TO: **Planning Commission**

SUBJECT: ***DRAFT* Minor Impact Decision**
Pesnell – Monson Creek Ranch Outfitters – Jeep Rental Business
LUC #2015-29

DATE: **Planning Commission Meeting of May 20, 2016**

PREPARED BY: **Neal Starkebaum, Assistant Director**

APPLICANT: **O.A. Pesnell**
P.O. Box 601
Gunnison, CO 81230

PROJECT DESCRIPTION:
The applicant is proposing to change a portion of the use of the land from agricultural to commercial. The commercial use proposed is a jeep/vehicle rental business, previously located in the City of Gunnison.

The request includes the construction of a 3,600 square foot pole barn structure in which to house the rental jeeps/vehicles. The pole barn would also include approximately 300 square feet for storage and approximately 900 sq. ft. for the rental office and a small apartment for an employee, to provide security and operation of the jeep rental business. A 12-space parking area would be constructed to provide parking for the employee and for customer parking. The business would operate seasonally, but typically seven days a week during the summer months. The pole barn structure will have a rustic look, consisting of corrugated tin wainscot and board and batten siding.

The existing Flying E Ranch Subdivision access road/Highway 135 intersection will be relocated approximately 154 feet west of the current intersection, based upon recommendations from the Colorado Department of Transportation, to align with the frontage road intersection, across Highway 135, to provide a safer and functional intersection. The existing access would be decommissioned and reclaimed. Water supply and wastewater treatment will be provided by a new well and an on-site wastewater treatment system.

PREVIOUS LAND USE APPROVAL:
The Flying E Ranch Subdivision, 5-lot subdivision, was approved by the Board of County Commissioners on December 13, 1993, Clerk and Recorders Reception No. 447702. Lot 5 is identified on the subdivision plat as “agricultural land, as defined by the Land Use Resolution, until a change of use is approved by Gunnison County.”

LOCATION:
The site for the business is on 1.3-acres, on a portion of the 14-acre Lot 5, located west of and adjacent to Highway 135, approximately 1 mile north of the City of Gunnison, legally described as Lot 5 Flying E Ranch Subdivision.

ADJACENT LAND USES:
North: Residential
South: Residential and KGUC radio tower
West: Residential/Agricultural
East: Across Highway 135: Town and Country Vet Clinic

PLANS/REPORTS/SUBMITTALS:
Plans, reports, and other submittal documents informing this Decision include, but are not limited to:

- Minor Impact Land Use Change Application and site plan
- Site Plan, Elevation drawings - received October 9, 2015.
- Jim Cochran, Wildlife Conservation Coordinator, comments of September 23, 2015.
- Marlene Crosby, email of November 1, 2015.
- Dan Roussin, Permit Unit Manager, Colorado Department of Transportation (CDOT), email of October 19, 2015.
- City of Gunnison Comments, April 13, 2016.
- Consent from the landowners of parcels within the Flying E subdivision, for the relocation of the access road.

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

REVIEW AGENCY REFERRAL COMMENTS:
The following entities or agencies provided referral comments.

City of Gunnison:
Greg Larson, Chair, Planning and Zoning Commission, letter of April 13, 2016:

"Historically, the City has expressed concern regarding proposed retail sales developments and the potentially detrimental effect on sales tax revenues that support the City's General Fund. Ironically, this business was previously located in Gunnison, but the site was sold to a marijuana establishment that will likely produce greater retail sales.

Practically speaking, the relocation of this business to the unincorporated location will have no major effect upon city revenues."

Colorado Department of Transportation:
Comments from Dan Roussin, CDOT, email of October 19, 2015, note: The current access to the Flying E Ranch Subdivision is off-set from an existing Frontage Road access (across Highway 135). He notes: "After reviewing the application, I recommend that the access be moved approximately 154 feet to the west to align with the frontage road access on the other side of the access for safety and operational benefits.

Gunnison County Public Works Department:
Comments from Marlene Crosby, Director, GC Public Works, email of November 1, 2015, notes that the applicant has agreed to the relocation of and construction of the new State Highway access and has obtained consent from the affected landowners within the Flying E Subdivision.

Gunnison County Wildlife Conservation Coordinator:
Jim Cochran, County Wildlife Conservation Coordinator; memo of September 23, 2015, states:

"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 impact Gunnison Sage-grouse or their habitats. To protect Gunnison sage-grouse and their habitats, the following requirements will be applied as conditions of all Gunnison County permits issued for projects on this parcel:

1) 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.

2) A Gunnison County Reclamation Permit is not required for the proposed activity unless the

surface disturbance exceeds 10,000 sqft. If a Reclamation Permit is not required, all disturbed areas shall 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) Property owners/lessees 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: http://www.colorado.gov/cs/Satellite?c=Page&cid=1174084048733&pagename=Agriculture-Main/CDAGLayout. The Gunnison County Weed Management Program should be contacted (970-641-4393) for additional information and technical assistance."

SITE VISIT:
A site visit was held on February 19, 2016. The Commission members viewed the location of the proposed site and surrounding properties. Observations by the Commission are summarized as follows:

PUBLIC HEARING:
A public hearing was held on May 20, 2016; at that time……...

MEETINGS WITH PLANNING COMMISSION:
February 19, 2016 – Work session
May 20, 2016 - Public Hearing
May 20, 2016 – Work session

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

Section 9-301: *Commercial and Industrial Uses.*
The applicant is proposing a commercial jeep/vehicle rental business.

D. General Standards:

D.1: Non Residential Accessory Uses: The proposed use is not accessory to a residential use.
D.2: Food Service Requirements: No food service is proposed as part of this application.
D.3: Electrical Disturbances: No use of equipment that creates electrical disturbances is anticipated at the site.
D.4: Fire and Explosive Hazards: No materials or products that decompose by detonation are proposed to be stored at the site.
D.5. Glare and Heat: No glare or heat producing activities are anticipated or expected at the site.
D.6. Exterior Lighting: The exterior lighting shall be designed so that all direct rays and glare are confined to the subject parcel.
D.7. Odors: No odors are anticipated or expected.
D.8. Radioactivity: No radioactive materials are proposed to be stored on site.
D.9. Vibration: No activities that cause vibration are expected to occur along the property boundaries.
D.10. Noise: No significant noise is anticipated as a result of this application.

Section 10-102: *Locational Residential Development:*
Not applicable. No subdivision of the property is proposed. An employee apartment is part of the application, as an accessory use.

Section 10-103: *Residential Density:*
Not applicable. No subdivision of the property is proposed. An employee apartment is part of the application, as an assessor use.

Section 10-104: ***Locational Standards for Commercial, Industrial and Other Non-Residential Development***
The site meets the Primary Locational Standard. B.2.

1. The proposed site is within the City of Gunnison's Three Mile Plan area.
2. The City of Gunnison comments, dated April 13, 2016. note that the City does not object to the proposed use. See City of Gunnison comments.

Section: 11-102: ***Voluntary Best Management Practices***
Voluntary; not mandated.

Section 11-103: ***Development in Areas Subject to Flood Hazards.***
The site is not located within an area subject to flood hazards, according to County mapping.

Section 11-104: ***Development in Areas Subject to Geologic Hazards*****.**
The subject parcel is not located within an area of geologic hazards, according to County mapping.

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

Section 11-106: ***Protection of Wildlife Habitat Areas.***
Comments were received from Jim Cochran, County Wildlife Conservation Coordinator, memo of September 23, 2015. No impacts to Sage-grouse were identified. Recommended conditions of approval to minimize impacts to the Gunnison Sage-grouse are atta

Section 11-107: ***Protection of Water Quality*****.**
Not applicable. The site is not located within 125 feet of a water body.

Section 11-109: ***Development That Affects Agricultural Lands.***
The applicant's land is identified on the plat of Flying E Ranch Subdivision as agricultural. Any existing agricultural uses on the balance of the property will be protected by the applicant.

Section 12-103: ***Road System***.
Based upon recommendations from CDOT, the existing Flying E Subdivision access road will be relocated approximately 154 feet west of the current highway intersection, to align with the frontage road intersection, across Highway 135, to provide a safer and more functional intersection.

The Gunnison County Public Works Department reviewed the proposed development and provided comments in an email from Marlene Crosby, Public Works Director, November 1, 2015. The applicant has obtained consent from the landowners within the Flying E Subdivision for the new access. The applicant will record a new easement for the relocated Flying E access to the benefit of the owners of the Flying E Ranch subdivision, in the Office of the Gunnison County Clerk and Recorder, prior to the issuance of any building or septic permits. Engineered construction drawings, in compliance with the Gunnison County Road and Bridge Standards are required. A development improvements agreement is required to bond for the proposed improvements and reclamation.

Section 12-104: ***Public Trails***.
Not applicable. The applicant has not proposed any public trails on the property.

Section 12-105: ***Water Supply*****.**
The office and residence will be served by an individual well.

Section 12-106: ***Sewage Disposal/Wastewater Treatment.***
An onsite wastewater treatment system for the residence and office is proposed. The site is feasible for onsite wastewater, as there are several existing septic systems permitted in the immediate area. Comments from Marlene Crosby, Director, GC Public Works, email of November 1, 2015, indicate that connection to the North Gunnison Sewer District central sewer line is cost prohibitive, as it would require crossing Highway 135.

Section 12-107: ***Fire Protection*****.**
The parcel is in the Gunnison County Fire Protection District and subject to their regulations and standards.

Section 13-103: ***General Site Plan Standards and Lot Measurements.***
The proposed location complies with property line setback requirements. Site Plan submitted with application.

Section 13-107: ***Installation of Solid Fuel-Burning Devices***
Installation of solid-fuel burning devices shall comply with this Section.

Section 13-108: ***Open Space and Recreation Areas***
Not applicable. No open space is required for this use.

Section 13-109: ***Signs.***
The applicant is required to obtain a sign permit in compliance with this Section. The applicant has been advised of the limitations on signage for the proposed use.

Section 13-110: ***Off-Road Parking and Loading.***
The site provides sufficient off-road parking and loading.

Section 13-111: ***Landscaping and Buffering.***
Landscaping and buffering is not specifically required. There is existing vegetation within the State Highway right-of-way, between the property and the highway.

Section 13-112: ***Snow storage****.*
Sufficient area is available for snow storage.

Section 13-113: ***Fencing***
Existing permiter fencing on the property will be maintained.

Section 13-114: ***Exterior Lighting.***
Exterior light fixtures shall comply with standards of this section. The applicant shall submit a lighting plan at the time of building permit application.

Section 13-115: ***Reclamation and Noxious Weed Control.***
Reclamation will be required and the applicant is required to control noxious weeds.

Section 13-116: ***Grading and Erosion Control.***
The site is fairly level, which will minimize the amount of site grading required. A drainage plan is required.

Section 13-117: ***Drainage, Construction and Post-Construction Stormwater Runoff.***
The applicant shall be required to provide a drainage plan prior to the issuance of building or septic permits.

Section 13-118: Standards to Ensure Compatible Uses.
The site has been designed in a manner that will not adversely affect the character of nearby residential areas.

- There are no residences within proximity to the use. The closest residence is approximately 400 feet to the north of the site.
- Other commercial businesses are within the immediate area, including Town and County Veterinary Clinic, Guerrieri's Packing Plant, Discount Storage and Henry's TV.
- The building's exterior will be earth tone board and batten, with rusted corrugated metal wainscot, intended to blend with the surroundings.
- The building is approximately 100 feet from Highway 135. Visibility of the site from Highway 135 will be of short duration to the traveling public. The posted speed limit on this section of Highway 135 is 55 m.p.h.
- The new alignment of the Flying E Ranch road will provide a safer highway intersection for the owners of parcels within the Flying E Ranch subdivision, clients of the jeep rental business and the traveling public.

FINDINGS:
The Commission finds that:

1. This application is a Minor Impact Project.

2. The proposal is compatible with the existing neighborhood and the proposed development has been designed in a manner that will not adversely affect the character of nearby residential areas:
   - There are no residences within proximity to the use. The closest residence is approximately 400 feet to the north of the site.
   - Other commercial businesses are within the immediate area, including Town and County Veterinary Clinic, Guerrierri's Packing Plant, Discount Storage and Henry's TV.
   - The building's exterior will be earth tone board and batten, with rusted corrugated metal wainscot, intended to blend with the surroundings.
   - The building is approximately 100 feet from Highway 135. Visibility of the site from Highway 135 will be of short duration to the traveling public. The posted speed limit on this section of Highway 135 is 55 m.p.h.
   - The new alignment of the Flying E Ranch road will provide a safer highway intersection for the owners of parcels within the Flying E Ranch subdivision, clients of the jeep rental business and the traveling public.

3. Gunnison County Wildlife Conservation Coordinator Jim Cochran; provided comments in a memo of September 23, 2015, identifying no significant impact to Gunnison Sage-grouse or habitat, but included conditions of approval to minimize potential impacts to the Gunnison Sage-grouse.

4. The Planning Commission determines that the existing vegetation provides sufficient buffering and is sufficient for this use.

5. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site plan as submitted. 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.*

6. 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.

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, and including provision of a public hearing, and having reached the above cited Findings, classifies LUC No. 2015-29, Pesnell – Monson Creek Outfitters Jeep Rental as a Minor Impact Project, approves the Land Use Change Permit with the following conditions, and that said approval shall be memorialized by recordation of a Minor Impact Certificate with the Gunnison County Clerk and Recorder:

1. This permit is limited to activities described within the "Project Description" 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 provide engineered construction plans for the new access road improvements, stamped by a Colorado licensed professional engineer. Additionally, a plan to reclaim the decommissioned access road shall be submitted, and the engineer shall provide cost estimates for all of the work. The plans and costs shall be reviewed and approved by the Gunnison County Public Works Department.

3. A Development Improvements Agreement, subject to approval by the Gunnison County Attorney, shall be executed by the Board of County Commissioners, addressing the construction of the new access road from Highway 135, submitted by the applicant's engineer, and reclamation of the decommissioned access road. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.

4. A performance bond, letter of credit or other means of surety acceptable to the Board of County Commissioners be required to cover the cost of the improvements and reclamation of the closed road, as identified on the construction plan, plus 25 percent; such cost estimate as provided by the applicant's engineer, and that said surety is retained by Gunnison County. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.

5. The applicant shall record the new easement for the relocated Flying E Ranch access to the benefit of the owners of the Flying E Ranch subdivision, in the Office of the Gunnison County Clerk and Recorder and provide copies of the recorded documents to the Community Development Department, prior to the issuance of any building or septic permits.

6. The following requirements will be applied as conditions of all Gunnison County permits issued for projects on this parcel to protect Gunnison sage-grouse and their habitats, the following requirements will be applied as conditions to all Gunnison County permits issued for permits on this parcel:

    1) 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.

    2) A Gunnison County Reclamation Permit is not required for the proposed activity unless the

surface disturbance exceeds 10,000 sqft. If a Reclamation Permit is not required, all disturbed areas shall 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) Property owners/lessees 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: http://www.colorado.gov/cs/Satellite?c=Page&cid=1174084048733&pagename=Agriculture-Main/CDAGLayout. The Gunnison County Weed Management Program should be contacted (970-641-4393) for additional information and technical assistance."

7. 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.

8. 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.