

## **ROUTT COUNTY PLANNING COMMISSION**

### **FINAL MINUTES**

**AUGUST 2, 2018**

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 Troy Brookshire, Paul Hebert, Andrew Benjamin, Brian Arel, Peter Flint, Bill Norris, Roberta Marshall and John Merrill. Commissioners Geoff Petis and Karl Koehler were absent. Planning Director Chad Phillips and Assistant Planning Director Kristy Winser also attended. Sarah Katherman prepared the minutes from a recording.

#### **PUBLIC COMMENT**

There was no public comment.

#### **MINUTES - July 5, 2018**

Commissioner Norris moved to approve the minutes of the July 5, 2018 minutes, as written. Commissioner Hebert seconded the motion. The motion carried 9 - 0, with the Chair voting yes.

**ACTIVITY: PL-18-144; PL-18-151; PL-18-152**

**PETITIONER: Larry Calistro**

**PETITION: 1) PL-18-144: Lot Consolidation of Lots 107 and 112 - 120 into two 5+-acre lots , Overland at Stagecoach  
2) PL-18-151: Zone Change from Low Density Residential (LDR) to Mountain Residential Estates (MRE)  
3) PL-18-152: Vacation of Utility Easements**

**LOCATION: Lots 107 & 112-120, Overland at Stagecoach**

Mr. Calistro reviewed the petition to consolidate ten lots in Stagecoach into two 5+-acre lots. He stated that the total acreage is just short of 11 acres and has been surveyed. He said that the access road to the property has been improved to allow for emergency vehicle access. He requested that the fee-in-lieu of land for public purposes be waived, and stated that he had spoken about this with County Commissioner Doug Monger.

Ms. Winser noted that the petition includes three parts: the lot consolidation, the zone change and the vacation of utility easements. She reviewed the petition and presented a site plan. She said that the lots are not served by central water and sewer, so the consolidation would allow for an on-site wastewater treatment system (OWTS). The lots will be served by water wells. Ms. Winser said that sign-offs have been received by all interested agencies and utilities. She noted that one of the lot lines may need to be adjusted to comply with the regulations that pertain to the consolidation of contiguous parcels. Condition of Approval

(COA #14) addresses this issue. Mr. Calistro said that this would not be a problem.

Ms. Winser said that the road access is in good condition. She added that requests for driveway access for both parcels have been submitted (COA #14). Ms. Winser stated that the Oak Creek Fire Protection District may require some further improvements to the road. Mr. Calistro stated that Fire Chief Wisecup had identified three spots that may need to be improved prior to the issuance of building permits. He noted that the roads will be improved and maintained privately.

Ms. Winser stated that since the staff report was distributed, the Environmental Health Department has requested an additional condition requiring the applicants to obtain permits for the OWTs. This issue will be addressed during the building permit process. Ms. Winser noted that Steve Donaldson, the owner of the second lot being created, stated that he had spoken with Stagecoach Property Owners' Association (SPOA) about these issues, and had obtained receipts showing the payment of the assessments. The other item, the SPOA consolidation process, will be completed in two weeks, prior to the Board of County Commissioners' hearing.

Mr. Calistro said that no attention has been paid to the roads in the area, and that all improvements must be made privately. In response to a question from Commissioner Norris regarding the improvements to the roads requested by Chief Wisecup, Mr. Calistro stated that the access road passes through two subdivisions, one of which is not a part of SPOA. He discussed the issues regarding road maintenance. He said that the area is like an island that is separated from SPOA, but nonetheless under its control.

Mr. Phillips reviewed the fee-in-lieu of public sites regulations and the provisions for an applicant to appeal the 5% fee intended to off-set the impact on parks and schools. He said that in order to encourage lot consolidations, the County generally applies the former flat fee of \$1400 to such petitions. He said that the petitioners are requesting that the entire fee be waived. Chairman Warnke offered that an argument could be made that the lot consolidation does not actually create a new lot. Commissioner Arel offered that the impact is reduced by reducing the number of buildable lots. Mr. Calistro said that County Commissioner Monger had said that the lack of plowing and road maintenance was also an issue. Mr. Phillips clarified that the fee-in-lieu of public sites is specifically intended to address the impact on parks and schools.

Commissioner Marshall asked about the limitation to one driveway access per lot. Ms. Winser said that each lot would be allowed a single driveway access to the chosen building site. The portion of each lot that is on the opposite side of the right-of-way from the building site would not be allowed to have a driveway.

Ms. Winser said that the second sentence of COA #5a should be deleted, as the roads were dedicated to the County. They were not, however, built to County standards and so were not accepted for County maintenance.

Commissioner Arel asked about COA #11. Ms. Winser said that the flat rate of \$1400, which is significantly less than the 5% calculation, applies to lot consolidations. Commissioner Hebert asked about the precedent for waiving the \$1400 fee. Mr. Phillips said that a finding would be needed to support waiving the fee. He suggested that if Planning Commission determines that the lots would not have an impact on future parks and schools, then it might be appropriate to waive the fee. He stated that fees have been waived when there has been either a previous public land dedication or a fee-in-lieu has been paid in the past. Commissioner Arel offered that he would support waiving the fee based on the reduction in the number of lots and the reduction in the number of potential vault systems, which he offered constitutes a public benefit. Mr. Calistro stated that there are vaults available, and all the other houses on his road are served by vault systems.

In response to a question from Commissioner Brookshire, Mr. Phillips stated that the regulations state that the fees collected in lieu of public sites requires the funds to be spent on public recreation, schools and other public sites. Commissioner Brookshire suggested that the fees from a specific subdivision could support a fund to be used for future road improvements. Mr. Phillips stated that the statute is fairly tight regarding how the funding can be spent, and requires that they be spent on public sites that would be impacted by this subdivision.

Commissioner Flint expressed concern with the precedent that would be set by waiving the fee. Commissioner Arel reiterated that lot consolidation reduces the impact, and should be encouraged. Commissioner Benjamin stated that Planning Commission had had this conversation before regarding lot consolidations, and has recommended that the fee be waived. He added that there have also been instances in which Planning Commission has recommended that if the fee is not waived, it should be limited to the \$1400, rather than the 5%. He said that he would support charging the \$1400 fee.

Commissioner Brookshire stated his support for waiving the fee. Commissioner Hebert agreed. Commissioners Norris and Marshall agreed. Commissioner Merrill stated that if the fee is charged, it should be \$1400.

Chairman Warnke asked if, when Stagecoach was platted, there was a fee in lieu of public sites. He stated that even if there was not, land was set aside for parks, open space and schools. Mr. Phillips agreed, but said that he was not certain if the \$1400 fee was charged at that time. Ms. Winser reviewed that there are reduced application fees for the lot consolidations and re-zoning associated with lot consolidations. Mr. Phillips stated that if the recommendation is to waive the fee in lieu of public sites, it should be supported by a finding of fact.

Commissioner Brookshire asked why the Road and Bridge Department wants to allow only one driveway access per lot. Ms. Winser stated that this limitation is in the regulations. If the applicants applied for a second access permit, it would not be granted. Commissioner Brookshire asked whether this would prohibit the construction of an accessory structure on the portion of the lot separated by the road. He said he did not understand the rationale for the requirement in this particular case. Mr. Phillips stated that there may be an exception for cases in which the access road goes through the lot, but that he did not know. Commissioner Flint agreed that it might be appropriate to locate a barn on that part of the lot. Ms. Winser read the applicable regulation. Mr. Phillips agreed to consult with Road and Bridge.

### **MOTION - Lot Consolidation**

Commissioner Arel moved to recommend approval of the lot consolidation with the finding of fact that the proposal with the following conditions complies with the applicable guidelines of the Routt County Master Plan and the Stagecoach Community Plan, and is in compliance with Sections 4, 5 and 6 of the Routt County Zoning Regulations, and Section 3 and 4 of the Routt Subdivision Regulations. In addition, Commissioner Arel cited the finding of fact that the proposed lot consolidation would reduce rather than increase the impacts on parks, schools and other public sites. This approval is subject to the following conditions:

1. The Final Plat shall be finalized and recorded within one (1) year unless an extension is granted pursuant to Section 2.1.6, Routt County Subdivision Regulations. Extensions to up to one (1) year may be approved administratively.
2. Prior to recordation, the applicant shall submit an electronic copy of the approved plat to the County Planning Department in a .DWG format or other format acceptable to the GIS Department.
3. Prior to recordation all fees must be paid in full.
4. All property taxes must be paid prior to the recording of the plat.
5. The following notes shall be shown on the plat:
  - a. Routt County is not responsible for maintaining or improving subdivision roads.
  - b. The suitability of these lots for an individual septic disposal system and the availability of permits for individual septic disposal systems have not been established and such shall be a condition of obtaining a building permit for these lots.
  - c. Existing and new accesses shall meet access standards set forth by the Routt County Road and Bridge Department and Fire Prevention Services.

- d. The availability of water and permits for wells on the lots or parcels hereon shown has not been established.
  - e. Routt County (County) and the South Routt Fire District (District) shall be held harmless from any injury, damage, or claim that may be made against the County or the District by reason of the County's or the District's failure to provide ambulance, fire, rescue or police protection to the property described on this plat, provided that the failure to provide such services is due to inaccessibility of the property by reason of internal roads being impassable. This conditions shall not relieve the County or the District of their responsibility to make a bona fide effort to provide emergency services should the need arise.
6. Address signage shall be in conformance with Routt County Road Addressing, Naming, and Signing Policy shall be located at the entrance to the driveway.
  7. A current soils test showing that the soils are sufficiently stable to support development will be required before obtaining a building permit.
  8. Revegetation of disturbed areas shall occur within one growing season with a seed mix that avoids the use of aggressive grassed. See the Colorado State University Extension Office for appropriate grass mixes.
  9. All exterior lighting shall be downcast and opaquely shielded.
  10. A 'no build' zone shall be indicated on the plat to avoid construction of structures, septic fields and roads in areas including, but not limited to 30% or greater slopes. The "no build" zones shall be defined on the plat and approved by the Planning Director before the plat is recorded.
  11. Property owners shall obtain and comply with the "Colorado State Forest Service Guidelines on Defensible Space.
  12. Prior to recording the plat, the south west corner of Lot 1 and Lot 2 shall be adjusted to conform to the consolidation under the definition of contiguous.
  13. The property owners shall obtain a permit for the OWTS from the Routt County Environmental Health Department during the building permit process.

Commissioner Hebert seconded the motion.

**The motion carried 8 - 1, the Chair voting yes.**

In explanation of his dissenting vote, Commissioner Benjamin stated that he does not agree with the recommendation to waive the fee in lieu of public sites.

### **MOTION - Zone Change**

Commissioner Hebert moved to recommend approval of the zone change from LDR to MRE with the findings of fact that the proposal with the following conditions meets the applicable guidelines of the Routt County Master Plan and

Stagecoach Community Plan and is in compliance with the applicable provisions of Sections 8 of the Routt County Zoning Regulations. This approval is subject to the following conditions:

1. The change of zone from Low Density Residential- LDR to Mountain Residential Estate- MRE shall become effective upon signing of a resolution amending the Official Zoning Map by the Board of County Commissioners, said resolution to be recorded in the Routt County Clerk and Recorders Office.
2. The zone change is contingent upon a Final Plat being recorded.
3. The approval shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this approval.

Commissioner Arel seconded the motion.

**The motion carried 9 - 0, with the Chair voting yes.**

#### **MOTION**

Commissioner Marshall moved to recommend approval of the vacation of utility easements with the findings of fact that the proposal with the following conditions complies with the applicable guidelines of the Routt County Master Plan and Stagecoach Community Plan and is in compliance with Sections 4, 5, and 6 of the Routt County Zoning Regulations, Sections 3 and 4 of the Routt County Subdivision Regulations. This approval is subject to the following condition:

1. A resolution vacating the utility and drainage easements shall be recorded concurrently with the Final Plat.
2. Any New utility and drainage easements shall be shown and dedicated on the final plat.

Commissioner Norris seconded the motion.

**The motion carried 9 - 0, with the Chair voting yes.**

**ACTIVITY: PL-18-132**

**PETITIONER: Routt County**

**PETITION: Work session/adoption of housekeeping amendments to the Routt County Zoning Regulations**

**LOCATION: County-wide**

Ms. Winser said that since Planning Commission last reviewed these items, the Board of County Commissioners had discussed the housekeeping amendments and had agreed with Planning Commission that deleting the "Commuter Zone" from the definitions was appropriate, to separate the powers of the Board of Adjustment into two sentences and to eliminate the zone change from the PUD

process. She said that an additional typo had been identified in Section 5.9.3 - Exceptions. She stated that "and" should be changed to "are."

Ms. Winser stated that regarding the proposal to add "Fractional Ownership" in the Use Chart as a disallowed use in all non-Commercial zone districts, the Board of County Commissioners had expressed concern that this could have an impact on multiple ownerships of a single property. Ms. Winser stated that the Board had felt that more discussion on this topic was needed. Commissioner Brookshire offered that Planning Commission's opinion on this issue was straight-forward. He stated that the distinction between fee simple ownership and fractional ownership could be easily clarified. Commissioner Brookshire stated that ownership could be based on the parcel identification number, regardless of the entity that holds the title. He said that under a fractional ownership, a single parcel is divided into different parcel identification numbers. Mr. Phillips said that Commissioner Brookshire's suggestion would apply to the Subdivision Regulations, whereas the current discussion pertains the land use. He said that the question is whether a time-share is a single family use. He said that under the definition of "Subdivision," a separation of interests is a subdivision. Chairman Warnke offered that an LLC that owns a property could set up its own fractional ownership arrangement. Mr. Phillips said that a separate arrangement based on time does not fit the definition of "Family" and offered that it should not be considered a single family use. He said that the proposal is to clarify the regulations to match how the regulation is currently being enforced. He said that if the issue needs further discussion it would focus on how a separation of interest is defined.

Commissioner Brookshire stated that if a single property is owned by an entity that includes several families, they could use that property as they wish under the current regulations. Mr. Phillips disagreed. He stated that if someone called and asked if that was allowed, he would say no. He offered that this is similar to a vacation rental. He said that the distinction between lodging and single family use should be discussed. Commissioner Brookshire stated that the issue should be considered under what constitutes an illegal subdivision. Commissioner Flint asked if the goal was to prevent a rotating use of a single property by different entities, whether those entities are owners or short-term renters. Commissioner Brookshire offered that disallowing use by different owners enters into the realm of covenants. He said that the County should not be involved in how people hold title to a given property. He said the issue is the illegal subdivision of a single parcel, which occurs in fractional ownership.

In response to a question from Commissioner Marshall, Ms. Winser stated that the only complaints regarding revolving use had been related to vacation rentals, but the issue came up in response to realtors advertising fractional ownership (time-share) properties in the County. She said this is not allowed. Adding the line to Land Use Chart would clarify this.

Commissioner Brookshire suggested adding “whether fixed, rotating or revolving” to the proposed definition to address the different ways that fractional ownership could be structured. He stated that owners in a time-share each have their own separate deed, which is different than a single entity ownership, even if that entity is made up of different owners. He said that the separate deed issue is what he is trying to avoid. Commissioner Flint said that the goal is to limit the revolving use. Planning Commission agreed to revisit the topic of fractional ownership.

Ms. Winser reviewed the language from Section 3.4.6.- Standards for the Granting or Denial of Variances, highlighting the “profit or cost of development” language recommended by Planning Commission. She said that the Board had recommended leaving out both “profit” and “cost of development.” The Board felt that because Section 3.4.6 is clear that all criteria (1 - 5) must be met, and cost could be considered as a hardship under 3.4.6.A.1 (criterion 1) but cannot be the sole basis for a variance because 2 - 5 must also be met, there was no need to reiterate. She stated that neither personal convenience nor special privilege can be considered under criterion 1 as a hardship. Mr. Phillips provided an example of how cost of development could be considered under the hardship criterion. Planning Commission agreed with the Board of County Commissioners’ position.

Ms. Winser reviewed the issues of whether Secondary Dwelling Units should be allowed in all residential zone districts provided the lots are served by central water and sewer, and whether an SDU could be considered attached if it were attached to an Accessory Structure rather than the Primary Dwelling Unit on parcels less than 35 acres. She said that the Board was generally in favor of allowing SDUs anywhere that is served by water and sewer. Commissioner Brookshire asked about Tree Haus. Ms. Winser said that this would be handled through the Tree Haus covenants. Mr. Phillips said that in the last round of amendments the regulations were relaxed to allow attached SDUs on parcels between 5 acres and 35 acres in the A/F zone district. Prior to that no SDUs were allowed in the A/F zone district on parcels of less than 35 acres. The current proposal would allow detached SDUs on parcels of 5 acres or larger in the A/F zone district. He reviewed the water limitations that will limit additional dwelling units in areas that are over-appropriated, unless an augmentation plan is developed.

Commissioner Brookshire noted that in the past the County was concerned with the cost of services in rural Routt County. He offered that if SDUs are allowed in un-incorporated areas, even if those areas are served with water and sewer, the cost of services to the County will grow significantly. Ms. Winser offered that part of the impetus behind the proposed change was to expand housing options in the County. Commissioner Benjamin offered that expanding the number of SDUs will lead to an increase in short-term vacation rental units. It was noted that all the setbacks, etc. will have to be met. There was a discussion of the pros and cons of SDUs in general.

Ms. Winser reviewed the definitions of central water systems and a central wastewater treatment facilities.

There was general consensus to allow SDUs all residential zone districts, provided that the lots are served by central water and sewer.

Ms. Winser stated that the next question is whether SDUs on parcels of 35 acres or less must be attached to the Primary Dwelling Unit, or whether they could be attached to a qualified accessory structure. In prior discussions, both the Board and Planning Commission generally agreed that if an accessory structure is a use-by-right, it would not make any difference if the SDU were attached to that structure or to the Primary Dwelling, provided that the structures were clustered together. Ms. Winser said that there had also been discussion of reducing the maximum separation allowed on smaller parcels. Under the current regulations the maximum separation is 300 ft. Ms. Winser noted that another discussion item was only allowing SDUs on “qualified” structures. She said that staff was concerned that people would build a minimal shed or a carport, for instance, just to build an SDU. She said that qualified structures could be limited to legitimate structures such as barns or garages and the SDU could be required to be an integral part of that structure. Ms. Winser said that another option would be to allow detached SDUs in all circumstances in which an SDU is allowed, but decrease the maximum separation for parcels of less than 35 acres. The SDU would still have to be limited to 800 sq. ft.

Commissioner Flint offered that the attachment requirement doesn't really have any benefit. Ms. Winser said that the intent was to maintain the appearance of a single residence on the property. Mr. Phillips stated that the idea of allowing all SDUs to be detached came out the realization that people would build an accessory structure just to be able to build an SDU. There was general consensus to allow detached SDUs in all cases where SDUs are allowed, provided that all setbacks and other requirements are met.

Ms. Winser said that a recommendation to adopt the three bulleted items on page 1 of the memorandum dated August 2, 2018 would be needed. Chairman Warnke added that there was also agreement on the Board's proposed change to 3.4.6.B, as well as on eliminating the requirement that some SDUs must be attached.

Commissioner Brookshire noted that there are many 35-acre subdivisions and non-conforming smaller lots in the A/F zone district in the County, as well as many MRE lots. He said that 300 ft. was too much separation on these smaller parcels to appear as a traditional ranch compound. He said that 300 ft. between structures on smaller lots would appear as sprawl, not as compounds. Commissioner Benjamin suggested that the cost of utilities would limit the distance between structures. Commissioner Brookshire disagreed. Commissioner Arel offered that 300 ft. was okay on a 35-acre parcel. Mr. Phillips said that the maximum separation can be appealed through the variance process. There was general agreement to limit the maximum separation to 200 ft.

**ADMINISTRATOR'S REPORT**

Mr. Phillips said that there would be a site visit prior to the meeting on August 16th. He announced that the state planning conference would be held in Keystone this fall. He said that priority would be given to those who did not attend the conference in Telluride last fall.

**The meeting was adjourned at 8:15 p.m.**