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To: Planning Commission and BOCC

From: *Cathie Pagano, Planner*

Date: August 30, 2013

Re: Scarp Ridge Land Use Change application

This memo is to summarize the issues that have been discussed with the Scarp Ridge applicants, the Planning Commission and the public to date.

The applicants, Colorado Parks and Wildlife and Community Development staff had scheduled a site visit on August 27, 2013 to view the site and discuss wildlife issues. Unfortunately, CPW were unable to attend and the site visit was cancelled; we are attempting to reschedule the site visit.

At the Planning Commission work session on August 23, 2013 the Planning Commission heard from Marlene Crosby, Public Works Director regarding the proposed road improvements. Crosby indicated that she believed the Scarp Ridge proponents may apply for a waiver of road and/or driveway standards. She stated that building the roads or driveways to County standard and to allow access for fire-fighting equipment may not be practical. Crosby also indicated that if the residential building sites were clustered a waiver would be more likely to be granted.

Jim Cochran, County Wildlife Coordinator, also spoke at the meeting. He indicated his concurrence with the comments from Colorado Parks and Wildlife, dated July 31, 2013, and expressed his concern about the wildlife study prepared by John Monarch, the applicant's consultant. Cochran also stated that the subject parcel is in mapped lynx habitat. The lynx is currently identified as a Threatened Species by the U.S. Fish and Wildlife Service (FWS). Cochran said that the applicant will need to contact FWS and provide documentation that the parcel is subject to their requirements or exempt. The applicant's consultant, John Monarch, stated that the FWS had previously "taken the area out of consideration" and that this should not be a problem. Staff confirmed that comments from the FWS on the lynx are required to be submitted.

Cathy Mask of the U.S. Forest Service was also present at the work session. She noted that the USFS did not have concerns about the access road and the language in the easement discussing "short term or long term rental of residential units," which was raised by a member of the public. The USFS believes that the current application is generally in conformance with the easement. Mask also discussed the potential realignment for the Scarp Ridge trail. She said the USFS has not determined if the trail realignment would require an Environmental Assessment, Environmental Impact Study, or would be a Categorical Exclusion. Mask explained that the USFS would determine this when they had the time and budget, alternatively the applicants may hire a consult to prepare this information which would then be reviewed by the USFS. The USFS will also be conducting a public scoping on the trail realignment. The Planning Commission asked Mask if the USFS biologist had reviewed the wildlife comments from CPW, she said Matt Vasquez, the USFS biologist, had reviewed the comments and agreed with them, he expressed his support for the zone of influence as a wider area than simply the disturbed area of a trail.

Staff comments at the meeting focused on several sections in the *Land Use Resolution* that the applicant does not appear to be in compliance with at this time.

Section 9-301: *Applicability and General Standards for Commercial and Industrial Uses* states that, "commercial and industrial developments, including buildings, shall be designed according to the same principles governing the design of residential developments, and shall be sited to complement the topography, avoiding environmentally sensitive areas to the maximum extent feasible. Factors including drainage, noise, and odor and surrounding land uses shall be considered in siting buildings; sufficient access shall be provided, and impacts mitigated."

The applicant has not demonstrated that the development has been sited to avoid environmentally sensitive areas, nor has it demonstrated that it has been designed according the same principles governing residential development.

Section 10-102: 3. *Location Results in No Significant Net Adverse Impact to the Neighborhood* states, "...the cumulative impacts of the proposed development and existing development will result in no significant net adverse impact to neighborhood lands or land uses, wildlife, visual quality, air or water quality..."

I have referenced the residential development and density standards because Section 9-301, as noted above, states that commercial developments shall be designed according to the same principles as residential developments.

Section 10-103: B. *Conditions Are Appropriate for Larger Lot Size or Lesser Density*, states that the decision making body may deny a subdivision proposal that involves lot sizes that are substantially similar to the parcel in the neighborhood if the following conditions are met:

1. Land Characteristics. The density of the proposed development does not comply with the standards of Article 11: Resource Protection Standards (which includes protection of wildlife)
2. Public water supply and wastewater treatment are not available.
3. Emergency services access is difficult.
4. Significant net adverse effect will result. All impacts, including cumulative impacts when there is a reasonable probability that cumulative impacts of the proposed and existing developments will have a significant net adverse effect on neighborhood land and land uses, County or other infrastructure, public health, safety or welfare, or on the environment.

Finally, the standards for protection of wildlife have not been adequately addressed. Section 11-106: G.1. *Mitigation of Adverse Impacts to Sensitive Habitat. A proposed land use change must mitigate adverse impacts it causes to lands determined to be sensitive wildlife habitat including but not limited to a Gunnison Sage-grouse lek or occupied habitat. Proposed land use changes that are found to have a significant net adverse impact that cannot be mitigated upon sensitive wildlife habitat, shall be denied.*

The applicant has not yet demonstrated that impacts to the wildlife can be mitigated and that there is not a significant net adverse impact. Information from Colorado Parks and Wildlife and concurring statements from the Gunnison County Wildlife Coordinator and the U.S. Forest Service identify significant adverse impacts to wildlife. CPW's comments noted "that the cumulative impacts to wildlife from consistently increasing recreational activities in the Irwin Lake area are likely to become more and more difficult to mitigate. Backcountry outdoor recreation...may have significant wildlife impacts even though it is perceived to be 'light on the land'." CPW goes on to identify options for avoiding and minimizing impacts to wildlife including clustering of residential development, minimization of new trail development, and marking of zip lines for avian species. CPW also says, "Due to the extent of the development and use of the proposed project, avoidance and minimization of potential impacts to wildlife resources may not be possible. Offsite mitigation may be the most effective tool for ensuring that cumulative impacts to wildlife are adequately addressed."

September 6 is the public hearing for this project which begins at 8 am. The public seems to have significant concerns about the trail realignment.

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