

**GUNNISON COUNTY PLANNING COMMISSION  
PRELIMINARY AGENDA: Friday, December 17, 2010**

- 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.**      **Crested Butte Land Trust Subdivision**, work session/possible action, request for the subdivision of a 3.77-acre tract from a 36.77-acre parcel (known as the Niccoli Ranch); located northeast of the intersection of Highway 135 and Cement Creek Road, adjacent to Highway 135; direction to staff/possible action
- 9:45 a.m.**
- Wilder on the Taylor – Phase 2 Road Construction**, work session/no action, request for construction of a new road, extension of the Wilder Mountain Road and amend LUC#2007-68, previous approval for the lower portion of the Wilder Mountain Road, to provide access to four additional 35-acre parcels; generally described as being located approximately 15 miles northeast of the City of Gunnison, on Taylor River Road; 3 miles northeast of Almont; within Section 33, Township 15 South, Range 84 West, 6<sup>th</sup> P.M.
- 11:00 a.m.**      **Bear Ranch**, work session/no action, request for total aggregate residential living area in excess of 10,000 square foot maximum; generally described as being located northeast of County Road 12 (Kebler Pass) and west of County Road 2 on Parcel 2, Bear Ranch.
- 11:45 a.m.**      **Lunch**
- 1:00 p.m.**      **Planning Commission** work session/no action, proposed amendments to the *Gunnison County Temporary Regulations for Oil and Gas Operations*; possible executive session

**Gunnison County Planning Commission  
Regular Meeting  
December 17, 2010**

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The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center, Planning Commission meeting room. **Present were:**

Chairman- Ramon Reed	Assistant Director of Community Development- Neal Starkebaum
Vice- Chairman-Richard Karas	Planner- Cathie Pagano
Commissioner- Sam Lumb	Planning Services Manager- Beth Baker
Commissioner- John Messner	
Commissioner- David Owen	
Alternate Commissioner- Jim Seitz	
Alternate Commissioner- Selma Eastman	

Others present as listed in text

Commissioner Sam Lumb arrived at 9:15 A.M.

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With a quorum present Chairman Ramon Reed opened the regular meeting of the Commission.

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**MOVED;** by Karas seconded by Owen to approve the minutes of December 3, 2010 as amended. The motion passed unanimously.

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**CRESTED BUTTE LAND TRUST SUBDIVISION:** The Planning Commission met with Crested Butte Land Trust representative Ann Johnston. They reviewed the request for the subdivision of a 3.77-acre tract from a 36.77-acre parcel (known as the Niccoli Ranch); located northeast of the intersection of Highway 135 and Cement Creek Road, adjacent to Highway 135.

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

Reed seated Commissioner Eastman for this agenda item.

Johnston submitted amendments to section four of the subdivisions draft covenants. This was done to clarify the number of residents allowed on the parcel.

The commissioners, staff and Johnston reviewed the recommendation.

**MOVED;** by Karas seconded by Owen to approve the recommendation of LUC-2008-05 as amended, including the amendments to the covenants. The motion passed unanimously.

**PROJECT DESCRIPTION:**

The Crested Butte Land Trust has submitted an application to subdivide a 36.77-acre parcel into two lots, one 3.77-acre parcel (Lot 1) and a 33-acre parcel (Lot 2), named Alpenglow Ranch. There are an existing single-family residence, quonset hut, barn, shop, two individual wells and individual sewage disposal system on Lot 1. Lot 2 is vacant. The applicant anticipates that a future owner may want to remove some or all of the existing structures on Lot 1. Per the request from the Town of Crested Butte, the Restrictive Covenant requires that the existing single family residence, which is approximately 1,100 square feet, be maintained or removed, at the option of the owner. A building envelope has been identified for Lot 1. The applicant is proposing that two residences and one barn be allowed on Lot 1.

The Restrictive Covenant specifies that the aggregate square footage of all buildings, excluding the existing single family residence, on the parcel shall not exceed 3,920 square feet. The total square footage of any new residence shall not exceed 2,500 square feet and the barn shall be no larger than 2,000 square feet. The Restrictive Covenant notes that if the existing single family residence is removed from the parcel the maximum aggregate square footage shall remain at 3,920 square feet including a primary residence, secondary residence, barn and any other existing buildings. The Restrictive Covenant proposed for the subdivision outlines the square footage limitations for Lot 1.

Lot 2 is to remain as open space and is protected by a conservation easement recorded at Reception No. 580138 in the Gunnison County Clerk and Recorder’s office. A trail easement has been identified on the plat for future use. A trail is not currently planned on or connecting to the subject parcel.

The parcel on which the Land Use Change permit is proposed is located near the intersection of County Road 740 (Cement Creek Rd) and Highway 135. The address of the parcel is 21000 Highway 135. The parcel is legally described as 36.77 acres in the N2, Section 28, Township 14 South, Range 85 West, 6<sup>th</sup> p.m.

**PLANS/REPORTS/SUBMITTALS:**

Plans, reports, letters and other submittal documents informing this decision include, but are not limited to:

- Declaration of Restrictive Covenant Ranch Homestead Area, draft 7a
- Alpenglow Ranch, draft plat, prepared by Furey Land Surveying and dated May 6, 2010
- Public Trail Easement, received October 18, 2010

**IMPACT CLASSIFICATION:**

The project, by definition, is a minor impact pursuant to *Section 6-102: A.: 2-4 Units.*

**MEETING DATES:**

The Planning Commission held work sessions and public hearings to discuss the Alpenglow Ranch application on the following dates:

- October 3, 2008                Work Session
- November 7, 2008           Site Visit
- December 5, 2008           Joint Public Hearing
- January 23, 2009            Continued Joint Public Hearing
- November 19, 2010          Work Session
- December 17, 2010          Work Session

**SITE VISIT:**

The Planning Commission conducted a site visit on November 7, 2008. The Commission noted the location of the existing improvements, the site topography and the irrigation ditches.

**PUBLIC HEARING:**

The Planning Commission and the Board of County Commissioners conducted a joint public hearing on December 5, 2008 and continued on January 23, 2009. The following comments were received at the public hearing:

- Al Smith, resident of Crested Butte South, asked about the possibility of locating a park and ride facility on the Land Trust property.
- Sandy Leinsdorf, former President of the Land Trust stated that the park and ride is a separate issue and that the entire parcel is restricted by a conservation easement.
- Bob Niccoli, adjacent owner, explained that he had sold the subject parcel to the Land Trust with the intention of protecting and maintaining the view corridor.
- Dan McElroy, Land Trust Board Member, stated that there is no intention to enlarge the building improvement area.

**REVIEW AGENCY REFERRAL COMMENTS:**

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A copy of the complete application was sent, by certified mail and hand delivery to review agencies for comments. A referral was sent to the Division of Wildlife, Division of Water Resources, Crested Butte Fire Protection District, Public Works, Environmental Health, Colorado Department of Transportation and the Gunnison County Trails Commission. Comments were received from the following individual agencies:

**Crested Butte Fire Protection District:** Comments from Scott Wimmer and Ric Ems, in a letter dated January 8, 2009:

*We have no objections to the proposed LUC and hereby approve the proposal as submitted....We look forward to reviewing the plans for any new construction for compliance with adopted Fire codes and our Guidelines and Standards.*

**Gunnison County Trails Commission:** Comments from Kay Peterson-Cook, Chairperson, in a letter dated January 21, 2009:

*...We understand after speaking with a representative from the CB Land Trust that there is a sensitive situation on this parcel because of an agriculture easement that's involved. We want to respect that situation with hopes that an easement next to the highway can be worked out in the planning process.*

*We are currently not in a position where this trail will be constructed in the near future.*

**Division of Wildlife:** Comments from J Wenum, Area Wildlife Manager, in a letter dated December 30, 2008:

*The location of this project is not within mapped significant wildlife habitat. The scope of the project...combined with the already existing development in this area will not result in significant additional impacts to wildlife.*

*...Although the project in itself presents only a minimal impact to wildlife, the effects of insignificant and minimal impact projects are cumulative, and should be considered as such by the Planning Commission.*

**Division of Water Resources:** Comments from Cynthia Love, P.E., in a letter dated December 30, 2008:

*The domestic water supply is to be provided through two existing wells...Both existing wells were recorded with this office, and Permit Nos. 278137 and 278138 were approved in accordance with CRS 37-92—602(5) for historical use. Permit No. 278137 defines the historical use of one well as ordinary household purposes inside one single-family dwelling, fire protection and the irrigation of not more than 0.5 acre of home gardens and lawns. Permit No. 278138 defines the historical use of the additional well as the watering of livestock on a farm or ranch. The proposed additional single-family dwelling would constitute an expansion of use, and would not be allowed under the existing permits. The Field Inspection Reports for both wells indicate that each produces 15 gallons per minute. These wells should provide an adequate supply for the proposed use.*

*Due to the lack of a water court approved plan for augmentation, the State Engineer finds pursuant to CRS 30-28-136(1)(h)(l), that the proposed water supply will cause material injury to decreed water rights.*

**Colorado Department of Transportation:** Comments from Dan Roussin, R3 Permit Manager, in emails dated December 23, 2008 and December 22, 2008:

*The proposed project is proposing a new 60' wide access easement for access to 'River's Edge Tract.'...the existing access easement should be relinquished or otherwise dissolved to remove any implication that access would be permitted at the location of the existing access easement.*

**Gunnison County Environmental Health:** Comments from Richard Stenson, Environmental Health Specialist, in a memorandum dated December 3, 2008:

*During the inspection it was found that an ISDS is feasible for a single family residence. However, it is important to realize that site constraints, especially setbacks from irrigation ditches will need to be carefully considered in*

*site planning and permitting....I understand that there may be a request to utilize the existing dwelling during the winter of 2008-2009. During our site inspection I found the existing septic tank to not be operating in compliance with the Gunnison County ISDS regulations. We will require that, prior to any residential or other use, the current ISDS be brought into compliance.*

**COMPLIANCE WITH APPLICABLE SECTIONS OF THE GUNNISON COUNTY LAND USE RESOLUTION:**

**Section 9-100: *Uses Secondary to a Primary Residence.***

The applicant proposes two residences on the Lot 1. The existing residence on the parcel is 1,100 square feet. A building envelope has been delineated for the parcel. The Restrictive Covenant requires that the existing single family residence, which is approximately 1,100 square feet, be maintained or properly disposed of. If the existing single-family residence is removed from the parcel it may be replaced with a new residence within the proposed building envelope. Section 4 of the Declaration of Restrictive Covenant Ranch Homestead Area identifies the limitations on the residences. Home occupations are allowed on Lot 1 and specifically outlined in Section 1 of the Restrictive Covenant.

**Section 9-200: *Special Residential Uses.***

Not applicable. No special residential uses are proposed.

**Section 9-300: *Commercial and Industrial Uses.***

Not applicable: No commercial or industrial uses are proposed.

**Section 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials.***

Not applicable. No exploration, extraction or processing of materials is proposed.

**Section 9-500: *Miscellaneous Uses and Activities.***

Not applicable.

**Section 10-102: *Locational Standards for Residential Development.***

Not applicable, the applicants are not proposing more than two lots or residences. This Section was amended on July 16, 2010 in Resolution No. 23, 2010 recorded in the Gunnison County Clerk and Recorder's office at Reception No. 599445. This application predates the amendment and was in process prior to the amendment of this Section therefore the amendment is not applicable.

**Section 10-103: *Residential Density.***

Not applicable, the applicants are not proposing more than two lots or residences. This Section was amended on July 16, 2010 in Resolution No. 23, 2010 recorded in the Gunnison County Clerk and Recorder's office at Reception No. 599445. This application predates the amendment and was in process prior to the amendment of this Section therefore the amendment is not applicable.

**Section 11-103: *Development In Areas Subject to Flood Hazards.***

Applicable, portions of Lot 2 are in the 100-year floodplain, however no development is contemplated or permitted for that parcel. Lot 1 is not in the 100-year floodplain.

**Section 11-104: *Development in Areas Subject to Geologic Hazards.***

Not applicable, the subject parcel is not in a geological hazard area.

**Section 11-105: *Development In Areas Subject to Wildfire Hazards.***

The subject parcel is an area classified as low wildfire hazard.

**Section 11-106: *Protection of Wildlife Habitat Areas.***

The application was referred to the Division of Wildlife which noted that the proposed development will not cause significant additional impacts to wildlife.

**Section 11-107: *Protection of Water Quality.***

Applicable, however no development is proposed within 125 feet of a waterbody. The East River transects Lot 2 which is under a conservation easement. The East River will not be impacted by the proposed subdivision nor is it within 125 feet of Lot 1.

**Section 11-108: *Standards For Development On Ridgelines.***

Not applicable. The site is not located on a ridgeline.

**Section 11-109: *Development That Affects Agricultural Lands.***

The site is adjacent to agricultural land. The ditch easements have been identified on the Alpenglow Ranch plat. The Restrictive Covenant and language on the final plat identify restrictions regarding the confinement of domestic animals, "fence-out" requirements, and irrigation ditch maintenance. Sections 2, 9 and 13 of the Restrictive Covenant address limitations on domestic animals, fence-out and irrigation ditches.

**Section 11-110: *Development Of Land Beyond Snowplowed Access.***

Not applicable, the site is not located beyond snowplowed access.

**Section 11-111: *Development On Inholdings In The National Wilderness.***

Not applicable, the site is not located on a National Wilderness inholding.

**Section 11-112: *Development On Property Above Timberline.***

Not applicable, the site is not located above timberline.

**Section 12-103: *Road System.***

Applicable, a new driveway access is proposed for Lot 2. Any changes to the driveway or the access may require a permit from the Gunnison County Public Works department and/or the Colorado Department of Transportation (CDOT). CDOT has reviewed the application and their comments were noted above.

**Section 12-104: *Public Trails.***

There is no public trail existing or proposed on this site. A trail easement has been identified on the final plat for a potential future trail.

**Section 12-105: *Water Supply.***

There are two existing well permits for the subject property. Well Permit No. 278137 is permitted for one single-family dwelling, fire protection, and the irrigation of not more than ½ acre of home gardens and lawns. Well Permit No. 278138 is for the watering of livestock on a farm or ranch. An additional residence will require a new or amended well permit and may also require augmentation water. Prior to issuance of an individual sewage disposal system permit or a building permit a well permit valid for a second residence shall be submitted to the Community Development Department.

**Section 12-106: *Sewage Disposal/Wastewater Treatment.***

There is an existing Individual Sewage Disposal System (ISDS) on Lot 1. Any alteration or addition to the existing structures may require an ISDS permit. Richard Stenson, Environmental Health Inspector, has reviewed the application and determined that an ISDS is feasible for Lot 1 noting that there may be constraints from ditches that will be an important consideration. The existing ISDS must be in compliance with the Gunnison County ISDS Regulations prior to any use.

**Section 12-107: *Fire Protection.***

The proposed development is located within the Crested Butte Fire Protection District (CBFPD). The application was referred to the CBFPD which noted that they approve the submittal.

**Section 13-103: *General Site Plan Standards And Lot Measurements.***

The site plan for this proposed development must meet the site plan criteria of this section, including proposed and existing roads, driveways, lot lines, building sites, and natural features of the site. The site plan prepared by Furey Land Surveying, titled "Alpenglow Ranch" and dated May 6, 2010 meets these criteria. The existing residence is not located

inside the proposed building envelope because the residence does not meet current setback requirements. The existing residence is an existing non-conformity and will be treated as such.

**Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.***

This section applies; the proposed improvements meet the setback requirements.

**Section 13-105: *Residential Building Sizes and Lot Coverages.***

All requirements of this Section apply and any new structures proposed shall comply with this Section. Section 4 of the Restrictive Covenant identifies the square footage limitations for Lot 1. Section 5 of the Restrictive Covenant identifies the maximum height of any structure as 20 feet measured in compliance with the *Land Use Resolution*.

**Section 13-106: *Energy and Resource Conservation.***

All applicable structures to be constructed within the development will be subject to the standards of this Section at the time of building permit application.

**Section 13-107: *Installation of Solid Fuel-Burning Devices***

This section applies and any solid fuel-burning devices proposed shall comply with this section.

**Section 13-108: *Open Space And Recreation Areas***

This section does not apply, however Lot 2 has been placed under a conservation easement, held by the Town of Crested Butte and recorded in the Gunnison County Clerk and Recorder's office at Reception No. 580138.

**Section 13-109: *Signs.***

There are no signs proposed as part of the submitted application.

**Section 13-110: *Off-Road Parking And Loading.***

The number of parking spaces complies with **Tables 5-11 and 5-12 of this section.**

**Section 13-111: *Landscaping And Buffering.***

A landscaping plan is not required for this application.

**Section 13-112: *Snow storage.***

Design elements have been included within the site layout design allowing for adequate storage.

**Section 13-113: *Fencing***

This section does apply. Any new fencing shall comply with this section. Section 9 of the Restrictive Covenant addresses fences.

**Section 13-114: *Exterior Lighting.***

Applicable, any new structures that are proposed will be required to comply with this section. Section 10 of the Restrictive Covenant addresses lighting.

**Section 13-115: *Reclamation And Noxious Weed Control.***

A reclamation permit is required for road cutting and/or construction, homesite clearing and berm construction. **Section 12 of the Restrictive Covenant addresses reclamation.**

**Section 13-116: *Grading And Erosion Control.***

Grading activities are required to secure a Reclamation Permit from the Public Works Department, pursuant to Section 13-115: *Reclamation and Noxious Weed Control.*

**Section 13-117: *Drainage, Construction And Post-Construction Stormwater Runoff.***

Applicable, this will be addressed as part of Driveway and Building permits.

**Section 13-118: *Water Impoundments.***

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Not applicable, this project does not propose a water impoundment.

**Section 13-119: Standards to Ensure Compatible Uses.**

Specific design standards and limitations on the uses on each lot are identified in the Restrictive Covenant and the conservation easement.

**Article 15: Right-to-Ranch Policy.**

This section is applicable. The applicant shall be provided a copy the *Right to Ranch Policy* and the *Code of the West*.

**FINDINGS:**

The Gunnison County Planning Commission finds that:

1. This project, by definition, is classified as a Minor Impact.
2. There are existing improvements on Lot 1 that include, but are not limited to, a single-family residence, outbuildings, an individual sewage disposal system and individual wells.
3. The existing single-family residence is approximately 1,100 square feet.
4. The Restrictive Covenant state that the aggregate square footage (excluding the existing single-family residence) permitted on Lot 1 shall not exceed 3,920 square feet.
5. The Restrictive Covenant identifies a maximum building height of 20 feet.
6. A conservation easement, recorded at Reception No. 580138 in the Gunnison County Clerk and Recorder's office designates Lot 2 as open space.
7. The subject parcel is adjacent to agricultural operations.
8. The existing well permit (Permit No. 278137) is valid for one single-family residence, fire protection, and the irrigation of not more than ½ acre of home gardens and lawns
9. A second residence may require a plan for water augmentation.
10. The existing septic tank is not functioning in compliance with Gunnison County ISDS Regulations, according to Gunnison County Environmental Health Specialist, Richard Stenson. Prior to any use of the existing single-family residence on the subject parcel approval must be received from the Gunnison County Environmental Health office.
11. A property owner is required to construct and maintain fencing in order to keep livestock off his/her property in compliance with Colorado's "fence-out" requirements.
12. An irrigation ditch owner has the right to enter the designated irrigation ditch maintenance easement, maintain the ditch, and leave natural debris on the bank.
13. This application is consistent with the standards and requirements of this *Resolution*.
14. 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 exhibits, references and documents as included therein.

**RECOMMENDATION:**

The Gunnison County Planning Commission, having considered the submitted plan, site observations and public testimony, has reached the above Findings and recommends that LUC No. 2008-05 be classified as a Minor Impact, and be approved with the following conditions:

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1. Prior to use of the existing single-family residence it shall be required to comply with the Gunnison County *Individual Sewage Disposal System Regulations*.
2. Prior to the issuance of any building or individual sewage disposal system permits for a second residence the applicant shall provide documentation that there is a legal and adequate supply of water for two residences.
3. To the maximum extent feasible a secondary residence shall be legally and physically served by the same water and wastewater treatment systems that serve the primary residence.
4. Domestic animals must be controlled by kenneling, leash, fencing or other physical restraint. Any expense of enforcement of the domestic animal control restrictions by the County shall be at the expense of the responsible association or the individual.
5. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the 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*.
6. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
7. 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.
8. 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.
9. 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.

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**WILDER ON THE TAYLOR PHASE 2- ROAD CONSTRUCTION;** The Planning Commission met with Wilder on the Taylor representatives Julie Ann Woods and engineer Jerry Burgess. They discussed the request for construction of a new road, an extension of the Wilder Mountain Road and amending LUC#2007-68, the previous approval for the lower portion of the Wilder Mountain Road, to provide access to four additional 35-acre parcels; generally described as being located approximately 15 miles northeast of the City of Gunnison, on Taylor River Road; 3 miles northeast of Almont; within Section 33, Township 15 South, Range 84 West, 6<sup>th</sup> P.M.

Commissioner David Owen asked to be recused from the work session.

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

Karas noted there had been a significant amount of documentation/ information received the day before and the day of the meeting. Reed stated that the commissioners had the option of discussing the information or not; the Commission's policy receipt of information no less than seven days prior to a meeting. Karas said there was insufficient time to review the information most recently submitted.

Woods addressed the items in her letter submitted December 16, 2010;

- **A single map** - submitted to the file. The map included the hazards and limitations, the geological units and elements, slopes of 30%, and the severe wildfire areas. Assistant Director of Community Development Starkebaum noted the Division of Wildlife (DOW) comments had included concerns with the critical elk migration corridor on lots

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23, 24 & 25, and these lots were not included on the map most recently submitted. Messner noted it is preferable to review this request as a whole rather than in small pieces. Reed agreed the wildlife corridor across the entire ranch and up the draw should be included in the overall scope of the road request; in order to address the wildlife corridor the lots below are relevant.

- **Information on the DIA-** phasing and status of the previous approval; included a table of the original figures submitted to the County, and an extension of time requested to complete all parts of phase one.
- **“No build areas”** -no build areas were noted on the submitted map. The owner will include the area in the severe wildfire zone, extending the no build areas to include approximately ten additional acres on the south side of the development.
- **Written comments from Public Works-** including snow storage and turnouts. Public Works representative Allan Moores explained they will not submit comments until the Fire Protection District and the BOCC processes are complete. Moores explained that the road waiver request; to reduce the width of the bridge from 22ft. to 16 ft. had been submitted to the BOCC for their review and consideration.
- **Written comments from Fire District-** received and distributed.
- **DOW Wildlife concerns-** additional written comments from the DOW have been received and submitted to the Planning Commission
- **Written comments from Colorado Geologic Survey (CGS) -**received and distributed.

Reed asked for clarification of the rock fall hazards described in the letter from CGS; Woods said the boundary of the rock fall is outlined on the map, in the upper left of the no build area. The applicant does not object to the recommendations made by CGS. The no build areas will include approximately 30% of the entire ranch. They will meet with the Fire District and Public Works to discuss turn outs on the road.

Reed said CGS recommends not building on the steep slopes on lot 29. Engineer Burgess clarified that a home could be built in that area, but a no build zone could also be put around the area. Reed explained the *Gunnison County Land Use Resolution* (LUR) requires the recommendations of CGS be adhered to.

Karas said replacing dense woods with grasses does have impacts on the wildlife migration corridor; requesting the applicants be acutely aware of the wildlife migration in the dense woods.

Reed pointed out if the waiver is not granted the bridge will have to be 22 ft. wide rather than 16ft as requested. Burgess explained the narrower bridge has been requested to slow traffic down, and it is also an aesthetically driven request. Moores said the Public Works review is in process but is not complete yet.

Reed questioned why the no build area does not include everything on the west side of the road. He pointed out building at the bottom of lot 26 conflicts with the DOW recommendations and should be included in the no build area.

Reed questioned where the access would be on Lot 27; Burgess explained it is an S shaped lot; the lower part of the lot could be built on. There could be an easement across lot 28 to access lot 27.

Reed and Messner expressed concerns with the unknown placement of the driveways. The building envelope could be a great distance from the main access road, requiring a very long driveway. The driveway could then cross a no build area and cause elk migration disruption, and the driveways could be in the geo-hazard areas.

Burgess said they have discussed the entire ranch with the DOW.

Karas requested that the Commission’s regulatory authority/ scope of authority be explained by the County Attorney and Director of Community Development.

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Karas asked if the applicants are now asking for changing the specifications of the bridge in phase one. Burgess said they are not changing the specifications of the bridge, but because of the additional lots the bridge would now have to be a 22 ft. bridge. They have submitted a waiver request to the County Public Works and BOCC to reduce the width of the bridge to 16 ft.

Starkebaum noted lots 22, 23, 24 and 25 had previously been numbered differently and they had contained building envelopes. He added this change allows for the review of the previously approved lots.

Messner stated it is critical the DOW verify the no build areas identified are sufficient to protect the elk migration corridor. Starkebaum cited the DOW letter dated December 14, 2010, "Given the topography of the area we don't see a viable alternative for an elk migration corridor, nor a method to mitigate the impacts to this corridor." Starkebaum pointed out there are specific standards in the LUR relative to wildlife. Starkebaum suggested the applicants provide mitigation on lots 22-25 and have the proposed mitigation reviewed by the DOW.

Reed recommended a one to one comparison of the concerns expressed by the DOW, CGS and Public Works.

The commissioners requested;

- A map that extends to the river
- DOW attend a work session to explain their concerns
- County Attorney's and Director of Community Development explanation of the Commission's scope of authority
- Public Works comments
- A Planning Commission recommendation would have to include ; site specific geo hazards will be addressed at the time of building permit request or construction of a driveway
- Turn outs to be constructed in accordance with the advise of the Fire Protection District and Public Works
- Describe the driveways; either with building envelopes, or no build zones which specify the wildlife issues and any geo-hazard issues

The Commission will conduct an additional work session, before a public hearing is scheduled.

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**BEAR RANCH- RESIDENTIAL LIVING SPACE OVER 10,000 SQ. FT.** The Planning Commission met with Bear Ranch representative Tom Newland. They reviewed the request for total aggregate residential living area in excess of 10,000 square foot maximum; generally described as being located northeast of County Road 12 (Kebler Pass) and west of County Road 2 on Parcel 2, Bear Ranch.

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

Newland explained parcel number two is a 35-acre parcel; there are seven additional 35-acre parcels, and the remainder parcel is larger. This request is for a 468 sq. ft. basement area which will take them over the 10,000 sq ft. maximum. The basement area was originally designed as a crawl space. He said the additional square footage remains visibly compatible because it is below grade. He said if the basement is not approved a utility shed will likely be constructed. The basement square footage would be less visible than a shed.

Reed said this 35-acre parcel is separate from the surrounding 35-acre parcels; the application should be clear this impacts the adjoining 35-acre parcels.

Karas pointed out this is a request to amend a previously issued building permit, and the additional square footage is underground. Reed was concerned with the obtrusiveness; Karas stated that the obtrusiveness was addressed with the original building permit. Planner Cathie Pagano clarified obtrusiveness is not considered in the building permit review process.

Karas asked if the building could be seen from County Road 12; Newland said it was not visible. Newland added the ranch buildings are only visible from one portion of Highway 133; this structure is not visible from Highway 133. The  
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structure is in a low area at the center of the large parcel. The purpose of the structure is to provide a one bedroom upstairs unit for the caretaker and a gathering space downstairs for the owner’s family.

Reed pointed out the bathrooms can only be accessed from the outside; Newland explained the owners wanted bathrooms to have outside access; the upstairs caretaker unit has its own bathroom.

The commissioners reviewed the staff report, some of the outstanding issues included working with the Environmental Health Official, and the review of the obtrusive aspects.

Adjacent owner John Lee was concerned with the additional traffic on County Road 12. The increased dust is significant and the trucks use their jake brakes resulting in a lot of noise. Reed sympathized with Mr. Lee, but did not know if it is within the Planning Commissions purview. Reed suggested staff contact Public Works to identify Mr. Lee’s dust concerns. Newland agreed to discuss this issue with the owner to try to come to some sort of solution for Mr. Lee.

The consensus of the Planning Commission was a site visit was not necessary.

There will be a public hearing scheduled.

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**GUNNISON COUNTY TEMPORARY OIL AND GAS REGULATIONS;** The Planning Commission met with County Attorney David Baumgarten and special counsel Barbara Greene. They discussed the proposed amendments to the *Gunnison County Temporary Regulations for Oil and Gas Operations*.

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

**Moved;** by Karas seconded by Eastman for the Planning Commission to go into executive session with County Attorney David Baumgarten, Special Counsel Barbara Greene, and Assistant Director of Community Development Neal Starkebaum, for the purpose of receiving legal advice concerning preemption and local and state government regulations. The motion passed unanimously.

The Commission went into executive session at 1:15 P.M. *Executive sessions of the Gunnison County Planning Commission are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).*

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**Attorney Statement Regarding Executive Session**

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney; that I represent the Gunnison County Planning Commission; that I attended all of the above referenced executive session; that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept. No decisions were made during the executive session.

Date: \_\_\_\_\_  
\_\_\_\_\_ David Baumgarten  
Gunnison County Attorney

**Chairperson Statement Regarding Executive Session**

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Planning Commission; that I attended all of the above referenced executive session; and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: \_\_\_\_\_  
 \_\_\_\_\_, Chairperson  
 Gunnison County Planning Commission  
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The Commission came out of executive session at 3:10 P.M. Chairperson Reed stated that the discussion had remained on the topic.

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The Commission suggested changes including;

- Identify all municipal water supplies downstream from an oil and gas operation within Gunnison County
- A single surface sample is problematic; should include methods used by the applicant, providing information on both the constituents and the methodology
- Should include both surface and subsurface water
- Provide a brief description of "source point" in the definition
- Waste management plan should be split off into a separate section
- Consideration of air as a transporting medium
- Document the basis of any technical infeasibility waiver
- Consider both surface and subsurface water
- Add point and non point contamination sources
- Define linear features- add a section to define what should apply to linear features
- Change the word "area" to "volume"
- Include an impervious surface discussion- for example the well pad
- Management of hazardous materials- the distance may be irrelevant to the drainage
- Discussion of open pits and the alternatives- ensure containment not just distance
- Include berm construction and permeability
- Include post approval monitoring
- Monitoring consistent with the regime in the submittal requirements
- Monitoring at intervals set by the Planning Commission
- Include a specific reporting provision in the regulations

Baumgarten suggested the Planning Commission conduct a round table discussion on the entirety of what is being done. The invitation would be extended by the Commission to the specific stake holders. He noted that the Oil and Gas Pit Descriptions handout, provided by the Oil and Gas Industry, was received by the County Attorney's office and distributed to the Commission.

**Moved:** by Karas seconded by Eastman for the Planning Commission to go into executive session with County Attorney David Baumgarten, Special Counsel Barbara Greene, and Assistant Director of Community Development Neal Starkebaum, for the purpose of receiving legal advice concerning preemption and legal conflicts. The motion passed unanimously.

The Commission went into executive session at 4:00 P.M. *Executive sessions of the Gunnison County Planning Commission are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).*

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#### **Attorney Statement Regarding Executive Session**

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney; that I represent the Gunnison County Planning Commission; that I attended all of the above referenced executive session; that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive

session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept. No decisions were made during the executive session.

Date: \_\_\_\_\_  
David Baumgarten  
Gunnison County Attorney

**Chairperson Statement Regarding Executive Session**

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Planning Commission; that I attended all of the above referenced executive session; and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: \_\_\_\_\_  
\*\*\*\*\*, Chairperson  
Gunnison County Planning Commission  
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The Commission came out of executive session at 4:10 P.M. County Attorney Baumgarten stated that the discussion had remained on the topic.

The Planning Commission will conduct a roundtable discussion, with the stake holders, on February 2, 2011.

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The regular meeting of the Planning Commission Meeting was adjourned at 4:30 P.M.

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