

J E F F E R S O N



COUNTY COLORADO

Boards and Commissions

Historical Commission

Memorandum

May 28, 2024

Rezoning Shadow Mountain Bike Park (Case #23-102980 RZ) Third Referral

Project:

FSBR, LLC is applying to develop a portion of the property (235 ac of 306 ac) as a bike park - a "Class III commercial recreation facility" - which is a Special Use in the Agricultural zone district. The Property is zoned Agricultural Two ("A2"), currently undeveloped, and occasionally used for agricultural and grazing purposes. The project is located within the State Land Board's (SLB) Shadow Mountain parcel. The Property will remain under the ownership of the Colorado SLB. The Colorado SLB and the applicant will agree on a permit to enable operations.

The applicant included the following project information: "The project will maintain much of the natural landscape. The low-impact concept will open more than 300 acres of forest to the public and deliver wide-ranging benefits to the community. The proposal will also protect the property from more disruptive forms of development that conform to its current zoning. The project has been designed to respect the natural character of Shadow Mountain to the maximum extent possible by concentrating infrastructure development to the base area and the lift corridor. Additionally, a low-impact trail system will be dispersed throughout the property in a manner which will be shielded from Shadow Mountain Drive. Infrastructure includes a lift, single-access driveway, parking lot, an access road from main base to top terminal area, a day lodge, maintenance building, utilities, water storage tank, on-site wastewater management, buried power and powerline spur to top."

The applicant conducted a cultural and historical file search through the Colorado Office of Archaeology and Historic Preservation. The search identified 0 sites and 0 surveys within the project area. The applicant also consulted with the Conifer Historical Society via email on October 10, 2023 and followed up again on October 11 and November 19 to gather more information. The Conifer Historical Society to this date has not provided the applicant with specific information on the parcel, and in this correspondence referenced History Colorado as a resource. This information will be used to assess the resources near and in the project area and for formulating recommendations on the third referral.

Resources near the Project Area:

There are no recorded cultural resource surveys and sites in Section 16, T6S, R71W. Within a mile of Section 16, there is a prehistoric camp, a prehistoric lithic scatter, a stone circle, 3 historic trash scatters, 14 isolated historic features and finds, a historic homestead, and Staunton Ranch.

The Conifer Historical Society provided a document titled "Shadow Mountain History" that describes the history in the Conifer area and the project area beginning in 1873. "Shadow Mountain was the location of

the first homesteads granted in the Conifer area 150 years ago, and is considered to be its oldest neighborhood.”

“Homesteaders on Shadow Mountain engaged in agriculture, logging, and haying. There was work available at the Junction Hotel and Ranch. Many of the owners and their family members worked as hoteliers, storekeepers, or Postmaster. Small one-room schoolhouses, including the Junction School and the Hutchinson School, were built nearby. In 1894, the post office name was changed to Conifer. By the turn of the century, the Bradford Ranch in Conifer was well known as a community hub.”

“William Orr and his family were the last people to homestead on Shadow Mountain; their patent was proved in 1923. They mistakenly built their home in Section 16 instead of Section 9, land belonging to the State of Colorado. When Colorado became a state in 1876, the Enabling Act gave all federal public land in Sections 16 & 36 of every township to the state to benefit public schools. The Colorado State Land Trust was established to fulfill this mission. The Orr land became embroiled in litigation and was not settled for many years. Today, the land of Section 16 remains relatively untouched, one of the most pristine areas of wilderness in the area.”

“There have been significant archeological findings within a mile of the Section 16 parcel, establishing that Conifer has a long history predating modern settlement.”

The Conifer Historical Society requested that a cultural resource survey be completed in the project area, “which will provide tangible and lasting evidence of those who came before us, helping to identify, designate and protect the cultural resources of their community.”

Resources in the Project Area:

The cultural and historical file search through the Colorado Office of Archaeology and Historic Preservation identified 0 sites and 0 surveys within the project area.

Project Determination of Effect: No determination of effect is provided, since there are no known cultural resources recorded in the project area.

Mitigation Measures: No mitigation requirements are identified, since there are no known cultural resources recorded in the project area.

Other Information

The Jefferson County Historical Commission (JCHC) and the applicant met on March 13, 2024 to discuss the recommendations from the second referral dated January 22, 2024. The applicant formally replied on April 12, 2024 as part of the third referral. Below are the replies to JCHC recommendations:

Recommendation 1. A Historical, Archaeological and Paleontological Report/(Plan) shall be prepared in accordance with Land Development Regulation, Section 31 and shall address the alternatives for protection of any historical, archaeological and/or paleontological sites. Once the Historical, Archaeological and Paleontological Plan is completed and approved, if historical, archaeological and paleontological resources are present or discovered during site preparation, the applicant shall notify the Jefferson County Planning and Zoning Division to determine the disposition and necessary protection, excavation, or recovery of the resource(s).

Recommendation 3. Although the applicant is not required to conduct an on-the-ground survey, JCHC believes it is the most reliable approach for identifying cultural resources and reducing potential impacts to them during planning and not during development, which can result in project delays and unnecessary damage to cultural resources.

The applicant committed to an on-the-ground survey in certain parts of the project area and suggested delaying the preparation of an Historical, Archaeological, and Paleontological Report/Plan until the design/development phase, since a report would be prepared to describe the project area and survey results at that point. JCHC was willing to consider these next steps and accept a response letter instead of a Report/Plan for the third referral.

The applicant committed to the following:

- We will prepare a Historical, Archaeological, and Paleontological Report/Plan in accordance with Land Development Regulation, Section 31. The information required according to LDR Section 31 will be included in the report that follows cultural surveys as required per Section 106 compliance.
- We are committed to conducting cultural surveys in areas with higher levels of ground disturbance, which includes: the driveway, parking lot/base area, and area around the top of the chairlift.
- We would like to invite a member of JCHC to assist in the flagging of trail alignments during the design and development phase to determine the presence (or likelihood therein) of cultural resources, if necessary.
- If historical, archaeological and paleontological resources are discovered during site preparation or construction, all construction in the immediate vicinity shall cease and the applicant shall notify the Jefferson County Planning and Zoning Division and the proper authorities to determine the disposition and necessary protection, excavation, or recovery of the resource(s).

Recommendation 2. The mountain and historic landscape are basically intact throughout the project area. JCHC will work with the applicant to consider this landscape during project design and developing mitigation measures.

The applicant did not respond to this recommendation.

Kris Laubis, Shadow Mountain resident (Email, 4/23/2024)

“The developers of the Shadow Mountain Bike Park recently submitted their response to Jeffco P&Z. I have read their response to the recommendations that JCHC made and I am perplexed. There was mention in the 3/4/24 minutes that the developers were seeking a meeting. However, the 4/1/24 minutes of JCHC have not yet been posted on the website.

Did the commission in fact meet with the developers? Is the attached report that they submitted to P&Z accurate?

This paragraph was particularly troubling:

In response to these recommendations, we scheduled a meeting with the JCHC to better understand their expectations and establish next steps. In the meeting, we discussed our commitment to an on-the-ground survey in certain parts of the project area and suggested delaying the preparation of an Historical, Archaeological, and Paleontological Report/Plan until the design/development phase, since a report would be prepared to describe the project area and survey results at that point anyway. In the meeting, JCHC was willing to consider these next steps and accept a response letter (this letter) instead of a Report/Plan in this referral.

I understand that JCHC's hands are tied because they are not an CLG and the most they can do is “recommend”. However, it sounds like the developers persuaded JCHC to “kick the can down the road” until **after** the development is approved by the JCBC. Shouldn't the JCBC have the benefit of knowing this information before they make their decision? At what point in development phase would this survey take place? The toothpaste can't be put back in the tube. Once this commercial project commences, irreparable damage could be done to the potential indigenous finds, landscape, wildlife habitat, traffic, etc. Who will be monitoring the developers as they conduct this survey? If you were the developer and

you discovered an artifact or arrowhead with millions of dollars at stake, would that discovery end up in your pocket or be made known to the JCHC? Why are they only committing to a survey in certain parts of the proposed development?

As a 40+ year resident of Conifer, past board member of CHSM, and 30-year resident on Shadow Mountain I am deeply saddened that more can't be done to preserve and protect our unique, rural mountain heritage. It makes no sense to plop a commercial development in the center of a residential area, adjacent to a conservation easement.

JCHC public meeting (5-6-24)

Concerned residents from Shadow Mountain attended the public meeting to further express their concerns and strongly expressed the need to conduct the cultural resource survey before a decision is reached on the rezoning application.

Jefferson County Historical Commission Conclusion and Recommendation:

JCHC appreciates the applicant's willingness and commitment to conduct a cultural resource survey as part of the Historical, Archaeological, and Paleontological Report/Plan. This documentation can be submitted as part of the land development application. JCHC is open to receiving this information as early as possible for review. JCHC has the following recommendations:

Recommendation 1. Cultural resource professionals permitted by the Colorado Office of Archaeology and Historic Preservation, as per CRS 24-80-401 to 410 and approved by the State Land Board will conduct the cultural resource survey and provide recommendations on the eligibility of and effects to identified cultural resources. The cultural resource professionals will also be directly involved with identifying mitigation measures and treating any discoveries.

Recommendation 2. The cultural resource survey will include areas that are earth-disturbing and can damage cultural resources directly and indirectly, including the 16 miles of trails planned for the development.

Recommendation 3. The historic mountain landscape is basically intact throughout the project area. The mountain landscape and rural setting need to be considered during project design and developing mitigation measures. The proposal should choose building materials and design the site to consider and complement the surrounding environment, landscape, and mountain view. This approach will preserve the historical integrity and natural beauty of the rural mountain landscape, ensuring it remains a valuable heritage asset for future generations.