

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
OCTOBER 6, 2009**

CHAIRMAN TOM PILTINGSRUD BROUGHT THE OCTOBER 6, 2009 MEETING OF THE PLANNING COMMISSION TO ORDER AT 7:00 P.M.

MEMBERS PRESENT

Tom Piltingsrud, Chairman
Bill Jackson
Herm Lateer
Mike Schnobrich
Tom Doxey
Keith McNew

STAFF PRESENT

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

MEMBERS ABSENT

Dean Sandoval

1. APPROVAL OF THE SEPTEMBER 1, 2009 PLANNING COMMISSION MEETING MINUTES

2. PUBLIC HEARING - 4th AMENDMENT TO THE FREMONT COUNTY MASTER PLAN

Request approval of an amendment to the Fremont County Master Plan which is intended to clarify the submittal process, set an application fee, set the number of copies required for the amendment application, set deadlines for submittal, clarification of existing requirements and additional submittal requirements, and to allow the Planning Commission to review the application for amendment to determine whether the amendment application is appropriate and if it meets the requirements of the application process for amending the plan, and to identify and clarify actions of the Planning Commission.

REPRESENTATIVE: Department of Planning & Zoning

3. REQUEST: SDP 09-001 ECHO CANYON RIVER EXPEDITIONS ADDITIONS & REMODEL

Request approval of a **Site Development Plan, Department file #SDP 09-001 Echo Canyon River Expeditions Site Development Plan, to allow a restaurant and lounge in addition to the existing commercial rafting business**, by Andy Neinas, for his property which is *located approximately 1/4 mile east of the intersection of County Road 3A and U.S. Highway 50, on the north side of U.S. Highway 50, in the Royal Gorge Area*. The property contains a commercial rafting business, a rafting reception and retail building, a bunk house, a storage trailer, a removable shed, another existing shed and a sun shade building. A Special Review Use Permit has also been issued for seasonal housing of rafting employees. In addition to the request for a SDP for the restaurant and lounge (*housed in a new 2,265 sq. ft. pavilion building*), a new staff locker building and guest/customer locker building, guest/customer dressing room, 2 covered porches, a number of open porches, a breezeway and a pavilion will be added in conjunction with the existing commercial rafting business. Three (3) existing buildings used for the rafting business are to be removed. The property is zoned Rural Highway Business and contains 7.0

acres. (*A Site Development Plan application was required as the addition of a restaurant and lounge was considered a substantial change of use to the existing business operation.*)

REPRESENTATIVE: David Reynolds, Reynolds Construction Company.

4. REQUEST: SRU 09-001 VERIZON WIRELESS SITE CO4 CAÑON CITY

Request approval of a **Special Review Use Permit, Department file #SRU 09-001 Verizon Wireless Site CO4 Cañon City, by Colorado 4 Park Limited Partnership, d.b.a. Verizon Wireless, to allow for modifications to an existing three-hundred (300) foot unmanned telecommunications guyed tower. The modifications will be to remove three (3) existing Omni antennas, and replace them with three (3) tower arms/sectors with 4 cellular panel antennas on each arm or twelve (12) antennas total. The existing tower was constructed prior to regulation; therefore approval of the SRU will bring the tower into compliance with current regulations.** The property is *located on the east side of Fremont County Road #3 a.k.a Temple Canyon Road, approximately 1.7 miles southwest of the intersection of County Road #3 and Mariposa Road, in the Temple Canyon Area.* In addition to the tower the property also contains an existing 12 foot wide by 26 foot long by 10 foot high prefabricated equipment building and an existing 50 foot by 60 foot 6 foot tall chain link fence with barbed wire enclosure. The property consists of a 7.0 acre parcel which is located in the Industrial Zone District.

REPRESENTATIVE: Pam Powell, Black & Veatch Corporation

5. REQUEST: ZC 09-001 THOMPSON ZONE CHANGE

Request approval of a **Zone Change from the Industrial Zone District to the Business Zone District, Department file #ZC 09-001 Thompson Zone Change, by Lonny Thompson, for his property which is *located at the northeast corner of U. S. Highway 50 and K Street, in the Penrose Area.* The proposal is to allow a retail store. The property presently houses a framed building used for retail sales, two mobile homes, one used for a watchman's quarters and one is used for storage of retail items. The property to be rezoned contains 2.5 acres.**

REPRESENTATIVE: Matt Koch, Cornerstone Land Surveying, LLC

6. 3rd AMENDMENT TO THE SUBDIVISION REGULATIONS

Request approval of the 3rd amendment to the Fremont County Subdivision Regulations. The amendment exempts multi-business or industrial uses on a single property housed within a single structure if they are to be rented or leased as individual units, adopts the new drainage and roadway impact analysis regulations as adopted in the Zoning Resolution. **This item was tabled from the September 1, 2009 meeting.**

REPRESENTATIVE: Department of Planning & Zoning

7. OTHER ITEMS FOR DISCUSSION

Discuss any items or concerns of the Planning Commission members.

8. ADJOURNMENT

9. WORKSHOP - 2nd AMENDMENT TO THE FREMONT COUNTY MASTER PLAN

Workshop for Fremont County Master Plan re-write. (Open to public but no public comment to be accepted until public hearing). (Public comment was accepted).

Chairman Tom Piltingsrud called the meeting to order at 7:00 pm and the Pledge of Allegiance was recited.

1. **APPROVAL OF THE SEPTEMBER 1, 2009 PLANNING COMMISSION MEETING MINUTES**

Chairman Piltingsrud asked if there were any changes, additions or corrections to the September 1, 2009 Fremont County Planning Commission Meeting Minutes. Hearing none he said the minutes stand approved as written.

2. **PUBLIC HEARING - 4th AMENDMENT TO THE FREMONT COUNTY MASTER PLAN**

Request approval of an amendment to the Fremont County Master Plan which is intended to clarify the submittal process, set an application fee, set the number of copies required for the amendment application, set deadlines for submittal, clarification of existing requirements and additional submittal requirements, and to allow the Planning Commission to review the application for amendment to determine whether the amendment application is appropriate and if it meets the requirements of the application process for amending the plan, and to identify and clarify actions of the Planning Commission.

Mr. Bill Giordano stated that it is pretty evident what is being proposed since the amendment was presented and reviewed at the previous meeting. The Department tried to clarify list items that are needed for a review when an amendment is proposed. It is intended to set parameters, policies, and procedures of how the amendment is submitted and addressed. This gives the Planning Commission the opportunity to review the proposed amendment before it goes to a public hearing. It allows the Planning Commission to determine if it is actually something that is an appropriate amendment to the Master Plan.

Mr. Mike Schnobrich stated that at the last meeting it was questioned about the legalities of limiting the public presenting amendments; that is why we requested the County Attorney to attend this meeting. He then asked if the County Attorney understands why she was requested to attend this meeting and if she understands the concerns.

Ms. Brenda Jackson, County Attorney, stated that she does understand the concern but that she would rather reserve her judgments until the end of the public comments.

Chairman Piltingsrud announced that he would call individuals to the podium one at a time, in no specific order for them to speak.

Mr. Joe Lawanna, (71 Ptarmigan Trail, Cañon City, CO) Quarry Manager with Holcim, stated that he thinks it's great that a process is coming together that allows the public to have input concerning the Master Plan. He noted that he has a couple of concerns about the way the proposed 4th Amendment is written; first is the process for review leaves the review up to one person initially whereas if there could be specificity around what exactly goes into the review process, it would not be determined by one persons opinion or expertise. Also, if there are impacts to any businesses or individuals, could they be notified that there is an amendment that may concern them. There is a concern about the frequency that could come up on the Master Plan; it is supposed to be reviewed every five (5) years or ten (10) years. The concern that Holcim has is that there could be amendments that would impact how they operate. They have

a billion dollar investment in the plant here in Fremont County, and certain amendments could have detrimental impacts on their operation and should be taken into consideration. What he would propose is that amendments would first go to some kind of advisory committee for the Planning Commission. The advisory committee should include some of the impacted parties to review the proposed amendment and then make a recommendation to the Planning Commission.

The Master Plan is meant to be a guideline, not a legal document. That needs to be stressed somewhere in the document; these are guidelines, not legal regulations.

Mr. Lee Alter (0489 CR 21A, Cañon City, CO) stated that he opposes this amendment to the Amendment Process to the Master Plan for a number of reasons. They include both procedural and substantive matters, as well as, political.

As the only member of the public ever to propose a Master Plan amendment under the current procedure, he found the technical requirements outlined in the Plan as well as those specified by the Planning Director in their informal discussions to be quite rigorous and, in fact, resulted in his submission to the Commission completely conforming to the proposed amendment requirement with the sole exception of the application fee.

He stated that two of the current Commission members approved the Process as published in 2001, Mr. Jackson and Dr. Sandoval, and one current member ratified it as a member of the Board of County Commissioners, Mr. McNew.

From a strictly procedural point of view, he believes that the Planning Director, a paid County employee, should be able to deal with the specific requirements of a public submission. If the Commission finds that detailed instructions to him are needed, a simple memo to him would suffice. An amendment to the Master Plan for that purpose is a waste of time. Further, at the Public Hearing on the amendment that he previously submitted, it was stated that our issues should properly be dealt with in the rewrite of the Master Plan which was underway by the Commission rather than amending a Plan which would be shortly superseded. We, TAC (Tallahassee Area Community), believed our issues couldn't wait, this one surely can.

He agrees that a proposed amendment should both describe and justify its purpose; however he takes issue with the phrase "whether the amendment is warranted" as part of the initial discussions with the Planning Director. The Planning Director can require additional details and justification from the applicant and provides his own review prior to Commission consideration. Whether or not the submitted amendment is "warranted" is not the initial step it is the ultimate end result of the amendment process. It is for the Planning Commission to decide, after the Public Hearing and the internal debate.

This phrase is the first of two (2) proposed changes in the Process which would have the chilling effect of discouraging public participation in a discussion of important land use issues. If an individual or group feels that a section in the Master Plan requires amendment and the strictly technical requirements are met, should they be barred from having a hearing before a full debate and all of the arguments, pro and con, are fully ventilated?

The same issue arises with the proposed Planning Commission review of the application to determine if the amendment is appropriate, prior to, and being a condition of, being scheduled for the Public Hearing. If the Planning Director has done his job assuring that the applicant has

met the procedural and substantive requirements of the Process, how can the Commission fairly determine “appropriateness” prior to hearing the arguments? The current Process establishes the Planning Director as the “Gatekeeper”. Let him do his job, he does it well, at least with respect to the TAC proposed amendment.

Regarding the proposed requirement that a proposed amendment must have a County-wide benefit, that is just plain silly. While there are many issues that have county wide implication, the Master Plan, in Chapter Five, deals with the various Planning Districts. There are many Goals and Strategies relating to the specific districts that not only deal with very local issues but also are different and conflict from one district to another. The treatment of mining and related health and safety issues, as one example, is vastly different across the Planning Districts. The concept that a proposed amendment dealing solely with a very narrow issue within a specific district would not be “warranted” or “appropriate” for full consideration by the Planning Commission is absurd on its face.

Regarding the proposed requirement for an application fee, he appreciates the County’s current financial concerns however requiring a fee for the public to provide input to the land use debate would be yet another chilling effect on the public participation requested by the Commission.

In conclusion, the current procedure works! If the Planning Director requires more detailed guidance, give it to him. If you believe procedural changes must be put in the Master Plan, do so in your deliberations for the rewrite. However, you must not devise a process that discourages public participation in the ongoing land use debate and you must not permit the prejudging of proposals before you have all the facts.

Ms. Lynn Holtz (61 Savage Loop, Cañon City, CO) stated that she was just here in support of Mr. Alter and what he said.

Ms. Kay Hawlee (1739 CR 21A, Cañon City, CO) stated that she would like to echo what Mr. Alter said, she does think that there are some great things in the amendment and is actually the process that TAC had to go through to do the proposed amendment that TAC brought forth to the Planning Commission in June, 2009. The process did work exactly how it was supposed to work.

The first statement noting the existing language along with the proposed language, specifically listing each section to be amended, that’s fine. TAC submitted #2 “justification”, but #5 “A statement as to how the amendment will have a County-wide benefit” she questions what would be submitted. If you required #5 which is an amendment to the statement that the amendment would have County-wide benefit, you will just get some little nice sentence that is not meant to be genuine. The biggest thing for her is regarding the application fee. She doesn’t know how you can approve something without knowing what that fee is going to be. Is it going to be \$50.00, \$150.00, \$1,000.00? Without even having any idea of what that fee would be, that bothers her. The fact that the Planning Director gathers these requirements together, she thinks it is a good thing, but then to give him the ability to judge whether or not it is warranted, she doesn’t agree with that.

Anita Minton (12150 Highway 9, Cañon City, CO) she agrees with Mr. Alter and she is very interested in the Master Plan. There are new people coming into the county and they do go to the County web site, which is a nice web site with a lot of information, it is very important what is said in the Master Plan because all the new residents are looking at it.

Jim Barton (166 S. Meadow Ct. Cañon City, CO) he just wanted the Planning Commission to know how TAC came into being in terms of the citizens view point and in seeking the ability in helping with the suggestions to rewrite the Master Plan. A long time ago...

Chairman Piltingsrud stopped the speaker and asked him to keep his comments to the proposed amendment.

Mr. Barton stated that he is in support of Mr. Alter.

Nancy Segar (1147 Allen Rd., Cañon City, CO) stated that she supports Mr. Alter. When she read through the amendment and looked at comments that Mr. Alter had sent her, she noticed that it looked as though and felt like we were being diversified in a negative way. Rather than what goes on in Penrose is important to us in Tallahassee, what goes on in Florence is important to us in Tallahassee, what happens at Holcim is important. If you can't include districts that you have in the Master Plan itself, how can you look at a proposal that comes from the Florence area and ask yourself "is this going to benefit Tallahassee?" In the past there have been a lot of people who felt like we shouldn't care about what happens in other parts of the county. As a whole, the county needs to be coming together on issues that have in the past never been important to anyone. In your judgment you need to consider that there is a huge diversification in this county. Public input is important. Maybe this is a process, because it has never happened before, it has taken everyone by surprise. (Because she was not at the microphone there was a segment that was unintelligible) As you consider the amendment, you need to consider the changes that are proposed; they are not favored and they are not just.

John Todd (693 S. Calaveras Dr. Pueblo West, CO) Plant Manage with Holcim, stated that he supports more rigorous requirements for future amendments to the Master Plan. As a bigger industry we feel that it is in our best interest to support this proposal and eliminate or substantiate future amendment proposals.

Chairman Piltingsrud asked if there was anyone else from the public who would like to speak; receiving no other public speakers he turned the floor over to the Planning Director.

Mr. Giordano stated that the notices to "those affected" would be very difficult; there is no way we could guess who is affected. Maybe we can do a better job of posting general notices, other than in the newspaper but I am not sure how else to do it. The Department received an email from Angela Bellantoni suggesting that we notify by certified mail. That probably could not happen due to cost involved and who do we notify.

As far as a time frame for the amendment, we felt that by giving the Planning Commission and the Department the authority to look at it to decide if it is an appropriate amendment and it provides an option to determine if it is an appropriate amendment or if it is a regulatory item.

As far as the intent of making the decision, it is intended that his recommendation is provided to the Planning Commission for their consideration.

It is noted in the Master Plan that it is a guideline for the County.

The importance of amendments is the County-wide benefit. The amendment that was proposed by TAC was so specific to the area that when you try to regulate it by putting it in the Master Plan you expect mining within the area. Through testimony at the last public hearing what

might be appropriate in the Tallahassee area might not be appropriate somewhere else. Even though we are stating “County-wide benefit” the regulations already give us that authority with the Conditional Use Permit (CUP) to evaluate the application on its own merits every time. If we want to strengthen the CUP by putting some additional requirements in it then we have the ability to do that.

As far as the issue of a fee on the proposal of an amendment, he is not sure how they are going to determine the amount; it probably won't be a set fee but rather an hourly fee. It will probably be set up to where the “Applicant” will have to pay the fee prior to the item being placed on the Planning Commission agenda and then the hourly fee, a deposit type of application. The magnitude of the TAC proposed amendment compared to this one; the time spent on the TAC amendment as compared to this one, the times aren't even close so the only fair way to do it by the hour.

Mr. Doxey stated that in response to the gentleman from Holcim, we are the advisory committee. We are the advisors to the County Commissioners. The Commission members are from all walks of life; some are working and some are retired but we've all had some sort of professional experience and he couldn't think of a better rounded group of men to serve on the Planning Commission.

Mr. Schnobrich asked the County Attorney if the Planning Commission could in fact limit the public from amending the Master Plan.

Ms. Jackson stated that it is up to the Planning Commission to derive anything for the Master Plan; it is not up to the public. By statute, the Commission is required to receive public input, oral and/or written, during any process of an amendment or original writing of the Master Plan. How the Commission wants to receive the public information, whether they want to hear it publically, is up to the Commission. The Commission could receive written comments for two (2) years and have one (1) public hearing to hear it all. The Commission could do it every month which is how the Master Plan is set up now; anytime anyone wants you to have a public hear the Commission is required to do it. She would suggest that the Commission would have a public hearing at regular intervals just to see if there is anything that needs to be considered in amendments to the Master Plan that are being proposed by the public. It doesn't have to be done every month, you (the Commission) don't have to receive amendments every month, and you (the Commission) don't even have to have staff review them before you (the Commission) review them. If the Commission likes what the amendment is proposing and wants staff recommendations; send it back to staff and set it for a public hearing and receive the public's recommendations. The Commission can be as creative as they want to be in scheduling public hearings; there is no statutory requirement to have them at any particular interval, there's not statutory requirement to review the Master Plan at any particular interval. Once you've adopted the Master Plan, it can remain that way forever with no amendments, it's solely up to the Planning Commission. The Commission should not be subject to the whim of public sentiment; that's why there are seven (7) members on the Board, to debate and discuss how the county should be planned. How the Commission schedules that and how they want to hear it is entirely up to the Commission. The Commission is required to take input at some point and time before adopting the Master Plan or any amendment thereto.

Mr. McNew stated that the County Attorney said a lot about what the Planning Commission is and what Fremont County government is. Fremont County government is an extension of the

State government which is an extension of the Federal government which is a republic which means it is a representative type government. That means that people are elected to represent the majority of the people in the county; they are the ones that appoint this board and it is a representative type government which is a very fine line between democracy where everybody is in on the decision and a representative type government where the people elect representatives to make decisions for them. How does this figure on the amendments to the Master Plan? It's like Ms. Jackson explained. We could have a public hearing once every six (6) months or once every year to consider amendments to the Master Plan. As far as having them every month, the Planning Commission might as well not even be here if it is to vote on every question brought up and run the government that way. This is a representative government and we (the Commission) try to keep the public involved. That is why he made some comments at the last Planning Commission meeting concerning having the Planning Commission meetings in the evenings so the public can be involved. On the other hand, he reminded everyone that this is a representative type government.

Mr. Alter asked Chairman Piltingsrud if he would entertain a couple of comments in response to what Mr. McNew said.

Chairman Piltingsrud declined Mr. Alter's request explaining that he gives the applicant the floor first to present, then he lets the public speak and then he gives the applicant the opportunity to respond and that's when he closes it off, otherwise it gets into a continuing of the debate process.

Chairman Piltingsrud closed the Public Hearing and asked the Planning Commission members for any discussion.

Mr. McNew stated that he thinks in the amendment process there needs to be a schedule of when amendments can be submitted and it should happen often enough to keep in mind the way the county might change as far as growth and economics. He suggested that a public hearing may be scheduled every six (6) months.

Mr. Schnobrich stated that he agrees with Mr. McNew and explained that he thinks the Planning Commission is trying to do is a balancing act. They want good input from the public in order to determine how the Commission wants to develop the comprehensive plan; he believes that it is the Planning Commission's Plan. The Commission wants it to represent the community, trying to develop a relationship with the community, asking the community what they want to see happen. He felt that the Commission has to be careful when setting up the process so that they don't discourage public participation but on the other side, they don't want to open up a door where they are constantly dealing with small pieces of the Master Plan and not able to get the rest of the business done. He noted that he likes the idea of a six (6) month period but he would like to see something in there that if a situation arises where an amendment could be time critical then it needs to be addressed sooner. He noted that part of the problem with the mining issue was that it was time sensitive. Probably waiting for six (6) months or a year in order to discuss those types of amendments probably wouldn't do that part of our community any kind of justice. Regardless of how things are decided, people should still have a say, even if we don't agree with what they are saying. By shutting off the discussion completely is plain bad government. If we can put something into the amendment that says Staff can do a quick review and bring it to the Planning Commission for a time sensitive issue, then we could bring it up as needed. He doesn't see that there will be that many amendments coming up. The

Comprehensive Plan has been in place for ten (10) or fifteen (15) years and this is the first time an amendment has been presented and it was over a very controversial issue.

He went on to suggest that amendments could be heard every six (6) months with a clause in there saying that the Planning Director can bring something in sooner than that on a time sensitive matters, so the Planning Commission could decide whether in fact it is a time sensitive issue.

Mr. Giordano stated that the Master Plan is a long term plan; how can something be time sensitive. The Regulations are open to changes, it is not restricted, and amendments can be made at any time. It would be hard to determine if something was time sensitive in a long term plan.

Mr. McNew stated that Mr. Giordano had a good point, the Master Plan isn't regulatory and if amendments were to be presented every month then contractors, real estate people and everybody else would be in a dither. We need to keep the Master Plan somewhat constant so future officials of the county have something constant and not subject to constant change.

Mr. Schnobrich asked if what Mr. Giordano is saying is that there is no way to determine if something is time sensitive or that time sensitive for a Comprehensive Plan is a crazy idea

Ms. Jackson stated that the Master Plan is a long term plan.

Mr. Schonbrich stated that the Planning Commission only looked at the Master Plan on a ten (10) year basis so he thought that the Comprehensive Plan was a short term plan. We need to have the long term, visionary; you don't want to be changing on a monthly basis. What happens if a major issue comes up like the mining issue or something else? We probably need to have some form of informal review process which is what he sees the Master Plan as being because it doesn't have any regulatory basis. This would make it possible to provide the information to the County Commissioners who then would be able to make better arrangements in terms of the regulatory process. The strength of the Master Plan is that it's not regulatory. We should be able to talk about those things because we aren't actually regulation; what we are doing is gathering together people's feelings on things, how they want to see the community move on. He doesn't really see it as a conflict to bring in short term issues; short term being a six (6) month to one (1) year type of thing.

Mr. Doxey asked if the decision could be at the discretion of the Chairman.

Chairman Piltingsurd stated that he thinks the Commission is reacting to what everyone has to agree to, the Mother of all Public Hearings regarding the amendment that was brought forward from the citizens of Fremont County for consideration. Based on a one (1) time event he doesn't see the necessity to change the procedure until it gets to the point where it becomes a major issue. If we start seeing amendments coming every month then the Planning Commission can reconsider the proposed 4th Amendment. He trusts the confidents of the People that they aren't going to do that; otherwise we are never going to get through the revision of the Master Plan because all we are going to be doing is sitting in public hearings. He is apposed to the 4th Amendment, he is nervous about a fee that is not prescribed. He thinks the People should be allowed to bring forth an amendment to the Master Plan; we've only had one and unless we see more he doesn't see any reason to amend the process at this time.

Ms. Jackson stated that there will be a fee, the Board of County Commissioners have already determined that the fee schedule needs to be amended. When you are dedicating staff time to a single issue brought forward by a member of the public, there's going to be a fee imposed. It's no different than an applicant wanting to subdivide a piece of property, rezone an individual piece of property, or amend the Master Plan. The county tax base is not sufficient to pay for one amendment after another without a fee. There is going to be a fee; you can make a recommendation against it but the Board of County Commissioners is pretty firm in their conviction that an individual application regardless of what they are requesting of the Planning Department is going to have to pay its own way. It's not going to be spread out to the tax payers at large.

Mr. Schnobrich stated that the problem that he has with a fee is that if he wanted to do a subdivision, he would personally benefit because his property is becoming more saleable or developable. However, on amendments to the Master Plan he thinks that the Board of County Commissioners would be hard pressed to find a specific benefit to any one individual. He thinks as far as the Master Plan is concerned he doesn't think that there should be a fee attached to it or if there is a fee, it would be a very nominal amount. He sees this more as general government more so than a specific governmental service.

Chairman Piltingrud called for a motion.

MOTION

Mr. Schnobrich moved to accept the applicants amendment to the Master Plan in its entirety.

Chairman Piltingsrud called for a second – Motion died because of a lack of a 2nd.

MOTION

Mr. McNew moved to **deny** the 4th Amendment to the Fremont County Master Plan.

SECOND

Mr. Doxey seconded the motion.

Chairman Piltingsrud called for discussion on the motion. Hearing none, he called for a roll call vote, and the vote was as follows:

Mr. Lateer	Nay	<input type="checkbox"/> Aye
Mr. Schnobrich	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Chairman Piltingsrud	Nay	<input type="checkbox"/> Aye
Mr. Jackson	Nay	<input type="checkbox"/> Aye
Mr. McNew	Nay	<input type="checkbox"/> Aye
Mr. Doxey	Nay	<input type="checkbox"/> Aye

The motion passed by a vote of 5 to 1.

3. REQUEST: SDP 09-001 ECHO CANYON RIVER EXPEDITIONS ADDITIONS & REMODEL

Mr. David Reynolds of Reynolds Construction was present to represent a request for approval of a Site Development Plan, Department file #SDP 09-001 Echo Canyon River Expeditions Site Development Plan, to allow a restaurant and lounge in addition to the existing commercial rafting business, by Andy Neinas, for his property which is located approximately 1/4 mile east

of the intersection of County Road 3A and U.S. Highway 50, on the north side of U.S. Highway 50, in the Royal Gorge Area. The property contains a commercial rafting business, a rafting reception and retail building, a bunk house, a storage trailer, a removable shed, another existing shed and a sun shade building. A Special Review Use Permit has also been issued for seasonal housing of rafting employees. In addition to the request for a SDP for the restaurant and lounge (housed in a new 2,265 sq. ft. pavilion building), a new staff locker building and guest/customer locker building, guest/customer dressing room, 2 covered porches, a number of open porches, a breezeway and a pavilion will be added in conjunction with the existing commercial rafting business. Three (3) existing buildings used for the rafting business are to be removed. The property is zoned Rural Highway Business and contains 7.0 acres.

Mr. Reynolds introduced Mr. Andy Neinas, the property owner. He stated that he had a note that they needed to get a letter from Colorado Department of Transportation (CDOT) to indicate the acknowledgement regarding the replacement of the grassy swale. He stated that he had heard from CDOT on the traffic but had not heard from them regarding the grassy swale. On the Recommended Contingencies 1a, Correction of the length shown for the parking spaces on the site plan, has been satisfied. Our architect e-mailed the information to the Department. Mr. Reynolds commented that his Engineer told him the use of a grassy swale is a very common practice so there shouldn't be any problems.

Mr. Reynolds stated that he had an engineer put together a proposal for the sewage disposal system. Concerning the water source issue Mr. Neinas will be hauling all of the water from Cañon City. When he asked the City of Cañon City for a letter stating that they will continue to sell water to Mr. Neinas they stated that they will not provide a letter for that purpose, they never have and they never will. In terms of the Evidence of State approval of the public water supply improvements, he didn't know that it was required.

Mr. Giordano stated that Mr. Sydney Darden, Environment Health Department, seemed to think that a letter would suffice.

Mr. Giordano showed the video of the property. He stated that the items for consideration concerning the County Engineer's comments, the reason we are asking that there be approval from CDOT on swales, they require there be no drainage dumped onto the right-of-way. We want to make sure that CDOT has no problem with this. The Department did get an e-mail from Mr. Lancaster with the City of Cañon City stating that they will not give letters concerning the availability of water. As far as the drainage plan is concerned, we are asking that the design engineer give us a letter that what is constructed is in accordance with their design. We are asking that any of the facilities of the drainage be a quit-claim deed with a deed restriction addressing that the applicant will be responsible for the maintenance of all drainage facilities. The utility plan needs to be approved by the appropriate representatives. As for the additional notifications, they are required in addition to the notification of property owners within five hundred (500) feet of the property, prior to the public hearing.

The applicant is requesting a waiver of the buffering and landscaping requirements to the west, north and east on the property. The applicant is requesting approval of the waiver as there will be no change to the existing buffering and landscaping with the exception of the detention pond.

Basically what the applicant is doing is expanding the operation by adding a restaurant and lounge, which is the reason for the requirement of a site development plan. The rafting business is permitted under the zone district that they are in.

Mr. Doxey stated that he went to the site a couple of days ago and wants to commend them on the landscaping. He goes by there often and pays particular attention to the property and they have done a nice job. He asked if the concrete tank is their cistern and if they are going to double that.

Mr. Neinas confirmed that yes it is their cistern and yes it will have to be increased.

Mr. Doxey then asked to how many gallons.

Mr. Neinas stated that the cistern currently holds ten thousand (10,000) gallons and will be increased to hold twenty thousand (20,000) gallons.

Mr. Doxey asked about the lighting; if there is a lighting problem in that area between him and his neighbors.

Mr. Neinas stated that he doesn't think that there needs to be a lot of powerful lighting to make the place look pleasant. We are probably the antithesis of some of our neighbors, it is very dark, and we've actually gone to extraordinary effort to have indirect lighting. There are no plans to add additional outside lighting.

Mr. Doxey asked if the Department has ever had a problem with the City of Cañon City in getting a letter of intent for water.

Mr. Giordano confirmed that yes the Department has had that problem before.

Mr. Doxey stated that the City is making a lot of money off of the Royal Gorge Bridge and one would think they would want to add to it, like tourism, and to be a good neighbor.

Mr. Giordano stated that Mr. Reynolds made the comment that the City will sell them water as long as they have water.

Mr. Reynolds stated that the City said that they will sell water; they just didn't want to write a letter making any kind of guarantee.

Mr. Doxey asked if the first building, the store or office, is going to be demolished and new one put in that spot.

Mr. Neinas stated that the charm of what they have is embodied in that building so the idea is to compliment what they currently have. There are some other minor structures that are contradictory to that look and feel that the main building provides, but there is no big loss there. The improvements will compliment what they have.

Chairman Piltingsrud called for a motion.

MOTION

Mr. McNew moved to **approve** the request SDP 09-001 Echo Canyon River Expeditions Additions & Remodel with the following:

RECOMMENDED CONTINGENCIES:

The approval recommendation is made 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 County Reviewing Engineer as to compliance with the following requirements outlined in a letter dated September 15, 2009:
 - a. Correction of the length shown for the parking spaces on the site plan.
 - b. A letter from Colorado Department of Transportation is needed to indicate acknowledgement from CDOT that the grassy swale is being replaced with a point discharge from the new detention pond, directly onto the CDOT right-of-way at a location that has no erosion control.
 - c. Evidence of State (Colorado Department of Public Health and Environment) approval of the sewage disposal system. **Planning Commission recommended that this item be deferred to the building permit stage, since it requires complete design of interior buildings facilities.**
 - d. Evidence of State approval of the public water supply improvements. **Planning Commission recommends this be deferred to building permit stage, since it requires complete design of interior buildings facilities.**
2. Documentation from the Colorado Registered Engineer who designed the drainage improvements that the required improvements were constructed to the approved design standards.
3. An executed quitclaim deed with a deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc.
4. Copy of utility plan signed and approved by appropriate representatives (*prior to issuance of certificate of occupancy for the building*).

ADDITIONAL NOTIFICATIONS:

In addition to the required notifications, 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 Sheriffs Department
2. Fremont County Road Foreman, District 3
3. Arkansas Headwaters Recreation Area

WAIVER REQUESTS:

The Fremont County Planning Commission **recommended approval** of the following waiver requests:

1. **5.2.6 Buffering & Landscaping Requirements:**

In conjunction with the issuance of a building permit or approval of a zone change to a Manufactured Home Park, Travel Trailer Park & Campground, Neighborhood Business, Rural Highway Business, Business, Industrial Park, Airport Industrial Park, or Industrial Zone Districts, and if the property is adjacent to any Agricultural Estates, Agricultural Suburban, Low Density Residence, Medium Density Residence or High Density Residence Zone District, 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.

SECOND

Mr. Jackson seconded the motion.

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

4. REQUEST: SRU 09-001 VERIZON WIRELESS SITE CO4 CAÑON CITY

Ms. Pam Powell of Black & Veach was present to represent a request for approval of a Special Review Use Permit, Department file #SRU 09-001 Verizon Wireless Site CO4 Cañon City, by Colorado 4 Park Limited Partnership, d.b.a. Verizon Wireless, to allow for modifications to an existing three-hundred (300) foot unmanned telecommunications guyed tower. The modifications will be to remove three (3) existing Omni antennas, and replace them with three (3) tower arms/sectors with 4 cellular panel antennas on each arm or twelve (12) antennas total. The existing tower was constructed prior to regulation; therefore approval of the SRU will bring the tower into compliance with current regulations. The property is located on the east side of Fremont County Road #3 a.k.a Temple Canyon Road, approximately 1.7 miles southwest of the intersection of County Road #3 and Mariposa Road, in the Temple Canyon Area. In addition to the tower the property also contains an existing 12 foot wide by 26 foot long by 10 foot high prefabricated equipment building and an existing 50 foot by 60 foot 6 foot tall chain link fence with barbed wire enclosure. The property consists of a 7.0 acre parcel which is located in the Industrial Zone District.

Ms. Powell stated that typically when she presents something like this it is for a telecommunications facility it is for a new request or an extension or renewal of an existing permit. In 1989 Sangre De Cristo Cellular (SDCC) purchased seven (7) acres of property from the Martin family out on the Temple Canyon Road, County Road 3. At the same time SDCC purchased the property, their intent was to build a telecommunications facility. It happens that it is a three hundred (300) foot wireless communication guy tower. At the same time SDCC purchased the property they quitclaimed it to Colorado 4 Park. Sangre De Cristo Cellular and Colorado 4 Park are both Verizon Wireless affiliates. The cellular license that Verizon Wireless

operates on in this area is under the name Sangre De Cristo Cellular. When the application was made to the FAA to make determination of “no hazard” to aircraft it was made under SDCC.

Ms. Powell supplied a copy of the renewed license for Verizon Wireless; the other license expired October 1, 2009; renewal is every ten (10) years so it is good until 2019.

When she initially contacted the county to find out if any zoning process would be required for some modifications to the tower, the Planning Department indicated that she needed to submit in writing the proposed changes. Based on the proposed changes the determination would be made whether it was a minor or major modification. Basically what Verizon wants to do is change the current tower from an Omni antenna structure to a structure that holds panel antennas. They are going to put three (3) sectors up with a panel antennas on each of the sectors, they are going to remove the existing Omni antennas, which will increase the capacity and provide better coverage to the Fremont County area. The terrain is very up and down, there’s really no flat land and because of that a tower this height is required. The height will not be increased; the existing prefabricated structure that houses the radio equipment and the generator will not be changed. There will be no change to the existing structure other than sectorizing the site; removing the three (3) Omni antennas and installing twelve (12) panel antennas.

With regard to the recommended contingencies the applicant will apply for a Fremont County Driveway Access Permit and install the fifteen (15) to eighteen (18) inch culvert. The applicant shall apply for an address. The FCC requires that every wireless telecommunication facility have what’s known as an E911 address. She is sure that they have that but she will have to do some research and for the benefit of the police and fire department, they will apply for a physical address.

Verizon Wireless actually has a fire prevention plan. In the Department comments it stated that didn’t require a fire hydrant and it wasn’t necessary to worry about fire protection but she wanted to provide the following information just because she feels it is important to the county. Verizon Wireless has an existing fire protection, fire detection plan; the shelter is on cement, there is no fire producing material construction in the shelter itself. There are fire extinguishers and smoke detectors within the shelter. The shelter houses only radio equipment, cables and such that would operate the site. There is no paper or material or anything else that would commonly recognized as flammable material. Verizon Wireless would know if there was a fire before anyone else did. Each facility is directly wired into the main switch and is monitored twenty-four (24) hours a day, seven (7) days a week. So if there were a fire, the likelihood would be that it would be an electrical fire. In Verizon’s history there has never been a recorded fire within any of their facilities.

With regard to the compliance of any requirements of notified entities deemed appropriate by the authorities is not a problem.

The map has been revised as requested and is included in the packets.

Concerning the waiver requests, the first one is for buffering and landscaping. Mr. Cox from the Fremont County Building Department stated that a building permit would not be required but requested that we go to the state to find out if an electrical permit would be required and the state has indicated that an electrical permit will not be required. All of the adjoining property with the exception of the property to the east, which is zoned Industrial, is zoned Agricultural

Forestry. There are many existing bushes and cedars on the property; there is no water to support any vegetation. If the vegetation were indigenous to the area or could initiate growth on its own then it could be planted but without water on the property that would sustain new vegetation if it were necessary. There are a lot of trees and bushes and there is native grass. The building on the property is on crushed gravel and as the grass fades and the dirt sifts around everything blends in very well. Her personal opinion about the site and what stands out is the orange and red tower which is mandated by FCC and FAA and the fact that there is a fence around it. There are also some cedars and plants that grow along the boarder of County Road 3.

The second waiver request is for off-street parking surfacing. She thought that if it were a large parking area that it should be punctuated with landscaping to soften the appearance of the parking area. As it is, the particular parking that is provided for this telecommunications facility is for technicians and the technician visits the site once or maybe twice a month or occasionally every six (6) weeks. The site when its on air, as this one is, and has existed for almost twenty (20) years would not be visited except to check equipment, make minor changes, or if the site went down. Verizon Wireless doesn't feel that surfacing or doing anything different to the site than what currently exists is necessary and are requesting a recommendation for approval of the waiver based on the circumstances.

Concerning the lighting, because the technicians are the ones visiting the site it's not open to the public, and because the visits are minimal, we are requesting a waiver of lighting.

The landscaping to break up the expanse of the parking area; based on the application this may be required. There really is no parking area, just the two spaces outside the fenced facility and there are really no off-site impacts.

Regarding the Roadway Impact Analysis, the Colorado Reviewing Engineer has written a letter, dated August 18, 2009, stating that it should be granted so there is no Roadway Impact Analysis requires which we requested a waiver for.

She already addressed the Fire Protection Plan. On the Drainage Plan and Report, the County Reviewing Engineer had recommended a waiver.

Mr. Giordano showed the video of the property area. He noted that there are two towers in the area, one that is permitted and the Verizon tower which is not a permitted tower. He also noted that the question has come up a number of times of "If the tower is an existing tower and all they're doing is changing antennas, why is the Department requiring this?" The reason we are requiring it is because the regulations say that if you have a non-conforming use in place and it is being altered and changed then it has to comply with regulation. In order to comply with regulation they have to apply for a Special Review Use Permit (SRU).

Mr. Giordano stated that in regard to the Recommended Conditions, that A through K are standard statements that are put on towers. He did note that Condition I states that the applicant/owner will allow collocation if appropriate. There are already two (2) towers in that area and we definitely don't want a third.

Regarding the Contingencies he commented on their fire protection form. The Department doesn't disagree with anything they said about the form; they just need to have a signature from the Fire Protection District.

Mr. Giordano stated that in regard to the waiver requests he's just going to comment on them briefly; there really isn't any kind of buffering they could do that would change anything, it's been there so long that nothing needs to be done. The surfacing, lighting, and landscaping; there is only one (1) or two (2) spaces at the most at any given time. There's no real question that they should be waived and it's the same with the Roadway Impact Analysis and the drainage.

The Department requests that they send out all the additional notifications and to all the property owners within five hundred (500) feet of the property.

Ms. Powell stated that Verizon Wireless and any other carriers are more than happy and encourage collocation on their towers. This information is included on the map (Exhibit SRUP 44.1) "Verizon Wireless services shall cooperate with other companies and entities to achieve co-location of other antennas on the permitted structure." This information will go on record that they will work with other entities, it doesn't have to be another carrier it can be anybody who wants space on a tower.

Mr. McNew inquired if the tower has an aircraft warning light on it since it's at three hundred (300) feet.

Ms. Powell stated that the tower is illuminated and is painted red and white by FCC requirements. Any tower over two hundred (200) feet must be registered with the FAA which called an ASR (Antenna Structure Registration), there is one included in the packet. The Verizon tower was approved in 1989; the tower was constructed January 20, 1990.

Mr. Schnobrich stated that he knows that parking lots require lighting but wanted to know if there is any small security lighting on the building.

Ms. Powell stated that typically Verizon Wireless will have a light that shines down to the ground over the door for the field technician to get into the site. Typically sites are visited between 2:00am and 5:00am, that's when there is less use of the facility and if they have to turn it off and power it down they can do that with the least amount of interruption. She has not seen this particular site after dark but when she was next to it in June she did not notice any light.

Mr. Schnobrich stated that he's not thinking about the technicians, he's thinking more in terms of the security issue. The Sheriff's Department might want the applicant to have some type of lighting there. There are an awful lot of electronics in there and it would be a great place for some kids to go and do stuff.

Ms. Powell stated that nobody other than the technicians can get in; there is a six (6) foot high fence with barbed wire around the top. The fencing is to prevent the public from getting in and from animals getting hurt. The guy wires are also fenced.

Mr. Schnobrich asked the other board members and Mr. Giordano if it would be a good idea to notify the Sheriff's Department for a comment as well; in terms of law enforcement aspects of the project.

Mr. Giordano stated that it is already on the list of notifications.

Ms. Powell stated that with regard to the request that the FCC and FAA be notified, they don't want to be notified. They know the tower is in existence and in compliance; their really not concerned. She discussed this with Verizon's Regulatory Department. The FCC and FAA are

inundated with calls, applications, and other things from across the country. We could notify them but it would just be filed in file 13.

Mr. Giordano stated that the Department has the applicant notify them as a courtesy; they, FCC and FAA, can either comment or not.

Chairman Piltingsrud called for a motion.

MOTION

Mr. McNew moved to approve SRU 09-001 Verizon Wireless Site CO4 Cañon City 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 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 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. 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.
- J. 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.
- K. 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.

RECOMMENDED CONTINGENCIES:

It is recommended that this item be approved and referred to the Board of County Commissioners (Board) for scheduling of a public hearing provided the following contingencies are provided within six (6) months (no extensions) after final approval by the Board:

- 1. Documentation as to compliance with the following comments by the County Reviewing Engineer in a letter dated August 18, 2009:
 - a. The applicant shall apply for a Fremont County driveway access permit.
 - b. A 15 to 18 inch metal culvert shall be installed at the intersection of the driveway and County Road #3.
- 2. The applicant shall apply for an address based on the location of the access to the County roadway system as per Fremont County requirements.
- 3. Provide a completed Fire Protection Form.

4. Compliance with any requirements of the Cañon City Fire Protection District.
5. Compliance with any requirements of notified entities deemed appropriate by the Commission and or Board.
6. Vicinity map shall reflect the local streets within the area and not from I-25 & US Highway 50.

ADDITIONAL NOTIFICATION REQUIREMENTS:

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

- a. The Federal Communication Commission
- b. The Federal Aviation Administration
- c. Planning Department, City of Cañon City
- d. Cañon City Area Fire Protection District
- e. The Fremont County District 1, Road Forman
- f. **Fremont County Sheriff's Department**

WAIVER REQUESTS:

The Fremont County Planning Commission **recommended approval** of the following waiver requests:

1. **5.2.6 Buffering & Landscaping Requirements:**

In conjunction with the issuance of a building permit or approval of a zone change to a Manufactured Home Park, Travel Trailer Park & Campground, Neighborhood Business, Rural Highway Business, Business, Industrial Park, Airport Industrial Park, or Industrial Zone Districts, and if the property is adjacent to any Agricultural Estates, Agricultural Suburban, Low Density Residence, Medium Density Residence or High Density Residence Zone District, 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.

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. **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. **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.
5. **Roadway Impact Analysis** prepared by a professional engineer licensed to work in Colorado as per Section 5.11 of this Resolution (Fremont County Zoning Resolution), unless all vehicular traffic enters and exits the site on to a Federal or State Highway where the Colorado Department of Transportation has issued an access permit for the specified use.
6. **Fire Protection Plan** addressing method of fire protection, location of fire hydrants or other means of fire protection. If project is located within a fire protection district, the fire protection plan shall be approved by the Fire Protection District having authority over the site.
7. **Drainage Plan & Report** as per Section 5.10 of the Zoning Resolution.

APPROVAL CRITERIA:

1. The procedural requirements have been met.
2. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
3. The proposed use will not have detrimental effect on property values. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
4. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.

SECOND

Mr. Schnobrich seconded the motion.

Chairman Piltingsrud called for discussion on the motion. Hearing none, he called for a roll call vote, and the vote was unanimous.

5. REQUEST: ZC 09-001 THOMPSON ZONE CHANGE

Mr. Matt Koch of Cornerstone Land Surveying was present to represent a request for approval of a Zone Change from the Industrial Zone District to the Business Zone District, Department file #ZC 09-001 Thompson Zone Change, by Lonny Thompson, for his property which is located at the northeast corner of U. S. Highway 50 and K Street, in the Penrose Area. The proposal is to allow a retail store. The property presently houses a framed building used for retail sales, two mobile homes, one used for a watchman's quarters and one is used for storage of retail items. The property to be rezoned contains 2.5 acres.

Mr. Koch stated that the applicant is requesting a zone change from Industrial to Business; the property is located in Penrose along U.S. Highway 50 and K Street. It is two and one half (2 ½) acres, there are two (2) mobile homes and one long building that the applicant uses for a retail store. They are bringing this into conformance. The Industrial zone district doesn't allow retail sales use so the applicant is bringing it to the Business zone. As part of the application, the applicant will be removing the two (2) mobile homes from the site and relocating the access point further north along K Street and removing the existing access. The applicant is fine with all of the contingencies and just a note on number five (5), they did hear back from the Florence Fire Department and they had no requirements.

On the waivers, the applicant is requesting a waiver on the Buffering and Landscaping, keeping it a natural atmosphere. All of the property to the north and west is agricultural and vacant uses; the property to the east is owned by the applicant. Regarding the Off-street Parking, the applicant is requesting a waiver of the paving and asphaltting. Right now it is a gravel parking lot with low dust emissions and they only have two (2) to three (3) customers per day. They are also requesting a waiver of the Utility Signatures; all of the utilities already exist and there are no upgrades that need to be done on any of them.

Mr. Giordano showed a video of the property. He explained that at one time the property had been used in making and selling pottery. He's not sure what the Industrial uses were other than the pottery business.

Mr. Giordano explained that regarding the Contingencies there are some issues with the current property owner but it has been made a contingency so it will get resolved. Mr. Moore is requesting a current driveway access permit, a non-engineered traffic analysis form, and the original driveway closure is needed. The removal of the two (2) mobile homes is necessary because mobile homes are no longer allowed in the county; they have passed the deadline for non-use, so they have lost the right of non-conformance. They do have a water tap but we don't know if it is acceptable for business use. The Fire Protection form has been taken care of. There needs to be a statement on the drawing that the access to the property will be limited to one access. We want the original access removed because it is a problem and we want the existing gravel driveway shown on the drawing labeled to be closed, removed or relocated. He stated that the remainder of the contingencies were all related to the drawing and were pretty minor.

Mr. Giordano stated that regarding the waiver requests, the Department doesn't have a problem waiving the Buffering, it's been in existence and we've never had any complaints from neighbors or anybody adjacent to the property. There's always the problem of water and keeping things growing. The Off-street parking, Lighting and Landscaping, again this has been in existence. The applicant wants to continue with the gravel. Regarding the request for waiver of signatures of the utility companies, this is a zoning requirement and Mr. Giordano is not sure that can be waived. Although, because the utilities are already in existence and there's nothing new, he's not sure that it would be a problem to waive them.

Mr. Koch stated that he would provide the signatures without a problem.

Mr. Doxey inquired about the septic.

Mr. Koch stated that the septic already exists; it is to the north side of the warehouse building.

Mr. Doxey inquired as to whether it is commercial or residential.

Mr. Koch stated that it appears that the mobile homes were brought in after the building was built and were split in from the main building. The county did an inspection on the septic and signed off on it.

Mr. Doxey stated that the property has been pretty unsightly for about eleven (11) years and had school busses parked there. If the property is rezoned Business then what is going to stop us from disapproving someone else that wants to buy the Ratkovich Farm and start a shopping mall. Are we going to start some businesses steamrolling down the highway like is on Highway 115. Where this property is located, there is some Business zoned property to the east, it's kind of sporadic on the north side and south side, but he is concerned if this rezoning fits in with the Master Plan.

Mr. Giordano stated that it doesn't really matter if it fits in with the Plan because it is already zoned Industrial and they are changing it to a use that is similar. And yes, it does follow the Master Plan.

Chairman Piltingsrud called for a motion.

MOTION

Mr. McNew moved to approve ZC 09-001 Thompson Zone Change with the following:

RECOMMENDED CONTINGENCIES:

The Planning commission recommended that approval be contingent upon 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 providing verification of the current property owner and documentation from the current property owner authorizing the application for rezoning of property or deed of record verifying that the owner is Lonny Thompson.
2. Documentation showing compliance with the following requirements, as per the County Reviewing Engineer's letter dated September 23, 2009:
 - a. A current driveway access permit, a non-engineered traffic analysis form and

original driveway closure are needed.

3. Removal of the two mobile homes from the property. *Both mobile homes have been vacated for more than the allotted time frame for the establishment of a non-conformance, and mobile homes are no longer a permitted use, therefore they shall be removed.*
4. Documentation from Penrose Water District that the existing water tap is acceptable for the business use (retail sales).
5. Compliance with any requirements as per the Florence Fire Protection District. **Florence Fire Protection has not replied to original form nor have they replied to certified mail.**
6. Provide a statement on the drawing that access to the property will be limited to one access as per an approved Fremont County Driveway Access Permit.
7. The existing gravel driveway shown on the drawing shall be labeled to be closed, removed or relocated.
8. Provide dimensions on the drawing adequate to locate parking area in relation to property lines.
9. Provide dimensions on the drawing adequate to size the covered patio.
10. Removal from the drawing of the label for the previously proposed 40'X50' warehouse.
11. Waiver requests notes shall be removed from the drawing.
12. The legal description on the drawing shall read Tract 47 lying north of the U.S. Highway 50 right-of-way, Section 9, Township 19 South, Range 68 West of the 6th Principal Meridian, The Beaver Land & Irrigation Company, Plat No. 1, Beaver Park, Fremont County, Colorado.

ADDITIONAL NOTIFICATIONS:

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

1. Fremont County Road Foreman, District 2
2. Fremont County Sherriff's Office

WAIVER REQUESTS:

The Fremont County Planning Commission **recommended approval** of 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.

2. **OFF STREET PARKING**

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.

5.3.3 Lighting: All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not be directed toward surrounding properties.

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.

3. **The applicant is requesting a waiver of utility providers' signatures on the detailed utility plan.** (*Since this is a zoning requirement without specific waiver authority granted through regulation, waiver would need to be a request through an application to the Fremont County Board of Zoning Adjustment.*) **Applicant agreed to drop this waiver request and obtain the necessary utility provider's signatures.**

JUSTIFICATION CRITERIA:

1. Additional land is needed in the proposed zone district.
2. There has been a material change in the neighborhood which justifies the requested zone change.
3. The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

SECOND

Mr. Schnobrich seconded the motion.

Chairman Piltingsrud called for discussion on the motion. Hearing none, he called for a roll call vote, and the vote was as follows:

Mr. Lateer	Nay	<input type="checkbox"/> Aye
Mr. Doxy	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye
Chairman Piltingsrud	Nay	<input type="checkbox"/> Aye
Mr. Jackson	Nay	<input type="checkbox"/> Aye
Mr. McNew	Nay	<input type="checkbox"/> Aye
Mr. Schnobrich	Nay	<input type="checkbox"/> Aye

6. 3rd AMENDMENT TO THE SUBDIVISION REGULATIONS

Request approval of the 3rd amendment to the Fremont County Subdivision Regulations. The amendment exempts multi-business or industrial uses on a single property housed within a single structure if they are to be rented or leased as individual units, adopts the new drainage and roadway impact analysis regulations as adopted in the Zoning Resolution. **This item was tabled from the September 1, 2009 meeting.**

Mr. Giordano stated that the changes that were requested at the September meeting are as follows:

I F 8 – Planning Commission recommended that the word “approved” be eliminated in the fourth line.

II 3 k – Planning Commission recommended adding the word “multi” before industrial use and the word “mini-storage” after industrial use, in the first line.

5.10.18 – Planning Commission recommended adding sections 5.10.14 through 5.10.18

Mr. Giordano stated that after making the changes he felt that they were very minor changes and he wasn’t really sure that they warranted tabling of this item in September. He hopes that it isn’t a reflection that there is a lack of confidence in the Department that we would not relay these changes as proposed by the Planning Commission to the County Commissioners. It seemed really minor after going back and reviewing the minutes, there really didn’t seem to be any reason for tabling which resulted in delaying them for a month.

Mr. Jackson stated that under General Requirements A 4, where it talks about “retaining or detaining water” that if it comes from a natural spring it has to be determined who has a right to that water.

Mr. Giordano explained that all of the items under the General Requirements were taken from the Site Development Plan information that the Planning Commission and the Board of County Commissioners had previously approved. These were all changes that were specifically recommended by the County Engineer.

Mr. Moore stated that the intent was that whatever water enters the site or is created by the site is taken care of.

Mr. Jackson stated that if a natural spring comes up then the part about “carry away” would need to be checked by the State Engineer.

Mr. Moore stated that the board would have discretion and it would be dealt with at the time.

Mr. Jackson inquired of Mr. Moore how he feels about not having some of the drainage plans signed by an engineer. I am wondering about the part they added earlier. One (1) two (2) lot subdivision is fine, the next one is going to add to that, the first thing you know you are going to have ten (10) two (2) lot subdivisions with no drainage plan and no engineering.

Mr. Giordano stated that the cumulative effect has been a concern in the past but was not considered in the new drainage regulations.

Mr. Moore stated that he was asked to do it that way by the County Commissioners because we were getting very simple projects costing a great deal of money that didn't seem appropriate. He created a system to have an abbreviated plan based on the opinion of the County Engineer. Whoever we have as the County Engineer is how his opinion fits on whether it needs to be engineered or not.

Mr. Jackson stated that as time goes on we are faced with greater and greater implications of storm drainage. We don't seem to be able to grasp any control of the drainage as a whole. He sat on a ditch board and in years past we didn't really worry about it but now even this last summer we had some rains and we nearly breached that ditch. Most of it is due to additional storm water coming down from the north. It is an item that we need to be concerned about because certainly the storm water systems don't seem to be capable of handling the amount right now and it's only going to get worse.

In his opinion, Mr. Moore stated that under the current system every one of them is being looked at seriously. We are holding to the historic rate on every project.

Mr. Moore pointed out that there is a problem with 5.10.15.1 where it says "only a single land parcel" because this is for the subdivision regulations. That needs to be for the simple processes like minor subdivision.

Mr. Giordano stated that when Chairman Piltingsrud inquired about the Roadway Impact Analysis on minor subdivision, at the last meeting, Mr. Giordano had stated that no, they are not required in minor subdivisions; that statement needs to be clarified. A Roadway Impact Analysis is required in a minor subdivision if it is Industrial or Business related. That got put in under the Site Development requirements that require subdivisions. The reason being that two (2) lots in Industrial or Business could have a lot more impact than two (2) single family residences. We may end up doing a waiver of the Drainage requirement or Roadway Impact based on the drainage regulations.

Chairman Piltingsrud inquired if Industrial would have the right to request a waiver.

Mr. Giordano stated that yes, Industrial can request a waiver. It would actually be back to the single land abbreviated plan that is in the regulations as shown. The "single land parcel" needs to be changed to minor subdivision.

Mr. Moore stated that it should apply for minor subdivisions and in the definition for subdivision if it is for apartment buildings, condominiums and that type, where you're not changing anything on the ground. We shouldn't have to require an engineered drainage plan.

Chairman Piltingsrud stated that back to Mr. Giordano's comment about not understanding why this item was tabled at the last meeting; he (Chairman Piltingsrud) made the motion to table it because he wanted to understand the nuances between vested property rights and there was confusion in the definitions that didn't allow that language.

Mr. Giordano stated the language has been taken out completely. When he looked at the definitions, they were simple to clear up by changing a couple of words. The big problem was when he checked the State Statute, the whole vested property right changed, so it was decided to remove it from this amendment, which was also suggested at the last meeting, so it would not delay it for going forward to the Commissioners.

Chairman Piltingsrud inquired if Mr. Giordano was going to rewrite the single land parcel part.

Mr. Giordano stated that he will amend it to apply to for minor subdivisions and any other applications.

Mr. Manny Colon (3165 Grandview Ave., Cañon City, CO) stated that he had reviewed the information concerning this item and it might be a simple change for the staff and Commission but he had a lot of confusion and a lot of questions. One of the questions has been verified with the possible error on 5.10.15.1. He represents three (3) of the ditch companies on the north side of the river that run through Cañon City all the way to the State Prison Complex, Juniper Valley or Correction Industries. The biggest problem over the years is what we call urban encroachment. The main focus of one of the issues is storm water or drainage into the canals as they bisect the contour and go east. With every little bit of addition impervious soil or roof or whatever you might want to call it, the amount of storm water continues to grow to the point now that anytime we have a little bit of rain we breach the canals in various places. You might be aware that a month or so ago we had three (3) major rains, our canal breached every time. We closed the railroad track three (3) times at the bottom of the mouth of the Royal Gorge because of the storm water coming off the side of the hills. East of there we did breach the canal several times not only in our overflows but in some places on the canal itself. Some of the canal areas are within the City itself but the County has property north of the City and every time there is more development we have more storm water. When he read the Proposed 3rd Amendment to the Subdivision Regulations, it looked to him like by having Section 5.10.15, Abbreviated Drainage Plan and Report, allowing certain properties to get by without a drainage plan and without the review of an engineer further supports the fact that we are going to obtain more water into the canal as it comes down from the north. There was a comment made by the County Engineer that the County Commissioners were concerned about the cost of administering these small parcels and maybe it wasn't beneficial to these individuals who were trying to develop them. He is trying to explain that over the years everybody's said "to heck with the cost, lets let them do it" and now our storm water drainage problem is so huge that he doesn't see how the City of Cañon City or the County can contend with it because they keep deferring the cost. Sooner or later somebody is going to have to recognize the fact that our storm water has to be taken care of and some way we have to get it from the site to the river without destroying property in between. The canal has breched several times and he was contacted the last few times when it did, and they said "we're going to have our Engineer sue you." He responded by stating "fine, the canal was off because it was closed from a slide upstream from it." That way the ditch companies got away from a law suit; had the canal been on, the storm water flooding would have been considerably greater. It was very fortunate that it closed above the weir and went over the railroad tracks. We still have a real issue between

the City, Recreation District, the two railroads involved, Tezak, and the ditch companies to try to resolve the storm water and the breaching of the canal there, let alone everything that has happened east of there. When you say to heck with the cost because you don't want to spend it on administering one parcel and we let it accumulate, somewhere down the road our children and grandchildren are going to have a real problem to deal with.

Mr. Moore stated that he agrees fully with Mr. Colon. He has been involved with two (2) projects recently where the Department required the ditch company to provide approval for each project. In both cases the approval was granted which he thought was rather unusual; he kind of counts on the ditch companies to actually review the proposals and say no, we aren't going to allow it. This would help somewhat. It doesn't matter to him if the abbreviated plan is in there or not; if the Commission doesn't want it they can take it out.

Chairman Piltingsrud stated that he understands what Mr. Colon is saying. Cities are built for a hundred years having used those byways for storm water and then the requirement comes where the ditch companies don't want them to use them and it creates issues for the governments to deal with.

Mr. McNew inquired of how the language needs to be in the section in question. He knows that the storm water is a big concern and we need to protect the ditch companies.

Chairman Piltingsrud stated that the Planning Commission comments are going to go in the minutes. You could recommend approval with strong consideration that the Commissioners revisit the issues of storm water drainage.

Chairman Piltingsrud called for a motion.

MOTION

Mr. McNew moved to approve 3rd Amendment to the Subdivision Regulations with the changes to 5.10.15.1 and with a recommendation that the County Commissioners give more consideration to the ditch companies and recognize that it is a serious problem in the granting of permits and the ditch companies should have a lot more to say on the storm water drainage issue.

SECOND

Mr. Schnobrich seconded the motion.

Chairman Piltingsrud asked if there was any discussion.

(Mr. Colon was not at the podium so it was near to impossible to understand what he was saying. Toward the end there was too much noise, coughing, and rustling of paper, to understand at all.)

Mr. Colon stated that the City of Cañon City has started a routing slip with notification to the ditch companies that are involved down range from the area and the routing slip is passed to them for approval or disapproval. Even though if the ditch company makes comment that they don't approve it, it doesn't necessarily mean that project is not allowed, it just ensures them the right to comment.

Chairman Piltingsrud stated that as Mr. Moore pointed out the hearings are legally advertised so the ditch company needs to provide their comments on the problems.

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

7. **OTHER ITEMS FOR DISCUSSION**

There were no other items for discussion

8. **ADJOURNMENT**

With no other items for discussion, Chairman Piltingsrud adjourned the meeting at 9:00 p.m.

Chairman Piltingsrud stated that there would be a five (5) minute recess and then go into a very quick workshop where they would talk about Viewsheds for Shelf Road and Phantom Canyon with Mr. Moore and if there is input from the public then we will take it.

Ms. Jackson stated that they can't take comment from the public if they are off the record.

Chairman Piltingsrud stated that it is a workshop.

Ms. Jackson stated that they can't take public comment in a workshop without having a record of what was received.

Chairman Piltingsrud asked if she was saying that he can't take public comment.

Ms. Jackson stated that he can take public comment but that there has to be minutes to see what public comments were received.

Chairman Piltingsrud stated that they would go back on the record after the five (5) minute recess.

9. **WORKSHOP - 2nd AMENDMENT TO THE FREMONT COUNTY MASTER PLAN**

Workshop for Fremont County Master Plan re-write. Minutes under separate record titled Fremont County Planning Commission Master Plan Workshop Minutes October 6, 2009.

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

DATE