

**GUNNISON COUNTY PLANNING COMMISSION**  
**PRELIMINARY AGENDA: Friday, February 16, 2018**  
Planning Commission will meet in the Ballroom at the Lodge at Mountaineer Square  
620 Gothic Rd, Mt. Crested Butte, Colorado

**8:45 a.m. Call to order; determine quorum**

**9:00 a.m. APT Brush Creek Road, LLC, joint work session with BOCC**, request for the development of 240 rental units on the subject parcel. 62.5% (150) of the units will be deed restricted to qualifying households earning less than 180% of the Area Median Income. The remainder of the units (90) will be free market rental units, located on the southeast corner of the intersection of Brush Creek Road and Highway 135, approximately 1.5 miles south of the Town of Crested Butte. The parcel is approximately 14.29 acres and is legally described as all of land in Section 12, Township 14 South, Range 86 West, 6<sup>th</sup> p.m., lying south and east of Brush Creek Road, and west of Larkspur Subdivision  
**LUC-17- 00034**

**10:15 a.m. Break**

**10:30 a.m. APT Brush Creek Road, LLC, JOINT BOCC and PC PUBLIC HEARING**

**11:45 am Break**

**12:00 p.m. Resume APT Brush Creek Road, LLC, JOINT BOCC and PC PUBLIC HEARING**

**1:00 p.m. Break**

**2:00 p.m. Resume APT Brush Creek Road, LLC, JOINT BOCC and PC PUBLIC HEARING**

**3:15 p.m. Break**

**3:30 p.m. Resume APT Brush Creek Road, LLC, JOINT BOCC and PC PUBLIC HEARING**

**4:30 p.m. Break**

**5:30 p.m. Resume APT Brush Creek Road, LLC, JOINT BOCC and PC PUBLIC HEARING**

**7:00 p.m. Adjourn**

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

- Public access
- Projects
- Application #
- **LUC-17-00034**
- Attachments

**GUNNISON COUNTY PLANNING COMMISSION  
REGULAR MEETING  
February 16, 2018**

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The Gunnison County Planning Commission conducted a regular meeting/a joint work session and a joint public hearing, in the Ballroom at the Lodge at Mountaineer Square, 620 Gothic Rd., Mt. Crested Butte, Co.

**Present:**

|   |  |
|---|--|
| Chairperson- Jack Diani<br>Commissioner- AJ Cattles<br>Commissioner-Molly Mugglestone<br>Commissioner- Vince Rogalski<br>BoCC- Phil Chamberland<br>BoCC-Jonathan Houck<br>BoCC-John Messner | Director of Community Development- Cathie Pagano<br>Manager of Administrative Services- Beth Baker<br>Others present as listed in text |
|---|--|

**Recused/Absent:** Commissioner Kent Fulton has recused himself from the review of this application.

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With a quorum present Chairman Diani opened the February 16, 2018 regular meeting of the Planning Commission.

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**APT Brush Creek Road, LLC (LUC-17-00034)**- The Gunnison County Planning Commission and Board of County Commissioners conducted their second joint work session. They reviewed the request for the development of 240 rental units on the subject parcel. 65% (156) of the units will be deed restricted to qualifying households earning less than 180% of the Area Median Income. The remainder of the units (84) will be free market rental units, located on the southeast corner of the intersection of Brush Creek Road and Highway 135, approximately 1.5 miles south of the Town of Crested Butte. The parcel is approximately 14.29 acres and is legally described as all of land in Section 12, Township 14 South, Range 86 West, 6<sup>th</sup> p.m., lying south and east of Brush Creek Road, and west of Larkspur Subdivision.

Chairperson Kent Fulton has recused himself from the review of this application.

Commissioner Diani has been appointed Chairperson for this review and Commissioner AJ Cattles has been appointed Vice-Chairperson.

Chairperson Diani opened the work session.

Present representing the Planning Commission: Commissioners Diani, Cattles, Mugglestone, and Rogalski. Present representing the Board of County Commissioners: Board Members Chamberland, Houck and Messner.

Present representing the Community Development staff; Director of Community Development Cathie Pagano and Manager of Administrative Services Beth Baker.

Present representing the application: applicant Gary Gates, application representative John O'Neal, attorney Kendall Burgemesiter, designers Margaret Loperfido and Andrew Hadley, and engineer Tyler Harpel.

Jeff Moffett, speaking for the applicant, said there will be an even larger population and affordable housing gap by 2040. He suggested making the decision based on where the population growth is going.

Burgemeister explained how the project has evolved since the RFP was submitted, with the chart below.

| <b>RFP Submittal</b>    |                          |                         |                                    |
|-------------------------|--------------------------|-------------------------|------------------------------------|
| <b>Unit Type</b>        | <b>Incremental Units</b> | <b>Cumulative Units</b> | <b>Cumulative % of Total Units</b> |
| Restricted:<50% AMI     | 16                       | 16                      | 6.66%                              |
| Restricted <80%         | 42                       | 58                      | 24.16%                             |
| Restricted <120%        | 56                       | 114                     | 47.5%                              |
| Restricted <140%        | 6                        | 120                     | 50%                                |
| No Income Restriction   | 120                      | 240                     | 100%                               |
| <b>SKETCH PLAN SUB.</b> |                          |                         |                                    |
| <b>Unit Type</b>        | <b>Incremental Units</b> | <b>Cumulative Units</b> | <b>Cumulative % of Total Units</b> |
| Restricted < 50% AMI    | 16                       | 16                      | 6.66%                              |
| Restricted <80%         | 42                       | 58                      | 24.16%                             |
| Restricted <120%        | 62                       | 120                     | 50%                                |
| Restricted <180%        | 36                       | 156                     | 65%                                |
| No Income Restriction   | 84                       | 240                     | 100%                               |
| <b>Revised Plan</b>     |                          |                         |                                    |
| <b>Unit Type</b>        | <b>Incremental Units</b> | <b>Cumulative Units</b> | <b>Cumulative % of Total Units</b> |
| Restricted <50% AMI     | 40                       | 40                      | 16.66%                             |
| Restricted <80%         | 60                       | 100                     | 41.16%                             |
| Restricted <120%        | 30                       | 130                     | 54%                                |
| Restricted <180%        | 20                       | 150                     | 62.5%                              |
| No Income Restriction   | 90                       | 240                     | 100%                               |

Burgemeister gave a project overview:

- 150 permanently deed restricted rental units
- Over 50% open space (8+ acres)
- 130 Studio and one bedroom units- 600 to 750 Sq. Ft.
- 98 Two bedroom units – 850 Sq. Ft.
- 12 Three bedroom units-1300 Sq. Ft.
- Largest building (2) 25,000 Sq. Ft. ( same as Anthracite Place)
- Average unit size – 800 Sq. Ft.

Burgemeister noted the changes that have been made as a result of public input as:

- Increased minimum setbacks along Brush Creek Rd. from 30' to 45'
- Decrease building density along Brush Creek Rd.
- Reduced bedroom count from 408 to 362
- Increased residential parking from 361 to 400 spaces- including transit parking from 69 to 75 spaces
- Decreased building square footage by -10%
- Decrease building count from 32 to 26

Burgemeister described the affordable housing mix:

| <b>AMI</b>     | <b>Max. income 2 member household</b> | <b>Max.rent including utilities 2 member household</b> | <b>Units</b> |
|----------------|---------------------------------------|--|--------------|
| <b>&lt;50%</b> | \$28,350                              | \$708.75   | 40           |
| <b>&lt;80%</b> | \$45,360                              | \$1,134.00   | 60           |

|                              |           |            |     |
|------------------------------|-----------|------------|-----|
| <120%                        | \$68,040  | \$1,701.00 | 30  |
| <180%                        | \$102,060 | \$2,551.50 | 20  |
| <b>Total Deed Restricted</b> |           |            | 150 |
| <b>Total Free Market</b>     |           |            | 90  |

Burgemeister explained they have decreased the population by decreasing the number of bedrooms, not the number of units. He presented a revised site plan illustrating the increased setback along Brush Creek Rd. The project water needs should be reduced by approximately 10% because of the reduced population, and the wastewater needs should be reduced too.

Burgemeister explained the proposed lease terms during lease up:

- Minimum of six month leases for deed restricted units
- Minimum of three month leases for free market units

After lease up:

- 50% of deed restricted units with minimum of six month leases
- 50% of deed restricted units with minimum of 12 month leases
- Minimum of three month lease for free market units

He reviewed the density studies they have conducted in the Brush Creek Corridor, Gunnison County and other Colorado communities, noting this project has similar density. He reviewed the parking studies they conducted, noting multifamily housing throughout resort communities in Colorado provide between one and two parking spaces per unit. The Brush Creek development is proposing 1.6 spaces.

Burgemeister said they are trying to demonstrate they have listened to the concerns expressed, but they do want to be able to accommodate seasonal workers with three month leases.

Liperfido explained the site development layout plan including the building types and sq. ft.:

The buildings will be 26' to 35' in height.

| <b>Building Type</b> | <b>Quantity</b> | <b>Est. Sq. Ft. per building</b> | <b>Agg. Sq. Ft.</b>    |
|----------------------|-----------------|----------------------------------|------------------------|
| Duplex               | 6               | 3,200 sq. ft.                    | 19,200 sq. ft.         |
| 8-Plex               | 7               | 8,000 sq. ft.                    | 56,000 sq. ft.         |
| 10-Plex              | 6               | 9,000 sq. ft.                    | 54,000 sq. ft.         |
| 16-Plex              | 3               | 12,800 sq. ft.                   | 38,400 sq. ft.         |
| 32-Plex              | 2               | 25,000 sq. ft.                   | 50,000 sq. ft.         |
| Transit Center       | 1               | 4,500 sq. ft.                    | 4,500 sq. ft.          |
| Main. & Waste Water  | 1               | 3,000 sq. ft.                    | 3,000 sq. ft.          |
| <b>Total</b>         | <b>26</b>       |                                  | <b>225,100 sq. ft.</b> |

She said phase one will include 108 units and phase two will be the remaining 132 units. The open space has remained the same at approximately 50% of the development. Snow storage will be 47% of the entire park and drive areas. The Town of Crested Butte requires 33%. She explained the landscaping plan and the drainage plan and provided illustrations of each.

Hadley noted there would be 225,000 sq. ft. of improvements at buildout. He provided several illustrations of the proposed project, including the buildings, landscaping, etc. He described the buildings on Brush Creek Rd. as similar to those currently seen in Skyland. The base will be stone, they will use natural wood and cedar shakes. The buildings will be sited below grade to reduce the appearance of the taller buildings.

Mugglestone asked if a <50% AMI unit was rented out and the tenant later qualifies for an 80% <AMI, could the tenant stay in the unit and have it be an <80% AMI unit. Burgemeister said yes.

Diani requested information on the deed restriction in relation to the AMI. Burgemeister said the restriction will be included on the deed of the property. Diani asked who would enforce the restrictions. Burgemeister said Gunnison County or whoever they delegate to enforce the deed restriction.

Messner asked if the metric used for determining the rent charged would be 30% of income including utilities. Burgemeister said yes.

Following a discussion of the three month lease periods, Gates agreed to not allow three month lease periods. Diani agreed six month lease terms are preferable.

Rogalski asked if a tenant would be required to have the first month, last month and deposit to move in. Gates said they charge the first month and a small deposit.

Messner appreciated the visuals provided for size and scale. He said it would be helpful to have the same visuals from Highway 135 to the development. Hadley said they could have those at the next meeting.

Pagano asked when the amenities, the park, etc. would be built. Burgemeister said they don't have a specific timeline for the amenities, the primary concern was build phase one to give people someplace to live. Cattles asked if the landscaping was going to be done in phase one. Burgemeister said that is the intention, but if not it would be part of the Development Improvements Agreement.

Diani asked if the park area would be included in phase one. Hadley explained it is difficult to build a park before the buildings, because of the construction equipment on site.

Houck asked that when referring to density, be clear as to what is being referred to: people, buildings, square footage, etc.

Diani closed the work session at 10:15 A.M. The joint public hearing followed.

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Chairperson Kent Fulton has recused himself from the review of this application.

Commissioner Diani has been appointed Chairperson for this review and Commissioner AJ Cattles has been appointed Vice-Chairperson.

With a quorum present Chairperson Diani opened the joint public hearing.

Present representing the Planning Commission: Commissioners Diani, Cattles, Mugglestone, and Rogalski. Present representing the Board of County Commissioners: Board Members Chamberland, Houck and Messner.

Present representing the Community Development staff; Director of Community Development Cathie Pagano, County Attorney David Baumgarten, and Manager of Administrative Services Beth Baker.

Present representing the application: applicant Gary Gates, application representative John O'Neal, attorney Kendall Burgemesiter, designers Margaret Loperfido and Andrew Hadley, and engineer Tyler Harpel.

Baker confirmed adequate public notice: the notice was published in the Crested Butte News and the Gunnison Country Times and the applicant submitted proof of posting and the certified mailing receipts.

Loperfido presented the site plan. They have decreased the number of buildings on Brush Creek Rd. from ten to six. They have decreased the number of bedrooms from 408 to 362, but have not decreased the number of buildings. The number of parking spaces has increased from 361 to 400 residential parking spaces, and transit parking spaces from 69 to 75.

Hadley discussed density, noting the density should be compatible but not necessarily identical. Density is required to achieve affordable housing. He described the surrounding areas density, using Stallion Park, Coyote Cir, Teocalli Townhomes, Skyland Lodge and The Links, and Golf Villas for density comparisons.

Gates said he has an office on Elk Ave. and in Houston. His company is a family operation. He wants to help with affordable housing. He pointed out there are a large number of commuters riding from the south valley to north valley each day for work. He said 240 units are needed to make this a viable project. He estimated it will cost \$44 million to build, using his labor force and local contractors. It will cost approximately \$229 per sq. ft. His goal is to build, keep and operate the project. He added the intersection at Highway 135 already has been rated as a failure, by CDOT

Gates said Crested Butte has been losing population, even though the population in Colorado has increased. The 20-34 age group has decreased. The 50 to 65 age group has increased, contributing to the workforce issues. The sales tax revenue has significantly increased because of tourism.

The applicants showed an affordable housing video.

**Public Comments:** Speakers stated they were in favor of affordable housing, some were not in favor of this project, and some were in favor of this project.

David McKenney asked how many of the 600 rental units owned by Gates were built by Gates.

Fred Holbrook objected to this project: citing the extreme density. He pointed out that many of the affordable deed restricted units in the area were no longer deed restricted, and no longer affordable.

Joan Windsor objected to the development: citing no sense of community.

Chris Myall was in favor of the project. He would rather see housing than parking. Sprawl is not encouraged, density is.

George Gibson objects to the project: citing too much density, and inconsistency with the regulations in the *Gunnison County Land Use Resolution (LUR.)*

Chrissie Nehrenberg objects to the project: noting this is a complex issue and this is a too simplistic solution. The affordable housing deed restrictions often are removed.

Barbara Winter objects to the project: citing no ownership possibilities, the bus schedule does not work, the Deli trail land owners have not been approached to use the easement and the tenants will not be able to vote in the Town of Crested Butte. She recommended something smaller and closer to town.

Rosline Cook objects to the project: citing cars will be needed, and questioned who will pay for the busses and the bus service. She said there is a critical need for a master plan with affordable housing sprinkled throughout the valley.

Steve Polan objects to the project: citing overwhelming community opposition, and fear of the applicant abandoning the project in an economic downturn.

Greg Wilson objects to the project, citing density and the extra costs in terms of schools, transportation, etc. He agreed the applicant's estimate of a 2% profit is not enough of a cushion, it is a recipe for failure.

Blair Tickhoner attorney for the East River Sanitation District said this project is in the boundaries of the district and must tie in. He said the applicant and district have not talked.

Arlene Edwards objects to the project: citing light pollution, interference with animal migration, noise levels, and lack of adequate emergency and fire personnel.

Suzanne Pierson objects to the project. She asked if Mt. Crested Butte had offered the applicant a building site. She was concerned with the possibility of losing access to the Deli Trail, the impacts to the animal migration corridor, and lack of enough water, she recommended Xeriscape be used.

Jim Schmidt, Mayor of Crested Butte, said the town had agreed to enter into negotiations with Gatesco, not a carte blanche approval. The town continues to develop affordable housing in town. The project is too large and too dense (too many units) and it is a wholesale abandonment of the rules and regulations.

Chris Haver, Town of Crested Butte council member, said this will set a precedent for extreme density. it is not substantially similar to the surrounding uses, not served by a wastewater provider, no public water supply or public transportation, and inadequate parking. It is too dense and big with unmitigated impacts.

Kent Cowherd, Town of Crested Butte council member, agreed with Haver and added this would set an undesirable precedent.

Sally Jandrell objects to the project: citing the large scale of the development, unmitigated impacts and public costs to buses, roads, schools and the potential for treated sewage to be dumped in the Slate River.

Tom Hamilton objects to the project: citing economic impacts to the schools and roads. He added deed restrictions do not guarantee affordability.

John Hess objects to the project: citing the large scale and it is precedent setting. He suggested setting aside money from the County general fund for affordable housing.

Reggie Masters objects to the project: citing disappearing deed restrictions, snow removal and snow storage costs. She added the lack of community integration, no community feel because it separates the workers from the rest of the community.

### **Applicant response**

Burgemeister said this project is proposed as an exclusively rental project. He said the deed restrictions could survive a foreclosure, ensuring the affordable housing continues. This is a case of what is preferred and what is possible. They would like to be in Crested Butte, but the space is not available.

Harpel explained the project is in the East River Sanitation District. There is a statutory process to be excluded from the district. The Slate River will not be polluted with sludge. They had considered tying into the East River Sanitation District, but drawing water from the Slate and discharging water into the East River is very expensive. It was not feasible to tie into the Town of Crested Butte. They are now proposing a new regional public wastewater treatment center. The sludge will be treated by either the Town of Crested Butte or the City of Gunnison.

Gates did not build his other developments from the ground up, but did extensive renovations.

### **Public Comments**

Jerry Danni objects to the project, agreeing with the other public comments. He was concerned with the water availability and impact on the surrounding wells. He urged the commissioners keep an open mind and consider the comments. There are better alternatives for affordable housing.

Sue Navy objects to the project: citing impacts to the agricultural community, traffic and schools.

Nick Faze objects to the project: citing not wanting just to be another large resort area and the application does not adhere to the LUR.

Tabitha Taeras supports the project: noting affordable housing is needed.

Jim Starr supports the project: noting the affordable housing crisis is only getting worse and will continue to do so. Rental units are needed to address the needs of the poorest workers in the community. For Sale affordable housing is very expensive without massive public subsidies. He was a County Commissioner when the deed restrictions were lifted at Skyland and it was a mistake. This is the closest location physically possible.

Glo Cunningham objects to the project: citing bad density comparisons used and impacts to the fire protection district. Affordable housing should be spread throughout the county. This project does not provide enough affordable housing for the density. Deed restrictions should be required to last into perpetuity.

David McKinny objects to the project: citing the bad density comparisons used.

Susan Tyzzer objects to the project: citing the negative impacts outweigh the positive. We need a solution to work for everyone.

Hal Cook, Skyland Community HOA president objects to the project: citing the possibility of disappearing deed restrictions, density and lack of adequate parking..

Amalie Lester supports the project: citing high rents and unsuitable living conditions. She was speaking for herself and many of her friends.

Nathan Bilow objects to the project: citing short term rentals as a problem, additional traffic and too many people.

Shar Fulton objects to the project: citing the overwhelming density.

Patricia Pierson supports the project: citing the need for affordable housing.

Pam Lowe asked about the master leases for employees at the hospital and the college. She asked if the 90 market rate units would be limited to only employees in the north valley.

Mindy Strum objects to the project: citing the divisiveness of the project. It should be built using Crested Butte builders. The septic system will be too large. The deed restrictions should be permanent.

Patty Pike objects to the project: citing impacts to traffic and density.

Mike Billingsly, East River Sanitation District, said the applicants did contact the district before and during the RFP process. He said the county would have to manage the sewer plant because there is no HOA.

Suzanne Pierson objects to the project: asking why the applicant did not accept the offer of land in Mt. Crested Butte, and if the Brush Creek parcel had been sold to the applicant.

Mindy Strum read a letter from the realtors in the north end of the valley objecting to the project: citing no ownership, density, affordable housing should be spread throughout the valley. This is moving too quickly.

Dorothy Eastwood objects to the project: citing living across the street, the large number of buses that will go by her house, noise, and fumes.

Benjamin Pom objects to the project: citing the need for the stakeholders to come together to ensure the maximum benefit for the greatest number of people.

### **Applicant Responses**

Burgemeister said the need to protect the agricultural community and open space has been accomplished with this plan. He added the Brush Creek parcel had been sold by the CB Land Trust to the County for the purposes of parking and affordable housing.

Gates said the Mt. Crested Butte parcel offered was done in a meeting. He did not have any time to really look into it at the meeting.

Burgemeister said the sale of the parcel to the applicant has not taken place. He addressed paying for buses etc., pointing out no other development pays for bus service, why would this one.

### **Public Comments**

Steve Palon objects to the project: citing the likelihood the deed restrictions could be lifted in an economic downturn. He asked the applicant if he would be willing to agree to a provision with a lender, that the deed restrictions could not be lifted.

Norman Whitehead, Engineer for the Friends of Brush Creek, submitted a topo overlay of the Brush Creek corridor, 50 ft. north of the Slate River Bridge, before and after the proposed buildings are constructed.

Nan Lumb objects to the project: citing mega density, lack of compatibility, and noncompliance with the LUR.

Jim Frank wanted clarification of the construction schedule. He pointed out the county would have to take responsibility for the wastewater treatment plant.

Bob Pannier objects to the project: citing the public costs for stop lights, school impacts, public safety, buses, also noise and light pollution, and the overwhelming density.

Eileen Whitley, River Neighborhood HOA president, objects to the project: citing density, lack of parking, and traffic.

Laura Irwin objects to the project: citing density, and infrastructure costs.

Pam Lowe objects to the project, she requested a guarantee the 90 free market units would be only rented to north valley employees.

Norman Eastwood objects to the project, he is the neighbor across the street from the project. He submitted photos of Gatesco properties in Houston. He cited violations against Gatesco in Houston. He suggested the commissioners visit Gatesco Houston properties.

David Leinsdorf, speaking for Friends of Brush Creek, objects to the project. He submitted a definition of "compatible," noting this project is not compatible with the surrounding developments. He pointed out because Gunnison County does not have zoning, the surrounding property owners did not know what could be built on the site.

Robert McCarter objects to the project: citing incompatibility he submitted 350 individually signed petitions to deny this application.

Michael Werner objects to the project: citing incompatibility, density, suboptimal location, water / wastewater issues, burden on civil system, stress on transportation system, and nonsupport of the surrounding municipalities.

Ted Colvin objects to the project, citing density, impacts to water, and wastewater.

Rewk Patton objects to the project, citing too much density.

Dave McGuire objects to the project, asking for more time and a slowdown of the process.

Jerry Danni objects to the project, he asked if all four stake holders had to agree to transfer title to the applicant. Attorney Baumgarten said no.

Cindy Santangelo objects to the project, she asked about the Gatesco rate of tenant evictions and the litigation.

Eileen Whitley objects to the project, she asked if the Memorandum of Agreement would have to be amended to identify the exclusive uses of the property. Attorney Baumgarten said no.

Tatti Baily objects to the project. She said the workforce housing should not be segregated from the community.

### **Applicant Response**

Gates said:

- The County sales tax revenue has not decreased, but the growth has slowed.
- The pictures of his units in Houston, are taken out of context. They had a lot of cleanup to do following the floods this year.
- The 344 Houston housing violations is actually a small number, because he has a total of 6,000 units.
- The tenant turnover rates had been explained earlier.
- The lawsuit in Deerfield: the City of Houston filed a lawsuit on every property in the neighborhood, his was dropped.
- He had not considered Mt. Crested Butte's offer of land, because there has been no clarification of terms etc.
- The legal actions mentioned: two civil actions- one because of criminal activity by someone else. They have four personal injury lawsuits.
- They did speak to Skyland subdivision early in the process.
- The East River Sanitation district decided not to have a meeting.
- The free market units will be rented to anyone, not just north valley employees.

Burgemeister said they did use the same criteria when doing the density comparisons.

Chairman Diani continued the public hearing to Friday, March 2, 2018 at 9:00 A.M., in the same location.

The meeting was adjourned at 7:06 p.m.

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