

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
OCTOBER 5, 2010**

CHAIRMAN DEAN SANDOVAL BROUGHT THE OCTOBER 5, 2010 MEETING OF THE PLANNING COMMISSION TO ORDER AT 4:00 P.M.

**MEMBERS PRESENT**

Daryl Robinson  
Tom Doxey  
Dean Sandoval, Chairman  
Byron Alsup  
Herm Lateer  
Mike Schnobrich, Vice Chairman

**STAFF PRESENT**

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

**MEMBERS ABSENT**

Joe Caruso (*notice of absence was provided to the Chairman*)

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF THE SEPTEMBER 8, 2010 PLANNING COMMISSION MEETING MINUTES**

**5. REQUEST: SRU 10-005 SKYE BOROUGH RANCH KENNEL**

Request approval of a **Special Review Use Permit, Department file #SRU 10-005 Skye Borough Ranch Kennel**, by **Dale and Janet Walters**, to allow for a dog kennel which will house up to a total of twenty-five (25) animals - twenty-two (22) Pomeranian dogs, and three (3) family pets consisting of two (2) great Pyrenees and one (1) mixed breed. Approval of the application will bring the property into compliance with the Fremont County Zoning Resolution. The property contains a single-family dwelling, a small animal pen, nine 90 square foot dog pens, 19,130 square foot dog yard, a corral and large livestock pens. The property is located *on the south side of U.S. Highway 50 (approximately ½ mile south of the highway), 1.4 miles west of the intersection of U.S. Highway 50 and Colorado State Highway 115*. The property is zoned Agricultural Forestry and contains approximately 40.2 acres.

**REPRESENTATIVE:** *Coy Myers, Colorado Professional Land Surveyor*

**6. DISCUSSION ITEMS**

Discussion of any items or concerns of the Planning Commission members.

**7. ADJOURNMENT**

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**1. CALL TO ORDER**

Chairman Dean Sandoval called the meeting to order at 4:00 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 agenda. Hearing none, he called for a vote and the agenda was approved unanimously. (6 of 6)

**4. APPROVAL OF THE SEPTEMBER 8, 2010 PLANNING COMMISSION MEETING MINUTES**

Chairman Sandoval asked if there were any changes, additions or corrections to the September 8, 2010 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Byron Alsop moved to accept the September 8, 2010 Fremont County Planning Commission Meeting Minutes as written.

**SECOND**

Mr. Daryl Robinson seconded the motion.

Chairman Sandoval called for discussion on the motion. Hearing no more discussion, Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (6 of 6 members)

Mr. Schnobrich complimented the staff on the minutes. He said they were very well prepared.

**5. REQUEST: SRU 10-005 SKYE BOROUGH RANCH KENNEL**

Mr. Coy Myers, Colorado Professional Land Surveyor, was present to request approval of a Special Review Use (SRU) Permit, Department file #SRU 10-005 Skye Borough Ranch Kennel, by Dale and Janet Walters, to allow for a dog kennel which will house up to a total of twenty-five (25) animals - twenty-two (22) Pomeranian dogs, and three (3) family pets consisting of two (2) great Pyrenees and one (1) mixed breed. Approval of the application will bring the property into compliance with the Fremont County Zoning Resolution. The property contains a single-family dwelling, a small animal pen, nine 90 square foot dog pens, 19,130 square foot dog yard, a corral and large livestock pens. The property is located on the south side of U.S. Highway 50 (approximately ½ mile south of the highway), 1.4 miles west of the intersection of U.S. Highway 50 and Colorado State Highway 115. The property is zoned Agricultural Forestry and contains approximately 40.2 acres.

Mr. Myers stated that the Walters already have a State license to breed dogs, but they didn't realize that they needed a County permit. They received notice from County Code Enforcement that they needed a SRU for the number of dogs that they have on premises (twenty-two (22) Pomeranians and three larger dogs).

Mr. Giordano noted that the SRU is for a total of twenty-five (25) dogs, 22 small breeds and 3 larger dogs (not specific to the breeds listed in the application). He also noted that the total number does not include puppies under six months of age. He showed a video of the property, which is in a pretty sparsely populated area which is located within a thirty-five (35) acre subdivision. There is a private access road that connects the property to the State Highway.

Mr. Giordano spoke briefly about the Department Review. He highlighted recommended Condition C, which requires the applicant to pay an annual Kennel License Renewal Fee, which includes an inspection of the kennel facilities. This is not a general requirement for SRUs, but is specific to kennels. Regarding the recommended contingencies, Mr. Giordano asked the Planning Commission to add a contingency requiring that the applicant construct all proposed improvements, i.e. nine (9) – ninety (90) sq. ft. pens for housing of the dogs. He also noted that Contingency number 4 requires the applicant to 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. Mr. Giordano asked that this item be made a condition as well as a contingency, because the Weed Control Plan will apply throughout the life of the SRU. Mr. Giordano summarized the additional notification requirements and discussed the waiver requests. Because the properties in the subdivision are so large, the Department felt that there is no reason to require Buffering and Landscaping requirements, especially if the applicants construct the proposed fence. With regard to Surfacing, Lighting, and Landscaping of the parking area, there are a total of five parking spaces, and the whole area is gravel, so the applicant is requesting a waiver from hard surfacing of the parking area and driveway into the property.

Chairman Sandoval called for questions.

Mr. Alsup noted that the SRU is specifically for Pomeranians. What if the applicant decides to raise Pomeranians and Poodles (a total of 25)? Would the SRU be restricted to Pomeranians?

Mr. Giordano recommended clarifying the SRU to apply to small breeds to prevent problems for the applicants in the future. If the applicants want to modify the permit to a different small breed, the impact would be the same. If they want to change to large breeds, the request should come back before the Planning Commission.

Mr. Robinson asked if the limit should be twenty pounds or so.

Ms. Jackson, County Attorney stated that the AKC (*American Kennel Club*) has a classification called Small Breed.

Mr. Myers addressed some of the recommended contingencies. He noted that the applicants have existing utilities in place, and with the exception of some additional area lighting, there will be no changes, so he requested a waiver of Contingency number 3 – Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.

Mr. Giordano stated that if there will be no changes to the utilities, he did not object to the waiver.

Mr. Myers stated that the SRU drawing already meets Recommended Contingencies 5 through 8.

Mr. Giordano said that the Department will have to review the final drawing to make sure that all the contingencies have been met.

Chairman Sandoval asked about the additional contingency that Mr. Giordano requested - construction of the proposed improvements. How many pens are proposed?

Mr. Giordano answered nine (9) – ninety (90) sq. ft. pens are proposed on the drawing. We need to make sure that construction does take place.

Mr. Myers stated that the pens were a recommendation from Code Enforcement.

Mr. Giordano stated that the construction of the pens cannot be made a Condition, because conditions are required prior to operation, but the kennel is already in operation. For the construction to be made a Contingency, there has to be a timeframe. If the Planning Commission members think six months is too short, it could be changed to their liking so the applicants don't have to come back for an extension.

Mr. Myers stated that the kennel is operated by the husband, wife, and teenage daughter. Both parents work full-time in Colorado Springs, so six months might be a tight timeline for them to coordinate the construction of the pens.

Mr. Doxey asked who maintains the road. Is there a Property Owners' Association?

Mr. Myers answered that the road is privately maintained. The Applicants have applied for a Highway Access Permit, which has been tentatively approved pending payment of the application fee. Colorado Department of Transportation (CDOT) said the operation has no impact coming off the highway.

Ms. Janet Walters, the applicant, stated that there is not a Property Owners' Association, but the Developer, who lives next door, maintains the roads.

Mr. Doxey asked if there have been any complaints from the neighbors.

Mr. Myers answered that they have notified the adjacent property owners, and the applicants have spoken to the neighbors, and there are no problems that he is aware of. Code Enforcement discovered the dogs when they walked behind the house. The dogs don't normally make any noise.

Mr. Doxey said he noticed that the house south of the subject property is for sale. Is that because the area is too noisy?

Mr. Myers answered that is the Developer's house. He builds the houses in the subdivision and sells them.

Mr. Doxey asked if the proposed fence will be opaque, to buffer the view of all the dogs.

Mr. Myers answered that the proposed dog pens will be in a kennel configuration, capped to keep out predators. The fence will be chain link. About half of each pen will be an enclosed area, to provide protection for the dogs.

Mr. Giordano clarified the reason for requiring a CDOT access permit. When the Developer developed the subdivision, he obtained a CDOT access permit for one dwelling, so CDOT is treating it as an illegal access. The Access Permit was made a requirement for the SRU so that the applicants don't get into trouble over the access for this kennel. The Developer has reapplied for the Access Permit and he will have to do some improvements to the access, but this is being taken care of.

Mr. Myers stated that the current CDOT Access Manager said the issue is a turning lane off the highway, which is preventing future development in the subdivision. Mr. Myers' personal observation – the scenic pull-over right down the road has a turn lane that is only another four foot strip of asphalt. This is a pretty minor improvement if the Developer decides to do that. There is no impact from this SRU operation on the traffic flow. Most of the placements of dogs are by appointment only or by personal delivery. There is not a lot of advertising and promotion and people coming to impact the highway access.

Mr. Robinson asked if it is common for Code Enforcement to discover a violation by exploring the property.

Mr. Giordano said the policy is if Code Enforcement is in an area doing an inspection, and they find another violation, they will follow up. Generally, the Code Enforcement Officers do not drive areas looking for violations. Problems are usually found by complaint, or personnel are in the area for another reason.

Mr. Myers said there was another complaint in the neighborhood when Code Enforcement discovered this situation.

Mr. Schnobrich asked the applicant if they have a breeding program.

Ms. Walters answered they have not bred since this all started. I wish to continue to breed in the future. The State inspected in July and I told her I hadn't bred at all this year. She said if we were to change the operation to just a kennel, there are other regulations for that, and she said it would be harder to qualify. We decided that if the SRU is approved, we will probably breed one or two litters a year.

Mr. Schnobrich asked how many dogs they usually sell per month.

Ms. Walters answered they sell six to eight dogs a year. We advertise, people call, and come to take a look.

Mr. Myers commented that it is his perception that this is more of a family hobby operation than a commercial operation.

Mr. Schnobrich asked if six months will be adequate time *(to construct the pens)*.

Ms. Walters answered she would like more time, just in case.

Mr. Schnobrich asked if nine months would be adequate.

Ms. Walters answered yes.

Mr. Robinson asked if a Building Permit would be required.

Mr. Giordano did not know, and recommended that Ms. Walters check with the Building Department to be sure.

### **MOTION**

Mr. Robinson moved to approve SRU 10-005 Skye Borough Ranch Kennel *(instead of specifying Pomeranian, the Planning Commission recommended limiting the SRU to twenty-five (25) small breed dogs including the 3 family pets which may be a larger breed)* with the following:

**Recommended Conditions:**

- A. Special Review Use Permit shall be issued for life of use.
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and/or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
- C. Each year, at the anniversary date (approval date), the Applicant shall pay a Kennel License Renewal Fee, which includes an inspection of the kennel facilities.
- D. 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.
- E. 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.
- F. 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.
- G. 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.

- H. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- I. Days and hours of operation shall not be limited.
- J. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- K. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- L. 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 8.2 of the Fremont County Zoning Resolution (complete reapplication).

***The Planning Commission recommended adding the following condition, since the Weed Control Plan will apply throughout the life of the SRU:***

**M. The Applicant shall implement and maintain a Weed Control Plan, acceptable to the Fremont County Weed Coordinator.**

**Recommended Contingencies:**

The Planning Commission approval recommendation is contingent upon the following items being provided to the Department, by the applicant, within six (6) months (***the Planning Commission recommended extending this period to nine (9) months to allow additional time to complete construction of the proposed improvements***) (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. Documentation from the Colorado Department of Transportation as to an approved access permit from U.S. Highway 50.
2. As per the Florence Fire Protection District, all roads and driveways shall be named and numbered. (*Department will inspect the placement of signs*).

***The Planning Commission recommended waiving the following contingency due to the fact that the utilities have been in place for some time:***

3. Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.

4. 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.
5. The drawing subtitle shall read Skye Borough Ranch Kennel.
6. A dimension from a known point to locate the driveway shall be provided on the drawing.
7. Either survey information or easement recording information shall be provided on the drawing in order to locate the gas easement that traverses the property.
8. The abbreviation for the property zoning shall be removed or corrected on the drawing to indicate that the property is zoned AF – Agricultural Forestry.

***The Planning Commission recommended adding the following contingency:***

9. **Construction of all proposed improvements, i.e. nine (9) - ninety (90) sq. ft. dog pens.**

**Additional Notification Requirements:**

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

1. City of Florence Planning Department
2. Colorado Department of Transportation
3. Fremont County Sheriff
4. Colorado Department of Wildlife
5. Fremont / Custer Historical Society

***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.

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

## **SECOND**

Mr. Doxey seconded the motion.

Chairman Sandoval called for further discussion on the motion. Hearing no more discussion, Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (6 of 6 members)

## **6. OTHER ITEMS FOR DISCUSSION**

Chairman Sandoval called for any other items for discussion.

Mr. Schnobrich asked for status on the Master Plan update.

Chairman Sandoval stated that he has had conversation with Mr. Marshall Butler, Fremont County Planning Coordinator, and Commissioner Ed Norden about what might occur with the Master Plan Workshops. A few months ago, the decision was made to look for matching funds through DOLA (*Department of Local Affairs*). However, there is no grant money available at this time. At the beginning of the year, some funds may be made available to hire a consultant. The amounts that have been proposed are minimal for what we would need for a consultant. Mr. Butler mentioned \$10,000, and Commissioner Norden gave a figure of \$10,000 to \$15,000. Optimistically, as much as \$15,000 may be provided for the Planning Commission to hire a consultant.

Mr. Giordano stated that when he originally did his budget, he thought that \$10,000 might be matching funds to the grant. The grant money is gone now, but hopefully we are still looking at \$10,000, and we told the Commissioners we would like more. Mr. Butler sent an email to a consultant asking what could be done for the \$10,000. We are hoping they will contact us and start a conversation to see what we could get for that amount of money. We are back to thinking that we will have to do the update ourselves, except for the additional \$10,000. We are hoping the consultant can be the facilitator for us in public hearings and public meetings. We

would also like them to review the plan and give us comments on deficient areas of the plan. There should be more information by the next meeting regarding the consultant. We are on hold until we see where we are going with it. We will not let the update die. We will proceed with or without consultants. We will probably continue the way we were, if nothing else.

Chairman Sandoval asked if money is made available, will it be used for professional facilitators.

Mr. Giordano said when we were looking at grant money, the original proposal was to use at least part of the money for a facilitator, to keep us in the background. That may not work. We may end up acting as the facilitator. I think things go better when you have a facilitator. From past experience, if we try to do it, we get beat up. We would also like to get some review of the document itself to make sure we are not missing the big picture.

**MOTION**

Chairman Sandoval moved to adjourn the September 8, 2010 meeting.

**SECOND**

Mr. Robinson seconded the motion.

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

**7. ADJOURNMENT**

Chairman Sandoval adjourned the meeting at 4:40 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE