

## ROUTT COUNTY PLANNING COMMISSION

### FINAL MINUTES

April 18, 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, John Merrill and Geoff Petis. Commissioner Peter Flint, Karl Koehler and Greg Jaeger were absent. Planning Director Chad Phillips, Assistant Planning Director Kristy Winser and staff planners Chris Brookshire, Alan Goldich and Tegan Anderson also attended. Sarah Katherman prepared the minutes from a recording.

#### **PUBLIC COMMENT**

There was no public comment.

#### **MINUTES - March 21, 2019**

Commissioner Petis moved to approve the minutes of the above cited Routt County Planning Commission meeting, as written. Commissioner Kelly seconded the motion. **The motion carried , 8 - 0.**

#### **ACTIVITY: PL-19-11 8**

**PETITIONER: Janet Keller, Powder River Development for T-Mobile**

**PETITION: Request for an Amendment to CUP Permit #PL-2012-027**

**LOCATION: 10185 State Highway 131, Toponas**

Ms. Keller, representing the petitioner, reviewed the petition. She said that T-Mobile is requesting a co-location onto the existing cell tower in Toponas and a 20-ft. height extension of the tower. She presented a map demonstrating the coverage area if this amendment is approved. She said that the extension and additional equipment are not intended to increase the coverage significantly, but rather enable communication with other towers in order to provide reliable service.

Ms. Winser stated that the current tower, which is 95 ft. tall and was approved in 2012, is not functional. There is no cell service in the Toponas area. She said that there are problems with line of sight to other towers, specifically the tower located in Yampa. She said that the current regulations limit the height of towers to 100 ft. The proposed extension would increase the height of the tower to 115 ft. Ms. Winser explained that the application was accepted as an Eligible Facilities Request under the Spectrum Act. She reviewed the Spectrum Act and stated that the application meets the criteria listed on page 3 of the staff report. She reviewed the additional equipment (panel antennae and microwave dish) that would be added to the tower and the modifications to the base area. The footprint of the equipment area will not be changed. The addition of the requested equipment and tower extension should enable the tower to become functional.

Ms. Winser stated that the proposal meets all the Conditions of Approval (COAs) for the existing permit with the exception of the COA that limits the height of the tower to 100 ft. She noted the suggested changes to the COAs, listed in bold in the staff report. She stated that the petitioner has indicated that more than three months (as stated in suggested COA #18) may be needed to get the tower operational.

Commissioner Brookshire asked if there are any anti-perching devices on the existing tower. Ms. Winser stated that she was unsure. Commissioner Benjamin asked about the tower approved in 2016 to be located on the nearby ridge that was intended to fix the problem by providing an intermediate site between the Toponas tower and the Yampa tower. Ms. Winser said that the tower approved on 2016 was never built, but that Fidelity, the permittee for that tower, remains interested and is in communication with T-Mobile. She said that if the tower on the ridge is constructed, it would increase the coverage area. If only the Fidelity tower is built, the issue with the Toponas tower will not be fully resolved unless the height of the Toponas tower is increased, as proposed. The permit for the Fidelity tower remains active, although they have not yet pulled their building permit.

In response to a question from Commissioner Kelly, Ms. Winser demonstrated on a site plan the location of the Toponas, Yampa and potential Fidelity towers. Commissioner Marshall asked how much time would be needed to construct the proposed additions to the tower and get it up and running. Ms. Keller stated that she does not have an exact schedule. She said that T-Mobile had simply instructed her to ask for as much time as Routt County would be willing to grant. She explained that bringing the tower on air within three months would be difficult because it is contingent upon construction also being completed on other towers in the system and upon the tower being integrated into the T-Mobile and e911 networks. Ms. Winser stated that the suggested COA should remain as is, but that administrative extensions could be considered. Mr. Phillips said that the failure of the Toponas tower to come on air is the reason that the three month requirement was put into place.

Commissioner Brookshire asked about the need for guy wires. Ms. Keller said that the tower, as a monopole, would be structurally sound without additional wires.

Commissioner Merrill asked about co-location on the extended tower. Ms. Keller said that she was unaware of any other carriers interested in co-locating.

In response to a question from Commissioner Norris regarding the prior tower design that was supposed to work at 95 ft., Ms. Keller explained that particular areas on the tower are dedicated to specific wavelengths controlled by specific carriers. She said that T-Mobile is limited to locating at either 86 ft. or 115 ft. At 86 ft. there would be no line of sight with the next tower. She confirmed that at 115 ft., with the addition of a microwave dish, T-Mobile service would work. Ms.

Winsler stated that AT&T never secured easements for the fiber optic cable to serve the tower. T-Mobile is proposing to install the microwave dish that will allow for service, but also intends to secure easements and install fiber optic cable.

Commissioner Benjamin asked if further height extensions by other carriers would be allowed. Ms. Keller said that the Spectrum Act only covers extensions of 20 ft. or 10% over the original height of the tower, whichever is greater.

### **Public Comment**

Mr. Ron Curtis, a resident of Toponas, stated that he had attended the 2012 hearing at which the existing tower was approved. He asked when, if the amendment is approved, service would come on line. Chairman Warnke said that nothing has been decided, but confirmed that anywhere between three months and twelve months had been discussed. Mr. Curtis asked how long the tower would be there. He said that travelers often stop asking for assistance because of the lack of cell service. He asked that everything possible be done to ensure that service will be provided. He also asked about the need to switch from one carrier to another.

Mr. Frank Hewes, a resident of Toponas, asked why it matters how tall the tower is. He said that the residents of the area just want cell service, and that it doesn't matter how tall the tower is. He said that this is the best opportunity to get service and urged Planning Commission to approve the petition.

Ms. Shirlene White, a resident of Oak Creek, asked if the tower must be taller because the original plan of fiber optic cable was never fulfilled. She asked about the fiber optic plan.

Seeing no further comment, Chairman Warnke closed public comment.

Ms. Keller said that the original lease for the tower site was for 20 years, but that it could be extended. She stated that AT&T and T-Mobile are not affiliated and that she could not comment on the actions of AT&T. She said that the tower is owned by American Tower, which is contacted by carriers who want permission to co-locate on the tower. Regarding the fiber optic cable, she said that it was part of the AT&T proposal and she did not know what happened. She added that if any cell service on any carrier is available in an area, 911 calls will go through. Ms. Winsler said that the County was not involved in the negotiations regarding the fiber optic cable. She said that it is her understanding that no agreement was ever reached between AT&T and CenturyLink regarding the cable. Chairman Warnke stated that the County operates on best faith promises by petitioners, and that sometimes proposals involve business arrangements over which the County has no control.

Regarding the height maximum, Mr. Phillips stated that it was put in place in the 1990s when the community was concerned about the proliferation of cell towers and their visual impacts.

Chairman Warnke asked about suggested COA #18. Commissioner Petis agreed with staff's recommendation to retain the three month requirement, but allow for administrative extensions provided that there is due diligence on the project, perhaps with a provision not to exceed one year. Commissioner Kelly suggested allowing an initial period of six months, followed by a provision for extensions. There was consensus on Planning Commission to begin with an initial allowance of six months. Ms. Keller said that construction would have to be begin by July 1<sup>st</sup> to comply with federal licensing regulations. Commissioner Brookshire requested that a deadline be added to COA #14.

### **MOTION**

Commissioner Kelly moved to approve the amendment to CUP #PL-2012-027 to allow for a 20 ft. extension and additional equipment for a cell tower, with the following findings of fact:

1. The proposal, with the following conditions, meets the applicable guidelines of the Routt County Master Plan and is in compliance with Sections 4, 5, 6 and 8.10 of the Routt County Zoning Regulations.
2. That the proposed modification does not substantially change the physical dimensions of the existing tower under the Spectrum Act.
3. That the proposed modification is substantially similar to the original approval.

This approval is subject to the following conditions:

1. The Conditional Use Permit is valid for the life of the use provided it is acted upon within one year.
2. The Conditional Use Permit is limited to uses and facilities presented in the approved project plan. The approved project plan includes installation of new antennas and microwave dish and 2 equipment cabinets and support cables. Any additional uses or facilities including the installation of guy wires must be applied for in a new or amended application. The tower shall not exceed 115 feet in height.
3. Any complaints or concerns which may arise from this operation may be cause for review of the Conditional Use Permit, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
4. In the event that Routt County commences an action to enforce or interpret this Conditional Use Permit, the substantially prevailing party shall be entitled to recover its costs is such action including, without limitation, attorney fees.
5. No junk, trash, or inoperative vehicles shall be stored on the property.
6. During the construction phase of this petition, the permittee shall provide evidence of liability insurance in the amount of no less than \$1,000,000 per occurrence with either unlimited aggregate or a policy endorsement

- requiring notice to Routt County of all claims made. Routt County shall be named as an additional insured on the policy.
7. All applicable standards set forth by the Routt County Building Department and the Routt County Department of Environmental Health shall be complied with. The operation shall comply with all Federal, State and local laws.
  8. Revegetation of disturbed areas with a seed mix that avoids the use of aggressive non-native grass seed mixes shall occur within one growing season.
  9. The construction and use of a telecommunication facility shall not cause interference to other adjacent telecommunication facilities. The County shall be held harmless if interference occurs.
  10. This approval is contingent upon any required federal, state and local permits being obtained and complied with; the operation shall comply with all federal, state and local laws.
  11. The operator shall agree to allow co-location of other users on the tower, providing their requested use is compatible to the existing use.
  12. Fuel, flammable materials, or hazardous materials shall be kept in a safe area and shall be stored in accordance with state and local environmental requirements.
  13. The telecommunication equipment shall be painted a color to be compatible with the existing character of the site and surrounding properties.
  14. Anti-perching devices shall be installed along antennae frames, horizontal cross arms, and any other vantage points used by raptors for predation. Such devices shall be installed prior to the tower coming into service (“on air”).
  15. Any maintenance or security lighting shall be downcast and opaquely shielded and shall not remain on.
  16. If tower lighting is required by the FAA, the operator shall use only white (preferably) or red strobe lights at the minimum intensity, minimum number of flashes per minute, and minimum number of lights allowable by the FAA.
  17. The permittee shall prevent the spread of weeds to surrounding lands, and comply with the Colorado Noxious Weed Act and Routt County Noxious Weed Management Plan.
  18. Permittee shall bring the facilities subject to this CUP into service (“on air”) within six (6) months of the application of the Building Permit issuance for the facility. One extension of three (3) months may be approved administratively. Telecommunication facilities that are abandoned by disconnection of powered service, equipment removal or loss of lease for greater than six (6) months shall be removed by the telecommunication

facility owner and the site reclaimed. The permittee shall post a bond with the County in the amount of 150% of the cost of restoration of the site. This bond will be used to guarantee the reclamation of the site in the event that a property reclamation and removal of equipment is not complete.

19. Transfer of this CUP may occur only after a statement has been filed with the Planning Director by the transferee guaranteeing that they will comply with the terms and conditions of the permit. If transferee is not the landowner of the permitted area, Transferee shall submit written consent to the transfer by the landowner. Failure to receive approval for the transfer shall constitute sufficient cause for revocation of the permit if the subject property is transferred. Bonds, insurance certificates or other security required in the permit shall also be filed with the Planning Director by the transferee to assure the work will be completed as specified. Any proposal to change the terms and conditions of a permit shall require a new permit.

Commissioner Marshall seconded.

**The motion carried 8 - 0, with the Chair voting yes.**

**ACTIVITY: PL-19-107**

**PETITIONER: Routt County**

**PETITION: Phase One Master Plan Update Discussion**

**LOCATION: County-wide**

Mr. Phillips stated that Phase One entails getting ready to take the update process to the community. He reviewed the Master Plan Update memorandum.

Mr. Goldich discussed the review of the action items, chapter by chapter, as presented in the memorandum. Regarding Chapter 4 (Rural Development) he noted that the non-contiguous remainder parcel provision in the LPS regulations acts somewhat like a TDR program. He also explained the reasons that some suggested actions, such as the creation of "recreation influence zones," were never pursued. Mr. Goldich said that after the staff report was sent out, one comment was received from the public asking why Routt County does not have defensible space regulations. He stated that this is because the County does not process many applications for subdivisions, and most of the development that occurs in the County comes through processes that do not involve the Planning Department (i.e. uses-by-right). He said that those applications that are processed by the Planning Department are referred to the State Forester for comment. The County typically encourages the creation of defensible space as recommended by the State Forester. Mr. Goldich added that enforcement of defensible space regulations would be a challenge. Regarding Chapter 12 (Housing), Mr. Goldich noted that short-term rentals are not allowed in the A/F zone district except through Bed & Breakfast CUPs.

Commissioner Petis asked about the Area Plan Coordinating Committee (APCC). Mr. Phillips explained that the APCC is a plan implementation committee, and has been in existence (albeit somewhat loosely) since 1995. He reviewed the make-up of the APCC. Commissioner Brookshire stated that the APCC was intended to ensure that the Comprehensive Plan was implemented, but because there has not been any development in the West of Steamboat area there was little to coordinate. Ms. Winser said that the APCC will be meeting next in early May.

Ms. Winser stated that the list of possible amendment items would be used as a starting point for the update discussions. Mr. Phillips stated that the two items identified by Planning Commission, wildlife and the linkage between communities, are included in the list. The other items were suggested by staff. Ms. Winser reviewed the list. Any discussion of specific items on the list is summarized below.

- Item 2. Chairman Warnke stated that the list of action items that remain relevant but still need to be addressed is short. Mr. Phillips said that additional action items may be developed in response to possible new goals or the updated vision of the community.
- Item 4. Ms. Winser noted the letter submitted by Bob Woodmansee. She noted that while the existing Routt County Master Plan does contain dispersed discussions that relate to the issues raised in the letter, many more modern plans contains policies that address climate change specifically. Chairman Warnke asked if the addition of too many policies might dilute the usefulness of the Master Plan as a guiding document in the planning process. Mr. Phillips emphasized that the Master Plan is a land use plan, and all items within it should focus on land use.
- Item 5. Mr. Phillips noted that there had been little concern with the visual impacts of recent cell phone tower proposals. He offered that this may be an area in which public opinion has shifted since the 1990s when there was a lot of concern regarding the proliferation of communications towers.
- Item 6. Mr. Phillips noted that although one of the criteria required for a variance is compliance with the Master Plan, there is nothing in the Plan that addresses variance requests. He suggested that staff could look into how plans in other communities deal with this. Chairman Warnke offered that any decision by the Board of Adjustment would still refer back to the Master Plan, even if not to a specific goal or policy.
- Item 7. Commissioner Kelly suggested the capacity of infrastructure should be included.
- Items 8 - 10. There was general agreement that intensity of use and cumulative impacts need to be better defined.

- Items 11. Commissioner Marshall suggested that there should be a discussion about the role of Planning Commission regarding the development of trails and other facilities on public lands.

Chairman Warnke asked if there has been consideration for how a landowner might shield his land from future development to protect mineral resources. Mr. Phillips noted that the severed estate requires that mineral owners are notified whenever a development application is submitted by a surface owner. Mr. Goldich added that there is a Master Plan policy that states that subdivisions and use permits located on commercially available resources shall not be approved without the extraction of those resources. Ms. Brookshire stated that there is a difference between how oil and gas and gravel resources are owned under the severed estate. She said that additional research might be needed. Commissioner Kelly suggested that a survey of gravel resources might be in order.

Commissioner Brookshire suggested that an intensity of use matrix might be destined to go the way of the gravel matrix because of the difficulty of keeping it current. Mr. Phillips offered that there may be ways around the pitfalls that doomed the gravel matrix. He said that he could provide Planning Commission with more information regarding the gravel matrix. Mr. Goldich noted that few applications for new gravel pits have been processed in recent years.

Ms. Anderson said that she and Ms. Brookshire had reviewed a wide variety of master plans from similar communities. She stated that most contain a lot more demographic data than Routt County's current plan contains. She said that links to several of these plans are available on the electronic agenda for this meeting. She noted that some of the examples demonstrate how policies are used to support specific goals and objectives. Ms. Anderson presented a plan from Kootenai County, ID to show some trends in formatting, different organizational principles and navigation aids to make the plan more user-friendly online. She also presented several other sample plans. Commissioner Marshall expressed concern with including a great deal of demographic data that is likely to become outdated quickly. Mr. Phillips said that some plans that include future land use maps have variations to match different levels of projected growth.

Mr. Phillips said that there is a lot that can be done this year to prepare for the engagement of a consultant next year. He suggested that the scope of services as well as an RFP could be developed by year end. He said that a series of public meetings around the County could be held to help flush out any other items that should be added to the list of possible areas of amendment. He noted the many opportunities for getting the word out about the Master Plan update. Mr. Phillips said that he had attended the recent meeting organized by the CSU Extension Office for land owners concerning the conservation district and had discussed why it was important for farmers and ranchers to be involved in the Master Plan update process. Mr. Phillips stated that a list of stakeholders would



be developed, along with a multi-faceted plan to promote the update process, educate the community about the Master Plan and why it is significant.

Mr. Phillips asked Planning Commissioners to review the sample plans and provide feedback to staff regarding what they like and don't like. He said that they should also talk to people in their communities about what is important to them in Routt County now and for the future. He stated that Planning Commission should really take ownership of the Plan.

### **Public Comment**

Mr. Bob Woodmansee stated that he had submitted a letter regarding the Master Plan update. He suggested that items 4, 8, 9, 10 & 11 from the list provided in the staff report of possible items for amendment should be considered in relation to his letter. Mr. Woodmansee emphasized the importance of considering the health of the Yampa River in all future planning efforts.

There was no further public comment.

Commissioner Brookshire suggested that it would be impossible to determine the scope of the update until the community had weighed in. Mr. Phillips stated that the first effort to identify the elements in the Master Plan in need of update had been outreach to Planning Commission, which resulted in three items. Staff then added its contributions to the list. The list provided in the staff report will be used as a starting point for the discussions with the community.

Deputy Dan Weinheimer stated that it would be a good idea going forward to have an idea of what topics Planning Commission would want to be taken out to the public. He offered that the issues of wildlife and transportation are a start, but that other topics for engagement should be defined.

Commissioner Brookshire suggested that each Planning Commissioner should have a list of items to be included in the scope. He offered that Planning Commission was not really prepared to assemble that list at this meeting. He added that he has no idea what the outlying communities are interested in for their future. Commissioner Brookshire stated that while the Master Plan continues to function well, the update is moving forward and should address issues beyond wildlife and transportation. Ms. Winser stated that the list was intended to be a springboard from which to begin the conversation with the public, and once the public had been engaged the scope could be further defined. She said that her impression from the previous hearing was that Planning Commission supported only a limited review of the Plan because it was working well. She said her intent for this evening's discussion was to present the initial list of items and solicit further input ahead of the public outreach. Chairman Warnke agreed that the Master Plan is working well, but stated that having a good list of items for consideration will help to avoid public meetings that are limited to narrow discussions (e.g. secondary dwelling units).

Commissioner Brookshire agreed that going out into the County and soliciting community input was very important, but offered that the ultimate scope of the project could be very limited, and might not warrant hiring a consultant. Chairman Warnke stated that a list of topics was needed to get the public to engage beyond a superficial level.

Commissioner Benjamin stated that while formatting changes and updates are needed, it speaks to the success of how well the Master Plan works in the background that few people have any complaints. He said that growth will end up being one of the biggest and most controversial topic. He added that affordable housing is closely related, and also a challenge.

Chairman Brookshire suggested that assembling a map of the existing conservation easements would help in thinking about future planning.

Commissioner Marshall stated that a comprehensive re-write of the Master Plan would be overwhelming. She stated her support for a targeted update and modernization of the graphics, maps, demographics, etc. She stated, however, that there was no need to open the entire document up to the community. She stated that few people really know what the Master Plan is, or how it functions. Commissioner Marshall stressed the importance of infrastructure and increasing density in designated growth centers. She also expressed concern with the overuse of recreational areas. She urged Planning Commission to review the plan carefully and provide feedback to staff.

Commissioner Norris agreed that there is no need to start from scratch with a new Master Plan. He cited the many successes of the existing Plan. In comparison to the sample plans, he offered that the Routt County Master Plan measures up well, including the sub-area plans. Mr. Phillips stated that the purpose of providing the sample plans was to look for formatting, organizational detail, navigational aids or other elements that could improve the plan we have, not to use them as a model for a new Routt County Master Plan.

Commissioner Merrill asked about the budget for the update process. Mr. Phillips stated that he would use the scope of the update to determine how to structure his budget request for next year. Ultimately, the budgeting is the purview of the Board of County Commissioners.

Commissioner Kelly said that he agrees that even if the Plan is still relevant, a review is in order. He offered that once the scope is determined, it might not require much of an update. He stated the primary issue to be considered is the infrastructure.

Commissioner Brookshire said that it would be useful to get information from the state demographer's office. He added that information regarding the availability of water and the over-appropriation of various drainages would be very valuable. Mr. Goldich said that staff has already conducted a great deal of research on the

water issue and the state regulations, and would provide a summary to Planning Commission.

Mr. Phillips offered that the next meeting on this issue would be an extension of this discussion, prior to the public outreach process. Chairman Warnke stated that getting a good response and meaningful involvement from the community would be crucial to the success of this project. There was a discussion of how best to achieve this. Mr. Phillips said that at the next meeting on the topic staff would present some target dates for the next steps in the process.

#### **ADMINISTRATOR 'S REPORT**

Mr. Phillips reported that no Planning Commission recommendations had been reviewed by the Board of County Commissioners since the last meeting.

Mr. Phillips reviewed the upcoming agendas. He said that he would work on scheduling a training with the County Attorney in the near future.

**The meeting was adjourned at 8:50 p.m.**