

ROUTT COUNTY PLANNING COMMISSION

MINUTES

MARCH 7, 2019

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

PUBLIC COMMENT

There was no public comment.

SUMMARY OF 2018 AMENDMENTS TO THE REGULATIONS

Ms. Winser reviewed the amendments that had been made to Routt County's regulations in 2018, as outlined in the meeting materials.

SHORT-TERM (NIGHTLY) RENTALS DISCUSSION

Ms. Winser said that staff is seeking direction on how to proceed regarding short-term rentals, which are basically not allowed anywhere in unincorporated Routt County. She stated that this topic has been on the Planning Department project list since 2015. Chairman Warnke stated that Planning Commission had determined that the Master Plan only supports short-term rentals in the Commercial (C) zone district and within designated growth centers (municipalities). Ms. Winser agreed, but said that no formal finding had been made of that determination. Mr. Phillips said that the question is whether the Master Plan should be amended to allow short-term rentals or whether no further action was needed. County Commissioner Monger stated that either a process to allow short-term rentals in other areas should be developed, or the current regulations should be strictly enforced.

Mr. Phillips said that the possible outcomes of the discussion could be one of the following:

- 1) Direct staff to conduct research and schedule public hearings on the topic.
- 2) State that short-term rentals are not supported by the Master Plan and take no further action.
- 3) Table the topic for additional information.

County Commissioner Melton noted that some of the language in the minutes from the Planning Commission conversation in 2017 is ambiguous, in that it refers to the "vicinity of growth centers." She stated that this is unclear. Mr.

Phillips said that the vicinity language refers back to the sub-area plans. Ms. Winsler said that while the determination by Planning Commission is that short-term rentals are not supported by the Master Plan was very clear at the 2015 work session, staff was directed to pursue the issue again in 2017 when there was not consensus regarding the issue by the Board of County Commissioners.

In response to a question from Commissioner Kelly, Mr. Phillips stated that 13 complaints regarding short-term rental had been received at once this year (Tree Haus), but that the Planning Department generally receives around six complaints regarding short-term rental per year. He said that staff research had shown that there are approximately 50 nightly rentals advertised in the County.

In response to an inquiry from County Commissioner Corrigan regarding allowing nightly rentals in Stagecoach, Mr. Phillips suggested that creating a new zone district, or overlay for a specific area might be a means of allowing them in specified areas. Commissioner Brookshire stressed that this use is not supported by the Master Plan.

County Commissioner Monger stated that he would support strict, proactive enforcement of short-term rentals rather than complaint driven enforcement. Regarding the Master Plan, he said that it is still performing and that it would be inappropriate to amend the Plan just to allow for short-term rentals. He said that the scope of any Master Plan revision needs to be defined, and acknowledged that some issues could be better addressed in the Plan, such as transportation. There was consensus that a Master Plan update specifically to address short-term rentals was inappropriate. County Commissioner Monger and Commissioner Brookshire confirmed that although no formal action had been taken, there was consensus that the Master Plan does not support short-term rentals, except in the C zone district (which is very limited) and in designated growth centers (municipalities). County Commissioner Corrigan noted that if the County engages in a full Master Plan update, there is a risk that the community will choose to allow short-term rentals. He stated that this risk should not stand in the way of an update.

County Commissioner Monger reiterated his interest in pursuing more pro-active enforcement of short-term rentals. Commissioner Warnke stated that he would also support this. He added that pro-active enforcement of the County's regulations might also strengthen the resolve of HOAs that are not currently enforcing covenants that prohibit short-term rentals. Commissioner Brookshire also expressed his support for pro-active enforcement. He noted that the premise that introduces the Master Plan is the preservation of the rural character of Routt County. He said that he had counted approximately 20 items in the Master Plan that are counter to short-term rentals. He offered that there may be developed areas such as Stagecoach or specific areas West of Steamboat that might be appropriate for short-term rentals, but as a commercial use they should not be allowed in rural Routt County. He stated his strong support for the Master Plan's commitment to preserving the rural character of Routt County. Chairman Warnke

agreed and stated that any update of the Master Plan should focus on defined areas, such as transportation and wildlife, and not be centered on the issue of short-term rentals.

County Commissioner Corrigan asked how other members of Planning Commission felt about pro-active enforcement of short-term rentals. Commissioner Jaeger stated his support. Chairman Warnke offered that enforcement policy was really up to the Board of County Commissioners. Regarding the Master Plan update, Commissioner Jaeger said that the outreach done in 2017 was sufficient to demonstrate community support for the Master Plan.

Commissioner Petis offered that it was good policy to revisit plans from time to time to ensure that policies still reflect the values of the community. He suggested that if an update is undertaken, it would not need to be repeated again in another two years.

Commissioner Norris stated his agreement with Commissioner Brookshire regarding the Master Plan and its role in protecting the rural character of Routt County. He said that he agrees with County Commissioner Monger regarding enforcement in rural Routt County, but that it would be important to look at all the sub-area plans to evaluate potential growth centers and areas in the near vicinity of growth centers.

Chairman Warnke said that he wanted to know if Commissioners had opinions regarding areas of the Master Plan that might need to be addressed, other than nightly rentals.

Commissioner Kelly said that any update of the Master Plan should be expeditious and not be allowed to drag on and on. He suggested that in addition to the 14 items identified in the Master Plan Update Report, a 15th item should be added: affordable housing. Commissioner Koehler agreed that the Master Plan is still valid and still serves the County well, but acknowledged that the identified areas of transportation, the interaction between municipalities and wildlife are areas that need to be addressed in an update. Commissioner Benjamin stated that the Master Plan itself calls for periodic updates. He said that an update should be undertaken, but that because the document is still functioning well, it would not need to be overhauled. Commissioner Marshall stated her support for a limited review of the Master Plan that would focus only of specific areas. She said that the Plan has been very effective and that it is not necessary to open up the entire document to revision.

Commissioner Brookshire stated that professional property management companies in Colorado must have real estate licenses. He said that if there is a violation or a complaint registered with the Colorado Real Estate Commission about a breach of the rules or Colorado law by a real estate broker, the Colorado Division of Real Estate moves forward with an investigation. He said that

although more research is needed, taking this approach might simplify enforcement of short-term rentals.

Public Comment - short term rentals

Mr. Ben Beall stated that he agrees with the general consensus that prohibiting short-term rentals will help to minimize commercialization and keep the County rural.

Mr. Charles Mobley, a second home owner, stated that he rents out his house near Lynx Pass when they are not here. He said that they were just recently informed that this is not allowed. He said that they had started renting the house in about 2000. He said that renting is a necessity because they do not have any other way to take care of the house. He said that it was not about the income. He said that there is a demand for rentals in rural areas. Mr. Mobley added that a real estate broker had told him that short-term rentals were allowed when he purchased his property.

Mr. Dave Moloney, a real estate broker, said that he has clients on both sides of the issue, but that he currently has a client that wants to purchase a place that could be rented out. He said that he had a very difficult time identifying where short-term rentals are allowed and where they are not. He said that the regulations are unclear and that a map would be useful. Regarding the Master Plan update, he said that it was time for a review.

Mr. Phillips urged Mr. Moloney to check in with the Planning Department when he encounters questions regarding land use, as it offers a free service to educate the community. He said that nightly rentals are listed on the Land Use Chart, and are only allowed in the C zone district in unincorporated Routt County.

Ms. Elizabeth Mobley asked if the rental of her property would be grandfathered in. She said that the property was purchased around 1998.

Mr. Phillips stated that the current Master Plan was adopted in 2003. He said that the Zoning and Subdivision Regulations were adopted in 1972, and although they have evolved over the years, it is the regulations that prohibit short-term rentals, not the Master Plan.

Ms. Mobley stated that they had been misguided by their realtor regarding short-term rentals. Commissioner Brookshire stated that a purchaser has a lot of recourse against a broker when they misrepresent what is allowed on a particular property.

Seeing no further comment, Chairman Warnke closed public comment.

MASTER PLAN UPDATE DISCUSSION

Ms. Winser reviewed the handout regarding the Master Plan Update. She discussed the Master Plan policies that staff has identified for possible review

and the list of 14 items that are either not currently addressed in the Master Plan or that may need to be revisited to ensure that the Plan accurately reflects the community's values. She noted that enhancing the wildlife chapter and addressing transportation issues had been identified by Planning Commission as topics that needed to be updated in the Plan.

Ms. Winser stated that the next step would be to schedule some public meetings to gather additional information from the community. The kick-off for the update process would be this summer, with a schedule for the review and planned completion date to be determined after the scope of the update is defined through the community outreach discussions. Mr. Phillips stated that the final scope of the work is contingent on the outcome of the work sessions with the public. He noted that after the outreach in 2017 Planning Commission determined that no update was needed, even if there were areas of the Plan that could be improved. Mr. Phillips noted that although the existing Plan is old, it is an active document that is used and referred to on a daily basis. He added that the public often provides feedback on the document as it is used in the planning process. Mr. Phillips said that if there were to be any major disagreements about the vision of Plan, they would most likely concern the philosophies section. He said that in order to ensure that Planning Commission remains in support of the Plan he has, over the years, periodically added a discussion of the Master Plan philosophies to Planning Commission meeting agendas.

County Commissioner Melton stated that she would support reviewing the Master Plan every five years, as stated in the document. She said that a more robust public outreach and engagement process is needed. She said that she would not assume that a consultant would not be hired to do some of the work of the update, including the community outreach. County Commissioner Melton said that a review and update of the Master Plan does not mean that the document is broken or is not functioning as it should; it is simply a best practice to update it.

Commissioner Marshall asked if staff believes that the topics for review can be limited, or whether when the Plan is opened up for review the entire Plan would be subject to revision. Mr. Phillips discussed how the updates to the West of Steamboat Springs Area Plan and the Steamboat Springs Area Community Plan had gone, but said that ultimately the decision about what to review is up to Planning Commission. County Commissioner Monger confirmed that the Master Plan "belongs" to Planning Commission, and the scope and process of the update will be driven by Planning Commission rather than by staff. He said that if a consultant is engaged, he would like to limit the cost. He agreed that a reaffirmation of the Plan is needed. He said that following the process, even if it results in little or no change, the Master Plan should be readopted.

Commissioner Petis asked about the budget for the update, adding that if the update is to be done properly, staff should be given the resources it needs. County Commissioner Corrigan offered that staff can research the cost range as the scope of work is decided, and then the budget can be discussed.

Public Comment - Master Plan Update

Mr. Ben Beall stated his support for some level of update and reaffirmation by the community, followed by a re-adoption by the County. Regarding the process, he asked whether the whole document should be opened up to the public, or whether Planning Commission should review, revise and present the draft revision to the public. He suggested that the latter process, in which Planning Commission sets the parameters of the revision, was a better process. Mr. Beall said that this would be much more effective and efficient.

Seeing no further comment, Chairman Warnke closed public comment.

County Commissioner Monger noted that nothing had been budgeted for this project for 2019. County Commissioner Corrigan offered that after Planning Commission had discussed the scope of the project, staff could present the project proposal to the County Manager. Deputy County Manager Dan Weinheimer said that the update could be included in the 2020 budget, or a supplemental budget could be approved for 2019. In response to a question from Mr. Phillips, County Commissioners Melton and Corrigan stated that they would be willing to discuss the role of staff in the update.

PLANNING COMMISSION REAPPOINTMENTS

County Commissioner Corrigan discussed the importance of new voices and perspectives on Planning Commission. He said that Planning Commissioners should not take it personally if they are not reappointed at the end of their terms. Commissioner Petis attested to the value of having experience and institutional knowledge on Planning Commission. He urged the Board not to clear out all of the members with experience. Commissioner Benjamin noted that there are many relatively new members on Planning Commission at this time.

ZONING AND SUBDIVISION REGULATION AMENDMENTS**• Value-Added Agriculture Processing**

Mr. Goldich reviewed the changes in the state regulations regarding the processing of poultry. He said that in response to discussion with the CSU Extension Office and the Agricultural Alliance, staff is proposing amendments to the County regulations such that small scale poultry processing could be allowed through the Value-Added Agriculture regulations. All meat processing is currently excluded from the County's definition of Value-Added Agriculture. Mr. Goldich reviewed the proposed standards, which would vary with the number of birds processed per year. He noted that all sales of poultry through this process would be private sales. He stated that farm stands are considered accessory to the Value-Added Agriculture use.

In response to a comment from Commissioner Petis, Mr. Goldich agreed that the table included in the meeting materials was incorrect, in that 100% of the poultry produced and sold through this process would be grown/raised on site. All agreed

that the purpose of the proposed amendment is to bring the County's regulations into alignment with the State of Colorado's regulations.

Commissioner Kelly asked about the acreage needed to raise poultry, noting that there are some very small lots in the County. Mr. Goldich offered that the acreage would be taken into account in the review process. He stated that currently an agricultural operation is allowed as a use by right on any parcel in the County that is more than one acre. If the parcel is less than one acre, a minor use permit is required. The only time the County would get involved in an agricultural operation on a parcel of more than one acre is if there were a health or safety concern. County Commissioner Monger noted that any facilities (structures) used for poultry processing would be permitted through the Building Department.

There was a discussion of the thresholds on the number of birds allowed. Mr. Goldich said that these remain open for discussion. Regarding the prohibition on sales to restaurants, stores, etc., Mr. Goldich said that this is state law, and that the restriction is based on public health and safety concerns, particularly with regard to the quality of the water and the methods used in processing. Operators that sell to retail establishments are subject to a higher level of review, which includes facility inspections to ensure that proper standards, practices and procedures are being followed.

Regarding the number of birds suitable for a particular site, County Commissioner Corrigan said that more information is needed from the CSU Extension Office. Mr. Goldich noted that the threshold of 1000 birds would be processed over the course of a full year. He noted that under current regulations an operator could have 2000 chickens on a 2-acre parcel without any County permit, provided there were no off-site impacts.

There was general consensus that the proposed amendment should move forward with modifications to accurately reflect state statute.

- **Small Structures**

Ms. Winser said that the regulations contain a list of elements (pipelines, telephone lines, raised garden beds, walks and driveways, etc.) that can be built in the setbacks. Currently, there are elements such as paver patios, concrete patios and on-grade decking that are not included on the list. Mr. Phillips said that at grade paver patios used to be excluded, but were left off the list when the definition of small structures was written. He said that the question is whether paver patios (or other on-grade elements of a similar type) of more than 120 sq. ft. should be allowed in the setback. He offered that the issue concerns the purpose of the setback as a buffer. Commissioner Brookshire suggested adding, "patios, decks or parking areas of less than 120 sq. ft." There was a discussion of the impacts of patios (and how they are used) on adjacent property owners. Ms. Winser suggested adding the following to the exclusions: "at-grade paver patios." There was general agreement that this was an appropriate change.

- **Sign Code**

Mr. Goldich reviewed the conflict in the existing sign code regarding signage in County rights of way. He said that the Road & Bridge Department has suggested that a permit should be required for any sign in the right of way. He stated that some signs are exempt from the permitting process, but the location standards still apply. Mr. Goldich stated that staff is also recommending that an amendment to the regulations regarding ranch signs such that they must be located on the same property that is identified on the sign. Ms. Katherman asked where a sign could be located for a property that is not adjacent to a County Road and is accessed via an easement. County Commissioner Monger offered that the intent of the regulation is to prohibit off-site signs that effectively advertise commercial operations. Commissioner Brookshire asked about private roads. Mr. Goldich offered that the concern is to ensure that signs do not interfere with Road & Bridge operations. Commissioner Kelly suggested that since most people are unaware of the location of the right of way, the regulations should be based on the edge of the travelled road. Following further discussion, it was decided that this item should be referred back to staff for clarification and practical concerns.

- **Attorney opinion**

Ms. Winser noted the typo in Section B.2.4. There were no objections to correcting the typo.

- **Occupied trailers on construction sites**

Ms. Winser stated that there are currently no standards or permits required for someone to live in a trailer for up to a year on the site where a building permit is active. Ms. Winser stated that staff is suggesting that a Minor Use Permit be required for this use to ensure that proper sanitary and electrical hook-ups are in place. There was a discussion of whether this use could be processed under the regulations that apply to extended camping. Chairman Warnke suggested that language should be added stating that this regulation does not supersede local covenants and regulations. Commissioner Koehler asked whether this use would also apply to foundation permits. Mr. Phillips said that the time allowed under the permit would begin with the issuance of either type of construction permit. Commissioner Koehler said that the location of the trailer should have to comply with setbacks. Commissioner Kelly noted that often more than a year is needed to build. There was general consensus that extensions could be allowed with administrative approval, but if abuse of the system was suspected, the Planning Director could refer the request to Planning Commission.

- **Open spaces and public sites**

Mr. Goldich reviewed the memorandum dated March 7, 2019 regarding possible amendments to Section 3.5 of the Subdivision Regulations: Open Space and Public Sites. He said that the existing County regulations may not be consistent with State statute.

County Commissioner Monger stated that this discussion was pre-mature, as the Board of County Commissioners have not yet had a conference regarding this

issue with the County Attorney. He said that there is no agreement at this point regarding whether the fee-in-lieu of public sites applies only to parks and schools, much less regarding the calculation. County Commissioner Monger cited an opinion provided to the Board several years ago by former County Attorney Merrill stating that the fee could be used for other public facilities such as fire stations. He suggested that it would be appropriate to table this item pending the upcoming conversation with the County Attorney.

County Commissioner Monger asked about what had happened to some lots that had been designated for schools and parks at Steamboat Lake. Mr. Goldich stated that there had never been a formal dedication or acceptance of these lots. Commissioner Kelly described the lots and stated that they had been sold to the homeowners' association for open space and \$100,000 from the sale was granted to the North Routt Community Charter School.

County Commissioner Melton stated that the fee-in-lieu discussion has two distinct parts: the calculation of the fee and the issue of how these fees are spent. Mr. Phillips said that the discussion with the County Attorney scheduled for Monday is to discuss how the fees are spent. The issue of the inconsistencies between the statute and the regulations regarding the calculation of the fee came to light through the Frisell subdivision application. Mr. Phillips reviewed the basis of the nexus studies. County Commissioner Monger offered that the amount of the fee should be based on a formula, not a negotiation. County Commissioner Melton said that it was inappropriate to have the discussion without consultation with the County Attorney. County Commissioner Corrigan agreed, particularly if the funds are to be used for facilities beyond parks and schools. Commissioner Brookshire stated that how these funds can be used has always been a question for Planning Commission.

The meeting was adjourned at 8:45 p.m.