

**TOWN OF BASALT  
PLANNING AND ZONING COMMISSION  
WORK SESSION, REGULAR MEETING and PUBLIC HEARING  
Tuesday, June 18, 2019**

**CALL TO ORDER**

The Planning & Zoning Commission was called to order at 6:04 pm. Commissioners present were Bill Maron, Eric Vozick, Bernie Grauer, Gino Rossetti, Rob Leavitt, and Alternate Tracy Bennett.

Staff present were Susan Philp, Town Planner; James Lindt, Assistant Planning Director; Watkins Fulk-Gray, Staff Planner; and Jeff Conklin, Town Attorney. A sign-in sheet for public attending the meeting is available for review at Town Hall.

**APPROVAL OF MINUTES**

**M/S BENNETT AND ROSSETTI TO APPROVE THE MINUTES OF JUNE 4, 2019. MOTION CARRIED BY A VOTE OF 6 TO 0.**

**AGENDA ITEMS**

**Discussion on Wireless Cell Facility Regulations**

Philp introduced Town Attorney Jeff Conklin. Conklin said that this agenda item is meant to be introductory and explain changes in federal law that make it easier to develop 5G networks. 5G networks use a type of infrastructure involving small cells, which are becoming more common in urban areas because there is existing infrastructure to place cellular hardware on. This is different than previous types of infrastructure that relied on larger towers projecting signals downwards.

In 2017 the Colorado legislature adopted changes. The FCC also recently adopted new orders to help the development of 5G. Anything that would prohibit the development of small-cell wireless facilities in local codes is not allowed, subject to some local zoning controls. The 2017 changes made by the state legislature stated that small-cell infrastructure development would be allowed by right, but subject to local laws. However, the recent FCC orders address how much local zoning regulations can regulate small-cell infrastructure. Any existing or new regulation that would effectively prohibit the deployment of these facilities would be overruled. The new rules have also created a "shot clock," starting when an application is submitted, giving municipalities 90 days to rule on it, or else it would be deemed approved.

This is driving changes at the local level. Conklin is working on an ordinance to bring to the Town that would deal with small-cell infrastructure, with things like the impacts of their locations and their aesthetics, as well as creating a system for processing them in a timely manner. However, Conklin said, there doesn't appear to be much opportunity in Basalt except perhaps in Willits to develop small-cell infrastructure, though the Town wants to be prepared for it. Conklin noted that there is information in the packet from the Colorado Municipal League prepared by a leading expert in this field. He said that he will bring the ordinance back at the next meeting and discuss it in more detail.

Philp asked Conklin to discuss the right to use the Town's public right-of-way (ROW). Conklin said that it is a use-by-right given by the new FCC order to use existing infrastructure in the ROW to locate small-cell infrastructure. He said he believes that this type of infrastructure or device needs to be placed about 40 feet high, not leaving very many opportunities in Basalt.

Commissioner Bennett asked what small-cell infrastructure would look like, and Conklin said they would be three by three foot white boxes with antennae. Philp said she would work on bringing pictures for the next meeting. Commissioner Bennett asked if a telecommunications company could request to build a tower for a 5G device. Chair Maron said he believes 5G infrastructure needs to be located close to each other, meaning there would have to be lots of towers.

Conklin described the practical difficulties of locating small-cell infrastructure, and suggested that it might not be financially feasible to build towers for all 5G infrastructure. Commissioner Bennett said this reminds her of old concerns with getting Internet in Basalt, when they were afraid they would need to dig trenches everywhere, but then wireless Internet came. Chair Maron compared the new rules to the Rural Electrification Act.

Conklin said that there is a lawsuit challenging the recent FCC order, but that until it is overturned it is the law. Chair Maron asked if municipalities have a right to require companies to build the infrastructure, rather than sit on approvals. Conklin said he would think about that, and that perhaps permit terms that are not unreasonable could work. Chair Maron said that Basalt was on 3G while most of the rest of the world was on 4G.

Commissioner Vozick asked what rural areas like Emma will do where there are not structures to locate the devices on. Conklin said it seems unlikely that this issue is on Basalt's doorstep. Commissioner Vozick said there will be more of a digital divide of racial and economic means if the trailer parks and poorer areas don't have 5G and everyone else does. Chair Maron said that he doesn't get much cell signal at his house and that the Town needs to be creative about this issue.

Conklin said there will be pictures and an ordinance at the next meeting on July 2<sup>nd</sup>. Chair Maron asked if it would be possible to speak to cell carriers, and Conklin suggested this would be unlikely. Commissioner Rossetti asked when the ordinance would be ready, and Conklin replied that his plan was to bring it to the next meeting. They want to be sure that everything in the Code syncs with the proposed ordinance.

Lindt showed on the projector an article from the Denver Post that showed a green pole for 5G infrastructure. Commissioner Leavitt asked what the Town's options are for regulating small-cell infrastructure. Conklin said the infrastructure could be regulated with things like appearance and location. He referred to a fake tree cell tower near Hanging Lake, which can sometimes look genuine. Chair Maron said Eagle County has some very bad ones.

### **Land Use Application Referral**

Philp said that the prior letter the P&Z approved was included in the packet, and that a handout was provided to P&Z with a proposed revised letter for referral comments. She said that Eagle County staff was concerned with the previous letter the Town sent with regard to the referral period the Town asked for. However, evidently the language proposed by Eagle County is trying to track language in a state statute that only requires 21 days, instead of 21 working days.

She said that the Town is trying to develop a new relationship with Eagle County's staff, so the letter has been redrafted, acquiescing to Eagle County's 21-day request, as it matches state law, but the letter notes that it may not give the Town enough time. Philp said that the letter also notes language in an IGA that purports to offer "reasonable time" for referral reviews, and said that she hopes Eagle County will keep that in mind. Philp said that there is an opportunity under the state statute to grant an extension if the applicant and county commissioners agree. The letter acknowledges these and other facts. She asked if the P&Z could make a new motion for it.

Chair Maron asked if Philp feels the County is trying to walk back the IGA. She replied no, but that she is hopeful of starting a new relationship with the County and their attorneys. Perhaps the IGA can be amended one day. She said she understands some concerns they have in the IGA, but that there is a lot of good intention behind the IGA. Chair Maron said he hopes the IGA could become more comprehensive, not less. He wants to reinforce the existing one. Commissioner Rossetti said he is fine with the letter.

**M/S ROSSETTI AND LEAVITT TO TRANSMIT THE AMENDED LETTER AS DRAFTED.  
MOTION CARRIED BY A VOTE OF 6 TO 0.**

Chair Maron asked if Philp is hopeful about having a more comprehensive IGA with Eagle County. She replied that it will take a lot of effort and may need to come from the Eagle County Commissioners. She noted that Conklin has a good relationship with the county attorneys. Conklin said he has worked with them recently on an NRCS project, and that the experience has been positive. Chair Maron said that he believes the IGA used to work well, but now less so. She reiterated that the County Commissioners need to give direction to staff, and set a culture. She noted that there are small ways in which they treat Basalt differently, such as not mentioning watersheds in the Basalt area in a report by Eagle County's Green Collaborative.

Philp said that the new planning director seems to be trying to have a good relationship, and that the director came and brought another staff member to one of the Town's Master Plan open houses. Philp said that she is hopeful.

Chair Maron said the Town needs to include them in the Master Plan effort. Philp said the Town is programmed to meet with them on the Master Plan.

**Planning Staff Updates**

Lindt gave an update on the Ski Co project, which will be back before Town Council next week. On May 28, they voted 2-2 on the project, meaning it did not pass. Ski Co has been making revisions to the application. They have gotten cost estimates for construction, which came back more expensive than anticipated. They have therefore thrown out the parking garage as an option. They have proposed more surface parking (12 spaces), but are still looking for more on-street parking for the residential component. They're looking at incorporating commercial on the corners. Eight deed-restricted units are still programmed. The full plan set has not been submitted yet.

Chair Maron asked if there has been a reaction about the P&Z's proposed parking plan. Lindt said that initially it was received well by Ski Co, but they were more interested in purchasing the parking spaces than leasing them. The high construction estimates have resulted in Ski Co now requesting the on-street parking for free.

Commissioner Rossetti asked what James thinks the deal breaker is. Lindt said that parking is a big issue, and that they say they cannot pay for on-street parking. He described previous options regarding parking.

Commissioner Rossetti asked if the corner commercial is a deal breaker, and Lindt said no. It is being incorporated into their plan. Commissioner Rossetti predicted that the retail spaces would sit empty. Lindt said it is possible, and depends most on what lease rates they will charge.

Commissioner Grauer mentioned the 50,000 square feet of vacant commercial space and asked if there is an update on that. Lindt said he would figure this out before the Council meeting. Philp said the vacant commercial likely has to do with the lease rates and the size of the spaces, and that the spaces may be too big.

Philp discussed the agenda for the housing meeting on Thursday. She passed the agenda out to the P&Z. Randy Rhoades, from Cormick Salazar, is coming, and it should be a good conversation. The following Wednesday there is a charrette on the River Park. She will confirm with them the location of where it will be. Philp said that there will be a picnic this Sunday on the Emma Bridge from 1:30 to 3:30 targeted to the Hispanic community. Fulk-Gray has been involved translating for and organizing the event. Chair Maron asked if it would be helpful for them to come. Philp encouraged the P&Z to come.

Philp said they have been working on encouraging more people to use the [letstalk.basalt](http://letstalk.basalt) website. She encouraged the P&Z to log on and take the survey, and encourage their families to do this too. Some advertisements are scheduled for it. There is a drawing for a gift certificate to participants. The survey will be closed on July 1<sup>st</sup>. Commissioner Bennett asked if there is anything she can put in her store, and Susan said she would bring something over.

Commissioner Leavitt asked for the flyer for the survey, and Philp said she would send it so he could share it.

Philp said the housing meeting is the most important thing for them scheduled, and will be at Town Hall. She said those planning on attending include: Kim Bell Williams (housing director for Eagle County), Phyllis Mattae (who works on housing for Pitkin County), Bill Lamont and David Mylar from the regional group, all members except one from BACH, Michael Miracle from Ski Co, and Jeff Gatlin from the school district. Philp said Town Council is invited, but no one has RSVP'd yet. She noted that Colorado Municipal League is this week. Lindt said that Habitat will have a representative. Philp noted some people who can't come due to vacations, but everyone not on vacation indicated they are planning on attending.


Commissioner Vozick said he can't come to the River Park charrette, but that he was in Steamboat recently and saw some good examples of boardwalks through wetlands. This area was called Rotary Park. Commissioners Rossetti, Bennett, Maron, and Grauer will be here on July 2.

**M/S GRAUER AND LEAVITT TO ADJOURN. MOTION CARRIED BY A VOTE OF 6 TO 0.**

The Planning and Zoning Commission adjourned at 7:48 pm.

TOWN OF BASALT

PLANNING AND ZONING COMMISSION

By  \_\_\_\_\_  
William Maron, Chair

Attest  \_\_\_\_\_  
Susan Philp, Planning Director