

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
APRIL 7, 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. March 3, 2015 Planning Commission Meeting

5. UNFINISHED BUSINESS

NONE

6. NEW BUSINESS

REQUEST: CUP 15-001 PHILLIPS RANCH PROPERTY GRAVEL PIT #2 (MAJOR MODIFICATION TO CUP 97-003 PIONEER SAND AND GRAVEL)

Request approval of a Conditional Use Permit, Department file #CUP 15-001 Phillips Ranch Property Gravel Pit #2 (Major Modification to CUP 97-003), which will add one-hundred and thirty-five (135) acres to the existing Conditional Use Permit Area, which contains forty (40) acres, by Pioneer Sand Company Inc., for property owned by Hardscrabble, LLC. The existing use is for a gravel mine and aggregate production operation, a crushing facility and possible asphalt and cement batch plant. The property is located on the north side of Fremont County Road #19 (aka Siloam Road) approximately five (5) miles southeast of the intersection of Colorado Highway 67 and Fremont County Road 19, southeast of the City of Florence. The actual mine site is approximately two-hundred (200) feet north of the intersection of the mine access road and County Road 19. The property is located in the Agricultural Forestry Zone District and contains one-hundred and seventy-six (176) acres, including access road.

REPRESENTATIVE: Angela Bellantoni Ph.D., Environmental Alternatives, Inc.

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 3:03 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 7, 2015 Fremont County Planning Commission Meeting Agenda.

MOTION

Mr. Larry Baker moved to accept the April 7, 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 MARCH 3, 2015 PLANNING COMMISSION MEETING MINUTES**

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

MOTION

Mr. Baker moved to accept the March 3, 2015 Fremont County Planning Commission Meeting Minutes as written.

SECOND

Mr. Brown 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**

7. **REQUEST: CUP 15-001 PHILLIPS RANCH PROPERTY GRAVEL PIT #2 (MAJOR MODIFICATION TO CUP 97-003 PIONEER SAND AND GRAVEL)**

Request approval of a Conditional Use Permit, Department file #CUP 15-001 Phillips Ranch Property Gravel Pit #2 (Major Modification to CUP 97-003), which will add one-hundred and thirty-five (135) acres to the existing Conditional Use Permit Area, which contains forty (40) acres, by Pioneer Sand Company Inc., for property owned by Hardscrabble, LLC. The existing use is for a gravel mine and aggregate production operation, a crushing facility and possible asphalt and cement batch plant. The property is located on the north side of Fremont County Road #19 (aka Siloam Road) approximately five (5) miles southeast of the intersection of Colorado Highway 67 and Fremont County Road 19, southeast of the City of Florence. The actual mine site is approximately two-hundred (200) feet north of the intersection of the mine

access road and County Road 19. The property is located in the Agricultural Forestry Zone District and contains one-hundred and seventy-six (176) acres, including access road.

Mrs. Angela Bellantoni introduced the applicant, Mr. J. R. Phillips, the property owner and Mr. Mike Osborn with Pioneer Sand Company. Mr. Phillips and his brother started the gravel pit in 1997 and Pioneer Sand came in as the Operator. She explained that this is an expansion of the acreage only. There will be no changes in employees, truck traffic or productions. The current reserve is mined out so instead of doing more expansions in the future, Pioneer Sand is requesting to encompass the reserve of target which is top eight (8) to fifteen (15) feet that is top area on the mesa; he just wants the gravel. Below that level is clay which would not be good for the operation. She stated that they have worked extensively with Colorado Parks and Wildlife because there is a very small fish called the Redbelly Dase, which is endangered, in what is left of Low Back Creek. There won't be any mining activity within either, the one hundred fifty (150) foot setback from the center of the creek, outside the flood plain, or the extent of the reserve; whichever is the furthest or more restrictive. The other issue is Siloam Road (County Road 19). There are two proposals, one for the use of the road that has been used, Siloam Road through Sumo, and the other is to use the southern route to County Road 106 and then to Colorado State Highway 67. The south route recommended by the City of Florence, if Planning Commission concurs it will increase the cost to the Applicant because it will increase the truck route from 2.6 miles to 6 miles.

Mr. Dennis Wied asked for clarification regarding the 2.6 miles vs. the 6 miles.

Mr. Giordano stated that if the mine traffic continues to use the route through the Sumo Subdivision then the route will only be 2.6 miles. Using County Road 19 south toward Wetmore then coming back across County Road 106 extends the length of hauling to get back to Highway 67.

Dr. Bellantoni stated that it is Pioneer's intent to proceed north as they have in the past, since 1997. They are working with Mr. Patterson from the City of Florence and Mr. Adamic on how to improve that road to make it safe for everyone and what their responsibilities are.

Mr. Gardner Fey inquired about how big the dump trucks are.

Dr. Bellantoni stated that they are twenty-five (25) ton load; typical aggregate trucks.

Mr. Fey inquired if there is another gravel pit in the area that uses the same roads.

Dr. Bellantoni stated there is, and that they were permitted to work in the flood plain in the Hardscrabble steam bed.

Mr. Fey inquired about what the other company's volume is compared to Pioneer's.

Mr. Michael Osborn with Pioneer Sand stated that it is about the same.

Mr. Fey stated that Pioneer is getting hit for the roads then and the other company isn't.

Mr. Giordano stated that the other company does have to pay something either in a fee or in gravel.

Mr. Fey inquired if the Low Back Creek runs or if it's just pools of water.

Mr. J.R. Phillips stated that it is a wonderful creek that runs year round.

Mr. Michael Pullen inquired what the current volume of material being hauled out of the mine is on a monthly basis.

Mr. Osborn stated that in 2014 they hauled about forty thousand (40,000) tons out. He also stated that prior to 2014 they haven't hauled out of the quarry in the past seven (7) years. They are looking at probably (50,000) tons or less per year out of that quarry.

Mr. Pullen inquired if Pioneer is just screening material right now.

Mr. Osborn state that they are.

Mr. Pullen inquired if they have any intent in the future to put a crusher or any other mechanical means.

Mr. Osborn stated not at this time. If they did that then they would have to get into different markets and there are too many crushers in Fremont County to compete with that. Pioneer screens the material that is a brown river rock and takes most of it into Pueblo, Colorado Springs, they sell some down here obviously, and the Denver market. They don't crush it because then it becomes just like everyone else's.

Mr. Pullen inquired if Mr. Osborn would characterize the intent over the life of this mine is not to have mechanical means out there.

Mr. Osborn confirmed that is correct. He stated that it is all self-contained, portable units that bounce around to a couple of quarries here.

Mr. Wied stated that he read in the packet that the reclamation is ongoing and is done in twenty (20) acre portions. He inquired if there has been reclamation done on the existing area.

Mr. Osborn stated that there hasn't because the footprint isn't that large.

Mr. Wied inquired if when they begin the mining process if they stockpile the over burden to use for the reseeded or restoration.

Mr. Osborn confirmed that is what they do.

Mr. Wied stated that within the weed management plan there are some photographs of some pretty extensive coverage of tamarisk or salt cedar. He also saw pictures of the Tamarisk Beetles and he knows those things work.

Mr. Phillips stated that the tamarisk had migrated from Hardscrabble up to the pit. A lot of the smaller plants were removed and it was recognized that a lot of the mature plants were infested with the Tamarisk Beetle which kills the Tamarisk.

Mr. Wied inquired if the smaller growths of Tamarisk have been removed.

Mr. Phillips stated that all of them have been removed from the pit.

Mr. Pullen stated that there is a letter from the Colorado Division of Reclamation and Mining (DRMS) which lists a hearing for Pioneer Sand that is scheduled for June 11, 2015. What information can Mr. Osborn provide the Commission concerning the hearing?

Dr. Bellantoni stated that the notice states that the decision is scheduled for that date.

Mr. Pullen inquired if the hearing in anyway affects what is being discussed today.

Dr. Bellantoni stated that the hearing will only occur if there is any opposition. If there isn't any opposition during the review then the State has to either approve or deny the application.

Mr. Pullen inquired what if there are issues that come along before that date.

Dr. Bellantoni stated that they will resolve them, just like they did the roads and the Redbelly Dase. That is what the process is for, mitigation of the issues.

Mr. Mike Patterson, the City Manager of Florence, stated that they have had meetings not only Pioneer but also the Sumo Corporation who does have a stake in this as part of the road that goes through the subdivision is privately owned by Sumo. We need to make sure the applicant is on board with our request. It appears that we will be able to work through this. The City of Florence thinks that this is something that can be resolved; it would be ideal to have a little more time but they feel pretty good that they will be able to come to a conclusion with something that is beneficial for the citizens of Florence, Pioneer and the Sumo Corporation. Subsequently it would benefit the County because, yes it is 6 miles longer routing them southward to County road 106. Really it's about an extra 10.8 miles which is a substantial burden on Pioneer. Some of the switchbacks on the county road are not particularly conducive to the size of trucks they use. Obviously the City of Florence has some concerns about the condition of our roads as we put in our letter but we do believe that we are going to be able to come to a conclusion with Pioneer and Sumo to make sure that this works for all parties, including the County and ourselves.

Mr. Pullen stated that when he read Mr. Patterson's letter he was alarmed by it.

Mr. Patterson stated that what he is hoping for is that from his prospective, he'd love to see a tabling of the issue for a short period of time to give them time to finalize the issue. Then we may be able to come back and remove our letter.

Mr. Pullen stated that he thinks that the request is a valid one given that Florence's concerns are so great.

Mr. Patterson stated that after their conversations with Pioneer, they do believe that Pioneer is willing to address it for Florence. He stated that Mr. Adamic shared his concerns about the cost of maintenance for Pioneer to go the other direction as well. Mr. Patterson thinks that they can all work something out; obviously Sumo has a stake in it too.

County Attorney Jackson inquired if the City of Florence has had any response from Colorado Department of Transportation (CDOT).

Mr. Patterson stated that he has not but probably will tomorrow morning.

Mr. Wade Broadhead, Florence Planning Director, stated that Mr. Patterson and he have inherited a lot of decisions that were made and they are trying to make the best out of it. He believes that there were temporary access permits that were granted but have expired; they may somehow be able to get them back or a temporary access permit to get a different road built. It is just not a good land use idea to have the big trucks going through a residential subdivision.

Mr. Patterson stated that he believes that they have to be realistic. He doesn't believe that they are going to get anything from CDOT but they are going to try. Florence will have to approach it as a long term solution that they are hoping they can add and see that maybe sometime late 2015, or in 2016 or 2017. Florence hasn't had that discussion with Sumo yet either because one of the dilemmas is that Sumo has to do all of their utilities and all the undergrounds. Florence would love to see some kind of temporary road go through there, but that is so far out there that they can't make the Planning Commission any kind of guarantee about it.

Mr. Pullen stated that what he understands is that Florence wants a little more time to discuss this issue. And is that Mr. Phillips and Pioneer are willing to participate.

Mr. Patterson stated that they are all on the same page, they just need a little more time.

Mr. Wied stated that CDOT's involvement in this has to do with Highway 67.

Mr. Patterson stated that the CDOT piece is long range. Right now we have to settle this amongst us, Pioneer, FCDOT, and Sumo. If we get lucky and CDOT decides to work with it then we can try to tackle that.

Mr. Giordano inquired if the access permit that Mr. Patterson mentioned, was that the one that would run straight to the west to Highway 67 instead of through Bear Paw and Sumo.

Mr. Patterson confirmed that it was and it would be nice, however the dilemmas is that if he is going to go to CDOT and get that reopened then Florence has to make some promises about what traffic will be warranted and that it really is a legitimate amount of volume. Right now that is the sticking point for the issue. Right now he doesn't think that they can justify it by the truck traffic but if the housing takes off in Sumo and there are a bunch of new houses with a bunch of new trips then it could happen. Now, on the other side of Highway 67 there is a new development that may be going there which would create some new trips that might help to get that intersection opened.

Mr. Pullen inquired that if the Planning Commission tabled this application... Dr. Bellantoni cut him off.

Dr. Bellantoni stated that they don't want the application tabled, they just to defer this resolution because they are so close. She believes that they will have a resolution prior to the Commissioner's meeting.

Mr. Pullen stated that with all due respect, the Planning Commission is going into some discussion and one of the issues before us is to table the application.

Mr. Baker asked Dr. Bellantoni if the Planning Commission tables this, tell me what the problem is.

Dr. Bellantoni stated that Pioneer is running out of material. He's down to a half acre and could run out of material.

Attorney Jackson stated that there is a lot more history to the road and she thinks the Planning Commission needs to hear it.

Mr. Osborn stated that when Pioneer put the gravel pit in there they used the old Siloam Road, there was no issue. When they put the Sumo development in, they moved the access, we didn't choose to go through Sumo. The access from Siloam Road, County Road 19 was abandoned as the golf course replaced the road. The old County Road to the west is still there. By closing the old Siloam Road it forced us to travel through the Sumo development. That is why Pioneer is stuck between a rock and a hard spot; we were forced to travel through the development but now it has become our problem. When Pioneer permitted that quarry we had a county road to drive down just like every other quarry does. We want to be a good neighbor, we want to work it out with the City of Florence, and we want to work it out with the County. Are we going to have to pave the entrance through the Sumo development? No. We don't bring the kind of volume out to justify that, but we are willing to contribute something to the City of Florence and contribute something to the County, but we still haven't gotten a distinctive answer to who is really responsible for that road.

Chairman Alsup stated that he wishes that the Planning Commission would have had this information in their application packets. He thinks it would have been helpful.

Attorney Jackson stated that Siloam Road was not going to be closed. There was a dispute for several years over closing the northern end of Siloam Road so that Bear Paw could have a legal access from CDOT from Highway 67. Ultimately the county road got closed but there was supposed to be a compromised part from either Sumo or Florence or both to change the road because the Commissioners at the time had a lot of complaints from ranchers who couldn't get trucks with hay or cattle out through Sumo. There was a lot of dispute and there was supposed to be a bypass or something constructed in order to accommodate truck traffic that was already using Siloam Road. Well that end of Siloam Road got closed and no alternate route was ever built. That is not the fault of the people who were using the county road. The fact of the matter is, the people had a lawful access on Siloam Road all the way through to the highway and because of an agreement to which they were not a party now there is a problem and they are being diverted through Sumo or Bear Paw which was never the original agreement but because no one ever followed through Siloam got closed by CDOT and a reasonable truck route did not get constructed.

Chairman Alsup stated that all of that information really helped. He stated that he thinks that the Planning Commission and Dr. Bellantoni are talking about two different kinds of tabling. The Applicant does not want us to table the whole application and then Mr. Patterson comes out requesting the tabling of the application. He inquired if Mr. Patterson is willing to move the application, however the applicant must have the issues resolved prior to the County Commissioner's public hearing.

Mr. Patterson stated that he has a solution that will work for everyone. Right now there is a certain volume of traffic which will not be exceeded. If Pioneer agrees that they won't exceed their current volume while this is being worked out, we should be able to have something worked out by the end of this week but certainly before the Commissioner's meeting. Then the County Commissioners can have the final say.

Mr. Osborn stated that right now they are only hauling out of the property once a week.

Mr. Pullen inquired if Mr. Osborn will be doing that for the next month.

Mr. Osborn state that they would.

Mr. Pullen stated that he sees the position this puts Pioneer in, it was good to have the history of the road. He stated that it sounds like everyone is trying to work this out.

Mr. Patterson stated that they all are. The City of Florence doesn't want to shut Pioneer down, we want to work through this.

Mr. Pullen stated that he still thinks it's important for the Planning Commission, if they are approving this item, that we make sure that there is a good legal access.

Mr. Giordano stated to the Planning Commission that they can make the roadway access a contingency item that gets resolved prior to the Commissioner's meeting, that way it doesn't delay them. They already have access now, it's just whether they contribute or not so it's not an issue that they don't have access. The agreement is going to be the same anyway whether it's present to the Planning Commission or to the Commissioners.

Mr. Baker inquired of both, Mr. Osborn and Mr. Patterson, of how long they think it will take for them to get together and come up with some kind of agreement. He told them both that the Commission is not against this project.

Attorney Jackson stated that based on everything that's been said and everything that is recommended, there isn't any strong objection. Florence is not asking for anything unreasonable.

Mr. Wied stated that it can be included as a contingency.

Mr. Giordano stated that the Planning Commission can ask to have it done before the Commissioner's meeting or you can pass it to the Commissioners and if it hasn't been done, then they can table it.

Attorney Jackson stated that there is a political element to this. She's not sure what the Commissioners are going to consider or what they want to consider with respect to the roads but they are aware of the history that she gave.

Mr. Wied stated that earlier Dr. Bellantoni had referenced the additional notifications and said that there were four (4) of them still not done. Which four (4) are you referring to?

Dr. Bellantoni stated that she finally understands why that list is so long. It is because the letter contains the date of the Public Hearing. She is fine with that now that she understands why these notifications go out.

MOTION

Mr. Wied moved to recommend approval of CUP 15-001Phillips Ranch Property Gravel Pit #2 (Major Modification to CUP 94-003 Pioneer Sand and Gravel) including Approval Criteria A1-A7subject to the following:

RECOMMENDED CONDITIONS:

- A. The term of the Conditional Use Permit shall be for life of the use in conjunction with the existing Pioneer Sand and Gravel Mine. **The applicant's justification for life of the use is the subject property is remotely located in an area that is historically mining and ranching.**
- 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/owner 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/owner 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. Applicant/owner 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 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.

- G. If a Conditional Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- I. The applicant/owner shall provide the Department with a copy of the updated lease, prior to expiration which is December 1, 2024.
- J. Days and hours of operation will be limited to Monday through Friday, from 7 am to 6 pm and 8 am to 5 pm on Saturday, except in the case of materials needed in emergency situations.
- K. The applicant/owner shall notify the County within five (5) working days of any emergency operation starting.
- L. Prior to operation the applicant/owner shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan.
- M. The applicant/owner shall comply with the recommendations from Colorado Parks and Wildlife as noted in Jim Aragon, Area Wildlife Manager's, letter submitted with the application.
- N. The applicant/owner shall comply with the requirements as per the Fremont County Department of Transportation as per email dated March 11, 2015.
- O. Provide a copy of the following approved permits, licenses or the like, prior to mining of the additional CUP property. *(If not required provide documentation from the listed entity that the following item(s) is not required prior to the use of the expansion area.*
 - 1. Approved copy of the Colorado Department of Public Health and Environment, (CDPHE) Air Quality Control Division, Fugitive Dust Permit and APEN permit(s). Submitted and approved by CDPHE.
 - 2. Approved copy of the Colorado Department of Public Health and Environment, Water Quality Control Division, Storm Water Management Plan and Discharge Permit. In review.
 - 3. A copy of the approved Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety, Reclamation Permit. Request for a change from a 110 permit (less than 10 acres) to a 112 permit (acreage not limited) was submitted to the Division on 3-25-15.

4. A copy of MSHA number. Issued (05-04786).
- P. 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.
 - Q. 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.
 - R. A Conditional 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:

It is recommended that this item be 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. Copy of the recorded deed from William Phillips to Hardscrabble LLC.
2. Compliance with the requirements of the County reviewing engineer as per his letter dated March 11, 2015.
3. Documentation as to compliance with the requirements of the Fremont County Environmental Health Officer as per the memo dated February 19, 2015.

The Planning Commission added the following Contingency:

4. A resolution regarding the road issue between Pioneer Sand, the City of Florence, and Fremont County Department of Transportation prior to the Board of County Commissioners Public Hearing.

ADDITIONAL CONSIDERATION

1. Determine whether applicant shall be allowed to operate outside the hours of operation for emergency operations. If allowed, the applicant shall notify Fremont County Department of Planning and Zoning within at least five (5) days after the beginning of emergency operations.

- Determine whether the recommendations of the City of Florence, letter dated March 5, 2015, shall be required of the applicant.

WAIVER REQUESTS: The applicant is requesting a waiver of the following:

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. 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's justification for the waiver request of the buffering and landscaping is that the proposed site is very remote, not warranting landscaping.

- 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's justification for the waiver request of the hard surfacing of the parking area is that the parking area will follow the active mine area, therefore, hard surfacing isn't practical for this operation.

- 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.

The applicant's justification for the waiver request of the lighting of the parking area is that the site will operate during daylight hours except in case of an area emergency. In the event of an emergency, temporary lighting will be used to provide safe working

conditions as required by MSHA.

4. **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's justification for the waiver request of the landscaping of the parking area is that the proposed site is very remote, not warranting buffering and screening of the parking area.

ADDITIONAL NOTIFICATION CONSIDERATIONS

In addition to the regulatory required notifications (*property owners within 500 feet of the CUP 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. Fremont County Department of Transportation
2. Fremont/Custer Historical Society
3. Colorado State Historic Preservation Office
4. Colorado Parks & Wildlife
5. Fremont County Sheriff
6. City of Florence Planner
7. The Colorado Nature Conservancy
8. Colorado Department of Transportation

SECOND

Mr. Gardner Fey seconded the motion.

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

ADJOURNMENT

Chairman Alsup adjourned the meeting at 4:05 p.m.



CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

6-2-15

DATE