

ROUTT COUNTY PLANNING COMMISSION

FINAL MINUTES

October 1, 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, Troy Brookshire, Peter Flint, Brian Kelly, Roberta Marshall, Linda Miller, and Andrew Benjamin. Rohail Abid, Billy Mitzelfeld and Greg Jaeger were absent. Interim Planning Director Kristy Winser and staff planner Tegan Ebbert also attended. Sarah Katherman prepared the minutes. This meeting occurred via Zoom.

PUBLIC COMMENT

There was no public comment.

MINUTES - July 9, 2020

Commissioner Kelly moved to approve the minutes of the Routt County Planning Commission meeting cited above, as written. Commissioner Brookshire seconded the motion. **The motion carried 8 - 0.**

MINUTES - August 6, 2020

Commissioner Kelly moved to approve the minutes of the Routt County Planning Commission meeting cited above, as written. Commissioner Marshall seconded the motion. **The motion carried 8 - 0.**

MINUTES - August 20, 2020

Commissioner Kelly moved to approve the minutes of the Routt County Planning Commission meeting cited above, as written. Commissioner Marshall seconded the motion. **The motion carried 8 - 0.**

ACTIVITY: PL-20-156

PETITIONER: Olympia Von Berg

PETITION: Special Use Permit for a Bed and Breakfast

**LOCATION: 26755 Aspen Court; located approximately off of CR 129
between Willow Creek Pass Subdivision and Steamboat Lake
State Park**

Ms. Olympia Von Berg reviewed the petition for a Bed & Breakfast (B & B) in North Routt County. She said that they would not be serving food because in order to do so they would need to have commercial well. She said that this might be a possibility many years in the future, but for now they would only rent the bedrooms. Ms. Von Berg said that she and her partner, Robbie Deckard, are professional athletes. The B & B would not be their primary source of income.

Ms. Ebbert presented an aerial view of the property. She noted that currently there is only one other residence in the subdivision. She presented photos of the residence and stated that the two bedrooms proposed for rental each have an en suite bath. There is a common lounge area between the two bedrooms. Ms. Ebbert said that the applicants do not intend to prepare food for their guests and their guests would not be allowed in the owners' area of the house without express permission and would not be allowed to use the patio or the hot tub. She said that the applicants had developed a brochure for guests with suggestions regarding eating establishments and activities in the area. Ms. Ebbert stated that Aspen Court is privately maintained and that there is ample parking for guests on site. She said that pets would be allowed on a case-by-case basis, and the guests would have to be with their pet at all times. Ms. Ebbert noted that the standards for B & B's are included in the staff report.

Ms. Von Berg stated that they are planning to rent out only one bedroom at this time, but would like to be able rent both bedrooms in the future. She said that they had recently denied a request for a month-long rental because their dog was not a good fit. Ms. Ebbert explained that the applicants are allowed to have a single lease holder for a full month without a permit, as this time period exceeds Routt County's definition of short-term rental.

Commissioner Kelly stated that he lived nearby for many years and noted that the availability of water in the area is marginal. He offered that renting one bedroom might be reasonable. In response to a question from Commission Flint regarding the referral from the Division of Water Resources, Ms. Ebbert explained that in order serve breakfast, the property would need to have a commercial well. If no food is served, the rooms could be occupied under a domestic well permit.

Citing the staff comments on page 6 of the staff report, Commissioner Brookshire asked how the applicants intended to ensure the safe arrival of guests to the property. Ms. Ebbert said that because the owners would be on-site, they would know when guests were expected to arrive.

Commissioner Marshall stated that she was confused by the application, stating that without food service there would be no difference between the request and a short-term rental. Ms. Ebbert stated that the B & B regulations (Section 8.17) do not require food service, and are allowed with a valid Special Use Permit in the Mountain Residential Estates (MRE) zone district. She stated that in addition to B & B's, Routt County allows overnight guests through permits for Guest Ranches and Recreational Facilities with Overnight Accommodations. She stated that the B & B regulations require the owner to live in the dwelling; the accommodations cannot be located in a secondary dwelling unit or a vacant house.

Chairman Warnke asked if the applicants were aware of the covenants on the property. Ms. Ebbert stated that the County does not enforce covenants. She added that this property is the result of a lot consolidation replat, and no covenants are listed on the plat. There is also no homeowners' association to

enforce covenants. There was a discussion of whether the original covenants on Steamboat Lakes Subdivision Filing 5 continue to apply to consolidated lots.

Commissioner Miller asked if there would be an on-site manager when the owners are not present. Ms. Von Berg stated that when they are travelling, or preparing for a major competition, they would not have renters. She said that the rooms would only be rented when they were there and when it was convenient for them. She said that no one would be allowed to stay at the house if she and Mr. Deckard were gone for even a single night.

Public Comment

Mr. Les Sharp, an adjacent property owner, stated that he and his wife have owned their property for about 30 years, and intend to build a home and retire there soon. He stated that he believes the original covenants still apply and that the use of the lots in the neighborhood should be strictly residential. He expressed concern with allowing a commercial enterprise in the subdivision.

Hearing no further comment, Chairman Warnke closed public comment.

Roundtable Discussion

Commissioner Brookshire stated that he does not think the proposed use can fit. He said that what is being proposed seems like a short-term rental, which is a use only allowed in the Commercial zone district. He said that while the regulations state that a B & B may serve food (but does not have to), the guest bedrooms must be an integral part of the dwelling. Commissioner Brookshire stated that the proposal is to rent a couple of bedrooms that are over the garage, and guests would not be allowed in the main part of the house. He stated that the proposal does not meet the definition of a B & B as the rental rooms are not an integral part of the house. Commissioner Brookshire also cited Routt County Master Plan Sections 12.3.E regarding the retention of neighborhoods with full-time residents, and well as action item 12.4.E stating that the Zoning Regulations for non-agricultural zone districts should be amended to specifically prohibit short-term rentals. He stated that when buyers purchase property they have a reasonable expectation of what will occur there, and this neighborhood was intended for single family residences. He stated that he could not support the petition.

Commissioner Kelly said that he was torn. He said that he could understand Commissioner Brookshire's point, but that he knows that short-term rentals are going on without permits. He said that he would prefer that they were regulated.

Commissioner Brookshire stated that the role of Planning Commission is not enforcement. He said that Planning Commission must base its decisions on the Master Plan and the Zoning and Subdivision Regulations, not on whether unpermitted activity is occurring.

Commissioner Benjamin offered that a B & B without multiple bedrooms and that does not serve breakfast does not seem like a B & B, but acknowledged that it is different from a short-term rental because there is on-site management. Ms. Winser read Routt County's definition of a B & B. She noted that in the Agricultural/Forestry (A/F) zone district, a B & B requires a Conditional Use Permit (CUP), while in the MRE zone district a Special Use Permit (SUP) is required. She offered that the potential for greater impact on neighborhoods of smaller acreages merits the higher level of review.

Chairman Warnke offered that the issue is whether the proposed use is appropriate for the location. Commissioner Brookshire agreed that land use compatibility is a concern, and cited Section 6.1.7 regarding significant negative impacts.

In response to a question from Commissioner Benjamin, Ms. Ebbert said that there are no permitted B & B operations in areas with MRE zoning. There are only a few B & B's in unincorporated Routt County.

Commissioner Flint said that he was torn regarding the petition. He said that he did not foresee any significant impacts from the proposal, but that he has concerns regarding the small acreage within a residential development and the precedent that would be set of allowing a commercial operation within a residential neighborhood.

Commissioner Norris stated his agreement with Commissioner Flint. He said that the difference between the proposed operation and a short-term rental was negligible, and that short-term rentals should be discouraged. He stated he could not support the petition.

Commissioner Marshall stated that she was also conflicted, and suggested that the proposal seems like an attempt to avoid the prohibition on short-term rentals. She also expressed concern with the precedent an approval would set. She said she could not support the proposal.

Commissioner Miller expressed concern with allowing a commercial operation within a residential neighborhood. She said that she understands that B & B's are different from short-term rentals because they have on-site management, regardless of whether they serve food. She said that despite the on-site management, this type of use is inappropriate for a small acreage in a residential area.

Chairman Warnke stated that he shares the concern regarding commercial operations in residential neighborhoods. He stated that although an actual precedent would not be set because each application is assessed on its individual merits, allowing a B & B in a residential neighborhood would make it more difficult to deny similar proposals in the future. He noted that a B & B

proposal in an area zoned MRE requires two levels of review, so this petition would also be heard by the Board of County Commissioners.

Mr. Deckard stated that the two bedrooms are not isolated from the rest of the house. They are fully connected by a corridor. Regarding the concerns expressed by Mr. Sharp, Mr. Deckard stated that they do not want to disturb the peace and quiet of the neighborhood - for their neighbors and for themselves. He said that the number of rentals would be very limited and that there would be no impacts on the neighbors. Mr. Deckard suggested that there would be a maximum of 1 or 2 guests per week. He added that they are going through the permitting process because they support the rules and want to comply with the regulations, even though they are aware that many others do not. Mr. Deckard reiterated that there would be no negative impact on the neighbors and that the proposal would generate very little traffic. He suggested that the impact of a Guest Ranch with multiple cabins and many guests on a 35-acre parcel would have much greater impact than what they are proposing.

Chairman Warnke commended the applicants for going through the process and making an effort to minimize the potential impacts. He offered that the issue is whether allowing a commercial operation in a residential area zoned MRE is appropriate, in general. Mr. Deckard stated that no precedent would be set because each application is evaluated on a case-by-case basis. Commissioner Brookshire read Section 8.13.D of the Regulations and Standards for B & B's. He added that the limit of 1 or 2 guests per week was not included in the narrative and that there would be no way of enforcing such a limit.

MOTION

Commissioner Brookshire moved to deny petition PL-20-156 for a Bed and Breakfast. This denial is based on the findings of fact that the proposal is inconsistent with Master Plan Sections 6.17 and Policy 12.3.E, as well as Sections 12.4.E and 12.3.H. Commissioner Brookshire added that the proposal does not comply with the B & B standards because the rooms being proposed for rent are not integral to the main part of the house.

Commissioner Flint seconded the motion.

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

ADMINISTRATOR'S REPORT

Ms. Winser reviewed the upcoming agendas. She noted that the Planning Department is very busy with administrative permit requests, code enforcement cases, building permit reviews and variance applications in addition to the petitions that will be heard by Planning Commission.

Ms. Winser reported that Commissioner Kelly now represents District 3 (West Rount). Commissioner Miller was appointed to the at-large position. She said she would discuss replacing Rohail Abid, who has not attended a meeting since his

appointment. Ms. Winser said that two new members were appointed to the Board of Adjustment.

The meeting was adjourned at 7:35 p.m.