

SIXTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on August 27, 2019, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Chairman Dwayne McFall called the meeting to order at 9:30 a.m.

Dwayne McFall	Commissioner	Present
Tim Payne	Commissioner	Present
Debbie Bell	Commissioner	Present
Justin Grantham	Clerk & Recorder	Present
Dotty Gardunio	Chief Deputy C & R	Present
Brenda Jackson	County Attorney	Present
Sunny Bryant	County Manager	Present
Sean Garrett	Planning & Zoning Director	Present

INVOCATION

Mike Wooldridge, Living Word Foursquare Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Those present cited the Pledge of Allegiance to the flag of the United States of America.

APPROVAL OF AGENDA

Commissioner Bell moved to approve the Agenda. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

CONSENT AGENDA

1. Approval of Minutes / August 13, 2019
2. Approval of Bills for \$3,011,870.59
3. Ratification of Chairman's signature on the 2020 Victim's Assistance and Law Enforcement Grant Application-Eleventh Judicial District
4. Request for a Resolution #23 for the Eleventh (11th) Amendment to the Fremont County Zoning Resolution
5. Approval of a Merchant Processing Agreement Application and Fee Schedule with Merrick Bank for the Clerk and Recorder's Office
6. Termination of a Lease for Office Space at the Fremont County Airport with US Sport Aeronautics effective August 31, 2019
7. Approval of Lease for Office Space at the Fremont County Airport with JustinTime Cargo, LLC effective September 1, 2019
8. Schedule Public Hearings: None.

Commissioner Payne moved to approve the Consent Agenda, assigning item #4 resolution #23. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff / Elected Officials:

- a. County Clerk's Monthly Report

County Clerk Grantham gave the monthly report for the Clerk's Office.

Commissioner Bell moved to accept the County Clerk's Monthly Report. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

- b. County Manager Report, Sunny Bryant, County Manager

County Manager Bryant gave her monthly report.

- c. Sales & Use Tax Report, Sunny Bryant, County Manager

County Manager Bryant reported the sales and use tax figures.

Commissioner Bell reminded everyone that the next meeting was rescheduled for Monday, September 9th at 9:30, instead of Tuesday, September 10th.

Commissioner McFall reminded everyone of the upcoming recycling events. The first one on September 14th from 9:00 a.m. - 11:30a.m., at the Deer Mountain Fire Station and the second one on September 28th from 10:00 a.m. - 2:00 p.m., at the Bank of San Juans on 9th Street in Canon City.

2. Citizens who wish to address the Commissioners on a matter not scheduled on the agenda

Christine Everett, of 2907 Locke Mountain Road, Florence, Colorado, expressed her concerns for the condition and upkeep of County Road 84.

OLD BUSINESS

1. Approval of Resolution #21, Series of 2019, Resolution for Special Review Use Permit Department of Planning and Zoning, File #SRU 13-008 Wellsville Recreational Facility (Major Modification)

Commissioner Payne moved to approve Resolution #21. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried.

2. Approval of Resolution #22, Series of 2019, Resolution for Conditional Use Permit – File Number CUP 17-001 Yevoli Cobblestone Pit (Major Modification)

Commissioner Bell moved to approve Resolution #22. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

NEW BUSINESS

1. Service Recognition Resolution for Verla Noakes, Fremont County 4-H and Family and Consumer Science Agent

The Service Recognition Resolution was read and presented to Verla Noakes from the Board of County Commissioners.

Commissioner Bell moved to approve the Service Recognition Resolution. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

2. Proclamation for Suicide Prevention Month
Representative: Jessica Cobler

The Proclamation for Suicide Prevention Month was read.

Commissioner Payne moved to approve the Proclamation for Suicide Prevention Month for the Month of September 2019. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried.

PUBLIC HEARING

1. TUP 19-010 We Are All Made of Stars
Request approval of a Temporary Use Permit, Department file #TUP 19-010 We Are All Made of Stars Black Tie Gala Fundraiser Event to be held on Saturday September 14th from 6:30 p.m. to 9:00 p.m. This is the first request for the TUP.
Representative: Ashlee Sack

Zack Reynolds, of the Dinosaur Experience, stated he is in support of hosting this event at his location for FAR.

Ashlee Sack, of FAR, gave the details of the event.

Planning and Zoning Director Garrett gave the staff report, stating the application was in order and meets all zoning resolution requirements. There is a waiver request of the surety bond and the \$250 application fee.

Commissioner McFall opened and closed the Public Hearing at 10:12 a.m., with no public comment being made.

The Board of Commissioners expressed that the liquor license for this event that was approved at the prior meeting, was done so with a boundary line of the entire premises, which is not typical. They did so with the guarantee that no one what-so-ever would be allowed on the premises unless they were 21 years of age or older. Therefore, they informed the applicant that no one under the age of 21, including volunteers, would be allowed at this event.

Commissioner Bell moved to approve TUP 19-010, waiving the requirement for the surety bond and a waiver of half of the application fee of \$125. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

NEW BUSINESS (continued)

3. Proclamation for Kinship Care Month in Fremont County for the month of September 2019
Representative: Barry Acton, Department of Human Services

The Proclamation for Kinship Care Month was read.

Commissioner Payne moved to approve the Proclamation for Kinship Care Month for the Month of September 2019. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried.

4. Ambulance Licensing for a UCHealth Ambulance
Representative: Mykel Kroll, Fremont County Emergency Management Director

County Emergency Management Director Kroll gave the details of the ambulance license and did confirm it is an ALS license. He did the inspection and recommends approval.

Commissioner Bell moved to approve the one year ALS Ambulance License for a UCHealth Ambulance. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

5. Change in Corporate Structure / Change of Manager
Liquor License Renewal / Request to waive 45 day submittal requirement
Penrose Family Enterprises LLC / Dba Broadways Bar & Grill
103 Broadway Street Suite 11 & 12, Penrose, CO 81240
Representative: Gary Briggs

Gary Briggs, of Penrose Family Enterprises LLC dba Broadway's Bar & Grill, explained his purchase of the LLC and the Bar & Grill.

Chief Deputy Gardunio gave a staff report, stating the application was in order and fees were submitted.

Commissioner Payne moved to approve the Liquor License Renewal for Broadway's Bar & Grill and waived the 45 day submittal requirement. Commissioner Bell seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Bell, aye; Commissioner McFall, aye. The motion carried.

6. 2020 Holiday Schedule

Commissioner Bell moved to approve both the 8 hour and 10 hour holiday schedule for 2020. Commissioner Payne seconded the motion. Upon Vote: Commissioner Bell, aye; Commissioner Payne, aye; Commissioner McFall, aye. The motion carried.

Commissioner McFall adjourned the meeting at 10:37 a.m.



Clerk and Recorder



RESOLUTION NO. 21
Series of 2019

RESOLUTION FOR SPECIAL REVIEW USE PERMIT
DEPARTMENT OF PLANNING AND ZONING
FILE #SRU 13-005 WELLSVILLE RECREATIONAL FACILITY (Major Modification)

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board"):

THAT WHEREAS, Daniel T. Cook, (hereafter "applicant") has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont County for a **Permit to allow construction of an additional dwelling to be used by staff members**; which application has been designated as file #SRU 13-005 Wellsville Recreational Facility (Major Modification), to be located on certain real property that the applicant owns; and

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its July 2 2019, regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Fremont County Department of Planning and Zoning (hereafter "Department"), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel and to appropriate reviewing agencies; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on August 13, 2019, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

WHEREAS, it appears that issuance of a Special Review Use Permit is appropriate
NOW, THEREFORE, BE IT RESOLVED by the Board that:

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
 - a. The procedural requirements of Section 8.14 of the Fremont County Zoning Resolution have been met.
 - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
 - c. The proposed use will not have detrimental effects on property values.
 - d. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
 - e. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - f. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - g. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions that must be met within six (6) months, if applicable, since the use was previously in operation prior to approval by the Board:
 - A. Special Review Use Permit shall be issued for life of the use.
 - B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to

updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and/or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. All customers shall be transported to the site only by Wellsville Recreational Facility drivers and vehicles.

- J. The applicant, as per recommendation by the Fremont County Department of Transportation, shall provide 15 tons of gravel per year to maintain the roadways. The County will bill the applicant each year at the rate of \$4.00 per ton and pricing will be adjusted should the need arise. The County will lay the material on the roadways and the applicant will be billed for the gravel.
- K. The facility shall comply with any requirements of any applicable fire ban or fire restriction.
- 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, and further the applicant shall implement and maintain the plan, if required.
- M. 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.
- N. Only the named party on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Special Review Use Permit and shall be required to be named on this Special Review Use Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- O. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (complete reapplication).
- P. Any gates on the premises that are necessary to contain cattle shall be closed when cattle are present on the property. Alternatively, Applicant may install a cattle guard to prevent cattle from escaping.
- Q. Use of the recreational facility by visitors other than veterans and active duty military personnel is prohibited.

Commissioner Payne moved for adoption of the foregoing Resolution, seconded by Commissioner Bell and approved by roll call as follows:

Commissioner Bell: Aye / Nay / Abstain / Absent

Commissioner McFall: Aye / Nay / Abstain / Absent

Commissioner Payne: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: August 13, 2019



CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: 

FREMONT COUNTY CLERK AND RECORDER

RESOLUTION NO. 22
Series of 2019

RESOLUTION FOR CONDITIONAL USE PERMIT - FILE NUMBER CUP 17-001
YEVOLI COBBLESTONE PIT (Major Modification)

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board")

THAT WHEREAS, Mark Yevoli, (hereafter "Applicants") has made application for issuance of a Conditional Use Permit pursuant to 8.2 of the Zoning Resolution of Fremont County to allow expansion of the disturbance and boundary areas and change from a 110 to a 112 Division of Reclamation, Mining and Safety Permit. Said application has been designated as file #CUP 17-001 Yevoli Cobblestone Pit (Major Modification); and

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its July 2, 2019 regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location of the public hearing, telephone number of the Department of Planning and Zoning (hereafter "Department") and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel; and to appropriate agencies, in accordance with regulations; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location of the public hearing, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on August 23, 2019, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the county's file concerning the application; and

WHEREAS, it appears that the issuance of a Conditional Use Permit is appropriate;

NOW THEREFORE, BE IT RESOLVED by the Board that:

1. The Board did make the following findings with respect to the application for a Conditional Use Permit as follows:
 - a) The procedural requirements of 8.2 of the Fremont County Zoning Resolution have been met.
 - b) The location of the proposed use is compatible with other land uses in the area and does not place an undue burden on existing transportation, utilities, and service facilities in the vicinity, except as otherwise noted in these findings.
 - c) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - d) The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - e) The proposed use, if it complies with all conditions on which this approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the county, and will not cause significant air, water, noise or other pollution.
2. A Conditional Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
 - A. The term of the Conditional Use Permit shall be 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.
 - C. Applicants 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. Applicants 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 and keep in effect all other permits required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.

- F. All loads of material transported from the site shall comply with applicable Colorado Revised Statutes.
- G. Days of operation will be limited to Monday through Saturday from 7 am to 3 pm for mining, crushing, screening and stockpiling.
- H. Days and hours for truck hauling will be Monday through Saturday from 6 am to 7 pm.
- I. The number of haul truck trips shall not exceed 10 truck trips per day. *(A trip is considered as a single or one direction vehicle movement with either the origin or the destination (exiting or entering) inside the subject property.)*
- J. If a conditional 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 conditional 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 (6) 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.
- K. If a Conditional Use Permit is to be transferred, it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
- L. If it is found by judicial action or it is determined by any other proper authority that any easement used for access into the subject property is not valid, then termination of the Conditional Use Permit will result.
- M. Fremont 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.
- N. Only the named party on the permit shall be allowed to operate this Conditional 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 Conditional Use Permit must agree to abide by all terms and conditions of this Conditional Use Permit and shall be required to be named on this Conditional Use Permit as additional parties who are bound by the terms and conditions of this Conditional Use Permit.

O. Temporary parking area and interior roads shall be graveled and a dust suppressant will be required to be applied, if necessary.

Commissioner Bell moved the adoption of the foregoing Resolution, seconded by Commissioner Payne and approved by roll call vote as follows:

Mrs. Commissioner Bell: Aye / Nay / Abstain / Absent

Mr. Commissioner Payne: Aye / Nay / Abstain / Absent

Mr. Commissioner McFall: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: August 13, 2019



CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:



FREMONT COUNTY CLERK AND RECORDER

RESOLUTION NO. 23
Series of 2019

11th Amendment to the Fremont County Zoning Resolution

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board"):

THAT WHEREAS, effective **February 23, 2016**, the Board of County Commissioners re-adopted the Fremont County Zoning Resolution; and

WHEREAS, certain amendments to said Resolution have been proposed; and

WHEREAS, the Fremont County Planning Commission has promulgated and recommended approval of the proposed 11th Amendment to the Fremont County Zoning Resolution; and

WHEREAS, the Board of County Commissioners has conducted a public hearing on the proposed amendment on **November 24, 2015**, pursuant to such publication and notice as may be provided by law; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that the Fremont County Zoning Resolution be and hereby is amended as set forth in Exhibit A attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that such amendment took effect **February 23, 2016**.

Commissioner Payne moved the adoption of the foregoing Resolution, seconded by Commissioner Bell and approved by roll call vote as follows:

Commissioner Payne: Aye / Nay / Abstain / Absent

Commissioner McFall: Aye / Nay / Abstain / Absent

Commissioner Bell: Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: 8-27-19

Day McFall
CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: Janet D. [Signature]
FREMONT COUNTY CLERK AND RECORDER



FREMONT COUNTY – COLORADO
DEPARTMENT OF PLANNING AND ZONING

615 MACON AVE., CANON CITY, COLORADO
719-276-7360 PH / 719-276-7374 FAX
Email: Planning@fremontco.com

ACCESSORY DWELLING UNIT APPLICATION

Project Name: _____ Fee _____

Site Address: _____

Owner(s) Name(s) _____
Address _____
Phone _____ Fax _____
Email _____

Legal Description:

Subdivision Name _____
Lot no. _____ Block no. _____ Section no. _____ Township _____ Range _____
Property Tax Parcel or Schedule no. _____

Mineral Rights Owner _____

Zoning: Present _____ Proposed _____

Land Description: Acreage _____ Sq.Ft. _____

Utility / Services – Provide utility provider or source

Water _____ Sewer / Septic _____
Gas _____ Electric _____
Phone _____ Cable _____

Fire Protection District / Source _____

Building Information: Primary Structure square footage _____ ADU square footage _____

Required Attachments: Plot Plan showing all proposed and existing structures with dimensions from property lines, all utility service lines, all parking areas and all exterior access points on dwelling units. Written proof of water and sewer/septic services showing proper and adequate availability for the proposed use. Certified mail receipts of notification of adjoining land owners. Signed Covenant of Restrictions to Accessory Dwelling Unit.

To the best of my knowledge and belief, the information contained on this application and attachments thereto is true and correct.

Applicants Signature _____ Date _____

**DECLARATION OF COVENANTS AND RESTRICTIONS
TO REAL PROPERTY REGARDING AN ACCESSORY DWELLING UNIT**

This Covenant between (land owner) and the County of Fremont, State of Colorado, is hereby recorded and attached to that parcel of land as described in deed as recorded in the records of the Fremont County Clerk and Recorder's office under Reception Number _____, and described as follows:

(INSERT LEGAL DESCRIPTION)

I/We, herein, covenant and agree to the County of Fremont on behalf of ourselves and all heirs, assigns and successors of interest, into whose ownership the title to or interest in the above-described real property might transfer, as follows:

1. The owners are the sole and exclusive fee-simple owners of the above described parcel located within Fremont County, Colorado.
2. The owner(s) shall reside in the primary or accessory dwelling unit (ADU) as the principal and permanent residence at all times that the other dwelling unit is occupied. The owner(s) shall reside on the property for at least (6 months) out of the year, and at no time receive rent for, or otherwise allow a third party non-owner to reside in, the owner-occupied unit.
3. Sale of the ADU, separate from the primary dwelling, is prohibited.
4. Subdivision of the property in a manner that separates the ADU from the primary dwelling is prohibited.
5. Formal approval from Fremont County is required for modification of the size of the ADU.
6. These covenants and restrictions, shall run with the land and be binding and enforceable upon the owners and any and all of their heirs, assigns, grantees, and successors in interest into whose ownership title to the above-described real property may pass.
7. These covenants and restrictions will automatically terminate upon removal of the ADU from the parcel.
8. The provisions of these covenants and restrictions are enforceable in law or equity by Fremont County and its assigns. The Owner(s) expressly consent to and grant a private cause of action for enforcement, including damages and reasonable attorney fees, to any party is adversely affected by the failure to comply with the covenants and restrictions set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
this ____ day of _____, 20____ .

Owner

State of Colorado
County of _____

The foregoing instrument was acknowledged before me this _____ (date)
by _____ (name of person acknowledged).

Notary Public

Print Name: _____

My commission expires: _____ (Seal)

Owner

State of Colorado
County of _____

The foregoing instrument was acknowledged before me this _____ (date)
by _____ (name of person acknowledged).

Notary Public

Print Name: _____

My commission expires: _____ (Seal)

9 ADU – ACCESSORY DWELLING UNIT

- 9.1 DESCRIPTION:** The ADU – “Accessory Dwelling Unit” is established to provide alternative and affordable housing and productive economic use of lands within Fremont County. The purpose of the ADU is to allow ADU’s only when impacts to existing infrastructure, adjoining lands and uses, and neighborhoods are minimal and no life safety issues are created. The intent is to provide affordable housing, consistent with the Fremont County Zoning Resolution.
- 9.2 DEFINITION:** ADU (Accessory Dwelling Unit): A small, secondary dwelling unit located on the same lot/parcel containing a larger, primary dwelling unit. The ADU may also be located within the primary dwelling, or attached to the primary dwelling. An ADU contains independent living quarters with provisions for sleeping, cooking and sanitation.
- 9.3 GENERAL PROVISIONS:**
- 9.3.1** ADU’s are allowed in the following zone districts: Agricultural Forestry, Agricultural Farming and Ranching, Agricultural Living, Agricultural Rural, Agricultural Estates, Agricultural Suburban, Low Density Residence, Medium Density Residence, and High Density Residence.
- 9.3.2** The construction or placement of the ADU must comply with Fremont County building, sanitation, and codes, as well as all applicable federal, state and local laws and regulations.
- 9.3.3** A single story ADU shall be no more than 14 feet in height to peak of roof. A two story structure containing an ADU may be no more than 22 feet to peak of roof. ADU’s may be allowed in two story structure, where the ADU is only on one level. The other level may not be used as part of the ADU.
- 9.3.4** The ADU shall be a minimum of 250 sq. ft. and a maximum of 1,000 sq. ft., with one bathroom and no more than two bedrooms.
- 9.3.5** Construction of an ADU shall be with materials and finishes similar to those used for the primary dwelling. Modular construction shall comply with current building and sanitation codes.
- 9.3.6** ADU lots or parcels shall contain a minimum lot size of 43,560 sq. ft. (1 acre). All lot sizes shall meet the requirements for the zone district.

- 9.3.7** ADU utilities shall be connected using the meters for the primary dwelling when possible. All utility connections shall be made in conformance with the provider requirements.
- 9.3.8** No lot or parcel shall contain more than one ADU.
- 9.3.9** The property shall contain one parking space designated for the ADU.
- 9.3.10** Prior to issuance of a building permit for the ADU, the property owner shall execute and record a Declaration of Covenant and Restriction with the Fremont County Clerk and Recorder, which contains the legal description for the property, references the most current deed for the property and:
- 9.3.10.1** Prohibits the sale of the ADU separate from the primary unit;
 - 9.3.10.2** Prohibits the subdivision of the lot/parcel in a manner that separates the ADU from the primary dwelling;
 - 9.3.10.3** Prohibits modification of the size of the ADU; without approval from the Department;
 - 9.3.10.4** Requires the property/land owner to live in one of the dwelling units;
 - 9.3.10.5** States that the covenant is binding on any successors, heirs, assigns;
 - 9.3.10.6** Creates and grants a private cause of action for enforcement;
 - 9.3.10.7** Continues the deed restrictions until removal of the ADU.
- 9.3.11** Parcels containing an ADU shall use the street address for the primary dwelling, designating each unit as A and B.
- 9.3.12** A property owner may apply to the Department for “lawful status” designation for any ADU constructed or placed on the property prior to the date of adoption of the accessory use. Any pre-existing ADU shall conform to all applicable building and zoning codes, and applicable federal, state and local laws and regulations. The Board of Zoning Adjustment, upon a showing of good cause, may waive regulatory requirements for any ADU in existence prior to the adoption of these regulations and for any proposed ADU.
- 9.3.13** An ADU constructed or located within a larger dwelling shall have exterior access.

- 9.3.14 ADU shall have lawfully connected utility services (water, sanitation, electric, gas). The property owner shall provide written documentation from an entity with appropriate jurisdiction, that the potable water and sanitation/septic systems are adequate for all uses on the parcel.
- 9.3.15 Business or commercial use of an ADU is prohibited. The ADU shall be used for residential purposes only.
- 9.3.16 The ADU (separate structure only) shall be placed no less than ten (10) feet from the rear of the primary dwelling, and no more than two hundred (200) feet from any side of the primary dwelling.

9.4 APPLICATION REQUIREMENTS:

- 9.4.1 An application form as provided by the Department with the required application fee.
- 9.4.2 A copy of the deed showing ownership of the parcel.
 - 9.4.2.1 A signed Declaration of Covenant and Restriction stating ADU restrictions shall be completed and recorded prior to issuance of a building permit.
 - 9.4.2.2 Written proof from the appropriate entity or service provider that water and sewer/septic services are adequate for all uses on the parcel.
 - 9.4.2.3 The Applicant shall notify adjoining property or lot owners fo the intent to establish an ADU. Comments will be reviewed by the department. If any comments state a valid, lawful objection to the ADU, the ADU application will be referred to the Board of County Commissioners for review at a public meeting.
 - 9.4.2.4 A plot plan showing:
 - 9.4.2.4.1 All structures proposed or existing with dimensions to property lines.
 - 9.4.2.4.2 All utilities for the structures, including electric, gas, water, and sanitary sewer/septic.
 - 9.4.2.4.3 All parking areas.
 - 9.4.2.4.4 All exterior access points.

RESOLUTION NO. 24, SERIES OF 2019

A RESOLUTION TERMINATING THE LEASE FOR BUILDING 10, FREMONT COUNTY AIRPORT, AT THE REQUEST OF THE TENANT, U.S. SPORT AERONAUTICS, CORP.

WHEREAS, pursuant to §30-11-107, C.R.S., the Board of County Commissioners for Fremont County is authorized to make such orders concerning the property belonging to the County as it deems expedient; and

WHEREAS, on October 6, 2017, the County entered into a lease agreement with U.S. Sport Aeronautics, Corp., for office space use of Building 10 located on the Fremont County Airport property; and

WHEREAS, on August 12, 2019, the Board of Commissioners received a request for termination of the existing lease from U.S. Sport Aeronautics Corp. by and through its CEO Jason Dawson; and

WHEREAS, the Board believes that termination of the lease agreement would be in the best interests of aeronautic operations at the Fremont County Airport and would be a benefit to the County.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Lease Agreement for Building 10, Fremont County Airport, is hereby terminated, effective August 31, 2019.

Commissioner Payne moved the adoption of the foregoing Resolution with a second by Commissioner Bell.

Debbie Bell	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Dwayne McFall	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Timothy R. Payne	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: 8-27-19

[Signature]
Chairman

Attest: [Signature]
Clerk