

PLANNING AND ZONING COMMISSION
July 10, 2013 MEETING PACKET
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**AGENDA
CITY OF GUNNISON
PLANNING & ZONING COMMISSION
REGULAR MEETING
Rev 7/2/2013**

DATE: WEDNESDAY, JULY 10, 2013
TIME: 7:00 P.M.
PLACE: CITY HALL, COUNCIL CHAMBERS, 201 WEST VIRGINIA AVE.

7:00pm

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE TO THE FLAG**
- III. UNSCHEDULED CITIZENS**
- IV. CONSIDERATION OF THE JUNE 26, 2013 MEETING MINUTES**
- V. COUNCIL UPDATE**
- VI. COMMISSIONER COMMENTS**
- VII. PLANNING STAFF UPDATE**
- VIII. ADJOURN TO WORK SESSION**

**WORK
SESSION**

**DISCUSSION OF THE DRAFT *LAND DEVELOPMENT CODE*
Section 13 – Incentives
Setbacks and Solar Access**

**TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL
NEEDS ARE REQUESTED TO CONTACT THE CITY OF GUNNISON
COMMUNITY DEVELOPMENT DEPARTMENT AT 641.8090**

This agenda is subject to change, including the addition or deletion of items at any time. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are on the City website at www.cityofgunnison-co.gov. Work sessions are not recorded and formal action cannot be taken. For further information, contact the Community Development Department at 641-8090.

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MEMBERS	PRESENT	ABSENT	EXCUSED
Erik Niemeyer	X		
Erich Ferchau	X		
Andy Tocke	X		
Bob Beda	X		
Greg Larson	X		
Stephanie White	X		
Councilor Stu Ferguson	X		

OTHERS PRESENT: Community Development Director Steve Westbay, City Planner Andie Ruggera, Planning Technician Pam Cunningham, L. Richard Bratton, and City Councilor Carolyn Riggs.

I. CALL TO ORDER AT 7:00 PM BY CHAIR GREG LARSON

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. UNSCHEDULED CITIZENS. There were none.

IV. PUBLIC HEARING AND POSSIBLE ACTION - MAJOR CHANGE APPLICATION, ZA 13-2, TO AMEND THE GUNNISON RISING PUD BY ADDING THE MASTER DRAINAGE STUDY AS APPENDIX F. AMENDMENTS INCLUDE THE ADDITION OF APPENDIX F AND CORRECTION OF ERRORS IN APPENDIX A.

Open Public Hearing. Chair Larson opened the Public Hearing at 7:01 p.m.

Review of Process. Planner Ruggera reviewed the process for a Major Change application and provided an overview of the Code Provisions and the Amendment Components which are corrections to Appendix A, Development Phasing and the addition of Appendix F, Master Drainage Study.

Applicant Presentation. The Applicant, L. Richard Bratton, manager of Gunnison Valley Properties, addressed the Commission. He stated that Dennis Minchow, the project engineer, is not available to present and asked if Director Westbay could provide an overview.

Director Westbay summarized the staff report and explained that Section 11.8 of the *Annexation Agreement* contains provision that a *Stormwater Master Plan* be developed. He said that the Gunnison Rising PUD is a master plan with several components and that one of the components is the *Stormwater Master Plan*. Both parties agreed that Appendix F would be developed and formally approved.

Director Westbay gave some details of the plan. The site topography includes irrigated areas and upland sage; these two different ecosystems affect the soil types. The upland soils are shallow and bedrock and are not permeable—the water runs off the site. The basin soils are permeable and can allow filtration to occur. Incorporating BMPs increases the filtration rate to emulate natural conditions. The goal of the *Stormwater Master Plan* is to get to the historic discharge rate. The plan contemplates the future development and requires the engineering to detail the increased volume of developed flow and release it as the natural hydrograph.

Director Westbay explained the six existing drainage basins. The next component is to look at the site as if it was developed and determine where the water will be held in storage and then released. The natural drainage goes into Tomichi Creek. One of the discharge outlets is on the airport; the other is on the State Wildlife Area. The system is designed to segregate the topography and the discharge.

The design standards contained in the *City of Gunnison Draft Stormwater Management Manual* and the *Urban Storm Drainage Criteria Manual* were used in development of the *Master Drainage Study*.

Director Westbay then explained the Drainage Design Criteria, the Stormwater Management Facility Design, and the proposed changes to Appendix A.

He stated that he and the City Engineer have been involved in development of the plan and have been working with the consulting engineers and the project engineer, Dennis Minchow. It was a team approach and staff recommends that it be adopted.

Public Input. There was none.

Staff Presentation. Director Westbay had nothing else to add.

Commission Discussion

- Commissioner Niemeyer asked if it is prudent to act when there is a pending review from the airport. Director Westbay replied that it is prudent; the conditions and parameters of the master plan are explicit that we have a design storm that is consistent with facilities on the airport. He explained the airport design, which can control a five-year event. The *Gunnison Rising Stormwater Master Plan* says that at full development it will not exceed a five year event and it is designed for the capacity of the airport. Commissioner Niemeyer asked if the airport stormwater system was designed just for the airport [runoff]. Director Westbay replied that it was designed for everything upstream. He said the Gunnison Rising plan will regulate detention so that it does not exceed capacity of the pipe at the airport. Commissioner Niemeyer asked Director Westbay what feedback he anticipates from the airport. Director Westbay replied that he doesn't expect much feedback, but he will follow up with the County before taking the PUD Major Change to City Council.
- Commissioner Ferchau stated that the other consideration is the fact that as things are developed the plan will be refined. Director Westbay responded that as a subdivision application is submitted, the preliminary plan will have the engineering for roads and a site-specific engineering plan to determine flows at full development. Each subdivision plan will depend upon the density and the detention volumes will be adjusted accordingly.
- Commissioner Tocke had no questions or comments.
- Commissioner Beda asked if this will have another public hearing at Council and Director Westbay replied that it will.
- Commissioner White had no questions or comments.
- Councilor Ferguson stated that he is happy to see this is proceeding as advertised; he appreciates the flexible design—we are on track.
- Chair Larson stated that this is a good example of staff and the applicants working together. Director Westbay responded that this is a clean process and it is best to plan upfront; we have the blue print now for future development.

Mr. Bratton stated, “We were criticized for being too big, but we were not too big to plan. This is the benefit of planning the whole thing. We also utilized Schuck’s engineers, and hired Dennis from them. He has been a great help.”

Commissioner Ferchau asked if there is conveyed interest in the property for specific sites. Director Westbay replied there has been conveyance of deeds and subsequent subdivisions have to occur pursuant to the PUD.

Close Public Hearing. Chair Larson closed the public hearing at 7:25 p.m.

RECOMMENDATION

During the Planning and Zoning Commission meeting held on June 26, 2013, Commissioner Beda moved, Commissioner Tocke seconded and the Planning and Zoning Commission voted to recommend APPROVAL to City Council of Zoning Amendment application ZA 13-2, for a Major Change to the *Gunnison Rising PUD Development Standards*, based on the following 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*, *Gunnison Rising Annexation Agreement* (December 3, 2009), the *Supplement to Annexation Agreement* (September 14, 2010), *Second Supplement to Annexation Agreement* (July 26, 2011), and the *Gunnison Rising PUD Development Standards*.
2. The Planning and Zoning Commission finds that the *Gunnison Rising PUD Development Standards* (November 2009) were approved by City Council and recorded with the Gunnison County Clerk and Recorder in association with the Gunnison Rising Annexation.
3. The Planning and Zoning Commission finds that a major change to a PUD may be approved only by submission and reconsideration of a new PUD zoning plan and supporting data.
4. The Planning and Zoning Commission finds that the request is to amend the following components of the *Gunnison Rising PUD Development Standards*:
 - Appendix A: Development Phasing; and
 - Appendix F: Master Drainage Study.
5. The Planning and Zoning Commission finds that the request fulfills a requirement set forth in Section 11.8 of the *Gunnison Rising Annexation Agreement* (and supplements to the *Agreement*) to provide a *Stormwater Management Master Plan*.
6. The Planning and Zoning Commission finds that the request corrects some typographical errors found in Appendix A: Development Phasing.
7. The Planning and Zoning Commission finds that the stormwater drainage system design was based on directives in the *City of Gunnison Draft Stormwater Management Manual* and the *Urban Storm Drainage Criteria Manual*, Volumes I, II, and III, (UDFCD, 2001).

8. Development of the *Gunnison Rising Master Drainage Study* has been reviewed and assessed by the City Engineer and the Community Development Director from its initial draft through the final plan development. The Planning and Zoning Commission finds that the City staff recommends approval of this PUD Major Change application.
9. The Planning and Zoning Commission finds that, based on the Findings cited above, the approval of this Major Change will be a positive attribute for the protection of the community's health, safety and welfare.

Roll Call Yes: Niemeyer, Ferchau, Larson, White, Ferguson, Tocke, Beda

Roll Call No:

Roll Call Abstain:

Motion Carried

V. INTRODUCTION TO THE MARIJUANA CODE TEXT AMENDMENT TO THE LAND.

Director Westbay gave an overview of the background of the Marijuana laws. The City adopted two ordinances after passage of Amendment 64. The first is to address provisions under the *Municipal Code* for violations, which the police enforce. The second is Ordinance 6, Series 2013 prohibiting the operation of cultivation, manufacturing, testing, or retail marijuana facilities within the boundary of the city. Ordinance 6, Series 2013 regulates the commercial elements of recreational marijuana; it does not prohibit or address personal use or the rights of individuals to grow marijuana on their own premises. The City Attorney has given direction that the City must look at personal rights and abide by the constitutional intent. However, there are life safety issues that can be problematic. The *LDC* should ensure that no commercial components can be allowed within the city. The constitutional amendment did not address or allow private clubs to occur. The Colorado Municipal League attorneys' opinion is that Amendment 64 is specific to retail and personal use, but does not address marijuana clubs.

Director Westbay stated that the purpose of the *Marijuana Code* is to ensure that personal use of marijuana does not become a nuisance, so the proposed *Code* sets dimensional standards for growing marijuana within a residence and prohibits the use of volatile gases. He and the Fire Marshal discussed the issue of growing marijuana in sheds or garages and they decided it is probably safer to grow in detached buildings rather than inside the residence in case electrical circuits become overloaded and cause a fire.

On July 2nd Director Westbay will meet with City Council to ask for formal direction. Assuming they will direct staff to go ahead with the text amendment, it will address the use standards table and special use standards. The draft *LDC* will also be amended accordingly.

Commissioner Beda asked if landlords or property owners have the right to prohibit tenants from growing marijuana on the premises. Director Westbay replied that they could do that in a contractual agreement. Commissioner Beda asked if the task force checked with homeowners' insurance companies; most insurance policies have a clause that could void homeowners insurance if the residence is being used for something illegal. Discussion followed.

Commissioner Tocke stated that this is a topic that will be around for a while. He said he recognizes marijuana use has been illegal and is now legal in Colorado and compares it to cigarette smoking, which is going out of vogue; they have similar consequences on the public. He cited Finding 1G, which states "The City Council finds and determines that the consumption of marijuana and

marijuana products in commercial or industrial buildings, such as in Marijuana “clubs” is **inconsistent with surrounding uses**, or may otherwise be detrimental to the public health, safety and welfare.” His concern is with the phrase “inconsistent with surrounding uses” and feels it should be changed to “contrary with federal law.”

Commissioner Ferchau observed that there are bars up and down Main Street and asked why pot is being singled out as being detrimental when the consumption of alcohol isn't. Discussion continued comparing bars to pot clubs and marijuana use to cigarette smoking. Director Westbay interjected that the health, safety and welfare of the public is at the heart of the topic.

Chair Larson called on Councilor Carolyn Riggs, who was in the audience. She stated, “Andy makes a good point, Amendment 64 emphasizes personal use not public use. That jeopardizes public safety.”

Councilor Ferguson stated that it confuses the issue to compare marijuana to alcohol. He opined that locally the voters said they didn't favor [personal use of marijuana] and that “if we held an election to ban alcohol or tobacco, the Council would be looking at that. This is complicated by the fact that this is a philosophy that is in flux and in transition. We need the feds to deal with it.”

Commissioner Niemeyer brought up the language “Whereas, Gunnison City Ordinance No. 2, Series 2013, defines offenses and penalties related to personal marijuana use, possession and cultivation and prohibits the sale of marijuana **without a license**.” He questioned why the language “without a license” had to be included. Director Westbay responded that the Statute says there has to be licensing, but the City has the authority to prohibit licenses. This may have originated in federal law. Director Westbay will follow up with the City Attorney.

Commissioner Tocke asked if the standard for governing the possession, growing and processing of marijuana so that it cannot be perceptible from the exterior of the primary residence or accessory structure is to not offend neighbors. Director Westbay stated that it is similar to the law enforcement *Nuisance Code*.

The Commission discussed Table 15.70.010 which lists personal use of marijuana under residential uses when the other uses listed are housing types. This will become clearer in the draft *LDC* which has a table of allowed uses for each zone district.

The Commission asked what the intentions are behind space limitations within a house that may be used for cultivation, production, growing and possessing of marijuana plants. Director Westbay responded that it is because of the set quantity that can be possessed; if [more square footage were used] it changes the use of the house from a dwelling to a grow operation.

Commissioner Tocke observed that as time goes on, this will hopefully become less relevant. He asked if limiting the square footage is to prevent damage to the house from moisture. Director Westbay responded that the biggest issues will be fire from electrical overload.

Commissioner Ferchau presented a list of theoretical questions that a person might have and asked for each, “can it be done and does the proposed Ordinance address it?”

- Can I have a basket of rolled joints at my cash register in lieu of candy?
- Can I smoke pot at the blue grass festival?

- Can I grow a marijuana plant in my display window?
- Can the Farmers Market sell marijuana plants?
- Can I barter for tomatoes with marijuana plants?
- Can I give away coupons?
- Can I have a phone booth in back of my store that allows smoking?
- Can I smoke marijuana in my office late at night?

Director Westbay responded that many of those issues will be under the *Nuisance Code*, the point is well taken and he will follow up on the issues raised.

Commissioner Niemeyer asked if the sale of marijuana accessories is prohibited because some health food stores sell tinctures with a hemp oil base. Director Westbay will look at the nuisance section of the *Code*.

Director Westbay explained that the proposed Ordinance will go to City Council and a public hearing will be set.

VI. CONSIDERATION OF THE JUNE 12, 2013 MEETING MINUTES. Councilor Ferguson moved and Commissioner Beda seconded to approve the June 12, 2013 meeting minutes as corrected.

Roll Call Yes: Niemeyer, Ferchau, Tocke, Larson, White, Ferguson, Beda
Roll Call No:
Roll Call Abstain:
Motion carried

VII. COUNCIL UPDATE. Councilor Ferguson updated the Commission on recent Council business:

- Council received an update on the fires;
- the Fireworks are still scheduled—Gunnison has the ideal venue because the grass is well-watered and the fall area is over irrigated wetlands; and,
- Cattlemen’s Days is earlier this year and the signs are up.

VIII. COMMISSIONER COMMENTS

- There were none

IX. PLANNING UPDATE. Director Westbay updated the Commission on recent activity in the Community Development Office. Staff has been working on:

- the Incentives section of the draft *LDC*;
- the *Highway Access Control Plan*;
- a survey for a boundary line adjustment at Jorgensen Park;
- a plat for Habitat for Humanity;
- policy concepts discussed by Council at their retreat; and,
- the take-home vehicle policy.

Current planning projects include:

- The Tractor Supply Company—the slab has been poured and interior walls will start going up soon;

**DRAFT MINUTES JUNE 26, 2013
CITY OF GUNNISON PLANNING AND ZONING COMMISSION
REGULAR MEETING**

7:00PM

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- The Family Dollar site has been excavated and remediation is going smoothly although a 10,000 gallon underground storage tank was discovered so the project will be slowed down while they clean up the site;
- Commissioner Niemeyer asked about the paving projects. Director Westbay explained that many are follow-ups from last year. Council appropriated \$500,000 to \$750,000 for street improvements. The focus is on the industrial areas that are unpaved. Also the “pork chop” at the Tractor Supply Company will be removed soon; the notice to proceed has gone to CDOT. Commissioner Tocke observed that street sections on Georgia and Ohio between Boulevard and 12th have been removed and it seems like an inefficient use of time and materials. Director Westbay responded that sometimes it is the condition of the street that determines if it will be repaved or not.

X. ADJOURN. Chair Larson adjourned the meeting at approximately 8:25 p.m.

Greg Larson, Chair

Attest:

Pam Cunningham, Secretary

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Section 13. Incentives

§13.1 PURPOSE

The purpose of this Section is to provide incentives for specific types of land uses and/or creative site plans that exceed the minimum requirements of this LDC. Another purpose is to accomplish high-priority planning goals, including the preservation of open space and natural features and development of affordable housing.

§13.2 GENERAL PROVISIONS

- A. **Types of Incentives.** Incentives established herein are: density bonuses, which allow for greater density than that allowed in the underlying zone district; and, increased flexibility in dimensional standards to allow smaller lot sizes and reduced frontage than that of the underlying zone district.
- B. **Eligibility.** Except for parcels in an R-1 zone district, all residential subdivisions and developments in residential zone districts are eligible for incentive bonuses.
- C. **County Affordable Housing Guidelines.** For the purposes of administering incentives associated with the development of affordable housing, all related applications shall comply with all of the provisions of the *Gunnison Valley Regional Affordable Housing Guidelines (Guidelines)*, and as they are amended on an annual basis.
 - 1. **Exceptions.** Any proposed reduction in the minimum net livable square foot requirements that may be approved by the Gunnison Valley Regional Housing Authority, pursuant to provisions of the adopted *Guidelines*, shall be subject to final City review and approval following the procedures established in §13.4.
- D. **Combination with Other Bonuses.** Unless otherwise expressly stated, the density bonuses of this Section may be combined, provided that the total cumulative density bonus shall not exceed the maximum density allowed by the underlying zone district by more than 50 percent.
- E. **No Guarantee of Density.** The provisions of this Section shall not be interpreted as guarantees of achievable density. Developments using bonus provisions shall be subject to all other applicable regulations of this LDC. These other regulations or site-specific conditions may prevent maximum bonus density levels from being achieved due to the character of the land or surrounding uses.

§13.3 REVIEW PROCESS

- A. **New Land Use Development Applications.** Requests for bonus incentives for land that has not been platted, or for land that is being re-platted, shall be reviewed during the Subdivision Preliminary Plan application process, as set forth in Section 12.
- B. **Approved Subdivisions.** Requests for bonuses for projects that have been approved through the subdivision process shall be subject to the review procedures set forth in this Section.
- C. **Rezoning Not Required.** A separate rezoning process shall not be necessary to approve the density increases granted through these processes.

§13.4 PROCEDURE

Applications for bonus incentives shall follow the procedures outlined below.

- A. **Pre-application Conference.** Attendance at a pre-application conference is mandatory for an applicant intending to submit an Incentive application.
- B. **Submit Application.** The applicant shall submit a complete application to the Community Development Director, containing those materials listed in §13.5.
- C. **Staff Review.** The Community Development Director shall review the application to determine whether it is complete, as specified in §6.6.A., Completeness Review. The Community Development Director shall forward a report to the Commission summarizing the application's compliance with the General Review Standards contained in §13.6 and all other Review Standards that may apply.
- D. **Review by External Consultants or Agencies.** The technical comments and professional recommendations of other agencies, organizations and consultants may be solicited in drafting the report.
- E. **Public Notice.** Public notice that the Commission will conduct a hearing to consider the application for a Density Bonus Incentive shall be provided as specified in §6.7, Stage 4: Provision of Public Notice..
- F. **Public Action by Commission.** The Commission shall conduct a public hearing to review the conformance of the application with all applicable provisions of this LDC. The Commission shall approve, approve with conditions, or deny the application or remand it to the applicant with instructions for modification or additional information or action.
- G. **Action Following Approval.** The applicant may apply for a site development permit following approval of the Density Bonus Incentive and the filing and, if applicable, recordation of any document required by the permit approval.

§13.5 APPLICATION CONTENTS

A. Minimum Contents

1. **Basic Site Plan.** The site plan of the subject property showing existing and proposed features, buildings, roads, alleys, easements, utilities, wetlands, floodplains, etc., which are relevant to review of the development application. Current land uses of properties on all sides of the property and across streets and alley must be included on the site plan or accompanying map.
2. **Specific Site Plans for Applications Proposing Dimensional Standards Incentives**
 - a. Site dimensions and boundaries
 - b. The location, size and use of all public utilities (water, sewer, stormwater, electrical, irrigation) and easements associated with all public utilities that will be used to serve individual development sites and a written description of the general manner in which on-site water supply, sewage disposal, electric supply, natural gas, storm water drainage, telephone, street lighting, irrigation, water, cable television, and trash collection services will be provided.

- c. Roads
 - d. Building and Accessory Structures Setback lines
 - e. Driveways, Internal Circulation and Parking
 - f. Grading and drainage plans showing and describing the existing and proposed means of handling on-site drainage.
- B. Legal Documents.** Deed restriction or other executable documents or agreements that may be integral to the execution of the incentive being considered.

§13.6 GENERAL REVIEW STANDARDS

The Community Development Director may recommend, and the Commission may impose, such conditions as are necessary to maintain the integrity of the City's zone districts and to ensure the use is: consistent with the *City of Gunnison Master Plan*; conforms with this *LDC*; appropriate to its location and compatible with neighboring uses; served by adequate public facilities; and, does not cause undue traffic congestion or significant deterioration of the environment. Authorized conditions include but are not limited to:

- A. **Consistency with the Master Plan.** The proposed bonus incentive shall be consistent with the *City of Gunnison Master Plan*.
- B. **Zoning District Standards.** Developments approved with bonus incentives shall meet dimensional standards for height, setbacks, percent open space, percent impermeable surface coverage, buffering, lighting, fencing, signage, off-street parking and similar site planning features of the proposal. However, the bonus incentive may specifically increase the maximum allowed density and/or allow for the reduction of the minimum lot size and front lot line pursuant to standards set forth in this Section.
- C. **Specific Use Standards.** All bonus incentive developments shall comply with all applicable Special Use Regulations set forth in Section 3.
- D. **General Development Standards.** All bonus incentive developments shall comply with all applicable regulations, criteria and standards set forth in Section 4 of this *LDC*.
- E. **Natural Resource Protection Standards.** All bonus incentive developments shall comply with all applicable regulations, criteria and standards set forth in Section 5 of this *LDC*.
- F. **Traffic.** All bonus incentive developments shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service development, parking or loading problems.
- G. **Facilities.** There shall be adequate public facilities in place to serve the proposed development or the applicant shall propose necessary improvements to address service deficiencies.

§13.7 SPECIFIC STANDARDS APPLIED TO AFFORDABLE HOUSING INCENTIVES

- A. **Dispersal Required.** Affordable housing units shall be dispersed within a residential subdivision or development.

- B. **Deed Restriction Required.** Affordable housing units developed pursuant to this Section shall be deed-restricted to assure the availability of the unit for sale or rent to persons meeting the income guidelines and definition set forth in *Gunnison Valley Regional Affordable Housing Guidelines*. The mechanism used to restrict the unit shall be approved by the City Attorney and be consistent with deed restriction provisions established by the Gunnison Valley Regional Housing Authority.
- C. **Maximum Permitted Density Bonus.** Except in the R-1 zone district, subject to the standards and review criteria set forth in this Section, for every one affordable housing unit provided, the applicant shall be eligible for a bonus of one-half (0.5) unit that may only be used for the development of additional affordable units. In no case shall the development density exceed 50 percent of the maximum density permitted in the underlying base zone district.
- D. **Minimum Lot Size/Area.** Notwithstanding the minimum lot area requirements set forth in the underlying base zone district, the following requirements shall apply to residential subdivisions and developments that include affordable housing units.
 - 1. **Single-Family Detached Affordable Units.** The minimum lot size shall be 4,500 square feet and the minimum lot frontage may be reduced to 25 feet per unit, provided that at least 40 percent of the total housing units in the subdivision or development are affordable. If less than 40 percent of the total units are affordable, then the minimum lot size shall be no less than 90 percent of the underlying base zoning district lot area requirement and no reduction in frontage will be granted.
 - 2. **Two-Family Affordable Units.** The minimum lot size shall be 5,000 square feet (2,500 sq.ft./unit) and the minimum lot frontage may be reduced to 25 feet per unit, provided that at least 40 percent of the total housing units in the subdivision or development are affordable. If less than 40 percent of the total units are affordable, then the minimum lot size shall be no less than 90 percent of the underlying base zoning district lot area requirement for two-family residential uses and no reduction in frontage will be granted.
 - 3. **Multi-Family Developments Containing Affordable Units.** The minimum lot size for a multi-family structure or development containing at least 40 percent affordable housing units may be reduced by 12 percent of the required lot area defined in Table 2-4 Residential Dimensional Standards, and the minimum lot frontage may be reduced to 80 feet. If less than 40 percent of the total units area affordable, then the minimum lot size shall be no less than 95 percent of the underlying base zoning district lot area requirement for multi-family residential uses and no reduction in frontage will be granted.

§13.8 TRANSFER OF DEVELOPMENT RIGHTS

Reserved for Future Use

§13.9 OPEN SPACE AND NATURAL FEATURES

Reserved for Future Use

MEMORANDUM

TO: Planning and Zoning Commission
FROM: Steve Westbay
DATE: July 5, 2013
RE: Setbacks and Solar Access

The Community Development staff has reviewed the proposed setback standards, which are intended to provide solar access protection, as part of finalizing the draft *Land Development Code (LDC)*. The reasoning for this review was to ensure that the Planning and Zoning Commission is comfortable with the draft setback standards. This memorandum provides an overview of this topic and includes illustrations of the solar setback concept.

The draft *LDC* setback standards require increased setback as buildings increase in height. Specifically, any building in a residential district is required to increase side and rear setbacks at a ratio of 1:2.5 for building height greater than 22.5 feet. This ratio setback concept is depicted in Enclosure 1 of this memorandum. As shown by the Ratio Setback illustration, a 35-foot tall building would be required to maintain 10-foot setbacks on the side and rear property lines.

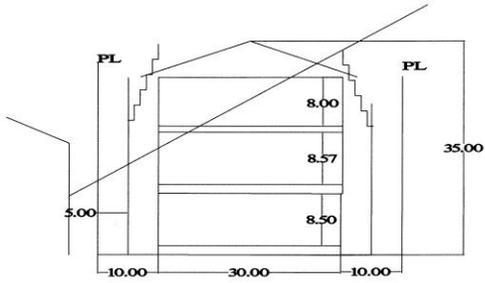
Another popular standard for protecting solar access is referred to as a solar fence. A solar fence is simply an imaginary line drawn at a common property boundary and its height intersects the Winter Solstice sun angle. Boulder, Colorado was the first city in the nation to implement a solar fence standard. Boulder requires that a 12-foot solar fence be applied to single family residential uses and a 25' solar fence is required for their mixed use zone districts. A copy of a pamphlet from Boulder describing the concepts of their standards is provided in Enclosure 2.

The ratio setback standard included in the draft *LDC* provides a certain level of protection for individual properties, but it does not establish a level of protection afforded by the solar fence concept. However, as noted by the illustrations in Enclosure 1, applying a 15-foot solar fence to a typical 50-foot wide lot found in the city of Gunnison would prohibit the development of three-story buildings.

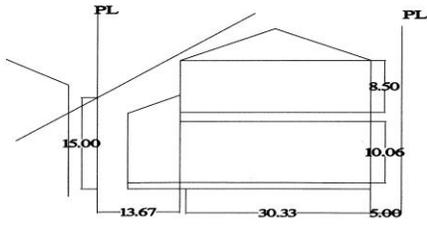
In conclusion, it seems that the ratio setback provisions contained in the draft *LDC* do provide some protection for solar access to individual properties.

ENCLOSURE 1

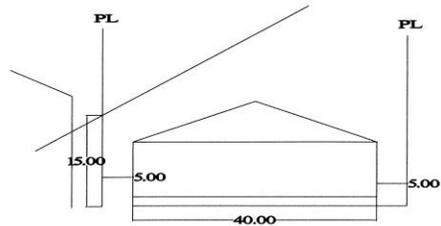
Ratio Setback



15' Solar Fence



15' Solar Fence



ENCLOSURE 2

Members of the City of Boulder planning staff are available to answer questions regarding solar access and will be responsible for assuring that all plans are in compliance with the ordinance.

Compliance

When applying for a building permit, an adjusted shadow analysis must be submitted to Inspection Services, identifying the height and orientation of the proposed building and the slope of the land, the shadow that it will cast on the 21st of December between 10 a.m. and 2 p.m. can be approximated. Complete the following steps and submit the results with the building permit application:

1. Draw the proposed site plan. The solar access site plan should be drawn to a scale of measurement (preferably 1"=10') and show existing improvements, and the proposed building or addition, property lines, and a north arrow.
2. Determine the height of the shadow casting portion of the roof. Label the height of corners and peaks of the proposed roof structure on the site plan.

Table 1. Adjusted Solar Shadow Lengths for Level Grades

Bldg Ht	Solar Access Area I Length of Shadow			Solar Access Area II Length of Shadow		
	10am	Noon	2pm	10am	Noon	2pm
13'	26'	20'	26'	26'	20'	26'
14'	53'	40'	53'	27'	53'	40'
15'	79'	60'	79'	28'	79'	60'
16'	106'	80'	106'	29'	106'	80'
17'	132'	100'	132'	30'	132'	100'
18'	159'	120'	159'	31'	159'	120'
19'	185'	140'	185'	32'	185'	140'
20'	212'	160'	212'	33'	212'	160'
21'	238'	180'	238'	34'	238'	180'
22'	265'	200'	265'	35'	265'	200'
23'	291'	220'	291'	36'	291'	220'
24'	318'	240'	318'	37'	318'	240'
25'	344'	260'	344'	38'	344'	260'
26'	370'	280'	370'	39'	370'	280'
27'	397'	300'	397'	40'	397'	300'
28'	423'	320'	423'	41'	423'	320'
29'	450'	339'	450'	42'	450'	339'
30'	476'	359'	476'	43'	476'	359'
31'	503'	379'	503'	44'	503'	379'
32'	529'	399'	529'	45'	529'	399'
33'	556'	419'	556'	46'	556'	419'
34'	582'	439'	582'	47'	582'	439'
35'	609'	459'	609'	48'	609'	459'
				49'	635'	479'
				50'	662'	499'
				51'	688'	519'
				52'	715'	539'
				53'	741'	559'
				54'	767'	579'
				55'	794'	599'

3. Draw the approximate shadow cast by the proposed structure. If your building is on a level lot and if the adjacent property to the north, east and west is part of the same solar access area, use Table 1 to check that your building's shadow is in compliance with the ordinance. Use the shadow pattern illustrated in Figure 1 as an example. Noon shadow lengths are projected directly north. Draw the 10:00 a.m. and 2:00 p.m. shadows at 30 degrees west of north and 30 degrees east of north. After the shadow lines have been drawn, connect the outer band of points to determine the four hour shadow pattern.

4. If the shadow cast is entirely within your property lines, the proposed building or addition is in compliance.

Note: If your proposed structure is not located on a level lot, please contact the Planning Department for information on adjusting actual shadow lengths for changes in grade.

5. If the adjusted shadows cast by the proposed structure do not fall within your property lines, redesign your project or prepare a shadow analysis based on the actual shadows cast by the proposed structure. An actual shadow analysis illustrates the true impact of all proposed shading on adjacent properties, and is required to demonstrate that the portion of the shadow which exceeds the solar fence falls within an exempt area. An actual analysis is also required as part of an application for an administrative or a board level solar exception. Apply shadow lengths listed in Table 2 to prepare an actual solar analysis.

Table 2. Actual Shadow Lengths On December 21
Solar Shadow Analysis Table for Level Grades

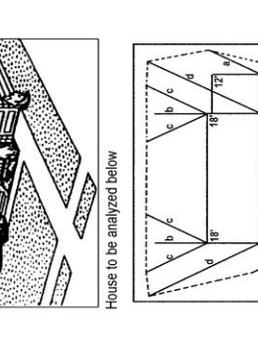
Bldg Ht	Length of Shadow		
	10 am	Noon	2 pm
10'	26.5'	20.0'	26.5'
11'	29.1'	22.0'	29.1'
12'	31.8'	24.0'	31.8'
13'	34.4'	26.0'	34.4'
14'	37.0'	28.0'	37.0'
15'	39.7'	30.0'	39.7'
16'	42.3'	32.0'	42.3'
17'	45.0'	34.0'	45.0'
18'	47.6'	36.0'	47.6'
19'	50.3'	38.0'	50.3'
20'	52.9'	40.0'	52.9'
21'	55.6'	42.0'	55.6'
22'	58.2'	44.0'	58.2'
23'	60.9'	46.0'	60.9'
24'	63.5'	48.0'	63.5'
25'	66.2'	50.0'	66.2'
26'	68.8'	52.0'	68.8'
27'	71.5'	54.0'	71.5'
28'	74.1'	56.0'	74.1'
29'	76.7'	58.0'	76.7'
30'	79.4'	60.0'	79.4'
31'	82.0'	62.0'	82.0'
32'	84.7'	64.0'	84.7'
33'	87.3'	66.0'	87.3'
34'	89.9'	68.0'	89.9'
35'	92.6'	70.0'	92.6'
36'	95.3'	72.0'	95.3'
37'	97.9'	74.0'	97.9'
38'	100.6'	76.0'	100.6'
39'	103.2'	78.0'	103.2'
40'	105.9'	80.0'	105.9'
41'	108.5'	82.0'	108.5'
42'	111.1'	84.0'	111.1'
43'	113.8'	86.0'	113.8'
44'	116.4'	88.0'	116.4'
45'	119.1'	90.0'	119.1'
46'	121.7'	92.0'	121.7'
47'	124.4'	94.0'	124.4'
48'	127.0'	96.0'	127.0'
49'	129.7'	98.0'	129.7'
50'	132.3'	100.0'	132.3'
51'	135.0'	102.0'	135.0'
52'	137.6'	104.0'	137.6'
53'	140.3'	106.0'	140.3'
54'	142.9'	108.0'	142.9'
55'	145.6'	110.0'	145.6'

3. Draw the approximate shadow cast by the proposed structure. If your building is on a level lot and if the adjacent property to the north, east and west is part of the same solar access area, use Table 1 to check that your building's shadow is in compliance with the ordinance. Use the shadow pattern illustrated in Figure 1 as an example. Noon shadow lengths are projected directly north. Draw the 10:00 a.m. and 2:00 p.m. shadows at 30 degrees west of north and 30 degrees east of north. After the shadow lines have been drawn, connect the outer band of points to determine the four hour shadow pattern.

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Note: If your proposed structure is not located on a level lot, please contact the Planning Department for information on adjusting actual shadow lengths for changes in grade.

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House to be analyzed below

Adjusted Shadow Lengths from Table for Level Grades

- a 13.2' (1" roof at 30°)
- b 18' (18' roof at 0°)
- c 15.8' (15' roof at 30°)
- d 25.1' (25' roof at 30°)

70' Property Line

Figure 1. Simplified Shadow Analysis for House in Solar Access Area I (Illustration only—not to scale)

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5. the number of employees in each activity;
6. hours of operation;
7. noise and odor generation;
8. architectural mass and form;
9. site design and arrangement;
10. parking demand;
11. vehicles used with the activity;
12. the relative number of vehicle trips generated by the use;
13. delivery volume;
14. signs;
15. how the use advertises itself;
16. whether the activity is likely to be found independent of the other activities on the site; and
17. effect of the proposed use on uses adjacent to the site.

B. Use Interpretation Standards

1. No use interpretation shall allow a use in a zone district when that use is a Permitted or Conditional Use in any other zone district.
2. No use interpretation shall permit any use in any zone district unless evidence is presented demonstrating that it will comply with all applicable requirements and standards of this *LDC*.
3. No use interpretation shall permit any use in a zone district unless said considerations cited above demonstrate that the use in question is roughly proportional to Permitted and Conditional Uses in the underlying zone district.
4. If the proposed use is more similar to a use allowed only as a Conditional Use in the zone district in which it is proposed to be located, then any similar use interpretation permitting that use shall require a Conditional Use Permit, as appropriate.

C. Use Interpretation Effect. No similar use interpretation finding a particular use to be permitted or conditionally permitted in a specific zone district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by this *LDC* and ordinances of the City of Gunnison. Permits and approvals include, but are not limited to conditional use permits, development permits, building permits, and building certificates of occupancy.

§2.6 BASE ZONE DISTRICT DIMENSIONAL STANDARDS

A. Intent. The base zone district dimensional standards establish maximum density and intensity, lot sizes, height standards, and lot coverage criteria for all development applications. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the City. Separate standards are established to regulate development in each

base zone district. This approach to zone district development standards promotes development intensities that match existing and proposed infrastructure investments.

B. Dimensional Standards - Residential Zone Districts

1. **Development Standards.** Development applications shall comply with all applicable development standards as set forth in this *LDC* and other applicable laws.
2. **Dimensional Standards.** Development applications shall comply with the following dimensional and all other provisions in this *LDC* and other applicable laws.

Dimensional Standard	R-1	R-1M	R-2	RMU	R-3
Maximum density (units/acre) ¹	3.5	6	14	16	30
Lot Size Single-Family (sq. ft.) ¹	8,000	6,250	6,250	6,250	6,250
Lot Size Duplex (per unit) (sq. ft.) ¹			3,125	3,125	3,125
Lot Size Townhouse (per unit) (sq. ft.)				3,125	3,125
Lot Size Multi-Family (per unit) (sq. ft.) ¹					
Single Story				3,000	3,000
Two Story				2,500	2,500
Three Story				2,000	2,000
Maximum lot coverage structures	40%	40%	40%	45%	45%
Maximum lot coverage parking/access	10%	10%	15%	20%	40%
Minimum lot coverage landscape area	50%	50%	45%	35%	15%
Minimum lot frontage ¹					
Single-Family	50'	50'	50'	50'	50'
Duplex (per unit)			25'	25'	25'
Townhouse (per unit)				25'	25'
Multi-Family				100'	100'
Zero-Lot Line	50'	50'	50'	50'	50'
Minimum setback front²	15'	15'	15'	15'	15'
Minimum setback side Provided that one additional foot of setback shall be required for each two and one-half feet (a 1:2.5 ratio) of building height over 22 feet	10'	5'	5'	5'	5'
Minimum setback rear lot line: principal building Provided that one additional foot of setback shall be required for each two and one-half feet (a 1:2.5 ratio) of building height over 22 feet	10'	5'	5'	5'	5'
Minimum setback rear lot line: accessory building	10'	5'	5'	5'	5'
Maximum building height	35'	35'	35'	35'	35'
Maximum building height for detached accessory structure	30'	30'	30'	30'	30'
Minimum building width	24'	24'	20'	20'	20'
Minimum floor area Principal Dwelling (sq. ft.)	480	480	480	300 efficiency 480 multi-family	300 efficiency 480 multi-family
Floor Area Thresholds Accessory Dwelling (sq. ft.)				720	
Minimum storage area (sq. ft.)			32	32	32
Snow storage (% of parking and access coverage)	15%	15%	15%	15%	15%
1 Density calculations for residential development may be subject to Slope Protection Standards (§5.2) and Section 13.					
2 Covered porches and the lands and steps of a covered porch may encroach into the front yard pursuant to §1.7.L.3.d					

C. Dimensional Standards - Nonresidential Zone Districts

1. **Development Standards.** Development applications shall meet all applicable development standards as set forth in this *LDC* and all other applicable laws.
2. **Nonresidential Dimensional Standards.** Permitted nonresidential uses shall meet the following dimensional standards. Development applications for non-residential uses shall comply with all other provisions of this *LDC* and all other applicable laws.
3. **Upper-Story Residential Dwellings.** Upper-story residential units are permitted on the upper floors of nonresidential buildings, but shall conform to all lot, yard and bulk requirements of the principal building.

TABLE 2-5 NONRESIDENTIAL ZONE DISTRICT DIMENSIONAL STANDARDS				
STANDARD	B-1	C	CBD	I
DENSITY				
Max. density (units/acre)	7	14	NA	7
LOT				
Minimum lot size (sq. ft.)	6,250	8,000	--	6,250
Minimum lot frontage (ft.)	50	50	--	50
Maximum lot coverage: (%) structures	40	50	100	60
Maximum lot coverage: (%) Impervious surface	15	40	N/A	30
Minimum landscape area (%)	45	10	--	10
BUILDING				
Maximum building height (ft.)	35	35	35	35
Minimum building width (ft.)	24	--	--	--
Minimum floor area: Multi-family (sq. ft.)	480	300 efficiency 480 multi-family	--	--
Minimum floor area: Second story residence (sq. ft.)	300	300	300	300 min 700 max
Minimum storage area (sq. ft.) ¹	32	32	32	--
BUILDING SETBACKS				
Minimum from side lot line (ft.)	5	5 ²	no.req.	5 ¹
Minimum from rear lot line (ft.) principal building	5	5 ²	no req.	5 ²
Minimum from rear lot line (ft.) accessory building	5	5 ²	N/A	N/A
Minimum from front lot line (ft.)	15 ³	15 ²	no req.	0 ²
Other Standards				
Snow Storage Area (% of parking and access coverage)	15	15	N/A	15
¹ Storage is required for multi-family dwellings) (§3.3D) ² Uses adjacent to residential zone districts shall comply with Zone District Buffer Standards (§4.6 F. 3). ³ Parking not allowed within front setback area in B-1 Zone District				

compliance with the dimensional standards in §2.4 (Principal Use Table) of this *LDC*.

4. **Exterior Materials.** The side and roof covering materials shall be materials customarily used on conventional dwellings within the City. Reflective finishes shall not be permitted, but metals designed to oxidize quickly (patina) and create a non-metallic luster are permitted. Siding materials shall extend below the foundation mud-sill, or pursuant to *Building Code* requirements.
5. **Porches.** By relaxing setback criteria, residential dwellings are encouraged to have covered front porches and site-built steps, constructed with exterior materials matching the structure.

D. Multi-Family Dwellings

1. Parking spaces encroach on the rear yard only, but they shall not be located within three feet of the rear property line.
2. Access for multi-family developments with 25 or more dwelling units is governed by the provisions of §4.3 and the *International Fire Code*.
3. Interior accessways – Pedestrian access shall be constructed to link residential buildings with other on-site destinations such as parking, adjoining public sidewalks and streets, mailboxes, and trash dumpsters (see §4.5).
4. The minimum building separation in a complex shall be 10 feet, provided that one additional foot of setback shall be required for every **two and one-half feet** of the average building height over 22 feet on the basis of the average height of the two buildings.
5. Minimum floor area shall be 300 square feet for efficiency units and 480 square feet for all other multi-family dwellings.
6. Each dwelling shall have a minimum of 32 square feet of functional, enclosed area for the storage of residents’ personal belongings. The storage area may be contained within the principal building or an accessory building, but must be easily accessible from outdoors; the storage space shall have a minimum height of eight feet.
7. Trash receptacles shall not be located in the front yard (see §4.6 I).

E. Zero Lot Line Development

1. The site area designated for detached single-family zero-lot line development shall not be less than one acre or one-half block of traditional grid served by an alley². Zero lot line development shall be carried out for an entire block, as a row of units or as a cluster in order to achieve an overall compatibility of design. Zero lot line dwellings shall not be situated

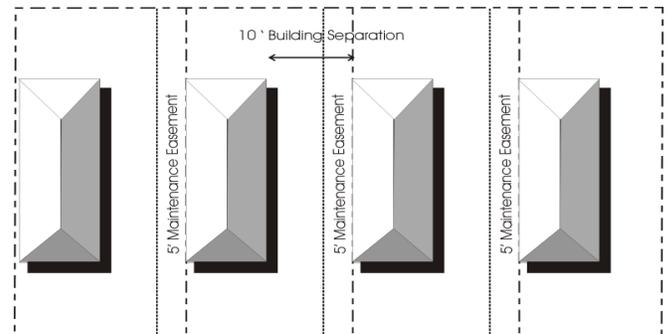


FIGURE 5 ZERO LOT LINE DEVELOPMENT

² One half-block (12 lots) = 37,440 sq. ft.

immediately adjacent to traditionally sited dwellings.

2. A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house, or 10 feet, whichever is more. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line development.
3. An easement on the lot adjacent to the zero lot line shall be required to allow for maintenance or repair, when the roof overhang or side wall of the house are within four feet of the adjacent property line. The easement on the adjacent property must provide at least six feet of unobstructed space. The easement shall be recorded on the subdivision plat.
4. The eaves on the side of a house with a reduced setback may project a maximum of 18 inches over the adjacent property line. In this case, an easement for the eave projection must be recorded on the deed for the lot where the projection occurs.
5. If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed, unless required by the *Building Code* for emergency egress. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.
6. The exterior wall plane of a dwelling unit in a zero-lot line development shall not extend beyond the property line.
7. Corner lot / unit configurations must have a front and side yard.

F. Townhouses

1. Side yards are not required for interior townhouses, but street and rear yards shall be provided to all dwelling units.
2. The minimum building separation shall be 20 feet, provided that one additional foot of setback shall be required for every **two and one half feet** of the average building height over 22 feet. The average building height equals the average building height of the buildings under consideration.
3. All townhouse garages and parking areas are encouraged to be located to the rear of the building or within an interior courtyard area of a complex. Garages located in the front yard shall be setback a minimum of 22 feet. No more than one exterior parking space per unit shall be permitted in the street yard.
4. The maximum number of units allowed in a single building is eight.
5. The minimum 10 foot setback shall be maintained between townhouse complex and adjacent lots not considered part of the complex, provided that one additional foot of setback shall be required for every **two and one-half feet** of building height over 22 feet.