

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
FEBRUARY 3, 2015**

**MEMBERS PRESENT**

Byron Alsup, Chairman  
Larry Baker, Vice Chairman  
Larry Brown  
Michael Pullen  
Tina Heffner  
Gardner Fey  
Dennis Wied

**STAFF PRESENT**

Bill Giordano, Planning Director  
Brenda Jackson, County Attorney  
Donna Monroe, Planning Assistant

**MEMBERS ABSENT**

None

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF MINUTES**

- a. January 6, 2015 Planning Commission Meeting

**5. UNFINISHED BUSINESS**

NONE

**6. NEW BUSINESS**

**REQUEST: SRU 14-004 THRESSOR LLC MEDICAL MARIJUANA INFUSED PRODUCT MANUFACTURING (INDUSTRY, LIGHT)**

Request approval of a **Special Review Use (SRU) Permit, Department file SRU 14-004 Thressor LLC Medical Marijuana Infused Product Manufacturing and possibly a Marijuana Optional Premises Cultivation grow facility, which is an allowed use in the Business Zone District, by Chris Haight, for property owned by Ali Abrahamia, to allow for marijuana infused product manufacturing.** The property is located *on the east side of State Highway 115 and east of Fremont Street, bounded by 7<sup>th</sup> Street on the north side, 4<sup>th</sup> Avenue on the south side and Grant Street on the east side, in the Penrose Area.* The SRU permit property contains 9.82 acres and is zoned Business.

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

**7. ADJOURNMENT**

**8. MASTER PLAN WORKSHOP**

Continue with review of the Master Plan *(if time allows)*

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**1. CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 4:00 pm.

**2. PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

Chairman Alsup asked if there were any changes, additions or corrections to the February 3, 2015 Fremont County Planning Commission Meeting Agenda.

**MOTION**

Mr. Larry Baker moved to accept the February 3, 2015 Fremont County Planning Commission Meeting agenda as presented.

**SECOND**

Mr. Larry Brown seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

**4. APPROVAL OF THE JANUARY 6, 2015 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the January 6, 2015 Fremont County Planning Commission Meeting Minutes.

Chairman Alsup commented that the vote for election of Officers needed to be corrected as the three board members who were elected all abstained. The vote should have been 4 aye and 3 abstained.

**MOTION**

Mr. Brown moved to accept the January 6, 2015 Fremont County Planning Commission Meeting Minutes with changes to the above vote count.

**SECOND**

Mr. Larry Baker seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

**5. UNFINISHED BUSINESS**

The Planning Commission had no unfinished business.

**6. NEW BUSINESS**

**REQUEST: SRU 14-004 THRESSOR LLC MEDICAL MARIJUANA INFUSED PRODUCT MANUFACTURING (INDUSTRY, LIGHT)**

Request approval of a **Special Review Use (SRU) Permit, Department file SRU 14-004 Thressor LLC Medical Marijuana Infused Product Manufacturing and possibly a Marijuana Optional Premises Cultivation grow facility, which is an allowed use in the Business Zone District, by Chris Haight, for property owned by Ali Abrahamia, to allow for marijuana infused product manufacturing.** The property is located *on the east side of State Highway 115 and east of Fremont Street, bounded by 7<sup>th</sup> Street on the north side, 4<sup>th</sup> Avenue on the south side and Grant Street on the east side, in the Penrose Area.* The SRU permit property contains 9.82 acres and is zoned Business.

Mr. Matt Koch introduced the applicant, Mr. Chris Haight, and stated that he would turn the floor over to Mr. Haight so that he could explain the proposed operation that is requiring the SRU.

Mr. Haight gave a brief description of his proposed operation including that he is in compliance with all State regulations. He also stated that he is aware of the concerns regarding using butane for the extraction. He explained that the machine he will be using is the only State approved butane operated extraction machine. Mr. Haight stated that he cannot have more than thirty (30) pounds of butane in the building at any time. He went on to explain the dynamics of the room where the extraction will take place, the exhaust system, the extraction machine, all the fire suppression measures that have been put in place, and the placement and the number of fire extinguishers.

Mrs. Tina Heffner asked Mr. Giordano what properties border the proposed SRU property.

Mr. Giordano stated that there is a park to the southeast, a church to the south, a post office to the west and a number of residences.

Mr. Mike Pullen asked if we are going to allow the public to speak.

Chairman Alsup stated that when all the Commission Members have asked their questions the public will have the opportunity to address the Planning Commission.

Mr. Dennis Wied asked what the property is zoned and how is the use classified.

Mr. Giordano noted that the property is zoned business and the marijuana infused products business is classified as a Light Industry use, which is allowed as an SRU.

Chairman Alsup inquired as to what security measures are planned.

Mr. Koch stated that there is already a six (6) foot fence with a 2 strand barb wire security fence on top.

Mr. Haight added that there are twenty-three (23) cameras.

Chairman Alsup inquired what kind of fire protection measures are proposed that would insure the safety of the public.

Mr. Haight stated that they will comply with all state requirements and any local Fire Department requirements. We already have two (2) fire extinguishers in the extraction room and two (2) right outside of the door to the room. We have a total of 12 currently. All measures taken or required will comply with state and local design criteria.

Chairman Alsup inquired about the danger of explosion.

Mr. Haight stated that the room has fireproof walls with a fire proof coating. He stated that he will take any measures to insure the safety of employees, etc. He noted that it has been suggested that they may need a sprinkler system. He noted that there are other types of fire suppression that may be more suited for fire suppression and he will work with the Fire Department, etc.

Concerning odor mitigation Mr. Haight noted that each room will have two (2) large charcoal canisters.

Mrs. Heffner stated that the one hundred three (103) year old building known as The Apple Shed was built in 1912. All of the 9.82 acres borders more than 35 properties including numerous residential and business entities, Penrose Baptist Church, Penrose

Park and Recreation District, and Highway 115. This structure would not be able to withstand an explosion of any magnitude without having a huge impact on the entire community.

Mrs. Heffner asked, how big the building is.

Mr. Haight stated that it contains nine thousand, three hundred (9,300) square feet.

Mrs. Heffner asked what size is the cultivation area.

Mr. Haight stated that there is a two thousand five hundred (2,500) sq. ft. a two thousand two hundred (2,200) sq. ft., and a one thousand (1,000) sq. ft. room.

Mrs. Heffner stated that is a total of five thousand seven hundred (5,700) square feet of grow area.

Mr. Fey asked how the residual water that will contain fertilizer, etc. will be handled.

Mr. Haight stated that they have hired a Penrose company to haul away the waste water which is being handled as a hazardous waste.

Chairman Alsup inquired if the Board had any more questions.

Mrs. Heffner stated that she wanted to wait until after the public had a chance to speak to continue with her questions.

Chairman Alsup stated that she should ask her questions at this time and not wait until after we have heard the public comments.

Mr. Larry Baker inquired about what is above the extraction room.

Mr. Haight responded that there isn't anything above the extraction room.

Mrs. Heffner inquired if in the event of an explosion it would extend into the grow area which lies above this room.

Mr. Haight stated that that is what is above the extraction room. February 3, 2015

Mr. Pullen stated that he would like to know if the residual water is in fact hazardous.

Mr. Haight stated that the company that he hired to remove it will treat it as hazardous material whether it is or it is not.

Mr. Pullen stated that there are at least twenty (20) letters of protest. Have you made an attempt to communicate with any of them?

Mr. Haight stated that he had sent rebuttals to the emails trying to inform them of his operation and tried to get across to the people that he wants to be a good neighbor and that he will comply with all regulations, etc.

Mr. Pullen stated that within the package that was given to them from the Department the response that was in the application was from Gene McKinnon, Florence Fire Protection, so he questioned the letter they received prior to the meeting from Mr. Sundrman who is the Penrose Fire Chief. He wondered who is charge and whose recommendation do we follow.

Mr. Sundermann stated that Mr. Haight initially contacted Penrose Station 2 but send the Fire Protection form to Gene McKinnon who is the overall Fire Chief for the District. No matter the operation will have to pass fire code regulations, etc.

Mr. Pullen asked if Mr. Haight had a business model for the next five (5) years.

Mr. Haight stated that his business model was only for two (2) years because recreational marijuana was getting big and he wanted to see if the cost of products would go down.

Mr. Pullen inquired if the applicant foresees something in addition to medical marijuana.

Mr. Haight noted that he has considered using 4.5 acres of the property for an RV Park.

Mr. Pullen wanted to know about the water commitment from the Penrose Water District.

Mr. Haight stated that if he does exceed the 12 gallon per minute limit he will have to apply for a lager tap size.

Mr. Baker asked if he was required to put in a sprinkler system, for fire suppression would the existing tap be adequate.

Mr. Haight stated that it probably would not but as noted there are other alternatives for fire suppression that he prefers.

Mr. Baker had questions concerning the ownership or the right to use the property. He stated that he didn't find anything in the packet concerning the lease, etc.

Attorney Jackson stated that the lease is not in the packet because it is confidential information but assured the Planning Commission that the right to use the property was addressed.

Mr. Baker stated that the application was signed by the property owner not the applicant.

Mr. Haight stated that by him signing the application it gave him the authority to make the application.

Mrs. Heffner stated that on September 3, 2014 Mr. Abrahamia created Big Rocker, LLC with the Colorado Secretary of State. On September 11, 2014 Mr. Abrahamia filed an Amendment to Big Rocker, LLC which stated that Chris Haight has resigned from the LLC effective September 10, 2014. Therefore, Mr. Haight was a founding member of this organization.

Attorney Jackson stated that this would be addressed by the State when the licensing application is submitted.

Mrs. Heffner stated that the solvents will permeate the building which can be dangerous.

Mr. Haight stated that the exhaust system will handle removing all butane through the twelve (12) inch exhaust system therefore it should not permeate the building.

Mrs. Heffner sites regulation 8.14.4 Approval Criteria

Mr. Pullen asked the applicant why he doesn't want to do the buffering and landscaping.

Mr. Haight explained the pathways for parking are in really good condition.

Mr. Fey asked what type of lighting they are going to use.

Mr. Haight stated that there are four (4) parking lot lights on the property.

Chairman Alsup asked if any other Commissioner had any more questions. Hearing none he opened it up to public comment.

Mr. Jay Gleiforst (for or against not marked) stated that he lives within two (2) miles of Biker Town and Apple Valley. The Apple Shed is a historic building. How are the firefighters going to be trained and has the building been updated with a fire suppression system? The building is within three hundred (300) feet of a residence. What types of extraction will be done? Penrose is the entrance to Fremont County.

Mr. Rich Bandlow (against) stated that he is from Cotopaxi and it will never be the same out there. The location is inappropriate. The business has to be a good neighbor. There is no reason for this to be in this location.

Ms. Timme Pearson (against) stated that she is a mental health clinician in Fremont County. She understands the issues about substance abuse. Meth labs are detrimental and have the possibility of blowing up. Several states are looking at suing Colorado. The American Medical Association does not support medical marijuana. (Doesn't live in Penrose)

Mr. Vance Clear (for) stated that first we have to ask ourselves, can these people use this property for this use. The applicant has taken care of the fire suppression system and water runoff. He has already improved the lot and the building. The applicant is trying to do a legal business, trying to do everything the right way. (Resident right across the street)

Ms. Sandra Nicholson (against) inquired of Mr. Haight what career field he was in with the Department of Defence. What is he is looking for in employees. What type of training for fire drills will he have. (Penrose resident)

Mr. Virgil Green (for) stated that he has a staffing company (had a bunch of people stand up) and stated that they are the kind of people who will be working in the medical marijuana businesses through his staffing company. (Cañon City resident)

Mr. Nicholas Tolkach (for or against not marked) stated that he is a California transplant and has been out here for more than 20 years. He is appalled about the applicant making the building look like another prison with all the bars on the windows and doors. (Penrose resident)

Tami Mundy (against) stated that she has been a resident for seventeen (17) years. The smell is just as bad as a feed lot and a pig farm.

Chairman Alsup closed the public comment with no other people wishing to speak.

Mr. Wied stated that he would like to remind everyone that the issue before them is an SRU application for a business to operate a light manufacturing operation.

Mr. Wied asked what is required if the applicant be granted a grow operation.

Attorney Jackson stated that it would require him going through the local licensing for both the grow operation and the manufacture infused product.

Chairman Alsup called for a motion if there aren't any more comments or questions.

**MOTION**

Mr. Wied moved to recommend approval of SRU 14-004 Thressor, LLC Medical Marijuana Infused Product Manufacturing subject to the following:

**RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of the use. (30 Years estimated)
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and/or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice

of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.

- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited. (7:00 am to 5:30 pm normal operation hours)
- I. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, and further the applicant shall implement and maintain the plan, if required.
- J. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- K. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- L. 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).

**RECOMMENDED CONTINGENCIES:**

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

1. Documentation from the Colorado Department of Transportation that the existing driveway access is adequate for the proposed use or provide a copy of a new access permit.
2. Copy of a Fremont County driveway access permit for any access that is to be used from a County Street or documentation from the Fremont County Department of Transportation that the existing accesses are adequate and do not require a driveway access permit.

3. Documentation as to compliance with any requirements from the Colorado Division of Water Resources. A Fremont County Colorado Division of Water Resources Information Form was sent to the Division on December 18<sup>th</sup>, 2014 and no response has been received to this date.
4. Documentation from the Penrose Water District to indicate what information was provided to their entity on which they based their November 25, 2014 or new documentation specific to the proposed Medical Marijuana Infused Product Manufacturing operation.
5. Documentation as to compliance with any requirements of the Fremont County Environmental Health Officer as per memo dated December 30, 2014.
6. Copy of an updated fire protection form from the Penrose Volunteer/Florence Fire Department noting any requirements as related to the proposed use which is for a Medical Marijuana Infused Product Manufacturing operation.
7. Documentation as to compliance with any recommendations of the Florence Fire Protection District, as per updated fire protection form. *(The form provided dated 10-6-14 noted the following: Recommendation at this time is no fire protection improvements, however if at a later date the business changes to a use other than a grow facility any change may change fire protection to a sprinkler system).*
8. Documentation as to compliance with the requirements of the Fremont County Reviewing Engineer as per his letter dated January 7, 2015.
9. Copy of a State of Colorado Marijuana Infused Product license **issued for the property.**

**WAIVER REQUESTS:**

*The Planning Commission recommended APPROVAL of waivers of the following:*

**1. Buffering & Landscaping Requirements:**

In conjunction with the issuance of a building permit or approval of a zone change to a Manufactured Home Park, Travel Trailer Park & Campground, Neighborhood Business, Rural Highway Business, Business, Industrial Park, Airport, or Industrial Zone Districts, and if the property is adjacent to any Agricultural Estates, Agricultural Suburban, Low Density Residence, Medium Density Residence or High Density Residence Zone District, 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.

***The applicant is requesting a waiver of the buffering and landscaping with the following justification: the use will be enclosed within a building.***

2. **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.

***The applicant has requested a waiver of the landscaping of the parking area with the following justification: the proposed paved parking area is for employees only and is small in size.***

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

**ADDITIONAL NOTIFICATION REQUIREMENTS:**

In addition to the regulatory required notifications (*property owners within 500 feet of the SRU boundary*), 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. Colorado Parks & Wildlife
2. Fremont Historical Society
3. Colorado State Historic Preservation Office
4. Fremont County Sheriff's Office
5. Colorado Department of Transportation

**SECOND**

Mr. Gardner Fey seconded the motion.

Chairman Alsup called for a roll call vote.

Chairman Alsup	Nay	<input checked="" type="checkbox"/> Aye	Abstain
Mr. Baker	<input checked="" type="checkbox"/> Nay	Aye	Abstain
Mr. Brown	<input checked="" type="checkbox"/> Nay	Aye	Abstain
Mr. Pullen	Nay	<input checked="" type="checkbox"/> Aye	Abstain
Mrs. Heffner	<input checked="" type="checkbox"/> Nay	Aye	Abstain
Mr. Fey	Nay	<input checked="" type="checkbox"/> Aye	Abstain
Mr. Wied	Nay	<input checked="" type="checkbox"/> Aye	Abstain

Chairman Alsup voted aye and stated this is a legitimate business located in a business zone. The applicant seems to be doing everything he can to address the concerns of the Penrose citizens. The business seems to fit the location. There is only one residence near the building

in question, and it belongs to Mr. Clear who is in favor of the application. He is the only adjacent property owner who addressed us. And finally, I always ask myself in cases like this, if it were being proposed for across the street from me, would I feel I had a legitimate objection, or one that is not being addressed by the applicant. In this case, the answer is no. Mr. Baker stated no explanation.

Mr. Brown stated no explanation.

Mr. Pullen stated yes.

Mrs. Heffner stated no, that the business would have an adverse impact on the area.

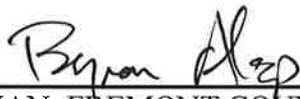
Mr. Fey stated that this is a tough one. I am a father and businessman so I understand both sides of the issue. I am not unsympathetic to the feelings of the people who spoke against this here today but within the narrow scope that I feel we are required to review this application.

Mr. Wied stated yes, the issue before the Planning Commission was to decide whether that particular location was suitable for a light manufacturing facility, period. In spite of the number of people who spoke against a marijuana processing and/or a grow facility the issue before us had nothing to do with that and any marijuana related activity is presented to and decided upon by the County Commissioners. If I had a voice in that decision, however, I would support it but that is irrelevant to the issue that was before the Planning Commission. Of all the people who spoke only one was a neighbor to the property, and in fact was the closest resident and structure to the facility. That man spoke strongly in favor of the application and commented not only that he was in favor but that since they purchased the property there was a marked improvement of both the property and its appearance. In my mind the property is adequately and perhaps ideally suited for the use of light manufacturing and I gave great weight to the testimony of the only neighbor.

Chairman Alsup announced that the motion passed with four Aye votes and three Nay vote.

**ADJOURNMENT**

Chairman Alsup adjourned the meeting at 5:22 p.m.

  
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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

3 Mar 2015  
DATE