

**FREMONT COUNTY PLANNING COMMISSION MEETING AGENDA  
FEBRUARY 3, 2009 @ 7:00 P.M.  
FREMONT COUNTY ADMINISTRATION BUILDING  
COUNTY COMMISSIONERS MEETING ROOM, LOWER LEVEL**

**1. APPROVAL OF THE JANUARY 6, 2009 PLANNING COMMISSION MEETING MINUTES**

**2. REQUEST: ZC 08-007 KAISER ZONE CHANGE**

Request approval of a **Zone Change from the Agricultural Forestry Zone District to the Business Zone District, Department file #ZC 08-007 Kaiser Zone Change, in conjunction with a site development plan**, by Justin Kaiser, for property owned by Justin H. and Juliann Kaiser which is *located on the south side of US Highway 50, 0.17 miles east of Fremont County Road #37 (a.k.a McCoy Gulch Road)*. The proposal is to allow seasonal retail sales and to allow the existing single-family dwelling to be used as a watchman's quarters which is no longer allowed in the current regulations as a separate structure; however this application was submitted prior to the amendment going into affect which no longer allows it to be used as a watchman's quarters. The property presently houses a framed retail sales building, a single-family dwelling, a framed garage and a shed. The property to be rezoned contains 6.5 acres.

**REPRESENTATIVE:** *Matt Koch, Cornerstone Surveying, LLC.*

**3. REQUEST: MS 08-004 FRED & JANES SUBDIVISION**

Request approval of a **two (2) lot minor subdivision, Department file #MS 08-004 Fred & Janes Subdivision**, by Fredric L. Gifford & Jane Fox-Gifford, for their property *which is located on the north side of Crawford Drive, approximately 350 feet west of the intersection of Crawford Drive and MacKenzie Avenue, in the Fourmile Area*. Proposed lot 1 will consist of 0.645 acres and contains a framed garage, which is under construction. Proposed lot 2 consists of 0.285 acres and houses a single-family dwelling and three sheds. The side yard setbacks for the three sheds are non-compliant with the setback requirements of the Low Density Residence Zone District (*5 foot side-yard setback required-3.8 feet exists for each shed*). Two of the sheds can be relocated or removed to comply with setback requirements, which is proposed and will be required. The other shed is placed on a foundation and cannot be relocated. The property is currently being used for residential uses. The property consists of approximately 0.936 acres.

**REPRESENTATIVE:** *Matt Koch, Cornerstone Land Surveying, LLC*

**4. REQUEST: CUP 08-003 SALT CANYON PROJECT**

Request approval of a Conditional Use Permit, Department file #**CUP 08-003 Salt Canyon Project, to allow open pit mining of gypsum**, by GCC Rio Grande Inc./Ron Hedrick, for property leased from the Colorado State Board of Land Commissioners, which is located *on the northwesterly side of Colorado State Highway 115, approximately 4.85 miles northerly of Fremont County Road #F45 or southerly approximately 2.25 miles from the Fremont/El Paso County line*. The property previously was permitted for mining under two different Conditional Use Permits by Western Nutrients, file #CUP 97-8; for gypsum which is a currently permitted and bonded DRMS active mine, and file #CUP 01-01 for gravel, however there was never any mining done under that CUP. The property contains 559.22 acres and is located in the Agricultural Forestry Zone District.

**REPRESENTATIVE:** Angela Bellantoni, Environmental Alternatives

5. **OTHER ITEMS FOR DISCUSSION**

Discuss any items or concerns of the Planning Commission members.

6. **ADJOURNMENT**

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Chairman Tom Piltingsrud called the meeting to order at 7:00 pm and the Pledge of Allegiance was recited. He also introduced the new County Manager, George Sugars.

1. **APPROVAL OF THE JANUARY 6, 2009 PLANNING COMMISSION MEETING MINUTES**

Chairman Piltingsrud asked if there were any changes, additions or corrections to the January 6, 2009 Fremont County Planning Commission Meeting Minutes. Hearing none he said the minutes stand approved as written.

2. **REQUEST: ZC 08-007 KAISER ZONE CHANGE**

Request approval of a **Zone Change from the Agricultural Forestry Zone District to the Business Zone District, Department file #ZC 08-007 Kaiser Zone Change, in conjunction with a site development plan**, by Justin Kaiser, for property owned by Justin H. and Juliann Kaiser which is *located on the south side of US Highway 50, 0.17 miles east of Fremont County Road #37 (a.k.a McCoy Gulch Road)*. The proposal is to allow seasonal retail sales and to allow the existing single-family dwelling to be used as a watchman's quarters which is no longer allowed in the current regulations as a separate structure; however this application was submitted prior to the amendment going into affect which no longer allows it to be used as a watchman's quarters. The property presently houses a framed retail sales building, a single-family dwelling, a framed garage and a shed. The property to be rezoned contains 6.5 acres.

Chairman Piltingsrud explained the way each item will be conducted. The consultant or the applicant will make their presentation, and then the Planning and Zoning Department will make their report. Next the Planning Commissioners may ask questions of either the consultant or the staff. Finally the Planning Commission will make a motion and have a vote.

Mr. Matt Koch of Cornerstone Land Surveying stated that his clients are requesting a zone change from Agricultural Forestry to the Business zone district. The property is located between Texas Creek and Cotopaxi. At this time the business that is on the property is Kaiser Carvings. As you are going west on State Highway 50 the Rock Shop is in between the Arkansas River and Highway 50; this property is right across the highway from the Rock Shop and Tezak's gravel pit is just down the road from there. Kaiser's are bringing this into conformance. It has been used as a business since Mr. and Mrs. Kaiser have owned it. It was used as a business several years ago and then that owner didn't use it as a business for a while. There is an existing house and a tiny little shop that they are using. The shop is approximately two hundred sixty-four (264) square feet; there are no restrooms, so it is mainly for display of their carvings.

Chairman Piltingsrud asked Mr. Giordano for his presentation.

Mr. Bill Giordano showed the video of the property, business, and surrounding area. Mr. Giordano explained that the applicants are requesting that the single family dwelling be used as a watchman's quarters. The last zoning amendment changed the regulations to where a single family dwelling cannot be used as a watchman's quarters. A watchman's quarters now has to be inside the business building however the application was submitted prior to the change of the regulations and will be allowed if approved. Regarding the contingencies the Department is asking that they comply with the Colorado Department of Transportation (CDOT) which is also required by the County Reviewing Engineer. Contingency items number two (2) and three (3) have to do with the well. The well permit is not in the name of the current property owners; therefore it will need to be transferred into their names. In addition, the permit is only issued for domestic purposes. The Department will need documentation that it can also be used for the business use. As to contingency number four (4); the single-family dwelling does not meet the forty (40) foot setback, therefore the Department is requiring a statement on the plat noting that if the building is torn down any new building will have to comply with the zoning districts development standards. Contingency five (5) requires documentation from the County Environmental Health Office that the sewage disposal system is adequate. Contingency number six (6) is the requirement for a copy of a utility plan, signed and approved by all applicable utility companies. Since there are no changes to the existing utilities Mr. Koch has requested a waiver of this requirement, however the regulations do not allow the Board to grant a waiver. The only waiver process is through the Board of Adjustment. There really isn't anything for the utility companies to approve since all utilities exist. If the applicant chooses to go to the Board of Adjustment, it is going to cost them a lot of money and the Board will probably deny it anyway because it wouldn't meet the intent; it's a self induced hardship. Contingency number seven (7), is the requirement of buffering and landscaping which can be waived by the Board and the Planning Commission. The final contingency is the surfacing, lighting, and landscaping in regard to the parking area. The applicant is requesting a waiver of these items because the business is small and all the existing area is gravel and has been since the inception of the business. The applicant is requesting that the parking area and driveway remain gravel instead of hard surfacing.

Mr. Giordano noted that the buffering is basically to protect the adjacent properties. There are residential properties in the area, however they are sparse. There is a potential for additional residential uses in the area but they would have to be larger acreages (minimum of 4.5 acres). The Department isn't sure that buffering and landscaping would be appropriate in this case and the applicant is requesting that it be waived.

As to the additional notifications they will be completed prior to the Board of County Commissioners meeting.

Chairman Piltingsrud asked if there were any questions for the applicant or the staff.

Mr. Tom Doxey stated that the entrance ways and the exits are pretty hard to see as you are coming down the highway from the east or the west. He is concerned about a couple of things; traffic coming from the east or the west may have a hard time stopping and turning into the property safely. Once they do turn into the property the roadway is so narrow that there is going to be somebody waiting on somebody else which is going to leave somebody sticking out on Highway 50. Once the vehicle gets onto the property there isn't going to be much area to park, a pickup truck pulling a fifth wheel trailer is quite long, if they get on the little circle drive there

isn't room to pass another vehicle. Mr. Doxey also has a problem with the fact that there are no restrooms; as an RV'er himself he thinks of this often. When you are out on the road and you stop at a merchants place to buy gas and see a sign that says "No Restrooms", sometimes he will drive on. It bothers him that tourists can't use restroom facilities there and possibly not even be able to get a drink of water. It appears that something should be done to welcome the tourists; things are over when you don't have public restrooms for customers.

Mr. Doxey stated that Mr. Koch mentioned that the property had previously been used for a business. He asked Mr. Koch how long it had been used?

Mr. Koch answered that he is not sure.

Mr. Doxey stated that he's been going by this site for over thirty (30) years and he can't picture it.

Chairman Piltingsrud's asked if there were any other questions. He then asked Mr. Koch for clarification of the waiver on the utility providers.

Mr. Koch stated that they would like to retract that waiver request; they will just get the signatures requested by the Department.

### **MOTION**

Chairman Piltingsrud moved to **approve** request ZC 08-007 Kaiser Zone Change with the following:

### **RECOMMENDED CONTINGENCIES:**

The Planning commission recommends 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. Compliance with the requirement of a Colorado Department of Transportation access permit, as noted by the County reviewing engineer in his letter dated December 9, 2008.
2. Documentation from the Colorado Division of Water Resources evidencing that the existing well is adequate and appropriate as to the well being used for a business use along with the use for the single-family dwelling.
3. Documentation from the Colorado Division of Water Resources evidencing that the well permit is in the name of the current property owner.
4. Copy of a deed of record that has a deed restriction regarding the non-conforming setback of the single-family dwelling. (*Replacement of non-compliant structures, for any reason, shall be in compliance with the zone district development regulations at the time of replacement.*)
5. Documentation from the Fremont County Environmental Health Office evidencing that the sewage disposal system located on the property is adequate for all of the proposed uses.
6. Copy of utility plan, signed and approved by all applicable utility companies.
7. Compliance with Section 5.2.6 of the Fremont County Zoning Resolution (FCZR) regarding buffering and landscaping requirements. (*waiver requested by the applicant*)

8. Compliance with Sections 5.3.2, 5.3.3 and 5.3.4 of the FCZR regarding surfacing, lighting and landscaping with regard to parking areas. (*waiver requested by the applicant*)

**Planning Commission recommended the following additional notifications:**

**RECOMMENDED ADDITIONAL NOTIFICATIONS:**

In addition to the required notifications, the following shall also be notified, by certified mail, return receipt requested, in accordance with regulations, at least fourteen (14) days prior to the public hearing by the Board of County Commissioners:

1. Fremont County Road Foreman, District 3
2. Fremont County Sherriff's Office
3. Colorado Department of Transportation
4. Arkansas Headwaters Recreation Area
5. Fremont/Custer Historical Society

**The Planning Commission recommended waiving the following:**

**WAIVER REQUESTS:**

**1. 5.2.6 BUFFERING & LANDSCAPING REQUIREMENTS:**

The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board (*of County Commissioners*). Where in these regulations, any such screening or buffering strip is required to be provided and maintained, such buffering strip shall consist of a row of trees or continuous un-pierced hedge row of evergreens or shrubs of such species as will produce within three (3) years a screen height of at least six (6) feet and shall be of the following minimum sizes at time of installation:

Deciduous shrubs	4' height
Spreading evergreens	30" spread
Tall evergreens	3' height
Screen planting ( <i>evergreen</i> )	4' height
Trees	2 and ½" caliper
Ground cover	2 and ½" pot

The entire buffer strip shall be immediately adjacent to the lot line or portion thereof, with consideration given to utility or drainage easements. The remainder of the strip shall be used for no other purpose than the planting of shrubs, flower beds, grass, or a combination thereof. The buffer strip shall be at least eight (8) feet in width and shall be graded and planted with grass seed or sod and such other shrubbery or trees. The entire area shall be attractively maintained and kept clean of all debris and rubbish.

In required buffer strips where a natural buffer strip is considered to be impractical or inappropriate, an opaque fence may be substituted in whole or in part for a natural buffer provided its specifications are approved by the Board.

2. **OFF STREET PARKING**

**5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

**5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not be directed toward surrounding properties.

**5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

3. The applicant is requesting a waiver of utility providers' signatures on the detailed utility plan. *(Since this is a zoning requirement without specific waiver authority granted through regulation, waiver would need to be request through an application to the Fremont County Board of Zoning Adjustment.)*

**Applicant withdrew this waiver request, agreeing to acquire utility providers' signatures on the detailed utility plan.**

Chairman Piltingsrud also stated that the justification and findings for the rezoning includes:

The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

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

**SECOND**

Mr. Bill Jackson seconded the motion.

Chairman Piltingsrud called for discussion on the motion.

Chairman Piltingsrud asked if there was any other discussion or questions on the motion. Hearing none, upon a roll call vote, the vote was as follows:

Mr. Doxey	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Jackson	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Chairman Piltingsrud	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Lateer	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Sandoval	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye

The motion passed with a vote of 4 to 1.

Mr. Giordano stated to Mr. Koch that while the Department was reviewing the application it was discovered that the parcel was created illegally. He just wanted to make sure that the applicant is

aware of this as future building permits will not be issued until the subdivision violation is resolved.

**3. REQUEST: MS 08-004 FRED & JANES SUBDIVISION**

Request approval of a **two (2) lot minor subdivision, Department file #MS 08-004 Fred & Janes Subdivision**, by Fredric L. Gifford & Jane Fox-Gifford, for their property *which is located on the north side of Crawford Drive, approximately 350 feet west of the intersection of Crawford Drive and MacKenzie Avenue, in the Fourmile Area*. Proposed lot 1 will consist of 0.645 acres and contains a framed garage, which is under construction. Proposed lot 2 consists of 0.285 acres and houses a single-family dwelling and three sheds. The side yard setbacks for the three sheds are non-compliant with the setback requirements of the Low Density Residence Zone District (*5 foot side-yard setback required-3.8 feet exists for each shed*). Two of the sheds can be relocated or removed to comply with setback requirements, which is proposed and will be required. The other shed is placed on a foundation and cannot be relocated. The property is currently being used for residential uses. The property consists of approximately 0.936 acres.

Chairman Piltingsrud noted for the record that the applicants are his brother and sister-in-law. He stated that he has consulted with the County Attorney and she stated that there is no conflict of interest.

Mr. Matt Koch of Cornerstone Land Surveying stated that this item is for a two (2) lot subdivision located on Crawford Drive, just off of MacKenzie, and the property contains just less than one (1) acre. The new lot will take up approximately three quarters (3/4) of the acreage. At this time there is an existing house that will remain on Lot 2 along with several out buildings. The applicants have recently built a garage which will be on Lot 1 (the new lot). They are planning to build a new house on Lot 1; there is no time frame for construction of the new home. The applicants want to subdivide so that when they are ready to build, the subdivision will be done.

Mr. Koch stated that he had met with the County Engineer, Mr. Don Moore, this morning concerning the drainage and it was finalized. The drainage plan is to construct a swale with sediment baffles along the frontage. It will be a three (3) foot wide swale, about one half (1/2) foot deep to catch the drainage off of the property. The property is located right next to Mud Gulch so detention wasn't really an issue, it is more water quality and that is what the baffles are for, basically the baffles are a four (4) foot section of rock that will catch the sediments as the water heads to Mud Gulch.

Mr. Giordano showed a video of the property and the surrounding area. He then briefly discussed the Department Review. Mr. Giordano stated that he gave each of the Planning Commission members a copy of a letter that the Department had received from the Fremont County Sanitation District. Basically what it is about is that an easement that goes across the property and which cannot be used for drainage purposes as previously noted by Mr. Don Moore in his review. Mr. Giordano noted that there is a contingency item that requires compliance with the requirements of the Sanitation District.

Mr. Koch stated that in the original submittal it had been planned for the detention facility at the west end of the property which would have been in the easement but it has been removed and they are going with the swale which resolves the issue.

Mr. Giordano stated that in the contingencies item four (4) is requiring a quit claim deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc. In number five (5) the Department is requesting a twenty-five (25) or thirty (30) foot right-of-way. The applicant is requesting that it be fifty (50) feet since the street is constructed and all the houses are already in place along the entire street. The regulations do require fifty (50) to sixty (60) feet, so there is an option. As part of the motion, if approved the Planning Commission will need to address if it is to be fifty (50) feet, the same as twenty-five (25) feet from the center line, which is what Mr. Koch has provided on the drawing or sixty (60) feet. Number ten (10) addresses the sheds labeled as to be moved. Mr. Giordano stated that there are a couple of sheds that do not meet the setback requirements. He noted that the applicant is requesting that the shed which is located on a permanent foundation be considered a non-conforming structure and that a statement be placed on the final plat that states; if it is ever removed it will have to be rebuilt in compliance with the regulations. Number eleven (11) relates to proof of water from the City of Cañon City for the second water tap. The request is for an executed water contract. As to contingencies twelve (12) and thirteen (13) proof of purchase of a sewer tap is confusing in that the original letter from the Fremont County Sanitation District they stated that the commitment was only valid for one (1) year. In the last letter they didn't address whether it was valid for one (1) year, so it is not clear whether the tap commitment is unconditional or not. The contingency shall remain until it is determined if the District is giving an unconditional approval or not.

Mr. Koch stated that he checked on the most recent letter today, he spoke with Roy Hughes, Fremont Sanitation District, who wrote the letter. He stated that the letter is basically a cookie cutter letter for any subdivision. Mr. Hughes gave Mr. Koch a verbal that there would never be any problem getting a tap for one additional house. The applicant was hoping that the item could be waived. What the County is proposing is that the applicant purchase the sewer tap; which since it is not known when they will build they would have to pay the twenty-six hundred (2,600) dollars to the Sewer District, and it may sit there for a year. They then would have to ask for an extension if the house was not constructed within the year, etc. In addition, the applicant would have to pay the monthly sewer bills to keep it in force. The other alternative is to put the money in escrow and keep it there for whenever they do build. It really doesn't make sense to put all that money away and that is why the applicants are asking for a waiver.

Mr. Giordano stated that the Department will accept documentation from the Sewer District that confirms that the commitment had no time limit.

Chairman Piltingsrud asked if any of the Planning Commission members have any questions.

Mr. Dean Sandoval stated that his mother lives east of the applicants but it doesn't seem to be an issue. He then asked Mr. Koch what it was that he referred to that had been removed to provide the swale.

Mr. Koch stated that it was the detention facility. Originally it was basically a twenty by thirty (20 x 30) foot pond on the west end to help with the water detention and sediment. After reviewing that and the situation with the Sewer District we thought that the swale was better and it fits with the urban criteria for water quality.

Mr. Sandoval asked Mr. Giordano if he would summarize the purchase for the sewer tap.

Mr. Giordano stated that the original letter stated that the commitment was good for one (1) year. We need to have confirmation that the proof of service is unconditional.

Mr. Sandoval asked if contingencies numbered twelve (12) and thirteen (13) should remain.

Mr. Giordano stated that both should remain although you can add that the applicant will provide documentation that there is no expiration on the commitment to sewer service.

Chairman Piltingsrud asked if Mr. Giordano would explain the twenty-five (25) or thirty (30) feet for a right-of-way and not fifty (50) or sixty (60) feet.

Mr. Giordano stated that the regulations allow for it and that the footage is from the center line to the property line as we are not getting any r-o-w from the other side. Because of the houses being in place and the road already being constructed, the Department thinks that fifty (50) feet is adequate. The Planning Commission does need to clarify if they think it should be the twenty-five (25) feet or the thirty (30) feet.

Mr. Bill Jackson stated that if the Planning Commission chooses the thirty (30) feet then it will put everything else into non-conformance.

Chairman Piltingsrud asked if there were any other questions. Hearing none he called for a motion.

### **MOTION**

Chairman Piltingsrud moved to **approve** request ZC 08-007 Kaiser Zone Change with the following:

### **RECOMMENDED CONTINGENCIES**

The Planning commission recommended that approval be contingent upon the following items being provided to the Department of Planning and Zoning, within six (6) months (*with no extensions except through regulatory process*) 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 (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 document found at Reception Number 848956 of the Fremont County Clerk and Recorder's records.
4. An executed quitclaim deed with a deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc.
5. A quit-claim deed to the County for a twenty-five (25) foot or thirty (30) foot right-of-way from the centerline of Crawford Avenue, along the entire property frontage. (*Subdivision*)

*regulations require a 50 to 60 foot right-of-way, which is to be determined by the Board of County Commissioners.)*

**The Planning Commission recommended a twenty-five (25) foot right-of-way from the centerline of Crawford Avenue, along the entire property frontage.**

6. Compliance with the requirements as per the County Reviewing Engineer as noted in a letter dated December 30, 2008.
7. If all required improvements (*drainage facilities*) are not completed prior to recording of the plat, an executed improvement and escrow agreement shall be provided.
8. Cost estimates for all proposed improvements shall be approved by the County Reviewing Engineer.
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. The sheds labeled as to be moved shall be relocated so as to comply with required zone district setbacks prior to recording of the plat.
11. A copy of the executed water contract from the City of Cañon City for the second water tap.
12. Proof of purchase of sewer tap prior to expiration of letter of availability dated January 8, 2009.
13. If sewer tap is not purchased on or before January 8, 2010 or prior to recording of the plat, an executed improvement and escrow agreement shall be provided.

**The Planning Commission recommended that if the applicant provides the Department with a signed commitment from the Fremont County Sanitation District indicating that the availability of a sewer tap is not limited to a one (1) year period then it will not be necessary to execute an improvement and escrow agreement nor need to provide proof of purchase prior to January 8, 2009.**

14. Information to enable Department to compute addresses.
15. Closure sheets for each lot and boundary.

#### **WAIVER REQUEST**

The applicant has requested that the non-compliant shed, labeled as being placed on a concrete foundation, be accepted as non-conforming; due to the fact the shed is placed on a permanent foundation.

**Planning Commission recommended allowing the shed, which is located on a permanent foundation, to be considered as a non-conforming building, provided the following statement is placed on the final recorded plat: "The replacement of any non-compliant structures shall be required to meet all Fremont County zoning requirements at the time of replacement."**

## **SECOND**

Mr. Doxey seconded the motion.

Chairman Piltingsrud called for discussion on the motion.

Chairman Piltingsrud asked if there was any other discussion or questions on the motion. Hearing none, upon a roll call vote, the vote was unanimous.

### **4. REQUEST: CUP 08-003 SALT CANYON PROJECT**

Request approval of a Conditional Use Permit, Department file #**CUP 08-003 Salt Canyon Project, to allow open pit mining of gypsum**, by GCC Rio Grande Inc./Ron Hedrick, for property leased from the Colorado State Board of Land Commissioners, which is located *on the northwesterly side of Colorado State Highway 115, approximately 4.85 miles northerly of Fremont County Road #F45 or southerly approximately 2.25 miles from the Fremont/El Paso County line.* The property previously was permitted for mining under two different Conditional Use Permits, one by Western Nutrients, file #CUP 97-8; which was for a gypsum mine and which is currently permitted and bonded by DRMS , and the second one, file #CUP 01-01, which was for a gravel mine, however there never was any mining that took place under that CUP. The property contains 559.22 acres and is located in the Agricultural Forestry Zone District.

Ms. Angela Bellantoni of Environmental Alternatives, Inc. stated that she represents the applicant, GCC Rio Grande, Inc. in their request for a Conditional Use Permit to explore and mine for gypsum. She explained that the location of the application that was formerly permitted by two different CUP's, one in 1997 – Western Nutrients for gypsum and one in 2001 – for gravel. The need for the use of the gypsum is for the GCC cement plant south of Pueblo, CO. This would replace or supplement the gypsum that they have to purchase and transport by railroad to the plant. The objective of the CUP is first to delineate the ore bodies and second to mine the gypsum. There has been some exploration in the past that is vague; there was a state USGS study done where they did five (5) holes by Jim Bernell, in 2007 but it didn't really delineate the gypsum deposits. Currently on the property there is an active Division of Reclamation, Mining and Safety (DRMS) Permit M1990-70-64. This is also with the former CUP holder, Western Nutrients. The site is in the north-eastern region of Fremont County approximately eleven (11) miles north of Penrose, approximately two (2) miles south of the El Paso County line. The proposed mining area is surrounded by state land on the west side of State Highway 115 and Fort Carson Army Base is on the east side. There is an existing four (4) acre mine area which has an active DMRS 110 permit, so the actual mining area permitted to date is nine point nine (9.9) acres and has been active. No structures are anticipated and there is a current cattle grazing lease with the Colorado State Land Board as well. GCC will co-exist with the grazing.

For this operation, GCC is requesting the CUP for the life of the mine. The mining will occur by using loaders, dozers, and blades. There is a potential for blasting, if this should be necessary the applicant will contract with a licensed blaster. Maximum production anticipated is eighty-two thousand five hundred (82,500) tons per year. The idea for mining is that they would extract and stock pile in about a six (6) week time frame and haul it to the plant as necessary. As far as transportation, they are requesting an average of eleven (11) trucks per day which would be twenty-two (22) trips at two hundred seventy-five (275) tons per day. All trucks would originate from the Pueblo plant, coming from the south, turning left into the site and all trucks leaving would be turning right onto State Highway 115 and then proceeding south

and turning onto State Highway 50. They are requesting to operate six (6) days a week, Monday through Saturday, sunrise to sundown. Currently the access is under review, initially when the application was submitted the most northerly access (Castle Concrete/Tezak access) was to be used as it is already developed. It has a left hand turn lane and a south acceleration lane. Initially the applicant was going to use that access as its use was recommended by Mark Davis of the Colorado State Land Board. The intent was that it would be the least visible up against the toe of the ridge but still inside of the clearing. After more study, there are numerous drainages that would have to be crossed in approximately 1.1 miles with a number of culverts. The terrain is pretty rough and it has become a difficult road to construct and would be cost prohibitive. There are three options that GCC is presently reviewing. We have discussed the first option. The second option would be to cut the road parallel to Highway 115, north of the site to the site. This access road possibility wouldn't require as many culverts as the terrain is more level and more direct. The third option that they are considering is at Mile Marker 25. Ms. Bellantoni noted that she has been talking to Ms. Valerie Sword of the Colorado Department of Transportation (CDOT) and made her aware of the issues with all three (3) options. Mile Marker 25 is the access that Western Nutrients was using and the road does exist. Ms. Bellantoni spoke to Ms. Sword about using this access. Ms. Sword told her that for that amount of traffic CDOT would require a left turn lane, similar to the Tezak access. Because there would only be an average of eleven (11) trucks per day and the sight distance is very good, they could just do a widening of the shoulder and improving the taper of the approach onto Highway 115. It would not be considered an acceleration lane, just a place where the trucks could sit to wait for a clearing in the traffic. Right now they are waiting on quotes from road construction companies and Ms. Sword is going to provide them with the specific engineering criteria for the left turn lane and how CDOT would like the shoulder widened so that a cost estimate can be done on both. It is possible that the Mile Marker 25 access may be a wash as related to the cost of developing the road that travels along the ridge or the one that runs parallel to Highway 115.

Mr. Giordano asked Ms. Bellantoni if they would still have to cross the State Land Board land if they used the second option for access.

Ms. Bellantoni stated that yes they would still have to cross the State Land Board land and there is a letter in the packets that shows that they have guaranteed GCC access across their property.

Mr. Giordano stated that the reason he asked is because in contingency item L 6, it states "Colorado Department of Natural Resources/State Board of Land Commissioners- Proof of use of an existing access from State Highway 115 to site". He stated that the other one that he would like to mention is the "CDOT access permit for the use of the existing access from Colorado State Highway 115 to the site". Mr. Giordano stated that he wanted to make note of it because the Department was assuming that GCC was going to use the Tezak access; now they are talking about using the access parallel to the site and the existing Western Nutrients access. The Department just needs to make sure that the Planning Commission is aware of the change from the original application.

Ms. Bellantoni stated currently the limited impact with the DRMS permit is limited to nine point nine (9.9) acres and is a 110 permit. This will be an intermittent operation for extraction and sizing. As discussed, the access has not been determined. The distance and the terrain to construct the initial access and road at the tow of the slope kind of surprised them. Item H in the

staff comments states fifteen (15) trips per day; it is actually an average of eleven (11) trucks or twenty-two (22) trips per day.

Mr. Giordano stated that the Department was actually giving them more trips per day but that the way it reads in the contingencies they would only be getting seven and one half (7 ½) trips per day because one (1) trip in and one (1) trip out is considered two (2) trips.

Ms. Bellantoni asked if the Department is willing to change H in the contingencies to twenty-two (22) trips per day.

Mr. Giordano stated that yes; the Department is willing to change that, however it shall be noted that the way the condition is written it is not based on an average.

Ms. Bellantoni stated that regarding the status of the State Permit, they are perusing a succession of operators with the DRMS and a bond has been posted. Once the state approves that documentation and accepts the bond, then the 110 permit will be transferred to GCC.

Ms. Bellantoni stated that today, the drainage plan was approved. She commented that she believes that the words were that Mr. Moore is satisfied with the report; that is the one that was provided to the Planning Commission this evening. The two other things that are needed are the stormwater management plan and the fugitive dust plan.

Mr. Giordano showed a video of the property and the surrounding area. He then briefly discussed the Department Review. He stated that Ms. Bellantoni had mentioned that they are requesting the life of the mine; estimating that to be fifteen (15) years per phase and there are three (3) proposed phases. Ms. Bellantoni already talked about the days and times of operation; we do need to change the number of trips to twenty-two (22) because it is a trip in and out. Regarding the weed compliance control; we are requesting an approved plan. As to the requirement by the Florence Fire Protection District, it is requested that the applicant provide documentation as to compliance with the requirement of providing an adequate water holding tank for fire suppression, if any buildings or structures are to be constructed. Ms. Bellantoni noted that there are no buildings proposed. The Department has elected to leave this contingency in there, that way if they do build anything it's covered and if they don't then it becomes a moot point. With condition L there needs to be a correction in it; the Division of Reclamation Mining & Safety (DRMS) is actually a 110 permit. The Fugitive Dust and Stormwater plan has been explained by Ms. Bellantoni. On condition L 4 the Department noted that there are now 3 access options which need to be addressed. An approval from CDOT will be required for any option.

Ms. Bellantoni asked for clarification on the Western Nutrients access; that is the one she calls the Mile Marker 25 access.

Mr. Giordano stated that it would be fine to call it Mile Marker 25 instead of Western Nutrients. The Colorado Department of Natural Resources-Board of Land Commissioners- lease; may be required depending on the final access location.

Mr. Giordano stated that the applicant has requested that the conditions reflect temporary cessation for up to two (2) years. He stated that N, O, and P are just standard language that is put in all CUP's.

Mr. Giordano noted that item Q is new; the Department now addresses modifications major or minor to a permit shall be done in compliance with requirements of the Zoning Resolution. We did add language in there to where if they did make modifications, rather than automatically coming to the Planning Commission and the Board, the Department will have the discretion to determine if it's minor or major and if it needs to go before the Board. As far as the contingencies, Ms. Bellantoni mentioned that GCC doesn't have anything in writing from the County Reviewing Engineer but assuming what she said is true, that report will be forthcoming noting that they have satisfied his concerns. Mr. Giordano noted that until the Department has that in writing it should remain in the contingencies. Mr. Moore also requested a CDOT access permit which was addressed in condition L 4. The Department also requested a stormwater water management plan in condition L 3. As to the contingency items the Reviewing Engineer required that the drainage plan be modified to use the required storm event duration and to provide conclusions for construction requirements. In contingency item number two (2), the Department is requesting documentation as to proof of sewage disposal on the property whether it be temporary or whatever; from the Environmental Health Department.

Mr. Giordano stated that the applicant is requesting a waiver of the surfacing, lighting and landscaping of the parking area. He stated that hard surfacing of the parking area for mining is not reasonable and could be waived along with the lighting (no night operations proposed) and the landscaping of the parking area due to minimal number of spaces required.

The Department has requested additional notifications to the Road Foreman, the Sheriff's Office, Division of Wildlife, CDOT, El Paso County Land Use Department and the Fremont/Custer Historical Society.

Mr. Sandoval asked Ms. Bellantoni if she would review the phasing sites again.

Ms. Bellantoni explained and showed on the map where Western Nutrients had previously mined, it was three point seven (3.7) acres and they had a ten (10) acre piece in the center.

Mr. Sandoval asked if this one location was going to be the only place the applicant proposes to mine.

Mr. Giordano explained that there will be three (3) different phases/sites within the entire CUP area. Using the map, Mr. Giordano showed each phase.

Ms. Bellantoni explained that all they are looking at for reference is the overhead outcroppings; they don't have any good exploration. Exploration is only allowed after obtaining a CUP so the specific phases will be forthcoming.

Mr. Giordano stated that not knowing where the phases are to be located and areas are to be mine could result in an amendment to the permit if the changes are major when final documents are submitted. The applicant is requesting a CUP for the entire five hundred (500) plus acres. They are anticipating mining in phases within specific areas; it could deviate somewhat by their exploration. Now whether it takes in the entire parcel, that's where the Department would determine if it is a minor change or a major change to the CUP and whether it would have to come back before the Planning Commission and the County Commissioners for preapproval of the existing CUP.

Mr. Sandoval stated that he didn't visit the site but that he does travel Highway 115 and he is trying to visualize what the physical or obvious disturbance would be.

Ms. Bellantoni stated that there will be limited mining impact with concurrent reclamation, which is the typical mining pattern anymore. It is a limited impact and reclamation occurs behind the mining. The overburdens will be piled back into the mined area or it will be stockpiled.

Mr. Sandoval asked if the mining impact means the same as the visual impact. He is talking about the visual impact from Highway 115.

Ms. Bellantoni stated that the mining site is pretty far back from the road. Even the scar that Western Nutrients already made, if you really stop and look then yes you can see it. It is on the slope and there are ridges through the area and there is only one (1) area being mined at a time. That is why it is only limited impact. Mining is visible but it is a limited impact and with concurrent reclamation the visual impact is minimized.

Mr. Giordano stated that the current permit is for nine point nine (9.9) acres however they could file for a DRMS 112 permit which would include a larger area than the nine point nine (9.9) acres. The Departments understanding is that when they move into the second phase they will have to do a 112 permit.

Mr. Sandoval asked if that would require another application and approval.

Mr. Giordano stated that it would be through the State. The mining is limited through their reclamation plan anyway and the plan is to reclaim as they go. It's hard to determine everything if they get a 112 permit but generally what happens is that the State does not allow them to disturb or mine the whole area and then reclaim it all at once. It is up to the DRMS as to how much they can disturb at any one given time.

Ms. Bellantoni stated that there isn't a rule of thumb, the DMRS encourages concurrent reclamation and minimizing impact. It takes care of stormwater issues, fugitive dust, visual impacts and it all makes mining friendlier and environmentally compatible. Those are all issues that are highly regulated by the State Land Board. The different phases all depend on the exploration; there aren't good geologic descriptions of the deposits. That is the first project upon being granted the CUP. Then keep in mind that the cement industry is economically strained right now like everybody else. This isn't something that is going to take place tomorrow. The economy has to drive the need to expand the mine. If they can mine this nine point nine (9.9) acres and work on reclamation then that's what they will do based on the current economic demand.

Mr. Sandoval asked about the original access, the Tezak access, and who helped design that access. Was it a State Land Board individual that helped you design that so that it would be somewhat less visible?

Ms. Bellantoni stated that it was Mark Davis of the State Land Board. He didn't design it, he was just walking the area and suggesting the use of it as access as it will be less visible and that it might be the way to go and suggested that we consider it. The applicant has considered it, they have looked over trying to construct that road and frankly the scar left by that road with all of the culverts and the amount of fill it will take because of the rough terrain would have more visual impact on the area than the Mile Marker 25 access which will be directly in and directly out. It will be a short road with limited trucks. Otherwise the trucks will be going all along the back and there

will be a dust control issue as well as a maintenance issue and a safety issue. The back road would be less visible but there are opportunity costs on all the different options. Of course safety, opportunity, and visibility are all factors in considering which access is to be developed.

Mr. Sandoval stated that he is not sure what kind or type of authority the Planning Commission or he himself as an individual Planning Commission member has but his concern is about opening up Mile Marker 25 as a left hand turn as an access for the proposal. For years people have been anticipating and welcoming safe passing lanes on Highway 115. Now there will be a disruption, this is a big project, there is already a left hand turn lane less than a mile up the road and now there is going to be another one which will be another disruption in his opinion. He stated that we all need to keep that highway as safe as possible.

Ms. Bellantoni agreed and stated that is why the applicant didn't assume anything and went to CDOT with the questions and feasibility and determined that it would be a one thousand (1,000) foot taper and would not be removing anything, it would be adding a turn lane, much like the one up at Tezak's mine.

Mr. Sandoval stated that it just seems like they are defeating the purpose of the passing lanes just to put in another, in his opinion, disruption. He state that he's not an engineer, he doesn't work for CDOT but that would be his observation.

Mr. Jackson asked if since this area has been mined before if there has been any reclamation up to this time on any of the area that has been disturbed. Is it all still open and is it part of the overall reclamation plan that the applicant has to fulfill.

Mr. Giordano stated that basically what happened is that when the previous permit was issued back in 1997 there was some activity that took place at that time and it was not reclaimed. When the 2001 permit was issued it was to include reclamation of the previous disturbance. It is the Department's understanding that the same reclamation plan exists and will still be in place even though GCC will be mining gypsum. Some modifications may be necessary.

Ms. Bellantoni stated that just for clarification, the lease that Mr. Giordano requested in L 5, Colorado Department of Natural Resources-Board of Land Commissioners-lease, is provided in your packet as exhibit 47.1 and H, the number of truck trips, we are requesting up to eleven (11) trucks which would be an average of twenty-two (22) trips.

Mr. Giordano agreed that it is should be twenty-two (22) trips.

Chairman Piltingsrud asked how do you define average.

Ms. Bellantoin stated that over a weeks time it averages out to be eleven (11) trucks total per day.

Chairman Piltingsrud stated that if you had zero (0) activity for five (5) days, how many would you have on the sixth (6<sup>th</sup>) day?

Mr. Giordano stated that the twenty-two (22) trips is not an average per day but a maximum of twenty-two (22) per day period. It doesn't mean that you don't work for three (3) days and then you get sixty-six (66) trips on one day. You cannot exceed twenty-two (22) trips in one day.

Ms. Bellantoni stated that Ms. Sword with CDOT made it clear that with an average of eleven (11) trucks they aren't even impacting the road. According to CDOT you have to have forty (40) trucks in an hour or something like that in order to make an impact.

Mr. Giordano stated that he just wants to make sure that the applicant understands the difference between average per day and a maximum per day.

Mr. Jackson stated that he doesn't think CDOT will allow an average; it has to be a set number per day.

Mr. Terry Tew, GCC Mining Engineer, stated that the way they get sandstone is a one (1) or two (2) day haul. Those trucks can only make so many trips, due to the long travel distance between the mine site and the plant in Pueblo. The hard time with limiting it on a per day basis is if it snows for a week and we can't get up there to get our resources, then we actually have to double that the next week to make sure that we have enough raw materials. It would take a little bit of thought here to know exactly what the maximum would be. As Ms. Bellantoni stated there is a specific limit that CDOT will place on the access permit and we would not exceed those limits because of design characteristics, this was all discussed at the meeting we had with them last week. We also discussed what they thought was the best option for the turn lane at Mile Marker 25. We presented them with four (4) options and the Mile Marker 25 is the one they liked the best. On the taper that they proposed we wouldn't impact traffic or speed, according to the safety engineer and Ms. Sword who is the Access Manager. Actually, Tezak's is on a little bit of a curve and people are accelerating down the hill; the trucks are coming up the hill. The visibility is a little better at Mile Marker 25.

Mr. Giordano stated that he would recommend the applicant find out what the maximum number is from CDOT so the Board of County Commissioners can decide on a maximum number.

Mr. Tew stated that all raw materials have to be stored inside. We only have a certain capacity for materials that we can hold, it's not like we can haul a bunch of material in and stock pile it outside, especially with gypsum because it is very porous. That is why when we set this up we would have a weekly haul, fill the inside capacity and then let it run down until we come back the next week to get more. We have no outside stockpiles at the plant. We have a long shed that is probably fifteen hundred (1,500) feet long and one hundred (100) feet wide where we keep our raw materials.

Mr. Vern Stuessy, GCC Plant Manager, stated that they can go with twenty-two (22) truck loads a day. If they had a shortage at some point it might cause some problems but with the storages that they have on site, as long as they keep that filled they should be able to adhere to the twenty-two (22) trips per day.

Mr. Doxey stated that he wanted to get back to the visual part, it scares him, he would hate to see another Parkdale quarry. There was mining at the site being proposed just a few months ago, there was some outfit in there taking out a white material.

Mr. Tew stated that Western Nutrients were doing reclamation. GCC has not applied for Succession of Operators with the DRMS but they intend to do it.

Mr. Doxey stated that there was one stockpile there for quite some time and then they removed the stockpile.

Mr. Tew stated that they knocked the stock pile down and spread it out.

Mr. Doxey stated that that is not reclamation. The question here was asked if there has been any mining and has it been reclaimed. Somebody said that “no” there hasn’t been any mining going on, but there was mining going on. The visibility from the highway to where that mine was being excavated or whatever they were doing was pretty obvious. He is trying to figure out how high the stockpiles are going to be and what is the closest to Highway 115 they will be.

Mr. Tew stated that it depended on the exploration results and the geology and the economics of the ore deposits. They could be looking at starting way back along the ridge and working their way down. They would possibly be using the flat areas off of the highway as a crushing site as needed and stockpile sites. The stockpile sites would be in the valleys so they wouldn’t be piling material down next to the road.

Mr. Doxey stated that according to the notes when they are mining they will be going twenty (20) to thirty (30) feet. What is the slope on the hills when you go back into them?

Mr. Tew stated that it is anywhere from a one/one to a six/one on some of the slopes on either side.

Mr. Doxey stated that if GCC closes down for a duration of say two (2) years would you reclaim everything up to that point before you shut down for a year and a half or two (2) years.

Mr. Tew stated that the current reclamation states that they have to take the overburden material and place it behind them. That area is shaped right away and seeded over with the approved vegetation that is required by the State as to what is in the reclamation plan and to comply with the timelines.

Mr. Doxey asked if they are going to be crushing and screening there.

Mr. Tew stated that they will be crushing but they don’t know yet if they will be screening until they run a metallurgical test. Gypsum is a very soft material; we are going to use a jaw crusher which is very soft. The chunkier material is what is needed, it eliminates dust and it provides a better product to work with.

Mr. Doxey asked if the material they will be working with, will it be white. Are the reclamation areas going to look like they are white up against the native areas.

Mr. Tew stated that the areas will be graded back to the natural slopes with soil in order to reclaim them. We have to have a growth medium. We can’t just have gypsum or something like that, there has to be a growth medium on top as established by the State and the Reclamation Board.

Mr. Doxey stated that if the ground was good and profitable, how close would the mining be to Highway 115.

Mr. Tew stated that they may be approximately one thousand (1,000) feet off Highway 115.

Mr. Doxey then asked how far the stockpiles would be off the highway.

Mr. Tew stated that they wouldn’t have any stockpiles down in that area. The processing plant would be back farther back from the highway in order to preserve the esthetic beauty and also for dust control.

Mr. Doxey stated that Castle Concrete, for years, put buildings on their road going up to their plant and for about ten (10) years it was always dusty and pretty critical. They put a surface on the Table Mountain road. Would that be something for you, rather than the use of dust prohibitions? What about asphalt millings, that would keep the road twenty-four (24) hours a day, seven (7) days a week, basically dust free.

Mr. Tew stated that due to the fact that this will be an intermittent operation, they are going to be in and out in six (6) weeks and only hauling once a week, especially if they are granted the Mile Marker 25 access it's a very short distance. They will have a water truck watering down the roads. A lot of economics play into this project.

Chairman Piltingsrud stated that the Fire Chief in Penrose answered number ten (10) by linking his cistern requirements with structures but then in number twelve (12) "Recommendations concerning fire protection in general, fire protection to improvements, suggested road names, for this proposed subdivision are as follows:" he indicated they must provide an adequate water holding tank for fire suppression. Chairman Piltingsrud's concern of the response time from Penrose to this site is going to be fairly significant and once they get there, the water that they carry is all they have. He is inclined to suggest that a three thousand (3,000) gallon cistern, given that this is a life of the mine over a number of years, would be a sound idea to consider or he will make it a recommendation. Given the Table Mesa fire that occurred up there several years ago; you may not start the fire but it may not be a bad idea to have some water for Penrose when they get there whether there is a structure there or not.

Mr. Tew stated that with a mining operation they have to have water for dust control and they will have a five thousand (5,000) gallon jack tank that is filled on site and would stay there all the time.

Chairman Piltingsrud stated that he still thinks that a cistern is a good idea; the Fire Chief even says so.

Ms. Bellantoni stated that the Fire Chief stated that it is only if there are buildings or structures on the property.

Chairman Piltingsrud stated that he understands that but he is going a little farther than that with his recommendation. He asked how long the mine is going to be in operation, potentially.

Ms. Bellantoni answered that it is for the life of the mine; the first phase will be for fifteen (15) years, depending on how the delineation is.

Chairman Piltingsrud stated that he feels it is a wise trade-off.

Chairman Piltingsrud stated that Mr. Moore had noted that the application requested a waiver for paving to allow the on site roadways to be gravel surface. Chairman Piltingsrud said that this makes sense although he doesn't know if Mr. Moore considered the three options for access or not. Chairman Piltingsrud feels that the access that parallels Highway 115 is more of a visual impact than he would like to see out there. The area to the west of Highway 115 is a natural drainage area. Highway 115 is elevated and the draws run into the highway. He has seen water pour down the west side of the roadway, especially at Mile Marker 25. The reason he knows that is because his brother was a loader operator for Western Nutrients when they were in operation and it became a giant mud hole because Highway 115 is elevated. That access, although it is asphalted to the gate,

goes down and even if the culverts aren't plugged they are substandard. Then you go into a little belly and then up toward the old mine site. That thing turns into Lake Michigan on occasion.

Ms. Bellantoni stated that they are aware of the drainage problem. They plan on building up the incline so it is on a more level approach and improving that culvert and widening things out for that reason. It would be engineered by CDOT according to the stormwater drainage plan and the incline approach to Highway 115 for that very reason.

Chairman Piltingsrud stated that there could be a ton of mud dropped on Highway 115 and coming out of that.

Mr. Tew stated that they would have to elevate it because of the slope; it's not safe for trucks to go through. GCC is proposing that it is going to be about two (2) lanes wide, the trucks will come up so a truck and a half lane is almost flat; the taper will go way back.

Chairman Piltingsrud asked if they will asphalt it all the way back past the fence or if they will stop paving at the fence.

Mr. Tew stated that they will probably stop at the fence.

Chairman Piltingsrud stated that they may want to consider a little more pavement. He shares Mr. Sandoval's concern about the Mile Marker 25 access, having been out there a number of times. He personally likes option A (Tezak's) and he's not happy at all about B (parallel to Highway 115) because there are major drainage issues in there; C (Mile Marker 25) would be his second choice.

Mr. Tew stated that something that wasn't brought up about access A (Tezak's) is that they have to cross two (2) state leases that will cost GCC additional revenue and then they would also have to pay a surcharge per ton to Mr. Tezak to cross his property. That starts to affect the feasibility of the project.

Chairman Piltingsrud stated that these are all things that have to be taken into account when you do your cost analysis.

Chairman Piltingsrud asked Ms. Bellantoni to point to the little hill on the map that is right next to Highway 115. He noted that that little hill is a valuable screen because traffic coming up can't see over that hill and even for traffic going down because they are going to make the turn to almost go due south. It's tough to look over to where that existing spoil site is, so he would recommend that the little knoll not get disturbed.

Mr. Tew stated that right now they don't even know if that area is an economic deposit.

Chairman Piltingsrud stated that it is his recommendation for them not to destroy the little knoll because it is a great screen for this operation. He does share some of the concerns that have been voiced about the visual aspects. Chairman Piltingsrud is hopeful that the Board of County Commissioners will take these concerns into consideration. He would also recommend that they talk to the County Engineer about the three (3) access options if you haven't done so already because his letter isn't really all that specific.

### **MOTION**

Chairman Piltingsrud moved to **approve** CUP 08-003 Salt Canyon Project with the following:

**RECOMMENDED CONDITIONS**

- A. The term of the Conditional Use Permit shall be for life of the mine. (Estimated to be 15 years per phase.)
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- G. Days of operation will be limited to Monday through Saturday from sunrise to sunset.
- H. The number of haul truck trips shall not exceed 15 per day. (A trip is considered as a single or one direction vehicle movement with either the origin or the destination (*exiting or entering*) inside the subject property.)

**Planning Commission recommended increasing the number of haul truck trips to twenty-two (22) per day as requested by the applicant.**

- I. Compliance on an annual basis with any requirements of the Fremont County Weed Control Officer, if applicable.

- J. Compliance with any requirements of the Colorado Division of Wildlife.
- K. Documentation as to compliance with the requirement of providing an adequate water holding tank for fire suppression, if any buildings or structures are to be constructed, as required by the Florence Fire Protection District

**Planning Commission recommends requiring a three thousand (3,000) gallon water holding tank and deleting the wording “if any buildings or structures are to be constructed”.**

- L. Provide a copy of the following permits, licenses or the like, prior to mining or upon renewal: *(If not required provide documentation from the listed entity that the following is not required, prior to mining.)*
  - 1. Division of Reclamation Mining & Safety-110 permit
  - 2. Colorado Department of Public Health & Environment-Fugitive Dust Permit and Plan
  - 3. Colorado Department of Public Health & Environment-Stormwater Discharge Permit and Plan
  - 4. Colorado Department of Transportation-Access permit for use of the existing access from Colorado State highway 115 to the site
  - 5. Colorado Department of Natural Resources-Board of Land Commissioners-lease
  - 6. Colorado Department of Natural Resources/State Board of Land Commissioners-Proof of use of an existing access from State Highway 115 to site.
- M. 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 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. The applicant has noted that the mining activity may be in temporary cessation for at least six (6) months, but shall not exceed two (2) years.
- N. If a conditional use permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
- O. 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.

- P. 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 this 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.
- Q. Modifications, major or minor, to the permit as approved, shall be done only in compliance with requirements of the Fremont County Zoning Resolution.
- R. Preserve and protect (no mining) the small hill located in proposed Phase 1, as it will screen the mine site from traffic on State Highway 115 .**

**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 after final approval by the Board of County Commissioners:

- 1. Documentation as to compliance with the following requirements and recommendations of the County Reviewing Engineer, per his letter dated, March 25, 2008:
  - a. A Colorado Department of Transportation access permit. (Required condition L.4).
  - b. The stormwater management plan shall be provided for this site. (Required condition L.3).
  - c. The engineer's drainage plan should be modified to use the required storm event duration and to provide conclusions for construction requirements.
- 2. Documentation as to issuance for an acceptable sewage disposal source for employees, from the Fremont County Environmental Health Department, prior to operation.

**ADDITIONAL NOTIFICATION CONSIDERATIONS**

In addition to the required notifications, the following shall also be notified, by certified mail, return receipt requested, in accordance with regulations, at least fourteen (14) days prior to the public hearing by the Board of County Commissioners:

- 1. Fremont County District Two, Road Foreman
- 2. Fremont County Sheriff's Office
- 3. Colorado Division of Wildlife
- 4. Colorado Department of Transportation
- 5. El Paso County Land Use Department
- 6. Fremont / Custer Historical Society

**The Planning Commission recommended waiving the following:**

**WAIVER REQUESTS:**

1. **5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.
2. **5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.
3. **5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

**SECOND**

Mr. Jackson seconded the motion.

Chairman Piltingsrud cited any approval criteria:

1. The procedural requirements of this section have been met.
2. 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.

Chairman Piltingsrud called for discussion on the motion.

Mr. Sandoval stated that he would like to make a comment prefacing his vote. He stated that he will vote no primarily because he is concerned about the fifteen (15) year, life of the mine along Highway 115. He referred to Mr. Doxey's comment that he made earlier that we are possibly going to be looking at another reclamation issue as we have seen at Parkdale; this is a long term commitment that the county would be making along the view shed of Highway 115, a heavily traveled road, an entrance into the heart of our community, Cañon City and Penrose. He feels that we have a responsibility to look at things like visual impacts along the highway. He thinks the mining is a great idea; it's just a bad location. He also has concerns about the Highway 115 access to the site.

Chairman Piltingsrud asked if there was any other discussion or questions on the motion. Hearing none, upon a roll call vote, the vote was as follows:

Mr. Doxey	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Jackson	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Chairman Piltingsrud	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Lateer	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Mr. Sandoval	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye

The motion passed with a vote of 3 to 2.

Mr. Doxey stated that he voted no because of his concern about the scenery, the wildlife and his fear that it will turn into another Parkdale eyesore.

Chairman Piltingsrud stated that if there hadn't already been mining done in the location that he would be a little more skeptical of allowing the operation.

Mr. Jackson stated that because they are going to be reclaiming as they go, the fact that they already have the State permit and a financial obligation for reclamation he thinks that it will work out okay.

Ms. Bellantoni stated that GCC has already posted the bond and that they are committed to the reclamation according to State standards; there are no negotiations on that matter.

Mr. Stuessy stated that GCC will not leave the site like Western Nutrients has.

**5. OTHER ITEMS FOR DISCUSSION**

There were no other items for discussion.

**6. ADJOURNMENT**

With no other items for discussion, Chairman Piltingsrud adjourned the meeting at 8:20 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE