

December 3, 2020

Dear Delta County Commissioners,

Thank you for the opportunity to comment on the Certified Land-Use Code for Delta County. Please accept these comments on behalf of the 600+ members of the Western Slope Conservation Center (WSCC). WSCC has a 43-year history of seeking community-based solutions that protect our natural resources in the North Fork and Lower Gunnison Watersheds. This letter contains various concerns related to the certified code on behalf of WSCC's membership.

We acknowledge and thank the County and Planning Commission for listening to the community and changing its proposed Right to Farm language to be more in line with State law. We also appreciate the expansion of CAFO setbacks to 1,000 feet, the requirement to inform neighbors of any level of proposed new feeding operations, and the recognition of the impact of CAFOs on our water resources.

In general, WSCC agrees with comments previously submitted to the planning commission and county commissioners from other groups that specifically concern issues surrounding oil and gas support services and the exclusion of refining activities in the code. Additionally, we would like to reiterate the importance of comments submitted by others concerning the protection of our thriving agritourism industry and growing agricultural community. We ask that the County Commissioners consider these comments when deciding whether to adopt the current draft of the land-use code.

WSCC submitted two separate previous comments to the County concerning the land-use code. We would like to reiterate some points here tonight to the County Commission. WSCC urges the County to consider these issues before certifying the land-use code, as we feel that these issues must be addressed in order for this project to continue in the best interest of all stakeholders.

Process Concerns

WSCC is concerned that the County is rushing to complete the land-use code revision process without adequate time for the public to thoroughly review the certified code. As of this writing, this certified draft has only been viewed 5-times on the county website, including at least one by WSCC staff.

Understandably, several things may have interfered with our County's ability to complete this plan in a timely manner, among them: an unexpected shift in fiscal resources to create and deploy the Emergency Operations Center in response to the Covid pandemic, an escalation of the pandemic that may have precluded a broad-base of the public from engaging during this time, and Elyse Ackerman-Casselberry's resignation as Community and Economic Development Director. However, we believe the Planning Commission's adoption and proposed certification of the current draft around the Thanksgiving holiday is disingenuous if the intent is to engage the public.

Furthermore, the two, short public comment periods over the summer (a total of 33 days) for review of this 172-page document was inadequate. Late summer is always an extremely busy time for those whose livelihoods are agrarian in nature or make their living by agri- and vinti-tourism. Again, with such a short time allotted for public input farmers, ranchers, outfitters, guides, and others who rely on our burgeoning tourism economy may not have had the time to review the document and thoroughly engage in this important, complex process that would impact their properties and/or economic livelihoods.

Lastly, the County's website has not been formally updated to include the certified code on its Land-Use Code webpage, creating uncertainty to community members on where to find what is actually being certified. WSCC requests that additional time be granted for public review and County outreach so the process is driven by the diversity of stakeholder interests in the county.

We ask that the Board of County Commissioners delay their approval of the certified document in order to get input from key stakeholders.

In general, WSCC recommends more transparent communication, using a variety of channels when implementing this land-use code. As changes become proposed to specific areas, all should be notified and allowed to have a say in the development of their neighborhoods and the county. With such transparency, disputes can be handled more discreetly and preemptively solved before major issues arise.

Bowie Loadout Property

According to the Certified Plan on the zoning map located on the county website, the Bowie Loadout property and several others at the east entry to the North Fork Valley and base of Garvin Mesa are proposed to be zoned as "Rural Industrial/Commercial." WSCC disagrees with this zoning designation. There is a long standing history of residents opposing industrial development on that property as they expected the property to be restored to its "pre-mining use" per an agreement with Bowie Resources LLC. Pre-mining use would mean the 14-acres along Hwy 133 would return to "cropland" or agricultural use, and the Stevens Gulch area to grazing or pastures. Furthermore, industrial developments in this location may negatively affect the integrity of the scenic byway, of which this parcel falls along.

If a Rural Industrial/Commercial designation were to be passed within this land-use code, medium and heavy industry activities with minimal requirements and no public comment period would be allowed. Additionally, there is a \$2.9 million bond to restore that property. By zoning it as industrial, Bowie Resources could circumvent this requirement and not be required to restore it. Without a party to hold responsible we fear that restoration will not take place. Is rezoning a county commitment \$2.9 million in restoration or a signal that the county is committed to permanently damaged land? We urge the commissioners to consider these issues prior to approving any development on this property.

WSCC urges the County to include public input in the zoning process for these particular properties. There are certain developments, like medium or heavy industrial activities such as oil refining, oil and gas support systems, manufacturing, or chain stores, that would negatively affect the East Hwy 133 entrance to the North Fork. Specifically, WSCC recommends that over a certain level of disruption, a conditional process be adopted. WSCC further requests that Delta County require any land-use change at this site to incorporate a 1/4 mile non-surface use occupancy buffer from the river. This is consistent with the North Fork Alternative setback from any water conveyance, canals, ditches, streams, and rivers presented in the BLM's Resource Management Plan.

Wildlife

There should be mechanisms to assure that Colorado Parks and Wildlife (CPW) recommendations are enforced when it comes to protecting wildlife corridors and habitat. There are no maps to inform a landowner or potential landowner that they are in an area with special wildlife considerations. We strongly urge the county to work with CPW to provide a keyed map designating wildlife corridors and habitat within the county and adjacent lands and contacts for resources that will aid in avoiding harm or interfering with the use of these lands. Additional consultation may be needed as development occurs in critical wildlife areas and migration corridors.

When considering impacts to wildlife on a specific parcel, there must be the acknowledgment of the cumulative impacts of many developed parcels. The current draft doesn't consider the cumulative impacts of ANY type of development. The plan should include the cumulative impacts of existing development in the county as a baseline and develop mechanisms to monitor, and as necessary limit, cumulative impacts of various types of development on wildlife habitats and corridors.

In conclusion, WSCC asks the County commissioners to *delay voting on the Certified Land-Use Code until mid-January*. Please consider the concerns addressed in this letter; revisit our previously submitted comments; and adjust the land-use code accordingly. We urge the County commissioners to continue engaging the community in this process and to create a land-use code that sets Delta County up for an encouraging, bright, and sustainable vision of the future.

Thank you,

A handwritten signature in blue ink that reads "Tanya Henderson". The signature is fluid and cursive, with a long horizontal line extending to the right.

Tanya Henderson
Executive Director
Western Slope Conservation Center
Paonia, CO