

**GILPIN COUNTY PLANNING COMMISSION
MEETING MINUTES**

April 10, 2018

The Gilpin County Planning Commission convened at the
City of Central City Hall, 141 Nevada Street; Central City, Colorado

Call to Order: Chair Laura Jeney called the meeting to order at 7:00 p.m.

Quorum Call:

- Present: Chair Laura Jeney, Chair Pro-Tem Jim Wailes, Bob Haxel, Jane Billings, Sharon Perea, Joe Marr, Rob Mercier, Andrea Wrobel and Roxy Goss
- Absent: None
- Staff Present: Tami Archer, Secretary; Daniel Horn, County Planner; Stephen Strohming, Community Development Director

Agenda Review: Commissioner Marr moved to approve the agenda as presented, and the motion was seconded by Commissioner Goss. The motion passed unanimously.

Minutes: The minutes from the March 13, 2018 meeting were discussed. Some minor grammatical changes were made. Chair Pro-Tem Wailes asked that the date of the minutes being reviewed be added and suggested that date be included for each meeting going forward. Commissioner Haxel moved to approve the minutes as amended, and the motion was seconded by Commissioner Perea. The motion passed unanimously.

Old Business:

- A. None

New Business:

A. Zoning Code Review – Section 2.15 Separation Distance Between Cultivation Facilities

Planner Horn discussed the staff report regarding the 3,500 feet separation distance that was originally requested by the Board of County Commissioners (BoCC) in 2017. The BoCC was not aware of the fact this board had removed that requirement when the zoning code revisions were approved. The BoCC has requested that the separation distance be put back into Section 2.15.

There was additional discussion regarding the reasoning for the 3,500-foot distance, including emergency responder implications and the desire of the BoCC to limit cultivation facilities to one per commercial zone. The commissioners expressed concern that the county would be limiting the ability to attract potential cultivation facilities if the restriction remains in place. There was additional discussion about the potential benefit of keeping any facilities centralized as opposed to spread out over the county.

There was agreement among the commissioners to recommend the separation distance requirement not be included in Section 2.15. Commissioner Wrobel moved to recommend that Section 2.15 not be modified to include the 3,500-foot separation distance between cultivation facilities. The motion was seconded by Commissioner Goss. The motion passed unanimously.

B. Public Hearing – SUR 18-03, Proposed Campground on Pewabic Mountain

Director Strohming presented the staff report regarding SUR 18-03. It was noted that the SUR number was incorrect on the report, and that 18-03 is the correct number. The applicant, Dirk Larsen, was present in the audience.

As Director Strohming went through the list of staff comments, several of the items warranted further discussion. In regards to the ownership of the tracts falling within the proposed RV park, Chair Jeney asked why we would even consider an application for the use of tracts not owned by the applicant. She noted this application included other people's property, and for this to move forward, the applicant

needed to provide proof of ownership or of a partnership. The applicant indicated he believes he actually owns all of the parcels indicated on his site plan, and Chair Jeney noted he must prove clear title. Chair Pro-Tem Wailes asked if the county would require a survey for these parcels, and Director Strohminger indicated that it would be required.

Director Strohminger noted that staff recommended the applicant provide a well-defined parking and traffic plan, a narrative addressing bulk and scale that includes types of vehicles and types of sites (i.e. tent vs. recreational vehicle), and a narrative addressing park staffing and the enforcement of campground regulations. He also noted the staff recommend the addition of an on-site potable water source as well as an on-site wastewater treatment system that provided access to the patrons of the RV park.

Director Strohminger continued through the list of staff comments, noting that screening, interior circulation, fire department concerns, exterior lighting and the dark sky ordinance still needed to be better addressed by the applicant. He also noted that all state, federal, fire and health codes must be satisfied. Chair Pro-Tem pointed out that the overall application was very confusing and needed far greater clarity.

The commissioners then added additional concerns to the list of items that needed to be addressed by the applicant. Those concerns were as follows:

- 1) Definition of long term (i.e. define how long a “camper” can stay);
- 2) The addition of pit toilets that are cleaned weekly (noted people won’t take their waste out);
- 3) Hosts need full hook-ups;
- 4) Maintaining access during the winter months;
- 5) Mandated fire rings;
- 6) Bear proof trash containers with weekly trash removal;
- 7) Showers and wash stations;
- 8) The posting of a bond to ensure clean up and protect the County;
- 9) Migratory paths for wild life;
- 10) Gray and black water addressed;
- 11) The narrowness of the access road (i.e. not wide enough for emergency responders);
- 12) Whether or not the proposed use is appropriate for this area; and
- 13) Signage plans – including a universal sign application.

Chair Jeney invited the applicant to speak. Mr. Larsen noted that there were a lot of questions to answer, and he requested his application be tabled for one month. He indicated he believes his proposal would reduce illegal camping. He believed that this was a recreation area that was attracting tourists and that the area was isolated. He indicated that this was private land, and as a property owner, he had rights to do things with it. He felt state regulations would adequately address all concerns that were raised by the Commission. He also felt a bond was an unnecessary requirement and that the county should look for other ways to recoup any expenses. He believed gray water and road requirements were addressed by state regulations. He noted the fire department had no regulations. Lastly, he did not feel he needed to apply for any type of signage because of GPS navigation systems.

Chair Jeney noted that the application appeared incomplete. Commissioner Marr commented that the application was poorly prepared. Chair Pro-Tem Wailes noted the applicant was disregarding county regulations which are currently in place and was not adequately addressing state regulations. Commissioner Marr noted that this was basically just dispersed camping like what is done on BLM land, but it was not free and carried no benefit. Mr. Larsen accused the county of selective enforcement. Commissioner Haxel noted that this application was asking for forgiveness rather than permission, and Mr. Larsen should have presented his application and completed the process prior to commencing this activity. Mr. Larsen again indicated that he felt the county only did selective enforcement.

With no more discussion, Chair Jeney opened the Public Hearing at 7:49 p.m. She explained the rules for public comment and noted that each commenter would have a two-minute time limit.

Diane Anderson – 6287 Virginia Canyon Road

Ms. Anderson commented that this operation was unsafe and unsanitary. She was concerned about fire safety as many trees have been cut down but left where they fell. She asked if a fire ban was possible. She noted that the area has many mining hazards. She noted there was much disruption to wildlife in the area. She commented that the increasing amounts of discarded trash only attracts more trash. She also noted a marked increase in shooting and poaching, and that law enforcement was frequently called to the area.

Aaron Hancock – 33 Russell Gulch Road

Mr. Hancock commented that GPS coordinates show this location to be in Idaho Springs, which demonstrates the lack of accuracy for navigation. He noted there was no water on the site and noted sewage problems existed now. He noted that Colorado required dust concerns to be addressed (Colorado Air Pollution Control). He noted that traffic issues already existed due to the golf course, and that the roads could not accommodate large recreational vehicles. He asked who had to pay for improving and maintaining the roads and noted the applicant had been removing trees.

Chris Duis – 107 Missouri Flats Road

Mr. Duis commented that there were many unattended fires on a regular basis and provided a picture of one such fire. He noted an increase in trespassing and that law enforcement response times were slow. He noted that sanitation was “horrible” and that the area was already populated.

Ed DiCicco – 81 Russell Gulch Road

Mr. DiCicco commented that there was no erosion control needed because of the number of trees being cut. He noted that there were already too many people staying there, and it was obvious they are living on the property long term. He also commented on the unsuitability of the current roads in the area and that it appeared to be nothing but an expense for the county.

Guy Forte – 6137 Virginia Canyon Road

Mr. Forte commented on the lack of dust control and how the roads were deteriorating. He asked if generators would be required to have spark arrestors, citing a recent fire started by a malfunctioning generator. He noted the increased response time due to the volunteer fire fighters being located all over the county. He also asked for better narratives regarding refuse disposal and gray water containment.

Mary Haus – 1110 Missouri Flats Road

Ms. Haus commented that surveys were needed because this operation was encroaching on neighboring properties. She provided several pictures of unattended fires and the smoky haze resulting from the fires noting it was “like a fog.” She asked where firefighters would get water from for fighting any fires on the site. She also provided several pictures of sewage being dumped onto the ground. She noted Pewabic Mountain Road was virtually unpassable in the winter, that it crossed private land, and would require permits and engineering for road construction. She noted that generators belonging to people already living on the site run all night to provide heat and lights, and she noted that the noise from those generators disturbed the entire neighborhood.

Jim Gantzler – 1294 Pewabic Mountain Road

Mr. Gantzler commented that there were multiple code violations already happening on this site. He noted hundreds of trees had been mowed down with a front-end loader and left lying on the ground.

Trampus Travis – 150 Alps Hill Road

Mr. Travis commented that the threat of fire was a huge concern. He noted that state regulations do not allow “pack it in, pack it out” unless there are toilets on site. He asked that a precedent not be set with this SUR.

Forrest Anderson – 6287 Virginia Canyon Road

Mr. Anderson commented that establishing ownership of the parcels was imperative perhaps through a court action. He noted that it would be virtually impossible to widen any of the existing roads as no rights-of-way exist, and he noted that the houses on both sides were very close to the road. He also noted the area had become a transient magnet.

Paul Ondr – Fire Chief, Timberline Fire Protection District (TFPD)

Chief Ondr commented that TFPD did not have regulations specifically addressing this type of operation. Access was per county codes. He noted that state regulations require any camping spots be on non-combustible surfaces. He explained that the current roads will not accommodate fire equipment because of the narrowness and the grade of the road which exceeds county regulations. He noted the area was not covered by cell phone service which means the people there are unable to contact 911 in case of emergency. He stated that there had already been two fires on site. He noted there was no host on site, no one was in charge, and no emergency call box was located on site. Chief Ondr also pointed out that he did a brief review of the state regulations provided to him by Mr. Larsen at the beginning of the meeting, and he easily identified sixteen current violations. He pointed out that one of the RVs currently occupied did not run and would not be able to move under its own power. He also noted there was a mobile home that appears to be permanent on the property and that there were no fire rings for campfires. He concluded by saying the execution was not there.

Amanda Hughes – 343 Russell Gulch Road

Ms. Hughes commented that she was a new resident of the area and had lived there for about one year. She noted concerns with lack of traffic enforcement, and in particular, the volume of people speeding. She inquired about who would enforce any fire bans and noted that cigarette butts were carelessly discarded by people in the area.

Santiago Garcia – 5981 Virginia Canyon Road

Mr. Garcia pointed out the increasing vandalism happening in the Russell Gulch Cemetery. He noted that the two currently operating businesses in the gulch are well run, but the influx of transients associated with this application is threatening. He also pointed out the increase in unlicensed vehicles in the area. He concluded by asking for a show of hands from the audience of those who were against this proposal, and it appeared every hand was raised.

Patrick Torrey – 27 Purdue Street, Pueblo Colorado

Mr. Torrey confirmed that he owned property which was outlined as being included in the site plan for the application and noted that Mr. Larsen was encroaching on his property. He commented that he personally saw another “tenant” moving in an RV earlier in the day. He firmly stated that any “tenants” of Mr. Larsen’s were not allowed to use his land for any purpose including access.

Mary Haus - 1110 Missouri Flats Road

Ms. Haus made a few additional comments including the belief of the residents of the gulch that this operation required 24-hour enforcement, the desire of the neighbors to see some sort of risk assessment from Mr. Larsen, and the concerns that this operation would decrease their property values. She noted that Mr. Larsen had indicated there would be no buildings but some already existed. She asked again who would maintain the roads.

Captain Tom Ihme – Gilpin County Sheriff Department

Captain Ihme noted that there had been many calls regarding the site and that the department had made several trips there. He noted there had been no positive feedback regarding this operation. He stated the Sheriff's Department wanted to see a complete application. He also noted that average emergency response times were 20 minutes due to the access issues with the site.

Ashley Martin – 628 Alps Hill Road

Ms. Martin commented that there were concerns that this operation was taking away business from existing B&Bs. She said there was fear that homeowners' insurance rates will rise due to the risks this operation present. She also noted that ATVs that appear to belong to people staying on Larsen's property were increasingly becoming an issue.

Chair Jeney then read two written comments that had been submitted electronically:

"I can not attend the Public hearing next Tuesday and therefore I am sending you a few comments to consider.

I believe that the County staff and Commissioners most likely would agree with the concerns I have heard from many neighbors regarding the current situation with Dirk's unregulated actions on his property. I, like many neighbors I have spoken to, agree that we must respect private property rights. That said, we all look to the County to mitigate potential hazards that might arise from unregulated activity on private land. It is in the interests of all to have enforcement of County Regulations. I believe that the current action has been undertaken by Dirk simply to circumvent the County Regulation in order to expand the amount of time the unregulated rental of trailers can continue. I seriously doubt he feels there is any chance that his actions will be accepted by the County. To me this is not an enforcement issue, but rather some type of a snag in the process. Something has allowed Dirk the ability to continue activity that the County would most likely want to shut down immediately. Through the legal process of this Special Use Permit process, Dirk has found a way to thwart any possible County enforcement of his seemingly illegal activity. (renting trailers with no water, sanitation, fire safety plan, ect.) Obviously the County needs to play this out and come to a legal resolution that will safeguard the County Process, but I also think we need to review what has taken place and review our County regulations in order to not let this type of planned circumvention of County Regulations to happen again. There needs to be a precedence set that negates any economic benefit skirting the rules has afforded Dirk so that future rogue land owners understand there is no benefit to disregarding the County process.

The current situation could be catastrophic in terms of fire danger. As a down-wind land owner from Dirk, I worry extensively about a process that continues to allow misuse of land thereby causing grave danger to the region in general. Not to mention the horrid conditions related to sanitation, no apparent drainage plan, driveway plan, or general planning of any professional sort. I have yet to see any survey work conducted on any of the properties owned by Dirk. Has he maintained his destructive activity to his own property, or has it spilled out onto adjacent property?

This is the moment to set a precedence that will illustrate to any future Dirks that the County is serious about their health and safety regulations as well as their regulations and processes. I do not fault the County and I do realize there is a legal process that has allowed Dirk to continue his activity. I simply ask that you get through this process as quickly as possible and force Dirk to follow the rules of the County. I also ask that you do a review of how this was allowed to happen and propose actionable revisions to our County process to insure this does not happen again.

Several years ago I mentioned to the Community Development Manager that I was observing more and more trailers without proper sanitation availability, popping up in the southern part of the County. At that time they were not concentrated in one area as Dirk has done. They were also not being rented for enterprise. Nothing was done about them back then, and this is now the time for action.

Thanks for your consideration, and I wish you the best in your continued efforts to bring this situation under control. " – Anonymous

"As a Gilpin County resident, I am hopeful that the Planning Commission and the County Commissioners will take Dirk Larson's past actions in our county into account while considering his application for a special use permit.

Operating an illegal campground and then asking for special use status seems to be a pattern of "easier to ask forgiveness than ask permission".

In regard to Mr. Larson's using his development of a fishing club on South Boulder Creek as a reason he should be granted this Special Use, I had to drive past his property on Pactolus Lake Road daily and, by habit, would avert my eyes from the junk piles, trash and dead equipment at his "fishing club". Those of us in the neighborhood were not sad to see Mr. Larson gone.

Having been an observer of his fishing club, his "pack it in/pack it out" statement in his application is ludicrous.

The "bridge" he put across South Boulder Creek would surely be an eyesore laying in the river bed by now had the current owner not rebuilt it to code. The story heard around Pactolus was that he put it in without a permit or engineering. Watching it under construction that story is easy to believe. I would hope you could determine if this is factual and if so take it into consideration.

I would request that you remove my name if this letter is used in public, I know of one couple that had to obtain a restraining order after opposing Mr. Larson's planned quarry on the Pactolus property.

Thank you for your time that you volunteer to your positions as public servants." – name withheld

James Martin – 645 Dakota Ridge Road

Mr. Martin commented that traffic has not been adequately addressed, trespassing will continue to happen, and called for immediate removal of the campers currently on the site.

Chair Jeney asked if anyone else wished to comment. There were none, and she closed the public hearing at 8:45 p.m.

Commissioner Wrobel noted that it appeared legal access had not been established and asked if there were any existing easements. Mr. Larsen claimed he has access based on federal law and Supreme Court rulings.

Commissioner Marr moved to recommend to the Board of County Commissioners that they reject SUR 18-03 based on an incomplete application, lack of demonstrated compliance with the Gilpin County Master Plan and Zoning Code, and fire risks. Commissioner Goss seconded the motion, and it passed unanimously. Director Strohminger noted that this application and the Planning Commission recommendation will go before the BoCC on May 8, 2018 if Mr. Larsen chose to pursue it. He also indicated that if the operation was abandoned clean up compliance will be handled by Code Enforcement.

Chair Jeney called for a five minutes recess at 8:55 p.m.

Chair Jeney reconvened the meeting at 9:07 p.m.

Public Comment: None

Staff Updates:

Director Strohminger informed the commission that the annual meeting between the BoCC and the Planning Commission was discussed by the BoCC, and they had asked for some possible dates to consider. The commission asked Director Strohminger to offer June 12, July 10, or August 14 as possible dates.

Planner Horn provided an update on the applications for commercial marijuana cultivation facilities. He indicated the department was still waiting to hear back from Rocky Mountain Organics, and he planned to reach out to them next week for an update. He also mentioned that the applicant for the third license was exploring options within the Rollinsville commercial district.

There was additional discussion regarding SUR 18-03 and a brief discussion on the affordable/work force housing initiative.

Director Strohminger also shared that he had received the plant list from the Denver Botanical Gardens for the wetland area by the library.

Adjourn: Commissioner Goss moved to adjourn the meeting at 9:35 p.m., and the motion was seconded by Commissioner Haxel. The motion passed unanimously.

Respectfully submitted,

Laura Azevedo Jeney
Chair