

## ROUTT COUNTY PLANNING COMMISSION

### MINUTES

OCTOBER 17, 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, Bill Norris, Troy Brookshire, John Merrill, Roberta Marshall, and Brian Kelly. Commissioners Greg Jaeger, Peter Flint and Andrew Benjamin were absent. Planning Director Chad Phillips and Assistant Planning Director Kristy Winser also attended. Planning Staff prepared the minutes.

#### **PUBLIC COMMENT**

There was no public comment.

#### **MINUTES – September 5, 2019**

Commissioner Marshall asked that the page 5, paragraph 7 be corrected as follows:

Commissioner Marshall stated that the proposed landscaping is inadequate. Mr. Buccino said that every effort was made to minimize water usage. He agreed that a fence along the north side would provide desirable screening but he suggested that xeriscaping might be appropriate but resisted the idea of planting a lot of trees. The consensus of the Planning Commission was the proposed landscape plan was adequate.

Commissioner Marshall also requested an edit clarifying that the applicant agreed fencing would be a good idea but stating the HOA could install it later.

Commissioner Marshall moved to approve the minutes of the Routt County Planning Commission meeting above with the changes provided. Commissioner Kelly seconded the motion. **The motion carried 6-0.**

#### **MINUTES – September 19, 2019**

Commissioner Marshall moved to approve the minutes of the Routt County Planning Commission meeting above as written. Commissioner Kelly seconded the motion. **The motion carried 6-0.**

#### **MINUTES – October 3, 2019**

Commissioner Marshall moved approve the minutes of the Routt County Planning Commission meeting held on the above stated date, as written. Commissioner Kelly seconded the motion. **The motion carried, 6 – 0.**

**ACTIVITY:** PL-19-109

**PETITIONER:** The Nature Conservancy

**PETITION:** Review and amendment of Permit # PP1996-016 under section 4.19, Recreational Facility, Outdoor Rural. Uses and permit boundary have changed to a degree that merits a review and amendment of the permit.

**LOCATION:** The Carpenter Ranch Preserve is located approximately 5 miles east of Hayden, Colorado on U.S. 40.

Chairman Warnke discussed the site visit and provided an overview and who was present. Commissioner Brookshire, Planning Director Chad Phillips, and Assistant Planning Director Kristy Winser attended from the County. Mr. John Vanderbloemen, Brent Romick, and Joan Romick representing Wolf Mountain Ranch and Geoff Blakeslee, Sally Ross, and Steve Cann of the Nature Conservancy were also in attendance.

Commissioner Merrill disclosed that his wife, Nancy, heads the Crane Festival, an event held at the Carpenter Ranch. Commissioner Merrill added that he is a neighbor and shares a ditch with the Carpenter Ranch. He stated that he felt that there was no conflict of interest and that he could make an unbiased decision on the matter. As there were no objections, Chairman Warnke stated that Commissioner Merrill would remain seated.

Commissioner Kelly stated that he had been unable to make the scheduled site visit, but he did stop by on his own. While at the site, he encountered no one.

Ms. Winser reviewed the memorandum dated October 17, 2019 including information about the original permit and correspondence between the County, Wolf Mountain Ranch (WMR), and the Nature Conservancy (TNC) regarding a quiet title suit. She noted that there also is a supplemental packet of two letters from WMR that did not make it into the staff packet. The staff emailed the supplemental information to the Planning Commission ahead of the meeting. Ms. Winser noted that tonight's presentation would be a two-part discussion. The first part would be a review of the 1996 permit and approved project plan, and the second part would be a presentation on the amendment request. Ms. Winser stated that TNC had obtained a Conditional Use Permit (CUP) from the County for the Carpenter Ranch in 1996. The CUP is for Public Facilities: an education center relating to agriculture, ecology, and history located in the former ranch house of Farrington R. Carpenter, and interpretive trails to the river and ranch operations. The permit is valid for the life of use.

Ms. Winser presented the site plan approved in 1996 and referred to it while explaining the areas visited on the site visit, the location of a fence described in condition of approval (COA) #6, the location of a gap in the fence noted in the staff packet, and the locations of no-trespassing signs. The intent of COA #6 was to deter and minimize trespassing of TNC guests onto neighboring properties. The location of the trail along the interior of the fence with no-trespassing signs on the outside was noted. She stated that an issue for discussion is whether these methods, as described, satisfy the intent of the condition.

Ms. Winser discussed the proposed changes and uses of the permit, including the permit boundary. She presented additional aerial maps identifying areas included in the original permit that included the Yampa River Preserve, Carpenter Ranch Preserve, and the Historic Ranch House and Education Center Area. She referred to a map of the Ranch Compound Area and noted the Intern House, which was formerly the ranch manager's house. As presented during the 1996 review, the original ranch manager's house was to be torn down and rebuilt. Instead, the old ranch manager's house was converted into the Intern House, and a new Ranch Manager House was built in 1997.

Ms. Winser then explained that the purpose of the current review was to amend the 1996 permit to provide clarity, transparency, and to make sure that any amendment is an accurate depiction of uses and activities at the ranch. She noted that the proposed amendment submitted by TNC includes uses that have occurred on the ranch for several years, without written complaints until January of last year. Complaints made in January of 2018 resulted in this review.

Ms. Winser presented a Process Comparison Chart of other Recreational Facilities with shared amenities permitted in the County that are either public, not for profit, or private operations. She summarized that the

request from the Carpenter Ranch is similar to those and should be processed as a Conditional Use Permit for a Recreational Facility with Overnight Accommodations.

Ms. Nancy Fishbein, representing the petitioner, thanked Planning Commission and then requested that the Commissioners table their decision to allow TNC and the County Planning staff time to clarify a number of outstanding issues. She then provided an overview of TNC and its mission. She explained that TNC is a science-based organization and clarified the importance of the globally-rare riparian cottonwood forest found at Carpenter Ranch. She also mentioned the long local history of the Carpenter Ranch and noted that TNC is honored to be the current steward of the property. She then reviewed the amendment request. She noted the hours of operation, identified who stays overnight (seasonal interns, host researchers, TNC staff and invited guests) and clarified that there are no public/paying overnight guests. She explained that the historic house museum/meeting area and trails are open to the public. She described the activities that are geared toward the public: seasonal, limited, public drop-in access, the Crane Festival, and school-groups led by Yampatika, a naturalist education non-profit. She added that occasionally community groups hold meetings in the Education Center, but typically these uses must be directly related to TNC's work. She noted that the examples in the comparison chart presented by Planning staff were not applicable because the Carpenter Ranch is not primarily a recreational facility and it is unique. She also clarified that the amount of public use of the ranch since the original CUP was issued has not increased significantly.

Ms. Fishbein again requested that Planning Commission table the application to provide more opportunity to work with Planning staff. She added that should the Commission decide not to table the decision, TNC counsel would like the opportunity to explain TNC's legal objections to the staff recommendations and why TNC is not ready to agree to them at this time.

In response to a question from Commissioner Brookshire regarding the primary agricultural component of the Ranch as presented in 1996, Ms. Fishbein stated that currently the primary purpose of the Ranch is conservation and the nexus between agriculture and conservation. The agricultural land/hayfields are leased to a local operator. Commissioner Brookshire expressed his disappointment that the management of the agricultural operation had declined, noting the poor state of the hay meadow.

Mr. Geoff Blakeslee, representing TNC, provided clarification in response to questions from Chairman Warnke regarding current uses. He noted that overnight stays by donors are limited to 2 - 3 times per year, that the Crane Festival attendance was approximately 150 people, and that the Chili Ski Day event and the snow shoe event were by invitation only and limited to staff and friends of TNC. He also responded that the Yampatika school events had about 10 - 20 kids per visit, with approximately 4 - 5 visits per year.

Mr. Gregory Kerwin, an attorney representing TNC, corrected two statements made in the staff report for the record. First, TNC no longer hosts educational workshops, has not done so for the past ten years and does not anticipate holding future overnight workshops, as explained on page 3 of Mr. Blakeslee's July 29, 2019 letter (page 56 of the hearing packet). This corrects a misstatement on page two of the staff report. Ms. Winser confirmed the correction. Second, the proposed use chart on the bottom right box of page 5 implies overnight accommodations are used to support an "educational mission," which is not accurate because there is no overnight use by members of the public. Ms. Winser responded that the reference stating that overnight accommodations are used to support and promote the ranch's agricultural mission referred to the people who stay there on a regular basis, such as the Ranch Manager, TNC Staff members, volunteers, donors, researchers and interns, as noted in the narrative. .

Commissioner Marshall requested clarification of the property ownership, stating that the graphics in the staff report were difficult to understand.

Planning Commission had no further questions for the petitioner.

### **Public Comment**

Mr. Brent Romick, representing Wolf Mountain Ranch, stated the issue is an intensity of use issue with commercial activity, not conservation. He stated that the 1996 permit did not include Islands 1 and 2 or a quasi-commercial operation. He provided details of the changes in the operation, specifically the increase in capacity for people. He also noted that, in his opinion, there are clear violations of the permit. Mr. Romick referenced Section 6.1.7 of the Routt County Zoning Regulations and how this operation involved the potential for significant negative impacts. He provided feedback about previous visits to the Carpenter Ranch and described how there was no oversight or direction to guests to stay on the trails, which was a concern. Mr. Romick expressed concern regarding liability with the public being allowed on the lands owned in co-tenancy and noted a time he saw school children playing in the river with no oversight.

Mr. John Vanderbloemen, representing Wolf Mountain Ranch, discussed the 1996 permit boundary and liability issues. He presented several photos taken of the trail and signs, noting the trail is located outside of the required fencing cited in COA #6 and that the no-trespassing signs can't be read by people on the trail. Specifically, the signs were on the fence facing the meadow, not the trail. He presented several pictures of the co-tenancy land, particularly the streambed, noting areas easily accessible for TNC guests to cross the Yampa River during low water onto WMR, establishing concerns regarding trespassing and liability. Mr. Vanderbloemen described how fencing could be installed in the riparian area south of the Yampa River that would serve as a deterrent to TNC guests who might otherwise want to cross the river or trespass on WMR land.

Ms. Joan Romick, representing Wolf Mountain Ranch, reiterated that density and uses are a concern and create potential liability issues for both co-tenants.

Planning Director Chad Phillips stated that the staff report and this hearing reflect an attempt to provide clarity regarding the permitted uses on the Carpenter Ranch. He stated that staff had requested a map of the permit boundary in the spring so the County could properly evaluate the uses within a clear boundary area. Mr. Kerwin stated that TNC is considering narrowing the permit boundary to encompass only the Education Center.

### **Roundtable Discussion**

Chairman Warnke offered that COA #6 regarding the fence was about compromise and encouraged TNC and WMR to collaborate with planning staff. He further noted that Planning Commission, via this process, has the ability to clarify and revise COA #6 in order to remove any ambiguities, and that this could mean identifying specifically where fencing is and isn't required.

Commissioner Marshall stated that she found it difficult to interpret who owns what and suggested that a map of just the area within the permit boundary under review to be submitted. She also agreed with a compromise on a fence. Noting that WMR had suggested that TNC provide indemnification for the County and WMR under the CUP, Commissioner Marshall also requested that staff research whether or not the County had routinely included indemnification requirements in their CUPs.

Commissioner Kelly stated the existing fence was weak and expressed support for additional fencing. He also stated that the use is not just a ranch and that current and proposed uses and activities should be regulated under the CUP.

Commissioner Brookshire agreed that the permit boundary needs to be graphically defined. If uses and activities are presented in the original permit boundary, then those uses should be regulated. He stated that the location of the fence is not in compliance with COA #6 and agreed that there are permit violations. Commissioner Brookshire requested staff to check with the County Attorney regarding fence law, in particular regarding fencing out, and any shared responsibilities between neighbors along a common boundary. He further suggested that TNC should keep the public away from the river, amending the permit boundary away from the river and riparian area along the existing fence. He agreed also that the applicant should provide a map with all uses and their locations on it. Commissioner Brookshire added that he would like to see a more accurate account of the number of people that visit the Carpenter Ranch.

Commissioner Merrill suggested that there could be a meeting of the minds between TNC and WMR and that the two parties could jointly draft a proposed amendment, including a fence location and submit it to staff for review.

Commissioner Norris agreed with Commissioner Brookshire's comments.

#### **MOTION**

Commissioner Kelly moved to table the application to December 19, 2019.  
Commissioner Norris seconded the motion.

**The motion carried 6 - 0, with the Chair voting yes.**

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

Mr. Phillips reviewed the upcoming agendas.

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