

ROUTT COUNTY PLANNING COMMISSION

FINAL MINUTES

SEPTEMBER 19 , 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, Geoff Petis, Brian Kelly, John Merrill, Peter Flint. Commissioners Roberta Marshall, Greg Jaeger and Andrew Benjamin were absent. Assistant Planning Director Kristy Winser and staff planner Alan Goldich also attended. Sarah Katherman prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES - August 15, 2019

Commissioner Norris moved to approve the minutes of the Routt County Planning Commission meeting cited above, as written. Commissioner Kelly seconded the motion. **The motion carried 7 - 0.**

ACTIVITY: PL-19-153

PETITIONER: Oldcastle SW Group, Inc.

PETITION: Amend SUP PL-18-114 to add an office building, vehicle maintenance shop and extend the life of the permit

LOCATION: 2.2 miles east of Hayden, CO east of RCR 51A and south of US 40; located in Sections 11 & 12 T6N, R88W

Commissioner Kelly recused himself from this item.

Mr. Goldich reviewed the request for an amendment to the existing permit for the Hayden Gravel Pit. He presented a site plan of the area, and indicated the area of the original pit that has been reclaimed, the expansion of the pit that was approved in 2013 and the County-operated Funk Gravel Pit. He also indicated the access to the Hayden Pit, the location of the asphalt plant and the proposed location of the office building and the maintenance shed. Mr. Goldich said that currently vehicles in need of repair are trucked to the Oldcastle facility in Grand Junction. The proposal is to relocate an existing building from another Oldcastle site and repurpose it at the Hayden Pit to allow vehicle maintenance to occur on site. The office building will house estimators, project managers, etc. Mr. Goldich added that the existing permit is scheduled to expire in 2023 or 2024. He said that based on the existing reserves and quantity of asphalt and concrete brought to the site for recycling, it is estimated that the pit will remain viable for another eight more years, plus an additional two years for reclamation.

In response to a question from Chairman Warnke, Mr. Goldich stated that the second asphalt plant was approved administratively. Commissioner Merrill asked

about the septic system proposed to serve the facilities. Mr. Goldich said that the system would include a septic tank and a leach field in accordance with Routt County Environmental Health Department. Commissioner Merrill asked about the approval letter from the Division of Reclamation, Mining and Safety (DRMS). Mr. Pete Siegmond, representing the petitioner, stated that DRMS has evaluated the proposal and had a couple of issues. He noted that as a condition of approval (COA) of this permit, the DRMS permit would have to be issued prior to the issuance of the SUP for the office and shop. He summarized that the DRMS was concerned with the drainage that lies on land between the Hayden Pit and the Funk Pit, and is not covered by any permit. He said that an agreement was made with the DRMS that this land will never be mined from either side. Chairman Warnke offered that it is generally accepted procedure in the industry to obtain local permits prior to state permits.

Commissioner Brookshire asked about the accel/decel lanes. Mr. Siegmond stated that these were installed as a COA of the 2013 expansion. He stated that the pit is located on land owned by the Connell family, which also owns the land on which the Funk Pit is located. Mr. Siegmond noted that the County and Oldcastle share the access road. Oldcastle scales all the loads that come out of the County pit, in exchange for the County applying magnesium chloride to the haul road.

There was no public comment.

MOTION

Commissioner Petis to recommend approval of the amendment to the SUP for the Hayden Gravel Pit with the finding 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 4, 5, 6, 8, and 9 of the Routt County Zoning Regulations. This approval is subject to the following conditions:

General Conditions:

1. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 4, 5, 6, 8, and 9.
2. The Special Use Permit is limited to uses and facilities presented in the original project plan. Any additional uses or facilities 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 Special Use Permit, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
4. In the event Routt County commences an action to enforce or interpret this Special Use Permit, 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 or allowed to remain on the property.
6. This permit is contingent upon any required permits being obtained and complied with from all involved agencies including, but not limited to the Division of Reclamation, Mining and Safety (DRMS) Mined Land Reclamation (112 Construction Materials Permit), Colorado Department of Public Health and Environment (CDPHE) Air Pollution Control Division (Air Quality Permit), CDPHE (Stormwater Management Plan), Routt County Road and Bridge (Grading & Excavating permits), and Colorado Department of Transportation (CDOT) access permit. 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 operations.
7. Fuel, flammable materials, or hazardous materials shall be kept in a safe area as approved by the Chief Building Inspector and Department of Environmental Health. Any spills of fuels or hazardous materials shall be reported to the Routt County Planning Department within three days of occurrence.
8. All exterior lighting shall be downcast and opaquely shielded.
9. Prior to the issuance of the permit, the permittee shall provide evidence of liability insurance, in the amount of no less than \$1,000,000 per occurrence. Routt County shall be named as an additional insured on the policy. Permittee shall notify Routt County Planning Department of any claims made against the policy. Certificate of liability insurance shall include all permit numbers associated with the activity.
10. Accessory structures/uses associated with this permit may be administratively approved by the Planning Director without notice.
11. Permits/Approvals shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this permit. Permits/Approvals that require an ongoing review will be assessed an Annual Fee. Additional fees for mitigation monitoring will be charged on an hourly basis for staff time required to review and/or implement conditions of approval.
12. Transfer of this SUP may occur only after a statement has been filed with the Planning Director by the transferee guaranteeing that they will comply with the terms and conditions of the permit. If transferee is not the landowner of the permitted area, Transferee shall submit written consent to the transfer by the landowner. Failure to receive approval for the transfer shall constitute sufficient cause for revocation of the permit if the subject property is transferred. Bonds, insurance certificates or other security required in the permit shall also be filed with the Planning Director by the transferee to assure the work will be completed as specified. Any proposal to change the terms and conditions of a permit shall require a new permit.
- ~~13.~~ The permittee shall prevent the spread of weeds to surrounding lands and shall comply with the Colorado Noxious Weed Act as amended in 2013 and the Routt County approved noxious weed management plan.

14. Any land survey monuments shall be recorded in the Colorado Land Survey Monument Records prior to commencement of mining, and if removed, shall be replaced following reclamation.
15. Copies of all financial guarantees related to the project shall be submitted to the Planning Director prior to issuance of the Special Use Permit.

Specific Conditions

Operations Plan:

16. The Special Use Permit is valid for ten years and shall expire on August 1, 2029. This timeframe includes completion of reclamation.
17. Approved uses include:
 - a) Extraction of gravel deposits
 - b) Crushing and process of gravel deposits
 - c) Stockpiling of topsoil, overburden, and extracted and processed gravel
 - d) Asphalt plant
 - e) Concrete plant
 - f) Scale House, office building, and vehicle maintenance building
 - g) Recycling of soil, asphalt, and concrete rubble
 - h) Reclamation
18. The operation consists of:
 - a) A maximum yearly allowance of 150,000 tons of sales.
 - b) Hours of operation shall be 6:00 a.m. to 7:00 p.m. Monday through Saturday. Operation, as used in this condition, shall include the firing up and operation of the crusher, loading, hauling, extraction, sorting and crushing of gravel and other materials, use of the office, equipment maintenance and repair, the warming up of equipment, and shipping and receiving of non-aggregate materials.
 - c) There shall be no operation on Sundays and national holidays, which are Christmas Day, Thanksgiving Day, New Year's Day, Fourth of July, Presidents Day, Memorial Day, and Labor Day.
 - d) Warming of equipment is allowed 15 minutes prior to startup.
 - e) A waiver of hours and/or days of operation for public projects or for projects with special technical requirements may be approved by the Planning Director.
19. A maximum of six acres shall be mined at a time. A maximum of 42.57 acres shall be disturbed at any time. Disturbed acreage is defined as all areas not covered by water, pavement, or substantially noxious weed-free vegetation. Reclamation according to approved plans including grading, topsoiling to a minimum of 12" in depth and seeding shall occur concurrently with mineral extraction in each area.
20. Prior to the issuance of the amended SUP, the permittee shall submit evidence of approval from DRMS for the proposed amendments. Any amendments to the DRMS permit must be approved by the Planning Director and may be cause for a review of the SUP.

21. The mining of the northern ridge shall not be permitted by this Special Use Permit. No disturbance of the ridge along the northern boundary of the gravel pit shall be permitted; which would make the mining operation visible from US 40, or which would damage the stability of the slope of the ridge.
22. Soil stockpiles shall have a minimum of 3:1 slopes.

Reporting:

23. The operator shall submit an annual report to the Planning Department and the Assessor's office that details total materials hauled, remaining reserves, and total number of truck trips by February 15th of the following year.
24. Permittee shall conduct an annual inventory of weeds on site each spring including but not limited to species identification and map locations. Inventory shall be submitted to Routt County Weed Program (RCWP) supervisor within 30 days of conducting the survey.
25. Permittee shall submit an annual report prior to December 31 of each year to document all weed control measures undertaken, including herbicides used, rates of application, and total gallons of mixed herbicide solution applied.
26. Permittee shall notify the Routt County Environmental Health Department of any written or verbal notice of violation or citation issued to the Permittee by DRMS, CDPHE, or any other permitting agency. **Copies of inspection reports**, annual reports, asphalt plant and crusher relocation notices, and any other documentation required to be submitted to DRMS, CDPHE, or any other permitting agency for any permits obtained through those agencies shall be submitted to the Routt County Environmental Health Department.

Reclamation:

27. The permittee shall be responsible for reclamation as set forth by the Colorado Division of Minerals and Geology gravel mining guidelines. All buffer zones required by the Division of Minerals and Geology permit shall be included as a part of this permit, if they are more stringent than those set forth herein.

Access and Traffic:

28. Overweight and over length permits for vehicles shall be obtained from the Routt County Road and Bridge Director prior to the use of such vehicles.
29. All trucks and equipment accessing from the private access drive shall be able to exit and be located on private property and off of State Highway road right of way before encountering a fence, gate, or cattleguard. At a minimum, the distance from the County road right of way to any gate, fence, or cattleguard shall be 1.5 times the length of the longest vehicle.
30. All access for the new site shall be via the existing private access to US 40. The only exception is that if the site provides materials to the Yampa Valley Regional Airport and does not increase traffic over the volumes allowed when that access was permitted, it may use the existing access to CR 51A.

Air and Water Quality:

31. The Special Use Permit is contingent upon the petitioner complying with the applicable requirements of Regulation 1, Section III.D.1.b of the Colorado Air Quality Control Commission, as a minimum standard. The operation shall maintain a State-approved fugitive dust control plan for the sand and gravel operation. In addition, no off-site transport of visible dust emissions shall be allowed. The Planning Administrator may require temporary closure of the facility if dust control measures are not effective. All haul roads shall be chemically stabilized or paved; all disturbed sites shall be watered or chemically stabilized to minimize dust. Watering operations shall be increased immediately in response to periods of high wind. The operator shall take all appropriate actions to mitigate and control dust from all sources, including stockpiles.
32. The operator of the asphalt batch plant shall use a “best practices” standard in the operation of the plant, including routine, continual monitoring of the plant operation and having the plant operator become certified to perform opacity testing and conducting such testing on an ongoing basis, but at least monthly. The plant operator shall keep records of such testing and make such records reasonably available for inspection by the County. The asphalt batch plant shall be operated so that noxious odors are not emitted beyond the boundary line on the property on which the use is located. The Applicant shall also comply with all applicable Colorado odor regulations.
33. A sand and oil separator shall be installed during the construction of the vehicle maintenance building.

Noise:

34. Noise from all on-site sources and from haul trucks shall be in compliance with the performance standards in the State noise statute (C.R.S. 25-12-103). Violations of performance standards shall be enforceable by the Routt County Planning Department and may be cause for a full review of the SUP by Planning Commission and/or the Board of County Commissioners. Operator shall encourage drivers to not use their J brakes while entering or leaving the site.
35. Permittee is responsible for maintaining historic flows to downstream users of all affected ditches on the property.

Noise:

36. Sanitary facilities are to be located on or near the extraction site.
37. The design of any fence installations shall be approved by the Colorado Division of Wildlife.
38. The operator shall use the use of the mostly technologically advanced and proved procedures and equipment to mitigate the significant impacts of mining operations and associated uses.

39. The operation will be reviewed annually by Planning staff to ensure compliance with permit conditions, with recommendations to Planning Commission as appropriate.

Commissioner Brookshire seconded the motion.

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

EXACTIONS AND DEVELOPMENT IMPACT FEES

Mr. Goldich stated this is intended to be an initial discussion of a wide variety of fees that the County, if it so chooses, could collect to offset the impacts of development. He stated that exactions can include land dedications and/or monetary fees. Mr. Goldich reviewed the information regarding the limits placed on the collections of fees, the different types of services for which the fees may be collected, the required background studies, developer rights and the administration of fee collection. He reviewed the landmark US Supreme Court cases that pertain to such fees, as outlined in the memo dated September 12, 2019. The main issues addressed in these cases include essential nexus, rough proportionality and applicability. Mr. Goldich reviewed the authority the County has to collect exactions and development impact fees, and the rules that apply to that authority that are intended to balance private property rights with the need of government to offset the impacts of development and to plan for growth.

Mr. Goldich stated that the Board of County Commissioners (BCC) had recently distributed some of the funds that the County has collected as fees in lieu of land for parks and schools. These funds were distributed to the RE-1, RE-2 and RE-3 school districts, based on the amount of fees collected within each of the district boundaries.

Mr. Goldich reviewed the list of services and facilities for which counties and communities in Colorado collect fees. The memo includes a list of several communities and counties, and enumerates the fees collected by each. Mr. Goldich said that in the early 2000s Routt County investigated the possibility of enacting fees on development in Stagecoach to help improve the roads in that area. The study determined that the amount that would be collected through the fee would barely cover the administrative costs of the collection. The County also decided that it did not want to impose any new impediments to development in Stagecoach.

Mr. Goldich said that staff is looking for feedback from Planning Commission on whether Routt County should collect fees from the development of subdivisions and single family homes to offset the costs and impacts associated with new development. If collection of fees seems like a good idea, it will also need to be decided which services and facilities the fees would offset. Another question is whether the County should fund studies to help determine if an impact fee would be feasible, and if so, what the fee should be. Mr. Goldich also asked if the

developer should be responsible for conducting the studies to determine what the impact of the proposed development will be on facilities and services.

In response to a question from Chairman Warnke, Mr. Goldich reviewed the required dedication of land or a fee in lieu of land for parks and schools exacted from subdivisions. He said that some gravel pits are charged a per ton fee for road and bridge maintenance. Those are the only fees/exactions that Routt County currently has in place.

Commissioner Petis suggested that any decision regarding impact fees should be guided by the advice of the County Attorney. Mr. Goldich stated County Commissioner Monger had requested an opinion regarding what types of services beyond parks and schools could be subject to exactions by the County. He stated that the County would need to conduct studies to determine the services that any fees would support, as well as studies to determine a rough proportionality and a clear nexus. Commissioner Petis suggested that in addition to figuring out which services might be appropriate for impact fees, an opinion from the County Attorney was also needed regarding why those services should or should not be supported by fees, from a legal perspective. Commissioner Petis said he was unsure what the problem is that impact fees would solve.

Commissioner Brookshire suggested that it was up to Planning Commission to provide feedback regarding what its appetite is for impact fees, and what services are being strained by new development. Mr. Goldich referred back to the list of services that other counties have fees to support. Chairman Warnke offered that many of the impacts would only be generated by significant developments, which Routt County does not allow. He said, however, that single family homes have a significant impact on fire and emergency services. Mr. Goldich said that the County would have to consult with the fire districts to determine if there is a need, and if so, what the impact of a single residence is. Such a fee would be collected in conjunction with the building permit. There was also a discussion of the cumulative impact on roads from incremental development.

Commissioner Brookshire noted that the County provides central services to Milner and Phippsburg, and suggested that impact fees could support these services that the whole County is currently paying for. Neither Milner nor Phippsburg are special districts. He added that the County could certainly provide better services if fees were collected for things other than parks and schools, such as roads or emergency services. Commissioner Brookshire offered that the County doesn't really need money for parks and schools. Not much money is collected for parks and schools, as subdivisions are small and rare. Mr. Goldich said that state statute requires fees for parks and schools to be collected from subdivisions. Chairman Warnke agreed that there was no need to collect money in the County for parks or schools, but that fees for new construction should be collected to support roads and fire.

Commissioner Petis said that the next question would be whether the funds collected would be worth the effort and the administrative costs. Mr. Goldich said that a study would need to be done to determine this.

Commissioner Kelly noted that the design and right-of-way are in place for a realignment of CR 14. He asked if it would be fair to exact a fee to support this shovel-ready project. Chairman Warnke offered that the road reconstruction would be funded by the ski area, if it were developed.

In response to a question from Chairman Warnke, Mr. Goldich explained that Eagle County's Exterior Energy Use Fee is charged for projects that use energy outside to melt snow, heat spas, etc. above a certain threshold.

Commissioner Kelly noted that unbuilt rights-of-way that are valuable in providing wildfire access are being occupied. He offered that a fee could support keeping these access routes open.

Chairman Warnke said that what the County is missing is an effective way of measuring the cumulative impacts of incremental small-scale growth. Commissioner Kelly stated that the statistics on growth in unincorporated Routt County are available. Commissioner Brookshire cited the growth along roads such as CR 46 as an example.

Mr. Goldich clarified that many of the fees being considered would be collected at the building permit stage, and would apply to all. The change of use fee would instead be associated with a use permit, such as a guest ranch or gravel pit being charged for road impacts on a per trip or per ton basis.

Following discussion, Planning Commission narrowed the list of possible fees worth further consideration to the following:

- Impact fee for change of use
- Fire, Emergency Services and Law Enforcement Impact Fee
- Road Impact Fee
- Affordable Housing
- Human Services

More information is needed regarding the options for when/how to assess these fees.

Chairman Warnke asked about the process through which the Stagecoach Ski Area could begin operations. Ms. Winser stated that an Administrative Review Team meeting would be held, including all agencies or departments that would have an interest in development of the site. She clarified that there is an active permit for the store site. There is also an active permit for a limited use ski area, without provision for base area development. In order to move forward, a plan would have to be submitted, along with a request to amend the Future Land Use Map, which is currently very general. Fees to address the impacts of such a

development could be imposed as conditions of approval of a use permit, provided that a rational nexus and rough proportionality were determined.

It was agreed that large scale development should be required to fund the necessary studies to determine impacts. There was a discussion of the merits of increasing the cost of development through fees, when affordable housing is a goal. Commissioner Flint noted that the issue of proportionality was different for development such as tiny homes vs. very large homes.

ADMINISTRATOR'S REPORT

Ms. Winser reported that next week the BCC would be hearing the Milner tiny home proposal and considering the recommendations for Recreational Facilities and Residential Treatment (Care) Facilities.

Ms. Winser reviewed the upcoming agendas.

The meeting was adjourned at 7:40 p.m.