

**GUNNISON COUNTY PLANNING COMMISSION  
REGULAR MEETING MINUTES  
Thursday, June 16, 2022**

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The Gunnison County Planning Commission conducted a regular meeting in the Planning Commission Meeting Room in the Blackstock Government Center, 221 N. Wisconsin, Gunnison, Co. and on Zoom **Present:**

Chairperson- Laura Daniels	Director of Community and Economic Development-
Vice-Chairperson-Andy Sovick	Cathie Pagano
Commissioner-Matt Schwartz	Senior Planner – Rachel Sabbato
Commissioner-Fred Niederer	Manager of Administrative Services- Beth Baker
Alt Commissioner- Beth Appleton	Others present as listed in text

**Absent:** Commissioner Julie Baca

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With a quorum present Chairperson Daniels opened the June 16, 2022 regular meeting of the Planning Commission.

Moved by Niederer seconded by Schwartz to approve Planning Commission meeting minutes, dated May 19, 2022. The motion passed unanimously.

Unscheduled citizens: None

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**Johnson Colorado Trust- One Lot Subdivision (LUC-21-00067):** The Gunnison County Planning Commission and the Board of County Commissioners conducted a joint public hearing. Applicants Johnson Colorado Trust, represented by Jacob With Law of the Rockies is proposing to uncluster two subdivision lots back to the originally platted subdivision lots. The lot cluster was approved in 2019. November 2021 the applicant submitted this subdivision application back to the planning commission. This would result in one lot of approximately 11 acres and one lot of just over 1 acre, all as originally approved from the original plat. Located -Lots 1 and 2, Wolf Canyon Subdivision, County of Gunnison; AKA 588 Wolf Canyon Dr. Taylor Park, Co.

Board of County Commissioners Liz Smith, Roland Mason, and Jonathan Houck attended the joint public hearing.

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

Manager of Administrative Services Beth Baker confirmed adequate public notice. The staff had the notice published in the CB News and the Gunnison Country Times. The applicant submitted the certified mailing receipts and the confirmation of posting.

Attorney for the applicant's Jacob With gave a brief description of the proposal. He noted there is a house under construction on lot one; the lot had been clustered previously, and he pointed out where the house is. There are also homes on several of the surrounding lots. They are requesting unclustering/ subdividing the lots they had previously clustered. This would return the lots back to the originally platted configuration. The trust owns multiple lots. They had thought there would be setback issues, but the house location was moved out of the setbacks. They then decided to uncluster/subdivide the lot, bringing it back to the original configuration, on the original plat. There had been a subdivision exemption plat application brought before the Board of County

Commissioners (BOCC) that was denied. Lot two meets the acreage requirements for building and septic. Lot one is one of the larger lots in the subdivision. The applicants have offered no further subdivision of lot one.

Planner Sabato displayed the original plat; she explained this subdivision would reestablish the original platted lots lines. Colorado Parks and Wildlife (CPW) concerns were sufficiently addressed.

Daniels pointed out CPW is limiting building activity between May 15 to June 30. Sabato noted this has been managed in other approvals, referring to the letter from CPW. Sovick agreed.

Appleton asked if the covenants prevent further subdivision; With said no further subdivision is acceptable and could be included in the commissioner's recommendation.

President of the POA Steve Sumption asked for some clarification as to why this was denied the first time. Daniels explained the applicants used subdivision exemption, and it was the wrong process.

Daniels said the POA had submitted a letter of approval. This does not set a precedent each application is considered on its own merits.

The commissioners reviewed the draft recommendation.

Daniels closed the joint public hearing.

Moved by Neiderer seconded by Schwartz to approve the recommendation of LUC-21-00067 to the Board of County Commissioners; the subdivision as described in the approved recommendation.

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**PROJECT DESCRIPTION:**

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The applicant is proposing to uncluster two subdivision lots that were originally approved as two separate lots in Wolf Canyon Subdivision. A lot cluster was approved in 2019. In September 2021 the applicant applied for a subdivision exemption to uncluster the lots (LUC-21-00033), however the Board denied this application- see this document under attachments.

November 2021 the applicant submitted this application to the planning commission to subdivide these lots back to the originally platted subdivision lots. This would result in one lot of approximately 11 acres and one lot of just over 1 acre, all as originally approved from the original plat. The Lots have a generally easterly drainage pattern. At this time, no driveways, parking or structures are requested as part of the land use application as all driveways, parking and structures would remain subject to the approval for the subdivision and approved in accordance with the subdivision documents.

The subject parcel is legally described as Lots 1 and 2, Wolf Canyon Subdivision, 588 Wolf Canyon Drive, Tincup Area.

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**PLANS/REPORTS/SUBMITTALS:**

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Plans, reports, letters and other submittal documents informing this decision include, but are not limited to:

- Plat of Wolf Canyon Subdivision
- Restrictive Covenants for Wolf Canyon Subdivision August 2021.
- Existing well permits for each lot.
- Colorado Parks and Wildlife referral comments letter, dated March 20, 2022.

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#### **IMPACT CLASSIFICATION:**

The project, by definition, is a Minor Impact pursuant to *Section 6-102: Projects Classified as Minor Impact Projects. A: 2-4 Units that are subdivision lots.*

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#### **MEETING DATES:**

The Planning Commission and the Board of County Commissioners held work sessions and a joint public hearings to discuss the application on the following dates:

- April 21, 2022                      Work session
- No Site Visit
- June 16, 2022                      Joint Public Hearing

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#### **SITE VISIT:**

The Planning Commission determined that a site visit was not necessary.

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#### **PUBLIC HEARING:**

The Planning Commission conducted a joint public hearing on June 16, 2022. Comments received include:

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#### **REVIEW AGENCY REFERRAL COMMENTS:**

A copy of the complete application was sent via electronic mail on February 8, 2022 to the following agencies: Gunnison County Public Works- Marlene Crosby and Edward Casebolt, Gunnison County Environmental Health and Building Official – Crystal Lambert, Gunnison Ranger District Forest Service- Jon Hare Realty Specialist, Colorado Parks and Wildlife -Area Wildlife Manager Gunnison Brandon Diamond, Colorado Department of Water Resources-Megan Sullivan.

Comments from the agencies and are noted in the applicable sections below.

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

##### **Section 10-102: *Locational Standards for Residential Development.***

Applicable. The subdivision is not adjacent to an existing population center or within any municipal three mile plan. The location (which was already previously approved) will result in no significant net adverse impact to the neighborhood. In this context, the neighborhood is essentially the Wolf Canyon Subdivision. The homeowners association has consented to this application, which demonstrates that the association does not perceive any net adverse impact. Further, this subdivision will not change the impacts from what existed in 2019. This will return to the lots 1 &

2 to the 2019 original plat and, accordingly, there is no net impact. In addition, the requested Lot 1 is approximately 10 times the size of any other lot in the subdivision and the requested Lot 2, as previously platted, is comparable in size to the other lots in the subdivision. As all lots are more than one acre, there are no wastewater concerns. Accordingly, there will be no significant net adverse impact to the neighborhood.

**Section 10-103: Residential Density.**

Applicable, both lots will be greater than 1 acre. The density will not increase above what was previously in place in 2019 under the original subdivision approval. Under 10-103 C. 3., lot size and lot density are required to be substantially similar to neighborhood parcels. The proposed parcel sizes are the pre-existing neighborhood parcels. The proposed parcel sizes are approximately equal to or, in the case of Lot 1, substantially larger than, the neighborhood parcels. Accordingly, 10-103 C. 3. a. and b. do not apply to this proposal. Applicant understands that the lots will remain subject to wastewater treatment requirements. There is no applicable three mile plan. The standards of 10-103 have been met.

**Section 11-103: Development in Areas Subject to Flood Hazards.**

Applicable. According to Gunnison County GIS mapping, a 100 year floodplain is located along the bank of the river throughout this property. Any development within this area would require a floodplain permit from Gunnison County and would need to comply with the current FEMA regulations for dwellings in a floodplain.

**Section 11-104: Development in Areas Subject to Geologic Hazards.**

Not applicable. According to Gunnison County GIS mapping there are no geologic hazards in this area.

**Section 11-105: Development in Areas Subject to Wildfire Hazards.**

Applicable. According to Gunnison County GIS mapping wildfire hazards in this area are moderate to high. Any future development would require a wildfire mitigation plan per this section.

**Section 11-106: Protection of Wildlife Habitat Areas.**

Applicable. A letter from Colorado Parks and Wildlife dated March 20, 2022 from Philip Gurule, District Wildlife Manager has been provided. The letter cites recommendations for big game, black bear and household pets including, "CPW recommends that if there is

future construction within the parcels, that clustered development is still considered. Clustering infrastructure and human activity reduces habitat fragmentation, promotes wildlife movement, and reduces the overall impact and loss of habitat. Additionally, fences should be minimized to facilitate wildlife movement and reduce a potential source of wildlife mortality. CPW recommends that fence construction, whether wire, wood, electric, or synthetic, be wildlife friendly (not exceed 42 inches in height and not restrict movement of elk or deer). "Fencing with Wildlife in Mind" is a landowner resource available from CPW to help design and construct wildlife friendly fences that suit their needs."

A letter from the applicant's attorney, Jacob With, dated June 2, 2022 has been supplied and provides response and narrative for 11-106. G that shows how they meet this standard. Philip

Gurule from Colorado Parks and Wildlife has reviewed this narrative and in an emailed dated June 7, 2022 he stated, "It looks like they address everything. I do not have any concerns."

**Section 11-107: *Protection of Water Quality.***

Applicable. This section shall apply to all Land Use Change Permit applications that involve uses within 125 feet of water bodies and mudflow hazard areas in unincorporated areas of Gunnison County. The lots are within 125 feet of Willow Creek, however no activities are proposed within 125 feet of Willow Creek.

**Section 12-103: *Road System.***

Applicable. Currently, the proposed subdivision and existing residences are accessed by the existing Wolf Canyon Drive from Forest Service road 765. No changes are proposed. Ed Casebolt from Gunnison County Public Works provided an email dated February 11, 2022 stating, "I have reviewed this, and appears that access is not an issue."

**Section 12-105: *Water Supply.***

Applicable. Each resulting lot has an existing well and the permits are included in the application file.

**Section 12-106: *Sewage Disposal/Wastewater Treatment.***

Applicable. A new On-Site Treatment System (OWTS) will be required for any new development.

**Section 13-103: *General Site Plan Standards and Lot Measurements.***

Applicable. The proposed subdivision is in compliance of standards of this section.

The site plan/plat for this proposed development 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, "Johnson Minor Subdivision Lots 1 & 2, Wolf Canyon Subdivision," prepared by Pearson Surveying and dated November 19, 2021 meets these criteria.

**Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.***

Applicable. The proposed subdivision is in compliance of standards of this section.

The site plan/plat for this proposed development 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, "Johnson Minor Subdivision Lots 1 & 2, Wolf Canyon Subdivision," prepared by Pearson Surveying and dated November 19, 2021 meets these criteria.

**Section 13-105: *Residential Building Sizes and Lot Coverages.***

Applicable. Any future improvements shall comply with the standards of this section.

**Section 13-108: *Open Space and Recreation Areas***

Applicable. The proposed subdivision complies with the standards of this section.

**Section 13-109: *Signs.***

Applicable. No signs have been requested with this application.

**Section 13-110: *Off-Road Parking and Loading.***

Not Applicable. The applicant is not requesting any changes to the off-road parking and loading as permitted and approved for Wolf Canyon Subdivision.

**Section 13-115: *Reclamation And Noxious Weed Control.***

Applicable. Reclamation and noxious weed control required at time of building permit and driveway construction application. A reclamation permit is required for road cutting and/or construction, homesite clearing and berm construction.

**Section 13-116: *Grading And Erosion Control.***

Applicable. Compliance with this Section is required at the time of building permit/driveway application. 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.***

Applicable. Compliance with this Section is required at the time of building permit/driveway application.

**FINDINGS:**

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The Gunnison County Planning Commission finds that:

1. This project is classified as a Minor Impact.
2. This application is consistent with the standards and requirements of this *Resolution*.
3. This proposal will return lots 1 & 2 to the originally approved Wolf Canyon subdivision plat.
4. A residence is currently under construction on lot 1, BP-20-00216, and meets setbacks.
5. 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.

**RECOMMENDATION:**

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The Gunnison County Planning Commission, having considered the submitted plan, site observations and public testimony, has reached the above findings and recommends that LUC-21-00067 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. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
3. 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.
4. The wildlife recommendations per the letter from Philip Gurule, Colorado Parks and Wildlife District Wildlife Manager, dated March 20, 2022 shall be met.
5. 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.

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

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**Larry Darrien- One Lot Subdivision (LUC-22-00002):** The Gunnison County Planning Commission and the Board of County Commissioners conducted a joint public Hearing. The applicant is proposing to subdivide 1.427 acres from the 185.24-acre Darien Ranch. The proposed use of the lot is a single-family unit with an ADU. The water source will be provided by an existing well (Permit #83104-F) who's court decree of augmentation is 16CW3033. The septic will be served by a County approved OWTS. Access will be from Gunnison County Road 3 (approved application dated 5/1/98 attached). The access will be along the North side of the Darien Ranch Lodge along the old alignment of County Road 3. All utilities (electricity and phone) are on site. Located-186.587 acres in Sections 20 & 21, T11S, R88W, County of Gunnison; AKA 2880 County Rd. 3, Marble, Co.

Board of County Commissioners Liz Smith, Roland Mason, and Jonathan Houck attended the joint public hearing.

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

Manager of Administrative Services Beth Baker confirmed adequate public notice. The staff had the notice published in the CB News and the Gunnison Country Times. The applicant submitted the certified mailing receipts and the confirmation of posting.

Planner Sabbato explained the site meets the one-acre requirement for a subdivided lot. The property access will be from County Rd. 3. There is a 20 ft. easement across the lodge property that will give the new lot its access point. The two lots will share the access. An Onsite Waste Water System (OWTS) envelope has been identified. Quite a bit of the ranch is in a land conservation easement. The Aspen Valley Land Trust support Darien's request. The Ranger District had no concerns.

Applicant Darrien gave a brief description of the application. He is subdividing 1.4 acres off of his 185-acre ranch. He is considering building a residence. He is surrounded by his conservation easement. There is 1.5 acre building site, he can build 5,000 sq. ft. total of living space on the conservation easement.

Daniels pointed out County public works and the Carbondale Fire District were both on site to review the landscaping plan.

The commissioners reviewed the draft recommendation.

Daniels closed the joint public hearing.

Moved by Sovick seconded by Niederer to approve LUC-22-00002, the subdivision as described in the approved recommendation.

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**PROJECT DESCRIPTION:**

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The applicant is proposing to subdivide 1.427 acres from the 185.24-acre Darien Ranch. The proposed use of the lot is a single-family unit with an ADU. The water source will be provided by an existing well (Permit #83104-F) who's court decree of augmentation is 16CW3033. The septic will be served by a County approved OWTS. Access will be from Gunnison County Road 3 (approved application dated 5/1/98 attached). The access will be along the North side of the Darien Ranch Lodge along the old alignment of County Road 3. All utilities (electricity and phone) are on site. According to this application, the estimated amount of new traffic would be 20 trips.

The subject parcel is legally described as a track of land situated in the SE ¼ NE ¼ and the NE ¼ SE ¼ of Section 20 and the NW ¼ SW ¼ of Section 21, all in Township 11 South, Range 88 East of the Sixth Principal Meridian described further in Exhibit A Warranty Deed.

2880 County Road 3, Marble Colorado.

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### **PLANS/REPORTS/SUBMITTALS:**

Plans, reports, letters and other submittal documents informing this decision include, but are not limited to:

- OWTS feasibility report by Sopris Engineering dated January 26, 2022.
- Draft Plat, Miracle Acres, dated 2.1.2022 by Sophris Engineering.
- Aspen Valley Land Trust letter of support in regards to existing conservation easements on adjacent Darien parcels.
- Water Decree, Case Number: 2016CW3033 and 06CW244
- Well Permit No. 83104-F
- Existing Conditions Site Maps by Sopris Engineering, dated January 26, 2022.
- Colorado Geologic Survey review letter from Jill Carlson dated April 12, 2022.

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### **IMPACT CLASSIFICATION:**

The project, by definition, is a Minor Impact pursuant to *Section 6-102: A: 2-4 Units that are subdivision lots.*

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### **MEETING DATES:**

The Planning Commission and the Board of County Commissioners held work sessions and a joint public hearings to discuss the application on the following dates:

- April 21, 2022                      Work session
- No Site Visit
- June 16, 2022                      Joint Public Hearing

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### **SITE VISIT:**

The Planning Commission determined that a site visit was not necessary.

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### **PUBLIC HEARING:**

The Planning Commission conducted a joint public hearing on June 16, 2022.

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### **REVIEW AGENCY REFERRAL COMMENTS:**

A copy of the complete application was sent via electronic mail on March 22, 2022 to the following agencies: Gunnison County Public Works- Marlene Crosby and Edward Casebolt, Gunnison County Environmental Health and Building Official – Crystal Lambert, Colorado Department of

Water Resources-Megan Sullivan, Forest Service White River National Forest, Aspen-Sopris Ranger District District Ranger Kevin Warner, Colorado Geological Survey Engineering Geologist Jill Carlson.

Comments from the agencies and are noted in the applicable sections below.

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

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**Section 9-100: E. and F: *Uses Secondary to a Primary Residence.***

Applicable. One secondary residence over the garage is proposed and will meet the standards of this section at the time of building.

**Section 9-102: *Home Occupations.***

Applicable. Allowable under proposed covenants and Land Use Resolution standards per this section.

**Section 10-102: *Locational Standards for Residential Development.***

Applicable. The proposed new lot is not adjacent to an existing population center, although being on County Road 3 on which there is considerable development to the Town of Marble, it can be considered part of the Marble population area. No development in the Marble area is served by central sewer. An OWTS plan will be 100 feet from all permitted water wells and will meet all setbacks from the Crystal River and property lines, as shown on Map C-1. The proposed lot has no significant net adverse impact to the neighborhood.

**Section 10-103: *Residential Density.***

Applicable. The proposed lot has no significant net adverse impact to the neighborhood. The lot is located adjacent and west of the Darien Ranch Lodge which is on approximately 2 acres. South across the Crystal River are 9 rustic cabins and a summer only house on about 12 acres with a small, irrigated pasture for grazing livestock. To the west is the USFS White River National Forest. To the north across Gunnison County Road 3 is 282 acres of dryland and irrigated pasture used for grazing livestock. In addition, the plat notes referenced above as to design and use ensure that there is no net adverse impact and that it is compatible with the neighborhood. As shown on Map C-1. The proposed lot is located adjacent and west of the Darien Ranch Lodge which is on approximately 2 acres. Farther to the East located on approximately 7 acres are 2 apartments. South across the Crystal River is 9 rustic cabins and a summer only house on about 12 acres with a small irrigated pasture for grazing livestock. By virtue of the surrounding uses and the standards to be established in the plat notes, the Lot will be compatible with surrounding lots and uses.

**Section 11-103: *Development in Areas Subject to Flood Hazards.***

Applicable. According to Gunnison County GIS mapping there is a small area in the southwest corner that is mapped as a floodplain. No development is proposed for this area.

**Section 11-104: *Development in Areas Subject to Geologic Hazards.***

Applicable. Referral comments from Jill Carlson, Engineering Geologist from Colorado Geological Survey stated in a letter dated April 12, 2022, "In the Existing Conditions Site Plan (Sopris Engineering, LLC, January 26, 2022), the building envelope on proposed Lot 1 is set back a sufficient distance from the crest of the slope above the Crystal River to reduce risk of damage due to erosion and shallow slope failure. CGS agrees with the county's GIS that no geologic hazards have been mapped in this area that would preclude development of one additional residence and ADU. CGS therefore has no objection to approval of LUC-22-00002 as proposed."

**Section 11-105: *Development in Areas Subject to Wildfire Hazards.***

Not applicable. This parcel is not mapped as a high wildfire hazard

**Section 11-106: *Protection of Wildlife Habitat Areas.***

Applicable. This is a developed stretch of area along county road 3 with existing homes. Kevin Warner, Forest Service White River National Forest, Aspen-Sopris Ranger District, provided in an email dated April 14, 2022, "The White River National Forest has reviewed the LUC-22-00002 application and have no comments on this application."

**Section 11-107: *Protection of Water Quality.***

Applicable. Unless otherwise exempted, this Section shall apply to all Land Use Change Permit applications that involve uses within 125 feet of water bodies and mudflow hazard areas in unincorporated areas of Gunnison County, except as exempted in Section 11-107: C. 1.: Exempt, and Section 11-107: C. 2.: Partially Exempt. Wetlands are considered a waterbody, a wetland delineation may be a required component of this. From the ridge above the river, there is a 25 foot setback as shown on map C-3. After a building permit is issued a silt fence and waddles will be installed for run-off protection of the river.

**Section 12-103: *Road System.***

Applicable. The driveway to the East portion of the lot will use the existing Gunnison County driveway permit dated May 1, 1998 for access from County Road 3. Shown on map Preliminary Submittal, Miracle Acres. The driveway will then use a dedicated easement along the old abandoned County Road 3 on the North edge of the Darien Ranch Lodge lot. The newly created lot will require a new access permit from County Road 3."

Gunnison County public works referral comments included, "We met with Larry Darien and Carbondale Fire on Larry's proposed subdivision of one lot by the bridge. We will not require an emergency access turnaround for this new lot. The applicant indicated he had to do some tree and bush planting on the boundary of his lot, parallel to the road. I agree he needs to do some landscaping, but that corner is critical for visibility for safety. It probably will not be a issue while the trees and bushes are young, but as they grow it will become a safety issue."

**Section 12-105: *Water Supply.***

Applicable. Water supply includes existing well and water augmentation in place. See Water Decree Case No. 06CW244 and Case Number: 2016CW3033. Well permit 83104-F from Division of Water Resources. Referral was sent to Colorado Department of Water Resources, Megan Sullivan, no comments were provided.

**Section 12-106: *Sewage Disposal/Wastewater Treatment.***

Applicable. A separate OWTS at the time of building is proposed for any future improvements, a site has been identified and approved per the feasibility report by Sopris Engineering dated January 26, 2022.

**Section 12-107: *Fire Protection.***

Applicable. Bill Gavette from the Carbondale Fire Protection District provided an email dated April 14, 2022 stating, "I have reviewed the application for the Darien property in Marble and have visited the site along with Gunnison County staff. I would offer the following comments.

1. Access to the building site is adequate directly off of County Road 3 and it would be our preferred access for firefighting operations rather than attempting to use the proposed new driveway access.
2. Under the standards of land use change permit, landscaping and buffering, a buffer of trees and shrubs from County Road 3 is proposed. Due to visibility and safety issues involving the road curve between the proposed lot and the county road bridge, I would recommend that the line of site along the inside of the curve be maintained or improved. Planting of additional vegetation in that area that might obstruct the line of sight at the curve should be avoided."

**Section 13-103: *General Site Plan Standards and Lot Measurements.***

Applicable. 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, Miracle Acres, dated February 1, 2022 by Sopris Engineering, meets these criteria.

**Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.***

Applicable. The proposed improvements meet the setback requirements per Miracle Acres draft plat, dated February 1, 2022 by Sopris Engineering.

**Section 13-105: *Residential Building Sizes and Lot Coverages.***

Applicable. No building on a parcel equal to or larger than 6,500 sq. ft. shall exceed 5,000 sq. ft. and the aggregate of all structures shall not exceed 7,000 sq. ft. The primary residence built on the lot will not exceed 5,000 square feet. The secondary unit will not exceed 1200 square feet. The aggregate of all structures will not exceed 7,000 square feet.

**Section 13-110: *Off-Road Parking and Loading.***

Applicable. Residential use is proposed and will be reviewed for compliance with the standard at the time of building.

**Section 13-111: *Landscaping and Buffering.***

Applicable. There would be a buffer for the house from County Road 3 for about 200 feet. Starting near the bridge. The buffer would consist of 2 shade trees, 2 understory trees and 2 shrubs. This is the minimum requirement of the LUR. The new landscaping will be planted in locations acceptable to the Gunnison County Road and Bridge Department and will not grow to block line of sight.

**Section 13-112: *Snow storage.***

Applicable. Compliance will be met at the time of building permits.

**Section 13-114: Exterior Lighting.**

Applicable. Compliance will be met at the time of building permits.

**Section 13-115: Reclamation And Noxious Weed Control.**

Applicable. Compliance will be met at the time of building permits. A reclamation permit is required for road cutting and/or construction, homesite clearing and berm construction.

**Section 13-116: Grading And Erosion Control.**

Applicable. Compliance will be met at the time of building permits.

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.**

Applicable. Since this proposal is located near wetlands, ditches and in an area that has a high-water table drainage and water run-off plans will be crucial to implement for the building sites and access road(s). A detention pond area is designated for run-off water on Preliminary Map, Miracle Acres. The pond or bio-swale shall be designed for the hard surfaces before building permit is issued. This would look like a grassy swelled area and when full, would sheet drain into the ditch long County Road 3.

**FINDINGS:**

The Gunnison County Planning Commission finds that:

1. This project is classified as a Minor Impact.
2. This application is consistent with the standards and requirements of this *Resolution*.
3. A twenty-foot access easement for the new subdivided lot across the adjacent Darien lodge parcel will provide access to the property line.
4. Existing water wells, decrees and augmentation plan from previous water court cases (Water Decree, Case Number: 2016CW3033 and 06CW244) are in place and are sufficient.
5. An on-site waste water treatment system feasibility report by Sopris Engineering dated January 26, 2022 has been completed and provides adequate assessment and approval of this site.
6. This site has been reviewed for geologic hazards by Colorado Geologic Survey Engineering Geologist, Jill Carlson, per a letter dated April 12, 2022 she states, "CGS has no objection to approval of LUC-22-00002 as proposed."
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.

**RECOMMENDATION:**

The Gunnison County Planning Commission, having considered the submitted plan, site observations and public testimony, has reached the above findings and recommends that LUC-22-00002 be classified as a Minor Impact, 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. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
3. 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.
4. This subdivided lot has an access easement to the property line across the adjacent Darien lodge parcel. A new driveway application for this parcel shall be required at the time of building.
5. A landscaping plan shall provide a buffer for the house from County Road 3 for 200 feet starting near the bridge. The new landscaping will be planted in locations acceptable to the Gunnison County Road and Bridge Department and will not block line of sight on County Road 3.
6. 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.
7. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

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**Casa Rio LLC (LUC-22-00012)**: The Gunnison County Planning Commission conducted a public hearing. They reviewed the applicant's request to construct a single-family residence larger than 5,000 sq. ft. per *Section 6-102 B of the Gunnison County Land Use Resolution*. The structure will be approximately 5,484 sq. ft. of living space and approximately 736 sq. ft. of garage, for a total of approximately 6,220 sq. ft. Located on Lot 21, Wilder on the Taylor Subdivision.

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

Manager of Administrative Services Beth Baker confirmed adequate public notice. The staff had the notice published in the CB News and the Gunnison Country Times. The applicant submitted the certified mailing receipts and the confirmation of posting.

Planner Sabato displayed the perspective photos for an overview and refresher. The photos show how well the house will be screened. The natural color scheme will blend into the area. Utilities will be underground; the house will be built low on the site and the exiting vegetation will add screening. The commissioners had previously determined no site visit was required.

Applicant's attorney Kendal Burgemeister gave a brief description of the application. This an application for a structure over 5,000 sq. ft. It was triggered by the no obtrusive visibility criteria. Neutral colored siding, a building envelope, and the natural topography are all being used. He also explained the landscaping plan, the architectural design, and noted the location of utilities will be underground.

Daniels discussed the comments from Colorado Parks and Wildlife (CPW) concerning the elk migration corridor. The applicants have sited the home as far from the corridor as possible and the wildfire interface has been addressed.

Sabbato said the applicant's narrative was sent to CPW. CPW had no further comments. The wildlife and wildfire standards have been met.

Sovick noted this is the first application that has come before the commissioners since the minimum square footage was lessened. It seems to have worked, the wildlife, wildfire and impacts to neighbors were reviewed.

The commissioners reviewed the draft decision.

Daniels closed the joint public hearing.

Moved by Schwartz seconded by Sovick to approve LUC-22-00012, construction of a 5,484 sq. ft. of living space and approximately 736 sq. ft. of garage, for a total of approximately 6,220 sq. ft., as described in the commission's approval.

### **PROJECT DESCRIPTION:**

The Applicant is requesting approval for a single-family residence larger than 5,000 square-feet per Section 6-102. B. of the Land Use Resolution. The structure will have approximately 5,484 square-feet of living space, and approximately 736 square-feet of garage, for a total of approximately 6,220 square-feet.

The subject parcel is legally described as Lot 21, Wilder on the Taylor Subdivision.

### **PLANS/REPORTS/SUBMITTALS:**

Plans, reports, letters and other submittal documents informing this decision include, but are not limited to:

- Fire Mitigation Assessment by G.E. Chonka dated March 1, 2022
- Grading, Erosion & Sedimentation Control Plan dated February 3, 2022.
- Grading Plan Features, dated February 3, 2022
- Geotech report by Mountain Geotech dated February 8, 2022.
- Perspective photos of proposed house site dated March 7, 2022.
- Site and Landscaping plan dated March 7, 2022.
- Colorado Parks and Wildlife letter dated April 22, 2022 from District Wildlife Manager, Philip Gurule.

### **IMPACT CLASSIFICATION:**

The project, by definition, is a Minor Impact pursuant to *Section 13-105: Residential Building Sizes and Lot Coverages*.

### **MEETING DATES:**

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

- |                 |                |
|-----------------|----------------|
| • May 19, 2022  | Work session   |
| • Not needed    | Site Visit     |
| • June 16, 2022 | Public Hearing |

**SITE VISIT:**

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The Planning Commission determined that a site visit was not necessary.

**PUBLIC HEARING:**

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The Planning Commission conducted a public hearing on June 16, 2022. Comments received include:

**REVIEW AGENCY REFERRAL COMMENTS:**

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A copy of the complete application was sent via electronic mail on April 4, 2022 to the following agencies: Colorado Parks and Wildlife- Philip Gurule, Gunnison County Public Works Marlene Crosby and Edward Casebolt, Gunnison County Environmental Health and Building Official-Crystal Lambert, and Fire Marshal Hugo Ferchau. Comments from the agencies and are noted in the applicable sections below.

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

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**Section 9-100: *Uses Secondary to a Primary Residence.***

Not applicable. No secondary uses are proposed at this time. Allowable under covenants and LUR standards.

**Section 11-104: *Development in Areas Subject to Geologic Hazards.***

Applicable. Gunnison County GIS mapping shows that the project area is generally within “unstable slope” and “potentially unstable slope” geologic hazard areas. A geotechnical report was produced by Mountain Geotech (Kari Roberts, PE). The report concludes that the proposed building site is suitable for construction of the proposed residence and OWTS.

**Section 11-105: *Development in Areas Subject to Wildfire Hazards.***

Applicable. A wildfire mitigation assessment and plan have been completed. A wildfire disclosure will be issued at the time of building permits and the fire mitigation plan will need to be maintained for the life of the property. While the project site touches the edge of the extreme wildfire hazard area, the slope of the project area is less than 30 percent. A wildfire assessment was completed in 2019 by Jerry Chonka. Wildfire mitigation work was subsequently completed and a re-assessment was completed by Mr. Chonka in 2022, both of which are in the file. The roof will be made of noncombustible “Class A” materials and pitched.

**Section 11-106: *Protection of Wildlife Habitat Areas.***

Applicable. This corridor is identified as a crucial migration corridor by Colorado Parks and Wildlife (CPW). A letter was provided by Philip Gurule, CPW District Wildlife Manager on April 22, 2022 with specific recommendations stated for big game along with other species. The conclusion states, “Since the summer of 2021, CPW has been conducting a comprehensive analysis of elk and mule deer migratory movements using data derived from radio collared animals. This analysis corroborates that the Wilder on the Taylor subdivision includes an important ‘pinchpoint’ for an elk migration route that we refer to as the East-Gunnison Basin Ungulate Corridor (EGBUC). Some elk utilizing the EGBUC travel 70 miles between the summer range in northeastern Gunnison County and winter range in the San Luis Valley on the eastern side of the Continental

Divide. Based on radio collared animals documented using the Wilder on the Taylor pinch-point, and current elk population estimates, upwards of 1,000 – 3,000 animals are migrating across this property each spring and fall between the Almont Triangle and wintering grounds to the south. Wild elk generally avoid housing developments, which has been corroborated in scientific studies elsewhere (Cleveland et al. 2012), in Colorado (Wait and McNally 2004, Goad et al. 2014), and through recent GPS collar analysis in the Gunnison Basin. This pinch-point of the EGBUC occurring on Wilder on the Taylor is highly constricted; potential alternative routes are limited based on the rugged topography, snow depth, and vegetation of the surrounding landscape within the Taylor River corridor. It's unknown how elk will respond and/or adapt to increased development and associated human activity within this migratory pinch-point, with what may be limited opportunity for mitigation. Over time, however, increased development will promote an increase in human activity such as vehicle traffic, road maintenance and recreation.”

Per the CPW letter it has been determined that this parcel is a critical migration corridor and under the LUR definition of Wildlife is categorized as a Sensitive Wildlife Habitat area. The applicant shall comply with Section 11-106: Protection Of Wildlife Habitat Areas:G.1-3 General Standards For Development In Sensitive Wildlife Habitat Areas. The applicant has provided a narrative of how compliance has been met for this standard. See attachments titled “VanBrunts response and further CPW comments”. This narrative was sent to CPW for further review of how it complies with Section 11-106.G.1-3.

Per reviewing the applicant's response with Philip Gurule, CPW District Wildlife Manager, he stated in an email dated May 12, 2022 that “While there are inaccuracies in the VanBrunt response letter, those inaccuracies, even if corrected, won't be changing the overall impact [in terms of big game issues]. We are good to go and don't need any further clarification on anything”.

**Section 11-107: *Protection of Water Quality.***

Not applicable. Not applicable as building site is 125 back from the Taylor River, however site fencing is proposed on the site map provided.

**Section 11-108: *Standards for Development on Ridgelines.***

Not applicable, according to Gunnison County GIS mapping this building envelope is not sited on a ridgeline.

**Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.***

Applicable. This application meets the requirements of this section.

**Section 13-105: *Residential Building Sizes and Lot Coverages.***

Applicable. The standards of this section have been met.

**F. Building Envelope.**

All proposed buildings will be confined within the building envelope and will share same services and, are located in the same drainage and share the same driveway.

**G.1.a. Minimize visibility of structure by siting.**

Dan Murphy, architect, states, “Efforts were made in the design of the Van Brunt residence to reduce the overall mass of the structures, so they blend into the natural environment.

This home is broken up into four connected smaller structures. The garage/bedroom module is partially underground and is behind the main living area module. The exterior materials used help the home blend into its natural surroundings. We have a dark standing seam metal roof, reclaimed wood for beams, trusses, siding and fascia, and natural stone.

**G.1.b. Minimize visibility of structure by screening.**

The trees on the river side were left in place and have been limbed for fire mitigation only. There are many existing trees in between the home and highway. The home and building envelope were moved farther East to be shielded by even more trees. Please see the “Perspective photos of proposed house site” dated March 7, 2022 and the “Site and Landscaping plan” dated March 7, 2022.

**G.1.c. All utilities are and will be installed underground.**

In a brief letter from Daniel J. Murphy Architect, PC is attached (Exhibit 9). The narrative describes how the architectural design, materials, and existing vegetation minimize the visibility of the structure. Architectural illustrations of the residence (Exhibits 10 and 11), and perspectives showing the residence from the Taylor River Road (Exhibit 12) are also attached to illustrate the concepts discussed in the letter. The attached landscaping plan (Exhibit 8a) illustrates the existing vegetation along the Taylor River that will screen the residence from the Taylor River Road, as well as vegetation that will be planted within the building envelope that will also provide a visual buffer. All utilities are and will be installed underground.

**Section 13-108: *Open Space and Recreation Areas***

Not Applicable. The building envelope allowed by the Wilder Association governing documents is approximately 1.42 acres. Therefore, no less than 33.58 acres will remain undeveloped and available for the ongoing agricultural operation at Wilder.

**Section 13-110: *Off-Road Parking and Loading.***

Applicable. The LUR requires 2 parking spaces per residence for up to 3 bedroom residence; and one additional space for each additional bedroom in the residence. The residence will have 5 bedrooms, therefore 4 parking spaces are required. The residence includes a 2-car garage and 3 additional outside parking areas are shown on the site plan.

**Section 13-111: *Landscaping and Buffering.***

Applicable. A landscaping plan pursuant to 13-111.E is not required. However, landscaping is part of the Applicant’s strategy to minimize visibility pursuant to Section 13-105.G and is discussed above.

**Section 13-115: *Reclamation And Noxious Weed Control.***

Applicable. The disturbed area is greater than 10,000 feet, a reclamation permit will be obtained. A portion of the property approximately 1,100 feet, and further, away from the project area is Tier I sage grouse habitat. The project area is Tier II sage grouse habitat. The property is subject to a Certificate of Inclusion under the Candidate Conservation Agreement with Assurances For the Gunnison Sage-grouse in Colorado Between Colorado Parks and Wildlife and The U.S. Fish and Wildlife Service. The Declaration for Wilder includes a Weed Management Plan which the

Applicant will follow. The Applicant completed a pre-application conference with the Gunnison Sage Grouse coordinator, and received Certificate of Administrative Review 2022-13 (Exhibit 18). A reclamation permit is required for road cutting and/or construction, homesite clearing and berm construction. **No excavation or disturbance of ground is proposed.**

**Section 13-116: Grading And Erosion Control.**

Applicable. The attached plan set includes illustrations and a description of the grading and erosion control plan.

**Section 13-119: Standards to Ensure Compatible Uses.**

Applicable. The proposed land use will not adversely affect the character and tranquility of nearby residential uses. The project is approximately 700 feet from the nearest residential structure and is screened by existing mature vegetation along the Taylor River. The project is a single-family residence that is in compliance with the Declaration for Wilder. While the proposed structure exceeds the new 5,000 square-foot threshold for minor impact review in the LUR, the project is well under the 9,000 square-foot aggregate limit on a primary residence, secondary residence, and garage included in the Declaration for Wilder. Many residences in excess of 3500 square-feet have already been constructed within Wilder, and the vast majority of those under 3500 square-feet were intended to be classified as the secondary "Guest House," allowed under the Wilder Declaration. The proposed residence is reasonably compatible with the surrounding land uses in terms of type of use, and the height and size of the structure.

**FINDINGS:**

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The Gunnison County Planning Commission finds that:

1. This project is classified as a Minor Impact.
2. This application is consistent with the standards and requirements of this *Resolution*.
3. The structure will have approximately 5,484 square-feet of living space, and approximately 736 square-feet of garage, for a total of approximately 6,220 square-feet
4. The parcel is mapped per Gunnison County GIS as having geologic and wildfire hazards.
5. Per the CPW letter it has been determined that this parcel is a critical migration corridor and under the LUR definition of Wildlife is categorized as a Sensitive Wildlife Habitat area.
6. The applicant shall comply with SECTION 11-106: Protection Of Wildlife Habitat Areas. A narrative has been provided of how compliance has been met for this standard. CPW has reviewed and approved this narrative.
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:**

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The Gunnison County Planning Commission, having considered the submitted plan, site observations and public testimony, has reached the above Findings and recommends that LUC-22-00012 be classified as a Minor Impact, and be approved with the following conditions:

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*.

1. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
2. 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.
3. The wildlife recommendations per the letter from Philip Gurule, Colorado Parks and Wildlife District Wildlife Manager, dated March 20, 2022 shall be met.
4. 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.
5. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

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**Jaynes Two Lot Subdivision (LUC-20-00037): Work Session.** The applicant proposes to subdivide an existing 37.61-acre parcel into two lots, a 19.21-acre Tract One and 18-acre Tract Two. The subject property is presently developed with an approximately 3,000 sq. ft. single-family residence constructed in the late 1950s and accessory structures. Located at 2399 State Highway 135, Crested Butte, Co. – 37.61 acres in Section 18, T14S, R85W.

With a quorum present Chairperson Daniels opened the work session.

Attorney David Leinsdorf and engineer Norman Whitehead represented the applicants. Owner/applicants Jay and Pam Jaynes were present.

Applicant Pam Jaynes said they had purchased the house in 1989 and moved in 1993. A subdivision into two parcels would enable them to put the lots into a trust for their children.

Attorney David Leinsdorf explained there is an existing 3,000 sq. ft. house and out-buildings on the site. The owners are proposing to divide the 37-acre parcel into two lots, one 19-acre parcel and one 18-acre parcel. He pointed out 89% of property will be open space. This is a mixed-use area. To the north and west Bill Lacy has an agricultural parcel, a single-family residence, and a special events arena. To the east there is a large agricultural parcel which is also used in the winter for car test track. To the south and south west there is residential property.

Director Pagano reviewed the staff report, focusing on the locational standards. There is a 21-acre parcel used by the applicants to illustrate this new subdivision would be sustainably similar. She noted the staff and County attorney do not agree the 21-acre parcel is a legally created parcel. A warranty deed with the exact description can not be found in the County records. The arena is not a county approved structure, but they conduct a fund raiser that they receive special events permits for. Leinsdorf and Whitehead disagreed and reiterated this is a legal 21-acre parcel.

The commissioners discussed leap frog development and the likelihood this subdivision would fit the description.

Daniels asked about the highway creating a different neighborhood. Pagano explained historically a highway can cause a demarcation /separate neighborhood. Pagano said the applicants have provided a proven water supply, with a well test that complies. The Colorado Division of Water Resources have provided comments confirming the water supply is adequate.

Leinsdorf illustrated the lot on screen, the property will be essentially be divided in half. He said the Lacy and Dow 21-acre parcel was created in 1952.

Whitehead described surveying protocols. He affirmed the 21-acre adjacent lot is a legal lot. It was created in an eminent domain procedure. It is a separate parcel, created in 1952. Pagano explained a deed with that exact legal description is required and the County staff has not seen that. The County attorney does not agree that this is a legally created parcel. The 21-acre adjacent parcel is being used as a similar parcel by the applicants.

Daniels pointed out the County tries to prevent leap frog development, to discourage sprawl. Leinsdorf said there are much smaller lots in the area.

The commission determined a site visit was necessary and a work session following that.

Daniels closed the work session at 11:30 a.m.

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**Wildfire Urban Interface and Building Codes: (BC-22-00001) Work session.** Discussion of County wildfire policy recommendations.

With a quorum present Chairperson Daniels opened the work session.

Director Pagano explained in the past month the Community Development staff has been meeting with Fire District and Public Works staffs, regarding the water supply section. In those discussions with both Public Works and the Fire District, they all felt comfortable with the road and bridge access standards. They also discussed the water supply section in the WUI code. Based on that feedback a proposed a draft recommendation, amendments to LUR and the WUI code were written. The Planning Commission will make a recommendation, the Board of County Commissioners (BOCC) will conduct a public hearing.

Building Official Crystal Lambert presented examples of constructed homes in different hazard zones. She said heavy timber is significantly fire resistant. She discussed hazard level mapping, conforming water supply, conforming defensible space, vent locations, and vegetation management plans to reduce fire hazards.

Lambert explained vegetation a management plan is a powerful tool, but it would have to be maintained.

The staff reviewed the amendments proposed. Lambert discussed the WUI code amendments, working with Public Works and the Fire District, the proposed code is more stringent than the WUI code in some areas.

Gunnison Fire District noted concerns with sufficient signage and addressing. CB Fire strongly supports the access standards.

West Region Wildfire Council Jamie Gomez said he has concerns with West Region Wildfire Council staff capacity. They will delay implementation, using that time to develop capacity and perhaps the private market will may play a part. The State Forest Service is an education extension, not a regulatory agency.

The commissioners will conduct another work session to further review the code.

Daniels closed the work session at 1:55 p.m.

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The June 16, 2022 Planning Commission meeting was adjourned at 2:00 p.m.

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/s/ Beth Baker  
Gunnison County Community and Economic Development