

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
Thursday, October 6, 2022**

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	Planner- Sean Pope
Commissioner- Julie Baca	Planner/ Manager of Administrative Services- Beth Baker
	Others present as listed in text

Absent: Commissioner Beth Appleton

With a quorum present Chairperson Daniels opened the October 6, 2022 regular meeting of the Planning Commission.

Moved by Baca seconded by Sovick to approve Planning Commission meeting minutes, dated September 8, 2022. The motion passed unanimously.

Moved by Baca seconded by Sovick to approve Planning Commission meeting minutes, dated September 15, 2022, as amended. The motion passed unanimously.

Unscheduled citizens Jeff Ewert and Mark Schwiesow, both residents of Allen Road were present to discuss the development on the Hunter property, on Upper Allen Rd. Ewert called it an “abomination” and requested help with regulating the berms, etc., that are going up on the property. Schwiesow was concerned the impact of the development would have on the migration corridor.

Assistant County Manager of Community and Economic Development Cathie Pagano explained the uses mentioned are within the agricultural exemptions. Also, the staff is looking into the gravel operation used for the roads on the site, and have issued a stop work order for that operation. She suggested the Ewert and Schwiesow work with the Crested Butte Land Trust to discuss and enforce the Trust’s easement.

Jaynes Two Lot Subdivision (LUC-20-00037): Continued Jt. Public Hearing; The Gunnison County Planning Commission and Board of County Commissioners conducted a continued joint public hearing. They reviewed the request 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.

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

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

Attorney for the applicants David Leinsdorf and engineer Norm Whitehead were both present for the discussion.

Leinsdorf reviewed the application and definition of neighborhood. He noted the Jaynes are proposing two roughly equal parcels of approximately 18-acres each. There is currently a 3,000 sq. ft., single family residence with barns and corrals on the original site. Bill Lacy grazes cattle on the 35-acre site. The Jaynes have offered a land conservation covenant, which would preserve 89% of the developable land.

Leinsdorf added there are several lots across the highway comparable or smaller in size than the proposed parcels. He noted the 21-acre parcel created by condemnation, has been confirmed as a legal parcel and it is of similar size to the proposed parcels. There are also two small single-family residences across the highway.

Pagano summarized the review as work sessions, a site visit, a public hearing and a continued public hearing. The applicant had requested the County Attorney's opinion on the legal status of the 21-acre lot across the highway. The County Attorney is no longer asserting this is an illegal parcel. There has been public comment received both in support and against the project. Attorney Marcus Locke submitted comments, stating the 21-acre parcel is a legal parcel.

County attorney Alex San Filippo-Rosser suggested the commissioners review Section 10-103 C-3 when considering the 21-acre parcel across the highway as a legal parcel.

Chairperson Daniels questioned if there were no conservation covenant placed on the subdivision, what kind of development could happen there. Leinsdorf said based on the difficulty of getting approval and the irrigation, very little. He added in the neighborhood there could be 35-acre development. Whitehead said there are very few dry areas that could be developed, possibly three or four. The irrigation could be dried up and then there could be higher density.

Realtor Maggie Dethloff said there have other smaller parcels up and down the valley. It will definitely be protected if the conservation covenant is in place.

Commissioner Niederer asked if the conservation covenant is a contract between the land owners and the BOCC. BOCC Mason explained a recorded covenant runs with the land.

BOCC Houck asked for an explanation of a covenant versus an easement. Attorney Rosser said a covenant runs with the land. Ultimately, an easement can be more of a contract.

Pagano asked if the covenant is on the entirety of the parcel. Leinsdorf said it covers 89% of the developable land.

BOCC Smith asked how a covenant impacts the parcel. Pagano said it limits future opportunities. However, this would still have created two smaller size lots, which a future applicant could refer to, in any future applications, in the surrounding area.

Staff and the commissioners discussed neighborhood. Pagano presented the *Gunnison County Land Use Resolution* regulations. Pagano explained the definition of lot size and density

considerations, includes- lot size and lot density shall be substantially similar to neighborhood parcels. County Attorney Matt Hoyt agreed there are both lot size and density considerations.

Commissioner Baca said very few neighborhoods are split by a highway.

Pagano said the Rozman Ranch did a subdivision in 1993. Reading from the Land Use file it was noted the parcels did not meet the criteria, but were approved because of the Rozman ranching family needs.

BOCC Houck said the highway dividing them makes them very different. The 1993 Rozman decision document was conditioned upon; although they did not meet the standards they were a ranching family and that was taken under consideration. He said there are different opinions of what constitutes a neighborhood. The 1993 County decision states it did not comply with the regulations at that time.

Chairperson Daniels asked where community values come in. Pagano explained the purpose of the LUR is to preserve character and promote compact development. Also, it discourages sprawl.

County Attorney Hoyt added the LUR also directs the commission to protect the rural character.

BOCC Houck said legal nonconforming uses are being brought into the discussion, but they can be set aside because they were done before we had the current regulations.

BOCC Mason said he is very concerned with development of smaller lots and these two lots could create a neighborhood of 18-acre parcels.

Commissioner Sovick noted a highway dividing a neighborhood is difficult to find. However, it seems odd the lots across the highway would not be considered in the neighborhood. The applicant sent certified mailing to everyone within 500 ft., including the parcels across the highway. He said although the Rozman lots are non-conforming, at the end of the day those parcels would be looked at as part of the neighborhood. Commissioner Schwartz agreed with Sovick and referred to Parlin as an example.

BOCC Houck said even if everyone within 500 ft. of the parcel boundaries receives a notice, it doesn't make it a neighborhood. He reiterated the lots created earlier were created outside current land use regulations.

BOCC Smith asked Sovick to consider it as adjacent versus a neighborhood. Sovick said the lots across the highway are not adjacent. The homeowners across the road are neighbors, therefore it is a neighborhood. Houck said they tend to problem solve together, neighbors and being neighborly. A neighborhood addresses common areas as in North Elk Meadows.

Commissioner Schwartz pointed out the 400-acre parcel adjacent to this parcel can be divided into 35-acre parcels without any county process.

Leinsdorf agreed the notices sent to everyone within 500 ft. is evidence of what a neighborhood is. The definition does not call out a highway or a road division. He pointed out Donna Rozman supported the application. The Division of Wildlife said it will not interfere with the elk migration. Historically when creating lots that are the same size of the lots in the area, in can be approved.

Engineer Whitehead pointed out the Buckhorn Subdivision is adjacent to this parcel. Buckhorn is very dense, with small lots. Dethloff said we should consider CB South north, this proposal is placing houses off the highway, and protecting 89% of property they are working collaboratively with the county to limit the development. BOCC Houck said a Buckhorn development would require extensive infrastructure.

Following the discussion, it was; Moved by Baca to deny the subdivision request seconded by Daniels. Commissioners Baca and Daniels voted yes to deny, Commissioners Sovick, Niederer and Schwartz voted no.

Moved by Sovick seconded by Schwartz to approve the Planning Commission recommendation of LUC-20-00037, a two-lot subdivision. The motion passed with Commissioners Sovick, Schwarz, and Niederer voting yes to approve, and Commissioners Daniels and Baca voting no. The motion passed 3-2.

The Planning Commission reviewed the draft recommendation.

Daniels read the findings and the decision into the record.

Daniels closed the continued public hearing.

PROJECT DESCRIPTION:

The applicant proposes to subdivide an existing 37.621 acre into two lots, 19.21-acre tract 1 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.

The project proposes a new driveway to provide access to the proposed building envelope on Tract 2. The project proposes limiting the number of structures on tract 2 to four; including a single-family residence, an accessory dwelling unit, a barn, and a garage.

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 Jaynes application on the following dates:

- June 16, 2022 Work Session
- July 7, 2022 Site Visit
- July 7, 2022 Work Session
- September 8, 2022 Joint Public Hearing
- October 6, 2022 Joint Public Hearing

SITE VISIT:

The Planning Commission conducted a site visit on July 7, 2022 and observed the site and nearby parcels.

PUBLIC HEARING:

The Planning Commission and Board of County Commissioners conducted a joint public hearing on September 8, 2022 and October 6, 2022. Public comment included written comment from the following individuals:

- Donna Rozman
- Tim Szurgot
- Attorney Marcus Lock on behalf of Bill Lacy
- Nick and Mary Anne Chirekos

REVIEW AGENCY REFERRAL COMMENTS:

A copy of the complete application was sent via electronic mail to the following agencies: Colorado Parks and Wildlife; Colorado State Forest Service; Colorado Department of Transportation; Colorado Division of Water Resources; Crested Butte Fire Protection District; Gunnison County Environmental Health Official; Gunnison County Department of Public Works; Town of Crested Butte. 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, requested as part of this application. While no development is proposed at this time, the applicant has provided covenants that allow for one secondary residence. This secondary residence may be integrated or detached. The standards of this secondary residence are addressed in Section 3.1 of the *Declaration of Protective Covenants*. The secondary residence may be no less than 500 sq. ft. but no more than 1,200 sq. ft. of floor area in size.

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 Town of Crested Butte has a three-mile plan. The application was referred to the Town on May 6, 2022 and no comments were received.

The proposal is for a two-lot subdivision that would obtain its own well and septic system. The access would be conveyed on a shared access on Hwy 135. The applicant describes compliance with this Section on page 1 of the narrative: "The Jaynes property, 23990 State Highway 135, is within a municipal three-mile plan area...the Jaynes ranch proposal satisfies Section 10-102: 3 because splitting the Jaynes' 37.621-acre property roughly in half will result in no significant net adverse impact to the neighborhood."

Section 10-103: *Residential Density.*

Applicable, the application for subdivision must meet Section 10-103.C *Primary Residential Lot Size and Density Standards*.

1. *Compliance with Municipal Three Mile Plan Area:* This standard applies, the Town of Crested Butte has an adopted three-mile plan. The application was referred to the Town on May 6, 2022; no comments were received.
2. *Determination of Density Considers Sewage Disposal Requirements:* This requires that the density, location, and configuration shall be determined based on the feasibility of use of an Onsite Wastewater Treatment System (OWTS). The proposed Tract 2 meets the minimum lot size required for a septic system. The application was referred to the Environmental Health Official on May 6, 2022 and Crystal Lambert, Environmental Health Official noted that she did not have any comments on the application.
3. *Lot Size and Lot Density Considerations.* Lot size and lot density must be substantially similar to neighborhood parcels, unless the proposal can meet either standard (a) or (b).

The applicant proposes subdividing a 37.62 acre lot into two lots approximately 19 and 18 acres in size. The applicant has provided a map ("Assessor Map" in the project file, dated 8/3/2020) indicating the location of the residential lots located on the opposite side of Hwy 135. The adjacent lots range in size from 2.8 acres to 471 acres.

There are two adjacent lots to the subject property that were not included in the applicant's analysis. This includes a 189-acre lot to the west owned by Bill Lacy, and a 471-acre lot to the east owned by Lacy & Dow, LLC.

Further north and west of the residential lots provided by the applicant are one-acre lots that are part of the Whetstone Industrial Park.

Neighboring Parcel area and difference:

Neighboring Lot Area	Difference in Acres from Proposed Lot Area	Percent Difference from Proposed Lot Area
2.8 acres	15.7 acres	-85%
8.4 acres	10.1 acres	-55%
7.4 acres	11.1 acres	-60%
21 acres	13.6 acres	14%
189 acres	170.5 acres	922%
450 acres	421.5 acres	2332%

The neighboring lots detailed in the table above vary widely in size from each other and from the proposed subdivision lots. The smaller lots are located on the opposite side of Hwy 135 and the large agricultural lots are located adjacent to the subject property. The Planning Commission has reviewed the parcel mapping and visited the site.

An email from David Leinsdorf, dated October 20, 2020 states:

"1. The application complies with LUR Section 10-103:C-1-3, Residential Density, for the following reasons:

1.1 The Town of Crested Butte Area Plan recommends preserving five acres of open space for each new residential unit. The Jaynes' proposal preserves many times that amount. The property is not visible from Town. All of the wet areas, according to our engineer and your inspection, are due to irrigation.

1.2. *The Jaynes Subdivision comprises two lots of 18 acres each, far in excess of the one acre required for an on-site wastewater treatment system.*

1.3. *Lot size and lot density are substantially similar to neighborhood parcels:*

-Across Highway 135 from the Jaynes property is a 2.80-acre residential parcel owned by Donna S. Rozman.

-Near the Rozman parcel is an 8.4-acre residential parcel owned by Daniel E. Oberosler and Nola J. Oberosler. Adjacent to the Oberosler parcel is a 7.40-acre vacant agricultural parcel owned by Devon R. Wilson and Grayce M. Wilson.

-Lacy and Dow LLC owns a 21-acre agricultural parcel directly across Highway 135 from the Jaynes driveway."

The Planning Commission has determined that the parcels are on the west side of Highway 135 should be considered as part of the "neighborhood" and thus the proposed development is substantially similar to 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 parcel is not located within a mapped geologic hazard area.

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

Applicable, the parcel falls within a mixed wildfire risk; and the majority of the parcel area falls within a low or moderate wildfire hazard area. About half of Lot A is within a high wildfire risk area. The County has recently adopted updated wildfire mapping and the 2021 International Wildland Urban Interface Code, future structures shall be subject to updated mapping and applicable standards. Colorado State Forest Service did not provide any comments on this application.

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

Applicable, the parcel is not in an area defined as sensitive wildlife habitat. A copy of the application was referred to CPW for review. In a letter dated May 27, 2022, Philip Gurule, District Wildlife Manager states:

"Elk and deer inhabit this area, throughout the Slate and East River corridors. The area falls within an identified migration corridor, and serves as summer range for elk and deer.

Although this proposed subdivision is within a mapped migration corridor, it receives

proportionately lower ungulate use compared to the 'core' of this particular corridor which is further to the east. Reviewing the building envelope on tract 2, it appears that structures will be located on the south portion of the property that is closest to highway 135. CPW supports the location of the new building envelope, which will be in proximity to existing human infrastructure, thereby clustering development. This allows for the remainder of the property to stay open for wildlife movement and reduces habitat fragmentation. Additionally, we recommend that new fence construction be minimized to facilitate wildlife movement and reduce a potential source of wildlife mortality."

The letter goes on to recommend that if fencing is installed that it be wildlife friendly, that bear proof trash containers are used, and that dogs are kept under direct control by kenneling or leashing and that domestic cats' range be limited outdoors. The applicant submitted a response to the CPW letter indicating compliance with the above recommendations and revised the applicable covenant sections.

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

Not applicable, there are no wetlands or waterbodies on the subject property.

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, development is located on an existing road system, Highway 135.

At this time, no new road system is proposed; however, an access permit from CDOT Region 3 will be required when Tract 2 is developed. The property was developed more than 20 years ago and there is not an access permit for the existing egress point at SH 135, because at that time, CDOT did not require access permits. In an email dated May 10, 2022 from Kandis Aggen, CDOT Assistant Access Manager, stated: "We issued a permit in 2020 for the 2 parcels sharing the existing access - no additional accesses will be allowed per the state highway access code for this R-A category highway. We'd like to clarify that this new driveway is coming internally off the existing driveway.

If this is the case, CDOT issued the permit for one shared access point with a volume of 4 DHV - one single family home and one ADU on each lot and would have no further comment."

An easement providing Tract 2 egress to SH 135 is proposed on Tract 1. The easement is required to be 30 feet in width to accommodate emergency vehicle access. In an email dated May 30, 2022, Marlene Crosby, Gunnison County Public Works Director stated, "They have a current CDOT access off of HW #135 which I assume will have to be reviewed. I do not see any problem with the application."

Section 12-104: *Public Trails.*

Not applicable, there is no public trail existing or proposed on this site.

Section 12-105: *Water Supply.*

Applicable, current use and residential structures have adequate water supply. Additional water supply is required as part of this application.

The applicant has drilled an individual well to serve the new lot. The applicant proposes augmentation of the well through purchase of augmentation water from the Upper Gunnison River Water Conservancy District. The applicant has completed a 24-hour well pump test and submitted a report prepared by Norman Whitehead, P.E. The report and supporting information have been referred to the Colorado Division of

Water Resources for review and comment. Comments from Megan Sullivan, Water Resource Engineer, dated October 8, 2020 state,

“The applicant did indicate that they had contacted the UGWCD regarding a contract to operate under their augmentation plan, but a copy of a contract was not included in the submittal materials.

...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 1) restricts the use of the existing well to one of the two tracts of the subdivision and operates the well in accordance with the current permit, 156761-A, and 2) obtains and maintains a valid well permit for a well to serve the other tract pursuant to a court approved plan for augmentation, such as the one approved for Upper Gunnison River Water Conservancy District in case no. 03CW108. We recommend that prior to final approval of the subdivision, the County requires the applicant to provide copies of a valid permit issued pursuant to an approved augmentation plan for the other lot. However, due to the lack of information, we are unable to comment on the physical adequacy of the water supply for the subdivision.”

Staff requested additional comments from DWR since the water supply report was submitted in 2022 and in a letter dated April 18, 2022, Megan Sullivan states:

“In response to our original comments regarding information on the physical adequacy of the water supply, the applicant provided a well test report prepared by Norman Whitehead of NCW & Associates. The consultant indicated that on February 8, 2022, a 24-hour pump test was performed on a monitoring and observation well, constructed under well permit no. 322778 and located on the 37.6-acre parcel. According to the report the well was pumped at 15 gpm and the water level was drawn down from 56.2 feet above the pump to 11.5 feet above the pump over the 24-hour test period. Once the pump was shut off, the water level recovered to 30.2 feet above the pump within 66 minutes. An additional water level measurement taken on February 19, 2022 found the water level at 52 feet above the pump.

...Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that material injury will not occur as long as the applicant 1) restricts the use of the existing well to one of the two tracts of the subdivision and operates the well in accordance with the current permit, 156761-A, and 2) obtains and maintains a valid well permit for a well to serve the other tract pursuant to a court approved plan for augmentation, such as the one approved for Upper Gunnison River Water Conservancy District in case no. 03CW108. In terms of adequacy, if the wells serving the subdivision have or continue to have similar production rates as demonstrated in the well test, along with sufficient storage the water supply should be physically adequate for in-house purposes. Please note the long-term adequacy of any ground water source may be subject to fluctuation due to hydrological and climatic trends.”

Section 12-106: Sewage Disposal/Wastewater Treatment.

Applicable, a wastewater treatment system is required of the proposed development. The proposed lot meets the minimum lot size for installation of an OWTS. A copy of the application has been referred to the Environmental Health Official and, in an email, dated October 9, 2020 she stated that she has “no comments or concerns” regarding the application.

Section 12-107: Fire Protection.

Applicable, the application was referred to the Crested Butte Fire Protection District. In an email dated May 31, 2022, Ric Ems, Fire Marshal, stated: “CBFPD does not have any issues with the subdivision request as submitted. As you are aware, access, water supply and utilities will be addressed at a building permit stage.”

Section 13-102: Applicability

Applicable, the project is located within the Crested Butte Three Mile Area Plan.

The Area Plan recommends preserving five acres of open space for each new residential unit. The subdivision does not establish open space with an open space lot nor conservation easement but does propose a restrictive covenant on a portion of the new parcel that limits development. The application was referred to the Town of Crested Butte for comment on May 6, 2022 and no response was 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" dated March 31, 2022, prepared by NCW & Associates, Inc. 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 and shall be located within the defined building envelope.

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

Applicable, the proposed covenants limit residential building sizes as follows:

- One single family residence at least 1,500 sq ft and no more than 4,500 sq. ft.
- One attached or detached garage at least 500 sq ft and no more than 1,000 sq ft
- One detached secondary residence at least 500 sq ft and no more than 1,200 sq ft
- One barn no more than 1,500 sq ft
- The aggregate of all buildings shall not exceed 7,000 sq ft.

Section 13-107: *Installation of Solid Fuel-Burning Devices*

Applicable, per this Section no more than one solid fuel burning device shall be installed per single family residence. The covenants include this standard.

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, the applicant has noted that they will maintain existing vegetation.

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 and there appears to be adequate snow storage area along the proposed driveway.

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 parcels on the west side of Highway 135 are considered part of the "neighborhood" and thus the proposed development is substantially similar to neighborhood parcels.
3. The applicant has drilled an individual well on Tract 2 which requires the purchase of augmentation water from the Upper Gunnison River Water Conservancy District.
4. The subject parcel is adjacent to an existing agricultural operation.
5. This application is consistent with the standards and requirements of this *Resolution*.
6. 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-20-00037 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. The applicant shall purchase augmentation water and provide evidence of such purchase prior to the recordation of the final plat.
3. In compliance with the recommendations from CPW:
 - 1) Bear-proof trash containers shall be required on each of the lots of this development
 - 2) Any fencing installed shall be minimized and shall be “wildlife friendly” and comply with CPW guidance
 - 3) Dogs shall be kept under direct control by kenneling or leashing
 - 4) Domestic cats shall be kept indoors
4. Language regarding the confinement of domestic animals, Colorado’s “fence-out” requirements, and irrigation ditch maintenance shall be included on the final plat.
5. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
6. 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.
7. 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.
8. 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.

Watclarnone /Blue Mesa Bed and Breakfast (LUC-21-00023)public hearing: The applicant proposes a bed and breakfast, with a maximum of eight persons using the lodge per day. The lodge will have no more than five sleeping rooms. Property at 9380 West State Highway 50, parcel number 3985-000-00-012.

With a quorum present Chairperson Daniels opened the public hearing.

Manager of Administrative Services Beth Baker confirmed adequate public notice: the staff had the notice published in the Crested Butte News and the Gunnison Country Times, and the applicant has submitted the proof of posting and the certified mailing receipts.

Attorney for the applicant Kendall Burgemeister addressed the main requirements for a bed and breakfast pursuant to the land use regulation. The seven different criteria have been satisfied, maintain a residential appearance, maximum number of units – less than five, owner shall live on premises, receptions and meals not allowed, long-term rental or guests are not allowed, on-site parking required. He said this application meets the criteria.

Burgemeister explained there had been a county stop work order placed on the property. The owner had built the residence and septic system without County permits. A legal settlement agreement had been put in place and it requires the applicant to adhere to all the county land use, septic and building codes.

Planner Sabbato said Burgemeister had submitted a letter addressing the letter adjacent property owner Joe Russel’s attorney had submitted.

County Attorney Matt Hoyt explained this is unique application because the county has initiated action against the applicant, which resulted in a settlement agreement that governs the decision today. If there is an approval it must include the settlement agreement. He pointed out it is

important to understand what is decided by the commission today does not grant access, and approval is contingent on the settlement agreement. If the applicant does not prevail in court and get legal access, the decision today would be null. The access will be determined by the court. The staff is trying to work with the applicant to complete the settlement agreement, the land use application is part of that. But, the access is a private court issue and will not be decided by the Planning Commission. There is no dispute the settlement agreement is not complete; the applicant is required to obtain legal access and that will be decided in court.

Burgemeister pointed out the way the settlement agreement is structured is broken down into three components, land use, building code issues, and septic system issues. It is incorporated into the Planning Commission's decision. The preferred order of operation was to pursue the land use first. The client has attempted to comply with the stop work order.

Attorney for Joe Russell, Andrew Teske said they have submitted a letter to the commission concerning the access issue. Legal access to the road is required, and the applicant does not have a legal access to the road. The applicant has initiated legal action against Mr. Russell concerning the access. The court will decide if this is a publicly accessed road. He said the application should be denied, but if approved, it should be specifically noted in the decision the approval is entirely dependent on approval by the court as to access.

Burgemeister responded to the Teske comments. He has submitted a response to the letter. He described the driveway. He provided the private easements for the record. He noted the Public Works records refer to the road in question. Road 50 B is being contested as a public road. He contends the road is public. The court has the opportunity to confirm this is a public road.

Chairperson Daniels reiterated the commission will not be determining whether the access is public or not, because it is not in their purview.

Commissioner Schwartz pointed out the decision is based upon whether or not this complies with the bed and breakfast regulations.

Chairperson Daniels and County Attorney Hoyt reiterated this commission need not make a determination of access, because it is not before them. What is before the commission today is only the bed and breakfast use.

Niederer asked if there is a structure on the property to be used as the bed and breakfast. Sabato said yes, but it is now a residence.

Moved by Sovick **seconded** by Baca to approve LUC-21-00023 Watclarnone Lodge Bed and Breakfast. The motion passed unanimously.

The planning commission reviewed and discussed the decision document. County Attorney Hoyt said the findings are sufficient to enforce the settlement agreement.

Daniels closed the public hearing at 11:15 a.m.

PROJECT DESCRIPTION:

The applicant Danny Watson is seeking to rectify a land use violation where conditions of approval have been identified in the Gunnison County Settlement and Release Agreement that resulted from a lawsuit, case number 2019CV30027 in which Gunnison County pursued litigation. The Mutual Release and Settlement Agreement ("Settlement Agreement") states, "the parties, through this settlement agreement, seek to resolve and compromise this dispute without waiver of their respective legal positions and without anything in this agreement being construed as an admission of fact, liability or the state of the law regarding a particular issue involved in this case." The Settlement Agreement is attached in the land use file for reference and shall be made part of the record of the decision for this application.

Danny Watson proposes a bed and breakfast where people lead a prayerful life attempting to live healthily and sustainably causing no harm with minuscule environmental footprint. Maximum of 8 persons using the lodge each day, the lodge will have no more than 5 sleeping rooms. Persons bused in or escorted hiking or skiing from intersection of 50B and 50. Arrival or departure will be only once a week.

A small parking area will be on the property as shown on attached conceptual site plan to accommodate guests in the summer. In the summer guests are to be shuttled in to the lodge, three inter-visible pullouts approved by Gunnison County Public Works will be installed. In winter Watclarnone will park at the edge of 50B, off of State Highway 50. Winter access to the property will be via snow shoeing, ski touring and/or winter hiking.

The subject parcel is legally described as 238.59 Acres In TR 102 (E2NE4 & E2SE4) SECTION 12, 13 & TR 103 (W2NE4) SECTION 12 48N5W N.M.P.M. 9380 State Highway 50 West, Pine Creek Mesa/Blue Mesa Area. The applicant has an access easement along CR 50 B to the parcel that is 240 acres surrounded by agricultural parcels..

IMPACT CLASSIFICATION:

The project, by definition, is a Minor Impact pursuant to *Section 9-103: Bed and Breakfast*.

MEETING DATES:

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

- November 5, 2021 Work Session
- December 3, 2021 Public Hearing Canceled- no legal access
- September 15, 2022 Work Session litigation commenced for access
- October 6, 2022 Public Hearing

SITE VISIT:

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

PUBLIC HEARING:

The Planning Commission conducted a public hearing on October 6, 2022. Comments received include:

1. Email from Joe Russell on September 23, 2022.
"I am not a "happy camper" knowing that Watson has scheduled a community meeting to push for a so-called bed and breakfast on his property. It's not the bed and breakfast that

has me up in arms but the fact that he still doesn't have a legal easement through our property. As far as I'm concerned, he has still not completed the requirements of his contract with Gunnison County yet he is being allowed to file for a usage change to his property. I am not opposed to his plans for the "bed and breakfast". I want him to have a legal easement through our property before any changes are made. I plan on being at the meeting on Oct. 6 with expectations of being able to express my opinions."

REVIEW AGENCY REFERRAL COMMENTS:

A copy of the complete application was sent via electronic mail on September 28, 2021 to the following agencies. Comments from the agencies and are noted in the applicable sections below.

1. Gunnison County Public Works Director, Marlene Crosby.
2. Gunnison County Public Works Operations Manager, Sparky Casebolt.
3. Gunnison County Public Works Building and Environmental Health Official, Crystal Lambert.
4. City of Gunnison Fire Marshal, Hugo Ferchau.
5. Colorado Parks and Wildlife, Game Warden, Nick Gallowich.
6. CDOT, Colorado Department of Transportation, Assistant Access Manager Region 3 Traffic & Safety, Kandis Aggen & Brian Killian.

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

Section 9-103: *Bed and Breakfast*. Applicable. STANDARDS FOR OPENING AND OPERATING BED AND BREAKFAST. The following standards shall apply to operations of a bed and breakfast:

1. **MAINTAINING RESIDENTIAL APPEARANCE.** A structure used as a bed and breakfast shall not be altered in a way that changes its residential appearance or character. Applicant has stated, "We have no intentions of changing our lodge's appearance."
2. **MAXIMUM NUMBER OF UNITS.** The bed and breakfast shall not contain more than five separate sleeping rooms available to be rented to guests. Applicant has stated, "Our lodge will have no more than 5 sleeping rooms."
3. **OWNER SHALL LIVE ON PREMISES.** The owner or on-site manager shall live on the premises when the bed and breakfast is in operation. Applicant has stated, "Danny Watson will live on site."
4. **RECEPTIONS AND MEALS NOT ALLOWED.** There shall not be receptions, private parties, or similar activities for compensation, and no meals shall be served to the general public, unless expressly approved as part of the Land Use Change Permit. Applicant has stated, "We have no intentions to host receptions or private parties or serve meals to the public."
5. **LONG-TERM RENTAL OF GUEST ROOMS.** Long term rental of guest rooms shall not be permitted. The maximum length of any stay shall be 30 consecutive days. No cooking facilities, other than a microwave oven, shall be allowed in guest rooms. Applicant has stated, "We have no intentions of guests staying in rooms more than 30 days. Guest rooms will have no cooking facilities."
6. **ON-SITE PARKING.** Parking spaces shall be provided pursuant to Section 13-110: *Off-Road Parking and Loading*, and the minimum distances listed in Appendix Table 2: *Off-Road Parking Requirements*. Applicant has stated, "Guests are to be shuttled in. Our parking/turnaround is 83 ft by 168 ft north of the bed & breakfast lodge."
7. **COMPLY WITH OTHER REGULATIONS.** The bed and breakfast shall comply with all applicable regulations and codes, including those of the applicable fire protection district.

When the district's standards conflict with County standards, the County shall only enforce County standards. Applicant has stated, "We intend to comply with all county standards."

Section 10-104: Locational standards for commercial, industrial or other non-residential uses. Applicable. The application of a bed and breakfast meets the standards for 10-104.C. Alternative Locational Standards.

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

Applicable. This section is applicable but based on review it is not in critical/sensitive wildlife habitat.

Section 11-110: *Development of Land Beyond Snowplowed Access.*

Applicable. Over the snow use is proposed. The subject parcel is beyond snowplowed access and the applicant has proposed over the snow access during winter months such as skiing or snow shoeing in to the lodge.

Section 12-103: *Road System.*

Applicable. Per the Gunnison County Settlement and Release Agreement Section 5 states, "ROAD AND BRIDGE REQUIREMENTS. Defendant will complete the following tasks required by Gunnison County's Road and Bridge standards, to be completed no later than eighteen (18) months after the effective date of this agreement, provided that Defendant is not enjoined or otherwise prevented from completing such tasks by third parties:

- a. Submit an access permit application to Gunnison County Public Works department.
- b. Work with Public Works staff to determine the appropriate locations for three (3) inter-visible pullouts on the access road, starting up the hill just off of Highway 50, and then install those pullouts.
- c. Construct an emergency access turnaround at the main structure that complies with Gunnison County Road and Bridge standards.

Per Section 6 in the Gunnison County Settlement and Release Agreement it states, "Upon completion of the items in paragraph 5, above, the Plaintiff shall consider Defendant to have complied with all requirements for access to the subject property for residential use of the existing structures including the bed and breakfast use of the lodge structure."

Section 6b in the Settlement Agreement goes on to say, "For the sole purpose of compromising this dispute, and unless a court of competent jurisdiction issues a final, non-appealable, order to the contrary, Plaintiff shall consider Defendant to have a legal right of access to a public road for the sake of compliance with the LUR and to the extent necessary to resolve the issues in dispute in the pending litigation. Nothing herein, however, shall be construed as an admission by Plaintiff or evidence of such legal right in any other context or proceeding, nor as an agreement to maintain, plow or accept any duties or obligations with regard to the road(s) used to access the subject property from Highway 50. Maintenance of, or snow removal from the subject roads shall be at the sole discretion of the County and only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolutions or ordinances in effect at that time."

In an email dated October 18, 2021 from Brian Killian, CDOT Region 3 Access Program Manager, he states, "CDOT has no comments on the development except that they cannot park in CDOT ROW where the access connects to the highway."

In an email dated October 19, 2021 from Sparky Casebolt, Operations Manager Gunnison County Public Works, he states, "Danny Watson submitted a site plan with an access permit application. After reviewing site plan we have the following comments.

- 1) Site plan fails to show size and design of emergency access turnaround.
- 2) Site plan fails to show driveway location and width.
- 3) Site plan fails to show inter-visible turnout locations and size. Three inter-visible pullouts are required in first 3000 feet from highway 50, this was discussed during site visit.
- 4) In regards to a comment made in by Danny Watson about using the emergency access turnaround for parking, this is not acceptable. Emergency Access turnarounds can't be used for parking.

Section 12-105: *Water Supply.*

Applicable. The state well permit, #290928, was issued in January 21, 2005.

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

Applicable. Per Section 3 in the Gunnison County Settlement and Release Agreement it states, "OWTS COMPLIANCE. Defendant will engage in the following steps to comply the following On-Site Wastewater Treatment System (OWTS) requirements, to be completed no later than eighteen (18) months after the effective date of this agreement:

- a. Permit no more than eight (8) persons, inclusive of guests and staff, to use the structures for lodging house purposes (unless and until a replacement OWTS designed for greater capacity is properly permitted and installed on the property).
- b. Apply for and obtain a septic permit from Gunnison County.
- c. Upon issuance of the septic permit, cooperate with Gunnison County to inspect the system before backfill."

The Environmental Health and Building Official, Crystal Lambert, has submitted a two page letter dated October 7, 2021 with a thorough review and what is needed to bring the OWTS and current building into compliance at the time of building permit applications. This letter in its entirety is available under the attachments tab in the land use file LUC-21-00023.

Section 12-107: *Fire Protection.*

Applicable. The parcel is in the Gunnison County Fire Protection District and subject to their regulations and standards. In an email dated October 21, 2021 Hugo Ferchau, Fire Marshal, states, "I reviewed the Watclarnone application and as long as the project remains within scope of the IRC, I have no comment on the structure itself. If the project moves into the IBC, I expect that there will be fire protection systems such as fire sprinklers and fire alarm required and I will need to give it further review. I look forward to more detailed access plans as required by public works."

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

Applicable. The site plan submitted as part of this application and complies with standards of this section.

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

Applicable. The site plan submitted with the application complies with the setback requirements of this section.

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

Applicable. The site plan submitted with the application complies with the setback requirements of this section.

Section 13-107: *Installation of Solid Fuel-Burning Devices*

Applicable. Solid-fuel burning devices shall meet this standard at the time of building applications.

Section 13-109: *Signs.*

Applicable. Identification of the business is permitted with a sign permit. The maximum allowance is 50 square feet. No other signage is permitted.

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

Applicable. In an email dated October 19, 2021 from Sparky Casebolt, Operations Manager Gunnison County Public Works, he states, "Danny Watson submitted a site plan with an access permit application. After reviewing site plan we have the following comments.

- 1) In regards to a comment made by Danny Watson about using the emergency access turnaround for parking, this is not acceptable. Emergency Access turnarounds can't be used for parking."

Section 13-111: *Landscaping and Buffering.*

Applicable. The typography, natural vegetation and location of the lodge buffers the parcel from the closest road vantage, which is state highway 50 west.

Section 13-112: *Snow Storage.*

Not Applicable. Over the snow access is proposed, snow storage is not required on site.

Section 13-114: *Exterior Lighting.*

Applicable, applicant proposes no exterior lighting.

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

Applicable. Applicable. A reclamation permit will be required, as applicable, from Gunnison County Public Works Department if a ground disturbance of 10,000 square feet or greater occurs.

FINDINGS:

The Gunnison County Planning Commission finds that:

7. This project is classified as a Minor Impact.
8. This application is consistent with the standards and requirements of this *Resolution.*

9. A Violation/Stop Work Order was issued on January 30, 2018 for this parcel.

10. Litigation with Gunnison County resulted in the Settlement Agreement, attached as Exhibit A, which was executed on March 11, 2021. The following terms are included in the Settlement Agreement:
 - a. “No later than eighteen (18) months after the effective date of this agreement, Defendant will submit a complete Land Use Change permit application and seek approval from Plaintiff for use of the structure as a lodging house (a.k.a bed and breakfast) or residence as those terms are used in the Gunnison County Land Use Resolution (LUR) and applicable building code(s).” See Settlement Agreement at 1, ¶ 1.

 - b. Paragraph 2 of the Settlement Agreement requires the Applicant to “come into compliance with . . . Gunnison County Building Code requirements by retrofitting or modifying the structure(s) at issue as follows to the standards set forth in the International Residential Code (IRC), to be completed no later than eighteen (18) months after the effective date of this agreement and there shall be no occupancy of the structure until compliance is achieved[.]” See *id.* at 2-4, ¶ 2. The Settlement Agreement then lists those items that the Applicant must accomplish in order to come into compliance. See *id.*

 - c. Paragraph 3 of the Settlement Agreement mandates that the Applicant will engage in . . . steps to comply the following On-Site Wastewater Treatment System (OWTS) requirements, to be completed no later than eighteen (18) months after the effective date of this agreement, and there shall be no occupancy of the structure until compliance is achieved [.]” See *id.* at 4-5, ¶ 3. The Settlement Agreement then lists those items that the Applicant must accomplish in order to come into compliance. See *id.*

 - d. Paragraph 4 of the Settlement Agreement requires the Applicant to both submit “a complete Minor Impact Land Use Change application and pay the associated application fee for operation of a Bed and Breakfast [.]” and then to pursue that application with “reasonable diligence.” See *id.* at 5, ¶ 4

 - e. Paragraph 4(c) of the Settlement Agreement provides that Applicant’s “Land Use Change application will include review of OWTS, building, road access, and water supply, so those will need to be adequately addressed (but not installed) prior to approval.” See *id.*

 - f. Paragraph 5 of the Settlement Agreement mandates that the Applicant “will complete the . . . tasks required by Gunnison County’s Road and Bridge standards, to be completed no later than eighteen (18) months after the effective date of this agreement, provided that Defendant is not enjoined or otherwise prevented from completing such tasks by third parties [.]” and then sets forth those tasks. See *id.* at 5-6, ¶ 5.

11. A public hearing scheduled for December 5, 2021 was canceled as no action from the applicant had commenced to secure legal access.

12. Gunnison County received information on September 6, 2022 that Watclarnone had commenced litigation against the Russells regarding Road 50B. At that time Gunnison County determined that the land use application for a minor impact for a bed and breakfast could forward since litigation to gain legal access to the Watclarnone parcel had commenced.

13. The applicant is proposing a bed and breakfast for a maximum of 8 people.

14. The Settlement Agreement remains binding and enforceable, and therefore appropriately sets conditions on any land use approval by this Commission with regard to the present Application.
15. For purposes of the present application and at this time, the Applicant has submitted a complete Minor Impact Land Use Change Application, paid the associated fee, and pursued this application with reasonable diligence.
16. Per the record before this Commission, including the October 7, 2021 memorandum from Crystal Lambert to Rachel Sabbato, there remain outstanding items that Applicant has not completed pursuant to Paragraphs 2 and 3 of Settlement Agreement to come into compliance with the applicable regulations and codes. However, the Commission finds that these items have been “adequately addressed” such that the application can be approved with conditions as set forth below.
17. There also remain outstanding items pursuant to Paragraph 5 related to the Road and Bridge Standards. However, the record before this Commission supports the conclusion that the Applicant presently is prevented by third parties from completing these tasks, at least until resolution of the litigation regarding road access referenced above. Accordingly, this application can be approved with conditions as set forth below.
18. 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-21-00023 be classified as a Minor Impact, and be approved with the following conditions:

9. 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*.
10. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
11. This land use approval shall be entirely contingent upon the Applicant’s full and complete compliance with the terms of the Settlement Agreement, including but not limited to Paragraphs 2, 3 and 5. If Applicant fails to comply with the terms of the Settlement Agreement, as determined by Gunnison County, then this land use change approval is null and void.

12. 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.
13. 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.
14. 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.

Gregory Six Lot Subdivision (LUC-19-00013) work session: The Gunnison County Planning Commission conducted a work session. They discussed the application to subdivide 3.42 acres into six single family residential lots. Located in the N1/2SW1/4 of Section 25, T50N, R1W, NMPM, CO. Highway 135, Gunnison Co. Parcel account number R010170.

With a quorum present Chairperson Daniels opened the work session.

The commissioners discussed the applicant's request to lower the impact level of the project from major impact to minor impact.

Applicant John Gregory explained his application is for a six-lot subdivision on a 3.42 acre parcel close to the City of Gunnison.

Planner Sabbato noted the application exceeds the minor impact subdivision threshold of four lots. The development would have one access from Highway 135, water from wells and sewer and electric service from the City of Gunnison. Assistant County Manager Cathie Pagano noted there would be opportunities for the Gregory's to have a different type of development if they waited until the North Area Plan with City is completed.

Planner Sabbato explained a major impact process versus a minor impact process. She noted the standards would be the same. But, the time frame would be longer, because a major impact includes a sketch plan, preliminary plan and a final plan review.

Gregory said there would be minimal impacts. He added there would be environmental benefits, because they are using City sewer, not septic systems. They are not allowing barns, etc. Sabbato Identified demand for public services as qualifying criteria. Gregory explained the lots and the lot sizes.

Commissioner Schwartz said the draft covenants allow for accessory dwelling units of not more than 900 sq. ft. Although, this is a benefit, it also adds to the needs for public services. Gregory explained the CDOT permit is only for six residences. It is set up for six wells and six residences.

Chairperson Daniels said creating six lots does not seem to significantly increase additional impacts. It is also already a very disturbed area. The lot sizes of approximately ½ acre in size is dense, and not a major impact to the area. The standards in both major and minor impact reviews are the same. Sabbato added the applicants have access to city sewer and electric, but water will not come on line for quite a while.

Chairperson Daniels was inclined to consider a minor impact review. Commissioners Schwartz and Sovick agreed, this could be lowered to a minor impact review.

Moved by Sovick seconded Niederer to lower the impact level to a minor impact. The motion passed unanimously

The commissioners will conduct a site visit. They noted a need for clarity on water adequacy for 12 units. Sabato said protection of water quality was addressed by a wetland delineation. It was determined the water on site is the result of agriculture and deemed not a wetland.

Chairperson Daniels closed the work session at 12:20 p.m.

The meeting adjourned at 12:25 p.m.

/s/ Beth Baker
Gunnison County Community and Economic Development