

## **ROUTT COUNTY PLANNING COMMISSION**

### **FINAL MINUTES**

**October 15, 2020**

The regular meeting of the Routt County Planning Commission was called to order at 6:00 p.m. with the following members present: Acting Chairman Troy Brookshire and Commissioners Bill Norris, Greg Jaeger, Billy Mitzelfeld, Peter Flint, and Linda Miller. Commissioners Steve Warnke Brian Kelly, Roberta Marshall, and Andrew Benjamin were absent. Interim Planning Director Kristy Winser and staff planners Tegan Ebbert and Alan Goldich also attended. Sarah Katherman prepared the minutes. This meeting was conducted via Zoom.

There was no public comment.

**ACTIVITY: PL-20-164**

**PETITIONER: Pathfinder**

**PETITION: Conditional Use Permit for a Wireless Internet Tower**

**LOCATION: Approximately 3.5 miles south from the intersection of US HWY 131 and US HWY 134**

Mr. Farr Shepherd of Pathfinder reviewed the petition to construct a wireless internet tower to provide high speed internet service to the King Creek Ranch, its staff and others with a sight line to the tower. He described the proposed location, on a private parcel owned by one of the partners in King Creek Ranch. He presented renderings of the tower and aerial views and photographs of the site. He said that the tower would be constructed to about 25 or 30 ft., and perhaps extended in the future to 35 feet to increase the service area. Mr. Shepherd stated that the proposed location is a high point on King Creek Ranch, but would only be slightly visible from Hwy 131. He said that no new roads would be needed to access the site and that power would be provided from the nearest residence.

Commissioner Miller asked about the construction schedule. Mr. Shepherd stated that the intent is to build the tower this fall. He said that only a 4 ft. x 4 ft. pad is needed for the tower, which comes in pre-built sections. He said that the only obstacle to starting construction immediately would be if a soils sample is needed. Mr. Shepherd stated that even with a delay for a soils sample, the project could be complete by year end. He added that this would avoid the need for predatory bird nest survey required by Colorado Parks and Wildlife (CPW) if construction were to take place between January first and the end of July.

Ms. Ebbert said that the petitioner, Pathfinder, is an internet service provider in several other Colorado counties. This is their first application in Routt County. She said that the first phase of this project would supply internet service only to King Creek Ranch and its staff in the vicinity. The second phase, which may

require a slightly taller tower, would provide service to others in South Routt County. Ms. Ebbert said that the petitioner intends to paint the tower green to blend in with the surroundings. She said that the tower may be visible from Hwy 131, but that the elevation of the site much higher than the road and would be difficult to see.

Regarding access to the site, Ms. Ebbert said that the King Creek Ranch would grant an easement or an access lease for the petitioner to use the private roads. She said that co-location would also be required on the tower. She offered that these issues can be addressed through Conditions of Approval (COAs). She presented two draft COAs for consideration. Ms. Ebbert noted the referral letter from CPW, which states that a nest survey would be required if construction takes place between January 1 and July 31, which is why the petitioner would like to finish the construction before the end of the year.

Commissioner Norris asked if an additional COA would be needed for the nesting survey, and whether flagging should be required on the tower. Ms. Ebbert said that anti-perching devices are addressed in suggested COA #23. Ms. Shepherd said that anti-perching devices are usually not needed on small towers like the one being proposed, and added that the cross-members are diagonal. He said that anti-perching devices could be installed on the top. Ms. Ebbert stated that the tower must comply with CPW guidelines.

In response to a question from Commissioner Miller, Ms. Ebbert said that the CSU Extension Office provides different grass mixes for different locations, but they are composed of native grasses.

There was no public comment.

Chairman Brookshire asked about the access lease, and stated his preference for an easement. Mr. Shepherd stated that access leases are sometimes used when service is provided exclusively to a private property owner. He said that easements are generally used when service is also provided to those outside of the property. Following discussion, Ms. Ebbert re-worded suggested COA #24.

### **MOTION**

Commissioner Norris moved to approve a Conditional Use Permit for a wireless internet tower 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 Sections 4, 5, 6 and 8.10 of the Routt County Zoning Regulations.
2. With this approval comes the recognition that the public benefits outweigh strict noncompliance and that visual mitigations are precluded by the nature of the technology and the surrounding landscape.

This approval is subject to the following conditions:

**General Conditions:**

1. The CUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, 6, and 8.10.
2. The CUP is limited to the uses and facilities presented in the approved 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 CUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
4. In the event that Routt County commences an action to enforce or interpret this CUP, 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 on the property.
6. 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 operations.
7. 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.
8. All maintenance, security, or 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. Permittee shall notify the Routt County Planning Department of any claims made against the policy. Routt County shall be named as an additional insured on 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. The permit 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 CUP 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 of 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 comply with the Colorado Noxious Weed Act as amended in 2013 and Routt County noxious weed management plan.

**Specific Conditions:**

14. The CUP is valid for the life of the use provided it is acted upon within one year of approval. The CUP shall be deemed to have automatically lapsed if the uses permitted herein are discontinued for a period of one (1) year.
15. The construction and use of a telecommunication facility shall not cause interference to other adjacent telecommunication facilities. The County shall be held harmless if interference occurs.
16. If tower lighting is required by the FAA, the operator shall use only white (preferably) or red strobe lights at the minimum intensity, minimum number of flashes per minute, and minimum number of lights allowed by the FAA.
17. Permittee shall bring the facilities subject to this CUP into service ("on air") within three (3) months of the application of the building permit for the facility. Facilities that are abandoned by disconnection of power service, equipment removal or loss of lease for greater than six (6) months shall be removed by the telecommunication facility owner and the site shall be reclaimed. Should the owner fail to remove the facilities, the County may do so at its option, and the costs thereof shall be a charge against the owner. The permittee shall post a bond with the County in the amount of 150% of the cost of restoration of the site. This bond will be used to guarantee the reclamation of the site in the event that reclamation and removal of equipment is not completed.
18. In order to limit the construction or proliferation of cellular tower sites in the area, the operator shall agree to allow co-location of other users on the tower, providing their requested use is compatible with the existing use.
19. A Routt County Building Permit must be obtained for the wireless facility.
20. Prior to the issuance of a Certificate of Approval, the permittee shall provide the Planning Department with as-built drawings of the tower and facilities.

21. Revegetation of disturbed areas shall occur within one growing season with a seed mix which avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass seed mixes.
22. The telecommunication equipment shall be painted camouflage green to blend in with the existing character of the site and surrounding properties.
23. Anti-perching devices, if applicable shall be installed along antennae frames, horizontal cross arms, and any other vantage point used by raptors for predation.
24. The property owner shall provide access to Pathfinder Broadband or any co-locating service providers to the site installation, operation, and maintenance of equipment. Easement agreement or other agreement is subject to the Planning Directors approval.
25. Access must be granted to the tower site from King Creek Ranch, LLC to Pathfinder Broadband or any co-locating service provide by way of the private roads King Creek Road and N Long Ridge Drive.

Commissioner Jaeger seconded the motion.

#### **Discussion and Friendly Amendments**

Commissioner Mitzelfeld proposed specifying that the tower be painted “camouflage green.” This amendment was accepted, as indicated in COA #22.

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

**ACTIVITY: PL-20-114**

**PETITIONER: Routt County**

**PETITION: Review Process and Fee Schedule Amendment Work Session**

Mr. Goldich stated that the impetus for the proposed revisions to the review process and fee schedule was new permit tracking software. He said that the search for new software began three or four years ago and is a joint effort of the Planning Department, the Building Department and the City. He said that one of the major themes that came out of discussions with other jurisdictions was that customization of the software should be minimized, and that it is better to alter the process to fit the capabilities of the out-of-the-box software than the other way around. Mr. Golich said that an additional benefit to the proposed changes in the process will be a reduction in the pressure on staff prior to hearings, and higher quality, more thorough applications for Planning Commission and the Board to review. Ms. Winser noted that both the process chart and the fee schedule are included in the Zoning and Subdivision Regulations, and can only be changed by amendment to the regulations.

Mr. Goldich reviewed the current process and schedule, noting that as soon as an application is deemed complete (all required elements have been submitted) the hearing(s) for the proposal are scheduled. He stated that sometimes, referrals agencies do not reply quickly, and when referral comments are submitted they prompt changes to the application, or the need for additional information. This often leaves staff scrambling to assemble all the materials in time for the hearing. Mr. Goldich stated that under the new process, once an application is deemed complete, the referrals would be obtained and staff would review the information to ensure the quality of the materials submitted. In response to a question from Chairman Brookshire, Mr. Goldich clarified that "quality" means that staff would determine if all information needed to evaluate the application has been submitted. The applicant would then be sent a review document and be allowed to resubmit their application, which would then be re-reviewed. Only when staff is satisfied with the information provided will hearings be scheduled. The steps in the proposed review process are fully outlined in the memo included in the meeting materials. Mr. Goldich provided an example of how a recent Planning Commission review would have been much more straight-forward had all the questions been answered and information verified prior to the hearing.

Mr. Goldich stated that the adjacent property owners would receive an initial notice that an application had been received when the application is deemed complete, and another notification once the hearing dates had been set. Mr. Goldich said that there is some question about whether 14 days is sufficient time between this second notice and the hearing, but adding additional time to the process was also a consideration. He noted that the Board of County Commissioners had been concerned that the changes to the process would drag out the review process significantly. Mr. Goldich stated that if an application does not require resubmittal, the new process would add about a week for an administrative permit and no significant time for other permits. He added that a pre-application meeting with staff will be required for all types of permits. He offered that this should solve the problem with incomplete or poor quality applications.

There was a discussion of the timing of the adjacent property owner notifications. Mr. Goldich stated that all documents would be available to the public when they are submitted. Ms. Winser noted that staff is striving to be consistent, particularly regarding the timeframes, with the City process. Commissioner Jaeger reviewed the City process. Mr. Goldich said that the variable that would add length to the process is if the petitioner does not adequately respond to the initial review. He said that applicants would be allowed four resubmittals before additional fees would be applied. Commissioner Miller offered that the concern regarding adjacent property owner notices is that adequate information is available to them and that the timelines and deadlines for commenting are absolutely clear in the first notice.

In response to a question from Commissioner Jaeger, Mr. Goldich reviewed the measures to ensure that applicants do not file applications and then sit on them

to avoid future changes to the regulations. He stated that the proposed amendment to the regulations is included in the memo. He added that the other proposed changes would standardize the currently inconsistent language between the Zoning and the Subdivision Regulations. Mr. Goldich said that changes to the Review Process Chart would also be needed. The existing chart and the proposed chart are included in the meeting materials. Mr. Goldich said that comments received from the County Attorney and others regarding the proposed changes would be discussed at the next work session.

In response to a question from Commissioner Mitzelfeld, Mr. Goldich described the notice and information sharing process that is built into the software.

Ms. Winser stated that in conjunction with the changes to the process, the fee schedule would also be revised to help re-coup the cost associated with the application and permitting process and to bring the fee structure into line with current norms. She explained that the current fee schedule is structured around a minimum fee that is based on the average amount of staff time per application type, with added fees applied for additional staff time. Ms. Winser said that the new software does not include time tracking, so the proposed fee schedule has eliminated the fees based on additional staff time. She said the proposed new system would recoup costs on the front end. She reviewed the costs that are currently not recouped that will now be collected up-front, and added that fees will be established for some types of review that were not previously charged for. Ms. Winser stated that staff consulted many other jurisdictions to ensure that the proposed fee schedule was comparable with other areas. She said that most other jurisdictions charge flat fees.

Chairman Brookshire suggested that these process changes have a lot more to do with staff than with Planning Commission, and offered that Planning Commission would be supportive of whatever works best for staff. He said that there was no need to an in-depth review the next time this comes before Planning Commission.

#### **ADMINISTRATOR'S REPORT**

Ms. Winser reviewed the upcoming agendas, noting that there are currently ten projects in the pipeline, and that staff has been very busy, especially with administrative permits that Planning Commission never sees. Mr. Goldich added that the number of planner of the day (PLOD) inquiries is up 80% over last year, with the majority of questions concerning residential development. Building permit reviews and code enforcement cases are also way up. Ms. Winser said that although the department is busier than ever, they are still down a full-time planner. She said that the Board had decided to advertise for the Planning Director position.

In response to a question from Chairman Brookshire, Ms. Winser said that the Master Plan update had been deferred to 2021 for budgetary reasons. She added that the project could not be accomplished without additional staff. She said that

the DOLA grant may be extended to allow for more flexibility in the timing of the project.

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