULE PUBLIC HEARING FOR NOVEMBER 24, 2009 AT 10:00 A.M.**  
**2010-2011 COMMUNITY SERVICE BLOCK GRANT**

Consider and designate the utilization of the 2010-2011 CSBG (Community Service Block Grant). The grant will be used to assist low income residents of the County.

#### **SCHEDULE PUBLIC HEARINGS FOR DECEMBER 8, 2009 AT 10:00 A.M.**

1. **REQUEST: SRU 09-002 AT & T WIRELESS FACILITY**  
Request approval of a **Special Review Use Permit, Department file # SRU 09-002 AT & T Wireless Facility, by AT & T Mobility, to allow for the construction and operation of a one-hundred (100) foot monopole tower, which will house six (6) dual broadband antennas, six (6) tower mounted amplifiers, an equipment shelter, a utility meter, and ice bridge, GPS antenna located on the equipment shelter, and an eighteen (18) inch base station antenna.** The property is *located at the northwest corner of the intersection of U.S. Highway 50 and N Street in the Beaver Park Area.*

2. **REQUEST: SRU 09-003 UNIVERSITY OF OKLAHOMA GEOLOGY CAMP (RECREATIONAL FACILITY, RURAL - Educational Camp)**

Request approval of a **Special Review Use Permit, Department file #SRU 09-003 University of Oklahoma Geology Camp (Recreational Facility, Rural - Educational Camp), by The Oklahoma University School of Geology and Geophysics, to allow for the construction of a geology camp which will include a dining hall, an office, a garage, a kitchen, two (2) unisex bath houses, six (6) student cabins, two (2) student cabins with a future bathroom, three (3) visitor/faculty cabins with future bathroom and two (2) ADA cabins within the encampment and a five-hundred and seventy-six (576) square foot "pavilion" and a two-thousand (2,000) square foot residence on the property southerly from the encampment. The camp will primarily be used between May and September. The property is located approximately 2 ¾ miles south of Elm Avenue, on the southwest side of County Road #143, aka Oak Creek Grade Road, south of Cañon City.**

**ADMINISTRATIVE/INFORMATIONAL**

1. Administrative and Elected Officials

**Clerk and Recorder Norma Hatfield** submitted the Clerk's Report for October, 2009. Total revenues taken in were \$751,005.12 which was \$81,063.89 more than a year ago. Fremont County Sales Tax was \$57,487.29 which was \$14,262.73 less than a year ago. Monies turned over to the County Treasurer was \$334,247.25 which \$51,441.01 less than a year ago.

**Commissioner Norden** moved to accept the County Clerk's Report. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**Commissioner Lasha** personally and publically thanked Tom Piltingrud for his service for the City of Florence. He did an outstanding job with a lot of accomplishments and the communication that he has had with Fremont County in the past seven and a half years. Commissioner Norden also expressed thanks to Tom.

**Commissioner Norden** stated there is continued progress at Pathfinder Park. There was a work party on October 31<sup>st</sup> putting up bleacher frames. County Engineer Don Moore has advised us that seventeen (17) packed of information have been distributed to potential engineering firms to bid on the final design for the park's water main to serve the park.

**Commissioner Stiehl** expressed that this is all grant money and not tax payers.

2. Citizens Not Scheduled - None

**NEW BUSINESS**

**CONSIDERATION TO DECLARE A VACANCY FOR THE FREMONT COUNTY TOURISM COUNCIL SEAT HELD BY AMY COLVIN**

**Commissioner Norden** stated with communication with the Tourism Council and the e-mail communication from Mark Greksa, President of the Royal Gorge Railroad, Amy Colvin is no long employed at the railroad which basically disqualifies her from serving in her capacity on the Tourism Council. Amy was one year into service of the three (3) year term. We need to declare that seat vacant. We will take applications for that position at the Tourism Council and will interview to appoint four (4) positions instead of three. One of the appointees will serve out the remainder of Amy's three (3) year term.

**Commissioner Norden** made a motion to declare the seat that was held by Amy Colvin on the Fremont County Tourism Council as vacant. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

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**AUTHORIZATION FOR CHAIRMAN TO SIGN A RESOLUTION SUPPORTING AGREEMENT BETWEEN FREMONT COUNTY AND THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND. COMPLETION OF COTOPAXI SCHOOL BASEBALL FIELD RESTROOMS**

**Commissioner Norden** stated they had originally signed a letter of support for the Cotopaxi RE-3 School District to pursue a GOCO grant application last March for restrooms at their baseball field in Cotopaxi. Jeff Gerk from RE School District contacted me last week indicating the GOCO need an actual resolution from the Board of County Commissioners other than just a letter of support.

**County Attorney Jackson** said she talked with RE School District stating that we need the original contract and they do have a project number which GOCO is asking for in the resolution.

Commissioner Norden stated not only are we supporting the project but we are also the sponsor of the grant application.

**Commissioner Norden** moved approve **Resolution #49, Series 2009** which authorizes the Chairman to execute the grant agreement and the contract for the sponsorship by Fremont County for the Cotopaxi Baseball Field GOCO grant. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**FREMONT COUNTY ADOPTION DAY PROCLAMATION**

**Commissioner Lasha** read the proclamation stating over 129,000 children in the United States are in the foster care system. 550 children in Colorado are waiting for permanent families. Fremont County Court will open their doors on National Adoption Day, Friday, November 20, 2009 to finalize adoption of local children. This effort will be celebrated in 50 states.

**Commissioner Norden** moved to adopt the Fremont County Adoption Day Proclamation. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried

**Commissioner Stiehl** closed the regular session and opened the Public Hearing at 10:00 A.M.

**PUBLIC HEARING**

**2010 FREMONT COUNTY BUDGET**

**Fremont County Finance Director Dana Angel** said a proposed budget has been available for public inspection. It has been posted on our website and will be updated as it is revised. The document is about 75 pages. We will look at today is a summarized form. The first item on the screen today is the overall recap of all of our funds. There are seventeen (17) funds listed on page 2. Each one of the funds is like a separate business and is all self balancing. Every thing that happens in between it and other funds is accounted for a transfer to and from. The important column is Column A. It is what we believe what we are going to begin out Budget year 2010 with. We have built up the General Fund and it is the result of furloughs that have occurred this year. Total available in the General Fund at the beginning of the year is \$11,143,047 and expenditures of \$10,630,867. I want to note that also includes transfer to other funds to keep the fund flowing right. By the end of the year we will be down to \$512,180. A use of reserves of \$295,679. The combined total of all the departments is \$3,994,385. By the end of 2010 we will be down to \$2,802,336. This is a reduction of \$1,192,049.

**Commissioner Norden** stated that ending 2010 with \$2.8 million dollars put us in pretty good shape but fact is that is a figure that you really can't look at in relation to the kind of spending we in our principle funds because as you indicated the Conservation Trust Fund or lottery dollar are restricted uses. We can't pull dollars out of that fund and use them for General Fund spending. The Self-Funding Group Insurance are the funds we use for medical expenses before backup insurance come in claims that exceed \$55,000 and those dollars are not available for General Fund spending. So we are really looking at the General Fund being drawn down from \$807.859. The Sheriff's Fund shows nothing to start the year and nothing the end it. So those are unknowns how that will actually end 2009 and same thing for ending 2010.

Finance Director Angel said that there are a lot of unknowns and again the budget is basically a financial plan. It is our best estimate at this point.

On Page 1 of the hand out which gives us incase numbers in comparison to 2009 and how we look what we are going to do 2010. Total expenditures for 2010 right now are projected to be \$34,270,081. That compares to 2009 estimated column of \$34,427,922. We have a very small decrease of \$157,841 for 2010 and is basically ½% difference in spending. I want to indicate that spending is also a transfer to other fund.

Finance Director Angel pointed out that our mill levy of 12.294 will have an increase in revenue of \$252,461 which is a result of a \$20,535,299 increase assessed value. There are only five (5) funds that receive property tax revenue: the General Fund, Road and Bridge Fund, Human Services Fund, Airport Fund and the Capital Expenditure Fund. The remaining 12 funds are funded through other revenue source other than property taxes.

Sales tax revenues for 2010 are projected to decrease by 1% over 2009 estimated collection amounts of \$4.45 million to \$4.4 million. Estimated 2009 collections (\$4.45 million) are 9.7% below original 2009 projections of \$4.9 million. Actual collections in 2008 were 6.7% below projections, or \$354,000 to \$4.9 million. Actual sales tax decreases for the period of 2008 through October 2010 are \$775,599. We are going to be about ½ million dollar short and what is causing a lot the issues with the county budget.

**Commissioner Stiehl** stated the budget has been on the website and there have been significant changes all throughout the summer as we worked on the budget. We are still abiding to our commitment to increase the Road and Bridge Budget by \$250,000.00 over what it would normally. He stated that our expenditures for 2009 have decrease by \$34,843,592 to \$43,427,922 or almost one half million dollars. The preliminary budget for 2010 is \$34,270,081 shows a further reduction. The estimates here are based on the Sheriff's department will close out the year still in a deficit but it significantly small than anticipated. We still have a deficit projected but the Sheriff believes that he can zero out his deficit by the end of the year of about \$228,397.00.

**Commissioner Norden** stated regarding the Tabor Time Out when you have certain saving from various funds from personnel and other cut backs you have to figure out how to get the saving into the General Fund. The fact is to get the savings from various funds into the General Fund by mill levy adjustments. While the Road and Bridge fund shows the mill levy going down the spending commitments in Road and Bridge are still there as a result of the cost saving from fuel that Road and Bridge was able to generate in 2009 and there will be more FASTER dollars that come from the state in the form of Highway Users Tax. Even though it is a mill levy adjustment downward and we are still intending to meet that the spending commitments of the \$250,000 from the Tabor Time Out of 2007 by committing \$250,000 to road projects other typical maintenance.

Finance Director Angel said they are still doing a lot of work on Capital Request. Hopefully it will be more final before the next hearing.

Commissioner Stiehl asked if there was any public comment and there was none.

## PUBLIC HEARING

### **REQUEST: SDP 09-001 ECHO CANYON RIVER EXPEDITIONS ADDITIONS & REMODEL**

Request approval of a Site Development Plan, Department file #SDP 09-001 Echo Canyon River Expeditions Site Development Plan, to allow a restaurant and lounge in addition to the existing commercial rafting business, by Andy Neinas, for his property which is located *approximately ¼ mile east of the intersection of County Road 3A and U.S. Highway 50, on the north side of U.S. Highway 50, in the Royal Gorge Area.* The property contains a commercial rafting business, a rafting reception and retail building, a bunk house, a storage trailer, a removable shed, another existing shed and a sun shade building. A Special Review Use Permit has also been issued for seasonal housing of rafting employees. In addition to the request for a SDP for the restaurant and lounge (housed in a new 2,265 sq. ft. pavilion building), a new staff locker building and guest/customer locker building, guest/customer dressing room, 2 covered porches, a number of open porches, a breezeway and a pavilion will be added in conjunction with the existing commercial rafting business. Three (3) existing buildings used for the rafting business are to be removed. The property is zoned Rural Highway Business and contains 7.0 acres. (A Site Development Plan application was required as the addition of a

*restaurant and lounge was considered a substantial change of use to the existing business operation.)*

REPRESENTATIVE: David Reynolds, Reynolds Construction Company

**Zack Reynolds of Reynolds Construction Co.** stated the project is an expansion of Echo Canyon River Expedition which includes change of the property use by adding a restaurant and office area. The property is unique being an historic building and aesthetically to the locals and tourist that come by. The site and infra structure improvements will have to be made in order to comply with current code. The architect pinpointed the areas of concern septic system, water system, fire cistern and site drainage. They are waiting for approval from the state on the septic system and all the other issues have been addresses.

**Planning and Zoning Director Bill Giordano** stated what triggered the Site Development Plan requirement is the uses that are allowed under the zone district that they are presently under is the increase and impact created by the restaurant and lounge. All the recommendation by the Planning Commission have been completed. The Planning Commission did recommend approval of the SDP 09-001 on October 6<sup>th</sup> with four (4) Conditions.

**Richard Ismel** whose property neighbors Andy Neinas' property to the west and north stated his major concern is having two lounges side by side. Friday and Saturday nights we have music which goes on often until 10:30 P.M. or later. This is a family area.

**Commissioner Norden** said that talked with one of your neighbors who has complained in the past from Fort Gorge about the Whitewater and the loud patio music.

**Andy Neinas**, owner, stated he felt that was a fair question to ask. It is a difficult question to answer because he is being compared to someone else who has a separate business that happened to be coincidentally adjacent to his. The whole emphasis for doing this first and foremost is to increase services for our guest and general additional dollars. We are a rafting company first and I really anticipate the day will be done and his guest will be gone and we will close. I have no plans for staying open late in the evening. The investment will be the most ambitious expenditure of funds on 8 Mile Hill that has seen with the exception of the Royal Gorge Bridge.

Commissioner Norden inquired what state approval is needed for the public water supply. Director Giordano stated that he was not sure. It was brought up by the County Engineer. Commissioner Norden stated he was concerned if Andy advances his project if there is going to be something that will complicate things. Director Giordano stated that they would accept that they were using a cistern but special recommendations were brought up by the engineer.

**Commissioner Lasha** stated in the Planning Commission document Commissioner Doxie asked about the cistern and size of the cistern and it was indicated to be ten thousand (10,000) gallons and will be increased to hold twenty thousand (20,000) gallons. Under the Fire Department Recommendations for prevention it indicated the cistern capacity should be thirty thousand (30,000) gallons. Mr. Reynolds stated there are two separate systems. The fire suppression system has to be self contained and can not be utilized. Commissioner Lasha inquired about the hydrant. Mr. Neinas stated that is not a hydrant but a device that connect the pumper truck to.

Mr. Ismel said he was also concerned about parking. Director Giordano stated that has been addressed. He does have adequate parking based on the size of the buildings that he proposing. If parking area changes at all it would be caught at the time of the building permit. We reevaluate at that time.

Zack Reynolds stated that the setbacks are met on this property with extra room. Also the housing for the cistern for the water storage, fire prevention and potable water are underground.

Benny DeSoto stated that his family has used Echo Canyon for rafting and as far as professionalism; cleanliness of the site and the way the site is run is outstanding.

Commissioner Stiehl closed the Public Hearing and returned to regular session.

**Commissioner Norden** moved for approval of site development plan for Echo Canyon 09-001 adopting the Recommended Contingencies 1 through 4 and allowing the waiver request for Buffering and Landscaping and duly noting Mr. Neinas comments for the

record as to how he would expect to conduct business on this site. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**RECOMMENDED CONTINGENCIES:**

The approval recommendation is made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. Documentation from County Reviewing Engineer as to compliance with the following requirements outlined in a letter dated September 15, 2009:
  - a. Correction of the length shown for the parking spaces on the site plan.
  - b. A letter from Colorado Department of Transportation is needed to indicate acknowledgement from CDOT that the grassy swale is being replaced with a point discharge from the new detention pond, directly onto the CDOT right-of-way at a location that has no erosion control.
  - c. Evidence of State (Colorado Department of Public Health and Environment) approval of the sewage disposal system. **Planning Commission recommended that this item be deferred to the building permit stage, since it requires complete design of interior buildings facilities.**
  - d. Evidence of State approval of the public water supply improvements. **Planning Commission recommends this be deferred to building permit stage, since it requires complete design of interior buildings facilities.**
2. Documentation from the Colorado Registered Engineer who designed the drainage improvements that the required improvements were constructed to the approved design standards.
3. An executed quit claim deed with a deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc.
4. Copy of utility plan signed and approved by appropriate representatives (*prior to issuance of certificate of occupancy for the building*).

**WAIVER REQUESTS:**

The Fremont County Planning Commission **recommended approval** of the following waiver requests:

1. **5.2.6 Buffering & Landscaping Requirements**

**Director Giordano** stated this will have to in a resolution form and presented to the Commissioners in two (2) weeks. Commissioner Lasha said it would be **Resolution #50**.

**Commissioner Stiehl** closed the regular session and opened the Public Hearing.

**PUBLIC HEARING**

**REQUEST: SRU 09-001 VERIZON WIRELESS SITE CO4 CAÑON CITY**

Request approval of a **Special Review Use Permit, Department file #SRU 09-001 Verizon Wireless Site CO4 Cañon City, by Colorado 4Park Limited Partnership, d.b.a. Verizon Wireless, to allow for modifications to an existing three-hundred (300) foot unmanned telecommunications guyed tower. The modifications will be to remove three (3) existing Omni antennas and replace them with three (3) tower arms/sectors with 4 cellular panel antennas on each arm or twelve (12) antennas total. The existing tower was constructed prior to regulation; therefore approval of the SRU will bring the tower into compliance with current regulations.** The property is located on the east side of Fremont County Road #3 a.k.a. Temple Canyon Road, approximately 1.7 miles southwest of the intersection of County Road #3 and Mariposa Road, in the Temple Canyon Area. In addition to the tower the property also contains an existing 12 foot wide by 26 foot long by 10 foot high prefabricated equipment building and an existing 50 foot by 60 foot 6 foot tall chain link fence with barbed wire enclosure. The property consists of a 7.0 acre parcel which is located in the Industrial Zone District. REPRESENTATIVE: Pam Powell, Black & Veatch Corporation

**Pam Powell** stated Verizon Wireless owns this site and does business as Colorado 4Park Limited Partnership. She stated that the tower will not increase in height. There will be no addition to the building structure and no other changes to the property. Since the Planning Department considers this major modification we appeared in front of the Planning Commissioner and now before you to ask that this request be granted.

**Planning and Zoning Director Giordano** stated that this is an existing tower that did not have a permit so it was a nonconforming tower. So by requiring the application it will bring into compliance with the regulation. The property owner has met all the requirements, additional notifications and posting of the property. He does have proof of publication. The Planning Commission meeting of October 6<sup>th</sup> approved this request. Under the Conditions we added Condition L: Special Review Use.

**Commissioner Norden** noted for the record that they had a communication this morning from Roxanne Bradshaw who chairs the Dawson Ranch HOA questioning the fact that she would like to attend the hearing but unable and asking us to table this matter until the next meeting. Director Giordano said that Vicki did send her an e-mail this morning and notified her of what the application was. Commissioner Norden stated he did get a reply from Vicki in the Planning and Zoning office indicating to Ms. Bradshaw that the communication tower in question has been in place for many years. That you are modifying it by changing out the antennas, notice of the public hearing was published in the Daily Record October 24<sup>th</sup>. The applicant only required by regulation to notify adjacent property owners within 500 feet of the subject property. Commissioner Norden stated that this was sufficient given the status that this is an existing tower and simply changing out the antennas therefore there is no need to table this.

**Commissioner Stiehl** had concern about the permit being issued for life of use. Pam Powell stated that Verizon owns the property and tower. They don't have any intention of removing it. Commissioner Norden stated that the tower was in existence long before Dawson Ranch. Commissioner Stiehl said that he did not like life of use for any reason. Commissioner Stiehl asked for public comment and there was none.

**Commissioner Stiehl** closed the Public Hearing and went back into regular session.

**Commissioner Norden** moved to approve the CUP for life of the use of the tower SRU 09-001 Verizon Wireless Site C04 CR 3 and Mariposa Road. Also adopting Recommended Condition A through L, Recommended Contingencies, the Waiver Request of Buffering & Landscaping Requirements, Surfacing, Lighting, Landscaping, Roadway Impact Analysis, Fire Protection Plan, Drainage Plan & Report and no need to provide any Approval Criteria. Commissioner Lasha seconded the motion commenting from the documentation "therefore approval of SRU will bring the tower into compliance with current regulations. Upon Vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, nay. The motion carried. This will be **Resolution #51**.

**RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of use.
- B. 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. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- C. The Applicant 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. The Applicant 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, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. 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 Permit 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.
- I. The applicant /owner of the tower shall allow the tower to be used for co-locating purposes, if appropriate. If antenna collocation is proposed appropriate process through the Department will be required.
- J. 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.
- K. 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.
- L. Special Review Use Permit shall not be modified in any way without department approval for minor modifications or approval of major modification by the Board in accordance with Section 8.2 of the Fremont County Zoning Regulations Resolution.

**RECOMMENDED CONTINGENCIES:**

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

- 1. Documentation as to compliance with the following comments by the County Reviewing Engineer in a letter dated August 18, 2009:
  - a. The applicant shall apply for a Fremont County driveway access permit.
  - b. A 15 to 18 inch metal culvert shall be installed at the intersection of the driveway and County Road #3.

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2. The applicant shall apply for an address based on the location of the access to the County roadway system as per Fremont County requirements.
3. Provide a completed Fire Protection Form.
4. Compliance with any requirements of the Cañon City Fire Protection District.
5. Compliance with any requirements of notified entities deemed appropriate by the Commission and or Board.
6. Vicinity map shall reflect the local streets within the area and not from I-25 & US Highway 50.

**Commissioner Stiehl** closed the regular session and opened the Public Hearing.

#### PUBLIC HEARING

#### **REQUEST: ZC 09-001 THOMPSON ZONE CHANGE**

Request approval of a **Zone Change from the Industrial Zone District to the Business Zone District, Department file #ZC 09-001 Thompson Zone Change**, by Lonny Thompson, for his property which is *located at the northeast corner of U.S. Highway 50 and K Street, in the Penrose Area*. The proposal is to allow a retail store. The property presently houses a framed building used for retail sales, two mobile homes, one used for a watchman's quarters and one is used for storage of retail items. The property to be rezoned contains 2.5 acres.

REPRESENTATIVE: Matt Koch, Cornerstone Land Surveying, LLC

**Matt Koch** stated they are requesting a zone change from industrial to business and this is to bring it into conformance for retail use. Mr. Koch said the majority of the Contingencies refer to the plat. They have heard back from the Florence Fire Dept. and they have no requirements. They do not have a problem with removing the two mobile homes as well as moving the existing access to the north side of the property.

**Director Giordano** stated that retail use is not allowed in the industrial zone district. The major difference in the industrial zone district is that it is more geared to production of product whereas the business zone is more geared to the retail or selling of it. If this ever expands and changes then it will become subject to the site development as to whether there is significant impact or not. The applicant has notified property owners within 500 feet (500'), additional notification have been done, posted the property and I have proof of publication. The Planning Commission did make a recommendation for approval with a five to one vote.

**Gary Ratkovich** stated his property border on the north side of Mr. Thompson. He was concerned about Thompson's septic field that is located twenty feet (20') from their property and is prone to saturation. He requested that if it had to be replaced to locate in a different are of Thompson's property.

**Commissioner Stiehl** closed the Public Hearing and returned to regular session.

**Commissioner Lasha** inquired if the wording from #5 in Recommended Contingencies was removed. Director Giordano stated yes. Commissioner Lasha said he wanted to add the wording regarding the septic system and driveway that if either was replaced or removed they would be brought into compliance. Director Giordano stated that we could make this a note on the drawing if it is ever relocated.

**Commissioner Stiehl** closed the Public Hearing and returned to regular session.

**Commissioner Lasha** moved to approve zone change from Industrial to Business zone district on ZC 09-001 Thompson Zone Change with the 12 Contingencies changing #5 to address the issue with the septic, waive to Buffering and Landscaping, Off Street Parking of Surfacing, Lighting and Landscaping. Justification Criteria: #1 through #3. This is to be Resolution #52. Commissioner Norden seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commission Stiehl, aye. The motion carried.

#### **RECOMMENDED CONTINGENCIES:**

The Planning commission recommended that approval be contingent upon the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. Documentation providing verification of the current property owner and

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documentation from the current property owner authorizing the application for rezoning of property or deed of record verifying that the owner is Lonny Thompson.

2. Documentation showing compliance with the following requirements, as per the County Reviewing Engineer's letter dated September 23, 2009:
  - a. A current driveway access permit, a non-engineered traffic analysis form and original driveway closure are needed.
3. Removal of the two mobile homes from the property. *Both mobile homes have been vacated for more than the allotted time frame for the establishment of a non-conformance, and mobile homes are no longer a permitted use, therefore they shall be removed.*
4. Documentation from Penrose Water District that the existing water tap is acceptable for the business use (retail sales).
5. **CHANGE TO:** Septic system and driveway that if either replaced or removed that they brought into compliance.
6. Provide a statement on the drawing that access to the property will be limited to one access as per an approved Fremont County Driveway Access Permit.
7. The existing gravel driveway shown on the drawing shall be labeled to be closed, removed or relocated.
8. Provide dimensions on the drawing adequate to locate parking area in relation to property lines.
9. Provide dimensions on the drawing adequate to size the covered patio.
10. Removal from the drawing of the label for the previously proposed 40'X50' warehouse.
11. Waiver requests notes shall be removed from the drawing.
12. The legal description on the drawing shall read Tract 47 lying north of the U.S. Highway 50 right-of-way, Section 9, Township 19 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, The Beaver Land & Irrigation Company, Plat No. 1, Beaver Park, Fremont County, Colorado.

**JUSTIFICATION CRITERIA:**

1. Additional land is needed in the proposed zone district.
2. There has been a material change in the neighborhood which justifies the requested zone change.
3. The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

**Commissioner Stiehl** closed the regular session and opened the Public Hearing.

PUBLIC HEARING

**3rd AMENDMENT TO THE SUBDIVISION REGULATIONS**

Request approval of the 3rd amendment to the Fremont County Subdivision Regulations. The amendment exempts multi-business or industrial uses on a single property housed within a single structure if they are to be rented or leased as individual units, adopts the new drainage and roadway impact analysis regulations as adopted in the Fremont County Zoning Resolution, and various other amendments.

**Planning and Zoning Director Giordano** stated most of the items are re-adoption of information or regulations that are already in place that were adopted when we adopted the Site Development Regulations. The purpose for doing most these is to make the language the same. We had different language in the Subdivision Regulation vs the Site Development.

The Planning Commissioner recommended the following changes:

I F 8 – Planning Commissioner recommended that the word “approved” be eliminated in the fourth line.

II 3 k – Planning Commission recommended adding the work “multi” before industrial us and the word “mini-storage after industrial use, in the first line.

5.10.18 – Planning Commissioner recommended adding sections 5.10.14 through 5.10.18

Commissioner Stiehl asked for public comments and there were none.

**Commissioner Stiehl** moved out of the Public Hearing and back into regular session.

**Director Giordano** said that this would be a resolution that would be prepared in final for of the amendment at the next meeting.

**Commissioner Norden** moved to accept the Planning Commission recommendations and the staff recommendations as originally submitted and then modified with the Planning Commissioner recommendations plus the language change on 5.10.15 “to abbreviated drainage plan report”. This will be Resolution #53. Commissioner Lasha seconded the motion. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

Commissioner Stiehl adjourned the meeting at 10:26 A.M.

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Clerk and Recorder