AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolutions; Roper Subdivision

Action Requested: Motion

Parties to the Agreement:

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

Summary:

Request for 3-lot subdivision from Albert and Angela Roper.

Fiscal Impact:

Submitted by: Cathie Pagano **Submitter's Email Address:** cpagano@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 12/31/19

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 12/31/2019 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 1/3/2020

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 10

Agenda Date: 1/7/2020

Revised April 2015

Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360
Website: www.gunnisoncounty.org
Email: planning@gunnisoncounty.org

To: BOCC

From: Cathie Pagano, Director of Community and Economic Development

Date: December 20, 2019

Re: Roper Lane Subdivision

The Planning Commission has recommended approval of LUC-19-00012 for the Roper Lane Subdivision for the development of 3 residential units. The recommendation is attached for your review.

Section 6-106: L. *Board Decision on Optional Board Public Hearing on Subdivision* states:

"The Board shall have the option of conducting another public hearing to consider the Sketch Plan application and the Planning Commission's recommendation. Within 20 days of receipt of the Planning Commission's recommendation, the Board shall determine whether to conduct a public hearing. A decision to conduct or not to conduct such a hearing shall be based on the Board's determination of whether it is in the public interest to do so, considering among other factors the following:

1. ***LEVEL OF PUBLIC INTEREST****. There has or has not been substantial public interest in the proposal, as reasonably shown by attendance at, and testimony submitted for, the joint public hearing; or*
2. ***IDENTIFICATION OF NEW ISSUES****. Whether it is reasonably probable that new issues related to the Sketch Plan application of the proposed land use change will be identified; or*
3. ***IDENTIFICATION OF NEW INFORMATION.*** *Whether it is reasonably probable that new information related to the Sketch Plan application of the proposed land use change will be provided.*
4. ***BOARD PUBLIC HEARING****. If the Board chooses to conduct a public hearing, the following shall apply:*

   a. HEARING NOTICE*. Public notice that the Board will conduct a public hearing to consider the Sketch Plan application shall be accomplished pursuant to Section 3-112:* Notice of Public Hearing.

   b. CONDUCT OF HEARING. *The Board hearing shall be conducted pursuant to Section 3-113:* Conduct of a Public Hearing.

M. BOARD ACTION. *Within 35 days after receipt of the Planning Commission recommendation, if the Board did not conduct another public hearing, or within 35 days after closure of the hearing if the Board conducted another public hearing, the Board shall approve, approve with conditions, or deny the Sketch Plan. The Board's decision shall be entered into the official minutes of the meeting and shall contain the necessary findings of fact and reasons to support the decision. If the Board does not make separate findings of fact, it shall be presumed to have adopted the findings and recommendations of the Planning Commission.*

1. ***ADDITIONAL PLANNING COMMISSION REVIEW MAY BE REQUIRED.*** *Before it takes action on the application, the Board may refer the application back to the Planning Commission for further consideration and recommendations if at least one of the following circumstances is present:*

   a. NEW INFORMATION SUBMITTED. *There has been information submitted that was not available for consideration by the Commission before its recommendation; or*

   b. INSUFFICIENT EVALUATION. *There are substantive issues or requirements of this* Resolution *that were not sufficiently evaluated in the Commission's recommendations; or*

   c. SUBSTANTIVE ALTERATION. *There has been a substantive alteration to the plan subsequent to the Commission's recommendation; or*

d. ***NEED FOR CLARIFICATION.*** *There is an element of the Planning Commission's recommendation that requires clarification."*

The Board has the option to hold an additional public hearing on this matter. The Planning Commission and the Board have conducted two joint public hearings on this application. No new issues have been identified and no new information has been submitted as part of this application to the Community Development Department.

If the Board decides to hold an additional public hearing proper public notice shall be required (30 days). If the Board decides not to hold an additional public hearing, action may be taken at a regular meeting.

A draft resolution is attached for your review.

Please feel free to contact me with any questions or concerns. Thank you.

TO: **Planning Commission**

SUBJECT: **Planning Commission Recommendation**
Albert and Angela Roper
LUC-19-00012

DATE: **December 19, 2019**

PREPARED BY: **Cathie Pagano, Director of Community and Economic Development**

Commissioner Spivey made a motion to approve the recommendation, Commissioner Puckett Daniels seconded the motion; the motion passed unanimously.

PROJECT DESCRIPTION:
Albert and Angela Roper propose proposing the subdivision of four total lots on an approximately 189-acre parcel. The lots proposed are as follows:

Lot 1- 3.37 acres
Lot 2- 3.38 acres
Lot 3 – 8.22 acres
Lot 4- 174 acres (remainder of ranch)

The applicants propose that the subdivision lots be served by individual wells and on-site wastewater treatment systems. The applicant also proposed covenants on the lots that prohibit detached second residences, require membership in Lost Canyon Bridge Association, and agricultural language relative to fence out requirements and confinement of domestic animals.

The subject parcel is legally described as being located in Sections 28, 33, and 34, Township 51 North, Range 1 East, N.M.P.M., Gunnison County, Colorado. Generally, the property is located 8 miles northeast of the City of Gunnison; approx. ½ mile east of Highway 135, on the east side of the Gunnison River.

IMPACT CLASSIFICATION:
The project, by definition, is a minor impact pursuant to *Section 6-102: A. 2-4 Units.*

MEETING DATES:
The Planning Commission held work sessions and public hearings to discuss Darien application on the following dates:

- July 19, 2019 Site Visit
- August 2, 2019 Work Session
- September 6, 2019 Joint Public Hearing
- December 20, 2019 Joint Public Hearing

SITE VISIT:
The Planning Commission conducted a site visit on July 19, 2019. y.

PUBLIC HEARING:
The Planning Commission and Board of County Commissioners conducted a joint public hearing on September 6, 2019. Public comment included:

REVIEW AGENCY REFERRAL COMMENTS:
A copy of the complete application was sent via electronic mail to the following agencies: Colorado Parks and Wildlife, Gunnison County Public Works, Gunnison County Environmental Health,

Gunnison County Fire Protection District and Colorado Division of Water Resources. Comments from the agencies and are noted in the applicable sections below.

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

Section 9-100: *Uses Secondary to a Primary Residence.*
Applicable. Detached secondary residences are not allowed in the proposed covenants. The covenants do not address integrated secondary residences.

Section 9-200: *Special Residential Uses.*
Not applicable. No special residential uses are proposed as part of this application.

Section 9-300: *Commercial and Industrial Uses.*
Not applicable, no commercial industrial use is proposed as part of this application.

Section 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials.*
Not applicable. No exploration, extraction or processing of materials is proposed.

Section 9-500: *Miscellaneous Uses and Activities.*
Not applicable. No miscellaneous uses or activities are proposed.

Section 9-600: Essential Housing
Not applicable. No essential housing is proposed as part of this application.

Section 10-102: *Locational Standards for Residential Development.*
Applicable, the proposed subdivision application is not adjacent to an existing population center nor is it within a municipal three mile plan. The applicant has demonstrated that the proposed residential development will result in no significant net adverse impact to neighborhood land or land uses, wildlife, visual quality, air or water quality, including impacts cause by a proliferation of OWTS and/or individual water wells.

Section 10-103: *Residential Density.*
Applicable, the proposed subdivision cannot comply with the primary locational standard. The Planning Commission considered the parcels in the neighborhood and has determined that the proposed lot size is substantially similar to neighborhood parcels.

The application states, “The neighborhood parcels range in size from 0.24 acres to 189.34 acres…Six parcels are under 0.5 acres, six parcels are 0.5-1 acre. Thirteen parcels are 1-5 acres. Five parcels are 5-10 acres and three parcels are over 15 acres. The proposed lots would be 8.2, 3.3, and 3.3 acres. This size is substantially similar to the neighborhood parcels.”

Section 11-103: *Development in Areas Subject to Flood Hazards*.
Not applicable, the subject parcel and proposed development are not within the 100-year floodplain.

Section 11-104: *Development in Areas Subject to Geologic Hazards*.
Not applicable. The subject parcel and proposed development are in an area of potentially unstable slopes. Staff conducted a site visit determined that no additional geotechnical review is required.

Section 11-105: *Development in Areas Subject to Wildfire Hazards.*
The subject parcel is in a moderate wildfire hazard area. A copy of the application has been referred to Gunnison Fire Protection District for review and comment. No comments have been received from the Gunnison Fire Protection District.

Comments were received from the Colorado State Forest Service in an email from Sam Pankratz, Supervisory Forester, dated July 2, 2019:

“After review of the proposed subdivision location I have no comments in regards to wildfire hazardous fuels reduction. Will there be a proposed secondary ingress/egress? CR L2? Also, do we have any current county requirements for reflective street signage or addressing signage?”

A street sign shall be installed at the development for emergency services.

Section 11-106: ***Protection of Wildlife Habitat Areas.***
Applicable, a copy of the application has been sent to Colorado Parks and Wildlife for review and comment. The applicant did participate in a Gunnison Sage-grouse pre-application conference.

Comments from Aleshia Rummel, Wildlife Biologist for the Gunnison Conservation District, dated May 9, 2019 stated:

> “*The parcel is within 0.6 miles of a Gunnison sage-grouse lek. The parcel contains Gunnison Sage-grouse Tier 1 habitat (score ≥ 15) as mapped using the 2018 Habitat Prioritization Tool (Gunnison Basin Sage-grouse Strategic Committee 2018). The overall habitat score for the parcel ranges from -18 to 36. The eastern and northern portions of the parcel are within Tier 1 habitat, including the proposed northeastern lot, the proposed northwestern lot, and portions of the proposed middle lot. There is public land to the east and northeast of the parcel that contains Tier 1 habitat. As determined during the site visit, the parcel contains several habitats needed by sage-grouse including: nesting, summer-fall, and winter habitats.*
>
> *…Based upon this analysis, a review of the data available, and the nature of the proposed activity, I find that the proposed activity will not adversely impact Gunnison sage-grouse or their habitats beyond that which has already occurred if recommendations in this letter are followed. Because there are Gunnison sage-grouse in the general area, I recommend the following requirements be applied as a condition of all Gunnison County permits issued for projects on this parcel to protect Gunnison sage-grouse:*
>
> *1) The proposed subdivision, if approved by Gunnison County, must be located as defined in the revised Land Use Change Application from April 28, 2019. Specific building permits and development proposals will be reviewed on a case-by-case basis.*
>
> *2) A Gunnison County Reclamation Permit will be required for any site disturbing activities on this parcel greater than 10,000 sq ft. That permit should contain specific reclamation conditions. Disturbed areas need to be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix.*
>
> *3) For activities not requiring a Reclamation Permit, disturbed areas must be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.*
>
> *4) Per Section 11-106 G.3.h of the Gunnison County Land Use Resolution, no additional roads, routes, or trails may be constructed on the property without additional review by Gunnison County for impacts to Gunnison sage-grouse and their habitats.*
>
> *5) Per Section 11-106 I of the Gunnison County Land Use Resolution, design of fences other than those with agricultural operations shall ensure they do not adversely impact wildlife. Woven wire fencing should not be allowed for perimeter fencing or as interior cross fencing. Perimeter and cross fencing should be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication Fencing with Wildlife in mind.*

6) Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970-641-4393) for additional information and technical assistance.

7) Per Section 11-106 G.3.d.1. of the Gunnison County Land Use Resolution, dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

8) Per Section 11-106 G. e. of the Gunnison County Land Use Resolution, unless pre-empted by Federal or State law, all non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and quail), shall be imported only from a source certified by the State of Colorado to be disease free. Prior to importation of any species of gallinaceous game-birds to this parcel, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation (movement onto the property) of any wild birds, as defined above, shall occur without written approval by Gunnison County.

9) To help protect Gunnison sage-grouse habitat, it is recommended that all undeveloped areas of the parcel remain in native vegetation. Disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix. A separate analysis will be required, which may include additional conditions, for any development not addressed in this site analysis.

Additional Notes: Roads and driveways constructed to the subdivided lots must be built to Gunnison County standards. The parcel is located within important mule deer and elk range. Conflicts with big game can be anticipated if development should occur on this property that does not take their presence into consideration. Colorado Parks and Wildlife is available to assist with issues to help avoid wildlife conflicts."

Comments from Chris Parmeter, District Wildlife Manager of Colorado Parks and Wildlife in a letter dated June 10, 2019 state:

"…Although the project area is contained within mapped wildlife habitats, it's important to note that many components are required to provide wildlife species suitable living space. This project is proposed in habitat that is already disturbed/degraded and is adjacent to existing development, lessening the significance of impacts to wildlife.

Striped skunks, red fox, and coyotes inhabit the area, along with numerous other small mammals and an occasional mountain lion; however, black bears are the most significant wildlife concern. To avoid human/bear encounters, the storage and handling of trash must be a high priority. The use of bear-proof trash containers has proven the safest and best technique to avoid human/bear conflicts. Although feeding birds is legal, it is not recommended as it is a leading attractant for black bears. Colorado Parks and Wildlife's 'Living with Wildlife in Bear Country' brochure provides guidance on proper trash management and other tips to avoid creating conflicts.

In Gunnison County, where subdivisions encroach upon mountain lion habitat containing an abundance of prey (winter concentrations of deer), encounters between lions, humans and their pets and livestock may arise. CPW's brochure entitled 'Living with Wildlife in Lion Country' provides good information to help residents reduce their potential for conflicts with mountain lions.

'Household' pets such as cats and dogs present perhaps the greatest threat to native wildlife with a new development….Dogs allowed to roam may 'pack-up,' harass, and kill deer and other wildlife – and food for either left outside is an attractant for bears and other 'nuisance' animals.

As for horses and other livestock, property owners should consult the Natural Resource Conservation Service to determine the carrying capacity of their land. CPW recommends only certified weed free forage be used, and when possible, areas disturbed by construction should be re-vegetated as soon as possible with native plant species to avoid invasion of noxious weeds.

Fences should be minimized to facilitate wildlife movements, optimize habitat availability, and reduce wildlife mortality. Fences, whether of wire, wood, electric, or synthetic, can be constructed to be wildlife friendly; not exceeding 42 inches in height, and not restricting the movement of deer or elk.

…As the Gunnison Basin continues to develop, habitat available for wildlife is incrementally lost, and conflicts will increase. Although this project itself affects only a few acres and minimizes the impacts to wildlife through its adjacency to existing development, the effects of habitat loss are cumulative, and should be considered as such."

Section 11-107: *Protection of Water Quality*.
Not applicable, the building is existing and complies with the requirements of this section.

Section 11-108: *Standards for Development on Ridgelines.*
Not applicable. The site is not located on a ridgeline.

Section 11-109: *Development That Affects Agricultural Lands.*
Applicable, the proposed subdivision is adjacent to an agricultural operation. Language regarding the confinement of domestic animals, Colorado's "fence-out" requirements, and irrigation ditch maintenance shall be included on the final plat in compliance with the standards of this Section.

Section 11-110: *Development of Land Beyond Snowplowed Access*.
Not applicable, the site is not located beyond snowplowed access.

Section 11-111: *Development on Inholdings in The National Wilderness.*
Not applicable, the site is not located on a National Wilderness inholding.

Section 11-112: *Development on Property Above Timberline.*
Not applicable, the site is not located above timberline.

Section 12-103: *Road System*.
Applicable, a copy of the application was referred to Gunnison County Public Works. Applicable, a referral has been sent to Public Works. Comments received from Marlene Crosby, Public Works Director, in an email dated May 31, 2019 state:

"1. It is unclear whether or not the Roper's have any authority or maintenance responsibility for the road between HW#135 and the bridge, but there are a couple of issues that need to be addressed on that section of the road. The deep speed dip does serve to slow down traffic, but it also creates a hazard for emergency services response. On County roads neither speed bumps nor dips are allowed because of the hazard to emergency response and motorcycles. Immediately preceding the bridge there are a series of potholes that need to be filled. A vehicle hitting those potholes creates extra stress on the bridge due to the "bouncing" of the vehicle as it enters the bridge.

2. The bridge has load posting rating signs on both ends of the bridge per the 2008 inspection. The State requires that all County bridges 20 feet in length or greater be inspected and inventoried every two years. It appears it is time for the Lost Canyon Bridge Association to have the structure inspected for damage and load ratings. The bridge has been maintained as a one lane bridge, but there is one plank that needs to be replaced.

3. It is difficult to align the site plan that is part of the submittal and the comments by the Wildlife Biologist. The lot sizes and proposed configurations do not match.

4. If the access roads to the lots on the eastern boundary are approved each access will need a recorded easement across Roper property and/or Forest Service property before an access permit could be issued.

5. Roper Lane from the intersection with River Front Road is in poor condition. The number of existing lots using this access and the proposed new lots, if it were newly constructed, would require a 22 foot wide road. Our recommendation is that at the very least it be uniformly widened to 16 feet wide, with 6 inches of Class 6 road base and inter-visible turn-outs every 600 feet. Any future development of lots using Roper Lane will require an upgrade of the road to Standards.

6. The two driveways to the lots on the eastern boundary are difficult due to the grade. Not only is the access into the lots difficult it will be difficult to create the emergency access turn-around that is required at every residential unit.

We support the Wildlife Biologist recommendation that the lot lines be adjusted so that the lots can be accessed directly off the existing road. In addition, the building sites should be located to easily accommodate emergency access."

The applicant responded in a letter dated June 27, 2019 and stated:

"I met with Marlene Crosby and Sparky Casebolt in regards to Roper Lane and the following was agreed upon:
1. Roper Lane from the intersection of River Front Road to 305 Roper Lane be built up and smoothed to a reasonable driving surface and to a width of 20' with turnouts every approx. 600'

2. Roper Lane from 305 to Lot TBD (furthest east) be smoothed to a reasonable driving surface and to a width of 15'

3. It was discussed with Marlene that a bridge inspection discussion will be put on the agenda for the annual meeting of the Lost Canyon Bridge Association."

The applicant contracted with Robert L. Williams, P.E. of Williams Engineering to complete a bridge analysis and rating. In a letter dated November 7, 2019, Williams stated:

"…A complete structural analysis of the bridge components was beyond the scope of work for the recertification and was deemed unnecessary by Williams Engineering based on the fact that an analysis had been performed in detail in 2008 by SHE. Williams Engineering relied on the SHE certification but performed a detailed inspection of the bridge on November 7, 2019 to determine if there was any factors of if there was any deterioration of the components that would impact the past rating. The concrete abutments, metal stringers, floor beams, trusses, bolt connections, rivet connections, and guard rail were inspected in detail. Special attention was given to the floor beams and the truss connections which were the control element in the past SHE rating.
The results of the inspection disclosed there were no deterioration to the metal or wood elements that would impact the past rating. The certified bridge rating by SHE and as

posted on the bridge for 17 Tons, 26 Tons, 27 Tons for the sign with three trucks, or 17 Tons for the single weight limit is still applicable for the referenced bridge.

It is recommended that the association budget funds to paint or spot paint selected areas on the bridge within the next 10 years. There are several locations where the paint is peeling and blistering and if they are not addressed it will cause some deterioration to the metal elements. It is imperative that proper surface preparation be undertaken prior to painting the metal elements to avoid shortening the life duration of the metal elements. It is further recommended that the Association perform a yearly inspection of the bridge with particular attention given to the wood decking and runners. We discussed several minor repair items which you indicated would be performed as soon as possible."

Additionally, a site map of the improvements required to Roper Lane that shows the road and width, the pull-outs, and any culverts needed was submitted on October 19, 2019. A waiver from the Gunnison County Road and Bridge standards is required for this application and is being processed by the Gunnison County Public Works Department. The Board of County Commissioners did initially approve the waiver request and that approval is pending Land Use Change application approval.

Section 12-104: *Public Trails*.
Not applicable, there is no public trail existing or proposed on this site.

Section 12-105: *Water Supply*.
Applicable, the applicant proposes individual wells on the lots and has indicated that they are working with the Upper Gunnison River Water Conservancy District to contract for augmentation water purchase. A copy of the application has been sent to the Colorado Division of Water Resources for review and comment.

Comments from Megan Sullivan, in a letter dated May 31, 2019 state:

"For subdivisions created after 1972, Section 37-92-602(3)(b)(III), C.R.S., requires that the cumulative effect of all wells within the boundaries of a subdivision be considered when evaluating material injury to decreed water rights. The source of the proposed water supply would be from, or tributary to, the Gunnison River. This area of the Gunnison River is now over-appropriated; therefore, a court decreed plan for augmentation plan is required to offset depletions caused by the pumping of any wells, including any existing wells, within the subdivision. For the three proposed residential lots, the applicants indicated they will obtain contracts with the Upper Gunnison Water Conservancy District for augmentation water however copies of the completed contracts were not included in the referral materials.

As I indicated above, without a description of the original parcel to be subdivided, for the purposes of well permitting we would view this proposal as a subdivision of a 198+ acre parcel that results in three lots of less than 35 acres and a remainder parcel of 183+ acres. Therefore all wells within the 198+ acre parcel must be included in a plan for augmentation. However, if the boundaries of the original parcel to be subdivided are defined as a portion of the 198+ acres, then wells on any portion not included in the description, would not be subject to the consideration of cumulative effect and therefore may qualify as exempt from administration which does not require a plan for augmentation. Please note, in an over-appropriated area, wells that are exempt from administration may not serve a lot in a subdivision created after 1972, even if the exempt well is not located on the subdivision lot.

No information was provided concerning the physical adequacy of the water supply. As stated in CRS 30-28-133(3)(d), the subdivider is required to submit "Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed."

Adequate evidence is usually provided in the form of a water resource report, prepared by a professional engineer or water consultant, which addresses the quality, quantity, and dependability issues. A report of this nature was not provided.

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that material injury will occur to decreed water rights unless the applicant obtains and maintains valid well permits for all the wells within the boundaries of the subdivision, including the existing well, pursuant to a court approved plan for augmentation, such as the one approved for Upper Gunnison River Water Conservancy District in case no. 03CW108. Due to the lack of information, we are unable to comment on the physical adequacy of the water supply for the subdivision."

Follow up comments from Megan Sullivan in a letter dated July 23, 2019 state:

"The Applicant also indicated that there are many residential wells in the vicinity of the proposed subdivision serving similar size lots for similar purposes. In reviewing our records, I found that several wells on nearby parcels with a reported range of production rates from eight gallons per minute to fifteen gallons per minute. While not all of the records for these wells provided the length of time of the pump test, a few did indicate a test of one and a half to two hours. If the new wells for this subdivision have similar production rates, the water supply should be physically adequate to supply the ordinary in-house needs for a single family dwelling. Please note that the long term adequacy of any ground water source may be subject to fluctuation due to hydrological and climatic trends.

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the proposed water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. § 37-90-137(2) and the plan for augmentation issued to Upper Gunnison River Water Conservancy District, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of said plan for augmentation."

The applicant has submitted a copies of Contract Nos. ASP 19-228A, 229A, and 230A for purchase of one half acre of augmentation water from the Upper Gunnison River Water Conservancy District for each of the proposed three subdivision lots.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*
Applicable, the applicant proposes that the individual lots be served by OWTS. A copy of the application has been sent to the Environmental Health Official for review and comment. Comments were received from Crystal Lambert, Environmental Health Official in an email dated May 17, 2019 and stated, "The Environmental Health Office has no concerns about application LUC-19-00012 for Albert and Angela Roper. The proposed parcels can accommodate on-site wastewater treatment systems (OWTS) that meet the minimum requirements of the Gunnison County OWTS Regulations."

Section 12-107: *Fire Protection*.
Applicable, the proposed development is located within the Gunnison Fire Protection District. The application was referred to the Gunnison Fire Protection District and no comments were received.

Section 13-103: *General Site Plan Standards and Lot Measurements.*
The site plan for this proposed development must meet the site plan criteria of this section, including proposed and existing roads, driveways, lot lines, building sites, and natural features of the site. The site plan, "Roper Subdivision North, Site Map, revised 06/29/2019," meets these criteria.

Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.*
This section applies; the proposed improvements meet the setback requirements.

Section 13-105: ***Residential Building Sizes and Lot Coverages.***
Applicable, the maximum residential square footage allowed, without a Land Use Change permit, is 10,000 square feet.

Section 13-107: ***Installation of Solid Fuel-Burning Devices***
Applicable, this section shall apply at the time of building permit application and any solid fuel-burning devices proposed shall comply with this section.

Section 13-108: ***Open Space and Recreation Areas***
Not applicable, no requirement of open space is required for this application.

Section 13-109: ***Signs.***
There are no signs proposed as part of the submitted application.

Section 13-110: ***Off-Road Parking and Loading.***
The number of parking spaces complies with Appendix Table 3 and this section**.**

Section 13-111: ***Landscaping and Buffering.***
Applicable, a landscaping plan is not required to be submitted for a minor impact residential subdivision. The Planning Commission has not indicated that landscaping be installed. Landscaping exists on the property already, no alterations are proposed.

Section 13-112: ***Snow storage****.*
Applicable, the applicants will need to provide adequate area for snow storage. The application has been sent to Public Works for review and comment and no concerns were stated related to snow storage.

Section 13-113: ***Fencing***
Applicable, this section applies and any fencing proposed shall comply with this section. Fence-out requirements are noted in the proposed covenants. Any fencing installed on the subject properties shall comply with the recommendations from Colorado Parks and Wildlife and be "wildlife friendly."

Section 13-114: ***Exterior Lighting.***
Applicable, this section applies and any exterior lighting proposed shall comply with this section.

Section 13-115: ***Reclamation And Noxious Weed Control.***
Applicable, a reclamation permit is required for road cutting and/or construction, homesite clearing and berm construction.

Section 13-116: ***Grading And Erosion Control.***
Applicable, grading activities are required to secure a Reclamation Permit from the Public Works Department, pursuant to Section 13-115: *Reclamation and Noxious Weed Control*.

Section 13-117: ***Drainage, Construction And Post-Construction Stormwater Runoff.***
Not applicable, the proposed development is not within 100 feet of water body nor does it create more than 10,000 square feet of impervious surface area.

Section 13-118: ***Water Impoundments.***
Not applicable, this project does not propose a water impoundment.

Section 13-119: ***Standards to Ensure Compatible Uses.***
The proposed development has been designed in a manner that will not adversely affect the character and tranquility of nearby residential or public use areas.

Article 15: ***Right-to-Ranch Policy****.*

This section is not applicable; there are no agricultural lands that will be affected by the uses on the subject parcel.

FINDINGS:
The Gunnison County Planning Commission finds that:

1. This project is classified as a Minor Impact.

2. The load rating of the Lost Canyon bridge was completed by SEH, Inc. on January 24, 2008.

3. An updated load rating and analysis was completed by Robert L. Williams, P.E. of Williams Engineering on November 7, 2019.

4. A waiver of the Gunnison County Road and Bridge standards has been requested and is being processed by the Gunnison County Public Works Department.

5. The applicant has contracted with the Upper Gunnison River Water Conservancy District, in Contract numbers 19-228A, 19-229A, and 19-230A for the purchase of augmentation water for the proposed three subdivision lots; the remainder ranch parcel is not required to purchase augmentation water.

6. This application is consistent with the standards and requirements of this *Resolution*.

7. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Community Development file relative to this application; including all exhibits, references and documents as included therein.

DECISION:
The Gunnison County Planning Commission, having considered the submitted plan, site observations and public testimony, has reached the above Findings and recommends that LUC-19-00012 be classified as a Minor Impact, and be approved with the following conditions:

1. This permit is limited to activities described within the “Project Description” of this application, and as depicted on the Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.

2. In compliance with the recommendations from CPW, bear-proof trash containers shall be required on each of the lots of this development.

3. The proposed subdivision shall be located as defined in the revised Land Use Change Application from April 28, 2019. Specific building permits and development proposals will be reviewed on a case-by-case basis for impacts to Gunnison Sage-grouse habitat.

4. A Gunnison County Reclamation Permit shall be required for any site disturbing activities on this parcel greater than 10,000 square feet. That permit shall contain specific reclamation conditions. Disturbed areas shall be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix.

5. For activities not requiring a Reclamation Permit, disturbed areas shall be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

6. Per Section 11-106 G.3.h of the Gunnison County *Land Use Resolution*, no additional roads, routes, or trails may be constructed on the property without additional review by Gunnison County for impacts to Gunnison sage-grouse and their habitats.

7. Per Section 11-106: I of the Gunnison County *Land Use Resolution*, design of fences other than those with agricultural operations shall ensure they do not adversely impact wildlife. Woven wire fencing shall not be allowed for perimeter fencing or as interior cross fencing. Perimeter and cross fencing shall be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication Fencing with Wildlife.

8. Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species. The Gunnison County Weed Management Program should be contacted (970-641-4393) for additional information and technical assistance.

9. Per Section 11-106 G.3.d.1. of the Gunnison County *Land Use Resolution*, dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

10. Per Section 11-106 G. e. of the Gunnison County *Land Use Resolution*, unless pre-empted by Federal or State law, all non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and quail), shall be imported only from a source certified by the State of Colorado to be disease free. Prior to importation of any species of gallinaceous game-birds to this parcel, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation (movement onto the property) of any wild birds, as defined above, shall occur without written approval by Gunnison County.

11. To help protect Gunnison sage-grouse habitat, it is recommended that all undeveloped areas of the parcel remain in native vegetation. Disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix. A separate analysis will be required, which may include additional conditions, for any development not addressed in this site analysis.

12. A street sign shall be installed at Roper Lane.

13. The painting or spot paint of selected areas on the bridge shall be completed by December 31, 2029, as recommended in the letter from Robert L. Williams, P.E. dated November 7, 2019.

14. An inspection of the bridge with particular attention given to the wood decking and runners shall be completed annually with documentation of the inspection submitted to the Gunnison County Public Works Department.

15. A survey plat, prepared by a surveyor registered in the State of Colorado prepared in compliance with the standards of Section 6-105: K. *Specifications for Subdivision Plats* shall be submitted prior to review of this application by the Board of County Commissioners.

16. A Development Improvements Agreement is required for this subdivision. The following plans shall be part of the agreement and cost estimates for the improvements to the road shall be submitted:

    - Roper Lane Subdivision Plat, prepared by Del-Mont Consultants Inc.

- Final Cost Estimates and site plan showing road turnouts, prepared by Albert and Angela Roper dated October 19, 2019

17. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

18. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

19. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

20. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2020 - ___

A RESOLUTION APPROVING THE SUBDIVISION APPLICATION FOR
LUC-19-00012
ALBERT AND ANGELA ROPER

WHEREAS, Albert and Angela Roper propose proposing the subdivision of four total lots on an approximately 189-acre parcel. The lots proposed are as follows:

Lot 1- 3.37 acres
Lot 2- 3.38 acres
Lot 3 – 8.22 acres
Lot 4- 174 acres (remainder of ranch)

The applicants propose that the subdivision lots be served by individual wells and on-site wastewater treatment systems. The applicant also proposed covenants on the lots that prohibit detached second residences, require membership in Lost Canyon Bridge Association, and agricultural language relative to fence out requirements and confinement of domestic animals.

The subject parcel is legally described as being located in Sections 28, 33, and 34, Township 51 North, Range 1 East, N.M.P.M., Gunnison County, Colorado. Generally, the property is located 8 miles northeast of the City of Gunnison; approx. ½ mile east of Highway 135, on the east side of the Gunnison River.

WHEREAS, a joint public hearing was conducted by the Planning Commission and Board of County Commissioners on September 6, 2019 and December 20, 2019; and

WHEREAS, after a review of the application and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, at its regular meeting on December 20, 2019 forward to the Board of County Commissioners a Recommendation of approval of that application with certain Findings and Conditions;

NOW, THEREFORE, the Board hereby adopts the Planning Commission's Recommendation, with these Findings:

1. This project is classified as a Minor Impact.

2. The load rating of the Lost Canyon bridge was completed by SEH, Inc. on January 24, 2008.

3. An updated load rating and analysis was completed by Robert L. Williams, P.E. of Williams Engineering on November 7, 2019.

4. A waiver of the Gunnison County Road and Bridge standards has been requested and is being processed by the Gunnison County Public Works Department.

5. The applicant has contracted with the Upper Gunnison River Water Conservancy District, in Contract numbers 19-228A, 19-229A, and 19-230A for the purchase of augmentation water for the proposed three subdivision lots; the remainder ranch parcel is not required to purchase augmentation water.

6. This application is consistent with the standards and requirements of this *Resolution*.

7. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Community Development file relative to this application; including all exhibits, references and documents as included therein.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, approves the Roper Lane Subdivision for LUC No. 2019-00012 as recommended by the Planning Commission, with the following conditions:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.

2. In compliance with the recommendations from CPW, bear-proof trash containers shall be required on each of the lots of this development.

3. The proposed subdivision shall be located as defined in the revised Land Use Change Application from April 28, 2019. Specific building permits and development proposals will be reviewed on a case-by-case basis for impacts to Gunnison Sage-grouse habitat.

4. A Gunnison County Reclamation Permit shall be required for any site disturbing activities on this parcel greater than 10,000 square feet. That permit shall contain specific reclamation conditions. Disturbed areas shall be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix.

5. For activities not requiring a Reclamation Permit, disturbed areas shall be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

6. Per Section 11-106 G.3.h of the Gunnison County *Land Use Resolution*, no additional roads, routes, or trails may be constructed on the property without additional review by Gunnison County for impacts to Gunnison sage-grouse and their habitats.

7. Per Section 11-106: I of the Gunnison County *Land Use Resolution*, design of fences other than those with agricultural operations shall ensure they do not adversely impact wildlife. Woven wire fencing shall not be allowed for perimeter fencing or as interior cross fencing. Perimeter and cross fencing shall be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication Fencing with Wildlife.

8. Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species. The Gunnison County Weed Management Program should be contacted (970-641-4393) for additional information and technical assistance.

9. Per Section 11-106 G.3.d.1. of the Gunnison County *Land Use Resolution*, dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

10. Per Section 11-106 G. e. of the Gunnison County *Land Use Resolution*, unless pre-empted by Federal or State law, all non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and quail), shall be imported only from a source certified by the State of Colorado to be disease free. Prior to importation of any species of gallinaceous game-birds to this parcel, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation (movement onto the property) of any wild birds, as defined above, shall occur without written approval by Gunnison County.

11. To help protect Gunnison sage-grouse habitat, it is recommended that all undeveloped areas of the parcel remain in native vegetation. Disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix. A separate analysis will be required, which may include additional conditions, for any development not addressed in this site analysis.

12. A street sign shall be installed at Roper Lane.

13. The painting or spot paint of selected areas on the bridge shall be completed by December 31, 2029, as recommended in the letter from Robert L. Williams, P.E. dated November 7, 2019.

14. An inspection of the bridge with particular attention given to the wood decking and runners shall be completed annually with documentation of the inspection submitted to the Gunnison County Public Works Department.

15. A survey plat, prepared by a surveyor registered in the State of Colorado prepared in compliance with the standards of Section 6-105: K. *Specifications for Subdivision Plats* shall be submitted prior to review of this application by the Board of County Commissioners.

16. A Development Improvements Agreement is required for this subdivision. The following plans shall be part of the agreement and cost estimates for the improvements to the road shall be submitted:

    - Roper Lane Subdivision Plat, prepared by Del-Mont Consultants Inc.

- Final Cost Estimates and site plan showing road turnouts, prepared by Albert and Angela Roper dated October 19, 2019

17. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

18. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

19. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

20. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted on this ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Jonathan Houck, Chairperson

_____
Roland Mason, Commissioner

_____
John Messner, Commissioner

ATTEST:

_____
Gunnison County Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

RESOLUTION NO. 2019-____

A RESOLUTION WAIVING CERTAIN PROVISIONS OF THE GUNNISON COUNTY STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, REQUESTED BY ALBERT & ANGELA ROPER FOR ROPER SUBDIVISION

WHEREAS, a written petition by Albert & Angela Roper, was filed with the Board of County Commissioners of Gunnison County, Colorado, requesting a waiver of the Gunnison County Standard Specifications for Road and Bridge Construction ("Standards and Specifications") and

WHEREAS, the request is to waive the "Standards and Specifications" for Roper Lane from the intersection of Dragon Lane and Roper Lane to Lot #2 and Lot #3, from 22 feet wide to 16 feet wide.

WHEREAS, the Board has conducted a duly noticed public hearing regarding that petition.

THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO FINDS that Albert & Angela Roper for Roper Subdivision has established by clear and convincing evidence that:

1. The waiver is warranted by site specific conditions that make compliance with the Standards and Specifications technically unfeasible; and

2. The waiver will not adversely affect the safe, efficient and orderly movement of motorized and non-motorized traffic; and

3. The waiver will not adversely affect health and safety; and

4. The waiver will not cause substantial injury to the owner of occupant of adjacent land(s); and

5. The waiver will not cause substantial injury to the environment; and

6. The waiver will provide the functional equivalent of the "Standards and Specifications".

THEREFORE, the Board of County Commissioners of Gunnison County, Colorado resolves as follows:

1. Width of Roper Lane:

   A 16' wide road from the intersection of Dragon Lane and Roper Lane to the emergency access turn-around at the end of Roper Lane serving Lot #2 and Lot #3 is approved.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and adopted this ___ day of December , 2019.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By _____
Jonathan Houck, Chairperson

By: _____
John Messner, Vice Chairperson

By: _____
Roland Mason, Commissioner

ATTEST:

_____
Deputy County Clerk