

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
DECEMBER 7, 2010**

CHAIRMAN DEAN SANDOVAL BROUGHT THE DECEMBER 7, 2010 MEETING OF THE PLANNING COMMISSION TO ORDER AT 4:04 P.M.

**MEMBERS PRESENT**

Dean Sandoval, Chairman  
Daryl Robinson  
Mike Schnobrich  
Byron Alsup  
Joe Caruso

**STAFF PRESENT**

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

**MEMBERS ABSENT**

Tom Doxey  
Herm Lateer

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

**4. APPROVAL OF THE OCTOBER 5, 2010 PLANNING COMMISSION MEETING MINUTES**

**5. REQUEST: SRU 10-007 ROYAL GORGE ZIP LINE TOURS**

Request approval of a **Special Review Use Permit for a Rural Recreational Facility, Department file #SRU 10-007 Royal Gorge Zip Line Tours, by Anna Seufer as the applicant on property owned by AJET Ventures, LLC**, to allow up to seven (7) zip line runs, with four (4) line departures a day, seven (7) days a week, on a year around (March through November) basis. The zip line tours will be guided by a minimum of two (2) trained “zipping” guides. The zip line tour will be structured as a small group experience for eight (8) to ten (10) participants. All participants will be shuttled to the course via a (15) passenger van from 45045 US Highway 50, which is approximately 1.5 miles from site. The property contains a framed dwelling which is being used as a vacation rental and will not be used in conjunction with the zip line operation. The property is located *on the south side of U.S. Highway 50, 0.56 miles east of Fremont County Road 3A (aka Royal Gorge Road), in the Royal Gorge Area*. The property is zoned Agricultural Rural and Agricultural Estates (*There will need to be a similar use designation for the use in AEZD {possibly an athletic field allowed by SRU in the zone district under an Urban Recreation Facility} or a zone change to the ARZD*) and contains approximately 126.918 acres.

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

**6. REQUEST: SRU 10-006 SPORTING TIMES RANCH & RED HORSE B & B**

Request approval of a **Special Review Use Permit for a Rural Recreational Facility & Bed and Breakfast, Department file #SRU 10-006 Sporting Times Ranch & Red Horse B & B**, by Karen Colburn and Courtney Douglas Stevens and Jacob and Marion Patterson, to allow the operation of a “equitour” facility, a bed and breakfast and a stable (Rural

Recreational Facility similar to a recreation camp, guest ranch, resort). The bed and breakfast property contains an existing house which will be used for the bed and breakfast and a barn (*Patterson*). The property to be used for the Rural Recreational Facility (*Stevens / Colburn*) contains the owners ranch house, a studio (to be converted to a cabin), a barn that will have a maximum of four (4) bedrooms and four (4) bathrooms in the loft over the great room, office, eight (8) horse stalls and a kitchen, an animal barn and a loafing shed in one of the four (4) large wood fenced pastures. In addition, it is proposed to construct four (4) cabins. The property is located *on the west side of Garden Park Road, 4.5 miles north of the intersection of Field Avenue and Red Canyon Road (aka Garden Park Road)*. The property is zoned Agricultural Forestry and contains 41.94 acres (35.17 & 6.75 acres).

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

**7. REQUEST: SRU 09-004 FREMONT OFF ROAD RECREATION AREA**

Request approval of a **Special Review Use Permit, Department file #SRU 09-004 Fremont Off Road Recreation Area, by Stephen M. Harris & Lynette Harris, to allow for the operation of a Rural Recreation Facility to consist of an off road motorized recreation area that includes a free style training area, a peewee track, an intermediate track, an ATV track and a special event track** on property owned by Stephen M. Harris and Lynette Harris which is located at the *northwest corner of the intersection of Fremont County Roads #67 (aka Phantom Canyon Road) and #123, north of the Fremont County Airport*. **The Special Review Use Permit is intended to allow only “family members and friends” and it will not allow events which are open to the public. Any event will require the issuance of a temporary use permit.** The SRU property consists of one-hundred and twenty (120) acres and is located in the Agricultural Forestry Zone District.

**REPRESENTATIVE:** *Steve Harris, Property Owner/Applicant*

**8. DISCUSSION ITEMS**

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

**9. ADJOURNMENT**

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**1. CALL TO ORDER**

Chairman Dean Sandoval called the meeting to order at 4:04 pm.

**2. PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

**MOTION**

Mr. Mike Schnobrich made a motion to accept the December 7, 2010 Fremont County Planning Commission Meeting agenda.

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

Chairman Sandoval asked if there were any changes, additions or corrections to the October 5, 2010 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Byron Alsup made a motion to accept the October 5, 2010 Fremont County Planning Commission Meeting Minutes as written.

Mr. Schnobrich asked if they hadn't just approved the minutes.

Chairman Sandoval told him no, that they just approved the agenda.

**SECOND**

Mr. Robinson seconded the motion.

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

**5. REQUEST: SRU 10-007 ROYAL GORGE ZIP LINE TOURS**

Mr. Matt Koch of Cornerstone Land Surveying was present to request approval of a Special Review Use Permit for a Rural Recreational Facility, Department file #SRU 10-007 Royal Gorge Zip Line Tours, by Anna Seufer as the applicant on property owned by AJET Ventures, LLC, to allow up to seven (7) zip line runs, with four (4) line departures a day, seven (7) days a week, on a year around (March through November) basis. The zip line tours will be guided by a minimum of two (2) trained "zipping" guides. The zip line tour will be structured as a small group experience for eight (8) to ten (10) participants. All participants will be shuttled to the course via a (15) passenger van from 45045 US Highway 50, which is approximately 1.5 miles from site. The property contains a framed dwelling which is being used as a vacation rental and will not be used in conjunction with the zip line operation. The property is located *on the south side of U.S. Highway 50, 0.56 miles east of Fremont County Road 3A (aka Royal Gorge Road), in the Royal Gorge Area*. The property is zoned Agricultural Rural and Agricultural Estates (*There will need to be a similar use designation for the use in AEZD {possibly an athletic field allowed by SRU in the zone district under an Urban Recreation Facility} or a zone change to the ARZD*) and contains approximately 126.918 acres.

Mr. Koch stated that right now they are planning approximately ten (10) zip lines; some of the plans have changed so he turned the presentation over to Mr. Ty Seufer, one of the owners of Royal Gorge Zip Line. Mr. Koch continued by stating that as far as the Conditions and Contingencies are concerned, everything is acceptable. They are going to the County Board of Health at the end of this month (December) in regard to the septic requirements for porta-potties as well as the water source. One of the Contingencies is proof of water but there really is no water needed unless there is a built in restroom facility.

Mr. Seufer stated that they had found a world class zip line company, Bonzi Designs, to help them build this project. They are world renowned and build unbelievable features and really neat courses. Mr. Seufer and some of the others were able to go out to one of this company's most famous courses at the Red Wood Forest in Santa Cruz and it is the Cadillac of zip line tours. Bonzi Designs is state of the art and they know what they are doing. Royal Gorge Zip Line is taking their lead with help on how the course should be laid out and how a zip line company is most successfully run. The secret to it is to have a really good flow of the zips so

it is like a golf course; you zip, get on another zip line and zip across, come across different valleys and ridges. They are hoping to have approximately eight (8) zip lines; the customers will do four (4) zips and then jump in a little ATV vehicle which will carry them up to the upper part of the ridge and then zip back down. The idea is similar to a golf course where you start and finish in the same general area without having too many hikes in between. Zip line tours started in Costa Rica; they are gradually coming up into the United States and becoming ever more popular. They are a lot of fun and exhilarating. Everything Royal Gorge Zip Line does, they like to do it first class. Theirs is going to be a zip line tour but it will also be an eco tour; there will be little hikes in between with little bridges to go across, not really challenge courses but some areas where customers will feel like they are out of their comfort zone a little bit but get right back in it and be where they want to be. In addition the customers will learn about the surroundings, everything from the trees, and the granite, to the Sangre De Cristo Range, anything that they can see. Bonzi Designs runs smaller, intimate tours more frequently during the day. When Royal Gorge Zip Line originally did their plan it was as it is in the application but Bonzi Designs recommends doing a tour with smaller groups every half hour with two (2) guides. It will be more people during the day but it will be smaller groups.

Mr. Robinson asked what the charge will be for the zip line tour.

Mr. Seufer stated that the whole project is costing Royal Gorge Zip Line a lot of money. It's not just the wire and the poles that cost a lot of money, a hundred grand, but when you need a quarter million dollars of expertise that goes in behind the engineering, that's a lot more money. Bonzi Design's engineers are due to land in Colorado Springs about 6:30 pm today and will be here for two (2) weeks just working on the design phase just to make sure that they have the right flows and that the course lays out right. To answer the question, it's probably going to be eighty (80.00) dollars for a half day which is about three (3) hours. The idea is that the customers will go rafting, have lunch and then do the zip line or vice versa.

Mr. Bill Giordano stated that he needed some verification. Mr. Seufer stated eight (8) zip lines but on the application it states seven (7).

Mr. Seufer stated that there are seven (7) big ones but then there is going to be a training one for the kids. He didn't want to be landlocked on that because the designers will be out tomorrow and it might be nine (9).

Mr. Giordano stated that the reason he is concerned is that he doesn't want to see them get into a situation where if they put in another zip line then they would have to come back in and do an amendment to the application. If Royal Gorge Zip Line wants to do more than the seven (7) zip lines you need to note it at this time, as an amendment to your original request, so it becomes part of the record.

Mr. Seufer stated that he wanted to clarify that originally they were going to do a morning, mid-day, afternoon, and evening tour. Bonzi Design told them that it would take away from the feel. It would be better if it was seven (7) to ten (10) zip lines. The other thing that is in the application was that the tours were going to go from 7:00 am until 7:00 pm but he wanted to clarify that the last tour would start at 7:00 pm. because the sunset zip is really spectacular with the Sangre De Christos, so that would put the guides and customers getting out of the area around 8:30 pm.

Mr. Giordano stated that it would be another modification so he needs to also stipulate the hours.

Mr. Seufer stated that he would like to change the hours to 7:00 am until 9:00 pm. He summarized the changes which would be: number of zip lines being seven (7) to ten (10) zip lines and hours being changed to 7:00 am until 9:00 pm with twenty (20) to thirty (30) small group departures per day.

Mr. Sandoval stated that if the hours are from 7:00 am until 9:00 pm and each tour takes three (3) hours then 9:00 pm won't work..

Mr. Seufer agreed and stated that it would be more like 6:30 am. He also stated that they are shooting to have over one (1) mile of zip lines with the seven (7) or eight (8) zips. The goal is to have a duel racing zip where two people will go at the same time and be side by side. All of the cables are coated with a heavy thick plastic, or cased, so when people are zipping down there isn't a buzzing or hissing sound; it's not super loud or annoying, it's actually very peaceful.

Mr. Giordano showed a video of the proposed site giving a general idea of the site location and neighboring areas. He briefly discussed the conditions, contingencies, waivers and additional notifications as per the Departments review.

Chairman Sandoval asked if Condition M per the inspections was going to be left to the applicant's choice of engineer to do the inspection.

Mr. Giordano confirmed that it is as long as the Engineer is a Colorado Registered Engineer.

Chairman Sandoval asked how the qualifications are determined of the inspector of this type of enterprise.

Mr. Giordano stated that the County doesn't have any qualifications set other than just being a licensed Engineer. He would hope that they would hire somebody that is knowledgeable in that field.

Mr. Seufer stated that Bonzi Design's Engineer does all of the inspections for the courses they design.

Mr. Giordano stated that from doing Captain Zip Line he knows there is some type of corporation or group that all do the same kind of inspection. There are Engineers that specialize in this kind of thing.

Chairman Sandoval asked if concerning item number 4, requirement of proof of water, if water is not necessary to provide to recreational users.

Mr. Giordano stated that this is kind of an unusual application in that there aren't any structures on the property; they are bringing the customers from off site at another facility where they sell the tickets. The only concern that the Department would have is as long as they don't have spigots or taps, which requires a well permit, normally the applicant will only provide drinking water. Royal Gorge Zip Line has stated in the application that water is not required for the use. In most cases we at least ask that they have drinking water available for the customers, especially since customers will be on site for at least four (4) hours.

Mr. Seufer stated that there will be at least a couple of areas where the customers will be able to get a bottle of water and an apple or something.

Mr. Schnobrich stated that he thinks this is a good project; it is a good fit for the area. Regarding the 9:00 pm closing time; is there any reason the Planning Commission can't recommend moving it to 10:00 pm.? It could be a problem with 9:00 pm because then they are getting close to the different limitations. Bringing people in on a separate vehicle means that there won't be the traffic problems like if there was a lot of traffic at the end of the tour. Also, about adding lines; the applicant is limiting themselves to seven (7) to ten (10) lines in the application; if they add more lines does that add more people that would show up? What he is getting at is in the application since they are waiting for somebody to show up and do the design to the point where they are actually going to finalize things, why couldn't they go as much as fifteen (15) lines in the application? Is there any reason that would limit the Planning Commission from adding a lot more lines so that they aren't stuck in case they want to add more lines later on? But then the question would be that if they start adding more lines, how many more people would be showing up?

Mr. Seufer stated that there are a few tours around that have a course A and B. After you get over the two and a half (2½) to three (3) hour range, you see another whole set of customers.

Mr. Schnobrick stated that fifteen (15) lines would probably be the most lines you would ever want to see on a property.

Mr. Seufer stated that it would be better to say seven (7) to sixteen (16) lines.

Mr. Schnobrich stated that if there wouldn't be a problem, why don't we amend that to be up to sixteen (16) lines.

Mr. Schnobrick stated that there was mention of noise in the area. What Mr. Seufer said is that the zip lines don't make a lot of buzzing noise or anything but what about other types of things as far as noise is concerned.

Mr. Seufer stated that he has been told that sound from music travels up there. Unless someone is whooping and hollering there shouldn't be much if any noise and nothing that will compare to the helicopter that flies over.

Mr. Schnobrich stated so it's not like a carnival ride where there will be music playing.

Mr. Seufer confirmed that there won't be any music playing.

Mr. Schnobrich stated that as far as the Fire Plan is concerned even though there aren't any buildings on site, he has a concern with taking people out into these very high fire hazard areas and especially during the summer, some of them have large fire potentials to them. Are the individual people allowed to smoke or is it no smoking?

Mr. Seufer confirmed that nobody is allowed to smoke.

Mr. Schnobrich asked how they can make sure that something like that isn't happening.

Mr. Seufer stated that the guides will go through a very intensive training but it's just like anything else, you can't always stop some people from doing things they aren't supposed to do. But the "no smoking" information will be on the Internet and the waivers that customers have to sign before they get in the van. It will be just like the rafting, they can't smoke; it's

dangerous for the public and everyone concerned. He has never seen anybody smoke on a raft trip.

Mr. Schnobrich stated that the plan is to have guides with the groups so nobody just goes off on their own?

Mr. Seufer confirmed that is correct; every group has two (2) guides with them through the entire adventure.

Mr. Schnobrich asked if the inspection certification is going to be kept at the County for the public to inspect.

Mr. Giordano stated that it will be required by the Department annually and that there will be records kept in the file.

Mr. Schnobrich asked if Royal Gorge Zip Line Tours is going to be selling concessions. He knows that there won't be any kind of a building but will the people be able to buy some granola bars or water at the site.

Mr. Seufer stated that everyone will check in at Royal Gorge Rafting; the two (2) properties almost meet right in the middle of the highway. There is another building there and that's where the Royal Gorge Zip Line's office will be. The customers will be able to do everything from buying T-shirts to any other goods at this location.

Mr. Schnobrich stated that then there won't be any concessions sold on the zip line site it's self.

Mr. Seufer confirmed that no there won't be any concessions sold on the zip line site.

Mr. Schnobrich asked what they are going to do for trash removal; are they going to have trash service?

Mr. Seufer stated that Howards Disposal does that right now so he presumes that Royal Gorge Zip Line will have a small dumpster.

Mr. Schnobrich stated that as far as lighting is concern, obviously you don't need any lighting in the parking lot for three (3) vehicles but is there any certain place that you would think there should be a little bit of security lighting? What is preventing some kids from going out there at 2:00 a.m. and screwing around on the zip lines? How do they plan to prevent things like that?

Mr. Seufer stated that everything is gated and has barbed wire all the way around, he's certain that there will be some sort of lock or barrier so nobody can access that first tower.

Mr. Schnobrich stated that he thinks there should be some sort of small security light; maybe a solar powered one so that if somebody is up there then the Sheriff's Department can see somebody from the road.

Mr. Joe Caruso asked Mr. Seufer if any equipment, such as the harness, would be left on site after hours. Mr. Seufer stated that no harnesses will be left on site. Someone would have to have a harness to get up there so it would be no different than someone getting up on a power line. He stated that lighting overkill is going to add cost to the project that otherwise isn't needed and he thinks it will actually draw more attention if it is lighted, especially where the

first run will be which is almost a quarter of a mile off of the highway. One of the other things too is the average height of the lines are twelve (12) to eighteen (18) feet off of the ground. The way to prevent someone from climbing up there is to secure the site before leaving at night. He just wanted to clarify the harnessing, it's not something that is going to be left there where "Billy Bob" can just jump on it and go zipping down the line.

Mr. Schnobrich stated that he thinks that teenagers can be a lot more resourceful and can find all sorts of things to use to slide down a zip line. He would agree that they don't need to set up lighting sources all over the place but Mr. Seufer did state that it is a possibility that the training line could be messed around with by somebody. He does agree that there shouldn't be some large light shining all over the place but maybe a small solar powered light, which he doesn't think is extremely expensive but it would, probably add a little bit more to the safety feature of the project.

Mr. Seufer stated that maybe a motion detector light would work.

Mr. Schnobrich stated that the birds and deer would set it off. He stated that they would be surprised at how small of a light they could get by with; he's just thinking in terms of somebody coming onto the site and law enforcement that may need to have an orientation, not necessarily a light that is going to illuminate the whole area.

Mr. Seufer stated that the firewood place right next to them has nighttime lighting so it's not pitch dark out there.

Mr. Schnobrich asked if there are going to be any requirements for EMT's in case of an emergency. Say somebody gets hung up on a wire or somebody falls. How do the EMT's get into those areas? Has Royal Gorge Zip Line Tours set up some type of roads and access?

Mr. Seufer stated that there are several roads, 4-wheel drive trails, and several 4-wheeler trails. Everybody is going to be highly trained and will have to sign off on these specifications. They would have to be able to get somebody down if they were stuck in the middle and keep everyone safe.

Mr. Schnobrich stated that basically the road network would allow a vehicle of some sort into the area in case of an emergency.

Mr. Seufer stated that the roads will be close to each of the runs but not right up to them or right under them.

Mr. Giordano stated that regarding Contingency #7 the fire department wants to evaluate any excavation plan from the zip lines in case of an accident.

Mr. Robinson stated that he knows Mr. Seufer is going to talk to Environmental Health at the end of this month so that is when the portable toilets will be addressed. He can imagine that there may be a need for some on the premises down in the course, not just at the picnic area. He just wants to make sure that it will be discussed with Environmental Health. He asked if there will be some chemical hand washing areas? He also asked if the customers will be carrying bottled water with them.

Mr. Seufer answered no, there won't be washing areas and the customers won't carry water around with them. He stated that there will be different intervals in the course where water will be available to customers.

Chairman Sandoval asked if anyone else had any questions.

Mr. Seufer stated that he really appreciated the Planning Commission not trying to tie them down to the hours and numbers that were in the application.

Chairman Sandoval called for a motion.

**MOTION**

Mr. Schnobrich moved to approve SRU 10-007 Royal Gorge Zip Line Tours with an amendment to the hours of operation, which are to be set as 7:00 a.m. to 10:00 p.m., and increasing the number of zip lines to sixteen (16).

Mr. Caruso asked if they were going to increase the number of line departures, stating that the applicant had requested increasing that from four (4) to twenty (20).

Mr. Seufer asked if it could be increased to thirty (30).

Mr. Schnobrich stated that he would amend his motion to include the thirty (30) departures as well. He then stated that because there was some question about the security lighting, he will do that as a separate motion.

Mr. Schnobrich noted the waivers for the surfacing, buffering and landscaping.

Mr. Seufer stated that there was one other thing, when they were saying seven (7) days a week year round but it states March through November.

Mr. Robinson asked him if he wanted to strike the March through November and just make it year round.

Mr. Schnobrich stated that when the different departments reviewed the application they weren't considering the operation during the winter time months. He asked Mr. Giordano if it will be a significant change by allowing it to operate during the winter months.

Mr. Giordano stated that without sending it to the different departments for their review, he would not like to speculate on their opinion. He noted that the Commission can recommend it if they feel it is appropriate.

Ms. Brenda Jackson stated that the limitation (March through November) is not in the recommended conditions, it's only in the description of the operation.

Mr. Robinson asked Mr. Seufer if he wants to strike the March through November time frame.

Mr. Seufer stated that he would.

Mr. Schnobrich stated that the motion is to include the following:

**RECOMMENDED CONDITIONS:**

- A. Special Review Use Permit shall be issued for life of use.
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with

the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the 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 of operation shall not be limited.

***Planning Commission recommended changing the time to 7:00 am until 10:00 pm.***

- I. Hours of operation for tours will be limited to 7 am to 7 pm.

***Planning Commission recommended adding Conditions J and K.***

- J. The applicant/owner will be limited to the use of a maximum of sixteen (16) zip lines.**

- K. The applicant/owner will be limited to a maximum of thirty (30) line departures per day.**
- 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, further the applicant shall implement and maintain the plan, yearly.
- M. Copies of any required Fremont County Building Permits shall be provided to the Department, prior to operation.
- N. Copies of any required Individual Sewage Disposal Permits shall be provided to the Department, prior to operation.
- O. The applicant shall provide to the Department annually, a copy of premises liability insurance in the amount of at least 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.
- P. The applicant shall provide the Department with a copy of the yearly inspection of the anchors, cables, towers and pole foundations, 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.
- Q. 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.
- R. All Royal Gorge Zip Line Tours personnel that work on site shall be trained in safe operations.
- S. No customer vehicle traffic or parking is permitted. All customers shall be transported to the site only by Royal Gorge Zip Line Tours drivers and vehicles.
- T. Documentation as to compliance with the County Reviewing Engineers recommendation, in his letter dated October 26, 2010, which is as follows: **“As long as the builder breaks up roadside flow by diverting storm water into the adjacent natural ground through swales at regular intervals along the driveway, no significant changes to the drainage leaving the site are expected”** shall be provided prior to operation.
- U. 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.
- V. Only the named party (**Royal Gorge Zip Line Tours, Inc**) 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.

- W. 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).

**RECOMMENDED CONTINGENCIES:**

The Planning Commission approval recommendation is contingent upon the following item 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. Copy of an executed lease between AJET Ventures, LLC and Royal Gorge Zip Line Tours Inc.
2. Documentation as to proof of access from the Colorado Department of Transportation.
3. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan or that one is not required.
4. Determination as to the requirement of proof of water. *Applicant has stated that water (drinking or other purposes) will not be required for the operation. **Applicant noted that bottled water will be provided or made available to customers.***
5. Documentation from the Environmental Health Office as to adequate sewage disposal as per memo dated October 14, 2010.
6. Copy of detailed utility plan including approval signatures from all appropriate utility companies servicing the site.
7. Documentation from the Cañon City Fire Protection District as to the applicant providing them with the specific operation plans so as to enable them to evaluate whether an evacuation plan for removing patients from the zip line, in case of an accident and proof that the district has been made aware of the proposed 20'X20' Gazebo. If there are any requirements by the Fire Protection District, the operator, owner or applicant shall comply with any such requirements and provide the Department with documentation evidencing such compliance.

**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 Department of Transportation
2. Colorado Department of Transportation
3. Fremont County Building Department
4. Fremont County Environmental Health Office
5. Fremont County Sheriff
6. Colorado Department of Wildlife

7. Fremont/Custer Historical Society
8. City of Cañon City, Planning Department
9. Colorado Department of Labor and Employment, Division of Oil and Public Safety

*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 areas used for business, commercial or industrial parking spaces may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

**SECOND**

Mr. Caruso seconded the motion.

Chairman Sandoval stated that a motion has been made and seconded.

Mr. Schnobrich stated that he wanted to make an amendment to the motion, so that it can be addressed separately because he thinks that there might be some disagreement on the requirement for lighting.

**MOTION**

Mr. Schnobrich moved that his original motion be amended to include a small security light on the training tower. It can be something just bright enough to be able to see the tower and if there is anybody playing around on it.

Chairman Sandoval stated the motion and requested a second.has been made and called for a second.

**SECOND**

Mr. Caruso seconded the motion.

Mr. Schnobrich stated that everyone knows what the issue is since there was already discussion on it unless they want to add more to it.

Mr. Caruso stated that he understands what Mr. Schnobrich is getting at but by the time you are four hundred (400) yards off of the road, nobody’s going to see it. If there is an incident out there a sheriff’s spot light isn’t going to hit but maybe one hundred twenty (120) yards out. It makes sense but it’s just a waste of money because it’s like putting a candle out in the middle of a field; at three hundred (300) yards away, you’re not going to see it.

Mr. Robinson stated that he thinks that if it does its job which you, Mr. Schnobrich, are intending it to do then it becomes an attraction nuisance. He thinks that the dark side of the road should be left dark.

Mr. Alsup stated that living in a rural area he is very concerned about light pollution and he doesn’t want to see any more lighting unless it is really necessary.

Chairman Sandoval called for any further discussion on the amendment. Hearing none, Chairman Sandoval called for a roll call vote.

Mr. Caruso	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Schnobrich	<input type="checkbox"/> Nay	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Chairman Sandoval	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Robinson	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain
Mr. Alsup	<input type="checkbox"/> Nay	<input type="checkbox"/> Aye	<input type="checkbox"/> Abstain

Chairman Sandoval stated that the amendment failed to pass by a (4 to 1) vote.

Chairman Sandoval then called for a roll call vote on the first motion and the motion passed unanimously. (5 of 5)

**6. REQUEST: SRU 10-006 SPORTING TIMES RANCH & RED HORSE B & B**

Request approval of a **Special Review Use Permit for a Rural Recreational Facility & Bed and Breakfast, Department file #SRU 10-006 Sporting Times Ranch & Red Horse B & B**, by Karen Colburn and Courtney Douglas Stevens and Jacob and Marion Patterson, to allow the operation of a “equitour” facility, a bed and breakfast and a stable (Rural

Recreational Facility similar to a recreation camp, guest ranch, resort). The bed and breakfast property contains an existing house which will be used for the bed and breakfast and a barn (*Patterson*). The property to be used for the Rural Recreational Facility (*Stevens / Colburn*) contains the owners ranch house, a studio (to be converted to a cabin), a barn that will have a maximum of four (4) bedrooms and four (4) bathrooms in the loft over the great room, office, eight (8) horse stalls and a kitchen, an animal barn and a loafing shed in one of the four (4) large wood fenced pastures. In addition, it is proposed to construct four (4) cabins. The property is located *on the west side of Garden Park Road, 4.5 miles north of the intersection of Field Avenue and Red Canyon Road (aka Garden Park Road)*. The property is zoned Agricultural Forestry and contains 41.94 acres (35.17 & 6.75 acres).

Ms. Karen Colburn stated that she is one of the applicants and introduced her husband, Court Stevens whom is a licensed contractor and builder. She stated that she is also representing Dr. Jake and Marion Patterson who are also applicants. She stated that her and Marian ride horses together and have traveled to Europe and done some equitour, horse, tours over there. They thought that they could do this as well. Looks like the citizens of Fremont County are interested in recreating; they will send their people over to Royal Gorge Zip Line and certainly the rafting and maybe Mr. Seufer will send some people over to horseback ride if it is approved as well. The Patterson's are empty nesters; they had five (5) children and now have a rather large empty house which was designed to have the bedrooms and bathrooms separate in a different area of the house which will be converted into the B & B portion of this equitour facility. The video will show that they, Karen and Court, have an existing home on their property but also an area overlooking a pond where they would like to build a really nice barn. It would be cottages and a barn with bedrooms and pretty upscale, catering to European clients; kind of a high end clientele that would also come and visit the art galleries and restaurants in Cañon City. We have stocked the pond with trout for fishing and there is rock climbing up the Shelf Road. Our project is not a dude ranch whatsoever, it's catering to people that are active, that want to have the extreme experiences; they want to rock climb, they want to fish, they want to hike, they want to be active and ride horses. We have a Dressage arena and are putting in a cross-country jumping course. Court and I played polo and fox hunted and have many friends that would come up and participate in events. They want to be good members of the community so they would like to have charity things for the hospital, maybe a little polo game or whatever. All of these things would enhance living in Fremont County and certainly in their little canyon which seems to be perfectly suited for the piece of property that they have.

Ms. Colburn requested that #2 and #4 of the Contingencies be changed to Conditions because they may not be required.

Mr. Giordano presented the video of the properties. He briefly addressed the conditions, contingencies, waiver requests and additional notifications. He noted that this SRU is a little bit different in that it includes two (2) properties and two (2) property owners with two (2) different businesses. The bed and breakfast will handle any overflow customers. It was noted that the permit will have a condition that states if either use is found to be in non-compliance it may end up terminating both uses since they are both included in the same permit. Mr. Giordano stated that as far as the recommended Contingencies, Ms. Colburn requested that item #2 should be made a Condition. The reason for the request is that it may not be feasible to complete it within the six month time frame for submission of contingencies. The Department does not want the applicant to have to come back at a later date and request an extension of time to submit the contingency. It is recommended that item #2 be made a condition and that it is subject to the

requirement that it be completed prior to operation. Mr. Giordano stated that Contingency item #4 regarding the Cañon City Fire Protection District (CCFPD) is no longer valid as we have received updated comments. The recommendations from the CCFPD are: (1. a dedicated fire cistern and dry hydrant will be required. (2. Cistern size to be determined from construction type and square footage of proposed buildings when plans are submitted, (3. Interior roadway shall be all-weather road 26' in width, capable of supporting 50,000 lb. fire apparatus and (4. Any fire access roads in excess of 150' must have an approved fire apparatus turn-around. Mr. Giordano recommended that item #4 also be made a Condition instead of a Contingency. Concerning notification the Department felt that of the large size of the properties around the area instead of the normal five hundred (500) foot area of notice that it should be fifteen hundred (1500) feet so that more property owners would be notified of this application. If the 500foot radius is used basically, the only property owners that would be notified would be the adjacent properties. As for the Waiver Requests, the Buffering and Landscaping, the applicant has requested a waiver as they wish to keep the property as natural as possible. Mr. Giordano went on to note that the County Engineer recommended that paving of the parking areas be waived due to the rural nature of the site and the need to reduce stormwater runoff. Most of the customers that will be coming to the property will be brought to the property by the applicant. We are only talking a maximum of twenty-six (26) so we're not going to have any real big parking issues.

Mr. Alsup asked the applicant how many horses they plan to have on site.

Ms. Colburn stated that currently they have five (5) but eventually what they plan to do is to ease into this upon retirement as we all are currently working. They are hoping to do this over the course of several years. The other thing is that people bring their own horses in for the weekend and then go away. So people that are from Colorado that are closer to the area will stay in the cottages and their horses will have a place to stay and there will be an event and then everybody goes home.

Mr. Robinson stated that it looks like they are adjacent to BLM and other open space land. He asked Ms. Colburn if they are going to have access to those lands.

Ms. Colburn stated that they currently have access and they use them to ride regularly. She feels that the BLM appreciates horses and hikers in that area and are not so fond of 4-wheelers.

Mr. Robinson asked if, regarding the equitours, they will be packing water and necessities.

Ms. Colburn stated that it is every man for himself; usually people will carry canteens.

Mr. Stevens stated that whenever they ride on the BLM land they not only pack out their own trash but clean up any trash they find on the trails.

Chairman Sandoval asked Mr. Stevens if he understood correctly that they have had a request to have an easement through their property to the adjoining BLM lands.

Mr. Stevens stated that they have permission from neighboring property owners that have given them the right to trespass across their property to get to different areas of the BLM lands.

Chairman Sandoval asked regarding the BLM lands, are the access designated for horse and non-motorized transportation.

Mr. Stevens confirmed that they are.

Mr. Schnobrich asked if they are planning to charge people for the horseback riding part or if it is just when the people come there and spend the night.

Ms. Colburn stated that they will charge people that come in and ride their horses but they will have to be advanced riders. It will be primarily people from Europe that aren't bringing their own horses. It will be like when we go over to Europe, we pay five thousand (5,000.00) dollars a week, they give us a horse, a place to stay, riding instructions, and meals, it's a package deal.

Mr. Schnobrich stated that he understands what she is saying but the question he's getting after is that how would that be different from just opening up a guide service. Doesn't the BLM and the National Forest Service have regulations if you are going to charge somebody to go horseback riding then you have different limitations on what you can and can't do.

Ms. Jackson stated that it isn't County land so it isn't an issue for the County.

Mr. Giordano stated that The Natural Resource Conservation Service is on the list of Additional Notifications, in reference to water storage rights. Additional permits may be required.

Mr. Caruso asked if 4-Mile Creek feeds the pond.

Mr. Stevens stated that it does not; it is spring fed from their own property and from a pond on their neighbor's, Mr. Shepherd's property.

Mr. Caruso asked if it drains into 4-Mile Creek.

Ms. Colburn stated that it goes into a wetland area that is just below the house that has cattails and is a marshy area that they want to stay as it is because there are various animals that use it.

Mr. Caruso asked if they have any controls in place for when they get the three and a half (3½) to four (4) inches of rain in an hour and a half. What is the protection on the spillway?

Mr. Stevens stated that he has three (3) manmade overflow areas in the pond to where when it gets to a certain height just below the top of the dam they let the excess water out.

Mr. Caruso stated that it probably doesn't effect the County but when the applicant mentioned fishing; he's a little bit concerned about people coming from out of state or out of country even though it might be a private water feature on their own property, are you not required by the Division of Wildlife to have a license.

Mr. Stevens stated that only if they are going to fish from 4-Mile Creek, then they need a fishing license. If that is the case then he will encourage them to obtain one. He spoke with the Division of Wildlife and they said that it is a private pond and that there would be no need for a fishing license.

Chairman Sandoval called for a motion.

### **MOTION**

Mr. Robinson moved to approve SRU 10-006 Sporting Times Ranch & Red Horse B & B with the following:

### **RECOMMENDED CONDITIONS:**

A. Special Review Use Permit shall be issued for life of use.

- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and/or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.
- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the 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 are not limited.
- I. The Bed and Breakfast shall be limited to five (5) bedrooms for guest housing, as per regulation.

- J. 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.
- 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 (**applicant/owners**) 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.
- 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 8.2 of the Fremont County Zoning Resolution (complete reapplication).
- N. Since this permit is in essence two special review uses on two separate properties under one Special Review Use Permit, if for any reason one of the uses is found to be in non-compliance and that the permit should be terminated, revoked or suspended then it will cause the permit to be terminated, revoked or suspended for both uses under this permit.

*The Planning Commission recommended moving Contingency item 2, a thru d to Condition O, 1 thru 4. (The Department noted that the applicant has stated that it may not be feasible to complete these items with the 6 month time frame for contingencies, so it was recommended that it be made a condition, which would allow for completion prior to operation and not within the 6 month time frame).*

- O. Prior to operation, documentation as to compliance with the requirements of the Environmental Health Office as per memo dated October 20, 2010.
  - 1. For the Guest ranch operation consisting of the building with stalls, kitchen and 4 bedrooms for guests and the 5 separate cabins for guests, the kitchen would be required to obtain a Colorado Retail Food Establishment License.
  - 2. Depending on the total number of occupants for the entire property, the existing and proposed septic systems may have a **combined** discharge greater than 2000 gallons per day may be subject to a Site Application review and approval through the Colorado Department of Public Health and Environment.
  - 3. Depending on the number of occupants for the entire property, the water supply may meet Primary Drinking Water Regulations (at least 25 persons over 6 months per year).

4. The **STATE BOARD OF HEALTH SANITARY STANDARDS AND REGULATIONS FOR PUBLIC ACCOMMODATIONS** will apply to any bed and breakfast and/or guest ranch operation regardless of whether the RFE Regulations apply.

*The Planning Commission recommended moving Contingency item #4 to Condition P 1 & 2 for the same reason as noted in Condition O.*

- P. Prior to operation, documentation from the Cañon City Fire Protection District as to compliance with the requirements as per the Fire Protection form dated October 13, 2010, which are as follows:
  1. A dedicated fire cistern and dry hydrant will be required. Cistern size to be determined from construction type and square footage of proposed buildings when plans are submitted.
  2. Interior roadways shall be all-weather road 26' in width, capable of supporting 50,000 lb. fire apparatus. Any fire access roads in excess of 150' must have an approved fire apparatus turn-around.

**RECOMMENDED CONTINGENCIES:**

The Planning Commission approval recommendation is contingent upon the following item 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. Applicant shall provide to the Department, documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan or that one is not required.

*The Planning Commission recommended moving Contingency 2 a thru d, to Condition O a thru d.*

2. Documentation as to compliance with the requirements of the Environmental Health Office as per memo dated October 20, 2010.
  - a. For the Guest ranch operation consisting of the building with stalls, kitchen and 4 bedrooms for guests and the 5 separate cabins for guests, the kitchen would be required to obtain a Colorado Retail Food Establishment License.
  - b. Depending on the total number of occupants for the entire property, the existing and proposed septic systems may have a *combined* discharge greater than 2000 gallons per day may be subject to a Site Application review and approval through the Colorado Department of Public Health and Environment.
  - c. Depending on the number of occupants for the entire property, the water supply may meet Primary Drinking Water Regulations (at least 25 persons over 6 months per year).
  - d. The **STATE BOARD OF HEALTH SANITARY STANDARDS AND REGULATIONS FOR PUBLIC ACCOMMODATIONS** will apply to any bed

and breakfast and/or guest ranch operation regardless of whether the RFE Regulations apply.

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

***Mr. Giordano noted that the Department received an update from the Fire Authority therefore this contingency item is no longer valid and it should be eliminated. The Planning Commission agreed and recommended that the following be eliminated.***

4. Documentation from the Cañon City Fire Protection District as to the applicant providing them with the specific operation plans as the information noted states that there will be no new buildings which is obviously not correct since there will be 4 new cabins. If there are any requirements by the Fire Protection District, the operator, owner or applicant shall comply with any such requirements and provide the Department with documentation evidencing such compliance.

***The above was replaced by the following which was accepted by the Planning Commission; however it was recommended that it be made a condition (Condition P) instead of a contingency.***

4. Documentation from the Cañon City Fire Protection District as to compliance with the requirements as per the Fire Protection form dated October 13, 2010, which are as follows:
  - a. A dedicated fire cistern and dry hydrant will be required.
  - b. Cistern size to be determined from construction type and square footage of proposed buildings when plans are submitted.
  - c. Interior roadways shall be all-weather road 26' in width, capable of supporting 50,000 lb. fire apparatus.
  - d. Any fire access roads in excess of 150' must have an approved fire apparatus turn-around.
5. Documentation as to compliance with the County Reviewing Engineers recommendation, in his letter dated November 2, 2010, which is as follows:
  - a. Adjustment to the flood hazard area boundary line is needed on the site plan, and proposed structures should be located out of the hazard area.
  - b. Fremont County Driveway Access permit is needed.
  - c. A drainage report and plan is needed prior to actual construction of new roadways or structures. Deferment to the final design stage is recommended.
  - d. A copy of a valid wastewater discharge permit from CDPHE is apparently needed, unless waived by the State.
  - e. A copy of a valid public water supply ID is apparently needed, unless waived by the State.

6. Documentation will be required from the Division of Water Resources as to the use of the well(s) for the Bed & Breakfast and the Recreational facility.
7. Site plan should be revised to relocate cabins/cottages lie that within the flood hazard area. If not relocated then they are subject to FEMA flood prevention permits.
8. Documentation regarding water storage and spring water rights shall be provided.

**ADDITIONAL NOTIFICATION REQUIREMENTS:**

*The Planning Commission recommended using 1,500 feet rather than 500 feet for notification of all property owners.*

In addition to the required notifications the Department, due to the size of properties in the area would recommend notification of all property owners within 1,500 feet of the proposed Special Review Use Permit boundary rather than the regulatory minimum of 500 feet and the following entities shall also be notified in accordance with regulations:

1. Fremont County Department of Transportation
2. Fremont County Building Department
3. Fremont County Environmental Health Office
4. Fremont County Sheriff
5. Colorado Division of Wildlife
6. Fremont/Custer Historical Society
7. The Natural Resource Conservation Service
8. City of Cañon City, Planning Department

*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 areas used for business, commercial or industrial parking spaces may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

## **SECOND**

Mr. Alsup seconded the motion.

Chairman Sandoval called for discussion on the motion. Hearing none, Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (5 of 5)

### **7. REQUEST: SRU 09-004 FREMONT OFF ROAD RECREATION AREA**

Request approval of a **Special Review Use Permit, Department file #SRU 09-004 Fremont Off Road Recreation Area, by Stephen M. Harris & Lynette Harris, to allow for the operation of a Rural Recreation Facility to consist of an off road motorized recreation area that includes a free style training area, a peewee track, an intermediate track, an ATV track and a special event track** on property owned by Stephen M. Harris and Lynette Harris which is located at the *northwest corner of the intersection of Fremont County Roads #67 (aka Phantom Canyon Road) and #123, north of the Fremont County Airport*. **The Special Review Use Permit is intended to allow only “family members and friends” and it will not allow events which are open to the public. Any event will require the issuance of a temporary use permit.** The SRU property consists of one-hundred and twenty (120) acres and is located in the Agricultural Forestry Zone District.

Mr. Steve Harris was present to present his own project. He described his property as being east of Cañon City, outside of town. He, his wife and their son all enjoy racing motorcycles. Because of the Hog Backs getting closed down there were friends of theirs whom also wanted to ride their bikes on the Harris property. This request is to obtain a permit to use his land for family and close friends to ride and practice on.

Mr. Giordano presented the video showing the area of the property, the property itself, and neighboring properties. He noted that this item came before the Planning Commission a few months ago and he's not sure where it got so confusing but there seems to be a lot of confusion. He showed the Planning Commission various things on the map that was originally submitted and it was going to be a Special Event Track. The confusion may have started with the application and the initial review; we asked Mr. Harris to confirm whether it was going to be family and friends or special events. If he had more than just family and friends then there would probably be a different set of requirements depending on what he

was applying for. Where we're at now is that Mr. Harris is saying that he will have no events; he will only have family and friends and probably only fifteen (15). Mr. Giordano briefly addressed the conditions, contingencies, waivers and additional notifications. He specifically noted Condition N states that the recreational use on the property shall be limited to a maximum number of fifteen (15) participants (riders) total at any time. Condition O is that any recreational uses or events which are to be open to the public (not just "family members and friends") or **that are in any way operated commercially** shall be required to obtain a Temporary Use Permit, prior to the event.

Mr. Harris stated that the intent is only for family and some friends. It is very laborious, time consuming, and costly to make a safe track that you can effectively practice on. At the same time people would say that we should have a race or schedule some sort of event. If he did get that opportunity then he knows he would have to do an amendment to the SRU or get a TUP and he would work with the County to do everything right. Otherwise to try to meet the requirements early on when he doesn't have any sort of business plan or business case or real opportunity, it is virtually impossible to prepare that well. He does appreciate the help he has received all along, trying to help him go through this process one time. Honestly he doesn't know what he needs.

Mr. Giordano stated he sees a concern that if there is going to be numerous temporary events more than likely at some stage the Department would recommend that the SRU be amended to include the events so we aren't having to continuously issue temporary use permits.

Mr. Harris stated that in the area that he is talking about motorcycle racing you can't just draw a track around your property and hold an event and call it good. These are professional riders that are expecting a certain level of track, environment, and facilities. So until we truly get an opportunity to hold events a TUP it is not necessary.

Mr. Giordano stated that the TUP requirements are covered in Condition P. The reason for Q and R is because of the application, Mr. Harris showed the area for the "special events" so if he isn't having the special events then he wouldn't need that property; we limited it to the west two thousand (2,000) feet of the property.

Mr. Giordano stated that on Condition S that a driveway access permit is required and that it will be limited to one (1) driveway onto County Road 123 for any and all Rural Recreational Facility use. Conditions T and U pertain to the parking area which will require one inch-minus (1"-) gravel surface and a dust suppressant which will be applied to the motocross tracks for dust control. Mr. Giordano stated that W through Y and standard conditions.

Mr. Schnobrich asked if the Department is talking about fifteen (15) family members or fifteen (15) bikes or is it fifteen (15) people.

Mr. Giordano stated that the intent is fifteen (15) bike riders.

Mr. Schnobrich stated that then you could have three (3) people per bike. That could be a whole lot of people for fifteen (15) bikes.

Mr. Harris stated that at this level of riding people don't share their bike with someone else. This is not a trail riding type of activity; it's a professional level racing activity.

Mr. Giordano stated that instead of fifteen (15) people we could change it to fifteen (15) vehicles.

Mr. Schnobrich stated that what he thinks they should do is change it to fifteen (15) vehicles or motorcycles because then we are at least talking about what we're talking about and not just fifteen (15) people.

Mr. Harris asked if he could address some of the requirements. He stated that the first one is Condition Q; limiting the west half of the property. To him it is unnecessary and he doesn't need to be prohibited from having an event; we can all work through a TUP. One of the things he is trying to do, because it is his home, is trying to keep it very environmentally non-intrusive. We live in an arid place that is primarily used for grazing with a few very skinny cows. We are trying not to stack up dirt or do anything that would change the terrain or would cause the drainage to change. We have been very fortunate to be able to build our tracks right through all of the ravines, very conveniently create a very nice track using the existing topography. To him, to try to limit it into a specific area would be counterproductive to what they are trying to do which is being harmonious with the land. The next Condition is R; when he originally proposed this to Planning & Zoning he was wanting to keep a fifty (50) foot barrier between the track and the fence for safety reasons, again he doesn't know where the one hundred fifty (150) foot number came from but in his opinion that is very excessive and it would be tens of thousands of square feet of his property that would be unnecessarily there as a buffer. Condition T states that the parking area shall have a minimum of one (1) inch gravel surface to prevent dust; one of the things that is very important to them is that because of the expansive nature of the soil it's very water unfriendly so they work really hard to try not to change the land in any way but they definitely do not want to hard pack or create any type of seat to the area because at any time he can have a track there so he doesn't want to create any kind of paving or parking. First of all if it is rainy or inclement weather nobody will be on the track, it will be closed. Generally because it is just friends and family they park at the house anyway so there won't be a need for any permanent parking area. With trying to be harmonious with the land it takes a little bit of work and learning to figure out where the rain water might gather or pool or where there could be any type of problems so they are very flexible in the track designs. Currently they might be parking there but later they may change it and have parking in a different location. Going to the Contingencies, items 2 through 9 of the County Engineer's documentation, item 2 is that they are limited to fifteen (15) family members and friends; he worries about the proposed 50'x100' parking. Originally when he submitted the plan he had no parking area, rightfully so because he didn't want to create a parking area but if the County Engineer finds that he actually need to have a parking area; since we generally were going to park in the parking area we would potentially have trailers and other items. The number that is there, the size of the parking area, is an arbitrary number and really doesn't have anything to do with fifteen (15) family members. To him, who cares if its 50'x100'; it's not going to be improved. Item 3, is that "it will add to the reputation of the County as a recreation destination." He knows that in the Master Plan as well as when he bought the land here he was sold by the realtor that this is a great place to get out of the city and hang out and create a home in the rural area which is most of Fremont County. Whether you want to think of it only as a business, it makes no difference; since he has no covenants and no county ordinances then he should be able to basically do what he wants. Number 4, requires paving of the first fifty (50) feet of the driveway. Previously in the document the Department wanted to prohibit him from having two (2) additional driveways on the east side of the

property, on Highway 67. His current driveway is over two hundred (200) feet long and twenty (20) feet wide so he doesn't feel that if people are in there and a car coming out, we won't have too much mud to transfer to the County Road so he doesn't understand why he will need to have additional paving. In fact more people turn around on his driveway everyday, he would like to get some assistance from the County to help keep his big turnaround useful for the people using it. Item number 5 regarding the roadway analysis; C.J. Moench will update the roadway analysis but again the fifteen (15) vehicles is well within the limits of the catchall that they used which was our original intent. Number 6, there is just the one parking area outlined on the diagram other than the two (2) additional driveway entrances that he thought he might want to build in the future on the east side of the land. He hopes that the County won't inhibit him from the plans for that. His property is three thousand five hundred (3,500) feet by one thousand seven hundred (1,700) feet in a rectangle and he should be able to have more than one access point to the land. Number 7, the Drainage Plan; one of the things that is important to him when he started this project was to not do anything to the terrain or cause any holding or sediment loss into the dry creek that runs through the western portion of the land. He wanted to keep everything to a minimum. He wanted to keep the parking to a minimum because it's just for family and friends but when he introduced the 50'x100' parking area the County then came back to him and were very concerned with water retention because of the parking area. So he wants to minimize the parking area; he doesn't really know where the parking area will be.

Mr. Giordano stated that the County Engineer is addressing all the property not just the parking area.

Mr. Harris stated that he misunderstood that. He knows that the silt fence portion of the plan was information from the state web site. The original plan was just to make sure that any of the ravines that flow down to the river had a silt fence. After almost three (3) years they've had very little or no type of holding or props. They have been very proactive in keeping the drainage as God had created it. Number 8, states that there should be water retention pond which he said was included in the plan. He's does not believe that there will be enough runoff to require a detention pond as he does not plan on hard surfacing the parking area. He stated that he will work with the Department on that but again he would like it to be flexible and asks that the Department work with him so that he can try to keep anything that is happening.

Mr. Giordano informed Mr. Harris that it is not the Department, it actually is the County Reviewing Engineer, Mr Don Moore who made the comments he just addressed.

Mr. Harris stated that he knows that but that Mr. Giordano is the head guy.

Mr. Giordano stated that what he needs to do is discuss these items with the County Engineer. It would be better to have your Engineer talk to the County Engineer and get them resolved. Mr. Giordano stated that the Planning Commission is not going to be able to resolve them for him because these are engineering standards and that's why the County hires Mr. Moore to review the engineering aspects of the application.

Mr. Harris stated that number 9 is totally incorrect because they do not have a parking location or anything west of the creek which is in the flood plain, they aren't doing anything to that area.

Mr. Schnobrich stated that it sounds like he still has a lot of issues that he needs to work out with the County Engineer as well as some other questions within the application itself. He thinks that the Planning Commission should probably table this item until the next meeting so Mr. Harris can get some of these issues resolved. As Mr. Giordano stated, some of these things the Planning Commission can't resolve.

Mr. Harris stated that the last thing that he has that is deficient from the Engineer was the total surface area of the detention pond. The rest of the plan is in place so he doesn't feel that there is any need for his Engineer to work with the County Engineer. Number 1, he is not trying to actually improve or hard surface any of the areas. Most of the water retention is coming from the notion of improving the parking area. We are not going to improve or hard surface any area.

Chairman Sandoval asked Mr. Harris if he has any other specific information pertaining to this application right now that he can offer to the Commission.

Mr. Harris stated that no, he didn't.

Chairman Sandoval stated that there have been a few comments about possibly revisiting this item. Let's have a little discussion right now with the Planning Commission members, let's get an idea of what we can propose at this time.

Mr. Caruso stated that based on the information that is being brought out tonight sounds like there is not enough preparation on the part of the applicant. Looking at his Engineer's information as far as the detention pond, his Engineer states "That in spite of this, a detention pond is recommended to control silt flow to the creek. This detention pond will delay the developed area discharge enough to place it on the peak, and actually raise the peak slightly." Mr. Caruso feels that the application may be complete paper wise but there are a lot of questions that can't be answered based on the information. Instead of the Commission voting on this and it potentially getting killed it might be a benefit to the applicant for the Commission to table it so that he can get these questions that the County has brought up answered so that when he does come back before us it's a completed application that we can go through. There is an hour worth of questions just from the members here.

Chairman Sandoval stated that before any motion is made he wants to give everyone an opportunity to speak.

Mr. Schnobrich stated that he agrees on the engineering part of the Contingencies but that's not the only thing that he has questions about. He's not exactly sure what they are approving as to the amount of people. One time it's fifteen (15) family members and then its fifteen (15) vehicles and then limiting to only fifteen (15) people. We need to get a little bit better definition or terms of what we are talking about. He has seen a situation of fifteen (15) vehicles and then somebody comes by to see what's going on with their 4-wheeler; they have just violated the code and that is not what he thinks they are intending here. He would ask that the staff review the application and make sure that we are talking about what we are actually permitting. Is it only fifteen (15) bikes or only fifteen (15) people? The thing about family members; the question there is, are we going to require birth certificates for people on the property. How do we know who is a family member? From that point of view it's almost like an unenforceable situation. He thinks staff should review that as well to give some clarification. The other question he has on the application is that it seems like there is more going on here. Are we talking about building a facility that looks like they are really

going to have a lot of people doing a lot of things? We are requiring upgrades on the pavement and for parking but yet we're not looking at what is actually being built on the property. If you are going to lay out a track it should be in the plans so that we understand what is being discussed. It's hard to get a concept of what is going on because if it is just something that you want for your family to have and to get together with friends, it seems like we are being really excessive on the engineering. But if you are talking about having a lot of different family and friend get togethers then its not. What is on the application is making it hard for the Commission to make a determination whether you have to do to much or not enough.

Mr. Harris stated that the process is hard and he has been working on this for quite a while and has spent hundreds of dollars in printing the big format site plans and has worked with the County to continue to review it. To him it is very simple, he wants to use it for his personal use with some visitors occasionally and that's the whole purpose. It is not a business. One of the things that is a requirement is for a one million (1,000,000) dollar liability insurance policy. When he started to fill out the paperwork he needed to be a corporation. He has no intent to be in a business to collect money. He wants to leverage his one hundred twenty (120) acres that is right next to the dump, right next to the airport, and right next to the shooting range.

Mr. Schnobrich stated that the plan seems like a good plan; the only problem is that it is a little bit hard to figure out what he is talking about. The Department would have no reason to just run him around in a loop.

Mr. Harris stated that it is really tough; maybe if he had an event then he could give hard numbers to the County. He could come in and say he's going to have four hundred (400) visitors on this date and you guys help me so that he has all the right things in place. But right now he goes to the County and it's just very simple, he has no plan.

Chairman Sandoval asked Mr. Harris to let the Planning Commission members speak and then maybe it can be addressed a little bit more.

Mr. Alsup stated that he noticed in Mr. Moore's letter that when it was supposed to come before the Planning Commission last April he was planning on being at the meeting. He was hoping that Mr. Moore would be here today to address a lot of the issues that the applicant is questioning and without that Mr. Alsup thinks they should table the item; he doesn't feel that he could vote on it today.

Chairman Sandoval stated that he is looking at some of the Conditions and then the Recommended Contingencies including the documentation from the County Engineer; not really developing an opinion but wondering about the relevancy of some of the Conditions and Contingencies. He doesn't know how relevant they are. The one thing he does have an opinion about is that there is a lot of disagreement and he thinks that some applications have a lot of volume but he doesn't know if this application should have as much volume as it has. It would be nice to see the two Engineers whittle things down to try to bring it to some type of level that someone could actually make a yes or no vote on. Rather than throwing it in the Commission's laps or even in the County Commissioner's laps, we need to come up with some parameters that someone can actually take seriously. That would be his recommendation, so from that aspect, he would like to table it as well.

Mr. Robinson stated that he thinks this initial review and all the comments made are as if this was a commercial track. He doesn't see that as the intent. We are talking two (2) different languages and he doesn't think the comments are relevant to what the applicant wants to do. All of the Contingencies and Conditions aren't applicable, it's almost like you have to start over again. He knows this will delay the decision but he would rather have Conditions and Contingencies that are relevant to what the applicant wants to do.

Mr. Alsup asked Mr. Giordano if it is common for something like this, which is a private entity, to require them to have the million (1,000,000) dollar insurance?

Mr. Giordano stated that he doesn't know if it's common or not. We have done it on other recreation and businesses like the zip line.

Mr. Alsup stated that he understands it for businesses but what about personal.

Mr. Giordano stated that the Commission needs to keep in mind that we aren't sure where we are at as far as personal or business on this project. He thinks a lot of the Contingencies that Mr. Moore has is a lack of somebody talking to him and telling him where we are at with it. This whole thing is so convoluted and there are things in the application that make you believe that they intend to do something bigger than what Mr. Harris is now saying.

Chairman Sandoval stated that what the Commission is asking for is information that is more concise; information that is easy to make a decision upon. The information that is available right now is inconsistent.

Mr. Caruso told Mr. Harris that he understands speculation but he is looking through the zoning violation log that went back to April 19, 2009 and going forward. There is a lot of documentation that the County has, there is a statement in the log that there was a racing team that was training on the property. He thinks that is why the Commission wants to make sure that what the intention is is good and honorable. In order to make sure that the application can go through properly; that is why he brought up the idea of tabling this item. That will give Mr. Harris a chance to provide the answers that the Commission needs to hear; that he can speak with the County and his engineer. Mr. Caruso would just as soon have this go through one time instead of coming back numerous times. It doesn't seem like it is complete based on the information in the packet plus what's being said. Quite honestly there are six (6) months of complaints, at least within the violation log sheet and that draws some questions.

Mr. Harris asked what log sheet.

Mr. Caruso stated that it is a County Zoning Complaint Violation Log Sheet field notes from April 19, 2009 all the way up to October 27, 2009. It was in the packets, toward the back, it is actually on the back side of the letter that the County Engineer had sent to Mr. Giordano back on November 10, 2009. There is a lot of information in here for us to digest, not only the reading but also what we are hearing at this meeting.

Mr. Harris stated that he isn't aware of the complaints. He did receive the first letter from the County that started this whole process. Code Enforcement thought he was running a commercial track so he needed to come in and do the right process. Immediately he went down to the County and told them that he wasn't running a commercial track. The Department told him to fill out this piece of paperwork, pay one thousand eight hundred

(1,800.00) dollars and go through the process and there will be no problem. He coughed up the money, he filled out the application but then immediately after the first rebuttal from the County it became apparent that as a novice and non-professional there was no way he could do this. Without a business piece in place or even the notion of doing some sort of business it just was not economically feasible to try to hire the engineering firm or some other agency to comply with their demands. To him, realistically, the original assertion is incorrect and unfounded. There is no commercial track; there are no fifteen (15) people to come there ever. To him he doesn't understand; realistically there have never been that many people. The County Engineer or whoever is driving up and down County Road 123 and feel that something wrong is occurring, they are wrong. There is nothing occurring, we are using our land for what it can be best utilized for and with the best intentions. We have a nice place to do what we want to do.

Chairman Sandoval stated that if it is tabled it is still under consideration.

Mr. Harris stated to please table it and that he will work with the County to fill in whatever gaps are necessary.

**MOTION**

Mr. Schnobrich moved to table SRU 09-004 Fremont Off-Road Recreation Area until the January 4, 2011 Planning Commission meeting.

**SECOND**

Mr. Caruso seconded the motion.

Chairman Sandoval called for a roll call vote, and the motion passed unanimously. (5 of 5)

**8. DISCUSSION ITEMS**

Mr. Schnobrich asked what is happening with the Master Plan.

Chairman Sandoval stated that he hadn't heard anything at all.

Mr. Giordano stated that now that the budget has been set the Department will contact the consultants to determine if they can assist or not. He assured the Planning Commission that we are still planning on amending the master plan.

**9. ADJOURNMENT**

With no other items for discussion, Chairman Sandoval adjourned the meeting at 6:18 p.m.

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CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

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DATE