AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Public Hearing; Leigh Marie, LLC Request for Waive

Action Requested: Motion

Parties to the Agreement: Leigh Marie LLC represented by Noah Klug at The Klug Law Firm

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Approve or Deny Request for a Waiver of Standards

Fiscal Impact: Expenses paid by applicant

Submitted by: Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok for agenda 2/15/19

Reveiwed by: Discharge Date: 2/15/2019 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\emense Discharge Date: 2/15/2019

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 60

Agenda Date: 2/19/2019

Revised April 2015

The
Klug Law Firm, LLC

Noah Klug
Attorney & Counselor at Law

Licensed in Colorado and Missouri

PO Box 6683, Breckenridge CO 80424-6683
t970-468-4953
f800-675-1349
TheKlugLawFirm.com

December 5, 2018

Gunnison County
c/o David Baumgarten, County Attorney
200 E. Virginia Avenue
Gunnison CO 81230

Via regular mail and e-mail to dbaumgarten@gunnisoncounty.org

Re: Leigh Marie, LLC Request for Waiver

Dear David:

As you know, I have been retained by Leigh Marie, LLC ("Leigh Marie")[1] to obtain the necessary permit for use of the east access (the "Eastern Easement") serving its property. The Eastern Easement runs through property owned by Leigh Marie's neighbor, Waunita Hot Springs Ranch, Inc. ("Waunita"), and is improved with a historic road (the "Access Road"). The purpose of this letter is to formally request that the County waive any further requirements for issuance of the access permit for the Access Road such that Leigh Marie can use the road.

The waiver process is found in The Gunnison County Standards and Specifications for Road and Bridge Construction ("R&B"). With exceptions that do not apply here, any waiver must be approved by the Board of County Commissioners (BOCC) in writing. R&B 1.9(A). No waiver can be granted until and unless certain fees have been paid to the County. R&B 1.9(D). I am enclosing a check in the amount of $250 to satisfy this requirement.

Per R&B 1.9(E), Leigh Marie identifies the following:

1. **Name, address and telephone number of the applicant:**

   Leigh Marie, LLC
   c/o The Klug Law Firm, LLC
   PO Box 6683
   Breckenridge CO 80424

[1] Previous correspondence was also sent on behalf of Leigh Marie's predecessor in interest, Mile 200, LLC.

2. Identification of the subject property and road:

The Access Road has existed in some form since the 1800s. There was a lawsuit styled The Board of County Commissioners of the County of Gunnison, Colorado v. Mile 200, LLC et al., 2009CV113, District Court, Gunnison County, Colorado that concerned, among other things, a dispute between Leigh Marie and Waunita relating to the Eastern Easement and the Access Road. As pertinent here, Leigh Marie and Waunita entered into a stipulation (*i.e.* agreement) fixing the location of the Eastern Easement and the Access Road. A true and accurate copy of the stipulation dated May 9, 2013, is attached as **Exhibit 1**. As shown in Exhibit 1, the Court entered the stipulation as an enforceable order. Leigh Marie requests a waiver with respect to the Access Road as described in Exhibit 1.

3. A specific description of the requested waiver (including relevant, proposed construction plans):

In the aforementioned lawsuit, the parties entered into additional stipulations that were also adopted as orders of the Court. One of these stipulations allowed Leigh Marie to perform work on the Access Road after receiving permits from the County. Without rehashing what was a contentious matter, Leigh Marie admittedly performed some of the work without first obtaining the permits. This resulted in Leigh Marie's principal, Scott Wagner, being found in contempt of court. A true and accurate copy of the Court's contempt order is attached as **Exhibit 2**. As required by the order, Mr. Wagner paid penalties imposed by the judge, including Waunita and the Countys' costs and attorney's fees. He and Leigh Marie are now seeking to move on from that unfortunate episode by applying for the needed access permit.

Leigh Marie applied to the County for the access permit for the Access Road in the form of my letter dated September 7, 2018, a true and accurate copy of which is attached as **Exhibit 3**. As discussed in that letter, the County's regulations state that, if work is done before issuance of the required permit(s), "no permit shall be issued until the applicant … remedies any damage caused." R&B 1.3. During the contempt proceedings, Waunita's principals, the Pringles, testified about the damages they suffered because of the unpermitted work, and the Court addressed these issues at length in its order (Exhibit 2). In my second letter to the County dated October 23, 2018, a true and accurate copy of which is attached as **Exhibit 4**, Leigh Marie reasonably offered to remedy the issues identified by the Pringles and determined by the Court. Specifically, Leigh Marie offered to narrow the road surface to the width of the right-of-way (which the Court found was between 9 and 11 feet as shown in photographs admitted in Court as Exhibit AA), remove any rocks or other debris placed outside the easement, address any drainage issues, and remove any ruts. You responded that the County would like Waunita to agree to the work.

As explained in our correspondence, Leigh Marie believes that the County would be improperly abdicating its authority were it to condition approval of the permit on Waunita's agreement to allow work in the Eastern Easement. Waunita has shown an unwillingness to cooperate in any way with Leigh Marie's efforts to finalize the use of the Access Road because it admittedly does not want the road to be used notwithstanding Leigh Marie's easement rights. In any event, Leigh Marie made a good faith effort to resolve this matter by having me discuss the

matter with Waunita's counsel, Rufus Wilderson, on two separate occasions (in addition to the conference call that you arranged with County staff) and eventually sending him a letter, on which you were copied, dated October 31, 2018, wherein Leigh Marie requested Waunita's approval for the work. A true and accurate copy of this letter is attached as **Exhibit 5**. Mr. Wilderson did not respond to the letter for Waunita.

Leigh Marie now finds itself in a Catch-22. It cannot use the Access Road without the necessary permit … it cannot obtain the permit without remedying damage caused by previous unpermitted work due to the County regulation at issue … and it cannot remedy the damage because Waunita will not cooperate in its good faith efforts to do so. This is an extremely inequitable situation and the result is a taking of Leigh Marie's lawful right to use the Access Road. Therefore, Leigh Marie asks the BOCC to waive the requirement in R&B 1.3 that it "remed[y] any damage caused" by prior unpermitted work such that no further work is required for issuance of the access permit for use of the Access Road.

As disclosed by the Court's order (Exhibit 2) and discussed in my second letter (Exhibit 4), the Pringles agreed to Leigh Marie "smoothening" the road and the contempt was a mere failure to obtain the necessary permit. While the County obviously has an interest in its regulations being followed, it must consider the "relative hardship" between Leigh Marie and Waunita such that it does not "become a party to extortion" in the form of Leigh Marie being forced to go to unreasonable lengths to obtain a simple access permit or constructively being denied the permit altogether. See Golden Press, Inc. v. Rylands, 235 P.2d 592, 595 (Colo. 1951); Hargreaves v. Skrbina, 662 P.2d 1078, 1080 (Colo. 1983). Because Leigh Marie simply cannot comply with the requirement to remedy the damage despite good faith efforts to do so, the County should find that the relative hardships favor Leigh Marie and waive the requirement.

4. A detailed explanation of why the proposed waiver is warranted by site specific conditions which create an unusual aspect or feature not shared by property in general:

The proposed waiver is warranted because Waunita, the owner of the property subject to the easement, will not agree to reasonable work being done to address the issues that it raised in court proceedings such that it is impossible for Leigh Marie to comply with R&B 1.3.

5. Explanation of why the proposed waiver:

a. Would not adversely affect the safe, efficient and orderly movement of motorized and non-motorized traffic:

There is no public traffic on the Access Road and the road has existed historically for more than a century without issue.

b. Would not adversely affect health or safety:

The unpermitted work addressed previous safety issues with the Access Road. The road is now in a generally safe condition. Allowing Leigh Marie to use the road in its current condition would not adversely affect safety.

c. Would not cause substantial injury to the owner or occupant of adjacent land(s):

There are no adjacent lands that would be affected by the access permit. Leigh Marie has a right to use the Eastern Easement as shown by Exhibit 1. Using the easement would not harm Waunita, which agreed to use of the easement. Indeed, the current inability of Leigh Marie to use the easement actually injures Leigh Marie by taking its use rights.

d. Would not cause substantial injury to the environment:

Leigh Marie is not proposing to do any work, so there would be no harm to the environment. To the contrary, if any additional work were done, that would be more detrimental to the environment than simply leaving the Access Road as-is.

e. Would provide the functional equivalent of these Standards and Specifications:

The requirement to remedy damage exists for the benefit of Waunita. Leigh Marie has fairly offered to remedy the damage as determined by the Court, but Waunita has not been cooperative and will not allow any work to be done in the Eastern Easement. In this circumstance, Waunita has waived the right to have any damage addressed.

Pursuant to R&B 1.9(G), Leigh Marie hereby requests that the BOCC set a date, time and place for a public hearing on this petition within fourteen days. Leigh Marie further request that the Public Works Department publish the required notice and provide them with a copy thereof for mailing.

Very truly yours,

/s/Noah Klug
Noah Klug

Ec: Scott Wagner

Encl:

Check # 3136 in amount of $250
Exhibit 1: Stipulation dated May 9, 2013
Exhibit 2: Contempt Order (including findings as to damage)
Exhibit 3: Letter to County dated September 7, 2018
Exhibit 4: Letter to County dated October 23, 2018
Exhibit 5: Letter to Waunita dated October 31, 2018

The requested waiver applies to an "Access Road", ONLY AS IT CROSSES THE WAUNITA PROPERTY, as described in a court document filed on May 9, 2013, in Board of County Commissioners of the County of Gunnison, Colorado v. Mile 200, LLC., District Court, Gunnison County, 2009 cv 113, titled "Stipulation Between Defendants And Intervenor" (the "Stipulation"). Per the Stipulation, there is a 213 acre tract of land legally described as the E1/2SE1/4 of Section 10, W1/2SW1/4 of Section 11, N1/2N1/2 of Section 15, and the NW1/4NW1/4 of Section 14, Township 49 North, Range 4 East of the N.M.P.M. (the "Waunita Property"). There is also a 180 acre tract of land now owned by the applicant, Leigh Marie, legally described as the S1/2SW1/4, W1/2SE1/4, N1/2SE1/4SE1/4 of Section 10, Township 49 North, Range 4 East of the N.M.P.M. ("Defendants' Property"). Defendants' Property is adjacent to the western boundary of the eastern portion, and the northern boundary of the western portion of the Waunita Property. The Access Road runs from County Road 887 (former Gunnison County Road 328) in the southern part of the Waunita Property in the northwest quarter of Section 14 to the eastern edge of Defendants' Property at the eastern boundary of Section 10 passing through the western half of NW1/4NW1/4 of Section 14 and the western half of SW1/4SW1/4 of Section 11, all as shown on the Improvement Survey Plat dated June 8, 2006, which was incorporated in the Stipulation as Exhibit B.

GUNNISON COUNTY PUBLIC WORKS DEPARTMENT

195 Basin Park Drive, Gunnison, CO 81230
Phone: (970) 641-0044 - Fax: (970) 641-8120

NOTICE OF PUBLIC HEARING
REQUEST FOR WAIVER OF
GUNNISON COUNTY STANDARD SPECIFICATIONS
FOR ROAD AND BRIDGE CONSTRUCTION

HEARING DATE, TIME AND LOCATION: The Gunnison County Board of Commissioners will conduct a public hearing, **Tuesday, February 19, 2019 at 1:00 p.m.,** in the Commissioners' Meeting Room of the Gunnison County Courthouse to hear public comment concerning an application for a waiver of the Gunnison County Standard Specifications for Road and Bridge Construction for **Leigh Marie, LLC.** A copy of the petition and supporting documentation can be reviewed at the Gunnison County Public Works Department at 195 Basin Park Drive, Gunnison, Colorado from 7:00 a.m. to 4:30 p.m. weekdays.

PARCEL LOCATION: The requested waiver applies to an "Access Road", ONLY AS IT CROSSES THE WAUNITA PROPERTY, as described in a court document filed on May 9, 2013, in Board of County Commissioners of the County of Gunnison, Colorado v. Mile 200, LLC., District Court, Gunnison County, 2009 cv 113, titled "Stipulation Between Defendants And Intervenor" (the "Stipulation"). Per the Stipulation, there is a 213 acre tract of land legally described as the E1/2SE1/4 of Section 10, W1/2SW1/4 of Section 11, N1/2N1/2 of Section 15, and the NW1/4NW1/4 of Section 14, Township 49 North, Range 4 East of the N.M.P.M. (the "Waunita Property"). There is also a 180 acre tract of land now owned by the applicant, Leigh Marie, legally described as the S1/2SW1/4, W1/2SE1/4, N1/2SE1/4SE1/4 of Section 10, Township 49 North, Range 4 East of the N.M.P.M. ("Defendants' Property"). Defendants' Property is adjacent to the western boundary of the eastern portion, and the northern boundary of the western portion of the Waunita Property. The Access Road runs from County Road 887 (former Gunnison County Road 328) in the southern part of the Waunita Property in the northwest quarter of Section 14 to the eastern edge of Defendants' Property at the eastern boundary of Section 10 passing through the western half of NW1/4NW1/4 of Section 14 and the western half of SW1/4SW1/4 of Section 11, all as shown on the Improvement Survey Plat dated June 8, 2006, which was incorporated in the Stipulation as Exhibit B.

PROPOSAL: As identified by Leigh Marie, LLC.: "The purpose of this letter is to formally request that the County waive any further requirements for issuance of the access permit for the Access Road such that Leigh Marie can use the road."

POSSIBLE ACTION: Formal action may be taken on the waiver request at this meeting.

PUBLIC PARTICIPATION: The public is invited to submit verbal or written comments at the hearing, or to submit written comments by FAX (970) 641-8120, or by letter (to the Gunnison County Public Works Department, 195 Basin Park Drive, Gunnison, CO 81230), so long as they are received by 5:00 p.m. the evening before the date of the meeting so that they may be submitted for the public record during the hearing. Additional information may be obtained by calling the Public Works Department office at (970) 641-0044).

ADA ACCOMMODATIONS: Anyone needing special accommodations as determined by the *American Disabilities Act* may contact the Public Works Department prior to the day of the meeting.

/s/Marlene D. Crosby
Public Works Director

Run as a legal ad in the Gunnison Times for the weeks of 1/14/19 and 1/21/19.

Debbi Ferchau

From: Marlene Crosby
Sent: Tuesday, January 22, 2019 12:35 PM
To: Debbi Ferchau
Subject: FW: Public Hearing Notice
Attachments: Leigh_Marie_Public_Notice_Mailing_Receipts.pdf

From: noah@thekluglawfirm.com <noah@thekluglawfirm.com>
Sent: Monday, January 21, 2019 3:06 PM
To: Marlene Crosby <MCrosby@gunnisoncounty.org>
Cc: David Baumgarten <DBaumgarten@gunnisoncounty.org>; Matthew Hoyt <MHoyt@gunnisoncounty.org>; Laura Stanley <lstanley@gunnisoncounty.org>; Errol Davis <EDavis@gunnisoncounty.org>; Rachel Magruder <RMagruder@gunnisoncounty.org>
Subject: Re: Public Hearing Notice

Hi Marlene:

The notice along with my letter and exhibits was mailed to all adjacent property owners. I am attaching evidence of mailing. Please let me know if you require anything else. Thank you.

Noah Klug
Attorney and Counselor at Law
The Klug Law Firm, LLC
Telephone: 970-468-4953
Fax: 800-675-1349

Mailing address:
PO Box 6683, Breckenridge CO 80424

Shipping and physical address:
325 Lake Dillon Drive, Suite 102, Dillon CO 80435

From: Marlene Crosby <MCrosby@gunnisoncounty.org>
Date: Tuesday, January 8, 2019 at 2:51 PM
To: Noah Klug <noah@thekluglawfirm.com>
Cc: David Baumgarten <DBaumgarten@gunnisoncounty.org>, Matthew Hoyt <MHoyt@gunnisoncounty.org>, Laura Stanley <lstanley@gunnisoncounty.org>, Errol Davis <EDavis@gunnisoncounty.org>, Rachel Magruder <RMagruder@gunnisoncounty.org>
Subject: Public Hearing Notice

Good Afternoon,

The Public Hearing Notice for the Waiver of Standards is attached. The Gunnison County Public Works Department has placed it in the Gunnison Country Times as a legal ad.

The cost of publication is $156.18 and that cost and the administrative fee of $500.00 for the waiver will need to be paid before the opening of the Public Hearing on February 19th.

You will need to send the attached notice and the letter dated December 5, 2018 you submitted to the County Attorney with all exhibits to all adjacent property owners. You "must notify all property owners adjacent to the road, no later than fourteen days before the hearing, by mailing to each of them, by certified mail, return receipt requested". Proof of such mailing must be submitted to my office at least seven days before the public hearing.

The Standards define adjacent as the same as abut and they define abut as "adjacent or contiguous to, having a common border or point with, or separated from a common border by a road or highway right-of-way easement".

If you have any questions, please call or e-mail myself or David Baumgarten.

Thank you,
Marlene Crosby
Public Works Director

From: noreply@gunnisoncounty.org <noreply@gunnisoncounty.org>
Sent: Tuesday, January 8, 2019 1:50 PM
To: Marlene Crosby <MCrosby@gunnisoncounty.org>
Subject: Scanned Document Attached

7018 0040 0000 9037 1314

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at *www.usps.com®*.

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Certified Mail Fee
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Extra Services & Fees *(check box, add fee as appropriate)*
- [x] Return Receipt (hardcopy) $
- [ ] Return Receipt (electronic) $
- [ ] Certified Mail Restricted Delivery $
- [ ] Adult Signature Required $
- [ ] Adult Signature Restricted Delivery $

Postage
$

Total Postage and Fees
$

Sent To Leigh Marie LLC
Street and Apt. P.O. Box 25
City, State, ZIP Morrison CO 80465-0025

EDWARDS, CO 81632 Postmark Here JAN 15 USPS

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 0040 0000 9037 1291

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- [ ] Return Receipt (electronic) $
- [ ] Certified Mail Restricted Delivery $
- [ ] Adult Signature Required $
- [ ] Adult Signature Restricted Delivery $

Postage
$

Total Postage and Fees
$

Sent To Colorado State of
Street and Apt 1313 Sherman St., Rm 620
City, State, ZI Denver CO 80203

EDWARDS, CO 81632 Postmark Here JAN 15 USPS

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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OFFICIAL USE

Certified Mail Fee
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Extra Services & Fees *(check box, add fee as appropriate)*
- [x] Return Receipt (hardcopy) $
- [ ] Return Receipt (electronic) $
- [ ] Certified Mail Restricted Delivery $
- [ ] Adult Signature Required $
- [ ] Adult Signature Restricted Delivery $

Postage
$

Total Postage and Fees
$

Sent To USA – Forest Service
Street and Apt P.O. Box 2000
City, State, ZI Washington DC 20013-2000

EDWARDS, CO 81632 Postmark Here JAN 15 USPS

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7018 0040 0000 9037 1338

U.S. Postal Service™
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Extra Services & Fees *(check box, add fee as appropriate)*
- [x] Return Receipt (hardcopy) $
- [ ] Return Receipt (electronic) $
- [ ] Certified Mail Restricted Delivery $
- [ ] Adult Signature Required $
- [ ] Adult Signature Restricted Delivery $

Postage
$

Total Postage and Fees
$

Sent To Waunita Hot Springs Ranch Inc.
Street and Ap 8007 County Road 887
City, State, Z Gunnison CO 81230-9524

EDWARDS, CO 81632 Postmark Here JAN 15 USPS

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

EDWARDS
105 EDWARDS VILLAGE BLVD UNIT A101
EDWARDS
CO
81632-9998
0727180558
01/15/2019 (800)275-8777 1:15 PM

Product Description	Sale Qty	Final Price
First-Class Mail Large Envelope (Domestic) (GUNNISON, CO 81230) (Weight:0 Lb 6.40 Oz) (Estimated Delivery Date) (Thursday 01/17/2019)	1	$2.26
Certified (USPS Certified Mail #) (70180040000090371338)	1	$3.45
Return Receipt (USPS Return Receipt #) (9590940222186193909587)	1	$2.75
First-Class Mail Large Envelope (Domestic) (WASHINGTON, DC 20013) (Weight:0 Lb 6.50 Oz) (Estimated Delivery Date) (Friday 01/18/2019)	1	$2.26
Certified (USPS Certified Mail #) (70180040000090371321)	1	$3.45
Return Receipt (USPS Return Receipt #) (9590940222186193909600)	1	$2.75
First-Class Mail Large Envelope (Domestic) (MORRISON, CO 80465) (Weight:0 Lb 6.40 Oz) (Estimated Delivery Date) (Thursday 01/17/2019)	1	$2.26
Certified (USPS Certified Mail #) (70180040000090371314)	1	$3.45
Return Receipt (USPS Return Receipt #) (9590940222186193909594)	1	$2.75
First-Class Mail Large Envelope (Domestic) (DENVER, CO 80203) (Weight:0 Lb 6.40 Oz) (Estimated Delivery Date) (Thursday 01/17/2019)	1	$2.26
Certified (USPS Certified Mail #) (70180040000090371291)	1	$3.45
Return Receipt (USPS Return Receipt #) (9590940222186193909617)	1	$2.75

Total $33.84

Debit Card Remit'd $33.84

2-2-19

Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

RE: Written public comment regarding Public Hearing Request for Waiver of Gunnison County Standard Specifications for Road and Bridge Construction scheduled for Tuesday, February 19th, 2019 at 1:00 pm.

Dear Sirs and Madams,

I have been acquainted with Mr. Scott Wagner for about a decade through business dealings and have visited him at his property in Gunnison County perhaps half a dozen times over that period.

During a visit 5 or 6 years ago to another friend's home in Gunnison, I picked up a coffee table type book on the history of Gunnison they had out on display. It contained a description of a hot springs hotel in that area that served wagons trains and visitors from all over the country in the late 1800's (and perhaps into the early 1900's but I do not recall exactly). From the description it appears the hotel was on Mr. Wagner's property, not the location of the current Waunita Hot Springs Ranch.

I have personally examined a number of old buildings, structures and remains (some barely visible) around the main hot springs area on Mr. Wagner's property that clearly pre-date his ownership indicating that road and vehicular access has been available for a long time. One larger building is constructed of native rock and concrete with hand forged metal doors and windows. It appears to have been some sort of sauna/bath house.

I have no specific knowledge or expertise on land access issues. However, it is hard to believe that anyone could deny him vehicular access to his property given the obvious over 100 years of access available to previous owners and visitors. Whatever the specifics of this particular dispute are, I urge Gunnison County employees, adjacent landowners and other government agencies involved to work together to come up with a reasonable and equitable way to grant Mr. Wagner safe and secure access to his property.

Thank you for your consideration of my comments,

Jim O'Dowd
Arvada, CO
303-638-9007

COLORADO GEOLOGICAL SURVEY

Colorado School of Mines
1801 Moly Road
Golden, CO 80401

Karen Berry
State Geologist

Facsimile

To: Gunnison County Public Works Department

Fax #: (970) 641 8120

From: Paul Morgan, Senior Geologist/Geophysicist

Tel: (303) 384 2648

E-mail: morgan@mines.edu

Subject: Comment on *Request for Waiver of Gunnison County Standard Specification for Road and Bridge Construction* at public hearing on Tuesday, February 19, 2019 at 1:00 pm

Number of pages – 1

I have worked extensively on the property under consideration and the adjacent property (Upper Waunita Hot Springs Ranch), with permission of both owners, in my capacity as a geologist with the Colorado Geological Survey. I have worked on the property under consideration with direct access, and with access through the adjacent property, in all seasons. Access through the adjacent property is inconvenient, dangerous in wet weather and after recent snow, and often requires unnecessary travel through the operational area of the adjacent property. Driving into the property under consideration, and along the main dirt track within the property, is hazardous, especially when wet or after recent snow. Even driving a small SUV (Jeep Cherokee) in 4-wheel drive, in wet conditions I have had problems with the back wheels almost sliding into a ditch by the side of the track. If the owner of the property has performed any maintenance of the access to his property, or the track that traverses his property, I can testify that this work would be to improve the safety of himself and any visitors to his property, including persons on official state business, such as myself. Any requirement to return the access to and the track on the property to their original, extremely dangerous condition is an obligation to the owner to make his property unsafe. For my safety and the safety of others, I respectfully request that you grant this request for a waiver.

Paul Morgan

Paul Morgan, Ph.D.
Senior Geologist/Geophysicist
Colorado Geological Survey

Confirmation of
FAX transmission.

Thank You,
Paul

3:49 PM, 02/04/2019

2/2/19

RECEIVED
FEB 06 2019
BY:

Gunnison County Public Works Department

195 Basin Park Drive

Gunnison, Co 81230

Via US Mail and fax 970-641-8120

Regarding the public hearing request for waiver of Gunnison County Standard Specification for Road and Bridge Construction for an access road only as it crosses The Waunita Property

Dear Gunnison County Public works Department:

I am writing to you today in support of Scott Wagner's request for the variance on the above matter. My name is Sam Kaufman and my family has owned Kaufman's Tall and Big Shop in Englewood, Co. for over 60 years. Not only am I a landowner in Arapahoe county but also own land in Jefferson and Grand county. I am a native of Colorado and have known Mr. Wagner on a professional and personal basis for over 40 years. When Mr. Wagner first acquired this property I was the first guest to visit it and I can attest that there are no new structures or development. I am appalled at the behavior in the history of this matter. As a landowner and citizen I think it borders on harassment. Why has this been happening for so long? Is there cronyism, a desire to run Mr. Wagner out of the county or just a misuse of authority for someone's personal gain? The absurdity of the private law of action on 12/20/13 basically made the other landowner in this dispute the sheriff and that is/was not reasonable or fair. Mr. Wagner has deeded right to access his property and should enjoy the same rights as The Waunita Property. In addition it is the same road that is in question. There is also the safety issue and that is that all parties should be able to safely enjoy the access. I also want to bring light to Mr. Wagner's sensitivity to the environment and to preserving it. This is about safety and access. Mr. Wagner's stewardship of the land is in his core!

With respect to you all I formally submit this letter in favor of the Gunnison County Public Works Department granting Mr. Wagner the variance.

If you have any desire to discuss this I am available via cell 303-478-2727 or email skaufman@denveronline.com

Respectfully,

SK

Sam Kaufman

RECEIVED
FEB 06 2019
BY:

February 6, 2019

Gunnison County Public Works Department

Subject: Public Comment in favor of Gunnison County Road and Bridge granting a waiver to Leah Maria LLC

FAX 970-641-8120

Since I cannot be present, I would like to submit my thoughts concerning the Public Hearing set for Tuesday February 19th for a waiver of the requirements for issuance of the access permit for the Access road across the Leigh Marie, LLC property. Although I currently live in Arkansas, I grew up in Colorado and have known Scott Wagner my whole life. He is my brother so I can attest to how he was raised and the sort of respect that was instilled in all of us by our parents for nature, the environment, and the importance of doing what is right. As I read the Notice of Public Hearing, my Real Estate training kicked in and made me grateful that I practiced my 20 years in a state that forbids leaving a property land locked. Like I said before, I've known Scott my whole life, I know he has pleaded for and been denied permits to maintain his property in the past. (Most environmentalists I've met would be delighted if an owner was willing to replace an antiquated sewage system with something newer and more environmentally friendly). This raises a concern to me that the County may not be working in the best interest of all citizens. Furthermore, since my current profession is in the tourism industry, would I feel comfortable bringing my tour group to the area or would I be concerned that we might be treated differently or unfairly?

Thank you for considering my thoughts in my absence. I strongly encourage the approval of this waiver for Leah Marie, LLC and am confident the Public Works of Gunnison County will do the right thing.

Carolyn Grieve (Wagner)

C.C. Scott Wagner

Gunnison Cnty Public Works Department
195 Basin Park Drive,
Gunnison, CO 81230

FAX
2/11/19

Silas Boone
PO Box 2171
Loveland CO 80539
(720)718-9270

property: Leigh Marie LLC
owner: Scott Wagner

Gunnison Cnty Board of Commissioners:
Marlene D. Crosby - Public Works Director

To whom it may concern, in reguards to the 'Variance road access permit,' for property owner Scott Wagner. I, Silas Boone, am in strong agreement that Scott should, without doubt, be granted full access for road access to his property! From my understanding, the access road has existed from the 1800's. Like any road, upgrades and improvements will always be manditory. Scott should have the right to improve his preexisting inherent ability to access his property. I have worked with Scott since 2001 on various commercial & residential projects. Scott's knowledge, experience, and expertise is absolutely impressive, and capable of maintaining his own driveway.

Scott's property lies in a box canyon. There is only one-way in and out of the property. If an emergency evacuation ever needed to occure this access road would be vital. The property is also surrounded by public lands: campers, hikers, hunters, etc enable the possibilities of wild fires to occure, injuries, 911 calls, etc. Without this access road, fatalities may occure, and those who would be put at fault would be the county and other private owners of neighbori properties. Year round access needs to be established whether it's for forest fires in the summer or cold winter snow storms. Scott's daughte Savanah, almost died due to exposure because of the access road not being in place. As a father myself, I would take any action necessar to provide safe passage onto and off my property for myself, my family, my friends, and guests! Furthermore any commitee or neighboring private property owner who would deny this vital access road, would really have to put themselves in Scott's shoes with a similar situation w/ their own family member, and decide what is right!

truly sincere,

Silas Boone

RECEIVED
FEB 11 2019
BY:

To Gunnison County Public Works Department:

I am writing in support of Scott Wagner with regards to the public hearing set for February 19, 2019 at 1:00PM. I am writing as a concerned Colorado land owner myself. Scott Wagner should be able to obtain the required permit or permits to allow him access to his own property. Scott Wagner should be allowed a reasonable method to access his property and should not be prohibited from doing so in any legal manner if Scott works within the guidelines and rules set forth by the county. These guidelines and rules are to be applied to all county residence, equally and fairly. Attempts to prohibit Scott Wagner from what others have been afforded in years past; i.e. access to their property, must be considered.

Both Scott's property and the Waunita Hot Springs Ranch have a long-standing history in the area. I have met the family who owns the Waunita Hot Springs Ranch and have stayed at their facility. They have obviously been rooted in the community for many years and are very well connected with area land owners as well as community leaders. I have also visited Scott Wagner's property and have known Scott Wagner for many years. Scott has always possessed a "true to nature" view when it comes to how he interacts with nature. He has always strived to utilize natural methods when modifying or working with the local landscape such as plants, grasses and available geology to have as little of an impact on the surrounding areas as possible. I can also attest to what I have seen that Scott has done with the road in question. Not only has Scott's property benefited from the improvement but so has the Waunita Hot Springs Ranch property as well.

I came to know and work with Scott many years ago when Scott was running his own landscape company. In fact, I traveled with him on a few occasions before his purchase of this current hot springs property to look at other hot spring properties he was interested in purchasing. With that said I can attest to his boyhood dream of always wanting to own something that many of us could only dream of. Scott Wagner made this a reality for himself and his family. He does not want to ruin or drastically change the pristine environment this local gem offers but seeks to preserve it.

It is a bit disturbing to hear that the family owning the ranch feels threatened by Scott's ownership of the property in that they would use county government officials and possibly corrupt methods to ensure Scott cannot work with his property within the guidelines of the county rules and permit statutes. It is even more disturbing that the county would or could restrict Scott's access to a property he rightfully owns.

Scott Wagner is asking for nothing more than what the Waunita Hot Springs Ranch already has, which is a good reliable access road to his property. I can only imagine that the previous owner of Scott's property was an absentee owner. This was even more in favor of what the family owning the Waunita Hot Springs Ranch wanted for the adjacent property to theirs. This sentiment was conveyed to us by the owner of Waunita Hot Springs Ranch while at a stay at their dude ranch.

It was once said that neighboring tribes of Indians would come to the area to rest and experience the healing waters of the hot springs that are located on Scott's property as well as on the ranch. It was considered an area that was special and sacred. Visiting tribes who may not have seen eye to eye on issues put their differences aside and enjoyed the springs in peace together. Maybe some of this thought process can be applied in today times. Scott's property will never be known to the public as is the Waunita Hot Springs Ranch and I can assure you Scott doesn't want it to be. This is not a commercial venture for Scott Wagner but a true passion. No different than when the Pringle family came to

Colorado in the early 1960's to settle and raise a family. Colorado is lucky that Scott owns the property and wants to preserve it instead of developing it as is being done to much of Colorado's lands in today's market. Gunnison is shielded from much of this recent growth in Colorado but should be able to relate to the continued growth in the Crested Butte area. Please do not prohibit a true Colorado native, who holds Colorado's outdoor values to their highest standards. This is exactly what these areas in Colorado need, people like Scott Wagner who have a passion about preserving historic landmarks. This cannot be done without access to the property. Do the right thing.

Concerned Colorado citizen,

Curtis L. Baker

Curtis Baker

RECEIVED
FEB 11 2019
BY:

To: Gunnison County Public Works
Gunnison County Comissioners
Gunnison, Colorado 81230

From: Elly VanBoxtel-Smith
777 Ute Lane
Gunnison, Colorado 81230

I am writing this letter in favor of granting access to LeighMarie L.L.C, for the Access Road and to grant the waiver for the permit!
I believe that this landowner needs to be able to have the ability, in case of forest fire and emergency, to have 2 exits out of their property.
I have been to this property numerous times and believe this landowner should have the right to have safe access!
This landowner truly wants to do the right thing with this property and cares tremendously about the safety of people coming in and out. Please do the right thing and grant this Waiver!
Sincerely,
Elly VanBoxtel-Smith
777 Ute Lane
Gunnison, Colorado 81230

RECEIVED
FEB 11 2019
BY:

Feb 10, 2019

Attention:
Gunnison County Public Works Dept.
195 Basin Park Dr
Gunnison, CO 81230

Regarding: Leigh Marie L.L.C. - proposal to waive any further requirements by the County, for issuance of the access permit, for the Access Road such that Leigh Marie can use the road.

I am writing this letter to ask the County Commissioners, to grant Leigh Marie LLC access, on the road for the following reasons:

- from an emergency stand point for the family, friends and anyone who visits the property

- having access not only from 1 direction (west) but also allowing an alternate exit (east).

- from any potential forest fire danger I have been in the fire mitigation and defensible space business for over 30 years. I have been going to this

property with my family and friends for the last 8 years! In my professional opinion, without at least 2 ways to escape a forest fire, it is very dangerous! This is reason enough for the County to allow access on this property! It is in a Box Canyon!

- I would also believe that the "neighbors" would be behind granting access 100% for the pure safety of anyone going in and out of this property! I would believe they are in favor of granting access to Leigh Marie LLC and anyone using the road?

- I believe that the owner of this property has been a "good steward" of the land, has full respect for the land and has the right to make the access "to and from" the property safe for anyone who visits.

As an owner of land in Gunnison County, I am in strong favor of the Gunnison County Commissioners and the department of Public Works,

doing the right thing and grant this waiver to Leigh Marie L.L.C.

I truly appreciate the opportunity to "weigh in" on this proposal to waive and grant access to Leigh Marie L.L.C.

Respectfully,

Anthony F Smith
777 Ute Lane
Gunnison, CO 81230

RECEIVED
FEB 11 2019
BY:

February 9, 2019

Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

Re: Public comment in favor of granting Leah Marie, LLC a road and bridge waiver

Dear Gunnison County Board of Commissioners,

I am writing this letter in support of granting a road and bridge waiver to Leah Marie, LLC and Mr. Scott Wagner. I am a licensed landscape architect in Colorado (#344) with over 34 years in planning and landscape architecture and had the pleasure of meeting Mr. Wagner in 2015 while working on a design project. I had the pleasure to continue to work with Mr. Wagner and his company through completion of the project in 2016 and found him to be an honest and hard-working person with strong character. Mr. Wagner and I have continued our friendship to present day.

I am in full support of Mr. Wagner's request for a road and bridge waiver for the Leah Marie, LLC property in Gunnison County for the following reasons:

1. Property Access: Access to an individual's property is a basic property right which should not be taken by regulatory action.
2. Deeded easement: The Leah Marie, LLC property was purchased with a valuable deeded access easement which crossed an adjoining property. Granting of deeded access easements is a very common practice in Colorado due to steep terrain and other physical constraints complicating the ability to gain access to certain properties. Since this is a deeded easement it is therefore permanent until vacated and cannot be taken away by a governmental entity without just compensation. This process would be considered "governmental taking", a process all Americans are constitutionally protected from.
3. Safety: the property is located in a box canyon which is extremely prone to fire danger in summer months. The driveway located within the deeded easement provides a wildfire exit route to owners and guests on the Leah Marie, LLC property.

In summary, I am strongly in favor of the Gunnison County Board of Commissioners granting Leah Marie, LLC a road and bridge waiver for the above reasons and ask for your vote in favor of same.

Best regards,

William R. Bobzien
841 S. Arbutus Street
Lakewood, CO 80228

RECEIVED
FEB 11 2019
BY:

February 11, 2019

Gunnison County Public Works Department

Subject: Public Comment in favor of Gunnison County Road and Bridge granting a waiver to Leah Maria LLC

FAX 970-641-8120

I am writing on behalf of Leigh Marie, LLC regarding the proposed waiver of the access permit for the road. I recently was made aware of an incident where my niece, Savanna Wagner, had to walk a mile in the dark, in freezing temperatures to her dad's house because her car slid off of the ungraded portion of the road. If this happened to one person, I'm guessing it could happen to others. One would think that your county would want all roads to be as safe as possible. As a Colorado native, and a homeowner, it simply does not make sense to me that safety would be compromised due to legal red tape. My hope is that you will see the absurdity in not allowing someone access to their own home, and give a variance to Leigh Marie, LLC.

Sincerely,

Terri J. Turner
Teacher, Aurora Public Schools

GALT MOVING DENVER

INTEGRITY SERVICE EXCELLENCE

2/9/2019

Gunnison County Public Works
195 Basin Park Dr.
Gunnison, Co 81230

RE: Waunita Hot Spring Variance/Scott Wagner

To Whom it May Concern:

I am writing you today to voice my concerns in regards to Scott Wagner's property at the lower Waunita Hot Springs. I have been a close friend of the Wagner family since 1998. Purchasing this property has been a dream of Scotts since his was in college. It has broken my heart to see these issues manifest making his property near unusable not to mention the personal/emotional/financial tolls he has taken in the last 16 years. However, the focus of this letter is to discuss the significant safety concerns these restrictions imposed. Let me cite a personal example.

In February of 2012, I asked Scott if I could stay at his property for a long weekend. He told me I could, but stated that he was not allowed to plow his driveway and I would have to hike in. I decided it might be a fun adventure. On the way up we were going to stop and rent cross country skis to make the trek. Unfortunately, the rental shop was closed when I drove by. I decided we had good winter clothes and we could hike in as Scott had snow shoes once we got to the cabin. Unfortunately, I was wrong about our level of preparedness and underestimated the distance of the hike. As the sun was setting, temperatures quickly dropped below zero and my girlfriend and I were wading through waste deep snow in the dark with all of our gear. We barely made it to the cabin that night and we were extremely lucky we didn't lose any toes or fingers. To my understanding, I am not the only person who has had a close call due to hiking long distances in extreme weather on this property. It may be a matter of time before somebody does not get as lucky as me.

I would like to respectfully request Gunnison County Public Works to grant the variance he needs to keep his property accessible and safe for his family and guests.

Please feel free to reach out with any questions.

Sincerely,

Michael Messina

President
Galt Moving & Storage, Inc.

720-275-6673 Mobile
303-795-8500 Office

2/12/19

RECEIVED
FEB 13 2019
BY:

Penni Ashinhurst
1175 S. Ivanhoe Way
Denver, CO 80224

Gunnison County Public Works Department

195 Basin Park Drive

Gunnison, Co 81230

Via US Mail and fax 970-641-8120

RE: Public comment in favor of granting Leah Marie, LLC a road waiver.

Dear Gunnison County Public works Department,

My name is Penni Ashinhurst, I'm writing today to show my support and request that Gunnison County Commissioners please waive any further requirements for issuance of the access permit for the Access Road such that Leigh Marie can use the road.

Please realize the property is situated in a box Canyon. It is always at risk from the dangers of fire created by nature's heat, wind and dryness. There are also campers and hunter's campfires that create extreme danger and threat in loss of life if the property isn't allowed an exit path.
The Leah Marie, LLC (Scott Wagner) family has already experienced a nearly tragic incident a few years ago. Their daughter Savanna's car slid off the road as she was crossing an ungraded portion of the access road across the neighbor's land. She nearly froze to death when she was forced to walk knee deep in snow the next mile in 10° below zero hypothermic temperatures. Gunnison County experiences ongoing treacherous conditions caused by many factors, please help ensure the safety of Leah Marie, LLC property owner's family and friends.

I've known Scott Wagner since high school and I am sincere in saying you won't find a finer better person or friend. He is exactly the kind of person Gunnison County property owners would want as a neighbor. The Leah Marie property purchase was his lifelong dream. He was beyond thrilled, when I would say the property found him. Although it hasn't been easy to happily enjoy his rights as a property owner, to use the right-of-way or easement that was purchased by the prior owner of the property and included in his property deed. There is no better time than now to relieve that burden.

Scott Wagner would never be shy of doing the right thing for anyone that crossed his path. I can only ask that Gunnison County please do the right thing for this property owner and his family, please waive any further requirements for issuance of the access permit for the Access Road such that Leigh Marie can use the road. Please grant this waiver.

Sincerely,

Penni Ashinhurst
303-525-7868

Gunnison Cnty Public Works Department
195 Basin Park Drive,
Gunnison, CO 81230

2-8-19

Silas Boone
PO Box 2171
Loveland CO 80539
(720)718-9270

property: Leigh Marie LLC
owner: Scott Wagner

Gunnison Cnty Board of Commissioners:
Marlene D. Crosby - Public Works Director

To whom it may concern, in reguards to the 'Variance road access permit,' for property owner Scott Wagner. I, Silas Boone, am in strong agreement that Scott should, without doubt, be granted full access for road access to his property! From my understanding, the access road has existed from the 1800's. Like any road, upgrades and improvements will always be manditory. Scott should have the right to improve his preexisting inherent ability to access his property. I have worked with Scott since 2001 on various commercial & residential projects. Scott's knowledge, experience, and expertise is absolutely impressive, and capable of maintaining his own driveway.

Scott's property lies in a box canyon. There is only one-way in and out of the property. If an emergency evacuation ever needed to occure this access road would be vital. The property is also surrounded by public lands: campers, hikers, hunters, etc enable the possibilities of wild fires to occure, injuries, 911 calls, etc. Without this access road, fatalities may occure, and those who would be put at fault would be the county and other private owners of neighboring properties. Year round access needs to be established whether it's for forest fires in the summer or cold winter snow storms. Scott's daughter Savanah, almost died due to exposure because of the access road not being in place. As a father myself, I would take any action necessary to provide safe passage onto and off my property for myself, my family, my friends, and guests! Furthermore any committee or neighboring private property owner who would deny this vital access road, would really have to put themselves in Scott's shoes with a similar situation w/ their own family member, and decide what is right!

truly sincere,
Silas Boone

February 11, 2019

RECEIVED
FEB 13 2019
BY:

Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

RE: Request for Waiver of Gunnison County Standard Specifications for Road and Bridge Construction, made by Leigh Marie, LLC

To Whom It May Concern,

I am writing in regards to an upcoming public hearing on February 19, 2019. Leigh Marie, LLC has requested a waiver of Gunnison County's Standard Specifications for Road and Bridge Construction. I am in full support of this request, and I encourage the Gunnison County Board of Commissioners to do the right thing and grant this waiver.

At its core, this issue is one of access to private property, and allowing the legal owner access to his property. The fact that there was a deeded easement in place when the owner purchased the property nearly twenty years ago suggests to me that this should really not be an issue at all. It is astonishing to me that the legal system can be abused via the use of "cronyism" and leveraging a good old boy network to influence decisions that negatively impact one's legal right to access their own property, a basic and very important right in our country.

I have been a regular visitor to the property owned by Leigh Marie, LLC for approximately fifteen years. In that time, I have seen considerable, positive changes made to the property, all made in a reasonable and responsible way. Garbage has been cleaned up and partially finished structures have been completed. The owner has no interest in changing the environment by developing a commercial operation or building a tasteless, large glamorous home. I would think that neighbors and leaders of Gunnison County would be appreciative of that.

Beyond the basic right of being able to access one's property, it is important to highlight the safety aspects of the request for this waiver. This property is located in a long and relatively narrow box canyon. If forest fires were ever to break out nearby, anyone on the property would need to be able to evacuate with no obstructions. Additionally, the heavy snows that can accumulate in the area in the winter months pose a potential danger for occupants as well.

In summary, I encourage the Gunnison County Board of Commissioners to grant the requested waiver. Allowing others to abuse the legal system to negatively impact the owner's ability to access his home and property would be shameful.

Respectfully,

Stephen P. Hellebush

Colorado Resident and Property Owner

RECEIVED
FEB 13 2019
BY:

February 4th, 2019

Gunnison County
Public Works Department
195 Basin Park Drive
Gunnison, CO
81230

Public Comment regarding Leigh Marie, LLC access road

To Whom It May Concern,

I am writing this letter as the youngest daughter of Joseph Scott Wagner. I have been coming to the Hot Springs property since I was ten years old, we he purchased the property. Not only is it my dads home, but my favorite place to visit and spend time at. The property is a beautiful sanctuary of the natural world, and the waters are indubitably healing. I have always known these hot springs to be my father's passion and dream, and have seen first hand the amount of work he has done to acquire and maintain the springs.

Throughout my time living with and visiting my dad, there have been complications which have not only been unnecessarily painful, but at times very dangerous. Without being able to access his home by vehicle, we have had to walk over a mile in, carrying all of our belongings and food, often times making multiple trips. It is one thing making this journey in the summer, but in the winter a precarious feat. Trekking through waist deep snow in the harsh Gunnison winter, just to access our home, is a reality I have faced throughout my girlhood. There is also not cell phone reception in the area. On the occasions which I have visited my dad, and had to make the long haul by myself, I know he has been worried sick for my safety. Safety has always been a top priority for my father, who values keeping his family and loved ones safe above all.

As a young girl, and even now, I have never understood why we have not been allowed to simply drive in to our property. Throughout past summers in the height of the Colorado droughts, I have had a realistic fear of what would happen if we got caught by a fire and were not allowed to quickly evacuate our home. It has been a scary and complicated existence which we have been facing for far too many years.

I truly hope that you will take this letter into consideration on behalf of my fathers request, and put yourself in our shoes for this regard. Thank you very much for your time.

Sincerely,

Savanna Leigh Wagner

RECEIVED
FEB 13 2019
BY:

February 8, 2019

RE: Support for Leigh Marie LLC Access Road Variance

To: Gunnision County Commissioners, 195 Basin Park Drive, Gunnision, CO 81230

Dear County Commissioners,

I am a Colorado Registered Professional Engineer and Land Surveyor. I am familiar with planning processes, variance processes, waivers and Commissioner actions mostly in Boulder and Larimer Counties. I have been involved in this type of land use work in these counties for 30 years. I was employed by Larimer County in the Engineering Department for 10 years between 1984 and 1994. In that role I served as a development review engineer representing the engineering department in land-use applications similar to the one before you. I know the basis of these waivers is to not adversely affect safe and efficient access, to not impact safety, health and welfare, to not injure the environment or land owner(s), and result in a functional access that is maintanable.

While I have not specifically reviewed the specific language of the existing easement I can tell you that the lack of access to a property, or the lack of maintenance for a driveway is an extreme property owner hardship. I am sure you well know, hardships are the foundation for granting variances/waivers.

I am in favor of property rights and easement rights, as well as the proposed waiver of the standard specifications of the Gunnison Road and Bridge Standards to allow Mr. Wagner access and construction/maintenance ability of his needed ingress and egress driveway-road to his long owned private property in Gunnison County.

I have personally visited this site several times and can attest that, from what I have seen, he is a great caretaker or steward of the property. I am certain you are aware that access is so very important for both private landowners and for public safety and community fire safety.

I also know Mr. Wagner personally and through a multifaceted working relationship with me personally and common clients in Colorado. Mr. Wagner is in my opinion the "real deal". What I mean by that is he is a hard-working, very capable, self-sufficient independent confident man with integrity who appreciates and values fairness in regulations and requirements. He is a successful business man, working in a 'hands on' hard working profession.

Based on the past 10 years that I have known Scott Wagner, I would welcome him as a neighbor given what I know of him and his character, knowledge, abilities and work ethic. Thank you for your consideration in granting him this waiver so he can continue to safely access, maintain and enjoy his Gunnison County private property through the easement that has existed for this purpose for decades.

Sincerely,

Lonnie A. Sheldon, cell 970-443-3271, email: Lonnie@vanhornengineering.com

RECEIVED
FEB 13 2019
BY:

February 10, 2019

Gunnison County Public Works Department
195 Basin Drive
Gunnison, CO
81230

Public Comment in favor of granting Leah Marie a road and Bridge waiver

Dear Marlene Crosby
Public Works Director

I am writing in support of Scott Wagner/Leah Marie receiving a waiver for the Road and bridge construction project.

I know this issue has been going on for some time and seems to me to be almost a civil matter, instead of a county matter. Property rights have always been complicated, the access to an individual's private property has been a basic right in Colorado for a long time.

I have never been to Scott's property, however, I know that it is a unique piece of land. I can imagine there would be many interests in this particular property. I am a third generation Colorado native and have had the privilege so spend a great deal of time (since the 60's) in Gunnison and at a family friends ranch in Parlin. I know the beauty of this part of Colorado, and the uniqueness of Gunnison County.

Finally, a road should be safe no matter where they are located, I think Scott's intent was to make the road safe on a basic level in both winter and summer conditions.

I would hope that the Gunnison County Commissioners will grant the waiver.

Sincerely yours,

Elisa Passarelli

Elisa Passarelli

608 La Farge Ave Louisville, CO 80027

Phelps-Atkinson
GOLF COURSE DESIGN
10655 W. 73rd PLACE, ARVADA, COLORADO 80005
TEL: (303) 670-0478
WWW.PHELPSGOLFDESIGN.COM

RECEIVED
FEB 13 2019
BY:

February 8, 2019

Gunnison County Public Works
195 Basin Park Drive
Gunnison, CO 81230

Re: Leigh Marie LLC, Access Road Waiver

To Whom It May Concern,

I am writing this letter in support of the waiver request of Leigh Marie LLC and Mr. Scott Wagner. I am asking that you grant the waiver, as requested, to allow him to continue to use the driveway/road, across the Waunita property, to access the eastern entrance to his property.

I have known Scott professionally for nearly 30 years, and I would not hesitate to call him a friend. Scott, and his company, have constructed water features on various golf course projects that I have been responsible for throughout Colorado. He has always displayed a tremendous level of craftsmanship, diligence and environmental stewardship on every project. I can only assume that he would treat his own property with the same level of care.

I also know, through a visit to his property many years ago, that he intends to "tread lightly" on the land. His desire to maintain/improve the access was for life-safety reasons only. Allowing him to maintain a safe and usable access across property where there is a long-standing, recorded easement, is the only reasonable solution to this matter.

Thank you for including this letter in the public testimony.

Sincerely,

Rick Phelps, ASGCA
Phelps Golf Design, LLC

Dana Pearson
2070 Newcombe Dr.
Lakewood, CO 80215

RECEIVED
FEB 14 2019
BY:

2/12/2019

Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230
Fax: 970-641-8120

RE: Gunnison County Board of Commissioners Public Hearing to hear public comment concerning an application for a waiver of the Gunnison County Standard Specifications for Road Construction for Leigh Marie, LLC (Scott Wagner)

Dear Gunnison County Board of Commissioners,

My name is Dana Collins, I've known Scott Wagner, Leigh Marie, LLC as a friend since high school. I would like to say that I support the Gunnison County Commissioners in issuing the above waiver. I sold real estate for a number of years and believe there are many reasons for supporting and issuing this waiver. I remember there is an easement or right-of-way that was purchased as a part of the deed and this waiver would allow relief to the current situation and it is a waiver that I believe should have been granted years ago.

The waiver should also be granted for safety purposes. His daughter almost froze to death a few years ago when she was forced to walk in subzero temperature, knee deep snow. Her car slide off the ungraded road. The idea of losing a child over a road is unconscionable.

It is for these reasons I strongly support Gunnison County Board of Commissioners to please grant Leigh Marie, LLC this waiver.

Sincerely,

Dana Collins

RECEIVED
FEB 14 2019
BY:

February 1, 2019

Gunnison County
Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

RE: Public Comment regarding Leigh Marie, LLC access road

Dear Board of County Commissioners

I am writing to provide comment regarding the issue pertaining to the access road that crosses the Waunita Property from County Road 887 onto the Leigh Marie Property. I am strongly in favor of allowing the variance so that the owner of the Leigh Marie property can safely access his own land. The only option is to use this access road that is in question now and which has been the original road into the property dating back to the 1800's.

It is absurd that the Leigh Marie property has been cut off due to political reasons and bad feelings between neighbors. The owner should have legal right to use this access and to be able to improve said access road to a usable and safe condition.

I am a real estate broker and a landscape architect with over 20 years of experience, so I understand how land issues work. However, I'm not a lawyer and can't comment on if what has been done to deny access is legal to the letter of the law, but it seems certainly not within the spirit of the law to abuse powers to administer personal favors for the benefit of one person, when the other actually does posses legal right to use and access his own private property.

I have been on the property and know that the owners are now good stewards of the land. They have private property rights to use and enjoy their land, which also includes access. I would strongly urge the Board of County Commissioners to approve the variance and allow the owner of Leigh Marie property to finally have a safe access road into their land.

Sincerely,

Thomas Roberts

RECEIVED
FEB 15 2019
BY:

Sara Owen
4644 Stonebridge Road
West Des Moines, IA 50265

2/13/2019

RE: Gunnison County Public Works Department
195 Basin Park Drive Gunnison, CO 81230
Via US Mail and fax 970-641-8120

RE: Gunnison County Board of Commissioners Public Hearing to hear public comment concerning Leigh Marie, LLC (Scott Wagner) application for a waiver of the Gunnison County Standard Specifications for Road and Bridge Construction.

Dear Gunnison County Board of Commissioners,
My name is Sara Owen, I reside in West Des Moines, Iowa. I would like to express that I strongly support the Gunnison County Commissioners in issuing the above waiver to Leigh Marie, LLC (Scott Wagner).

There is a risk of fire to hunters and campers in this area. Granting the wavier would promote safety by allowing for an exit path in case of wind and fires. The exit would also aid safety during winters with below zero temperatures and deep, heavy snow.

I've known Scott Wagner for over forty years, since 1975 while attending Colorado State University. How is it that a property can essentially be stripped of its deeded right-of-way? I am in favor of Gunnison County Board of Commissioners granting this wavier to Leah Marie LLC.

Thank you for your consideration,

Sara Owen

Sara Owen

Feb. 15. 2019 7:15AM CHS Johnston Hospice No. 5940 P. 2

FAX: (970) 641-8120

14 February 2019

Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

To: Ms. Marlene D. Crosby
Public Works Director

Subject: Public Comment in Favor of Granting Leah Marie a Road and Bridge Waiver

Reference: Notice of Public Hearing, same subject

Ms. Crosby and Others Concerned with Subject Matter,

Allow me to introduce myself. My name is Dennis D. Derr and I am the retired President and Executive Director of AVISYS, Inc. I have known Scott Wagner for all of my adult life since we attended university together 40 years ago. To his character, for all of those years, Scott has worked to create natural landscapes and improve property in his life-long home state of Colorado, always acting in a custodial manner with regards to the land.

My wife and I have had the pleasure of visiting the Gunnison County hot springs property many times since Scott purchased it in 2002. We were first-hand witnesses to the efforts he put in to restore the property to a state where others could enjoy this beautiful setting and commune with the outdoors in a way that those of us that were city dwellers rarely got to experience. This entire process clearly required an enormous amount of planning, financial, legal and physical work. True to his nature, maximizing safety and minimizing environmental impact were ALWAYS Scott's top priority. I can also vouch that the same characteristics of this property that made it so special also made it patently unsafe in the state that it existed when first purchased.

While we're not intimate with all of the trials Scott went through, we do know that nearly from the beginning he experienced what appeared to be unreasonable and arbitrary roadblocks. This was very hard for us to understand since the project always seemed to be to the benefit of the local and regional communities. Moreover, it seemed that basic tenets of private ownership were being ignored or violated. These rights go to the core of American beliefs, particularly in our Rockies paradise! If there are self-serving financial outside pressures being brought to bear here, they should be ignored in order to "do the right thing".

Please do all of us, and Gunnison County, the favor of granting the subject Waiver.

Yours truly,

Dennis D. Derr
941-735-6626

ALTERRA
MOUNTAIN COMPANY

RECEIVED
FEB 15 2019
BY:

Nathan Grant
Alterra Mountain Company
3501 Wazee Street
STE 400
Denver, CO 80216
2/12/2019

Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

Subject: Public Comment in favor of granting Leigh Marie, LLC a road and bridge waiver

Dear Gunnison County Public Works Department:

I am writing this letter urging you to grant Leigh Marie LLC a road and bridge waiver.

There are several good reasons to grant this waiver, first the property is in a box canyon utilized by campers and hunters. Given the nature of these activities a viable exit path for these people is imperative in the event of an emergency requiring evacuation. Fires in the summer present a real danger and there must be a way for those utilizing the area to get out quickly if necessary. Given the weather conditions present in the winter with the below zero temperatures that can exist having this road exist would assist in any necessary search and rescue operations.

This road and bridge are essential for the property owner to access his property which is a basic property right. When one purchases a property and it comes with a valuable deeded easement, that the government cannot simply just take that away without just compensation. It's called "governmental taking" and all Americans are constitutionally protected against that.

The land in question is a unique parcel that the land owner ensures remains undeveloped. His stewardship of this land is unquestioned and having a single owner keeps investors and developers from turning this into a mega resort. The property is kept open and free having different owners would certainly put this in jeopardy.

Again, I am strongly in favor of the Gunnison County commissioners doing the right thing and granting this waiver. If you have any questions, please contact me at 970-819-0985.

Sincerely,

Nathan Grant

RECEIVED
FEB 15 2019
BY:

Feb. 12, 2019

Gunnison County Public Works Dept.
195 Basin Park Drive
Gunnison, CO 81230

RE: Scott Wagner, Public Hearing, Feb. 19, 2019

I am writing on behalf of Scott Wagner to request fair consideration of a variance bypassing the need to return the road leading to his property to its original condition. It is my understanding that the owner of neighboring property has refused access in order for Mr. Wagner to finish restoring the road. This situation has resulted in an unfair impedance of Mr. Wagner's ability to access his own property.

Historically, this road was unsafe and virtually impassable, leading to a dangerous situation involving Mr. Wagner's young daughter sliding off the road into harm's way. I believe that Mr. Wagner's intentions are pure and he simply wants a road that is safe, not only for himself, but for all who use it. He is conscientious about keeping his property tidy and well-managed. The road is currently in good condition as it is, so I am asking that this long, over-drawn debate finally come to a close. Please grant the requested variance.

Thank you,

Susan K. Raffa

Sue Raffa

RECEIVED
FEB 15 2019
BY:

Feb. 12, 2019

Gunnison County Public Works Dept.
195 Basin Park Drive
Gunnison, CO 81230

RE: Public comment in favor of granting Leah Marie a road and bridge waiver

I have known Scott Wagner as a patient and friend for the last 30 years. I have been his and his family's eye doctor for those years and know Scott to be an ethical, honest and trustworthy man. He has a heart of gold and would do anything for his family and friends if they needed help. Through the years, he has demonstrated a respect for the environment through his innovative and natural landscaping techniques. I have always appreciated his deep respect for the land and his desire to be a "good steward" of his properties.

This is a unique property and it is a benefit that it is privately owned and will not be developed. Mr. Wagner was deeded easement to his property at the time of purchase. It is unthinkable that he would be kept from accessing his own property. In addition, this property is situated in a box canyon extremely prone to summer time fire danger. In the winter time, Gunnison experiences extreme temperatures and deep snow. Both of these situations require an exit road.

I am asking the commissioners of Gunnison County to do the right thing by granting this waiver.

Sincerely,

Dr. Joseph J Raffa O.D.

Dr. Joseph J Raffa, O.D.

RECEIVED
FEB 15 2019
BY:

Gunnison County Public Works Department
195 Basin Park Dr.
Gunnison, Co 81230

RE: Public Comment in Favor of Granting Leigh Marie a Road and Bridge Wavier

Commissioners,

I am strongly in favor of granting this variance to Leigh Marie and Scott Wagner. This deeded access was in very poor condition for far too long due to county regulatory interference and an uncooperative neighbor. This deeded entrance is owned by Leigh Marie regardless of who's property it may traverse. Both parties are responsible for the maintenance of this road and making sure all who travel it are safe. In the spring and summer months water continually puddled and eroded soil exposing so many rocks and boulders that friends and family were not only putting their vehicles in danger but themselves as well. In the winter months when this access is most importunate because it is the only entrance flat enough for plowing, conditions were especially dangerous with temperatures often below zero. The safety and welfare of family and friends is of the utmost importance in life, and this is particularly important to family and friends with little ones who could be put in a very precarious situation. After one potentially deadly experience occurred to a loved one it was agreed by both parties to cooperate to make the road safe. The road is now safe. The boulders were removed and drainage ditches added for water and snow. Please do not allow this interference to continue. This is a very pristine property with clean and natural surroundings. I have been coming to this property for several years and have always been impressed with how hard Scott works to keep it so. Surely, a purchased deeded easement can not be removed without constituting an unlawful governmental taking.
I implore the commissioners to **do the right thing** and approve this variance. This harrassment has continued for far too long.

Jacqueline Cariton