

MEETING MINUTES  
GRAND COUNTY BOARD OF COUNTY COMMISSIONERS  
GRAND COUNTY DEPARTMENT OF SOCIAL SERVICES  
GRAND COUNTY BOARD OF HEALTH  
GRAND COUNTY HOUSING AUTHORITY

March 15, 2022

Present: Commissioner Richard D. Cimino, Commissioner District 1  
Commissioner Merrit S. Linke, Commissioner District 2  
Commissioner Kristen Manguso, Commissioner District 3 - Chair

Also Present: County Clerk and Recorder Sara L. Rosene  
County Manager Ed Moyer  
Assistant County Manager Micah Benson  
Interim County Attorney Maxine LaBarre-Krostue

Those present recited the Pledge of Allegiance.

Commissioner Cimino moved to approve the minutes the Regular Board of Commissioner's meeting of March 1, 2022 as presented.

The motion passed unanimously.

#### Finance

Finance Director Curtis Lange presented the Warrant Register and Expenditure List to be paid on March 16, 2022, for vendor payments. The list for this period was verified for the Board's approval.

Commissioner Cimino moved to approve the checks presented on March 15, 2022, for payment on March 16, 2022, for the Grand County Housing Authority.

The motion passed unanimously.

Commissioner Cimino moved to approve the vouchers presented on March 15, 2022, for payment on March 16, 2022, for the Grand County Department of Human Services.

The motion passed unanimously.

Commissioner Cimino moved to approve wire payment, interfund transfers, and vouchers presented on March 15, 2022, for payment on March 16, 2022, for Grand County.

The motion passed unanimously.

#### Departmental Contracts, Comments, Issues

Commissioner Cimino moved to change of the agenda item for the Colorado Department of Public Health and Environment Tire Recycling Program discussion to 11:25 a.m. today.

The motion passed unanimously.

#### Manager and Attorney Items

County Manager Ed Moyer stated that he was working with Water Attorney David Taussig on a number of items. Mr. Moyer has been working on language regarding the diligence application on the environmental flow decree to realize all the potential proposed benefits of the Colorado River Cooperative Agreement.

Mr. Moyer has been spending time with the project sponsor team for the Windy Gap Firing Connectivity Channel. There were a lot of public comments that came in as part of the public scoping. Those are being reviewed and responses are being made. NRCS will review the comments as well.

With regard to County Road 522, the Corps of Engineers responded to Mr. Moyer regarding a mitigation package to resolve the adverse effects from the road through POW camp. There will be archeological monitoring during construction. It will likely take one week to complete. The cultural consultant will need to develop a plan that will address the mitigation item. Other mitigation could be signage regarding the POW camp.

Mr. Moyer stated that a regional housing authority is being considered.

Mr. Moyer contacted the State of Colorado Division of Water Resources Division 5 and then got sent to Denver. Any augmentation review now goes to Denver instead of Division 5. The person in charge of reviewing augmentation plans was asked if they allow well sharing agreements. The answer was that "it depends." There are unique situations where the state would allow well sharing agreements.

Commissioner Linke moved to authorize the Board to sign the letter of recommendation for Schelly Olsen to the U.S. Department of Agriculture, Department of the Interior Wildland Fire Mitigation and Management Commission to be placed on the commission.

The motion passed unanimously.

Commissioner Linke moved to approve the letter to the Colorado Department of Education for the Co-Action grant application to support the schools in Grand County.

The motion passed unanimously.

Commissioner Linke moved to authorize the Board to sign the Notice of Environmental Use Restrictions regarding the Granby Landfill.

The motion passed unanimously.

### Consent Agenda

Resolution No. 2022-3-2, "APPROVING THE WAIVER OF BUILDING PERMIT FEES FOR GRAND COUNTY SANITATION DISTRICT"

Commissioner Cimino moved to approve the Consent Agenda.

The motion passed unanimously.

### Calendar

- March 16 Grand County Department Head Meeting in the Administrative Building, Hot Sulphur Springs, starting at 8 am
- March 16 CCAT Short-term Rental Working Group via Zoom from 11 am to noon
- March 16 Peak Health Alliance via Zoom from 2 pm to 4 pm
- March 17 Associated Governments of Northwest Colorado (AGNC) Legislative Call via Zoom, starting at 8:30 am
- March 17 National Association of Counties (NACo) West Region Conference Call via Zoom, starting at 2 pm
- March 17 Counties & Commissioners Acting Together (CCAT) Committee Meeting (As Needed) via Zoom, starting at 3:30 pm
- March 17 GC BOCC Bi-Annual Update to the Town of Hot Sulphur Springs at Hot Sulphur Springs Town Hall, starting at 6 pm
- March 17 Grand Places meeting in Winter Park from 9 am to 10:30 am
- March 18 Health Insurance Affordability Enterprise Board Meeting via Zoom, starting at 8 am
- March 21 CCAT Governing Board Meeting via Zoom, 11:30 am to 1 pm
- March 21 Transit Advisory Committee at Winter Park Town Hall, 4 to 5 pm (*Moved from March 7*)
- March 23-24 Club20 Spring Conference / Wildfire & Watershed Summit at Colorado Mesa University in Grand Junction, all day
- March 23 Tentative Legislator Monthly Breakfast Meeting via Zoom, 8 to 10 am
- March 24 AGNC Legislative Call via Zoom, 8:30 to 9:30 am
- March 24 CCAT Monthly All-Member Meeting via Zoom, 3:30 to 5 pm

### The Shald Subdivision Exemption, Final Plat

PROJECT NAME	Shald Subdivision Exemption – Final Plat
APPLICANT	SHALD, DANIEL T & KIMBERLY M
LOCATION	Murphy Subdivision Exemption Lot 2
ZONING	Forestry & Open (R)
APPLICABLE REGULATIONS	Grand County Zoning Regulations; Grand County Subdivision Exemption Regulations; Grand County Master Plan

### ATTACHMENTS

- A. Development Application
- B. Project Narrative Letter
- C. Proposed Final Plat
- D. Vicinity and Detail Map
- E. Title Commitment dated August 19, 2021
- F. Statement of Taxes Due – 2022
- G. Warranty Deed Rec. No. 2012005050
- H. Proof of Water
- I. Murphy Subdivision Exemption Plat, Rec. No. 99010620

J. Mineral Estate Notice Letter from Grand County Assessor, November 16, 2021

K. Letter dated November 10, 2021 from neighbor concerning filling the ditch

STAFF Taylor Schlueter, County Planner

REQUEST Approval of Subdivision Exemption to divide a 40 acre, metes and bounds parcel, into three new parcels.

#### PURPOSE OF REQUEST

The Applicant has requested a redivision of what is now Lot 2 of the Murphy Subdivision Exemption in order to divide their 16.37 acre property into two parcels, Lot A being 5.02 acres and Lot B being 11.35 acres.

#### BACKGROUND & HISTORY

This is an atypical Subdivision Exemption request in that the proposal aims to further subdivide property that has already gone through the Subdivision Exemption process. Staff has agreed the best way to accomplish this subdivision is largely through another subdivision exemption. The County has a policy that subdivision exemptions cannot be resubdivided again until the passage of 20 years.

Staff sought guidance with the County Manager and County Attorney on the best path forward, it was agreed that the proposal could move forward as a Subdivision Exemption of a Subdivision Exemption. Historical Subdivision Exemption regulations stipulated a twenty year restriction on further subdividing Subdivision Exemption lots. Current Subdivision Exemption regulations reinforced this stipulation.

The subject parcel is Lot 2 of a two-lot Subdivision Exemption approved in 1999. The Murphy Subdivision Exemption started with a 36.2 acre lot that was then split into two lots. The domestic well permit was surrendered for two household well permits.

There are five Subdivision Exemptions in the near vicinity. The subject property is bounded to the north by the 10 acre Noble Exemption Lot 7B Tract 7B, to the west by a 328 acre metes and bounds agricultural property, to the south is Murphy Subdivision Exemption Lot 1 and to the east across GCR 57 is a 5.5 acre agricultural/residential use. Other Subdivision Exemptions in the area include the Thurston Tracts Subdivision Exemption, the Lone Tree Estates Subdivision Exemption and the Cavalier Subdivision Exemption.

There is an abandoned ditch running through proposed Lot 2-A and terminating in Lot 2- B. The applicant has provided a Plat Note # 16 stating, 'the subject property has no water rights to the irrigation ditch depicted herein. The irrigation ditch is abandoned within the subject property. The active portion of the ditch terminates near the west property line of the subject property. The Applicants intend to "fill in" the ditch. The Applicant has provided a letter dated November 10, 2021 from the neighbor to the south at Lot 1 of the Murphy Subdivision regarding the filling in of the ditch.

In addition to development constraints posed by the abandoned ditch, there is also a Mountain Parks utility line traversing the site.

Access to Lots 2-A and 2-B-will be through GCR 57 which is situated northeast of Lot 2-A. A driveway access easement agreement will be provided for Lot 2-B. The existing driveway should be classified as a 20-30 foot driveway.

The applicant has provided a Quitclaim Deed dated October 5, 1999 quitclaiming the interest in 60 feet of Right-of Way of a county road.

County policy is to allow for a resubdivision of a Subdivision Exemption after the passage of 20 years. This is to discourage the formation of residential areas without forethought whereas a full subdivision process would require a comprehensive mitigation analysis examining the impact on water, roads open space, etc. Given the policy, the Applicant would be allowed to resubdivide the Subdivision Exemption since more than 20 years has passed.

Staff feels this is a reasonable request since the county would be creating a third lot from a two lot Subdivision Exemption. This meets the intent of the Subdivision Exemption Regulations. The Regulations state, 'these regulations shall apply to the division of lands within the unincorporated areas of Grand County, CO into a maximum of three (3) single family residential lots with one (1) single family residential unit per lot'.

It has also been county policy to consider a subdivision of a Subdivision Exemption only if the Subdivision Exemption was located in a Growth Area. Because the site is not located in any growth area, any future full subdivision would not be allowed. As such, the Subdivision Exemption process is the best approach in this case to re-subdivide.

Subdivision Exemptions are effective for increasing density outside of a Growth Area. In this case, the subject property is less than a mile away from the Town of Granby boundaries and town services. Increasing density on the subject parcel to three lots creates efficiency while not overly impacting road capacity or other site impacts. The County should allow this type of lot split given the shortage of affordable housing in the county coupled with the potential for property owners to find this as a fairly straight forward approach for splitting off a lot for a family member or anyone to build a home on.

#### PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended approval of the Shald Subdivision Exemption with 19 conditions as outlined in Resolution 2021-11-4.

#### STAFF RECOMMENDATION

Staff recommends approval of the Shald Subdivision Exemption Final Plat. The following conditions shall be met prior to the recording of the Subdivision Exemption:

1. The Title of the Subdivision Exemption shall be amended to include the most recent deed of record Reception #2012005050.
2. The Dedication shall show the most recent Deed of Record, Reception #2012005050.
3. The Applicant must provide a written access easement agreement providing details relative to maintenance and snow plowing with the new owner prior to recording the plat and said easement shall be referenced by reception number on the plat.
4. Quit Claim Deeds to describe the amended legal description of the lots shall be completed and recorded with the Grand County Clerk and Recorder's Office.
5. Applicant will be required to sign a Water Quality Agreement and provide \$1000.00 per lot for a total of one (1) lot at the sale of the lot to be held either by Grand County or turned over to a properly formed Sanitation District for future water quality measures.
6. School fees as outlined above shall be provided prior to recording of the Final Plat.
7. The Final Plat shall comply with Grand County Subdivision Regulation Section 2.2 (12) in providing for showing 20 feet utility easements on both lots.
8. All recording fees are to be paid by the Applicant.
9. An electronic copy of the Final Plat shall be submitted (see (y) above).

Commissioner Cimino moved to approve the Shald Subdivision Exemption – Final Plat as presented and with the additional requirements: The applicant is required to sign a Wastewater/Water Quality Agreement. The requirement for taxes to be paid needs to show that 2021 taxes are due, not 2022.

The motion passed unanimously.

#### Short-Term Rentals Update

Short-Term Rental Coordinator Christian Hornbaker for Grand County presented.

According to Host Compliance, Grand County had 69 new signups in the last 30 days. There were 59 new signups in February. With regard to complaints, there have been approximately 20 complaints on 20 different locations.

Mr. Hornbaker stated that he would like to have a meeting with the Short-Term Rental coordinators.

Staff will review the report from Breckenridge regarding short-term rentals and provide that information to the stakeholders.

#### Tire Recycling

Charlie Adams stated that he is a county resident. He worked at the health department for five years after 30 years in environmental health.

Mr. Adams stated that there are grants for tire recycling. The Granby Rotary would like to run a tire recycling program which is a community event. Rotary would provide staff and the county would need to apply for the grant.

The Board is in support of this idea and may be able to find a place on County property for tires to be delivered.

#### Public Hearing – Amendments to the Grand County Zoning Regulations, Changes to the Enforcement Section 18 & Penalties Section 19.4

The public hearing scheduled to begin at 11:30 a.m. was called to order by Chair Manguso at 11:25 am. Interim County Attorney Maxine LaBarre-Krostue set the record as follows:

- A. Grand County BOCC Staff Certificate Dated March 11, 2022
- B. Public Notice Grand County Zoning Amendments Changes to the Enforcement Section 18 & Penalties Section 19.4 to Middle Park Times News dated February 18, 2022
- C. Proof of Publication to Middle Park Times News dated February 24, 2022
- D. Planning Commission Staff Certificate Dated February 9, 2022
- E. Grand County Resolution 2017-5-23 Reception No. 2017003978
- F. Grand County Planning Commission Staff Certificate Dated: May 10, 2017
- G. Grand County Planning Commission Resolution 2022-2-4 Reception No. 2022001857

The County Attorney advises amending the Zoning Regulations to reflect statewide statute changes in county court actions for civil penalties with regard to zoning violations. The new state statute changes the penalty sections of the Zoning Regulations by removing language related to criminal penalties and replacing it with language for civil penalties.

An important distinction between civil and criminal law is the type of penalty paid for being found guilty. In a criminal case, if the individual charged with a crime loses the case, they're likely facing incarceration or some type of probation. For civil cases, the resolution to a case doesn't result in the "losing" party going to jail. Often the judgement results in a financial penalty or an order to change behavior.

The change went into effect on March 1, 2022.

The revised CRS 30-28-124 (1) (a) states:

It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of any regulation in, or of any provisions of, any zoning resolution, or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 1. Any person, firm, or corporation violating any such regulation, provision, or amendment thereof, or any provision of this part 1 commits a civil infraction ~~is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment.~~ Each day during which such illegal erection, construction, reconstruction, or alteration continues shall be deemed a separate offense.

(b)(I) It is unlawful to use any building, structure, or land in violation of any regulation in, or of any provision of, any zoning resolution, or any amendment thereto, enacted or adopted by any board of county commissioners under the authority of this part 1. Any person, firm, or corporation violating any such regulation, provision, or amendment thereof commits a civil infraction ~~is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment.~~ Each day during which such illegal use of any building, structure, or land continues shall be deemed a separate offense.

The Zoning Regulations will be amended to read:

## SECTION XIX VIOLATIONS AND PENALTIES

### 19.1 VIOLATIONS

- (1) It is unlawful to use any building, structure, or land in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County.
- (2) IT IS UNLAWFUL TO OFFER, OPERATE, ADVERTISE, LET OR USE ANY BUILDING, STRUCTURE, OR LAND AS A SHORT TERM RENTAL WITHOUT A SHORT TERM RENTAL PERMIT.
- (3) It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County.

### 19.2 PENALTIES

Any person, firm, or corporation violating any provisions of these regulations, or any amendment thereof, is subject to the penalty provisions of the Colorado Revised Statutes 30-28-124 as amended. ~~guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment in the County jail for not more than ten (10) days, or both such fine and~~

~~imprisonment~~. Each day during which such illegal erection, construction, reconstruction, alteration, or use of any building, or land continues shall be deemed a separate offense.

#### Planning Commission Meeting of February 9, 2022

The Planning Commission discussed whether violations and penalties changed since 2014 in the Zoning Regulations and discussed the difficulty in enforcing zoning and particularly STR regulations. The Planning Commission asked staff look at the years 2014 through 2017 to see if violations and penalties have changed since then.

The Planning Commission also asked if the new CRS statute also mandated a response time for correcting violations and if so, consider edits to Section 18.1. They stated the enforcement process is laid out in Section 18.1 Enforcement and when looking at Zoning Regulations from 2014, it shows a notice requirement of 30 days. It was noted that the language was changed in the 2017 Zoning Regulations to ten (10) days. The Planning Commission felt at the meeting that the change was done inaccurately, but Staff found Resolution 2017-5-23 amending the notice requirement in Section 18.1 (2) from 30 days to ten days and found that it was done appropriately. As such, both the 10 day and the 30 day numbers are allowable, although it is felt that a 30 day notice period with regard to Short-term Rental violations, for example, is ineffective. It would be up to the BOCC, therefore, to determine if there should be a longer notice period than 10 days for zoning violations as per statute CRS 30-28-124 (II).

The Planning Commission advised that the TEN (10) day language found Section 18.1 (1) providing time to correct a violation needed to be edited. As such, the Planning Commission recommended that any changes to Section 18 Enforcement as a direct result of changes to necessary for CRS 30-28-124 be made through Planning Commission Resolution No. 2022-2-4 (attached).

✓ Staff recommends the notice period in Section 18 of the Zoning Regulations be changed from the ten (10) day notice period to reflect a twenty (20) day notice period.

If the BOCC decides to change the notice period to 20 days, the Zoning Regulations will be amended to read:

#### SECTION XVIII ENFORCEMENT 18.1 ENFORCEMENT

These regulations or any amendment thereto shall be administered by the Board of County Commissioners of Grand County or its authorized representatives who are hereby empowered: to withhold building permits to prevent violation of these regulations, or any amendment thereto; to request issuance of summons and complaint by the Grand County Sheriff to violators of these regulations; to cause any building, other structure or tract of land to be inspected or examined; and to order, in writing, the remedying of any condition found to exist therein or threat in violation of any provision of these regulations or any amendment thereto.

- (1) The Board of County Commissioners of Grand County or its authorized representatives upon obtaining personal knowledge of a violation of these regulations, or any amendment thereto, may request the Sheriff of Grand County to issue a summons and complaint to any violator; provided, however, if the violation is of section 19.1 of these regulations the Board of County Commissioners or its authorized representatives shall, prior to requesting the issuance of a summons and complaint, first give written notice to the violator to correct such violation within ~~TEN (10)~~ TWENTY (20) days after the date of such notice and if the alleged violation is not corrected within said ~~TEN (10)~~ days TWENTY (20), then request the Grand County Sheriff to issue a summons and complaint to the violator.

Please find 'Exhibit A' identifying strikeouts and added language. The areas where the font color is red in Exhibit A indicates proposed changes.

#### RECOMMENDATION

Staff recommends approval of the proposed zoning amendments to Chapter 18 Enforcement and Chapter 19 Violations and Penalties as shown in Exhibit A with the following condition:

1. The notice period in Section 18 of the Zoning Regulations be changed from the ten (10) day notice period to reflect a twenty (20) day notice period.

#### SECTION XVIII ENFORCEMENT 18.1 ENFORCEMENT

These regulations or any amendment thereto shall be administered by the Board of County Commissioners of Grand County or its authorized representatives who are hereby empowered: to withhold building permits to prevent violation of these regulations, or any amendment thereto; to request issuance of summons and complaint by the Grand County Sheriff to violators of these regulations; to cause any building, other structure or tract of land to be inspected or examined; and to order, in writing, the remedying of any condition found to exist therein or threat in violation of any provision of these regulations or any amendment thereto.

- (2) The Board of County Commissioners of Grand County or its authorized representatives upon obtaining personal knowledge of a violation of these regulations, or any amendment thereto, may request the Sheriff of Grand County to issue a summons and complaint to any violator; provided, however, if the violation is of section 19.1 of these regulations the Board of County Commissioners or its authorized representatives shall, prior to requesting the issuance of a summons and complaint, first give written notice to the violator to correct such violation within ~~TEN (10)~~ **TWENTY (20)** days after the date of such notice and if the alleged violation is not corrected within said ~~TEN (10)~~ **TWENTY (20)** days, then request the Grand County Sheriff to issue a summons and complaint to the violator.
- (2) One (1) copy of the summons and complaint shall be served upon the violator by the sheriff of the County in the manner provided by law for the service of a criminal summons. One (1) copy shall be retained by the sheriff, and the Board of County Commissioners or its authorized representatives, and one (1) copy shall be transmitted by the sheriff to the clerk of the county court. Additional copies of any such summons and complaint may be delivered to the County Attorney and District Attorney offices.
- (3) It is the responsibility of the County Attorney to enforce the provisions of these regulations. In the event that there is no County Attorney or in the event that the Board of County Commissioners of Grand County deems it appropriate, the Board of County Commissioners may appoint the District Attorney of the judicial district to perform such enforcement duties in lieu of the County Attorney.
- (4) In addition to the above procedures, in case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used, in violation of this regulation, or any amendment thereto, the County Attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, or use. In the event that there is no County Attorney or in the event that the Board of County Commissioners deems it appropriate, the Board of County Commissioners may appoint the District Attorney of the judicial district to perform such enforcement duties in lieu of the County Attorney.

## SECTION XIX VIOLATIONS AND PENALTIES

### 19.1 VIOLATIONS

- (1) It is unlawful to use any building, structure, or land in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County.
- (2) **IT IS UNLAWFUL TO OFFER, OPERATE, ADVERTISE, LET OR USE ANY BUILDING, STRUCTURE, OR LAND AS A SHORT TERM RENTAL WITHOUT A SHORT TERM RENTAL PERMIT.**
- (3) It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County.

### 19.2 PENALTIES

Any person, firm, or corporation violating any provisions of these regulations, or any amendment thereof, **is subject to the penalty provisions of the Colorado Revised Statutes 30-28-124 as amended.** ~~guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment in the County jail for not more than ten (10) days, or both such fine and imprisonment.~~ Each day during which such illegal erection, construction, reconstruction, alteration, or use of any building, or land continues shall be deemed a separate offense.

Community Development Director Robert Davis stated that the only changes to the regulations being considered are the penalty section.

Commissioner Linke moved to approve the changes to the penalty section of the regulation as presented. The motion passed unanimously.

Commissioner Cimino moved to close the public hearing. The motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 11:28 a.m. The minutes were prepared by Clerk and Recorder Sara L. Rosene. Approved this 19<sup>th</sup> day of April, 2022.

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Kristen Manguso, Chair

Attest:

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Sara L. Rosene, Clerk and Recorder