

ROUTT COUNTY PLANNING COMMISSION

FINAL MINUTES

August 20 , 2020

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, Greg Jaeger, Troy Brookshire, Brian Kelly, Roberta Marshall, Billy Mitzelfeld and Andrew Benjamin. Peter Flint, and Rohail Abid were absent. Interim Planning Director Kristy Winser and staff planners Chris Brookshire and Alan Goldich also attended. Sarah Katherman prepared the minutes. This meeting was conducted via Zoom.

ACTIVITY: PL-20-117

PETITIONER: Nicholas and Alison French

PETITION: Lot Line Adjustment and Vacation of Utility Easements

LOCATION: Lots 60 & 61 Steamboat Lake, Filing 2; located at the corner of Longfellow and Jupiter Place

Chairman Warnke disclosed that he serves as Secretary/Treasurer for the Willow Creek Pass Village Association and chairs the Environmental Control Committee. There were no objections to his participation in the hearing.

Ms. Penny Fletcher, representing the petitioners, reviewed the petition, noting that the house and garage were incorrectly placed when they were built, but that neither of the previous owners had attempted to rectify the situation. She said it was supposed to have been addressed prior to the Frenches closing on the property, but the application was not submitted in time. Ms. Fletcher said that the Frenches are seeking to correct the situation through a lot line adjustment and a vacation of the utility easements. Ms. Fletcher noted that the property had been surveyed, and that the improvements location certificate indicates that the garage encroaches 6.5 ft. over the lot line. She said that there is also a small shed that is located too close to the lot line. Ms. French said that the petitioners had worked with surveyor Tom Effinger, who had come up with a way to adjust the lot line separating Lots 60 and 61 such that the garage would be in conformance with the required setbacks, and the two lots would retain their existing acreages. She added that the adjusted lot line allows for a sufficient buildable area on Lot 60. Ms. Fletcher said that there are no utilities located within the easement, and the utility companies have all signed off on the proposal.

In response to a question from Commissioner Kelly, Ms. Fletcher confirmed that with the adjustment, the shed would still be located within the utility easement. She said that the shed is attached to timbers that are resting on the ground; there is no permanent foundation. She added, however, that moving it would require cutting down several large trees and would be very difficult. The shed has been in this location since the home was constructed. She said that in order to comply

with the County's regulations, the shed would need to be moved 2.5 ft. Ms. Fletcher said that the petitioners would like to address this shed issue through an agreement with the neighbors or through some allowance on the part of the County. The shed is approximately 100 sq. ft. in size.

Ms. Brookshire stated that a shed of this size without a permanent foundation is allowed to be located within the utility easement, provided it is no less than 4 ft. from the property line. With the lot line adjustment proposed, the shed is located too close to the property line to be in conformance. Ms. Brookshire stated that there is no variance process for this, but offered that the lot line might be adjusted somewhat more in that area to accommodate the shed. Ms. Fletcher said that she had discussed this idea with Mr. Effinger, who expressed concern with the re-submittal requirements. Ms. Winser stated that a minor adjustment of this nature would not require re-advertising or re-submittal. She suggested that it could be addressed through the Conditions of Approval (COAs) and the additional adjustment could be made prior to the Board of County Commissioners' hearing. Ms. Brookshire read suggested COA #6 and proposed substituting "relocated" with "brought into conformance."

Ms. Brookshire stated that Ms. Fletcher had thoroughly described the petition. She said that no one knows why the house and garage were located over the property line, but she noted that the property behind the house and garage is very steep and the location was probably shifted for that reason. Ms. Brookshire confirmed that with the lot line adjustment there would still be plenty of buildable area on Lot 60.

Chairman Warnke asked if there was any evidence of agreement to the proposal from the owners of Lot 60. Ms. Brookshire said that they were co-petitioners and had signed the application.

There was no public comment.

Commissioner Mitzelfeld asked about the no-build zones. Ms. Brookshire said that they would be shown on the final plat.

MOTION - Lot Line Adjustment

Commissioner Norris moved to recommend approval of the lot line adjustment with the findings of fact that the proposal with the following conditions meets with Sections 2, 3, and 6 of the applicable guidelines of the Routt County Zoning Regulations and Section 2 and 3 of the Subdivision Regulations.

This approval is subject to the following conditions:

General Conditions:

1. The 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. All fees must be paid in full prior to the recording of the plat.
4. All property taxes must be paid prior to the recording of the plat.
5. 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 approved by the Planning Director before the plat is recorded.
6. The shed located on Lot 61 along the boundary line between Lots 60 and 61, must be brought into conformance to meet current regulations under the definition of small structure prior to the plat being recorded.
7. The notes on the plat shall include, but are not limited to the following:
 - a. Routt County is not responsible for maintaining or improving subdivision roads. The roads shown hereon have not been dedicated nor accepted by the County.
 - b. Existing and new accesses shall meet access standards set forth by the Routt County Road and Bridge Department and Fire Prevention Services.
 - c. Revegetation of disturbed areas shall occur within one growing season with a seed mix that avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass mixes.
 - d. Routt County (County) and the North 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.
 - e. Address signage in conformance with Routt County Road Addressing, Naming, and Signing Policy shall be located at the entrance to the driveway.
 - f. A current soils test showing that the soil is of a sufficient stable nature to support development will be required before obtaining a building permit.

- g. The Declaration of Covenants and Conditions and Restrictions, Unit Nos. One, Three and Four, Steamboat Lake Subdivision, Recorded March 6, 1972 at Reception No. 231399 in Book 356 at Page 164 in the Official records of Routt County, Colorado, and first amended and restated declaration of covenants, conditions, easements and restriction Unit Nos., One, Two Three and Four, Steamboat Lake Subdivision subdivision.

Commissioner Kelly seconded the motion.

The motion carried 8 - 0, with the Chair voting yes.

MOTION - Vacation of Utility Easements

Commissioner Norris 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 is in compliance with Sections 4, 5, and 6 of the Routt County Zoning Regulations, Sections 2, 3 and 4 of the Routt County Subdivision Regulations.

This approval is subject to the following conditions:

- 1. Utility and drainage easements shall be shown and dedicated on the final plat. The plat shall show all required drainage and utility easements on the vacated portion of roadways.
- 2. The resolution for the vacation for the utility and drainage easement shall be recorded concurrently with the final plat.

Commissioner Kelly seconded the motion.

The motion carried 8 - 0, with the Chair voting yes.

ACTIVITY: PL-29-102

PETITIONER: Routt County

PETITION: Consideration of changes to the regulations regarding Open Space and Public Sites

Mr. Goldich reviewed the memorandum, dated August 20, 2020, that includes the background information on the two sections of the regulations to be discussed.

Section 3.5 of the Subdivision Regulations: Open Space and Public Sites

Mr. Goldich stated that the goal of the proposed changes to Section 3.5.2 of the Subdivision Regulations is to bring the County's Regulations into conformance with state statute, which requires that when land is subdivided, land be dedicated or a fee-in-lieu of land be paid for parks and schools. He said that the current regulations list a variety of public sites that the land or fee may be used for, but the statute is specific to parks and schools. Mr. Goldich stated that in 2019 staff presented a list of a variety of other items that are impacted by development (fire

stations, roads, etc.) for which fees could be collected after a study has been performed to demonstrate the nexus between the impact and the fee. He stated that because the County has not done these studies, the fees that may be collected are limited to schools and parks.

Mr. Goldich stated that a formula must be used to determine the amount of land to be dedicated, or the amount of the fee-in-lieu. Mr. Goldich reviewed the formulas and how they were derived, as outlined on page 2 of the memo. He noted that the density used in the formulas is based on the number of additional dwelling units that would be created by a subdivision, beyond the number of dwelling units allowed prior to the subdivision. He stated that once the amount of land to be dedicated is determined, the fee-in-lieu of land is based on the fair market value of the property post-subdivision but without infrastructure, as agreed upon by the Planning Director and the developer. Mr. Goldich noted that the fee-in-lieu of land is used when the amount of land to be dedicated would be too small to be useful. If the developer does not agree to the per acre value, an appraisal may be obtained at the developer's expense. If the developer does not agree with the amount of land determined by the formula, the developer may submit a study to be taken into consideration by the Planning Director. Mr. Goldich clarified that the land dedication or fee-in-lieu of land dedication applies equally to all subdivisions. He reviewed the Fox Grove Subdivision, which was the case that revealed that the land/fee can be applied only to schools and parks.

Commissioner Brookshire asked why the fee is proposed to be paid to a third party entity (school district or parks and recreation department) instead of to the County as a pass-through. Mr. Goldich said that the fees require detailed tracking and reporting, and must be retained in separate interest bearing accounts. Based on these administrative costs and hassles, the County Attorney recommended that the fees be paid to a municipal entity with a parks department or to the applicable school district. Commissioner Brookshire expressed concern regarding enforcement and asked how other counties handle such fees. Mr. Goldich said that evidence that the fee has been paid will be required through a condition of approval (COA) prior to the recordation of the plat. He added that different counties handle fees in different ways; there is no consensus approach. Mr. Goldich stated that last year Routt County distributed over \$200,000 in fees that had been accumulating since 2004.

In response to a question from Chairman Warnke, Mr. Goldich stated that the proposed language regarding the agreement between the developer and the Planning Director is very close to the existing language. Chairman Warnke recalled that Planning Commission had previously decided that such fees should not be applied to lot consolidations, as such dedications/fees had already been made at the time of original subdivision. Mr. Goldich confirmed that this policy is codified in the regulations through a statement that these fees do not apply to lot consolidations.

Commissioner Jaeger asked what constitutes a park, and asked if there was a loophole that would allow a developer to transfer the land to another development. Mr. Goldich stated that a single parcel could be used to satisfy the requirement for more than one subdivision, provided it was large enough to meet the requirement as applied to all subdivided land.

Commissioner Benjamin asked how it would be determined where the fees would go. Mr. Goldich stated that for schools, it would be the district that the land is in. For parks, the recipient department would be based on proximity to the subdivision, or as agreed upon between the applicant and the Planning Director. He said that the idea would be for all of these agreements to be made prior to the review by Planning Commission.

Commissioner Brookshire asked if trails are considered parks, and cited in particular the extension of the core trail and how valuable it would be for the residents of the subdivisions west of town. He added that he would not want to provide funds to the City of Steamboat Springs for use at their discretion, citing the use of 2A funds to build recreation amenities on public lands and in wildlife habitat far from the City limits. He stated that he would want some assurance regarding where the money would go. Mr. Goldich stated that the fee must be based on a nexus between the development and the impact, and asked where the money should go for development west of town, if not to the City. Commissioner Brookshire suggested that there should be a mechanism through which a specific use for the money could be identified. Ms. Winser said that staff would look into this possibility and try to address the concern prior to the discussion with the Board of County Commissioners (BCC). Commissioner Marshall suggested deleting the language regarding proximity and leaving the recipient department to be agreed upon by the developer and the Planning Director. Mr. Goldich said that staff would discuss the nexus between the use of the fee and the location of the subdivision with the County Attorney. There was a discussion of active and passive recreational lands, and how trails can be considered parks.

Commissioner Mitzelfeld stated his support for identifying a specific project. He also asked about commercial property and why there was not a formula addressing the impact of commercial development that does not add residential density. Mr. Goldich said that the statute is specific to subdivisions. He added that the Routt County Master Plan does not support commercial development outside of growth centers, so unless the Master Plan is changed there was no need to address the impacts of commercial development.

Section 3.2.9 of the Zoning Regulations: Term of Approval of Use Permits

Mr. Goldich stated that the proposed change is to address the common problem that permittees often do not keep track of when their permits expire, and often ask the BCC for an extension to allow time for the submission of a renewal application. There is no process for such extensions and there is some question as to whether the BCC has the authority to grant them. The proposed

amendment (subsection C) will add a process through which temporary extensions are allowed. The Planning Director would have the authority to grant one 90-day extension, with all COAs remaining in force. The request for an extension must be accompanied by the submittal of a complete application. Mr. Goldich stated that the new permit software should minimize the use of this provision by alerting staff to upcoming expirations in time for renewal applications to be submitted.

In response to a question from Commissioner Jaeger, Mr. Goldich stated that only one extension is allowed because it must be accompanied by a renewal application. He clarified that one extension would be allowed for each permit term.

Commissioner Brookshire expressed concern with subsection A. He stated that the occurrence of some error in the process such that a permit term was not specified should not allow a permit to be automatically granted life of use. He stated that a permit without a term should be assigned a specific period of time by default. There was a discussion of permits that are grandfathered in because they are so old, and those that have been granted life of use intentionally. Ms. Winser noted that subsection A is the existing regulation. It is not new language. Commissioner Brookshire clarified that he is not concerned about grandfathered or intentional life of use permits, but rather those that do not have a specified term through an error. Mr. Goldich noted that the period of the permit is included as a COA in all permit templates that are used. He suggested that the phrase, "if no time period is specified, for the life of the use" could be stricken. There was general consensus that proposed subsection C was acceptable.

ADMINISTRATOR 'S REPORT

Ms. Winser reviewed the upcoming agendas, noting that no items have been scheduled for the September 3rd meeting. She said that she is not sure if items will be scheduled for the second meeting in September, so asked all to keep it open.

Mr. Goldich noted that there will be a change to the application process that will require all items to have been submitted and the staff report to be complete before an item is scheduled for consideration by Planning Commission. In addition to the changes to the regulations, there will also be an update to the fee schedule. These items will be presented in the fall.

Ms. Winser reported that only three applications for Planning Commission and the Board of Adjustment had been received, so the advertisement will be extended.

The meeting was adjourned at 8:00 p.m.