

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
APRIL 1, 2014**

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
Vicki Alley, Planning Assistant

MEMBERS ABSENT

None

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES

- a. February 4, 2014 Planning Commission Meeting

5. UNFINISHED BUSINESS

NONE

6. NEW BUSINESS

a. REQUEST: ZC 14-001 CROSSROADS BUSINESS CENTER ZONE CHANGE

Request approval of a **Zone Change from the Agricultural Living Zone District to Business Zone District, Department file #ZC 14-001 Crossroads Business Center Zone Change**, by **WHP Crossroads, LLC (William H. Peetz)**, for his property which is *located on the east side of Colorado State Highway 115, approximately 1/2 mile south of the intersection of U.S. Highway 50 and Colorado State Highway 115, in the Beaver Park Area [13760 CSH #115, Penrose, CO]*. The proposed zone change is to allow a restaurant and event center (*similar use to an Auditorium or Recreation and Outdoor Amusements or Amusement Facility*). The property was previously issued Special Review Use Permits (SRU 00-01 McDowell Sports Club) which allowed a restaurant and rodeo ground and SRU 08-001 which also allowed a veterinary premises (*permitted use in the AL Zone District*), a future residence (*permitted use in the AL Zone District*) and overnight parking for event participants (*self-contained units only*). The property is zoned Agricultural Living and contains 41.42 acres.

REPRESENTATIVE: *Dr. Angela Bellantoni, Environmental Alternatives, Inc.*

b. REQUEST: AMENDMENT TO FREMONT COUNTY ZONING RESOLUTION

Request approval of a proposed amendment to the Fremont County Zoning Resolution regarding Special Review Uses for Towers, the deletion of the Performance Standards in the

Airport Zone District, and General Requirements for Off-Street Parking including the number of parking spaces required based on the use, requirements for individuals with disabilities spaces, and dimensional requirements for all spaces.

REPRESENTATIVE: Department of Planning and Zoning

7. **ADJOURNMENT**

8. **MASTER PLAN WORKSHOP**

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

1. **CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 4:02 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 April 1, 2014 Fremont County Planning Commission Meeting Agenda.

MOTION

Mr. Larry Brown moved to accept the April 1, 2014 Fremont County Planning Commission Meeting agenda as presented.

SECOND

Mr. Larry Baker seconded the motion.

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

4. **APPROVAL OF THE FEBRUARY 4, 2014 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the February 4, 2014 Fremont County Planning Commission Meeting Minutes.

MOTION

Mr. Michael Pullen moved to accept the February 4, 2014 Fremont County Planning Commission Meeting Minutes as presented.

SECOND

Mr. 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**

a. **REQUEST: ZC 14-001 CROSSROADS BUSINESS CENTER ZONE CHANGE**

Chairman Alsup commented that there have been rumors circulating about this application, and some misinformation was given to the newspaper. These applications start at the Planning and Zoning Department, and they frequently go through numerous changes there. There are usually deficiencies, additional information required, or clarification issues, and it takes several months for these applications to go through. They are works in progress when they arrive at the Planning & Zoning Department. Sometimes the owners change their business plans, and sometimes they withdraw the applications entirely – that is their option. I think some of you are probably here today to talk about something that is not on our agenda. If a topic is not on the agenda, then we really can't discuss it. We owe it to the public to stick to the items on the published agenda. If you are here to talk about something that is not in the application today, I wish you would rethink things, because we are not interested in hearing those comments.

Dr. Angela Bellantoni, Environmental Alternatives, Inc., was present to request approval of a Zone Change from the Agricultural Living (AL) Zone District to the Business Zone District, Department file #ZC 14-001 Crossroads Business Center Zone Change, by WHP Crossroads, LLC (William H. Peetz), for his property which is located on the east side of Colorado State Highway 115, approximately ½ mile south of the intersection of U.S. Highway 50 and Colorado State Highway 115, in the Beaver Park Area [13760 CSH #115, Penrose, CO]. The proposed zone change is to allow a restaurant and event center (similar use to an Auditorium or Recreation and Outdoor Amusements or Amusement Facility). The property was previously issued Special Review Use Permits (SRU 00-01 McDowell Sports Club) which allowed a restaurant and rodeo ground and SRU 08-001 which also allowed a veterinary premises (permitted use in the AL Zone District), a future residence (permitted use in the AL Zone District) and overnight parking for event participants (self-contained units only). The property is zoned Agricultural Living and contains 41.42 acres.

Dr. Bellantoni stated that because there is no intended change to structural use, business use, any sort of change in the property other than the zone change, which allows for business opportunities which are much more flexible, there really is no presentation. The property is going to be used as it is, with the water as it is, fire protection as it is, access, power, parking as they are. There are some drainage issues because the building has not been used. Mr. Peetz has applied for a liquor license so he has already invested \$3000 in fees to move forward with the restaurant.

Mr. Bill Giordano, Planning Director, showed a video of the area and summarized the Recommended Contingencies. He noted that the Department received a number of letters related to marijuana operation. These comments were not pertinent to the application, so copies of the letters were not provided to the Planning Commission members. He noted that because this is a zone change request, if the Planning Commission recommends approval, a statement of justification for the rezoning must be provided.

Mr. Dennis Wied asked if the County has any specifications regarding the thickness of the gravel in the driveways.

Mr. Giordano answered that there are no specifications, but the norm is four inches.

Ms. Brenda Jackson, Fremont County Attorney, noted that the County doesn't have driveway standards.

Mr. Baker made comment regarding the lighting of the off-street parking areas. While the restaurant and event center was in operation, I did have occasion to attend several affairs there, and in my opinion, at night in the parking area, the lighting is not adequate. I would like to require adding some additional lighting. If there was no moonlight, it was very difficult to see while walking out into that parking lot.

Dr. Bellantoni responded that the building is vacant. I don't know if the light bulbs have been tested. The owner is committed to providing a safe environment. There are lighting structures in the plan and on the site and along the building that should be adequate if they are working.

Mr. Pullen asked Dr. Bellantoni who she represents.

Dr. Bellantoni answered Mr. William Peetz, WHP Crossroads LLC.

Ms. Tina Heffner agreed with Mr. Baker regarding the lighting. I do not believe the lighting is adequate at the facility. I also do not believe there is enough surfacing in place in the parking areas. If it is going to remain a community event center, one of the issues that has always come up is, not only the amount of potholes in that area, but also the dust and dirt that is generated from a lot of traffic going in there. Based on the application, we are anticipating 200 vehicles in and out a day. I think the surface needs to be addressed, as well as the dust.

Mr. John Scott, Mr. Peetz's ranch manager in Pueblo County for the last four years, stated that they brought in four semi loads of base to fill all the potholes in the last two months. Also, the reason the property is so dark, all the lighting that is outside is on timers that are inside. The previous owners very seldom used them because of the electrical use. They are functioning. An electrician tested everything. All the bulbs work. They have been replaced if they didn't.

Ms. Heffner stated that she couldn't separate out of the Master Plan how the expansion of the Business zoning is going to be beneficial or how it was covered. My second question is how is the zoning change going to improve the business opportunities?

Dr. Bellantoni answered that the Business Zone District has a very nice diverse list of opportunity (allowed uses) to put into that building. The Agricultural Living Zone District does not. Putting this property into the Business Zone allows Mr. Peetz to market this building in a rainbow of opportunity. A site development plan (*for event center and restaurant*) was submitted because that is what Mr. Peetz believes is going to end up in the building. Specifically in the Master Plan in the Beaver Creek District, it calls out for the 115 to Highway 50 corridor as a business district, and encourages the zone change. It specifically says those words in the Master Plan.

Ms. Heffner said that may be the case; however, we have Business zoning all along 115 north of Highway 50 and all of that land south is Agricultural Living. I'm not absolutely sure that it is expanding the vision that you are speaking of. I could be wrong. I read it but I didn't get the same interpretation.

Mr. Pullen expressed a concern with access onto 115, although it appears that there is nothing this board can do about it. I have been there many times pulling horse trailers, and it is tough getting out of there at night. The access permit is from CDOT. I have lost that battle already. I wanted to go on the record to state I don't think the access is adequate.

Dr. Bellantoni stated that she called Ms. Sword from CDOT immediately when this project started and she said to notify her if the use changes. Her hands are tied as well.

Mr. Pullen stated that in the future there may be other actions (*regarding this property*) and I wanted to go on the record now for the future.

Chairman Alsup asked about the answer to question 54 of the application. The question asks about multiple uses, and the answer is “No.” It sounds like there will be multiple uses.

Dr. Bellantoni understood this to be in separate buildings or structures on the same property. This is one building. Maybe I misunderstood the question.

Chairman Alsup agreed that question is oddly worded.

Dr. Bellantoni stated there is one building. We are using the same diagram the previous owners used.

Ms. Heffner noted that in the application it states that the number of days that the facility will be open per year is 245, but the number of customers per day is marked N/A. Please explain how you arrived at the 245, and why it doesn't appear that there will be any customers.

Dr. Bellantoni answered that the number of customers per day is unknown at this time. Mr. Peetz could have two events a month, and have 150 people at an event. I don't have a daily count. The building is going to be open for opportunity all but a couple of weeks per year, but whether in fact it is going to have a booked event is another question. The problem is “per day.” I could guess per month, but not per day.

Ms. Heffner asked when you talk about Mr. Peetz “marketing the building” and the business, you are absolutely, one-hundred percent telling us that it will only be advertised and marketed as an event community center. Is that correct?

Dr. Bellantoni answered that Mr. Peetz is currently marketing the building as a restaurant and event center. He has even gone so far as to spend the money for liquor license fees.

Ms. Heffner asked, when you say currently, could that change in thirty days or ninety days?

Dr. Bellantoni answered I can't read Mr. Peetz' mind, but this is what I have.

Ms. Heffner asked if there is a reason Mr. Peetz is not here today.

Dr. Bellantoni answered he is in Arizona.

Ms. Heffner stated that basically the SRU and the zoning that you currently have is adequate and appropriate for what his plan is. But if he chooses to change his mind in sixty to ninety days and make it anything he wants, then Business zoning will allow him to do that.

Dr. Bellantoni responded that is true.

Chairman Alsup opened the floor to public comment.

Ms. Clarice Roney, 856 D Street, Penrose

The current zoning will handle what the owner has currently proposed. I don't see a reason for change. My husband and I have been to the event center ever since it opened, numerous times. We used to consider it our home away from home. I do like the facility. I want to see it continue as it is, and I don't see a reason for the change.

Ms. Sara Williamson, 2301 Fremont County Road 127

I also do not see a reason for the change. It has run fine the way it was in the past, very successfully at some points. I know towards the end the business was a little slower. I also am opposed to the zoning change.

Mr. Robert Hannah, 320 5th Street, Penrose

The question I have is, what are the other businesses that could go in there? Later on, can they just do what they want to?

Chairman Alsup answered you would have to refer to the Zoning Resolution for the Business Zone District. There are numerous businesses that could go in there.

Mr. Wied stated that there are approximately forty-seven allowed uses in the Business Zone District. They tend to be business-type opportunities as opposed to service stations or industrial-type activities or manufacturing facilities. There is quite a variety of general business-type activities.

Ms. Tanya Zimmerman, 168 8th Street, Penrose

The lighting is very inadequate with everything turned on. Parking is inadequate, people getting in and out very unsafe. I also have the same issues that have already been brought up. If it is going to be an event center and for our community, and we have a special use that is approved, why would we need to change anything?

Mr. Stephen Hiner, 1559 9th Street, Penrose

I am opposed to the zoning change.

Ms. Sandra “Sally” Nicholson, 320 5th Street, Penrose

I am opposed to the zoning change and I do have a question. If any business or use other than the event center comes in, will this be open for public votes or input in any way?

Mr. Giordano answered that they would be subject under our regulations to Commercial Development anytime there is a substantial change to the use. Also, because they have a Special Review Use, they will be subject to a major modification if there is a substantial change.

Ms. Pat Harmon, 1009 J Street, Penrose

I am totally opposed to the zone change.

Mr. John Sandefur, 240 6th Street, Penrose

They pretty well said it all.

Mr. Paul Griffith, 458 Golden Circle, Penrose

I am in agreement with what has previously been said, and I believe the event center should remain as it was originally intended, for the use of equestrian events and that sort of thing, rather than getting into other businesses.

Mr. Jay A. “Tony” Gleiforst, 485 G Street, Penrose

I have a question, and it is pretty much a yes or no answer. If we change this from the agricultural zoning that it is now to the business zoning that they are requesting, does this allow the owner and/or the new owners to change from an event-type business to a type of marijuana business in the future or whenever they decide?

Mr. Giordano stated that he can't really answer at this time because we don't know what the County marijuana regulations are going to be.

Chairman Alsup responded that there is currently a moratorium on medical marijuana businesses.

Mr. Gleiforst said when the moratorium is raised, can they change it to a marijuana business, yes or no? Can they change it to any other business besides an event-type business?

Chairman Alsup answered yes.

Ms. Jackson added not without a license or a Commercial Development Plan hearing.

Mr. Giordano noted that Commercial Greenhouse is an allowed use in the Agricultural Living Zone District, so a marijuana grow would be allowed now.

Ms. Susan Hilderbrand, 960 7th Street, Penrose

There is a statement in this application that the proposed zone change will increase the tenant market and improve the likelihood of securing a long-term commercial enterprise that brings tax revenue and jobs to Fremont County in Penrose. That is a direct quote. What types of commercial enterprises does the owner have in mind? Why get a zone change before that is known? If the use is truly to remain as a restaurant and community event center, why is a zone change necessary?

Dr. Bellantoni stated that Fremont County is struggling economically. We had someone buy a vacant building that is struggling economically. You have somebody with vision who is a true entrepreneur. As Commissioner Wied noted, there are forty-seven uses in the Business Zone District. And they are businesses, because an Industrial use takes a Special Review Use Permit. Mr. Peetz wants to market this building for businesses. He is doing his best to get a restaurant and event center going, but thirteen years as an event center has proven to be difficult. That is why it was for sale and close to foreclosure. Status quo isn't working. But yet we have people here who want to see it vacant. The Agricultural Living Zone District allows for a commercial greenhouse. Mr. Peetz could put in a Site Development Plan (*Commercial Development Plan*) and go for the commercial greenhouse, right now with the zoning as it is. He has other problems that are stopping that, and he has chosen to take this path of a liquor license, a state sales tax license, and going for business. If you look at the types of businesses listed under the Business Zone District, they are commercial, and the Master Plan specifically encourages development south of Highway 50 down 115 towards Florence. This is called out under the Beaver Creek District. This is just an extension and a vision, which may end up being a mall for antiques with a restaurant. That's a good idea with Florence down the street. If the current use was a good use, we wouldn't be here, because we would still be in business. The fact that a Site Development Plan is required before anything else happens other than a restaurant and event center, is another way to review this process and any change in use. So there is a check and balance right there. An industrial use, if that happens, requires a Special Review Use Permit. I find it very discouraging that we have economic issues in Fremont County. I sit on the Board of the Fremont County Economic Development Corporation, I sit as a site executive committee member, and I also sit on the Southern Colorado Economic Development District Board as well. I have a fairly good understanding of our economic hardships. When somebody is willing to buy a vacant building, not an ongoing business, and open the door and say you guys tell me what goes in this building to people who want to come into our community and have a payroll

and pay taxes. I am confused that we have this amount of contention. I don't mind the opposition, but anger? That confuses me.

Ms. Heffner commented that I think we are all thrilled that if Mr. Peetz is going to open up a community event center and restaurant and he's planning on investing the time and money to do that, perhaps his management ability is better than anyone in the past. I don't think there is anything any of us would like to see more than a successful community event center and restaurant in there. But I think we are all concerned that if that fails, and future regulations allow something else, that he will become discouraged with his endeavor as well, and what it may then turn into would not be conducive to the community approval.

Dr. Bellantoni reiterated that there are two other tiers of regulations that would have to happen for that to happen.

Ms. Susan Luck, 959 M Street, Penrose

I am opposed to the zone change. I am the Postmaster in Penrose. I have had a job opening in my office for a year and a half, and yet no one has filled it. You are saying there are people out there that want a job; I am saying no one has taken this job. I would like to know where Mr. Peetz resides. Does he live here in Fremont County?

Chairman Alsup answered it is not pertinent where he lives.

Ms. Luck responded it is pertinent. It is affecting our livelihood. It is affecting our life. It is not affecting him.

Mr. Giordano said the test of a zone change is adequate justification. The justification is there is additional land needed in the zone district and it is in conformance with the Master Plan for the area. That is the determination you need to make before you make a decision. The real test on this is: is the site suited for business uses? The criteria on that are access, water, sewer – those are the things that are available at this site. This use has been in existence since 2000. There is a strong indication already that it is suited for business because it has been a business. The real determination is do they have adequate justification? If you are making a decision on this, it should be based on our regulations not assumptions. If the proposed use changes, we have the Commercial Development regulations in place. Our regulations have recently changed to allow an applicant to come in and make a zone change request without stipulating any of the uses that are allowed, this application states the uses. Once the applicant determines the use then the applicant has to come in with a Commercial Development Plan application. The uses that are allowed in the Business Zone District may not be allowed at a specific site. That is the purpose of the Commercial Development Plan regulations. Before the Commercial Development Regulations, when zoning was granted, you were could have any allowed use at the site, and only needed a building permit. Now there is a Commercial Development Plan requirement that allows neighbors, etc, input in what is developed on the site. The use that you have now may be appropriate for that site, but the change of use may not be appropriate for that site. Now we have another layer of regulations to stop that from happening.

Mr. Larry Luck, 959 M Street, Penrose

I am opposed to the zone change also. Why did Mr. Peetz buy this property? It was zoned agricultural. I don't want to see the history of this community changed. I like the history of this community. That's why I live here. Why would you buy a building knowing it was agriculturally zoned and want it changed to commercial or business? I have a real problem with that. If you have an intent, you should be in that zone. I don't know why they change. What is

the need for changing from agricultural to business? I would like to see the zoning remain agricultural.

Mr. Gary Cole, 219 F Street, Penrose

I understand why Mr. Peetz wants to expand his options is so that if the restaurant and event center doesn't work, then he can do something to get his money back. I understand the marijuana is what everybody is concerned about, but if we could get a good event center and somebody who knows how to operate it and work it, then we'd have something where it is a win-win situation for all. The parking lot is fine. It could use a little bit of outside lighting, but this is nit-picking stuff. I think Mr. Peetz wants this change simply so if this doesn't work he can maybe get his money back.

Diann Mallette, 1913 15th Street, Penrose

I have lived in Fremont County for seventeen years. I am totally against this rezoning. I don't understand it. It has been sold three times, so why does it need to be rezoned We have a responsibility as citizens who live here for the future of our community. Our children are important. The majority of people in this County voted in the last election against legalizing marijuana. I know you say we are not allowed to talk about the pot, but we all know that is why we are here.

Chairman Alsup asked if the Planning Commission had any comments or questions.

Ms. Heffner commented that everything I've heard indicates that the purpose and intent of Dr. Bellantoni and Mr. Peetz is a good one. My feeling is, why are we even visiting this issue at this time? Why don't we leave the zoning and the Special Review Use Permit as it is until the event center, which hopefully will be very successful, is facing difficulties and then we go back and look at the zone change at that time?

Mr. Baker said he views this differently. If we had continuous failures in the business in these last years, and if we just keep the zoning as it is and not allow any other change, then we'll never gain anything. You are going to need some other business there as I see it, because it (*event center and restaurant*) hasn't worked. The applicant has not stated what those businesses might be. I know from my past being in business, along the way sometimes things aren't working and you have to make a change. It's very possible he will have to make a change. He has invested the money and I think this is one way of doing it to make it work. Otherwise, you may have a building sitting there empty for the next ten or fifteen years if you don't allow some kind of change.

Mr. Wied stated that he agrees with Mr. Baker totally. The question was asked, why did he purchase the property? There are people in the world who are entrepreneurs, and who have visions, and take a chance on purchasing a piece of property with the potential of developing some other kind of business on that piece of property. I know everybody is here for one specific reason, but if this zone change is approved, the reason you are here is not approved. As Mr. Giordano pointed out, this property qualifies under almost any criteria you could put forth to be a business, and there are about twenty allowed uses for the Agricultural Living Zone District, and there are forty-six allowed uses for the Business Zone District. Our regulations don't require that we specify what the business is on this piece of property (*at the time of zone change*).

MOTION

Mr. Baker moved to recommend approval of ZC 14-001 Crossroads Business Center Zone Change from the Agricultural Living Zone District to the Business Zone District subject to the following:

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 as to compliance with the requirements of the Colorado Division of Water Resources as per letter dated February 28, 2014.
2. Documentation from the Fremont County Weed Control Coordinator as to the requirement for an acceptable weed control plan, and further the applicant shall implement and maintain the plan, if required.
3. Documentation as to compliance with any requirements, as per the County Reviewing Engineer's review.
4. If drainage improvements are required, then documentation shall be provided from the design engineer to evidence that construction of the drainage facilities were completed and built to the specifications of the engineer's design.
5. If drainage improvements are required, then the property owner shall execute a Quit-Claim deed with a deed restriction addressing the maintenance of any required drainage facilities, easements, rights-of-way, related structures and/or facilities. Such deed shall be recorded at the time of recording of the zone change. Fremont County will not accept maintenance of these facilities.
6. Title of the drawing shall be changed to read Crossroads Business Center Zone Change Request.
7. Drawing shall reflect the thickness of the gravel for the driveway into the property and the loading areas.
8. Documentation as to compliance with the requirements of the Florence Fire Protection District and / or the Colorado Division of Fire Safety.

WAIVER REQUESTS:

The Planning Commission recommended APPROVAL of a waiver of the following Buffering and Landscaping requirements:

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. *The Applicant is requesting a waiver of the plan based on the justification that the property will be used as it is currently developed and as it was approved in SRU 08-001.*

2. **OFF STREET PARKING**

The Planning Commission recommended APPROVAL of a waiver of the following Off Street Parking Surfacing requirements:

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. *The Applicant is requesting a waiver of the hard surfacing based on the justification that the gravel parking surface was approved by SRU 08-001.*

The Planning Commission recommended DENIAL of a waiver of the following Off Street Parking Lighting requirements, with the justification that the existing lighting is not adequate; therefore it is requested that the applicant provide an amended lighting plan.

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. *The Applicant is requesting a waiver of the lighting plan based on the justification that the attached lighting plan reflects the current lighting configuration of the site.*

The Planning Commission recommended APPROVAL of a waiver of the following Off Street Parking Landscaping requirements:

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. *The Applicant is requesting a waiver of this requirement based on*

the justification that the parking lot configuration and landscape plan was approved in SRU 08-001.

The Planning Commission recommended the following:

REQUIRED NOTIFICATIONS: Notification as per regulation by certified mail, return receipt requested to all property owners within 500 feet of the property boundaries and to any severed mineral interest owners.

The Planning Commission recommended the following:

ADDITIONAL NOTIFICATIONS

1. Fremont County Sheriff's Office
2. Fremont Historical Society
3. Colorado Department of Transportation

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

SECOND

Mr. Wied seconded the motion.

Chairman Alsup called for any further discussion.

Mr. Wied reiterated to the people on the board that this is a tough business climate. I am in business, I have a couple of businesses. The opportunity to change what I am doing at a particular location is crucial to the success of business. I think we have heard that here from the board. We all know what the real concern is of the people who have come here today. That is a totally different subject. As Mr. Giordano pointed out, if any of these other uses that are allowed under the Business zoning are contemplated, it has to come in for review again. This is not a rubber stamp for any activity that Mr. Peetz may want to put on this piece of property.

Ms. Heffner said I want to agree with Mr. Wied; however, I was given very strict directions that we were to consider only this application today. The application in front of us is for a restaurant and community event center for which they already have the correct zoning. Had they put something in here that was other than that, then I would be in agreement with him. However, I was told we were supposed to look at this the way it is, and they have everything they need based on the application that was submitted to us.

Mr. Gardner Fey commented that any prudent businessman goes into an investment with all the options you have available because you are putting your money on the line. For that reason, I agree with what they are doing and I am going to vote Aye on this.

Chairman Alsup commented that he will vote Aye on this for some of the same reasons. My wife and I have owned a number of businesses in Fremont County and we have always wanted to have as many options and as much flexibility as we could, if we needed to make a change in our business plan.

Chairman Alsup called for a roll call vote.

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

Chairman Alsup announced that the motion passed with five Aye votes and two Nay votes.

b. REQUEST: AMENDMENT TO FREMONT COUNTY ZONING RESOLUTION

Mr. Giordano discussed a proposed amendment to the Fremont County Zoning Resolution regarding Special Review Uses for Towers, the deletion of the Performance Standards in the Airport Zone District, and General Requirements for Off-Street Parking including the number of parking spaces required based on the use, requirements for individuals with disabilities spaces, and dimensional requirements for all spaces.

Mr. Giordano explained that the way the current regulations are written, a commercial tower, no matter what height, has to go before the Planning Commission and the County Commissioners for a Special Review Use (SRU) Permit. WiFi towers are just like rods in a number of cases, so they are not as intrusive as regular towers and monopole towers. The Commissioners requested that all towers over fifty feet (commercial as well as non-commercial) require a SRU. Commercial towers under fifty feet do not require a SRU.

Mr. Giordano noted that there are two other areas in the Zoning Resolution referring to one-hundred foot towers that were overlooked when this proposed amendment was prepared. In order to avoid a conflict in the regulations, these sections will need to be amended as follows:

1.5 DEFINITIONS:

1.5.2 ACCESSORY BUILDING OR USE:

1.5.2.5 Single-family dwelling accessory use examples, not limited to the following personal uses such as garages, storage sheds, greenhouses (*non-commercial*), gardens, trees, swimming pools, pets, home occupation (*refer to 5.2.1 through 5.2.5 of this Resolution for requirements*), towers and antennas, (*non-commercial*) that do not exceed ~~one hundred (100)~~ **fifty (50)** feet in height, Small Wind Energy System that does not exceed ~~one hundred (100)~~ **fifty (50)** feet in height (*refer to 5.2.7 of this Resolution for requirements*).

5.2.7 WIND ENERGY SYSTEM, SMALL – REQUIREMENTS:

5.2.7.1.3 The height of the System generator, including blades, shall not exceed ~~one hundred (100)~~ **fifty (50)** feet. Any System that will exceed ~~one hundred (100)~~ **fifty (50)** feet in height shall only be allowed through the issuance of a Special Review Use Permit.

4.16.10 AIRPORT ZONE DISTRICT PERFORMANCE STANDARDS

Ms. Jackson explained that the performance standards in the Airport Zone District are all being removed. Within the last year, the County Commissioners adopted a full set of performance standards and regulations for the airport property. The Airport Zone District is only on the airport property, which is all County-owned and then people lease land and put improvements on it, so it is all owned by the County to begin with. The Airport Advisory Board thought it would be more efficient and effective to have their own set of regulations out there. These sections that we are taking out of the zoning are in the airport regulations. We don't want to double-regulate with zoning and the set of airport regulations.

Mr. Pullen asked if the regulations for the airport are just for what is fenced.

Ms. Jackson answered the airport regulations are just for the airport proper, the property that is County-owned that is airport property. The regulations are self-operable. By their adoption, they are in effect right now. They duplicate these performance standards. The airport property itself is still going to be zoned Airport. The Performance Standards are being shifted to the regulations. Instead of doing zoning enforcement, it is much more effective to enforce the airport regulations. There is still airport zoning.

Mr. Wied asked if there will still be a Section 4.16 Airport Zone District.

Ms. Jackson answered there is still a Section 4.16. Nothing else in the section will be changed except what is struck out in this amendment.

SECTION 5.3 OFF STREET PARKING

Mr. Giordano continued with the amendments to the off-street parking section. This section is a problem in the current regulations because we don't have enough uses listed, so we have to pick and choose how a use fits. The regulations that are in place are over-restrictive, and we end up requiring people to put in too much parking. This gets costly, especially if it is paved parking. We were getting a lot of complaints from the business community. I looked at the regulations for a number of counties, a couple of large and a couple of small – Gunnison, Chaffee, Pueblo, and El Paso. We added a lot of uses, and for a number of the uses that we did have, we reduced the number of required spaces. This is our attempt to get more specific in the uses and I think it will be a lot easier to work with. Hopefully the public can find the use they are proposing and know how many parking spaces they need to provide.

Mr. Wied asked, with regard to the parking space requirements, it specifies that this is the minimum required. Is there any flexibility in here? If not, I would like to incorporate a phrase or a sentence that would allow the developer to come to the Planning Commission or the Board (*with an alternate proposal*).

Mr. Giordano answered that there is no flexibility in the section, and that is a good idea. If you have some language you want, or if you just want us to develop language to add, I will work with Ms. Jackson to put something in there.

Ms. Jackson suggested the developer could propose an alternate plan if this doesn't fit.

Mr. Giordano asked if Mr. Wied was requesting flexibility in the number of spaces or in the design standards for the parking spaces or both.

Mr. Wied answered he is talking about the number of spaces required.

Ms. Jackson said if we want them to be able to propose an alternate plan subject to approval, we could put it for the dimensional requirements as well.

Mr. Wied commented that it might be useful. Say someone decided a thirty degree parking angle is a better arrangement for whatever reason. I would like to try to avoid having things so iron-clad that we don't have any flexibility if someone actually has a good reason to deviate slightly.

Mr. Giordano noted that the only option available right now is to go before the Board of Zoning Adjustment, and that is an expensive process. I don't disagree with what you are saying, as long as they must have approval and there is good justification.

Mr. Wied said those are the words I was going to use – with justification and with approval.

Mr. Pullen noted that the requirement that stands out is the requirement for one space per 300 feet for Post Offices and Public Buildings. I go to the Post Office (in the city) frequently and there is inadequate parking. For public buildings like this one, there are times when the parking is inadequate, but not all the time. It is a balancing act.

SECTION 5.4 PARKING SPACE REQUIREMENTS

Mr. Giordano noted that the current regulations don't have any requirements for the space itself, and that creates a problem because a developer could come in and put the parking lot any way they want. The proposal is pretty standard. These standards are pretty consistent throughout all the regulations. An option for flexibility would take care of problems. We can always come back with an amendment if the flexibility isn't working and we want it as a regulation. If developers are proposing alternate plans continuously, we probably want to amend the requirements. I would prefer to have the flexibility rather than do an amendment every time we have a problem.

SECTION 5.4.3.1 PARKING SPACE REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

Mr. Giordano noted that this wording comes directly from the Americans with Disabilities Act.

SECTION 5.4.3.2 LOCATION

This section provides a design standard that we didn't have. The wording was taken from other regulations which fit some of the issues we have when we get a Commercial Development Plan submittal.

Mr. Wied pointed out a possible typographical error in Table 5.4.1 Parking Space Dimensional Requirement – Standard Spaces. For the 45° Parking Angle, the Depth of Space is listed as 19 feet. It should probably be between 20 and 22 feet. (*After some research, the Department decided to make this measurement 21 feet.*)

Mr. Giordano stated that he would look into that entry – it does look like it could be a mistake.

Mr. Pullen noted that there are a lot of over-sized trucks in this community.

Ms. Jackson asked if he has a suggestion.

Mr. Pullen answered no. I brought it up as food for thought because this is an agricultural community and a lot of folks drive pickup trucks. I don't know if there is anything you can do about it. It would not be practical to put in a section of parking spaces specifically for trucks.

Mr. Giordano noted that the real problem you would run into is how you would keep them from parking in a regular space. Who would be willing to enforce that? You would have to make all spaces larger to accommodate trucks.

MOTION

Mr. Wied moved to approve the proposed amendment to the Fremont County Zoning Resolution as written, with the following additions:

The Planning Commission recommended adding the following amendments to be consistent with the proposed change to Section 4.1.4.26:

1.5 DEFINITIONS:

1.5.2 ACCESSORY BUILDING OR USE:

1.5.2.5 Single-family dwelling accessory use examples, not limited to the following personal uses such as garages, storage sheds, greenhouses (*non-commercial*), gardens, trees, swimming pools, pets, home occupation (*refer to 5.2.1 through 5.2.5 of this Resolution for requirements*), towers and antennas, (*non-commercial*) that do not exceed ~~one hundred (100)~~ **fifty (50)** feet in height, Small Wind Energy System that does not exceed ~~one hundred (100)~~ **fifty (50)** feet in height (*refer to 5.2.7 of this Resolution for requirements*).

5.2.7 WIND ENERGY SYSTEM, SMALL – REQUIREMENTS:

5.2.7.1.3 The height of the System generator, including blades, shall not exceed ~~one hundred (100)~~ **fifty (50)** feet. Any System that will exceed ~~one hundred (100)~~ **fifty (50)** feet in height shall only be allowed through the issuance of a Special Review Use Permit.

In order to provide some flexibility in the regulations, the Planning Commission recommended adding the following sentence at the end of Section 5.3.1 General, below the table containing the minimum required parking spaces by use:

The applicant may submit an alternate general parking plan, with justification, for consideration and approval by the Planning Commission and Board of County Commissioners.

In order to provide some flexibility in the regulations, the Planning Commission recommended adding the following sentence below Table 5.4.2 Parking Space Dimensional Requirements for Compact Spaces:

The applicant may submit an alternate plan for the dimensional specifications for standard spaces and /or compact spaces, with justification, for consideration and approval by the Planning Commission and Board of County Commissioners.

SECOND

Mr. Fey seconded the motion.

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

NOTE: After the motion, per Mr. Wied's comment regarding a possible typographical error in Table 5.4.1 Parking Space Dimensional Requirements – Standard Spaces, the Department changed the Depth of Space for a 45° Parking Angle to 21 feet.

ADJOURNMENT

Chairman Alsup adjourned the meeting at 5:37 p.m.

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

DATE

DRAFT