

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: FRIDAY, APRIL 19, 2019

- 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.** **Larry Darien**, public hearing, request to convert a portion of an existing structure to a residential unit, with a previously approved apartment, for a third residence on the property. Located at 2890 CR 3, legally described as part of the SE/4NE/4, NW/4SE/4, E/2SE/4. Section 20, and the NE/4SE/4, part of the E/2SW/4, W/2SE/4. Section 21, Township 11 South, Range 88 West, 6TH P.M., two miles west of the Town of Marble
LUC-19-00004
- 9:45 a.m.** **Amy and Leo Morrissette represented by David Leinsdorf**, continued public hearing, request for single-family residence, in compliance with Section 11-108: Development on Ridgelines, located west of the Town of Crested Butte, south of County Road 12; on Lot 25, Trapper's Crossing at Wildcat
LUC-19-00003
- 10:30 a.m.** **David Baumgarten, County Attorney**, work session, Planning Commission training, education on exparte communication, Colorado sunshine law, etc.

Adjourn

The applications can be viewed on gunnisoncounty.org,
link to <http://204.132.78.100/citizenaccess/>

- Public access
- Projects
- Application #
- **LUC-19-00003**
- **LUC-19-00004**
- Attachments

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
April 19, 2019**

The Gunnison County Planning Commission conducted a regular meeting in the Planning Commission Meeting Room in the Blackstock Government Center, 221 N. Wisconsin, Gunnison, Co. **Present:**

Chairperson- AJ Cattles Vice-Chairperson-Jack Diani Commissioner-Molly Mugglestone Commissioner- Vince Rogalski Alternate Commissioner- Daniel Spivey Alternate Commissioner- Laura Puckett Daniels	Director of Community and Economic Development-Cathie Pagano Planner – Rachel Sabbato Manager of Administrative Services- Beth Baker Others present as listed in text
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Recused/Absent/Seated:

Absent: Commissioner Diego Plata

Recused: Commissioner

Seated: Commissioner

With a quorum present Chairperson Cattles opened the April 19, 2019 regular meeting of the Planning Commission.

Moved by Diani seconded by Rogalski to approve the Planning Commission meeting minutes of April 5, 2019, as amended, the motion passed unanimously.

Larry Darien (LUC-19-00004): The Gunnison County Planning Commission conducted a public hearing. They reviewed the request to convert a portion of an existing structure to a residential unit, with a previously approved apartment, for a third residence on the property. Located at 2890 CR 3, legally described as part of the SE/4NE/4, NW/4SE/4, E/2SE/4. Section 20, and the NE/4SE/4, part of the E/2SW/4, W/2SE/4. Section 21, Township 11 South, Range 88 West, 6TH P.M., two miles west of the Town of Marble.

With a quorum present Chairperson Cattles opened the public hearing.

Manager of Administrative Services Beth Baker confirmed adequate public notice. The staff had the notice published in the Crested Butte News and the Gunnison Country Times, and the applicant submitted the proof posting and the certified mailing receipts.

Present representing the Planning Commission: Commissioners Cattles, Diani, Mugglestone, Rogalski, Spivey, and Puckett Daniels.

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

Present representing the application: Owner Larry Darien.

Applicant's Presentation

Darien explained his application. He is changing the use of his building, from a restaurant to a two unit residential building. His septic system was installed in 1998 and was oversized at that time. He said going from commercial to residential should be less activity and water and sewer usage. He has had an engineer verify the adequacy of the leach field. He noted a need for long term rentals in the Marble area. He said the project does not meet the County locational standards, section 10-103. But, he added it would be a good a thing to have long term rentals. He stated he does not want to deed restrict the units for essential

housing: he does not want the County to have control of the units. There are no proactive covenants because it is an existing structure.

Planning Staff Comments

Pagano said she had originally agreed the project met the locational standards, but has since realized there are three separately deeded parcels. A 40 acre, 35 acre and 88 acre parcel. There are conservation easements on some of the property, but the conservation easements have not been submitted to staff or reviewed by staff.

Darien explained he has conservation easements with Aspen Valley Land Trust and Pitkin County. He has not submitted the documents yet.

Pagano explained when one is requesting more density than the surrounding area, you are required to meet the standards in Section 10-103 C. Pagano requested that Darien explain how he complies or does not comply with the County locational standards.

Review Body Comments/ Questions

Spivey was unsure if Section 10-13 applies to this project, because it is not a subdivision. Pagano explained her interpretation is that lot size and density are applicable in this case.

Cattles noted the biggest hurdle for this application is the locational standards.

Diani pointed out with no protective covenants, so there is no way to ensure these will be used for only long term housing.

Darien said any development is kept back from the road, so it is not visible.

Puckett asked if the B & B is still operating: Darien said it is a lodge now. Puckett asked if the neighboring cabins are still used: Darien said sometimes on the weekends.

Puckett asked if the density concerns would be alleviated if the parcels were combined. Pagano said not necessarily, but copies of the easements would help.

Mugglestone asked about the Marble Ski Area filings. Pagano showed them a map of the area.

Diani reiterated his sticking point is there will be no covenants.

Puckett asked to see the conservation easement to insure it aligns, and for a paper trail.

Spivey asked again why 10-103 is triggered.

Puckett asked the difference between covenant and deed restriction.

The Planning Commission requested copies of the conservation easement, an explanation of a covenant vs. a deed restriction. What will be achieved by requiring covenants and is there a reason to ask for it.

Darien said he doesn't fit this, but it seems to be a way to control the development from the town out. It is his intent to find the way to do this appropriately.

Public Comments

Jason Darien said this would be beneficial, to keep more eyes on his property.

Cattles continued the public hearing to May 3, 2019 at 9 A.M.

Morrisette (LUC-19-00003): The Gunnison County Planning Commission conducted a continued public hearing. They reviewed the request for single-family residence, in compliance with Section 11-108: Development on Ridgelines, located west of the Town of Crested Butte, south of County Road 12; on Lot 25, Trapper's Crossing at Wildcat.

With a quorum present Chairperson Cattles opened the continued public hearing.

Present representing the Planning Commission: Commissioners Cattles, Mugglestone, Rogalski, Spivey, and Puckett Daniels.

Present representing staff: Planner Rachel Sabato, Director of Community and Economic Development Cathie Pagano and Manager of Administrative Services Beth Baker.

Present representing the application: architect Dan Murphy, and engineer Norman Whitehead.

The commissioners reviewed the draft recommendation.

Cattles closed the public hearing.

Moved by Roglaski seconded by Mugglestone to approve the recommendation of approval for Morrisette Ridgeline Development (LUC-19-00003). The motion passed unanimously.

PROJECT DESCRIPTION:

Amy and Leo Morrisette, represented by David Leinsdorf, has submitted an application for the construction of a single-family two-story residence, with an attached garage, in compliance with *Section 11-108: Standards for Development on Ridgelines, Gunnison County Land Use Resolution.*

Submittal documentation includes the following:

- "Ridgeline Analysis – "Lot 25, Trapper's Crossing At Wildcat", prepared by NCW & Associates, Inc., dated January 8, 2019.
- Trappers Crossing at Crested Butte Association approval letter, Rob Harper, Toad Property Management, Inc. Manager, December 19, 2018.
- Restrictive Covenant

The analysis indicates that this site is heavily treed with aspen and spruce. From vantage point 1 on Highway 135 there are an average of 330 feet of screening trees in front and an average of 200 feet in back. From vantage point 2 on Highway 135 there are an average of 440 feet of trees screened in front and an average of 95 feet in back that will provide significant screening so that the structure will blend in with its surroundings. Exterior building materials will have natural color theme.

The site is located on on Lot 25, Trapper's Crossing at Wildcat, approximately 2.5 miles from CR 12 on Wildcat Trail, southwest of Crested Butte.

IMPACT CLASSIFICATION:

The project, by definition, is a minor impact.

PLANNING COMMISSION MEETING DATES:

The Planning Commission held meetings on the subject project on the following dates:

- March 15, 2019 Work Session and Site Visit
- April 5, 2019 Public Hearing
- April 19, 2019 Continued Public Hearing, Draft Recommendation

ONSITE VISIT:

The Planning Commission conducted a site visit on March 15, 2019. The Commission members visited the building site and viewed the site from the ridgeline vantage location on State Highway 135. The Commission

members noted that the site seemed to be below the main ridge and was moved intentionally to create more of a tree buffer. From the vantage points, nothing at the building site was visible. The site will not be easily visible or obtrusive due to the earth tone color scheme and there is a significant distance from any of the vantage points on State Highway 135.

PUBLIC HEARING:

A public hearing was held on April 5th, 2019; at that time, William Early, adjacent land owner was present. No written public comments were received by the Commission.

COMPLIANCE WITH SECTION 11-108: STANDARDS FOR DEVELOPMENT ON RIDGELINES OF THE GUNNISON COUNTY LAND USE RESOLUTION:

The applicants provided a detailed ridgeline analysis, including detailed architectural drawings of the site profile, prepared by NCW & Associates, Inc. The drawings and site plans, as noted above, depict the location, form and scale of the proposed structures in relation to the existing trees on the parcel and the ridgeline vantage locations on State Highway 135.

A restrictive covenant, attached as “Exhibit A,” will ensure, in perpetuity, the existence and replacement of the natural vegetation on the applicant’s property used for screening. Additionally, the structures on the ridgeline shall have minimum visual impact. The residence will not stand out among its surroundings, nor draw attention to it self, through the use of dark siding and exterior colors that blend with surrounding natural terrain. Additionally, rusted metal or another comparably unobtrusive material shall be used for the roof material. The residence will not be visible from a municipal ridgeline vantage and may be minimally visible from State Highway 135.

The proposed residence may be partially visible on a ridgeline that is more than 150 feet vertically higher from the closest point on a ridgeline vantage, pursuant to *Section 11-108: Standards for Development on Ridgelines C. Ridgeline Visibility*.

The applicants have asserted through visual analysis that the structure will be significantly screened, in compliance with *Section 11-108: Standards for Development on Ridgelines. I.1.d: If Significant Screening Exists and Is Protected, Decision Shall Be Made By Board*, with existing vegetation that is of such volume, density and species that no part of the building that is partially visible will be visually obtrusive.

FINDINGS:

The Gunnison County Planning Commission, based on the facts set forth in this Recommendation and on the material facts represented by the applicant, whether or not repeated herein, and the results of an onsite visit and public hearing by the Planning Commission, finds that:

1. The Commission has classified the application as a Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects F. Development Requiring Detailed Ridgeline Vantage Visibility Analysis*.
2. A detailed visual ridgeline analysis titled “Lot 25, Trapper’s Crossing At Wildcat”, prepared by NCW & Associates, Inc., dated January 8, 2019 was submitted with the application.
3. The information and analysis indicate that the proposed structure, under the definition of “ridgeline vantage,” may be visible from State Highway 135 only when traveling north.
4. Pursuant to *Section 11-108: Standards for Development on Ridgelines, I. Exceptions* the Planning Commission finds by clear and convincing evidence that significant screening exists and that the building site meets or exceeds the following standard:

d. If Significant Screening Exists and is Protected, Decision Shall Be Made by Board. If the Planning Commission finds that the project does not meet the first three requirements of this section, but that any building on the ridgeline shall be significantly screened by existing (as opposed to new) natural vegetation on the applicant’s property, of such volume, density and species of tree cover, after provision of defensible space for wildfire hazard, so that no part of the building that is partially visible

shall be visibly obtrusive from any ridgeline vantage, at any time of year, the Commission shall so note in a recommendation to the Board, and the Board shall be the decision making body. If approved, the approval shall include:

1. *Recorded Covenant, Easement or Agreement.* A recorded mechanism (e.g. protective covenant, conservation easement, bonding agreement) acceptable to the County must be provided to ensure, in perpetuity, the existence and replacement of the natural vegetation on the applicant's property used for screening; and
2. *Minimal Visual Impact.* When significant screening exists and is protected, the building on the ridgeline shall have minimal visual impact and:
 - (a.) *Is Not Obtrusive or Visible From A Municipal Ridgeline Vantage.* Must comply with both of the following standards:
 - (1.) *Obtrusiveness.* The building will blend in with its surroundings and will not stand out in the context of its surroundings nor draw attention to itself; and
 - (2.) *Municipal Ridgeline Vantage.* The building will not be visible with the naked eye from a municipal ridgeline vantage; and
 - (b.) *Must Not be Visible from Ridgeline Vantage or Visibility is Only Momentary.* Must comply with and with one of the following standards:
 - (1.) *Distance from Ridgeline Vantage(s).* The building will not be visible with the naked eye from near or distant ridgeline vantages; or
 - (2.) *Number and Length or Duration of Ridgeline Vantages.* The number and length or duration of public road ridgeline vantages from which the building will be visible are so small that the building will be visible only momentarily to passersby.
5. A restrictive covenant was submitted, ensuring, in perpetuity, the existence and replacement of the natural vegetation on the subject property, attached as "Exhibit A".
6. The Planning Commission conducted a site visit on March 15, 2019. The Commission members visited the building site and viewed the site from the ridgeline vantage location on State Highway 135. The Commission members noted that the site seemed to be below the main ridge and was intentionally moved to create more of a tree buffer. From the vantage points, nothing at the building site was visible. The site will not be easily visible or obtrusive due to the earth tone color scheme and there is a significant distance from any of the vantage points on State Highway 135.
7. The elevation difference between the building site and the ridgeline vantage on State Highway 135 is greater than 150 feet.
8. The structures on the ridgeline shall have minimal visual impact. The residence will not stand out among its surroundings, nor draw attention to itself, through the use of dark siding and exterior colors that blend with surrounding natural terrain. Additionally, rusted metal or another comparably unobtrusive material shall be used for the roof material. The residence will not be visible from a municipal ridgeline vantage and may be minimally visible from State Highway 135. No shiny metal roof shall be allowed, as identified in the restrictive covenant.
9. All exterior lighting shall be directed downward, as identified in the restrictive covenant.
10. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all comments at the public hearing, exhibits, references and documents as included therein.
11. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
12. The removal or material alteration of any physical feature of the property (geological, topographical or

vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

13. Approval of this use is based upon the facts presented and implies no approval of similar use in a different location and with different impacts on the environment and community. Each such future application shall be required to be reviewed and evaluated on its own facts, subject to its compliance with current regulations, and its impact to the County.

NOW, THEREFORE, The Gunnison County Planning Commission, having considered the submitted analysis, site plan, site observations and public testimony, has reached the above Findings and recommends to the Board of County Commissioners, that LUC 2019-00003, The Morrissette Ridgeline Residence, be approved with the following conditions:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Site Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
2. That this approval be memorialized by Board Resolution and recorded within the Office of the Gunnison County clerk and Recorder.
3. A restrictive covenant ensuring, in perpetuity, the existence and replacement of the natural vegetation on the subject property, attached as "Exhibit A.", shall be executed prior to approval by the Board. The restrictive covenant shall be recorded contemporaneously with the Board Resolution, within the Office of the Gunnison County Clerk and Recorder.
4. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
5. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.
6. Approval of this use implies no approval of any such similar use on any other parcel. Review of this application has considered the impact of this proposed use in the context of cumulative impacts to the environment and the community in the context of its compliance with County land use standards.
7. Approval of this use is based upon the facts presented and implies no approval of a similar use in a different location and with different impacts on the environment and community. Each such future application shall be required to be reviewed and evaluated on its own facts, subject to its compliance with current regulations, and its impact to the County.

County Attorney, David Baumgarten; The Gunnison County Planning Commission conducted a work session with County Attorney David Baumgarten. Baumgarten provided training and education on exparte communication, Colorado Sunshine law, etc.

With a quorum present Chairperson Cattles opened the work session.

No minutes were taken for the meeting.

The commissioner adjourned the meeting at 11:00 AM.

/S/ Beth Baker
Community Development Department Title
Gunnison County Community Development Department