GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, January 15, 2016

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 not scheduled on the day's agenda.

9:00 a.m. **Pillow Rock Financial, represented by Dylan Carson,** work session/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
LUC-15-00020

Adjourn

The applications can be viewed on gunnisoncounty.org,
link to http://204.132.78.100/citizenaccess/

- Public access
- Projects
- Application #
- **LUC-15-00020**
- Attachments

DRAFT

NOTE: Unless otherwise noted, all meetings are conducted in the Blackstock Government Center Meeting Room 221 N. Wisconsin St. in Gunnison, across the street from the Post Office. This is a preliminary agenda; agenda times may be changed up to 24 hours before the meeting date. If you are interested in a specific agenda item, you may want to call the

Planning Department (641-0360) ahead of time to confirm its scheduled time. Anyone needing special accommodations may contact the Planning Department before the meeting.

GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING

January 15, 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
Commissioner- Tom Venard
Alternate Commissioner- Molly Mugglestone

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

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With a quorum present Chairman Fulton opened the January 15, 2016, regular meeting of the Planning Commission.

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Moved by Fulton seconded Cattles by to approve the Planning Commission meeting minutes dated December 18, 2015. The motion passed unanimously.

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Pillow Rock Financial- LUC-15-00020, The Gunnison County Planning Commission conducted a work session/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.

With a quorum present Chairman Fulton opened the work session.

Present representing staff: Director of Community Development, Russ Forrest, Assistant Director of Community Development, Neal Starkebaum, and Community Development Administrative Services Manager, Beth Baker.

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

Forrest explained that the public hearing is closed and public testimony has concluded.

Present representing the applicant; attorney Tucker Ellis, and owner Chris Baggott,

Forrest noted a draft decision approval has been prepared; it includes conditions. There has been trespassing information submitted by the Sheriff's Office and the HOA representative has provided a summary of the history of trespass. The applicant has offered mitigation methods to ensure this is a private trail not a public trail. There has been language provided by the County Attorney, David Baumgarten, on finding number 12 of the decision document. Forrest acknowledged this application came about as a result of the trail being created without a permit; an enforcement letter was sent to the owner, and an application was submitted.

Leinsdorf was concerned his comments submitted to the Planning Commission at this work session were not being considered. Forrest noted County Attorney David Baumgarten has directed the Commission to accept additional comments only if the information is being requested by the Commission.

The Commission reviewed the draft decision.

Moved by Venard seconded by Rubingh to approve LUC-15-00020- private bike trail on Lot 33A Trapper Crossing at Wildcat, as amended. The motion passed unanimously.

1. PROJECT SUMMARY

The applicant, Pillow Rock Financial, has built a 3 foot wide 4,400 linear foot trail for the stated purpose of mountain biking on the owner's 35.55 acre lot. The total area of impact of the trail is 13,200 square feet. There are no structures on the lot. There is an access road to an undeveloped home site which also has an electrical transformer and a well. There is also a walking trail easement 20 feet in width for the Green Lake Trail which runs through the Trappers Crossing Subdivision and the subject property.

The focus of this minor impact review is the 13,200 square feet of site disturbance associated with the construction of the trail. The trail is for private use based on the application. The trail was built without approval from the County. The applicant is now applying for a minor impact land use change. The specific regulation that speaks to a land use impact classification for this type of project is found in Article 6, Section 6-102: Projects Classified as Minor Impact Project. K. Clearing of More than 7500 Sq. Ft. of Land: Clearing of more than 7,500 sq. ft. of land not related to activities permitted by a Building Permit an ISDS Permit, or Access Permit or an agricultural operation. This action was brought to the attention of the County by the Trappers Crossing HOA.

On September 18, 2015 a worksession and site visit was conducted to the site. On the site visit the applicant, adjacent homeowners, and the Planning Commission walked the trail and the area around the subject property. A public hearing occurred on October 16, 2015 for this application which was continued to December 4, 2015.

2. Application to the LUR and Staff Analysis

A. Locational Standards:

Attachment 1 includes the staff analysis from the September 8th worksession. Applicable provisions of the LUR to this application are reviewed and discussed in this analysis. The issue of locational standards was discussed in the worksession and staff wanted to highlight the following related to section 10-104: locational standards for commercial, industrial, or other non-residential uses:

> "The applicant has created a private non-motorized trail which is the subject of this application. Determining the appropriate locational standards in Article 10 and whether they even apply is an interesting question. Non-residential uses is an undefined term in the LUR. It has been applied to institutional uses (Public Works Facility), Utilities, CDOT facilities (new shops), and common structures for development projects such as the lodge at Cimarron LLC. The City of Gunnison several years ago requested whether any permit would be required for its public trail system (plan) outside of the municipal boundary and the conclusion of the County Planning Commission was that an LUC application was not required. There are private trails on both developed and undeveloped lands across Gunnison County and most likely exist on many large private residential lots. Staff considered if a property owner wanted to create a barn and a horse riding trail system whether any permit would be required? If a home existed first on the property and then a private non-motorized trail private trail private trail was built on the property, the trail would clearly be accessory to the home.

Given the history of non-residential uses and how they have been regulated, staff believes that a non-motorized private trail does not fall into the category of a non-residential use and 10-104 does not apply.

B. Resource Protection Standards:

Sections 11-102 through 11-107 are applicable in relationship to environmental issues and best management practices. The applicant has referenced that they used the National Park Service guidelines for trail design which are in the public record associated with this application which can be found at : http:/204.132.78.100/citizenaccess/. In reviewing the guidelines there is significant focus to minimizing environmental impacts and being sensitive to natural features. Although trees have been removed in the trail construction process, the site visits to the site seem to demonstrate care was given in the design and construction of the trail to minimize impacts. Given those observations, there appears to be no significant impacts associated with the trail with the exception of the connection to the Green Lake Trail.

A.

C. Minor Impact Project Standards

As per Section 6-103, a Land Use Change Permit for a Minor Impact Project shall comply with the following:

A. ALL APPLICABLE STANDARDS. The proposed land use change shall comply with, and the burden shall be on the applicant to demonstrate through competent evidence that the proposed land use change complies with all applicable requirements of this *Resolution*; and

B. COMPATIBILITY WITH COMMUNITY CHARACTER. The proposed land use change shall be compatible with, or an enhancement of, the character of existing land uses in the area, and shall not adversely impact the future development of the surrounding area; and

C. COMPLIANCE WITH SPECIFIC STANDARDS. In addition, the following standards shall apply to individual types of Minor Impact Projects:

1. ADDITIONAL STANDARDS APPLICABLE TO VACATION, AMENDMENT OR REPLAT OF SUBDIVISION PLATS. The Board may approve a Minor Impact application to vacate, amend or replat any recorded subdivision plat if all of the following additional standards are met:

a. LEGAL PLAT OF RECORD. The plat to be vacated, amended or replatted shall be a legal plat of record; when the plat is proposed to be vacated the applicant(s) shall be the owner of all the lands identified on the plat to be vacated.

b. VACATION SHALL NOT DENY ACCESS. Vacation, amendment or replatting of all or part of the plat shall not interfere with the use of, nor deny access by public thoroughfare to public land, adjoining properties, utility service, or other improvements. In granting a vacation, the Board may reserve easements for access, and for the installation or maintenance of utilities, ditches, and similar improvements.

c. NOT DAMAGE ANY LOT OWNER. The plat vacation, amendment or replat shall not result in damage to any individual lot owner.

The Staff Analysis in Attachment 1 provides a staff response to the applicable standards as per Section 6-103. A. With respect to Section 6-103.B, staffs speaks to Compatibility with Community Character in the section below referenced as "Standards to Ensure Compatible Uses." With respect to Section 6-103.C this section is not applicable in that there is not a proposed vacation, amendment or replat being proposed.

D. Standards to Ensure Compatible Uses

With regard to Section 13-119 (Standards to ensure compatible uses) and Section 6-103.B, an existing public trail (i.e. the Green Lake Trail) has been allowed and exists on both the Subdivision and on the subject property. This existing trail is part of the neighborhood and other public trails exist on other private residential lands in the vicinity of Crested Butte. Trails are part of the character of mountain communities, particularly Crested Butte.

From the public testimony to date, there is concern from the neighborhood that the proposed private trail may create an attractive nuisance and increase trespass on private lands. Staff's observation is that the Green Lake Trail (which is in a public easement and goes through both the applicants' property the subdivision) has a connection to the applicants private trail system. We have **not** found evidence to suggest that there is a direct connection from the applicants trail to any other adjacent lots except through the Green Lake Trail. Staff has discovered that an undocumented trail system

may go through the subdivision on private and HOA lands which is not in a public trail easement. However, we could find no evidence that the applicants land interconnects with this undocumented trails system. So it is certainly reasonable to believe that there is an issue of trespassing within the Subdivision. However, we have not seen evidence that the applicants trail is contributing to the potential illicit use of private lands.

Staff does believe that the applicant should eliminate the trail connection between the Green Lake Trail and his trail system in a way sufficient (boulders, down trees etc.) to prevent further interconnection between the private trail system and the Green Lake Trail and revegetate the trail connection. The applicant needs to consult with the Town of Crested Butte regarding the removal of this trail to ensure that any activity respects the public trail easement.

In reviewing the above mentioned standards, staff finds that with reasonable conditions a private trail, given the existence of a public trail through the HOA and the subject property, is not incompatible with the existing uses and is consistent with the above mentioned standards and those highlighted in Attachment 1.

Staff in reviewing the application and having conducted two site visits, cannot find any inconsistency with the Gunnison County Land Use Resolution and this application. There appears to be no significant impacts associated with the trail with the exception of the connection to the Green Lake Trail. There is the issue of creating an attractive nuisance on the property. Staff's observations is that the Green Lake Trail which is in a public easement and goes through both the applicants and the subdivision has a connection to the applicants private trail system. We don't believe that there is a direct connection from the applicants trail to any other adjacent lots, *except* through the Green Lake Trail. Staff has discovered that a trail system may go through the subdivision on private and HOA lands which is not in a public trail easement. However, we could find no evidence that the applicants land interconnects with this undocumented trails system. So it is certainly reasonable to believe that there is an issue of trespassing within the Subdivision. However, we have not seen evidence that the applicants trail is contributing to the potential trespass on other private lands in the subdivision.

A site plan has been provided that includes the location of the trail. Staff has conducted a site visit with the property owner and the trail designer. The trail is entirely on the property owner's property. There is evidence that that the trail has connected to the Green Lake Trail which runs through the subject property. When staff conducted a site visit approximately 10 feet of the trail adjacent to the Green Lake Trail was covered with brush and vegetation in an effort to obscure it. On a subsequent site visit with the Planning Commission on September 8, 2015 that trail connector was more obvious.

As requested by the Planning Commission, staff followed up with the Sheriff's office regarding the history of trespass in the Subdivision and received this response from Undersheriff Randy Barnes via email on December 16, 2015:

> *"Afternoon Russ, Below is what the MTCBPD was able to find on trespassing at Trappers crossing:*
>
> *Hi Randy, I'm afraid that I find very little data to share with you. We have one case specifically referring to Criminal Trespass 3rd (IR #15-0140). This is our most recent report. I've searched all County reports for the past five years by Trespass (1st, 2nd and 3rd) and also checked all "Information"*
> *reports. Anecdotally, we have had a limited number of calls about people Trespassing in Trapper's Crossing over the last few years. The calls mostly involved a small group (2, 3 or 4) of women walking the roadway who felt they had permission from a homeowner to be there, but another homeowner felt differently. This is essentially the premiss of the case mentioned above.*
> *Nate will be able to fill in all the details of who and why. Would you like me to ask him to give you a call?*
>
> *Best regards,*
>
> *Marge*
>
> *Marjorie Trautman*
> *Records Technician / Administrative Assistant Mt. Crested Butte Police Department*
> *911 Gothic Road / PO Box 800*
> *Mt. Crested Butte, CO 81225*
> *Office: 970-349-6516*
> *Fax: 970-349-5866"*

Undersheriff Randy Barnes
Gunnison County Sheriff's Office
510 Bidwell
Gunnison, CO 81230
(970)641-1113

In addition, Angela Reeves provided a written summary of the trespass issue the subdivision has experienced and this summary can be found in the permit database at http:/204.132.78.100/citizenaccess/ .

3. IMPACT CLASSIFICATION:

Staff has concluded that this application meets the criteria for a minor impact land classification. The specific regulation that speaks to a land use impact classification for this type of project is found in Article 6, Section 6-102: Projects Classified as Minor Impact Project. K. Clearing of More than 7500 Sq. Ft. of Land: Clearing of more than 7,500 sq. ft. of land not related to activities permitted by a Building Permit an ISDS Permit, or Access Permit or an agricultural operation.

4. LOCATION:

Lot 33A, Boundary Line Adjustment Map, Lot 32 and 33, Trappers Crossing At Wildcat, Gunnison County

5. APPLICATION/PLANS/REPORTS/REFERAL COMMENT:

All Plans, reports, letters and other submittal documents informing this decision can be found at:

- http:/204.132.78.100/citizenaccess/
- Click Public Access
- Click Project
- Click Application Number
- Use Application Number LUC 15-00020 **(exactly)**
- Click on file to open it
- Click Attachments Tab

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6. REFERRAL COMMENTS:

This application was referred to the Town of Crested Butte, Bureau of Land Management, Crested Butte Fire Prevention District, Gunnison County Public Works Department & Trails Committee, and Colorado Department of Parks and Wildlife.

7. MEETING REGARDING THIS APPLICATION

SITE VISIT:

On September 18, 2015 a worksession and site visit was conducted for this application. On the site visit the applicant, adjacent homeowners, and the Planning Commission walked the trail and the area around the subject property.

WORK SESSIONS:

A work session was held on September 18, 2015.

PUBLIC HEARING:

A public hearing occurred on October 16, 2015 for this application which was continued to December 4, 2015.

8. COMPLIANCE WITH APPLICABLE SECTIONS OF THE *GUNNISON COUNTY LAND USE RESOLUTION:*
The applicable standards are referenced above and found in Attachment 1 with the appropriate references to the Gunnison County Land Use Resolution.

9. FINDINGS:

The Gunnison County Planning Commission finds that:

1. The applicant has built a 3 foot wide 4,400 linear foot trail for the stated purpose of mountain biking on the owner's 35.55 acre lot. The total area of impact of the trail is 13,200 square feet.

2. The application is defined as a Minor Impact; pursuant to Article 6, Section 6-102: Projects Classified as Minor Impact Project. K. Clearing of More than 7500 Sq. Ft. of Land: Clearing of more than 7,500 sq. ft. of land not related to activities permitted by a Building Permit an ISDS Permit, or Access Permit or an agricultural operation.

3. On September 18, 2015 the County conducted a site visit with the applicant, members of the Planning Commission, and owners from the Trappers Crossing Subdivision.

4. The Green Lake Trail runs through both the Subdivision and the subject property

5. A connection between the applicants trail and the Green Lake Trails was found to exist. However, no other connections from the applicants trail was found to adjacent properties.

6. It was observed that the trail was constructed using a high degree of sensitivity to the topography and natural features of the site so as to prevent or minimize environmental impacts.

7. The applicant has stated and clarified at the public hearing on December 4, 2015 that the trail will be only available to the owner and his/her guests.

8. The Planning Commission has received and considered testimony during the public hearing regarding this application.

9. The Planning Commission had received input and considered the comments of the applicant, its consultants, and those individuals and organizations providing public testimony both verbally and in writing.

10. The Planning Commission has reviewed and is informed by all the documentation submitted to the County and included within the Community Development Departments file relative to this application; including all exhibits, references and documents as submitted with this application and by public comment at a public hearing, both written and oral.

11. As referenced in Section 2 above, the application complies with the applicable standards of the *Gunnison County Land Use Resolution*, and complies with *Section 6-103: Standards for Approval of Minor Impact Projects*.

12. This decision is not and shall not be construed to be, for the purpose of litigation between parties not including Gunnison County, a determination of whether the trail is consistent or not with the protective covenants of Trappers Crossing at Wildcat.

13. Gunnison County Community Development Staff recommends approval of the application with the conditions specified below.

14. 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.

15. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) except as approved or required as part of this Permit, relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

10. DECISION:

The Gunnison County Planning Commission, having reviewed 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, including public comment at a public hearing and having reached the above cited findings, classifies LUC # LUC 15-00020, Pillow Rock Financial**,** as a Minor Impact Project and is hereby approved with the following conditions:

1. That this approval be memorialized within a Certificate of Minor Impact and recorded within the Office of the Gunnison County Clerk and Recorder. Approval shall not be final until recordation of the Certificate of Minor Impact is recorded within the Office of the Gunnison County Clerk and Recorder.

2. The Applicant has represented that the trail shall be a private trail for the use of the property owner and his/her guests. This approval shall become null and void if the owner or his/her designee allows the use of the trail for the general public or for a special event.

3. Utilization of the trail for more than 15 people at one time is not allowed under this approval.

4. The parking of 4 or more vehicles on the site for the purpose of utilizing the trail is not allowed under this approval.

5. Motorized vehicles (except for those needed to perform maintenance on the property) of any kind on the subject trail is not allowed under this approval. Under no circumstances should motorized vehicles be used for recreation on the subject trail.

6. Any evidence of new trails being constructed to, from, or within the subject property shall be deemed a violation of this approval.

7. The applicant shall submit a “plan” to both Gunnison County Community Development Department and the Town of Crested Butte by April 29, 2016 to remove the trail connection between the subject trail and the Green Lake Trail. This plans must be reviewed by the Gunnison County Community Development staff and approved by staff to ensure the required components below are achieved. Any improvements or alterations within the Green Lake Trail Easement controlled by the Town of Crested Butte must be approved as appropriate by the Town of Crested Butte. Attachment B includes a letter from the applicant with their proposal to address this issue. This “plan” shall include the following components:

    A) No Trespassing Signage posted on the property owners land at locations visible from both the Green Lake Trail and the vehicular access to the site in locations approved of by Gunnison County. If sign approval is required by the Trappers Crossing Home Owners Association, then approval must be obtained.
    B) Video Surveillance that is motion activated and having sufficient memory to record 60 days of potential use focused on the area where the Green Lake Trail connects to the applicants trail located at an angle so that an individual face accessing the site may be recorded. In addition, a similar video device with the same specifications is required on the vehicular road accessing the subject property so as to show any user that accesses the site via the road and then connects to the applicants trail. Furthermore, the applicant shall provide recordings from the video monitors within 48 hours of a written request by Gunnison County.
    C) The trail connection between the Green Lake Trail and the applicant’s private trail shall be completely eliminated. This may be done with revegetation, tree planting, placement of rocks, and/or construction of a fence (subject to any necessary Trappers Crossing Home Owners Association Approval). In addition any physical changes within the Green Lake Trail Easement may need review/approval by the Town of Crested Butte.

8. By July 15, 2016 the applicant shall complete work on removing the trail connector from the subject private trail to the Green Lake Trail as specified in condition # 7 above. The applicant shall notify and allow access to the Gunnison County Community Development Department to conduct a site visit to confirm the appropriate implementation of condition # 7 above.

9. The applicant shall allow access to the site by Gunnison County Community Development Department, with 48 hours' written notice, to inspect the site and confirm the conditions of this approval are being met on an ongoing basis.

10. Approval of this Land Use Change Permit implies no approval of any building sites or building permits, reclamation permits, individual sewage disposal permits, driveway permits or any other permits required by any other agency.

11. 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.

12. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative), except as required and approved as part of this Permit, relied on herein to mitigate a possible conflict, shall require a new or amended land use change permit.

13. 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.

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

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