

ROUTT COUNTY PLANNING COMMISSION

DRAFT MINUTES

September 21, 2023

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 Brian Kelly and Commissioners Pete Wood, Ren Martyn, Bill Norris, Linda Miller, Andrew Benjamin, and Jim DeFrancia. Commissioners Greg Jaeger, Paul Weese and Steve Warnke were absent. Senior planner Alan Goldich also attended. Sarah Katherman prepared the minutes.

PUBLIC COMMENT

There was no public comment.

MINUTES - July 6, 2023

Commissioner Miller moved to approve the above cited minutes, as written. Commissioner Wood seconded the motion. **The motion carried unanimously.**

MINUTES - July 20, 2023

Commissioner Miller moved to approve the above cited minutes, as written. Commissioner Wood seconded the motion. **The motion carried unanimously.**

MINUTES - July 26, 2023

Commissioner Miller moved to approve the above cited minutes, as written. Commissioner Wood seconded the motion. **The motion carried unanimously.**

ACTIVITY: PL20220003

**PETITION: Review and possible revocation of Special Use Permit
PL20220003 for a Recycling Station**

APPLICANT: Duksa Family, LLC

**LOCATION: 40025 Baker Way, approximately 2.5 miles west of Steamboat
Springs on the south side of Highway 40**

Mr. Goldich stated that the enforcement review follows the same process as the original application. Planning Commission will make a recommendation to the Board of County Commissioners (BCC), which will make the final decision. Mr. Goldich stated that staff is recommending revocation of the permit, but that in response to the submittal of an application for an amendment to the SUP a revised suggested motion was drafted after the original staff report was distributed. Mr. Goldich reviewed the four violations of the permit cited in the staff report. He stated that although the permit states that a Floodplain Development Permit was required, the permittee is applying to FEMA to have the property removed from the floodplain mapping, which would eliminate the need for a

Floodplain Development Permit. Mr. Goldich reviewed the following list of items that were to be completed by August 1, 2023:

- Permit and complete work on unpermitted office trailer (COA #21)
- Permit and complete work on septic system installation (COA #21)
- Permit and complete work on stormwater controls (COA #22)
- Implementation of required screening plan (COA #24)

He then reviewed the timeline of correspondence between Planning staff and the permittee following the approval of the SUP by the BCC on September 27, 2022. He noted that the permittee did not respond to requests for information related to the building and septic permit applications, the screening plan or the reclamation bond. He stated that when the required permits were not obtained by August 1, 2023, the County issued a Notice of Violation and a Cease and Order for all operations at the site. Since that time, the building permit application has been submitted and the permit for the septic system has been obtained. Mr. Goldich stated that the applicant submitted an application for an amendment to the SUP on September 14, 2023, but the application was lacking information and has not been deemed complete.

Mr. Goldich reviewed the revised suggested motion, which would recommend revocation of the permit with the revocation to be stayed pending the scheduling of hearings for the SUP amendment by October 16, 2023. He reviewed the timeline of submittals and reviews required to allow hearings to be scheduled and offered that in order for this deadline to be met all materials needed to deem the application complete would have to be submitted by Monday, September 25. Mr. Goldich stated that if the hearings are scheduled by October 16, work to install the required stormwater controls, the septic system and improvements to the building can proceed.

In response to a question from Commissioner Martyn regarding the removal of the property from the FEMA maps, Mr. Goldich said that the local government must sign off on the application, but the Planning Department has not yet received the paperwork from the landowner. He offered that the process could take 6 - 12 months to complete after the sign-off.

Mr. Goldich reviewed the decision to pursue revocation of the permit when the application for an amended SUP was incomplete.

Mr. Brent Starnes, an attorney representing the applicant, stated that the goal is for the operation to be brought into compliance. He stated that the services provided by D & D are very important to Routt County and further the goals of diverting materials from the landfill. He said that an application for an amendment to the SUP has been submitted and that they are very close to completing the screening plan. He stated that the septic system has been permitted and that the building permit will be issued soon. Mr. Starnes stated that the applicant is working with Four Points Engineering to have the property removed from the FEMA Floodplain maps. Mr. Starnes noted that in the previous staff report a different option was provided to Planning Commission to allow the applicant until

November 10 to complete the application for an amended SUP. He said that this would be a much more realistic and appropriate timeframe.

Commissioner DeFrancia asked what amendments to the SUP were being requested. Mr. Goldich said that the request is to extend the deadlines for compliance with the requirements and to modify the reclamation bond condition. He noted that staff had requested more information regarding the requested changes to the bond, but had not received details of the request. He offered that the decision regarding the reclamation bonding should be made by Planning Commission and the BCC, not through negotiations between staff and the applicant. He noted that there have been disagreements between the operator and staff regarding what should be included in the cost estimate for the reclamation.

Mr. Starnes suggested that the applicant would prefer completing the process through a single application for an amended permit, rather than through a simultaneous revocation process. Mr. Goldich explained that providing an authorization to revoke the existing permit if the hearings are not scheduled for the amendment provides a more efficient process and is consistent with how the County has handled other enforcement actions.

Commissioner Miller asked why the failure to meet the requirement regarding the reclamation bond was not included in the list of violations. Mr. Goldich stated that no specific deadline was set on the reclamation bond, and so it was unclear whether this constituted a violation. He said that staff decided to base the recommendation to revoke the permit on clear and unambiguous violations.

Commissioner Martyn asked if a CDOT access permit had been issued. Mr. Goldich said that although CDOT had suggested the need for a traffic study and potential improvements to the access, staff had felt that the existence of accel and decel lanes and the access to the Hard Rock Open Space were sufficient for a use that has been operation for 15 years. He said that this change to the requirements would be addressed in any amendment to the permit. He added that the flags at the entrance had been removed.

Mr. Starnes stated that since the Cease and Desist order was issued, no operations have occurred. He said that progress is being made toward compliance and an amended permit, and suggested that revocation was not necessary.

Commissioner DeFrancia stated that the conditions of approval are clear and that the permittee has had a year to complete the requirements. He said that he was very impatient with the applicant and felt that the violations and lack of response to requests for information were flagrant. He stated his support for revoking the permit.

Commissioner Norris stated his agreement with Commissioner DeFrancia, but stated that the causes for revocation should be balanced by the need for an amended permit.

In response to a question from Commissioner Martyn, Mr. Goldich stated that when the Cease and Desist Order was issued, the pile of discarded materials at the entrance grew significantly because people were dropping stuff there, but no work was being done at the site. He said that the pile was cleaned up and that the operator has complied with the Cease and Desist Order.

Commissioner Wood stated that he agrees that the operator has had plenty of time to comply and yet the work being done now at the eleventh hour. He stated his support for authorizing revocation but staying the revocation to allow the amended petition to be heard. He said that if the hearings for the amendment cannot be scheduled due to a failure to submit the required information, then the permit should be revoked. He said that he was uncertain whether the October 16 deadline was realistic, however, or whether the applicant should be allowed until November 10.

Commissioner Miller agreed that the violations are flagrant, and noted that the applicant was making a last minute attempt at compliance when many items remained outstanding. She said that the FEMA application was likely to take a while. She expressed concern with the failure of the permittee to post a reclamation bond, but added that the operation on this site is longstanding and provides a beneficial service to the community. She expressed support for giving the applicant one last chance at compliance.

Commissioner Benjamin agreed with Commissioners Wood and Miller that the applicant should be allowed a chance to comply. He noted that with a scheduling deadline of October 16 all information would need to be submitted by Monday. He suggested that it was unlikely that this could be accomplished. Mr. Starnes stated that this is why he is asking for a later and more realistic deadline.

Commissioner DeFrancia noted that the applicant had had 10 months to submit a screening plan and had not done so. He expressed his frustration with the permittee and the lack of respect for the requirements of the permit. Mr. Starnes noted that the screening plan is close to completion, the building permit is in process, the septic system has been approved, and the stormwater controls have been designed and are ready to be installed. He offered that what is holding up the application is the need to revise some background information.

Commissioner Martyn asked about the basis for the November 10 deadline and the revised deadline of October 16. Mr. Goldich said that he could not recall why the November 10 date was chosen, but offered that it was moved up due to concerns that if the work on the septic and stormwater controls were delayed into November they would not be completed before winter. He added that the BCC hearing for the current enforcement action is October 10. He said that if the BCC

feels it is warranted, it could extend the deadline for scheduling the hearing for the SUP amendment. Assistant County Attorney South stated that the BCC would be making the decision regarding the revocation. If the application for an amended SUP is not submitted in time for the hearings to be scheduled by October 16, the permit currently in place will be revoked.

Commissioner Benjamin asked if any of the violations present an immediate threat the health, safety or welfare of the citizens of Routt County. Mr. Goldich said that they do not. The enforcement action to revoke the permit is based on the failure of the permittee to comply with the deadlines stated in the permit.

Commissioner DeFrancia reiterated his frustration with the operator's lack of respect for the rules.

In response to a question from Commissioner Martyn, Mr. Starnes stated that every effort would be made to submit all the necessary materials and information for the SUP amendment application to the Planning Department by this Monday.

MOTION

Commissioner DeFrancia moved to recommend that Special Use Permit **PL20220003 be revoked. This revocation is stayed pending scheduling of hearings for the amended Special Use Permit application PL20230082 by October 16, 2023. If hearings have not been scheduled by October 16, 2023 then permit PL20220003 is revoked. If hearings have been scheduled by October 16, 2023, work to install the stormwater controls and to bring the wastewater system and office structure into compliance with applicable codes may proceed.** This recommendation is based on the following findings of fact:

1. The permittee's operation is not in compliance with the following conditions of approval of Special Use Permit PL20220003:
 - #21 - Acquisition and compliance with all permits - The permittee has failed to obtain a building permit for the office structure that was placed on site, the septic system that is required to serve the office, and a Grading and Excavating permit to install the required stormwater controls by the August 1, 2023 deadline.
 - #22 - Failure to install the required stormwater controls by the August 1, 2023 deadline.
 - #23 - Failure to obtain a Floodplain Development Permit by the December 31, 2022 deadline.
 - #24 - Failure to develop, and install, a screening plan by the August 1, 2023 deadline.
2. The Planning Department has had multiple conversations and email correspondences with the permittee's attorney attempting to get the permittee

into compliance with their permit. These meetings have been unsuccessful in obtaining compliance.

3. The County approved Special Use Permit PL20220003 on September 27, 2022 with the identified conditions of approval. This provided the applicant with nearly a year to accomplish the required improvements.

Commissioner Norris seconded the motion.

The motion carried 7 - 0 , with the Chair voting yes.

ADMINISTRATOR 'S REPORT

Mr. Goldich reviewed the upcoming agendas. He said that the matters on the October 5 agenda are all consent agenda items, so the meeting will be held on Zoom exclusively. He updated Planning Commission on the status of the Landalet Subdivision.

The meeting was adjourned at 7:10 pm.