

ROUTT COUNTY PLANNING COMMISSION

MINUTES

March 21 , 2019

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

PUBLIC COMMENT

There was no public comment.

MINUTES - February 21 , 2019

Commissioner Norris moved to approve the minutes of the February 21, 2019 Routt County Planning Commission meeting, as written. Commissioner Jaeger seconded the motion. **The motion carried 8 - 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-19-108

PETITIONER: Terrell A. Cobb

PETITION: Allowance for non-incident outdoor storage including equipment for Steamboat Snowmobile Tours per Routt County Zoning Regulation Section 5.1.5

LOCATION: Approximately 4.5 miles south of Steamboat Springs on the west side of US Highway 40 - Tract in N2NE4 & SE4NE4 Section 21-5-84 containing 71.18 acres

Mr. Jason Cobb, representing the petitioner, stated that the petition is to allow him to continue to store his equipment where it has been stored for the past 20 years. He indicated on an aerial view of the site the location of the equipment, which he said had been there when Ms. Brookshire visited the site for the zipline application. He said that the vans are used for both the zipline tours and the Steamboat Snowmobile Tours (SST) operations and move regularly. He noted that the old and inoperable snowmobiles had been removed and that the few remaining trucks and vehicles would be gone soon. Mr. Cobb said that there have been no complaints from the neighbors about this use of his property.

Commissioner Flint noted the building on the property and asked if the snowmobiles were stored inside. Mr. Cobb said that the machines had usually been stored there, and that he would like to continue to store them inside, but that the County regulations only have a provision for outdoor storage.

Commissioner Merrill asked about fueling and maintenance of the vehicles. Mr. Cobb stated that there is a 500-gallon fuel tank on site for the side-by-sides used to transport guests of the zipline operation. The vans are fueled in town at gas stations and the snowmobiles and snowcats are fueled at the tour site on Rabbit Ears Pass. All machines and vehicles are maintained by commercial operations in town. No maintenance occurs on site.

Commissioner Jaeger asked if the fleet of snowmobiles would increase. Mr. Cobb said that additional machines would be purchased this year to hold in reserve for a few years because of a model change. He said that the machines would fill the building if he is allowed to keep them there. He said that the building is approximately 60' X 40', and that he stacks the machines to maximize the number he can store inside.

Commissioner Koehler asked about the overlap of the equipment used for the zipline operation and for SST. Mr. Cobb stated that the vans are used for both operations, and that during the summer the snowcats are used to maintain the old US 40 roadway that services the zipline. The side-by-sides are used only for the zipline and the trailers are used for both operations. Mr. Cobb also noted that the same staff works year-round for both businesses. He clarified that the only County permit active on the property is for the zipline. SST is permitted by the US Forest Service.

In response to a question from Commissioner Norris, Mr. Cobb stated that SST generally runs about 65 snowmobiles. They are transported on a 7-place trailer to and from the summer storage site.

Ms. Brookshire stated that the Board of County Commissioners had approved the CUP for the zipline in 2014, not 2017 as stated in the staff report. She noted that this petition is unusual because snowmobile operations and storage are generally permitted for the property on which the tours occur, and that storage of the machines is included in the permit. She said that because SST is permitted only by the Forest Service, where the tours occur, SST does not have a permit from Routt County. She added that now the Planning Department would work with the Forest Service to coordinate the permitting of such an operation, but that did not happen when SST was originally issued its permit.

Ms. Brookshire stated that the current petition is not for a permit, but rather for a "specific approval" for storage by Planning Commission as allowed under Section 5.1.5. of the Zoning Regulations. She reviewed the site plan of the storage area and indicated the equipment stored there. She also reviewed an aerial photograph of the entire property and indicated the locations of the zipline,

access points and buildings. Ms. Brookshire noted that since the staff report was written, answers to many of the five questions listed on page 4 of the staff report have been received. She said that there are 8 - 10 vans stored on site, that the snowmobiles and snowcats are stored at the tour site on the pass during the winter and that no equipment is serviced on site. Mr. Cobb added that the additional miscellaneous equipment includes an extra tiller bar and snow plow. He also reviewed the process through which employees drop off their vehicles and pick up a side-by-side during zipline tour season.

In response to a question from Chairman Brookshire, Mr. Phillips confirmed that the entire 71-acre property is included within the permit boundary for the zipline.

Commissioner Flint asked why the County is asking Mr. Cobb to store the equipment outside. Mr. Phillips explained that he did not think storage of this sort was allowed at all in the County under the Uses by Zone District chart, but that Mr. Terrell Cobb had pointed out that outdoor storage is allowed if granted express permission under Section 5.1.5. Mr. Phillips said that it is staff's opinion that this provision applies only to outdoor storage. He said that if Mr. Cobb wants indoor storage, there is no permit or process that allows this in Routt County in the A/F zone district. He emphasized that staff must look at the situation and how it conforms to the existing land use regulations. He stated that indoor storage of equipment that is not accessory to a permitted use or use-by-right on the property is not allowed in the A/F zone district.

Commissioner Norris asked if the use could be allowed if it were permitted for a different business on the site (SST). Ms. Brookshire stated that SST does not operate on the site. The requested storage is not accessory to any use on the property, and mini-warehouse businesses are not allowed in the A/F zone district.

Commissioner Merrill asked how the 500-gallon fuel tank fit into the request. Mr. Phillips stated that it is included in the permit for the zipline operation, as are the vans, which are stored in a separate location during the summer. Mr. Phillips reviewed the history of the zipline permit and noted that the non-conforming uses on the property were discussed in the review of the permit following its revocation. Those non-conforming uses included the secondary dwelling unit, the inoperative vehicles and junk, and the storage of equipment related to SST. He reviewed the efforts that have been made to bring the uses into conformance. He also stated that the use cannot be considered as a Home Industry because the use is not industrial. Mr. Phillips stated that the requested use (storage) would not require an amendment to the zipline permit, but does directly impact the zipline permit, as the conditions of approval on the zipline permit require that the non-conforming uses on the property be brought into conformance (or that progress is being made toward conformance) by December 31, 2018.

In response to a comment from Commissioner Petis regarding the lack of a process that would allow the two uses (the zipline and SST) to be permitted as one, Mr. Phillips reviewed the implications of allowing non-accessory indoor

storage in the A/F zone district. Commissioner Petis stated that he did not think the County would be flooded with applications for storage units. Mr. Phillips said that if he thought that there were a clear process through which they could apply for this use, he would have recommended it to the Cobbs. He added that under Section 5.1.5 there are no standards, because no permit is issued. He stated that this is a unique situation. Chairman Brookshire offered that in that case, Planning Commission should look to the Master Plan or other regulations as a guideline. Commissioner Petis cited intensity of use, and suggested that the proposed use does not increase the intensity of use on the property, that there have been no complaints and that the use has been ongoing for many years.

Public Comment

Mr. Paul Hoffmann cited other permit approvals where a proposed use was not listed in the Use Chart, so the use was permitted as something similar. He cited a rehab facility permitted as a B & B or a guest house as an example of past flexibility. He suggested that there are many associations between the zipline and SST operations. Mr. Hoffmann also noted that it would be better if the snowmobiles were stored inside and out of sight. He said that the use has very little impact and is associated with a longstanding permit on Forest Service land. He suggested that the issue had become a power struggle and that it would make sense to resolve it through an interpretation of the regulations that would allow the use to continue.

Seeing no further comment, Chairman Brookshire closed public comment.

Commissioner Petis noted that snowmobile tours are allowed in the A/F zone district with a Special Use Permit (SUP). He suggested that it would best to keep both operations under a single umbrella. Commissioner Benjamin pointed out that SST does not operate tours on the property. Mr. Phillips said that the use would not fit into the Use Chart because there are no tours on site. Mr. Cobb offered that he could conduct a transaction on the site for a rental snowmobile if that would smooth out the process.

Roundtable Discussion

Chairman Brookshire asked Planning Commission to comment on the five questions at the top of page 4 for the staff report, as well as on the intensity of use on the parcel, on conformance with the Master Plan, on cumulative impacts and compliance with Section 6.3.A.

Commissioner Merrill offered that the use does not seem to have any impacts on public health, safety and welfare. He said that if the use does not have a place in the Use Chart he would not support creating one, but added that he does not really understand why there is no process for it.

Commissioner Koehler said that the five questions have been answered, that the intensity of use was okay, particularly considering that it has been going on for a long time and there is little activity associated with the use. He said that the same

implies to cumulative impacts. Commissioner Koehler said that although there is a path to allow for outdoor storage, it defies common sense to prohibit indoor storage. He suggested that there may not be a need to be so specific in the interpretation and added that it would be inappropriate to enforce how people are using their barns and sheds. Commissioner Koehler agreed that it would make sense to amend the existing SUP to include the overlapping use on this site, or issue a separate SUP. He said that he would be inclined to find a way to approve the use.

Commissioner Norris stated that while there are many non-conforming uses in the County that go unaddressed, when they do come to light it is the responsibility of Planning Commission to enforce the regulations. He noted the ongoing issues with the zipline operation. He suggested that the snowmobiles should be stored on the Forest Service property, as they are in the winter. Regarding the intensity of use, Commissioner Norris offered that the proposed use is effectively the same as a storage unit business. It is not related to agriculture or to the zipline and should be considered a separate business.

Commissioner Jaeger agreed that although the use does support tourism and is supported by the Master Plan in that sense, it would be a bad idea to open up the possibility of storage businesses in rural Routt County, and cited junkyards as a possible outcome. He said that the use is not related to the zipline, but doesn't cause a safety hazard and does not have a negative visual impact. He said it would be difficult for him to support the petition because it is a use related to a separate business.

Commissioner Benjamin stated that there was no increase in intensity of use, and the five questions have been answered. He said that the use is directly related to tourism, which is supported to the Master Plan. He said that he would support the petition and agreed with Commissioner Koehler that there should be a way to figure out a solution. Commissioner Benjamin said that he recalled some discussion of the storage during the review of the zipline application. He proposed tabling the petition to find a better solution.

Commissioner Flint said that he does not believe that approving the use would mean the County would be setting a precedent that would allow for junkyards. He agreed that there should be a solution, and that the intensity of use was unchanged. He said that the only issue seems to be bringing the existing use into conformance. He noted that SST is a well-run business and that in combination with the zipline, provides year-round employment. He stated his support for allowing the use and for keeping it separate from the zipline so that any complaints about one or the other could be addressed separately.

Commissioner Petis stated his agreement with Commissioners Flint, Benjamin and Koehler. He said that there must be a better solution to bring the overall business into compliance with the rules and regulations. He offered that the

storage could be allowed or permitted through the rental or tour operation. He agreed that tabling the petition pending a better solution was appropriate.

Chairman Brookshire offered that the proprietor was fortunate that there are no close neighbors and that the storage site is screened from the public by topography. He said that he would feel differently about the use if it were totally visible.

Commissioner Benjamin offered that an unintended consequences of allowing this type of business-related storage could be a proliferation of outdoor RV storage sites or ranchers renting out space in outbuildings for storage around the County.

Commissioner Koehler noted that the County generally enforces its regulations through a complaint-based process, yet there have been no complaints and the site is not visible to the public.

Mr. Phillips reviewed that the main concerns are the intensity of use and cumulative impacts. He stated that the application is for approval of outdoor storage. He confirmed that the County enforces violations on a complaint-driven basis (unless there is health and safety issue) and does not have enforcement officers. He stated that the Planning Department had received one complaint about the storage site and a few other issues on the property. He added that there are conflicting comments regarding the initial site visit. Mr. Phillips reviewed that the uses on the property include the zipline tour operation, a residence, the storage associated with the zipline and a secondary dwelling unit. Commissioner Flint offered that the intensity of use is significantly less than that of an agricultural operation.

MOTION

Commissioner Benjamin moved to approve activity PL-19-108, allowance for non-incident outdoor storage including equipment for SST under Routt County Zoning Regulations Section 5.1.5 with the findings of fact that the proposal, with the following conditions, meets the applicable guidelines of the Routt County Master Plan and is in compliance with Sections 5 and 6 of the Routt County Zoning Regulations and sections of the Steamboat Area Community Plan. This approval is subject to the following conditions:

1. The approval is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, 6, and the Routt County Master Plan and Steamboat Springs Community Plan.
2. The approval is limited to uses presented in the approved project plan. Any additional uses or intensity must be applied for in a new or amended application.

3. Any complaints or concerns that may arise from this operation may be cause for review of the approval, at any time, and amendment or addition of conditions, or revocation of the approval if necessary.
4. In the event that Routt County commences an action to enforce or interpret this approval, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
5. No junk, trash, or inoperative vehicles shall be stored on the property unless it meets 42-12-101, et seq., Colorado Revised Statutes, as amended.
6. 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.
7. Fuel, flammable materials, or hazardous materials storage is not permitted.
8. The approval shall not be finalized until all fees have been paid in full. Failure to pay fees may result in revocation of this approval.
9. The Permittee 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.
10. The approval is valid for the life of the use. The approval shall be deemed to have automatically lapsed if the use permitted herein is discontinued for a period of one (1) Co
11. The approval shall not be finalized until a revised site plan is submitted that shall address the use of the barn for snowmobile storage and a description of miscellaneous equipment and vehicle storage. The final site plan shall reflect the approved storage plan and be submitted to the Planning Director to ensure compliance with approval criteria.

Commissioner Flint seconded the motion.

Discussion

Commissioner Petis pointed out that this approval does not amend the zipline SUP, so anything that has to do with the snowmobile tours goes by the wayside. He offered that tabling the petition to find a different solution that included both operations under a single permit might allow for better enforcement. He stated that this is his reason for voting against the proposal, although he does support the result.

Commissioner Benjamin offered that this approval could serve as a stop-gap measure to allow the use. He suggested that if the County amends its regulations to address this problem, the applicant could reapply.

Mr. Phillips stated that the application is for non-incident outdoor storage and advised Planning Commission to act on the current petition. In response to a

question from Commissioner Merrill, Mr. Phillips clarified that unless the decision is appealed, this matter would not be heard by the Board of County Commissioners.

The motion carried 5 - 3, with the Chair voting yes.

Commissioner Norris stated that he voted against the motion because he feels the proposed use is not supported by the Master Plan or the Zoning Regulations. Commissioner Jaeger explained that he voted no because the storage is associated with a separate business and is not supported by the Zoning Regulations. He said that the use should be permitted separately. Commissioner Petis said that his reasons for dissent were stated in the discussion of the motion.

ADMINISTRATOR 'S REPORT

Mr. Phillips reviewed the upcoming agendas.

Commissioner Benjamin reviewed his discussion with several agricultural producers in the County regarding the Master Plan. He said that none of them had any suggestions or comments regarding the update to the Master Plan. Mr. Phillips said that in addition to inviting the Agricultural Alliance to participate in the update process, staff would be attending their meetings, as well to discuss the issues.

The meeting was adjourned at 7:30 p.m.