

November 26, 2013

TWENTY SECOND MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on November 26th, 2013, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:30 A.M.

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

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

The Invocation was given by County Treasurer Pat McFarland.

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

APPROVAL OF AGENDA

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

CONSENT AGENDA

Commissioner Norden moved to approve the consent agenda. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolutions #45, #46, and #47 are attached.

ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

a. Sunny Bryant, Budget & Finance Officer – Sales & Use Tax Report

Sunny Bryant said the total Retail Sales Tax collected through September 2013 is \$2,853,667. This is .32% less than one year ago. It is .58% more than what was projected for the budget. The Auto Use Tax collected through October is \$620,791. This is 3.74% higher than last year. It is 5.33% more than the budgeted amount. The total Construction Use Tax collected through October 2013 is \$154,835 which is down 17.87% from last year. This is 3.52% less than projected. She noted the 1% Sales Tax increase for the Sheriff's Department will be effective January 1, 2014.

2. Citizens Not Scheduled: None.

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OLD BUSINESS

None.

NEW BUSINESS

1. Source Water Protection Area Memorandum of Understanding. Representative: Bob Hartzman, City of Canon City Water Superintendent.

Bob Hartzman explained he has been working for the past two years on the Source Water Protection Plan. The goal is to improve water quality, reduce future treatment costs, promote sustainable recreation areas, preserve and restore wetlands, and reduce contamination to the water supply. The entire watershed for the City of Canon City is located outside of city limits within Fremont County. The City of Canon City has prepared a Memorandum of Understanding (MOU) for the County Commissioners to consider.

Commissioner Bell stated that Mr. Hartzman had previously met with the Commissioners to discuss the Source Water Protection Plan. She asked if other water providers will benefit from the plan. Mr. Hartzman said the City of Florence will hopefully be participating as well.

Commissioner Norden noted other counties within the Upper Arkansas Council of Governments (UAACOG) region are participating in programs similar to this as well. Mr. Hartzman said the hope is that all surface water systems in the state will have water protection plans. Commissioner Norden said the MOU will allow the City of Canon City to review and comment on any land use applications that would be submitted to the County. Mr. Hartzman said the City will review and comment on any applications in a timely manner as not to hold up the application process.

Commissioner Norden moved to adopt the Memorandum of Understanding for the Source Water Protection Plan between the City of Canon City and Fremont County and authorize the Chairman to sign. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

2. Request: MS 13-002 J and G

Request approval of a three (3) lot minor subdivision, Department file #MS 13-002 J and G Subdivision, by John A. and Gail Ann McDermott, for their property which is located on the west side of Pisgah Lane, approximately 270 feet north of the intersection of Park Avenue and Pisgah Lane, in the Lincoln Park Area (715 Pisgah Lane). Proposed Lot 1 houses a single family dwelling and a shed with a proposed lot size of 1.15 acres. Proposed Lot 2 is vacant and will consist of 0.429 acres. Proposed Lot 3 is vacant and will consist of 0.459 acres. All three properties will be accessed from Pisgah Lane. An additional ten foot right-of-way will be dedicated to the County along Pisgah Lane and Cliff Drive in order to comply with the requirement of a sixty (60) foot right-of-way for an Urban Local Street as per the Master Plan Transportation Plan. The property is zoned Agricultural Suburban and contains a total of 2.186 acres. The property is currently being used for residential and agricultural purposes; however, a zone change request to rezone the property to Low Density Residence is currently in the application process. The approval of the zone change request will allow the proposed lot sizes for Lots 2 and 3. Representative: Matt Koch, Cornerstone Land Surveying, Inc.

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Matt Koch said they are requesting a three lot subdivision for the only vacant land left on Pisgah Lane. This is a 2.1 acre parcel that will be divided into a 1.15 acre lot, a .429 acre lot and a .459 acre lot. Approximately 30 feet of land will need to be deeded over to the county for a right of way in order to be in compliance with the master plan. They are waiting on the County Attorney to review the easement issue. The applicant is fine with all of the other contingencies.

Planning & Zoning Director Giordano said this was unanimously approved by the Planning Commission at the November 5th Meeting. He discussed the 16 recommended contingencies as follows:

RECOMMENDED CONTINGENCIES:

The Planning Commission approval recommendation is 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. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations (FCSR).
2. An updated title insurance commitment or policy shall be required prior to the recording of the subdivision plat, if said recording date is more than sixty (60) days from the effective date of the title insurance commitment or policy. An updated title commitment may result in additional requirements of the applicant.
3. A copy of a recorded Release of Deed of Trust or an executed Ratification, Consent and Release form for documents found at Reception Numbers 861950, 911558 and 911571 of the Fremont County Clerk and Recorder's records.
4. Compliance with any requirements from the Colorado Division of Water Resources.
5. A quit-claim deed to the County for a thirty (30) foot right-of-way from the centerline of Pisgah Lane and the north thirty (30) feet of Cliff Drive, along the entire property frontage. *The Fremont County Master Plan, Transportation Plan designates both streets as Urban Local Streets which requires a sixty (60) foot right-of-way. The dedication will result in the owner providing an additional ten (10) foot of property for future development of the right-of-way.*
6. Documentation as to compliance with the requirements as recommended by the County Reviewing Engineer. An email (10/16/13) from the reviewing engineer indicates that the project will require an engineered drainage plan and that it is not eligible for the abbreviated drainage plan.
7. All required improvements (*drainage facilities*) shall be constructed and approved prior to the recording of the final plat or an executed improvement and escrow agreement shall be provided.
8. A cost estimate for the proposed improvements shall be provided and shall be approved by the County Reviewing Engineer, if required.
9. A letter from a Colorado Professional Engineer, who designed the improvements, stating the specified improvements were constructed to the Engineer's design, prior to recording of the plat and/or release of escrow funds from an improvement and escrow agreement.
10. An executed quit-claim deed with deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc.

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11. Drainage easements shall be shown on the final plat.
12. That portion of Pisgah Lane extending to the north from Cliff Drive shall be shown as a right-of-way on the final plat or it shall be vacated.
13. Documentation from the Fremont Sanitation District as to proof that all lots will be or can be serviced by public sewer.
14. Information to enable Department to compute addresses.
15. Closure sheets for each lot and boundary.
16. Driveway access permits or approval to defer permits requirement to the time of application for building permits for Lots 2 and 3.

Commissioner Norden asked how the plat of Pisgah Lane going to the edge of the bluff would effect this subdivision. Mr. Koch explained it would affect the lot that the existing house sits on. Mr. Giordano said it would only affect the set back of the building. This may have to come back to the Commissioners for approval of the vacation of right of way. The current owner is maintaining the land in question.

Commissioner Payne moved to approve MS 13-002 J and G Subdivision with the 16 Recommended Contingencies. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

3. Resolution granting an exemption from the subdivision regulations for two tracts of land in Fremont County.

County Attorney Jackson said this is regarding property near Skyline Drive. During the platting process it was discovered there was an overlap in two U.S. Patent Deeds of a 20 acre parcel. It was patented to the Mueller's predecessors as a Mining Claim and patented to the Foraker's predecessors as a Homestead Claim. The Foraker's would like to convey the 20 acre parcel to the Mueller's to fix the situation. As this is less than 35 acres the Board of Commissioners can grant an exemption. The exemption needs to take place for the two parcels in order for the parcel to be legally conveyed. The resolution will accomplish this.

Commissioner Norden moved to approve Resolution #48 Granting an Exemption from the Subdivision Regulations for these Two Tracts of Land in Fremont County. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #48 is attached.

4. Consideration of an appointment of Emily Eggleston to the Fremont County Heritage Commission for a three-year term ending January 1, 2017.

Commissioner Payne said the Heritage Commission met last week. Emily Eggleston came to the meeting and expressed an interest in being on the Heritage Commission. She also submitted a letter of interest. She would serve as the Education Representative on the Heritage Commission.

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Commissioner Payne moved to appoint Emily Eggleston to the Fremont County Heritage Commission for a three-year term ending January 1, 2017. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.

1. 2014 Proposed Budget for Fremont County
Representative: Sunny Bryant, Budget & Finance Officer

Chairman Bell opened the Public Hearing at 10:00 A.M.

Sunny Bryant thanked the Commissioners, County Manager, and Staff that helped throughout the budget process. The budget has been posted to the website and is available in her office for the public to view. She reviewed the proposed 2014 budget for Fremont County. The budget projects a slight decrease of .7% in the Assessed Valuations which will mean \$28,934 less revenue from property taxes. A slight decrease of 1.2% in the Sales & Use Tax Collections is also projected. The majority of the money to be spent next year will be from revenue. Projected revenue is \$37,621,058 and projected expenditures are \$34,069,000. The projected overall budgeted expenses including inter-fund transfers are \$39,976,025. The estimated reserve fund balance will be \$1,408,713 which is increased from \$1,327,090 in 2013. The budget adoption is scheduled for the next Commissioners Meeting on December 9, 2013.

Commissioner Norden noted that in 2005 the reserve balance was down to \$290,000 and now the reserve balance is over \$1,000,000. Even with decrease revenues the reserve balance has been increasing. While the fund balance has improved, County Employees have not had raises for the past five years. He hopes the growth in sales tax will continue.

Public Comments: None.

Chairman Bell closed the Public Hearing at 10:22 A.M.

Commissioner Bell thanked Sunny Bryant for all of her hard work on this budget. She appreciates that this is a very conservative budget. She has met with many local merchants and they are aware of the sales tax increase that will take effect on January 1st, 2014.

2. Request: Amendment to Fremont County Subdivision Regulations. Request approval of a proposed amendment to the Minor Subdivision Section of the Fremont County Subdivision Regulations. Representative: Department of Planning & Zoning.

Chairman Bell opened the Public Hearing at 10:28 A.M.

Planning and Zoning Director Giordano said this proposed amendment was published in the newspaper and is on the website. The Planning Commission did approve this amendment without any changes at the October 1st meeting. He reviewed the changes of the proposed amendment. If approved today he will prepare a resolution for the next Commissioners Meeting.

Public Comments: None.

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Chairman Bell closed the Public Hearing at 10:34 A.M.

Commissioner Norden moved to approve Resolution #49, an Amendment to the Minor Subdivision Section of the Fremont County Subdivision Regulations. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

Commissioner Bell stated the next Commissioners meeting will be at 9:30 a.m. on Monday December 9th instead of Tuesday December 10th.

Chairman Bell adjourned the meeting at 10:38 A.M.

Clerk and Recorder

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Commissioner Payne moved the adoption of the following Resolution:

RESOLUTION NO. 45
Series of 2013

RESOLUTION FOR SPECIAL REVIEW USE PERMIT
DEPARTMENT OF PLANNING AND ZONING FILE
#SRU 13-004 AT&T CELL TOWER – TEXAS CREEK

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter “Board”):

THAT WHEREAS, New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, (hereafter “applicant”) has made application for issuance of a Special Review Use Permit pursuant to Section 8 of the Zoning Resolution of Fremont County to allow for the installation of a forty (40) foot monopole tower, which will contain twelve antennas, one microwave antenna, and an eight foot lightning rod on top of the tower, an equipment shelter, a LP tank, a LP generator, a meter rack and a long ice bridge, on a 50’ x 50’ lease area which will be fenced with a 6’ high chain link fence, on property owned by Michael & Denise Tezak; which application has been designated as file #SRU 13-004 AT&T Cell Tower – Texas Creek;

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its October 1, 2013 regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Fremont County Department of Planning and Zoning (hereafter “Department”), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel and to appropriate reviewing agencies; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on November 12, 2013, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department’s file concerning the application; and

WHEREAS, it appears that issuance of a Special Review Use Permit is appropriate;

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NOW, THEREFORE, BE IT RESOLVED by the Board that:

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
 - a. The procedural requirements of Section 8 of the Fremont County Zoning Resolution have been met.
 - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c. The proposed use will not have detrimental effects on property values.
 - d. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
 - e. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - f. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - g. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
 - A. Special Review Use Permit shall be issued for a thirty (30) year term.
 - 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

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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 special review 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 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.
- 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 shall provide to the Department documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan, if required.
- J. 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.
- K. The County shall retain the right to modify any condition of the permit, if the actual use

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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.

- L. 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 Permit and shall be required to be named on this Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- M. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (*complete reapplication*).

Commissioner Norden seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

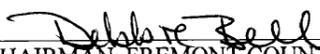
Commissioner Bell: Aye / Nay / Abstain / Absent

Commissioner Norden: Aye / Nay / Abstain / Absent

Commissioner Payne: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: November 26, 2013



CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: 

FREMONT COUNTY CLERK AND RECORDER

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Commissioner Norden moved the adoption of the following Resolution:

RESOLUTION NO. 46
Series of 2013

RESOLUTION FOR ZONE CHANGE
DEPARTMENT OF PLANNING AND ZONING FILE
#ZC 13-002 McDERMOTT ZONE CHANGE

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board"):

THAT WHEREAS, John and Gail McDermott (hereafter "applicants") have made application for an amendment of the zoning map of Fremont County to change from the AGRICULTURAL SUBURBAN ZONE DISTRICT to the LOW DENSITY RESIDENCE ZONE DISTRICT for certain described real property owned by the applicants;

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its **October 1, 2013** regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, and location of the public hearing, telephone number of the Fremont County Department of Planning and Zoning (hereafter "Department"), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel; and to the appropriate reviewing agencies.

WHEREAS, a notice containing the specific request, proposed use, date, time, and location of the public hearing, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on **November 12, 2013** at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

NOW THEREFORE, BE IT RESOLVED by the Board that:

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The Board did make the following findings with respect to the application for Zone Change as follows:

1. A statement of justification for the rezoning, including at least one (1) of the following conditions
 - a. The property was not properly zoned when existing zoning was imposed.
 - b. Additional land is needed in the proposed zone district.
 - c. There has been a material change in the neighborhood which justifies the requested zone change.
 - d. The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

2. And the following list of other criteria to be considered in the review of the application:
 - a. There is a public need and there will be a County or neighborhood benefit.
 - b. The granting of the zone change request will tend to preserve and promote property values in the neighborhood.
 - c. There will not be any effect on existing traffic.
 - d. There will be no effect on adjacent uses.
 - e. The proposed development will be in harmony and compatible with the surrounding land uses and development in the area.

NOW THEREFORE, BE IT RESOLVED that the above and foregoing application and request for change be and is hereby approved; that the zoning classification of the hereinafter described real property is changed from the AGRICULATURAL SUBURBAN ZONE DISTRICT to the LOW DENSITY RESIDENCE ZONE DISTRICT and that the zoning map of Fremont County be and is hereby amended to show and record such change of classification and that the legal description of the real property so affected is described as follows:

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LEGAL DESCRIPTION

A portion of the NW1/4 of the SW1/4 of Section 34, Township 18 South, Range 70 West of the 6th P.M. more particularly described as follows: Commencing at a point in the Center of Park Avenue and being 1230.90 feet East and 1350.36 feet North of the southwest corner of the said Section 34; thence North 0° 10' East, a distance of 140.00 feet to the point of beginning of the herein described land; thence North 89° 50' West, a distance of 250.00 feet; thence North 0° 10' East, a distance of 442.84 feet; thence South 63° 30' East, a distance of 278.95 feet; thence South 0° 10' West, a distance of 319.10 feet to the point of beginning; above described parcel contains 2.186 acres.

Subject to existing public roadways, if any, and a right of way for the Lincoln Park Crooked Ditch as now located. Reserving a twelve-foot right of way for two irrigation ditches off and along and parallel to the Southerly boundary of said tract.
Fremont County, Colorado

Commissioner Payne seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

- Commissioner Bell: Aye / Nay / Abstain / Absent
- Commissioner Payne: Aye / Nay / Abstain / Absent
- Commissioner Norden: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: November 26, 2013

Delaware Bell
CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: Jody Blausen
FREMONT COUNTY CLERK AND RECORDER

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RESOLUTION NO. 47
Series of 2013

RESOLUTION FOR COMMERCIAL DEVELOPMENT PLAN

FREMONT COUNTY DEPARTMENT OF PLANNING AND ZONING FILE
#CDP 13-001 PIKES PEAK MOTOR COMPANY COMMERCIAL DEVELOPMENT PLAN

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board"):

THAT WHEREAS, Michael DeVriendt (hereafter "applicant") has made application for a Commercial Development Plan to allow an automobile graveyard which includes the storing, dismantling, buying and selling of parts with the focus on classic cars; however, all types of cars will be parted and crushed, with some cars being restored and then placed in a showroom for sale, to be located on certain real property that the applicant owns; and

WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its **October 1, 2013** meeting, and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, and location of the public hearing, telephone number of the Fremont County Department of Planning and Zoning (hereafter "Department"), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners adjacent to the entire property owned by the applicant; and to the appropriate reviewing agencies; and

WHEREAS, a notice containing the specific request, proposed use, date, time, and location of the public hearing, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on **November 12, 2013** at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

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NOW THEREFORE, BE IT RESOLVED that the above and foregoing application and request for commercial development plan be and is hereby approved; and that the legal description of the real property so affected is described as follows:

LEGAL DESCRIPTION

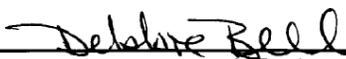
A parcel located within Section 1 and Section 2, Township 19 South, Range 69 West of the 6th P.M., Fremont County, Colorado, being more particularly described as follows:
Beginning at the Northwest corner of the SW1/4NW1/4, Section 1; thence N 89°36'40" E, 1343.83 feet along the north line of the SW1/4NW1/4 and the extension thereof; thence S 00°01'51" E, 1146.50 feet to a point on the north right-of-way line of U.S. Highway 50; thence along said right-of-way N 71°31'08" W, 1926.77 feet; thence N 00°00'00" E, 523.33 feet; thence N 89°36'40" E, 483.00 feet to the point of beginning.
Containing 35.018 acres.

Commissioner Norden moved the adoption of the foregoing Resolution, with a second by Commissioner Payne, and upon a vote of the Board as follows:

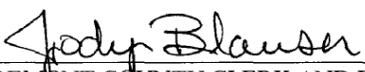
- Commissioner Bell: Aye / Nay / Abstain / Absent
- Commissioner Norden: Aye / Nay / Abstain / Absent
- Commissioner Payne: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: November 26, 2013



CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: 

FREMONT COUNTY CLERK AND RECORDER

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RESOLUTION NO. 48, SERIES OF 2013

**RESOLUTION GRANTING AN EXEMPTION FROM THE SUBDIVISION
REGULATIONS FOR TWO TRACTS OF LAND IN FREMONT COUNTY**

WHEREAS, the Fremont County Board of County Commissioners has received a request from Jonathan E. and Pamela A. Foraker for an exemption from the county subdivision requirements regarding two twenty-acre parcels of property described as:

Parcel One: E 1/2, NW 1/4, SW 1/4, Section 8, Township 18
South, Range 70 West of the 6th P.M.

Parcel Two: W 1/2, NW 1/4, SW 1/4, Section 8, Township 18
South, Range 70 West of the 6th P.M.

WHEREAS, pursuant to §30-28-101 (10)(d), C.R.S., the Board possesses the authority to grant a subdivision exemption if it determines that the division of land is not within the purposes of the subdivision requirements and the exemption is not intended to evade the subdivision requirements; and

WHEREAS, the Board has considered the request and all attendant circumstances regarding the ownership history of the property which indicates that in 1919, the United States of America granted a homestead patent for the NW ¼ SW ¼ of said Section 8 (recorded April 9, 1923), and subsequently granted a patent for mineral properties, which included the East half of the NW ¼ SW ¼, thereby creating an overlapping ownership interest in two separate owners: and

WHEREAS, Jonathan E. and Pamela A. Foraker have requested a subdivision exemption to allow the lawful conveyance of Parcel One and the lawful retention of Parcel Two after conveyance of Parcel One; and

WHEREAS, the Board is persuaded that the request for the subdivision exemption is meritorious and that a grant of the request would not evade or defeat the purpose of the subdivision statutes and regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Fremont County hereby grants the request for an exemption from the requirements of county subdivision regulations with respect to the following property in Fremont County, Colorado:

Parcel One: E 1/2, NW 1/4, SW 1/4, Section 8, Township 18
South, Range 70 West of the 6th P.M.

Parcel Two: W 1/2, NW 1/4, SW 1/4, Section 8, Township 18
South, Range 70 West of the 6th P.M.

November 26, 2013

BE IT FURTHER RESOLVED, that the designations of "Parcel One" and "Parcel Two" are reference terms specifically for purposes of this Resolution and shall not be used as a substitution for the legal description of the two properties;

BE IT FINALLY RESOLVED that the Board specifically finds that the equities of the circumstances regarding the error of the United States of America in the issuance of the initial patents for title to the property warrant the grant of an exemption in this case. The two parcels described herein are deemed by the Board to be legally-created 20-acre parcels. Any future division of the property shall fully comply in all respects to all applicable subdivision laws and regulations.

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

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

Date: November 26, 2013

BOARD OF COUNTY COMMISSIONERS
OF FREMONT COUNTY

ATTEST:

By: Debbie Bell
Chairman

By: Jody Blausen
Clerk to the Board