

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
MAY 1, 2012**

MEMBERS PRESENT

Dean Sandoval, Chairman
Daryl Robinson, Vice Chairman
Byron Alsup, Secretary
Joe Lamanna
Larry Baker
Mike Krauth, Jr.

STAFF PRESENT

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

MEMBERS ABSENT

Steve Smith

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES

- a. February 7, 2012 Planning Commission Meeting

5. UNFINISHED BUSINESS

NONE

6. NEW BUSINESS

- a. **REQUEST: SRU 12-001 EDEN WEST RANCH (MAJOR MODIFICATION)**
Request approval of a **Major modification to the existing Special Review Use SRU 05-002 Eden West Ranch**, by RP on TC, LLC (Neil & Martha Hartman) doing business as Eden West Ranch, for the purpose of modifying the existing Special Use Permit, which currently allows the operation of a Child Care Center, a summer camp (between May 1st and September 1st of each year) and a convention and retreat facility, (between September 2nd and April 30th of each year), not to exceed 35 persons total including staff. The proposed operation is to provide lodging for guests, in the lodge, three vacation homes, and to provide a facility for weddings and special events on a year around basis (allowed as a Special Review Use Permit under Recreational Facility, Rural). It is proposed that the special events may exceed the maximum number of 35 persons, only during the day. The property also will contain a commercial kitchen and dining hall that will be used to serve as the center for the special events. A liquor license is proposed as per the application for the purpose of serving persons attending the special events. The property is in the Agricultural Forestry Zone District and the total size of the property is 44.63 acres.

REPRESENTATIVE: Katrina Madonna, General Manager, Eden West Ranch

b. **REQUEST: ZC 12-001 RAZOR RIDGE ZONE CHANGE**

Request approval of a **Zone Change from the Business to Rural Highway Business Zone District, Department file #ZC 12-001 Razor Ridge Zone Change**, by Jakerdog Holdings, LLC, (Joseph D. Bower, Manager). The property is *located on the east side of U. S. Highway 50, and on the south side of the entrance to Skyline Drive, west of Cañon City*. The proposal is to allow a rafting business (Arkansas River Tours), which is not an allowed use in the Business Zone District, an office and retail sales for Royal Gorge Anglers, and a residence which will be used as a vacation rental (motel). The property presently houses a residence, two other buildings that will be used for the rafting and angling businesses and a 16 by 24 foot storage building. The property to be rezoned contains 17.188 acres.

REPRESENTATIVE: *Joseph D. Bower, Owner*

7. **ADJOURNMENT**

1. **CALL TO ORDER**

Chairman Dean Sandoval called the meeting to order at 4:02 pm.

2. **PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

3. **APPROVAL OF AGENDA**

Chairman Sandoval asked if there were any changes, additions or corrections to the May 1, 2012 Fremont County Planning Commission Meeting Agenda.

MOTION

Mr. Larry Baker moved to accept the May 1, 2012 Fremont County Planning Commission Meeting agenda as written.

SECOND

Mr. Daryl Robinson seconded the motion.

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

4. **APPROVAL OF THE FEBRUARY 7, 2012 PLANNING COMMISSION MEETING MINUTES**

Chairman Sandoval asked if there were any changes, additions or corrections to the February 7, 2012 Fremont County Planning Commission Meeting Minutes.

MOTION

Mr. Byron Alsop moved to accept the February 7, 2012 Fremont County Planning Commission Meeting Minutes as written.

SECOND

Mr. Baker seconded the motion.

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

5. **UNFINISHED BUSINESS**

NONE

6. NEW BUSINESS

a. REQUEST: SRU 12-001 EDEN WEST RANCH (MAJOR MODIFICATION)

Ms. Katrina Madonna, General Manager of Eden West Ranch, was present to request approval of a Major Modification to the existing Special Review Use (SRU) 05-002 Eden West Ranch, by RP on TC, LLC (Neil & Martha Hartman) doing business as Eden West Ranch, for the purpose of modifying the existing Special Review Use Permit, which currently allows the operation of a Child Care Center, a summer camp (between May 1st and September 1st of each year) and a convention and retreat facility, (between September 2nd and April 30th of each year), not to exceed thirty-five (35) persons total including staff. The proposed operation is to provide lodging for guests, in the lodge, three vacation homes, and to provide a facility for weddings and special events on a year around basis (allowed as a Special Review Use Permit under Recreational Facility, Rural). It is proposed that the special events may exceed the maximum number of thirty-five (35) persons, only during the day. The property also will contain a commercial kitchen and dining hall that will be used to serve as the center for the special events. A liquor license is proposed as per the application for the purpose of serving persons attending the special events. The property is in the Agricultural Forestry Zone District and the total size of the property is 44.63 acres.

Ms. Madonna discussed the waiver requests included in the SRU submittal. The waiver requests are for surfacing, landscaping and lighting of the parking area. All three of those things are already in place. We have no plans to use any asphalt or concrete anywhere on the ranch; we do have road base. There are several security lights across the property in different locations; there aren't any dark spots. Landscaping is completed on the ranch. We don't have plans to do anything else. Completing the contingency items within six months will not be a problem. Most of the contingencies will be completed sooner than that. There was a meeting at the Deer Mountain Fire Protection District on April 18, 2012. They approved the fire protection contract, but they haven't sent me a copy yet. The highway access permit will take a little bit of time.

Ms. Madonna summarized the proposed uses. There are four homes on the property. One of them is an 8,000 square foot lodge. That would be the main attraction for the ranch. We want to provide vacation housing for people. In the lodge we would provide two meals per day, breakfast and dinner. Dinner would be a more intimate affair. The guests would not be required to go out to any restaurants. The other three homes have equipped kitchens in them where people will be able to prepare their own food. These residences will be considered vacation homes. None of them will be a Bed and Breakfast. No staff will be living in those homes. The number of people that will be on the property will be smaller than the current SRU allows. We don't plan on serving as many as thirty-five (35) people ever, other than special events. We would like to sponsor the Cotopaxi School Prom, do small weddings, small events. We don't plan on doing anything over one-hundred (100) people. Those events will just be during the day, so they won't be using excessive amounts of water, overloading septic systems, etc. In the case of the Cotopaxi School Prom, that is at night and lasts for three hours. We don't plan to provide any activities on the ranch. We would like to encourage guests to use the businesses in the community, e.g. rafting, zip lines, etc.

Mr. Bill Giordano noted that one of the items for consideration in front of the Planning Commission tonight is exceeding the thirty-five people. Note that there will be a Condition in the SRU that says if you do exceed thirty-five, you will be required to get a Temporary Use Permit (TUP) for the special events. The applicant's choice would be to specify up to one-

hundred people in the SRU, and provide facilities for up to one-hundred, or limit the number to thirty-five, and handle the special events individually, with an individual fee for each event.

Ms. Madonna responded that she anticipated having to do a TUP for each event. We are going to bring in portable toilets for events so we don't overload any systems.

Mr. Giordano stated that sanitation facilities, drinking water, and food are addressed in the TUP process.

Ms. Madonna said there are no plans to prepare food for any of the events. There are other businesses in the area that provide catering and we would like to use them.

Mr. Giordano said food vendors would be dealt with individually with Mr. Sid Darden, Fremont County Environmental Health, at the time of the TUP. One of the recommended contingencies of this SRU is to deal with Mr. Darden now, to get documentation regarding the comments in his review letter.

Mr. Giordano summarized the SRU application – There is an existing SRU, and we are treating this application as a Major Modification because of the changes to the uses that were approved in the past. One change is exceeding the thirty-five people. There will be a liquor license issued on the property. There will be more impact on the property with one-hundred people versus thirty-five for child care.

Mr. Giordano showed a video of the area. He summarized the recommended conditions, contingencies, waiver requests, and additional notifications in the Department Review. He requested that the Planning Commission add a condition that requires a TUP for each event that exceeds thirty-five people.

Mr. Giordano noted that notifications will be required to property owners adjacent to the entire property owned by RP on TC, LLC. This requirement is broader than normal because if only the adjacent property owners to this forty acre parcel were notified, no one would be notified except RP on TC, LLC.

Mr. Alsup expressed confusion as to whether a commercial kitchen would be required or not. In Mr. Darden's letter, he made it sound like a commercially approved kitchen was required for any cooking and serving, and they are going to be serving in the lodge.

Mr. Giordano responded that Mr. Darden will have to resolve this issue with Ms. Madonna as to how the food will be prepared.

Ms. Madonna stated that the smaller kitchen in the lodge has already been approved by Mr. Darden for the existing SRU, but he will come out to do another inspection. The large commercial kitchen will not be used.

Mr. Giordano assured the Planning Commission that any concerns in Mr. Darden's letter will be addressed.

Mr. Sandoval asked if the liquor license will be done in conjunction with the TUP.

Mr. Giordano answered that liquor licensing is done separately through the State and the County Clerk's Office.

Ms. Madonna said they have no intention of serving alcohol to the public, probably not even for the events, only for the guests staying in the lodge.

Mr. Alsup noted that the applicant included in the application that the property was within a quarter mile of the Fire Protection District. Actually, isn't the property several miles away from the Deer Mountain fire boundaries?

Ms. Madonna answered that the property is in the district. We have a contract with them, but they just recently changed everything, and added us to the district. That was part of the meeting on April 18th. I haven't gotten a copy of the contract yet. They are expanding their district up into Indian Springs.

Mr. Alsup asked if the ranch was included as an individual parcel, or if it is contiguous with the district.

Ms. Madonna answered the ranch is in the district now. There are still things that have to be done by the Board. In the interim, we will be under contract, and when everything is done and we are actually part of the district, then that contract will go away.

Mr. Krauth noted that the previous use was a child care facility that did not require a retail food license. If it is a guest ranch, can they use that kitchen to cook food for guests?

Mr. Giordano answered that Mr. Darden will take care of any licensing.

Ms. Jackson stated that a retail food license is for restaurants. This SRU requires a commercial kitchen.

Mr. Krauth asked for clarification on the notification distance.

Mr. Giordano said notification is required for all property owners adjacent to the property owned by RP on TC, LLC.

Mr. Krauth asked if that is consistent with the existing SRU. Did we require the same notifications before?

Mr. Giordano answered yes. The SRU is for forty acres inside of 400 acres owned by the corporation. If the notification area was not expanded, no one would be notified, and the only indication of the Public Hearing would be the sign. If the Planning Commission does not consider adjacent property owners adequate, you have the right to ask for additional notifications.

Chairman Sandoval asked Ms. Madonna what is going on with the property now.

Ms. Madonna answered we are doing the spring cleanup and doing a few beautification projects.

Chairman Sandoval asked when is the last time you had guests?

Ms. Madonna answered the property sold as Children of the Son in September 2010 and that is the last time we housed any children .

Chairman Sandoval explained that he asked this question in conjunction with the questions about notifications. Since the SRU has been operational in the recent past, adjacent property owners, even beyond the perimeter of notification, are well aware that there has been activity at the ranch up until two years ago.

Ms. Madonna answered yes, and they understand what that means (*regarding impacts*).

MOTION

Mr. Alsup made the motion to approve SRU 12-001 Eden West Ranch (Major Modification), subject to the following:

RECOMMENDED CONDITIONS:

- A. Special Review Use Permit shall be issued for the 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 special review use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each

year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.

- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. The maximum number of persons, whether children or staff, is limited to thirty-five (35) persons.

The Planning Commission recommended addition of the following:

- 1. Issuance of a Temporary Use Permit is required for each proposed event for which the number of persons will exceed thirty five (35).**

The Planning Commission recommended the following modification:

- J. The applicant shall provide to the Department documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan, further the applicant shall implement and maintain the plan, yearly, **if required**.
- K. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- L. Only the named party (RP on TC, LLC) 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 Permit and shall be required to be named on this Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- M. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.4 of the Fremont County Zoning Resolution (*complete reapplication*).

RECOMMENDED CONTINGENCIES:

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

1. The application shall be corrected to note that RP on TC, LLC are the owners of the property.

2. Provide an access permit or documentation from Colorado Department of Transportation that the existing access, onto State Highway 69, is acceptable for the proposed specified uses.
3. Documentation as to compliance with the requirement of the Environmental Health Officer as per his memo dated March 19, 2012.
4. Provide a copy of an executed fire protection contract with the Deer Mountain Fire Protection District on the Fire Protection Plan Form. It will be required to provide documentation as to compliance with any requirements of the district.
5. Documentation from the Colorado Division of Water Resources that existing well permit is adequate for the specific proposed uses.

The Planning Commission recommended that, due to the recommended modification to Condition I, the following contingency be removed:

6. Compliance with any requirements of the Fremont County Weed Control Department.

The Planning Commission recommended the following:

ADDITIONAL NOTIFICATION REQUIREMENTS:

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. All property owners adjacent to the total property owned by RP on TC, LLC
2. Colorado Division of Wildlife
3. Fremont / Custer Historical Society
4. Fremont County Sheriffs Office

The Planning Commission recommended waiving the following:

WAIVER REQUESTS:

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

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

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

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

The applicant's justification for the waiver request of the buffering and landscaping is that all buffering is currently in place and not necessary.

2. **5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

The applicant's justification for the waiver request of the hard surfacing of the parking area is that all road and parking areas are surfaced with gravel road base six to eight inches in depth.

3. **5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.

The applicant's justification for the waiver request of the lighting of the parking area is that security lighting is currently in place and is adequate to cover the parking areas.

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

The applicant's justification for the waiver request of the landscaping of the parking area is that the ranch is landscaped and parking will not all be in one location, but will be scattered to serve individual buildings.

SECOND

Mr. Robinson seconded the motion.

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

b. REQUEST: ZC 12-001 RAZOR RIDGE ZONE CHANGE

Mr. Joseph D. Bower, Property Owner, was present to request approval of a Zone Change from the Business Zone District to the Rural Highway Business Zone District, Department file #ZC 12-001 Razor Ridge Zone Change, by Jakerdog Holdings, LLC, (Joseph D. Bower, Manager). The property is located on the east side of U.S. Highway 50, and on the south side of the entrance to Skyline Drive, west of Cañon City. The proposal is to allow a rafting business (Arkansas River Tours), which is not an allowed use in the Business Zone District, an office and

retail sales for Royal Gorge Anglers, and a residence which will be used as a vacation rental (motel). The property presently houses a residence, two other buildings that will be used for the rafting and angling businesses and a 16 by 24 foot storage building. The property to be rezoned contains 17.188 acres.

Mr. Bower stated that they are requesting a zone change to the property commonly known as Razor Ridge, currently zoned Business. The request is to change the zoning to Rural Highway Business to allow a rafting company to go into one of the commercial buildings on the property. There was previous retail / tourist use in both of the commercial buildings. The residence on the property was used for residential purposes. Hopefully, the residents of Fremont County aren't too upset that we took down the "Scream until Daddy stops" billboard. The first commercial building is currently occupied by Royal Gorge Anglers. The Edringtons have been in Cañon City for twenty-three years, operating the fly shop on Highway 50. The proposed tenant of the second commercial building is Arkansas River Tours, which is located in Cotopaxi right now. This would be a second location for their operation. I am not sure if the residential property was the primary residence of the previous owners. The house will be used as a vacation rental. We anticipate that we would put it on Vacation Rentals by Owners as well. There is some crossover potential with lodging for clients of the fly fishing shop and potentially of the rafting company as well. We have been approached by the Royal Gorge because they don't have a vacation rental residence. They asked if we would like to put some information up there, but we are waiting on that piece of the puzzle. We have requested a waiver on landscaping. Our intent is to keep the property looking as natural as possible. I know that is a scenic highway, and I think that our removal of four or five billboards certainly aided in that scenic highway. We have requested a waiver on the paving of the parking lot for the same reason. We put road base down there which is as hard as pavement. The other waiver that we have requested is the lighting for off-street parking. These businesses are open until 5:00 pm in the winter and until 6:00 pm in the summer. The rafting company, as a seasonal business, might be open until 7:00 pm during their high periods. They are only going to be open on a seasonal basis (not including this year) from this time of year until a couple weeks after Labor Day (October 1st in the application).

Mr. Bower continued that they are working through the contingency issues. We have contacted CDOT, the State Water Resources Division, and we have contacted Mr. Darden about a site inspection for the Individual Sewage Disposal Systems (ISDS). We don't perceive there being any issues with the contingencies. We have met with Mr. Don Moore, Fremont County Engineer, regarding the drainage and erosion control for the property. We are going to install a three foot high silt fence consistent with CDOT's recommendation along the fence that runs about 120 feet between the property and the right-of-way to Highway 50. We have just purchased about 75 feet of waddles (hay logs used for construction in the medians) which we are going to put on the property as well. What Mr. Moore has approved is for us to add a retention pond (*should be detention pond*) on the southwest side of the parking lot. The property is 17 acres. About 10 acres would funnel into that detention pond. There is an existing detention pond on the property but when we did the calculations, we determined that wasn't sufficient for returning it to historical flow.

Chairman Sandoval asked what the projected life of the waddles is. Aren't they temporary?

Mr. Bower answered from his perspective they are temporary. Our plan is to seed that entire area with indigenous plants. I met with the weed control supervisor out on the property and we are fortunate not to have any noxious weeds out there. We want to keep it that way. We are going to spray that entire side of the parking lot, between the right-of-way and the parking lot.

There are some areas where some rip rap is going to go in, which relates to the additional detention pond. I imagine the potential life of the waddles is determined by the amount of rainfall and water moving through them.

Chairman Sandoval asked if the waddles are essentially designed to get through the ground restoration process.

Mr. Bower agreed. Our hope is that you won't be able to tell that side of the property has been disturbed. We have some other plans related to bringing a chipper out on the property to get rid of some of the brush that has been on the property, probably since the go-cart track was put in.

Chairman Sandoval asked how much traffic is anticipated going into the facility.

Mr. Bower said he spoke to both of the tenants about that at length. During the high point (May 1st to October 1st) the maximum traffic on the property would be up to fifty cars per day.

Chairman Sandoval asked if that was for the facilities as they exist right now, for anticipated immediate use.

Mr. Bower said we are dealing with facilities that were already in existence. We are working with Mr. Darden, trying to figure out exactly what is there. I think the previous owners went through the (*building permit*) process previously and followed through on two of the buildings. On the first commercial building, the previous owners may not have followed through with finalizing the process. Mr. Darden is requiring me to follow through with that building. We don't think the use has changed so as to render the existing facilities inadequate. As an example, the previous CDOT access permit was for fifty cars and we don't think that we are going to exceed that.

Chairman Sandoval asked if traffic could potentially increase if the residence becomes a vacation rental.

Mr. Bower said he didn't think so. The residence is a four bedroom three bathroom house. There will be less usage in that house as a vacation rental. I am hopeful to get fifty to sixty nights of occupancy out of the year. There will be several months where the place is vacant the entire month. Compared to a family of four living in that property, I think the existing systems will be more than adequate.

Mr. Giordano showed a video of the area and summarized the recommended contingencies, waiver requests, and additional notifications in the Department Review.

Mr. Giordano stated that this property lies within the Urban Growth Area of Cañon City. The City has noted that they will have to approve the use of the access from Skyline Drive. In addition, they recommended that the property be required to apply a dust suppressant, to the parking areas at least once per season. The applicant has requested a waiver of hard surfacing, which is a method of controlling dust. The County has no means of requiring the applicant to apply dust suppressant on a yearly basis. A Zone Change is a one-time shot. Approve it as is or don't approve it. This is unlike a SRU or a Conditional Use Permit (CUP) which have associated conditions.

Chairman Sandoval asked Mr. Giordano to give an example of a greater impact the recreational use (*rafting*) would have.

Mr. Giordano answered there is an impact on traffic, with the heavier equipment such as buses that they use to transport back and forth for the rafting.

Mr. Joe Lamanna asked if this use will require a Special Review or Conditional Use Permit.

Mr. Giordano answered no, this is an allowed use in the new zone district.

Mr. Robinson asked what the zoning is for the other rafting company south of this property.

Mr. Giordano answered it is either non-conforming because it was in existence prior to zoning, or it is Rural Highway Business. I think there are a few rafting businesses that existed prior to the change in regulations, but the County has been very consistent in requiring Rural Highway Business zoning for Rafting since that time.

Mr. Krauth noted that the goal would be to have rafting in Rural Highway Business.

Mr. Lamanna said that is where his question was going. Will the contingencies comply with the zoning regulations for drainage as such because there are some concerns around drainage and there is a memo about adding a detention pond?

Mr. Giordano answered the applicant will comply with our regulations. Mr. Moore, County Engineer will do an on-site visit to make sure the improvements are compliant with his requirements.

Mr. Lamanna asked if a Stormwater Permit is required as well.

Mr. Giordano answered that they are not disturbing enough property to require a Stormwater Permit. When addressing erosion control issues, the test is that you don't allow more water to go onto other adjacent properties than historically. Most of the time, a detention pond will allow water to be released at a slower rate than the historical rate. In addition, the detention pond is usually designed larger than required.

Mr. Robinson asked for clarification on the Rural Highway Business Zone District. This is basically spot zoned – there is not a district, they are all individual properties.

Mr. Giordano answered that the Master Plan makes statements to the effect that businesses will be located in areas that have all the amenities needed for businesses and which are compatible to the surrounding area. In our Master Plan, we do not identify areas that should be zoned business; therefore, we deal with them on an individual basis. Specific to this site it would not be spot zoning since it is already zoned Business, however the spot zone issue was relevant when it was originally zoned. It should also be noted that it being an island is only one factor in determining spot zoning. The real question is – Is this a good location, does the property have the amenities to handle the impacts?

Chairman Sandoval asked about the rafting business on East Main in the City. That location has a traffic issue because of the larger vehicles. Are you familiar with how the City gave allowance to that type of business, with narrow streets and difficult turns?

Mr. Krauth asked Mr. Bower if he has heard anything from CDOT.

Mr. Bower said he has submitted a new Access Permit Application, and CDOT is treating it as a new access permit, but it is tied to the prior permit. They are going to address drainage issues and pavement or asphalt.

Mr. Lamanna asked if the current access permit is for fifty vehicles, and the applicant is changing it to seventy-seven vehicles.

Mr. Bower said we are changing the number of vehicles to fifty-two, because we added two buses with trailers on the property, plus fifty passenger cars.

Chairman Sandoval asked if it was true that we can't enforce application of dust suppressant on a yearly basis unless we include it in the motion.

Ms. Jackson answered the County can't require dust suppressant annually. A zone change is not an on-going review type of situation. Once a zone change has been recorded, it is final, and there is no way to rescind it without another zone change application.

Chairman Sandoval said dust suppression would strictly be a suggestion or a request.

Mr. Giordano said the Planning Commission's authority is to decide between hard surfacing or no hard surfacing.

Chairman Sandoval said the City could eventually include this property as part of the growth area, then they would have some say in hard-surface parking.

Ms. Jackson responded that an annexation alone would not trigger a burden on a property owner to pave the parking area.

Mr. Giordano said if the City requires paving in terms of their Urban Growth Policies then there will be a negotiation between the City and the applicant as to whether the parking area gets paved.

Mr. Lamanna said what if we approve the zone change, but three or four years from now there is excessive erosion onto the highway causing a problem. What is the County's recourse to resolve that issue?

Mr. Giordano answered that the County would have no recourse. We are doing everything we can to prevent that problem at this time. If the owners take the detention pond out and cause flooding, they are setting themselves up for liabilities.

Mr. Robinson said keeping it as pervious pavement like this helps potential stormwater runoff, as opposed to a hard-surface parking lot.

Mr. Lamanna asked if they placed the gravel on top of the hard surfacing pavement that was already there, where the track used to be. That creates a place for water to flow down to saturation. The water doesn't have anyplace to go. So I think the opposite could happen there.

Mr. Bower answered that they did cover the track, but the absorption should be better than it was before the track was covered.

Mr. Lamanna said you have hard pavement under two feet of gravel, so the water is going to flow down and hit the pavement, and run out. Now you have a bunch of gravel that it is going to wash out.

Mr. Bower said we are trying to do everything that Mr. Moore has recommended that we do. We have an interest in making sure that we don't have erosion and that we are not losing road base, and in a position where we are continuously bringing road base back in. We want to

control the erosion. Our intent is to be a steward of the property and to be a responsible owner. That is why we are adding the additional detention pond in a place where we think it makes the most sense. Initially, there was not a requirement as to where we put that detention pond. We could have enlarged the existing pond, which is actually above the parking lot. It is our intent to do everything we need to do to prevent erosion from occurring. Our tenants want a classy location.

Mr. Lamanna said I think you would be alright if it was hard surfaced; we wouldn't even be having this discussion. The concern I have is around the waiver for the hard surfacing.

Mr. Alsup asked if Mr. Bower considered paving the parking area. Did you look into that possibility? I share Mr. Lamanna's concern with waiving the paving requirement. I can see issues there with the gravel potential to wash away. Have you looked into the cost?

Mr. Bower answered they haven't looked into the cost of paving or asphalt. The parking is a large area, at least an acre.

Mr. Alsup asked Mr. Giordano, if we were not to recommend the waiver; would that change the engineering for the drainage?

Mr. Giordano answered yes, that would mean a lot more runoff, which would increase the size of the detention pond.

Mr. Krauth commented that if this wasn't a zone change, but rather a SRU or CUP, the Planning Commission wouldn't be as hesitant about the waiver on the hard surfacing because we would have jurisdictional ability down the road to review it if it became a problem, the same as dust suppressant.

Mr. Giordano noted that this is not a high density development area, there is not a lot of development out there. I'm not sure how much dust will be a problem especially in a parking lot. It will be slow traffic which usually doesn't create a lot of dust. In most cases, with gravel on the soil, you are not going to have as much dust. You do create other issues when you ask for hard surfacing, such as additional runoff which will probably increase the detention pond and the runoff ditches into it. The water will be detained and released at a historic rate. I would be more concerned if the property was in downtown Penrose, or in a high density area where there are more residences and more development. The smallest tract allowed in this area is 4½ acres.

Mr. Krauth said we as a Planning Commission probably need to stay focused on the zone change itself and not the contingencies if we don't have the jurisdiction to enforce them.

Ms. Jackson stated that dust falls under Air Quality Control and that would be a state issue. Also, it is not good for business to have a really dusty area.

Mr. Krauth said being that close to the highway, if dust did become a problem, the complaints are going to end up with the Highway Patrol, who will notify CDOT, and the issue will have to be addressed.

Mr. Koch stated that when we were working with Mr. Moore he came up with permeability coefficients – for asphalt it is 100%; for gravel it is 0.6% which is a big difference. Asphalt will increase the drainage and runoff quite a bit through there. Also, this property is right next to

CDOT right-of-way, and if CDOT sees any impact to their right-of-way, they will pursue the owner and make them fix it.

Mr. Lamanna noted that there are seven recommended contingencies. One of them is documentation from CDOT as to any requirements for access. I would like to see what CDOT thinks of the zone change. Could I make a motion to table this zone change now, and ask for the documentation from CDOT?

Mr. Giordano said that there is an exemption under our regulations that the applicant does not have to do a traffic study if the property is on a state highway, so the County has no say in what the State requires and that they may not take action until the County approves the request.

Ms. Jackson said it shouldn't affect this board's determination one way or the other what CDOT requires.

Mr. Lamanna said if we approve the zone change, what if there is an issue?

Ms. Jackson said the issue wouldn't be ours to solve.

Mr. Giordano said if the applicant can't solve the issues, then they don't have a zone change. They have to satisfy the contingencies.

Mr. Lamanna said he is confused because there is a list of contingencies for a zone change.

Mr. Giordano said we don't want to make them spend the money up front before they even have approval. They would have to have all these things addressed ahead of time, and still face denial. That is the purpose of contingency items, not making them do everything up front. Just think if we did that on some of our other applications, a mining CUP for example, they could spend a lot of money for a study and final report, and then the application still could be denied. Most of these contingency items aren't in our control in the first place. The way the contingencies are written, if the applicant does not comply, then the zone change will not be recorded. I don't see any reason to try to make them do these items ahead of time before they know they have the approval. The decision you are making is whether this land use is an acceptable land use for the area.

Mr. Lamanna said over all I think it is a great idea. The concerns I have are the erosion, the proximity to Skyline Drive if there is an issue there. Skyline Drive is a popular area.

Mr. Bower stated that the one benefit is that the issues we are talking about are below Skyline Drive. Whatever happens as far as drainage on this part of the property goes downhill. Our tenants' customers aren't going to want to be on that parking lot while there is dust blowing around.

Chairman Sandoval said when we look at these things, we are not looking at them in a vacuum. We know that the business owners are reputable with a history. It would be nice if we could look at things in a vacuum and say we can count on these people to make all these changes. The previous operation there got rather unsightly. Those are the types of things that we can't predict. We are trying not to be over-bearing from a regulatory point of view, but what is the right thing to make sure that should the business owners change colors there would be some form of reversal of that situation. My main concern is not the runoff but the dust suppression. You (*Mr. Bower*) have indicated that you will be looking at that on more than an annual basis and that is great.

Mr. Lamanna asked if the contingencies would be done before this item goes to the BOCC.

Ms. Jackson answered that the Public Hearing at the BOCC meeting would happen first.

Mr. Alsup asked Mr. Robinson, regarding the Urban Growth Area, if he has any comments from the City's perspective.

Mr. Robinson answered that the area will eventually become part of Cañon City. The dust issue is valid and the applicant plans to address it, so I think this is something that the City could accept as an existing use. This property has basically been in the same condition for at least twenty years and it hasn't really been a problem. I see this as a much better use than the Medical Marijuana Dispensary that was there a few months ago.

MOTION

Mr. Alsup moved to approve ZC 12-001 Razor Ridge Zone Change with the following justification and findings:

- d. The proposed zone change will be in conformance to the Comprehensive or Master Plan for the area.

and with the following findings:

- d. There will be no effect on adjacent uses.
- e. The proposed development will be in harmony and compatible with the surrounding land uses and development in the area.

and with the following contingencies:

RECOMMENDED CONTINGENCIES:

The Planning Commission recommended that approval be contingent upon the following contingencies 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 Division of Water Resources that the existing well permit will be adequate to service the rafting, fly fishing businesses and the residence which is to be used as a vacation home / motel. The documentation shall be specific to these uses.
2. Documentation from the Fremont County Environmental Health Officer that the existing sewage disposal systems are adequate to service the rafting, fly fishing businesses and the residence which is to be used as a vacation home / motel. The documentation shall be specific to these uses.
3. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator as to the requirement for an acceptable weed control plan, further the applicant shall implement and maintain the plan, if required.
4. Documentation from the City of Cañon City as to compliance with their Urban Growth policies, requirements, etc.
5. Documentation from the Colorado Department of Transportation as to any requirements for access onto U.S. Highway 50 for the rafting, fly fishing businesses and the residence which is to be used as a vacation home / motel. The documentation shall be specific to these uses.

6. Documentation showing compliance with any requirements, as per the County Reviewing Engineer's review.
7. Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.

The Planning Commission also recommended the following:

ADDITIONAL NOTIFICATION REQUIREMENTS:

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 Sheriff's Office
2. Colorado Department of Transportation

The Planning Commission also recommended waiving the following:

WAIVER REQUESTS:

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

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

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

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

The applicant's justification for the waiver request of the buffering and landscaping is that no adjacent uses are visible or impacted and the site is to remain as natural as possible with surrounding vegetation.

2. **5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

The applicant's justification for the waiver request of the hard surfacing of the parking area is that they wish to keep the natural appearance of the property.

3. **5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.

The applicant's justification for the waiver request of the lighting of the parking area is that the operation will only be day use, only during sunlight hours.

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

The applicant's justification for the waiver request of the landscaping of the parking area is that the parking area will have no impact on adjacent uses and to keep the property natural looking.

SECOND

Mr. Robinson seconded the motion.

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

7. ADJOURNMENT

Chairman Sandoval adjourned the meeting at 5:25 p.m.

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

DATE