

ROUTT COUNTY PLANNING COMMISSION

FINAL MINUTES

April 4, 2019

The regular meeting of the Routt County Planning Commission was called to order at 6:00 p.m. with the following members present: Chairman Steve Warnke and Commissioners Roberta Marshall, Brian Kelly, Troy Brookshire, Bill Norris, Andrew Benjamin, Peter Flint, Karl Koehler, Geoff Petis and Greg Jaeger. Commissioner John Merrill was absent. Assistant Planning Director Kristy Winser and staff planners Chris Brookshire and Alan Goldich also attended. Sarah Katherman recorded the meeting and prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES - March 7, 2019

Commissioner Norris moved to approve the minutes of the March 7, 2019 Routt County Planning Commission meeting, as written. Commissioner Kelly seconded the motion. **The motion carried 9 - 0.**

Chairman Brookshire disclosed that his wife is the staff planner on this item. He said that they had not spoken about the petition and that he did not know anything more about it than the other members of Planning Commission. There were no objections to his participation in the hearing.

ACTIVITY: PL-19-115

PETITIONER: Timbers Water and Sanitation District

PETITION: Location and Extent Review under C.R.S. Section 30-28-110 for a water treatment facility

LOCATION: A portion of Lot 2 Timbers Exemption; located at 33860 Sky Valley Drive

Ms. Melissa Sherman, representing the petitioner, stated that she had nothing to add to what was in the staff report.

Ms. Brookshire clarified that this review by the County is required by state statute. She said that everything in the application letter is in order. She noted that if any significant issue had been identified through the review, it would have been addressed prior to approval. She cited the example of a past review in which an illegal subdivision had been identified. Ms. Brookshire described the location of the proposed facility and noted the nearby pond. She said that the facility would usually require an administrative Waterbody Setback Permit, but in order avoid additional delays this could be accomplished through the findings of fact on the approval by Planning Commission. She stated that the proposal meets all the criteria to qualify for a Waterbody Setback Permit. Chairman Warnke asked if the

pond was man-made. Mr. Ronald Krall, representing the petitioner, stated that it was. Ms. Brookshire stated that the pond is still considered a waterbody. Ms. Brookshire explained that the Location and Extent Review is a matter of record, which ensures that County and the public know the facility is where it is. She added that the existing settling ponds would be decommissioned when they are no longer needed.

There was no public comment.

MOTION

Commissioner Norris moved to approve Location and Extent request for a wastewater treatment facility with the following findings of fact:

1. The application will not adversely affect the public health, safety and welfare and the proposed use is compatible with the immediately adjacent and nearby neighborhood properties.
2. The application meets C.R.S. Section 30-28-110 1 a,b,c,d,e.
3. The construction of the WWTP is in an area that would require review of the Routt County Regulations Section 5.11 Water Setback Standard and Permits. It has been determined that the activity is unavoidable and meets Section 5.11.6 A 1) a.

This approval is subject to the following conditions:

1. This approval is contingent upon the acquisition of and compliance with any required federal, state and local permits. The operation shall comply with all federal, state and local laws.
2. The applicant shall prevent the spread of weeds to surrounding lands, and comply with the Colorado Noxious Weed Act as amended in 2013 and Routt County noxious weed management plan. Reclamation and revegetation of the site shall be completed within one year of construction.

Commissioner Kelly seconded the motion.

Discussion

Commissioner Petis said that although it would not affect his vote on the request, he did not feel that finding of fact #2 was needed, as the statute merely defines a process. Following discussion, there was consensus on Planning Commission to leave the finding in the motion.

The motion carried 9 - 0, with the Chair voting yes.

ACTIVITY: PL-19-100

PETITIONER: Routt County

PETITION: Work session/Adoption of 2019 Housekeeping Amendments

LOCATION: County-wide

Ms. Winser reviewed the discussion of the proposed housekeeping amendments that had taken place at the joint work session with the Board of County Commissioners on March 7, 2019, as summarized on page 1 of the memorandum dated April 4, 2019. She stated that at that meeting it was determined that additional consideration of the proposed changes to the sign code was needed.

Sign Code

Mr. Goldich reviewed the revised proposed changes to the sign code, noting that language formerly included in item 5.9.2.C had been moved from the applicability section (5.9.2) to the locational standards (5.9.4.B). He stated that the general standards apply to all signs, including those that are exempt from the permitting process. Mr. Goldich explained that the changes to the sign code were prompted by an inconsistency in the existing code. He stated that under the proposed regulations no sign will be allowed in the County right-of-way without express permission from the Road & Bridge Department. He stated that County Commissioner Corrigan made it clear that he wanted to retain the right-of-way as the measure of record, rather than using the traveled surface of the road. Mr. Goldich added that a provision would be added to the ranch signs section allowing ranch signs to be placed on the access easement for properties that are not fronted by County Roads.

In response to a comment from Commissioner Jaeger, Mr. Goldich stated that all attached signs would already meet the locational standards because buildings are not allowed in the right-of-way. Commissioner Petis noted that this would not be true of older buildings.

Commissioner Marshall asked if it would be appropriate to set a standard for LED lights. Mr. Goldich said that staff could research what the equivalent brightness to the incandescent standard would be, and add LED lights to the standards.

Commissioner Kelly noted that there are some very large properties in Routt County, and asked if they should be allowed to have more than two signs. Mr. Goldich explained that one purpose of the regulations is to limit the proliferation of signs in rural Routt County. There was general agreement that the limit on the number of signs was appropriate.

Commissioner Brookshire asked about “site signs” and “temporary signs.” Mr. Goldich explained that many of the modifications to the sign code arose from the Supreme Court decision that signs could not be regulated based on content. A “site sign” is essentially a real estate sign; a “temporary sign” is a political sign. In response to a question from Commissioner Kelly, Mr. Goldich said that only a handful of complaints are received regarding signs each year. Following a discussion of the maximum size for temporary signs, Planning Commission decided that the existing 32 sq. ft. was appropriate. There was consensus to

move forward with adoption of the sign code as presented, with the addition of a standard for LED lighting.

Value-added Agricultural Processing

Mr. Goldich reviewed the discussion regarding poultry processing and bringing the County's regulations into conformance with the state's regulations. Mr. Goldich said that he had spoken with staff at the Colorado Department of Public Health and the Environment (CDPHE), who clarified that the issue of where birds are raised is to ensure that the birds being processed belong to the processor. Because the ownership of the land is not the issue, little in the existing regulations needed to be changed. He noted that the ownership issue is addressed in Section 8.25.I. Mr. Goldich stated that the primary change was in setting the thresholds for the number of birds for each level of review, as presented in the chart, and incorporating this language into the regulations. He reviewed the ranges for each level of permitting, and amended the chart for clarity. Mr. Goldich added that because some producers process their poultry outside, the word "facility" in the regulations would be changed to "operation."

In response to a question from Commissioner Kelly regarding the significance of the size of the facility, Mr. Goldich noted that the facility size applies to various value-added agricultural operations, not only poultry processing. He added that the thresholds are not limits on what is allowed, but rather are used to determine how an application should be processed (i.e. what type of permit is required). Commissioner Flint asked how waste from the processing would be handled. Mr. Goldich said that waste disposal would be one of the considerations to be evaluated through the review process.

There was general consensus to proceed with adoption of the changes to this section, as presented.

Structure Definition

Ms. Winser reviewed the proposed addition of paver patios, on-grade patios and decking to the exemptions from the prohibition to building in the setbacks. Following discussion of what falls into this category, it was decided to include decking, as the definition includes the "on-grade" qualification.

Occupied Trailers on Construction Sites

Ms. Winser reviewed the proposal to add Occupied Trailers to the Use Chart in all districts, with approval of a Minor Use Permit. She noted that it has been Routt County's practice to allow this use when associated with an active Building Permit, even though it was not included in the regulations. Including it in the regulations allows for the addition of standards. Ms. Winser reviewed the proposed standards.

In response to a question from Commissioner Marshall, Ms. Winser stated that a tiny home on wheels is equivalent to an RV. Commissioner Jaeger asked about

the number of occupied trailers that would be allowed. Ms. Winser stated that the practice has been to allow one per construction site.

Commissioner Warnke asked if it would be appropriate to include a caveat stating that this use is only allowed if the covenants and restrictions of the subdivision do not prohibit it. Ms. Winser offered that this caveat applies to all County land use regulations. She said that a reminder regarding covenants and restrictions could be included on the handout to be developed regarding this use.

Commissioner Koehler asked about limitations regarding where an occupied trailer could be located. Planning Commission discussed requiring trailers to comply with the setbacks of the zone district. Mr. Goldich noted that in some zone districts, in Phippsburg for instance, the lots are too small to allow for a trailer to comply with the setbacks and not interfere with construction. Following further discussion, there was general consensus to require that occupied trailers must meet the setbacks of the zone district.

Commissioner Brookshire suggested that a maximum should be placed on the number of extensions that would be allowed to the Minor Use Permit for an occupied trailer. Ms. Winser noted that the use must be associated with an active Building Permit. There was a discussion of the difference between an active permit and construction activity. Many Planning Commissioners expressed concern with the possibility that people would abuse this distinction in order to live in their trailers without actively pursuing the construction of a permanent dwelling. Commissioner Benjamin expressed concern that allowing extensions at the discretion of the Planning Director and Building Official was too vague and arbitrary.

Public Comment

Mr. Paul Hoffmann stated that the proposed change to the regulations was prompted exclusively by his actions and the complaint registered by his neighbor regarding his camping on his property during a remodel. He provided the details of his remodel. Mr. Hoffmann stated that his contractor had stayed in a trailer on the property for a period and that he had then moved into a different trailer on his property (where he is still living), while the construction continues. He said that he had reviewed the regulations, and was certain that the use, which he described as camping, was allowed as an accessory use to his residence. Mr. Hoffmann said that his neighbor had complained about this activity, and that he had received a call about the complaint from Ms. Winser. He reiterated that camping is allowed as an accessory use to his residence. He added, however, that camping when there is no building on the property is not allowed under existing regulations. He said that he takes the actions by the Planning Department very personally. He said that he was told that what he was doing was not camping. He said that there are cases in which camping on a property can be done reasonably, responsibly and respectfully. Mr. Hoffman said that the proposed change to the regulations is the result of a dispute between neighbors and should be looked at very closely. Mr. Hoffmann noted that there is no definition of

“temporary living” in the County’s regulations and no provision or permit for camping on a vacant lot while a house is being built. He asked if the proposed change would mean that someone would need a Minor Use Permit to allow the kids to camp in the backyard. He asked Planning Commission to consider how someone with a Building Permit could allow his kids to camp in the backyard during construction. Regarding the time allowed, Mr. Hoffmann stated that one year would be insufficient in many cases. He said that the time period should run concurrently with the Building Permit, and any extensions should coincide with the extension of the Building Permit. He said that there should not be a fee for extensions because there is no fee for extending the Building Permit. Mr. Hoffmann added that there should be a provision for more than one trailer. He suggested that the proposed change is unnecessary.

There was a discussion of the pros and cons of the proposed one year term for the Minor Use Permit with the possibility of extensions. Mr. Hoffmann expressed concern with the provision that the one-year time period for the permit would start when the Building Permit was issued.

Ms. Winser stated that the proposed change has nothing to do with Mr. Hoffmann’s case. She said that the two cases that prompted staff to consider the proposed addition to the Use Chart were Commissioner Koehler’s neighbor and a case in Phippsburg. She said that while allowing a trailer for temporary living during construction has been the practice of the County for some time, it is not currently in the regulations. These two cases made it apparent that standards for this use were needed. Regarding Mr. Hoffmann’s situation, Ms. Winser said that a complaint had been received from a neighbor that Mr. Hoffmann was camping on his property. She said that following a simple review of the case, it was determined that Mr. Hoffmann had an active building permit and therefore was not camping; he was living temporarily in a trailer on the property. She stated that because there were no standards for occupied trailers the case was processed as it traditionally has been as part of an active Building Permit. Ms. Winser noted that the proposed change to the regulations would help someone in Mr. Hoffmann’s situation because there would be a process through which a permit for the trailer would have been issued. She said that there is a difference between camping and temporarily living in a trailer as part of an active Building Permit.

In response to a question from Commissioner Marshall, Mr. Goldich said that the proposed change would not preclude a friend or relative or contractor from camping on the lot, because camping would be considered an accessory use to the residence. If the contractor were to be on site for an extended period of time, then that would be two occupied trailers. Ms. Winser stated that the County’s practice has been to only allow one occupied trailer to be associated with a Building Permit. She noted, however, that currently there are no standards for this use.

Commissioner Petis offered that the regulation should: 1) clarify that only one occupied trailer is allowed unless approved by the Building and/or Planning Department; 2) establish that the term of the Minor Use Permit would begin with the issuance of the Building Permit; and 3) not require a fee for the extension of the Minor Use Permit, provided that there is active construction underway on the property.

Commissioner Flint stated that there was no reason that the permit for the occupied trailer would need to run concurrently with the Building Permit. Commissioner Benjamin offered that there should be a way to distinguish between an active Building Permit and ongoing construction activity. Commissioner Brookshire suggested that if the proposed regulation would help staff help the public by establishing standards for what has traditionally been the County's practice, the standards could be approved in their current form and modified later on if needed. Following further discussion, there was general consensus on Planning Commission to send the proposed regulatory change back to staff to address the following issues:

- Distinguish construction activity from an active Building Permit
- Waive fees for extensions provided that construction is ongoing
- Clarify the time frame and state at what point the term of the Minor Use Permit starts
- Add a requirement that the occupied trailer must comply with the setbacks of the zone district
- Add a limit on the number of occupied trailers allowed.

Attorney opinion

Ms. Winser noted the minor typo in this section.

MOTION

Commissioner Norris moved to recommend adoption of the proposed changes to the sign code, the definition of structure and value-added agricultural processing sections of the Zoning Regulations and the attorney opinion section of the Subdivision Regulations, as presented.

Commissioner Kelly seconded the motion.

The motion carried 9 - 0, with the Chair voting yes.

ADMINISTRATOR 'S REPORT

Ms. Winser reported that that Board of County Commissioners had upheld the recommendation of Planning Commission to approve the Sketch Plan for the tiny home project in Milner.

Ms. Winser reviewed the upcoming agendas.

The meeting was adjourned at 8:10 p.m.