

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
OCTOBER 1, 2013**

**MEMBERS PRESENT**

Byron Alsup, Chairman  
Mike Krauth, Jr., Secretary  
Michael Pullen  
Larry Brown  
Joe Lamanna  
Larry Baker

**STAFF PRESENT**

Bill Giordano, Planning Director  
Brenda Jackson, County Attorney  
Vicki Alley, Planning Assistant

**MEMBERS ABSENT**

None

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF MINUTES**

- a. August 6, 2013 Planning Commission Meeting

**5. UNFINISHED BUSINESS**

NONE

**6. NEW BUSINESS**

**a. REQUEST: SRU 13-004 AT&T CELL TOWER - TEXAS CREEK**

Request approval of a **Special Review Use Permit**, Department file #SRU 13-004 **AT&T Cell Tower - Texas Creek**, by **New Cingular Wireless PCS, LLC, dba AT&T Mobility**, for property which is owned by **Michael & Denise Tezak**, to allow for the installation of a 40 foot monopole tower, which will contain twelve antennas, one microwave antenna, and an eight foot lightning rod on top of the tower, an equipment shelter, a LP tank, a LP generator, a meter rack and a long ice bridge, on a 50' x 50' lease area which will be fenced with a 6' high chain link fence. Access to the site will be via a twelve (12) foot easement from US Highway 50. The *property is generally located on the southeast side of U.S. Highway 50, approximately 2 miles west of Colorado State Highway 69, in the Texas Creek Area.* 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 33.93 acre parcel. The property is located in the Agricultural Forestry Zone District. This site was previously issued a permit to house a communication tower and accessory items through approval of SRU 09-006; however, the permit was allowed to expire without construction.

***REPRESENTATIVE:*** Justin Hadley, *Wireless Development Specialist*

**b. REQUEST: ZC 13-002 McDERMOTT ZONE CHANGE**

Request approval of a **Zone Change from the Agricultural Suburban Zone District to the Low Density Residence Zone District, Department file #ZC 13-002 McDermott Zone Change**, by John & Gail McDermott, for their property which is *located on the west side of (715) Pisgah Lane, approximately 270 feet north of Park Avenue, in the Lincoln Park Area*. The proposal is to allow for the subdivision of the property into three lots which would result in two additional residential lots. The property presently houses a single family dwelling and a shed and contains 2.187 acres.

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

**c. REQUEST: CDP 13-001 PIKES PEAK MOTOR COMPANY COMMERCIAL DEVELOPMENT PLAN – (Automobile Graveyard)**

Request approval of a **Commercial Development Plan, Department file #CDP 13-001 Pikes Peak Motor Company (Automobile Graveyard – storage of up to 2000 cars) to allow an automobile graveyard which includes the storing, dismantling, buying and selling of parts with the focus on classic cars; however, all types cars will be parted and crushed, with some cars being restored and then placed in a showroom for sale**, by Michael DeVriendt, for his property which is *located on the north side of US Highway 50, approximately 1.4 miles west of the intersection of US Highway 50 and Colorado State Highway 115, west of the Town of Penrose*. The property contains a 100 ft. by 200 ft. metal building which will be used for storage and display. A 30 ft. by 40 ft. office is proposed. The property is zoned Industrial and Agricultural Forestry and will contain 35.02 upon recording of a deed. The Agricultural Forestry portion which is less than 25% of the entire property will revert to the Industrial Zone District in accordance with Section 2.4.3 of the Zoning Resolution, which states that: *When a boundary lot line is adjusted, the zone district that exists for the property receiving the additional property shall prevail, provided that the parcel gaining the area does not increase the total by more than twenty-five percent (25%)*.

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

**d. REQUEST: AMENDMENT TO FREMONT COUNTY SUBDIVISION REGULATIONS**

Request approval of a proposed **amendment to the Minor Subdivision Section of the Fremont County Subdivision Regulations**.

**REPRESENTATIVE:** *Department of Planning & Zoning*

**7. ADJOURNMENT**

**8. MASTER PLAN WORKSHOP**

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

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**1. CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 4:03 pm.

**2. PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

Chairman Alsup asked if there were any changes, additions or corrections to the October 1, 2013 Fremont County Planning Commission Meeting Agenda.

**MOTION**

Mr. Larry Brown moved to accept the October 1, 2013 Fremont County Planning Commission Meeting agenda as written.

**SECOND**

Mr. Larry Baker seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

**4. APPROVAL OF THE AUGUST 6, 2013 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the August 6, 2013 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Baker moved to accept the August 6, 2013 Fremont County Planning Commission Meeting Minutes as written.

**SECOND**

Mr. Brown seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

**5. UNFINISHED BUSINESS**

The Planning Commission had no unfinished business.

**6. NEW BUSINESS**

**a. REQUEST: SRU 13-004 AT&T CELL TOWER - TEXAS CREEK**

Mr. Mark McGarey, Smart Link and AT&T Representative, was present to request approval of a Special Review Use Permit, Department file #SRU 13-004 AT&T Cell Tower - Texas Creek, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, for property which is owned by Michael & Denise Tezak, to allow for the installation of a forty foot monopole tower, which will contain twelve antennas, one microwave antenna, and an eight foot lightning rod on top of the tower, an equipment shelter, a LP tank, a LP generator, a meter rack and a long ice bridge, on a 50' x 50' lease area which will be fenced with a six foot high chain link fence. Access to the site will be via a twelve (12) foot easement from U.S. Highway 50. The property is generally located on the southeast side of U.S. Highway 50, approximately two miles west of Colorado State Highway 69, in the Texas Creek Area. 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 33.93 acre parcel. The property is located in the Agricultural Forestry Zone District. This site was previously issued a permit to house a communication tower and accessory items through approval of SRU 09-006; however, the permit was allowed to expire without construction.

Mr. McGarey noted that cell phone coverage along U.S. Highway 50 is a hit-or-miss proposition. AT&T is in the process of upgrading their network throughout the state, in particular some under-served rural areas. Highway 50 is certainly on that list. A couple of

years ago, AT&T purchased all Alltel assets which included the leasehold interest in a property owned by Michael and Denise Tezak, along Highway 50 near Texas Creek. That property was granted approval of a Special Review Use Permit for a forty foot cell tower. Subsequently, because of the acquisition of Alltel by AT&T, that site was never developed. We are before you today to try to get that site re-permitted. Now that AT&T has taken ownership of that asset, we want to get it on the build list to improve coverage along Highway 50 near Texas Creek.

Mr. McGarey noted that the the site is on a forested hillside adjacent to the Highway 50 right-of-way. A new access road will need to be cut to this property off of Highway 50 and we will work with the Colorado Department of Transportation (CDOT) to secure the necessary permits. In addition to the panel antennas, there will be a microwave dish to get telephone service in and out of that cell site. The pole will be painted a dark brown to help it blend in with the surrounding hillside. This facility will provide coverage for a couple of miles up and down the highway. AT&T is in the process of trying to develop other sites in the canyon, ultimately to provide coverage throughout the canyon. That will be a difficult thing to achieve and it will take some time. This site will help to anchor that coverage in the center of the canyon.

Mr. Brown asked about the color of the tower. The color brown was mentioned, but originally it was going to be galvanized.

Mr. McGarey answered the tower can be painted any color you think will work. Over time galvanized becomes a dull gray, and fades into the background. In a forested area where there is darker vegetation and stems of trees, a darker color is going to work better than galvanized, and dark brown is a good color in that area.

Mr. Baker asked if AT&T would consider a camouflage finish to make the tower blend in with the surrounding background.

Mr. McGarey answered we are happy to do a pine tree if that is your preference. It is very site-specific in terms of when that application is really good. You do not want to see those standing out on their own because they tend to jump out as artificial. Against a hillside like this with other trees in the area, it is generally a pretty effective use. We didn't feel as if this area was going to be very visible to begin with, so we weren't very concerned about the camouflage (artificial tree) but absolutely no problem to do that. The only tradeoff would be to ask for a little taller height. Because of the taper of the tree, the antenna height has to be lower to hide those antennas in the branches. The effective total height of the structure would have to be raised by about five feet. The antenna heights don't change any, just the top of the tree tapers to a point.

Mr. Brown asked if they would use camouflage tree limbs to hide the antennas.

Mr. McGarey answered yes. We do this many places now. Going back a number of years, these artificial trees were untested. They are like artificial Christmas trees. It is shocking how much nicer they have become over time. From the highway, driving 60 miles per hour, with the tower set back 100 yards on the hillside, unless you know what you are looking for, it will blend in very well. There is a compound around it. You will see that it is a utility structure. It won't look like a natural tree. It will look like a tree in the middle of a fenced compound with other utility structures.

Mr. Brown noted that between Penrose and Colorado Springs there are a couple of cell towers along Highway 115 that are exactly that way. It is hard to tell that they are cell towers.

Mr. McGarey stated that artificial trees can be very effective and we are open to do that. We understand the nature of Highway 50, being scenic and the amount of recreation use in there. Camouflage is more expensive for us and there are maintenance considerations. It is a resin material, so the wear over twenty or thirty years and the discoloration will be an impact and a consideration. We would not ordinarily want to do it, because it is easier for us to maintain a pole and antennas as opposed to the artificial trees, but it is something we are doing very consistently throughout Colorado and across the country. We would have no problem doing that here.

Chairman Alsup asked how high above Highway 50 will the tower be.

Mr. McGarey answered about 100 feet. He apologized because Mr. Justin Hadley (*who has more detailed knowledge of the project*) is the staff member who is carrying this site forward, and he is out of Salt Lake.

Mr. Michael Pullen asked about the CDOT permit for the access road.

Mr. McGarey answered that AT&T doesn't have the access permit yet. We are communicating with CDOT and it is likely that we will get the access permit, but no guarantee.

Chairman Alsup asked if the drainage issues that Mr. Don Moore, County Engineer, commented on concerning the road have been addressed since then.

Mr. McGarey answered we have a good drainage plan, but we did a poor job of reporting what we have got. We have a great engineering drawing but we didn't write it up clearly. We have gone back to our engineers and they are in the process of getting that revision to us. We will agree that we will meet the grading and drainage requirements and put those in the format you are expecting.

Mr. Pullen noted that there will be a light on the building. Are you taking power from within or from the power company?

Mr. McGarey answered we will be taking power from the power company in an easement. Generally speaking that easement will follow the access easement. We don't determine the point of feed, the power company will, but it will go the shortest path. We will be happy to underground that route, but if it is a primary easement, we don't control that, the power company does.

Chairman Alsup asked about other companies collocating on this tower. Will there be space on the tower for other companies?

Mr. McGarey stated we will not do anything to preclude anyone from applying. We would expect that to be a standard stipulation in every jurisdiction. The limitation is the forty foot height limit. This is line-of-sight technology. We are trying to cover areas in a very tough windy canyon, so the higher we can get the better. We will cooperate with another user who wants to replace it with a taller tower if needed.. We are also open to building a taller site there now that might accommodate someone else in the future.

Chairman Alsup asked if AT&T had inquired about the possibility of building a higher tower, or was this always the plan?

Mr. McGarey answered we understood the visual impact was going to be significant and we wanted to get what we needed in terms of height and limit it to that to ensure we were putting forward the best sight possible. That is how Alltel approached it, AT&T acquired Alltel based on that fact, and so that is how we have designed the system. We would be okay going to sixty-five or seventy feet there. That would build in a space or two for future users if you want to go that route.

Mr. Giordano summarized the Recommended Conditions, Contingencies, Waiver Requests, and Additional Notifications.

Chairman Alsup noted that the fake trees stand out more than the monopole.

Mr. Baker stated that the applicant is asking for a forty foot tower. If we go with a fake tree, the tower would have to be about forty-five feet. He asked the staff for comments regarding making the tower higher for the future (*collocating*).

Chairman Alsup commented that he would not want another tower just down the road.

Mr. Giordano answered that there is a requirement for collocating, but not for making the tower taller.

Mr. McGarey stated that it is easier to put an extension on a monopole than on a tree pole. We could engineer the foundation to be extended later. It is conceivable that you could approve a taller structure, with the condition that we build it as it is currently drawn, which is a forty foot pole, to be extended later upon collocation approval. If it is a tree, that would be much more difficult to do, because the whole thing would have to come down and go back up. Now the total structure height is about forty-four or forty-five feet. That way you are not allowing us to overbuild. We would engineer the structure foundation, so if Verizon comes in later to collocate, we could put a pole extension on.

Mr. Brown noted that there is a big difference between a forty foot pole and a one-hundred foot pole. He asked how much of an extension they could do on a forty foot pole.

Mr. McGarey answered that they would not want to go from forty feet to one-hundred feet. Typically a collocation extension is going to be on the order of about fifteen feet. It would be reasonable for us to engineer a foundation and a pole that could be extended fifteen feet to get another user on that pole. All of these towers are engineered specifically to match their foundation. The mounting bolts and the brackets, etc. are designed specifically for that particular application. You wouldn't have the same bolt configuration to anchor the pole to the foundation for a one-hundred foot pole as you would for a forty foot pole. It is possible, but you would end up with a huge stubby pole that could ultimately be extended to one-hundred feet. It wouldn't be what we would want to do. We could do something reasonable in the fifteen to twenty foot range and prepare the site appropriately to be able to handle that extension easily.

Mr. Joe Lamanna stated that he thinks the height of the tower is not the Planning Commission's decision. That is an engineering decision that the communication company makes. I don't know why we would even want to specify the height of the tower.

Mr. Brown noted that the only thing left to discuss is what color to recommend.

Mr. Baker commented that after a while, camouflage truly looks fake. Initially they look decent, but the weather takes a toll.

Mr. Giordano stated that the Board chose brown or tan in the previous application, because they felt it would blend in better with the background of rock. Arkansas Headwaters Recreation Area thought that the tower should look like a tree, that way the eagles in the area may nest in the branches.

Mr. Brown asked if AT&T had problems with birds nesting in these things.

Mr. McGarey answered they will use them. It makes a maintenance problem for us. If the birds are protected, we have to wait for the fledglings to get out of the nest.

Mr. Giordano noted that Arkansas Headwaters will be notified again about the public hearing for this application and they again may make a recommendation.

Mr. Lamanna asked if the Deer Mountain Fire Protection District was notified.

Chairman Alsup stated that they are the nearest responders, but this site is not part of their district.

Mr. Lamanna asked what fire hazards exist with the equipment.

Mr. McGarey answered very few. These are hardened concrete prefab buildings that are fire rated, with solid-state electronic equipment. The construction time-frame is where we have concern about fire, very little concern once the site is operational. We are concerned about natural fires spreading and burning these facilities down, but not real concerned about fires starting as a result of any of the activities themselves. The use is pretty benign. There are a couple of air conditioners and compressors that will cool the building, and there is a heat loading issue in terms of the electronic equipment running constantly in the shelters, but no fire hazards, any more so than a private residence would have, much less actually. There is no plumbing, no activity other than the electronics in that building.

Mr. Lamanna asked if the area is clear of vegetation.

Mr. McGarey stated they will have that whole 50'x50' area cleared. They will fence the outside. Everything inside the compound will be aggregate gravel, low maintenance ground cover to keep the weeds down. What we see from a fire prevention standpoint is they are encouraged because of the 911 responsiveness and the increased coverage and the ability of people to use phones in that area that don't have 911 access on a mobile basis. From that perspective, there will be great benefit to the community as a whole, and very low fire risk.

### **MOTION**

Mr. Pullen made a motion to approve SRU 13-004 AT&T Cell Tower – Texas Creek, subject to the following:

### **RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for a thirty (30) year term. *The applicant has requested life of the use; however, the lease is for an initial five year term with five additional five year terms with an option for additional terms.*
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with

the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- 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, if required.

- J. 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.
- 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 8.14 of the Fremont County Zoning Resolution (complete reapplication).

**RECOMMENDED CONTINGENCIES:**

The Planning Commission 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. The applicant shall provide the Department with a copy of the recorded lease between New Cingular Wireless PCS, LLC and Michael & Denise Tezak for the 50' x 50' lease area, and the use of the 10' x 25' turnaround and parking area and the proposed 12 foot access easement.
- 2. Documentation as to compliance with any requirements of the County Reviewing Engineer.
- 3. The applicant shall provide the Department with a copy of an approved Colorado Department of Transportation Access Permit for the proposed use.
- 4. A report by a Colorado registered engineer demonstrating compliance with applicable structural standards and the general capacity of the proposed facility.
- 5. Drawing shall contain the complete legal description for the lease area and access easement.

**ADDITIONAL CONSIDERATION:**

- 1. Determination as to the color of tower as to reduce visual obtrusiveness. *The Planning Commission recommended that the monopole structure be painted either tan or brown.*

**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. Colorado State Historic Preservation Office
3. Fremont County Sheriffs Office
4. Fremont County Historical Society
5. Colorado Parks & Wildlife
6. Arkansas Headwaters Recreation Area
7. Colorado Department of Transportation

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

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

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

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

***The applicant is requesting a waiver of the buffering and landscaping with the following justification: the proposed location is already screened by existing trees and shrubs, and there is no irrigation or water lines available to the site.***

2. **Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface **unless waived by the Board**. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

*The applicant is requesting a waiver of the hard surfacing of the off-street parking area with the following justification: the site compound and access drive will be composed of six inches of crushed run gravel over geo-textile fabric, and the only traffic will be site technicians three to four times a year.*

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 has requested a waiver of lighting with the following justification: there will be minimal to no traffic, and AT&T site technicians will park within thirty feet of the shelter and will be provided with flashlights, vehicle lights, and the shelter has an exterior light.*

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: There is minimal traffic and only one parking / turnaround space is proposed.*

## **SECOND**

Mr. Baker seconded the motion.

Chairman Alsop called for a roll call vote, and the motion passed unanimously. (6 of 6)

### **b. REQUEST: ZC 13-002 McDERMOTT ZONE CHANGE**

Mr. Matt Koch, Cornerstone Land Surveying, was present to request approval of a Zone Change from the Agricultural Suburban Zone District to the Low Density Residence Zone District, Department file #ZC 13-002 McDermott Zone Change, by John & Gail McDermott, for their property which is located on the west side of 715 Pisgah Lane, approximately 270 feet north of Park Avenue, in the Lincoln Park Area. The purpose of the zone change is to allow for the subdivision of the property into three lots which would result in two additional rectangular residential lots located south of the residence. The property presently houses a single family dwelling and a shed and contains 2.187 acres.

Mr. Giordano showed a video of the area and summarized the Recommended Contingencies and Additional Notifications.

Chairman Alsop asked where the driveway accesses will be for the two additional lots.

Mr. Koch answered that the new accesses will be south of the existing access. Access permits will be applied for during the Building Permit process.

Mr. Lamanna asked how the property will be subdivided.

Mr. Koch answered that the existing house will remain on approximately one acre, and the two new lots will be to the south. All the accesses will be from Pisgah. More right-of-way for Pisgah will be dedicated.

**MOTION**

Mr. Baker made a motion to approve ZC 13-002 McDermott Zone Change, subject to the following:

**RECOMMENDED CONTINGENCY:**

The Planning Commission approval recommendation is contingent upon, at a minimum, 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. Documentation as to compliance with any requirements of the Colorado Division of Water Resources.

*The Planning Commission recommended the following:*

**ADDITIONAL NOTIFICATIONS**

In addition to notification as per regulation by certified mail, return receipt requested to all property owners within 500 feet of the property boundaries and to any severed mineral interest owners, the following shall also be notified in accordance with regulations:

1. Fremont County Sheriff's Office
2. Fremont County Department of Transportation
3. Colorado Parks and Wildlife
4. Fremont Historical Society
5. City of Cañon City
6. Cañon City Police Department

**JUSTIFICATION:**

- b. Additional land is needed in the proposed zone district.
- d. The proposed zone change will be in conformance to the Comprehensive Master Plan for the area.

**APPROVAL CRITERIA:**

- c. There will not be any effect on existing traffic.
- e. The proposed development will be in harmony and compatible with the surrounding land uses and development in the area.

**SECOND**

Mr. Pullen seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

c. **REQUEST: CDP 13-001 PIKES PEAK MOTOR COMPANY COMMERCIAL DEVELOPMENT PLAN – (AUTOMOBILE GRAVEYARD)**

Mr. Matt Koch, Cornerstone Land Surveying, was present to request approval of a Commercial Development Plan, Department file #CDP 13-001 Pikes Peak Motor Company (Automobile Graveyard – storage of up to 2000 cars) to allow an automobile graveyard which includes the storing, dismantling, buying and selling of parts with the focus on classic cars; however, all types of cars will be parted and crushed, with some cars being restored and then placed in a showroom for sale, by Michael DeVriendt, for his property which is located on the north side of U.S. Highway 50, approximately 1.4 miles west of the intersection of U.S. Highway 50 and Colorado State Highway 115, west of the Town of Penrose. The property contains a 100 ft. by 200 ft. metal building which will be used for storage and display. A 30 ft. by 40 ft. office is proposed. The property is zoned Industrial and Agricultural Forestry and will contain 35.02 upon recording of a deed.

Mr. Koch noted that there is a Drainage Plan, approved by Mr. Don Moore, Fremont County Engineer. The drainage will be captured, taken around the storage area, and put in the pond out front. The water quality and detention will take place at that location. We are currently working with CDOT on the access. We have a meeting scheduled with them on Friday to go over all the requirements for the site. There is an eight foot, twin-T concrete wall being put up around the site, to be used for security as well as buffering. There is not much to buffer around it – the owner of this site owns the majority of land around the property as well. There are not many residences that will see into the site. Regarding the ingress / egress easement, that is to access the property to the north of this property. There is a house that sits in the back which is in foreclosure and the bank owns it, so no one is living there at this time.

Mr. Giordano showed a video of the area and summarized the Recommended Contingencies, Additional Notifications, and Waiver Requests. He noted the following:

- Regarding the notifications: Under the existing regulations, the applicant is required to notify the property owners within 500 feet of the property boundaries. If that criteria is used, only two property owners will be notified because most of the surrounding property is owned by the applicant. We looked at extending notification to 1000 feet and 1500 feet. The easiest and most reasonable option may be to notify all property owners adjacent to all the land the applicant owns, which would be a total of thirteen property owners. The property will also be posted.

Mr. Brown asked about the approval to construct the concrete fence.

Mr. Giordano answered there has not been a building permit issued yet to my knowledge. The issue was that the applicant was trying to tie the building permit for the fence into the building permit for the interior remodel, and there are some real concerns on the interior remodel, so the permit was held up for both. The fence does require a building permit because it is over six feet in height.

Mr. Richard Murr, Mr. DeVriendt's business partner, and future General Manager of this facility once it is open, explained that they applied for a joint building permit for the remodel of the building and the fence, assuming that the permit would be issued in a timely fashion. The Building Department agreed with the engineering on the fence, and also agreed to allow our architect to do all the inspections. We could at this point split the two building permits. We

made application for permit and paid all the fees in June. The Building Department came back on the building remodel just this last week with some additional design work that they want done on the building and some issues that they want us to address on the building. We could pull a separate permit for the fence if desired. The Building Department knows that we are under construction on the building and on the fence and have agreed to allow us to continue with construction. He stated that it is probably advisable to issue a permit for the fence while we work out the issues on the building.

Ms. Brenda Jackson, County Attorney, asked if they had submitted the plans for the building yet.

Mr. Murr answered they submitted a revised set of plans. Mr. Martin Hasenauer of the Building Department reviewed them and called last week with some items that they wanted us to address. Those are being addressed with the architect and we are working on the revisions that were requested.

Chairman Alsup asked how they are going to address the dust control.

Mr. Koch answered there are several options. They could run a water truck through there, or they could put some dust suppressant on the areas where they are driving. These are standard methods of dealing with dust.

Mr. Murr agreed that it probably is a problem, as dry and powdery as the ground is. The applicant is open to solutions. They have discussed the fact that a water truck may be advisable for that site.

Mr. Giordano noted that dust suppression was not addressed in the Department Review. The Planning Commission may request dust control.

Mr. Lamanna asked if this is dust control for the parking area or for the whole site.

Mr. Koch answered that the parking area is broken asphalt. The problem will be in the drive areas between where they are stacking the cars. We will agree to some dust suppressant.

Chairman Alsup said it sounds like you will be monitoring the water quality in the detention pond for runoff, but is there any plan to monitor for things that might be leaching into the groundwater?

Mr. Koch stated there shouldn't be anything leaching. When they get a vehicle in, they drain all the liquids, all the oil and everything, before they place them in the yard.

Mr. Giordano noted that the Stormwater Permit will address that issue also.

Mr. Koch said the Colorado Department of Health reviews the water quality periodically. There is a routine for salvage yards and they will be monitored quarterly.

Chairman Alsup noted that in the application, hours of operation were from 8 am to 6 am. Is that a mistake?

Mr. Koch answered that is supposed to be 8 am to 6 pm.

Mr. Lamanna asked how long the CDP is for.

Mr. Giordano answered it is for the life of the use. It is like a zone change, in that you either approve it or you don't. There are contingencies, but no conditions.

Mr. Mike DeVriendt, the owner of the property, stated that they ran a similar operation in Colorado Springs, called You Pull & Pay, on a fifty acre tract that backed up to a creek. We are aware of the water runoff problems. We ran that operation for ten years so we are familiar with what it takes. We kept that property clean. As to the concrete fence, there is no maintenance required. It will not blow down or move. It is costly, but we wanted it to look good and be long term. We are on a time crunch. We are being relocated by the state of Colorado. They purchased my property off of I-25 in Colorado Springs. The fence is the biggest holdup. We can move vehicles in without having the building done, although we do need a certificate of occupancy. We still have four to six weeks left on the construction of the fence. It is a slow process. We have had a lot of calls from people in the community saying they love the fence, where can they get the material. We are actually recycling it – it came from the city of Colorado Springs, it was covering a reservoir and it was going to be destroyed. They were going to grind it up.

Mr. Pullen asked why they are requesting a waiver of the buffering and landscaping.

Mr. DeVriendt answered that the location is set back quite a way from the road. Also it is very difficult to grow anything out there. It is very dry. All you see along that area is scrub oak. The water requirement is another concern. We are going to do some minor landscaping along the front of the building. We want it to be an attractive building. We could have fenced out further, but we wanted to keep the facility off the road and try to be user friendly to the people who drive by.

Mr. Pullen wondered about the perception of people in the community coming to Penrose or coming to Cañon City. He clarified that he does not call this facility a "junkyard." I understand the purpose and it is a good business, but there are people who may be somewhat critical within the Fremont County community. As the owner, you may want to do something to prevent that from happening.

Mr. DeVriendt noted that the regulations require eight foot opaque fencing or vegetation that will grow up in three years. I wouldn't think of trying to grow an eight foot vegetation fence in that area in three years, so I thought we were meeting that requirement (*with the concrete fence*). I have had more positive than negative comments. Maybe the negative people don't call me.

Mr. Pullen said it is a perception issue. Are we going to see cars stacked ten high?

Mr. DeVriendt answered no, not with this much area. I operate on four acres currently and I still don't stack them too high, but we are full. We will have thirty feet between the rows of cars. I don't like the term "junkyard." We like to be called an auto recycling facility. We went through this process before in Colorado Springs. We rezoned an agricultural site, which was a sand pit at the time. We never had a complaint or a problem with the El Paso County Commissioners. We have always kept a clean facility.

Mr. Baker asked about signage, which could take care of the perception issue.

Mr. DeVriendt said the facility will be identified as an auto recycle facility.

Mr. Pullen noted that this will bring business to this community. I want to make sure that this will not be an eyesore. This is a more sophisticated business (*than a junkyard*), but I feel an obligation to speak up.

Mr. DeVriendt gave his assurance that they have gone to extra effort and expense to make this the kind of place people will want to come to. We do a lot of high school graduation pictures in my facility, with the classic cars.

Mr. Giordano clarified that if the cars are stacked above the screen, there will be a violation as if it is above the fence then it is no longer considered to be screened.

Mr. DeVriendt said they have enough room that they don't have to do that.

Mr. Brown noted that when you are coming from the west, you could put up a fifteen foot high fence and still see the vehicles behind the concrete fence. That is something they are not going to be able to correct.

Mr. Giordano stated that the buffering screening is not optional with an automobile graveyard, which is the official classification of this use by our regulations (*even if the screening isn't entirely effective*).

Mr. Brown stated that he has heard from a number of people who live in Penrose and who travel on Highway 50 who object to this proposal, because no matter what you do it will still be a salvage yard. You are still going to see two thousand vehicles behind this little fenced-in area.

Mr. DeVriendt said that two thousand may be an exaggeration, but he didn't want to have to come back later to increase the number. I drive through Penrose and Cañon City and see a number of cars in backyards and on front lawns. I would much rather see them in a controlled area like this than see them sitting all over.

Mr. Lamanna agreed. There have been articles in the paper lately asking for regulations limiting the amount of weeds and trash, etc. This business needs to exist. The only concern I have is the request for the waiver of the buffering. I think buffering is necessary. It may add to the aesthetics of the site, especially along Highway 50.

Mr. DeVriendt said I don't know what you would do for buffering, other than thirty or forty foot trees that take several years to grow.

Mr. Lamanna said that is a start, because the site is going to be there for a while. I am a member of the industrial community, and we are trying to make things look a little better. I like the idea of dust suppression. It helps make those facilities blend in with the surrounding area. The Estes facility down the road has some landscaping and it helps to blend the buildings into the highway area.

Mr. Mike Krauth asked if Mr. DeVriendt would consider planting twenty trees on the western side of the concrete fence, four to six footers with a drip system. This would be a nominal expense.

Mr. DeVriendt commented that when they get the building done it will be very attractive. The comment was made to him that it is an ugly building. I take a lot of ugly cars and make them look good. That is the challenge with this building, to make this look like a nice facility. The

building looks bad for the community because it is getting run down. It will be a very attractive building when it is done and painted. We are here for the long term.

Mr. Krauth said we are not going to ask you to do anything unreasonable. We don't want to deter you from this project because we want to promote new business in our county.

Mr. Lamanna said we don't want to set a precedence of waiving landscaping, especially along the Highway 50 corridor.

Mr. DeVriendt pointed out that the 240 acre property has a mile of frontage. We will do as much as we can.

Mr. Koch noted that typically landscaping is used for buffering. In this case the concrete fence meets the requirement for the buffering. Landscaping is also used to break up a vast parking lot. In this case we don't have that. There are a lot of negatives to trying to promote growing things out there. They are on a commercial well and there are issues with that. You can use xeriscaping. For a drip system the water still comes from the well and there are legalities involved with using that water. Typically in industrial zones you don't see a lot of landscaping. Planting trees around the community may be a more sensible alternative than planting them on site where they would be hard to keep alive.

Mr. Krauth noted that the reason the issue of landscaping comes up here is that members of the public are concerned about the visual impact of this use. The fence is meeting the requirement from a regulatory standpoint, but what about visual? We are saying make an attempt, so if we ultimately approve this application, we can say we made our best effort to meet both the counties and the applicant's needs. If you make an attempt to soften the visual impact, it may deter complaints.

Chairman Alsop said we could waive the buffering and landscaping requirements as required under code, but we could add a contingency asking for some landscaping in front of the wall on the west side.

Mr. Baker stated the applicant meets all the requirements. Now all of a sudden we are requiring additional things. Knowing the difficulty (*of growing trees*) in that harsh area, the dryness etc., I think we are requesting too much. They have the eight foot wall. Landscaping is a beautification thing – I think that is a business decision on their part not our part. We can't dictate how beautiful they should make this facility. I have a problem with us trying to push this any further than that. The building is set so far back, what is really going to show? I don't think we can make this a showplace in that environment.

Ms. Jackson said that if the Planning Commission believes that a few trees along the fence would soften the starkness of the fence, as part of the acceptance of the eight foot fence, which the Planning Commission has to do, it would not be vegetative buffering as in the regulations. You may ask that the appearance be softened with vegetation. Even if the vegetation in and of itself wouldn't be a buffer, the fence is a buffer, and you want to soften that appearance. That is part of your acceptance of the fence if you choose to make it so.

Mr. DeVriendt assured the Planning Commission that the front of the building will be landscaped. He is willing to work with the County.

Mr. Krauth summarized that the applicant will landscape in front of the building and in the landscape plan of their design they will include a dozen trees on the west side (*of the concrete fence*) because that seems to be the area of most concern of visual impact.

Mr. Pullen stated that he wasn't after landscaping to begin with when he started the conversation. I was after a commitment from the owner, which I got, that he was going to do everything he can to minimize visual impact.

Mr. Brown said in ten or fifteen years the trees will help, but you are still going to be able to look over the trees. You are not going to be able to hide all the cars that are going to be in there, and that is the objection I've heard from some of the people I have talked to. There is nothing the applicant can do about that.

Chairman Alsup noted that the fire protection district mentioned that there is no fire hydrant nearby and they are concerned about water for firefighting.

Mr. Koch responded that there is an existing well with spigots away from the building, so there will be some water there, probably not the flow they would like to see out of a fire hydrant. There is no municipality providing water. There will be fire extinguishers throughout the building. There is a lot of metal and very little wood or combustibles in the area. Most of the apparatus that would come onto the site to fight a fire would bring their own suppressants. The intent is life safety first in rural areas like Penrose and then try to save the structure.

Chairman Alsup asked the capacity of the well.

Mr. Koch answered 250 gpm.

Chairman Alsup asked about the issue of the detention pond crossing the right-of-way.

Mr. Koch noted that it is a non-exclusive easement, which means that we have the right to use it for our purposes. It is on our property. It allows the neighbors at the back to gain access to their property. Since it is a non-exclusive easement, we can plat another easement on top of it and not have any concerns. We won't be hindering their access to their property.

Chairman Alsup asked if there will be a subdivision request coming before the Planning Commission next month. It was mentioned in the application that the applicant will be subdividing the 35 acres away from the larger parcel.

Mr. Giordano answered that 35 acre subdivisions are exempt from our subdivision regulations.

### **MOTION**

Mr. Krauth made a motion to approve CDP 13-001 Pikes Peak Motor Company Commercial Development Plan – (Automobile Graveyard), subject to the following:

### **RECOMMENDED CONTINGENCIES:**

The Planning Commission 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. Copy of a recorded deed for the proposed parcel, which contains less than twenty-five (25) percent of the AF zoned property.

2. Documentation from the Colorado Department of Transportation as to whether a new access permit is required or whether the existing access is adequate for the specified use. A copy of a new permit shall be provided.
3. Documentation as to compliance with any requirements of the Fremont County Environmental Health Officer as outlined in the memo dated September 5, 2013.
4. Documentation from County Reviewing Engineer as to compliance with any requirements.
5. Documentation from the Colorado Registered Engineer who designed the drainage improvements that the required improvements were constructed to the approved design standards.
6. Property owner shall execute a Quit-Claim deed with a deed restriction addressing the maintenance of any required drainage facilities, easements, rights-of-way, related structures and/or facilities. Such deed shall be recorded at the time of recording of the development plan. Fremont County will not accept maintenance of these facilities.
7. Property address shall be posted at the entrance off U.S. Highway 50, as required by the Florence Fire Protection District.
8. Documentation from the Colorado Division of Water Resources as to adequacy of the well permit for the intended use and verify transfer of the permit to the current property owner.
9. An eight (8) foot adequately maintained opaque screening as per Section 5.7.15 of the Zoning Resolution. *Acceptance of the eight (8) foot concrete fence is required.*
10. An approved copy of a Colorado Department of Public Health and Environment, Water Quality Control Division, Stormwater Management Plan or documentation that such a plan is not required.
11. Documentation from the Fremont County Weed Manager noting any requirements concerning noxious weed control measures. If a Weed Control Plan is required, it will be required to be maintained or updated on an annual basis.

*The Planning Commission recommended adding the following contingency:*

12. **In addition to the landscaping at the front of the building (which the applicant has agreed to do), plant twelve trees on the west side of the opaque screening (concrete wall) with a drip irrigation system for watering.**

*The Planning Commission recommended granting the following waivers:*

**WAIVER REQUESTS:**

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

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

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

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

*The applicant has requested a waiver of the buffering and landscaping of the adjacent properties. The justification for the waiver is that there is a lack of neighbors and that buffering would not buffer much of the visibility.*

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. The driveway and parking 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.

a. *The applicant has requested a waiver of the hard surfacing of the parking area. The applicant's proposal is to use broken asphalt. The justification for the waiver is that storm water and drainage will be multiplied and that the parking area is broken asphalt.*

b. *Hard surfacing of the individuals with disabilities parking spaces along with a walkway from the parking spaces to the entrance is required.*

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 has requested a waiver of the lighting of the parking area. The applicant's justification for the waiver is that lighting for the parking area will be located on the building.*

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. The justification for the waiver request is that the area is industrial and very dry, and the parking area needs to be open for larger vehicle turning.*

*The Planning Commission recommended the following:*

**ADDITIONAL NOTIFICATION REQUIREMENTS:**

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

1. Fremont County Sheriff's Department
2. Fremont County Historical Society
3. Colorado Parks & Wildlife
4. Colorado Department of Transportation
5. City of Florence
6. The Colorado Nature Conservancy
7. The Colorado Department of Public Health & Environment – Hazardous Materials & Waste Management Division

*The Planning Commission recommended notification of all property owners adjacent to the entire property owned by the applicant (the owner agreed).*

**SECOND**

Mr. Pullen seconded the motion.

Chairman Alsup called for a roll call vote.

Mr. Baker	Nay	<input type="checkbox"/> Aye	Abstain
Chairman Alsup	Nay	<input type="checkbox"/> Aye	Abstain
Mr. Lamanna	Nay	<input type="checkbox"/> Aye	Abstain
Mr. Krauth	Nay	<input type="checkbox"/> Aye	Abstain
Mr. Brown	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye	Abstain
Mr. Pullen	Nay	<input type="checkbox"/> Aye	Abstain

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

**d. REQUEST: AMENDMENT TO FREMONT COUNTY SUBDIVISION REGULATIONS**

Mr. Giordano requested approval of a proposed amendment to the Minor Subdivision Section of the Fremont County Subdivision Regulations.

Mr. Giordano summarized the proposed amendment. Most of this amendment is for cleanup and clarification purposes and to be consistent with the previously approved amendments to the Sketch Plan, Preliminary Plan and Final Plat sections of the Subdivision Regulations.

Chairman Alsup commented that this amendment looks pretty consistent with what has been done already (*in the other amendments*).

**MOTION**

Mr. Pullen made a motion to approve the proposed amendment, dated September 9, 2013, to the Minor Subdivision Section of the Fremont County Subdivision Regulations as presented.

**SECOND**

Mr. Lamanna seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

**7. ADJOURNMENT**

Chairman Alsup adjourned the meeting at 6:05 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE