AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Request to Combine Preliminary-Final Plans; LUC #1

Action Requested: Motion

Parties to the Agreement:

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

Summary:

Request to combine Preliminary/Final Plan application

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 db 12/1/16

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 12/1/2016 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 12/2/2016

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

Agenda Date: 12/6/2016

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

November 28, 2016

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Cypress Foothills LP**
Slate River Development
Request to combine Preliminary-Final Plans

On October 28, 2016, Marcus Locke, representing Cypress Foothills LP, submitted a request to combine the Preliminary-Final Plan application for the Slate River Development subdivision. See attached letter. The Board of County Commissioners approved the Sketch Plan on August 16, 2016, Resolution No. 2016-33. See attached Resolution.

At their November 18, 2016 meeting, the Planning Commission unanimously approved a recommendation to the Board of County Commissioners to allow Cyprus Foothills LP to submit a combined Preliminary-Final Plan application.

LAW OF THE ROCKIES

Members
Marcus J. Lock
Jacob A. With
Kendall K. Burgemeister

Of Counsel
John R. Hill, Jr.

525 N. Main Street, Gunnison, CO 81230 | 970.641.1903
lawoftherockies.com | Fax: 970.641.1943 | mlock@lawoftherockies.com

October 28, 2016

VIA ELECTRONIC MAIL

Neal Starkebaum,
Assistant Director, Gunnison County Community and Economic Development Department
nstarkebaum@gunnisoncounty.org

Re: LUC # 16-00009; Cypress Foothills, LP ("Cypress"); Slate River Development (the "Project")

Dear Mr. Starkebaum,

I am writing to respectfully request that the Gunnison County Planning Commission (the "Commission") consider a combined review of the Project's preliminary and final plans.

As you know, Section 7-103(C)(1) of the Gunnison County Land Use Resolution (the "LUR") provides that "[t]he Preliminary Plan and Final Plan may be combined and processed together based on upon consideration of the following factors: design, size, public concern, public facilities and services."

On August 16th, 2016, the Gunnison County Board of County Commissioners unanimously approved Cypress's Sketch Plan Application for the Project in Resolution No. 2016-33. Although the Sketch Plan review process is exploratory in nature, Cypress had thought carefully about its proposed development and filed a very detailed application. Moreover, many potential issues had already been addressed and resolved through Cypress's negotiations with the Town of Crested Butte (the "Town"), as memorialized in the February 16th, 2016 Pre-Annexation Agreement between Cypress and the Town (the "Pre-Annexation Agreement"). Consequently, the Sketch Plan review process went smoothly before the Planning Commission, and the Board of County Commissioner's resolution contains just five items that the County has instructed Cypress to address specifically in its Preliminary Plan Application.

Those items are:

1. Analysis of the location of Road A on the West Parcel at its intersection with Gothic Road, as it related to properties across Gothic Road, concerning the impact of vehicle headlights on existing residential properties.

2. Wildlife impacts to elk, regarding mitigation and potential human-elk conflicts, including a wildlife habitat analysis, documentation of consultation with Colorado Parks and Wildlife, and provision for domestic animal controls.

3. Visual analysis of Lots 7-13, from the Crested Butte Cemetery.

4. The applicant investigates the potential for the Town of Crested Butte to provide potable water for the development.

5. Viability of the extension/connection of Eighth Street to Road A.

With respect to number 1, Cypress's Preliminary Plan will modify the location of the intersection of Road A and Gothic Road to minimize the impact of vehicle headlights on existing residential properties.

With respect to number 2, Cypress's Preliminary Plan will include a wildlife habitat analysis performed by a wildlife biologist, ecologist, or similarly qualified expert in consultation with the Colorado Division of Parks and Wildlife in accordance with and pursuant to Section 11-106(F)(4) of the LUR.

With respect to number 3, Cypress has hired the premier landscape architecture firm EDSA to perform the requisite visual analysis.

With respect to number 4, Cypress has reached a conceptual agreement with the Town of Crested Butte to connect the East Parcel to the Town's municipal water supply. Cypress and the Town are currently preparing an amendment to the Pre-Annexation Agreement to memorialize the terms pursuant to which Cypress would be authorized to supply the East Parcel with municipal water.

Finally, with respect to number 5, Cypress is continuing to talk with the Town about connecting Eighth Street and Road A. As previously discussed, the viability of this connection will depend considerably on whether portions of the Old Town Landfill are located within the proposed Eighth Street right of way, which no one will know until the cleanup of the landfill commences. In essence, whether Eighth Street is connected to Road A is largely within the Town's discretion. However, I think all parties recognize that this connectivity is preferable, and Cypress is committed to continuing to work towards this goal. Moreover, until Cypress and the Town are able to accomplish the construction of Eighth Street, Cypress has negotiated an easement across Town property for non-motorized pedestrian access. This easement would allow Cypress to build a trail across Town property from the West Parcel to Butte Avenue to create connectivity between the proposed preschool and the Crested Butte Community School.

In sum, Cypress anticipates that it will be able to successfully address each of the issues raised by the Planning Commission and the public during the review of the Sketch Plan. Moreover, concerning the Project's size and design, the Project consists of only a single phase, and Cypress does not anticipate requesting any significant changes to its proposed development layout. In addition, the fact that the East Parcel will tie into the Town's water and sewer systems greatly reduces the potential environmental impact of the proposed development and provides fire safety benefits as well. Finally, as the Planning Commission knows, if this Project is successful, the end result will be the public dedication of the majority of the West Parcel to the Town of Crested Butte. The conveyance of the West Parcel to the Town is intended to create a wealth of public benefits for residents at the north end of the valley, including public open spaces and trails, affordable housing, a new preschool, river access, parks, playfields, new public facilities, and potentially, a new recreation center.

Accordingly, taking into account the design, size, public concern, and public facilities and services associated with the Project, Cypress respectfully suggests that it would be appropriate to combine preliminary and final plans under Section 7-103(C)(1) of the LUR.

Cypress looks forward to further discussing the potential combination of Cypress's preliminary and final plans with the Planning Commission at the next available opportunity.

Sincerely,

Marcus Lock
LAW OF THE ROCKIES

cc: Cameron Aderhold

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2016 - 33

A RESOLUTION APPROVING THE SKETCH PLAN FOR LUC NO. 2016-00009 SLATE RIVER DEVELOPMENT SW 1/4 OF SECTION 35, TOWNSHIP 13 SOUTH, RANGE 86 WEST, 6TH P.M, TRACT Q (AKA LOT 13) CYPRESS FOOTHILLS, LP

WHEREAS, Cypress Foothills, LP represented by Marcus J. Lock, Law of the Rockies, submitted the Slate River Development Sketch Plan, which proposes the subdivision of a 44.5-acre parcel, which has been described as a "hybrid-format" development proposal. The application is the first step of a multi-tiered review to develop the subdivision. The property is bisected by the Slate River, which divides the land into a "West Parcel" and an "East Parcel". The dichotomy of the hybrid-format is explained below.

The West Parcel (14.1-acres - west of the Slate River), will be severed from the 44.5-acres and remain a remainder tract, which will be annexed to the Town of Crested Butte, pursuant to a Pre-Annexation Agreement, in place with the Town of Crested Butte. While the West Parcel is an element of this subdivision and hybrid-format development, the County land use review concerns the residential development of the East Parcel and construction of an access road across the West Parcel, from Gothic Road. Upon final approval of this land use change, the Old Town Landfill, located within the West Parcel, will be cleaned up, in accordance with the Colorado Department of Public Health and Environment's Voluntary Clean Up Plan, as contemplated in the Pre-Annexation Agreement. No other uses are approved on the West Parcel.

The East Parcel (30.4-acres - east of the Slate River) will be subdivided into 23 single-family residential lots, with the opportunity for a secondary residence on each lot. Lot sizes range from one-third to three-quarter acres. Access to the East Parcel will be from Gothic Road, via construction of a new road (Road A). The lots will be restricted to a maximum primary residential building size of 5,000 square feet, a secondary residence to 750 square feet and the aggregate square footage of all buildings to 5,750 square feet. The Sketch Plan contemplates that water will be provided by central well(s), with central water distribution system, and wastewater will be provided by central sewer, via connection to the Town of Crested Butte's municipal sewer system. The applicant has identified that this development will not be a "gated community". A draft narrative of the subdivision protective covenants has been submitted addressing the general outline of homeowner association responsibilities, architectural style and design guidelines and County required covenant provisions.

The applicant requested a minor modification to the Sketch Plan, in a letter from Marcus J. Lock, dated July 26, 2016, which would be to allow a residential unit on the "HOA Lot". This residential unit, or guest cottage, would be owned by the homeowners' association, and would be available only to lot owners and their guests. If it is constructed, the applicant envisions that the cottage could be used by lot owners who have not yet built their residence, or guests of lot owners, and not for commercial use. The property is located adjacent to the Town of Crested Butte, in the SW 1/4 of Section 35, Township 13 South, Range 86 West, 6th P.M, Tract Q (aka Lot 13); and

WHEREAS, a joint public hearing was conducted July 15 and August 5, 2016, by the Planning Commission and Board of County Commissioners; and

WHEREAS, after a review of the application and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, at its regular meeting on August 5, 2016 forward to the Board of County Commissioners a Recommendation of approval of that application with certain Findings and Conditions;

NOW, THEREFORE, the Board hereby adopts in full the Planning Commission's Recommendation, with these Findings:

1. The submitted Sketch Plan applies to all of the 44.5-acres proposed for development.

2. Section 4-504: A., of the Gunnison County Land Use Resolution prescribes that, "...Sketch Plan review provides an opportunity for the County, the applicant, and the public to engage in an exploratory discussion of a proposed land use change, to examine alternative approaches to development of the property, to participate in a process of joint planning and negotiation between the County and the applicant..." and that detailed engineering plans and other overly detailed information shall not be required or accepted by the County."

3. This application, by definition, is classified as a Major Impact Project.

4. Pursuant to Division 7-200: Sketch Plan for Major Impact Projects of the *Land Use Resolution*:

   a. This Sketch Plan application is generally consistent with the standards and requirements of the Resolution, pursuant to Division 7-200: Sketch Plan for Major Impact Projects, i.e., compliance of the proposed land use change with the standards of the Resolution are required to be determined broadly and conceptually during Sketch Plan review. This application has broadly addressed, and the Commission has broadly evaluated this submittal for its integration of the standards of the Resolution within its conceptual presentation of the proposed development. It is expected that, pursuant to Section 7-703 A., in the submittal of Preliminary Plan, the applicant shall formulate detailed, designed/engineered solutions to the issues and concerns identified during this Sketch Plan review, and shall address, in a site-specific manner, all other issues that are relevant to the Preliminary Plan. The burden in the Preliminary Plan review is on the applicant to provide detailed information and mitigation proposals for evaluation.

   b. The proposed land use change is required to be compatible with, or to enhance the character of existing land uses in the development area, and shall not adversely impact the future development of the development area. For purposes of this application, the Planning Commission finds that the "development area" consists of those lands that are adjacent to the subject property

   c. No phasing has been proposed by the applicant within this Sketch Plan submittal.

5. Approval of this Sketch Plan application constitutes 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.

6. Concerns were identified by the public and the Planning Commission with the location of Road A on the West Parcel and its intersection with Gothic Road, as it related to properties across Gothic Road, concerning the impact of vehicle headlights on existing residential properties.

7. The property is identified as sensitive wildlife habitat, pursuant to the *Land Use Resolution*, based upon comments received from Colorado Parks and Wildlife, concerning the use of the property as an elk migration corridor.

8. 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.

9. The applicant shall be required to submit and actively pursue the completion of 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.

10. 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.

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

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that no additional public hearing on the Slate River Development Sketch Plan need be conducted by the Board, and further, the Board hereby approves the Slate River Development Sketch Plan for LUC No. 2016-0009 as recommended by the Planning Commission, with the following conditions:

1. The following are specifically identified as Preliminary Plan submittal items of particular attention:
   - Analysis of the location of Road A on the West Parcel at its intersection with Gothic Road, as it related to properties across Gothic Road, concerning the impact of vehicle headlights on existing residential properties.
   - Wildlife impacts to elk, regarding mitigation and potential human-elk conflicts, including a wildlife habitat analysis, documentation of consultation with Colorado Parks and Wildlife, and provision for domestic animal controls.
   - Visual analysis of Lots 7-13, from the Crested Butte Cemetery.
   - The applicant investigate the potential for the Town of Crested Butte to provide potable water for the development.
   - Viability of the extension/connection of Eighth Street to Road A.

2. Approval of this 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 any aspect of construction of the proposed land use change. Approval at this stage only authorizes the applicant to submit a Preliminary Plan application. If, during the Preliminary Plan and Final Plan reviews the applicant is unable to fulfill all of the requirements of the *Resolution* then the application shall be denied at the Preliminary or Final Plan review stage.

3. The applicant shall be required to submit and actively pursue the completion of 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.

4. 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.

5. 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.

6. 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 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 Houck, seconded by Commissioner Chamberland, and adopted on this 16th day of August, 2016.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

Paula Swenson, Chairperson

Phil Chamberland, Commissioner

Jonathan Houck, Commissioner

ATTEST:

Deputy Gunnison County Clerk and Recorder

GUNNISON COUNTY SEAL COLORADO