



ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA COMMUNICATION FORM

ITEM DATE: October 5, 2021	ITEM TIME: 9:40 am

FROM:	Alan Goldich
TODAY'S DATE:	September 28, 2021
AGENDA TITLE:	Toponas General Store PUD; PL-21-152

CHECK ONE THAT APPLIES TO YOUR ITEM:	
<input checked="" type="checkbox"/> ACTION ITEM	
<input type="checkbox"/> DIRECTION	
<input type="checkbox"/> INFORMATION	

I. DESCRIBE THE REQUEST OR ISSUE:
 Consideration of the Conceptual and Final Planned Unit Development for the Toponas General Store.

II. RECOMMENDED ACTION (motion):

I move to approved the Conceptual and Final Planned Unit Development, PL-21-152, for the Toponas General Store 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 the applicable provisions of Sections 4, 5, 6, 7 and 8 of the Routt County Zoning Regulations.
2. In review of the Final PUD and Zoning Amendment standards, it has been determined that the Zoning Amendment standards have been met.
3. This approval is to bring a non-conforming operation into conformance with the Zoning Regulations. No new uses or structures are being proposed, therefore 7.3.F and 7.3.H – 7.3.L are not applicable.

This approval is subject to the following conditions:

General Conditions:

1. Any complaints or concerns that may arise from this operation may be cause for review of the PUD Plan, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
2. In the event that Routt County commences an action to enforce or interpret this PUD Plan, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
3. 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. Copies of permits or letters of approval shall be submitted to the Routt County Planning Department prior to the commencement of operations.
4. 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.



ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA COMMUNICATION FORM

5. All exterior lighting, except for the light pole immediately east of the store, shall be downcast and opaquely shielded.
6. All trash shall be stored either inside a garage or inside Interagency Grizzly Bear Committee (IGBC) certified receptacles

Specific Conditions:

7. All of the approved uses, and their locations, and the general conditions shall be shown on the Final PUD Plan. Approved uses include:
 - a. General Store
 - b. Liquor Store
 - c. 1 Residence attached to the business
 - d. Gasoline and propane sales (pumps and storage tanks)
 - e. Meat processing with 18 wheeler trailer for cold storage
 - f. Convenience store type food service
 - g. Truck and trailer rental
 - h. 5 Signs totaling 231 square feet. Increases to the number and size of the signs can be approved administratively. Increases of more than 20% of the combined total square footage of all of signs shall require a minor amendment to the PUD.
 - i. Light pole immediately east of the store
 - j. Personal storage inside 3 shipping containers
 - k. Outdoor storage
8. The Final PUD and Zone Change Resolutions shall be recorded concurrently and within one (1) year unless an extension is granted pursuant to Section 3.2.10, Routt County Zoning Regulations. Extensions up to one (1) year may be approved administratively.
9. The change of zone from Agriculture/Forestry to Planned Unit Development shall become effective upon the recording of a resolution amending the Official Zoning Map by the Board of County Commissioners.
10. The Planned Unit Development approval shall become effective upon the recording of the Final PUD and Zone Change Resolution.
11. Prior to recording the Final PUD, permittee shall submit to Routt County proof of a Sales Tax Account /License.
12. The total square footage of all of the signs plus a gas price sign shall be shown on the Final PUD plan.
13. If applicable, an executed lease agreement with CDOT, or documentation that the existing one is still valid, shall be submitted prior to the recording of the Final PUD Plan and Zone Change Resolution. If a new lease agreement is not required, documentation of such from CDOT shall be submitted.
14. All items west and south of the Toponas Store will be either removed from the site or relocated to the U-Haul are adjacent to CR 6E prior to recording of the PUD Plan except for the following:
 - a. House and Garage that are located adjacent to the store to the west
 - b. Meat processing trailer
 - c. Metal Storage containers
15. All personal property taxes must be paid prior to the recording of the plat. A Certificate of



ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA COMMUNICATION FORM

Taxes Due showing a \$0 balance shall be submitted.

16. An easement for the CR 6E right of way shall be dedicated to the County. This shall be accomplished through a separate easement document that gets recorded along with the final PUD Plan and Zone Change Resolution. Such easement shall be shown on the final PUD Plan along with a reference to the recording information of the document.

III. DESCRIBE FISCAL IMPACTS (VARIATION TO BUDGET):
PROPOSED REVENUE <i>(if applicable)</i> : \$
CURRENT BUDGETED AMOUNT: \$
PROPOSED EXPENDITURE: \$
FUNDING SOURCE:
SUPPLEMENTAL BUDGET NEEDED: YES <input type="checkbox"/> NO <input type="checkbox"/>
<i>Explanation:</i> N/A
IV. IMPACTS OF A REGIONAL NATURE OR ON OTHER JURISDICTIONS (IDENTIFY ANY COMMUNICATIONS ON THIS ITEM):
N/A
V. BACKGROUND INFORMATION:

This item was heard by Planning Commission at their September 16, 2021 hearing. The application was recommended for approval with a 5-0 vote.

CDOT provided comments on the application. The gas pumps on the site are in the CDOT right of way for Highway 131. The landowners have a lease agreement that allows the gas pumps to be there, however CDOT has stated that they may not renew the lease for these pumps due to liability, maintenance, and possible environmental hazards. Condition of approval #13 was recommended by PC that states a valid lease or confirmation that the current lease is valid shall be submitted prior to recording of the PUD plan.

Issues for Discussion:

- Outdoor Storage – During the discussion the applicant stated that all of the miscellaneous junk around the site would get cleaned up and placed in the U-Haul storage area in the rear of the site. Condition of approval #14 was recommended by PC that address this.
- Parking – As stated in the staff packet, there is only enough room for 3-4 vehicles to safely pull completely off of the Highway 131 right of way. This is a safety concern and it was PC’s opinion that an additional area be designated as parking. The U-Haul storage area in the rear of the site will designated as an overflow parking area on the PUD plan, however it will not be developed into a formal parking area but will be available for overflow.
- Screening of the outdoor storage and U-Haul area was not required by PC due to it being off of the highway, screened by existing features of the site and the structures that are on the east side of CR 6E.
- Signs - A total of 231 square feet of signage is present at the site. The condition suggested by PC allows for up to a 20% increase in sign area without seeking further approvals.

Two items came up after the staff packet was distributed that were addressed at the PC hearing:

- The landowner is delinquent on payment of their personal property tax. Condition of



ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA COMMUNICATION FORM

approval #15 was recommended by PC that address this.

- County Road 6E runs through the property. The County only has a prescriptive easement for this road as it does not own the land under the road, nor does it have a formal easement. Condition of approval #16 was recommended by PC to require an easement be put in place for CR 6E.

VI. LEGAL ISSUES:
N/A
VII. CONFLICTS OR ENVIRONMENTAL ISSUES:
N/A
VIII. SUMMARY AND OTHER OPTIONS:
<ol style="list-style-type: none">1. Deny the application2. Table for more information
IX. LIST OF ATTACHMENTS:
<ul style="list-style-type: none">• CDOT comments on gas pumps• DRAFT September 16, 2021 Planning Commission minutes• September 16, 2021 Planning Commission staff packet

From: [Campbell - CDOT, Patrice](#)
To: [Alan Goldich](#)
Cc: [Killian - CDOT, Brian](#); [Kandis Aggen - CDOT](#)
Subject: Re: Permit/Application: TPL-21-152 at 10000 STATE HIGHWAY 131, TOPONAS for PUD - Final
Date: Tuesday, September 21, 2021 10:35:15 AM

Good morning,

I have received negative comments back from both maintenance and the Resident Engineer about reissuing a lease for any pumps or tanks in the CDOT Hwy right of way. I realize it was allowed at one time but going forward the belief is that this would be a possible liability, maintenance hazard as well as possible environmental hazard.

Please feel free to give me a call if you have additional questions.

Thanks,
Patrice

Patrice S Campbell, SRA

Property, Appraisal & Local Agency Manager, Right-of-Way



P [970.683.6242](tel:970.683.6242) | C [970.846.0050](tel:970.846.0050)

222 South 6th St., Room 317, Grand Junction, CO 81501

patrice.campbell@state.co.us | codot.gov | www.cotrip.org

On Wed, Sep 1, 2021 at 2:44 PM Campbell - CDOT, Patrice <patrice.campbell@state.co.us> wrote:

I have sent all the information out to our maintenance team and engineers for an initial response from Region staff. This will give us some idea whether this would be an allowed lease area going forward.

Thanks,
Patrice

Patrice S Campbell, SRA

Property, Appraisal & Local Agency Manager, Right-of-Way



P [970.683.6242](tel:970.683.6242) | C [970.846.0050](tel:970.846.0050)

222 South 6th St., Room 317, Grand Junction, CO 81501

patrice.campbell@state.co.us | codot.gov | www.cotrip.org

ROUTT COUNTY PLANNING COMMISSION

DRAFT MINUTES

SEPTEMBER 16, 2021

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 Greg Jaeger, Andrew Benjamin, Linda Miller, and Bill Norris. Commissioners Ren Martyn, Brian Kelly, Paul Weese, Jim DeFrancia and Roberta Marshall were absent. Planning Director Kristy Winser and staff planners Alan Goldich and Alayna Bell also attended. Sarah Katherman prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES – July 15, 2021

Commissioner Miller noted that the motion on page 8 should have been to approve, not to table.

Commissioner Benjamin moved to approve the above cited minutes, as amended. Commissioner Miller seconded the motion. **The motion carried unanimously.**

ACTIVITY: PL-21-152
PETITIONER: Gehl Enterprises, LLC
PETITION: Conceptual and Final Planned Unit Development for a general store.
LOCATION: 10000 State Hwy 131, Toponas

Mr. Peter Patten of Patten and Associates, representing the petitioners, reviewed the history of the Toponas General Store, which dates back to 1938. He noted that a large portion of the store's business comes from the hunters during the fall. He said that the Gehl's have owned the store since 1996. Mr. Patten explained that the operation is an existing legal, non-conforming use in the A/F zone district. The store is grandfathered in because it was in existence prior to the adoption of planning and zoning in 1972 and has operated continuously since then. The gas sales, however, ceased to operate for a period of a couple of years and is, therefore, no longer a grandfathered use. Mr. Patten explained that when the Gehls decided that they wanted to resume fuel sales they were required to bring the existing operation into conformance. He stated that the Planned Unit Development (PUD) will allow the existing uses to continue and allow for the additional use of fuel sales. No new uses and no new development are being proposed. Mr. Patten suggested that because the PUD regulations were written with master planned residential communities in mind, some of the requirements do not apply to this application. He cited the 25% publicly accessible open space requirement. Mr. Patten said that while well over 25% of the property is open space, it would be inappropriate to require that it be made accessible to the public. Mr. Patten presented a chart of the proposed uses and dimensional standards of the operation.

Mr. Mark Fisher, an attorney representing the applicants, said that he had assisted in the negotiation of the lease agreement with the Colorado Department of Transportation (CDOT) on

behalf of the applicants, Barbara and Mark Gehl, in 2005. He stated that the terms of the lease allow it to remain in effect as a month-to-month lease beyond its initial term. He stated that the lease remains valid and the Gehls are in good standing. He noted that suggested Condition of Approval (COA) #13 requires documentation regarding the validity of the lease from CDOT, but obtaining such documentation requires making a Colorado Open Records Act (CORA) request through the Attorney General's Office. He said that while this is possible, it will require several weeks.

Mr. Patten discussed suggested COAs #14 and #15. He proposed a revision to COA #14 that outlines how the site will be cleaned up and where items will be stored. He added that because the storage area is behind the store, no additional screening is proposed. Mr. Patten presented an aerial photo of the site and indicated the location of the various uses and structures. He indicated what will remain in place and what will be removed or relocated.

Mr. Goldich confirmed that all operations are currently allowed as existing legal non-conforming uses, with the exception of the gas pumps. He said that staff had considered whether the site should be re-zoned to Commercial (C) or PUD and had decided that PUD was preferable because the C zone district allows a variety of uses-by-right that would not be appropriate in this location. A PUD allows the County to approve the specific uses that are allowed.

Mr. Goldich said that the Conceptual and Final PUD are being processed concurrently, and that Planning Commission would be making a recommendation to the Board of County Commissioners. He noted that under the current configuration, a maximum of 3 – 4 vehicles can be parked at the site. He reviewed the aerial photo and noted the parking area. Mr. Goldich said that because the operation is historical and contributes to the character of the area, it is in compliance with the Master Plan. He said that the PUD would formalize the traditional uses on the site and bring them into conformance with the Zoning and Subdivision Regulations.

Mr. Goldich said that the food service offered at the store is limited to convenience store type food. If the applicants want to offer restaurant type service, this use would need to be approved through the Conceptual and Final PUD process. Mr. Goldich stated that there are several signs at the site. He reviewed the process through which the signs were measured and determined to take up 231 sq. ft. in aggregate. He stated that the proposed conditions would allow for a 20% increase in the total square footage of the signage without review. Regarding COAs #14 & #15, Mr. Goldich said that these were included for discussion, and that staff has no problem with the COA proposed by Mr. Patten. He indicated the location of the U-Haul area and asked for input on the need for screening. He also asked if additional parking should be required.

Mr. Goldich stated that two items had come up since the staff report was completed. He said that the Gehls are delinquent on their personal property taxes and that a COA had been added to address this. He also noted that the property line shown on the GIS mapping of the site is incorrect and that the actual property line is on the other side of CR 6E. He said that the County was unable to locate a deed for a right of way for CR 6E, although the road has traditionally been maintained and plowed by the County. He said that the County would like to obtain a dedicated easement for this road that crosses the Gehls' property. A note on the recorded PUD Plan would reference the easement document. Mr. Patten presented a survey of the site that confirmed the location of the

property line and the lack of easement. He stated that the Gehls have no problem with granting an easement, but that they do not want the easement to interfere with their use of the property.

Mr. Fisher noted that the lease with CDOT has been in place since 2005. The gas tanks are within the CDOT right-of-way. He indicated the extent of the area that is covered by the CDOT lease.

In response to a question from Commissioner Jaeger, Mr. Goldich indicated on a site plan the area along the frontage where cars can pull safely off the highway. He noted that the only comments received from CDOT related to the lease agreement.

There was no public comment.

Chairman Warnke asked about the parking requirement for the site. Mr. Goldich said that because the petition is for a PUD, there is flexibility in the requirements and there is no minimum. He said staff uses the standards in the Zoning Regulations as a comparison and that for an operation of this size, two parking spots would be. Commissioner Miller asked if it would be possible to direct overflow parking to the U-Haul area accessed from CR 6E. Mr. Patten agreed that making the area available for overflow parking would be acceptable, but that no improvements would be made to the surface. Chairman Warnke offered that this was acceptable, but that it did not warrant a COA. Planning Commission agreed that no additional screening was necessary and that the proposed COA regarding signage was fine.

MOTION

Commissioner Benjamin moved to recommend approval of activity PL-21-152, a Conceptual and Final PUD for a General Store, 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 the applicable provisions of Sections 4, 5, 6, 7 and 8 of the Routt County Zoning Regulations.
2. In review of the Final PUD and Zoning Amendment standards, it has been determined that the Zoning Amendment standards have been met.
3. This approval is to bring a non-conforming operation into conformance with the Zoning Regulations. No new uses or structures are being proposed, therefore 7.3.F and 7.3.H – 7.3.L are not applicable.

This approval is subject to the following conditions:

1. Any complaints or concerns that may arise from this operation may be cause for review of the PUD Plan, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
2. In the event that Routt County commences an action to enforce or interpret this PUD Plan, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
3. 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. Copies of permits or letters of approval shall be submitted to the Routt County Planning Department prior to the commencement of operations.

4. 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.
5. All exterior lighting, except for the light pole immediately east of the store, shall be downcast and opaquely shielded.
6. All trash shall be stored either inside a garage or inside Interagency Grizzly Bear Committee (IGBC) certified receptacles

Specific Conditions:

7. All of the approved uses, and their locations, and the general conditions shall be shown on the Final PUD Plan. Approved uses include:
 - a. General Store
 - b. Liquor Store
 - c. 1 Residence attached to the business
 - d. Gasoline and propane sales (pumps and storage tanks)
 - e. Meat processing with 18 wheeler trailer for cold storage
 - f. Convenience store type food service
 - g. Truck and trailer rental
 - h. 5 Signs totaling 231 square feet. Increases to the number and size of the signs can be approved administratively. Increases of more than 20% of the combined total square footage of all of signs shall require a minor amendment to the PUD.
 - i. Light pole immediately east of the store
 - j. Personal storage inside 3 shipping containers
 - k. Outdoor storage
8. The Final PUD and Zone Change Resolutions shall be recorded concurrently and within one (1) year unless an extension is granted pursuant to Section 3.2.10, Routt County Zoning Regulations. Extensions up to one (1) year may be approved administratively.
9. The change of zone from Agriculture/Forestry to Planned Unit Development shall become effective upon the recording of a resolution amending the Official Zoning Map by the Board of County Commissioners.
10. The Planned Unit Development approval shall become effective upon the recording of the Final PUD and Zone Change Resolution.
11. Prior to recording the Final PUD, permittee shall submit to Routt County proof of a Sales Tax Account /License.
12. The total square footage of all of the signs plus a gas price sign shall be shown on the Final PUD plan.
13. If applicable, an executed lease agreement with CDOT, or documentation that the existing one is still valid, shall be submitted prior to the recording of the Final PUD Plan and Zone Change Resolution. If a new lease agreement is not required, documentation of such from CDOT shall be submitted.

14. All items west and south of the Toponas Store will be either removed from the site or relocated to the U-Haul area adjacent to CR 6E prior to recording of the PUD Plan except for the following:
 - a. House and Garage that are located adjacent to the store to the west
 - b. Meat processing trailer
 - c. Metal Storage containers
15. All personal property taxes must be paid prior to the recording of the plat. A Certificate of Taxes Due showing a \$0 balance shall be submitted.
16. An easement for the CR 6E right of way shall be dedicated to the County. This shall be accomplished through a separate easement document that gets recorded along with the final PUD Plan and Zone Change Resolution. Such easement shall be shown on the final PUD Plan along with a reference to the recording information of the document.

Commissioner Miller seconded the motion.

The motion carried 5 – 0, with the Chair voting yes.

ADMINISTRATOR'S REPORT

Ms. Winser reviewed the recent Master Plan Update meeting with the Cushing Terrell and the Board of County Commissioners. She reviewed the next steps in the outreach process, including community meetings in the different geographical areas of the starting the week of October 11th. She said that Planning Commissioners would be tasked with attending the meetings in their areas, as well as others if they choose. There was a discussion of how to measure the success of the outreach and how best to engage people from all parts of the County and all demographics. Ms. Winser stressed the importance of Planning Commission engagement. She also discussed the focus area meetings. She said that the bulk of the community outreach would occur between the beginning of October and mid-December.

Ms. Winser reviewed the upcoming agendas.

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