GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, November 2, 2012

Draft Minutes

9:00 a.m.

- **Call to order; determine quorum**

Board of County Commissioners/Planning Commission Joint Meeting:
Items to be discussed by the Board and Planning Commission are in the following order:

A. Sage-grouse Subcommittee – Update from Jim Cochran & Ramon Reed
   1. Status of Listing
   2. Threatened vs. Endangered
   3. Potential *Land Use Resolution* changes
B. Oil and Gas -
   1. Bull Mt. Unit Master Plan EIS – Ramon Reed
   2. Possible update on COGCC Hearing – Federal 11-90-9 Well Project
C. Legislation Update – Hap Channell
D. Carbon Policy Taskforce Discussion – Hap Channell
E. Other Topics

Lunch

1:00 p.m. **Gunnison Valley Properties, LLC**, joint public hearing/no action, Sketch Plan, request for a year-round sand and gravel operation on 109-acres of a 220-acre parcel; 62-acres of which will be excavated. The operation will include the extraction, crushing, screening, washing and stockpiling of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete batching is also proposed to be conducted at the facility. The property is located approximately ½ mile east of the City of Gunnison, south of Highway 50, legally described as being located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50

2:00 p.m. **John Nichols**, public hearing/work session/possible action, request for a concrete batch plant and storage yard for heavy equipment, located on Lot 4, Riverland Industrial Park, F #1, south of the Town of Crested Butte, west of Highway 135

3:00 p.m. **Watclarenone, Tim Watson, Majestic Mesa Monastery,** work session/no action, request for a seasonal, mediation lodge, legally described as being located in TR 102 (E2NE4 & E2SE4) SEC 12,13 & TR 103 (W2NE4) SEC 12 48N5W 238.59 ACRES, 9380 Highway 50, approximately 35 miles west of the City of Gunnison

Adjourn

GUNNISON COUNTY PLANNING COMMISSION
Regular Meeting
November 2, 2012
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The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center, Planning Commission meeting room. **Present were:**

Chairman- Ramon Reed
Vice- Chairman-Jim Seitz
Commissioner-Susan Eskew
Commissioner-Warren Wilcox
Commissioner-Kent Fulton
Alternate Commissioner- Jeremy Rubingh
Alternate Commissioner- A. J. Cattles

Assistant Director of Community Development- Neal Starkebaum
Community Development Department Services Manager-Beth Baker

Board of County Commissioners:
Hap Channell
Paula Swenson
Phil Chamberland

Others present as listed in text
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With a quorum present Chairman Ramon Reed opened the regular meeting of the Planning Commission.

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Board of County Commissioners/Planning Commission Joint Meeting:

- **Sage-grouse Subcommittee – Update**
  - **Status of Listing-** Gunnison County Wildlife Coordinator Jim Cochran explained the Fish and Wildlife Service has received a postponement of their listing, from September 30, 2012 to December 30, 2012. The proposal is now being written by their office in Grand Junction, Co. When published there will be a 60 day comment period. The final ruling deadline is September 30, 2013. The finding can be; the species is endangered and listed as such, the species is threatened and listed in that status, or the species is not eligible for listing and it drops off the list.

    Wildlife Coordinator Cochran explained if the species is determined to be endangered certain activities would be prohibited; harassment, harm, pursuing, hunting, etc., or an attempt to do any of these. This has historically generally referred to agricultural activities. A listing of threatened rather than endangered would likely to have less impact on agricultural uses.

    Wildlife Coordinator Cochran said on public lands the Fish and Wildlife Service has greater jurisdiction, if determined to be endangered there would be no exemptions given on public land. Cochran added the Fish and Wildlife Service has not made a decision to classify the species threatened or endangered.

    Wildlife Coordinator Cochran said a Habitat Conservation Plan (HCP) is not automatically triggered by either the endangered or threatened designation. A HCP must be applied for. He said there could be community benefits to an umbrella HCP. If a project is proposed on private land and there is no HCP in place, the applicant/landowner would be required to provide their HCP. Cochran noted the difficulty with a HCP is the time it takes to have them approved.

    Wildlife Coordinator Cochran pointed out if the County authorized an applicant to proceed with their development of the parcel, and Fish and Wildlife disagreed, the County could be sued. The issue is at what level the County should have input from Fish and Wildlife; a porch addition to a large residence. Cochran noted currently his office is contacted for comments when an application is made within Sage grouse habitat. He also noted Fish and Wildlife appreciate the Gunnison County mapping component.

Chairman Reed distributed a report he had prepared. He has focused on how things could be dealt with by the Commission. He stated the County needs to be proactive in dealing with the potential listing. His suggestions were made from that viewpoint. He said the *Gunnison County Land Use Resolution (*LUR) regulations in regards to Sage grouse should be tightened. He cited several examples of building envelopes in Sage grouse habitat, noting the building envelope should be as minimal in size as possible; resulting in less habitat fragmentation. Clustering can leave a great deal of habitat undisturbed. The biggest impacts seemed to be fragmentation by roads and power lines; they could be dealt with by the Planning Commission and BOCC. The mapping tool which has been developed is helpful when determining if the application is within Sage grouse habitat. He noted Wildlife Coordinator Cochran conducts pre-application conferences and also conducts on the ground investigations. Cochran agreed the mapping tool is a very good start in the investigation.

Chairman Reed said there is an opportunity for planning because of the new mapping tool; there is more potential to see the impacts of roads, and power lines, etc., on undeveloped land. He suggested working with the power company to help them place power lines to decrease habitat fragmentation. He added being proactive would result in fewer impacts.

BOCC-Channell thanked Chairman Reed for his efforts and challenged the Planning Commission and the County to respect and consider the recommendations made moving forward.

- **Oil and Gas-**

  Bull Mt. Unit Master Plan EIS – Chairman Reed said he had spoken the Uncompahgre Field office representative Barb Sharrow. He was told the master plan/ EIS is in the works, but there is not a time limit. The BOCC will be notified when it takes place. Reed also mentioned the air quality; there is a potential impact on the Maroon Bell. If they determine there is a potential impact, they can't issue a FONSI, and an EIS is required.

  Chairman Reed explained the majority of the Bull Mountain Unit is private surface, and Federal mineral rights. The Federal regulations will only apply if the surface rights are federal. The County should look closely to have the same conditions apply to all of the wells in the unit. Reed suggested working with the State to protect air quality and view-sheds; the County could be a cooperating agency.

- **Federal 11-90-9**- The court hearing has been scheduled for mid November 2012. SG's draft EA has been changed to an EIS.

- **Legislation Update -**BOCC Channell said there was nothing on the horizon. He briefly described the legislative process of Colorado Counties Inc. (CCI.)

- **Carbon Policy Taskforce Discussion –** BOCC Channell would like the BOCC to direct the Commission to review the Taskforce recommendations and contemplate if they could work within the confines of the *Gunnison County Land Use Resolution (*LUR.) Chairman Reed asked Richard Karas to participate with the Commission in the review.

Commissioner Eskew left the meeting.

Other Topics- Reed requested the BOCC to consider the cumulative impacts additional development has on the Highway 50 corridor east of the City of Gunnison.

Assistant Director of Community Development Neal Starkebaum identified the tentative dates for the 2013 BOCC/ PC joint meetings: March 15, June 21 and October 18, 2013.

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Gunnison Valley Properties, LLC; The Gunnison County Planning Commission and the Board of County Commissioners conducted a joint public hearing. The review the applicant's Sketch Plan, request for a year-round sand and gravel operation on 109-acres of a 220-acre parcel; 62-acres of which will be excavated. The operation will include the extraction, crushing, screening, washing and stockpiling of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete batching is also proposed to be conducted at the facility. The property is located approximately ½

mile east of the City of Gunnison, south of Highway 50, legally described as being located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50.
Commissioner Wilcox has been recused from this review.

Board of County Commissioners; Hap Channell, Paula Swenson and Phil Chamberland attended the joint public hearing.

With a quorum present Chairman Ramon Reed opened the joint public hearing.

Community Development Services Manager Beth Baker confirmed the applicant had provided the certified mailing receipts and proof of posting; the planning office had the public notice published in the Gunnison Country Times and the Crested Butte News.

Applicant's representatives Richard Bratton and applicant's representative Consulting Engineer with Greg Lewicki and Associates Ben Langenfeld were present to represent Gunnison Valley Properties.

Applicant's representative Bratton addressed the issue of the necessity for another gravel pit. He noted proving necessity is not a Gunnison *County Land Use Resolution* (LUR) requirement. He addressed the issue because it had come up in the prior work session. He said he had been contacted two years ago, concerning the lack of competition and the inflated gravel prices charged reflecting that.

Engineer Bob Williams explained competition is an economic consideration. He distributed a chart describing what happens when there is competition in the market place and when there is not. When there is competition the prices are significantly less. Competition is healthy from a cost stand point but also a quality view point. The consumer is the winner when there is competition.

City of Gunnison City Manager Ken Coleman said a competitive marketplace helps the tax payers. The City could do much more if there was competition in the market place.

Local contractor Steve Crittendon said it is prohibitive not to have competition in the marketplace. The quality of the product could be better too.

Local contractor Bill Lacey agreed competition is advantageous. He supports this application.

Applicant representative Langenfeld explained the plan is to start out in the east area of the mine and move on. They will not mine through the wetlands. There will be approximately 70 acres of disturbance. The depth of the pit will be approximately 49 ft.; it will require dewatering. They anticipate mining between 100 to 200 thousand tons per year. They have considered the highest use in determining their mitigation plan. They will use a two tier slope system, and reuse their back fill. The hours of operation are 6 a.m. to 7 p.m., Monday through Saturday. If there would be a need for any extension of hours they would have to come through the County with the request. The majority of the work will be done from mid April to mid October

Applicant representative Langenfeld explained by placing the equipment in the SE corner of phase one, the visual impacts can be minimized with berms, and they will not have to constantly dewater the pit. They intent to backfill as they go; when the mining is complete the pit will be a lake.

Applicant representative Langenfeld said they will mitigate visual impacts along Highway 50 with a berm moving ahead of the pit. Applicant representative Bratton added they are considering working with the adjacent land owner Hal Hearn and possibly the County to plant trees along the ditch on Highway 50.

Applicant representative Langenfeld said they will use quiet back up alarms on the large equipment; they could do a baseline noise study. The noise will be down 50 ft in the pit. They will aggressively water the road early on and maybe lay down gravel on the road, to mitigate dust issues. There is a CDOT access permit which does not require any highway improvements. Most of the traffic will head toward Gunnison.

Applicant representative Langenfeld said the ground water (dewatering) will go through a sediment screen and be discharged. He said the State regulates dewatering with discharge permits. The applicant's have applied for augmentation water. A weed management will be done.

Applicant representative Langenfeld said the site is over a mile from the nearest Sage grouse lek. He added because it has been a working cattle ranch and there on fences on site it is not wildlife friendly.

Applicant representative Bratton said aesthetics is a concern for him. Neighbor Hal Hearn and the County may be interested in working with Bratton to plant trees along Highway 50. He said he is willing to invest money with others to beautify Highway 50 at that location.

Staff

Assistant Director Neal Starkebaum identified comments received from Butch Clark, Nick Spallone, Aaron MacLennan, the Division of Parks and Wildlife, and the Gunnison County Sage grouse coordinator. The Commission has requested additional comments from Parks and Wildlife because of the possibility the dewatering of the pit impacting the Tomichi Creek fishery.

PC- BOCC

Commissioner Seitz asked the location of the proposed haul road; Applicant representative Langenfeld said into the pit along the outside edge, as it grows.

BOCC- Channell asked City of Gunnison Manager Ken Coleman if this application adequately addresses the City's Three Mile Plan; City of Gunnison Manager Coleman said this application addresses the plan because the urban growth boundary will not change. The City's Three Mile Plan has not been updated since the Gunnison Rising annexation.

BOCC-Channell asked if Colorado Department of Transportation (CDOT) is contemplating a speed limit change coming around the curves; Applicant representative Langenfeld was not aware of any speed limit changes. City of Gunnison Manager Coleman added CDOT will not address speed limits until development occurs.

BOCC-Channell asked about the berm and the top soil stripped when mining; Applicant representative Langenfeld said the top soil will be used in the berms and reclamation.

BOCC-Channell asked how the trees suggested by Bratton would be handled at Sketch Plan; Reed said the view shed has been a big part of the discussions, but it is more of a concept at this point. The Preliminary Plan will be more specific in dealing with landscaping.

BOCC- Channel asked if the dewatering material is placed in pits; Applicant representative Langenfeld said pumps are used to drain and put it in the pond to separate the sediment out and then discharge the clean water.

BOCC-Chamberland asked if the existing access in Signal Peak could be used as an access; Applicant representative Langenfeld said the CDOT traffic engineer verified their proposed access the applicants will not exceed the traffic limit. The applicants would have to buy an easement from two property owners; and the Signal Peak access is not a safe access point.

Public Comment

Bob Delahay commented he did not receive notification. The posting on the highway was insufficient. He lives across the highway where the trucks will come in, it will be his driveway; poor choice. His home and three others sit above the proposed site; they will be extremely visually impacted. His house is for sale, he does not need the impacts a gravel pit will bring. He suggested moving it to Bratton's front yard. The access through Signal Peak is already dangerous adding more traffic to th3 access is not wise. He added he does not want it in his driveway either.

Aaron MacLennan agreed there is no way to hide this site from his front window. He has worked in mining, the processing of the materials can make it cost prohibitive. He said costs have gone up on everything; the competition was

not the only reason for price increases it is also the economy. The berms and trees will not help his view shed. He said the pit would be too close to the Highway, and too close to his house. He might have difficulty selling his home with a pit there.

Linda Goldman asked if the land is currently agricultural land; she asked if we need more industrial land. Reed it is a good question; BOCC may want to address the issue. BOCC-Chamberland added there is a need to identify a place to approve industry.

Sally Hays said she lives at top of the hill, mostly above the inversion. She expressed her concern with the particulate matter produced by a gravel operation.

Mary Kay Fry was concerned with the decrease in property values surrounding the pit, the destruction of the wildlife habitat, and the beautiful hay meadow will be replaced by a gravel pit.

Applicant Response

Applicant representative Bratton reiterated his concern with the aesthetics- next to industrial park; when finished it could look better. He said he would work to improve the potential impacts.

Chairman Reed said he was trying to understand how this will look and the ramifications of the time frame being much longer. Applicant representative Langenfeld explained it is a snapshot as opposed to a comprehensive view because of the variability it is not predictable.

Applicant representative Bratton said it could be beneficial to have the pit last longer, and then the mitigation has already been done and there would not be a need for additional disruption. Chairman Reed said reclamation is also a component; trying to plan for something that far in the future is difficult, he is trying to understand the reality of it.

Commissioner Cattles suggested reclaiming as you go; lakes could be built as you go and not have a 30 year hole.
Applicant representative Langenfeld agreed it could be done in any number of ways, but the processing equipment will still sit there. The hole in the ground impacts could be minimized by smaller lakes as you go rather than waiting 30 years. Applicant representative Bratton agreed to look into it.

Chairman Reed closed the public hearing at 2:30 P.M., leaving the record open of two weeks for additional written comment. An additional work session will be conducted.

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Nichols- Riverland Industrial Park # 1- Lot 4: The Gunnison County Planning Commission (Commission) conducted a public hearing, to review a request for a concrete batch plant and storage yard for heavy equipment, located on Lot 4, Riverland Industrial Park, F #1, south of the Town of Crested Butte, west of Highway 135.

With a quorum present Chairman Ramon Reed opened the public hearing.

Community Development Services Manager Beth Baker confirmed the applicant had provided the certified mailing receipts and proof of posting; the planning department had the public notice published in the Gunnison Country Times and the Crested Butte News.

Assistant Director of Community Development Neal Starkebaum

John Nichols and Dena Hildreth were present to discuss the application.

Commissioners Wilcox and Eskew were not present for the discussion.

Applicant Nichols explained the location of the site. They have poured a 32 ft. concrete wall, and there is a 27 ft. tall silo. The Riverland Board has reviewed the proposal, they have required extensive landscaping. The site is 30 ft lower than the highway. There is a 60 ft. berm along Highway 135. The site is minimally visible from the highway.

Nichols said there will be no building constructed because the Crested Butte Fire Protection District requires an expensive fire suppression system in a structure.

Staff

Assistant Director of Community Development Neal Starkebaum had no comments.

Planning Commission

Chairman Reed asked what the purpose of the silo is; Nichols explained it holds cement powder. It is filled pneumatically with an air processor.

Public Comment

John Rozman said when the land was acquired from John Rozman, it was understood it would be for a leach field and sewer system, but it was not put in writing.

Neighbor across the street Bill Lacy asked if the berm was complete; Nichols said yes, Lacy disagreed. Nichols said his portion is finished, Riverland's is not. Nichols said there will be some visual block behind the trees.

Lacy noted in 2010 when the land exchange between Rozman and Nichols was approved he had been informed a building would be placed on site, and that structure would shield Lacy's view. Lacy agreed to the land exchange based on the information. He said he would have opposed the land exchange if he had known there would be a batch plant.

Nichols said Rozman owns the exiting gravel pit. Lacy said he knew there would be a batch plant on Rozman's site, but he was not approving two batch plants. Lacy is opposed to Nichol's silo; it was never approved. He noted the silo on the Rozman site is bermed and cannot be seen from Lacy's property.

Attorney representing Bill Lacy Kendal Burgemeister submitted a letter to the Commission. He said the proper County process is not being followed. He added Riverland does not allow outdoor storage. He said the proposed project is contrary to Riverland's covenants. Outside storage was prohibited in 1982 because it is an eyesore. Granting a variance from the subdivision was not mentioned in the draft decision, prepared by staff. He suggested the application be reviewed in the full context of *Gunnison County Land Use Resolution* (LUR); review as a complete minor project if not major. Chairman Reed said in general the Commission reviews applications in Riverland as Minor Impact projects. Assistant Director of Community Development Neal Starkebaum noted authority was delegated to the Commission in the 2001 LUR. He added Riverland has given their approval. Chairman Reed said the Commission is the decision making body in this the process, but it also includes an appeal option to the BOCC by the applicant or anyone in opposition.

Commissioner Eskew returned to the meeting at 3:00 P.M.

Attorney representing Bill Lacy Burgemeister said the Commission should look at this application as a full review not a partially exempt review. Reed said that is noted. Burgemeister said landscaping and buffers are generally considered in a full review and need to be done here because they affect the adjacent landowners. Lacy said Nichols equipment can be seen from the highway; the impacts from this site should be protected from the view corridor. The original plan and building were very different than what is being considered now. The proposed building would have shielded all the visual impacts.

Assistant Director of Community Development Starkebaum said the draft decision does include reference to the approval given by Riverland.

Applicant's Response

Nichols clarified the Riverland covenants do allow for a batch plant; the variance is a request for outdoor storage. Riverland as Industrial park was built in three phases. The POA allows outdoor storage through a majority vote of the landowners. The POA allows outdoor storage on a case by case basis. They have granted outdoor storage and have done a good job of shielding it from Highway 135.

Chairman Reed asked what outdoor storage exists now. Nichols said there are large trucks but they have current tags on them.

Lacy said the silo is storing the cement powder; the silo should be in a building according to the covenants. Chairman Reed was not sure if that would qualify for outdoor storage. Commissioner Seitz said the cement is already in a container. Commissioner Eskew asked if it is portable; Nichols said it does not have an axel; not designed to be portable. Assistant Director of Community Development Starkebaum noted this is an approved use by the County as an industrial park within the covenants- a silo would be a part of a batching operation. Lacy agreed batch plants are in the covenants; but the surrounding owners were not told this would be a batch plant when they agreed to the Rozman/ Nichols land exchange.

The Commission did not take action at this meeting because of the information received at the meeting. Chairman Reed requested staff look more specifically at the conditions concerning outside storage and discuss it with the applicant to make it specific and clear.

Chairman Reed stated it is not in the Commission's purview to decide what is and is not outside storage or enforce it. Attorney representing Bill LacyBurgemeister said in this instance the default rule- no outside storage on this lot should prevail; the County has the authority and duty to examine what should or should not be allowed as outside storage.

Chairman Reed closed the public hearing @ 3:15 P.M.

Commissioner Wilcox returned to the meeting at 3:15 P.M.

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Watclarenone, Tim Watson, Majestic Mesa Monastery; The Gunnison County Planning Commission (Commission) conducted a work session/no action, request for a seasonal, mediation lodge, legally described as being located in TR 102 (E2NE4 & E2SE4) SEC 12,13 & TR 103 (W2NE4) SEC 12 48N5W 238.59 ACRES, 9380 Highway 50, approximately 35 miles west of the City of Gunnison.

With a quorum present Chairman Ramon Reed opened the work session.

Applicants' representative Danny Watson was present to discuss the project.

Applicants' representative Watson explained the applicants have owned the property for 34 years. They have built a cabin, and skied up for meditation. This year it was discovered there had been no building permit obtained to build the cabin. They are in the process of remedying the building permit and septic permit issues.

Applicants' representative Watson said they would be using the cabin for a mediation lodge, for guests. They would shuttle guests to the gate on Highway 50 and the guests will ski in 2.5 miles to the cabin. The guests will mediate from 6 A.M. to 9 P.M. each day. The maximum number of guests at one time would be 15. There is no electricity, there is a well, and they run a generator.

Chairman Reed pointed out a potential problem with the access. The Russell family owns the adjacent property on which the access is located. The Russell's have historically allowed the owners of the property to access their cabin over the Russell property. Giles Russell noted the road is not a County road, it is a private road. The Russells are concerned with the potential commercial use of this property. They are not comfortable with the potential liability.

Assistant Director of Community Development Neal Starkebaum has been contacted by Giles Russell, who has submitted a letter outlining the current use of the road. The Russells are concerned with the commercial use of the property resulting in the public using their private access road. They are also not going to allow any parking of vehicles near the highway, on the Russell's property.

Russell said they do not want the public skiing through their property. He acknowledged the owners do have permission to use the road to access the cabin. They will not be permitting the applicants to have a parking lot just inside the gate. He reiterated the public will not be allowed, if there is a commercial use of the cabin.

Assistant Director of Community Development Starkebaum noted the *Gunnison County Land Use Resolution* (LUR) standards state legal access shall be provided, and made of record. He said there are also outstanding issues with the lack of a building permit and ISDS permit.

Chairman Reed said a site visit should be done as soon as possible, because of weather concerns.

Commissioner Wilcox encouraged the applicants and the Russells to work together toward an agreement.

Assistant Director of Community Development Starkebaum pointed out the emergency access vehicle would most likely be a snowmobile. Indemnification may be needed because of the commercial component.

Assistant Director of Community Development Starkebaum will speak to the County Attorney concerning the access easement issue.

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Reed adjourned the meeting at 4:40

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/S/ Beth Baker
Community Development Department Services Manager
Gunnison County Community Development Department