

**GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, March 2, 2018**

**Planning Commission will meet in the Ballroom at the Lodge at Mountaineer Square
620 Gothic Rd, Mt. Crested Butte, Colorado**

8:45 a.m. Call to order; determine quorum

9:00 a.m. APT Brush Creek Road, LLC, JOINT BOCC and PC PUBLIC HEARING, request for the development of 240 rental units on the subject parcel. 62.5% (150) of the units will be deed restricted to qualifying households earning less than 180% of the Area Median Income. The remainder of the units (90) will be free market rental units, located on the southeast corner of the intersection of Brush Creek Road and Highway 135, approximately 1.5 miles south of the Town of Crested Butte. The parcel is approximately 14.29 acres and is legally described as all of land in Section 12, Township 14 South, Range 86 West, 6th p.m., lying south and east of Brush Creek Road, and west of Larkspur Subdivision
LUC-17- 00034

10:15 a.m. Break

10:30 a.m. Resume APT Brush Creek Road, LLC,

12:00 p.m. Break

12:30 p.m. Resume APT Brush Creek Road, LLC, JOINT BOCC and PC PUBLIC HEARING

2:30 p.m. Adjourn

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING**

March 2, 2018

The Gunnison County Planning Commission conducted a regular meeting/a continued joint public hearing, in the Ballroom at the Lodge at Mountaineer Square, 620 Gothic Rd., Mt. Crested Butte, Co.

Present:

Chairperson- Jack Diani Commissioner- AJ Cattles Commissioner-Molly Mugglestone Alternate Commissioner- Vince Rogalski BoCC- Phil Chamberland BoCC-Jonathan Houck BoCC-John Messner	Director of Community Development- Cathie Pagano Manager of Administrative Services- Beth Baker Others present as listed in text
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Recused/Absent: Commissioner Kent Fulton has recused himself from the review of this application.

With a quorum present Chairman Diani opened the March 2, 2018 regular meeting of the Planning Commission.

APT Brush Creek Road, LLC (LUC-17-00034)- The Gunnison County Planning Commission and Board of County Commissioners conducted the second session of the continued joint public hearing. They reviewed the request for the development of 240 rental units on the subject parcel. 65% (156) of the units will be deed restricted to qualifying households earning less than 180% of the Area Median Income. The remainder of the units (84) will be free market rental units, located on the southeast corner of the intersection of Brush Creek Road and Highway 135, approximately 1.5 miles south of the Town of Crested Butte. The parcel is approximately 14.29 acres and is legally described as all of land in Section 12, Township 14 South, Range 86 West, 6th p.m., lying south and east of Brush Creek Road, and west of Larkspur Subdivision.

Chairperson Kent Fulton has recused himself from the review of this application.

Commissioner Diani has been appointed Chairperson for this review and Commissioner AJ Cattles has been appointed Vice-Chairperson.

Chairperson Diani opened the continued joint public hearing.

Present representing the Planning Commission: Commissioners Diani, Cattles, Mugglestone, and Rogalski. Present representing the Board of County Commissioners: Board Members Phil Chamberland, Jonathan Houck and John Messner.

Present representing the Community Development staff; Director of Community Development Cathie Pagano and Manager of Administrative Services Beth Baker.

Present representing the application: applicant Gary Gates, application representative John O’Neal, attorney Kendall Burgemesiter, designers Margaret Loperfido and Andrew Hadley, and engineer Tyler Harpel.

The applicant had submitted the following email, dated February 28, 2018, changing the sketch plan as follows:

- The total number of dwelling units on the property will be reduces by 20 units, to 220 units. 140 of the 220 units (over 63%) will be deed-restricted base on household income. The current plan is to achieve this reduction in overall density by shrinking the two largest buildings from 32- plexes to 22- plexes. The exact bedroom mix (number of studio, 1 bedroom, etc.) and AMI mix (x units at 50% AMI, etc.) are still being finalized, but we hope to have that information on Friday.

- 20 of the 220 units will become for-sale townhomes. These 20 units will all be deed-restricted. These are anticipated to be along the eastern edge of the property. Details regarding pricing and affordable (cost is less than or equal to 30% of household income) for households making approximately \$80,000 per year. By way of example, a family of four with a household income of \$84,960 would have been 120% of AMI in the year 2017.
- For the for-sale units, the developer will construct the units and will offer seller financing to qualifying households. Developer's construction and seller financing overcome the biggest obstacle to successful deed-restricted for-sale programs: inability of prospective occupants to qualify for financing, particularly a construction loan. No buyer will be required to finance through the developer, it is simply an option made available to them. The proposed financing terms would be a 3% down payment, 30 year amortization, and a low interest rate. The proposed interest rate is a fixed rate, determined as the 30 year Treasury Rate plus 60 basis points at the time of acquisition. Today, that would be a rate of about 3.85%.
- For all rental units (not just the deed-restricted affordable units), the proponent will pursue restrictions and policies. By way of example, some Federal loan programs prohibit absolute local residency requirements, but allow local residency preferences that have been approved by HID to ensure that they do not have a discriminatory impact. Notably, as the LIHTC project, Anthracite Place does not have a local residency requirement.
- The affordability restrictions will not be subordinated to any financing that is utilized by the applicant, ensuring that the restrictions are not lost in the event of a foreclosure.
- As acknowledged at the public hearing, the minimum lease term for all units is six months.
- The reduced density and other concessions reduce the pro forma revenue for the project. In order to maintain project viability, it is necessary for the project costs imposed on the applicant to be reduced. By way of example, the applicant is proposing that the park and ride/ intercept lot be severed and retained by the County, to be developed by the County or other entities (such as RTA) at a later date. It is similarly imperative that the other exactions imposed on the project be constrained to a reasonable level. For example, many have called for the cost of providing RTA service to the property to be imposed on the developer. This would not be fair or conducive to providing affordable housing. No other property owner in the County is required to directly pay the RTA for the service that is currently provided. Finally, it is critical that everyone keep in mind all other barriers to affordable housing, including those specifically mentioned in the Housing Needs Assessment. For example, outdated and overly conservative parking requirements do not always take into account the smaller (e.g. studio and one bedroom) units that predominate affordable housing developments. Many have called for strict adherence to Gunnison County's default two parking spaces per dwelling unit requirement. Unnecessarily burdensome parking requirements drive up construction costs, reducing availability of affordable units, and cut into open space.
- Although it is somewhat outside of the planning commission's purview, the applicant is willing to change the deal structure so that the transfer of title happens after the land use change approval.

Burgemeister summarized the revisions:

Revisions to Proposal:

- Units reduced from 240 to 220 –achieved by reducing the two 32 plexes to 22 plexes
- 20 units converted from rental to deed-restricted for-sale
- 6 month minimum lease terms
- Free market units will have local resident preference
- County retains ownership of park & ride parcel- because the amount of revenue that can be achieved. The applicant would still build the transit/community center.

**Affordability Restrictions
January 2018 –Revised Plan**

Type of Unit	Incremental Units	Cumulative Units	Cumulative % of Total Units
Restricted <50% AMI	40	40	16.66%
Restricted < 80 %	60	100	41.16%

Restricted <120%	30	130	54%
Restricted <180%	20	150	62.5%
No Income Restriction	90	240	100%

March 2018 Revised Plan

Unit Type	Incremental Units	Cumulative Units	Cumulative % of Rental Units
Rental Restricted <50%	33	33	16.50%
Rental Restricted <80%	49	82	41.00%
Rental Restricted <120%	26	108	54.00%
Rental Restricted <180%	12	120	60%
Rental No Income Res.	80	200	100%

Burgemeister said the parking lot parcel would be retained by the County, Town of Mt. Crested Butte, Town of Crested Butte and CBMR. The for-sale units would have garages and off street parking.

BOCC Comments

Chamberland said it is an interesting proposal and he appreciates the ownership component.

Houck asked what the bedrooms count is now: Burgemeister said 341, which is 67 less than the original submittal.

Bedroom Mix

Unit Type	Sketch Plan Application	January 2018 Plan	
Studio	32	40	
1 Bedroom	64	90	
2 Bedroom	120	98	
3 Bedroom	24	12	
March 2018 Plan			
	Rental Units	For-Sale Units	Total
Efficiency	36	0	36
1 Bedroom	81	0	81
2 Bedroom	77	8	85
3 Bedroom	6	12	18
Total	200	20	220

Messner asked if there would be an appreciation cap on the ownership units: Burgemeister said they could be linked to a state wide inflation index. They will confer with the Housing Authority and the County.

Cattles asked how the parties in the MOU feel about taking back the parking lot.

Rogalski asked if there is an approximate price for the units to be sold: Gates said approximately 25% less than what the market value is.

Mugglestone requested information on what the HOA and apartment complex would share responsibility for. They would have some shared open space and roads, and a shared water supply and waste water systems. The County would not have to maintain and control the operations.

Diani asked if the HOA or the apartment complex would be ultimately responsible for the water and waste water systems: Burgemeister said the covenants would be the governing document in place.

Messner asked how the parking would be affected with the elimination of the park and ride. Burgemeister said the park and ride parking spaces had not been counted in the apartment complex parking space number.

Cattles asked if the applicant would consider leaving the parking spaces the same as it was in the previous iteration: Burgemeister said it all costs money. Pagano said a third party consultant would be hired to review the issue if the project moves forward to preliminary plan.

Rogalski asked if the for-sale units would have a one car garage and an additional parking space: Burgemeister confirmed they would.

Chamberland said the park-n-ride could create even more traffic impacts and would have to be considered.

Messner asked about the covenants: Pagano said the specifics are addressed in the preliminary plan phase.

Pagano addressed questions from the February 16, 2018 joint public hearing. Pagano's staff memo addressing the questions is attached here.

Pagano Memo:



Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360 FAX: (970) 641-8585
Website: www.gunnisoncounty.org
Email: planning@gunnisoncounty.org

To: Planning Commission and Board of County Commissioners
From: Cathie Pagano
Date: March 1, 2018
Re: Brush Creek Public Hearing response (LUC-17-00034)

During the February 16, 2018 public hearing for the Brush Creek Road APT, LLC application the public asked numerous questions which were not all able to be answered by the Community Development Department staff at that time. This memo is to provide a written response to those questions. This memo is not on behalf of the applicant as they are responsible for responding to questions specifically about the development proposal.

Other affordable housing projects and economic downturns

There was testimony presented regarding previous housing developments that included deed restricted housing. Several examples were cited including the River Neighborhood in Skyland and Stallion Park in Buckhorn.

The River Neighborhood in Skyland was platted in January, 1997 and the developer included deed restrictions for 28 lots which included single-family, triplex and quadraplex lots. At that time, the County had no workforce housing regulations in place. The deed restrictions (attached) that were originally adopted (Reception No. 473135) required that purchasers have legally residency within the Gunnison Watershed RE1J School District with preference given to current residents

employed at Skyland. There were additional criteria that gave preference to residents who had lived in the RE1J District longer.

The River Neighborhood parcels had no income limits, nor sale/appreciation caps put on the units. While the parcels were affordable for many of initial purchasers they quickly became unaffordable for the local workforce. Prior to the recession many of the homes in that neighborhood were purchased or built by local community members but once the recession occurred many of those property owners were under water on their mortgages. In 2009, the Skyland Community Association and the River Neighborhood Association, represented by David Leinsdorf applied to Gunnison County to alter the deed restrictions. The alterations required a property owner to market a unit to Gunnison County residents exclusively for three months, if at the end of that three months the property owner was unable to sell to unit at that time, the property owner could then sell the unit to a non-resident.

The minutes of the May 19, 2009 BOCC meeting state:

PROPOSED AMENDMENTS TO SPECIAL COVENANTS AND AFFORDABLE HOUSING DEED RESTRICTIONS OF SKYLAND RIVER NEIGHBORHOOD: *Housing Authority Director KT Gazunis, County Attorney Baumgarten, Skyland River Neighborhood HOA President Kelly McGuire, Skyland Community Association HOA President William LaDuke, resident Robin Yost and attorney David Leinsdorf, representing both entities were present for discussion.*

Ms. Yost explained that, during the process of selling her home last August, she began researching deed restrictions and found contradictions in terms. The buyers were not satisfied with the deed restrictions and did not pursue the property any further. Ms. Yost requested a solution that would provide a benefit to the community, while also being clear to owners and potential owners.

Attorney Leinsdorf explained that Article 6 in the deed restrictions was titled "Affordable Housing Guidelines", but that the document was not considered to be affordable housing covenants. He proposed an amendment to first offer for sale a residence to a current resident of the County or a person who is establishing residence in the County. He also felt that the 12-month period should be shortened to only three months.

Housing Authority Director Gazunis stated that the Housing Advisory Board had discussed a process to bring this issue to the Board, and she confirmed that the process was followed. She stated that the Housing Advisory Board felt that this was the basis of the original approval of the deed restrictions and asked the Board to consider whether the County would be sacrificing deed restrictions simply because of an economic downturn. She also asked the Board to consider whether or not modifying deed restrictions would provide a benefit to the neighborhood and to the County.

Attorney Leinsdorf felt that the public would benefit from a more realistic and enforceable deed restriction application. He confirmed that 75% of the neighborhood's property owners supported the modification. He requested Board approval of the presented form.

Ms. McGuire stated her support of the modification since owners were experiencing difficulty selling their properties. She explained that the neighborhood includes 40 buildable units and that there were currently 32 property owners. Commissioner Channell questioned how many properties had been sold ignoring the covenants and attorney Leinsdorf explained that the objective of the covenants had been accomplished, even though the covenants have been ignored, because most of the property owners are locals. Only one sale has been to an out-of-state buyer.

Commissioner Starr informed the Board that he had met with Mr. LaDuke and some of the other board members prior to this meeting. He expressed confusion as to why title companies had not discovered the issue. He also felt that the 12-month timeframe was appropriate, which could help to avoid sellers placing higher sales prices on their properties for only a short period so that they could eventually sell the property to anyone, which would end the deed restriction on that unit forever.

Mr. LaDuke stated that houses were on the market for a range of between \$489,000 and over \$800,000. He did not feel that the time period was relevant and that the market price should be of more concern.

Ms. Yost felt that, while the lots could be described as affordable, the construction materials could not. She felt that the structure of the neighborhood did not indicate affordable housing, per her personal definition of the term.

Commissioner Channell stated that he took stock in the Housing Advisory Board's input. He was concerned that the 12-month deed restriction could be lost in perpetuity. He also felt that the limitations should be part of every sale, not just the first generation because he did not want the County's citizens to lose the benefit of the deed restrictions that the County worked so hard to establish.

Attorney Leinsdorf felt that these deed restrictions were created to benefit first-generation homeowners, but that those homeowners are now having difficulty with equity issues.

Property owner Kristy McFarland stated that, as a second-generation homeowner, she did not feel the timeframes were pertinent because buyers and sellers could find a way around it. She noted that she has had a lot for sale for the past two and a half years.

Chairperson Swenson felt that, with the nature of the market, it could put a local into a financial bind with having to wait for a year before they could sell their property. She felt that option #2 was the best.

Commissioner Channell stated that this decision was difficult to make, but that he supported the modification of the deed restrictions.

Commissioner Starr agreed, but expressed dismay that so many units will be lost to the affordable housing efforts. He agreed that this was a problem with drafting the restrictions originally.

Moved by Commissioner Channell, seconded by Commissioner Starr to amend the Special Covenants to the Skyland River Neighborhood to include the presented modified option of deed restrictions. Commissioner Starr questioned how the neighborhood will now enforce the covenants and attorney Leinsdorf confirmed that he will handle the documentation. Motion carried unanimously.

The public also expressed frustration regarding the deed restrictions that were removed at Stallion Park in Buckhorn Ranch Subdivision. The Buckhorn Ranch subdivision was required to construct 32 affordable housing units as part of the subdivision approval. There was much litigation over the development related to the airstrip, access, and the developer constructing the improvements that were required in the Development Improvements Agreement, eventually the County was forced to utilize the bond that had been posted to install the required infrastructure.

What I can deduct from the BOCC minutes regarding Stallion Park, the units were not selling (this was during the recession in 2011) and representatives for the developer indicated that the units were not being purchased because of the difficulty of obtaining financing for condominiums and the deed restrictions. The BOCC minutes dated May 24, 2011 state:

STALLION PARK; PROPOSAL BY DEVELOPER TO RESTRUCTURE; POSSIBLE EXECUTIVE SESSION: Community Banks representative Jeff Buehler, Pauls Corporation Principal Brad Pauls, Benson Sotheby's International Realty Broker Associate Channing Boucher, Attorney Beth Appleton, Deputy County Attorney Tom Dill and County Paralegal Rachel Magruder were present for discussion.

Mr. Pauls stated that Dr. Richard Landy, Stallion Park developer, would like to remove the deed restrictions for the remaining 22 units in the Stallion Park development because it is Dr. Landy's opinion that removing the deed restrictions will help the units to become more appealing to buyers. Previously, Mr. Pauls had extended an offer to give the County four units in exchange for the removal of the deed restrictions on the remaining 22 units. Keeping the concerns of the Buckhorn Ranch Homeowner's Association in mind, Mr. Pauls proposed the removal of the requirement to build on the foundations, the deed restrictions and the Letter of Credit.

Stallion Park encompasses a total of 24 units. One unit is privately owned and one unit is owned by the County. The remaining 22 units were previously rented out, but are now vacant.

Mr. Boucher commented that the deed restrictions are problematic because sellers are competing with the free market and obtaining financing for condos is difficult. In late 2010, the deed restrictions were amended because of Federal Housing Administration (FHA) compliance issues; however, the FHA has made it increasingly difficult to obtain financing. The current deed restrictions require an owner to own the unit for three years before it can be sold. Mr. Boucher noted that an owner will likely break even upon the eventual sale of a unit because a unit can only appreciate 3% each year.

Ms. Appleton conveyed that the property needs to be cleaned up in order to become compliant with the HOA. She will compile a list of items that the HOA would like addressed. She also stated her assumption that the HOA would approve of Mr. Pauls' above request.

The Commissioners discussed the HOA and the associated dues. Stallion Park is supposed to have its own HOA inside of the Buckhorn Ranch HOA. The Commissioners opined that the dues should be set at a fixed amount. If Mr. Pauls'

request is granted, the privately owned unit and the additional four units that would be given to the County would remain deed restricted, for a total of six deed restricted units.

The County then acquired two units that were existing and the ability to construct eight additional units on that parcel. Gunnison County released an RFP in 2018 for the construction of the remaining eight units in Stallion Park and is currently in the selection process for a contractor/developer.

Economic downturns may place a strain on deed restricted units. Those strains are often significantly exacerbated when there are no price caps or income requirements on restricted units. The applicant's representative, Kendall Burgemeister has stated in an email dated February 28, 2018, "The affordability restrictions will not be subordinated to any financing that is utilized by the Applicant, ensuring that the restrictions are not lost in the event of a foreclosure."

Gross density vs. Net density

Testimony included concern related to the definition of density and the inclusion of gross and net density. The following table includes net density calculations for those subdivisions where the information is available. It can be difficult to identify the area/acreage of open space and roads that enables the calculation of net density.

The proposed density of the Corner at Brush Creek is greater than neighboring parcels and the net density is noticeably greater, in large part because of the significant amount of open space (7.8 acres) that is proposed.

TABLE 1: COMPARABLE DENSITIES

ESTIMATED LARKSPUR NEIGHBORHOOD DENSITIES COMPARED TO EXISTING DEVELOPMENT IN IMPACT AREA					
	NUMBER OF RESIDENCES	TOTAL AREA/ACRES	GROSS DENSITY (TOTAL RESIDENCES ÷ TOTAL AREA INC. ROADS, OPEN SPACE, ET.AL.)	NET DENSITY (TOTAL RESIDENCES ÷ TOTAL AREA MINUS ROADS, OPEN SPACE, ET.AL.)	ACRES PER RESIDENCE (TOTAL AREA INC. ROADS, OPEN SPACE, ET.AL. ÷ NUMBER OF RESIDENCES)
CORNER AT BRUSH CREEK	220	14.29 acres (7.8 acres open space)	15.4 residences per acre	76.65 residences per acre	0.06 acre per residence
LARKSPUR	65	35.6 acres (14.24 acres or 40% of total area)	1.83 residences per acre	2.69 residences per acre, not including recreation or water system areas within open space; 3.2, if recreation area included	0.55 acres per residence
SKYLAND (THE CLUB AT CRESTED BUTTE)	515	663.7 acres (total open space not computed in all filings)	0.76 residences per acre	Unknown; total open space and road area not separately indicated	1.29 acres per residence
GOLF VILLAS (SKYLAND)	53	6.42 acres	8.3 residences per acre	Unknown; total open space and road area not separately indicated	0.12 acres per residence
BUCKHORN	388	280 acres (total open space not computed in all filings)	1.39 residences per acre	Unknown; total open space and road area not separately indicated	0.72 acres per residence
STALLION PARK (BUCKHORN)	32	2.13 acres	15 residences per acre	Unknown; total open space and road area not separately indicated	0.06 acres per residence
WHETSTONE VISTA	9	32.5 acres (14.123 acres open space)	0.28 residences per acre	0.49 residences per acre	3.6 acres per residence
BUTTE PASTURES	9	62.72 acres (35.11-acres in conservation easement)	0.14 residences per acre	0.33 residences per acre	6.96 acres per residence
RIVERGREEN	17 (each allowed an efficiency residence by protective covenants)	19.9868 acres (10.57 acres open space)	0.85 residences per acre; 1.7, with efficiency residence in each single-family residence	1.81 residences per acre; 3.61, with efficiency residence in each single-family residence	1.18 acres per residence; 0.59, with efficiency residence in each single-family residence
SILVER SAGE	23 (each allowed an efficiency residence by protective covenants)	27.85 acres (6.45 acres open space)	0.83 residences per acre; 1.65, with efficiency residence in each single-family residence	1.07 residences per acre; 2.15, with efficiency residence in each single-family residence	1.21 acres per residence; 0.61, with efficiency residence in each single-family residence
RED FEATHER RANCH	6 (single-family residence and secondary residence)	18.90 acres	0.31 residence per acre	Unknown; total open space and road area not separately indicated	6.3 acres per lot; 1.15 acre per residence (primary residences and secondary

Ownership vs. Rental

There has been testimony that there should be ownership opportunities at the Brush Creek parcel. As of Feb. 28, 2018 the applicant has revised the Sketch Plan application to include 20 for sale units (200 rental units). The applicant has also offered to finance the for sale units, at the discretion of the purchaser.

The Town of Crested Butte currently has 250 affordable housing units, 94 of those units are owned, 156 are rental units.

The Town of Mt. Crested Butte has 71 affordable housing units, 42 are owned, 29 are rental units.

Gunnison County owns two units at Stallion Park that are rentals. The County also owns two triplex lots in Larkspur and is permitted to develop eight additional units at Stallion Park. A determination on ownership vs. rental has not been made yet for those future units.

Bus Service to development

Questions have been raised about who or what entity will pay for increased bus service to the Brush Creek area, as proposed in this development. The RTA Board and Mountain Express boards will need to consider those requests. The RTA Board is made up of representatives from the Towns of Crested Butte, Mt. Crested Butte, the City of Gunnison and Gunnison County. The Mountain Express board is made up of representatives from the Towns of Crested Butte and Mt. Crested Butte. Questions of service and cost sharing or funding will be decided by those boards.

Wastewater Treatment

It was noted at the hearing that Section 12-106: H.4 *Developer Responsibilities Following Construction* states that, “the developer shall deed the facility, collection system, and all easements and rights-of-way associated with the system to the homeowner’s association or the County...and the Board of Commissioners will provide a certified operator who will manage the system.”

County staff have discussed this requirement and find that the inclusion of ownership units on the parcel would enable the wastewater treatment facility to be owned by the HOA and include an operator to the County’s satisfaction.

Water Supply

Testimony was given that the water supply has not been fully tested or confirmed—that is correct. Section 7-201: V. *Water Supply Plan* identifies the submittal requirements for the Sketch Plan submittal. The applicant has complied with those submittal requirements and included a letter of feasibility of the success of the purchase of water augmentation and development of a water supply plan. A letter dated August 28, 2017 from representative Kendall Burgemeister regarding feasibility has been submitted and is referenced in the October 20, 2017 staff report.

Housing Master Plan

Public comment has expressed the importance of a housing master plan or identification of project locations. That work begun in October 2017 when representatives from Gunnison County, Gunnison Valley Regional Housing Authority, Town of Crested Butte, Town of Mt. Crested Butte, City of Gunnison, and the Community Foundation of the Gunnison Valley attended the Community Builders Housing Institute. Participants agree that it is critical to identify existing and potential assets that may be utilized for workforce housing projects. Representatives met last week to continue that work. There is a clear understanding that housing is needed throughout the Gunnison Valley.

Precedence Setting

Testimony has been submitted related to concerns that approval of the subject project would set a precedent for approval of other projects of similar density. Future proposed developments would be subject to each individual requirement of the Gunnison County *Land Use Resolution*. If a project that was proposed included at least 40% workforce housing it may be appropriate for greater density. It is staff’s opinion that if a project was proposed adjacent to this site with all free market units that it would not be appropriate for it to include similar density as the Corner at Brush Creek.

The following condition is included within all Land Use Change approvals: “*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.*”

Cost of Road Improvements

Testimony has been submitted asking who will pay for road improvements on Brush Creek Road and/or Highway 135. The applicant may be required to pay their pro-rata share of the impact but the County may not require an applicant to

bear the cost of all improvements simply because the proposed development finally tipped the scales and requires improvements. It would be most appropriate for other developments in the area including Skyland, Larkspur, Buckhorn and others to pay a pro-rata share of improvements—that is unlikely to occur and the County will consider all options (including grants and user fees for new construction) to pay for improvements.

The development is proposed in phases which will facilitate planning to accommodate and pay for necessary improvements to Brush Creek Road. Improvements on Brush Creek Road may be done directly by the Gunnison County Public Works staff. The improvements on Highway 135 may need to be considered in a more holistic way considering the developments that are proposed south of Riverland, the existing industrial parks and traffic accessing Brush Creek Road.

East River Regional Sanitation District

There has been testimony that the proposed development is required to tie into the East River Regional Sanitation District. There are several components to that question.

Section 12-106: D. *Existing System Not Accessible* states:

D. EXISTING SYSTEM NOT ACCESSIBLE. *Where an existing wastewater treatment system approved by the Colorado Department of Public Health and Environment is not reasonably accessible or connection to it is not feasible, the applicant shall, at the discretion of the decision-making body, implement either of the following options:*

- 1. INSTALL WASTEWATER TREATMENT SYSTEM.** *Install a wastewater treatment system, with sewage collection lines to each lot, the design, construction, maintenance and operation of which complies with the County's regulations and with the standards of the Colorado Department of Public Health and Environment; or*
- 2. SUBMIT EVIDENCE OF ADEQUACY OF INDIVIDUAL SYSTEMS.** *Submit evidence satisfactory to Gunnison County that it will be feasible to install an individual sewage disposal system on each lot in the proposed development that will comply with the requirements of the Gunnison County On-Site Wastewater Treatment System Regulations. The area in the lot where the system is to be located shall be identified.*

The applicant is required to demonstrate that connection to an existing wastewater treatment system is not feasible. The Town of Crested Butte has stated that they are unwilling to serve the proposed development. If the applicant were to connect to the East River Regional Sanitation District the requirements for augmentation water purchase are significantly higher and the Upper Gunnison River Water Conservancy District does not currently have this amount (32 acre feet) of augmentation water available. If the Town of Crested Butte continues to refuse service to the proposal, the application complies with the above standard and has demonstrated that it is not feasible to connect to the East River Regional Sanitation District.

The East River Regional Sanitation District (ERRSD) may seek to compel the applicant to connect to its treatment plant. A district member may apply to be removed from the District—the District board makes this decision. If a district member disagrees with the ERRSD board decision, the member may appeal that decision to the Gunnison County Board of Commissioners who have final authority on removal from the District.

Short Term Rentals

The applicant has revised the Sketch Plan application to require a minimum lease term of 6 months (original submittal allowed for 3 months on free market units).

Notice of use of this parcel to adjacent property owners

There was some testimony stating that nearby property owners did not have knowledge of how the subject parcel may be used. Property owners in Larkspur Subdivision have been notified on the Larkspur subdivision plat that, "Development on Adjacent Property: That a parcel of property exists, approximately 13 acres in size, that lies immediately to the West of Larkspur, between a portion of Larkspur and Brush Creek Road. That this parcel is owned by Gunnison County, the Towns of Crested Butte and Mt. Crested Butte and Crested Butte Mountain Resort and that these entities plan to develop the property in the future. Proposals for development include, but are not limited to, an affordable (essential) housing project, intercept or park and ride parking lot. Some or all of this property may be sold and/or partitioned off."

Other developments in the area including Skyland would not have been notified because the Skyland Subdivision predates the sale of this parcel to the County, Towns and CBMR.

Segregation of Corner at Brush Creek from community

There has been testimony from the public that this parcel is isolated from the community. The subject parcel is approximately 1.6 miles from the Town of Crested Butte and is surrounded on all sides by residential development. Testimony has also been submitted that neighborhoods such as Larkspur and the River neighborhood are community-oriented and desirable locations for many which would dispute that the Corner at Brush Creek is isolated. The mix of free

market and deed restricted unit types also facilitates a community-oriented development, rather than a development that includes all restricted units that would be more segregated. Additionally, trail, sidewalk and walkable neighborhood connections that are proposed enhance connectivity.



Compatibility definition

The Gunnison County *Land Use Resolution* defines compatible: Means consistent with, harmonious with, similar and complementary to, the use and/or function of natural systems and/or existing land uses.

The October 20, 2017 staff report identifies the application's compliance with Section 7-102: B. *Compatibility with Community Character*.

The proposed development is on a parcel surrounded by residential development. If an application was submitted that included 220 units of similar density to that of Skyland it would require approximately 167 acres. Parcels of that size do exist in the north valley—many of them are existing agriculture operations that right now also act as open space and viewsheds. Development of larger lot parcels, particularly agricultural operations cause impacts to the community including sprawl, diminished ranching operations and increased cost of services. Dense development on the subject parcel preserves natural systems and landscapes rather than developing larger swaths of land to maintain density similar to that which exists in the Brush Creek area.

The regulations state that the development be similar and complementary to natural systems and/or existing land uses. It can complement and be harmonious with existing land uses through design, buffering, open space, trail connections and the allowance for the community's workforce to actually live in the community they work. The proposed workforce housing complements the existing land use because it allows for the community's workforce (teachers, law enforcement, retail and restaurant staff, electricians, plumbers and others) to live and work in the community enabling preservation and enhancement of community character by retaining actual people that live and work in the community.

The availability of homes that are attainable for our residents, friends, neighbors and co-workers is tied to the overall prosperity of the Gunnison Valley. A prosperous economy with a healthy community and sustainable tourism must include housing as part of that equation—they are all intricately tied together.

Planning Commission and BOCC Comments:

Diani asked if the for-sale units would be limited to individuals employed in Gunnison County: Burgemeister said yes. Diani asked if no short term leases includes subletting: Burgemeister said yes.

The applicants presented their power point visuals/ renderings from the Brush Creek Rd. vantage.

Messner pointed out the large trees in the renderings were a bit distracting, but the renderings did show the aesthetics of the project. He appreciated the applicant's continued efforts to address the issues being heard from the public. He encouraged the applicant, the Town of Crested Butte and MT. Crested Butte to continue conversations. It seems the most logical to tie into the Town of Crested Butte system, but the Town is not interested. He encouraged the applicant and the Town to continue to explore tying into the Town's sewer system.

Public Comments The public comments included their acknowledgment of the need for affordable housing- some supported this project and some objected to the project as noted below:

Laura Anderson Irwin objects to the project: citing density, inability to tie into a wastewater system, losing transit parking, the cost of the for-sale units would be too high and the need to spread affordable housing throughout the county.

David Leinsdorf submitted several documents and said this project has been a moving target. He said the staff memo misrepresents what compatible means, because the verbiage "in an area," was left out. He objects to the proposal; citing the project is too intense, dense, massive and visually obtrusive.

Greg Bookwalter objects to the project: citing non-compatibility, the commissioners not protecting the citizenry, and he feels the decisions have already been made.

Wouter Van Teil said the procedure feels rushed. He asked the commissioners to take a step back.

Jim Frank objects to the project: citing finance concerns and future costs and reduced income to the County. He requested to know the dollar amount for the waiving of the County workforce housing fees. He noted his concerns with the viability of the water treatment system, and said having the HOA responsible would not work. He asked Gatesco for an estimate of the costs of the wastewater system.

Barney Debnam objects to the project: citing the project is not a walkable scenario. He suggested looking at alternative proposals, intercept parking, summer housing, tiny houses, etc.

Tom Hamilton objects to the project: citing density, parking and transit concerns. He asked how the construction will be guaranteed and at what level it will be bonded.

Grant Bremer objects to the proposal: citing possible loss of the parking lot for the paddle borders, possible loss of the use of the Deli Trail, the two percent margin of profitability is not sustainable, and the water treatment plant could become the responsibility of the County.

Sue Navy objects to the project: citing density, and community opposition.

Applicant Responses

Burgemeister said:

- Tying into the Town of Crested Butte's wastewater system would require very expensive infrastructure and connecting to the East River Sanitation District is economically infeasible.
- The Mt. Crested Butte parcel mentioned is only a theoretical idea: there are concerns with zoning, and geological hazards. The parcel is not shovel ready.
- Compatibility is a subjective approach, noting 85 units is still denser than what it is next to. The LUR defines what is compatible and how it can be mitigated.

- The snow storage planned exceeds what the Town of Crested Butte requires.
- The HOA for the 20 units will not be responsible to run the wastewater treatment system. The HOA would hire the operator or the County, the covenants will have to address this.
- The MT. Crested Butte parcel is much farther away from Town than the Brush Creek parcel.
- An affordable housing deed restriction could remain in the first position, but it is determined on a case by case basis.
- The County Development Improvements Agreement would collect the bond for the development.
- There are pros and cons for how far from the highway the parking lot should be.
- They have agreed to provide an easement for a recreation path to Crested Butte So.
- The Board of County Commissioners does not have the final say as to if the project could be withdrawn from the waste water district: it could be appealed all the way to the Supreme Court.

Hadley said the bus stop location plan is fluid and they can look at that again. They are open to relocation.

Staff Responses

Pagano said:

- The Gunnison Rising developer is looking into restructuring his development, although it is in the City of Gunnison. It is in the city and out of the county jurisdiction.
- The County commissioners and the City are aware of the need for affordable housing.
- She did not have access to the amount of the workforce housing fees. The County is committed to looking for opportunities to stream line regulations for the construction of affordable units.
- The County is in support of the Crested Butte South Commercial Area master plan, and is helping with that plan.
- The County requested the easement for the recreation path to Crested Butte South and sees it as a priority.
- The DIA is calculated at 125% of total costs and that is verified with a Co. licensed engineer.

Messner appreciated all the comments concerning affordable housing. He said the municipalities and County had attended a housing institute seminar. There is a need to put density within the Town of Crested Butte and it has been encouraged. Focusing on the Corner at Brush Creek is currently the most helpful.

Public Comments The public comments included their acknowledgment of the need for affordable housing- some supported this project and some objected to the project as noted below:

Beverly Fitzpatrick supports this project: citing a critical need for housing at the north end of the valley.

Katie Harrington supports the project: citing her personal need for this type of project. The reality is housing is a real struggle and wages do not correspond.

George Gibson objects to the project: citing density. He questioned the density comparisons submitted by the applicant.

Nan Lumb objects to the project: citing density, incompatibility and it will change the character of the community. She suggested 80 units and transit center.

Dara McDonald, Town of Crested Butte, asked for adequate time to review and modify comments accordingly.

Jim Schmidt, mayor of Town of Crested Butte, reiterated the need for enough time to analyze the new proposal. He asked if the deletion of the parking lot actually made the project denser. He noted the Town of Crested Butte is the densest municipality in the County. This project would put pressure on the recreation fields and schools in town. He acknowledged that when the plan was originally presented to the Town their response possibly should have been it was too big at that time and they still think it is too big.

Bill Eberly supports the project: citing that it is compatible and harmonious with the surrounding areas. The traffic is not an issue. The opposition is pushing the affordable housing problem into the government purview.

Norman Eastwood objects to the project: noting he lives across the street. He submitted photos of the Gatesco buildings in Houston taken one week prior to the meeting. He said there is considerable evidence the buildings are not maintained. He said if all Gatesco properties are like these properties he is very concerned with the possibility of the same situation here. With the minimal 2% return Gatesco has said he will have, it makes it even more possible this would be the results. He also cited inadequate parking, buses and the potential for the loss of the Deli Trail.

Eileen Whitley objected to the project: citing a strong community opposition as proposed, density, the failed intersection at Brush Creek Rd. and Highway 135, inadequate parking, and compatibility. She asked what will define the class level of the development. She requested a revised view of the property without the trees drawn in.

Dave Clayton said affordable housing needs to be constructed throughout the valley and should be on the transportation routes in the Gothic corridor. He said this project is basically a private enterprise- how does it pencil out. The higher the density the more likely the project will survive.

Robert McCarter objects to the project and submitted signed petitions for denial. He cited density, overwhelming public opposition and the development is too large. He noted the business owners were surveyed and they were overwhelmingly against this dense of a project. These results are being ignored. The staff report was very one sided in the support of the applicant.

Laura Walker objects to the project: citing segregating the work force.

Mindy Strum objects to the project: citing inadequate water, the sewer plant will not be sustainable and the project should be 100% deed restricted.

Chuck Cliggett objects to the project: citing an extreme number of individuals in opposition.

Windy Cieslack objects to the project: citing density and that this would segregate the working community.

Suzanne Pierson objects to the project: citing lack of community, density and walking safety. She suggested a transit center in the Riverland area.

Nancy Reimer objects to the project: citing non compatibility, opposition by the community and density.

Applicant responses Burgemeister said;

- The net density calculations punishes you for having open space.
- Density comparisons were not arbitrarily based on selected neighborhoods for comparisons.
- The CB Land Trust has not submitted public comments: it is not fair to suggest they are not in favor.
- They are clustering to avoid impacting large agricultural parcels.
- Breaking this project up -if it is in the north valley it will have the same impact on the schools.
- Master leases were actually raised in the needs assessment, to help the tenants use a master deposit, they have not insisted on this.
- Isolation versus community and integration has been talked about throughout this project. The range of income targets create a more diverse community.
- Looked at comprehensively it is closer to all north valley jobs than the City of Gunnison is.
- There is a need for convenience and accessibility, but it is not feasible in the Town of Crested Butte to address the needs identified in the needs assessment. They are working with the land that have access to.

Hadley said:

- The project has no buildings more than 35 ft. tall. Skyland homes are allowed to be 30 ft. tall and if they have a 12 by 12 pitch roof, they get another 10 feet of height, resulting in a 40 ft. tall building.

- The Town Crested Butte requires two parking spaces for a four bedroom home and the applicant has proposed 1.6 parking spaces per unit.
- They have 50% more snow storage than the Town of Crested Butte requires.
- The team working for Gatesco are all fulltime local residents.

Gates said:

He owns 6,500 Class C apartments in Texas. He has rehabbed many of the units. He showed several of the rehabbed units.

Diani continued the joint public hearing to April 6, 2018 @ 1:00 PM in the Gunnison County Courthouse, Gunnison, Co., and adjourned the March 2, 2018 meeting at 2:30 P.M.

/S/ Beth Baker

Community Development Department Services Manager
Gunnison County Community Development Department