GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, December 4, 2015

8:45 a.m.
- **Call to order; determine quorum**
- **Approval of Minutes**
- **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are <u>not scheduled on the day's agenda.</u>

9:00 a.m. **Pillow Rock Financial, represented by Dylan Carson,** continued public hearing/possible action, request for a private mountain bike trail, for the use of the owner and guests, located on Lot 33A, Trappers Crossing at Wildcat

10:00 a.m. **Rocky Mountain Biological Laboratory, represented by Dr. Ian Billick, Executive Director**, public hearing/possible action, request for an increase from the current permitted limit of 160 summer, concurrent residents to 180. The existing infrastructure at the Gothic facility would accommodate the increased number of residents. RMBL is located on 230-acres, legally described as Blk 1, All of Blks 2-36, Smelter Grounds Except Blk 37, All of First Addition Located In S/2NE/4, All Of L A Waits Second Addition Located In S/2NE/4, W/2NE/4 & SE/4NE/4 Town Of Gothic E/2NW/4 Section 3 Township 13 South Range 86 West, 6th P.M. **LUC-15-00034**

10:30 a.m. ***Gunnison County Land Use Resolution* amendments,** Staff, work session/no action, review of proposed *Land Use Resolutions* amendments

Adjourn

The applications can be viewed on gunnisoncounty.org,
link to http://204.132.78.100/citizenaccess/
- Public access
- Projects
- Application #
- **LUC-15-00020**
- **LUC-15-00034**
- Attachments

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GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
December 4, 2015
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The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center, Planning Commission meeting room. **Present were:**

Chairman- Kent Fulton
Vice-Chairman- Jeremy Rubingh
Commissioner- A.J. Cattles
Commissioner-Jack Diani
Alternate Commissioner- Molly Mugglestone
Alternate Commissioner-John Messner

Director of Community Development- Russ Forrest
Assistant Director of Community Development- Neal Starkebaum
Community Development Senior Planner-Cathie Pagano
Community Development Services Manager-Beth Baker
Others present as listed in text

Absent; Commissioner Venard

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With a quorum present Chairman Fulton opened the December 4, 2015, regular meeting of the Planning Commission.

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Moved by Rubingh seconded by Fulton to approve the planning commission meeting minutes dated November 20, 2015, as amended. The motion passed unanimously.

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Pillow Rock Financial- LUC-15-00020- The Gunnison County Planning Commission conducted a continued public hearing to discuss a request for a private mountain bike trail, for the use of the owner and guests, located on Lot 33A, Trappers Crossing at Wildcat

With a quorum present Chairman Fulton opened the continued public hearing.

Present representing staff: Director of Community Development, Russ Forrest, County Attorney David Baumgarten, and Community Development Administrative Services Manager, Beth Baker.

Present representing the Gunnison County Planning Commission; Commissioners Fulton, Rubingh, Cattles, Diani, Mugglestone, and Messner.

Present representing the applicant; attorney Tanner Walls, and owner Chris Baggott,

Fulton invited the County Attorney to speak to the County's role in enforcing HOA's covenants. Baumgarten noted there are three basic issues:

- Does the County have the authority to enforce covenants? The Board of County Commissioners (Board) is granted the right to enforce, at their sole discretion.
- Does the County have the obligation to pay attention to the convents? The County pays attention to the covenants as any other true set of data given.
- How are the covenants applied after the fact? The County wants to ensure compliance as opposed to being punitive.

He added the *Gunnison County Land Use Resolution* (LUR) is the guiding document.

Rubingh asked Baumgarten if this application is precedent setting- because the trail is already built; Baumgarten said no, when presented it is not different because it is after the fact.

Attorney David Leinsdorf asked Baumgarten to clarify the Commission's job in a "close call," decision. Baumgarten said the Commission would be tasked to pay attention to the evidence and make their decision carefully.

Fulton asked Attorney Leinsdorf why he had forwarded the commissioners the letters from the Crested Butte Fire District and Forest Service regarding fire egress. Leinsdorf explained the HOA has been working with several lot owners to attain

a fire easement egress, and those owners are now reconsidering granting an easement because of Baggott's bike trail and the potential for even more public trespassing. Leinsdorf added the HOA does not consider a private/public bake trail as a compatible use.

Lynn McDermott adjacent owner to the Baggott lot, said in reality the bike trail is not private and it is not strictly a non-motorized trail; she has seen dirt bikes on it. She added Baggott does not have a residence in Wildcat so he doesn't know what happens there. She was concerned the owners considering allowing a fire easement egress on Babyhead Hill are taking a step back, because they do not want any increased public trespass. This fire easement exist would benefit everyone in Wildcat including Mr. Baggott. This is a great step backwards, and seems punitive to the other land owners in the subdivision.

Attorney Leinsdorf commented on several items in the Community Development Director's memo;

- This is a private trail; Leinsdorf -all the evidence shows this is a public trail and can't be considered private
- Section 6-103, the burden is on the applicant to establish this is compatible with the neighborhood; Leinsdorf it is not compatible
- The trespass problems will be solved with the elimination of the Green Lake Trail connector to this trail; Leinsdorf said the only way to keep the public out is post a guard during daylight hours. The only way to resolve the problem is by denying the application.

Attorney Walls explained this is a private dispute between Pillow Rock Financial and a few owners in the Wildcat subdivision. Baggott bought the lot and hired a trail designer to design an environmentally safe trail. The locational standards in the LUR -Section 10-104 are not applicable for this private trail. He clarified Baggot is committed to keeping the trail private; employing additional signage, fencing and decommissioning the only connector to the Green Lake Trail. He said after the last public hearing Baggott installed three cameras to monitor traffic on the trail; they have observed only one mountain biker on this trail. They will leave cameras up to monitor usage. Mugglestone pointed out the cameras where not present in the peak biking season.

Messner was concerned the measures offered by Baggott to keep the trail private were not memorialized in writing.

It was pointed out the Green Lake Trail goes through the property; it was approved and put on the recorded plat of the property.

Walls agreed to provide a written explanation of the methods the owner would agree to employ to prevent additional public trespassing. The owner is committed to keeping this trail private, to the point that any owner can. He added this trail is not inconsistent with the character of the community, there is already a trail on the property that the Town of Crested Butte and the subdivision have approved.

Walls said the new bike trail is not an attractive nuisance and does not invite trespass. They can use reasonable measures to detract trespassers. He noted the public easement already invites trespass. This trail is not the secret trail. It was built by a professional trail builder and with the help of 20 community members. He said there is no evidence there are other trails connected to this trail. The fire egress issue being considered has nothing to do with this private trail.

Walls agreed the County has a right to get involved, but this is a dispute between a private land owner and a few owners in the subdivision.

Mugglestone asked why the owner built this trail before getting a permit to do so; Baggott said he did not know he needed a permit.

Diani asked if the owner had told the HOA he was willing to make this trail strictly private.

Owner of a lot in the subdivision Rudy Rozeman noted he was very concerned about the other trails on the property. If this is approved, the bikers will get there some way, probably through his property. He said with the creation of an attractive nuisance there will be more public trespass on his property.

Property management company owner Gordon Reeves pointed out the applicant had previously said this trail could be used by the public and had now has made an about face- to this trail is strictly private.

Property management company owner Angela Reeves said in her experience cameras, signage and fencing, etc. do not work.

Attorney Marcus Locke responded to Walls commentary noting this dispute is with the entire HOA, not just a few owners. It is important because the HOA has a fiduciary obligation to enforce all of the protective covenants; they define the character of the community. These County approved covenants provide a partnership between a lot owner, HOA and the County. This trail violates the covenants. Picking and choosing which covenants will be enforced is a slippery slope. He encouraged the commissioners to deny this application.

Walls reiterated the connector to the Green Lake Trail will be removed. He disagreed this trail is not compatible with the community character because there are other trails through this subdivision and all over the County. He encouraged the commissioners to approve the application.

Messner asked how this trail does not comply with the covenants. Fulton said it is not the Commission that approves the covenants. Forrest explained the only way the Commission can review this application is by applying the LUR standards.

Walls encouraged the commissioners to review the staff memo.

Forrest said staff does not advocate for an applicant or adjacent owners. He explained the key issues are found in *Section 6-103* dealing with the issue of compatibility and community character. A site visit was conducted and it revealed the only interconnection to this trail is the Green Lake Trail. Staff fully appreciates the issues of trespass. There is a level of concern as to whether this is a public or private trail.

Diani referred to *Section 6-103 C and 1-C*; no damage to any other lot owner. He asked where the fire easement exist would be; Forrest said it only applies to a replat etc., we cannot speak to a fire easement access and if a property owner would allow an easement or not.

Messner agreed the potential fire easement egress issue was already present when the subdivision was developed, and this new application should not be effected by this issue. The incompatibility issues and whether or not they can do enough mitigation to keep this trail private are key issues. He requested a specific plan describing the fencing, signage, and camera installment to be used to minimize / eliminate additional public trespassing.

Rubingh explained the locational standards are the guiding principles. The compatibility question is difficult, because there is a public trail there already. He was concerned with the attractive nuisance issue and not completely satisfied by the applicant's explanation. Trespassing is an issue in the entire community; is the applicant going to be serious enough to make this trail private.

Diani asked for the data from the cameras; Forrest noted technology can be helpful if the applicant is agreeable to it.

Mugglestone said she appreciated Forrest's comments on the LUR. She observed there has been flip flopping on whether the trail would be strictly private. She agreed with Locke that this is a dispute not just with a few individuals but with the HOA. She was not convinced fences, gates and cameras really work to discourage trespassing.

Forrest requested information on the actual trespassing that occurs and asked if the HOA is enforcing their own covenants. Are trespassers being ticketed? He acknowledged the applicant had said the trail was a public trail and now is switching back to private; is the applicant committed to a private trail. He noted road trail building has been going on forever, and is unsure how to make it stop. We seem to be seeing more and more people doing things and then coming here for forgiveness. We want to see this stop.

Mugglestone asked how this would be handled if not approved; Forrest said possibly remove it, or have the owner go through process, or take owner to County court.

Forrest requested direction from the commissioners.

Messner recommended directing staff to draft an approval – requiring a specific plan for ensuring this trail remains private. Rubingh reiterated the need for a specific plan to ensure this trail remains a private trail.

Fulton closed the public hearing.

The Planning Commission will conduct a work session on January 15, 2015 to discuss the applicantion and review the draft decision.

Rocky Mountain Biological Laboratory- LUC-15-00034- The Gunnison County Planning Commission conducted a public hearing to discuss a request for an increase from the current permitted limit of 160 summer, concurrent residents to 180. The existing infrastructure at the Gothic facility would accommodate the increased number of residents. RMBL is located on 230-acres, legally described as Blk 1, All of Blks 2-36, Smelter Grounds Except Blk 37, All of First Addition Located In S/2NE/4, All Of L A Waits Second Addition Located In S/2NE/4, W/2NE/4 & SE/4NE/4 Town Of Gothic E/2NW/4 Section 3 Township 13 South Range 86 West, 6th P.M.

With a quorum present Chairman Fulton opened the public hearing.

Present representing the Planning Commission: Kent Fulton, Jeremy Rubingh, Jack Diani, and John Messner, Molly Muggelstone, and A.J. Cattles.

Present representing Staff: Director of Community Development Russ Forrest, Assistant Director of Community Development Neal Starkebaum, Building Official Crystal Lambert, and Community Development Administrative Services Manager Beth Baker.

Present representing the applicant: Director of RMBL Ian Billick and Mike Fabbre.

Community Development Administrative Services Manager Beth Baker said the applicants have submitted the proof and posting and certified mailing receipts and the Planning office has had notice published in the Crested Butte News and Gunnison Country Times.

Billick explained RMBL has a limit of 160 summer, concurrent residents. They are now requesting an increase that to 180 and the general infrastructure will facilitate the increase.

Staff identified letters from referral agencies and surrounding owners. These comments may all be viewed in the staff file, on the County website.

There were no public comments.

Messner asked if the applicants had seen the comments from the County Building Official. Billick said he had. He is now trying to figure out timing and understanding some of the comments. He requested flexibility and possibly phasing of the safety improvements. He cited timing and limited funds as reasons for the requested flexibility. He said the road will be closed to traffic from now until mid-May. Billick requested a one year grace period. Billick also said they may want to increase the number of concurrent summer residents to 200.

Building Official Crystal Lambert explained the items she has highlighted are health and safety issues. This could be approached on a case by case basis- for each cabin. Billick reiterated the timing limitations in Gothic because of the weather.

Starkebaum said the numbers of current total occupancy of cabins is identified as 186; it would be 215 total with the requested increase of the additional 27.

Lambert said there are four cabins with safety issues. They could not raise the occupancy in the four cabins, until the safety improvements were completed. She noted egress issues are a great concern, and the owners will have to speak with the Crested Butte Fire District.

Fulton closed the public hearing.

Billick requested this application review be continued to another Planning Commission meeting works session.

The commission agreed.

Fulton closed the public hearing.

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***Gunnison County Land Use Resolution* amendments,** Staff, work session/no action, review of proposed *Land Use Resolutions* amendments

The commissioners discussed long term camping limitations to be 180 days in a calendar year. Messner, Rubingh and Mugglestone were concerned with the 180 day limit.

The commission agreed to discuss this again at another work session.

END OF DAY DISCUSSION;

Fulton adjourned the December 4, 2015 meeting of the Gunnison County Planning Commission at 12:30 PM.

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/S/ Beth Baker
Community Development Department Services Manager
Gunnison County Community Development Department

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