

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
JUNE 1, 2010**

CHAIRMAN DEAN SANDOVAL BROUGHT THE JUNE 1, 2010 MEETING OF THE PLANNING COMMISSION TO ORDER AT 4:00 P.M.

**MEMBERS PRESENT**

Dean Sandoval, Chairman  
Tom Doxey  
Daryl Robinson  
Mike Schnobrich  
Byron Alsup  
Joe Caruso

**STAFF PRESENT**

Bill Giordano, Planning Director  
Vicki Alley, Planning Assistant

**MEMBERS ABSENT**

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**1. APPROVAL OF THE APRIL 6, 2010 PLANNING COMMISSION MEETING MINUTES**

**2. REQUEST: SRU 10-002 VAN DIEST SUPPLY COMPANY DISTRIBUTION CENTER**

Request approval of a **Special Review Use Permit, Department file #SRU 10-002 Van Diest Supply Company Distribution Center**, (*distribution center*) for the operation of a crop protection products (*herbicides, drift and deposition management products, adjuvant and utility products*) distribution center, by Peterson Construction for Van Diest Supply Company. The property is located *on the west side of Colorado State Highway 67, approximately 0.9 miles south of the intersection of U.S. Highway 50 and Colorado State Highway 67, north of Florence, Colorado and west of the Fremont County Airport. The property is described as Lot 39, Airport Industrial Park, Filing No. 1, located in the Industrial Park Zone District and contains 7.78 acres.*

**REPRESENTATIVE:** Joe Gagliano, Gagliano Engineering, Inc.

**3. REQUEST: SRU 10-001 AT & T WIRELESS FACILITY MEDIAN POINT (TOWER)**

Request approval of a **Special Review Use Permit, Department file #SRU 10-001 AT & T Wireless Facility Median Point (Tower)**, by **AT & T Wireless**, to allow for the installation and operation of antennas on a one-hundred and fifty (150) foot monopole, which will contain six (6) dual broadband antennas, six (6) amplifiers, 12 coax, an equipment shelter, an ice bridge, a GPS antenna, a base station antenna (component of the E911 emergency system) and a utility meter mounted to a steel H frame and a microwave dish antenna. Access to the site will be via a twelve (12) foot easement from State Highway 115. The property is generally located on the westerly side of Colorado State Highway 115 approximately 5.5 miles northeasterly of Fremont County Road F 45, along Colorado State Highway 115 or 2.9 miles southwesterly, from the Fremont/El Paso County line, along Colorado State Highway 115. The tower and associated items will be located within a fifty (50) foot by fifty (50) foot two-thousand-five-hundred (2,500) square foot lease area inside a 353.969 acre parcel which is owned by Colorado State Board of Land Commissioners. The property which will house the tower is vacant and is zoned Agricultural Forestry.

*REPRESENTATIVE: Liz Walker, Black & Veatch.*

**4. REQUEST: SRU 10-003 INNOVATIVE STRUCTURES**

Request approval of a **Special Review Use Permit, Department file #SRU 10-003 Innovative Structures, by Devon Eicher**, to construct garages, sheds, gazebos, decks and agricultural buildings (light manufacturing), in the Business Zone District. The property contains a pole barn, a metal shop, an office and a number of displays that are for sale. This property also was granted an SRU for an AT & T antenna tower. The property is located *at the northwest corner of the intersection of U.S. Highway 50 and N Street in the Beaver Park Area*. The property is zoned Business and contains 4.59 acres.

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

**5. REQUEST: SRU 10-004 RIVER MOUNTAIN RECREATION**

Request approval of a **Special Review Use Permit, Department file #SRU 10-004 River Mountain Recreation, by River Mountain Recreation, LLC**, to allow seasonal camping on the property for the employees of the existing rafting business (Seasonal Employee Housing), which is a special review use in the zone district. The property contains a rafting office, a bathroom, a pond, 2 covered dressing areas, a pergola and a portable guest toilet. The property is located *on the west side of County Road 3A, 0.25 miles south of U.S. Highway 50 in the Eight Mile Hill Area*. The property is zoned Rural Highway Business and contains approximately 20 acres.

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

**6. PROPOSED 2<sup>nd</sup> AMENDMENT TO THE FREMONT COUNTY ZONING RESOLUTION**

Request approval of a proposed amendment which would add the following regulations to the Zoning Resolution:

- a. Commercial Wind Energy System
- b. Small Wind Energy System
- c. Contractor's Yard or Building

*REPRESENTATIVE: Fremont County Department of Planning & Zoning*

**7. DISCUSSION ITEMS**

Discussion of any items or concerns of the Planning Commission members.

**8. ADJOURNMENT**

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Chairman Sandoval called the meeting to order at 4:00 pm and the Pledge of Allegiance was recited.

**1. APPROVAL OF THE APRIL 6, 2010 PLANNING COMMISSION MEETING MINUTES**

Chairman Sandoval asked if there were any changes, additions or corrections to the April 6, 2010 Fremont County Planning Commission Meeting Minutes.

## **MOTION**

Mr. Schnobrich made a motion to accept the April 6, 2010 Fremont County Planning Commission Meeting Minutes as written.

## **SECOND**

Mr. Alsup seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously.

## **2. REQUEST: SRU 10-002 VAN DIEST SUPPLY COMPANY DISTRIBUTION CENTER**

Mr. Joe Gagliano, Gagliano Engineering, Inc., was present to represent Peterson Construction to request approval of a Special Review Use Permit (SRUP), Department file #SRU 10-002 Van Diest Supply Company Distribution Center, for the operation of a crop protection products (herbicides, drift and deposition management products, adjuvant and utility products) distribution center, for Van Diest Supply Company. The property is located on the west side of Colorado State Highway 67, approximately 0.9 miles south of the intersection of U.S. Highway 50 and Colorado State Highway 67, north of Florence, Colorado and west of the Fremont County Airport. The property is described as Lot 39, Airport Industrial Park, Filing No. 1, located in the Industrial Park Zone District, and contains 7.78 acres.

Mr. Gagliano stated that the proposal is for a 25,000 square foot warehouse with a small office in front, out near the airport, Lot 39, Airport Industrial Park, Filing No. 1, at the south end of the lots on the west side of Highway 67. The site is just south of the I.C.E. Facility (*Immigration and Customs Enforcement Office of Detention and Removal – Fremont County*) which was completed last year. We are requesting the SRUP because we are using a warehouse for a distribution center in the Industrial Zone District. We have been working with (*Fremont County*) staff for the past two months or longer, when the owners were involved with purchasing the property from the County. We have a Colorado Department of Transportation (CDOT) access permit for the property, and a Stormwater Discharge Permit for the construction operations. We have been working with Mr. Don Moore, the Fremont County Engineer. We received a letter today from Mr. Moore with a couple of minor comments that we need to address. We have also been working with the City of Florence on the water supply issues. I believe we have those issues worked out at this point. We have reviewed the staff comments and have no issues with any of the recommended contingencies.

Mr. Giordano showed a video of the area and commented on some of the recommended conditions. The term of the permit will be for the life of the use. Days and hours of operation will be unlimited. Documentation is required of the purchase of a water tap from the City of Florence. A weed control plan is required, to be approved by the Fremont County Weed Coordinator. The Fremont County Engineer comments, which have already been mentioned, include some minor items that need to be addressed. We received another letter from the City of Florence dated May 10, 2010. The applicant will be required to comply with the requirements in that letter. I ask that if the Planning Commission votes to approve this application, you add a condition requiring documentation from the City of Florence as to compliance with those requirements.

Mr. Giordano discussed the recommended contingency. There is a retention pond on site, and a number of ditches and drainage facilities, so a quit-claim deed will be required, to ensure that the applicant is responsible for the maintenance of those facilities.

Mr. Giordano also noted the recommended additional notifications and the requested waivers. The applicant is requesting waivers of buffering and landscaping requirements, with the justification that the site is surrounded by commercial and industrial properties and no screening will be necessary. He noted that a waiver of hard surfacing was not requested because the parking area and driveway will be paved. With regard to the lighting requirements for the parking areas, the justification for the waiver request is that Van Diest has similar distribution centers across the country, and the lighting supplied by the fixtures attached to the warehouse and the office building provides adequate lighting to the parking area.

Chairman Sandoval asked if there were any questions of the Department or of the applicant.

Mr. Alsup asked if there are any chemicals such as pesticides or herbicides that, in the event of a fire, will present a hazard to firefighters or to the school, which is not too far downwind from the proposed location.

Mr. Gagliano referred the question to Mr. Joel Peterson, of Peterson Construction, who is more familiar with these projects because he has built seven or eight of them around the country.

Mr. Peterson stated that Peterson Construction Company is from the same hometown as Van Diest Supply Company, which is located in Webster City, Iowa. Peterson Construction is the contractor (*for the construction*), and not on the operation side of the business, but with the regulations through the EPA, the nasty possibilities have been removed. If there is any kind of a spill, there is just a mess. There is a very low risk of any fire. That is why we have been approved for a normal S-1 type construction. If the operation was more hazardous, we wouldn't be able to be in that type of construction permit. No, there is not a concern there for fires, any more than any other type of warehouse fire.

Mr. Alsup asked if there has been any history of spills.

Mr. Peterson answered that the company (*Van Diest*) has an excellent history. They are 9001 ISO approved, so they have an excellent safety record. I am not aware of any spills at any other distribution centers, and we have constructed about a dozen of them.

Mr. Doxey asked if they flush their tanks out (their semi-trailers) at that site.

Mr. Peterson answered no, absolutely not. This particular facility, at this time, will not have any bulk product delivered to or taken away from the site. The product will all be pre-packaged materials that come in palletized. Full pallets come in, and then they will break down the pallets according to the orders. There will not be any repackaging at this facility.

Chairman Sandoval asked Mr. Giordano about Condition J – “Applicant shall provide to the Department documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan.” There is no Weed Control Plan in the information packet for this application or any other application we have today. Is this something we can assume is going to be done or should it be included in the packet?

Mr. Giordano answered not necessarily. Some applicants provide a weed control plan ahead of time. Normally we send a referral to Mr. J.R. Phillips, the Fremont County Weed Coordinator. Since the Commissioners have been requiring a weed control plan, we have made it a condition of the permit. I don't have any expertise in weed control at all, so I see no reason why I would want to look at the plan, but I think this issue is important enough that we have a plan in place prior to operation. In this case, Peterson Construction is building already, but they still have

time (*to prepare the plan*) because when they do the final landscaping, before they open for business they will have to have that plan in place, approved by the Weed Coordinator. We can make this process happen up front, but that would be another delay. In a lot of cases, Mr. Phillips works with the applicant in the field and does field inspections. If we require a plan up front, it would just make the process more difficult. It is your choice if you want to review the plan as part of your approval.

Ms. Alley added that because the weed control plan is a condition, every year at the annual review time of the SRU, we check with Mr. Phillips to make sure that there are no noxious weeds.

Mr. Giordano stated that it doesn't matter if we have a plan in place prior to approval because the plan is required to be in place on a yearly basis. If you feel the plan is pertinent to your approval and you should see it, then we will change the process to make sure that the applicant provides it up front. We always make a mining applicant provide the reclamation and mining plan up front, because it is critical that you know what the final land use is going to be. We did not put as much weight on weed control.

Mr. Joe Caruso said that maybe the cart has been put before the horse. We are here today for an SRU, but they have already begun construction. How often does this happen? Why has this been allowed to happen? I have no idea how this will go, but if you are really enforcing the regulations, the applicant could go this far and potentially be denied.

Mr. Giordano stated that the Board of County Commissioners (BOCC) issued the building permit as the Department could not approve it due to the SRU being a requirement. There was some confusion as to whether an SRU was required, and there might have been some misinformation given to the applicant. Due to the confusion and time constraint, the Commissioners didn't want further delay so the building permit was issued.

Mr. Caruso said that, to my knowledge as a representative of the City of Florence, there hasn't been documentation of a water tap. Once again, the County has issued a building permit in an area that has been known for some headaches, without proof of water.

Mr. Giordano said I believe that the Building Department issued a foundation only permit. This may not change the complexion of the issue.

Mr. Doxey stated that happened with I.C.E. too, up the street. I watched that building under construction for several months before we gave them permission to build.

Mr. Peterson said he is new to the area and to water rights, but the share in Union Ditch was purchased early on. We talked with the City of Florence very early on to understand what they required for the water tap. The water tap fees have been paid for quite some time.

Mr. Caruso asked if they had proof of the water tap prior to approval being granted for the building permit.

Mr. Peterson answered yes. Preceding the water tap fee was the purchase of the share in Union Ditch, quite some time ago. As part of the purchase agreement between Van Diest and the County, Van Diest wouldn't close on the property until the water tap was guaranteed. We need that water tap for the sprinkler system.

Mr. Caruso asked if it is common for Van Diest to begin construction of a facility prior to getting a SRU.

Mr. Peterson said that is part of the confusion, and part of that is my fault. The requirements were not misrepresented, but when Van Diest purchased the property, they didn't realize that a warehouse or distribution facility didn't meet the definition of an allowed use in the Airport Industrial Park. If we would have recognized that fact sooner, then we would have taken care of all this ahead of time. I understand where you are coming from, and it is unfortunate, but no this is not common practice for Van Diest or for us as a contractor.

Mr. Gagliano said we have been in contact with Mr. Martin Duran, Florence Public Works Director, and we are going to grant the easement for the eight inch water line. The eight inch water line that was bored under the highway, for the I.C.E. Facility runs north / south along the frontage. We are going to extend the easement all the way to the property line. We are also going to extend the easement to the middle part of the building so we can run an eight inch line for a fire hydrant. This will be a public utility easement so that it can be maintained, so they can come in and use the fire hydrant to flush the system. I think in the future they want to extend this water main, but I don't know the details about that.

Mr. Caruso asked if they were going to run that eight inch water line from the north line of the property to the south line of the property, or just to the point of the building.

Mr. Gagliano answered that Mr. Duran hasn't shared with me what the plans are. The property to the south is state property. Without knowing what is going to happen there, that would just be another several hundred feet of pipe to be maintained and flushed.

Mr. Caruso said I believe the thought process with that is to loop it back with the other main on the other side of the highway to even up pressure.

### **MOTION**

Mr. Alsup made a motion to approve SRU 10-002 Van Diest Supply Company Distribution Center with the following:

### **RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of use.
- 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 prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Documentation as to purchase of water tap from the City of Florence, Colorado.
- J. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan.
- K. Documentation as to compliance with the requirements of the Fremont County Reviewing Engineer, as per letter dated April 27, 2010, prior to operation.
- L. Copy of a detailed utility plan which includes approval signatures from all appropriate utility companies servicing the site, prior to operation.
- M. 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.

- N. 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.
- O. 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 8.2 of the Fremont County Zoning Resolution (complete reapplication).

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

- P. Documentation from the City of Florence as to compliance with requirements per letter dated May 10, 2010.**

**RECOMMENDED CONTINGENCY:**

The Planning Commission approval recommendation is contingent upon the following item 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. Copy of an executed quit-claim deed with a deed restriction addressing the maintenance of all drainage facilities, easements, rights-of-way, related structures and/or facilities.

**ADDITIONAL NOTIFICATION REQUIREMENTS:**

In addition to the required notifications the following shall also be notified in accordance with regulations:

- 1. City of Florence Planning Department
- 2. Town of Williamsburg
- 3. Fremont County District 2 County Road Foreman
- 4. Fremont County Airport Manager
- 5. Colorado Department of Transportation
- 6. Fremont County Building Department
- 7. Fremont County Environmental Health Office
- 8. Fremont County Sheriff
- 9. Fremont / Custer Historical Society
- 10. State Historic Preservation Office
- 11. Federal Aviation Administration
- 12. BLM for the Gold Belt Tour National Backcountry Byway

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

**WAIVER REQUESTS:**

- 1. 5.2.6 Buffering & Landscaping Requirements:

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

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

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

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

2. 5.3.3 Lighting: All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.
3. 5.3.4 Landscaping: All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

**SECOND**

Mr. Robinson seconded the motion.

Chairman Sandoval called for discussion on the motion. Hearing no more discussion, Chairman Sandoval called for a roll call vote, and the motion passed unanimously (6 members).

Mr. Gagliano asked if he should address the comments prior to the BOCC meeting, or wait to see if we get any other additional comments?

Mr. Giordano answered that is your choice. You should address anything you feel is pertinent enough to influence the Commissioners' decision; otherwise I don't think you need to.

Chairman Sandoval asked if they need to go over the Approval Criteria.

Mr. Giordano answered that is your choice. For approval, the application has to meet the first seven criteria. The others are additional items that you can consider. The handout is mainly a checklist for your use in reviewing the application.

**3. REQUEST: SRU 10-001 AT &T WIRELESS FACILITY MEDIAN POINT (TOWER)**

Ms. Liz Walker, Black & Veatch, was present to represent AT&T Wireless to request approval of a Special Review Use Permit (SRUP), Department file #SRU 10-001 AT&T Wireless Facility Median Point, (tower) to allow for the installation and operation of antennas on a one-hundred and fifty (150) foot monopole, which will contain six (6) dual broadband antennas, six (6) amplifiers, twelve (12) coax, an equipment shelter, an ice bridge, a GPS antenna, a base station antenna (component of the E911 emergency system) and a utility meter mounted to a steel H frame and a microwave dish antenna. Access to the site will be via a twelve (12) foot easement from State Highway 115. The property is generally located on the westerly side of Colorado State Highway 115 approximately 5.5 miles northeasterly of Fremont County Road F 45, along Colorado State Highway 115 or 2.9 miles southwesterly, from the Fremont / El Paso County line, along Colorado State Highway 115. The tower and associated items will be located within a fifty (50) foot by fifty (50) foot two-thousand-five-hundred (2,500) square foot lease area inside a 353.969 acre parcel which is owned by Colorado State Board of Land Commissioners. The property which will house the tower is vacant and is zoned Agricultural Forestry.

Ms. Walker said this wireless facility will be along Highway 115, just northeast of Penrose. This site will provide coverage in the highway corridor. The 150 foot monopole will be behind a bluff, so the base of the facility will not be seen from the highway, strategically placed to have as little visual impact as possible. The wireless service is a utility and a benefit to the residents and guests traveling along the highway, which allows people to stay in touch with their family members or business colleagues. This communication is important for public safety, especially along this section of the highway, providing service so people can call if there is an emergency. Half of all 911 calls are made from cell phones now. I will answer any questions you have about the facility, the application, and the materials provided.

Mr. Schnobrich asked a question about the actual visual look of the tower. I know that AT&T, as well as other wireless companies; can put up different types of towers. What type of tower are you proposing that will blend with the landscape?

Ms. Walker answered that this type of tower is a monopole. There is a photo simulation in the materials. The facility was designed to come up behind the bluff to serve the highway.

Mr. Schnobrich asked if there are any other poles in that area on which to collocate.

Ms. Walker answered that would be our first choice, because collocation is more cost-effective than developing our own site. We have identified all the towers in the County and our engineer provided a letter explaining that we are already using those towers. This tower is to fill in a coverage gap that we have. To provide rigorous coverage and quality of service, we are locating this facility at this site. We will make the tower available to collocation for other carriers.

Mr. Doxey said 150 feet is fifteen stories. Driving along Highway 115 in the last twelve years, I have seen some aircraft that I swear were lower than 150 feet. These have been mainly helicopters, but there have been a few airplanes. How are you going to counteract that? Will there be some kind of restrictions in that area when you have a tower that is fifteen stories tall?

Ms. Walker answered that because AT&T is a federally licensed company, they have to go through rigorous compliance with federal agencies. One of the agencies is the FAA, and we file with them the initial location and the height, and they either issue a No Hazard letter

saying there is nothing the applicant needs to do, or they will issue certain restrictions. In this case we filed with them and have had a determination of No Hazard, so they have cleared the location in terms of interference with any type of aircraft.

Mr. Doxey asked if the tower will be lighted.

Ms. Walker answered no.

Mr. Schnobrich asked if they are required to notify Fort Carson as well. Sometimes in that area there are some low military training flights.

Ms. Walker answered yes, we notify all the adjoining property owners.

Chairman Sandoval asked about the visual impact. What color is the tower going to be?

Ms. Walker answered right now we haven't designated a color. If Fremont County has a suggestion that it be painted a certain color, we would comply with that. I think the default is standard color is aluminum. There is a tower that is painted green on Highway 115 by the mobile home park northeast of this location. Sometimes we paint them blue. Whatever is recommended, we would be happy to comply.

Chairman Sandoval said I know we will be addressing this with wind generating towers and there is some mention as to actual appearance in the amendment we will be looking at. We are not necessarily talking about apples to apples, because this is an antenna, but do you see how we might be able to incorporate some type of color scheme or recommendation?

Mr. Giordano answered that is in the regulations now, under Special Review Use Permits. It is under the additional items for granting the special review, (C5) "Design of tower, with particular reference to characteristics that have the effect of reducing or eliminating visual obtrusiveness." Also in the Department Review, under Additional Consideration, "Determine options as to reducing or eliminating visual obtrusiveness, i.e. color, etc." Applicant has noted that the structure placement will reduce the visual impact as only the top of the facility will be visible from the highway. I noted that you can see a photo simulation in the packet. For the last couple of towers that have been approved, the one at Highway 50 and M Street was painted green, and the one in the Copper Gulch area was required to be painted tan (earth color). It is your choice. I included that as a consideration, so that if you make a motion you can address that. If you don't specify a color, then it will be the aluminum color.

Chairman Sandoval clarified - we can ask for a color that is compatible with the background.

Mr. Giordano answered yes, you have that option. You have the option of any color. If you recall, one application for a tower had a photo simulation that looked like a tree, or brown, blue, green, or earth tones.

Chairman Sandoval said I assume AT&T is accustomed to going through color swatches, so to speak, to blend in with whatever terrain happens to be in the background.

Ms. Walker answered yes. We could make an analysis and bring color swatches to present them to the Planning Department.

Mr. Giordano showed a video of the proposed site which gave a general idea of the area. He summarized the recommendations, and specifically discussed recommended Condition A –

“Special Review Use Permit shall be issued for life of the use.” The lease is for an initial five year term with a ten year renewal term; however, AT&T is still seeking a life of the use permit because they intend to extend the lease prior to any expiration. To avoid any interruption in phone service, a life of the use permit is requested. The Applicant’s reasoning for term of permit is that an interruption in phone service in this remote area could result in the inability of someone to reach emergency services to report an accident or other type of emergency. If the Planning Commission wants to recommend something different than life of the use, they will have to change that (*in the motion*). Recommended conditions B through G are standard conditions. The days and hours of operation shall not be limited. Obviously, the tower would be there all the time. The Sheriff did a review of this application and asked that they maintain a minimum of thirty feet of defensible space with no burnable materials inside the space, which shall be inspected annually to ensure the defensible space is maintained. Again, we are requiring a weed control plan, acceptable to the Fremont County Weed Coordinator, to be implemented and maintained. We also require that anyone can use the tower if they need to collocate.

Regarding the recommended contingencies, Mr. Giordano noted that number one, “Documentation from the County Engineer that the applicant has complied with the requirements of the County Engineer stated in his letter dated April 6, 2010,” has been met. There is a letter in your information packet that says that the applicant has completed all the concerns of the County Engineer, so this contingency can be eliminated. The second contingency is a utility plan for all utilities serving the property, signed by the utility companies. I already mentioned the Additional Consideration, so if there is a specific color or type of visual barrier, you will need to note it, because there is no recommendation in the Department Review. The applicant is requesting a waiver of the Buffering and Landscaping Requirements, which makes sense because there is no way they can buffer a 150 foot tower with vegetation. There is a lot of vegetation at the site already, and the buffering requirement is not applicable because there are no residential areas out there. As far as the Surfacing, Lighting, and Landscaping of the parking area, the applicant is requesting that those be waived. With one employee coming out once a month for maintenance, there will not be an expansive parking area, so hard surfacing, lighting and landscaping would not be needed. There are seven additional notifications recommended. Fort Carson is not on that list, but is an adjoining property owner within 500 feet, so they will be notified.

Chairman Sandoval called for questions for the Department.

Mr. Doxey stated that some time ago Fort Carson made an announcement that there is a buffer of two miles buildup to Fort Carson property before the State Legislature. This was within the last two weeks, just before the recess. They talked about a building moratorium within some distance of Fort Carson, which I thought was two miles.

Mr. Giordano said Fort Carson will be notified, so if they have any concerns they can put us on notice. That is why we try to notify people. I am not aware of the announcement that you are talking about.

Regarding the fire suppression issue, Mr. Schnobrich said that area is close to Fort Carson and they do have a lot of fire problems with the military training. Is there anybody else who should be notified, such as BLM, who may need to be aware of this tower in that particular area, who may be involved in fire suppression? If there is a major fire in the area, who would be responsible for fire suppression?

Mr. Giordano answered that if property is not in a fire protection district, then the Sheriff's Department is responsible for fire suppression – not for structures, just wildfire.

Mr. Schnobrich said that answers my question. I wanted to be sure we are not leaving anyone out.

Chairman Sandoval stated that for anyone who makes a motion, under additional considerations, I would like to add that the applicant has noted that structure placement will reduce the visual impact, as only the top of the facility will be visible from the highway, and that they would be willing to provide a color which is compatible with the surrounding background.

Ms. Walker had no problem with the added contingencies.

Mr. Giordano noted that color choices should be made available prior to the BOCC meeting so the Commissioners can make a final decision.

**MOTION**

Mr. Schnobrich made a motion to approve SRU 10-001 AT&T Wireless Facility Median Point (Tower) with the following:

**RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of the use.
- 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 prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. A minimum of 30 feet of defensible space with no burnable materials inside the space shall be maintained as required by the Sheriff's Department and shall be inspected annually to ensure the defensible space is maintained.
- J. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan, if required.
- K. The applicant /owner of the tower shall allow the tower to be used for co-locating purposes, if appropriate. If antenna collocation is proposed appropriate process through the Department will be required.
- L. 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.
- M. 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.

- N. 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 8.2 of the Fremont County Zoning Resolution (complete reapplication).

**RECOMMENDED CONTINGENCIES:**

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

**The Planning Commission recommended deleting the following contingency (#1) since it has already been met by the applicant:**

1. Documentation from the County Engineer that the applicant has complied with the requirements of the County Engineer stated in his letter dated April 6, 2010:
  - a. Additional floodplain information is needed only if CDOT requires re-construction or re-alignment of the access entrance onto State Highway 115.
2. A copy of the utility plan for all utilities serving the property which has been signed and approved by the appropriate utility company representative.

**The Planning Commission recommended adding the following two contingencies:**

3. **Prior to July 1, 2010, the applicant shall provide a choice of colors for the tower which will blend in with the background.**
4. **The applicant will provide assurance that only the top of the tower will be visible from the road.**

**ADDITIONAL NOTIFICATION REQUIREMENTS:**

In addition to the required notifications the following shall also be notified in accordance with regulations:

1. The Federal Communication Commission
2. State Historic Preservation Office
3. The Fremont County District 2 Road Foreman
4. Fremont County Sheriffs Office
5. Fremont / Custer Historical Society
6. Colorado Division of Wildlife
7. El Paso County Planning Department

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

**WAIVER REQUESTS:**

1. 5.2.6 Buffering & Landscaping Requirements:  
The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board. 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.

4. 5.3.2 Surfacing: Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.
5. 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.
6. 5.3.4 Landscaping: All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

## **SECOND**

Mr. Doxey seconded the motion.

Chairman Sandoval called for discussion on the motion. Hearing no more discussion, Chairman Sandoval called for a roll call vote, and the motion passed unanimously (6members).

#### **4. REQUEST: SRU 10-003 INNOVATIVE STRUCTURES**

Mr. Matt Koch, Cornerstone Land Surveying, LLC was present to represent Mr. Devon Eicher to request approval of a Special Review Use Permit, Department file #SRU 10-003 Innovative Structures to construct garages, sheds, gazebos, decks and agricultural buildings (light manufacturing), in the Business Zone District. The property contains a pole barn, a metal shop, an office and a number of displays that are for sale. This property also was granted an SRU for an AT&T antenna tower. The property is located at the northwest corner of the intersection of U.S. Highway 50 and N Street in the Beaver Park Area. The property is zoned Business and contains 4.59 acres.

Mr. Koch stated that the property is located in Penrose. It is approximately 4.6 acres. What Innovative Structures does on the property is build sheds, garages, gazebos, and things of that nature. The majority of the manufacturing is done in the existing metal structure that is located on the property. The pole barn is used for storage. The rest of the structures on the property are not permanent. They are mobile examples of what they build, display models. We have shown on the drawing possible future expansion of the metal building and the shop area as well as the new location of the office. That will come in time. We wanted to include possible future expansion in this application so we wouldn't have to come back and apply for another SRU for the property. As Mr. Giordano mentioned, this is also the same site where AT&T just installed a new antenna. You may have seen this recently. The location of the tower is shown on the plan.

Mr. Alsup asked Mr. Giordano if there is a time limitation on the possible additional structures.

Mr. Giordano said they are trying to eliminate the situation where there is a substantial change at a later date, and they have to come back and amend their SRU and go through the site development plan criteria again. You need to take the future expansion into consideration now. Most of the time, future expansion is not a problem anyway because the intent of businesses is to expand; but when you start adding square footage and new employees, the impacts can change appreciably.

Chairman Sandoval asked if there were any questions of the applicant.

Mr. Giordano noted that Retail Sales is an allowed use in the Business Zone District. The use that is not allowed is light manufacturing - building the products that are being sold. Mr. Eicher could build the products off-site somewhere and bring them to this site to sell them. As part of the approval of the tower SRU, one of the requirements was the property owner get an SRU to bring this activity into compliance. There is also a requirement for the approval of a Lot Line Adjustment (LLA). When we reviewed the tower application, we found that a building was constructed over the property line, so they have to adjust the lot so as to have the building comply with setbacks.

Mr. Giordano summarized the recommended conditions. The applicant is requesting life of the use. Recommended conditions B through G are standard conditions. Days of operation shall be limited to Monday through Saturday, and hours of operation shall be limited to 7:00 am to 6:00 pm. Again the applicant has to put in place an acceptable weed control plan. The applicant is required to provide documentation as to compliance with the requirements of the County Engineer.

Mr. Koch stated that the County Engineer is requiring that the tower is shown on the site plan and when they do expand that they have an engineered drainage report at the time of expansion.

Mr. Giordano continued that conditions K through M are standard conditions. As far as contingencies, he noted that approval of a LLA will be required, as previously mentioned. The LLA has been submitted and is under review.

Mr. Giordano continued discussing the recommended contingencies. When a LLA is completed, a new deed has to be recorded containing the new property legal description. At least one ADA parking space is required. The fourth contingency is documentation from the

Penrose Water District that the existing water tap is adequate. We want to make sure that the Water District realizes that the tap is being used for commercial purposes. We have a working agreement with the Water District to get documentation from them as to the adequacy of the tap, because there are a lot of businesses that have hooked up illegally, so this contingency is intended to make sure that don't happen. We also require documentation from the Environmental Health Office to make sure that the individual septic system is adequate for the uses. Finally, a utility plan is required which is signed by the utility companies servicing the site. We are recommending additional notifications. As far as justification for the waiver request for buffering and landscaping requirements, they are surrounded on the south and the north by business properties. Also this business has been in existence all this time without complaint so they are requesting a waiver. There are residential lots behind them to the north, so an argument could be made for buffering, but there are quite a few trees there now. They are requesting a waiver of hard surfacing, lighting, and landscaping of the parking area because everything is in place and they want to retain it as is.

Mr. Schnobrich said we are starting to see a lot of businesses in this area. He asked where is the main entrance / exit located for this business, on N Street?

Mr. Eicher, owner of Innovative Structures, answered that is correct.

Mr. Schnobrich asked how far off of the highway is it?

Mr. Koch answered it is 88 feet up from the highway.

Mr. Schnobrich asked what type of intersection there is at Highway 50. Is there a turn lane?

Mr. Koch answered there is no turn lane. There is a paved shoulder.

Mr. Schnobrich asked if the federal government controlled the access on Highway 50. That is getting to be a problem out in Penrose, especially because we are starting to look at a lot of businesses along Highway 50. The traffic is moving at 65 mph or faster and people are entering and exiting.

Mr. Giordano said notification is sent to the state highway department (*CDOT*) and they will have an option to comment. Sometimes it isn't a problem. For some businesses in the area CDOT has required acceleration and deceleration lanes, and for some other locations they haven't made that requirement. CDOT has been very inconsistent. We have no authority over the state highway. CDOT will be notified before the BOCC Public Hearing. They may still make comment.

Mr. Schnobrich asked about the process in order to do more development along Highway 50. These are appropriate businesses for that area. The point is that Highway 50 is not adequate for what we are doing. There are no frontage roads along there. Sometimes I take Mr. Doxey home after Planning Commission meetings, and it is dangerous turning off that road.

Mr. Giordano said you would have to talk to the traffic engineer for the state highway department. They control Highway 50.

Mr. Schnobrich asked if it would be possible for the Department to write a letter to CDOT stating that we are starting to see more development along this road and it needs some additional attention.

Mr. Giordano answered that CDOT knows. We don't write a specific letter, but they have to be notified for each application. In most cases, they don't comment.

Mr. Schnobrich said that in the application itself, there are really two things going on. One is the sale of the product they make, which is allowed in the zone district; the other is the manufacturing. Are the hours of operation for the manufacturing or for the retail sales?

Mr. Giordano said the hours of operation are for everything.

Mr. Schnobrich asked if it is correct that Mr. Eicher is not allowed to do any retail sales on Sunday afternoons.

Mr. Giordano answered in the affirmative in that is what Mr. Eicher has noted in his application.

Mr. Schnobrich asked about the manufacturing process itself. What kind of manufacturing process is it? Is the noise adequately shielded by that building?

Mr. Koch answered yes, the manufacturing is all inside the building.

Mr. Eicher answered we are manufacturing little wooden storage sheds, commonly called tough sheds, bringing in raw material and constructing. The largest product we build in the shop is 12' by 24'. That is the largest we can deliver with the truck and trailer that we have. Everything else gets built on site. The gazebos are standard 8' by 8' or 10' by 10' octagons, some square or rectangular, some larger, but nothing larger than 12' by 24'.

Mr. Schnobrich summarized that the manufacturing impact would primarily be the sound of saws going. What kind of building is it, and will it adequately shield that noise?

Mr. Eicher answered it is a steel building, probably built in the 1980s. It is insulated, and the garage doors we have on it are also insulated. I believe it adequately shields the noise. We have never had any neighbor complaint.

Mr. Schnobrich asked when the delivery trucks for the raw materials arrive and how many are there. I am concerned about traffic coming off the highway, especially if you are getting large truck deliveries.

Mr. Eicher answered that the trucks arrive typically no earlier than 8:00 am. We are not a large business by any means. We might see one truck a week at the most. Depending on timing, we might see a couple trucks one week, but then we might go a couple weeks without any large trucks. We do most of our own pickups, as far as running to Denver with our ton dually truck and small trailer, picking up lumber and also going to local hardware stores.

Mr. Schnobrich asked where they are going to be storing the materials. Are they stored outside or will they be stored in the building as well?

Mr. Eicher answered some of the carport structures are used for temporary storage. The pole barn at the back is our main storage facility.

Mr. Schnobrich said then you are mainly storing the raw materials inside the buildings or roughly out of sight.

Mr. Eicher said there is a future expansion area, fenced in with a six foot privacy fence. Our shingle rack is out front, which is visible, where we can stack up to three pallets of shingles in height. Everything else we try to keep out of sight of the customers to try to keep the area looking clean. Storage is either in the pole barn at the back, or in what used to be Floyd's impound area.

Mr. Schnobrich asked if Mr. Eicher is planning to use the open space area for anything, e.g. temporarily storing other vehicles, like trucks you are using for your manufacturing, or is it going to be left empty.

Mr. Eicher said this is our pasture. I have a couple head of cattle that run out there and we cut hay. We do not plan to store anything out there. We are not asking for expansion into that field.

Mr. Koch said they have included expansion to the north of the building in this application.

Mr. Giordano stated if Innovative Structures has a change to this application, other than the expansion they are asking for, we will determine if it is a major or minor modification, and a major modification will have to come back to the Planning Commission.

Mr. Doxey said he would like to commend this young man for the business that he is running. He has a good looking property. I have visited there several times and it is neat and clean and he knows what he is doing. The displays look good. This is a first class operation.

#### **MOTION**

Mr. Doxey made a motion to approve SRU 10-003 Innovative Structures (light manufacturing) with the following:

#### **RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of use.
- 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 prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days of operation shall be limited to Monday through Saturday and hours of operation shall be limited to 7:00 am to 6:00 pm.
- 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, further the applicant shall implement and maintain the plan.
- J. Documentation as to compliance with the requirements of the Fremont County Reviewing Engineer, as per letter dated April 30, 2010, prior to operation.
- K. 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.
- L. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this 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.

M. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.2 of the Fremont County Zoning Resolution (complete reapplication).

**RECOMMENDED CONTINGENCIES:**

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

1. Approval of a Lot Line Adjustment.
2. Copy of an executed and recorded deed for the new property legal description after Lot Line Adjustment.
3. Designate at least one ADA parking space as required by Section 5.4 of the Zoning Resolution.
4. Documentation from the Penrose Water District that the existing water tap is adequate.
5. Documentation from the Environmental Health Office as to the existing individual sewage disposal system adequacy.
6. Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.

**ADDITIONAL NOTIFICATION REQUIREMENTS:**

In addition to the required notifications the following shall also be notified in accordance with regulations:

1. Fremont County District 2 County Road Foreman
2. Colorado Department of Transportation
3. Fremont County Building Department
4. Fremont County Environmental Health Office
5. Fremont County Sheriff
6. Fremont / Custer Historical Society

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

**WAIVER REQUESTS:**

1. 5.2.6 Buffering & Landscaping Requirements:

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

Deciduous shrubs	4' height
Spreading evergreens	30" spread
Tall evergreens	3' height

Screen planting ( <i>evergreen</i> )	4' height
Trees	2 and ½" caliper
Ground cover	2 and ½" pot

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

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

2. 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.
3. 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.
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.

**SECOND**

Mr. Schnobrich seconded the motion.

Chairman Sandoval called for discussion on the motion. Hearing no more discussion, Chairman Sandoval called for a roll call vote, and the motion passed unanimously.

**5. REQUEST: SRU 10-004 RIVER MOUNTAIN RECREATION**

Mr. Matt Koch, Cornerstone Land Surveying, LLC was present to represent River Mountain Recreation, LLC to request approval of a Special Review Use Permit, Department file #SRU 10-004 River Mountain Recreation to allow seasonal camping on the property for the employees of the existing rafting business (Seasonal Employee Housing), which is a SRU in the zone district. The property contains a rafting office, a bathroom, a pond, two covered dressing areas, a pergola and a portable guest toilet. The property is located on the west side of County Road 3A, 0.25 miles south of U.S. Highway 50 in the Eight Mile Hill Area. The property is zoned Rural Highway Business and contains approximately twenty acres.

Mr. Koch stated that this is an existing rafting business which has been there for approximately fifteen years. They have allowed their employees to camp on the back side of the property. Typically there have been four to five employees who camp back there, a couple RVs and some tents. On occasion, there will be more employees, maybe up to fifteen. This happens when the rafting company has big groups of customers who have reservations, and they bring employees down from their other rafting companies to help out. That is the

only time they will expand into that many employees. There used to be a fish pond in that location, where they used to allow people to come and fish, and that has dried up. They don't use that pond any longer. The camping area is shielded by the fencing that surrounded that old fish pond and structures. There are actually two showers on the property. There is one that the employees use, that is situated behind everything in that fenced area, which is a shower / bathroom. There is also one inside the office building that the rafting company uses. They also have two porta-potties that they bring in for big parties.

Chairman Sandoval called for questions.

Mr. Alsup said I see that they are not providing any lighting for the employees. I know those rafting guys stay up kind of late at night, so is there a safety issue there, getting to the bathroom, providing their own lighting?

Mr. Koch answered they haven't had any problems or complaints of any nature. There is a little gazebo, a small covered area, and I believe there is a light on that. So there is a dim light back there. They haven't had any problems that I know of.

Mr. Doxey said some of these rafters have 20, 30, 40, 50 year old trailers that they stack in there. Sometimes they are renting them out, but a lot of their staff stays in them too. And it really looks crappy. I wondered what the owner is going to have to accommodate his employees.

Mr. Koch answered the owner doesn't provide anything. The intent is that the employees bring their own tents or their own campers. If they want to camp on the site they can. If they want to live in town they can. The owner just offers this as an option.

Mr. Doxey said that doesn't really change anything if the owner doesn't have any regulations. He wants cheap living and that is good, but when I see the rafters along the Arkansas, they have some real junk, and I thought that could be cleaned up.

Mr. Koch answered the intent is not to provide any of those old campers.

Mr. Alsup asked if there is a fence that buffers that area from the road.

Mr. Koch answered that is correct. You can't really see this area (*where the staff camps*) from the road at all because it is shielded by the fence that goes around the old fishing pond.

Chairman Sandoval asked for clarification. The opening paragraph states a bathroom, but you mentioned two bathrooms. One is employee use only and the other is for public use. Does each one have a shower?

Mr. Koch answered the bathroom inside the building does not include a shower; it is just a restroom facility. The employees-only bathroom does have a shower.

Chairman Sandoval asked if the rafting companies typically provide a shower for the customers.

Mr. Koch answered that he doesn't know.

Mr. Schnobrich asked if there are any County regulations in place that deal with seasonal employee housing, as far as how many bathrooms are required. We are talking about forty places for people to stay here. Are we talking about one toilet? Do we have standards? I

know this has become a problem a number of times when we have discussed this. This is not the only rafting company that wants to house their seasonal employees out there and on some of the other places we were pretty stringent on some of the requirements.

Mr. Koch said there will be at most fifteen employees camping there.

Mr. Giordano said we have had the same regulations since we incorporated seasonal rafting employee housing. We do ask that they get documentation from the Environmental Health Office as to compliance, so whatever the County and State law requires, they will be required to do.

Mr. Schnobrich said then basically we are approaching it from the health standards.

Mr. Giordano said he doesn't know what Mr. Sid Darden (*County Environmental Health Officer*) has done (*in the past*). I think the existing systems are usually adequate. As far as shower facilities, I think that is strictly up to the rafting people as to whether they offer that as part of the facilities. I think most of them do. I think they offer showers (*to the customers*) after the rafting trips, but I am not positive. I imagine people get wet and dirty from the river and probably want to wash off. Most of the rafting places that apply for SRUs have had shower facilities. Under campground (*Travel Trailer Park and Campground*) regulations, we do have specific requirements for showers and bathrooms and that type of thing. Rafting is a allowed use in Rural Highway Business, and a Special Review Use in some other zone districts. The Seasonal Employee Housing regulation is a special regulation we wrote up because the rafting employees were camping illegally on the properties and we were getting complaints from people who had Travel Trailer Parks & Campgrounds. They complained about the rafting employees camping, but yet they did not want any of the employees staying with them because they are too rowdy. The complaints were probably more from the standpoint that campgrounds had to meet regulations, so seasonal camping should be required to do so also, so we adopted the regulations.

Mr. Schnobrich said he had heard that seasonal rafting employees were bathing in the river. I just want to make sure we are covering a lot of the issues we have been seeing over the years with seasonal employees.

Mr. Giordano said we are, but one of the issues doesn't happen to be showers. That is not part of the requirements.

Mr. Alsup asked about a paragraph in the letter from Don Moore dated April 30, 2010 which reads "The well permit was issued for a fishing store. Verification is needed that the permit matches the actual site uses. It likely does match if the business is a guided fishing trip sort of rafting business, instead of high volume whitewater rafting."

Mr. Giordano said that item has been addressed. One of the recommended conditions is compliance with the requirements of the Fremont County Reviewing Engineer.

Mr. Giordano summarized the recommended conditions. The SRU will be for the life of the use. Conditions B through G are standard conditions. The days and hours of operation shall not be limited. An approved weed control plan shall be in place. Again, they must comply with the four requirements of the County Engineer in the April 30, 2010 letter.

Mr. Koch stated that the biggest requirement was to gravel the front entrance, and the applicant has no problem with that.

Mr. Giordano then summarized the recommended contingencies, additional notifications, and waiver requests. The Cañon City Fire Protection District did not feel that the existing cistern is adequate for fire protection use. They did not specify what would be adequate, so that has been left open for them to provide documentation as to what would be adequate. The applicant is requesting a waiver of the buffering and landscaping requirements because the adjacent uses are vacant or similar to this use. They are also asking for a waiver of hard surfacing, lighting, and landscaping of the parking areas because the business has been in existence and they are just adding camping, the primary use is in daylight hours, each employee will provide their own lighting, there is some lighting on the building, and they are not changing the business which is an allowed use.

Chairman Sandoval called for questions or discussion. Hearing none, he called for a motion.

### **MOTION**

Mr. Robinson made a motion to approve SRU 10-004 River Mountain Recreation (Seasonal Employee Housing) with the following:

### **RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of use.
- 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 prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan.
- J. Documentation as to compliance with the requirements of the Fremont County Reviewing Engineer, as per letter dated April 30, 2010, prior to operation.
- K. 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.
- L. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this 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.
- M. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.2 of the Fremont County Zoning Resolution (complete reapplication).

**RECOMMENDED CONTINGENCIES:**

The approval recommendation is contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except*

through regulatory process) after approval of the application by the Board of County Commissioners:

1. Documentation from the Colorado Division of Water Resources that the existing well permit is adequate for the proposed rafting use and the overnight housing of employees.
2. Documentation from the Environmental Health Office as to the existing individual sewage disposal system adequacy.
3. Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.
4. Documentation from the Cañon City Fire Protection District as to the installation of an acceptable cistern for fire protection use.
5. A copy of the employee camping rules (*i.e. quiet hours, pet housing, campfires, use of restrooms and shower facilities, etc.*).

**ADDITIONAL NOTIFICATION REQUIREMENTS:**

In addition to the required notifications the following shall also be notified in accordance with regulations:

1. Fremont County District 1 County Road Foreman
2. Colorado Department of Transportation
3. Fremont County Building Department
4. Fremont County Environmental Health Office
5. Fremont County Sheriff
6. Colorado Department of Wildlife
7. Fremont / Custer Historical Society

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

**WAIVER REQUESTS:**

1. 5.2.6 Buffering & Landscaping Requirements:

The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board. 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.

5. 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.
6. 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.
7. 5.3.4 Landscaping: All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

## **SECOND**

Mr. Caruso seconded the motion.

Chairman Sandoval called for discussion on the motion. Hearing no more discussion, Chairman Sandoval called for a roll call vote, and the motion passed unanimously (6 members).

## **6. PROPOSED 2<sup>nd</sup> AMENDMENT TO THE FREMONT COUNTY ZONING RESOLUTION**

Mr. Giordano explained that the County has been getting a lot of inquiries on wind farms and individual towers. The County Commissioners asked us to look at this issue some time back, so I put together the first draft of the amendment. The first draft of the proposed amendment contained changes regarding:

- a. Commercial Wind Energy System
- b. Small Wind Energy System
- c. Contractor's Yard or Building

The second draft of the proposed amendment contains a fourth item:

- d. Temporary Towers

Mr. Giordano summarized the background for the Temporary Towers portion of the amendment:

Ms. Angela Bellantoni, Environmental Alternatives Inc., has been discussing a wind farm on the Peetz Ranch. She is aware that they have to go through a SRU process for that. Prior to the wind farm being developed, they have to do some weather testing and monitoring. Our current regulations do not allow for any tower without going through the SRU process, even if the tower is temporary. There is no question that if a tower is going to be permanent, it has to go through the SRU process; however, Holcim had to go through the SRU process for a temporary

installation (two years) and they weren't very happy about that because it is a very lengthy and expensive process. We address issues in the SRU application regarding the Master Plan which are not applicable for temporary towers. A meteorological monitoring tower is temporary, so there won't be long range affects. In view of that, Ms. Bellantoni asked if she could get a waiver of the requirements of the regulations (*for a temporary meteorological monitoring tower*). Any waiver of the zoning regulations has to go through the Board of Zoning Adjustment (BOZA). There are probably a number of items that should be handled in a different manner than through SRU. For example, another item is a 35 acre gravel pit that is used to gravel the roads in a subdivision and then the pit goes away. We require the CUP process for this type of gravel pit, which is a lengthy process. The Department felt that an SRU should not be required for a temporary tower and that a variance was not appropriate and that we were addressing wind towers it would be appropriate to handle temporary towers as a temporary use permit; therefore, since we felt it was related to the amendment, we added it at the last minute. The amendment before the Planning Commissioners, with the yellow highlights (*the second draft of the amendment including temporary towers as a TUP*) has not been on the web page. The first draft was on the web page and was available to the public. I am not sure how you want to handle it since you did not have much review time.

Mr. Giordano explained that in preparing the portion of the amendment regarding wind towers and wind farms, a number of different regulations were used, most of them from the California area, since that is where most of the wind farms have originated. The Department found some manuals on the internet that I thought were pretty well written. Instead of trying to reinvent the wheel, we stole information from other sources and compiled it and put it into this amendment. Another issue came up at the same time. There is a Contractor's Yard located on Highway 67 towards Wetmore that was put in as a temporary use, with an agreement to abate. The applicant decided that the use would not be temporary and would need to be made permanent and asked for an extension. After review of uses in the zone district the Department felt that it would be appropriate to allow a Contractor's Yard as a SRU in the zone district. We wanted to accommodate other small Contractors' Yards in other areas and zone districts so we decided to add it to the amendment as a Home Occupation, with restrictions. The original amendment was actually for the wind farm but expanded when we got two requests in the meantime (*Contractors Yard and Temporary Towers*). Instead of handling them through another amendment it was decided to add them to this amendment even if it delayed approval and did not delay action on the other issues.

As to the small contractor yards there are a lot of people who have just a backhoe and maybe a front-end loader, who install septic systems and that type of thing. The Department felt that it could be handled as a home occupation and not an SRU, which is an expensive and long process. As you will notice, in the Home Occupation the numbers of vehicles were limited and the size of the storage areas, etc. were limited. That concludes a brief overview of the amendment. Do you want to go through the amendment line by line, or have me answer your questions? How do you want to proceed?

Chairman Sandoval suggested going page by page. If there is anything that Mr. Giordano thinks deserves discussion, go from there.

Mr. Giordano said he would briefly go through the proposed amendment, and anyone can stop him for discussion, or he will keep going.

***The following sections of the proposed amendment generated questions or discussion:***

**1.5.50 CONTRACTOR'S YARD OR BUILDING:** A yard and / or building used by a general contractor, excavation contractor, or building contractor where equipment and materials are stored or where a contractor performs maintenance, shop, or assembly work. If a building is housed on the property, the use may also contain the operational offices of the contractor. ~~All such yards shall be in compliance with fencing and screening requirements.~~ For the purpose of this definition, this definition does not include any other yard or establishment otherwise defined or classified herein. For the purposes of this definition, this definition does not include wholesale or retail sales.

Mr. Alsup asked why the sentence "All such yards shall be in compliance with fencing and screening requirements." was removed.

Mr. Giordano answered that the screening requirements are still required in another section of the regulations.

**1.5.165 STRUCTURE:** Anything constructed, erected or placed, the use of which requires a more or less permanent location on the ground or which is attached to something located on the ground; including, but not limited to building as defined hereunder and Manufactured Home, as defined hereunder; but not including earthworks, corrals, ditches, canals, dams, reservoirs, pipelines, telephone ~~or telegraph~~ or electric power lines, walks, driveways, curbs, signs, ~~antennas, towers,~~ or other similar uses.

Chairman Sandoval pointed out an error in this paragraph. The first sentence should read "more or less permanent ...".

**1.5.169 TOWER, TEMPORARY:** Any temporary structure (two (2) year maximum from date of approval) that is designed and constructed commonly for the purpose of collecting meteorological data or other similar uses, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes all other accessory structures.

Mr. Giordano stated that a temporary tower cannot exceed two years. Most of the time one year is adequate, but we felt that by the time the permit is recorded, and with construction, two years gives them enough time to complete the monitoring.

Mr. Schnobrich asked, if we move away from the SRU process, what are we giving up? Even if it is only a temporary tower, we still have to meet FAA requirements, etc.

Mr. Giordano answered that we are not giving up anything. The regulations that apply out of the SRU section of the Zoning Resolution are incorporated into the Temporary Use Permit (TUP) section for temporary towers. I also incorporated some of the wind energy requirements. The tower is still going to be there, the drainage is going to be an issue, the color and height will be issues, so those are all valid concerns. What the applicant is gaining is time as the application for a TUP is not required to be heard by the Planning Commission unless the Board refers it to the Commission. The reason I don't think a temporary tower needs to go before the Planning Commission is that it is a temporary use, it is not going to be permanent, so it is not a permanent land use issue, so I don't see why you need to see it as long as the other items are addressed. A temporary tower will be like any of the TUPs that we issue with the Commissioners' approval. The Commissioners do have the authority to send a TUP request to the Commission if they decide it is necessary. I don't anticipate that happening, but there may

be a situation where something is more of a land use issue. We will probably have to come up with another fee, because the fee for a TUP obviously doesn't include the review for a tower. Currently, everything under the TUP regulations is based on spectator events, concerts, etc. They are a completely different set of requirements. The fee will be approved by the Board. The fee will be higher than \$250 (TUP review fee) and less than \$1800 (SRU review fee). What the applicant will save is time, approximately thirty days because of not going to the Planning Commission, and money in that it will be a smaller application fee. There will be a new application form which will not include all the questions concerning the Master Plan; therefore, it will save the applicant a lot of preparation time. Basically the drawing will be the same - you will still have the tower drawings similar to what you have seen tonight.

Mr. Schnobrich asked how many times a person can submit an application for the same tower.

Mr. Giordano answered the intent of the towers in this instance is for wind monitoring for a potential wind farm. How many times are they going to come in and say they are wind monitoring? That may be the case, but I would hope the application isn't for the same location, unless something failed and they need to redo it. Somewhere along the line we are going to say you are evading the regulations by not just submitting the SRU for a permanent tower. If the use is a communication tower, they are not going to be doing a TUP application but an SRU.

Mr. Doxey asked when a tower goes up and they expect to sell energy back to the utility company, does that require any different kind of poles and wires other than residential wires?

Mr. Giordano said I don't know. I think they connect into the main power lines when they sell the electricity back. What you are talking about here is not necessarily the monitoring tower but instead the wind energy turbine. The applicant will have to contact the utility company first, so we ought to know how they are going to connect at the time. Most of the time, wind farms need to be close to major transmission lines in the first place, so the electricity can be easily sold back.

Mr. Giordano noted that:

- Contractors Yard will be a Special Review Use in AF, AF & R, and AL Zone Districts.
- Wind Energy System, Commercial will be a Special Review Use in AF, AF & R, and I Zone Districts.
- Tower, Temporary will be a Temporary Use Permit in AF, AF & R, AL, and I Zone Districts.

Those are the only zone districts where those uses will be allowed.

Mr. Giordano noted the changes to the following:

## **5.2.2 HOME OCCUPATION II**

**5.2.2.12** A Home Occupation II may include the following uses or any similar use or use which has similar neighborhood and infrastructure impacts: art studio, beauty parlor, barber shop, dressmaking, photography services, telephone marketing, gun repair shop, personal semi-tractor/trailer parking (*one (1) unit maximum*), **contractor's yard or building (*maximum of two (2) heavy equipment units and compliance with 5.7.15 of this Resolution*)** dog grooming, paint striping, nail salon, family child care home (*not more than eight (8) children, not including the resident's children*) and professional

offices (*i.e., legal, medical, dental, surveying, engineering, architectural, planning, accounting, insurance*).

Mr. Giordano noted that a contractor's yard will not be allowed as a Home Occupation I (HO I) because the lots are too small (under one acre). The acreage required for HO II is greater than one acre, so contractor's yard is an appropriate use, with the limitation of two heavy equipment units and compliance with Section 5.7.15 which contains the screening requirements (fencing) which Mr. Alsup asked about earlier.

Mr. Doxey asked for a definition of heavy equipment units.

Mr. Giordano said that he was thinking of backhoes, front-end loaders, and that type of thing. We may need to make a determination on that. Do you think that needs to be specified?

Mr. Doxey said the regulation would be hard to defend if it just says two heavy equipment units.

Mr. Giordano said I don't know what else you would want in a home occupation that is heavy equipment. We are not too worried about personal trucks or anything like that.

Mr. Doxey said there are gravel crushers or portable plants. Someone could haul a portable concrete plant in there and leave it sit.

Mr. Giordano said that is not a contractor's yard, by definition.

Mr. Doxey said that is heavy equipment.

Mr. Giordano asked if he is talking about the storage of the equipment.

Mr. Doxey said now they haul everything on the highway. It is heavy equipment with wheels and tires.

Mr. Giordano said that we have to make a decision on heavy equipment, etc. If you don't think it is adequate to only limit the heavy equipment to two, if you don't want any, then we don't do it. We are making the applicant fence the contractor's yard. Maybe we need to define heavy equipment. It's your call as to what you wish to recommend.

Mr. Schnobrich said I thought you said a contractor's yard is for a special project and they need a place to park equipment temporarily, because they are building something. You are not talking about a permanent storage area for heavy equipment are you?

Mr. Giordano responded that if you are putting in septic systems, you would probably have tanks, pipe, gravel, backhoe, etc. behind a fence.

Mr. Schnobrich said that is obviously not a temporary arrangement. That is someone who has a contracting business set up on a permanent basis.

Mr. Giordano said we are not talking about a temporary use. We are talking about a home occupation. A contractor comes in and gets a permit for a business, but at his home. We are trying to accommodate these people who have businesses that are operating from their residence. There are many contractors in the County that would have to be considered a business, which will not be allowed in most zone districts; therefore, the Department felt that they could be handled as a home occupation. Otherwise, most of them are not allowed and would have to be shut down and I'm not sure that is what we want to do since they have been in

business without too many complaints. If you don't want to handle them this way then you need to decide how to handle them.

Mr. Schnobrich asked about the limitations on the roads that are going out to these properties.

Mr. Doxey said put a weight limit on the roads. The limit is already ten ton, so you couldn't even pull a gravel crusher across that road.

Mr. Giordano said the Commissioners can put weight limits on any road they want.

Mr. Doxey said they don't enforce the weight limits.

Mr. Giordano said the Code Enforcement Officers are aware of probably twenty or thirty operations in the west end that put in septic systems. They are all over, in Penrose and everywhere. If we allow parking of tractor trailer trucks at a house as a home occupation, I don't have a problem with parking equipment. You tell me.

Mr. Caruso said one of the problems with nitpicking something like this is we have ranchers and farmers who have a swathe, a baler, a manure spreader. They will be knocking at your door saying what do you mean I can't store this on my property, if we go the other route (*deny contractor's yards*).

Mr. Giordano said if we start putting all the people under violation who have been doing this for years, this will cause major problems so we felt that we needed to address it somehow.

Mr. Schnobrich asked when does something become a junkyard. Suppose someone has a contracting business and has two or three pieces of heavy equipment. That is something we don't want to interfere with; but what happens if he starts dragging in seven or eight chunks of equipment that he is not using anymore, that are not operational. The site is becomes a junkyard. That is a concern - that someone will start with a contractor's yard that turns into a great big collection of junky equipment.

Mr. Giordano said at most you can keep three unlicensed vehicles on site. The fourth one has to be removed. That is how we handle junkyard violations. The regulations have been that way for ten or fifteen years.

Mr. Schnobrich asked how that ties in with a contractor's yard.

Mr. Giordano answered if they have more than three pieces of equipment that are not licensed or operable, then it is considered junk.

Mr. Caruso asked if that is County-wide, whether it be in Penrose, Rockvale, Williamsburg, Florence, Cañon, etc.

Mr. Giordano answered that applies to the unincorporated areas of the County only.

Mr. Doxey noted with the semis, they can park under HO III, and yet you are not supposed to have any more than ten ton going down our roads. Some of these trucks, empty, weigh twice that with a trailer and a tractor. So you are saying on one hand, come on in and park at your house; on the other hand you are saying don't drive through K Street, and they do, every day. They are driving all the way through to Highway 50. I have them all around my place. They come in full, which is 60,000 to 70,000 pounds. That could be cleaned up.

Mr. Giordano said tell me how to clean it up.

Mr. Doxey said start writing tickets.

Mr. Giordano said you are asking me to do things I have no control over.

Mr. Doxey asked who has control over that.

Mr. Giordano answered the Commissioners and the Roads and Bridges Department (*now known as the Fremont County Department of Transportation*). I understand what you are saying, but that's not an issue we are trying to address in terms of contractors' yards. I agree with you. My personal opinion is I don't think semi tractor trailers should be allowed. I think it is a conflict but it has been in the regulations that way and we have done it for years. They have let it go. No one wants to enforce it. It is a problem, but should we not allow contractors' yards because of it? If you think we should not allow semi tractor trailers, make a recommendation to take them out of home occupation. I'll take it to the Commissioners to see what they say.

Mr. Doxey said twelve years ago when I came here, I called the County. I said I would like to park two of my dump trucks out there on my property and they said I couldn't do that. Yet in my neighborhood, I have six semis around my property. We clean one thing up and add another one.

### 5.2.3 HOME OCCUPATION III

**5.2.3.7** Exterior storage on the premises of material or equipment used as a part of the home occupation will be allowed, but shall be limited to ~~five hundred (500)~~ **one thousand (1,000)** square feet and will be required to be screened by an opaque security fence eight (8) feet in height constructed of metal, wood, or masonry.

**5.2.3.12** A Home Occupation III may include the following uses or any similar use or use which has similar neighborhood and infrastructure impacts: art studio, beauty parlor, barber shop, dressmaking, photography services, telephone marketing, machine shop, carpentry shop, upholstery shop, minor vehicle or boat repair shop (*not to include paint and body work also not to allow the storage of inoperable vehicles and boats*) gun repair shop, taxidermy, personal semi-tractor/trailer parking (*two (2) units maximum*), **contractor's yard or building (maximum of three (3) heavy equipment units and compliance with 5.7.15 of this Resolution)**, dog grooming, paint striping, nail salon, family child care home (*not more than eight (8) children, not including the resident's children*) and professional offices (*i.e., legal, medical, dental, surveying, engineering, architectural, planning, accounting, insurance*).

Mr. Giordano said that for HO III, the change is the same except that because the minimum property requirement is larger (nine acres or larger) we allow them to have up to three heavy equipment units.

Chairman Sandoval asked why an opaque security fence eight feet in height is required in HO III and not in HO II.

Mr. Giordano answered that Section 5.7.15 of the Zoning Resolution is the eight foot fence requirement. Section 5.2.3.7 deals with exterior storage. We probably should have referred to Section 5.7.15 in that paragraph also. Exterior storage is not allowed in HO II which is a conflict that has to be addressed.

Chairman Sandoval stated that exterior storage is not allowed in HO II with the exception of heavy equipment.

Mr. Giordano said he will make sure the amendment is not in conflict with the exterior storage requirements in HO II.

Chairman Sandoval pointed out that heavy equipment under HO II doesn't qualify as exterior storage. That is a vehicle.

Mr. Giordano said we are treating exterior storage differently from vehicles. They are both behind a fence.

Chairman Sandoval said actually the heavy equipment in HO II would still be fenced.

Mr. Giordano answered yes, by Section 5.7.15. I am not sure the language in 5.7.15 is the same as an opaque eight foot security fence. We can make that language consistent.

#### **5.2.7 WIND ENERGY SYSTEM, SMALL – REQUIREMENTS:**

Mr. Giordano briefly summarized this section in the amendment. Basically this is for a residence, on top of a roof or free standing.

#### **5.2.7.1.8 If battery storage is proposed for the System, the batteries shall be isolated from living areas and shall comply with all applicable regulations as per the Fremont County Building Department or other agencies having authority.**

Mr. Giordano explained that Mr. Mike Cox, County Building Department Director, had to develop some special requirements for battery storage, so we tied it to the Building Code so they would address it.

#### **5.2.7.1.21.1 Inoperable and/or poorly maintained Systems shall be considered a violation of this Resolution as per Section 1.6.2.**

Mr. Giordano said this is similar to the discussion regarding when a site becomes a junkyard. We try to be as consistent as we can when determining this. We will just have to work with it.

Mr. Schnobrich asked what would happen with smaller lots, say fairly large city lots, and three or four neighbors get together and want to put in a wind tower.

Mr. Giordano said it would not be allowed.

Mr. Schnobrich said we may want to consider giving a subdivision this alternative. They might want to get together and have one windmill and share it among the lots. Maybe we should have something in the regulations that would allow for that.

Mr. Giordano answered that there are such problems when you are on small developed lots. The wind generator has to be above the trees, there are height problems, shadow flicker, noise. I'm not sure if one acre is adequate.

Mr. Doxey said another problem is the length of the blades. The blades can be over 100 feet long. The trailers are tremendous. All they are is pipe and tires. It stretches out over 100 feet, not counting the tractor. They can't turn corners.

Mr. Giordano said for Commercial Wind Energy Systems we do require a minimum of forty acres.

Mr. Schnobrich said so we are not going to encourage any kind of wind generation for subdivisions. This is basically for agricultural areas.

Mr. Giordano said the reality is that when a subdivision is developed, if they want to try to provide their own energy, they need to reserve an area of one acre. Once a subdivision is developed, where are you going to find the acreage? There are problems with wind towers on residential lots. I don't think you will end up seeing that many on residential lots.

Mr. Schnobrich said that's not what I was suggesting. If you had five or six lots together in a subdivision, part of that subdivision would have areas set up that would allow for its own power generation.

Mr. Giordano said they could do that. They could reserve an acre of land to serve the subdivision. But again, existing subdivisions would have a problem. Are you going to tear some of the houses down to get an acre?

Mr. Schnobrich said another issue is signage. I can see these things on one acre lots with a big sign on it. Are we limiting those sorts of things? We are limiting lights. I assume that is Christmas lights and those types of things.

Mr. Giordano said we are limiting the size of a sign to four square feet, with a notice of no trespassing, a warning of high voltage, and a telephone number of the property owner to call in case of an emergency.

Mr. Schnobrich asked is that all? No other signage at all? No commercial signage?

Mr. Giordano said that is a good question. Do we control signage in the current regulations? No. So would we limit signage specific to this use? My answer would be that we wouldn't control it. We would control it from the standpoint that if you had one of those wind generating towers, you would have a sign on it with that warning. They could put up another sign. Until we get a sign ordinance, I don't know how we will stop that.

## **8.2.9 SPECIAL REQUIREMENTS / SPECIAL REVIEW USES**

### **8.2.9.5 COMMERCIAL WIND ENERGY SYSTEMS: The following items shall be met and / or shall be provided with the application and in addition to the other requirements of the Special Review Use Permit Application:**

Mr. Giordano said this section is where we get into what is considered a wind farm. We call them Commercial Wind Energy Systems.

#### **8.2.9.5.16.3 An environmental impact study.**

#### **8.2.9.5.16.4 A socioeconomic impact study.**

Mr. Giordano stated these two studies could be very expensive. They could get misused, in that due to the expense and not being necessary, these studies may kill the project before having to act on it. I don't know if these studies are really necessary in all cases.

Chairman Sandoval said what about a visual impact study?

Mr. Doxey said that is a good idea.

Mr. Giordano said I don't think we have that requirement in there for visual impacts, which is a concern.

Mr. Robinson said that could be considered part of the Environmental Impact Study, but we could specifically include visual impact.

### **MOTION**

Chairman Sandoval made a motion to add the following paragraph to the proposed amendment:

#### **8.2.9.5.16.5 A visual impact study.**

### **SECOND**

Mr. Schnobrich seconded the motion.

Mr. Alsup asked if the Socioeconomic Impact Study looks at the affect on the neighboring property values.

Mr. Giordano answered yes it should.

## **8.4 TEMPORARY USE PERMITS:**

Mr. Giordano said the Temporary Use Permit Section has been split up. The spectator events, athletic events, carnivals, circus, etc. are already in the Zoning Resolution. Those regulations haven't changed. I highlighted this whole section in yellow because this section was not included in the draft amendment you received in your packets. The only parts that are changing are in bold font. What has been added are the requirements for a Temporary Use Permit for a temporary tower. They are the same requirements that are in the Special Review Use Section of the regulations, except for those that weren't appropriate.

Mr. Schnobrich asked what would trigger something to come before the Planning Commission, if someone did submit a TUP application.

Mr. Giordano answered if the applicant wanted to place five or six monitoring towers on the same parcel. There is already language in the regulations that the BOCC has the right to send an application to the Planning Commission if they feel it is necessary. I don't know if you want to try to put language in that automatically kicks it to you (*under specific circumstances*). We put that language in there (*allowing the BOCC to send an application to the Planning Commission*) because Christo's Over the River TUP application would never come to you otherwise. That will probably be a pretty big land use issue, from the standpoint of traffic, safety, etc. even though it is temporary. So the BOCC does have that authority and the right. The only TUP application I remember coming to you was a motocross event in Penrose. The event was subsequently cancelled, but it was quite the controversy. That paragraph is under the present regulations, under additional requirements under Temporary Use. You are not seeing that paragraph in the amendment because that will not change.

#### **8.4.1.2.14 Compliance with items 8.2.9.5.1, 8.2.9.5.3, 8.2.9.5.5, 8.2.9.5.6, 8.2.9.5.9 through 8.2.9.5.11, all of 8.2.9.5.15 and 8.2.9.5.16.2.**

Mr. Giordano said this requirement is referencing back to the Commercial Wind Energy System requirements.

Mr. Schnobrich asked aren't the County regulations for thirty-five acres? Everything is thirty-five acres. What would ever qualify? Don't we want to include thirty-five acres and larger?

Mr. Giordano asked do you want commercial wind energy systems on every thirty-five acre parcel that was created without County subdivision review?

Mr. Schnobrich said I don't really want them on forty acre parcels either, but what we are talking about is a thirty-five acre parcel for review. Otherwise we are talking about forty acres or larger, and where are the forty acre parcels?

Mr. Giordano said it depends if you want to allow thirty-five acre parcels for these uses. Thirty-five acre parcels don't go through the Subdivision Regulations.

Chairman Sandoval asked if that was done on purpose.

Mr. Giordano said yes, it is on purpose. It is similar to the Ranch Hand Quarters, which requires forty acres instead of thirty-five so we don't have a Ranch Hand Quarters on every 35 acre parcel which probably is not a true agricultural use.

Mr. Giordano concluded his discussion by asking if there were any further questions. He mentioned that Ms. Angela Bellantoni, Environmental Alternatives Inc., is here tonight and she has had concerns about the amendment.

Ms. Bellantoni offered to answer questions if the Planning Commission wants to understand the process of a commercial wind farm.

#### **MOTION**

Mr. Schnobrich made a motion to approve the proposed second amendment to the Fremont County Zoning Resolution, with the addition of the Visual Impact Study for Commercial Wind Energy Systems, to be forwarded to the BOCC.

#### **SECOND**

Mr. Alsup seconded the motion.

Chairman Sandoval called for discussion on the motion. Hearing no more discussion, Chairman Sandoval called for a roll call vote, and the motion passed unanimously (6 members).

#### **7. OTHER ITEMS FOR DISCUSSION**

Chairman Sandoval called for any other items for discussion.

#### **8. ADJOURNMENT**

With no other items for discussion, Chairman Sandoval adjourned the meeting at 6:07 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE