

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES
Thursday, July 6, 2023**

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 on Thursday at 8:45 am.

Present:

Vice-Chairperson – Roland Mason Commissioner – Matt Schwartz Commissioner – Julie Baca All. Commissioner – Annie Beall Alt. Commissioner – Eric Phillips	Assistant County manager for Community Development– Cathie Pagano Planning Director – Hillary Seminick Senior Planner – Rachel Sabbato Deputy County Manager for Public Works –Martin Schmidt Assistant County Manager for Operations and Sustainability – John Cattles Environmental Health and Building Official – Crystal Lambert. Planner – Sean Pope Planning Tech – Rachael Blondy Others present as listed in text
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Absent:

Recused:

Zoom: Commissioner Fred Niederer,

8:45 AM With a quorum present Chairperson Mason opened July 6, 2023 regular meeting of the Planning Commission.

The Planning Commission reviewed the June 15th and July 1st meeting minutes. The minutes were approved with the following amendments:

- June 1st Minutes
 - Minor language amendment regarding County emissions.
- June 15th Minutes
 - Commissioner Mason attended the meeting on Zoom, not in-person.

9:00 AM Public Hearing: LUC-23-00013 Minor Impact Review for Extension or Expansion of Snow Plowing at 1501 CR 813, Almont Colorado.

With a quorum present, Vice Chairperson Mason opened the meeting at 9 am. The Applicant, Zach and Kylie Springer, attended on Zoom and in-person, Respectively. Their legal representation, Andrew (Andy) Allen, Esq. attended in-person.

Vice Chairperson Mason inquired if adequate public notice was provided, and Rachel Sabbato confirmed that adequate posting, mailing, and publication of notice was provided.

The Applicant introduced themselves as long time locals employed by the local businesses and search and rescue volunteers. They are requesting approval of the Planning Commission for approval of Extension of Snow Plowing to gain year-round vehicular access to the subject property for which they are under contract.

The Applicant and Sabato reviewed a PowerPoint presentation, which included photos of the property and the location of the current and proposed gates.

*Note: the file is publicly available on Citizen Access at:
<https://permitdb.gunnisoncounty.org/citizenaccess/>.*

To access the file, click "Projects", select "Application Number", enter "LUC-23-00013" into the search field, select the result, select the "Attachments" tab, and then navigate to the file named "Applicant PC presentation.pptx" and click on the "view" button.

The Applicant reviewed how this application meets the requirements for LUR section 11-110 Extension or Expansion of Snow Plowing.

The Applicant addressed the concerns about increased recreational traffic and explained how extending snowplowing to the hard closure gate does not allow human access, unless people are breaking the federal law. The Applicant noted that the US Forest Service (USFS) will install appropriate hard closure signage on the gate. CPW has noted that having year-round occupancy will help monitor the hard closure.

The Applicant believes that opening this property to year-round occupation benefits the community, as it creates local housing both on site, and in the vacated condo in Crested Butte. Over the snow access is not practical because there is no place to store cars at winter closure and driving on the snow conditions is not safe. Driving snow machines would be more detrimental to the wildlife in the area. Use of a snowblower will reduce impacts and damage to road and potential damage to the Allen Ranch fence. The snowblower will keep the snow on their property and within the easement to the maximum extent.

Sabato clarified that this application is to remove snow on CR - 813, and that snow removal on the private Patrick Drive which leads to the property in question is not a part of this application.

Public comments for and against the application were reviewed, multiple of which had concern about tax payer money paying for the snow removal. It was clarified that Gunnison County will not be paying for extended snowplowing. The Applicant will be paying for snow removal and for the new gate.

The public comments also included concern that road will turn into trailhead. As stated in the presentation, the Y will be a turn-around, not a trailhead. More signage will be added to the road and gate, making it clear that the area beyond the gate is closed to all human traffic during the winter months.

The floor was opened to Planning Commission questions.

Vice Chairperson Mason: How are we going to enforce the closure and people not using the Y-turnaround as a trailhead? Signs don't do anything unless people know they're going to get ticketed.

Sabato: Enforcement of the winter closure is the responsibility of the USFS. The way it stands now, people can park at the existing gate and recreate .6 miles legally to the hard closure boundary. It is illegal beyond that. The USFS is not able to enforce people parking at the existing gate but the new gate would provide no parking nor any legal recreational opportunities.

Mason: Pertaining to snow removal times, it is unrealistic to say the Applicant is only going to plow between 10am-2pm. I want to make sure that we are clear, so if there is snow removal at 9:45am and the sheriff's office is called, we know what to say. Is there opportunity to change the language to say we "highly recommend" 10-2 so we can enforce it?

Sabbato: 10am-2pm is a consistent time throughout the area that has been agreed upon by CPW that limits impeding upon wildlife. CPW is not worried about 9:45am, but suggests keeping between 10am-2pm to the maximum extent feasible.

Mason: David Leinsdorf Esq., legal counsel for Ralph R. Allen & Sons, Inc., submitted comment about blowing snow from a public road to a private property. How do you draw the line of how far into private property you can blow snow before it becomes an issue?

Martin Schmidt: Expectation of snow removal is that to the maximum extent it stays on your property. Snow removal may result in snow deposited on private property within the ROW; generally, snow removal operations have sometimes resulted in litigation where private property is damaged as a result. Public Works does not have specific snow removal times required, but this area should comply with CPW recommendations. After this Land Use process, the Applicant will need to apply for snowplowing permit from Public Works.

Commissioner Schwartz: How wide would the road be plowed?

Schmidt: Shoulder to shoulder. It needs to be the whole road, including a turn around for public vehicles. He clarified that the right of way easement on CR 813 is 60 feet, 30 feet to each side of the center line of the road. CR 813 has been in public use since late 1800s.

Commissioner Mason opened the discussion for public comment.

Curtis Allen, President of Ralph Allen & Sons, Inc:

Mr. Allen attended the meeting to register objection. The closure gate was put in its current place for a reason. The Allen Family previously had issues of motorists getting stuck, going off the road and through fences. Adding the winter closure gate solved the problems. The terrain on this section of road is more problematic than the rest of the county road. It has steep grades, sharp corners and in the winter, it blows shut with snow drifts, making the road impassible. It is the Allen Family's opinion that this is not a safe portion of road to open to winter travel.

We are concerned about the existing fencing, especially the two right angle corners that have fence posts in the road surface. Snow removal at the neighboring Roaring Judy fence tears out corner fence posts every year. The fences encroach on the road – there is one spot that the road measures 30 ft from fence to fence – and it would be impossible not to damage the fences.

We are concern that extending USFS boundary will create a de facto trailhead. The traffic at the existing gate is already significant. Even if you have gates and signs, that will not turn people around. People ignore closures and park wherever they please.

David Leinsdorf requested a Planning Commission site visit. He asked the Applicant how they will maintain the 20ft easement across the Allen's property when removing snow on Patrick Road.

Sabbato clarified that the County does not have jurisdiction over Patrick Road as its private property.

While this road is not a part of this application, Vice Chairperson Mason allowed Applicant to answer Leinsdorf's question regarding snow removal on the private road easement. Applicant shared that their plan is to buy a snow blower for their truck, and to blow snow in front of the truck and not into Allen Land. Snow will be stored on their property or on the road easement so it will not affect the cow pasture. The road easement does not have fencing along the road.

Craig Allen introduced himself as the 5th generation of the Allen family and he introduced his wife, Corey Allen. Jacks Cabin Cutoff is my home and has been my family's home for the past century. The proposed winter extension is being labeled as a Minor Impact Land Use Change when it couldn't be further from the truth. This snow removal will wreak havoc on already stressed fence. The road is prone to deep wind drifts. The extension is a bad idea because of the current winter closure barrier. The current physical barrier is in place to restrict traffic and the existing bottleneck restricts recreation. The current gate allows me to monitor ongoing trespassing. Because of the current closure, the situation is manageable. If the road were to be extended, it would be impossible to monitor trespassing, which would negatively impact the big game closure.

Leinsdorf: Ranching in this valley is under assault from many corners, especially from the influx of recreationalists and development. One of the premier policies of Gunnison County is to preserve ranching heritage. The Allens have one of the last ranching operations in the Valley. With their institutional knowledge, they know what kind of problems this extension will create. And we need to have a site visit before this decision takes place.

Vice Chairperson Mason provided Applicant the opportunity to respond to the public comment regarding fences and increased traffic due to the Y. Applicant responded that he has not seen difference in fencing width between the road that is already being plowed to the proposed plowed section. The Applicant expects to see a decrease in an amount of traffic because USFS and CPW will be able to enforce the hard closure and no parking. With the extension of plowing, there will be no road available to recreate on.

Vice Chairperson Mason asked Public Works Director Schmidt if there have been any issues with fences on the road that's already plowed.

Schmidt explained that Public Works majorly blows snow on Jacks Cabin due to the narrow right of way and that the fences aren't noticeably tighter on the dirt section than the paved section. When the county has broken fences, they have worked with the Allens to fix the fences. Sometimes they use the wing snowplow depending on snowfall and blowing snow.

Vice Chairperson Mason inquired if there ever a plan to add snow stakes to address Curtis Allen's concern about corner fence posts being in the road.

The Applicant stated he would be more than happy to add snow stakes along the new plowed section of road.

Leinsdorf inquired if it is feasible to blow snow in front of the truck for .6 miles, instead of pushing the snow into the fences. Schmidt responded saying that it is feasible to blow snow right off to the side of the truck to build banks on the side of the road. Craig Allen disagreed, stating that it is not possible to plow in any way without causing devastation. The current snow plowing that occurs along the existing fence devastates the fence and takes weeks to repair.

Andy Allen, Esq., noted he provided written comment in response to letter David Leinsdorf provided prior to the public hearing. He emphasized that the turnaround would not be used as a trailhead as it is prohibited and illegal. The legal access of Springers to their property should not be inhibited by others choices to break the law.

The Planning Commission members conferred on the recommendation to conduct a site visit. The Commissioners agreed they were all familiar with the site and therefore did not require a site visit.

Commissioner Schwartz requested to add a condition requiring snow poless.

Sabbato clarified what was defined as a snow pole, then added a condition that snow poles shall be installed to delineate the subject travel way of County Road 813 onto the PC Recommendation.

Vice Chairperson Mason amended the condition requiring snow removal from 10am – 2pm to strongly recommending snow removal occur during the hours of 10am – 2pm.

Vice Chairperson Mason seated Alt. Commissioner Eric Phillips.

Commissioner Bacca motioned to moved to approve LUC-23-00013. Commissioner Schwartz seconded.

All Commissioners voted to approve LUC-23-00013.

Vice Chairperson Mason thanked the Allen Family for attending the public hearing, assured them the Planning Commission valued everything that was shared and hoped that the new owners of the property and the Allen Family are able to work together and fix any potential fence issues.

Vice Chairperson Mason closed the public hearing at 10:10am.

10:17am Work Session: International Code Council (ICC) review of 2021 building codes for adoption by Gunnison County.

Vice Chairperson Mason opened the work session at 10:17am and passed the floor to Crystal Lambert and John Cattles.

The Planning Commission discussed an update to the 2015 adopted building codes to the 2021 building codes.

John Cattles stated that climate change is the main reason for updating the building codes. Relatedly, Gunnison County BOCC has an explicit goal, adopted in 2020, to reduce emissions by 50% by 2030. One of their strategies is to increase energy efficiency in built environment. Finally, Colorado state law is mandating energy law is adopted by all counties.

If the County were not to adopt the 2021 Energy Code, the County would be penalized by the state, including not being eligible for tens of millions of dollars in grants.

Cattles reassured the PC that there is nothing about banning gas in the energy code updates. The new code is promoting electrification. Cattles reviewed the dramatic difference between electric and gas energy use. He also shared that all electricity in the County comes from GCA / TriState. TriState committed to reducing emissions by 25% by 2030. TriState is ahead of schedule.

Crystal Lambert reviewed the Energy Rating Index (ERI). Staff is proposing incentivizing use of the ERI by requiring it for houses over 5000 sf and also offering a reduction in plan review fees. Staff anticipates that use of the ERI will be part of the future low energy and carbon code that the State is currently working on and for which we will need to adopt by 2026. The ERI option has been in the code since the 2015 edition, which Gunnison County adopted in 2017. If we can incentivize people to start utilizing the ERI option now, it will be much less painful when it becomes required. Our inspection program will likely not change when an ERI path is chosen, however, the plan review will require less staff time. Staff will still provide insulation inspections when an ERI path is chosen.

Cattles: Low carbon code will mandate tracking energy usage. We are trying to create a marketplace in our community to get everyone used to tracking before it becomes mandated in 3 years. It is a carrot approach.

Commissioner Bacca requested Andy Tocke share what an energy rating look like from his unique point of view as an energy rater.

Andy explained HERS (House Energy Rating System) ratings. He clarified the scoring range, from zero to 100. A house with a score of 100 equates to the 2006 energy code minimum requirements. A house with a score of 0 equates to a net zero energy house. He shared that the county identifies a specific score, which the designers and architects will design the home to come in at the correct number. The Town of CB is requiring this on all new construction.

Commissioner Beall asked about the number of raters in the County. Andy informed the PC that he believes there are at least 4 people who do energy ratings in the Valley. It takes 6 months to get certified with no prerequisites. It's about \$4000 but GV Heat and Energy Smart Colorado may contribute funding.

Bill Barvitski inquired about HERS having a modeled number and final numbers and how close they usually are and what happens if they're not close. Andy shared that when you model a house before it's built, you make assumptions (on air leakage, grade of insulation, etc). It would be beneficial to hedge your bets by assuming the home will be less efficient but it keeps builders accountable in the field and will catch people cutting corners.

HERS takes into consideration heat systems, length, ducted systems, insulation, boilers, pipe insulation prior to construction. And then post construction – duct work on HRVS and ERVs. It does not take into consideration heat load calculations (manual J). Cattles provided that in order to calculate carbon score – you multiply the HERS score with emissions. If utilities coming into the house are dirtier, HERS needs to be lower to hit good carbon score. Staff expects the state to establish a carbon scoring system soon.

Public Comment from Cillian Barrett: Does the HERS Carbon score take into consideration Embodied Carbon? Used spray foams as an example. (No, what's being proposed at the state is about operational energy.)

Commissioner Beall shared that the state has said it is drafting a model green code. This will be a voluntary adoption that addresses materials used in building. Staff will look into it.

Lambert: On June 1st, the state published the solar and electric ready code. Staff has reviewed the provisions and does not foresee any roadblocks for the local building industry. The state allows

jurisdictions to go more restrictive but not less restrictive. One item that jurisdictions are allowed to have discretion on is establishing a definition for “major renovations and additions” which trigger the requirements of the solar and electric ready code. Staff recommends that a “major renovation” and “major addition” be defined as an addition or alteration that exceeds 50 percent of the building area. This is consistent with language already established in the Existing Building Code for a “Level 3 Alteration”.

Staff is recommending adoption of International Existing Building Code in Gunnison County. It's a tool that designers can use to ensure compliance for work to existing buildings. Staff and designers already utilize this code, by reference from the IBC, and would like to officially adopt the code for use. The Town of Crested Butte and City of Gunnison have adopted it, and Crested Butte Fire has requested we adopt it.

Lambert introduced staff's proposed WUI amendments. The WUI code became effective on January 1, 2023 and since that time, staff has been working with property owner, designers, and builders and has identified amendments to the WUI code that will make it easier to use and implement for properties in the County. Staff recommends deleting the requirement to install a sprinkler system when building to class 1 ignition resistant construction. Properties not large enough to provide 1.5X the conforming defensible space cannot benefit from opting out of the sprinkler requirement while larger properties can. There are also practical challenges related to installing sprinkler systems in structures not occupied in the winter. Ignition resistant construction materials and defensible space offer the intended wildfire hazard mitigation. Additionally, staff recommends amending the WUI code to apply to alterations and additions only when greater than 50 percent of the building area, consistent with a “Level 3 Alteration”. In text of the code, where there are significant practical and technical difficulties in complying with the code, the Building Official is provided a path to grant an exception. Staff has uncomfortably utilized this section several times recently for small additions and alterations where strict compliance would have caused significant stress and challenges to the project. there are technical difficulties, the building official is able to waive building codes. In an ongoing effort to be responsive to customers and the community, staff has prepared these proposed amendments.

Vice Chairperson Mason recognized that implementation of the WUI code has been a challenge and appreciated the suggested changes.

Public Comment Bill Barvitski requested adding clarification language as to how to address decks and small exterior alterations in relations to the building size. When staff states an alteration exceeds building 50% area, does that include the deck?

Staff will work to craft clarifying language for the proposed amendment and will present it at a future meeting.

Commissioner Niederer requested clarification on the resource tools used to determine the ignition resistant materials. Staff reviewed the resources used, including the wildfire hazard mapping, the mitigation difficulty tables, the ignition-resistant construction table.

Cattles circled back to a topic from the previous meeting, the energy use involved with melting snow compared to plowing snow. Page 3 of the memo for this meeting includes staff responses regarding melting snow vs moving snow and their energy use.

Commissioner Niederer used the example of his commercial building needing to use the heated driveway on his North facing garage doors for the safety of his employees. Cathie Pagano stated

that the County can't enforce heated driveway time limits. Commissioner Schwartz suggested that the choice to heat the commercial driveway should be allowed considering it is a safety factor at a for profit business. The PC discussed banning residential and allow by exception for commercial.

PC discussed alternative process approaches, such as allowing people to bring their project to the Board of Appeals. Use language about mean of appeals from the mechanical code. PC could propose people needing to take specific plan steps. Plow, salt, and then melt.

Commissioner Niederer suggested using alternative energy sources to offset carbon footprint on the property is another way to allow heated driveways but Cattles informed PC that in a different context staff brought up offsets to BOCC and it did not receive their blessing.

Pagano stated that it is staff's responsibility to let people know that they have options to move forward if they have a heated driveway.

Commissioner Beall brought up that the new VRI has to do with new build and 50% changes and questioned how lower income homes are included? Building performance standards for existing homes that won't experience 50% renovations but are trying to get support for those homes as well. County does not have authority to enforce energy scores at the county level. The state has been looking into this for a decade, and municipalities most likely do have the authority. It would make home buying/leasing more transparent.

Pagano suggested the County be more supportive of GV Heat and the GVRHA applying for funds in this space.

Vice Chairperson Mason highlighted the benefits of updating the building codes on a 3-year schedule, instead of every 6 years. This would alleviate the build-up of significant changes. There's a significant change. GV Heat should raise AMI so more people can take advantage of their programs.

Staff will prepare a draft recommendation for a future meeting.

Commissioner Niederer wants to make clear that the County does not have a choice but to adopt the 2021 code. It is going to drastically effect our building costs and people are going to be upset with cost increases. We're going to get pushback from public. Especially when we're trying to create affordable housing. Transparency to public is important.

Staff acknowledges that cost of building is going to raise, but most is made up in the first 5-10 years in by the decreased cost of energy use. We should not approach this conversation as an apology to the public. This is the sentiment of the county and we agree with it.

Bill Barvitski: We don't need to apologize for this updated code, but we need to create awareness of when this code is going to come into play. Make sure that there is education of when to expect the change so we can design appropriately.

Commissioner Bacca requested amendments and new code adoption go into effect January 1.

Staff requested that proposed WUI code amendments would become effective immediately after adoption.

Vice Chairperson Mason adjourned the meeting at 11:56 AM.