

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
MAY 7, 2013**

MEMBERS PRESENT

Byron Alsup, Chairman
Daryl Robinson, Vice Chairman
Larry Baker
Michael Pullen
Joe Lamanna
Larry Brown

STAFF PRESENT

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

MEMBERS ABSENT

Mike Krauth, Jr., Secretary

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES

- a. April 2, 2013 Planning Commission Meeting

5. UNFINISHED BUSINESS

NONE

6. NEW BUSINESS

a. REQUEST: SRU 13-002 CAPTAIN ZIPLINE ADVENTURE TOURS (MAJOR MODIFICATION) (Recreational Facility, Rural)

Request for approval of a **Special Review Use Permit** by Gene M. Holmes, file #**SRU 13-002 Captain Zipline Adventure Tours (Major Modification to SRU 07-001)**, for the addition of two (2) challenge courses (*rock climbing and an aerial park i.e. swinging bridges, ladders, obstacle and catwalks*) (*Recreational Facility, Rural*) and a new parking and visitors center, where tours will originate and include six (6) practice zip-lines. The existing Special Review Use Permit was issued for zip-line tours, which consist of six (6) cable (*zip-lines*) rides, an informational presentation, observance of previous mining activity and a watchman's quarters. There are four (4) tours per day (*4X12=48 persons*) seven (7) days per week at full capacity, basically during the months of March through November. The existing permit has a maximum capacity limit of ninety-six (96) customers per day and the modification request includes an increase to two-hundred (200) guests per day. The customers were picked up in Salida and transported in a six (6) wheel-drive pinzgauer troop carrier (*12 person passenger capacity*) to the site. Customers will now also be picked up at the new parking and visitor center and will be transported by vans or similar vehicles to the zip-line, rock climbing and challenge course areas. The zip-line property is approximately 1.3 miles from the intersection of US Highway 50 and County Road #7 (*Wellsville Road*) easterly to County Road #54 (*a non-maintained County Roadway*) then northwesterly along County Road #54, then westerly along a BLM right-of-way into the property in the

Wellsville area. The visitor center, parking lot and practice area property is located on the south side of County Road #45, approximately one (1) mile southeast of the intersection of County Roads #7 & #45, also located in the Wellsville Area. The zip-line property is located in the Agricultural Forestry Zone District and contains approximately 23.68 acres. The visitor center, parking lot and practice area property is located in the Agricultural Rural Zone District and contains approximately 3.04 acres.

REPRESENTATIVE: Gene M. Holmes, Property Owner

7. ADJOURNMENT

1. CALL TO ORDER

Chairman Byron Alsup called the meeting to order at 4:05 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 May 7, 2013 Fremont County Planning Commission Meeting Agenda.

MOTION

Mr. Larry Brown moved to accept the May 7, 2013 Fremont County Planning Commission Meeting agenda as written.

SECOND

Mr. Daryl Robinson seconded the motion.

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

4. APPROVAL OF THE APRIL 2, 2013 PLANNING COMMISSION MEETING MINUTES

Chairman Alsup asked if there were any changes, additions or corrections to the April 2, 2013 Fremont County Planning Commission Meeting Minutes.

MOTION

Mr. Robinson moved to accept the April 2, 2013 Fremont County Planning Commission Meeting Minutes as written.

SECOND

Mr. Brown seconded the motion.

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

5. UNFINISHED BUSINESS

The Planning Commission had no unfinished business.

6. NEW BUSINESS

a. REQUEST: SRU 13-002 CAPTAIN ZIPLINE ADVENTURE TOURS (MAJOR MODIFICATION) (Recreational Facility, Rural)

Mr. Gene M. Holmes, Property Owner, was present to request approval of a Special Review Use Permit, file #SRU 13-002 Captain Zipline Adventure Tours (Major Modification to SRU 07-001), for the addition of two (2) challenge courses (rock climbing and an aerial park i.e. swinging bridges, ladders, obstacle and catwalks) (Recreational Facility, Rural) and a new parking and visitors center, where tours will originate and include six (6) practice zip lines. The existing Special Review Use Permit was issued for zip-line tours, which consist of six (6) cable (zip lines) rides, an informational presentation, observance of previous mining activity and a watchman's quarters. There are four (4) tours per day (4 X 12 = 48 persons) seven (7) days per week at full capacity, basically during the months of March through November. The existing permit has a maximum capacity limit of ninety-six (96) customers per day and the modification request includes an increase to two-hundred (200) guests per day. The customers were picked up in Salida and transported in a six (6) wheel-drive pinzgauer troop carrier (12 person passenger capacity) to the site. Customers will now also be picked up at the new parking and visitor center and will be transported by vans or similar vehicles to the zip line, rock climbing and challenge course areas. The zip line property is approximately 1.3 miles from the intersection of U.S. Highway 50 and County Road #7 (Wellsville Road) easterly to County Road #54 (a non-maintained County Roadway) then northwesterly along County Road #54, then westerly along a BLM right-of-way into the property in the Wellsville area. The visitor center, parking lot and practice area property is located on the south side of County Road #45, approximately one (1) mile southeast of the intersection of County Roads #7 & #45, also located in the Wellsville Area. The zip line property is located in the Agricultural Forestry Zone District and contains approximately 23.68 acres. The visitor center, parking lot and practice area property is located in the Agricultural Rural Zone District and contains approximately 3.04 acres.

Mr. Holmes stated that he seeks to modify the SRU to incorporate construction of a challenge course, a family-friendly activity that is built and anchored on poles and cliffs. This course consists of a series of swinging bridges, ladders, obstacles and catwalks designed to provide a novel adventure experience for ages 7 to 77. Our challenge course will be the first in Colorado. This type of course is very popular in Europe; there are 150 of these courses in France alone. This new course would be designed and built to meet ASTM (*American Society for Testing and Materials*) and ACCT (*Association for Challenge Course Technology*) Standards which took effect in April, 2013. The design will take into account the historic elements of the property; part of the course will include an aerial tour over the ancient lime kiln ruins and along the scenic travertine cliff formations. We also plan to partially reconstruct the tram cable ore car system enough to provide a "visual" of the old-time mining activities on the property. This ore car system was used to move limestone to the kilns in 1895. We have an eco-tour to showcase the history and the geology. In addition to the usual families and other groups seeking outdoor activities, active seniors and cultural travelers will be drawn to our region to experience this attraction.

Mr. Holmes continued, the original SRU transportation plan involved shuttling reserved customers from Cañon City and Salida in fifteen-person vans up to four times per day. Sixty percent of our customers come from Cañon City and forty percent from Salida. In the last several years, changes in vacation habits have resulted in shorter and more spontaneous travel to our rural area and a large percentage of these new tourists show up to "pay to play" without making reservations. Our company has seen a substantial decline in reserved customers who are available for our scheduled van shuttles. We had the first zip line in Colorado and the third zip line in the United States back in 2005. Coupled with the rapid expansion of the zip line

industry in Colorado (over 20 zip line tours to date), we have been forced to explore other means to attract customers to our activity in Fremont County and we want to keep them here longer. Thus, we desire to expand our daily maximum capacity from 96 to 200 guests per day by allowing these “pay to play” spontaneous visitors to be able to drive in and park at a site closer to our zip line facility, from where we will shuttle them along the unimproved County Road 54, as we have done for the last eight years. We have purchased a three acre site approximately one mile east of our zip line location and propose to construct a parking lot for sixty vehicles. Sixty vehicles is a lot. This number came about because of the regulations regarding how much developed area we have in our canyon. The regulations require so many parking spaces per acre of developed property. We don’t need sixty parking places, but we are going to put them in. Our vans would continue to deliver some customers from Cañon City and Salida where we have established pick up spots at rafting and lodging locations. A small Visitor’s Center (essentially an office) would be built where customers would be checked in and given a safety talk outside and geared up before being shuttled to the site in half-hour intervals. Our guides are very familiar with that road. There is some mining activity sporadically on that road, and the guides are trained to watch for trucks. We would be happy to put signage in there if it is necessary. Captain Zipline will continue to provide world-class zip line tours at its current location. Our most recent tour upgrades involve the addition of two cable rides (in 2008) – the “Leap of Faith” cable, spans the 700 foot canyon and takes off from a 200 foot high cliff. The three-hour zip line tour, a three-hour challenge course in the bottom of the canyon, and two-hour rock climbing element will provide our guests with more than a day’s worth of adventure. We seek to encourage them to stay overnight in one of our region’s lodging facilities and come back for more fun the next day. The really big advantage to this recreational activity is that it doesn’t depend on snow fall, river flows, or rainfall, and can be visited most of the year, expanding our County’s underutilized “shoulder season” and keeping tourist dollars in the Royal Gorge Region. We also want to highlight our heritage and once again put Colorado and Fremont County on the map as a family-friendly adventure destination. We are still a world class zip line, one of the top zip lines in America.

Mr. Holmes pointed out on the map the existing zip line which goes around the canyon, back and forth across the canyon, to the bottom. The challenge course will be down in the bottom of the canyon. There will be a via ferrata (Italian for iron road), which is a mountain climbing technique with steel rungs in the mountain with safety cables and a smart belay system so you can never be unhooked. We were able to buy a three acre parcel a mile from the zip line location on improved County Road 45, which is a beautiful road that goes down to BLM land and stops. There will be four porta-potties on the new lot as part of a low impact eco-ethic. We got approval from the Board of Health to do that last week. We submitted a building permit application with the Building Department this morning for a watchman’s quarters with a small office. The watchman’s quarters is not for the public. Because the zip line is an attractive nuisance, people come in there after hours. We have never had an accident in eight years of operation. We do have mechanisms to keep people off the cables, but we do need a watchman in this location. The adventure park has very expensive equipment, so we need someone watching over it. We encourage customers to bring their own bottle (*for water*) and if they do we give them an energy bar at the end of the tour. If they don’t bring their own water, we provide a bottle of water plus promotional coupons. The public will not have access to the well water. We don’t want to become a public water system. There will be three practice cables at the new location. We hope to gear the people up at the new facility and we intend for them to practice four feet off the ground instead of 200 feet off the ground.

Regarding the dust, Mr. Holmes said he agrees to put dust suppressant on the road yearly. We want to do everything we can to make this a win-win for the County and our neighbors. Our customers are on guided tours. There are two guides with every twelve to fourteen people. They can't deviate from the tour. We don't go anywhere near the irrigation ditches. We were required to put signs on our property that said no trespassing on the neighbor's property. We want to be a good neighbor and we agree to all the conditions from the County except the Fremont County Department of Transportation (FCDOT) requirement to provide 500 tons of gravel annually for road maintenance. Mr. Holmes went into great detail about why the original Roadway Impact Analysis done by his engineer needed to be revised and as a result, the FCDOT requirement was amended. Mr. Holmes said he would like to continue the discussion with Mr. Tony Adamic (FCDOT Director) and Mr. Don Moore (Fremont County Engineer) but he does not agree that he should have to pay a traffic impact fee right now. There are mechanisms in Fremont County that allow the BOCC to have a public hearing and modify the permit if traffic gets to be an issue. We brought the zip line industry to Colorado and to Fremont County. We didn't ask for any economic development money or anything from Fremont County. We have a successful business and we are trying to expand it in a very difficult economic time. The challenge course is an exciting venue and it will be the first in the state. The problem is no one knows what an aerial park is. We have to educate the public before we can sell to them.

Mr. Holmes continued by detailing the great financial risk he is taking. I am trying to improve my personal economy and Fremont County's economy. I am going to put people to work, year around I hope. I am bringing new visitors here. I don't want to be responsible for a road impact fee at this point. I don't think it is fair.

Mr. Bill Giordano, Fremont County Planning Director, showed a video of the area and summarized the Recommended Conditions, Contingencies, Waiver Requests, and Additional Notifications. He noted the following:

- Because construction for the challenge course had already started prior to getting approval of the modification, the applicant was required to pay a double submittal fee.
- Regarding weed control, the site is the only location in the State with elongated mustard, so it is very critical to eliminate it.
- The Planning Commission needs to consider if there should be an increase in the amount of liability insurance due to the addition of the two challenge courses and the zip line practice areas.
- The Planning Commission needs to determine whether the proposed Challenge Course (rock climbing and an aerial park, i.e. swinging bridges, ladders, obstacle and catwalks) is similar in use and impact to those uses in the Fremont County Zoning Resolution, Definition 1.5.143 Recreational Facility Rural: Includes recreation camps, guest ranches, summer camps, hunting and fishing clubs, historic / scenic railroads and associated facilities, and the like, operated on a commercial basis for use by the public. This term shall not be interpreted to include travel trailer parks or campgrounds.

Mr. Holmes discussed some of the recommended conditions and contingencies:

- Regarding the weed management plan –We have been in contact with Ms. Jana Gregg, the current Fremont County Weed Manager.

- Regarding insurance – The insurance provider has an endorsement which covers additional facilities in additional locations. Both locations will be covered with the same liability policy.
- Regarding proposed Condition N, which states ““All inspection documents shall have said inspection signed and sealed by a Colorado Registered Professional Engineer” – The structure of the challenge course is designed to move. It is very difficult to get an engineer to sign off on a structure that moves. Mr. Richard Klajnscek is going to be inspecting the course has been working for twenty years with the ACCT and is on the ACCT Standards Committee. He wrote the standards for the ACCT Challenge Course Zip Line Industry. He is also a voting member of the ASTM International F4 Committee, which writes the standards for zip lines with the ASTM group. I don’t think I can find a registered Colorado Engineer that is going to certify the construction of courses. I would like to recommend that someone who is approved by the Challenge Course ASTM do the inspection and certify the course.

Mr. Giordano noted that in the last couple of zip line approvals the County has allowed the inspection be done to American Society for Testing and Materials (ASTM) standards.

- Regarding road maintenance – I propose that I provide Fremont County with twenty-five tons of gravel (\$100 worth) every year of operation for road maintenance, in lieu of the traffic studies, etc. that Mr. Adamic is proposing. I plan to speak to Mr. Adamic about this proposal.
- The existing septic tank be adequate for the new non-residential use – This will be a residential single family use, not a commercial use. The public will not be allowed to use the toilets.
- Access for the BLM property as conveyed to the current property owner for the proposed use – This has already been provided in the SRU 07-001 application.
- Refuse Disposal Plan – We have recycle bins and every week we take the bins to Salida and recycle. Mr. Giordano stated that we need a copy of the plan in the file.

Mr. Holmes showed a video of an operating Challenge Course in West Virginia and some photographs of a via ferrata. There is only one other guided via ferrata tour in this hemisphere and it is in Whistler, Canada. Normally, these are built in Europe up on the dolomites, and people go on the weekend to climb the mountains. There are two via ferrata courses in Telluride.

Chairman Alsup asked how they would stop people from going up on the via ferrata course on their own.

Mr. Holmes responded that to get to the canyon people would have to go across two lots of private property and the railroad right-of-way. There is nowhere to park, so people would have to walk in. This is a difficult spot to find. We don’t have watchmen up there, but there are techniques to lock the cables. There is not a very well-defined security system for zip lines, and I don’t think there is anything for via ferrata. We do have solar electricity and security cameras on the site. We don’t want anyone to get hurt. Anyone who goes on the tour is covered by a \$5,000 insurance policy and a \$2,000,000 liability policy.

Mr. Joe Lamanna asked what happens if someone fell off the harness. How would you get them back on the cables? I am thinking in terms of emergency response.

Mr. Holmes answered there are two guides with every group on the challenge course, but they stay on the ground. There are rescue stations every so many platforms. There is a base jump – you hook into the two cables and jump off the platform and it drops you to the ground slowly. If a customer will not do that, the guides go up and get them.

Mr. Lamanna asked how many people would be employed at the site.

Mr. Holmes answered right now we have twelve guides that we work with. The number of guides depends on the number of people we have. There are typically two guides for every twelve people.

Mr. Michael Pullen asked if there is a regulatory agency that regulates this activity in this state.

Mr. Holmes answered the Colorado Department of Amusement Rides, Explosives and Employment has just taken on the task in April of this year to regulate zip lines. Because it is so new, they don't have a regulation on this (*challenge courses and via ferrata*) yet, but they adopted the ASTM standards and the ACCT standards. The ACCT standards don't have any regulations on this either, but the ASTM standards require every bolt on the via ferrata to be inspected by an engineer and randomly pull-tested

Mr. Pullen asked if anyone from the County does inspections on this.

Ms. Brenda Jackson, Fremont County Attorney, answered no one from the County does these inspections.

Mr. Holmes stated that Mr. Sanders in the Building Department will not require a building permit for the challenge course.

Mr. Brown asked a question about the parking area. The hours for the current permit end at 6:00 pm. You proposed to extend that to 10:00 pm. Are you going to have tours at night all the time?

Mr. Holmes answered we have had maybe six moonlight tours in seven years.

Mr. Brown's concern is at night the parking area will be very dark.

Mr. Holmes said he doesn't mind running a cable out to the parking area and putting up some lights. If you think we need a couple of area lights in the parking area we don't have a problem with that. We will make sure they are the kind that shines down and not at the neighbors.

Mr. Brown stated he thinks it would be a good idea.

Mr. Larry Baker asked about the comments from Ms. Ellen Miller regarding trespassing on her property.

Mr. Holmes stated that Ms. Miller is concerned about people getting in her irrigation ditch and drowning. That is why we have a guided tour. We don't let anyone leave the tour. No one is unguided. The unstated issue is Ms. Miller doesn't want traffic on the road, going by the ranch house.

Mr. Lamanna asked if the properties are delineated very well. Are there fences?

Mr. Holmes answered there is a railroad fence, and the rancher uses the right-of-way for his cows. There is a railroad trestle that goes under the railroad that goes to the river and one of the ranchers had a lease with us for years for his cows to get down to the river. We don't have a fence in the trestle area because it is in the wash and it would wash away, and the cows could not use it if we fenced it off.

Chairman Alsup expressed concern that Mr. Holmes had set the poles without getting a permit. Did you not know that you needed a permit?

Mr. Holmes responded that he had asked Mr. Giordano what he could do before he got the permit, and Mr. Giordano said he shouldn't be doing any construction of any kind. We thought that anyone could plant a pole on their property. The main reason we set the poles was because the crane operator said he would have to set up and come back twice, which would be \$12,000. The crane was up on the ridge, visible from the highway, and we knew that somebody would complain about it. At that point I just had to ask for forgiveness because we wouldn't see that crane operator again until September. We got caught between a rock and a hard place, and I apologize for that. We have to get this (*challenge course and via ferrata*) open this summer. If we waited to set the poles until September, it wouldn't be built until November. We knew we were going to get in trouble. We paid the (*penalty*) fee willingly.

Chairman Alsup noted that 95% of the employees come from Salida. I'd like to think you would hire some Fremont County folks.

Mr. Holmes answered that has changed a little bit. Four of our guides are from Howard. The Fremont County employees we have had are better employees.

Chairman Alsup asked about the limits of liability in the insurance policy.

Mr. Holmes responded that the policy is for \$1,000,000 per occurrence, \$2,000,000 aggregate. That is the standard policy that all the zip line tours operate under. If they are associated with a resort, it could be a \$10,000,000 policy, depending what the resort requires. We have never had a band aid accident. There is not another zip line in this state that can say that.

Mr. Giordano noted that the Planning Commission needs to determine if the use is similar in use and impact to those uses in the Fremont County Zoning Resolution, 1.5.143 Recreational Facility, Rural prior to making a motion. .

Chairman Alsup asked if anyone had a problem with the similar use determination. None of the Commissioners expressed a concern.

MOTION

Mr. Lamanna made a motion that **the proposed Challenge Course** (rock climbing and an aerial park, i.e. swinging bridges, ladders, obstacles and catwalks) **is similar in use and impact to those uses listed in the Fremont County Zoning Resolution, Definition 1.5.143 Recreational Facility, Rural:**

SECOND

Mr. Robinson seconded the motion.

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

Mr. Lamanna questioned recommended Condition X which requires five-hundred (500) tons of gravel per year for road maintenance.

Mr. Robinson suggested that the terms of this condition should be negotiated between the owner, FCDOT and the County Engineer.

Mr. Brown noted that the applicant had agreed to put lighting in the parking lot.

Mr. Robinson wasn't sure lighting is a good idea in this location as it might add light pollution to this area.

Chairman Alsup stated I live in that area and we are concerned about light pollution. Every time someone puts up a ranch light unnecessarily, it diminishes my view of the sky. A lot of us out in that area don't really want more lights.

Mr. Brown expressed concern about the safety.

Mr. Robinson stated he thinks the car headlights may handle the safety concern. I don't want them to put any permanent lighting.

Chairman Alsup commented that if they were using the parking lot more often at night I would agree with Mr. Brown, but it sounds like it is a very rare occurrence. I wouldn't want to impose that on the neighbors.

MOTION

Mr. Robinson made a motion to approve SRU 13-002 Captain Zipline Adventure Tours (Major Modification), subject to the following:

RECOMMENDED CONDITIONS:

- A. The Special Review Use Permit shall be issued for life of the 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 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 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 shall not be limited.
- I. Hours of operation shall be from 7 am to 10 pm. *(8 am to 6 pm currently)*
- J. If lighting is required for nighttime tours or practice, lights shall be positioned and directed so as not to shine on neighboring properties.
- K. Compliance with the specified weed control plan as stipulated in the Fremont County Weed Control Officer's letters dated June 8, 2007 and April 16, 2013 and all subsequent updated plans for the property included in the permit.
- L. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan for the parking lot, visitor center and practice zip line area, further the applicant shall implement and maintain the plan.
- M. The applicant shall provide annually a copy of premises liability insurance in the amount of one (1) million dollars for the proposed use and it shall be kept current as long as the business is in operation. The limits of liability may be adjusted by the Board based on a review of coverage no more frequently than every three (3) years. ***The Planning Commission did not recommend an increase in the amount of liability insurance due to the addition of the two challenge courses and the zip line practice areas.***
- N. The applicant shall provide the Department with a copy of the yearly inspection of the anchors, cables and pole foundations, and the challenge course poles, swinging bridges, ladders, obstacles, catwalks and practice zip lines, etc. by an independent inspection agency

or government agency. All inspection documents shall have said inspection signed and sealed by a Colorado Registered Professional Engineer. Failure to correct deficiencies immediately noted by the inspectors shall be cause for operations to cease until remedies are in place and certified by the inspectors. ***The Planning Commission recommended changing the requirement for the inspection to be done by a Colorado Registered Professional Engineer to the requirement that the inspection be done to American Society for Testing and Materials (ASTM) standards.***

- O. The applicant shall keep and make available, at all times, a log of all customer attendance and customers instructed and trained to ride the zip line and ride or use the challenge courses.
- P. All Captain Zipline Adventure Tours personnel that work on site shall be trained in safe operations.
- Q. Vehicle access to the subject property shall be limited to the use of County Road #7 or County Road #45 to County Road #54 (*use of rights-of-way only*) and then on private easement (*BLM right-of-way grant Serial #65885 & Assignment of Right-of-way grant executed 6/5/2007*), to the site, as specified on the attached map.
- R. No clientele or staff shall trespass on railroad property, ditch rights-of-way or on adjoining private property. Permission to access said properties shall only be through written permission of owner(s) of said properties.
- S. No customer vehicle traffic to the zip line and challenge course sites is permitted, except for U.S. military vehicles, or other designated type of vehicles, when escorted by Captain Zipline Adventure Tours vehicles and staff. All other customers shall be transported to the site only by Captain Zipline Adventure Tours drivers and vehicles.
- T. All required signage regarding trespass shall remain in place and shall be maintained through the duration of the operation.
- U. The maximum number of customers shall not exceed a total of two-hundred (200) persons per day.
- V. Provide a copy of the following approved permits, licenses or the like, prior to operation: (*If not required, provide documentation from the listed entity that the following is not required, prior to operation*). The applicant shall provide copies of all permits, licenses or the like required from any entity for the operation of the proposed use whether contained in the following list or not.
 - 1. Colorado Department of Labor & Employment, Division of Oil & Public Safety Permit.
 - 2. Fremont County Building permit.
 - 3. Fremont County Sewage Disposal permit.
 - 4. A Colorado Department of Transportation Access permit for the specified use. (*The application for the permit will require County signature as it is for the intersection of County Road #45 and U.S. Highway 50*).

5. Colorado Division of Water Resources Well Permit indicating that use of water is allowed for the proposed use.
 6. Documentation from the South Arkansas Fire Protection District that construction plans have been reviewed and approved by the District as per the Fire Protection Plan Form dated March 25, 2013.
- W. The applicant shall provide a dust suppressant, yearly in the spring (April) to County Road #45 from the east edge of the new parking area to County Road #54 (450 feet). The application of the suppressant shall be at a width of twenty (20) feet with a rate of 0.30 gallons per square yard, with a minimum of thirty percent (30%) solids. The application of suppressant shall be coordinated with the Fremont County Department of Transportation.
- X. The applicant shall provide five hundred (500) tons of gravel per year for maintenance purposes from U.S. Highway 50 to the visitor center, parking site and practice facility. The provision of gravel shall be coordinated with the Fremont County Department of Transportation. ***The Planning Commission recommended that this Condition be changed to “The required road maintenance shall be determined by a mutually acceptable plan between the Fremont County Department of Transportation, the Fremont County Engineer, and the applicant.”***
- Y. The applicant shall provide an updated emergency operations plan that, in addition to the zip line course, includes the rock climbing area, challenge course, and the practice zip line course. This plan shall be approved by the area emergency responders.
- Z. 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.
- AA. 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 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.
- BB. 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*).

The Planning Commission recommended the following:

RECOMMENDED CONTINGENCIES:

It is recommended that this item be referred to the Board of County Commissioners for scheduling of a public hearing provided the following contingencies are provided within six (6) months after final approval by the Board of County Commissioners:

1. Documentation as to compliance with the following requirements per the Fremont County Environmental Health Officer per his memo dated March 23, 2013:
 - a. The use of portable chemical toilets at both locations will require permits and Fremont County Board of Health Approval.
 - b. A Colorado Registered Professional Engineer must review the specifications of the existing septic system located at 1500 Fremont County Road 45 (Fremont County Permit #94-75) to determine if the capacity (*septic tank size as well as absorption area*) is adequate for this proposed new, non-residential use.
 - c. Depending on the number of employees, and if customers will have access to well water at 1500 Fremont County Road 45, the water system may be required to comply with the **COLORADO PRIMARY DRINKING WATER REGULATIONS**.
2. Documentation as to compliance with the requirements of the Fremont County Reviewing Engineer as per his letter dated April 10, 2013.
3. Copies of all Fremont County Building and Individual Sewage Disposal Permits shall be provided to the Department when issued and prior to operation or use of the challenge courses and the visitor center.
4. Documentation evidencing that the right of access conveyed by the Bureau of Land Management is conveyed to the current property owner for the proposed use.
5. A detailed utility plan has been provided; however, the signatures of the utility companies are not provided. Please provide the plan with signatures approving the plan.
6. Copy of the Refuse Disposal Plan which was approved by the Fremont County Environmental Health Officer.
7. The application requirement of a detailed statement of operations shall address how the practice zip lines on the visitor center property will be operated.
8. Identify the visitor center on the Special Review Use Permit drawing.

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. Arkansas Headwaters Recreation Area
2. United States Department of the Interior, Bureau of Land Management
3. Colorado Parks & Wildlife
4. Colorado Department of Transportation
5. Colorado Department of Labor and Employment, Division of Oil and Public Safety
6. Fremont County Sheriff

7. Fremont Historical Society
8. Department of Energy, Western Power Administration
9. State Historic Preservation Office

The Planning Commission recommended waiving the following:

WAIVER REQUESTS:

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

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

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

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

The applicant is requesting a waiver of the buffering and landscaping with the following justification: The area has natural trees, and natural building materials will be used.

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

The applicant is requesting a waiver of the hard surfacing of the off-street parking area with the following justification: The local roads are all gravel and hard surfacing would cause a financial hardship.

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

The applicant has requested a waiver of lighting with the following justification: The property is located in a rural area and almost all use of the property will be in daylight hours.

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

The applicant has requested a waiver of the landscaping of the parking area with the following justification: As per revised traffic and roadway impact analysis figures, the parking area will only be serving an average of 13 total visitors and employee trips per day annually for 7 months per year. The monthly total average trips are less than 5 per day. Few cars will be parked in the parking lot. Parking lot size was predetermined by total developed zip line land and is not representative of the number of cars that will be using the parking area.

SECOND

Mr. Baker seconded the motion.

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

7. ADJOURNMENT

Chairman Alsup adjourned the meeting at 5:44 p.m.

CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

DATE