



Gunnison County, CO
Community Development Department

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To: Planning Commission
From: Community Development Department Services Manager Beth Baker
CC: Director of Community Development- Russ Forest
Assistant Director of Community Development- Neal Starkebaum
Planner- Cathie Pagano
Date: **November 27, 2013**

Re: Packet Materials – December 6, 2013 PC Meeting Document or other materials
• Agenda – December 6, 2013
• Minutes – November 15, 2013
• Special Area Regulations
• Pilgrim Communications- LUC-13-00023- Public Hearing and Possible Action
• Draft Decision Document
• Scarp Ridge LLC- LUC-13-00005- Work Session and Possible Action
• Draft Recommendation of Sketch Plan

We will e-mail any documents that are not available yet, and anything that is submitted after we distribute the packets.

Thanks,
Beth

The entire application files can be viewed on-

<http://gunn.org/436/Citizen-Access-Portal>

The Project Number, **Pilgrim Communications- LUC-13-00023**; the Project Number, **Scarp Ridge -LUC-00005**.

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, December 6, 2013

- 8:45 a.m.**
- **Call to order; determine quorum**
 - **Approval of Minutes**
 - **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are not scheduled on the day's agenda.

9:00 a.m. Pilgrim Communications/KVLE-FM, LUC #13-00023 public hearing/work session/possible action, request for the replacement of existing telecommunications tower, located at 1445 Highway 135, 1.2 –acres, in the NW/4SW/4 Section 25, T50N, R1W, N.M.P.M, approximately 1.5 miles north of the City of Gunnison, west of Highway 135

9:30 a.m. Gunnison/Crested Butte Industrial Special Area work session/no action, proposed Special Area to designate geographic areas in which land development and land use is identified as being appropriate for industrial uses; on lands generally located adjacent to the Signal Peak Industrial Park, east of Gunnison and the Riverland Industrial Park, south of Crested Butte

10:00 a.m. Scarp Ridge LLC, LUC #13-00005 work session/possible action – recommendation to Board of County Commissioners on the Sketch Plan application. The applicant is requesting approval for a master plan for the Scarp Ridge LLC (aka Irwin) property to include use of the existing lodge for weddings and events and as a conference center; six new single-family residences on adjoining mining claims; one storage structure, one elevated overlook structure, two alpine huts; expansion of the existing maintenance barn; the addition of a roof deck to the existing parking barn; outdoor pavilion that would seat approximately 170 people; new mountain bike trails; zipline; kids' village to include playground equipment; reroute of the existing Scarp Ridge trail. The proposed structures and facilities will comprise a year-round commercial resort.

The property is located 12 miles west of the Town of Crested Butte, accessed from Kebler Pass Road (CR 12), Lake Irwin Campground Road (FSR 826), Green Lake Road (FSR 826.1E) and Irwin Lodge Road (FSR 826.1C). The parcel is legally described as the following 19 lode mining claims, all in the Ruby Mining District: Aumego, U.S. Survey No. 2703; Capitol U.S. Survey No. 3466; Clara U.S. Survey No. 2801; Fourth of July U.S. Survey No. 3467; Zumo U.S. Survey No. 2702; Crystal, U.S. Survey No. 1156; Diquita, U.S. Survey No. 2786; Double Dyke U.S. Survey No. 5511; Lead Chief U.S. Survey No. 2731; Legal U.S. Survey No. 4149; Silver Hill U.S. Survey No. 2813; Justice U.S. Survey No. 2867; Pickwick, U.S. Survey No. 2814; Tacoma U.S. Survey No. 2701; Lottie S U.S. Survey No. 5322; US Treasury, U.S. Survey No. 5322; Lower Chloride, U.S. Survey No. 17240A; Little Minnie, U.S. Survey No. 4421; Staten Island, U.S. Survey No. 3716.

- End of Meeting**
- Report of actions taken by BOCC.
 - A brief period in which Commission debriefs on the day's processes, etc. No discussion or action on any specific Land Use Change Permit applications will take place at this time.

Adjourn

NOTE: Unless otherwise noted, all meetings are conducted in the Blackstock Government Center Meeting Room at 221 N. Wisconsin St. in Gunnison, across the street from the Post Office. This is a preliminary agenda; agenda times may be changed by the staff up to 24 hours before the meeting date. If you are interested in a specific agenda item; you may want to call the Community Development Department (641-0360) ahead of time to confirm its scheduled time. Anyone needing special accommodations please contact the Community Development Department before the meeting.

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, November 15, 2013

- 8:45 a.m.**
- **Call to order; determine quorum**
 - **Approval of Minutes**
 - **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are not scheduled on the day's agenda.

9:00 a.m. Gunnison Valley Properties, LLC, work session/possible action, Preliminary/Final Plan recommendation to the Board of County Commissioners, request for a year-round sand and gravel operation on 134-acres of a 220-acre parcel; 61-acres of which will be excavated. The operation will include the extraction, crushing, screening, washing and stockpiling of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete batching is also proposed to be conducted at the facility. The property is located approximately ½ mile east of the City of Gunnison, south of Highway 50 to Tomichi Creek, legally described as a being located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50.

- End of Meeting**
- Report of actions taken by BOCC.
 - A brief period in which Commission debriefs on the day's processes, etc. No discussion or action on any specific Land Use Change Permit applications will take place at this time.

Adjourn

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
November 15, 2013**

The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center, Planning Commission meeting room. **Present were:**

Chairman- Kent Fulton	Director of Community Development- Russ Forrest
Commissioner-A.J. Cattles	Assistant Director of Community Development- Neal Starkebaum
Commissioner- Susan Eskew	Community Development Planner-Cathie Pagano
Alternate Commissioner-Tom Venard	Community Development Services Manager-Beth Baker
	Others present as listed in text

Absent; Commissioners Jeremy Rubingh and Warren Wilcox

With a quorum present Chairman Kent Fulton opened the regular meeting of the Planning Commission.

Moved by Fulton seconded by Eskew to approve Planning Commission minutes dated November 1, 2013, as amended. The motion passed unanimously.

Gunnison Valley Properties, LLC Tomichi Gravel Pit , LUC-12-00010: The Gunnison County Planning Commission (Commission) conducted a work session. They reviewed/ considered the Preliminary/Final Plan recommendation to the Board of County Commissioners, request for a year-round sand and gravel operation on 134-acres of a 220-acre parcel; 61-acres of which will be excavated. The operation will include the extraction, crushing, screening, washing and stockpiling of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete batching is also proposed to be conducted at the facility. The property is located approximately ½ mile east of the City of Gunnison, south of Highway 50 to Tomichi Creek, legally described as a being located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50.

With a quorum present Chairman Kent Fulton opened the work session.

Commissioner Warren Wilcox has recused himself from the review of this project / permit application, LUC-12-00010.

The commissioners reviewed the Preliminary/Final Plan recommendation to the Board of County Commissioners.

Chairman Fulton seated Commissioner Venard for the review and vote on this project / permit application, LUC-12-00010.

Moved by; Cattles and seconded by Fulton to approve the recommendation of Gunnison Valley Properties, LLC (sand and gravel operation request), Preliminary/Final Plan to the Board of County Commissioners, LUC-12-00010. The motion passed unanimously.

“PRELIMINARY PLAN PROVIDES DETAILED SOLUTIONS AND DESIGN. Preliminary Plan review requires the applicant to formulate detailed, designed/engineered solutions to the issues and concerns identified during Sketch Plan review, and to 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.”

Section 7-103: C., Gunnison County Land Use Resolution

“PRELIMINARY AND FINAL PLANS MAY BE COMBINED. *The Preliminary Plan and Final Plan may be combined and processed together based upon consideration of the following factors: design, size, public concern, public facilities and services.”*

Section 7-103: C. 1., Gunnison County Land Use Resolution

“FINAL PLAN FORMALIZES PROJECT. *The purpose of the Final Plan review procedure is to provide a permanent and accurate public record of the development plan: exact size, shape and location of all approved activities and uses, and, as applicable, lots, blocks, streets, easements and other parcels of land within the development, together with all applicable protective covenants, conditions, use restrictions and design and development criteria. A Final Plan or plat shall conform in all respects to the Preliminary Plan previously reviewed and approved by the Board and shall incorporate all modifications and special conditions required by the Board.”*

Section 7-103: D., Gunnison County Land Use Resolution

Planning Commissioner Warren Wilcox recused himself from review of this project.

PROJECT DESCRIPTION:

Gunnison Valley Properties, LLC, represented by Ben Langenfeld, Project Engineer, Greg Lewicki and Associates, is requesting a land use change permit for a construction materials processing operation, to be known as the Tomichi Pit.

The Tomichi Pit site will be used for the production of construction materials such as sand, gravel, concrete, and asphalt. This will require the development of a 73 acre operation, (roads, mining pit, etc.) as part of a 134.5 acre project. This includes the mining pit, internal roads, berms, sediment ponds, processing area, office area, fuel storage, stockpiles, and all other operation related development.

The pit will operate year-around, although operations will likely be minimal in the winter. Most mining will take place from early April to late October. Material will be stockpiled on site during the summer for sale during the rest of the year to continue to supply construction industry needs. Some mining may take place in the off-season, but that is expected to be less than 30% of total annual production. The most common winter activities will be site maintenance and sales from stockpiles.

Mining operations at the Tomichi Pit will involve the extraction, crushing, screening, and washing of an expected average production of 200,000 tons of sand and gravel per year. The estimated resource of the Tomichi Pit is 5.3 million tons, based upon production of 200,000 tons/year, will take approximately 27 years to mine and reclaim. The Tomichi Pit will be a wet pit, requiring dewatering during the mine life. Lowering the water table within a sand and gravel pit during operations is a commonly accepted practice in the construction materials mining industry. The pit area will be excavated beginning in the southeast corner of the property and will migrate from the southeast to the northwest as the resource is extracted and processed, with reclamation occurring concurrently with the mining operations, pursuant to the State Division of Reclamation and Mining Safety permit.

All processing activities will take place in the southeast corner of the property. Concrete and/or asphalt batching operations will be conducted on the site, and an office building with scales, is also proposed. The pit will operate from 7 a.m. to 6 p.m., Monday – Saturday. Once mining and reclamation are complete, the resulting lake, wetlands, and surrounding lands are proposed to be set aside as wildlife habitat.

The applicant has proposed significant on-site mitigation in the form of berming and landscaping adjacent to Highway 50 and the Signal Peak Industrial Park, to provide permanent visual buffering of the proposed operation to travelers on Highway 50 and nearby residential areas. Additionally, the applicant has agreed to provide sound level and air quality (PM10) testing/monitoring to ensure compliance with noise and air quality standards to minimize off-site impacts to surrounding lands.

LOCATION:

The site is located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50, generally described as being approximately 1/2 mile east of the City of Gunnison, south of Highway 50 to Tomichi Creek, and west of Signal Peak Industrial Park.

SURROUNDING LAND USES:

East – Industrial/Residential - Signal Peak Industrial Park
West – Agricultural land (Gunnison Valley Properties, LLC)
North - Residential (across Highway 50)
South - Colorado Parks and Wildlife property

PHASING AND RELATIONSHIP TO APPROVED SKETCH PLAN:

A Preliminary Plan is required to address all of the areas presented in the approved Sketch Plan, to be consistent with the approved Sketch Plan and to specifically address and comply with the conditions stated in the Board's approval. If the Preliminary Plan represents a significant variation from the approved Sketch Plan, that variation must be clearly and completely identified or described. The Preliminary Plan may address phases that are projected to be phases of the Final Plan, though all studies and engineering design are required to address the entirety of the project.

This Preliminary/Final Plan application does not represent a significant variation from the approved Sketch Plan and no phasing is proposed for the Tomichi Pit.

Section 7-103: General Review Process for Major Impact Projects, identifies the following:

1. C. 1. Preliminary and Final Plans May Be Combined. The Preliminary Plan and Final Plan may be combined and processed together based upon consideration of the following factors: design, size, public concern, public facilities and services.

The Board of County Commissioners determined at Sketch Plan approval, that upon consideration of the design, size, public concern, public facilities and services, the Preliminary and Final Plan could be combined for this project.

DOCUMENTS INFORMING THIS REVIEW AND ACTION:

This review and recommendation 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, maps, references and documents.

PLANS/REPORTS/SUBMITTALS:

Plans, reports, letters and other submittal documents informing this recommendation include, but are not limited to:

- Preliminary/Final Plan application, including all exhibits, appendices and maps.
- PowerPoint Presentation – “Tomichi Pit” - Ben Langenfeld, Greg Lewicki and Associates, presented at the June 7, 2013 work session.
- Additional submittal – “Tomichi Pit – Traffic Analysis Letter” Curtis D. Rowe, P.E. PTOE, Vice President, Kimley-Horn and Associates, Inc., dated August 21, 2013
- Appraisal Report – “Proposed Gravel Facility” Charles A. Peterson and Associates, dated August 24, 2013
- Tomichi Pit Modified Berm Plan Map 4.1 - Ben Langenfeld, Greg Lewicki and Associates, September 4, 2013.
- Additional submittals dated October 3, 2013 including a PM10 Monitoring Plan – Tomichi Gravel/Asphalt Operation, Rule Engineering, LLC
- Written comments from L. Richard Bratton, October 11, 2013
- *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013

COMPLIANCE WITH SKETCH PLAN APPROVAL:

The Board of County Commissioners unanimously approved the Sketch Plan, with the following conditions on January 18, 2013. There were no substantive changes made to the Preliminary/Final Plan application. BOCC Sketch Plan conditions are in bold; the applicant's comments from the Preliminary/Final Plan submittal on compliance with those conditions follows:

- a. **A detailed mitigation plan, addressing the standards of *Section 13-119: Standards to Ensure Compatible Uses*, as well as other measures to mitigate issues raised during this Sketch Plan review, including a detailed, comprehensive landscaping & screening plan for Highway 50 and areas adjacent to Signal Peak Industrial Park F#1.**

The best mitigation tactic for visual impact of any industrial operation is to block the view of it. Therefore, the Tomichi Pit makes prodigious use of berms throughout the life of the mine. As shown in the visual point renderings, (Attached as Exhibit A) there are four berms used at the Tomichi Pit.

Highway Berm

The highway berm will be a roughly 10 foot tall berm running along the northeast side of the property, as near to the highway as is practical. Given the life of the mine (20+ years), this berm will be a permanent construction, with small trees planted along the berm to encourage an aesthetically pleasing appearance. This berm will provide the best visual impact mitigation for drivers on US-50 as they come into Gunnison.

No berm is constructed west of the site entrance, so as not to block the view of the valley for westbound drivers. This balances the desire to protect the view of drivers from the bulk of the pit's activity, while still allowing the benefit of the Tomichi Creek valley. The material for this berm will be generated during the initial topsoil stripping of the site.

Processing Berm

The processing berm will be a roughly 30 foot tall berm along the north and west sides of the processing area. This berm will be built using overburden and topsoil stripped from the processing area during operational startup, and will be vegetated immediately after construction. It will be in place until mining of the Stage 2 pit is complete. At this point in time, the processing berm will be removed, the material used for reclamation, and the processing area will be mined out.

Most equipment in the processing area will be hidden by the berm throughout the operation. The only exception to this would be the taller silos associated with an asphalt plant, which typically are 70 feet tall. Blocking the view of such tall equipment is impractical.

Signal Peak Berm

A 10 foot tall berm will be constructed between the Tomichi Pit processing area and the Signal Peak Industrial Park to obscure the view of the processing operations from Signal Peak Lane. The majority of the traffic on Signal Peak Lane is related to the industrial and commercial activity in the Industrial Park, and therefore the smaller berm combined with tree planting will be sufficient to mitigate the visual impacts of the processing site on Signal Peak Lane.

Stage 2 Pit Berm

A 10 foot tall berm will be built around the west and north side of the Stage 2 pit to obscure the mining operations in that pit. This berm will be built with topsoil and overburden from the stripping of the Stage 2 pit, and will be seeded with the berm seed mix upon construction. This berm will be removed at the end of the mining of Stage 2 and used for its reclamation.

- b. **Site plan for the proposed locations of all concrete and asphalt batching operations, including setbacks from property lines.**

Maps 4.1 – 4.6 show the site plan details including the location of the processing activities throughout mine life. A processing area is shown on these maps; the processing equipment and activities will take place anywhere within this area.

- c. **Site plan identifying all internal haul roads.**

Maps 4.1 - 4.6 show the route of internal hauls roads over the life of the mine.

d. A description and details of the program for long-term PM 10 air quality monitoring, with methodology acceptable to the Colorado Department of Public Health and Environment, including dust control mitigation measures.

Dust generated by mining operations and traffic will be the largest air pollutant of concern at the Tomichi Pit. This pollutant can be minimized by employing the following Best Management Practices (BMPs):

1. Revegetation of berms and long term (>90 day) soil and overburden stockpiles
2. Watering of short term and product stockpiles at least once per week during the operating season (April 15 to October 15)
3. Watering of internal haul roads weekly, and more if necessary
4. Gravelling of the main access road and any internal road that is not moving during the life of the operation.
5. Usage of covered haul trucks for product leaving the site
6. Baghouses on all applicable plants

The other sources of air pollution on site are fumes and exhaust from the operation of plants. Usage of appropriate low-sulfur fuels and proper equipment maintenance will minimize the production of pollutants. These plants are all regulated by CDPHE, and copies of the permit will be maintained onsite per CDPHE rules.

Monitoring identified particulate emissions (PM_{2.5} & PM₁₀) will be conducted annually at the time of peak production for the site (typically sometime between June 15th and August 15th of each year). Data gathering will be conducted in accordance with the *Ambient Air Pollution and Meteorological Monitoring Guidance* document published by CDPHE, and the therein referenced EPA standards for measurement. Data gathering will be conducted by a qualified person. The results of this monitoring will be available for inspection by Gunnison County.

Sampling for particulate monitoring (PM₁₀ and PM_{2.5}) will be conducted using an industry standard instantaneous pump with preloaded filter that has been appropriately calibrated. This will likely be provided by the qualified person contracted to conduct particulate monitoring or the operator if the qualified person works for the operator. The filters will be sent to an approved lab for analysis after sampling.

The operator may forgo annual monitoring if CDPHE does not believe it is necessary given the operational constraints and mitigation measures. Also, the operator may conduct a screening model of the operation to demonstrate that the operation will not produce particulate pollutants that are close enough to permit limits to necessitate monitoring.

e. A plan for air quality mitigation, specific to the concrete and asphalt batch plants, regarding air quality monitoring, odor and opacity controls.

Fumes and exhaust from the operation of plants are all regulated by CDPHE, and copies of the permit will be maintained onsite per CDPHE rules. Usage of appropriate low-sulfur fuels and proper equipment maintenance will minimize the production of pollutants.

f. A plan for noise mitigation, initial noise level testing, both on and off-site locations that may be affected by the operations and a program for periodic noise monitoring.

Noise impacts at the Tomichi Pit will be primarily from the operation of the crusher and screener equipment at the processing facility on the south end of the mine. Equipment traffic (trucks, dozers, etc.) will generate secondary noise impacts. Tomichi Pit will use a variety of BMPs to mitigate or reduce noise generated as part of mining at the Tomichi Pit. These BMPs include:

- Berms around the processing area and between the operation and US-50.
- Minimizing the use of jake-brakes on trucks
- Securing truck tailgates tightly
- Limiting truck speed
- Only operating during the day
- Quiet back up alarms for mobile equipment such as dozers

Since one of the neighboring properties is zoned Residential, Tomichi Pit will be held to the state noise limit for operations adjacent to Residential properties, based on the Colorado Revised Statute for noise

As part of mitigating the noise impacts of the Tomichi Pit, a noise monitoring plan will be executed to ensure that noise levels do not exceed state limits. Prior to operations commencing, noise data will be gathered at two points near the project area, as shown on Map 4.0. The first location will be on the fence line between the southeast end of the property and the one neighboring residential property. The second location for noise level testing will be across US-50 from the site access. These locations will be used for initial noise level testing as well as ongoing monitoring during the operation. Each location is near neighboring homes and business that could be negatively affected by excessive noise levels from the Tomichi Pit. Such neighbors are a priority for noise impact mitigation.

At each location a 24-hour sound level sample will be taken, using the appropriate equipment and methodology and overseen by a qualified person. The initial sound level data gathered will be used to establish the natural baseline for comparison once the operation commences. All noise sampling will be conducted between June 15 and August 15 of a given year, as this is the time of greatest activity at a typical construction materials operation. Noise monitoring results will be documented and kept onsite, and be available for review upon request.

g. The applicant shall address concerns related to potential impacts of the operation and pit dewatering on the Tomichi Creek fishery.

The Tomichi Pit will require the dewatering of the ground water exposed within the mining pits during most of its mine life. This will be accomplished using a dewatering trench installed around the active mining floor to a depth of three feet. These trenches will run to a pit pump located in the southwest corner of each pit, which will be installed four feet below the pit floor. The pit pump will pump the water up a pipe and into the nearby sediment pond. Each sediment pond discharges into a nearby natural drainage channel. The sediment pond discharges will be NPDES discharge points that are monitored for water quality according to Colorado Department of Public Health and Environment standards under a CDPHE discharge permit.

Dewatering is a common gravel mining practice, with numerous pits throughout the state of Colorado discharging clean water from their operations. By digging dewatering trenches several feet below the active pit floor, and locating the dewatering pump several feet below the pit floor, the water pumped into the sediment pond is essentially clean ground water. The sediment ponds provide an additional safety factor and a practical location for the NPDES discharge point. The sediment pond designs can be seen on Map 5.0, and the dewatering trench example routes can be seen on DRMS Map C-2.

h. The applicant shall address the existing use of the agricultural irrigation water and identify provisions to ensure that the water and delivery is not adversely impacted.

The Biebels No. 1 & 2 Ditch run through the north side of the site; this ditch will not be affected by mining operations. Water pumped from the pit may be discharged into this ditch in order to ensure ditch flows during pit dewatering. The ditch is shown on all plan view maps of the site. The Biebels Ditch has a decreed capacity of 45.99 cfs. Ditch flow ownership is as follows:

1. Gunnison Valley Properties, LLC: 48.90%
2. Colorado Parks and Wildlife: 19.20%.
3. Manning: 0.10%
4. Town of Gunnison: 14.58%

Portions of the water rights owned by Gunnison Valley Properties, LLC in the Biebels Ditch will be used to augment the consumptive uses of mining and reclamation activities at Tomichi. Other water rights in the ditch will not be affected. There is no formal easement associated with the ditch, but a minimum 40 foot buffer from the pit is being applied along the ditch for this application. This is to provide room for maintenance of the ditch during and after mining.

The Colorado Parks and Wildlife uses a tailwater ditch to irrigate portions of their property to the south. This ditch has been historically fed by tail water from the irrigation of the Tomichi site from the Biebels Ditch. The start of this ditch can be seen on *DRMS Map C-1* on the southeast corner of the permit area.

Gunnison Valley Properties, LLC will maintain the flow in this return ditch during mining by discharging some of the water from Outfall 001 (Stage 1 Sediment Pond discharge) into the return ditch channel. During reclamation, a new connection to the Biebel Nos. 1&2 Ditches will be added to the tailwater ditch. This is to facilitate CPW access to irrigation water they own for the eastern end of their property. CPW has informed Gunnison Valley Properties of its support of this plan in a letter which can be found in *Appendix E*.

- i. **A plan for water quality protection, in compliance with Section 11-107: Protection of Water Quality. D. 2.**
In accordance with Section 11:107: D of the Gunnison County Land Use Resolution (LUR), a water quality protection plan has been assembled. Technical elements and information pertinent to the plan can be found in the DRMS permit application, the SPCC plan, the SWMP plan, portions of the water impacts discussion above, and in the main Preliminary/Final Plan application document. This subsection notes either the location of the information, or directly addresses the requirements of the LUR.
- a) **Topographic Features, Development and Property Lines**
Maps 4.0-4.6 show the topography and development of the Tomichi Pit over the life of the operation. DRMS Map C-1 shows the property lines of the site.
 - b) **Grading Plan**
Grading and drainage plans can be found under Section 19. Grading and Drainage Plans of the LUR application.
 - c) **Soil and Soil Stockpiles**
Proposed stockpile locations can be found on Maps 4.0-4.6.
 - d) **Equipment and Waste Material Storage**
All storage areas can be found on Maps 4.0-4.6, as well as DRMS Map C-2. Spill containment structures and plans applicable to this site are described in the SPCC Plan in Appendix G.
 - e) **Drainage Facilities**
All drainage plans and facilities are covered in Section 19. Grading and Drainage Plans of the LUR application and Exhibit G of the DRMS application.
 - f) **Water Quality Data**
All water quality data applicable to this site is covered in the Water Quality Impacts section above.
 - g) **Location of Proposed Permanent and Temporary Roads**
The location of all roads constructed as part of the Tomichi Pit operations can be seen on Maps 4.0-4.6.
- j. **Demonstration of and compliance with all applicable standards in Section 9-404: Site Location and Setbacks for Mining Operations and Section 9-405: General Development Standards for Mining Operations.**
See Separate Section in Compliance with the LUR Standards.
- k. **A plan for maintaining and preserving any cultural, historical or archeological resource identified or discovered during the mining operation.**
A cultural survey conducted over the property by SWCA in 2009 identified an old railroad grade route running through the southeast portion of the site. This railroad grade will be removed as part of the preparation of the processing area prior to mining. During the remaining 26 years of the operation, no other identified cultural, historical, or archeological resources will be affected.
There is always the possibility at an excavation site of encountering archeological resources. At a site like Tomichi, the most likely of these to be found is remnants of human activity in the top few feet of excavation. During topsoil stripping, personnel will watch out for:
- Bones of any kind
 - Stone tools such as arrowheads or fragments of such tools
 - Stone rock piles and alignments
 - Pottery fragments
 - Fire pits or hearth features

A communication protocol will be in place for personnel to notify the mine manager or shift foreman of anything encountered. Operations in the immediate vicinity of any discovery will be put on hold until a qualified archeologist determines the appropriate course of action for preserving of the find.

l. A noxious weed control plan.

DRMS Exhibit E, section 5 for the Tomichi Pit weed control plan.

m. A spill control and prevention plan, and mitigation.

The Spill Prevention, Control and Countermeasures (SPCC) Plan is contained in Appendix G.

n. The applicant shall address how the development comports with Section 13-102: Applicability. B. Development Shall Consider Municipal Three-Mile Plan.

The Tomichi Pit comports with the City of Gunnison Three Mile Plan by placing industrial activity adjacent to existing industrial activity (Signal Peak), minimizing visual, water, air, and other impacts with a detailed Impact Mitigation Plan, and providing sufficient buffers between operations and wetlands and wildlife habitat. The removal of agricultural land from the Three Mile Plan applicable area is necessary to exploit the gravel resource, which provides a clear economic benefit to the City and County of Gunnison. The only development within the 100-YR floodplain is a portion of the Stage 2 mining area, including the pit itself and its associated sediment pond. These act as hydrologic sumps, reducing the downstream flood level slightly.

o. The applicant shall contact the Manager of the Gunnison/Crested Butte Regional Airport for input regarding whether the location of the pits will create issues with Federal Aviation Administration guidelines related to waterfowl mitigation.

Gunnison Public Works officials were contacted regarding this specific issue, and informed the applicant that comments would be provided as part of the official response to the Gunnison County planning staff request for comment during the plan review process.

REFERAL AGENCIES:

A copy of the Preliminary/Final Plan was sent to the following entities/agencies requesting comments on the application:

- Gunnison County Wildlife Coordinator
- City of Gunnison
- Gunnison County Fire Protection District
- Colorado Department of Public Health and Environment
- Colorado Division of Water Resources
- Gunnison County Natural Resources Conservation District
- Colorado Parks and Wildlife
- Colorado Department of Transportation
- Gunnison County Public Works Department
- Gunnison County Emergency Services
- Division of Reclamation and Mining Safety

Referral Comments Received:

Colorado Division of Water Resources

Comments were received from Karlyn Armstrong, E.I.T., Water Resource Engineer, email of June 10, 2013:

We have reviewed the Preliminary Plan Submittal for the Tomichi Pit Sand and Gravel Operation to be located on the north side of Tomichi Creek in Section 4, Twp 49 N, Rng 1 E, New Mexico PM. The disturbed area will total around 70 acres. The operation will include extraction, crushing, screening, and washing of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete will also be produced at this facility.

According to the applicant, these pits will be dug below the existing groundwater table. During the mining process the pits will be dewatered; some of this water will be used for on-site uses. After the mining process the pits will be allowed to fill with groundwater. On-site water uses during the mining process will include dust suppression, crushing and screening operations, washing operations, a concrete plant, personnel facilities, and wetland irrigation. Post mining water uses will include evaporation from approximately 40 acres of exposed groundwater.

The applicant proposes the use of an existing augmentation plan that has been approved by the State Engineers Office to cover the onsite uses at the pit. However, the court case mentioned in the application is not decreed for use

at the Tomichi Pit. The applicant submitted an application to the Water Court in 2012, court case no. 12CW67, however this case is not yet decreed. Until a decree is in place we will refrain from commenting on the applicant's ability to augment all of the proposed uses as the application can change prior to a decree being issued.

Prior to beginning mining operations, the applicant will need to obtain a court decreed Plan for Augmentation, or Substitute Water Supply Plan approved by this office, that covers all mining and post-mining depletions including wetland irrigation. They will also need to obtain a well permit from this office that allows them to expose groundwater in a gravel pit. The applicant should note that in order to qualify for a Gravel Pit Substitute Water Supply Plan or gravel pit well permit from this office, they will need to obtain a DRMS permit.

So long as the applicant obtains a legal water supply for their project and the required permits, this office has no objections to this application. If you or the applicant has any questions, please contact me in this office.

City of Gunnison – Planning and Zoning Commission

Comments were received from Greg Larson, Chair, City of Gunnison Planning and Zoning Commission, letter dated June 13, 2013:

Thank you for providing the opportunity to comment on the preliminary and final plan for the proposed Tomichi Pit. The following comments are based on the submitted application material and its relation to the Gunnison Three Mile Plan and Urban Growth Boundary, City of Gunnison, Colorado and the City of Gunnison Master Plan. Based on the existing Three-Mile Map, the property is designated as Rural Residential (1 unit per 5-35 or more acres) and is located outside of the Urban Growth Boundary.

The Planning and Zoning Commission recognizes the potential benefits of this proposed use. The Planning and Zoning Commission ask that the following issues be addressed during the review of this LUR application:

- *Visual impact to the City's entrance with consideration of buffers, screening and other mitigation measures;*
- *Ground water quality issues with industrial operations because Tomichi Creek is designated as the potential Gunnison Rising domestic water supply;*
- *Coordination between the Colorado Department of Transportation (CDOT), Gunnison County and the City as part of this Three-Mile Plan review and the US Highway 50 Access Control Plan, initiated by CDOT and the City;*
- *The Air Pollutant Emission Notice and Mitigation Plan to address air quality impacts.*

Knowing that trees are used a visual and sound buffer, the City would ask that the landscaping be maintained in a living state.

Colorado Parks and Wildlife Comments:

Comments were received from J Wenum, Area Wildlife Manager-Gunnison, Colorado Parks and Wildlife, dated July 15, 2013:

I understand there have been questions regarding the Tomichi Pit proposal and potential impacts to the Tomichi Creek fishery from water discharge from the proposed pit. Colorado Parks and Wildlife staff has discussed these issues with the proponent's consultants on several occasions.

CPW does not have sufficient data to confirm or deny potential impacts. Generally, we suspect there will not be significant issues from the dewatering process notably if water is pulled from the lower portions of the pit. We anticipate those waters will be cooler in temperature than water in the creek. There are several factors that could influence this however. These include: temperatures may be affected by retention time in ditches and in the pond, and the depth of the pond. The volume of the releases compared

to flows in Tomichi Creek will likely be important for example: when stream-flows are high enough to dilute even warm pond releases, impacts would be minimal. The operational period could also affect temperatures. Warm releases would likely only be a concern the summer (June through August) and during the afternoon/evening (when water temperatures typically increase). Impacts may be able to be minimized by managing the timing of releases if it was determined that the release of warm water from the pond was a problem. There might also be some ability to modify pond design or outflow location (from deeper, cooler water) to not result in surface releases that are warmer than the Tomichi Creek temperatures, especially during dry periods when we would expect to see elevated temperatures.

Additionally, adding water to the Tomichi Creek system, especially during low flow periods should prove beneficial to the aquatic resource. As you are aware during dry years Tomichi Creek is frequently dewatered in the lower stretches to the point that water quantity and temperature are of concern. Thus, any additional water in the lower stretches should be helpful.

I hope this helps some in resolving the pit dewatering and discharge issue. We recently monitored temperatures in a nearby pit during dewatering and compared them to Tomichi Creek temperatures and found them to be similar.

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

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 construction materials processing is an industrial use. The Preliminary/Final Plan application is consistent with the standards and requirement of this Section.

Section 9-404: Site Location and Setbacks for Mining Operations.

The Tomichi Pit is located east of Gunnison, CO, south of US Highway 50, north of Tomichi Creek, and immediately west of the Signal Peak industrial park. The pit and related disturbance boundaries have all been designed to fall outside of Gunnison County setbacks for construction material mining operations. The table below shows the distance from the nearest example of each type of item a setback is required from. See Maps 4.0-4.6 for the location of all project elements in relation to the appropriate setback.

<u>Land Use</u>	<u>Minimum Distance to Tomichi Pit Mining Operations</u>
Public Roads	No public road within 300 feet
Natural Water Body	100 feet
Federally-Designated Wilderness, Parks or Recreation Areas, or Federal Campgrounds	>1,000 feet; None known within half a mile
Dedicated open space or public park	>1,000 feet
Residential structures	160 feet to the nearest; Concrete and asphalt plants will be kept >250 feet away
Public cemetery	None known within ½ mile
Adjacent property, ROW, or ditch	>30 feet from Biebels No.1 & 2 Ditch (nearest ditch); >50 feet from all property lines
Sensitive wildlife habitat	No sensitive wildlife habitat known within 200 feet of the permit boundary

Section 9-405: General Development Standards for Mining Operations

A. Access and Transportation Plan

As part of the Preliminary Plan application, Gunnison Valley Properties, LLC has developed the following Access and Transportation Plan in accordance with Section 9-403: D. 10 of the Land Use Resolution.

The Tomichi Pit will limit its sales based on the Colorado Department of Transportation access permit for the site's intersection with US Highway 50. Currently, this is the access for the agricultural and residential structures on site, but will be used by the Tomichi Pit for mine access, *Map 4 – Development Layout*. Based on the Level 2 Traffic Study conducted by Kimley-Horn (*Appendix C*), the peak traffic for the Tomichi Pit will be 42 Passenger Car Equivalents (PCEs) per hour. This will occur at both the AM and PM peak travel hours, when employees arrive/leave the site in addition to trucks hauling sold material offsite. This 42 PCE will be the limit of traffic from the site. This will be the traffic volume for the CDOT access permit as well. Any combination of trucks or cars may make up this limit at peak traffic times.

Additional information, "Tomichi Pit – Traffic Analysis Letter" Curtis D. Rowe, P.E. PTOE, Vice President, Kimley-Horn and Associates, Inc., dated August 21, 2013 reiterated that the traffic analysis noted:

Based on the analysis presented herein, the following recommendations are provided:

- Based on both the previous CDOT Auxiliary Turn Lane analysis for project traffic turning volumes, as well as the operational analysis, no turn lanes are recommended along US 50 for the Tomichi Access intersection.
- It is recommended that the northbound access approach to US 50 be signed with a RI-1 "STOP" sign. A RI-1 "STOP" sign for the southbound approach at the access intersection should be considered as well.
- Appropriate sight visibility exists for the US-50 Tomichi Pit access roadway intersection in accordance with CDOT State Highway Access Code requirements.

The Tomichi Pit will operate year around, but most of the activity will take place between April 15th and October 15th each year. Some site maintenance, materials sales, and topsoiling/overburden stripping may take place during the off season. The mine will operate between 7 am and 6 pm Monday through Saturday, unless a specific job requires seven day a week operations. In the case of such job, the County will be notified at least 15 days prior to the initiation of said job. No temporary shutdowns or closures are anticipated during the life of this mine.

The primary impacts of truck traffic related to the mining operation will be dust and noise from the haul trucks entering and leaving the site. Noise impacts will be minimized through best management practices for haul trucks such as: only using jake-brakes in case of emergencies, proximity based back-up alarms, and properly securing tailgates. Trucks on site will be limited to a 15 mph speed limit. Dust generation from traffic will be reduced through periodic road watering and the covering of sand and gravel material in trucks. Trucks hauling sand and gravel off site will be covered.

1. **Road Damage and Maintenance**

Gunnison Valley Properties, LLC will work with Gunnison County Public Works and the Colorado Department of Transportation (CDOT) to ensure that all operation related transportation activities will be in compliance with local, state, and federal requirements. This includes limitations on truck weight, seasonal traffic limits, and paying the cost of maintenance of roads and bridges that is a result of Tomichi Pit's traffic contributions.

2. **Traffic Routing**

The expected distribution of traffic leaving and entering the site can be found in the Kimley-Horn traffic study. All traffic related to Tomichi Pit will travel along US Highway 50. The direction of the main traffic source, haul trucks, will likely be distributed between east bound US 50 and west bound US 50, 30%-70%. Particularly large construction projects may affect traffic direction.

3. **Mitigation to Provide Dust Control and Effects of Load Loss**

Tomichi Pit will use best management practices including tight tailgates, tarps, road watering, magnesium chloride spraying, and others to minimize dust generation by traffic on and off site.

4. **Truck and Crusher Noise**

A noise monitoring plan will be executed to ensure that noise levels do not exceed state limits. Prior to operations commencing, noise data will be gathered at three points near the project area, as shown on Map 4.1. The first location will be on the fence line between the southeast end of the property and the one neighboring residential property. The second location for noise level testing will be across US-50 from the site access. These locations will be used for initial noise level testing as well as ongoing monitoring during the operation. Each location is near neighboring homes and business that could be negatively affected by excessive noise levels from the Tomichi Pit. At each location a 24-hour noise sample will be taken, using the appropriate equipment and methodology and overseen by a qualified person. The initial noise data gathered will be used to establish the natural baseline for comparison once the operation commences. All noise sampling will be conducted

between June 15 and August 15 of a given year, as this is the time of greatest activity at a typical construction materials operation.

5. **Post-Operational Access to Mine Site**

The mining access to the site will only be partially reclaimed at the end of mining. This reclamation will consist of removing the portions of roadway on the site that were only needed for mining activities. The improved access to US 50 will remain as the general site access. No impoundments of hazardous material will be necessary as part of the Tomichi Pit's operation or reclamation. Fencing and gated access to the property may be installed during reclamation to protect reclamation activities. Any hazardous materials used on site during mining (diesel fuel, asphalt hot-mix, etc.) will be removed during final reclamation.

B. Rock Crusher, Asphalt Plant, and Cement Batch Plant

A crusher/screener system, asphalt plant, wash plant, and concrete batch plant will all be used at the Tomichi Pit. These plants will be located in the processing area shown on Maps 4.0-4.6.

C. Impacts on Environmental and Cultural Resources

1. **Water**

The water impacts associated with the Tomichi Pit are the dewatering of the pit during mining, the effect of disturbed ground on runoff, and the effect of operations on neighbors water.

Ground Water Information

Two test wells were installed on the Bratton property west of the Tomichi Pit in 2001 as part of investigation by West Water Associates (WWA) into quality and quantity of the water within the alluvial aquifer passing through the area.

2. **Avoidance of Sensitive Areas**

The Tomichi Pit does not affect any sensitive areas as defined in the Land Use Resolution. (See comments from CPW)

3. **Air Quality**

Dust generated by mining operations and traffic will be the largest air pollutant of concern at the Tomichi Pit. This pollutant can be minimized by employing the following Best Management Practices (BMPs):

- Revegetation of berms and long term (>90 day) soil and overburden stockpiles
- Watering of short term and product stockpiles at least once per week during the operating season (April 15 to October 15)
- Watering of internal haul roads weekly, and more if necessary
- Graveling of the main access road and any internal road that is not relocated during the life of the operation.
- Usage of covered haul trucks for product leaving the site
- Baghouses on all applicable plants

The other sources of air pollution on site are fumes and exhaust from the operation of plants. Usage of appropriate low-sulfur fuels and proper equipment maintenance will minimize the production of pollutants. These plants are all regulated by CDPHE, and copies of the permit will be maintained onsite per CDPHE rules.

Air Monitoring

Monitoring identified particulate emissions (PM10) will be conducted three times annually at the time of peak production for the site (typically sometime between June 15th and August 15th of each year), from three sampling points (See amended Map 4.1.) The sampling points have been located to provide the best representative locations for sampling of PM 10. Data gathering will be conducted in accordance with the *Ambient Air Pollution and Meteorological Monitoring Guidance* document published by CDPHE, and the therein referenced EPA standards for measurement.

Rule Engineering, an independent engineering firm with significant experience in air quality sampling in Colorado, will perform the sampling. This is identified in the *PM10 Monitoring Plan – Tomichi Gravel/Asphalt Operation*, Rule Engineering, LLC. The results of this monitoring will be provided to Gunnison County.

4. Significant Cultural, Historical, and Archeological Resources

The vast majority of resources identified by SWCA survey from 2009 will be unaffected by mining or reclamation operations at the Tomichi Pit. A small portion of old railroad grade has been identified (Site 5GN363.7) in the mining areas. This is part of the old Denver, South Park, and Pacific (DSP&P) railroad that passed through Gunnison Valley. There is always the possibility at an excavation site of encountering archeological resources. At a site like Tomichi, the most likely of these to be found is remnants of human activity in the top few feet of excavation. During topsoil stripping, personnel will watch for:

- Bones of any kind
- Stone tools such as arrowheads or fragments of such tools
- Stone rock piles and alignments
- Pottery fragments
- Fire pits or hearth features

A communication protocol will be in place for personnel to notify the mine manager or shift foreman of anything encountered. Operations in the immediate vicinity of any discovery will be put on hold until a qualified archeologist determines the appropriate course of action for preserving of the find.

D. Mine Wastes and Hazardous Materials

Hazardous materials expected to be present on site during mining consist exclusively of petroleum products and similar materials. These will be stored in accordance with the EPA required SPCC plan for the site. The mining of sand and gravel and production of construction materials at the Tomichi Pit will not generate any waste material that will have a chance to leachate toxic or acidic materials.

Sediment generated by mining will be contained within the site by the mine pit and sediment ponds. Mine water discharges will be regulated by CDPHE process water and stormwater discharge permits.

E. Visual Impacts

Visual impacts will be mitigated by the construction of three 10' berms, and planting of trees, along the perimeter of the site, as identified on the *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013

F. General Operations

1. Compliance with MSHA

All operations at Tomichi Pit will be conducted in line with all state, federal, and local safety regulations that apply.

2. Hours of Operation

The Tomichi Pit will operate year around, but most of the activity will take place between April 15th and October 15th each year. Some site maintenance, materials sales, and topsoiling/overburden stripping may take place during the off season. The mine will operate between 7 am and 6 pm Monday through Saturday, unless a specific job requires seven day a week operations. In the case of such job, the County will be notified at least 15 days prior to the initiation of said job. No temporary shutdowns, or closures are anticipated during the life of this mine.

3. Phasing of Mining Operations

The Tomichi Pit will not be phased.

4. Fire Protection

The entire Tomichi Pit area falls within the low wildfire hazard area for Gunnison County. Gunnison Valley Properties, LLC will work with the Gunnison County Fire Protection District to ensure that appropriate access and materials are available.

5. Fencing

Existing fences on site that do not have to be disturbed as part of mining activities will be preserved. DRMS Maps C-2 and F show the mining and reclamation conditions of fences on site. Fencing may be added to the site to ensure that non-employees, livestock, and wildlife are kept out of the site for their own safety.

6. Noise

Noise impacts at the Tomichi Pit will be primarily from the operation of the crusher and screener equipment at the processing facility on the south end of the mine. Equipment traffic (trucks, dozers, etc.) will generate secondary noise impacts. Tomichi Pit will use a variety of BMPs to mitigate or reduce noise generated as part of mining at the Tomichi Pit. These BMPs include:

- Berms around the processing area and between the operation and US-50.
- Minimizing the use of jake-brakes on trucks
- Securing truck tailgates tightly
- Limiting truck speed
- Only operating during the day
- Quiet back up alarms for mobile equipment such as dozers

A noise monitoring plan will be executed to ensure that noise levels do not exceed state limits. Prior to operations commencing, noise data will be gathered at three points near the project area, as shown on Map 4.1. The first location will be on the fence line between the southeast end of the property and the one neighboring residential property. The second location for noise level testing will be across US-50 from the site access. These locations will be used for initial noise level testing as well as ongoing monitoring during the operation. Each location is near neighboring homes and business that could be negatively affected by excessive noise levels from the Tomichi Pit. At each location a 24-hour noise sample will be taken, using the appropriate equipment and methodology and overseen by a qualified person. The initial noise data gathered will be used to establish the natural baseline for comparison once the operation commences. All noise sampling will be conducted between June 15 and August 15 of a given year, as this is the time of greatest activity at a typical construction materials operation.

G. Post-Operational Land Use

The reclamation plan for the Tomichi Pit is shown on DRMS Map F and in Exhibit E of the DRMS permit application. The reclamation conditions of the site will be accomplished contemporaneously with the mining operation, which will reduce the impact of reclamation activities. Since the initial state of the site will not require any restoration or rehabilitation, the priority for reclamation is to reclaim the Tomichi Pit effectively. The post-operational land use of the Tomichi Pit will be wildlife habitat.

Section 10-104: Locational Standards for Commercial, Industrial, and other Non-Residential Uses.

Not applicable. This section is superseded by Section 9-404: Site Location and Setbacks for Mining Operations A. Supersedes Locational Standards.

Section 11-103: Development in Areas Subject to Flood Hazards.

The 100-year floodplain of Tomichi Creek is outside of the mining and processing areas of the permit area, except for the pit and sediment pond in the Stage 2 mining area. Mining operations are allowed within the 100-year floodplain. *Map 4.1 – Development Layout, Greg Lewicki and Associates 05/07/13.*

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 for review and comment. No comments were received.

Section 11-106: Protection of Wildlife Habitat Areas.

Applicable, the subject parcel is not located within sensitive wildlife habitat. The application was referred to Colorado Parks and Wildlife (CPW) and comments were received from J Wenum, Area Wildlife Manager-Gunnison, Colorado Park and Wildlife, dated July 15, 2013. (See above). No significant impacts to wildlife were identified.

Gunnison Sage-grouse

The application was referred to Jim Cochran, Gunnison County Wildlife Coordinator.

Comments were received from Jim Cochran, Gunnison County Wildlife Coordinator, dated August 8, 2012, related to impacts to Gunnison Sage-grouse. No impacts to the Gunnison Sage-grouse were identified.

Section 11-107: Protection of Water Quality.

Not applicable in context with this section, as no disturbance is within 100 feet of a waterbody. A wetlands delineation was approved by the Army Corp of Engineers, June 19, 2008, SPK-2008-549 CW, signed by Ken Jacobsen, Chief, Colorado West Regulatory Branch. All mining operation are outside of delineated wetlands. The applicant has submitted a plan for water quality protection, including a Spill Prevention Control and Countermeasure (SPCC) Plan to prevent discharges of oil and maintain equipment and materials to control and remediate any spills.

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 adjacent agricultural lands. There are agricultural lands to the west, owned by the applicant, that have been used for grazing.

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. The applicant has identified the locations of the road access and haul roads.

Section 12-104: *Public Trails.*

There is no public trail existing or proposed on this site.

Section 12-105: *Water Supply.*

The applicant indicates that their consultant has determined that water for the proposed gravel operation is available and will require an augmentation plan. John T. Howe, in a letter dated May 15, 2012 notes:

I am an attorney with the law firm of Hoskin Farina & Kampf, Professional Corporation, in Grand Junction, Colorado, and have practiced water law in Colorado for more than twenty (20) years.

The Tomichi Pit is located on lands owned by Gunnison Valley Properties, LLC (Applicant). Various water rights and a general plan for augmentation were approved for the Gunnison Rising project in Case No. 06CW123, Water Division 4, in a Decree entered April 3, 2012 (Decree), a copy of which is enclosed with this letter. The Decree established, among other things, the consumptive use credits applicable to various water rights owned by Applicant, including the water rights that are the subject of this letter. Further, many of the terms of the Decree are strong indicators of the feasibility of success of an application for the water rights and augmentation plan that will be required for the Tomichi Pit.

The Tomichi Pit will require a water right and well permit for depletions caused by interception of groundwater and the resulting surface evaporation and evapo-transpiration of wetlands upon final reclamation, together with an augmentation plan for replacement of out-of-priority depletions. The amount and timing of depletions caused by the Tomichi Pit by evaporation and evapo-transpiration are shown on the enclosed table prepared by Duane Helton of D. Helton Consulting, LLC (Table). Mr. Helton is the engineer that performed the engineering for Applicant in Case No. 06CW123, and will be the consultant in connection with this application and the related plan for augmentation.

The proposed Tomichi Pit is located on lands irrigated by the Biebel Ditches Nos. 1 and 2 (Biebel Ditches). As proposed, the Tomichi Pit will ultimately dry up 108.92 acres of land historically irrigated by the Biebel Ditches. The consumptive use credits for the Biebel Ditches were established by the Decree.

The Table, based on the consumptive use credits established in Case No. 06CW123, shows water availability from dry up of the land historically irrigated by the Beibel Ditches during the irrigation season. During the irrigation season, the dry up provides more water than is needed for replacement of the depletion caused by evaporation and evapo-transpiration of the Tomichi Pit upon final reclamation.

The Table shows that some depletions will occur outside of the irrigation season, specifically during the months of March, April and October. Replacement water from the Aspinall Unit will be purchased by Applicant from the Bureau of Reclamation.

Based on the Table and the augmentation plan approved in Case No. 06CW123, Applicant will be able to meet the legal standards for entry of a decree. The water case to obtain a decree for the water right for the Tomichi Pit and the related augmentation plan is feasible, and likely to succeed.

The Tomichi Pit will consume water in three ways: water used for mining operations, water evaporating from the lake upon reclamation, and water consumed by personnel on the site.

The mining operation will use water to minimize dust generated by traffic on the internal haul road, to minimize dust during crushing and screening operations, and water will be consumed during pit dewatering. Once mining and reclamation are complete, water will be consumed by evaporation across the lake surface. Potable water will be brought on site for personnel to consume during operations.

WestWater and Associates constructed two test ground water wells on the Donna Bratton property to the west of the Tomichi Pit area in the same aquifer. Water from these wells was analyzed for quality and quantity. The report summarized that the water was of very good and acceptable for direct consumption, and that the potential of the Tomichi Creek alluvium would be capable of production rates of 350-600 gpm.

1. Water Sufficient for Landscaping

Water will not be used for berm landscaping, since the seed mix used on the berms will be a dryland mix. The irrigation of dryland areas during revegetation leads to water demanding species pushing out dryland species. This can lead to revegetation failure in these areas if the irrigation is ever removed. Irrigation water will be used for the trees identified in the landscaping plan.

2. Fire Prevention and Fire Suppression

Based on WestWater's evaluation of the ground water aquifer and the water demands of the operation, there will be an excess of at least 245 gpm available.

3. Evidence of Surface Water Right

An augmentation plan for the Tomichi Pit has been approved by the State Engineer's Office to cover the ground water consumptive use with water rights from the Biebels No. 1 & 2 ditch. This augmentation plan will use water that is available from water court decree 06CW123.

Section 12-106: Sewage Disposal/Wastewater Treatment.

Not applicable. No sewage disposal is proposed at the site. Employees will utilize sano-lets for sanitary facilities.

Section 12-107: Fire Protection.

The proposed development is located within the Gunnison Fire Protection District.

Section 13-103: General Site Plan Standards and Lot Measurements.

See Section 9-405: General Development Standards for Mining Operations

Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.*

See Section 9-404: Setbacks for Mining Operations.

Section 13-105: *Residential Building Sizes and Lot Coverages.*

Not Applicable.

Section 13-106: *Energy and Resource Conservation.*

Applicable, this section will be applied at the time of building permit application for the office.

Section 13-107: *Installation of Solid Fuel-Burning Devices*

Not applicable, no solid fuel-burning devices are proposed.

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. Major impact projects for commercial and industrial uses are required to comply with Section 13-111: Landscaping and Buffering and Section 13-104: Setbacks from Property Lines and Road Right-of-Way. The applicant complies with Section 13-104, and Section 13-111 is specifically not applicable to mining operations. The applicant will incorporate significant landscaping into the overall perimeter of the site to provide buffering of the mining activities and the final reclamation of the mined areas will be lakes, which will provide for passive open space.

Section 13-109: *Signs.*

Applicable, identification signs are permitted for the individual use and may be obtained through the sign permit process.

Section 13-110: *Off-Road Parking and Loading.*

Applicable, individual uses are required to comply with this Section. The applicant has identified sufficient areas for parking.

Section 13-111: *Landscaping and Buffering.*

Section 13-111 is specifically not applicable to mining operations. However, the applicant has identified significant berming and landscaping to be incorporated into the overall perimeter of the site to provide buffering to other uses in the area.

Section 13-112: *Snow storage.*

Applicable, the applicant has identified adequate snow storage on the site.

Section 13-113: *Fencing*

Applicable, all fencing shall comply with this section.

Section 13-114: *Exterior Lighting.*

Applicable, all exterior lighting will comply with the requirements of Section 9-301: D.6. *Exterior Lighting.*

Section 13-115: *Reclamation And Noxious Weed Control.*

Applicable, reclamation is required and will be concurrent with mining at the Tomichi Pit. *Exhibit E* of the State Division of Reclamation and Mining Safety application contains the reclamation plan for the Tomichi Pit. *DRMS Map F* shows the reclamation condition for the site. A noxious weed control plan is contained in the *DRMS Exhibit E, section 5 for the Tomichi Pit weed control plan.*

Section 13-116: *Grading and Erosion Control.*

Applicable, grading and erosion control planning is required within the requirements of the State Division of Reclamation and Mining Safety permit and will be concurrent with requirements of the State permit for the mining activities.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*

Applicable, the applicant submitted a detailed drainage, construction and stormwater runoff plan. This plan is designed to satisfy the requirements of Section 13-117 of the Gunnison County Land Use Resolution. All calculations of runoff are

based on the 100-Year, 24-Hour storm event for the Gunnison, CO area. The rainfall for this event is taken from the NOAA Atlas 2, Volume III Colorado.

Baseline Surface Water Drainage

A map showing the stormwater runoff directions that exist on the Tomichi Pit site (*Map 3 - Surface Hydrology*). The mining operation at Tomichi Pit will change the baseline conditions on the site in two steps. The first will be the excavation of the sand and gravel pits, the second is the creation of the reclaimed lakes. Runoff quantities have been calculated for each scenario using the same procedure as the baseline conditions. For the mining conditions, the removal of vegetation from the disturbed area increases the curve number for portions of the stormwater basins. This would increase the runoff on site. However, the creation of mine pits allows the site to contain more runoff than it generates. Once the pit slopes are reclaimed, the curve number for the site will lower some. The topographic changes to the site still will trap some runoff in the lake areas.

Most of the pre-mine permit area drains to Tomichi Creek, but a portion of the area runoff is intercepted by various ditches as shown on *Map 3 - Surface Hydrology*. These ditch interceptions have been ignored in all calculations. None of the permanent berms will alter the stormwater flows over the whole site. There is more than enough capacity in both the mining pits and above the water level in the reclaimed lakes to contain the runoff that drains to them. The net result effect on the overall drainage of the site is a decrease in the runoff that leaves the site. The runoff captured by the pit during mining will either work its way through the alluvium and join the local ground water regime or pass through the pit dewatering system before discharge into the local wetlands and water bodies. The dewatering system provides sediment control through both the placement of the pit pump several feet below the active pit floor and a sediment pond. Runoff that flows into the reclaimed lakes after mining will join the local groundwater regime.

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 applicant has submitted a detailed berming and landscaping plan, titled *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013, for the pit and processing areas, adjacent to Highway 50 and Signal Peak Industrial Park, to provide permanent buffering mitigation of the proposed operation to travelers on Highway 50 and nearby residential areas. Additionally, the applicant will provide sound level and air quality testing/monitoring to ensure compliance with noise and air quality standards to minimize off-site impacts to surrounding lands.

Article 15: *Right-to-Ranch Policy.*

This section is applicable.

DOCUMENTS INFORMING THIS REVIEW AND ACTION:

This review and recommendation 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, maps, references and documents.

WORK SESSIONS:

The Planning Commission conducted work sessions on the Preliminary/Final plan on:

June 7, 2013

June 21, 2013

November 15, 2013

SITE VISIT:

The Commission conducted a site visit on June 21, 2013. The Commission viewed the proposed pit operation area and the surrounding neighborhood.

JOINT PUBLIC HEARING:

The Planning Commission and the Board of County Commissioners conducted a joint public hearing on August 2, 2013, which was continued to September 6, 2013. The public hearing was closed at that time; written comment was accepted until October 10, 2013.

Oral Comments were received from:

- Area residents Robert Delahay, Steve & Mary Kay Fry, Arron & Paula MacLennan all spoke against the project, citing concerns with visual, noise, air quality, water quality, and traffic impacts.

- Ramon Reed noted concerns with proposed berming mitigation.
- Butch Clark noted concerns with dust and potential odors, and the need for monitoring of the site.
- Donna Bratton, noted she has lived near the proposed project for 37 years and many things have changed in the area in that time, including the homes that have been built in proximity to the property.
- Neighbor Jack Cullinan spoke in favor of the project.

Written comments were received from:

- Ramon Reed, letter, June 18, 2013, noting requested consideration regarding the berms, landscaping, traffic visibility and the traffic study.
- Aaron and Paula MacLennan, letter, September 6, 2013, noting concerns with noise, odors, traffic, potential impacts to their well and visual impacts.
- Jack Cullinan, letter, August 2, 2013, noting that you have to find the high quality gravels where they are located, and that traffic impacts will not be significant.
- Cameron Dierks, email of October 9, 2013, stating his opposition to the project and concerns with his well.
- Sally and Shan Hays, letter, October 10, 2013, noting concerns with noise, air quality, and traffic impacts.

All testimony, both written and oral, is hereby incorporated as part of this record of review and evaluation.

FINDINGS:

The Commission finds that:

1. The proposed project is classified as a Major Impact Project based upon classification found in *Section 7-101: Projects Classified as Major Impact Projects E. Large Construction Materials Operations. Any sand, gravel or quarry operation providing material that will operate for more than two years, pursuant to Division 9-400: Exploration, Extraction and Processing of Minerals and Construction Materials.* The definition of Construction Materials Processing “means any activities associated with the extraction, storage or preparation of construction materials for use, including but not limited to, crushing, screening, washing, slabbing, polishing, grinding, concrete or asphalt preparation, batching or recycling, or other such action”. The process of batching asphalt or concrete is defined by the *Gunnison County Land Use Resolution* as Construction Materials Processing.
2. The approval shall be memorialized by Board Resolution/Certificate of Major Impact. Approval shall not be effective until the Resolution is recorded with the Gunnison County Clerk and Recorder.
3. Section 9-404: Site Location and Setbacks for Mining Operations supersedes the locational standards in Section 10-104: Locational Standards for Commercial, Industrial and Other Non-Residential Uses.
4. The applicant has proposed significant berming and landscaping adjacent to Highway 50 and the Signal Peak Industrial Park, as mitigation, to provide permanent buffering to minimize the potential visual and noise impacts from the operation of the gravel pit. The Planning Commission finds the mitigation acceptable to minimize potential visual impacts to the traveling public on Highway 50 and to neighboring properties.
5. The applicant has submitted plans for air quality and sound level testing and monitoring, before and after the pit is fully operational, to ascertain potential off-site impacts. If the tested levels are recorded above sound level thresholds and/or air quality standards for PM10, the operator shall provide a plan to reduce levels below County/State thresholds.
6. Pursuant to *Section 7-102: Standards of Approval for Major Impact Projects*, the Commission finds that this Preliminary/Final Plan complies with the standards of approval and requirements of the *Resolution*. The applicant has addressed mitigation of potential impacts to the neighborhood, the use is compatible with and in character with existing industrial land uses in the area and the Commission has evaluated this for its integration of the standards of the *Resolution*.
7. This review and Recommendation 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 Gunnison County Planning Commission, having reviewed all the documentation submitted to the County and included within the Planning Office file relative to this Preliminary/Final Plan application, site observations and public testimony and having reached the above cited Findings, recommends to the Board of County Commissioners that LUC #2012-10, Gunnison Valley Properties, LLC, Tomichi Pit Preliminary/Final Plan be approved with the following conditions:

CONDITIONS:

1. This permit is limited to activities described within this application, and as depicted on the site plans 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*.
2. The Applicant and/or Operator shall perform all sound level and PM10 testing and monitoring, including baseline ambient sound level and PM10 levels prior to the commencement of operations. The Operator shall conduct sound level and PM10 testing three times annually at the time of peak production (typically between June 15th and August 15th), at the locations identified on amended Map 4.1, the first three operating years. The applicant shall provide copies of all resultant test reports to the Community Development Department. In the event that monitoring results show the Tomichi Pit exceeds County/State standards/thresholds, the Operator shall provide Gunnison County with a remediation plan and follow up sampling within 90 days. In the event that the test results do not exceed County/State standards/thresholds, testing for sound levels and PM10 shall be only be required once in the fourth and fifth operating years (typically between June 15th and August 15th).
3. A Development Improvement Agreement, subject to approval by the Gunnison County Attorney, shall be executed by the Board of County Commissioners, addressing the Highway 50 intersection improvements and the berming and landscaping, identified in the following plans:
 - *Roadway Improvement Plan for State Highway 50 at Tomichi Gravel Pit*, Kimley-Horn and Associates, Inc., Sheets 1-6, April 10, 2013
 - *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013
4. A performance bond, letter of credit or other means of surety acceptable to the Board of County Commissioners be required to cover the cost of the Highway 50 intersection improvements and the berming and landscaping, as identified on plan noted in Condition #3, plus 25 percent; such costs as detailed by the applicant's engineer, and that said surety is retained by Gunnison County.
5. The hours of operation of the Tomichi Pit are limited to 7 a.m. - 6 p.m., Monday – Saturday, except as allowed under Section 9-405: F. 2. a. Temporary Operations Outside the Approved Hours of Operation.
6. The Operator shall comply with the applicable standards identified in *Section 9-405: General Development Standards for Mining Operations, Gunnison County Land Use Resolution*.
7. The Operator shall employ all Best Management Practices (BMP's) identified in the application to minimize noise, odor and fugitive dust.
8. Prior to the commencement of operations for the pit, the applicant shall provide copies of all applicable state or federal permits to the County Community Development Department.
9. Prior to commencement of operations, the Operator shall submit a fire protection plan to the Fire Marshall, Gunnison County Fire Protection District, for review and approval. The plan shall include identification of types and areas of fuel storage, hazardous materials storage, suppression, spill prevention, containment and response; employee training and personnel contact phone numbers in case of emergency. A copy of the approved plan shall be provided to the Community Development Department.
10. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

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

END OF DAY DISCUSSION;

Starkebaum the BOCC adopted the Sage grouse amendments to the LUR.

Fulton adjourned the meeting at 10:00 AM.

/S/ Beth Baker
Community Development Department Services Manager
Gunnison County Community Development Department

DRAFT

GUNNISON - CRESTED BUTTE INDUSTRIAL SPECIAL AREA



DRAFT – NOVEMBER 2013

SECTION 1: PURPOSES.

The Gunnison/Crested Butte Industrial Special Area is a discrete geographic area in which land development and land use is identified as being appropriate for industrial uses on lands adjacent to and compatible with the uses within the Signal Peak Industrial Park, east of Gunnison and the Riverland Industrial Park, south of Crested Butte. The general purpose of these *Regulations* is to identify areas determined to be appropriate for industrial uses and the following purposes will serve as basic goals for this designation.

A. GENERAL PURPOSES.

- 1. PROMOTE HEALTH, SAFETY, GENERAL WELFARE AND THE ENVIRONMENT.** To promote the health, safety, and general welfare of the citizens of Gunnison County by giving reasonable consideration to the social, economic and environmental characteristics of the community and the compatibility of proposed land use changes with existing uses.
- 2. SIMPLIFY THE LAND USE PLANNING AND REGULATORY REVIEW PROCESS.** To simplify, expedite and provide uniform application of the land use planning and regulatory review process.
- 3. PROTECT THE HERITAGE OF OUR RURAL CHARACTER.** To protect ranching and other existing industries, the beauty of the landscape and rural character of Gunnison County, in order to enhance recreational opportunities for residents and visitors, preserve important archeological and historic sites and viewsheds, and conserve soil, water, and forestry resources. To ensure that no land use change significantly detracts from the economic base, the environmental, historical, recreational, or aesthetic character of the County.
- 4. PROVIDE FOR ORDERLY USE OF LAND.** To plan for and regulate the use of land and to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights and without unnecessary time and expense by applicants or the public.
- 5. PRESERVE NEIGHBORHOOD CHARACTER.** To preserve the character of established residential areas and residential neighborhoods.
- 6. EVALUATE CUMULATIVE IMPACTS.** To evaluate the combined impacts of two or more uses or activities, and repeated activities, in a discreet area or the whole of Gunnison County.
- 7. ENCOURAGE INNOVATIONS.** To encourage innovations in residential, commercial, and industrial land use changes, so that the growing demands of the population may be met by greater variety in type, design, and layout of development.
- 8. REGULATE LAND USE BASED ON IMPACTS.** To regulate the use of land based on the impact of such use on surrounding areas and the community to eliminate, minimize, or mitigate conflicts among different land uses.

B. PURPOSES TO MANAGE AND GUIDE LAND DEVELOPMENT.

- 1. PROMOTE A COMPACT DEVELOPMENT PATTERN.** To promote a compact development pattern that discourages sprawl, in which denser and more intense forms of development will occur contiguous to, or in close proximity to, existing population and development centers and public services. To encourage development patterns that will tend to minimize the cost of providing governmental and other services and will preserve open space.
- 2. ENSURE ADEQUATE FACILITIES.** To ensure that development provides, and is served by, adequate transportation, water supply, wastewater treatment, other utilities and public services, schools, open space, parks, trails, and similar facilities, and to provide for phased development based on location and capacity of such services and facilities. To ensure, to the maximum extent practicable, that growth will pay for itself, and to ensure that present residents do not have to subsidize land use changes that involve growth or development through increased taxes or degradation of the quality of services they receive. To avoid land use changes requiring significant expenditures of public funds for schools, roads, health, police, and fire, or other purposes.

-
- 3. ENCOURAGE INDUSTRIAL DEVELOPMENT NEAR EXISTING SIMILAR, COMPATIBLE USES.** To encourage land uses that are designed, constructed and maintained that are located near or adjacent to existing, similar, compatible industrial uses.

C. PURPOSES TO PROMOTE THE ECONOMIC WELL BEING OF THE COMMUNITY.

- 1. PROTECT AND ENHANCE ECONOMY.** To protect and enhance the economic strength of the private and governmental sectors of Gunnison County in a manner that is compatible with this *Resolution*.
- 2. ENCOURAGE ECONOMIC DIVERSITY.** To encourage, strengthen and promote greater economic diversity in the County, to broaden employment opportunities and reduce seasonal employment fluctuation in a manner that will not endanger or detract from the existing economy.

D. PURPOSES TO PROTECT ENVIRONMENTAL RESOURCES.

- 1. MAINTAIN ENVIRONMENTAL QUALITY.** Recognizing the irreplaceable character of the environment and its importance to the quality of life in Gunnison County, to ensure that land use changes do not degrade or threaten the existing high quality of the environment in the County.
- 2. PRESERVE QUALITY AND QUANTITY OF WATER RESOURCES.** Recognizing that the essence of Gunnison County's ability to survive and prosper is the availability of a consistent and clean source of water, the County intends to preserve and protect the quality and quantity of water resources in Gunnison County.
- 3. PRESERVE WILDLIFE HABITAT.** To protect and preserve lands from land use activities and patterns of development that would cause significant net adverse effects to sensitive wildlife habitat and to discourage land uses that will impair or destroy such habitats, or their utilization by wildlife species, or that would endanger a wildlife species. It is the intent of this *Resolution* that private landowners do not lose reasonable use of their land or, when appropriate, receive fair compensation because of owning sensitive wildlife habitat.
- 4. AIR QUALITY.** To protect and preserve the air quality from development that would cause significant net adverse effects.

SECTION 2: APPLICABILITY.

These *Regulations* shall apply to the development of new uses, expansion of existing uses and change of the use of land or structures within the Industrial Special Area, identified in Exhibits A & B.

SECTION 3: PERMITS REQUIRED

ISSUANCE OF PERMITS. Unless otherwise expressly excepted, no person shall engage in, cause, or allow any land use change as defined in Article 2: *Definitions* of the *Gunnison County Land Use Resolution* upon land owned, controlled, occupied, or used by that person in the unincorporated area of Gunnison County, unless that person has first obtained a Land Use Change Permit pursuant to the *Gunnison County Land Use Resolution*.

SECTION 4: RELATIONSHIP TO THE GUNNISON COUNTY LAND USE RESOLUTION.

- A. COMPLIANCE WITH THE GUNNISON COUNTY LAND USE RESOLUTION.** Development within the Industrial Special Area shall follow the requirements of the *Gunnison County Land Use Resolution*, except that development within the special area shall be exempt from the following Section:
 - Section 10-104: **LOCATIONAL STANDARDS FOR COMMERCIAL, INDUSTRIAL AND OTHER NON-RESIDENTIAL DEVELOPMENT.**
- B. DEFINITIONS.** Terms not otherwise defined within these *Regulations* shall be defined pursuant to Section 2-102: *Definitions*, of the *Gunnison County Land Use Resolution*.
- C. CONSTRUCTION AND WORD USAGE.** Construction and word usage shall be interpreted pursuant to Section 1-111: *Construction and Word Usage*, of the *Gunnison County Land Use Resolution*.

D. INTERPRETATIONS. The Gunnison County Community Development Director shall have authority to interpret these *Regulations*, and shall do so in the same manner provided pursuant to Section 1-114: *Interpretations*, of the *Gunnison County Land Use Resolution*.

SECTION 5: AMENDMENT AND TERMINATION.

A. TERM. Unless earlier terminated, or extended, in accordance with this provision, and subject to any limitations set forth in this provision, these *Regulations* shall continue in full force and effect for a period of 20 years from the date of their initial approval by the Board. However, unless there shall be recorded in Gunnison County within one year before the end of such 20 year period an instrument directing the extension of these *Regulations* and approved by the Board these *Regulations* will terminate as set forth in this Section.

1. TERMINATION AND MODIFICATION. These *Regulations*, and any provision contained herein, may be terminated, extended, modified or amended as to all or a portion of the Industrial Special Area upon approval by the Board.

B. AMENDMENT. The following process shall apply to an application to amend these *Regulations*:

1. INITIATION. An amendment to these may be initiated by any of the following:

a. BOARD MOTION. The Board may initiate an amendment by motion directing the Community Development Director to submit a proposed amendment and report to the Planning Commission for review and for further action pursuant to this Section.

b. PLANNING COMMISSION INITIATIVE. The Planning Commission may initiate an amendment by submitting a written recommendation for proposed amendment to the Board.

c. COMMUNITY DEVELOPMENT DIRECTOR. The Community Development Director may initiate an amendment by submitting a written recommendation for proposed amendment directly to the Board, or by first submitting it to the Planning Commission for review and recommendation to the Board.

d. RESIDENT OR PROPERTY OWNER. An amendment may be initiated by any resident or property owner of the County, by the submittal of an application to the Community Development Department.

2. SUBMITTAL OF DRAFT AMENDMENT LANGUAGE. Any initiative or application for amendment shall be submitted to the Community Development Department, and shall include at a minimum the following:

a. IDENTIFICATION OF APPLICANT, IF RESIDENT- OR PROPERTY OWNER-INITIATED. The applicant's name, address, and telephone number. If the applicant is to be represented by an agent, a notarized letter signed by the applicant shall also be submitted, authorizing the agent to represent the applicant and stating the representative's name, address, and phone number.

b. PRECISE WORDING. The precise wording of the proposed amendment, and the Section in which it is proposed to occur.

c. RATIONALE FOR PROPOSED AMENDMENT. A concise statement of the purpose and need for the proposed amendment.

1. COMMUNITY DEVELOPMENT DEPARTMENT'S REVIEW. The Community Development Department shall review the application for completeness for compliance with this Section.

2. PLANNING COMMISSION REVIEW. A complete copy of the application shall be forwarded to the Planning Commission, together with a copy of the Community Development Department's report. The Planning Commission shall review the application, considering the standards of this, and shall make a recommendation to the Board to approve, approve with modifications, or deny the proposed amendment.

3. BOARD PUBLIC HEARING. The Planning Commission's recommendations shall be forwarded to the Board, together with a complete copy of the application and a copy of the Community Development Department's review. Should it deem to be in the best public interest, the Board may conduct a public hearing, providing public notice a minimum of 15 days prior to the date of hearing, and otherwise pursuant to Sections 4-112: *Notice of Public Hearing*, and 4-113: *Conduct of Public Hearing*, of the *Gunnison County Land Use Resolution*.

4. BOARD REVIEW AND ACTION. The Board shall consider the application, any relevant support materials, the Planning Commission's recommendation, as applicable, public testimony and evidence

given at a public hearing, and compliance of the application with these *Regulations*. Following closure of the public hearing, the Board may, by written resolution, adopt the amendments, adopt the amendments with modifications, or deny the amendments. Such resolution shall include findings that address the review following:

(a.) REVIEW STANDARDS. The decision to amend the text of the *Resolution* is at the legislative discretion of the Board and is not controlled by any one factor. The Board shall consider the following in determining whether to adopt a proposed amendment, adopt a proposed amendment with modifications, table it for further study or deny it:

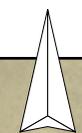
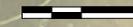
- (1.) CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY.** Consistency of the proposed amendment with any applicable comprehensive plan adopted by Gunnison County;
- (2.) CHANGED CONDITIONS.** Changed conditions, including the economy of Gunnison County;
- (3.) EFFECT ON THE NATURAL ENVIRONMENT.** Effect of the proposed amendment on the natural environment;
- (4.) COMMUNITY NEEDS.** Community needs;
- (5.) DEVELOPMENT PATTERN.** Development pattern;
- (6.) CHANGES IN APPLICABLE LAW.** Changes in applicable law;
- (7.) PUBLIC HEALTH, SAFETY AND WELFARE.** Public health, safety and welfare;
- (8.) COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY.** Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

SECTION 6: NO PRECEDENT SET BY THIS DESIGNATION.

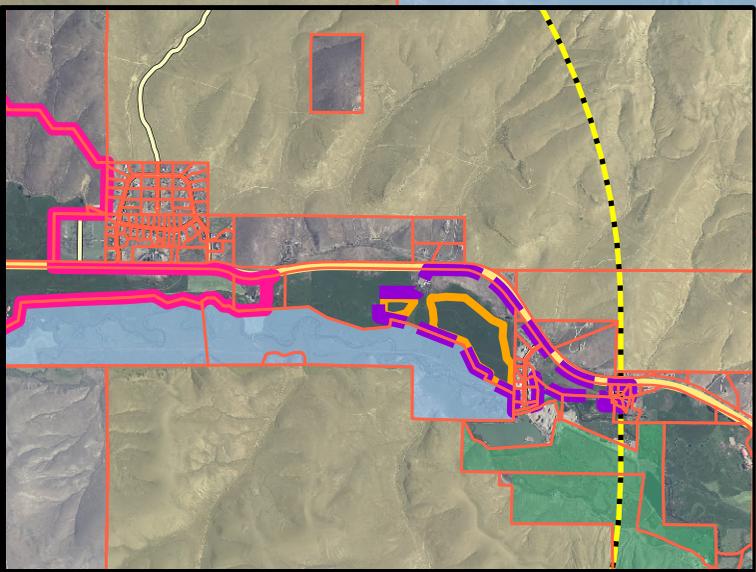
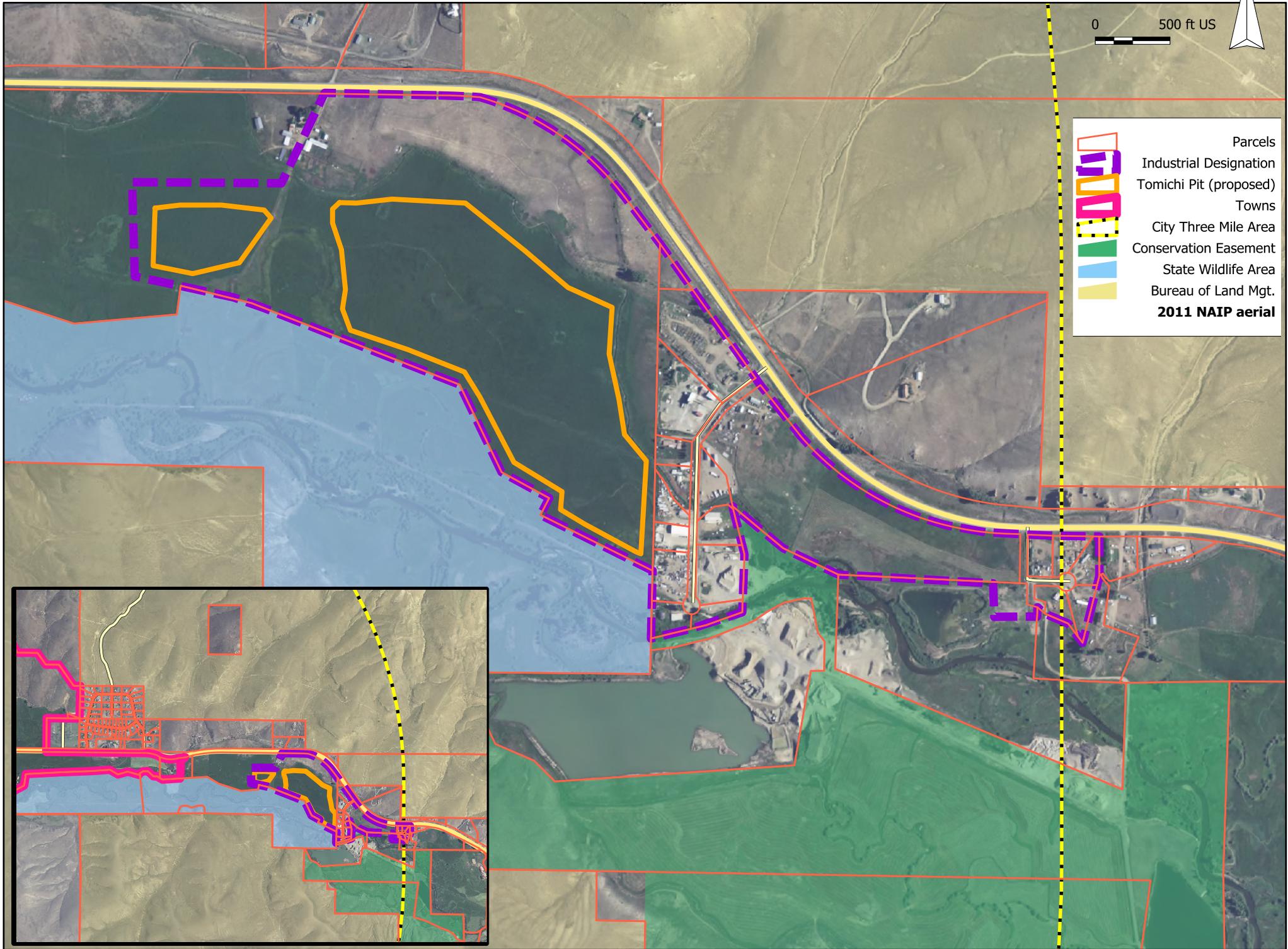
Neither the designation nor these *Regulations*, procedures or approvals hereunder shall be construed as a precedent for any other action.

Signal Peak Industrial Park - Special Area

0 500 ft US



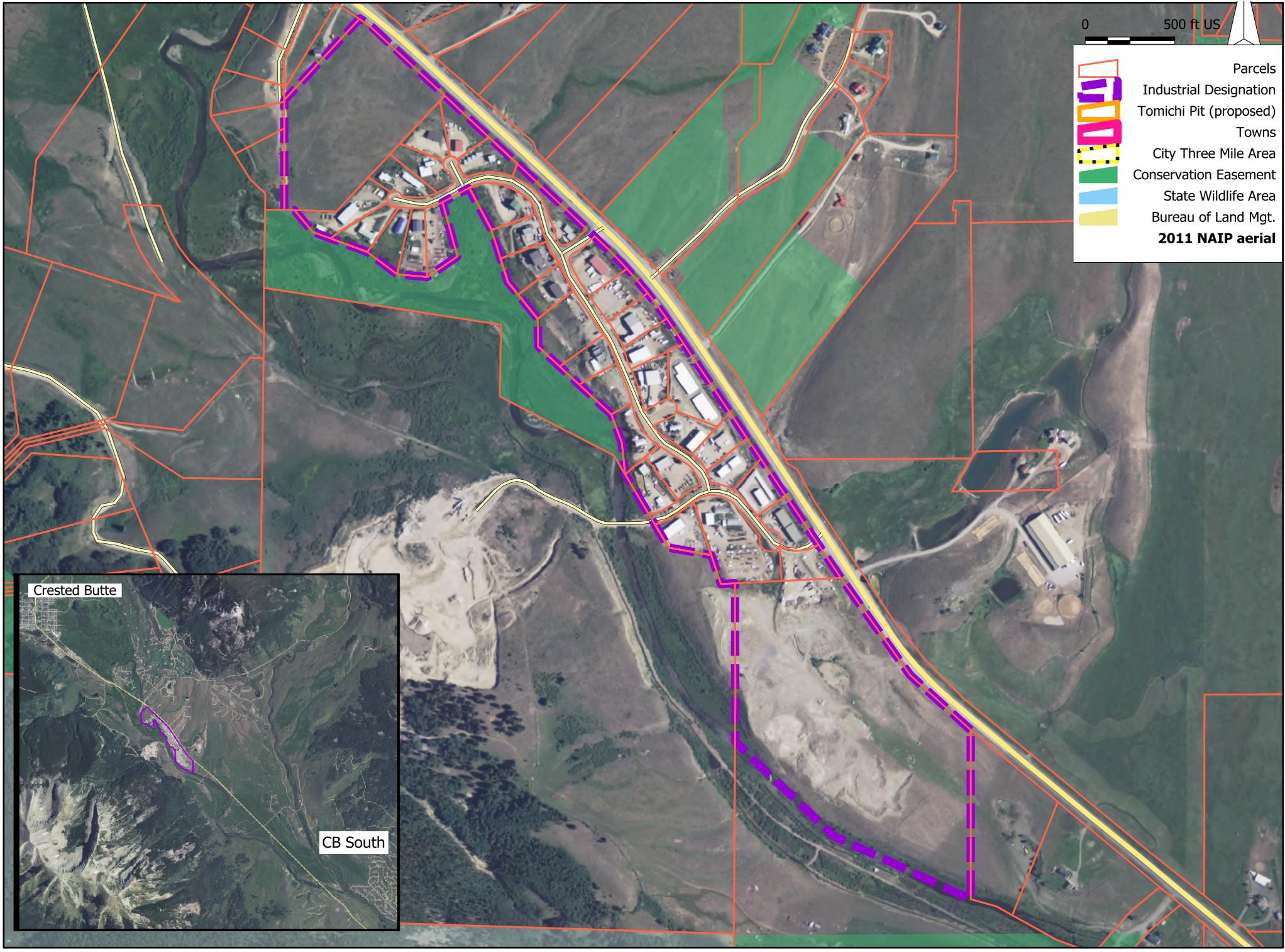
Parcels
Industrial Designation
Tomichi Pit (proposed)
Towns
City Three Mile Area
Conservation Easement
State Wildlife Area
Bureau of Land Mgt.
2011 NAIP aerial



Riverland Industrial Park - Special Area

0 500 ft US

- Parcels
- Industrial Designation
- Tomichi Pit (proposed)
- Towns
- City Three Mile Area
- Conservation Easement
- State Wildlife Area
- Bureau of Land Mgt.
- 2011 NAIP aerial**



TO: Planning Commission

SUBJECT: DRAFT Minor Impact Decision
Pilgrim Communications
KVLE-FM Radio Tower Replacement
LUC-2013-23

DATE: December 6, 2013 Planning Commission Meeting

PREPARED BY: Neal Starkebaum, Assistant Director

APPLICANT: Ron Crider
Pilgrim Communications
P.O. Box 884
1445 State Highway 135
Gunnison, CO 81230

REPRESENTATIVE: Marty Grantham

PROJECT DESCRIPTION:

Ron Crider, Pilgrim Communications, represented by Marty Grantham, has submitted a land use change permit application for the replacement of the existing 200' telecommunications tower on the property that would include construction of the following improvements:

- A new 198' steel triangular lattice telecommunication tower, with concrete base deadman anchor points and tensioned guyed wires, in essentially the same location as the existing tower.
- Replace existing equipment shed with new 12' x 14' equipment building.

Additional antennas may be located on the tower in the future.

IMPACT CLASSIFICATION: This request is classified as a Minor Impact, pursuant to *Section 6-102: N. Freestanding Wireless Telecommunication Structures* of the Gunnison County *Land Use Resolution*. Construction and siting of a freestanding structure, building, pole, tower or antenna that provides wireless telecommunications services requires compliance with *Section 9-505: Freestanding Wireless Telecommunication Structures*.

LOCATION:

The site is located at 1445 Highway 135, 1.2–acres, in the NW/4SW/4 Section 25, T50N, R1W, N.M.P.M, which is approximately 1.5 miles north of the City of Gunnison, west of Highway 135.

SURROUNDING LAND USES:

Residential

BACKGROUND: The Board of County Commissioners approved LUC#1978-70, on May 1, 1978, Mountain Valley Broadcasting Corporation, for the construction of a 200' FM radio tower and building for a residence and broadcast station.

PLANS/REPORTS/SUBMITTALS:

Plans, reports, letters and other submittal documents informing this Decision include, but are not limited to:

- Copy of Minor Impact application
- Charles Steckly Architecture, Site Plan & Exhibits, dated October 9, 2013

- World Tower Company, Inc., letter August 9, 2013, from Brent Walker, Vice President. – Fall Zone Requirement
- World Tower Company, Inc. - Structural design plans, stamped by Kirk R. Hall, Professional Engineer, dated October 10, 2013.

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.

PLANNING COMMISSION MEETING DATES:

The Planning Commission held meetings on the subject project on the following dates:

- November 1, 2013 - Work Session
- December 6, 2013 - Public Hearing
- December 6, 2013- Work Session

SITE VISIT:

The Planning Commission determined that a site visit was not necessary, as all of the members were familiar with the tower and its location.

PUBLIC HEARING:

A public hearing was held on December 6, 2013. At that time:

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REVIEW AGENCY COMMENTS:

A copy of the application was distributed to the following agencies: City of Gunnison, Colorado Division of Wildlife, Gunnison County Fire Protection District, Gunnison County Wildlife Conservation Coordinator and Gunnison County Public Works Department. Comments were received from the following agencies:

City Of Gunnison Planning and Zoning Commission:

Comments were received from Greg Larson, Chair, Planning and Zoning Commission, City of Gunnison, dated November 13, 2013; the City had no objection to the request.

Gunnison County Wildlife Conservation Coordinator:

Comments were received from Jim Cochran, in a letter dated October 29, 2013 in which he notes:

It is my finding that the proposed development on this parcel will not adversely impact Gunnison Sage-grouse.

To avoid and/or minimize the impacts to Gunnison Sage-grouse and their habitats on this parcel due to development the following conditions will be applied to all permits issued by Gunnison County:

- 1) *Per Section 11-106 G.3.d.1. of the Gunnison County Land Use Resolution, dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.*
- 2) *Per Section 11-106 G. e. of the Gunnison County Land Use Resolution, unless pre-empted by Federal or State law, all non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and quail), shall be imported only from a source certified by the State of Colorado to be disease free. Prior to*

importation of any species of gallinaceous game-birds to this parcel, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation (movement onto the property) of any wild birds, as defined above, shall occur without written approval by Gunnison County.

- 3) *Disturbed areas shall be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix. A Gunnison County Reclamation Permit is required for any land-disturbing activities on this property. It may contain additional site-specific reclamation requirements.*
- 4) *Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: <http://www.colorado.gov/cs/Satellite?c=Page&cid=1174084048733&pagename=Agriculture-Main/CDAGLayout> The Gunnison County Weed District should be contacted (970- 641-4393) for additional information and technical assistance.*

APPLICABLE STANDARDS OF THE GUNNISON COUNTY LAND USE RESOLUTION:

Divisions 9-100, 9-200, 9-300 and 9-400 are not applicable, as none of the standards addressed within those Divisions are proposed or affected by this application.

Section 9-505: Freestanding Wireless Telecommunication Structures.

B. General Standards.

1. Safety Setback.

The tower will be sited in the same location as that of the existing 200' tower, which existed on the site for the last 35 years. Guyed towers are not subject to the same fall radius as free standing non-guyed monopole towers. Documented design safety setback distances have been submitted with the application, showing the fall radius is well within the property lines.

2. Design.

The design of the tower is a steel triangular, lattice tower, with tensioned guyed wires attached to concrete anchors, similar to the design of the existing tower. The galvanized metal, through oxidation, will achieve a grayish patina which will blend to some degree with the background sky.

3. Height.

The new 198' tower will replace the existing 200' tower. The applicant submitted elevation drawings in application.

4. Buffering.

A six foot fence, with latticed fabric, will be installed around the base of the tower and the perimeter of the equipment building, to provide buffering.

5. Exterior Lighting.

No security or other lighting is proposed. Any applicable safety lighting, pursuant to Federal Aviation Administration regulations, is exempt from the requirements of

Section 13-114: *Exterior Lighting*, should the Federal Aviation Administration require such lighting.

6. Access Roads.

No new access roads are proposed; the site will be accessed from the existing driveway.

7. Design Safety.

The applicant submitted structural design plans, stamped by Kirk R. Hall, Professional Engineer, dated October 10, 2013. The applicant will install a navigational light on the new tower only if required by the Federal Aviation Administration.

8. Utilities Shall Be Located Underground.

Existing utilities will be replaced.

Section 10-102: *Locational Residential Development.*

Not applicable. No residences are proposed by the application.

Section 10-103: *Residential Density.*

Not applicable. No residences are proposed by the application.

Section 10-104: *Locational Standards for Commercial, Industrial and Other Non-Residential Development.*

The Primary Locational Standard applies, as the proposed project is located the City of Gunnison's municipal three-mile plan area. Comments were received from Greg Larson, Chair, Planning and Zoning Commission, City of Gunnison, dated November 13, 2013; the City had no objection to the request.

Section: 11-102: *Voluntary Best Management Practices.*

Voluntary; not mandated. The applicant is encouraged to utilize these practices during construction, as appropriate.

Section 11-103: *Development in Areas Subject to Flood Hazards.*

Not applicable. County maps indicate that the site is not located within an area subject to flood hazards.

Section 11-104: *Development in Areas Subject to Geologic Hazards.*

County maps indicate that the site is not located within an area subject to geologic hazards.

Section 11-105: *Development in Areas Subject to Wildfire Hazards.*

Not applicable. The site is in an area of low wildfire hazards. No comments were received from the Gunnison County Fire Protection District.

Section 11-106: *Protection of Wildlife Habitat Areas.*

The site is within Gunnison Sage-grouse habitat. The Gunnison County Wildlife Conservation Coordinator has submitted comments identifying no substantive impacts to Sage-grouse. Please refer to comments from Jim Cochran.

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

Not applicable. The site is not near a water body.

Section 11-108: *Development on Ridgelines.*

Not applicable. The site is not on a ridgeline.

Section 11-109: *Development That Affects Agricultural Lands.*

Not applicable. No agricultural lands are affected by the request.

Section 11-110: *Development of Land Beyond Snowplowed Access*

Not applicable. The site is not beyond snowplowed access.

Section 11-111: *Development on Inholdings in the National Wilderness*

Not applicable. The site is not within the National Wilderness.

Section 11-112: *Development on Property Above Timberline.*

Not applicable. The site is not located above timberline.

Section 12-103: *Road System.*

No new access roads are proposed; the site will be accessed from the existing driveway.

Section 12-104: *Public Trails.*

Not applicable. There are no public trails associated with this use.

Section 12-105: *Water Supply.*

Not applicable. No water is proposed nor required for the proposed use.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*

Not applicable. No sewage disposal is required for this use.

Section 12-107: *Fire Protection.*

The property is located within the Gunnison Fire Protection District. No comments were received from the Fire District.

Section 13-103: *General Site Plan Standards And Lot Measurements.*

Not applicable.

Section 13-103: *General Site Plan Standards and Lot Measurements*

Not applicable. No building lots are proposed in this application.

Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.*

The proposed tower meets the property line setbacks.

Section 13-105: *Residential Building Sizes and Lot Coverages.*

Not applicable. No residences are proposed in this application.

Section 13-106: *Energy and Resource Conservation.*

Not applicable. No structures are proposed in this application that are subject to the standards of this Section.

Section 13-107: *Installation of Solid Fuel-Burning Devices*

Not applicable. No installation of solid fuel-burning devices is contemplated by the application.

Section 13-108: *Open Space and Recreation Areas*

Not applicable. No open space is required.

Section 13-109: *Signs.*

Not applicable. There are no signs proposed as part of the application.

Section 13-110: *Off-Road Parking and Loading.*

Not applicable. No off-road parking is required.

Section 13-111: *Landscaping and Buffering.*

A six foot fence, with latticed fabric, will be installed around the base of the tower and the perimeter of the equipment building, to provide buffering.

Section 13-112: *Snow storage.*

Not applicable. No snow storage is required.

Section 13-113: *Fencing*

A six foot fence, with latticed fabric, will be installed around the base of the tower and the perimeter of the equipment building, to provide buffering.

Section 13-114: *Exterior Lighting.*

No lighting is proposed, either on the tower itself or at the base. As noted, though applicable safety lighting pursuant to Federal Aviation Administration regulations is not required at this time, it would be exempt from the requirements of this Section, should the FAA require such lighting.

Section 13-115: *Reclamation And Noxious Weed Control.*

Not applicable. The area to be disturbed does not meet the minimum threshold for requiring a Reclamation Permit.

Section 13-116: *Grading and Erosion Control.*

The disturbance to the area for construction will be minimal.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*

The disturbance to the area for construction will be minimal; no substantive changes to drainage patterns on the property are proposed.

Section 13-119: *Standards to Ensure Compatible Uses.*

The proposed use will not result in significant net adverse impact to adjacent lands and will be compatible with surrounding land uses, as the replacement tower is essentially the same height and design as the existing, permitted tower, which has been in the same location for the past 35 years.

FINDINGS:

The Commission finds that:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site plan as submitted. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
2. *This application is classified as a Minor Impact Project pursuant to Section 6-102: N. Freestanding Wireless Telecommunication Structures of the Gunnison County Land Use Resolution and Section 9-505: Freestanding Wireless Telecommunication Structures.*
3. The replacement tower complies with the standards found in Section 9-505: Freestanding Wireless Telecommunication Structures. B. General Standards.

4. The site is within Gunnison Sage-grouse habitat. The Gunnison County Wildlife Conservation Coordinator has submitted comments indicating that there are no substantive impacts to Gunnison Sage-grouse, but recommends several conditions to avoid or mitigate any potential impacts to Gunnison Sage-grouse.
5. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site plan as submitted. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
6. 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.

DECISION:

The Gunnison County Planning Commission, 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, and including provision of a public hearing, and having reached the above cited Findings, hereby determines that LUC #2013-23, Pilgrim Communications, is classified as a Minor Impact Project, is approved with the following conditions, and that such approval be memorialized by recordation of a Certificate of Minor Impact with the Gunnison County Clerk and Recorder:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site 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*.
2. The applicant shall comply with the conditions identified in the letter from Jim Cochran, County Wildlife Conservation Coordinator, dated October 29, 2013.
3. 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.
4. 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.
5. Approval 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.

TO: Planning Commission

SUBJECT: Draft Planning Commission Sketch Plan Recommendation
Scarp Ridge, LLC
LUC-13-00005

DATE: December 6, 2013

PREPARED BY: Cathie Pagano, Planner

APPLICANT: Scarp Ridge, LLC represented by attorney David Leinsdorf and John Featherman

SKETCH PLAN IS EXPLORATORY. *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 to promote development and land use change which is consistent with the intent and purposes of this Resolution.*

SKETCH PLAN EXPECTED TO EVOLVE. *Requirements of Sketch Plan direct the applicant to review specific sections of this Resolution and submit a plan that has addressed issues important to the County. It is expected that the proposal will evolve during Sketch Plan review.*

ENGINEERED DESIGNS AND DETAILED PLANS NOT REQUIRED NOR ACCEPTED AT SKETCH PLAN. *To encourage the consideration of alternatives and to allow the Sketch Plan to evolve, detailed engineering plans and other overly detailed information shall not be required nor accepted by the County.*

PROJECT DESCRIPTION:

Attorney David Leinsdorf and John Featherman, representing Scarp Ridge, LLC, have applied for an expansion of an existing commercial use at the site commonly referred to as the Irwin Lodge. The applicant has submitted a master plan for proposed facilities on the subject parcels, as requested by the Planning Commission in 2011. The applicant is requesting approval for a master plan for the Scarp Ridge LLC (aka Irwin) property to include use of the existing lodge for weddings and events and as a conference center; six new single-family residences on adjoining mining claims; one storage structure, one elevated overlook structure, one alpine hut; the addition of a roof deck to the existing parking barn; outdoor pavilion that would seat approximately 170 people; new mountain bike trails; zip-lines; kids' village to include playground equipment; and a reroute of the existing Scarp Ridge trail. The proposed structures and facilities will comprise a year-round commercial resort.

The residential structures are proposed to be accessed via two track "jeep" roads. There will be no vehicular access to the alpine hut. The applicant proposes to bring the construction materials to the hut site via snow cat during the winter and have construction workers access the site via foot.

The applicant proposes to serve residential structures with individual sewage disposal systems. Events at the lodge will be served by utilizing portable toilets. Individual water wells are proposed to serve the residential structures. An augmentation plan is proposed and required.

The Scarp Ridge Trail is proposed to be rerouted. The current trail begins near the existing Irwin Lodge. The applicant and the U.S. Forest Service (USFS) have reciprocal easements (Reception No. 501365 and 500246) allowing Scarp Ridge, LLC to utilize USFS roads to access their private property while also allowing the public to utilize the portions of the road that are on private property

to access the Scarp Ridge trail. According to John Murphy, District Ranger for the Gunnison National Forest, the easement does not accommodate public parking which is currently causing a conflict between the property owner and the public. Most trail users, park near the beginning of the trail, on property owned by Scarp Ridge, LLC, adjacent to the Irwin Lodge. The proponents assert that the public is trespassing and has no right to park on the private property. The USFS has agreed with the proponent that the reciprocal easement does not afford the public any right to park adjacent to the trailhead.

To resolve the conflict, Scarp Ridge, LLC has proposed to relocate the trailhead and realign the existing Scarp Ridge trail. The trailhead is proposed to be relocated onto the Lead Chief Lode west of where Irwin Lodge Road crosses Robinson Creek. The applicant proposes to construct and maintain, at the applicant's expense, a parking lot for 22 motor vehicles, two restrooms, a trailhead with maps, bear proof trash receptacles and interpretive signs. The applicants also propose to create a new trail from the new trailhead that will connect to the existing Scarp Ridge trail. The new trail will be approximately 4,050 feet. In return, the USFS would vacate or administratively close the public easement on the Irwin Lodge Road from the new parking lot to the Irwin Lodge. The proposed gate, just east of the trailhead area, would be a locked gate and prevent future public access.

The property is located 12 miles west of the Town of Crested Butte, accessed from Kebler Pass Road (CR 12), Lake Irwin Campground Road (FSR 826), Green Lake Road (FSR 826.1E) and Irwin Lodge Road (FSR 826.1C).

The parcel is legally described as the following 19 lode mining claims, all in the Ruby Mining District: Aumego, U.S. Survey No. 2703; Capitol U.S. Survey No. 3466; Clara U.S. Survey No. 2801; Fourth of July U.S. Survey No. 3467; Zumo U.S. Survey No. 2702; Crystal, U.S. Survey No. 1156; Diquita, U.S. Survey No. 2786; Double Dyke U.S. Survey No. 5511; Lead Chief U.S. Survey No. 2731; Legal U.S. Survey No. 4149; Silver Hill U.S. Survey No. 2813; Justice U.S. Survey No. 2867; Pickwick, U.S. Survey No. 2814; Tacoma U.S. Survey No. 2701; Lottie S U.S. Survey No. 5322; US Treasury, U.S. Survey No. 5322; Lower Chloride, U.S. Survey No. 17240A; Little Minnie, U.S. Survey No. 4421; Staten Island, U.S. Survey No. 3716.

PLANS/REPORTS/SUBMITTALS:

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

- Land Use Change application, LUC-13-00005, including maps and exhibits
- Declaration of Protective Covenants of Scarp Ridge, dated March 4, 2013
- Letter from David Leinsdorf, dated October 20, 2013
- Site plan, dated August 20, 2013, prepared by NCW & Associates, Inc.
- Letter from Monarch & Associates, dated September 20, 2013
- Letter from David Leinsdorf, dated September 19, 2013
- Letter from David Leinsdorf, dated September 9, 2013
- Letter from David Leinsdorf, dated August 15, 2013.
- Letter from Monarch & Associates, dated August 8, 2013, regarding "Responses to Colorado Parks and Wildlife comment letter dated 7/31/13."
- "Scarp Ridge Sewage Disposal Report for the Gunnison County Sketch Plan," prepared by Norman Whitehead, P.E.-P.L.S, NCW & Associates, Inc. dated August 27, 2013.
- "Scarp Ridge Assessment of Habitat and Wildlife in the Proposed Land Use Change Area," prepared by Monarch & Associates, dated May 20, 2013.

IMPACT CLASSIFICATION:

The project, by definition, is a Major Impact pursuant to Section 7-101:C. *Expansion of Commercial or Industrial Use of 10,000 Sq. Ft. or More.*

MEETING DATES:

The Planning Commission held work sessions and public hearings to discuss the Scarp Ridge, LLC, application on the following dates:

- June 21, 2013 Work Session
- July 19, 2013 Site Visit
- August 23, 2013 Work Session
- September 6, 2013 Joint Public Hearing
- October 11, 2013 Continued Joint Public Hearing
- November 1, 2013 Work Session
- December 6, 2013 Work Session

SITE VISIT:

The Planning Commission conducted a site visit on July 19, 2013. The Commission walked the proposed Scarp Ridge trail realignment and viewed each of the proposed building sites. The Commission viewed the location of the lower alpine hut but did not hike to the proposed upper alpine hut location.

PUBLIC HEARING:

The Planning Commission and the Board of County Commissioners conducted a joint public hearing on August 23, 2013 and continued the public hearing on October 11, 2013. The Planning Commission accepted comments until 5:00 p.m. on October 11, 2013. Testimony that was presented and the full record of all hearings, including written letters and oral testimony, are hereby incorporated into this record.

In summary, issues raised during work sessions and public hearings, include, but are not necessarily limited to:

- Proposed trail realignment, including location, length, and accessibility
- The easement between the applicant and the U.S. Forest Service and how it may or may not impact access, parking, and other issues relevant to the public
- Compatibility with adjacent uses including public access, noise, and traffic
- Scale and appropriateness of proposed events including weddings and conferences
- Past violations of County regulations and U.S. Forest Service rules by owners of the Irwin Lodge and/or Scarp Ridge LLC
- Adequacy of proposed sewage treatment and protection of water quality
- Protection of "pristine" habitat and landscapes
- Impacts to wildlife from the proposed development; finding of Monarch & Associates report
- Use of the proposed trails
- Support for the proposed project and jobs/revenue that may occur as a result
- Concern regarding the proposed zip-line and their compatibility with the area and the associated noise level
- Support of the project because of quality of work and experience that is associated with current owner
- Development of an exclusive "country club" type atmosphere

REVIEW AGENCY REFERRAL COMMENTS:

A copy of the complete application was sent, by electronic mail to review agencies for comments. A referral was sent to the Gunnison County Public Works, Gunnison County Environmental Health, Gunnison County Wildlife Coordinator, Gunnison County Trails Commission, Town of Crested Butte, Colorado Division of Water Resources, Colorado Division of Parks and Wildlife, Colorado Division of Water Resources, Colorado Water Quality Control Division, Gunnison Fire Protection District, and Crested Butte Fire Protection District.

State of Colorado, Water Quality Control Division. In a letter dated September 4, 2013, Engineering Section Manager, Brett Icenogle, noted that,

...the existing system does not appear to be currently classified as an active public water supply system, the proposed development appears to meet the definition of a public water

system...(which) must comply with the requirements of the CPDWR including the requirements to receive design approval of the water works and a capacity assessment... While the facility (Irwin Lodge) has an active discharge permit...the existing system does not currently accept wastewater and is non-functioning. Due to the current condition of the wastewater treatment works, the facility may not be capable of treating wastewater to the specified limits in the discharge permit.... The Division cannot definitively state whether the proposed [sic] structures each have a designated capacity to generate more than 2,000 gallons of wastewater per day, or whether individual treatment areas have overlapping zones of influence. The Division finds that further analysis is required. Once a more solidified plan emerges, the applicant must work with the Division to determine whether some or all of the proposed wastewater treatment systems meet the definition of a domestic wastewater treatment works...

State of Colorado, Division of Water Resources. Karlyn Armstrong, Water Resource Engineer, for the Division of Water Resources submitted comments via email on July 2, 2013. Her comments noted,

The applicant provides details on the anticipated water uses in their Water Supply Plan and cites an attorney's letter regarding the intent to obtain a plan for augmentation. At this time the applicant has not published an application for Plan for Augmentation with the Division 4 Water Court. This office cannot issue any well permits for the proposed uses until the court has decreed a Plan for Augmentation, the applicant has submitted a well permit application to this office to operate pursuant to said plan, and this office has reviewed and approved the permit application. Any permit issued will be limited to the uses and amounts augmented in the augmentation plan, which may or may not reflect the exact uses outlined in this application.

As currently presented, the applicant is anticipating year round residential use at their six single family dwellings along with day use at the Movie Cabin, Parking Barn, Lower Alpine Hut and at the Lodge. In addition, there will be overnight use at the Lower Alpine Hut and Special Event use at the Lodge. No residential uses are currently contemplated other than the six single family dwellings and no outdoor uses, such as lawn and garden irrigation and livestock watering, are contemplated in this plan.

So long as the applicant obtains a court decreed plan for augmentation and valid well permits for the uses proposed in this Sketch Plan, this office has no objection to this application.

Gunnison County Fire Protection District. In a letter dated July 23, 2013, Fire Marshal Dennis Spritzer stated, "The plan shows a double track jeep type road accessible only by high profile four wheel drive vehicles. I strongly suggest an all-weather driving surface capable of holding the imposed loads of fire apparatus..." Spritzer recommends the use of dry hydrants or a 30,000 gallon underground cistern to provide water supply for fire protection. He also says, "any assembly type occupancies should be fire sprinklered for life safety purposes."

Crested Butte Fire Protection District. In a letter dated July 29, 2013 from Scott Wimmer, Fire Inspector and Ric Ems, Fire Chief/Fire Marshal, noted that the subject parcels are not within their district but mutual aid agreements would likely trigger a response from the Crested Butte Fire Protection District. They also "strongly suggest an all-weather driving surface capable of supporting the imposed loads of emergency response vehicles...As any request for emergency services may include a plethora of various mutual aid agencies, we strongly recommend non-combustible road signage and address numbers," and a rapid entry key system. CBPFD also recommends sprinklering, a cistern, dry hydrants, and compliance with Colorado State Forest Service 'Firewise' practices.

Town of Crested Butte. A letter dated June 24, 2013 from Bob Gillie, Building and Zoning Director, notes that the proposed project is subject to the Town's permitting authority because it is in the

Town's watershed. Gillie also states that, "the building density and intensity of use that is proposed could have significant effects on the watershed given the roads, buildings, trails, water augmentation and septic systems."

U.S. Forest Service. Cathy Mask of the U.S. Forest Service submitted comments on July 1, 2013. Comments noted:

...The application states that the proposed trail realignment does not require an EA or EIS from the federal or state government. I have to caution that we have not yet determined that. There is a possibility that the realignment of the Scarp Ridge trail and rehab of the lower segment of abandoned trail may meet the criteria for a Categorical Exclusion and will not require an EA or EIS. That has yet to be determined because we have not scoped the project and identified concerns.

The proposal to relocate the lower segment of the Scarp Ridge trail and to construct a trailhead with parking and toilet is discussed. I am supportive of this concept because it would better serve the public, replace an eroding trail with a more sustainable trail and minimize public trespass on the private land.

...The access to the proposed Robinson Creek Cabin and the Lottie cabin appears on the map to be an existing road on National Forest. This access is currently unauthorized and is closed to public travel at this time. The proponent will need to explore constructing access on the private land or apply for an authorization for use of the road on the National Forest. Washington Office direction is that a special use that can be accommodated on private land should not be permitted on National Forest.

...We see that a potential jeep road is identified to access the alpine hut to be located on the Tacoma Lode. Yet there is no access indicated for the alpine hut located on the Justice Lode. Our assumption is that these huts are for winter use and we question the need for the jeep road proposed on the National Forest. More explanation would be helpful.

...It seems that this access (Silverhill Cabin 1 and 2) is unnecessary because the road system proposed on the private land will also provide access to those cabins.

Comments in a letter dated August 23, 2013 from John Murphy, District Ranger, states, "review of the existing easement does not lead me to believe that access for the proposed activities cannot be authorized by the existing easement. A follow up email from Murphy dated November 1, 2013 notes that the existing 60-foot easement between the applicant and the U.S. Forest Service (USFS) is for maintenance of the road and that it is not intended for public parking.

Colorado Parks and Wildlife. Comments from J. Wenum, Area Wildlife Manager, in a letter dated July 31, 2013. Wenum explains:

...comments and recommendations on the latest proposal in the Irwin Lake area are consistent with our previous comments, with the exception that the cumulative impacts to wildlife from consistently increasing recreational activities in the Irwin Lake area are likely to become more and more difficult to mitigate. 'Backcountry' outdoor recreation...may have significant wildlife impacts even though it is perceived to be 'light on the land'....CPW offers the following specific recommendations for the County to consider in its efforts to avoid, minimize, and mitigate additional impacts to wildlife in the Irwin Lake area:

Avoid and Minimization Options

- Cluster development adjacent to existing development of cabins and homes (rather than dispersing them within the development area);*
- Encourage mountain biking and hiking on existing trails. Minimize new trail development;*

- *While the wildlife impacts associated with zip-lines are unknown, we expect that the noise and commotion created by squealing people, whirring pulleys and rapid movement through the air, whether over open ground or through the trees will have effects similar to trail development.*
- *We are concerned with the potential for avian strikes on the cables causing bird mortality. We suggest marking the lines in a manner to reduce potential bird collisions when not in use.*

Mitigation Options to Address Unavoidable Impacts

- *Due to the extent of the development and use of the proposed project, avoidance and minimization of potential impacts to wildlife resources may not be possible. Offsite mitigation may be the most effective tool for ensuring that cumulative impacts to wildlife are adequately addressed.*

Gunnison County Trails Commission in a letter dated 7/1/13 and noted, “Overall, the Gunnison County Trails Commission is supportive of the proposal to move the Scarp Ridge Trail and trailhead as depicted in the site plan....It should be noted that less fit or avid hikers may object to the longer and more diverse trail opportunity provided by this proposal. Despite those possible objections, the Trails Commission feels as though the proposed trail re-alignment and improved trailhead facilities will ultimately provide a better public trail experience.”

Gunnison County Public Works, in a memorandum dated July 24, 2013 from Public Works Director, Marlene Crosby. Crosby noted that the submitted road plans are adequate for this phase of the application. At the August 23, 2013 Planning Commission work session, Crosby addressed the County’s jurisdiction concerning the road to Irwin. She explained the County’s jurisdiction ends at the Irwin town site and the remainder of the road is regulated by the USFS. Crosby said the roads should be 16- feet wide with an all-weather surface and a waiver of standards would be required for variations of those requirements. She suggested clustering the lots could reduce the linear feet of roads and added the road must be fit for an ambulance to travel. Crosby said that she disagreed with the Fire Districts that an all-weather surface is necessary because the response time from the Fire Districts will be so long due to distance from a fire station.

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

Section 7-102: Standards of Approval for Major Impact Projects.

Applicable, the application is consistent with the standards of this Section for Sketch Plan application.

- a. This Sketch Plan application is generally consistent with the standards and requirements of the *Resolution*, pursuant to Section 7-103, 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 7-103: C., 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 area surrounding the subject property, and shall not adversely impact the future development of the area surrounding the subject property.
- c. Phasing has been proposed by the applicant within this Sketch Plan submittal but it has not been specifically delineated.
- d. All uses have been identified on the proposed parcels.

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, commercial and industrial developments, including buildings, shall be designed according to the same principles governing the design of residential developments, and shall be sited to complement the topography, avoiding environmentally sensitive areas to the maximum extent feasible. Factors including drainage, noise, and odor and surrounding land uses shall be considered in siting buildings; sufficient access shall be provided, and impacts mitigated.

The applicants have demonstrated compliance with this Section through the siting of proposed structures in areas where existing development is located. The applicant has removed the proposed upper alpine structure from the proposal in response to concerns related to wildlife impacts. The proposed residential buildings have been sited, according to the applicant, to be visually unobtrusive.

In a letter from David Leinsdorf, dated October 21, 2013, the applicants propose to end live outdoor music by 10:00 pm and that “partying will move inside.” Traffic from large events will be mitigated by requiring most guests to utilize large vans operated by local transportation providers. Leinsdorf also noted in the letter that, “Four of the proposed cabin sites were selected to take advantage of naturally occurring defensible space. Applicants have sited the largest cabin on the Silverhill Lode to minimize visual impacts. Applicants have already agreed not to develop at least 3 ½ of their fifteen legal parcels...”

There has been concern expressed regarding the potential noise associated with events that may occur at the site. The applicant shall be required to comply with the noise standards set forth in this Section and demonstrate compliance through testing at Preliminary Plan.

Hours of operation, traffic, trail access and event planning shall be specifically addressed in the Preliminary Plan submittal.

Section 9-400: Exploration, Extraction and Processing of Minerals and Construction Materials.

Not applicable. No exploration, extraction or processing of materials is proposed.

Section 9-500: Miscellaneous Uses and Activities.

Not applicable. No miscellaneous uses or activities are proposed.

Section 10-102: Locational Standards for Residential Development.

Applicable, no new residential development (subdivision) is proposed as part of this application, however, Section 9-301 states that commercial developments shall be designed according to the same principles as residential developments. Section 10-102: 3. *Location Results in No Significant Net Adverse Impact to the Neighborhood* states, “...the cumulative impacts of the proposed development and existing development will result in no significant net adverse impact to neighborhood lands or land uses, wildlife, visual quality, air or water quality...”

The applicant noted that proposed cabins were located to reduce visual impacts from the Lake Irwin area. The Commission and staff viewed the sites during the site visit but did not make a visual assessment from the Lake area. A visual assessment or modeling shall be required at Preliminary Plan submittal. Based on the evolution of the project and the impacts to wildlife being mitigated through conservation easements and removal of the upper alpine hut the application is in general compliance with this Section.

Section 10-103: Residential Density.

Applicable, no new residential development (subdivision) is proposed as part of this application, however, Section 9-301 states that commercial developments shall be designed according to the same principles as residential developments.

The applicant has located many of the proposed improvements in areas where development already exists. The density of the development is not greater than one unit per legal parcel.

Section 10-104: Locational Standards for Commercial, Industrial, and other Non-Residential Uses.

Applicable, the applicant has demonstrated compliance with the alternative locational standards of this Section. The applicant has demonstrated that the proposed location is well-suited to the specific use. The existing operation that has included backcountry skiing, lodging and ancillary operations has occurred at the subject parcels for many years. The expansion of the use in that particular location is well suited to the proposed use of expanded event capability, lodging opportunities and recreational amenities.

The applicant has demonstrated that the proposed uses can be compatible with existing uses in the impact area. More specific information will be required at Preliminary Plan to demonstrate that the project and specific aspects of the project are compatible with the uses in the area.

Nearby landowners have argued that there is a significant net adverse impact to the neighborhood through noise, traffic and the realignment of the Scarp Ridge Trail. The applicant has proposed noise mitigation by limiting outdoor music and events to 10 p.m. The applicant also proposes to shuttle guests via vans to and from Crested Butte for events which they assert would mitigate safety issues associated with traffic. The applicant and CPW have also stated that the realignment of the trail will mitigate wildlife and water quality impacts and will be a better designed and maintained trail.

More specific information regarding event planning, traffic, noise, wildlife impacts, recreational amenities shall be required at Preliminary Plan. The conditions are identified in the recommendations section of this document.

Section 11-103: Development In Areas Subject to Flood Hazards.

Not applicable, no development is proposed within a flood hazard area.

Section 11-104: Development in Areas Subject to Geologic Hazards.

Applicable, portions of the subject development are in areas of geologic hazard. A geotechnical review of the site shall be required as part of Preliminary Plan, along with review by the Colorado Geological Survey.

There has been concern expressed by the public that the proposed trail realignment may cross avalanche areas. The geologic hazard report shall include a review of avalanche hazards relative to the trail realignment.

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

Applicable, portions of the subject parcels are in areas of high wildfire hazard. A wildfire mitigation plan in compliance with this Section is required to be submitted at Preliminary Plan; the plan shall include creation of defensible space and not cause adverse impacts. The proposed Protective Covenants shall address wildfire prevention standards in compliance with this Section.

The applicant has demonstrated compliance with this Section relative to the development of access roads. Public Works has concurred that "road design plans at this point in the process are adequate." Section 12-107: B. *Standards for Vehicle Access*, states that "All sites proposed for land use changes shall provide access that is sufficient for emergency vehicles, and for service

and other vehicles that need access to the property, except when the site is a patented mining claim...” The subject parcels that are included as part of the Scarp Ridge, LLC application are patented mining claims and thus are not required to provide access sufficient for emergency vehicles. Although both the Gunnison and Crested Butte Fire Districts have expressed concern about emergency vehicle access to the residential building sites, Public Works has indicated that they agree with the applicant’s plan for proposed access.

A copy of the Preliminary Plan application shall be referred to the Colorado State Forest Service for review and comment.

Section 11-106: *Protection of Wildlife Habitat Areas.*

Applicable, the application was referred to the Colorado Division of Parks and Wildlife (CPW), U.S Fish and Wildlife Service (FWS) and Gunnison County Wildlife Coordinator. Initial comments from CPW indicated significant concerns relative to the proposal and impacts to wildlife. Gunnison County Wildlife Coordinator, Jim Cochran, also noted that portions of the parcel may be in lynx habitat area which triggered referral of the application to the FWS

The applicants, Colorado Parks and Wildlife (CPW) and Community Development staff had an on-site visit and a meeting to discuss wildlife issues. The applicant has agreed to remove the upper alpine hut from the proposal and has proposed to encumber at least three entire mining claims and half of one claim with a conservation easement. CPW has indicated that they are comfortable, at this time, with that proposal and believe that may mitigate impacts to wildlife.

Jim Cochran, Gunnison County Wildlife Coordinator stated that the subject parcel is in mapped lynx habitat. The lynx is currently identified as a Threatened Species by the U.S. Fish and Wildlife Service (FWS). In an email from Patty Gelatt on behalf of Kurt Broderdorp of FWS, they stated, “We do not believe that the subject proposal will result in ‘take’ of lynx. Therefore, no action under Section 10 of the Endangered Species Act will be required by the applicant...the U.S. Forest Service may be required to analyze the effects of the proposal through Section 7 of the Act, depending on their permitting and approval requirements.”

Information on the impacts to wildlife from zip-lines shall be required to be submitted at Sketch Plan. The applicant shall also be required to submit proposed language for the conservation easements that will encumber 3 ½ of the mining claims.

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

Applicable, the proposed development is within 125 feet of a water body. The applicant has identified an area of wetlands on the site plan, dated August 20, 2013 and prepared by NCW & Associates. A copy of the wetlands delineation, certified by the Army Corps of Engineers, shall be submitted at Preliminary Plan. All buildings are required to maintain a minimum 25-foot setback from wetlands. A water quality protection plan, in compliance with this Section, shall be submitted at Preliminary Plan.

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 proposed development will not affect agricultural lands.

Section 11-110: *Development Of Land Beyond Snowplowed Access.*

Applicable, the site is located beyond snowplowed access. The owners have signed and recorded a “Landowner’s Acknowledgement of No Snowplowing, No County Liability and No Restriction on Road Closures,” at Reception No. 578821 in the office of the Gunnison County Clerk and Recorder. The applicants propose that the subject parcels be accessed by snow cat during the winter.

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.*

Applicable, portions of the subject parcels are located above timberline. With the removal of the upper alpine hut from the application, it appears that none of the proposed buildings will be above timberline. If any buildings are proposed above timberline, the standards of this Section shall apply.

Section 12-103: *Road System.*

Applicable, a copy of the application was referred to Gunnison County Public Works. The applicant has identified the general locations of roads and access in compliance with Sketch Plan requirements. Engineered road plans and traffic studies are not required or accepted at Sketch Plan.

The applicant has demonstrated compliance with this Section relative to the development of access roads. Public Works has concurred that "road design plans at this point in the process are adequate." Section 12-107: B. *Standards for Vehicle Access*, states that "All sites proposed for land use changes shall provide access that is sufficient for emergency vehicles, and for service and other vehicles that need access to the property, except when the site is a patented mining claim..." The subject parcels that are included as part of the Scarp Ridge, LLC application are patented mining claims and thus are not required to provide access sufficient for emergency vehicles. Although both the Gunnison and Crested Butte Fire Districts have expressed concern about emergency vehicle access to the residential building sites, Public Works has indicated that they agree with the applicant's plan for proposed access.

Section 12-104: *Public Trails.*

Applicable, the existing public trail, Scarps Ridge, is proposed to be relocated and realigned. The trailhead is proposed to be relocated onto the Lead Chief Lode west of where Irwin Lodge Road crosses Robinson Creek. The applicant proposes to construct and maintain, at the applicant's expense, a parking lot for 22 motor vehicles, two restrooms, a trailhead with maps, bear proof trash receptacles and interpretive signs. The applicants also propose to create a new trail from the new trailhead that will connect to the existing Scarp Ridge trail. The new trail will be approximately 4,050 feet. In return, the USFS would vacate or administratively close the public easement on the Irwin Lodge Road from the new parking lot to the Irwin Lodge.

There has been significant public concern regarding the trail realignment. The public has expressed that the reroute may be in avalanche terrain, that it may be more difficult for users to hike the trail because of the increased length and elevation gain, and that the trail may not be accessible until later in the summer due to snow cover in the treed areas.

The Trails Commission, USFS, and CPW have expressed their support for the trail realignment, stating that it will be a more sustainable trail design and construction which would reduce impacts to natural resources. The agencies also stated that the reroute would enhance the user experience and create better amenities, including bathrooms and legal parking for the public.

The applicant shall be required to pursue the trail realignment with the USFS. The realignment of the trail will be reviewed by the USFS, which will perform a scoping process and determine whether an Environmental Assessment, Environmental Impact Statement or Categorical Exclusion will be required.

Section 12-105: *Water Supply.*

Applicable, the applicant proposes to use groundwater and wells for the water supply. Central wells are proposed to serve the development. No fire suppression system is proposed for the commercial structures. An augmentation plan shall be required to obtain well permits through the State of Colorado. The applicants propose to construct an augmentation pond on site. Attorney Marcus Lock has provided a letter regarding feasibility of the plan for augmentation dated April 2, 2013.

Karlynn Armstrong, Water Resource Engineer, for the Division of Water Resources submitted comments via email on July 2, 2013. Her comments noted, "At this time the applicant has not published

an application for Plan for Augmentation with the Division 4 Water Court. This office cannot issue any well permits for the proposed uses until the court has decreed a Plan for Augmentation, the applicant has submitted a well permit application to this office to operate pursuant to said plan, and this office has reviewed and approved the permit application...So long as the applicant obtains a court decreed plan for augmentation and valid well permits for the uses proposed in this Sketch Plan, this office has no objection to this application.”

The applicant shall demonstrate at Preliminary Plan submittal that they are pursuing a court approved water augmentation plan. The approved augmentation plan shall be a condition of any Preliminary Plan recommendation for approval.

Section 12-106: Sewage Disposal/Wastewater Treatment.

Applicable, the applicant proposes to install individual sewage disposal systems where feasible and small residential wastewater treatment plans (Advantex) where soils are not suitable for ISDS. The applicant has proposed to use portable toilets for events that are held at the Irwin Lodge. Detailed information on wastewater treatment for events at the Irwin Lodge and possible use of the existing wastewater treatment system shall be submitted at Preliminary Plan.

The proposed Advantex wastewater treatment systems are approved by the Colorado Department of Public Health and Environment, as noted in a letter from that agency dated August 5, 2011 and signed by Barbara Dallemand, P.E. Onsite Wastewater Program Coordinator.

This Section also requires an engineering and economic evaluation of the feasibility of providing a central wastewater treatment system for the development. This evaluation shall be submitted at Preliminary Plan.

The applicant shall consult with the Gunnison County Environmental Health Official, Crystal Lambert, to determine feasibility of the proposed wastewater treatment systems for all buildings.

Section 12-107: Fire Protection.

Applicable, portions of the development are in high wildfire hazard areas. A copy of the application was referred to the Crested Butte Fire Protection District and Gunnison Fire District for review and comment. The subject parcels are in the Gunnison Fire District but through mutual aid agreements, it is anticipated that the Crested Butte Fire Protection District would be the first responders to any emergency at the subject parcels.

In a letter dated July 23, 2013, the Gunnison County Fire District Fire Marshal, Dennis Spritzer, said: “I have reviewed this Sketch Plan proposal and have concerns about the access to this site and to the various proposed cabins. The plan shows a double track jeep type road, accessible only by high profile four wheel drive vehicles. I strongly suggest an all-weather driving surface capable of holding the imposed loads of fire apparatus. Following the Gunnison County Road and Access specifications would be preferable. For water supply for fire protection, dry hydrants would be one alternative...Another alternative would be an underground cistern with 30,000 gallon capacity. Any assembly type occupancies should be fire sprinklered for life safety purposes.”

In a letter dated July 29, 2013 from the Crested Butte Fire Protection District, echoed Gunnison's comments and added: “...we strongly recommend non-combustible road signage and address numbers (premises ID) suitable for Wildland-Urban Interface. A rapid entry key system (KNOX box) is also strongly recommended for gated roads, residences and major structures to minimize access damage and provide the ability to secure them once responding units clear a scene.”

The applicant has demonstrated compliance with this Section relative to the development of access roads. Public Works has concurred that “road design plans at this point in the process are adequate.” Section 12-107: B. *Standards for Vehicle Access*, states that “All sites proposed for land use changes shall provide access that is sufficient for emergency vehicles, and for service and other vehicles that need access to the property, except when the site is a patented mining claim...” The subject parcels that are included as part of the Scarp Ridge, LLC application are patented mining claims and thus are

not required to provide access sufficient for emergency vehicles. Although both the Gunnison and Crested Butte Fire Districts have expressed concern about emergency vehicle access to the residential building sites, Public Works has indicated that they agree with the applicant's plan for proposed access.

The applicant shall continue to work with the Fire Districts at Preliminary Plan to provide safe and sufficient access for emergency vehicles, to the maximum extent feasible.

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" dated August 20, 2013 meets the criteria.

A site plan showing proposed improvements and building envelopes shall be submitted at Preliminary Plan.

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.

A site plan showing proposed improvements and building envelopes shall be submitted at Preliminary Plan.

Section 13-105: *Residential Building Sizes and Lot Coverages.*

Applicable, the proposed covenants restrict the maximum residential building size as required by this Section.

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*

Applicable, this section applies and any solid fuel-burning devices proposed shall comply with this section.

Section 13-108: *Open Space And Recreation Areas*

Applicable, Major Impact commercial projects are required to provide open space through landscaping elements and setbacks. The applicant shall submit a landscaping plan identifying areas of open space and in compliance with Section 13-111 at Preliminary Plan.

Section 13-109: *Signs.*

Applicable, there are no signs proposed as part of this Sketch Plan application. Sign elements as allowed by Section 13-109: Signs may be proposed as part of the Preliminary Plan.

Section 13-110: *Off-Road Parking And Loading.*

Applicable, individual parcels and uses are required to comply with this Section. A parking plan in compliance with this Section shall be submitted at Preliminary Plan. The parking plan shall identify parking for events at the Irwin Lodge, general customer parking and parking areas at the individual residential buildings.

Section 13-111: *Landscaping And Buffering.*

Applicable, the applicant is required to submit a landscaping plan pursuant to this Section at Preliminary Plan.

Section 13-112: *Snow storage.*

Not applicable, snowplowing of roads, driveways, and parking areas is not proposed. The applicant proposes over the snow access.

Section 13-113: *Fencing*

Applicable, this section applies and any proposed fencing 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 uses are required to comply with the exterior lighting requirements of Section 9-301: D.6. *Exterior Lighting*. The protective covenants shall address exterior lighting requirements.

Section 13-115: *Reclamation And Noxious Weed Control*

Applicable, the applicant has acknowledged that a reclamation plan, prepared in compliance with this Section, shall be required at Preliminary Plan. A reclamation permit is required for road cutting and/or construction, homesite clearing and berm construction.

Section 13-116: *Grading And Erosion Control*

Applicable, the Sketch Plan shall be guided by the requirements of this Section, however specific details are not required at Sketch Plan. Grading activities are required to secure a Reclamation Permit from the Public Works Department, pursuant to Section 13-115: *Reclamation and Noxious Weed Control*. A grading and erosion control plan shall be submitted at Preliminary Plan, in compliance with this Section.

Section 13-117: *Drainage, Construction And Post-Construction Stormwater Runoff*

Applicable, the Sketch Plan shall be guided by the requirements of this Section, however specific details are not required at Sketch Plan. A drainage plan, stamped by a Colorado-licensed engineer shall be submitted at Preliminary Plan, in compliance with 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*

The proposed development shall be designed in a manner that will not adversely affect the character and tranquility of nearby residential or public use areas. The applicant shall submit additional information relative to noise, traffic, visual impacts, wildlife impacts and other issues as outlined in the recommendation section of this document to demonstrate compliance with this Section at Preliminary Plan.

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 parcels.

FINDINGS:

The Gunnison County Planning Commission finds that:

1. This application, by definition, is classified as a Major Impact.
2. Pursuant to Section 7-102:Standards of Approval for Major Impact Projects:
 - e. This Sketch Plan application is generally consistent with the standards and requirements of the *Resolution*, pursuant to Section 7-103, 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 7-103: C., 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.
- f. The proposed land use change is required to be compatible with, or to enhance the character of existing land uses in the area surrounding the subject property, and shall not adversely impact the future development of the area surrounding the subject property.
 - g. Phasing has been proposed by the applicant within this Sketch Plan submittal but it has not been specifically delineated.
 - h. All uses have been identified on the proposed parcels.
3. There are no signs proposed as part of this Sketch Plan application. Sign elements as allowed by Section 13-109: Signs may be proposed as part of the Preliminary Plan.
 4. Draft protective covenants or deed restrictions shall be submitted within the Preliminary Plan.
 5. Integration of the standards of Section 13-119: *Standards to Ensure Compatible Uses*, as well as other measures to mitigate issues raised during this Sketch Plan review is required within the Preliminary Plan submittal.
 6. The applicant has identified that they intend to phase the proposed project over time, a proposed phasing schedule has not been proposed at this time.
 7. There is a lack of clarity regarding the proposed and existing trails; the Planning Commission has requested a map of the proposed and existing trails to be submitted at Preliminary Plan.
 8. Additional information regarding event and traffic planning has been requested to be submitted at Preliminary Plan.
 9. Concern has been expressed about the impacts to wildlife from the proposed zip-lines.
 10. The Colorado Division of Parks and Wildlife have agreed, at this time, that the proposed removal of the upper alpine hut and the placement of a conservation easement on the Justice, Pickwick, Little Minnie and upper half of the Tacoma lodges may mitigate impacts to wildlife.
 11. The U.S. Fish and Wildlife Service has stated that the proposed use on private land does not constitute a 'take' of the lynx under Section 10 of the Endangered Species Act, however the U.S. Forest Service may be required to analyze the effects of the proposal through Section 7 of the Act.
 12. The Planning Commission and public have expressed concern regarding the visual impacts of the proposed project.
 13. Concern has been expressed regarding the potential noise associated with events at the site.
 14. Portions of the subject parcels are in a geologic hazard area, according to Gunnison County mapping.
 15. Portions of the subject parcels are in a high wildfire hazard, according to Gunnison County mapping.
 16. The applicant proposes individual wells to serve the residences; a court approved water augmentation plan has not yet been submitted.

17. The proposed Advantex wastewater treatment systems are technology approved by the Colorado Department of Public Health and Environment, as noted in a letter from that agency dated August 5, 2011 and signed by Barbara Dallemund, P.E., Onsite Wastewater Program Coordinator.
18. The applicant has stated that they intend to use portable toilets for events at the Irwin Lodge. There has been concern expressed over this element of the proposal.
19. Both Fire Districts have recommended an all-weather driving surface and the use of dry hydrants and/or underground cisterns and that assembly buildings be sprinkled.
20. The subject parcels are within the Town of Crested Butte's watershed district and are therefore subject to the Town's permitting authority.
21. The proposed Scarp Ridge trail realignment requires approval from the U.S. Forest Service and may require an Environmental Assessment, Environmental Impact Statement, or Categorical Exclusion to be determined by the U.S Forest Service.
22. Wetlands have been identified on the subject parcels; a wetlands delineation, certified by the Army Corps of Engineers is required to be submitted at Preliminary Plan.
23. The applicant has demonstrated compliance with the commercial locational standards set forth in Section 10-104: C. *Alternative Locational Standards*.
24. The Colorado Water Quality Control Division noted that further analysis regarding the proposed wastewater treatment will be required to determine whether some or all of the proposed wastewater treatment systems meet the definition of a domestic wastewater treatment works.
25. Complete, engineered road plans in compliance with Section 12-103: *Road System* are required to be submitted at Preliminary Plan. If the applicant intends to apply for a waiver of standards, they shall contact Public Works prior to submittal of the Preliminary Plan.
26. 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. 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 applicants are unable to fulfill all of the requirements of this *Resolution*, then the application shall be denied at the Preliminary or Final Plan review stage.
27. 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 required the applicant to begin the Sketch Plan review process again.
28. 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 Gunnison County Planning Commission, having considered the submitted plan, site observations and public testimony, has reached the above findings and recommends that LUC-13-

00005 be classified as a Major Impact Sketch Plan, and that the Sketch Plan be approved with the following conditions:

1. A clear and distinct phasing plan shall be submitted at Preliminary Plan.
2. The site plan shall include proposed building envelopes for all proposed structures and shall delineate the location of proposed amenities including trails, zip-lines, etc.
3. A site plan showing the proposed and existing trails (on public and private land) on the subject parcels and surrounding the subject parcels shall be submitted at Preliminary Plan.
4. Event, traffic, and customer planning shall be submitted at Preliminary Plan; this should include a description of how large events will be handled with respect to hours or operation, food/drink service, traffic, parking, noise and any other relevant issues. This plan shall also address how potential customers will access/utilize amenities (i.e. zip-lines, trails, etc.).
5. The Preliminary Plan shall address whether the proposed and existing trails on private property will be open to the public and how that will be managed.
6. Proposed language relative to conservation easements on the Pickwick, Justice, Little Minnie, and upper half of the Tacoma Lode shall be submitted as part of the Preliminary Plan.
7. A visual simulation of the proposed structures and amenities shall be submitted at Preliminary Plan.
8. Noise level testing shall be completed and the results submitted as part of the Preliminary Plan.
9. A geologic hazard report, in compliance with Section 11-104: *Development in Areas Subject to Geologic Hazards* shall be submitted at Preliminary Plan. This report shall address any geologic hazards present on the subject parcels including, but not limited to, avalanche hazards, unstable slopes, rockfall, landslide and debris flows.
10. The geologic hazard report and application shall be referred to the Colorado Geological Survey at Preliminary Plan, at the expense of the applicant.
11. The applicant shall provide information on the impact of zip-lines to wildlife at Preliminary Plan submittal.
12. Portions of the subject parcels are in a high wildfire hazard, according to Gunnison County mapping; the applicant is required to submit a wildfire mitigation plan in compliance with Section 11-105: F.3.
13. Protective covenants shall include wildfire prevention standards in compliance with Section 11-105: F.5.
14. The applicant shall consult with both the Gunnison Fire Protection District and Crested Butte Fire Protection District prior to drafting the proposed road plans to accommodate the needs of the District, to the maximum extent feasible.
15. The applicant shall demonstrate that they have received a court approved water augmentation plan for the proposed water supply.
16. Detailed information on events at the Irwin Lodge and how wastewater treatment will be addressed and possible use of the existing wastewater treatment system shall be submitted at Preliminary Plan.

17. The applicant shall apply for a watershed permit from the Town of Crested Butte in conjunction with the submittal of the Preliminary Plan.
18. The applicant shall work with the U.S. Forest Service to determine the appropriate public process for the proposed realignment of the Scarp Ridge Trail, any changes to the existing access easement and any other impacts to trails or public lands associated with the proposed project.
19. Wetlands have been identified on the subject parcels; a wetlands delineation, certified by the Army Corps of Engineers is required to be submitted at Preliminary Plan.
20. A plan for water quality protection, in compliance with Section 11-107: *Protection of Water Quality*. D.2. shall be submitted at Preliminary Plan.
21. A reclamation plan shall be submitted at Preliminary Plan.
22. The Colorado Water Quality Control Division (WQCD) noted that further analysis regarding the proposed wastewater treatment will be required to determine whether some or all of the proposed wastewater treatment systems meet the definition of a domestic wastewater treatment works. The applicant shall consult with the State to determine if a State permit is required for the domestic wastewater treatment.
23. A wastewater treatment plan in compliance with Section 12-106: *Sewage Disposal/Wastewater Treatment* including treatment options for events to be held at the Irwin Lodge shall be submitted at Preliminary Plan. The plan shall also address the potential for a central wastewater treatment system in compliance with Section 12-106: E. *Evaluation Required*.
24. Complete, engineered road plans in compliance with Section 12-103: *Road System* are required to be submitted at Preliminary Plan. If the applicant intends to apply for a waiver of standards, Public Works shall be contacted prior to submittal of the Preliminary Plan.
25. A parking plan, in compliance with Section 13-110: *Off-Road Parking and Loading*, shall be submitted at Preliminary Plan.
26. A landscaping plan in compliance with Section 13-111: *Landscaping and Buffering*, shall be submitted at Preliminary Plan.
27. An exterior lighting plan in compliance with Section 13-114: *Exterior Lighting*, shall be submitted at Preliminary Plan.
28. A grading and erosion control plan, in compliance with Section 13-116: *Grading and Erosion Control*, shall be submitted at Preliminary Plan.
29. A drainage plan, in compliance with Section 13-117: *Drainage, Construction and Post-Construction Storm water Runoff*, shall be submitted at Preliminary Plan.
30. Integration of the standards of Section 13-119: *Standards to Ensure Compatible Uses*, as well as other measures to mitigate issues raised during this Sketch Plan review is required within the Preliminary Plan submittal.
31. 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*.

32. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
33. 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.
34. 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.
35. 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.