AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Vista Business Park Final Plan; Link, LLC; LUC #11

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Review and possible action on Vista Business Center Final Plan submittal

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:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 3/18/2016 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 3/25/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 10 minutes

Agenda Date: 4/5/2016

Revised April 2015

TO:	**Board of County Commissioners**
SUBJECT:	**Planning Commission Final Plan Draft Decision** **Vista Business Center** **LUC-11-00035**
DATE:	**April 5, 2016**
PREPARED BY:	**Cathie Pagano, Senior Planner**
APPLICANT:	**Link, LLC represented by Attorney Kendall Burgemeister**

PROJECT DESCRIPTION:
Link, LLC has submitted a Final Plan application for Vista Business Park, to subdivide a 28.07-acre parcel into thirteen lots, each approximately 1.1 to 2.6 acres in size, to be developed into an industrial and commercial park, with ancillary residential use on specific lots. Lots 1- 5 will be permitted to have industrial and commercial uses as specified in the Protective Covenants. Lots 7-12 are intended to be light industrial and/or commercial uses with ancillary residential uses allowed. Lot 6 is intended to be a buffer lot between the lighter industrial and commercial uses on Lots 7-12 and the heavier industrial and commercial uses on Lots 1-5. Lot 6 is not permitted to have a residence, nor are Lots 1-5. Uses and operations on Lots 6-12 are proposed to be contained wholly indoors with the exception of nurseries, employee parking, loading, unloading and storage. The impacts must be contained to the Lot and not produce more than a de minimis amount of, and in no event exceed Gunnison County standards, for noise, vibration, electrical or magnetic interference, glare, fumes, odors, dust, smoke, heat or waste.

The parcel identified as “Outlot” on the Site Plan contains an existing residence and outbuildings. The “outlot” will be subject to a lifetime lease granted to the previous owner of the subject property. The developer will reserve a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease, in accordance with the Colorado Common Interest Ownership Act. The outlot will be subject to the same standards and restrictions as Lots 1-5. The existing residence may remain in place; at such time that the residence is removed no new residence shall be constructed or allowed on the Outlot, in compliance with the design and use standards for Lots 1-5 and Articles 5 and 6 of the Protective Covenants.

The applicant proposes that certain, defined uses be permitted without any additional Land Use Change permit. Section 3.1 of the draft Declaration of Protective Covenants (“Declaration”) addresses the uses that can be developed on the lots, uses that can be made only after review and approval by the Association and the County, and uses that are expressly prohibited. It is the Applicant’s desire to create a subdivision that will allow for a diverse mix of industrial and commercial activities. The applicant has not proposed an exhaustive list of permitted uses that are allowed on the lots but rather relies on the design standards of Article 5 of the Protective Covenants to create parameters for acceptable commercial and industrial uses.

The applicant has identified (Section 3.1.1.3 of the draft Protective Covenants) that the following uses are prohibited in the Vista Business Park development: asphalt or concrete batch plants, adult oriented uses (as defined in the Gunnison County *Land Use Resolution*); mining operations, except for concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, which shall be uses permitted after review; and, veterinary clinics and animal shelters.

The applicant has identified specific uses that are allowed after review by the Property Owner’s Association and Gunnison County (i.e. an additional land use change permit is required):

- The following mining operations: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, upon compliance with *LUR* Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials*.
- Recreational vehicle parks and campgrounds, upon compliance with *LUR* Section 9-305: *Seasonal* Recreational *Vehicle Parks and Campgrounds*.
- Uses that require a variance from any provision of Article 5 or 6 of the Protective Covenants.

The covenants restrict retail sales in the development in Section 6.16 of the Covenants. No more than 33% of the floor area of any building shall be used for the retail sale of goods.

Marijuana cultivation, manufacturing, and/or testing facilities are expressly permitted so long as the same remain legal under Colorado law and Gunnison County regulations. Section 9-104: *Marijuana Cultivation, Manufacturing or Testing Facility* of the Gunnison County *Land Use Resolution* allows marijuana manufacturing and testing facilities in Gold Basin, Riverland or Signal Peak Industrial Parks. The location of marijuana manufacturing, testing, and/or cultivation facilities outside of those specific industrial parks requires a Minor Impact Land Use Change permit, as identified in Section 9-104: G.2. Section 9-104: H. states that marijuana facilities and residential facilities cannot be collocated in the same structure. Any proposed marijuana facility in the Vista Business Park development shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that the Gunnison County *Land Use Resolution* is amended. Any person may initiate an amendment to the *Land Use Resolution (LUR)*.

The Covenants require that, "merchandise, supplies, equipment, or materials of any kind, shall be stored within a building, shed or screened area." Vehicles used as part of a commercial and/or industrial use shall also be parked indoors or in a screened parking area. The subdivision will also include dedicated open space (common property), as illustrated on the site plan included in the Final Plan. Some of the open space will remain undisturbed. Other portions of the open space will be utilized for the construction of augmentation ponds necessary for the operation of the Water Court-approved plan for augmentation serving the subdivision. A portion of the open space along Highway 50 will be landscaped to provide a visual buffer. The open space may be utilized for snow storage and the installation of utilities, as needed.

The parcel is located approximately two miles east of the City of Gunnison within the City's Three Mile Plan area. The parcel is legally described as 28.07 acres in the NW1/4SW1/4 and SW1/4NW1/4, Section 3, Township 49 North, Range 1 East, N.M.P.M., also known as 43950 Highway 50.

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

- "Site Plan, Boundaries and Easements," prepared by NCW & Associates, Inc. dated March 31, 2015.
- "Site Plan, Water Quality, Grading and Drainage," prepared by NCW & Associates, Inc. dated March 31, 2015.
- "Site Plan, Erosion Control and Reclamation," prepared by NCW & Associates, Inc. dated March 31, 2015.
- "Site Plan, Landscaping," prepared by NCW & Associates, Inc. dated March 31, 2015.
- "Utility Plan," prepared by NCW & Associates, Inc. dated March 31, 2015.
- "Plan and Profiles, Vista Drive," prepared by NCW & Associates, Inc. dated March 31, 2015.
- "Plan and Profiles, Vista Drive and Vader Lane," prepared by NCW & Associates, Inc. dated March 31, 2015.

- "Vista Business Center Traffic Analysis," prepared by NCW & Associates, Inc. dated April 27, 2015.
- "Plat of Vista Business Center, Gunnison County, Colorado," prepared by NCW & Associates, Inc. dated January 30, 2016.

IMPACT CLASSIFICATION:
The project, by definition, is a Major Impact pursuant to Section 7-101:A.

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

Section 7-102: *Standards of Approval for Major Impact Projects.*
Applicable, the land use change shall comply with all applicable standards of this Section. The proposed land use change is compatible with the community character of the existing land uses in the development area and does not adversely impact the future development of the area. In 2012 the Gunnison County Board of Commissioners determined that the subject parcel is appropriate for industrial uses in Resolution No. 15, 2014.

Section 9-100: *Uses Secondary to a Primary Residence.*
Not applicable. No secondary uses are proposed as part of this application.

Section 9-200: *Special Residential Uses.*
Not applicable. No special residential uses are proposed as part of this application.

Section 9-300: *Commercial and Industrial Uses.*
Applicable, the applicant has identified uses allowed without a Land Use Change permit; uses that require an additional Land Use Change permit; and uses that are prohibited.

Section 6.8 of the Protective Covenants identifies design standards for development in the subdivision. The standards of Section 6.8 are in compliance with this Section 9-300 of the LUR.

The applicant proposes that certain, defined uses be permitted without any additional Land Use Change permit. Section 3.1 of the draft Declaration of Protective Covenants ("Declaration") addresses the uses that can be developed on the lots, uses that can be made only after review and approval by the Association and the County, and uses that are expressly prohibited. It is the Applicant's desire to create a subdivision that will allow for a diverse mix of industrial and commercial activities. The applicant has not proposed an exhaustive list of permitted uses that are allowed on the lots but rather relies on the design standards of Article 5 of the Protective Covenants to create parameters for acceptable commercial and industrial uses.

The applicant has identified (Section 3.1.1.3 of the Protective Covenants) that the following uses are prohibited in the Vista Business Center development: asphalt or concrete batch plants, adult oriented uses (as defined in the Gunnison County *Land Use Resolution*); mining operations, except for concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, which shall be uses permitted after review; and, veterinary clinics and animal shelters.

The applicant has identified specific uses that are allowed after review by the Property Owner's Association and Gunnison County (i.e. an additional land use change permit is required):

- The following mining operations: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, upon compliance with *LUR* Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials*.

- Recreational vehicle parks and campgrounds, upon compliance with *LUR* Section 9-305: *Seasonal* Recreational *Vehicle Parks and Campgrounds*.
- Uses that require a variance from any provision of Article 5 or 6 of the Protective Covenants.

The covenants restrict retail sales in the development in Section 6.16 of the Covenants. No more than 33% of the floor area of any building shall be used for the retail sale of goods.

Marijuana cultivation, manufacturing, and/or testing facilities are expressly permitted so long as the same remain legal under Colorado law and Gunnison County regulations. Section 9-104: *Marijuana Cultivation, Manufacturing or Testing Facility* of the Gunnison County *Land Use Resolution* allows marijuana manufacturing and testing facilities in Gold Basin, Riverland or Signal Peak Industrial Parks. The location of marijuana manufacturing, testing, and/or cultivation facilities outside of those specific industrial park requires a Minor Impact Land Use Change permit, as identified in Section 9-104: G.2. Section 9-104: H. states that marijuana facilities and residential facilities cannot be collocated in the same structure. Any proposed marijuana facility in the Vista Business Park development shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that the Gunnison County *Land Use Resolution* is amended. Any person may initiate an amendment to the *Land Use Resolution (LUR)*.

The Covenants require that, "merchandise, supplies, equipment, or materials of any kind, shall be stored within a building, shed or screened area." Vehicles used as part of a commercial and/or industrial use shall also be parked indoors or in a screened parking area. The subdivision will also include dedicated open space (common property), as illustrated on the site plan. Some of the open space will remain undisturbed. Other portions of the open space will be utilized for the construction of augmentation ponds necessary for the operation of the Water Court-approved plan for augmentation serving the subdivision. A portion of the open space along Highway 50 will be landscaped to provide a visual buffer. The open space may be utilized for snow storage and the installation of utilities, as needed.

Section 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials.*
Applicable, the proposed development may allow some uses, as defined in this Section. The applicant has identified (Section 3.1.1.3 of the draft Protective Covenants) that the following uses are prohibited in the Vista Business Park development: asphalt or concrete batch plants, mining operations, except for concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, which shall be uses permitted after review.

The applicant has identified specific uses that are allowed after review by the Property Owner's Association and Gunnison County (i.e. an additional land use change permit is required):

- The following mining operations: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, upon compliance with *LUR* Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials*.

No specific uses are approved for exploration, extraction and/or processing of minerals and construction materials at this time. A Land Use Change permit shall be required for any use proposed that is defined in this Section.

Section 9-500: *Miscellaneous Uses and Activities.*
Not applicable, no miscellaneous uses or activities are proposed as part of this application. Any future uses, as defined by this Section, are required to comply with the standards of this Section and an additional Land Use Change permit may be required. The proposed Protective Covenants state, "No temporary structure, mobile home, modular home, trailer, trailer house, travel trailer or

recreational vehicle shall be permitted on any Lot at any time, except that a small temporary structure or trailer not to exceed 400 square feet, and approved by the ARB, may be allowed during construction. Such temporary structure or trailer shall be removed before any Building on the Lot is occupied or used."

The Protective Covenants state, "The only satellite dishes allowed are small dishes associated with Direct TV, Dish Network or similar providers. These dishes shall be located in a non-prominent portion of the Building, shall be hidden from view as much as possible, and shall be the same color as the wall seen behind the satellite dish or antenna or some other neutral color."

No attached or freestanding wireless communications devices are proposed as part of this application. Any future use may require a Land Use Change permit.

Section 6.13.3 of the proposed Protective Covenants does not allow horses or livestock in the proposed development.

Section 6.14 of the proposed Protective Covenants prohibits camping.

Section 10-102: ***Locational Standards for Residential Development.***
Not applicable, the residential development proposed as part of the subdivision is accessory to the primary use of commercial or industrial for each lot. The proposed development is within the City of Gunnison Three Mile Plan area.

Section 10-103: ***Residential Density.***
Not applicable, the residential development proposed as part of the subdivision is accessory to the primary use of commercial or industrial for each lot. The proposed development is within the City of Gunnison Three Mile Plan area.

Section 10-104: ***Locational Standards for Commercial, Industrial, and other Non-Residential Uses.***
Applicable, the proposed development is within the City of Gunnison Three Mile Plan area and is reviewed under the primary locational standards. A copy of the application was referred to the City of Gunnison, whose comments are noted above. The City of Gunnison Three Mile Plan does not contemplate an industrial use in this location and the Plan identifies it as a location appropriate for rural residential use (one unit per 5-35 acres). The City has expressed their opposition to any retail sales at the proposed subdivision. The Planning Commission and Board of County Commissioners considered this during the joint public hearing. The applicant has proposed that no more than 33% of the floor area of any building shall be used for the retail sale of goods. The covenants restrict retail sales in the development in Section 6.16 of the Covenants stating:

> *No more than 33% of the floor area of any Building shall be used for the retail sale of goods. The sale of goods processed, fabricated, altered, manufactured, grown, cultivated, or to which value was otherwise added on the Lot or by the business operated on the Lot at a jobsite shall not count against this limitation. Relatedly, the sale of goods in a manner that is incidental and ancillary to the provision of a service (e.g. the sale of motor oil in conjunction with performing an oil change) shall not count against this limitation. Floor space used for the storage of goods that is not open to the public shall not count against this limitation. This limitation shall not apply to outside areas that may be used to store products that, by their nature (such as trees, bushes, and other plants), must be stored and displayed outside. The purpose of this limitation is to preclude the use of a Lot for high volume pure retail establishments such as department stores, grocery stores, and convenience stores.*

Both the Planning Commission and the Board of County Commissioners found this to be an acceptable compromise and noted that due to the lack of industrial area available in the City it is unreasonable to require no retail sales to occur in the proposed development.

Section 11-103: *Development In Areas Subject to Flood Hazards*.
Applicable, the subject parcel is within the 100-year floodplain. The location of the floodplain is delineated on the "Plat of Vista Business Center, Gunnison County, Colorado," prepared by NCW & Associates, Inc. dated January 30, 2016. The applicant intends to submit a letter of map amendment (LOMA) to the Federal Emergency Management Agency (FEMA) amending the location of the 100-year floodplain to reflect the work completed by NCW & Associates and reduce the size of the floodplain. This has not been completed at this time. Any building permits submitted shall be required to comply with this Section.
As a condition of approval of a proposed land use change permit within the floodplain, the landowner shall sign the "Warning and Disclaimer of Floodplain Hazards Affecting Use and Occupancy of this Property," which is included on the Final Plat for subdivision and/or within the applicable recorded document that approves the Land Use Change permit.

Section 11-104: *Development in Areas Subject to Geologic Hazards*.
Not applicable, the subject parcel is not in an area of geologic hazards.

Section 11-105: *Development In Areas Subject to Wildfire Hazards.*
Applicable, the subject parcel is in an area of low wildfire hazard. A copy of the application was referred to Gunnison Fire Protection District (District) for review and comment. The District did request that a dry hydrant be installed at the subject parcel; the applicant has indicated that he is willing to comply with that recommendation.

Section 11-106: *Protection of Wildlife Habitat Areas.*
The application was referred to the Division of Parks and Wildlife (DPW) and no comments were received. The application was also referred to the Gunnison County Wildlife Coordinator, his comments are noted above and found that no impacts to the Gunnison Sage-grouse are expected to occur with this development beyond what has already occurred.

The applicant contacted the U.S. Fish and Wildlife Service and received a letter dated December 2, 2014 from Kurt Broderdorp, Acting Western Colorado Supervisor, stating: "You have inquired whether you might need an incidental take permit from the U.S. Fish and Wildlife Service (Service) for this project. Your project area is greater than 0.6 mile from an active Gunnison Sage-grouse lek, is essentially surrounded by existing disturbance and does not currently support sagebrush or functional Gunnison Sage-grouse seasonal habitats. No incidental take permit for this project is necessary."

Section 11-107: *Protection of Water Quality*.
Applicable, the proposed development is within 125 feet of a water body. A wetlands delineation has been prepared by Colorado Land & Water Specialists, LLC and the location of the wetlands, floodplain, and water quality protection plan are identified on "Site Plan, Water Quality, Grading and Drainage," and "Site Plan, Erosion Control and Reclamation," prepared by NCW & Associates, Inc. dated March 31, 2015. The applicant has proposed building envelopes in compliance with this Section that meet the inner restrictive buffer requirements. Building envelopes are located outside of the inner restrictive buffer and variable outer buffer and Section 6.10 of the Protective Covenants includes provisions regarding hazardous materials.

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

Section 11-109: *Development That Affects Agricultural Lands.*
Not applicable, the subject parcel will not directly affect agricultural lands.

Section 11-110: *Development Of Land Beyond Snowplowed Access*.
Not applicable, the site is not located beyond snowplowed access.

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.*
Not applicable, the site is not located above timberline.

Section 12-103: *Road System*.
Applicable, a copy of the application was referred to Gunnison County Public Works and the Colorado Department of Transportation. Comments from both are noted above. A traffic study was completed by NCW & Associates, Inc. dated April 27, 2015. The traffic study found that

> *…applying the State Highway Access Code criteria, a left turn deceleration lane is not required to be constructed and/or striped at the existing location of the Vader Lane access. At full build out of Vista Business Center and with the existing uses on Vader Lane, the left turns into the site during the AM Peak Hour (Design hour) are not projected to exceed 10 vehicles per hour….The projected right turn in volume is 23 the A.M. and 15 in P.M. This is below the threshold of 25. A right turn deceleration lane is not warranted. A left turn out acceleration lane is not necessary. The line of sight is 1184' and the minimum sight distance 1105'. The peak traffic volume on Highway 135 is around 1:00 p.m. which does not coincide with the peak hour for the VBC site. A left turn out acceleration lane is not required*.

A turn lane analysis memo from CDOT dated July 8, 2015 from Kent Harbert was also received. CDOT is requiring a right turn deceleration lane to be installed after the sale of the eighth lot in the proposed development. This condition shall be incorporated into the Development Improvements Agreement. The terms and condition of the review are:

1. *The earthwork for the right turn deceleration shall be completed with the initial development of the property, as proposed.*
2. *Right of way shall be granted for the future right-turn deceleration lane. The edge of the right of way shall be a minimum of 10 feet from the toe of fill.*
3. *The developer shall set up an escrow account, as proposed, for the future paving of the right turn deceleration lane. The escrow account shall be owned and administered by Gunnison County. The terms and conditions of the escrow account shall be subject to the review and approval by CDOT, but CDOT cannot be a party to the account or any agreement attached to it.*
4. *The developer's design consultant shall submit construction plans for the right turn deceleration lane with the initial development. Upon approval of the plans by CDOT they will not be subject to changes in the design standards for a period of 20 years.*

Access Permit No. 315168 from CDOT has been submitted. The permit notes that, "a right turn deceleration lane be designed and graded, and that the deceleration lane be paved in concurrence of the development of the 8th lot to develop."

Section 12-104: *Public Trails*.
There is no public trail existing or proposed on this site.

Section 12-105: *Water Supply*.
The applicant proposes that water for commercial, industrial, domestic and landscape irrigation uses will be delivered to each lot through a series of wells, pursuant to the 12CW114 Decree, as amended by the 15CW3021 Decree. Each of Lots 1-12 will be served by a well in the VBC Well Field. Lot 13 will be served by the Vader Domestic Well and / or Dan Vader Stockwater Well. Each Lot Owner will be responsible for the cost of permitting and installing the well to serve its Lot. By purchasing a Lot, each Lot Owner waives any objection to the default 600 foot well spacing requirement of the Colorado Division of Water Resources.

The applicant has obtained the final decree, Case No. 2015CW3021. This decree alters the 12CW114 Decree and allows up to twelve wells for commercial, industrial, domestic, irrigation, and livestock purposes.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*
Applicable, the applicant is proposing that On-site Wastewater Treatment Systems be installed for each lot in the development. Gunnison County Environmental Health has stated that it is feasible to install OWTS in the proposed development.

Section 12-107: *Fire Protection*.
The proposed development is located within the Gunnison Fire Protection District. The Fire Marshal has requested the installation of a dry hydrant at the site which the applicant has agreed to do.

Section 13-103: *General Site Plan Standards And Lot Measurements.*
The site plan for this proposed development must meet the site plan criteria of this section, including proposed and existing roads, driveways, lot lines, building sites, and natural features of the site. The site plan prepared by NCW & Associates, titled, "Site Plan, Boundaries and Easements," dated March 31, 2015 meets the requirements of this section.

Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.*
This section applies the proposed improvements meet the commercial and industrial setback requirements. The proposed development complies with all setback requirements adjacent to other parcels. The setbacks between the proposed lots comply with the 15-foot setback required between adjacent commercial and industrial uses.

Section 13-105: *Residential Building Sizes and Lot Coverages.*
Applicable, the submitted protective covenants restrict the maximum residential building size to 2,500 square feet.

Section 13-106: *Energy and Resource Conservation.*
Applicable, this section will be applied at the time of building permit application.

Section 13-107: *Installation of Solid Fuel-Burning Devices*
This section applies and any solid fuel-burning devices proposed shall comply with this section.

Section 13-108: *Open Space And Recreation Areas*
Applicable, the proposed development is within the City of Gunnison Three-Mile Plan, however there are no adopted standards in the Intergovernmental Agreement for open space, therefore the county standards apply. Commercial and industrial uses that are classified as Major Impact projects shall provide open space by including landscaping elements and setbacks from property lines. The applicant has proposed landscaping and buffering along the northern property boundary with Highway 50 and a portion of open space is identified on the southern portion of the parcel.

The Landscaping Plan calls for the planting of 12 spruce trees, 37 cottonwood trees, and 21 shrubs in the locations depicted on the Landscaping Plan. The landscaping is designed primarily to create a visual buffer from Highway 50. The majority of this landscaping is located on common area Open Space. However, some of the landscaping will be located on landscaping easements along the perimeters of lots 1 and 12 in order to maximize the visual buffering of the Property from Highway 50.

Section 13-109: *Signs.*
The applicant has submitted a design for a business cluster sign at the intersection of the Vader Lane and Highway 50. One cluster sign at each access to a development is allowed. Section 13-109: K. allows a maximum area of 70 square feet and no greater than 16 feet above the natural grade. The proposed sign is 22-foot tall and is 138 square feet (not including bracing or the base structure). The portion of the sign that says "Vista Business Park" is 55 square feet. The applicant proposes to locate the sign inside the current fenced area on the northeast corner of the parcel;

this area is below the grade of Highway 50. The applicant has requested a variance from the maximum size and height standards of this Section. Section 13-109: M.4. Criteria for Board Decision identify the following standards for approval of a variance and the applicant has responded to each of those standards:

- ***a.*** ***HARDSHIP NOT SELF-IMPOSED.*** *That the hardship has not been created by the applicant, or his/her predecessor;*
- ***b.*** ***NO HARM TO PUBLIC SAFETY.*** *That there is no detriment to the public health, safety and welfare;*
- ***c.*** ***DEMONSTRATION OF NEED.*** *That there exists a clear and reasonable need for the sign at the proposed location;*
- ***d.*** ***CONSISTENCY WITH NEIGHBORHOOD****. That the type, style, size and other characteristics of the proposed sign are consistent with the character of the proposed location;*
- ***e.*** ***COMPLIANCE WITH ALL OTHER STANDARDS****. That the location, character and format of the proposed sign are not in conflict with the purposes of this Section, or of this Resolution.*
- ***f.*** ***PUBLIC BENEFIT OUTWEIGHS IMPACTS****. That the benefits that the sign would provide to the public and county visitors would outweigh any adverse aesthetic or other impacts caused by the proposed sign.*

The applicant has not demonstrated a clear and reasonable need for the variance and finds that hardship is self-imposed. All of the signs referenced in Exhibit A are located in the City of Gunnison (except the Inn at Tomichi Village which predated the current sign regulations). Additionally, all of the signs referred to in Exhibit A refer to signs that advertise retail type businesses rather than industrial uses. The portion of the proposed sign that says “Vista Business Park” is approximately 55 square feet. The intent of the cluster sign is to identify businesses not to provide “billboard” type advertisement. The character of the businesses that are anticipated to locate in the development are not such that a passerby may see the sign and decide to stop and shop—the scope of retail is limited. Each business will also be allowed an individual 50 square foot sign at the entrance to their business from the internal development road. There are no signs on Highway 50 at the Signal Peak Industrial Park and the proposed sign is not consistent the rural character of the location. There are no public benefits associated with the larger sign. Staff recommends that the variance be denied with respect to the size of the sign. However, due to the existing topography of the site staff recommends that the applicant be permitted a variance to increase the height of the sign to the proposed 22 feet.

Section 13-110: ***Off-Road Parking And Loading.***
Applicable, individual parcels and uses are required to comply with this Section. The Protective Covenants require a minimum of six parking spaces per lot and that the parking area be screened.

Section 13-111: ***Landscaping And Buffering.***
Applicable, the Landscaping Plan calls for the planting of 12 spruce trees, 37 cottonwood trees, and 21 shrubs in the locations depicted on the Landscaping Plan. The landscaping is designed primarily to create a visual buffer from Highway 50. The majority of this landscaping is located on common area Open Space. However, some of the landscaping will be located on landscaping easements along the perimeters of lots 3, 4, and 12 in order to maximize the visual buffering of the Property from Highway 50.

Section 13-112: ***Snow storage****.*
Applicable, Section 5.21 of the Protective Covenants require, “Adequate snow storage areas shall be provided along all interior driveways, parking areas, service yards, and storage areas so as to permit removal of snow without damaging screening, landscaping, and other plantings within the Lot,” and compliance with this Section.

Section 13-113: *Fencing*
Applicable, this section applies and any fencing proposed shall comply with this section.

Section 13-114: *Exterior Lighting.*
Applicable, this section applies and any exterior lighting proposed shall comply with this section. Additionally, commercial and industrial uses are required to comply with the exterior lighting requirements of Section 9-301: D.6. *Exterior Lighting.* Section 5.10 of the Protective Covenants identifies exterior lighting requirements in compliance with this Section.

Section 13-115: *Reclamation And Noxious Weed Control.*
Applicable, an Earthmoving Site Revegetation and Noxious Weed Control Plan is attached in the Preliminary Plan, Exhibit M. The Plan references a map titled "Erosion Control and Reclamation Plan," which was prepared by NCW & Associates, Inc., and which is attached as Exhibit G. The Plan is incorporated into the Declaration at paragraph 5.15.

Section 13-116: *Grading And Erosion Control.*
A grading and erosion control plan was included in the Preliminary Plan application titled, "Site Plan, Water Quality, Grading and Drainage," and "Site Plan, Erosion Control and Reclamation," prepared by NCW & Associates, Inc. dated March 31, 2015. The applicant shall comply with the standards of this Section.

Section 13-117: *Drainage, Construction And Post-Construction Stormwater Runoff.*
A grading and erosion control plan was included in the Preliminary Plan application titled, "Site Plan, Water Quality, Grading and Drainage," and "Site Plan, Erosion Control and Reclamation," prepared by NCW & Associates, Inc. dated March 31, 2015. The applicant shall comply with the standards of this Section.

Section 13-118: *Water Impoundments.*
Not applicable, this project does not propose a water impoundment that is greater than 99-acre feet.

Section 13-119: *Standards to Ensure Compatible Uses.*
Applicable, the proposed development has been designed in a manner to ensure compatible uses. The adjacent uses include Signal Peak Industrial Park Filing 1 and 2 which includes commercial, industrial and some residential uses. The Board of County Commissioners identified the subject parcel in the 2012 Land Use Analysis as an appropriate location for industrial development. The design of the development including hours of operation, location of uses and residences will not adversely affect the character or tranquility of nearby residential or public areas.

Article 15: *Right-to-Ranch Policy*.
This section is not applicable; there are no agricultural lands that will be affected by the uses on the subject parcel.

FINDINGS:
The Gunnison County Planning Commission finds that:

1. This application, by definition, is classified as a Major Impact.
2. The Gunnison County Board of Commissioners identified the subject parcel as an area appropriate for industrial development in the 2012 Land Use Analysis, Resolution No. 15, 2014.
3. The proposed development is not located adjacent to a municipality but is within the City of Gunnison Three Mile Plan area.
4. Gunnison County and the City of Gunnison have an Intergovernmental Agreement for the Three Mile Plan area.
5. Lots 1, 2, 3, 4, and 5 shall be permitted to have industrial and commercial uses as identified in the Protective Covenants. Lots 6, 7, 8, 9, 10, 11, and 12 are subject to additional restrictions in

Section 6.17 of the Covenants to ensure compatibility with residential land uses. Residential uses are allowed only on Lots 7-12.

6. The parcel identified as "Outlot" contains an existing residence and outbuildings. The developer reserves a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease. The Outlot shall be permitted to have the same uses and restrictions as Lots 1-5. In addition, the existing residence may remain in place, provided that at such time as that the residence is removed, no new residence shall be constructed or allowed on the Outlot.
7. The Protective Covenants identifies that the following uses are prohibited in the development: asphalt or concrete batch plants; adult oriented uses; mining operations; and veterinary clinics and animal shelters.
8. The Protective Covenants allow the following uses after the approval of a site specific Land use Change permit for the proposed use: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation; recreational vehicles parks and campgrounds; any use that requires a variance from any provision of Article 5 or 6 of the Protective Covenants.
9. Marijuana cultivation, manufacturing and/or testing facilities are permitted by the Protective Covenants. Section 9-104 of the Gunnison County *Land Use Resolution* only allows the development of those facilities after a Minor Impact Land Use Change permit unless the use is in Gold Basin, Signal Peak or Riverland Industrial Parks.
10. The subject parcel is within the 100-year floodplain.
11. Gunnison County Wildlife Coordinator and the Colorado Parks and Wildlife have reviewed the application relative to Gunnison Sage-grouse impacts and found that there will be no additional impacts to the bird from the proposed development.
12. CDOT requires a right turn deceleration lane be installed on Highway 50 into Vader Lane after the sale of the eight lot in the development.
13. Gunnison County Fire Protection District has requested that a dry hydrant be installed at the development.
14. The landscaping plan is in compliance with Gunnison County standards and also mitigates visual impacts from the proposed development to Highway 50 traffic.
15. The applicant has requested a variance to Section 13-109: Signs relative to the size and height of the proposed sign. The request is attached as Exhibit A.
16. The proposed sign in Exhibit A is 138 square feet and 22 feet high. The applicant has not demonstrated that the hardship is not self-imposed, nor that there is a need nor that it is consistent with the neighborhood, relative to the proposed area of the sign. With respect to the height the applicant has demonstrated that there is a hardship due to the topography at the site.
17. 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.

RECOMMENDATION:

The Board of County Commissioners, having considered the submitted plan, site observations and public testimony, has reached the above findings and finds that LUC-11-00035 be classified as a Major Impact Final Plan, and that the Final Plan be approved with the following conditions:

1. Any property owner that submits a building permit application shall be required to submit a detailed narrative to Gunnison County Community Development describing how they comply with Article 5 and 6 of the Protective Covenants and are a permitted use (use that does not require an additional Land Use Change permit).
2. A Land Use Change permit shall be required for any use that includes the concentration of ores, milling, evaporation and other processing.
3. A Land Use Change permit shall be required if a proposed use in the development requires a variance from any provision of Article 5 or 6.
4. No specific uses are contemplated or approved for extraction, exploration and/or processing of minerals and construction materials.

5. Any proposed marijuana facility in Vista Business Park shall be subject to the standards of Section 9-104 of the Gunnison County *Land Use Resolution* and shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that an amendment is made to the Gunnison county Land Use Resolution allowing the development of marijuana facilities with an Administrative Review Land Use Change permit.
6. Retail sales, in compliance with Section 6.16 of the Protective Covenants are allowed in the proposed development.
7. The Development Improvements Agreement shall include a provision requiring bonding for the right turn deceleration lane.
8. A dry hydrant, in compliance with the standards of Gunnison County Fire Protection District shall be installed.
9. The landscaping shall be installed as described in the Landscaping Plan. It shall also be included as part of the Development Improvements Agreement.
10. The variance request for a sign area greater than 70 square feet is denied. A sign 70 square feet or less, consistent with the design submitted is approved.
11. The variance request for a sign greater than 16 feet tall (approximately 22 feet in height) is approved.
12. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Plan submitted as part of this application. 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*.
13. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
14. This permit 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.
15. 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.
16. 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.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. ___SERIES 2016

A RESOLUTION APPROVING FINAL PLAN APPLICATION FOR VISTA BUSINESS CENTER AND LINK, LLC FOR THE SUBDIVISION OF 13 LOTS AND THE DEVELOPMENT OF A COMMERCIAL AND INDUSTRIAL PARK

WHEREAS, Link, LLC has submitted a preliminary plan application to subdivide a 28.07-acre parcel into thirteen lots, each approximately 1.1 to 2.6 acres in size, to be developed into an industrial and commercial park, with ancillary residential use on specific lots. Lots 1- 5 will be permitted to have industrial and commercial uses as specified in the Protective Covenants. Lots 7-12 are intended to be light industrial and/or commercial uses with ancillary residential uses allowed. Lot 6 is intended to be a buffer lot between the lighter industrial and commercial uses on Lots 7-12 and the heavier industrial and commercial uses on Lots 1-5. Lot 6 is not permitted to have a residence, nor are Lots 1-5. Uses and operations on Lots 6-12 are proposed to be contained wholly indoors with the exception of nurseries, employee parking, loading, unloading and storage. The impacts must be contained to the Lot and not produce more than a de minimis amount of, and in no event exceed Gunnison County standards, for noise, vibration, electrical or magnetic interference, glare, fumes, odors, dust, smoke, heat or waste.

The parcel identified as "Outlot" on the Site Plan contains an existing residence and outbuildings. The "outlot" will be subject to a lifetime lease granted to the previous owner of the subject property. The developer will reserve a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease, in accordance with the Colorado Common Interest Ownership Act. The outlot will be subject to the same standards and restrictions as Lots 1-5. The existing residence may remain in place; at such time that the residence is removed no new residence shall be constructed or allowed on the Outlot, in compliance with the design and use standards for Lots 1-5 and Articles 5 and 6 of the Protective Covenants.

The applicant proposes that certain, defined uses be permitted without any additional Land Use Change permit. Section 3.1 of the draft Declaration of Protective Covenants ("Declaration") addresses the uses that can be developed on the lots, uses that can be made only after review and approval by the Association and the County, and uses that are expressly prohibited. It is the Applicant's desire to create a subdivision that will allow for a diverse mix of industrial and commercial activities. The applicant has not proposed an exhaustive list of permitted uses that are allowed on the lots but rather relies on the design standards of Article 5 of the Protective Covenants to create parameters for acceptable commercial and industrial uses.

The applicant has identified (Section 3.1.1.3 of the draft Protective Covenants) that the following uses are prohibited in the Vista Business Park development: asphalt or concrete batch plants, adult oriented uses (as defined in the Gunnison County *Land Use Resolution*); mining operations, except for concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, which shall be uses permitted after review; and, veterinary clinics and animal shelters.

The applicant has identified specific uses that are allowed after review by the Property Owner's Association and Gunnison County (i.e. an additional land use change permit is required):

- The following mining operations: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, upon compliance with *LUR* Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials*.
- Recreational vehicle parks and campgrounds, upon compliance with *LUR* Section 9-305: *Seasonal* Recreational *Vehicle Parks and Campgrounds*.
- Uses that require a variance from any provision of Article 5 or 6 of the Protective Covenants.

The covenants restrict retail sales in the development in Section 6.16 of the Covenants. No more than 33% of the floor area of any building shall be used for the retail sale of goods.

Marijuana cultivation, manufacturing, and/or testing facilities are expressly permitted so long as the same remain legal under Colorado law and Gunnison County regulations. Section 9-104: *Marijuana Cultivation, Manufacturing or Testing Facility* of the Gunnison County *Land Use Resolution* allows marijuana manufacturing and testing facilities in Gold Basin, Riverland or Signal Peak Industrial Parks. The location of marijuana manufacturing, testing, and/or cultivation facilities outside of those specific industrial parks requires a Minor Impact Land Use Change permit, as identified in Section 9-104: G.2. Section 9-104: H. states that marijuana facilities and residential facilities cannot be collocated in the same structure. Any proposed marijuana facility in the Vista Business Park development shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that the Gunnison County *Land Use Resolution* is amended. Any person may initiate an amendment to the *Land Use Resolution (LUR)*.

The Covenants require that, "merchandise, supplies, equipment, or materials of any kind, shall be stored within a building, shed or screened area." Vehicles used as part of a commercial and/or industrial use shall also be parked indoors or in a screened parking area. The subdivision will also include dedicated open space (common property), as illustrated on the site plan included in the Preliminary Plan. Some of the open space will remain undisturbed. Other portions of the open space will be utilized for the construction of augmentation ponds necessary for the operation of the Water Court-approved plan for augmentation serving the subdivision. A portion of the open space along Highway 50 will be landscaped to provide a visual buffer. The open space may be utilized for snow storage and the installation of utilities, as needed.

The parcel is located approximately two miles east of the City of Gunnison within the City's Three Mile Plan area. The parcel is legally described as 28.07 acres in the NW1/4SW1/4 and SW1/4NW1/4, Section 3, Township 49 North, Range 1 East, N.M.P.M., also known as 43950 Highway 50.

WHEREAS, the applicant has submitted a Final Plan application, in compliance with Section 7-401: *Final Plan Application for Major Impact Projects* of the Gunnison County *Land Use Resolution*. The application has not been referred to the Planning Commission for review in compliance with Section 7-402: C. because the Board of County Commissioners did not place any such condition in the Preliminary Plan approval nor was significant new information submitted nor was there a substantive alteration to the plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the Final Plan for Land Use Change Permit No. 11-00035, for Link LLC, is approved, subject to each and all conditions of Final Plan decision document, as identified above, and the following findings and conditions:

Findings:

1. This application, by definition, is classified as a Major Impact.
2. The Gunnison County Board of Commissioners identified the subject parcel as an area appropriate for industrial development in the 2012 Land Use Analysis, Resolution No. 15, 2014.
3. The proposed development is not located adjacent to a municipality but is within the City of Gunnison Three Mile Plan area.
4. Gunnison County and the City of Gunnison have an Intergovernmental Agreement for the Three Mile Plan area.
5. Lots 1, 2, 3, 4, and 5 shall be permitted to have industrial and commercial uses as identified in the Protective Covenants. Lots 6, 7, 8, 9, 10, 11, and 12 are subject to additional restrictions in Section 6.17 of the Covenants to ensure compatibility with residential land uses. Residential uses are allowed only on Lots 7-12.
6. The parcel identified as "Outlot" contains an existing residence and outbuildings. The developer reserves a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease. The Outlot shall be permitted to have the same uses and restrictions as Lots 1-5. In addition, the existing residence may remain in place, provided that at such time as that the residence is removed, no new residence shall be constructed or allowed on the Outlot.
7. The Protective Covenants identifies that the following uses are prohibited in the development: asphalt or concrete batch plants; adult oriented uses; mining operations; and veterinary clinics and animal shelters.
8. The Protective Covenants allow the following uses after the approval of a site specific Land use Change permit for the proposed use: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation; recreational vehicles parks and campgrounds; any use that requires a variance from any provision of Article 5 or 6 of the Protective Covenants.
9. Marijuana cultivation, manufacturing and/or testing facilities are permitted by the Protective Covenants. Section 9-104 of the Gunnison County *Land Use Resolution* only allows the development of those facilities after a Minor Impact Land Use Change permit unless the use is in Gold Basin, Signal Peak or Riverland Industrial Parks.
10. The subject parcel is within the 100-year floodplain.
11. Gunnison County Wildlife Coordinator and the Colorado Parks and Wildlife have reviewed the application relative to Gunnison Sage-grouse impacts and found that there will be no additional impacts to the bird from the proposed development.
12. CDOT requires a right turn deceleration lane be installed on Highway 50 into Vader Lane after the sale of the eight lot in the development.
13. Gunnison County Fire Protection District has requested that a dry hydrant be installed at the development.
14. The landscaping plan is in compliance with Gunnison County standards and also mitigates visual impacts from the proposed development to Highway 50 traffic.
15. The applicant has requested a variance to Section 13-109: Signs relative to the size and height of the proposed sign. The request is attached as Exhibit A.
16. The proposed sign in Exhibit A is 138 square feet and 22 feet high. The applicant has not demonstrated that the hardship is not self-imposed, nor that there is a need nor that it is consistent with the neighborhood, relative to the proposed area of the sign. With respect to the height the applicant has demonstrated that there is a hardship due to the topography at the site.
17. 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.

Conditions:

1. Any property owner that submits a building permit application shall be required to submit a detailed narrative to Gunnison County Community Development describing how they comply with Article 5 and 6 of the Protective Covenants and are a permitted use (use that does not require an additional Land Use Change permit).
2. A Land Use Change permit shall be required for any use that includes the concentration of ores, milling, evaporation and other processing.
3. A Land Use Change permit shall be required if a proposed use in the development requires a variance from any provision of Article 5 or 6.
4. No specific uses are contemplated or approved for extraction, exploration and/or processing of minerals and construction materials.
5. Any proposed marijuana facility in Vista Business Park shall be subject to the standards of Section 9-104 of the Gunnison County *Land Use Resolution* and shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that an amendment is made to the Gunnison county Land Use Resolution allowing the development of marijuana facilities with an Administrative Review Land Use Change permit.
6. Retail sales, in compliance with Section 6.16 of the Protective Covenants are allowed in the proposed development.
7. The Development Improvements Agreement shall include a provision requiring bonding for the right turn deceleration lane.
8. A dry hydrant, in compliance with the standards of Gunnison County Fire Protection District shall be installed.
9. The landscaping shall be installed as described in the Landscaping Plan. It shall also be included as part of the Development Improvements Agreement.
10. The variance request for a sign area greater than 70 square feet is denied. A sign 70 square feet or less, consistent with the design submitted is approved.
11. The variance request for a sign greater than 16 feet tall (approximately 22 feet in height) is approved.
12. This permit is limited to activities described within the “Project Description” of this application, and as depicted on the Plan submitted as part of this application. 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*.
13. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
14. This permit 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.
15. 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.
16. 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.

WHEREAS, 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.

THIS APPROVAL is affected noting that decision documentation includes, but is not limited to, the application and the entire Community Development Department Land Use Change Permit application file relative to this application. This approval is founded on each individual finding and requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner _____, seconded by Commissioner , and passed on this ___day of _____, 2016.

BOARD OF COUNTY COMMISSIONERS

_____	_____	_____
Paula Swenson, Chairperson	Phil Chamberland, Commissioner	Jonathan Houck, Commissioner

ATTEST:

Gunnison County Clerk and Recorder

PLAT OF

VISTA BUSINESS CENTER

BEING LOCATED WITHIN
THE NW1/4SW1/4 AND SW1/4NW1/4 OF SECTION 3
TOWNSHIP 49 NORTH, RANGE 1 EAST, NEW MEXICO PRINCIPAL MERIDIAN
GUNNISON COUNTY, COLORADO

ATTORNEY'S OPINION

I, Kendall K. Burgemeister, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and subdivided. Such title is vested in Link, LLC, a Colorado limited liability company, and is free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

1. Easements, claims of easements, and any other rights not shown by the public records;
2. Taxes and assessments for the current year;
3. All Patent reservations as set forth in United States Patent(s) recorded May 1, 1893 in Book 115 at page 197 and April 11, 1906 in Book 101 at page 342;
4. Right of Way as set forth in instrument recorded August 11, 1910 in Book 190 at Page 255;
5. Right of Way as set forth in instrument recorded July 9, 1931 in Book 241 at page 282;
6. Easement Agreement as set forth in instrument recorded February 28, 2013 as Reception No. 618770;
7. Memorandum of Option to Purchase Real Estate between Link, LLC, a Colorado limited liability company and W. K. Edwards recorded April 1, 2011 as Reception No. 604489.
8. Board of County Commissioners Resolution No. 19 Series 2015 as set forth in instrument recorded August 20, 2015 as Reception No. 634887.
9. Declaration of Protective Covenants for Vista Business Center, recorded _____, as Reception No. _____.

Dated this _____ day of _____, A.D. 2016.

_____
Kendall K. Burgemeister, Attorney-at-Law

WARNING AND DISCLAIMER OF FLOODPLAIN HAZARDS AFFECTING USE AND OCCUPANCY OF THIS PROPERTY
Link, LLC, a Colorado limited liability company ("Link"), on behalf of itself and all successors, heirs and assigns, hereby acknowledges having been informed by Gunnison County of the existence of floodplain hazard areas that may affect the use and occupancy of this property, and any improvements thereto. Link acknowledges that the County's approval of this land use change does not guarantee the safety of the property, or in any way imply that areas outside of the designated hazard areas will be free from hazards and hereby agrees to indemnify, defend and save harmless the County, its agents, officers and employees from and against any and all liability, expense including defense costs and legal fees, and claims for damages of any nature whatsoever, including, bodily injury, death, personal injury, or property damage arising from or connected with any activity related to these hazards, including any suits, liability, or expense.

WARNING AND DISCLAIMER OF WILDFIRE HAZARDS AFFECTING USE AND OCCUPANCY OF THIS PROPERTY
Link, LLC, a Colorado limited liability company ("Link"), on behalf of itself and all successors, heirs and assigns, hereby acknowledges having been informed by Gunnison County of the existence of wildfire hazard areas that may affect the use and occupancy of the property, and any improvements thereto. Link acknowledges that the County's approval of this land use change does not guarantee the safety of the property, or in any way imply that areas outside of the designated hazard areas will be free from hazards and hereby agrees to indemnify, defend and save harmless the County, its agents, officers and employees from and against any and all liability, expense including defense costs and legal fees, and claims for damages of any nature whatsoever, including bodily injury, death, personal injury, or property damage arising from or connected with any activity related to these hazards, including any suits, liability, or expense.

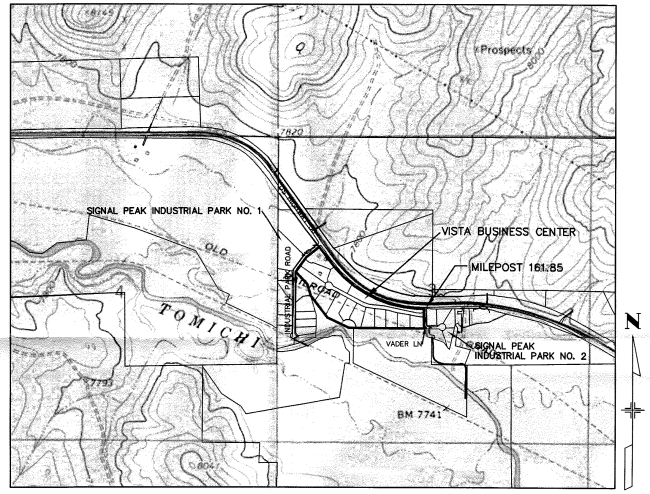
COMPLIANCE WITH BOARD OF COUNTY COMMISSIONERS' RESOLUTION
The property described on this plat is subject to all the requirements, terms and conditions of the Board of County Commissioners' Resolution No. _____, recorded at Reception No._____ of the Records of the Clerk and Recorder of Gunnison County.

LAND SURVEYOR'S CERTIFICATE

I, Norman C. Whitehead, being a registered land surveyor in the State of Colorado, do hereby certify that this plat and survey of VISTA BUSINESS CENTER were made by me and under my supervision and both are accurate to the best of my knowledge.

Dated this _____ day of _____, 2016.

_____
Norman C. Whitehead, Colorado L.S. #27739
P.O. Box 3688
Crested Butte, CO 81224



VICINITY MAP
1"=2000'±

GENERAL NOTES

1. CONFINEMENT OF DOMESTIC ANIMALS. Domestic animals must be controlled by kenneling, leash, fencing or other physical constraint and that any expense of enforcement of the domestic animal control restrictions by the County shall be at the expense of the responsible association or individual.
2. AWARENESS OF COLORADO "FENCE-OUT" REQUIREMENTS. C.R.S. § 35-46-101 et seq., requires a property owner to construct and maintain fencing in order to keep livestock off his/her property.
3. IRRIGATION DITCH MAINTENANCE. An irrigation ditch owner has the right to enter the designated irrigation ditch maintenance easement, maintain the ditch, and leave natural debris on the bank.
4. Basis of Bearing: N90°00'00"E between control monuments located at 3rd Street and Elk Avenue and 7th Street and Elk Avenue.
5. According to Colorado law you must commence legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based on any defect in this survey be commenced more than ten years from the date of the surveyor's certificate shown hereon.

DEDICATION

Link, LLC, a Colorado limited liability company, being the owner of the land described as follows:

A tract of land within the NW1/4SW1/4 and SW1/4NW1/4 of Section 3, Township 49 North, Range 1 East, New Mexico Principal Meridian, Gunnison County, Colorado, said tract being more particularly described as follows:

Beginning at a the north corner of Lot 15, Signal Peak Filing No. 1, form which the West quarter corner of said Section 3 (as marked by a USGLO brass cap monument) bears S49°18'42"W a distance of 409.44 feet; thence N36°01'40"E along the easterly boundary of signal Peak Filing No. 1 a distance of 301.34 feet; thence N51°00'26"E continuing along said easterly boundary line a distance of 279.66 feet to a point on the southerly right-of-way line of U.S. Highway 50 as described in Book 342 at Page 231; thence S38°01'32"E along said right-of-way a distance of 439.44 feet to a point of a non-tangent curve to the left; thence along said curve and said right-of-way an arc length of 1,968.48 feet, said curve having a central angle of 45°51'02", a radius of 1,960.00 feet, a chord bearing of S63°34'02"E and a chord distance of 1,526.96 feet; thence S89°28'58"E along said right-of-way a distance of 126.56 feet to a point on the westerly line of the access easement described in Book 658 at Page 549; thence S01°09'20"E along said easement a distance of 330.62 feet to a point on the northerly boundary line of the property described in Book 552 at page 987; thence N89°52'38"W along said boundary line a distance of 1,261.28 feet; thence N64°31'38"W along the northerly boundary line of the property described in Book 658 at Page 549 a distance of 409.62 feet; thence N37°48'16"W along said boundary line a distance of 455.83 feet to a point on the easterly boundary line of Signal Peak Filing No. 1; thence N15°57'15"W along said boundary line a distance of 209.39 feet; thence N45°02'10"W along said boundary line a distance of 279.57 feet to the POINT OF BEGINNING.

Containing 1,248,421 square feet or 28.660 acres, more or less.

In Gunnison County, Colorado, under the name of Vista Business Center, have laid out, platted and/or subdivided the same as shown on this plat and do hereby permanently dedicate to the public at large the road named Vista Drive as shown hereon, permanently dedicate and convey to the owners of lots within this subdivision and their guests, but not to the public at large, the common right to use the open space and other common areas as shown hereon, and permanently dedicate those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof, Link, LLC has executed this Dedication as of the date indicated below.

Owner: Link, LLC
By:_____ Date:_____
Hal Hearne, President

The foregoing instrument was acknowledged before me in the County of _____, State of _____, this _____ day of _____, A.D. 20_____, by Hal Hearne, as President of Link, LLC.
My commission expires: _____
My address is: _____

Witness my hand and official seal:

_____
Notary Public

BOARD OF COUNTY COMMISSIONERS' APPROVAL

The within plat of Vista Business Center is approved this _____ day of _____, A.D. 20 _____, and the roads and other public areas are hereby accepted provided, however, that such acceptance shall not in any way be considered as an acceptance for maintenance or snow removal purposes. Maintenance of, or snow removal from, the subject roads shall be only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolutions or ordinances in effect at that time.

_____
Chairperson, Gunnison County Board of Commissioners

Attest:

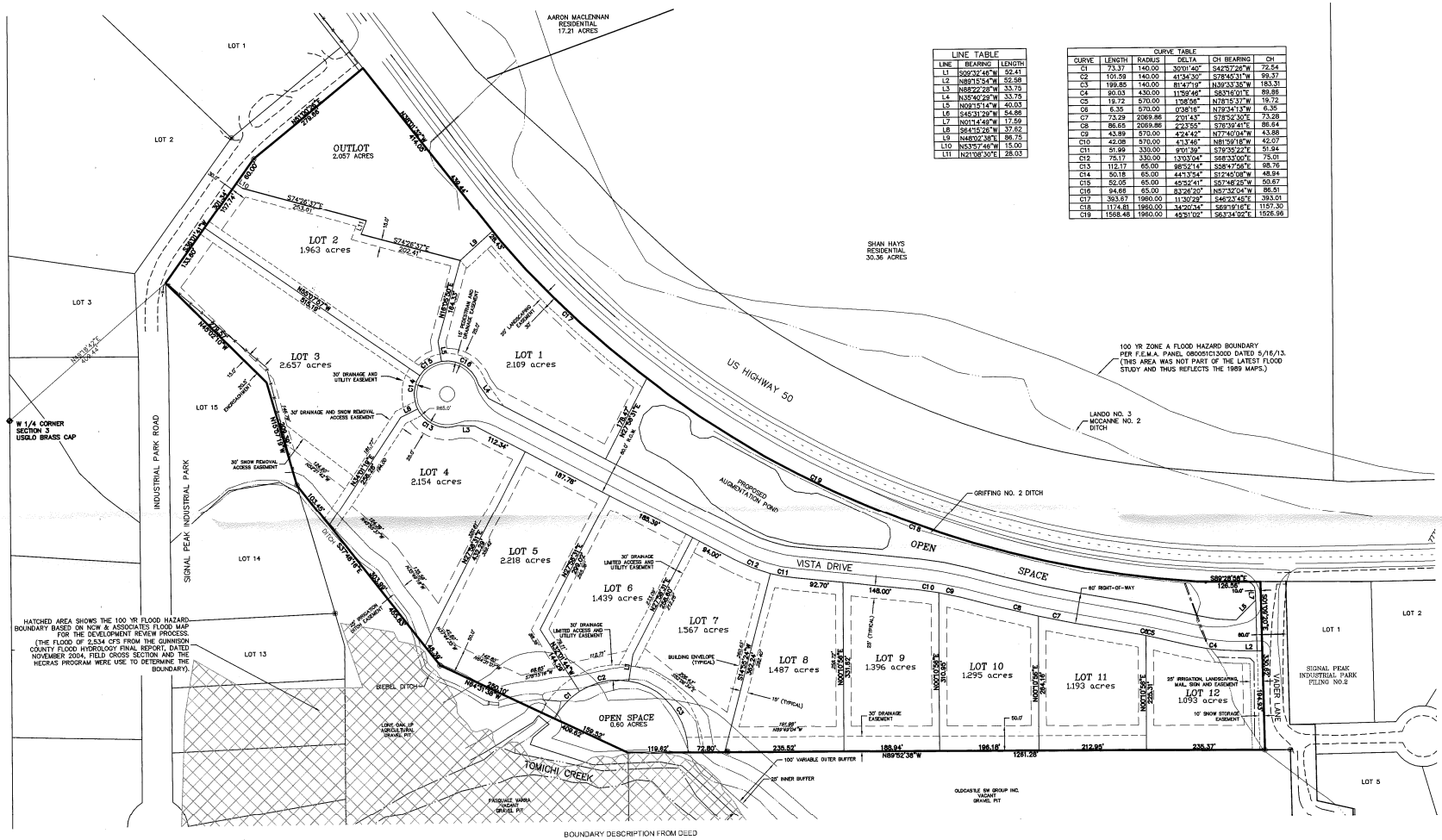
_____
Gunnison County Clerk and Recorder

GUNNISON COUNTY CLERK AND RECORDER'S ACCEPTANCE

This plat was accepted for filing in the office of the Clerk and Recorder of Gunnison County, Colorado, on this _____ day of _____, A.D. 20_____, Reception Number _____, Time _____ Date _____.

_____
Gunnison County Clerk and Recorder

PLAT OF VISTA BUSINESS CENTER GUNNISON COUNTY, COLORADO	
COVER	
Prepared By: NCW & Associates, Inc. P.O. Box 3688 (970) 349-6354 Crested Butte Colorado 81224	
PROJECT: 11065P	DWG.: PLAT
DATE: 1/30/16	SHEET 1 OF 2



LINE TABLE		
LINE	BEARING	LENGTH
L1	S09°32'46"W	52.41
L2	N89°15'54"W	52.58
L3	N88°22'28"W	33.75
L4	N35°40'29"W	33.75
L5	N09°15'14"W	40.03
L6	S45°31'29"W	54.86
L7	N01°14'49"W	17.59
L8	S84°15'26"W	37.62
L9	N48°02'38"E	86.75
L10	N53°57'46"W	15.00
L11	N21°08'30"E	28.03

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CH BEARING	CH
C1	73.37	140.00	30°01'40"	S42°57'26"W	72.54
C2	101.59	140.00	41°34'30"	S78°45'31"W	99.37
C3	199.85	140.00	81°47'19"	N39°33'35"W	183.31
C4	90.03	430.00	11°59'46"	S83°16'01"E	89.86
C5	19.72	570.00	1°58'56"	N78°15'37"W	19.72
C6	6.35	570.00	0°38'18"	N79°34'13"W	6.35
C7	73.29	2069.86	2°01'43"	S78°52'30"E	73.28
C8	86.65	2069.86	2°23'55"	S76°39'41"E	86.64
C9	43.89	570.00	4°24'40"	N77°40'04"W	43.88
C10	42.08	570.00	4°13'46"	N81°59'18"W	42.07
C11	51.99	330.00	9°01'39"	S79°35'22"E	51.94
C12	75.17	330.00	13°03'04"	S68°33'00"E	75.01
C13	112.17	65.00	98°52'14"	S58°47'58"E	98.76
C14	50.18	65.00	44°13'54"	S12°45'08"W	48.94
C15	52.05	65.00	45°52'41"	S57°48'25"W	50.67
C16	94.66	65.00	83°26'20"	N57°32'04"W	86.51
C17	363.67	1960.00	11°30'29"	S46°23'45"E	393.01
C18	1174.81	1960.00	34°20'34"	S69°18'16"E	1157.30
C19	1568.48	1960.00	45°51'02"	S63°34'02"E	1526.96

BOUNDARY DESCRIPTION FROM DEED

A tract of land within the NW1/4SW1/4 and SW1/4NW1/4 of Section 3, Township 49 North, Range 1 East, New Mexico Principal Meridian, Gunnison County, Colorado, said tract being more particularly described as follows: Commencing at the West quarter corner of said Section 3 (as marked by a USGLO brass cap monument); thence North 49°18'42" East 409.44 feet to an easterly corner of Signal Peak Filing No. 1 (a subdivision within Gunnison County), said corner being the POINT OF BEGINNING for the herein described tract; thence the following courses around said tract:

1. North 36°01'41" East 301.34 feet along the easterly boundary of Signal Peak Filing No. 1; 2. North 51°00'26" East 270.95 feet along the easterly boundary of said Filing No. 1 to a point on the southerly boundary of State of Colorado property as described in Book 342 at Page 231 of the records of Gunnison County; 3. South 37°48'17" East 445.60 feet along the said southerly boundary; 4. Along the arc of a curve to the LEFT a distance of 1568.30 feet said curve having a radius of 1960.00 feet and a long chord of South 63°15'30" East 1526.80 feet along the said southerly boundary; 5. South 89°10'30" East 133.97 feet along the said southerly boundary; 6. South 01°09'20" East 316.60 feet along westerly boundary of access easement to Farm Credit Bank of Wichita, as described as Parcel No. 2 in Book 656 at Page 549 of said records; 7. North 89°43'40" West 1261.28 feet along northerly boundary of Valco Inc. property as described in Book 552 at Page 987 of said records; 8. North 64°25'43" West 409.62 feet along northerly boundary of Farm Credit Bank of Wichita property, as described in Book 656 at Page 549 of said records; 9. North 37°39'11" West 455.83 feet along northerly boundary of said property; 10. North 15°57'17" West 210.26 feet along easterly boundary of said Filing No. 1; 11. North 45°02'10" West 279.57 feet along easterly boundary of said Filing No. 1, to the POINT OF BEGINNING of the herein described tract.

Consisting of approximately 28.07 acres.

N

100 50 0 100 200

SCALE: 1" = 100'

PLAT OF
VISTA BUSINESS CENTER
GUNNISON COUNTY, COLORADO

COVER

Prepared By:
NCW & Associates, Inc.
P.O. Box 3688 Crested Butte
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PROJECT: 11065P	DWG.: PLAT
DATE: 1/30/16	SHEET 2 OF 2