TO:	**Board of County Commissioners**
FROM:	**Planning Commission**
SUBJECT:	**Planning Commission Recommendation Nine Mile Ranches Subdivision LUC-2016-00027**
DATE:	**February 17, 2017**
PREPARED BY:	**Neal Starkebaum, Assistant Director**
APPLICANT:	**Dawn L. Delany 27010 State Highway 149 Gunnison, CO 81230**
REPRESENTED BY:	**Rose Foli**

PROJECT SUMMARY:
Dawn Delany, represented by Rose Foli, is requesting the subdivision of 38-acres into three single-family lots: Lot 1, 9.7-acres (with existing residence); Lot 2, 13-acres; Lot 3, 13.6-acres. The new residences will be served by well and septic. Access will be from Highway 149. No covenants are proposed.

LOCATION:
The property is located approximately 18 miles southwest of the City of Gunnison, seven miles up Highway 149, south of Highway 50. The property is legally described as being within the E1/2SE1/4 Section 22, Township 48 North, Range 2 West, N.M.P.M.

SURROUNDING LAND USES:
West – across Highway 149; Mesa Valley Subdivision, two lots, with residences, 8.2 and 8.3-acres; 21-acre parcel, with residence.
North – 93-acre tract, agricultural
East –93-acre tract, agricultural; BLM
South – Moncrief Ranches, 176-acres, agricultural

IMPACT CLASSIFICATION: Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects A. 2-4 Units*.

PLANS/REPORTS/SUBMITTALS:
Plans, reports, and other submittal documents informing this Decision include, but are not limited to:
- Minor Impact Land Use Change Application
- Subdivision Plat – prepared by Del-Mont Consultants, Inc., November 14, 2016

MEETING DATES:
The Planning Commission held meetings on the following dates:
- November 18, 2016 Work Session
- January 20, 2017 Joint Public Hearing
- February 17, 2017 Work Session

SITE VISIT:
The Planning Commission determined that a site visit was not necessary, as they were familiar with the property.

PUBLIC HEARING:
The Planning Commission and the Board of County Commissioners conducted a joint public hearing on January 20, 2017. At that time, no members from the public were present and no written public comments were received.

All testimony, both written and oral, is hereby incorporated as part of this record of review and evaluation.

REVIEW AGENCY REFERRAL COMMENTS:
Comments were received from the following agencies:

Sage-Grouse Review: Brooke Vasquez, Wildlife Biologist, NRCS, letter of October 6, 2016, notes:

> "The applicant is proposing to divide a 38.68± acre parcel with existing development into three separate parcels with potential to build single family residences in the future. If divided, the proposed parcel sizes would be 13.685± acres, 13.086± acres, and 9.776± acres (this parcel would contain the existing development). The parcel is located along Hwy 149 with development to the west and north.
>
> The parcel is not within 0.6 miles of a Gunnison Sage-grouse lek. There are 4 Gunnison Sage-grouse leks within 2.15± miles of the parcel. Two of these leks are active, one has an unknown status, and one is inactive.
>
> The north end of the parcel contains approximately 1 acre of Gunnison Sage- grouse Tier 1 Habitat (score ≥ 15) as mapped using the 2012 Habitat Prioritization Tool (Gunnison Basin Sage-grouse Strategic Committee 2012). The overall habitat score for the parcel ranges from 6 to 26. The value of Gunnison
>
> Sage-grouse habitat on the parcel is reduced because of the proximity of the highway and adjacent development. The mapped Tier 1 Habitat is less likely to be utilized by Gunnison Sage-grouse due to the amount of disturbance from the highway and development.
>
> The parcel abuts vacant land to the east and south that is mapped as Tier 1 Habitat. Due to the proximity of active leks, this vacant land has potential to have Gunnison Sage-grouse use. According the April 2005 Gunnison Sage- grouse Rangewide Conservation Plan, 85.2% of Gunnison Sage-grouse nest within 4 miles of a lek. To help protect this habitat, any ground disturbing activity on the parcel or proposed parcels should be reseeded with an appropriate mix and weeds should be controlled.
>
> Allowing development in an already developed area is more desirable than wide spread development in Gunnison Sage-grouse habitat. The proposed activity on this parcel will have less of an impact on Gunnison Sage-grouse and their habitats because of its location near the highway and existing development.
>
> Based upon this analysis, a review of the data available, and the nature of the proposed activity, I find that the proposed activity will not adversely impact Gunnison Sage-grouse or their habitats beyond that which has already occurred.

Because Gunnison Sage-grouse are in the general area, I recommend that the following requirements/conservation actions be applied as conditions of all Gunnison County permits issued for projects on this parcel to protect Gunnison Sage-grouse and their habitats:

1) Due to the proximity of Tier 1 Habitat, a Gunnison County Reclamation Permit will be required for any site disturbing activities on the proposed parcels. That permit should contain specific reclamation conditions. Disturbed areas need to be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix.

2) For activities not requiring a Reclamation Permit, disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

3) Woven wire fencing will not be allowed for perimeter fencing or as interior cross fencing. Perimeter and cross fencing must be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication *Fencing with Wildlife in Mind.*

4) Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance.

5) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution*, dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

Colorado Division of Water Resources –Megan Sullivan, P.E., Water Resource Engineer, letter of December 2 and 9, 2016 and February 3, 2017. Excerpts include:

"We have reviewed the above referenced proposal to subdivide a 38 acre tract into three single family lots. Lot 1 will be 9.7 acres and has an existing residence, Lot 2 will be 13 acres and Lot 3 will be 13.3 acres in size. According to the Water Supply Information Summary sheet, under the Estimated Water Requirements section, the use within the subdivision is for three single family dwellings and irrigation of 0.5 acres. It is unclear if the irrigated 0.5 acres is for the entire subdivision to be divided among the three lots, limited to one specific lot, or each lot will have 0.5 acres of irrigation. Water will be supplied by individual on-lot wells and wastewater treatment will be provided by individual onsite wastewater treatment systems.

The existing residence on proposed Lot 1 is currently served by an existing well, Well Permit No. 224492. According to our records, the well permit was issued on April 3, 2000 and use of groundwater from the well is limited to fire protection, ordinary household purposes inside one single family dwelling, irrigation of not more than 0.9 acres of home lawn and gardens, and the watering of domestic animals. The well was constructed on August 21, 2000 to a depth of 260 feet and a permanent pump was installed on August 25, 2000. According to the pump installation report, a two hour pump test was performed and the reported pump rate was 12 gpm and the static water level was at 32 feet. For subdivisions created after 1972, § 37-92-602(3)(b)(III), C.R.S., requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. The source of the proposed water supply would be from, or tributary to, the Gunnison River. This area of the Gunnison River is over-appropriated; therefore, a court decreed plan for augmentation plan is required to offset depletions caused by the pumping of any wells, including any existing wells, within the subdivision. The applicant has contracted with the Lake San Cristobal Water Activity Enterprise which is managed by the Upper Gunnison Water Conservancy District (District), Hinsdale County and the Town of Lake City, for replacement water to be released

from Lake San Cristobal pursuant to the District's Plan for Augmentation decreed in Case No. 03CW108, Water Division No. 4. However, the applicant provided copies of augmentation certificates for Parcels (Lots) 2 and 3 but not one for Lot 1. If the applicant intends to use the existing well, currently permitted under Permit No. 224492, to supply any portion of the subdivision, pursuant to the State Engineer's Policy 2011-1, a new well permit issued pursuant to a decreed plan for augmentation will be required. Please note that the augmentation certificates provided for Parcels 2 and 3 are for 1 Base Unit each. According to the decree in Case No. 03CW108, 1 Base Unit will provide sufficient augmentation water, including transit loss, to augment depletions from in-house use for a single family dwelling utilizing a non-evaporative sewage disposal system. Therefore pursuant to the augmentation certificates, the use of the wells on Lots 2 and 3 would each be limited to household use only in one single family dwelling with no outside uses such as lawn and garden irrigation or domestic animal watering allowed. As the applicant indicated in the provided materials that at least 0.5 acres within the subdivision will be irrigated, presumably on Lot 1, sufficient augmentation water must be purchased to replace depletions from all uses from the well on Lot 1, including any outside uses.

As indicated in previous correspondence, the existing residence on proposed Lot 1 is currently served by an existing well, Well Permit No. 224492. According to our records, the well was constructed on August 21, 2000 to a depth of 260 feet and a permanent pump was installed on August 25, 2000. According to the pump installation report, a two hour pump test was performed and the reported pump rate was 12 gpm and the static water level was at 32 feet. Unfortunately the well test reported on the Pump Installation Report did not provide more information other than a single pump rate and the static water level.

As stated in CRS 30-28-133(3)(d), the subdivider is required to submit "Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed." Typically adequate evidence is usually provided in the form of a water resource report, prepared by a professional engineer or water consultant, which addresses the quality, quantity, and dependability issues. However, if the applicant could provide a copy of a more recent well test in which water levels and a pumping rate are measured in intervals over the length of the test, a water resource report may not be necessary.

If a more recent well test confirms the well has a sustained yield similar to the pump rate reported in 2000 and if the additional wells have similar production rates, the water supply should be physically adequate.

The applicant submitted a pump test conducted by Williams Drilling Company on January 18, 2017, for well Permit No. 224292. The report indicates that a two hour pump test was performed and according to the report, the well was drawn down from the static water level of 36 feet to 70 feet while pumping at between thirteen and ten gallons per minute. After pumping stopped, the well recovered to within seven feet of the static water level within 30 minutes. If the proposed additional wells have similar production rates and sufficient storage capacity, the water supply should be physically adequate. Please note the long term adequacy of any ground water source may be subject to fluctuation due to hydrological and climatic trends."

COMPLIANCE WITH APPLICABLE SECTIONS OF THE *GUNNISON COUNTY LAND USE RESOLUTION:*

Section 9-508: Keeping of Livestock not on an Agricultural Operation.

The applicant proposes to allow livestock on the property.

Section 10-102: ***Locational Standards for Residential Development.***
The request meet does not meet the primary residential density standard. The proposed subdivision is not located within a municipal three-mile area.

Section 10-103: ***Residential Density.***
The request proposes three single-family lots, Lot 1 9.7-acres, with existing residence; Lot 2 13-acres; Lot 3 13.3-acres. Residential parcels in the immediate neighborhood range from 8.3-acares to 21-acres. Parcel sizes are compatible with existing residential development in the neighborhood and will result in no significant net adverse impacts to the neighborhood.

Section 11-103: ***Development in Areas Subject to Flood Hazards*****.**
The property contains no floodplain, according to County mapping.

Section 11-104: ***Development in Areas Subject to Geologic Hazards*****.**
The property is not within a geologic hazard area, according to County mapping.

Section 11-105: ***Development in Areas Subject to Wildfire Hazards.***
The property is in a low - moderate wildfire hazard area, according to County mapping.

Section 11-106: ***Protection of Wildlife Habitat Areas.***
A sage-grouse Habitat Site Specific Analysis Pre-Application conference was held at the subject property. See comments from Brooke Vasquez, Wildlife Biologist, NRCS, letter of October 6, 2016. No comments were received from the Colorado Parks and Wildlife.

Section 11-107: ***Protection of Water Quality*****.**
No water bodies are located on the property.

Section 11-108: ***Standards for Development on Ridgelines.***
The property is not located on a ridgeline.

Section 11-109: ***Development that Affects Agricultural Lands.***
There are agricultural lands in the immediate area.

Section 11-110: ***Development of Land beyond Snowplowed Access*****.**
The property is not beyond snowplowed access.

Section 11-111: ***Development on Inholdings in the National Wilderness.***
Not applicable, the site is not located on a National Wilderness inholding.

Section 11-112: ***Development on Property above Timberline.***
Not applicable, the site is not located above timberline.

Section 12-103: ***Road System***.
The proposed lots would be accessed from an access road from Highway 149. No comments were received from the County Public Works Department.

Section 12-104: ***Public Trails***.
There is no public trail existing or proposed.

Section 12-105: ***Water Supply*****.**
The water supply for Lot 1 will be supplied by the existing well. New wells will supply water to Lots 2 and 3. The applicant has provided contracts from the Upper Gunnison River Water

Conservancy District for augmentation water from the Lake San Cristobal Water Activity Enterprise, for the proposed wells on the lots. Comments from Megan Sullivan, Water Resources Engineer, Colorado Division of Water Resources, note that the subdivision can be legally and physically served by the proposed water supply.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*
On-site Wastewater Treatment Systems are proposed on each lot to provide for wastewater treatment. Other residences in the neighborhood have existing permitted wastewater treatment systems.

Section 12-107: *Fire Protection*.
The property is within the Gunnison County Fire Protection District. No comments were received from the District.

Section 13-103: *General Site Plan Standards and Lot Measurements.*
The site plan for the subdivision complies with the standards of this Section.

Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.*
The building envelopes meet the setback requirements.

Section 13-105: *Residential Building Sizes and Lot Coverages.*
The subdivision plat identifies site-specific building envelopes on each lot. Minimum lot size complies with OWTS regulations. Building sizes are required to comply with the required maximum square footages at time of building permit application.

Section 13-106: *Energy and Resource Conservation.*
All structures to be constructed within the development will be subject to the standards of this Section at the time of building permit application.

Section 13-107: *Installation of Solid Fuel-Burning Devices*
Installation of solid fuel-burning devices is subject to the standards of this Section at the time of building permit application.

Section 13-108: *Open Space and Recreation Areas*
Not applicable. Open space dedication is not required for minor impact projects.

Section 13-109: *Signs.*
There are no signs proposed as part of the submitted application.

Section 13-110: *Off-Road Parking and Loading.*
A minimum of two parking spaces is required for each single-family residence.

Section 13-111: *Landscaping and Buffering.*
Landscaping is not required for minor impact projects.

Section 13-112: *Snow storage*.
Adequate area is available for snow storage on each lot.

Section 13-113: *Fencing*
All new fencing shall comply with this Section.

Section 13-114: *Exterior Lighting.*
All new structures are required to comply with this section.

Section 13-115: *Reclamation and Noxious Weed Control.*
A reclamation permit is required for driveway construction, home site clearing and berm construction.

Section 13-116: *Grading and Erosion Control.*
Grading activities are required to secure a Reclamation Permit from the Public Works Department, pursuant to Section 13-115: *Reclamation and Noxious Weed Control*.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*
Construction activities are required to secure a Reclamation Permit from the Public Works Department.

Section 13-118: *Water Impoundments.*
Not applicable, this project does not propose a water impoundment.

Section 13-119: Standards to Ensure Compatible Uses.
The development is compatible with the existing residential and agricultural neighborhood.

Section 15-103: *Right-to-Ranch Policy*.
This Section is applicable to all land use change permits.

FINDINGS:
The Commission finds that:

1. The Planning Commission has classified the application as a Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects A. 2-4 Units*.

2. The land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution* and *Section 6-10: Standards of Approval for Minor Impact Projects*.

3. The Commission finds that the proposed three-lot residential subdivision is compatible with existing development in the neighborhood and will result in no significant net adverse impacts to the neighborhood.

4. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

RECOMMENDATION:
The Gunnison County Planning Commission, having considered the submitted plans, exhibits, and public testimony, has reached the above Findings and recommends to the Board of County Commissioners that LUC No. 2016-00027 Nine Mile Ranches Subdivision, be approved with the following conditions:

1. This permit is limited to activities described within the “Project Summary” of this application, and as depicted on the Site Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or

submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.

2. The applicant shall comply with the following conditions for the protection of Gunnison Sage-grouse and Sage-grouse habitat:

    1) Due to the proximity of Tier 1 Habitat, a Gunnison County Reclamation Permit will be required for any site disturbing activities on the proposed parcels. That permit should contain specific reclamation conditions. Disturbed areas need to be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix.

    2) For activities not requiring a Reclamation Permit, disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

    3) Woven wire fencing will not be allowed for perimeter fencing or as interior cross fencing. Perimeter and cross fencing must be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication *Fencing with Wildlife in Mind.*

    4) Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance.

    5) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution,* dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

3. A mylar subdivision plat, in compliance with Section 6-105, *Gunnison County Land Use Resolution*, shall be provided to the Community Development Department, for signature by the Board of County Commissioners. Approval shall not be effective until and unless the plat is recorded with the Office of the Gunnison County Clerk and Recorder.

4. The approval shall be memorialized by Board Resolution. Approval shall not be effective until the Resolution is recorded with the Office of the Gunnison County Clerk and Recorder.

5. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

6. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

7. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.