

**SAN MIGUEL COUNTY PLANNING COMMISSION
MINUTES – REGULAR MEETING**

January 13, 2021

On-line Meeting

Present: Lee Taylor, Chair
Pamela Hall, Vice-chair
M.J. Schillaci, Secretary
Ian Bald, Member
Josselin Lifton-Zoline, Member
Matthew Bayma, Sr. Alternate
Tobin Brown, Jr. Alternate

Planning Staff Present: Kaye Simonson, Planning Director
John Huebner, Senior Planner

County Staff Present: Nancy Hrupcin, Legal Assistant, County Attorney’s Office

Others Present: Eric Twitty, DOE Consultant
Jay Glascock, Office of Legacy Management, Department of Energy
Miquette Gerber, Navarro, Uranium Leasing Program Project
Manager

9:00 a.m. Chair called the meeting to order.

**ANNUAL REVIEW of Schmidt Family Ranch: Sporting Uses and Social & Scenic Uses
Special Use Permit.**

Those who addressed the commission:

John Huebner, Senior Planner
Kayla Brack, Schmidt Family Ranch Foreman

John Huebner presented the 2nd annual review of the Special Use Permit as mandated by the terms of the special use permit approved by the Board of County Commissioners in November of 2018. Annual reviews were required in 2020 and 2021. An activity log regarding the events that occurred in 2020 was prepared by Kayla Brack and was provided to the Planning Commission. Most of the weddings that were scheduled for this year were cancelled due to the COVID-19 pandemic. John iterated the annual limits of people and events outlined in the permit. Public notice of the meeting and review was given and as of the meeting date no comments from the public have been received. A letter was received from Rob Roberts of the Ptarmigan Ranch HOA board stating they had no objections to the events held this year at Schmid Ranch relating to the SUP and how great Kayla and Neil have been to work with. He did ask the BOCC to extend the review period an additional year due to the cancellation of most events due to the pandemic. Huebner explained that the BOCC Resolution specifies a two year review following the permit

and no allowance for special circumstances such as the pandemic are contemplated. Planning recommended to continue the review as mandated by the resolution and staff did not think an additional review period is warranted. The Planning Department recommends approval and that no changes be made to the Sporting Uses and Social and Scenic Uses Special Use Permit based on the finding that Schmidt Ranch has done an admiral job complying with the terms and conditions of approval.

Lee Taylor congratulated Kayla on her successful relationships with her neighbors. Kayla Brack commented that she has kept up with daily communications and has done everything possible she can to ensure the ranch keeps working. She feels the neighbors will talk to her if there were any issues with events and that she is ready to move forward and keep the ranch running.

Tobin Brown asked if there would be any more scheduled reviews. Lee replied that any issues that come up in the future would be dealt with on a complaint basis. He then commented that Schmid Ranch should be held up as a model for other Special Use Permits in regard to its activities and working with their neighbors. Matt Bayma echoed Lee’s comments that ranch is a great operation and everyone is doing a wonderful job.

MOTION by Tobin Brown to recommend that no changes be made to the approved Schmidt Family Ranch Sporting Uses and Social and Scenic Uses Special Use Permit, based on the finding that the administration oversight of the Special Uses has complied with the terms and conditions of approval.

SECONDED by Josselin Lifton-Zoline **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	<u>Absent</u>
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

CONSIDERATION OF LAND USE APPLICATION US Department of Energy, Office of Legacy Management, request to Amend the 11/10/20 CPC approval of a Mining Special Use Permit to relocate waste rock and reclaim specific areas of the Burro Mines Complex near Slick Rock, Colorado in the West End (WE) Zone District of San Miguel County,

John Huebner presented a brief reminder of the scope of the approval of the Mining Special Use Permit at the Burro Mines Complex from November 2020. He added that almost immediately after the permit approval, one of the consulting agencies, the Colorado State Historic Preservation Office, issued a decision to the Department Of Energy that their reclamation project as previously proposed would have an adverse effect on the Burro Mines Complex historical integrity and if continued with the plan as proposed they would potentially delay the project. The Department Of Energy immediately made efforts to mitigate the concerns raised by SHPO, the Colorado State Historical Officer, and they amended the preferred alternative to still meet the project objective for mitigating sedimentation into the Dolores River and to now preserve the historical integrity of the site. Kaye Simonson, Planning Director determined that the DOE plan

revision, even though a reduction, is a significant change in the scope of the proposed reclamation activities and requires a Planning Commission review. Since the commission packets were sent out, a letter was received from the SHPO to the DOE concurring that the new revised plan would have no adverse effect on historic resources. The amended proposal would continue to protect the Dolores River from sediment from storm runoff and is now comprised of partial removal and relocation of Burro Tunnel Mine waste rock piles to relocation site and re-contouring and revegetation of this area to resemble a 1970's era pile. There would be no more removal of the reclaimed waste rock from the Burro #3 or #5 rock piles. The amended project will include additional sediment basins.

Public notice was published Jan 6, 2021 and emailed to neighbors and no comments were received as of today's meeting. County Government Affairs and Natural Resources (GNAR) commented that the agreement that the revised design strikes a balance between controlling sedimentation into the Dolores River and preserving the site's contributing features.

Josselin questioned what the DOE was referring to when speaking about a lengthy environmental review. She asked what pertains to that review.

Jay responded that the potential lengthy consultation would be with the State Historic Preservation Office and that consultation likely would probably have ended up in the same place we are today. The DOE bypassed that lengthy process by bringing in a highly reputable, agreed upon subject matter expert, Eric Twitty, to the site to see potentially what the SHPO was referring to. From that impact report the SHPO and DOE reached an agreement that would meet their threshold of this project having no adverse effect to the historical integrity of the Burro Mines Complex. After that the DOE amended their proposal to meet the recommendations for preservation of the site. They did not bypass or forgo any environmental assessment, but just avoided months of delay for the same end. There is also a very real concern of the potential to lose funds for government projects if they don't get done in the year they are budgeted.

9:29 Ian Bald joined via phone.

Matt Bayma commented that one of the compelling reasons to approve this project was the runoff mitigation. He wanted to know if the sediment mitigation is still as effective controlling the runoff with the basins.

Jay responded that less than 5% of the sedimentation comes from the Burro #3 and #5 that has the potential to go into the river. With the refurbishing and addition of those sedimentation basins they can completely mitigate it going into the Dolores River.

Lee then questioned what it means that the waste rock piles will be armored. Jay replied that after removing the top tiers of rock, the lower tier of the waste rock pile will have natural rock to secure the toe of that pile and withstand the 100 year flood, reinforcing the bank of the piles near the creek.

John stated on behalf of San Miguel County staff, commissioners appreciate that the DOE made it a priority to work with the local government and their staff has been great to work with on this project.

MOTION by Matt Bayma to approve an Amendment to a Special Use Permit (SUP) to the U.S. Department of Energy, and the corresponding resolution, to revise the design modifications of the proposed reclamation activities to be conducted by the DOE or its contractor of the Burro Mines Complex located near Slick Rock in San Miguel County, Colorado. The design changes include the partial removal of the Burro Tunnel mine waste rock pile to a relocation site, no removal of waste rock material from the Burro No. 3 and No. 5 waste rock piles, and installing or improving sediment basins below the waste rock piles at the Burro No. 3 and No. 5 mines. This approval is based on the finding that this amendment meets standards in Land Use Code Section 5-1002 F. Review of Approved Special Uses and amends the terms and conditions of SMC Planning Commission Resolution #2020-3 as follows:

1. The Special Use Permit is issued to the Applicant, Department of Energy – Legacy Management, and does not run with the Land.
2. No future mining activity at the Burro Mines Complex by the DOE, its lessees or the property owners or its lessees is authorized by this approval.
3. Obtain a County Road & Bridge Special Construction Permit for the proposed improvements to County Road (CR) 10S, and a Driveway Access Permit for CR 8S and 10S.
4. A traffic control plan shall be submitted to County Road and Bridge. The plan shall identify procedures, personnel, and equipment (signs, signals, barricades, etc.) to be used to protect workers and the public during the project.
5. Contact the Planning Department, Road and Bridge Department and County Sheriff's Office prior to the start of reclamation activities.
6. Provide a list of onsite DOE and contractor contacts for the reclamation project
7. Continue sampling of County Roads S8 and S10 pre- and post- project to ensure there are no impacts from project.
8. The revegetation and weed control will be periodically reviewed by the County Vegetation Manager to assure successful reclamation of the site.
9. The project grading, hauling, mitigation, and reclamation shall be consistent with and comply with the applicable provisions of the (100%) Final Engineering Design unless specifically modified in the County's SUP approval action.
10. Comply with all terms and conditions of the Colorado Stormwater Discharge Permit. Provide a copy of the permit to County Planning.
11. Provide County Planning copies of the Access Agreements with UMETCO and Gold Eagle Mining, which must be fully executed prior to the start of reclamation activities.
12. Provide a determination by the CPW and the County's Vegetation Manager that the revegetation has been adequately reestablished.
13. Provide monthly progress reports to County Planning.
14. Obtain permission from Colorado Parks and Wildlife and County Planning prior to commencing any reclamation activities during December 1 to April 30.
15. All written representations of the applicant, in the original submittal and all supplements, are deemed to be conditions of approval except to the extent modified by this approval.

SECONDED by Josselin Lifton-Zoline. **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	<u>Absent</u>
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

LAND USE CODE AMENDMENT RECOMMENDATION: Amending Section 5-1004 N.III, Special Use Permit Violations Code Amendment. **MOTION**

Kaye Simonson presented a correction to a numbering error that placed Special Use Permit Violations in the “Standards for Golf Courses in All Zone Districts.” The wording clearly shows that it is intended to apply to all SUPs, not just golf courses. The amendment will come out of 5-1004 N.III and be renumbered as 5-1005 as presented.

MOTION by Josselin Lifton-Zoline to recommend to the Board of County Commissioners to adopt the amendment to San Miguel County Land Use Code Section 5-10 Special Uses, regarding Violations, based on the finding that the proposed amendment complies with the standards of Land Use Code Section 5-1802, Land Use Code Amendments, and is consistent with Land Use Code Section 1-4, Purposes of the Land Use Code.

SECONDED by MJ Schillaci. **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

This matter will go to the Board of County Commissioners for final approval.

APPROVAL OF MINUTES

MOTION by Pam Hall to approve the minutes of November 10, 2020 meeting as presented.

SECONDED by MJ Schillaci. **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	<u>Abstain</u>	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

APPROVAL OF 2021 PLANNING COMMISSION DATES

A schedule change was requested due to BOCC having additional meetings on the 2nd Wednesday of the month. The Planning Commission will be scheduled for the 2nd Thursday of the month for 2021. That schedule will be published on the website.

Lee asked if there weren't any objections, he would count that as unanimous consent.

ELECTION OF OFFICERS FOR 2021

Lee Taylor nominated MJ Schillaci for secretary. Seconded by Pam Hall
Pam Hall nominated Lee Taylor to remain as chair. Seconded by MJ Schillaci.
Lee Taylor nominated Pam Hall to remain as vice-chair. Seconded by MJ Schillaci.
Vote for the slate as nominated. **VOTE PASSED 7-0**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Joselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

PLANNING COMMISSION AND STAFF COMMENTS

Kaye Simonson, County Planning Director updated the Planning Commission on various matters.

Genesee submitted the Society Turn application proposal for PUD and proposed Mixed Use Zone District, which is the first of five steps. There is a website with all of the studies, application and information. The notices have been sent out to the agencies.

There is a RFQ out for affordable housing mitigation requirements.
Planning will be preparing a RFQ for a consultant for Telluride Regional Master Plan so that can get under way in 2021.
There are a number of Code Enforcement cases.

Lee asked if changing the mitigation rate for Affordable Housing will impact Society Turn. Kaye replied no, they have a complete application in and they will continue under the code that is in effect at the time of the application.

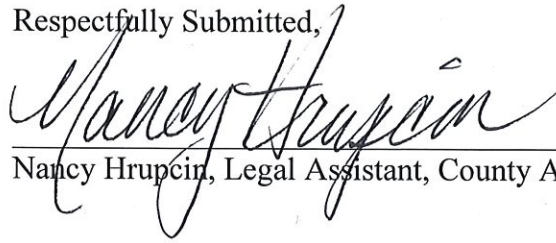
MJ asked for a reminder of what is appropriate for the commission to say and do with a new application. Kaye reminded the commission that it is a quasi-judicial decision they are asked to make and therefore should not be discussing the merits of the project with the general public. If people contact you, try not to engage. If you had an unavoidable conversation, present it at the hearing as ex parte communication and share the content of those communications with the rest of the board so everyone has the same information. In regards to emails received by the commissioners regarding the project, it was advised to reply to that email saying they cannot really take communication. Do not reply to the entire commission but please forward that email to the Planning Department.

Lee reminded the commission to manage expectations, this is a five step process and this is only the first step.

Pam asked to clarify, as the Lawson Hill Board was noticed as a referral agency, should she notify her members. Kaye said it is at their board's discretion to notify their HOA members.

10:12 a.m. Adjourned.

Respectfully Submitted,



Nancy Hrupcin, Legal Assistant, County Attorney

Approved on February 11, 2021.

SAN MIGUEL COUNTY PLANNING COMMISSION



M.J. Schillaci, Secretary

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