AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; Approving Relinquishment of a Land Use

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Request for relinquishment of land use change permit approval

Fiscal Impact:

Submitted by: Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs however there seems to be two Resolution which are the same.

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 8/30/2016 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 8/31/2016

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

Agenda Date: 9/6/2016

Revised April 2015

Gunnison County Community
Development Department
Offices of Planning, Building and Environmental Health
221 N. Wisconsin St., Ste. D
Gunnison, CO 81230
Phone: (970) 641-0360 Fax: (970)641-8585

August 29, 2016

TO: **Board of County Commissioners**
Matthew Birnie, County Manager
David Baumgarten, County Attorney

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Trappers Crossing at Wildcat**
Lot 33A, Trappers Crossing at Wildcat
Request for relinquishment of Land Use Change Permit approval

The Planning Commission approved a Minor Impact Land Use Change Permit for a mountain biking trail for Pillow Rock, LLC, on Lot 33A, Trappers Crossing at Wildcat, in March of this year. David Leinsdorf, representing the Trappers Crossing at Wildcat Association, is requesting the relinquishment of the land use change permit approval.

The Trappers Crossing at Wildcat Association acquired title to the property this summer.

Staff recommends approval of the request.

Attachments:
Board Resolution
Certificate of Minor Impact Approval
Trappers Crossing at Wildcat HOA approval

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY

RESOLUTION NO. 2016- ___

A RESOLUTION APPROVING RELINQUISHMENT OF A LAND USE CHANGE PERMIT AND RELEASING AND TERMINATING A CERTIFICATE OF MINOR IMPACT APPROVAL

WHEREAS, Trappers Crossing at Crested Butte Association, a Colorado non-profit corporation ("Association"), owns Lot 33A, TRAPPERS CROSSING AT WILDCAT, according to the Amended Plat recorded October 30, 1992 at Reception No. 438144 and the Boundary Line Adjustment Map recorded August 17, 2001 at Reception No. 513452, County of Gunnison, State of Colorado ("Lot 33A"); and

WHEREAS, Association acquired Lot 33A from Pillow Rock financial, LLC, an Indiana limited liability company, by Bargain and Sale Deed recorded June 21, 2016 at Reception No. 640070 in the office of the Gunnison County Clerk and Recorder; and

WHEREAS, on March 18, 2016, at Reception No. 638478 in the office of the Gunnison County Clerk and Recorder, Gunnison County recorded a Certificate of Minor Impact Approval granting Pillow Rock financial, LLC, a Land Use Change Permit for a mountain biking trail on Lot 33A; and

WHEREAS, as a document recorded before the Association acquired Lot 33A, the Certificate of Minor Impact Approval encumbers and is appurtenant to the Association's interest in Lot 33A; and

WHEREAS, the Association has relinquished the Land Use Change Permit represented by the foregoing Certificate of Minor Impact Approval;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the Resolution of Trapper's Crossing at Crested Butte Association attached hereto is hereby approved and the Certificate of Minor Impact Approval recorded March 18, 2016 at Reception No. 638478 in the office of the Gunnison County Clerk and Recorder is hereby released, terminated and rendered null and void.

INTRODUCED by Commissioner_____, seconded by Commissioner_____ and adopted on this _____ day of _____, 2016.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

_____
Paula Swenson, Chairperson

_____
Jonathan Houck, Commissioner

_____
Phil Chamberland, Commissioner

ATTEST:

_____
Deputy Clerk and Recorder

GUNNISON COUNTY, COLORADO

CERTIFICATE OF MINOR IMPACT APPROVAL

CERTIFICATION NO. 1, SERIES 2016

AN ACTION APPROVING LAND USE CHANGE PERMIT NO. 15-00020 A LAND USE CHANGE PERMIT FOR PILLOW ROCK FINANCIAL LOCATED AT LOT 33A, BOUNDARY LINE ADJUSTMENT MAP, LOT 32 AND 33, TRAPPERS CROSSING AT WILDCAT, GUNNISON COUNTY

WHEREAS, Pillow Rock Financial submitted an application dated June 30, 2015 for a 3 foot wide 4,400 linear foot trail for the stated purpose of mountain biking on the owner's 35.55 acre lot located on Lot 33A, Boundary Line Adjustment Map, Lot 32 and 33, Trappers Crossing At Wildcat, Gunnison County.

WHERAS, the applicant built a private cycling trail which resulted in 13,200 square feet of site disturbance associated with the construction of the trail.

WHERAS, a Minor Impact Application was required of the applicant after the trail was constructed as per Article 6, Section 6-102: "Projects Classified as Minor Impact Project. K. Clearing of More than 7500 Sq. Ft. of Land: Clearing of more than 7,500 sq. ft. of land not related to activities permitted by a Building Permit an ISDS Permit, or Access Permit or an agricultural operation."

WHEREAS, On September 18, 2015 a Gunnison County Planning Commission worksession and site visit was conducted to the site.

WHEREAS, A public hearing occurred on October 16, 201 after being legally noticed for this application which was continued to December 4, 2015.

WHEREAS, the Community Development Department staff recommended approval with conditions of this application.

WHEREAS, after a review of the Minor Impact application and final submittal and all information, documentation and testimony related to it, the Planning Commission did approve on January 15, 2016 the application with certain findings and conditions, and

***WHEREAS**, Section 6-106 of the Gunnison County Land Use Resolution defines a* process of review for Minor Impact projects, and after a review of relevant facts related to the proposed land use change's compliance with the *Resolution* the Gunnison County Planning Commission finds the following:

FINDINGS:

1. The applicant has built a 3 foot wide 4,400 linear foot trail for the stated purpose of mountain biking on the owner's 35.55 acre lot. The total area of impact of the trail is 13,200 square feet.

2. The application is defined as a Minor Impact; pursuant to Article 6, Section 6-102: Projects Classified as Minor Impact Project. K. Clearing of More than 7500 Sq. Ft. of Land: Clearing of more than 7,500 sq. ft. of land not related to activities permitted by a Building Permit an ISDS Permit, or Access Permit or an agricultural operation.

3. On September 18, 2015 the County conducted a site visit with the applicant, members of the Planning Commission, and owners from the Trappers Crossing Subdivision.

4. The Green Lake Trail runs through both the Subdivision and the subject property

5. A connection between the applicants trail and the Green Lake Trails was found to exist. However, no other connections from the applicants trail was found to adjacent properties.

6. It was observed that the trail was constructed using a high degree of sensitivity to the topography and natural features of the site so as to prevent or minimize environmental impacts.

7. The applicant has stated and clarified at the public hearing on December 4, 2015 that the trail will be only available to the owner and his/her guests.

8. The Planning Commission has received and considered testimony during the public hearing regarding this application.

9. The Planning Commission had received input and considered the comments of the applicant, its consultants, and those individuals and organizations providing public testimony both verbally and in writing.

10. The Planning Commission has reviewed and is informed by all the documentation submitted to the County and included within the Community Development Departments file relative to this application; including all exhibits, references and documents as submitted with this application and by public comment at a public hearing, both written and oral.

11. As referenced in Section 2 above, the application complies with the applicable standards of the *Gunnison County Land Use Resolution*, and complies with *Section 6-103: Standards for Approval of Minor Impact Projects*.

12. This decision is not and shall not be construed to be, for the purpose of litigation between parties not including Gunnison County, a determination of whether the trail is consistent or not with the protective covenants of Trappers Crossing at Wildcat.

13. Gunnison County Community Development Staff recommends approval of the application with the conditions specified below.

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) except as approved or required as part of this Permit, relied on

herein to mitigate a possible conflict shall require a new or amended land use change permit.

NOW, THEREFORE The Gunnison County Planning Commission on January 15, 2016, having reviewed 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, including public comment at a public hearing and having reached the above cited findings, classifies LUC # LUC 15-00020, Pillow Rock Financial, as a Minor Impact Project and is hereby approved with the following conditions:

1. That this approval be memorialized within a Certificate of Minor Impact and recorded within the Office of the Gunnison County Clerk and Recorder. Approval shall not be final until recordation of the Certificate of Minor Impact is recorded within the Office of the Gunnison County Clerk and Recorder.

2. The Applicant has represented that the trail shall be a private trail for the use of the property owner and his/her guests. This approval shall become null and void if the owner or his/her designee allows the use of the trail for the general public or for special events.

3. Utilization of the trail for more than 15 people at one time is not allowed under this approval.

4. The parking of 4 or more vehicles on the site for the purpose of utilizing the trail is not allowed under this approval.

5. Motorized vehicles (except for those needed to perform maintenance on the property) of any kind on the subject trail is not allowed under this approval. Under no circumstances should motorized vehicles be used for recreation on the subject trail.

6. Any evidence of new trails being constructed to, from, or within the subject property shall be deemed a violation of this approval.

7. The applicant shall submit a "plan" to both Gunnison County Community Development Department and the Town of Crested Butte by April 29, 2016 to remove the trail connection between the subject trail and the Green Lake Trail. This plans must be reviewed by the Gunnison County Community Development staff and approved by staff to ensure the required components below are achieved. Any improvements or alterations within the Green Lake Trail Easement controlled by the Town of Crested Butte must be approved as appropriate by the Town of Crested Butte. Attachment B includes a letter from the applicant with their proposal to address this issue. This "plan" shall include the following components:

    A. No Trespassing Signage posted on the property owners land at locations visible from both the Green Lake Trail and the vehicular access to the site in locations approved of by Gunnison County. If sign approval is required by the Trappers Crossing Home Owners Association, then approval must be obtained.

    B. Video Surveillance that is motion activated and having sufficient memory to record 60 days of potential use focused on the area where the Green Lake Trail connects to the applicants trail located at an angle so that an individual face

accessing the site may be recorded. In addition, a similar video device with the same specifications is required on the vehicular road accessing the subject property so as to show any user that accesses the site via the road and then connects to the applicants trail. Furthermore, the applicant shall provide recordings from the video monitors within 48 hours of a written request by Gunnison County.

C. The trail connection between the Green Lake Trail and the applicant's private trail shall be completely eliminated. This may be done with revegetation, tree planting, placement of rocks, and/or construction of a fence (subject to any necessary Trappers Crossing Home Owners Association Approval). In addition any physical changes within the Green Lake Trail Easement may need review/approval by the Town of Crested Butte.

8. By July 15, 2016 the applicant shall complete work on removing the trail connector from the subject private trail to the Green Lake Trail as specified in condition # 7 above. The applicant shall notify and allow access to the Gunnison County Community Development Department to conduct a site visit to confirm the appropriate implementation of condition # 7 above.

9. The applicant shall allow access to the site by Gunnison County Community Development Department, with 48 hours' written notice, to inspect the site and confirm the conditions of this approval are being met on an ongoing basis.

10. Approval of this Land Use Change Permit implies no approval of any building sites or building permits, reclamation permits, individual sewage disposal permits, driveway permits or any other permits required by any other agency.

11. 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.

12. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative), except as required and approved as part of this Permit, relied on herein to mitigate a possible conflict, shall require a new or amended land use change permit.

13. 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.

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

Russell Forrest
Community Development Department Director

ATTEST:

Jan M. Bare, Deputy

Gunnison County Clerk and Recorder

GUNNISON COUNTY SEAL COLORADO

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RESOLUTION

OF

TRAPPERS CROSSING AT CRESTED BUTTE ASSOCIATION

WHEREAS, Trappers Crossing at Crested Butte Association, a Colorado non-profit corporation ("Association"), owns Lot 33A, TRAPPER'S CROSSING AT WILDCAT, according to the Amended Plat recorded October 30, 1992 at Reception No. 438144 and the Boundary Line Adjustment Map recorded August 17, 2001 at Reception No. 513452, County of Gunnison, State of Colorado ("Lot 33A"); and

WHEREAS, Association acquired Lot 33A from Willow Rock Financial, LLC, an Indiana limited liability company, by Bargain and Sale Deed recorded June 21, 2016 at Reception No. 640070 in the office of the Gunnison County Clerk and Recorder; and

WHEREAS, on March 18, 2016, at Reception No. 638478 in the office of the Gunnison County Clerk and Recorder, Gunnison County recorded a Certificate of Minor Impact Approval granting Pillow Rock Financial, LLC a Land Use Change Permit for a mountain biking trail on Lot 33A; and

WHEREAS, Association intends to relinquish and terminate the Land Use Change Permit represented by the foregoing Certificate of Minor Impact Approval;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ASSOCIATION:

1. Association hereby relinquishes the Minor Impact Land Use Change Permit represented by the Certificate of Minor Impact Approval and declares that, upon approval of this Resolution by Gunnison County, the Minor Impact Land Use Change Permit represented by the Certificate of Minor Impact Approval bearing Reception No. 638478 shall be rendered null and void.

2. This Resolution shall become effective upon recording in the office of the Gunnison County Clerk and Recorder together with a Resolution of the Board of County Commissioners of Gunnison County, Colorado approving this Resolution and releasing the Certificate of Minor Impact Approval.

Adopted unanimously by the Board of Directors of Trappers Crossing at Crested Butte Association the 2nd of June, 2016.

TRAPPERS CROSSING AT CRESTED BUTTE ASSOCIATION, a Colorado non-profit corporation

By: _____
Lynn McDermand, President

STATE OF COLORADO)
)ss.
COUNTY OF GUNNISON)

The foregoing Resolution was acknowledged before me this 16th day of August, 2016, by Lynn McDermand, President of Trappers Crossing at Crested Butte Association, a Colorado non-profit corporation.

Witness my hand and official seal.
My commission expires:

_____
Notary Public

DAVID LEINSDORF
Notary Public - State of Colorado
Notary ID 19964014769
My Commission Expires Sep 16, 2020