

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: FRIDAY, October 16, 2015

- 8:45 a.m.**
- **Call to order; determine quorum**
 - **Approval of Minutes**
 - **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are not scheduled on the day's agenda.

9:00 a.m. **Pillow Rock Financial, represented by Dylan Carson,** public hearing/possible action, request for a private mountain bike trail, for the use of the owner and guests, located on Lot 33A, Trappers Crossing at Wildcat

LUC-15-00020

Adjourn

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
October 16, 2015**

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- Kent Fulton	Director of Community Development- Russ Forrest
Vice-Chairman- Jeremy Rubingh	Assistant Director of Community Development- Neal Starkebaum
Commissioner- Tom Venard	Community Development Senior Planner-Cathie Pagano
Commissioner-Jack Diani	Community Development Services Manager-Beth Baker
Alternate Commissioner- John Messner	Others present as listed in text
Alternate Commissioner- Molly Mugglestone	

Absent; Commissioner A.J. Cattles

With a quorum present Chairman Fulton opened the October 16, 2015, regular meeting of the Planning Commission.

Moved by Fulton seconded by Rubingh to approve the planning commission meeting minutes dated September 18, 2015. The motion passed unanimously.

Pillow Rock Financial, The Gunnison County Planning Commission conducted a public hearing/possible action. They reviewed the request for a private mountain bike trail, for the use of the owner and guests, located on Lot 33A, Trappers Crossing at Wildcat.

With a quorum present Chairman Fulton opened the public hearing.

Community Development Administrative Services Manger Beth Baker confirmed adequate public notice; the applicant submitted the certified mailing receipts, the notarized affidavit of posting and a photograph of the property posted with the notice. The planning department had the notice published in the Crested Butte News and the Gunnison Country Times.

Present representing staff: Director of Community Development, Russ Forrest and Community Development Administrative Services Manager, Beth Baker.

Present representing the Gunnison County Planning Commission; Commissioners Fulton, Rubingh, Diani, Venard, Mugglestone, and Messner. Messner left the meeting at 10:25 A.M., and did not return that day.

Present representing the applicant; attorney Dylan Caron, principal Chris Baggott, Spetrum Trail representative Alex Stewart, and SGM surveyor Eric Bjornstad.

The Commissioners who attended the site visit put their comments on the record.

Site Visit Comments:

- **Venard**- The trail is entirely on the owner's property. There is evidence it does connect to the Green Lake trail.
- **Diani**- It is a nice trail, all on private property. There does seem to be a connector to the Green Lake trail. There was no effort to reclaim the connector to the Green Lake trail; it is an invitation.
- **Rubingh**- The trail was constructed nicely. He noticed the connector to the Green Lake trail- seemed there may have been an attempt to hide it at one time, but it needed more work. There wasn't much evidence other public trails connect from there.
- **Fulton**- It was nice to walk the entire trail. The connector access to the Green Lake trail was visible.

Dylan Carson gave a brief overview of the project. The lot was purchased in 2013. The building site is wired for electrical and there is a site for a leach field. The owner intends to build a home and the trail, to be used by the owner and his guests.

In 2014 Pillow Rock Financial engaged Spectrum Trail Design to build a private bike trail on Pillow Rock's lot. The trail took several months to construct. The trail was surveyed to ensure it was entirely on the owner's private property. The trail wasn't designed or built to be a connector to any other public trails. The additional trails seen on the Commissioner's site visit were on Forest Service property and were not built by Spectrum Design. Spectrum's criteria is to build a trail to the highest standards of design and sustainability. Spectrum limits trail erosion by controlling water flow across the trail. They avoided wetlands and trees. They do not think decommissioning the connector will not solve the trespass issue; noting it could cause more trespass – from Wildcat Trail. They will simply go around and ultimately spend more time on Wildcat Trail. If bikers are going to trespass they will continue to do so. It was noted that there is access through lot nine as well. The Green Lake trail has private property signage. Stewart said the goal was to construct the trail with minimal impact while providing an enjoyable experience for the owner and his guests.

Carson detailed how the trail design complied with the standards in the *Gunnison County Land Use Resolution*. He said the trail is compatible with the neighborhood and Green Lake Trail. He said the trail could not be seen by the adjacent neighbors.

Fulton asked where the access is for the connector; Stewart pointed it out on a map.

Forrest said he had seen orange flags and tree cutting; Carson said the orange flags were the survey flags.

Rubingh asked if the public used trail; Baggott said not a lot but some. Baggott said he was not concerned with public usage, most of the people were friends. The trail was packed in by some local bikers.

Venard asked where the bonfire was; Carson said it was on BLM land. He asked how a fence would work or would signs be more appropriate. Carson said the Town has asked for signs. Fulton noted the Town has said they are willing to provide the signage. The signage will be paid for by the landowner.

Staff comments;

Forrest noted there had been comments submitted by the Town of Crested Butte, the County Trails Commission, and several members of the public. All the comments are in the County planning file and can be accessed on the County website.

He noted that the HOA brought the constructed trail to the County's attention, and because there is 13,220 sq. ft. of site disturbance this is a minor impact land use change. He added the applicant must be clear as to whether this is a private or public trail system. The HOA is concerned with trespass, any trespass would be handled by the Sheriff's office. Trespass has been a historical issue for this subdivision. He said the trail should not have connectivity with Green Lake Trail because it further fosters trespass.

Commission Comments;

Messner asked how it would be handled if the trail were not approved; Forrest said several options including- elimination and reclamation of the trail, or ensuring no trespass.

Rubingh asked if creating an attractive nuisance could be addressed with signage. There should be consultation between the Town and the applicant. Rubingh said the issue of public or private is the important issue.

Muggleston agreed with Rubingh. She added that calling it private but with the public still using it; it is just semantics. At the end of the day we must think about ensuring the public is not using it

Venard asked if enforcement of decision would include the sheriff's office; Forrest the property owner contacting law enforcement it is a separate and discreet discussion.

Fulton said if it truly going to be private trail then it will be private only. It is up to the land owner to make sure the trespassing stops.

Carson said it is a private trail system put only for the landowner and his guests. A connector was put in for the owner to have less environmental impact. Nature will reclaim the connector to the Green Lake Trail.

Public Comments;

Lynn McDermand resident in Wildcat said the trail on lot 33 A is not compatible with the HOA. When the owners in Trappers purchased their lots they knew about the Green Lake trail, but not this one. She has witnessed people trespassing often; motorcycles and dirt bikes, and hikers. The signage will not work as evidenced by the trespass which takes place now. The trail is unauthorized development with no consideration of the fellow owners.

Rudy Rozman is concerned this private trail encourages more trespass through the BLM and Forest Service.

Messner left the meeting at 10:25 AM for the day.

Angela Reeves is a property manager. She said signage does not work. The trail is obvious from the Green Lake Trail.

David Leinsdorf attorney for several owners in Trappers Crossing pointed out much of the discussion has been about the environmental construction of the trail, and that is not the issue. He said this trail was constructed without a County permit. The applicant must comply with the County standards and the burden shall be on the applicant to demonstrate this.

Leinsdorf noted that the trail should be compatible with the community character. It was pointed out because there is one private trail through Trappers, does not mean there should be more. It is a fiction to pretend it is a private trail. The mountain biking community has an entitlement attitude about the trails private or not. Consider this as a public trial, the evidence is clear and the burden is on the applicant to illustrate it meets all the standards of the LUR. If there is a question it must be turned down. Leinsdorf read owner Tom Atkinson's into the record. The letter in full can be found on the County website. Leinsdorf read a letter submitted to the Commission by Jim Hopkins as well. Mr. Hopkins letter said Trappers is not an amusement park, it is a quiet residential neighborhood.

Tim Kugler resident in the valley said the Green Lake Trail is one of the harder trails in the valley. The user numbers are not large there. The Green Lake Trail was not sustainably built. The trail in question is done very well. He was an invited guest and has ridden the trail.

Gorden Reeves is a property manager and understands the meeting is being held to determine the impacts. He noted a HOA positively impacts the value of the property. The County approved the creation of the HOA. The trail on lot 33A wasn't brought before the County or the HOA and should be taken out. There is public desire and intent to use this trail. He added that the trail was built without a County permit and without HOA approval; it does not comply with the regulations and should be removed.

Marcus Locke attorney for several owners in Trappers Crossing asked if trees had been cut down; Stewart said yes but it was done carefully. Locke requested an estimated number; Stewart was not sure but said it was not extensive. Locke asked if the County staff report was accurate; Carson confirmed to best of the applicant's knowledge the County staff report does not contain misleading information. Carson said it seems relatively accurate.

Locke was concerned the HOA covenants were not being considered and are effectively being minimized. He noted that protective covenants are the best example of a community. He said there is currently a legal dispute in the courts between the applicant and the Trappers Crossing HOA. He encouraged the commissioners to delay any action until that court decision has been made. He pointed out the commissioners could possibly approve a development that would not be approved by the courts. He urged the Commission to deny this application.

Mugglestone was concerned the HOA had not had the opportunity to comment or weigh in on this application because the trail was not built with County approval. This is the largest issue. It was done without proper approval. She appreciates the public comment because this application is being done after the fact. What do we have these processes if they do not have to adhere to? The trail is being used by the public and causing issues in a private community. Those rights have to

be considered. The applicant should not trump all the other owners. If he had applied first, then this would be a different discussion.

Michael Yerman Town of Crested Butte planner said the applicant did apply for a watershed permit. The Town has a historic record of working with trails. The Town works hand in hand with the Forest Service. Their perspective is -they have seen a serious increase in trespass occurrences. The Town has adopted uniform signage which tends to be more respected than just signage put up by an owner. The verbiage tries to encourage no trespass.

Mugglestone said the Commission should not be considering after the fact trail construction. She encourages the commissioners to look at the bigger picture; don't approve what will encourage further trespass.

Venard said this is about what property rights one really has.

Locke agreed with the points raised by Mugglestone and Venard. He added the applicant had an opportunity to either buy property without covenants or apply for a permit before the trail was built.

Applicant Response;

Carson said the private trail is not an attractive nuisance or an invitation to trespass. The public has concerns with the effectiveness of signage, but they will work with the Town for appropriate signage. He acknowledged there is litigation going on, but does not believe it is wise public policy to make a decision linger on during years long litigation. The violation of the HOA covenants is being considered in court and should not enter in here. This is not the forum to litigate it. He said the issue is- is the trail consistent with County guidelines. He added this trail is very consistent and compatible with the residential character of the area.

Rubingh asked when the Trappers covenants were adopted; Leinsdorf said 1990.

Venard suggested the Commission confer with the County attorney.

Forrest acknowledged the County does have the right but not the obligation to enforce the Trappers Crossing covenants. He added that the County tries very hard to stay out of issues solely focused on property owner disputes. He recommended the commissioners remain focused on the application only.

Fulton and commissioners continued the public hearing to December 4, 2015 @ 9:00 A.M. They noted they were not ready for a draft decision.

Fulton adjourned the meeting at 11:30 AM.

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