

MEMBERS	PRESENT	ABSENT	EXCUSED
DIANE LOTHAMER, CHAIR	X		
JIM SEITZ	X		
BOB BEDA	X		
HARVEY HARRIMAN	X		
GREG LARSON	X		
DELANEY KEATING	X		
COUNCILMEMBER ELLEN HARRIMAN	X		

OTHERS PRESENT: DIRECTOR STEVE WESTBAY, PLANNER ANDIE RUGGERA, TIM SEIBERT, DENNIS MINCHOW, RALPH “BUTCH” CLARK, DAWN AND JUAN GARCIA, NAVID NAVIDI, WILL SHOEMAKER, GEORGE SIBLEY, AND STEPHEN PIEROTTI

I. CALL TO ORDER AT 7:00 pm BY CHAIR DIANE LOTHAMER

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. CONSIDERATION OF THE JULY 22, 2009 MEETING MINUTES. Commissioner Jim Seitz moved to APPROVE the July 22, 2009 meeting minutes as presented. Commissioner Greg Larson seconded the motion.

Roll Call Yes: Bob, Harvey, Diane, Ellen, Greg, and Jim

Roll Call No:

Roll Call Abstain: Delaney – was not present at the July 22nd meeting.

Motion Carried

IV. PUBLIC HEARING AND ACTION: CU 09-5, SUBMITTED BY JUAN AND DAWN GARCIA TO OPERATE AN AUTOMOBILE SERVICE AND REPAIR BUSINESS IN THE COMMERCIAL ZONE DISTRICT

Chair Diane Lothamer opened the public hearing at 7:05 p.m.

Proof of publication was shown for the record.

Planner Andie Ruggera reviewed the process for a conditional use permit and gave an overview of the application. The applicants are Juan and Dawn Garcia. The applicants are proposing an automobile service and repair facility at 702 West Tomichi Avenue. The property is owned by Navid Navidi and an authorization of agent form has been completed. The legal description of the site is Lots 13 through 16, Block 15, West Gunnison Addition, City and County of Gunnison. The property is located in the Commercial and Entrance Overlay district zones.

The applicants, Juan and Dawn Garcia, approached the Commission. Mr. Garcia stated the staff presentation [report] summarizes their intent of performing service and repair. He said there will be no gas station, only auto repair that is family operated. He said the business will stay with small repair and they will leave repair of heavy equipment and body repair to other businesses.

Commissioner Bob Beda asked if the site has been used for anything other than repair [automobile]. Commissioner Diane Lothamer stated it used to be a recycle center.

Commissioner Diane Lothamer asked the applicants if they were aware of the conditions for approval cited in the staff report. The applicants stated they had not seen the staff report. Diane informed the applicants of the seven conditions recommended by staff for approval.

Commissioner Jim Seitz commented on the landscaping stating it has been a real challenging place to landscape it would be like Safeway having to retrofit that parking lot that doesn't have anything but gravel and cement. He stated, "I'm sure you will comply and as a Commission we appreciate it. The property could be made to look nice."

No comment from the public was received.

Navid Navidi asked about the requirements for the exhaust ventilation system. Director Steve Westbay stated Fire Marshal Dennis Spritzer and Building Official Eric Jansen will have to look at the code [*2003 International Fire Code* and *2003 International Building Code*] and determine what the requirements are. Juan Garcia stated the big exhaust systems are very expensive and was hoping a system that circulates the air will be adequate.

There was discussion on the findings of fact and conditions. Planner Andie Ruggera made a couple of modifications and added a new condition. Director Steve Westbay modified the third condition in the staff report.

Commissioner Jim Seitz stated, "We have talked in the past about some of the uses that maybe we would prefer in certain locations and yet this type of a use anywhere is a welcome addition to town. Folks that provide this service can be a very positive impact on the community."

Commissioner Bob Beda said it was encouraging in this economic environment that someone wants to move forward with this property and he has known Juan for a long time and wishes him well.

Navid Navidi asked who is going to enforce the conditions of the permit. Chair Diane Lothamer stated if the property becomes an eyesore there will be something to fall back on. Director Steve Westbay stated a conditional use permit allows the Commission to put terms on the use.

Chair Diane Lothamer closed the public hearing at approximately 7:27 p.m.

Commissioner Harvey Harriman moved to approve Conditional Use, CU 09-5, submitted by Juan and Dawn Garcia to operate an automobile service and repair facility at 702 West Tomichi Avenue, based on the following findings and conditions:

FINDINGS OF FACT:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the City of Gunnison *Land Development Code* and the City of Gunnison *Master Plan*.
2. The Planning and Zoning Commission finds that this conditional use application is for an automobile service and repair facility in the Commercial district zone.
3. The Planning and Zoning Commission finds that an automobile service and repair facility is compatible with the neighborhood as long as certain conditions are fulfilled.
4. The Planning and Zoning Commission finds that the character of the highway frontage and uses are important to the community appearance and therefore uses and activities must be limited to functions that are compatible with this area.
5. The Planning and Zoning Commission finds that the proposed hours of operation are Monday through Friday 7:30 am to 6:00 pm and occasionally on Saturdays from 8:00 am to 12:00 pm.
6. The subject site is located within the Commercial and Entrance Overlay district zones. The Planning and Zoning Commission finds that a minimum of 1,250 square feet of landscaping is required of which 750 square feet shall be live cover and a minimum of six trees are required of which four trees shall be along the highway frontage.
7. The Planning and Zoning Commission finds that automobiles waiting for service or repair will be parked on-site, but behind a screened storage area.
8. The Planning and Zoning Commission finds that service and repairs of client vehicles will be made within the service bays.
9. The Planning and Zoning Commission finds that the use of air-impact wrenches and other possible noise nuisances will be used during the hours of operation.
10. The Planning and Zoning Commission finds that the proposed use will include the collection and disposal of oils, anti-freeze, etc. and proper service bay grease/oil sand-filter drain verification will be required prior to Change of Use Permit approval.
11. The Planning and Zoning Commission finds that the exhaust ventilation system must meet applicable building code requirements.
12. The Planning and Zoning Commission finds that six off-street parking spaces are required on the site, and ten spaces are available.
13. The Planning and Zoning Commission finds that the application meets all the provisions of the City's *Municipal Code* based on the following conditions:

CONDITIONS:

1. Outside storage of materials is prohibited.
2. Landscaping as illustrated on the site plan shall be completed by July 31, 2010. A minimum of 1,250 square feet of landscaping is required of which 750 square feet shall be live cover. A minimum of six trees is required and four shall be located along the highway frontage.
3. Storage of up to four vehicles outside the screened area are allowed if the vehicles have current license plates and the repairs are of a short time period (three days or less).
4. Service and repairs of client vehicles shall be made within the service bays.
5. The use of air-impact wrenches and other possible noise nuisances shall be used only inside the service bays during hours of operation.
6. Proper service bay grease/oil sand-filter drain and exhaust ventilation system verification shall be required prior to Change of Use Permit approval by the Building Official.
7. Disposal of oils, anti-freeze, etc. shall be disposed of according to the Colorado Department of Public Health and Environment.
8. This Conditional Use for Juan and Dawn Garcia shall expire if all conditions are not met by July 31, 2010.

Commissioner Greg Larson seconded the motion.

Roll Call Yes: Jim, Bob, Diane, Delaney, Ellen, Greg and Harvey

Roll Call No:

Roll Call Abstain:

Motion Carried

V. ACTION: ZA 09-1, BY GUNNISON VALLEY PARTNERS FOR THE REQUEST OF A PLANNED UNIT DEVELOPMENT (PUD) ZONING IN THE PROPOSED GUNNISON RISING ANNEXATION.

Director Steve Westbay stated the Commission has a memorandum with today's date [August 12, 2009] regarding economic impacts and waste water utility design. He gave an overview of the memo stating he received a phone call from Dennis Minchow who expressed concern regarding statements on the economic impact. Mr. Minchow felt that the impact report without the Real Estate Transfer Assessment (RETA) mechanism (whether the application is approved or denied) is an element in the Annexation Agreement for community to be aware of. Director Westbay stated he added some language to the last sentence of Finding 32 to address this concern.

Director Westbay discussed Enclosure Two and stated that he and Finance Director Wendy Hanson collected information based on the sale of real estate during a five year period. Commissioner Harriman inquired on the time frame for buildout. Director Westbay stated the estimate spanned over a 25 year time period and shows the resale of property in seven years. Commissioner Larson asked if depreciation was included in the estimate and Director

Westbay responded that the chart did not account for depreciation. Director Westbay stated that the Real Estate Transfer Fee estimate is in the public files.

Director Westbay stated he also spoke to City Engineer Terry Zerger and that Mr. Zerger had backtracked all the original data from 2006 and came to the conclusion that the assessments and model Del-Mont used is different than they are today. In 2006 the model indicated a 24 inch wastewater line and Mr. Zerger's current assessment is that an 18 inch line would be needed. Mr. Zerger indicated there is a possibility for a gravity-fed sewer line without a lift station. Director Westbay suggesting adding Finding 13.5 and Condition 5.5 regarding the new assessment from Terry Zerger.

The Commission reviewed the Findings and Conditions and made a few typographical corrections.

Commissioner Jim Seitz stated there was a short list of items that have not been addressed sufficiently, that give him real pause as far as being able to recommend favorably in this overall application. It is the *Memorandum of Understanding (MOU)* with the college, the *Avigation Easement*, the *Highway Corridor Plan*, the *Stormwater Plan*, water quality reports and agreements, and the wastewater plant. He said, "These seem like major, major items. Overall we've come to the point where we are to make a recommendation to City Council with major issues that have not been answered sufficiently. Again, coming to the magnanimity [sic] of this application and the long range importance, to have issues on the table and assume they will be taken care of at some time in the future, I think that would be terribly irresponsible." He further stated that he doesn't like to see conditions that pass the buck on continuing, "We have asked these questions and have not gotten answers to them. We have reached a point where we ended all this discussion, made a recommendation, based on what we've gotten, I can't do anything but recommend denial."

Councilor Ellen Harriman stated she will be deciding on the entire annexation with City Council. She said she could vote tonight since it is a legislative decision but she thinks it would be better for her to leave herself open for discussion at the City Council level and that she will not be voting.

Commissioner Greg Larson stated a lot of work has been put into this by a lot of people and that he is a newcomer here. Greg stated he has been following this [application] fairly closely for the last couple years that this has been going on. He further stated, "With all the work that has gone into it I can't believe that we would be ready to do a disapproval of the application. The conditions are pretty extensive and it gives City Council plenty to consider as they move the process forward."

Commissioner Delaney Keating stated she has a hard time understanding how all the big pieces work from the Annexation Agreement to this PUD. She stated, "I don't understand at times what our total role in it is, we have reviewed and looked at it extensively and I have a hard time feeling like I'm equipped to make a decision about it two years later because there is so much out there on both sides of the fence. I struggle with this a lot, with the part of

guidelines and parameters and how this moves forward. I'm between a rock and a hard place."

Chair Lothamer stated, "We are the body entrusted by the Council to look at these things and go into great detail to try to give them a recommendation. City Council is free to accept or reject that recommendation, they have other considerations besides ours, we strictly look at the PUD and land use and how it relates to the *Master Plan*. I can imagine a best case scenario where all of those studies prove out and things work well with the stormwater, traffic and the trails and a development that moves quickly with the spirit and the intent of Gunnison Rising. And then, I have my worst nightmare—we end up with a big box, a truck stop and a RV park. All of those things on the south side are what gives me the most heartburn. I could see that we have 20 years of arguing the details of this PUD plan that becomes a part of our *Code* and that is why we have spent so much time on it. To make it compatible with the community and make sure it is done right. The downside is that Downtown, should the commercial develop, becomes a lonely little place because we've all gone out to Gunnison Rising. I don't see the economy able to support this at this time and I could envision a half finished thing. I fear that east of town would not be able to invigorate themselves for a long time."

She continued, stating "We still have these unknowns about traffic, stormwater, sewer, and soils reports. To my knowledge we have never resolved, to my satisfaction, the care and maintenance of the berms and buffers. The worry is they won't take care of them well and in a coordinated way and that they may become degraded. We are going to have the traffic on Highway 50 and increased traffic on Georgia Avenue and Colorado Street."

Chair Lothamer continued, "We have the report now that shows we don't really make the money off of residents, we make the money off of tourists and tourist attractions. We have stated in the *Master Plan* that we would like to see compact growth gradually growing out, our entrances are well defined, we like our landscapes, and we like to prevent sprawl. All of those things do not happen with the way this project is set up now. I think it is unrealistic at this time to take such a big chunk and try to add it on to this town." Concluding that she will be voting for denial.

Commissioner Beda inquired on Exhibit B. Director Steve Westbay stated Exhibit B is addressed in Condition 2. Commissioner Beda asked if all documents mentioned in Finding One are agreed upon, if they are legal files, and complete. He asked what happens if one document isn't legal. Director Westbay replied that those documents were a basis for the decision that was made and that they include all documents received since the original Gunnison Rising Master Plan and all documents received and compiled over the last two years.

Commissioner Harriman stated, "This has been quite a marathon and I would like to thank the applicants for their consistent good humor, their pleasant demeanor and their good manners. I am very grateful for that. The State of Colorado requires each city to create a master plan and update it regularly. I have participated with a number of these writings and

some of them take quite a while because they are prepared with copious input from the citizens of Gunnison. People will say, “Why bother with this process? The *Master Plan* is not binding anyway.” Up until now it has been difficult to answer, but nationally the trend is growing for planning commissions to work in accordance with their master plans. Courts are awarding judgments to private citizens based on local government violation of their master plan. Colorado has amended the *Colorado Statutes 30-28-106* and *31-23-206* to authorize municipalities and counties to make their master plan binding by including the plan in the development document.” Commissioner Harriman cited House Bill 07-1246. He continued, “Our report shows 39 areas of conflict with the purposes of the PUD and the *Master Plan*. By my count, 29 of these are in conflict with the *Master Plan* alone. For me these conditions are not compatible with the good benefit of the public trust.”

Commissioner Harvey Harriman moved to recommend denial to City Council for Zoning Amendment application, ZA 09-1, submitted by Gunnison Valley Partners with the following Findings of Fact:

Findings:

1. The Planning and Zoning Commission finds that documents and testimony germane to this review and recommendation include, but are not limited to the following:
 - A. Documents and testimony germane to this review include, but are not limited to the following:
 - B. Gunnison Rising PUD Map Amendment Application (ZA 09-1);
 - C. Gunnison Rising Annexation Phase 1, City Document Files (AX-660);
 - D. Gunnison Rising Annexation Phase 2, City Document Files (AX-660);
 - E. Gunnison Rising Annexation Post Phase 2, City Document Files (AX-660);
 - F. Gunnison Valley Partners LLC Annexation Petition, City Document File (AX-660);
 - G. *Gunnison Rising Annexation Impact Report*, City Document Files (AX-660);
 - H. *Draft Gunnison Rising Annexation Agreement*
 - I. Minutes, public hearing comments, and written correspondences submitted by the public for the record;
 - April 8, 2009
 - April 29, 2009
 - May 13, 2009
 - June 24, 2009
 - July 22, 2009
 - J. *City of Gunnison Land Development Code*;
 - K. *City of Gunnison Master Plan*;
 - L. *City of Gunnison Trails Master Plan*;
 - M. *City of Gunnison Water Master Plan* (Black & Veach, 2007);
 - N. *City of Gunnison Wastewater Master Plan Final Report* (Black & Veatch, 2006); and,
 - O. Draft MOU between the Gunnison Valley Partners, Western State College, the Western State College Foundation and the City of Gunnison (WSC MOU)
2. The Planning and Zoning Commission finds that this PUD zoning application has been submitted in conjunction with the *Tomichi Creek Corridor Annexation Petition* (also

- known as “Gunnison Rising”) encompassing 633 acres and an additional three acre site within the City boundary that is also included in the PUD zoning application.
3. The Planning and Zoning Commission finds that the City Council has been negotiating the terms of a *Draft Annexation Agreement* that set forth numerous conditions and directives for this Gunnison Rising PUD.
 4. The Planning and Zoning Commission finds that the Western State College Board of Trustees submitted a letter (March 12, 2009) establishing conditions to mitigate future traffic problems on Georgia Avenue. The Planning and Zoning Commission further finds that a draft Memorandum of Understanding (MOU) is being reviewed by the WSC Trustees, the WSC Foundation, the Applicant and the City, but consideration of the MOU acceptance by the parties has not been completed.
 5. The Planning and Zoning Commission finds that the action of annexation provides the City a means to address and manage land use along its boundary perimeter. This opportunity is not easily available in any other city boundary area because of historic development patterns.
 6. The Tomichi Creek corridor is a pristine riparian environment, and a significant portion of the corridor has been purchased by the Federal Aviation Administration and the Bureau of Reclamation, thus providing protection to this critical habitat. The Planning and Zoning Commission finds that an additional 210 acres is to be purchased by the Colorado Division of Wildlife, which will protect this corridor from the Signal Peak Industrial Park (east) to Gold Basin Road (west).
 7. The Gunnison Rising PUD Map Amendment Application (ZA09-1) includes a document titled *Gunnison Rising PUD Code* (February 13, 2009). This Code document encompasses the Applicant’s entitlement and vesting request; it sets forth the requested PUD district zones and proposes development standards to be applied to the districts. The Planning and Zoning Commission finds that significant revisions to the *Gunnison Rising PUD Code* (February 13, 2009) are necessary and these revisions are recommended herein.
 8. The Planning and Zoning Commission finds that traffic volumes on Tomichi Avenue and Main Street will increase to a threshold never experienced by the city and existing neighborhoods will be impacted.
 9. In a letter (June 22, 2009) from Dan Roussin (CDOT, Unit 3 Permit Manager) several issues were raised regarding the proposed PUD development and related highway traffic impacts to include lack of connectivity and undesirable impacts on US Highway 50. The Planning and Zoning Commission finds that CDOT is recommending development of a highway corridor plan to address access control, street section design, off-site highway impacts and other traffic related details.
 10. Connectivity between US Highway 50 and SH 135 is contemplated but the Applicant’s proposed route follows an alignment traversing through potentially unstable slopes and the Applicant’s proposed alignment significantly increases the necessary road length of the potential bypass route. The Planning and Zoning Commission finds that the Applicant is not willing to alter the alignment as requested by the staff and Planning and Zoning Commission.
 11. The Planning and Zoning Commission finds that the *Draft Annexation Agreement* requires conveyance of water rights and ensuring that water is put to beneficial use, but

the City's Water Attorney has not rendered a final opinion regarding the proposed transfer. The Planning and Zoning Commission further finds that it is in the City's best interest to ensure that legal decree transfer is acceptable to the City Water Attorney, and that the quantity and quality of the water source is adequate to serve future community needs, before approval of annexation.

12. The Planning and Zoning Commission finds that a letter from William Lorah (Wright Water Engineers, November 24, 2008) states that the data available at this time is too limited and incomplete to make a decision regarding annexation. The Planning and Zoning Commission further finds that alluvial wells are potentially susceptible to surface influences, meaning that surface water and related pollutants can enter the domestic water supply.
13. The Planning and Zoning Commission finds that a memorandum from Terry Zerger (Gunnison City Engineer, February 27, 2009), states that the quantity of wastewater generated from development will not be sufficient to provide "cleaning velocity" until later in the development, and this deficit will result in additional maintenance costs for the City.
14. The City Engineer (Terry Zerger) has concluded that a gravity wastewater line may be a functional alternative to a lift station because the project scope has changed and pipe size has been reduced, but more detailed evaluations are needed to confirm or deny this potential alternative. The Planning and Zoning Commission finds that lift stations should be avoided if possible and additional investigations are warranted if the annexation is to move forward with approval.
15. The Planning and Zoning Commission finds that the City and the Applicant desire to continue agricultural operations within the PUD as development proceeds in the future. The recommended *PUD Development Standards* (Section 2.4) establishes protocol for the operation and maintenance of irrigation ditches and grazing within the PUD area.
16. The *Draft Annexation Agreement* requires the Annexor to provide a Stormwater Management Master Plan for all of the PUD property at the time of submittal of a preliminary plat for any portion of the property. The Planning and Zoning Commission finds that the proposed timing to complete this study is problematic because it will extend the time necessary to process the initial subdivision plat. The Planning and Zoning Commission further finds there is uncertainty of the practicality of constructing stormwater facilities within the PUD.
17. The Planning and Zoning Commission finds that development and maintenance of urban stormwater management facilities will create additional burdens upon General Fund revenue allocations in the future.
18. ESC Engineering (Mr. Gerald Hager, P.E.) developed a report titled *Plan of Electric Service Expansion to the Gunnison Rising Planned Unit Development for the Town of Gunnison Colorado* (November 2008). The Planning and Zoning Commission finds that the *Draft Annexation Agreement* requires the Annexor to provide a study of improvements of the City's electrical system required to serve each phase of development, and that the Annexor will be financially responsible for the extension of electrical utility services.

19. The Planning and Zoning Commission finds that the Applicant provided service commitment letters from Atmos Energy (October 2, 2008), Time Warner Cable (October 27, 2008 and Qwest Communications (December 12, 2008).
20. The Planning and Zoning Commission finds that parks and trail facilities are permitted uses within the Open Space district, which encompasses 62 acres and the Open Space/Equestrian district (52 acres). The Planning and Zoning Commission further finds that the City will be responsible for all urban park developments and subsequent maintenance, which will create additional park maintenance costs for the City.
21. The Planning and Zoning Commission finds that approximately eight miles of trail systems, including the Contour Trail, are illustrated on the PUD Parks and Trails Master Plan. The Planning and Zoning Commission further finds that, except for the Outer Loop Trail extension through the PUD, the costs for developing trails will be the Annexor's responsibility.
22. The Planning and Zoning Commission finds that the Applicant and the Sage Grouse Strategic Committee have agreed to a mitigation plan, which will be memorialized through the *Annexation Agreement*, establishes a 180 acre conservation easement to be located north of the PUD in the sage upland area adjacent to public land managed by the Bureau of Land Management.
23. The Planning and Zoning Commission finds that a minimum 100 foot wetland setback is proposed for all uses, but an isolated wetland north of the highway and another isolated wetland located in the CRV district are excluded from the wetland setback buffer standards. The Planning and Zoning Commission further finds that the recommended *PUD Development Standards* include a comprehensive set of regulations intended to provide protection of wetlands in and adjacent to the PUD.
24. The Planning and Zoning Commission finds that the recommended *PUD Development Standards* establish regulations for flood hazard prevention that are more restrictive than those found in the existing *Gunnison Municipal Code*, and they prohibit the construction of industrial buildings, residential dwellings, manufactured housing units, recreational vehicle park space, and other structures within designated Flood Hazard Areas. The Planning and Zoning Commission further finds that these standards also prohibit any development within the designated Floodway.
25. The Colorado Geological Survey (CGS) provided a letter (October 21, 2008) addressing debris flow hazards, soil erosion issues, and geo-technical engineering procedures that should be implemented. The CGS noted that development must be predicated on detailed site grading; stormwater control design review; investigations of alluvial fan deposits to define flow dynamics and volumes from past events; and, investigation of debris flood dynamics in drainages above the development area. The Planning and Zoning Commission finds that all recommendations provided by the CGS must be followed to protect the City's long term health, safety and welfare.
26. The proposed PUD contains certain sites of potential archeological significance. The Colorado State Archaeologist (Susan Collins) provided a letter (May 8, 2009) suggesting that a Data Recovery Program may be used to allow field assessments prior to ground disturbance and development. The Planning and Zoning Commission finds that predevelopment field work following the *Secretary of the Interior Standards for Archeological Documentation* will protect cultural resources.

27. The Planning and Zoning Commission finds that a *Draft Avigation Easement* has been developed by the Applicant and the City, and the draft has been submitted to Gunnison County for review, but to date no response from the BOCC has been provided. The Planning and Zoning Commission further finds that the contents of the Avigation Easement have not fully been integrated into the recommended *PUD Development Standards*.
28. The Planning and Zoning Commission finds that a Draft Memorandum of Understanding (MOU) has been developed by the Applicant, the City and Western State College. The Planning and Zoning Commission further finds that the provisions of the MOU have not fully been integrated into the recommended *PUD Development Standards*.
29. The standards for a PUD Zone District at 15.60.060.C.5, Open Space, require that at least 20 percent of the total gross area of every PUD shall consist of common open space. The Planning and Zoning Commission finds this application does not meet this standard.
30. The standards for a PUD Zone District at 15.60.060.C.8, Phasing of Development, require that where a PUD is developed in phases, a proportional amount of any required open space, recreation areas and other community benefits shall be included in each phase. The Planning and Zoning Commission finds this application does not meet this standard.
31. The Review Standards for Map Amendments, 15.150.060.C, Compatibility with Surrounding Zone Districts and Uses, requires compatibility with surrounding zone districts, land uses, and neighborhood character. The Planning and Zoning Commission finds that the proposed land uses to be zoned R-1, CRV, GOV, C, and IM south of US Highway 50 do not meet this review standard.
32. The Review Standards for Map Amendments, 15.150.060.A, Consistent with Master Plan, requires that the zoning map amendment be consistent with the *City of Gunnison Master Plan*. The Planning and Zoning Commission finds that this application is inconsistent with the *Master Plan* in the following respects:
 - New developments along the City's edges will improve the entrances and complement the City's community character and sense of place (*Master Plan*, Chapter 2, Policy 3). Views along both sides of the city's eastern entry would be impacted. No clear arrival in the city would be evident as is now the case. Instead of improvement, this entry would be degraded.
 - Adopt and enforce land-use policies that reduce sprawl, preserve open space and create compact, walkable urban communities (*Master Plan*, Chapter 4, Policy 7.2). Sprawl is created by the land uses south of US Highway 50. Open space is diminished and less visible from the entry corridor. The R-1, CRV, IM, C/WP, GOV and O/E zone districts (6 of 11 proposed, totaling 198 acres) do not embody "compact, walkable urban communities."
 - The scope of the PUD application exceeds the limit of the preferred Urban Growth Boundary (*Master Plan*, Map 5.b, Preferred Urban Growth Boundary and Three Mile Area).
 - Zoning for non-residential uses within the existing city limits is already substantial (*Master Plan*, Chapter 5, pages 39-40). The need for additional non-residential zoning has not been demonstrated by any showing of commensurate additional demand.

- Growth and development will preserve and enhance the quality of life which makes Gunnison unique and attractive. Edges of the community remain clearly defined. New developments will demonstrate high-quality urban design while protecting the rural landscapes surrounding the city. Sprawl will be avoided through effective infill and compact growth. Residential, commercial and industrial land uses are appropriately located and interspersed with parks and open space, providing a balanced environment in which to live, work and play (*Master Plan*, Chapter 5, Goal). The eastern community edge will be less clearly defined. Rural landscapes surrounding the city are not protected. Sprawl is not avoided through effective infill or compact growth. Commercial and industrial land uses are not appropriately located. These flaws are not overcome by the provisions for parks and trails within the PUD development.
- Implement a street extensions plan that considers existing road connections. Place new roads and evaluate bypass opportunities where continuity and connectivity are maximized and where new connections benefit the community (*Master Plan*, Chapter 8, Policy 3.7). Traffic will be directed to US Highway 50 causing increased congestion. The proposed bypass alignment is not in the most advantageous location. These are issues that will deter effective transportation planning for the foreseeable future.
- Work with CDOT and other entities to consider additional connectivity within the city and surrounding areas, including vehicle bypass systems or pedestrian overpasses in appropriate areas (*Master Plan*, Chapter 8, Policy 2.5). CDOT has indicated that the Applicant's highway plan is not in compliance with intersection spacing requirements. Until development of a highway corridor plan in conjunction with CDOT, the land uses proposed may not accurately portray eventual highway accesses. CDOT supports planning for a bypass route. This could be included in a highway corridor plan which would improve future planning efforts.
- Create a bypass around Gunnison between U.S. Highway 50 and SH 135 to reduce traffic, pedestrian hazards, and noise levels on Main Street (*Master Plan*, Chapter 8, Policy 4.6). The location of the bypass is problematic. Once the easement is dedicated it will be difficult and costly to change the route.
- The City will remain fiscally responsible as both the utility provider and the advocate for the consumers. In financing public infrastructure, the City will ensure that new development pays its fair share (*Master Plan*, Chapter 9, Policy 1). While costs of initial installation of infrastructure will be paid by the developers, continuing costs of operation and maintenance will be borne by the entire city. As detailed in the BBC Economic Impact Report, this cost could be as much as \$750,000 annually, while the Real Estate Transfer Assessment may generate between \$330,000 and \$625,000 annually to help offset the projected revenue decline.
- The City will efficiently deliver its public utilities and continue to be fiscally responsible in the construction of high-quality public infrastructure, making forward-looking decisions that maintain low operational, maintenance and energy costs. The City will continue to increase its utilization of renewable energy sources when possible and will encourage citizens to make the wisest decisions for resource

conservation in building and land development (*Master Plan*, Chapter 9, Goal).

Development of the PUD area will require additional costs for electrical, wastewater and stormwater systems. Continuing operation and maintenance costs, while partially covered by differential electric rates, will generally be assumed by all City ratepayers.

Opportunities for renewable energy generation are not realized in this PUD proposal.

33. The Planning and Zoning Commission finds that specific disagreement in language exists between the Applicant and the Planning and Zoning Commission in the recommended PUD Development Standards (Exhibit B).

ALTERNATIVE RECOMMENDATION

The Planning and Zoning Commission, City staff and representatives of Gunnison Valley Partners, LLC have worked diligently for many months to develop revised Gunnison Rising PUD Development Standards. The revised document provides a basis for zoning the annexed property. In the event City Council determines, despite the Planning and Zoning Commission's recommendation to the contrary, to approve PUD zoning on this property, the Planning and Zoning Commission finds the following conditions should be attached and required.

Conditions:

1. The recommended *PUD Development Standards* established by the Planning and Zoning Commission and contained as Exhibit A of this recommendation, should be approved by the City Council.
2. Outstanding Issues between the Planning and Zoning Commission and the Applicant (Exhibit B) should be remanded back to the Planning and Zoning Commission to resolve.
3. Prior to such approval, the Roadway Master Plan and all other related master plan documents should be amended to designate the bypass route between US Highway 50 and SH 135 to follow the drainage encompassing the Phase VII development area.
4. The Applicant should initiate and complete specific water quality and water quantity investigations, as recommended in the letter from William Lorah (Wright Water Engineers, November 24, 2008) within 18 months of the annexation approval date, and no development or subdivision application should be submitted for consideration until these investigations are completed. Furthermore, the Applicant will reimburse the City for any third party consulting services that the City deems necessary for completing and understanding the results of these investigations. At a minimum the applicant will be responsible for completing the following tasks within this 18 month period:
 - Conduct extended pump tests of the existing wells to assess surface influence potential pursuant to recommendation from Wright Water Engineers.
 - Perform comprehensive water quality investigations pursuant to Colorado Department of Public Health and Environment Standards, and other standards that may be required by the City.
 - Define specific locations for future production wells as needed.
 - Establish well-head protection criteria to be integrated into the *Gunnison Rising PUD Development Standards*.
 - Establish a multiple year agreement requiring the Applicant to develop filtering systems if issues arise or, obtaining another water supply if the proposed supply is determined by the City to be deficient in regard to quantity and/or quality.
5. The *Draft Annexation Agreement* should be amended to provide the means to reimburse the City for maintenance services conducted on the sewer mains and lift station until such time that the cleansing velocities are sufficient for the appropriate system function.
6. The Applicant's engineer shall be required to provide the City with plan view and profile drawings, and a hydraulic analysis of an alternative gravity flow wastewater main alignment. Furthermore, if it is determined that the alternative alignment is a viable solution, the Utility Master Plan shall be amended to reflect the change before any development or subdivision applications are submitted.

7. Section 11.8 of the *Draft Annexation Agreement* should be amended to address the Stormwater Management Plan completion deadline. Specifically, the Stormwater Management Plan submittal and review should be completed prior to submittal, review and approval or rejection of any subdivision or development plan application.
 8. Prior to zoning approval the following recommendations cited by CTL Thompson should be integrated into the recommended *PUD Development Standards* Section 2.7 (Development Phase Review Standards):
 - A. Review of site grading plans by a geotechnical engineer.
 - B. Site-specific design-level soils and foundation investigations for structures after grading. This should be done on each lot prior to issuance of building permits. For roads, utilities, pavements and other public improvements, this should be done prior to approval of construction plans.
 - C. Construction testing and observation during site development and structure construction.
 9. The *Draft Annexation Agreement* should be amended to include a section addressing geologic hazards and debris flow issues. At a minimum geologic engineering and geotechnical engineering should address permanent mitigation engineering predicated on detailed site grading; stormwater control design review; investigations of alluvial fan deposits to define flow dynamic and volumes from past events; and, investigation of debris flood dynamics in drainages above the development area. These studies and engineering mitigation solutions should be included with the Annexor submittal of the Stormwater Management Plan.
 10. The recommended *PUD Development Standards* should be amended to require predevelopment archeological field work following the Secretary of the Interior Standards for Archeological Documentation found in the document *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines*.
 11. The recommended *PUD Development Standards* should be amended to integrate standards for development within the PUD consistent with the contents of the approved Avigation Easement.
 12. The recommended *PUD Development Standards* should be amended to integrate standards for development within the PUD consistent with the contents of the approved MOU with WSC.
 13. The *Draft Annexation Agreement* should be amended to include financial provisions requiring the Annexor to pay for the development and maintenance of public parks.
 14. The *Draft Annexation Agreement* should be amended to include financial provisions requiring the Annexor to pay for maintenance of permanent of stormwater facilities.
- Commissioner Jim Seitz seconded the motion.

Further Discussion

Commissioner Beda said, "I didn't think we were at this point yet. But, regardless of a favorable recommendation or a denial it goes to City Council and we can say anything and whatever we say doesn't make any difference."

Chair Lothamer stated, "Hopefully the City Council will take our recommendation seriously, we have put a lot of time and effort. Council has different responsibilities than we do. It is

one of the reasons we have put so much effort into making the revised [recommended] *Gunnison Rising PUD* as good as we could make it in case Council decides they want to go ahead, we don't end up with something that is very difficult to administer. Our work is never in vain regardless of what City Council does."

Commissioner Larson stated, "In that light, by sending disapproval to City Council, it makes it a lot tougher for them. An approval with all of the conditions really accomplishes the same thing. We make these conditions and these concerns that we have made known to the Council, but gives them an easier political path to proceed with this process."

Chair Lothamer stated, "It is not our concern. The Council's political path is something we don't have to worry about. While we certainly don't want to make their way harder we have to do what we think is right."

Commissioner Seitz stated, "Recommending an approval with a long list of conditions to the City Council would be passing the buck and saying we really give up. We have spent a lot of time and we have heard from both sides and our deliberation has brought us to these findings. This [denial] seems the cleanest way to send to the City Council so that it does protect them."

Commissioner Larson said that the concerns, the findings and the facts all remain the same whether it is an approval or disapproval. He state, "We are still passing the buck to City Council."

Commissioner Jim Seitz stated that is not a way to make a decision. "A decision should be based on facts, not hopes and dreams."

Commissioner Beda stated, "No matter how forward thinking we are for the future, most of our planning is done on what has happened in the past. Based on what we have been working on for the last two years with this project, if we were to draft up a new *Master Plan* it would be vastly different from what we have in place now. What we thought was going to happen may not necessarily happen. I am at a real quandary."

Commissioner Seitz stated, "When I look at these major areas [of the *Master Plan*]*—community character and design, environment, housing, transportation, and economics, these were things we heard very passionate input about and I don't really see these things changing. Some of the components would even be strengthened.*"

Councilor Ellen Harriman stated that, as a Council person, a negative recommendation gives Council more options for discussion and review and a positive recommendation makes it more difficult for Council to discuss. She said she thinks the Planning Commission should do whatever they think is correct and not worry what Council will do with that recommendation. She continued, saying "A positive recommendation propels a positive mood without much thought and a negative recommendation may force discussion and maybe make a better decision."

Chair Diane Lothamer asked to poll the Commission.

Roll Call Yes: Diane, Jim, Harvey, and Ellen

Roll Call No: Bob, Delaney, and Greg

Roll Call Abstain:

Motion carried four to three.

V. UNSCHEDULED CITIZENS:

There were no unscheduled citizens.

VI. COUNCIL UPDATE. Councilor Harriman reported on the City Council meeting of August 11, 2009, the Council:

- heard a report from Mt. Crested Butte Mayor, William Buck and Mt. Crested Butte Town Manager Joe Fitzpatrick who discussed off-site impacts and responsibilities of ski area expansions;
- took action on the slurry seal contract;
- took action on the letter requested from RTA on the Cement Creek intersection;
- passed the second reading on refuse and recycling rates; and,
- supported the GOCO grant for playground renovation at Jorgensen Park

VII. PLANNING STAFF UPDATE: Director Westbay reported:

- the VanTuyl Ranch open house with the consultant team will be on August 13th ; and,
- a Conditional Use application, submitted from the Gunnison-Crested Butte Regional Airport will be before the Commission August 26th.

VIII. COMMISSIONER COMMENTS:

- Commissioner Jim Seitz thanked the City for the subscription to the *Planning Journal*. The latest issue has a good article about how to maintain and try to keep your library in the downtown core. It is something we should all read.
- Commissioner Bob Beda thanked everyone for all the hard work on the PUD application.

IX. ADJOURN

Chair Diane Lothamer adjourned the meeting at approximately 8:50 p.m.

Diane Lothamer, Chair

Attest:

Andie Ruggera, Secretary