

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

MEMBERS PRESENT

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

STAFF PRESENT

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

MEMBERS ABSENT

None

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES

- a. June 3, 2014 Planning Commission Meeting

5. UNFINISHED BUSINESS

NONE

6. NEW BUSINESS

a. REQUEST: MS 14-002 MEADOWLARK RIDGE SUBDIVISION

Request approval of a two (2) lot minor subdivision, Department file #MS 14-002 Meadowlark Ridge Subdivision, by Leslie and Carol Wilson, for their property *which is located on the west side of D Street (645 D Street), approximately 330 feet north of 7th Street in the Penrose/Beaver Park Area.* Proposed Lot 1 houses a shed with a proposed lot size of 4.50 acres. Proposed Lot 2 houses a single family dwelling and will consist of 4.589 acres. Both properties will be accessed from D Street. The property is zoned Agricultural Rural and contains a total of 9.09 acres.

REPRESENTATIVE: *Matt Koch, Cornerstone Land Surveying*

b. REQUEST: CUP 14-001 MICA WHITE STOCKPILE AREA (for CUP 02-006 Mica White Mine)

Request approval of a Conditional Use Permit, Department file #CUP 14-001 Mica White Stockpile Area and load-out facility, for offsite stockpiling of mica, silica and granite taken from the Mica White Mine site (CUP 02-006), by Colorado Quarries, Inc. The proposed CUP property will be leased from the Bureau of Land Management (BLM). The property is located on the north side of Fremont County Road #45. The access road is located approximately 1/2

mile east of the intersection of County Road #45 and County Road #47, in the Howard Area. The access road is approximately 0.6 of a mile in length from CR #45 to the stockpile/load-out area. The existing stockpile and load-out area has been in use for a number of years. The property is located in the Agricultural Forestry Zone District and contains a total of 33.60 acres. The stockpile/load-out area will consist of 4.62 acres.

REPRESENTATIVE: Bill Tezak, Colorado Quarries, Inc.

7. ADJOURNMENT

8. MASTER PLAN WORKSHOP

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

1. CALL TO ORDER

Chairman Byron Alsup called the meeting to order at 4:04 pm.

2. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

Chairman Alsup asked if there were any changes, additions or corrections to the July 1, 2014 Fremont County Planning Commission Meeting Agenda.

MOTION

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

SECOND

Mr. Larry Baker seconded the motion.

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

4. APPROVAL OF THE JUNE 3, 2014 PLANNING COMMISSION MEETING MINUTES

Chairman Alsup asked if there were any changes, additions or corrections to the June 3, 2014 Fremont County Planning Commission Meeting Minutes.

MOTION

Mr. Gardner Fey moved to accept the June 3, 2014 Fremont County Planning Commission Meeting Minutes as presented.

SECOND

Mr. Dennis Wied seconded the motion.

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

5. UNFINISHED BUSINESS

The Planning Commission had no unfinished business.

6. NEW BUSINESS

a. REQUEST: MS 14-002 MEADOWLARK RIDGE SUBDIVISION

Mr. Matt Koch with Cornerstone Land Surveying stated that his clients are requesting a minor subdivision that is a two (2) lot split, in the Penrose area on D Street. The lot is approximately 9.09 acres right now, there is an existing house and barns on the property. The new lot will be 4.5 acres which will be serviced by all utilities. They are proposing a drainage detention area in the lowest corner of the property. The owner has constructed it however it needs to be approved.

Mr. Bill Giordano, Planning Director, reviewed the fourteen (14) contingency items.

Mr. Koch asked if contingency item #13 concerning the driveway access, could be deferred to the building permit stage. He stated that typically they are done at the building permit stage as the owner usually does not know where the driveway will be located.

Mr. Giordano stated that he doesn't have a problem with deferring it.

Mr. Mike Pullen inquired if the property is going to be serviced by a septic tank, and has it been approved?

Mr. Koch stated that a perc test was performed and the site is adequate for a septic tank.

Mr. Wied inquired if there has been any comment from the neighbors.

Mr. Koch stated that they don't have to notify the neighbors and as far as he knows there haven't been any comments submitted to the Department.

Mr. Larry Baker stated that in reviewing the County Engineer's letter in regard to the drainage, he makes a couple of suggestions, "...the pond volume should be increased to at least 900 Cubic Feet. That can be accomplished by lengthening the swale, increasing its depth, or increasing its bottom width to about 6 feet with a level bottom." Mr. Baker inquired if this has been accomplished.

Mr. Koch stated that it has been and that they widening the bottom of it and lengthened it along D Street to collect more of the water and that the County Engineer needs to sign off on it.

Mr. Baker stated that in regard to the fire department comment that the driveways need to have the addresses visible, he would have to agree. He had to get out of his vehicle and walk across the street to actually find the correct address. It is really hard to find, it's a very small sign and its right by a rock, not very visible at all. It would be a very minor thing to post it better. He also inquired that if this is approved would the other property also have to have an address posted.

Mr. Koch stated that it is part of the building permit process to have the address posted.

Ms. Tina Heffner inquired if it is the intent to build a single family residence on the property.

Mr. Koch stated that it is.

Ms. Heffner inquired if it is to be done in the near future or if it is a long term plan.

Mr. Koch stated that it should be in the near future; the Minor Subdivision plat will be recorded and the building permit application will be submitted right away.

MOTION

Mr. Pullen moved to recommend approval of MS 14-001 Meadowlark Ridge Subdivision subject to the following:

RECOMMENDED CONTINGENCIES:

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

1. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations (FCSR).
2. An updated title insurance commitment or policy shall be required prior to the recording of the subdivision plat, if said recording date is more than sixty (60) days from the effective date of the title insurance commitment or policy. An updated title commitment may result in additional requirements of the applicant.
3. A copy of a recorded Release of Deed of Trust or an executed Ratification, Consent and Release form for a document found at Reception Number 8955355 (Aventa Credit Union) of the Fremont County Clerk and Recorder's records.
4. Documentation as to compliance with the requirements as recommended by the County Reviewing Engineer, dated June 3, 2014.
5. A quit-claim deed to the County for a twenty-five (25) foot right-of-way from the centerline of D Street, along the entire property frontage.
6. All required drainage facilities shall be designated on the final plat as drainage easements, if any.
7. All required improvements (*drainage facilities*) shall be constructed and approved prior to the recording of the final plat or an executed improvement and escrow agreement shall be provided, if required.
8. A cost estimate for the proposed improvements shall be provided and shall be approved by the County Reviewing Engineer, for all improvements, if required.
9. A letter from a Colorado Professional Engineer, who designed the improvements, stating the specified improvements were constructed to the Engineer's design, prior to recording of the plat and/or release of escrow funds from an improvement and escrow agreement, if required.
10. An executed quit-claim deed with deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc., if required.
11. Information to enable Department to compute addresses.

12. Closure sheets for each lot and boundary.

13. Driveway access permits or approval to defer permits requirement to the time of application for building permits for Lot 1. ***Planning Commission recommended approving the request for a deferral of the driveway access permit to building permit stage.***

14. Documentation evidencing the payment of 2nd half of property taxes for 2013, due June 14, 2014.

SECOND

Mr. Baker seconded the motion.

Chairman Alsup called for any further discussion. With no further discussion, Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

b. REQUEST: CUP 14-001 MICA WHITE STOCKPILE AREA (for CUP 02-006 Mica White Mine)

Mr. William (Bill) Tezak owner of the Mica White Mine stated that the stockpile area is the result of a big slope failure. He met with the Bureau of Land Management (BLM) who stated that in order to correct the big slope failure they would have to enlarge the mine site in order to flatten the slope. The outcome of the enlargement was that they needed a stockpile site so they picked the current site. It took about three (3) years to get the BLM approval. They received the approvals from all of the agencies, including the Division of Minerals and Geology along with BLM giving them clearance to start using the stockpile site.

Mr. Tezak stated that part of it will be stockpile and part of it will be left at the site. The part that is left will get covered with topsoil and re-vegetated. He also stated that BLM has done site-visits and they are happy with the way everything is set up.

Mr. Giordano stated that because the two (2) sites are different is why the Department asked Mr. Tezak to separate them even though the stockpile is connected with the mine site.

Mr. Giordano reviewed the conditions and contingencies. In regard to the contingencies, documentation is required as to whether the proposed dam will fall under the state dam safety program as noted in the Fremont County Engineer's letter dated June 9, 2014. Don Moore, County Engineer, was concerned because the dam is so high it might need to be regulated by the State.

Mr. Giordano stated that he did note as per Resolution #16, a double fee \$1,750.00 is noted as the stockpile area has been in use without a Conditional Use Permit. It's been a year to year and a half.

Chairman Alsup inquired of Mr. Tezak if he had talked to the State at all about the dam and if it will have to be regulated.

Mr. Tezak stated that he has not. It is kind of deceiving because they have the dam embankment built but in front of it they have a big sump dug and then a pipe going

through higher up. They have the sump to catch the sediments and the runoff, from this whole disturbed area.

Chairman Alsup stated that the County Weed Agent talked about the possibility of the transfer of weeds from on location to the others on the equipment. How do you deal with that?

Mr. Tezak stated that on an annual basis they deal with weed control. They spray at the Royal Gorge site, the Wellsville site, and actually sprayed at the mine and stockpile site. It's just on an ongoing process.

Chairman Alsup inquired if they do anything like hosing the trucks down before leaving one site and going to another.

Mr. Tezak stated that they haven't; he doesn't know what good weeds are and what the bad weeds are. They just tell us the location of the noxious weeds and we'll participate in the spraying of them. They have done that for years. If there is an issue we just take care of it.

Chairman Alsup inquired if there are any issues with mine subsidence.

Mr. Tezak stated that there are not.

Chairman Alsup stated that as far as the double fee, that those things should be handled on an individual basis, case by case. There have been times when folks have intentionally tried to deceive or come looking for forgiveness later instead of getting permission upfront. He's guessing that Mr. Tezak didn't know that he needed the permit.

Mr. Tezak stated that BLM relayed to him that they didn't need anything else since its Federal Land. Once it was sent off to the State, at the point when they notified Mr. Tezak that he was good to go.

Mr. Gardner Fey inquired of how Mr. Tezak became aware that he needed a new CUP.

Mr. Tezak stated that he doesn't remember how it surfaced but it was probably through one of the County agencies.

MOTION

Mr. Larry Brown moved to recommend approval of CUP 14-001 Mica White Stockpile Area subject to the following:

RECOMMENDED CONDITIONS:

- A. The term of the Conditional Use Permit shall be for life of the use in conjunction with the Mica White Mine (*estimated as 50 years plus*). **The applicant's justification for life of the stockpile area is that the existing mine (CUP 02-006) was issued for life of the mine.**
- 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 Conditional Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Conditional Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.

- I. The applicant shall provide the Department with a copy of the updated lease when renewed.
- J. Days and hours of operation will be limited to Monday through Saturday, from 6 am to 6 pm.
- K. Prior to operation the 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.
- L. Provide a copy of the following approved permits, licenses or the like, prior to mining of the additional CUP property. *(If not required provide documentation from the listed entity that the following item(s) is not required, prior to the use of the stockpile/load-out area.)*
 - 1. Approved copy of the Colorado Department of Public Health and Environment, Air Quality Control Division, Fugitive Dust Permit and APEN permit(s).
 - 2. Approved copy of the Colorado Department of Public Health and Environment, Water Quality Control Division, Storm Water Management Plan and Discharge Permit.
 - 3. A copy of the approved Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety, Reclamation Permit.
- 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 Conditional Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this 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 Conditional Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (*complete reapplication*).

RECOMMENDED CONTINGENCIES:

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

1. Documentation as to whether inspections will be required as a regulated dam, under the State dam safety program, as noted in the Fremont County Engineer, in his letter dated June 9, 2014.
2. The site drawing shall locate the mine site access road, which is the access to the stockpile site.
3. The drawing should include a legend identifying the line types and symbols used in the drawing. (*The line weights and style of lines and size of symbols do not reproduce well, some copies provided do not contain all information because of the poor reproduction quality*)
4. Notes in the note section shall be numbered so that they may be individually identified.
5. One of the notes references an access road on the vicinity map, however the road is not identified (labeled) on the vicinity map.
6. Fremont County Road Number 47 should be identified (labeled) on the vicinity map.
7. One of the notes states “Drainage Facilities are N/A”, however there are references to a retention berm on the drawing. This appears to be a contradiction.
8. One of the notes about stockpile areas is worded in such a way that it is confusing.
9. The word quarries is misspelled in two different locations on the drawing.
10. The word township is misspelled in the CUP Boundary description.
11. The drawing is labeled “Sheet 2 of 2”, however there does not appear to be a sheet 1 of 2.
12. As per Resolution #16, Series of 2012 a double penalty fee of \$1,750.00 is required as the stockpile area has been in use without a Conditional Use Permit.

WAIVER REQUESTS:

The Planning Commission recommended APPROVAL of waivers of the following:

1. **5.2.6 BUFFERING & LANDSCAPING REQUIREMENTS:** The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board. Where, in these regulations, any such screening or buffering strip is required to be provided and maintained, such buffering strip shall consist of a row of trees or continuous un-pierced hedge row of evergreens or shrubs of such species as will produce within three (3) years a screen height of at least six (6) feet and shall be of the following minimum sizes at time of installation:

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

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

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

The applicant's justification for the waiver request of the buffering and landscaping is that the stockpile site is being reclaimed as work progresses per state regulations. Topsoil and boulders are put in place back to a natural state.

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.

The applicant's justification for the waiver request of the hard surfacing of the parking area is that the parking, loading, driveway and entrance areas are gravel. Heavy equipment would destroy the hard surface.

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.

The applicant's justification for the waiver request of the lighting of the parking area is that there is no night operation, therefore lighting is not required.

4. **5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

The applicant's justification for the waiver request of the landscaping of the parking area is that there is only one parking space.

The Planning Commission recommended APPROVAL of waivers of the following:

1. **BUFFERING & LANDSCAPING:**
The applicant shall be required to provide screening or a buffering strip, which will act as an opaque visual barrier, unless waived by the Board of County Commissioners.

Where in these regulations, any such screening or buffering strip is required to be provided and maintained, such buffering strip shall consist of a row of trees or continuous un-pierced hedge row of evergreens or shrubs of such species as will produce within three (3) years a screen height of at least six (6) feet and shall be of the following minimum sizes at time of installation:

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

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

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

The Applicant has requested a waiver of the buffering and landscaping plan with the following justification: The pump station building and wet wells are located approximately 1,200 feet south of the north property line and the bluff to the north shields the visibility from private properties.

2. **SURFACING:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines. *The Applicant has requested a waiver of the hard surfacing of the off-street parking area with the following justification: The pump station is not open to the public and typically it will be visited once per day by Water Department staff. Due to the low traffic volume to the site, gravel surfacing is proposed for the parking area. Note: It is required that the parking space for individuals with disabilities be hard surfaced along with a pedestrian walkway from the space to the door entrance as per the International Building Code.*
3. **LIGHTING:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not be directed toward surrounding properties. *The Applicant has requested a waiver of the lighting plan with the following justification: The parking area is directly adjacent to the front of the facility and within the scope of the building's exterior lighting.*

4. **LANDSCAPING:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area. *The Applicant has requested a waiver of the landscaping of the parking area with the following justification: The proposed gravel parking area is minimal and accommodates Water District personnel only and it is not accessible to the public.*

The Planning Commission recommended the following:

ADDITIONAL NOTIFICATIONS:

In addition to the regulatory required notifications (*property owners within 500 feet of the CUP boundary*), the following shall also be notified, by certified mail, return receipt requested, in accordance with regulations, at least fourteen (14) days prior to the public hearing by the Board of County Commissioners:

1. Fremont County Department of Transportation
2. Fremont/Custer Historical Society
3. Colorado State Historic Preservation Office
4. Colorado Parks and Wildlife
5. Fremont County Sheriff
6. Arkansas Headwaters Recreation Area State Park

SECOND

Mr. Baker seconded the motion.

Chairman Alsup called for any further discussion. With no further discussion, Chairman Alsup called for a roll call vote, and the motion passed unanimously. (7 of 7)

ADJOURNMENT

Chairman Alsup adjourned the meeting at 4:35 p.m.

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

DATE