
Henderson Park Subdivision

Lot Line Adjustment

Planning Director's Findings

ACTIVITY #: PL20220041

DIRECTOR DECISION: July 8, 2022

PETITIONER: Intellicom Wireless Management, Inc.

PETITION: Lot Line Adjustment between two 15-acre Parcels

LEGAL: Located in a part of NW4SW4; N2SW4 Section 24,
Township 4 North, Range 85 West

LOCATION: Located approximately two miles North of Stagecoach
State Park on the west side of CR 14 on Henderson Park
Road

ZONE DISTRICT: Agriculture/Forestry (AF)

| AREA: | <u>Existing</u> | <u>Proposed</u> |
|--------------|-----------------------|-----------------|
| | • Lot 1 – 15.06 acres | 15.06acres |
| | • Lot 2 – 15 acres | 15 acres |

STAFF CONTACT: Chris Brookshire cbrookshire@co.routt.co.us

NOTE: The following attachments are divided into two sections. This item was reviewed in 2020 and expired without completion of the project. Staff has included the 2020 attachments and also the 2022 current attachments for updated information.

2020 ATTACHMENTS:

- 2/11/20 Letter from Elevation Law Group, George Eck
- Comments from Rick Melzer, Ro.Co. Environmental Health and ISDS permit attached
- 2/29/20 Plan Review Comments from Todd Carr, Ro. Co. Building Official
- 2/29/20 IRC Notice of Violation from Todd Carr, Ro. Co. Building Official
- 8/23/01 Division of Water Resources well permit
- Letter from Brian and Nickie Boos 3/10/20

- 3/19/20 Letter from the Colorado Division of Water Resources

2022 ATTACHMENTS:

- ❖ 5/10/22 Letter from George Eck, Elevation Law Group
 - ❖ Plat – site plan
 - ❖ NW Colo Consultant OWTS report 11/16/21
 - ❖ DWR Water Well permit
 - ❖ Email from SS Rural Fire
 - ❖ Email from R&B
 - ❖ Email from GIS
 - ❖ Email from Brian Boos
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History:

The two 15-acre parcels were created along with other parcels in the area in December 1976 through an Exemption Subdivision approved by the Board of County Commissioners.

Permits for a house on the northern 15.06-acre parcel (Lot 1) were issued in 2001. At that time a building permit was also issued for a detached garage/barn on the same parcel. The garage/barn is located over 400' feet from the main dwelling unit on a shared driveway. Lot 2 is also owned by the petitioner and is vacant.

In 2006, a complaint was filed with the Planning Department stating that the garage/barn was being used as a dwelling unit. Secondary dwelling units were not allowed on parcels of less than 35 acres in 2006 and the owner at that time agreed to bring the dwelling unit into conformance by removing the kitchen stove and sink and discontinuing the use of the barn/garage as a dwelling unit. The garage/barn had plumbing and a plumbing agreement was drafted by the Planning Department for the owners to sign that stated that the unit could have plumbing, but it could not be used as a dwelling unit. There is no record that the agreement was signed.

It was brought to the attention of Planning staff through a new complaint filed with the Regional Building Department that this unit is still being used as a dwelling unit. Secondary dwelling units are now allowed in Routt County on parcels of this size, but there are specific requirements for the units. Secondary units on this size of parcel must be located within 200' of the primary unit and cannot be larger than 800 sq. ft. The structure is 2-stories with a dwelling unit on the upper floor. The unit is over 800 sq.ft. and does not meet the current regulations for square footage, nor does it meet the requirement for maximum separation between a primary and a secondary unit.

An application was received in 2020 for a Lot Line Adjustment. During this review, Routt County was informed by other agencies that there were other concerns that needed to be corrected (2020 Attachments). The Lot Line Adjustment was approved with COA's to address agency concerns. The COA's were never addressed by the applicant and the approval expired.

The owner was contacted by Routt County that the property needed to be brought into conformance and a new application was submitted.

Site Description:

The units on Lot 1 are accessed by a paved driveway from a private road (Henderson Park Road) off of CR 14. The area is heavily vegetated with Aspen, Pine and mixed vegetation.

Project Description:

The owner wants to retain the garage/dwelling unit. He owns an adjoining 15 acres to the south (Lot 2) and is proposing to adjust the lot line so that the units would be located on separate parcels and would meet current zoning regulations. Both parcels would remain at the same acreage and the parcels would have one dwelling unit on each parcel if approved.

Proposed Lot 1 is to contain the existing residence.

Proposed Lot 2 will have the garage/barn (to be garage/residence).

Reference within this report will be referred to as Lot 1 and Lot 2.

Staff Comments:

Comments were received regarding the previous application from the Routt County Environmental Health, Routt County Building Department, and Division of Water Resources (attached).

According to the Environmental Health Department, an ISDS Permit was issued when the main home and the detached garage/barn were being constructed. Each unit has a septic tank, but they use the same Soil Treatment Area (STA). It will have to be determined if the STA area is designed to meet the Onsite Wastewater Treatment System (OWTS) requirements. The location of all OWTS infrastructure should be indicated in relationship to new lot lines to determine if setback requirements are being met with the change of the lot lines. The records are not clear regarding the exact location of the system and this would have to be determined. There is a concern that if, in the future, there is a change of ownership and the lots are owned by different parties, an easement or agreement would need to be developed requiring that the two parcels share the OWTS or that a new system be installed. The owner will have to work with the Environment Health Department to determine if the current system is in compliance. See attached comments.

The Routt County Building Department submitted two letters 1) IRC Notice of Violation; and 2) Plan Review Comments (see attached). To summarize: the garage unit must be brought into compliance for a single family dwelling and, if this application is approved, the owner must submit a permit application for building code compliance within 20 days of the Planning Director approval. The final approval (plat) will not be recorded until a Certificate of Occupancy/Completion is completed. If this building is not brought into compliance the Building Department is obligated to take further legal action against the owner.

A water well permit was issued in 2001 and included a condition of approval that the permit was for one single-family dwelling. The owner must provide documentation from the Division of Water Resources that the garage has an approved water source. The Planning Department has received a letter from the Division of Water Resources explaining that if the well is serving the garage/dwelling unit in addition to the single-family dwelling, then it is likely not being operated in compliance with the well permit (see attached). The applicant must provide proof of water before the plat can be finalized. A condition of approval has been added.

The current application was submitted with the following attachments to address the above concerns:

An evaluation from NorthWest Colorado Consultants, Inc regarding the OWTS has been submitted. The recommendations for Lot 1 and Lot 2 are described in this evaluation. The recommendation is that a new OWTS system be constructed to serve Lot 2. The existing OWTS that serves Lot 1 is located between the home and garage/home. With the change of the lot line, an easement will be developed to allow the existing OWTS to be located on Lot 2.

A new water well permit has been issued for Lot 2. It will have to meet requirements for setback from the new OWTS.

Building Departments requirements will have to be met.

Environment Health has stated that the “Secondary dwelling unit does not have a permitted septic system. Documents & Images includes a design report from November of 2021 from NWCC detailing plans to abandon an existing STA (leach field) and add an alternate STA appropriately sized for flows from the SDU. This report must be included with an application (and fee for a new system) to the Department of Environmental Health. If already installed a final inspection report should also be submitted. If no final inspection took place please contact this office to determine resolution. A code enforcement will be generated to ensure system gets permitted in accordance with Regulation 43 for Onsite Wastewater Treatment Systems.”

Access will have to meet current Fire Department requirements. The applicant is aware of these requirements.

The Routt County GIS department has explained the the access will need to be named to meet addressing regulations. The owner has been contacted by the GIS Department and a COA has been suggested.

*****Issues for Discussion*****

It should be determined if this application can be approved contingent on the completion of all other Federal, State or Local permits. Staff feels that a deadline for compliance should be set to bring this property into conformance. A plat cannot be recorded until all requirements are met. Conditions have been added below to address these issues.

Compliance with the Routt County Master Plan, Sub Area Plans and Subdivision Regulations

The Routt County Master Plan, Sub Area plans and Subdivision Regulations contain dozens of policies and regulations regarding land use. Section 5 of the zoning regulations are designed to limit or eliminate conditions that could negatively impact the environment and/or use of surrounding properties, and shall apply in all Zone Districts and to all land uses unless otherwise noted. Section 6 Regulations apply to all Minor, Administrative, Conditional or Special uses allowed by permit only, PUD plans, Site plans, and Subdivisions.

The following checklist was developed by Planning Staff to highlight the policies and regulations most directly applicable to this petition. The checklist is divided into seven (7) major categories:

1. Health, Safety and Nuisances
2. Regulations and Standards

3. Lot Line Adjustment Regulations and Standards
4. Community Character and Visual Impacts
5. Roads, Transportation and Site Design
6. Natural Environment
7. Mitigation

Interested parties are encouraged to review the Master Plan, Sub Area plans and Subdivision Regulations to determine if there are other policies and regulations that may be applicable to the review of this petition.

Staff Comments are included at the end of each section, highlighting items where the public, referral agencies, or planning staff have expressed questions and/or comments regarding the proposal. **Staff comments regarding compliance with regulations and policies are noted in bold below.**

Public Health, Safety and Nuisances

Applicable Regulations – Routt County Zoning Resolution

- 6.1.7.C Natural Hazards
- 6.1.7.H Wildland Fire

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.D Steep land greater than a 30% slope, unstable land, land subject to flooding or to inadequate drainage, or otherwise substandard land shall not be platted for occupancy or any use which might endanger health, life, property or which may aggravate flood or erosion hazards. Land not usable for residential purposes may be set aside for open area uses such as parks, conservation areas, farm land, recreational areas.
- 3.1.M The soil and drainage conditions shall be of a sufficiently stable nature, as shown in a current soils test, as to support development including whatever sewage disposal treatment is utilized.
- 3.1.N The proposed subdivision shall not create fire hazards and shall include wildland fire mitigation measures if necessary.

Staff comments: The properties were created through an approved subdivision of land. The adjustment of the property line will not affect the existing buildable area of the property and the residences are constructed. Any other construction on the lots will be required to meet all permit requirements. The plat should indicate no-build zones per Section 3 of the Routt County Subdivision Regulations.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Regulations and Standards

Applicable Regulations – Routt County Zoning Resolution

- 5.2 Dimensional Standards:
- 5.3 Secondary Dwelling Unit Standards
- 6.1.2 The proposal shall be consistent with applicable Master Plans and sub-area plans.

Applicable Regulations – Routt County Subdivision Resolution

- 3.1 The Planning Commission and Board, or the Planning Director, in the case of administrative approvals of Lot Line Adjustments, Plat Corrections, or Consolidation Plats, shall apply the following standards in evaluating a proposed subdivision. In addition to the other standards contained in these Regulations, failure of the proposed subdivision to satisfy these standards shall be an appropriate basis for denial for approval.
- 3.1.O No subdivision of land shall occur on an area of land with commercial mining potential when such subdivision would preclude the extraction of a mineral resource of a commercial value greater than that of the proposed subdivision. This shall not apply in a case where the surface rights and the mineral rights are owned by the same individual.
- 3.1.P Proposed subdivisions shall be in substantial conformance with the Routt County Master Plan and all adopted sub-area plans.
- 3.1.Q Proposed subdivisions shall be in substantial conformance with Section 6 of the Routt County Zoning Regulations.

Staff comments: If this application is approved, the existing dwelling unit (Lot 1) and the garage/dwelling unit (Lot 2) will meet current zoning regulations for single-family dwellings. The garage/unit must meet all other requirements before a plat is recorded.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Lot Line Adjustment Regulations and Standards

Applicable Regulations – Routt County Subdivision Resolution

- 2.4.1 In order to be considered under this section a lot line adjustment shall meet all of the following standards:
- 2.4.1.A Only lines common to the lots may be adjusted.
- 2.4.1.B No new parcels shall be created.
- 2.4.1.C All parcels must be deemed “Buildable Lots” by the Planning Director. In the case of a Land Preservation Subdivision Exemption, Minor Development Subdivision Exemption, or non-conforming lot, the Lot Line Adjustment shall not reduce the size of any existing non-conforming lot to less than five (5) acres or reduce the size of any existing lot which is less than five (5) acres.
- 2.4.2 **Standards:** A Lot Line Adjustment must meet all the applicable requirements of Sections 2, 3, 4, and 5 of the Routt County Subdivision Regulations and the Routt County Zoning Regulations. However, any new zoning or subdivision regulations adopted since the recordation of the plat under consideration shall not apply to the Lot Line Adjustment plat, unless required by the County.

Staff comments: The application meets Section 2.4.1, 2.4.1 A, B, C. There was no plat filed for the approval of the 15 acre parcels, but they are legal buildable lot as approved by the Board of Commissioners in 1976.

The plat will have to show all design standards of Section. 3

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Community Character and Visual Impacts

Applicable Regulations – Routt County Zoning Resolution

- 5.10 Standards for Structures within mapped Skyline Areas
- 6.1.6 Outdoor Lighting: The proposal shall comply with the Outdoor Lighting Standards in Section 6.3 of these Regulations.
- 6.1.7.G Visual Amenities and Scenic Qualities.

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.K The proposed subdivision shall not create water, air, noise or visual impacts that cannot be mitigated.
- 3.1.L The proposed subdivision shall include plans for adequate screening from major access roads, including landscaping and other means to preserve privacy and mitigate visual impacts to surrounding areas.

Applicable Policies – Routt County Master Plan

- 5.3.E Routt County requires that all new developments do not contribute to light pollution.
- 5.3.F Routt County will continue to consider the impacts of development and uses on view corridors, water, wetland, and air.

Staff comments: The buildings are in existence and no other construction is being proposed at this time.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Roads, Transportation and Site Design

Applicable Regulations – Routt County Zoning Resolution

- 5.5 Addressing Standards
- 5.6 Access to Buildable Lot Standards
- 5.7 Right of Way Access Standards: A Right of Way Access Permit is required prior to construction of any new access point onto a County Road or other Local Public Road or Right of Way.
- 5.8 Road Construction Standards
- 6.1.7.A Public Roads, Services and Infrastructure
- 6.1.7.B Road Capacity, traffic, and traffic safety
- 6.1.7.N Snow Storage

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.A The subdivision layout shall result in the creation of lots that are capable of being built upon.
- 3.1.B Street layout shall provide direct access to all lots.
- 3.1.C The roads and trails within the proposed subdivision shall provide for existing and future connectivity to surrounding lands.

- 3.1.G The subdivision layout shall be designed to preserve natural topography and existing vegetation to the greatest extent possible while still meeting all the technical requirements of these Regulations (street width, street grade, access etc.). Overlot grading shall not be allowed.
- 3.1.H The proposed subdivision shall not create undue traffic congestion or traffic hazards.
- 3.1.I No subdivision of land shall be approved on land that is accessed by a remote or minimal maintenance County Road unless the land to be subdivided will be rezoned to reduce residential density (downzoning), or there is a substantial public benefit that mitigates the impact to the County Road system.

Staff comments: Routt County Addressing regulations must be met and new addressing will be required for each dwelling. The Routt County GIS Department will work with the owner to bring the addressing of these properties into compliance.

The single-family dwellings are in existence and there will be no change to the buildable area with this application. The plat shall show no-build zones per Section 3 of the Routt County Subdivision Regulations for any future construction or development. This applies to both lots.

The driveway access is in place but must be brought to current fire access standards.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

Natural Environment

Applicable Regulations – Routt County Zoning Resolution

- 5.11 Waterbody Setback Standards
- 6.1.7.D Wildlife and Wildlife Habitat.
- 6.1.7.E Water Quality and Quantity.
- 6.1.7.J Wetlands.
- 6.1.7.Q Noxious Weeds.

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.E Any land subject to flooding or in a natural drainage channel shall not be platted for occupancy. The areas subject to flooding should be left as open space or reserved as conservation easement areas.
- 3.1.F Provisions shall be made to preserve as open space any natural features of the site that would enhance the subdivision, i.e. unusual rock formations, lakes, rivers, streams, trees, or attractive relief features.
- 3.1.J An adequate water supply shall be available for the proposed subdivision.

Applicable Policies – Routt County Master Plan

- 5.3.A The County encourages the use of “green” building techniques that lead to the conservation of energy and overall reduction of pollution in our environment.
- 5.3.D Require Best Management Practice and grading plans and strongly discourage over lot grading.

Staff comments: The applicant has shown that there is an approved water well permit for each lot. The plat must show that it meets requirements of Section 3.

***Is the application in compliance with the Policies and Regulations outlined above? Yes or No*

PLANNING DIRECTOR OPTIONS:

1. **Approve the Lot Line Adjustment request without conditions** if it is determined that the petition will not adversely affect the public health, safety, and welfare and the proposed use is compatible with the immediately adjacent and nearby neighborhood properties and uses and the proposal is in compliance with the Routt County Zoning and Subdivision Regulations and complies with the guidelines of the Routt County Master Plan.
2. **Deny the Lot Line Adjustment request** if it is determined that the petition will adversely affect the public health, safety, and welfare and/or the proposed use is not compatible with the immediately adjacent and nearby neighborhood properties and uses and/or the proposed use is not in compliance with the Routt County Zoning and Subdivision Regulations and/or the Routt County Master Plan, Make specific findings of fact; cite specific regulations or policies by number from the Routt County Master Plan, and the Routt County Zoning Regulations.
3. **Table the Lot Line Adjustment request** if additional information is required to fully evaluate the petition. Give specific direction to the petitioner and staff.
4. **Approve the Lot Line Adjustment request with conditions and/or performance standards** if it is determined that certain conditions and/or performance standards are necessary to ensure public, health, safety, and welfare and/or make the use compatible with immediately adjacent and neighborhood properties and uses and/or bring the proposal into compliance with the Routt County Zoning and Subdivision Regulations and the Routt County Master Plan.

FINDINGS OF FACT that may be appropriate if the Special Use Permit is approved:

1. 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.

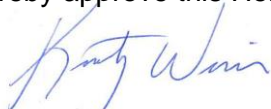
CONDITIONS that may be appropriate may include the following:

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. This requirement applies to both lots.
6. 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. The suitability of these lots for an individual septic disposal system and the availability of permits for individual septic disposal systems have not been established. The issuance of permits for individual septic disposal systems shall be a condition of obtaining a building permit for these lots.
 - c. Existing and new accesses shall meet access standards set forth by the Routt County Road and Bridge Department and Fire Prevention Services.
 - d. 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.
 - e. Routt County (County) and the South 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.
 - f. Address signage in conformance with Routt County Road Addressing, Naming, and Signing Policy shall be located at the entrance to the driveway.
 - g. 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 for any future development.
7. All Federal, State and local permits must be met prior to the recording of the plat. A letter from these agencies must be submitted to the Routt County Planning Department and include but not limited to the Routt County Environmental Health, Building Department; Colorado Division of Water Resources; South Routt Fire Department, Routt County Addressing. Any additional documents required from these agencies must be completed prior to recording, or if required, recorded with the plat.
8. Deadline for compliance of condition #7 is January 8, 2023. This date may be administratively extended by the Planning Director without notice.

I hereby approve this Henderson Park Subdivision Lot Line Adjustment.



Kristy Winser, Planning Director

7/8/22

Date