AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Application for Extension; Submittal of Major Impact Preliminary Plan LUC-13-00005; Scarp Ridge, LLC

Action Requested: Motion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
Scarp Ridge LLC requests an extension to submit the Preliminary Plan application for LUC-13-00005

Fiscal Impact:

Submitted by: Cathie Pagano **Submitter's Email Address:** cpagano@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 9/29/2014 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 9/29/2014

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5 minutes

Agenda Date: 10/7/2014 Follow Up Agenda Date:

Revised April 2013

Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360 FAX: (970) 641-8585
Website: www.gunnisoncounty.org
Email: planning@gunnisoncounty.org

To: BOCC

From: Cathie Pagano

Date: September 19, 2014

Re: Scarp Ridge, LLC application for extension

David Leinsdorf, attorney representing Scarp Ridge, LLC has submitted the attached letter dated September 17, 2014 requesting an extension for the submittal of the Major Impact Preliminary Plan application for LUC-13-00005. The BOCC approved the Sketch Plan application on February 4, 2014 in Resolution No. 7, Series 2014. Section 7-202: P. *Expiration* of the Gunnison County *Land Use Resolution* (LUR) requires that the Preliminary Plan be submitted within 12 months after the date of approval of the Sketch Plan.

I have attached the Sketch Plan approval for your reference. To approve the extension the Board must find that "there has been no substantial change in circumstances of adjacent land uses, to the capability or willingness to serve of proposed service providers, or to the site of the proposed land use change since Sketch Plan approval."

There does not appear to have been any substantial change in the circumstances of adjacent land uses, there are no known changes relative to service providers and there has been no known change to the proposed Scarp Ridge, LLC site since Sketch Plan approval.

Section 7-202: Sketch Plan Review Process for Major Impact Projects:

O. SIGNIFICANCE OF SKETCH PLAN APPROVAL*. Approval of the Sketch Plan application shall constitute a final decision of approval for the general development concept only, but shall not constitute approval of any detailed design or engineering submittals or proposed solutions to specific problems revealed during the Sketch Plan review or later in the review process. Sketch Plan approval by the Board shall not constitute approval of the Major Impact project, or permission to proceed with construction of any aspect of the proposed land use change. Approval at this stage only authorizes the applicant to submit a Preliminary Plan application. If, during the Preliminary and Final Plan reviews, the applicant is unable to fulfill all of the requirements of this Resolution, then the application shall be denied at the Preliminary or Final Plan review stage.*

P. EXPIRATION. *The applicant shall be required to submit the Preliminary Plan application within 12 months after the date of approval of the Sketch Plan. Failure to submit a complete Preliminary Plan application within this time period shall render the Sketch Plan approval null and void, and require the applicant to begin the Sketch Plan review process again.*

Q. EXTENSION OF SUBMITTAL DEADLINE. *The Board may extend the deadline to submit a Preliminary Plan application for good cause shown, provided the applicant requests the extension in writing no less than 30 days before the deadline, and provided the Board makes a finding that there has been no substantial change in circumstances of adjacent land uses, to the capability or willingness to serve of proposed service providers, or to the site of the proposed land use change since Sketch Plan approval. Should the Board determine that such findings are not supportable, the review process shall be required to being anew with the submittal of a Sketch Plan.*

1. Referral to Planning Commission for Recommendation. *The Board may request a recommendation from the Planning Commission on the request for extension before taking action.*

2. Maximum Period of Extension. *In no case shall the deadline for submittal of a Preliminary Plan application be extended for more than 12 months beyond the date of the 12-month expiration, and only one extension may be granted.*

3. Fee For Request For Extension. *In order to compensate the County for the cost of reviewing and processing the requested extension, each applicant shall pay the required fee, as shown in a schedule of fees issued by the Community Development Department that is adopted and amended from time to time by the Board. The fee schedule is designed to make the amount of the fee proportional to the amount of expense likely to be incurred by the County in reviewing and processing the application.*

TO:	**Planning Commission**
SUBJECT:	**Minor Impact Decision** **Irwin Backcountry Guides, LLC** **LUC #2009-37**
PREPARED BY:	**Neal Starkebaum, Assistant Planning Director**
DATE:	**Planning Commission Meeting of November 20, 2009**
LANDOWNER:	**U.S. Forest Service** **U.S. Department of the Agriculture** **216 N. Colorado** **Gunnison, CO 81230** **Scarp Ridge, LLC** **221 N. Hogan St., Suite 403** **Jacksonville, FL 32202**
APPLICANT:	**Irwin Backcountry Guides, LLC** **221 N. Hogan St., Suite 403** **Jacksonville, FL 32202**
REPRESENTATIVE:	**David Leinsdorf** **P.O. Box 187** **Crested Butte, CO 81224**

At its regular meeting of November 20, 2009; Sam Lumb was seated and the Planning Commission unanimously approved the following Minor Impact Decision, as amended, moved by Richard Karas and seconded by Sam Lumb:

PROJECT SUMMARY:
The applicant, Irwin Backcountry Guides, LLC, as authorized by the private landowner Scarp Ridge, LLC and represented by David Leinsdorf, has submitted a land use change permit application to conduct commercially guided backcountry snowcat-assisted skiing operations on private and public lands above Lake Irwin, approximately 12 miles west of the Town of Crested Butte.

The operation will provide guide service for a maximum of 24 skiers per day with an annual maximum of 2,000 skier days, operating between December 1 and April 30, seven days a week. Initially, the applicant indicates the operation will service 12 clients per day. If an additional snowcat is obtained, the use will expand to 24 clients, per day. The “Movie Cabin”, so named due to its use as a movie set in several Disney movies in the mid 1970’s, is an existing, recently remodeled, 462-square foot cabin, and will be used as the base camp/warming hut for the operations. Other structures include the use of an existing 120-square foot equipment shed, an existing 2,000-square foot snowcat barn, for storage and maintenance of the snowcats and snowmobiles, and an existing 80 square foot building, used for the explosives cache. A temporary seasonal weather station will be installed near the top of Scarp Ridge for weather and avalanche forecasting, and will be removed at the end of each operating season.

Irwin Backcountry Guides personnel conducting the operation will include a Mountain Manager, responsible for the overall daily operations; a Snow Safety Director (Assistant Mountain Manager), responsible for daily supervision of the snow stability program, including avalanche mitigation; a Transportation Director, responsible for the transportation and snowcat operations; a Dispatcher, responsible for client/guide coordination; Ski Guides (typically two), responsible for client safety and client guiding; and two Snowcat Drivers.

The operation will use two snowcats. A rubber tracked snowcat will transport clients from the Town of Crested Butte to the Movie Cabin and return them to town at the end of the day. This snowcat will be housed overnight in town. The other snowcat will be used to transport clients from the Movie Cabin to the ski terrain. A total of 5.6 miles of 15 foot wide snowcat trails are identified within the permit area, for access corridors and for skier drop-off/pick-up.

The Forest Service has authorized the use of explosives within the permit area for snow stability testing and avalanche control. Irwin Backcountry Guides personnel will be licensed for the explosives work and perform all snow stability testing and avalanche control work.

The use is a day-only operation. No overnight accommodations are contemplated or allowed. Food and beverage service will be catered; no food preparation will occur at the Movie Cabin.

While this portion of the National Forest will be utilized by the commercial operation, the Forest Service notes that there are no closures of the permit area to the general public.

BACKGROUND/PREVIOUS LAND USE:
The previous owners of the Irwin Lodge property operated commercial snowcat backcountry skiing from 1986 – 2002, under a U.S. Forest Service Special Use Permit. The snowcat skiing operation activities were discontinued in 2002, when the Irwin Lodge was closed. The property was subsequently purchased by Scarp Ridge, LLC in 2007. No County Land Use Change Permit approval was applied for or granted for the operation of the previous Irwin Lodge commercial snowcat backcountry skiing activities. Review by County staff determined that the historic use of the Irwin Lodge snowcat skiing activities did not qualify as a legal, nonconforming use, pursuant to *Section 1-108: Nonconforming Uses, Gunnison County Land Use Resolution* because the land use was not legally established and that the commercial activities proposed by Irwin Backcountry Guides require a County Land Use Change Permit.

IMPACT CLASSIFICATION:
The “Movie Cabin” base camp is 462 square feet; total use of private land is less than five acres. The application is classified as a Minor Impact, for the following reasons: The use is reasonably expected to generate a minor demand for public services, including use of County roads and emergency services. The use is expected to create no more than a minor impact on the environment, or to any environmental resource in the area, as addressed by Division 5-200: Resource Protection Standards. The impacts of this proposed land use change are reasonably expected to be minor when considered in conjunction with existing or proposed land use changes in the area. The use is in the general area of Kebler Pass, an area that has intensive, existing private recreational and commercial snowmobiling use, and backcountry skiing use.

PERMIT AREA LOCATION:
The permit area is located approximately 12 miles west of the Town of Crested Butte, above and north of Lake Irwin and the Irwin Townsite. The permit area consists of approximately 1,051-acres on National Forest lands and 80-acres of private lands and ranges in elevation from 10,400 feet near Lake Irwin to over 12,000 feet on Scarp Ridge. The permit area boundaries

include Scarp Ridge to the north, Lake Irwin to the south, Barkmarker Basin to the east and Robinson Basin to the west. (See Exhibit A, Map of *Irwin Backcountry Guides Snowcat Ski Proposed Alternative*, attached to this document) The portion of the permit area, on public lands, contains 1,051-acres, within the Gunnison National Forest, and generally within Sections 22, 26, 27, 34, and 35, in Township 13 South, Range 87 West, 6th P.M.

The portion of the permit area, on private lands, contains approximately 80-acres and are legally described as being located on the "Aumiga #2703 mining claim, including 8 additional claims, all in the Ruby Mining District", as inholdings within the Gunnison National Forest, and generally within Sections 27, 33 and 34, in Township 13 South, Range 87 West, 6th P.M.

The following patented mining claims are owned by Scarp Ridge, LLC and are included in the subject property:
Crystal Lode MS #1156, 10.27-acres
Lead Chief MS #2731, 6.5-acres
Fourth of July MS #3467, 3.82-acres
Legal MS #4149, 10.05-acres
Double Dyke MS #5511, 5.91-acres
Silver Hill MS #2813, 10.33-acres
Capitol Lode MS #3466, 6.41-acres
Aumega MS #2703, 4.14-acres
Zumo Lode MS #2702, 10.33-acres
Clara MS #2801, 10.33-acres
Diquita MS #2786, .803-acres

Brookway Irwin LLC combined the following mining claims into one parcel, pursuant to a Lot Cluster Agreement and Declaration, Reception No. 542586, June 1, 2004, Gunnison County Clerk and Recorder: Clara MS #2801, Zumo Lode MS #2702, Fourth of July MS #3467, Capitol MS #3466 and Aumega MS #2801; 35.29-acres. Brookway Irwin, LLC was conveyed several small parcels of Forest Service land, under the Small Tracts Act, Reception Nos. 568229 and 568230, August 21, 2006, adding property to several of the claims. The Movie Cabin is located on the Lead Chief MS #2731 claim.

SURROUNDING LAND USES:
Surrounding uses include National Forest lands and other private patented mining claims. The northeast permit area boundary, following the top of Scarp Ridge, abuts the Ragged Wilderness Area.

FOREST SERVICE NOTICE OF DECISION AND FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND ENVRONMENTAL ASSESSMENT:
The U.S. Forest Service has approved a Special Use Permit for the Irwin Backcountry Guides, LLC snowcat skiing operations, consistent with the applicant's land use change permit application. A *Notice of Decision and Finding of No Significant Impact (FONSI)*, (*Decision Notice*) was issued on September 24, 2009, by Roy Mask, Acting District Ranger, Gunnison Ranger District and is part of the record of this Land Use Change Permit review. An Environmental Assessment (EA) for the Proposed Action, titled *Environmental Assessment – Irwin Backcountry Guides Snowcat Skiing and Hiking, Gunnison Ranger District, GMUG National Forest,* was completed in September 2009 and is part of the record of this Land Use Change Permit review.

The *Notice of Decision and Finding of No Significant Impact (FONSI)* identified a set of *Project*

Design Criteria, *(Pages 5 and 6*) which included the following:

1. "IBG will conduct all backcountry explosive slope stability testing as early in the day as practicable to minimize the chance of affecting other users.
2. IBG will make every practical effort to assure that their explosive stability testing will not endanger people using the area being tested. IBG will develop and submit for approval an operating plan that will adequately address the protocols associated with the use of explosives for stability testing. The operating plan will outline the steps that will be taken to ensure that all runout zones are clear before any explosive is detonated.
3. IBG will record the date, time, and location of all explosive duds and will find and destroy all explosive duds within reasonable time limits.
4. IBG will use as few explosives on National Forest System lands as practicable. Explosives will be used as the last resort for stability testing and mitigation.
5. IBG will be required to obtain written approval and/or a permit from private landowner(s) within the permit area whose property is utilized for operations. IBG must provide copies of these written approvals to the Forest Service before the operating plan is approved.
6. IBG will practice good backcountry ethics in the permit area and work to get along with all forest users.
7. IBG will notify the public of its operations by offering updated information via communication outlets such as telephone recording, web site listing, public radio announcements, print media, Crested Butte Avalanche Center, etc.
8. IBG will coordinate with Gunnison County on winter trailhead and county road access needs and concerns.
9. IBG will coordinate and collaborate with SnoTrackers Snowmobile Club and the two permitted snowmobile outfitters regarding grooming needs/requirements for Kebler Pass Road and Lake Irwin Campground Road.
10. IBG must comply with all other applicable federal, state, and local laws and regulations.
11. IBG will mitigate the hazards presented by any open mine shafts/pits within the permit area and address these in the operating plan.
12. IBG will assist the Forest Service with trail maintenance on those summer trails identified for commercial summer use.
13. If threatened, endangered, sensitive, or management indicator species are found within or adjacent to the permit area and if determined that they would be adversely affected by permitted activities (Canada lynx, American marten, pygmy shrew, northern leopard frog, boreal toad, and white-tailed ptarmigan), then the District wildlife biologist will be consulted and appropriate changes made to reduce impacts to the occupied habitat and population. Appropriate changes could include establishing a non-use area around occupied habitat to avoid impacts.
14. All heavy equipment (including snowcats) brought into the project area from other areas (including Crested Butte and Mt Crested Butte) will be steam-cleaned to avoid the spread of noxious weed seeds. Surveys for noxious weeds in the project area should be completed every year. Noxious weeds that invade the project area during or after project implementation will be treated by the operator.
15. Snowcat grousers will maintain at least a 4 inch clearance above the ground level to avoid soil disturbance in the early winter and spring. Any areas of soil that may be exposed during explosive device detonation or snowcat use will be revegetated with local native seed specified by the Gunnison Ranger District Botanist or Range Management Specialist.
16. If the action is modified in a manner that causes effects not considered, or if new information becomes available that reveals that the action may impact endangered, threatened, proposed, or sensitive species that in a manner or to an extent not previously considered, a new or revised Biological Evaluation will be required.

17. Plant surveys for trails on Purple, Owen and Ruby Peaks will be conducted prior to commercial use activities.
18. Motorized winter use activities (snowcat and snowmobile) should minimize or avoid whenever possible riparian areas and wetlands. Snowcats will avoid travel across wetlands unless protected by at least 1 foot of packed snow or 2 inches of frozen soil.
19. Snowmobiles and snowcats will minimize impacts to alpine willow and Krumholtz vegetation by avoiding areas where these vegetation types are exposed above the snow.
20. If undocumented historic and/or prehistoric properties are located in the permit area on NFS lands IBG will immediately notify the Forest Service District Archaeologist."

ACCESS/TRAFFIC:
Access from the permit area is via a private road, over a Forest Service road easement, recorded at Reception No. 501365, April 28, 2000, in the Gunnison County Clerk and Recorder. This is identified as a 30-year-Forest Road Easement, dated April 26th, 2000, for approximately 3.5 miles in length and 60 feet in width, 30 feet on each side of the centerline over and across the Irwin Lodge Road; over Forest Development Road No. 826.1C, Green Lake Road; from the intersection with Forest Road No. 826.1E above Lake Irwin; over Forest Road No. 826 to County Road 12 (Kebler Pass). No access is allowed over Lake Irwin or through the Irwin Townsite.

The operation will use two snowcats. One snowcat, which uses rubber tracks, will transport clients from the Town of Crested Butte to the Movie Cabin and return them to town, at the end of the day. This snowcat will be housed overnight in town. The other snowcat will be used to transport clients from the Movie Cabin to the ski terrain. A total of 5.6 miles of snowcat trails are identified within the permit area, for access corridors, for skier drop-off/pick-up. The groomed trails are typically 15 feet wide, allowing for snowcat and snowmobile travel.

The Town of Crested Butte has authorized the use of snowcats on Town streets. Town Council Ordinance No. 13, Series 2009, *An Ordinance Amending The Model Traffic Code To Permit The Use Of Snowcats On Public Streets And Highways Where Certain Conditions Are Met*, was approved by the Town Council of Crested Butte, November 2, 2009.

County Road 12 (Kebler Pass) is closed during the winter months and County snowplowing ends at the Kebler Pass trailhead. The applicant has requested the use of County Road 12 for snowcat travel, from the Kebler Pass trailhead to the Town of Crested Butte. The snowcat utilizes rubber treads, allowing passage over plowed roads. A permit for the use of the snowcat on County Road 12 (Kebler Pass), between the Kebler Pass trailhead and the Town of Crested Butte, will be reviewed under a separate process, and require approval from the Board of County Commissioners. No snowplowing of County Road 12 (Kebler Pass), beyond the current terminus of County snowplowing, is contemplated or requested.

County Public Works Comments: The application was reviewed by the Gunnison County Public Works Department. Comments were received from Marlene Crosby, Director, Gunnison County Public Works, in an email of November 5, 2009, in which she notes:

"The Gunnison County Public Works Department has reviewed the application submitted by the Irwin Back Country Guides. Our concerns are relative to traffic on Kebler Pass Road and parking at the trail head. I believe the Planning Commission has a copy of the letter sent to IBCG regarding the use of the snowcat on the plowed portion of Kebler between Town and the trail head. It is worth noting that if they receive all of the necessary approvals and the Public Works Department submits a Resolution to the Board of County

Commissioners to allow the use of snowcats on the road, Public Works will recommend that it be limited to snowcats. Snowmobiles would be excluded from use of the plowed portion of the road. As the letter indicates if there is damage to the road surface, or there is a problem with traffic use may be discontinued.

For many years parking has been a huge issue at the Kebler trail head. An additional trail head was developed a number of years ago to meet the demand. The areas are used by companies having Forest Service permits, Irwin residents and the public. Snowcats and snowmobiles are not allowed to park in plowed areas. Our goal in supporting snowcat use on Kebler by IBCG's is to discourage parking at the trailhead by their staff or customers."

WILDLIFE:
The permit area is within sensitive wildlife habitat, and contains habitat for several wildlife species, particularly Canada Lynx, which is identified under the Endangered Species Act as a threatened wildlife species.

Colorado Division of Wildlife Comments:
Comments were received from J Wenum, Area Wildlife Manager, Colorado Division of Wildlife, in a letter dated October 14, 2009. Several concerns were raised regarding potential impacts to wildlife, however he notes:

"These concerns have been addressed in the U.S. Forest Services Decision Notice by a reduction of permitted acres from 2,003 acres to 1,051 acres, reducing user days, and a decrease in Sno-cat trails from 11.5 miles to 5.6."

FIRE PROTECTION:
The majority of the permit area is located within the Gunnison Fire Protection District. However, due to the location, the Crested Butte Fire Protection District would be the first-responder agency, under the Districts' mutual-aid agreement. Request for comments were sent to both Fire Districts. No comments were received from the Gunnison Fire Protection District.

Crested Butte Fire Protection District Comments:
Comments were received from Scott Wimmer, Fire Inspector and Ric Ems, Fire Chief/Fire Marshal, Crested Butte Fire Protection District, in a letter dated October 28, 2009:

"After reviewing the proposal we have the following comments and recommendations:

1. Please copy both our Districts with their annual plan regarding the storage and use of explosives.
2. We would suggest installing a smoke, carbon monoxide and lower explosive limit detector in the movie cabin connected to an exterior horn & strobe.
3. We would suggest installing a 10lb ABC multipurpose fire extinguisher.
4. We would suggest having the proponent submit a propane tank and service line agreement form to be kept on file at the fire district offices.
5. We would suggest having the proponent complete a wildland fire mitigation plan to include any appropriate wildland fire mitigation."

WATER/WASTEWATER:
No onsite water supply is contemplated or required for the operation; potable water will be transported for consumption via snowcat. Blackwater disposal for the 2009-2010 season will accommodated by use of a porta-potty, transported by snowcat, to the Town of Crested Butte, for disposal, as necessary. Gunnison County Waste Disposal Permit No. 09-40 was issued October 29, 2009 for a grey-water disposal system. Future installation of a blackwater septic system will provide for onsite wastewater disposal and will comply with current County *Individual Sewage*

Disposal System Regulations.

Environmental Health Office Comments:
Comments were received from Richard Stenson, Environmental Health Official, in a memo dated October 30, 2009. He notes the following:

"1. **FEASIBILITY.** When installed and given final approval by the County, it is feasible that the ISDS for the Movie Cabin could adequately provide sanitary wastewater facilities for twelve guests and the crew of four for the 2009-2010 snow seasons.

2. **RECOMMENDATIONS FOR LAND USE APPROVAL.** It is recommended that wastewater, including gray water, that may be transported from the "Movie Cabin" be accounted for with hauling and discharge information that is available to the Gunnison County Environmental Health Official, and to the Town of Crested Butte."

EXPLOSIVES:
The applicant proposed to use explosives on public lands for avalanche control for the snowcat skiing operations. An explosives cache and make-up shed is located on private land. All explosives are regulated by the Colorado Department of Labor and Employment and the Department of the Treasury, Bureau of Alcohol, Tobacco, Firearms and Explosives.

The Forest Service has authorized the use of explosives for snow stability testing and avalanche control.

U.S. Forest Service - *Notice of Decision and Finding of No Significant Impact (FONSI)*, Page 2:
"My decision authorizes the use of explosives in the permit area for slope stability testing and avalanche mitigation activities."

U.S. Forest Service - *Environmental Assessment, Page 28:*

"With steep, avalanche-prone terrain in the proposed permit area (slopes up to 40 degrees); the use of explosives for Irwin Backcountry Guides (IBG) is paramount for a safe and successful program. Avalanches are the primary threat to the safety of winter, backcountry recreationists in Colorado's mountains. Snow safety science, reflected in avalanche forecasting, avalanche control, slope stability testing and avalanche rescue, is highly evolved. It allows those who take advantage of it to practice winter, backcountry recreation relatively safely."

"IBG would use explosives as a tool to mitigate avalanche exposure, evaluate the snow pack and assess slope stability. This would be very similar to a ski area explosives program that works to eliminate the potential for "in bound" avalanches. The use of explosives for testing the snow pack would be used on a limited basis and would greatly help IBG verify stability assessments."

"The primary areas where explosives use would be required include the west-facing slopes of Robinson Basin (aka "Westwall"), south-facing Barkmarker, and east-facing Barkmarker Basin. IBG plans on the minimal use of explosives as one of their many forecasting and mitigation tools. As licensed blasters by the State of Colorado, IBG personnel will be required to follow regulations for explosive applications, purchase and storage requirements in the Colorado Department of Labor and Employment Explosives Regulations and comply with Federal Law and Regulations set forth by the Department of the Treasury, Bureau of Alcohol, Tobacco, Firearms and Explosives."

PLANS/REPORTS/SUBMITTALS:
Plans, reports, and other submittal documents informing this Decision include, but are not limited to:

- Land Use Change Application, LUC No. 2009-37, including maps and exhibits.
- Additional submittal documents, under cover letter from David Leinsdorf, dated October 23, 2009.
- *Map of Irwin Backcountry Guides Permit Area*, U.S. Forest Service Document, titled *Irwin Backcountry Guides Snowcat Ski Proposed Alternative* (Exhibit A)
- U.S. Forest Service - *Decision Notice and Finding of No Significant Impact (FONSI)*, dated September 24, 2009.
- U.S. Forest Service - *Environmental Assessment – Irwin Backcountry Guides Snowcat Skiing and Hiking, Gunnison Ranger District, GMUG National Forest, September 2009*.

This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

APPLICABLE SECTIONS OF THE *GUNNISON COUNTY LAND USE RESOLUTION:*

Section 9-102: Home Occupations.
Not applicable. None proposed.

Section 9-103: Bed And Breakfast.
Not applicable. None proposed.

Division 9-300: Commercial and Industrial Uses
Section 9-301. D.: General Standards.

1. ***Non-Residential Accessory Uses*.**
   The Movie Cabin will provide a base camp/warming hut for the operations. The operation also includes the use of an existing snowcat barn, for storage and maintenance of the snowcats and snowmobiles, and an existing building, used for the explosives cache. A temporary weather station will be installed near the top of Scarp Ridge, for weather and avalanche forecasting, which will be removed at the end of each operating season.

2. ***Food Service Requirements.***
   Not applicable. All food and beverages will be transported to the site.

3. ***Electrical Disturbances.***
   Not applicable. The operation will not involve the use of any electromagnetic radiation.

4. ***Fire And Explosive Hazards*.**
   As licensed by the State of Colorado, Irwin Backcountry Guides personnel will be required to follow regulations for explosive applications, purchase and storage requirements in the Colorado Department of Labor and Employment Explosives Regulations and comply with Federal Law and Regulations set forth by the Department of the Treasury, Bureau of Alcohol, Tobacco, Firearms and Explosives.

5. ***Glare And Heat.***
Not applicable. The proposed operation will not create any intense glare or heat.

6. ***Exterior Lighting.***
No overnight use is contemplated in the application. All exterior lighting fixtures are required to be fully shielded.

7. ***Odors.***
Not applicable. The operation will not cause any detectable or unreasonable odors.

8. ***Radioactivity.***
Not applicable. The operation does not involve the use of any radioactive materials.

9. ***Vibration.***
Not applicable. The operation will not create a perceptible vibration to a person without instruments at any point along the property boundaries.

10. ***Noise.***
The operation will use two snowcats and snowmobiles. Internal combustion engines create sound when operating.

The applicants have provided information that indicates that they will not exceed the maximum permissible noise levels for commercial or industrial uses.

U.S. Forest Service - *Environmental Assessment, Page 10:*
"The use of snowcats would create noise on the slopes of Scarp Ridge and Barkmarker basin. Whether the vehicle noise from the snowcats could be heard by winter residents in the area is not known, but the interior noise levels would be very low due to the distance between the snowcat trails and the residence areas. Snowcat and snowmobile travel on the access road from the Kebler Pass winter parking trailhead to the Scarp Ridge facilities would generate noise. There would also be other individual snowmobile riders using this same route through most of the winter season. Noise impacts from snowcat use associated with the Proposed Action are considered to be minor even in the context of this rural and forested setting and may not be able to be detected over existing background noise levels associated with private snowmobile use in the area."

"Noise generated by the use of explosives to trigger avalanches would be heard by local residents and other winter users. The use of explosives would be infrequent over the course of the winter operating season. Such noise, while uncommon for a rural or remote setting, is not new to the area. Past snowcat skiing operations used explosives. The impacts to local residents and other users could be deemed adverse and would most likely be annoying to some. These noise impacts would be irregular and infrequent over the course of the winter season. Many residents would be inside and may not even notice the use of explosives buried in snow at distances of a mile or more away. Noise impacts, while somewhat subjective, are considered to be minor and are expected to have little effect on humans residing or using the area."

Section 10-102: Locational Standards For Residential Development.

Not applicable. No residences are proposed in this application.

Section 10-103: Residential Density.
Not applicable. No residences are proposed in this application.

Section 10-104: Locational Standards For Commercial, Industrial And Other Non-Residential Development.
The Primary Locational Standard does not apply, as the proposed project is not located adjacent to a municipality or within a municipal three-mile plan area. Regarding the Alternative Locational Standards, the following standards apply:

1. ***Locational Considerations.***
   a. ***Necessary Location.***
      The location is necessary due to the specific circumstances including the unique location of accessible, skiable terrain, proximity to private land providing support services for the operation, and the needed amounts of frozen precipitation necessary to conduct the backcountry skiing activity; or

   c. **Location Well-Suited to Specific Use.**
      Because the use involves backcountry skiing the location is well-suited to the specific use. The Kebler Pass area receives in excess of 400 inches of snow annually, as compared to the Crested Butte Ski Area, which receives between 250-300 inches annually. The topography within the permit area contains steep slopes and gladed vegetative area, which when combined with snow cover, provides intermediate to expert ski runs: or

   d. **Need or Use is Well-Suited in a Particular Area.**
      This area has historically been used for commercial operations and has also received substantial private use for skiing. backcountry skiing and private and commercial snowmobling. The USFS estimates 8,000 snowmobiles operate in or near the permit area each winter. A substantial number of which are engaging in backcountry access for skiing and snowboarding; or

2. **Compatible with Existing Uses Established in Impact Area.**
   The U.S. Forest Service estimates 8,000 snowmobiles operate in or near the permit area each winter. A substantial number of which are engaging in backcountry access for skiing and snowboarding

3. **No Significant Net Adverse Effect.**
   The U.S. Forest Service has issued A *Notice of Decision and Finding of No Significant Impact (FONSI)*. The Kebler Pass area is already heavily used for snowmobiling access, this use will not significantly change patterns of use in the area, consequently there will be no significant net adverse effect.

Section 11-102: Voluntary Best Management Practices.
Voluntary, applicable.

Section 11-103: Development In Areas Subject To Flood Hazards.
Not applicable. This site is not located within the floodplain, according to County mapping.

Section 11-104: Development In Areas Subject To Geologic Hazards.

The permit area is within a known avalanche hazard area, on portions of the public lands.
U.S. Forest Service - *Environmental Assessment, Pages 9 and 10*:

> "To provide for a safer skiing and boarding environment within the permit area, IBG would follow a pre-approved avalanche mitigation plan. An Avalanche Mitigation Plan (or "Snow Safety Plan") will be part of the annual Operating Plan which is required by the Forest Service special-use permit. The snow safety plan will include information on snow pack stability evaluation, avalanche hazard mitigation, wet snow avalanches, guide and ski operations, and public and private safety measures. As proposed, avalanche mitigation techniques will include terrain avoidance, ski and boot packing, skier traffic and compaction, and explosives use. All use and storage of explosives would strictly adhere to local, state and federal regulations. IBG is permitted by both the state of Colorado and the Federal Government to purchase, store, and handle explosives. The proposed Avalauncher and associated snowcat trail has been eliminated; rather the IBG team will control upper Robinson Basin areas (when necessary) with hand charges similar to the method utilized by the former permittee over a 15-year period. The primary areas where explosives use would be required include west-facing slopes of Robinson Basin, south-facing and east-facing Barkmarker Basin slopes."
>
> "No public closures of the permit area would be implemented during avalanche mitigation efforts with the exception of IBG-managed private lands that may be roped off or posted as closed. All use of explosives would strictly follow both state and federal guidelines and regulations. IBG would post safety signs in several locations around the permit area and during avalanche mitigation work would post lookouts to ensure that the public is well informed of avalanche mitigation activities taking place. Additionally, information about the snowcat skiing operation, snow safety, and the mapped permit boundaries would be communicated at the Kebler Pass Trailhead, in local newspapers and magazines, on the radio, at the Kebler "Y", and throughout the permitted area. IBG would also communicate their operations and snow safety program with local snowmobile tour and rental companies, Irwin Townsite residents, other affected parties, and with the Crested Butte Avalanche Center to inform and educate backcountry users. This is similar to the successful operations that took place during the 15 years of guided snowcat skiing and avalanche mitigation work in this area."
>
> "The applicant proposes to install a weather station near the ridgeline on Scarp Ridge (Figure 2) to measure and record weather-related information needed to more accurately forecast and define avalanche mitigation needs for the special-use permit area. The station would be put in by hand using basic hand tools and have a 2' by 2' base where the tower poles are secured to the ground by metal posts. The tower would be a 10-12 foot metal structure with guy wires and small enclosure for monitoring instruments and recorders. Data would be collected, recorded then downloaded by a technician visiting the station or via radio to a base receiver. The exact location of the station would be determined by the Forest Service and the applicant so as to minimize visual intrusions along the ridgeline. The tower would be taken down at the end of the operating season (April) to avoid any visual disturbance in the summer months. Additionally, the station would be painted with a non-reflective, earth-tone color approved by the Forest Service."

The applicant will conduct snow stabililty testing using explosives, to mitigate the avalanche hazards, subject to conditions noted in the *Project Design Criteria*, identiifed in the Forest Service *Decision Notice*. Requirements are defined within the *Project Design Criteria.*

***Section 11-105: Development In Areas Subject To Wildfire Hazards*.**

This permit area is located within areas subject to low wildfire hazards, as indicated by County mapping. Potential for wildfire during the winter months is minimal, or non-existent.

Section 11-106: Protection Of Wildlife Habitat Areas.

The permit area is within sensitive wildlife habitat, particularly Canada Lynx occupied habitat.

U.S. Forest Service - *Environmental Assessment, Pages 33 - 39*:

> "Irwin Backcountry Guides contracted with Monarch & Associates to conduct habitat and wildlife surveys of the proposed permit area. Monarch & Associates conducted three winter wildlife surveys in 2009. Random snow-tracking transects were implemented throughout the proposed permit area. Animal tracks were recorded to document species presence. Monarch & Associates also compiled data on the presence of suitable habitat for threatened, endangered, sensitive, and management indicator species. Monarch & Associates prepared a report on their findings, which is available in the project record at the Gunnison Ranger District office. Information from the report was used in this analysis."
>
> "The Gunnison Ranger District wildlife biologist visited the proposed permit area on July 21 and July 24, 2009. The field visits included Scarp Ridge, Robinson Basin, Barkmarker Basin, Independence Basin, and the proposed snowcat routes within these areas. Suitable white-tailed ptarmigan and American pika habitat was identified on Scarp Ridge and in Barkmarker, Independence, and Robinson Basins. Ptarmigan habitat consists of barren ground willow and krumholtz vegetation at and above treeline, which provides thermal cover and food resources for ptarmigan. Ptarmigan occupancy of these areas was confirmed based on scat observations. American pika habitat consists of talus fields in association with alpine or subalpine meadows above and around treeline. Pika occupancy was confirmed based on visual observations and acoustic detections. Suitable habitat for lynx, American marten, pygmy shrew, boreal owl, and American three-toed woodpecker was also confirmed within the proposed permit area. Due to the surveys conducted by Monarch & Associates, the modified action alternatives based on public and agency concerns, and the anticipated effects of the action alternatives, additional field review was determined unnecessary prior to the completion of this analysis."
>
> "The lynx is a rare and elusive animal that uses large remote interior tracts of subalpine coniferous forest (generally from 8,000 feet in elevation up to treeline) with little human intrusion. Lynx habitat consists primarily of two very different forest types: early successional forests that contain relatively high numbers of prey for foraging, and late successional forests for denning and cover for kittens."
>
> "The Colorado Lynx Project Decision Screens, screen 2, states that special use authorizations for winter use that meets the no-net increase in snow compaction standard are **not likely to adversely affect** the Canada lynx. The action alternatives meet the no-net increase standard because the proposed permit area is located within an existing snow compaction area. The proposed permit area is located within an area that was delineated as a snow compaction area by the Gunnison Ranger District wildlife biologist in March 2004 in a letter submitted to the U.S. Fish and Wildlife Service regarding permitting winter activities within the area. On May 4, 2004, the U.S. Fish and Wildlife Service submitted a concurrence letter to the Gunnison Ranger District, agreeing that permitted over the snow activities within this area did not represent an increase in the snow compaction baseline for the Gunnison Ranger District. Over the snow activities, including snowcat skiing, cross-country skiing, and snowmobiling have occurred in this area both under a special use permit previously authorized by the Forest Service from 1988 to 2006 and by the general public as allowed under the District's travel management rules. IBG's current proposal

would occur within the same area but at a lesser scope and smaller scale then what was previously authorized from 1988 to 2006. As such, no net increase in snow compaction will occur."

"No other direct, indirect or cumulative effects are anticipated. The proposed activities are **not likely to jeopardize the continued existence of the Canada lynx**."

Please refer to comments from J Wenum, Area Wildlife Manager, Colorado Division of Wildlife, in a letter dated October 14, 2009, referenced under Wildlife.

***Section 11-107: Protection Of Water Quality*.**

The permit area contains one identified wetland area that a snowcat trail would traverse.

U.S. Forest Service - *Environmental Assessment, Pages 51, 53-54*:

"Based on maps provided by IBG, it appears that a snowcat trail would travel, over-snow across one of the identified wetland areas. The depth of snow would most likely range for at least one foot of depth to as much as 4 to 5 feet of snow."

"The Proposed Action would allow for snowcat travel, over-snow, during the winter. Under the proposal backcountry skiers would ski or snowboard over-snow on most of the lands within the special use permit area. There would be compaction of snow on the approximately 5.6 miles of snowcat trail. This would potentially subject about 12 acres of land to the impacts of snowcat compaction. The majority of the snowcat trail routes were used previously (1986 to 2002) by snowcats for the same purpose as the Proposed Action. There is no on-the-ground evidence of watershed level impacts associated with past snow compaction caused by snowcats. Because of the track width and vehicle weight, the snowcats will run on top of the snow and not generally "cut" through the snow. Based on snowmobile specifications, these over-snow vehicles would have pressure rating in pounds per square inch (lb/in2) in the range of 1.0 to 1.5 lb/in2 which at the upper ratings the same as an all-terrain vehicle (ACSA, 2009). Skiers and snowboards will cause some snow compaction, but would not be concentrated on single runs or locations. Such use by skiers would be similar to the situation that occurs under no action, but it is expected that there would be more skiers per winter season but such increased use would not measurably change the amount of snow compaction in the watershed of the special-use permit."

"Snow compaction effects snow density and hardness, thermal conductivity, soil temperatures, and spring thaw (Fahey and Wardle, 1998). The greatest increase in snow compaction occurs in the initial pass of the over snow vehicle (Keddy et al., 1979). As snow density and hardness increases it has implications on thermal conductivity that can affect the spring thaw rates. While snow compaction will occur under the Proposed Action from the special-use operator's vehicles, it would also occur from other private snowmobile use; the area affected by compaction must be compared to the overall watershed area to provide context for the level of impact."

"The Proposed Action would potentially result in snow compaction on about 10 to 12 acres. The area of watershed in the special-use permit area is approximately 1,051 acres; this is a small upper portion of the 10,900 acre Anthracite Creek watershed. The context of the snow compaction impacts are about 1% of the upper sub-watershed covered by special-use permit and less than 0.01% of the entire 6th level Anthracite Creek HUC watershed. While there are snow compaction impacts, they are very minor in the context of upper watershed condition and function and essentially non-existent at the large watershed scale and should have little measurable effect on spring snow melt or watershed condition."

Section 11-108: Standards For Development On Ridgelines.
Not applicable. This site is not located on a ridgeline.

Section 11-109: Development That Affects Agricultural Lands.
Not applicable. No agricultural lands are adjacent to or are affected by this proposed development.

Section 11-110: Development Of Land Beyond Snowplowed Access.
The permit area is located beyond snowplowed access; however, as this is a winter-only, over-the-snow use, there is no conflict with the standard and there is no request to snowplow any portion of the access roads.

Section 11-111: Development On Inholdings In The National Wilderness.
Not applicable. The site is not located on a National Wilderness inholding.

Section 11-112: Development On Property Above Timberline.
Portions of the permit area are located above timberline, however, no development, other than the installation of a seasonal weather station, is requested.

Section 12-103: Road System.
Clients will be picked up in Crested Butte, by snowcat, and transported to the Movie Cabin/permit area and returned, via snowcat.

Access from the Movie Cabin is via a private road, over a Forest Service road easement, recorded at Reception No. 501365, April 28, 2000 in the Gunnison County Clerk and Recorder (under Forest Service jurisdiction, identified as a 30-year, Forest Service Forest Road Easement, dated April 26th, 2000, for approximately 3.5 miles in length and 60 feet in width, 30 feet on each side of the centerline over and across the Irwin Lodge Road, Forest Development Road No. 826.1C, Green Lake Road, from the intersection with Forest Road No. 826.1E above Lake Irwin, over Forest Road No. 826 to County Road No. 12 (Kebler Pass).

County Road 12 (Kebler Pass) is closed to cars and trucks during the winter months and County snowplowing ends at the Kebler Pass trailhead. The applicant has requested the use of County Road 12 for snowcat travel, from the Kebler Pass trailhead, to the Town of Crested Butte. The Tucker snowcat utilizes rubber treads, allowing passage over plowed roads.

The Town of Crested Butte has authorized the use of the snowcat on town streets; Town Council Ordinance No. 13, Series 2009, *An Ordinance Amending The Model Traffic Code To Permit The Use Of Snowcats On Public Streets And Highways Where Certain Conditions Are Met*, approved by the Town Council of Crested Butte, adopted November 2, 2009.

The Forest Service Special Use Permit does not allow snowcat travel over Lake Irwin or through the Irwin Townsite.

A permit for the use of the snowcat on County Road 12 (Kebler Pass), between the Kebler Pass trailhead and the Town of Crested Butte, will be reviewed under a separate process, and require approval from the Board of County Commissioners. No snowplowing of County Road 12 (Kebler Pass), beyond the current terminus of County snowplowing, is contemplated or requested. Please refer to comments from Marlene Crosby, Director, Gunnison County Public Works, in an email of November 5, 2009, referenced under Access/Traffic.

Section 12-104: Trails.
Not applicable. No public trails are proposed with this application.

Section 12-105: Water Supply.
Not applicable. No onsite water supply is contemplated or required for the operation; potable water and all food and beverages will be transported via snowcat.

Section 12-106: Sewage Disposal/Wastewater Treatment.
Gunnison County Waste Disposal Permit No. 09-40 was issued October 29, 2009 for a grey-water disposal system. Blackwater disposal for the 2009-2010 season will accommodated by use of a porta-potty. Future installation of a blackwater septic system will provide for onsite wastewater disposal and will comply with current County *Individual Sewage Disposal System Regulations*. Please refer to comments received from Richard Stenson, Environmental Health Official, in a memo dated October 30, 2009, referenced under Water/Wastewater.

Section 12-107: Fire Protection.
The majority of the permit area is located within the Gunnison Fire Protection District. However, due to the location, the Crested Butte Fire Protection District would be the first-responder agency, under the Districts' mutual-aid agreement. Request for comments were sent to both districts. Comments were received from the Crested Butte Fire Protection District. Please refer to comments from Scott Wimmer, Fire Inspector and Ric Ems, Fire Chief/Fire Marshal, Crested Butte Fire Protection District, in a letter dated October 28, 2009, referenced under Fire Protection.

Section 13-103: General Site Plan Standards And Lot Measurements.
The site plan for this proposed development meets the site plan criteria of this section.

Section 13-104: Setbacks From Property Lines And Road Rights-Of-Way.
The existing buildings conform with all setback requirements.

***Section 13-105: Residential Building Sizes And Lot Coverages*.**
Not applicable. No buildings are requested in this application.

Section 13-106: Energy And Resource Conservation.
Not applicable. No buildings are requested in this application.

Section 13-107: Installation Of Solid-Fuel-Burning Devices.
Not applicable. No buildings are requested in this application.

Section 13-108: Open Space And Recreation Areas.
Not Applicable. Not a requirement of a Minor Impact project.

Section 13-109: Signs.
Not applicable. No signage is requested for this use.

Section 13-110: Off-Road Parking And Loading.
Not applicable. No off-road parking is required.

Section 13-111: Landscaping And Buffering.

Not applicable. No landscaping or buffering is required.

Section 13-112: Snow Storage.
Not applicable. No storage is required.

Section 13-113: Fencing.
Not applicable. No fencing is contemplated or required.

Section 13-114: Exterior Lighting.
Any use of exterior lighting shall be fully shielded and comply with this section.

Section 13-115: Reclamation And Noxious Weed Control.
Not applicable. No reclamation is required.

Section 13-116: Grading And Erosion Control.
Not applicable. No disturbance is proposed in the application.

Section 13-117: Drainage, Construction And Post-Construction Storm Water Runoff.
Not applicable.

Section 13-118: Water Impoundments.
Not applicable. No water impoundments are requesting in this application.

Section 13-119: Standards To Ensure Compatible Uses.
The Kebler Pass area is a mixed recreational use area, including backcountry snowshoeing, crosscountry skiing, private snowmobiling, as well as two U. S. Forest Service commercial snowmobiling permittees. In addition, there are several winter residents in the Irwin Townsite, that utilize snowmobiles to commute from Crested Butte to their residences. The U.S. Forest Service *Environmental Assessment* identifies the land use management applications used by the Forest Service in the Kebler Pass area. The *Notice of Decision and Finding of No Significant Impact (FONSI)* identifies the historical context of mixed uses in the Kebler Pass area and the lack of previous conflict between users in the area and the operators of the previous snowcat skiing operation. Irwin Backcountry Guides are required to apply backcountry ethics to prevent conflicts and operate in a safe and professional manner.

U.S. Forest Service - *Environmental Assessment, Pages 51, 53-54*:

> "The 1995 Decision Notice for "Dispersed Winter Recreation in the Crested Butte Area" allows commercial snowcat skiing in the "Irwin" winter travel management area. The management emphasis for the Irwin winter travel management area is on motorized recreational use. GMUG winter travel management also allows for snowmobile and snowcat use on and off routes in this area.
>
> The management emphasis for the "Kebler East" winter travel management area (NFS lands east of Kebler Pass) is on snowmobile recreational use. Pursuant to a Special Order issued in 1999, the Kebler East area is closed to dogsled and snowcat use on and off of designated Forest Service roads and trails <u>except on county roads</u>. Exemptions to this special order also apply to those with permits from the Forest Service specifically authorizing such activities."

U.S. Forest Service - *Notice of Decision and Finding of No Significant Impact (FONSI)*, Page 4:

"The former 15-year snowcat skiing operation had few issues with user conflicts in the permit area which then was over twice as large as the permit area now being proposed. I expect there will be some level of user conflict for the first few seasons until IBG can properly inform and educate the public about their operations. Fortunately, the opportunities for snowmobiling and backcountry skiing/riding are not restricted to Scarp Ridge and are plentiful throughout the Kebler Pass area and beyond. Information will be available to all backcountry visitors to help them make informed decisions and avoid conflicts. When conflicts arise by parties who are operating under a permit, the standard to which they are held is higher than the standard applied to users in general, because a permit is a privilege that carries corresponding responsibilities for safe and professional conduct. I have taken these concerns into account in my decision. The IBG permit will include a number of conditions directed at elements of safety and backcountry ethics.

By controlling their private land boundaries and working to educate, inform and get along with all users, IBG should be able to minimize user conflicts and safety issues."

PLANNING COMMISSION MEETING DATES:
The Planning Commission held meetings on the subject project on the following dates:

- October 16, 2009 – Work session
- October 23, 2009 – Site Visit
- November 6, 2009 – Public Hearing
- November 20, 2009 – Public Hearing/Work Session

SITE VISIT:
The Planning Commission conducted a site visit on October 23, 2009. The Commission viewed the permit area, the Movie Cabin, the snowcat barn, the explosives cache and the surrounding neighborhood.

PUBLIC HEARING:
The Planning Commission conducted a public hearing November 6, 2009, continued to November 20, 2009. At the November 6, 2009 hearing several residents spoke regarding the project:

- Wes Bailey, property owner of several mining claims within the permit area, stated that he has leased his land to Irwin Backcountry Guides for access and use, and that he supports the application.
- Jerome Boulay, winter resident, stated that this operation will be beneficial for the Town of Crested Butte.
- Ted Colvin, representing the Floresta landowners, stated that they support the application and that it will benefit the County and the Town of Crested Butte.

No written public comments were received. All testimony is hereby incorporated as part of this record of review and evaluation.

PLANNING COMMISSION FINDINGS:
The Commission finds that:

1. This Permit is limited to activities described within the "Project Summary" of this application, and as depicted in the narrative and on the exhibits and plans as submitted. Expansion or change of this use will require either an application for amendment of this Permit, or submittal of an application for a new permit, in compliance with applicable requirements of

the *Gunnison County Land Use Resolution.*

2. The "Movie Cabin" base camp is 462 square feet; total use of private land is less than five acres. The application is classified as a Minor Impact, for the following reasons:.
    a. The use is reasonably expected to generate a minor demand for public services, including use of County roads and emergency services.
    b. The use is expected to create no more than a minor impact on the environment, or to any environmental resource in the area, as addressed by *Division 5-200: Resource Protection Standards.*
    c. The impacts of this proposed land use change are reasonably expected to be minor when considered in conjunction with existing or proposed land use changes in the area. The use is in the general area of Kebler Pass, that has extensive, existing private recreational and commercial snowmobiling use, and backcountry skiing use.

3. The U. S. Forest Service conducted an environmental assessment, titled *Environmental Assessment – Irwin Backcountry Guides Snowcat Skiing and Hiking, Gunnison Ranger District, GMUG National Forest, September 2009.* The Environmental Assessment has been considered in the review of this application.

4. The U.S. Forest Service issued a *Notice of Decision and Finding of No Significant Impact (FONSI)*, dated September 24, 2009. The Decision Notice has been considered in the review of this application.

5. The Town of Crested Butte has authorized the use of snowcats on the Town streets. Town Council Ordinance No. 13, Series 2009, *An Ordinance Amending The Model Traffic Code To Permit The Use Of Snowcats On Public Streets And Highways Where Certain Conditions Are Met*, was approved by the Town Council of Crested Butte, November 2, 2009.

6. The owners of the Irwin Lodge property operated commercial snowcat backcountry skiing tours from 1986 - 2002. The snowcat skiing operation and summer guiding activities were discontinued in 2002, when the Irwin Lodge was closed. The property was subsequently purchased by Scarp Ridge, LLC in 2007. No previous County Land Use Change Permit approval was applied for or granted for the operation of the Irwin Lodge commercial snowcat assisted backcountry skiing and summer guided hiking tours. The historic use of the Irwin Lodge snowcat skiing tours does not qualify as a legal, nonconforming use, pursuant to *Section 1-108: Nonconforming Uses, Gunnison County Land Use Resolution* and the commercial activities proposed by Irwin Backcountry Guides require a County land use change permit.

7. There will be no significant net adverse impacts related to wildlife as there will be no net increase in snow compaction, and there are limitations on area of use and the limitations on the snowcat travel corridors contained in the permit area. J Wenum, Area Wildlife Manager, Colorado Division of Wildlife, submitted comments, noting that the Colorado Division of Wildlife's concerns related to the potential impacts to wildlife in the permit area have been addressed in the Forest Service's *Decision Notice*.

8. Scott Wimmer, Fire Inspector and Ric Ems, Fire Chief/Fire Marshal, Crested Butte Fire Protection District, submitted comments with the following recommendations:
    - Please copy both our Districts with their annual plan regarding the storage and use of explosives.

9. Marlene Crosby, Director, Gunnison County Public Works, submitted comments, noting that if the land use change application is approved, she will submit the request for snowcat use of County Road 12 (Kebler Pass) to the Board of County Commissioners and recommend that the use be limited to snowcat(s).

10. The U.S. Forest Service *Decision Notice and Finding of No Significant Impact (FONSI)*, dated September 24, 2009, identifies *Project Design Criteria* (*Pages 5 and 6 of the Decision Notice*). The Planning Commission finds that compliance with the elements of the *Project Design Criteria*, as they relate to this application, are appropriate to mitigate potential environmental impacts and compatibility issues.

11. This review and Recommendation incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Department file relative to this application, including all exhibits, references and documents as included therein.

12. This Decision is made in reliance on the present and continued existence of all physical features of the property (geological, topographical and vegetative) cited as mitigating a possible conflict with design standards stated in the *Gunnison County Land Use Resolution*.

13. Review of this application has considered the impact of this proposed use in the context of cumulative impacts to the environment and the community in the context of its compliance with the *Gunnison County Land Use Resolution*, and all other applicable codes and regulations. Approval of this use is based upon the facts presented and implies no approval of a similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

DECISION:
The Gunnison County Planning Commission, having reviewed all the documentation submitted to the County and included within the Planning Department file relative to this application, including all exhibits, references and documents as included therein, and having reached the above cited Findings, hereby determines that LUC #2009-37, Irwin Backcountry Guides, LLC, is classified as a Minor Impact Project, is approved with the following conditions and that such approval be memorialized by recordation of a Certificate of Minor Impact with the Gunnison County Clerk and Recorder:

1. This permit is limited to activities described within the "Project Summary" of this application, and as referenced on exhibits and plans, submitted as part of the application, and as identified on the attached Exhibit A, for the permit area. Expansion or change of these uses will require either an application for amendment of these permits, or submittal of an application for new permits, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*

2. The applicant shall obtain approval from of the Board of County Commissioners for the use of County Road 12 (Kebler Pass) for snowcat travel, from the Kebler Pass trailhead to the Town of Crested Butte, prior to commencement of operations.

3. The applicant shall provide documentation to the Gunnison County Environmental Health Official, regarding the wastewater disposal for the porta-potty, including dates, volume, and receipts for disposal, at the end of the operating season.

4. The applicant shall provide copies of the annual plan regarding the storage and use of explosives to the Crested Butte and Gunnison Fire Protection Districts.

5. The applicant shall comply with the *Project Design Criteria*, associated with the winter operation, identified in the U.S. Forest Service *Notice of Decision and Finding of No Significant Impact (FONSI)*.

6. These permits may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

7. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

8. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.