

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
MARCH 3, 2015**

**MEMBERS PRESENT**

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

**STAFF PRESENT**

Marshall Butler, Planning Coordinator  
Brenda Jackson, County Attorney  
Samantha Kozacek, Planning Assistant

**MEMBERS ABSENT**

Tina Heffner

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF MINUTES**

- a. February 3, 2015 Planning Commission Meeting

**5. UNFINISHED BUSINESS**

NONE

**6. NEW BUSINESS**

**REQUEST: SRU 15-001 PLAY DIRTY (RECREATIONAL FACILITY, RURAL)**

Request approval of a **Special Review Use (SRU) Permit, Department file #SRU 15-001** Play Dirty (Recreational Facility, Rural), by Jackie Tripp, to allow ATV tours into the Texas Creek Trail System through a BLM lease agreement. The property is located on the southeast side of US Highway 50, 1.67 miles west of the intersection of U.S. Highway 50 and Colorado State Highway 69, in the Texas Creek Area. The SRU permit property contains 5.04 acres and is zoned Agricultural Forestry.

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

**7. ADJOURNMENT**

**8. MASTER PLAN WORKSHOP**

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

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**1. CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 4:02 pm.

**2. PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

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

**MOTION**

Mr. Dennis Wied moved to accept the March 3, 2015 Fremont County Planning Commission Meeting agenda with the addition of discussion of changing the Planning Commission Meeting time from 4 p.m. to 3 p.m.

**SECOND**

Mr. Larry Brown seconded the motion.

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

**4. APPROVAL OF THE FEBRUARY 3, 2015, 2015 PLANNING COMMISSION MEETING MINUTES**

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

**MOTION**

Mr. Larry Baker moved to accept the February 3, 2015 Fremont County Planning Commission Meeting Minutes with changes to the above vote count.????????????

**SECOND**

Mr. Brown seconded the motion.

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

**5. UNFINISHED BUSINESS**

The Planning Commission had no unfinished business.

**6. NEW BUSINESS**

**REQUEST: SRU 15-001 PLAY DIRTY (RECREATIONAL FACILITY, RURAL)**

Request approval of a **Special Review Use (SRU) Permit, Department file #SRU 15-001** Play Dirty (Recreational Facility, Rural), by Jackie Tripp, to allow ATV (All-Terrain Vehicle) tours into the Texas Creek Trail System through a Bureau of Land Management (BLM) lease agreement. The property is located on the southeast side of US Highway 50, 1.67 miles west of the intersection of U.S. Highway 50 and Colorado State Highway 69, in the Texas Creek Area. The SRU permit property contains 5.04 acres and is zoned Agricultural Forestry.

Mr. Wied stated he needed to recuse himself from the discussion about Play Dirty because he has a business relationship with the applicants.

Chairman Alsup stated that he also knew Mrs. Tripp because she used to be a client of his, but he doesn't find it necessary to recuse himself of this meeting.

Mr. Matt Koch stated that the Play Dirty property is located in the Texas Creek area. They have been in business for some time now. The applicants currently have lease with the BLM to conduct ATV tours on public lands in the Texas Creek area. The applicants have purchased approximately 5 acres of land that is on the South side of US Highway 50. The land currently has a house, garage, septic system and well on it. The house will be used as a Watchman's Quarters with some of the staff living there. They will be creating a parking

area out in front of the house where the customers will park. This is where the customers and staff will meet, load into a passenger van and go to the Texas Creek Trail Head on BLM property. A company truck with a trailer carrying the company ATV's will be waiting at the Trail Head. A guide will take the customers on an ATV riding tour in the trail system (most tours are 2 hours, some are longer, dependent on customers booking). When the tour is over the customers are returned to the office facility in the passenger van. The facility property access is from US Highway 50. Arkansas Valley Ambulance and Play Dirty will share the US Highway driveway access. Through this SRU process they became aware that this driveway crosses a piece of public land administered by the BLM, and this is an issue because they do not have an easement for that crossing. Play Dirty is going through the process with BLM to obtain a right, easement or the like to legally allow the crossing. Play Dirty has been told that there shouldn't be an issue in gaining the right except for the time to process the paper work. Play Dirty has been advised that it could take up to two years to finalize everything associated with the process. There will be an office trailer that is similar to a contractor's trailer on the facility property. This will be used as an office for the employees only. No one other than staff will be permitted inside this trailer. The only issue Play Dirty has with the Department Review is with Condition J. It states that use will be limited to no more than 8 trips a day, Play Dirty would like to amend that to 10 trips a day.

Mr. Gardener Fay asked how many ATVs the applicant's trailer could haul.

Mrs. Jackie Tripp (owner/applicant) stated that the trailer could hold up to 8 ATVs.

Mr. Koch stated that typically there will be no more than 7 customers and 1 employee per tour.

Mr. Marshall Butler showed video of the property and highlighted the Department's review of the application.

Mr. Butler discussed Conditions A-G and stated that they are all standard in the Special Review Use process. Condition H is Days of Operation, stating, 7 days a week from May 1<sup>st</sup> through September 15<sup>th</sup>, and weekends throughout the year. The application also states that there will be the possibility of making special appointments during the off-season. Condition I hours of operation are sunrise to sunset. Condition J will now say based on 2 vehicles making 5 trips would be 10 total trips made. Under Condition K it should actually read that the County shall retain the right to require any buffering or landscaping should a need arise in the future. The property to the West of the subject property is zoned Agricultural Suburban and allow residential uses. Condition L is with regard to noise, the County retains the right to address for noise mitigation as may be necessary in the future. Contingencie Number 1 is concerning the Colorado Department of Transportation driveway access permit. To the Department's knowledge Arkansas Valley Ambulance and the applicants have applied for a joint access permit. Discussed Contingencies 2-8.

Mr. Koch stated that regarding the fire protection plan, Play Dirty has been in contact with the Deer Mountain Fire Protection District, but haven't received a response back. Play Dirty will be sending certified mail to them as a final attempt to get a response.

Mr. Butler stated that it would be relevant to add a Number 9 into the Contingencies that would state that the applicant provide documentation from BLM saying they had approval to conduct ATV tours on BLM administered land.

Mr. Koch stated that the BLM aspect was in their lease agreement now.

Mr. Butler asked if the BLM permit was an outfitters permit.

Mr. Koch stated that it was just a right to use permit.

Mr. Butler then read the waiver requests.

Chairman Alsup asked how a 5 acre parcel is zoned Agricultural Forestry, he thought there was a minimum lot size of 35 acres in the zone district. Is it a holdover from the old days?

Mr. Butler stated that he wasn't sure when the property was created, possible prior to regulations. During the 1995 county wide rezoning process the areas that got rezoned to a higher density at the time were the campground to Travel Trailer Park & Campground, and Golden Acre Home Sites which was zoned Agricultural Suburban with the exception of the Kelso property which is zoned Business. It may have been an oversight.

Chairman Alsup asked Mr. Butler if he thought the applicant's property would have problems with setbacks because it is zoned Agricultural Forestry.

Mr. Butler stated that it would fall into the non-conforming lot of record situation. As long as they can meet the setbacks and lot coverage they can be issued a building permit to locate the new structures. If the applicant could not meet the development requirements of the zone district they would have to apply to the Board of Zoning Adjustment for a variance.

County Attorney Brenda Jackson stated that the applicant would qualify to be heard by the Board of Zoning Adjustment.

Mr. Koch stated that the way Play Dirty has laid the improvements out they will meet the setbacks.

Mr. Fey asked if this had been an ongoing business and where it had been located before.

Mr. Koch stated that Play Dirty had been running it out of the owner's residence.

Mrs. Tripp stated that the booking operation had been located at the Barry's place in a small office.

Mr. Fey stated that the application doesn't really give the whole business plan for Play Dirty but they advertise these tours. He wondered if people could come to their facility and bring their own ATVs on their own trailers and their own pickups. Does Play Dirty have its own ATVs?

Mrs. Tripp stated that they had their own vehicles. Further she indicated that Play Dirty only provides tours using the company's ATVs.

Mr. Fey then asked where the maintenance was being done on the ATVs.

Mrs. Tripp stated they do it at their home.

Mr. Fey asked about oil spills. Are you going to sell gas? Will there be fuel storage on site?

Mr. Koch stated that they provide the ATVs people do not bring their own.

Mr. Fey asked who does the maintenance on the ATVs and if they had an indoor maintenance facility.

Mrs. Tripp stated they do their own maintenance at their garage.

Mr. Fey asked if they ever have oil or gasoline spills or any other machinery fluid spills.

Mrs. Tripp stated that they have never had any fluid spills.

Mr. Fey then questioned that they would not be providing water for the costumers.

Mr. Koch stated that they would be selling bottled water.

Mr. Fey stated that there would be trash bins on site, and a porta-john.

Mr. Koch stated that was correct but they would be having to go through the Board of Health to get the porta-john approved.

Mr. Fey asked if there was gasoline storage on site for the vehicles.

Mrs. Tripp stated that they has a 100 gallon fuel tank in the back of a pickup truck that they use to refill the ATVs.

Mr. Fey asked if there were any environmental requirements for spill containment on that. If the tank sprung a leak in the night and spilled 100 gallons of fuel into the soil?

Mrs. Tripp stated that there is a fuel hose on that tank that they change once a year.

Mr. Larry Baker stated that they would be transporting the customers in the van, is that correct?

Mrs. Tripp stated that was correct.

Mr. Baker stated that the applicants had a large trailer and that they would be transporting the customers to the trail head in that.

Mrs. Tripp stated that in the morning they picking up the two trailers with the ATVs loaded and transport the ATVs to the trail head. Then they use a minivan to take the customers from their facility to the trail head for their tour. At the end of the tour the customers are returned to the facility in the van.

Mr. Baker then asked while the guides were waiting for the next tour group do the ATVs stayed at the trail head?

Mrs. Tripp stated that was correct. The ATVs were brought back at the end of the day with the last tour.

Mr. Baker asked what if something went wrong during the course of the day where would it be taken care of.

Mr. Kelly Acridge stated that they would take the ATVs back to their house to do the maintenance in their garage.

Mrs. Tripp stated that these vehicles don't require much maintenance during the year. They occasionally have somebody flip one or crash it and it needs repairs but they are not much to maintain.

Mr. Baker stated he had visited the site and that when you enter off of Highway 50 there is a level area as you enter off to the left. Is this the area you will be using to load/unload?

Mr. Larry Bullard stated that it was.

Mr. Koch stated there is a swale in that area and they would be using the area just above (west of) the swale.

Mr. Baker asked if the porta-potties would be in that same area.

Mr. Koch stated that they would be closer to where the office trailer would be.

Mr. Baker asked if the trailer that was already on the property would be used as the office trailer.

Mr. Bullard stated that they would make that area look more pleasing.

Mr. Larry Brown asked where the handicapped spaces would be located on the property.

Mr. Koch stated that it would be located up by the office.

Mr. Brown asked where the applicants were regarding the drainage report that County Engineer Don Moore has requested.

Mr. Koch stated that they had an engineer working on it right now. It has to be a full drainage study, rather than the abbreviated plan submitted, because Mr. Moore is concerned about the drainage from behind the home. It looks like when the property was developed the owners put swales in to help with control drainage.

Mr. Brown asked where the retention area would be located.

Mr. Koch used the map to describe the location of swales and buildings.

Mr. Brown asked if when the property owners get their drainage report if drainage facilities would have to be shown on the maps.

Mr. Butler stated that the Department would prefer to have those type of items shown on the SRU drawings.

Mr. Brown then asked if the Department would eventually get that information.

Mr. Butler stated yes that it would.

Mr. Koch stated that they have to do a quit claim deed, for the maintenance of drainage facilities. They have to show where the easements and drainage facilities are on the drawings.

Mr. Michael Pullen asked if this was BLM property.

Mr. Koch stated no, this is Play Dirty's property.

Mr. Brown then stated that in a number of areas in the review packet it showed varying numbers of employees.

Mr. Koch stated that ideally it would be from 5-7 employees.

Mr. Pullen stated that people do not get to bring their own ATVs, and that people are just being transported to where they need to go for the tour from the SRU site.

Mr. Koch stated that that was correct.

Mr. Pullen then restated that there would be restroom facilities and a place to buy water at the site.

Mr. Koch stated that was also correct.

Mr. Pullen then stated that other people wouldn't be allowed to bring their own ATVs on the Play Dirty tours, that this would be strictly business.

Mr. Koch stated that was correct. The only people that would ever be riding ATVs on the SRU property are employees who would be loading and unloading them from the trailers.

Chairman Alsup asked Mr. Butler that changing the number of trips during the day would be ok.

Mr. Butler stated that yes it would be fine. Planning Director Bill Giordano and Mr. Butler had discussed that aspect earlier in the day.

Chairman Alsup stated that the application indicates this property is located in the Deer Mountain Fire Protection District. As far as he knows this area isn't located within that District.

Mr. Koch stated that this property has just recently been annexed to the District.

Chairman Alsup stated that a few years ago Deer Mountain had annexed in the Indian Springs area but he wasn't aware that this area was now included in the District.

Attorney Jackson confirmed that the District had recently completed an annexation.

Mr. Pullen stated that it explained why the form for that part of the application concerning the Fire Protection District was blank.

Mr. Koch stated that they weren't able to get a response back from Deer Mountain Fire Protection District. He had spoke with the Fire Chief directly about this. Play Dirty will be sending a certified letter to the District and hopefully get a response back.

Chairman Alsup stated that the Fremont County GIS Authority needed to be made aware of this change in the District boundary.

Mr. Pullen stated that he wanted to make sure he understood the waiver request for hard surfacing in regard to the handicapped spaces.

Mr. Koch stated it would waive all parking spaces except the handicapped spaces.

Mr. Butler stated that the hard surfacing for the disability parking space and the walkway from the space to the place of business are required by the Americans with Disabilities Act and the Building Code of Fremont County.

Chairman Alsup stated that the February 2<sup>nd</sup>, from the Colorado Division of Water Resources stated it would not be recommend approval until the well was re-permitted. Would this be taken care of with the contingencies?

Mr. Butler stated that it is listed as a contingency item.

Mr. Koch stated, yes Play Dirty would have the well properly permitted after they get approval of this project. Not wanting to go through the process twice.

### **MOTION**

Mr. Fey moved to recommend approval of SRU 15-001 PLAY DIRTY (RECREATIONAL FACILITY, RURAL) subject to the following:

### **RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of the use. (50 years estimated)
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and/or request said documentation, then a **penalty fee shall be charged** to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.

- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days of operation will be 7 days a week from May 1<sup>st</sup> to September 15<sup>th</sup> and all weekends throughout the year.
- I. Hours of operation will be from sunrise to sunset.

***The Planning Commission recommended that J be changed as follows:***

- J. The use will be limited to no more than ten (10) vehicle trips a day.
- K. The County shall retain the right to required buffering and landscaping for the properties to the north and east of the paintball property, if it remains zoned for residential purposes.
- L. The County will retain the right to require mitigation measures for noise, if in the future it becomes an issue.
- M. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, and further the applicant shall implement and maintain the plan, if required.
- N. 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.
- O. 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.
- P. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (complete reapplication).

### **RECOMMENDED CONTINGENCIES:**

If approval of this application is considered by the Planning Commission the Department would suggest that the approval recommendation be 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 the Colorado Department of Transportation that the existing driveway access is adequate and/or provide an access permit.
2. Provide documentation as to access from US Highway 50 to site.
3. Documentation as to compliance with any requirements from the Colorado Division of Water Resources as per the letter dated February 2, 2015.
4. Documentation as to compliance with any requirements of the Fremont County Environmental Health Officer as per memo dated February 9, 2015.
5. Documentation as to compliance with any requirements of the Fremont County Reviewing Engineer as per letter dated January 28, 2015.
6. Documentation from the design engineer to evidence that construction of the drainage facilities, if required, were completed and built to the specifications of the engineer's design.
7. Property owner shall execute a Quit-Claim deed with a deed restriction addressing the maintenance of any required drainage facilities, easements, rights-of-way, related structures and/or facilities. Such deed shall be recorded at the time of recording of the use permit. Fremont County will not accept maintenance of these facilities.
7. Documentation as to compliance with any requirements of the Deer Mountain Fire Protection District. (*Applicant has not been able to contact or receive any type of response*).

***The Planning Commission recommended that 9 be added as follows:***

9. Provide documentation indicating the right to conduct ATV tours on BLM property.

### **ADDITIONAL NOTIFICATION REQUIREMENTS:**

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

1. Colorado Parks & Wildlife
2. Fremont County Historical Society
3. Fremont County Sheriff's Office
4. Colorado Department of Transportation
5. City of Cañon City Water Department (water source protection)
6. Arkansas Headwaters Recreation Area
7. US Bureau of Land Management (BLM)

With a recommendation to grant the waivers as requested by the applicant.

### **SECOND**

Mr. Baker seconded the motion.

Chairman Alsup called for any further discussion. With no further discussion, Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

**CHANGE OF PLANNING COMMISSION MEETING TIME:**

Chairman Alsup asked if anyone was opposed to the Planning Commission Meeting start time being changed from 4:00 P.M. to 3:00 P.M. There was no opposition.

**MOTION**

Mr. Pullen made a motion for the Planning Commission Meeting start time changing from 4:00 P.M. to 3:00 P.M.

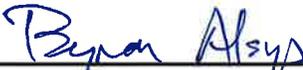
**SECOND**

Mr. Wied seconds the motion.

With no further discussion, Chairman Alsup asked for a roll call vote, and the motion passed unanimously. (6 of 6)

**ADJOURNMENT**

Chairman Alsup adjourned the meeting at 4:39 p.m.

 <hr/> CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION	<hr/> 4-7-15 DATE
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