AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; Approving Land Use Change Permit No. 2

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Planning Commission Recommendation for the subdivision of 66.27-acres into four single-family residential lots, ranging between 16 and 17-acres each, located within the W1/2 Section 35, Township 48 North, Range 6 West, N.M.P.M.

Fiscal Impact:

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

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 4/29/2016 Certificate of Insurance Required Yes ◉ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 4/29/2016

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

Agenda Date: 5/3/2016

Revised April 2015

TO: **Board of County Commissioners**

FROM: **Planning Commission**

SUBJECT: **Planning Commission Recommendation**
Little Cimarron Creek Ranch Subdivision
LUC-2015-00017

DATE: **September 4, 2015**

PREPARED BY: **Neal Starkebaum, Assistant Director**

APPLICANT: **Lakeside on the Colorado, Ltd.**
500 Log Cabin Road
Merzton, TX 76941

REPRESENTED BY: **Robert Williams, P.E.**
Williams Engineering, LLC
80 Camino del Rio, Suite 1
Gunnison, CO 81230

At its regular meeting on September 8, 2015, Molly Mugglestone was seated and the Planning Commission unanimously approved the following Minor Impact Recommendation, moved by Jack Diani and seconded by Tom Venard:

PROJECT SUMMARY:
The request is for the subdivision of 66.27-acres into four single-family residential lots, ranging between 16 and 17-acres each. Each lot would be served by an individual well and on-site wastewater system. No secondary residences are proposed. Access to all of the parcels will be via a new road, to be constructed from of County Road 864 (Little Cimarron Road).

The applicants have submitted protective covenants, titled *Declaration of Protective Covenants for Little Cimarron Creek Ranch Subdivision (Covenants)*, which identify specific design standards and limitations on each lot.

LOCATION:
The property is located approximately 38 miles west of the City of Gunnison, approximately two miles south of State Highway 50, west of and adjacent to the Little Cimarron Road. The parcel is located at the westerly edge of Gunnison County and directly adjacent to Montrose County. The property is adjacent to the Little Cimarron Road (CR #864), which traverses northwest to southeast along the northeastern property line. The parcel is located within the W1/2 Section 35, Township 48 North, Range 6 West, N.M.P.M.

SURROUNDING LAND USES:
West – R&G Butte Rock Ranch –501-acre parcel; agricultural uses
North – August Nicholas Family – 58-acres; agricultural uses
East – R&G Rock Butte Ranch – 501-acre parcel; agricultural uses
South – R&G Rock Butte Ranch – 501-acre parcel; agricultural uses

IMPACT CLASSIFICATION: Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects A. 2-4 Units*.

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

- Minor Impact Land Use Change Application – Little Cimarron Creek Ranch Subdivision
- Site Plan – prepared by Williams Engineering, LLC, undated
- Vicinity Map and Subdivision Plat, prepared by Fred Ballard, PLS, Gunnison Valley Survey, April 22, 2015

MEETING DATES:
The Planning Commission held meetings on the following dates:

- June 19, 2015 Work Session
- August 7, 2015 Joint Public Hearing
- August 7, 2015 Work Session

SITE VISIT:
The Planning Commission conducted a site visit on June 19, 2015, at which time the Commission viewed the neighborhood, the property and the location of the lot lines and building envelopes. The members attending the site visit noted that the location of the building envelopes were appropriate, and mostly hidden from surrounding properties and the County Road.

PUBLIC HEARING:
The Planning Commission and the Board of County Commissioners conducted a joint public hearing on August 7, 2015. At that time, no members from the public were present.

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

REVIEW AGENCY REFERRAL COMMENTS:
Comments were received from the following agencies:

Colorado Parks and Wildlife – Renzo DelPiccolo, Area Wildlife Manager, Colorado Parks and Wildlife, letter of May 29, 2015. Excerpts include:

"Colorado Parks and Wildlife (CPW) has reviewed Gunnison County's Minor Impact Land Use Change Application for Little Cimarron Creek Ranch. The applicant, Lakeside on the Colorado, LTD., proposes Little Cimarron Creek Ranch as a one phase project to divide a 66.27 acre parcel into 4 single-family lots, with limited agricultural use. The lots will range in size from 16 to 17 acres.

The property is located on the westerly edge of Gunnison County, adjacent to Montrose County. The property is bounded on the east side by Gunnison County Road 864, and on the other three sides by private ranches. The access road to Cimarron State Wildlife Area transects the property on the south side. The Little Cimarron River runs through the property from South to North. The habitat is primarily riparian with willow, cottonwood, juniper, pine and alder species. The southwest portion of the property on the west bank of the Little Cimarron River is primarily sagebrush upland. The proposed project sites sits at approximately 7600 ft. elevation.

Black Bear Habitat Utilization:

The location of the proposed project lies within CPW mapped summer and fall black bear habitat. The area surrounding the proposed project does experience black bear conflicts throughout the summer and fall months. Due to the bear activity that exists in the area of the proposed project, the applicant should be prepared for bear activity. CPW strongly recommends that the applicant or HOA require bear proof trash containers at residences and facilities and keep trash and food,

including pet food, sources properly stored. CPW also encourages limited use of bird feeders and other bear attractants. Upon request CPW can provide literature to help reduce bear conflicts.

Mule Deer, Elk and Moose Habitat Utilization:

The proposed project also lies within elk calving, spring, summer, fall and winter use areas, as well as mule deer spring, summer, fall and winter use area. Moose populations have recently established throughout the year in the Little Cimarron drainage as well. CPW advises landscaping be planned with plant species and plant protection that would reduce deer, elk and moose foraging and damage on landscaping. CPW strongly recommends keeping livestock feed properly stored and applied to reduce deer, elk moose foraging on livestock feed.

CPW recommends wildlife friendly fences be constructed throughout the proposed project area. The proposed project is in the migration corridor for the Cimarron deer and elk herds, and is mapped as Gunnison Sage-grouse occupied habitat within the Cerro Summit/Cimarron population. Many wildlife species are frequently in the area and would benefit from wildlife friendly fences to allow safe migration. Upon request CPW can provide a book for fencing with wildlife in mind.

Impact Avoidance and Minimization Recommendations:

Given the high quality wildlife habitat of the proposed project site and surrounding area, and based on a site specific evaluation of the proposed activities at the site, CPW recommends the following to avoid and minimize potential project impacts to wildlife.

- Use of bear proof trash containers and waste storage to minimize black bear conflict
- Proper timing use and removal of bird feeders to reduce black bear conflict
- Planned landscaping considerations to reduce mule deer, elk and moose foraging and damage to landscaping
- Proper storage and application of livestock feed to reduce mule deer, elk and moose foraging on livestock feed
- Construction of wildlife friendly fencing."

Colorado Division of Water Resources –Megan Sullivan, P.E., Water Resource Engineer, letter of June 2, 2015. Excerpts include:

"We have reviewed the additional information regarding the above referenced proposal to subdivide approximately 66.27 acres into four comparatively sized lots for single family homes. The applicant proposes to supply water through individual on-lot wells that will operate pursuant to future contracts with the Upper Gunnison River Water Conservancy District. Sewage disposal is to be provided through individual sewage disposal systems. The applicant has noted that some outside watering is anticipated and total water use is estimated at 0.5 acre-feet per lot. This office has no record of any existing wells on the parcel.

…… Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the proposed water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. § 37-90-137(2) and the plan for augmentation issued to Upper Gunnison River Water Conservancy District, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of said plan for augmentation. Provided the sustained well yield of each of the proposed wells is similar to other nearby wells constructed into the Little Cimarron Creek alluvium, the proposed water supply is expected to be physically adequate.

Gunnison County Fire Protection District –Dennis Spritzer, Fire Marshal, May 27, 2015. The comments note:

> "I have reviewed the plans for Little Cimarron Ranch for Fire Protection and have no fire issues with this proposed development. They have proposed a dry hydrant and the access for emergency vehicles is adequate."

Gunnison County Environmental Health Office - Crystal Lambert, Environmental Health Official, memo of June 11, 2015. Her comments note:

> "The Environmental Health Office has received a request to review the application for the Little Cimarron Creek Ranch Land Use Change. The applicants are proposing a four parcel subdivision. The parcels will range in size from 16.3 to 17 Acres. Sewage disposal on all parcels will be by on-site wastewater treatment systems and domestic water will be provided by obtaining a well permit and the drilling of four individual wells.
>
> On-site wastewater treatment systems are required to be a minimum of 100 feet away from wells and water bodies, including wetlands. Currently three wetland areas are delineated on the property. One wetland is located within the building envelope of parcel 3, the second wetland is located within the building envelope of parcel 4, and the third wetland is located on, and across, the boundary between proposed parcels 3 and 4. The owners are proposing to remove the two wetland areas that are located within the building envelopes of parcels 3 and 4. The removal of these two wetland areas is necessary to provide feasibility that the parcels will be able to receive approval for on-site wastewater treatment systems. The owners are proposing to keep and enhance the wetland area located on, and across, the boundary between proposed parcels 3 and 4. The Little Cimarron River flows through each of the proposed parcels adjacent to each of the proposed building envelopes.
>
> It is feasible, with conscientious site planning of well, septic and structure locations, all the proposed parcels will be able to receive approval for on-site wastewater treatment system permits.
>
> The owners are proposing to coordinate the removal of an existing mobile home in the northern portion of the property. In addition, the septic system should be properly terminated in accordance with the Gunnison County On-site Wastewater Disposal System regulations."

Gunnison County Public Works Department – Marlene Crosby, Public Works Director, email of March 23, 2015. She notes that:

> **"**The Public Works Department has reviewed the Minor Impact Project Land Use Change Application for Little Cimarron Creek Ranch and offers the following comments.
>
> A Waiver of Standards has been submitted for a 60 degree intersection of Cimarron Trail and the Little Cimarron Road and for a road easement that is 30 feet wide rather than 60 feet. The Waiver of Standards will require Board of County Commissioner action and will run concurrently with the Land Use Change application approval/denial on a Commissioner agenda.
>
> The applicant will also need a Gunnison County private plow permit to plow a short section of the Little Cimarron Road. Gunnison County does not do any plowing in this area, but the road is used by winter recreationalists to access the parking area located on the Nicolas property.
>
> The request for plowing should be considered as part of the land use change process. If the subdivision is approved the Gunnison County Public Works Department will issue a one year plow permit. If there are no problems or damage to the road during the first plow season subsequent permits will be issued for three year intervals."

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

Section 9-508: Keeping of Livestock not on an Agricultural Operation.
The applicant proposes to allow livestock on the property.

Covenants. Section 3.1 Use of Little Cimarron Creek Ranch Parcel and 3.4 Animals. Limited grazing permitted with consultation with NRCS.

Section 10-102: *Locational Standards for Residential Development.*
The request meet does not meet the primary residential density standard. The proposed subdivision is not located within a municipal three-mile area.

Section 10-103: *Residential Density.*
The request proposes the subdivision of 66.27-acres, into four lots, each approximately 16-17-acres.

There are no residential subdivisions, adjacent to the property, in Gunnison County. However, there are multiple subdivided residential parcels across the County line, in Montrose County, adjacent to the Little Cimarron Road, including:

- Lee Hawk Subdivision, one lot of 5-acres, approx.. ¾ of a mile north.
- Cimarron Springs Subdivision – eight lots, with lot sizes ranging between 4-12 acres, at the intersection of Highway 50 and the Little Cimarron Road, approx.. 1.5 miles north
- Nelson Subdivision – one lot, 8.5- acres, adjacent to and north of the Cimarron Springs Subdivision, approx.. 2.0 miles north.

The Commission finds that the proposed residential subdivision is compatible with existing development in the neighborhood and will result in no significant net adverse impacts to the neighborhood.

Section 11-103: *Development in Areas Subject to Flood Hazards*.
The property contains a flood hazard area, 100-year floodplain of the Little Cimarron River, delineated by Bob Williams, P.E., as shown on the site plan. The building envelopes are located outside of the floodplain.

Section 11-104: *Development in Areas Subject to Geologic Hazards*.
The property is not within a geologic hazard area, according to County mapping.

Section 11-105: *Development in Areas Subject to Wildfire Hazards.*
The proposed building envelopes are in a low - moderate wildfire hazard area, according to County mapping. Other areas of the property are in a moderate wildfire hazard, mostly in the sagebrush.

See comments from Dennis Spritzer, Fire Marshal, Gunnison County Fire Protection District, comments of May 27, 2015.

Section 11-106: *Protection of Wildlife Habitat Areas.*
A sage-grouse Habitat Site Specific Analysis Pre-Application conference was held at the subject property. Building envelopes have been located in areas east/northeast of the Little Cimarron River to avoid and/or minimize the impacts to the Gunnison Sage-grouse and their habitats.
See comments from Jim Cochran, Wildlife Conservation Coordinator, memo of September 23, 2013, and addendum, September 20, 2013.

No outstanding concerns from the Colorado Parks and Wildlife. See comments from Renzo DelPiccoli, Area Wildlife Manager, CPW, letter of May 29, 2015.

Section 11-107: *Protection of Water Quality*.
Little Cimarron Creek flows through the property. Building envelopes have been established to meet the 25 foot restrictive inner buffer setback from the stream. The applicant indicates that there are three small wetland areas on the property; two of which are in the process of being abandoned and the third will be enhanced.

See letter from Chris Kruthaupt, Creekside Angling & Environmental, letter of March 16, 2015.

Section 11-108: *Standards for Development on Ridgelines.*
The property is not located on a ridgeline.

Section 11-109: *Development that Affects Agricultural Lands.*
There are agricultural lands in the immediate area, as well as a grazing lease on the subject parcel.

Section 11-110: *Development of Land beyond Snowplowed Access*.
The property is beyond snowplowed access. Montrose County provides winter maintenance and snowplowing to the Gunnison County line. There is no Gunnison County snowplowing above the Gunnison County line. The applicant is requesting year round access and is requesting a private plow permit to snowplow that portion of the County Road, from the County line to the access road, from the Board of County Commissioners.

The application shall not be approved unless, in addition to compliance with all other standards and requirements of this *Resolution*, the Board determines by clear and convincing evidence that:

1. **NO CONFLICT WITH ARTICLE 1.** Such expansion or extension does not substantially conflict with the requirements of Article 1: *General Requirements;*
2. **MEETS ROAD AND BRIDGE CONSTRUCTION SPECIFICATIONS**. Meets or exceeds the requirements of the *Gunnison County Standards and Specifications for Road and Bridge Construction*;
3. **NO INCREASED RISK TO EMERGENCY SERVICES PERSONNEL**. Does not create or substantially increase the risk to emergency services personnel who may be called upon to travel over the subject section of road;
4. **NOT DISRUPTIVE TO EXISTING TRAVEL MODES**. Does not disrupt significant, existing modes of travel;
5. **NO INCREASED ENVIRONMENTAL DETRIMENT.** Does not create or significantly increase detrimental environmental impact to road(s) and/or land(s); and
6. **BENEFITS OUTWEIGH DETRIMENTS**. Considering the existing use and the proposed use of the areas accessed by the proposed expansion or extension of snowplowing, presents benefits that clearly outweigh its detriments.

The Planning Commission finds that the applicant has demonstrated that there are no conflicts with the requirements of Article 1, there is no increased risk to emergency services personnel, is not disruptive to existing travel modes, there is no increased environmental detriment and that the benefits outweigh the detriments.

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*.
The proposed lots would be accessed via the new construction of an access road from the Little Cimarron Road. The applicant is requesting a waiver of the minimum requirements from the Gunnison County Specifications for Road and Bridge Construction. The public hearing for the waiver request has not yet been scheduled.

See comments from Marlene Crosby, Public Works Director, memo of June 6, 2015 and Dennis Spritzer, Fire Marshall, Gunnison County Fire Protection District, May 27, 2015.

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

Section 12-105: *Water Supply*.
Domestic water for all four lots will be provided by obtaining a well permit and the drilling of four individual wells. Augmentation water will be purchased from the Upper Gunnison River Water Conservancy District, Aspinall-Wilson Unit to provide the legal water supply. The water supply has been determined to be legally and physically able to supply the proposed development. See comments from Megan Sullivan, P.E., Water Resource Engineer, Colorado Division of Water Resources, dated June 2, 2015.

> *Covenants – Section 3.20 Water.* Each owner must comply with the terms of the contract for augmentation and is responsible for renewing such contract.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*
On-site Wastewater Treatment Systems are proposed on each lot to provide for wastewater treatment. See comments from Crystal Lambert, Environmental Health Official, memo of June 11, 2015 noting feasibility of installation of on-site wastewater treatment systems.

Section 12-107: *Fire Protection*.
The property is within the Gunnison County Fire Protection District, however, first response would be from Montrose County, which has a mutual aid agreement with Gunnison County. See comments from Dennis Spritzer, Fire Marshal, Gunnison County Fire Protection District, comments of May 27, 2015.

Section 13-103: *General Site Plan Standards and Lot Measurements.*
The site plan for the subdivision complies with the standards of this Section.

Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.*
The building envelopes meet the setback requirements.

Section 13-105: *Residential Building Sizes and Lot Coverages.*
The subdivision plat identifies site-specific building envelopes on each lot. Minimum lot size complies with OWTS regulations. Building sizes will comply with the required maximum square footages at time of building permit application.

Section 13-106: *Energy and Resource Conservation.*
All structures to be constructed within the development will be subject to the standards of this Section at the time of building permit application.

Section 13-107: *Installation of Solid Fuel-Burning Devices*
Installation of solid fuel-burning devices is subject to the standards of this Section at the time of building permit application.

Section 13-108: *Open Space and Recreation Areas*
Not applicable. Open space dedication is not required for minor impact projects.

Section 13-109: *Signs.*
There are no signs proposed as part of the submitted application.

Section 13-110: *Off-Road Parking and Loading.*
A minimum of two parking spaces is required for each single-family residence.

Section 13-111: *Landscaping and Buffering.*
Landscaping is not required for minor impact projects.

Section 13-112: *Snow storage*.
Adequate area is available for snow storage on each lot.

Section 13-113: *Fencing*
All new fencing shall comply with this Section.

> *Covenants. Section 3.22 - Fencing.* Perimeter and cross fencing shall be constructed with wildlife friendly fencing.

Section 13-114: *Exterior Lighting.*
All new structures are required to comply with this section.

> *Covenants. Section 3.9 – Light, Sound and Odors.* Exterior lighting must comply with Gunnison County regulations, as amended.

Section 13-115: *Reclamation and Noxious Weed Control.*
A reclamation permit is required for driveway construction, home site clearing and berm construction.

> *Covenants. Section 3.14 – Weed Control and Revegetation. Section 3.17 Reclamation and Weed Control.*

Section 13-116: *Grading and Erosion Control.*
Grading activities are required to secure a Reclamation Permit from the Public Works Department, pursuant to Section 13-115: *Reclamation and Noxious Weed Control*.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*
The applicant has identified best management practices to be employed to provide drainage, construction and post-construction storm water runoff during construction of the road.

Section 13-118: *Water Impoundments.*
Not applicable, this project does not propose a water impoundment.

Section 13-119: Standards to Ensure Compatible Uses.
Specific design standards and limitations on the uses on each lot are identified in the protective covenants, *Declaration of Protective Covenants Red Feather Ranch Subdivision and Design Guidelines*, to ensure the residential uses are compatible with the existing residential and agricultural neighborhood.

Section 15-103: *Right-to-Ranch Policy*.
This Section is applicable to all land use change permits.

FINDINGS:
The Commission finds that:

1. The Planning Commission has classified the application as a Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects A. 2-4 Units*.

2. The land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution* and *Section 6-10: Standards of Approval for Minor Impact Projects*.

3. The Commission finds that the proposed four-lot residential subdivision is compatible with existing development in the neighborhood and will result in no significant net adverse impacts to the neighborhood.

4. The property is beyond snowplowed access. The Planning Commission finds that the applicant has demonstrated that there are no conflicts with the requirements of Article 1, there is no increased risk to emergency services personnel, it is not disruptive to existing travel modes, there is no increased environmental detriment and that the benefits outweigh the detriments.

5. 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 plans, exhibits, site specific mitigation, site observations and public testimony, has reached the above Findings and recommends to the Board of County Commissioners that LUC No. 2015-17 Little Cimarron Creek Ranch Subdivision, be approved with the following conditions:

1. This permit is limited to activities described within the "Project Summary" 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 following conditions for the protection of Gunnison Sage-grouse and Sage-grouse habitat:

    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) All development on this parcel shall be clustered in the area east/northeast of the Little Cimarron River. Development shall be sited and designed to minimize impacts to Gunnison Sage-grouse and their habitats, as determined by Gunnison County. If this subdivision is approved, building and other Gunnison County authorizations shall be reviewed individually for Gunnison Sage-grouse impacts.

4) No woven wire fencing is allowed for perimeter fencing or as interior cross fencing unless required to exclude domestic sheep. Perimeter and cross fencing shall be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication *Fencing with Wildlife in Mind.*

5) No additional roads, routes or trails, with the exception of the proposed driveways shall be constructed on the property without additional review by Gunnison County for impacts to Gunnison Sage-grouse.

6) If the owner intends to utilize the area for grazing animals, they must contact the Natural Resources Conservation Service (NRCS) in Montrose at 970-249-8407 for assistance in conservation planning. This will help avoid unintended impacts to sage-grouse habitat.

7) 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.

8) 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.

9) Additionally, the applicant is advised that the Gunnison Sage-grouse is listed under the Federal Endangered Species Act (ESA). The Federal government may require additional mitigation or other actions beyond those found necessary by Gunnison County for activities that may result in “take” of the species, including loss of or impacts to Gunnison Sage-grouse habitat.

3. A mylar subdivision plat, in compliance with Section 6-105, *Gunnison County Land Use Resolution*, shall be provided to the Community Development Department, for signature by the Board of County Commissioners. Approval shall not be effective until and unless the plat is recorded with the Office of the Gunnison County Clerk and Recorder.

4. The approval shall be memorialized by Board Resolution. Approval shall not be effective until the Resolution is recorded with the Office of the Gunnison County Clerk and Recorder.

5. The applicant shall record the *Declaration of Protective Covenants for Little Cimarron Creek Ranch Subdivision* contemporaneously with the subdivision plat.

6. This recommendation is subject to the approval by the Board of County Commissioners of the requested waiver to the *Gunnison County Standards and Specifications for Road and Bridge Construction*, for the Cimarron Trail Road.

7. The applicant shall provide for installation of a dry hydrant on Little Cimarron Creek, as identified on the site plan, which shall be inspected and approved by the Gunnison Fire Protection District. All hydrant fittings must be compatible with the Gunnison County Fire Protection District fittings. No building or on septic permits shall be issued until the applicant has provided documentation of approval of the installation by the Gunnison County Fire Protection District.

8. A Development Improvements Agreement shall be entered into by the applicant with Gunnison County, subject to review and approval by the Gunnison County Attorney, referencing the construction design plans, titled "Cimarron Trail – Plan and Profile", dated April 20, 2015, prepared by Williams Engineering, LLC, Sheet 1, including provision of reclamation.

9. A performance bond, letter of credit or other means of surety, acceptable to the County, shall be submitted to cover costs of road construction and reclamation, plus 25 percent, as referenced in the Development Improvements Agreement. Said surety shall be retained by the County to a date acceptable to the County Public Works Director to warrant integrity of the road construction and establishment of reclamation.

10. 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.

11. 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.

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

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 16-___

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. 2015-17
FOR LAKESIDE ON THE COLORADO, LTD.
LITTLE CIMARRON CREEK RANCH SUBDIVISION
W1/2 SECTION 35, TOWNSHIP 48 NORTH, RANGE 6 WEST, N.M.P.M.

WHEREAS, Lakeside on the Colorado, Ltd., represented by Bob William, P.E., submitted a land use change application for the subdivision of 66.27-acres into four single-family residential lots, ranging between 16 and 17-acres each. Each lot would be served by an individual well and on-site wastewater system. No secondary residences are proposed. Access to all of the parcels will be via a new road, to be constructed from of County Road 864 (Cimarron Trail). The applicants have submitted protective covenants, titled Declaration of Protective Covenants for Little Cimarron Creek Ranch, which identify specific design standards and limitations on each lot; and

WHEREAS, after a review of the information, documentation and testimony related to it, the Gunnison County Planning Commission did, after a joint public hearing, on September 4, 2015 unanimously approve a recommendation of approval with certain Findings and Conditions:

FINDINGS:

1. The Planning Commission has classified the application as a Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects A. 2-4 Units*.

2. The land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution* and *Section 6-10: Standards of Approval for Minor Impact Projects*.

3. The Commission finds that the proposed four-lot residential subdivision is compatible with existing development in the neighborhood and will result in no significant net adverse impacts to the neighborhood.

4. The property is beyond snowplowed access. The Planning Commission finds that the applicant has demonstrated that there are no conflicts with the requirements of Article 1, there is no increased risk to emergency services personnel, it is not disruptive to existing travel modes, there is no increased environmental detriment and that the benefits outweigh the detriments.

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

CONDITIONS:

1. This permit is limited to activities described within the “Project Summary” 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 following conditions for the protection of Gunnison Sage-grouse and Sage-grouse habitat:

   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) All development on this parcel shall be clustered in the area east/northeast of the Little Cimarron River. Development shall be sited and designed to minimize impacts to Gunnison Sage-grouse and their habitats, as determined by Gunnison County. If this subdivision is approved, building and other Gunnison County authorizations shall be reviewed individually for Gunnison Sage-grouse impacts.

   4) No woven wire fencing is allowed for perimeter fencing or as interior cross fencing unless required to exclude domestic sheep. Perimeter and cross fencing shall be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication *Fencing with Wildlife in Mind.*

   5) No additional roads, routes or trails, with the exception of the proposed driveways shall be constructed on the property without additional review by Gunnison County for impacts to Gunnison Sage-grouse.

   6) If the owner intends to utilize the area for grazing animals, they must contact the Natural Resources Conservation Service (NRCS) in Montrose at 970-249-8407 for assistance in conservation planning. This will help avoid unintended impacts to sage-grouse habitat.

   7) 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.

   8) 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.

9) Additionally, the applicant is advised that the Gunnison Sage-grouse is listed under the Federal Endangered Species Act (ESA). The Federal government may require additional mitigation or other actions beyond those found necessary by Gunnison County for activities that may result in "take" of the species, including loss of or impacts to Gunnison Sage-grouse habitat.

3. A mylar subdivision plat, in compliance with Section 6-105, *Gunnison County Land Use Resolution*, shall be provided to the Community Development Department, for signature by the Board of County Commissioners. Approval shall not be effective until and unless the plat is recorded with the Office of the Gunnison County Clerk and Recorder.

4. The approval shall be memorialized by Board Resolution. Approval shall not be effective until the Resolution is recorded with the Office of the Gunnison County Clerk and Recorder.

5. The applicant shall record the *Declaration of Protective Covenants for Little Cimarron Creek Ranch Subdivision* contemporaneously with the subdivision plat.

6. This recommendation is subject to the approval by the Board of County Commissioners of the requested waiver to the *Gunnison County Standards and Specifications for Road and Bridge Construction*, for the Cimarron Trail Road.

7. The applicant shall provide for installation of a dry hydrant on Little Cimarron Creek, as identified on the site plan, which shall be inspected and approved by the Gunnison Fire Protection District. All hydrant fittings must be compatible with the Gunnison County Fire Protection District fittings. No building or on septic permits shall be issued until the applicant has provided documentation of approval of the installation by the Gunnison County Fire Protection District.

8. A Development Improvements Agreement shall be entered into by the applicant with Gunnison County, subject to review and approval by the Gunnison County Attorney, referencing the construction design plans, titled "Cimarron Trail – Plan and Profile", dated April 20, 2015, prepared by Williams Engineering, LLC, Sheet 1, including provision of reclamation.

9. A performance bond, letter of credit or other means of surety, acceptable to the County, shall be submitted to cover costs of road construction and reclamation, plus 25 percent, as referenced in the Development Improvements Agreement. Said surety shall be retained by the County to a date acceptable to the County Public Works Director to warrant integrity of the road construction and establishment of reclamation.

10. 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.

11. 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.

12. 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.

AND WHEREAS, the Board of County Commissioners approved a waiver of standards for the construction of Cimarron Trail, at a public hearing on March 1, 2016; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2015-17, for Little Cimarron Creek Ranch Subdivision is approved as a Minor Impact, subject to each and all conditions of the Planning Commission Recommendation, as identified above.

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

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

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

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

_____
Paula Swenson, Chairperson

_____
Phil Chamberland, Commissioner

_____
Jonathan Houck, Commissioner

Attest:

_____
Deputy County Clerk

DECLARATION OF PROTECTIVE COVENANTS

FOR

LITTLE CIMARRON CREEK RANCH

THIS DECLARATION is made with an effective date of the____ day of _____, 2015, by Lakeside on the Colorado, LTD., a Texas limited partnership ("Declarant").

ARTICLE 1

STATEMENT OF PURPOSE

Section 1.1 - Ownership of Property. Declarant is the owner of the real property ("Property") situated in Gunnison County, Colorado, as set forth on the Plat of Little Cimarron Creek Ranch as attached Exhibit A, which is incorporated herein by this reference (the "Plat").

Section 1.2 - Declaration of Covenants. Declarant hereby makes, declares, and establishes the covenants, restrictions and easements set forth herein which shall affect the Property. This Declaration of Protective Covenants shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any part thereof, their heirs, successors and assigns, and their tenants, employees, guests, and invitees, and shall inure to and be for the benefit of Declarant, its representatives, successors, and assigns.

Section 1.3 - Statement of Purpose. This Declaration of Protective Covenants is imposed:

A. For the benefit of the Owners of Lots within Little Cimarron Creek Ranch and Declarant, their representatives, successors, and assigns;

B. To provide for the preservation of value of Little Cimarron Creek Ranch and the quality of life of the Owners; and

C. To protect the environment and aesthetics within Little Cimarron Creek Ranch.

ARTICLE 2

DEFINITIONS

The following terms and words shall have the definitions set forth in this Article 2:

Section 2.1 - "Ranch Owners Group" shall mean the Little Cimarron Creek Ranch Owners Group, Inc., a Colorado nonprofit corporation, or any successor thereof charged with the duties and obligations set forth herein.

Section 2.2 - "Board" shall mean the duly elected Board of Directors of the Ranch Owners Group acting according to the Articles of Incorporation and Bylaws of the Ranch Owners Group.

Section 2.3 - "Building" shall mean anything constructed or erected with a fixed location on the ground and having a roof supported by columns or walls, but excluding two sheds or

windbreaks per lot that are not fully enclosed and are designed for animals.

Section 2.4 - "Building Envelope" shall mean the area shown on the Plat of Little Cimarron Creek Ranch within which all Buildings on a Lot shall be located.

Section 2.5 - "Common Elements" shall mean any real estate within the Subdivision owned or leased by the Ranch Owners Group, and any real estate upon which the Ranch Owners Group owns an easement, together with any improvements thereon, including any perimeter fences erected and maintained by the Ranch Owners Group and any roadways within Little Cimarron Creek Ranch.

Section 2.6 - "Lot" shall mean the individual numbered lots as set forth in the Plat of Little Cimarron Creek Ranch.

Section 2.7 - "Member" shall mean the Owner of a Lot within Little Cimarron Creek Ranch, upon becoming such an Owner, for the period of ownership of the Lot.

Section 2.8 - "Owner" shall mean the record Owner, whether one or more persons or entities, of fee simple title to a Lot in Little Cimarron Creek Ranch.

ARTICLE 3

USE OF LITTLE CIMARRON CREEK RANCH

Section 3.1 - Use of Little Cimarron Creek Ranch Parcel.

A. Little Cimarron Creek Ranch shall be subdivided into such Lots as shown on the Plat. As more fully set forth herein, Lots shall be used primarily for single family residential purposes and such limited agricultural and other use as is permitted by this Declaration.

B. All Buildings shall be located within the building envelopes as shown on the Plat. Only such Buildings as permitted by Gunnison County, Colorado shall be permitted within Little Cimarron Creek Ranch.

C. Limited grazing of livestock is permitted within the subdivision provided that such grazing meets or exceeds the standards prescribed by the United States Department of Agriculture, Natural Resource Conservation Service ("NRCS"), which grazing shall take into consideration sage grouse habitat and minimize impact accordingly. Owners must contact NRCS to ensure such grazing meets or exceeds such standards. Until such time as all Lots are conveyed by Declarant, Declarant shall have the right to maintain a grazing lease for the Property in the name of Declarant.

Section 3.2 - Partition of Parcel. No Lot within Little Cimarron Creek Ranch may be

partitioned, separated, or subdivided. Lots may be combined, provided any necessary approvals are obtained from Gunnison County, Colorado.

Section 3.3 - Wetlands. No Buildings shall be located or constructed in a manner which adversely impacts wetlands except as may be permitted by law.

Section 3.4 - Animals. No animals shall be kept on Little Cimarron Creek Ranch except as follows:

A. Owners may have usual household animals. No more than four dogs and four cats shall be kept or harbored on any Lot. In addition, each Owner may have a maximum of four livestock animals. For the purposes of this Declaration, "livestock animals" includes horses, pigs, sheep, goats, cattle and other common ranch animals.

B. Notwithstanding the foregoing, no hogs or pigs will be allowed on any Lot, except that one hog or pig per child residing on said Lot shall be allowed to be kept as a project for Future Farmers of America (or similar organization) so long as said animal is kept in a reasonably sanitary manner at least 150 feet from any shared property line with any other Lot and at least 150 feet from the Lot's front property line (being the line adjacent to Little Cimarron Road). Further, the keeping of any pigs or hogs must also be in compliance with all other provisions set forth herein.

C. The Ranch Owners Group may, in its sole discretion, approve the keeping of other animals and the keeping of animals in excess of the numbers expressly permitted above provided that the keeping of such animal complies with all applicable laws.

D. Household animals, including those of visitors, guests, and construction workers, must be controlled by kenneling, leashing, fencing or other physical constraint. No vicious animals shall be permitted.

E. If any animal is unreasonably and repeatedly noisy, unruly, or creates a disturbance within Little Cimarron Creek Ranch, it shall promptly be removed by the Owner thereof.

F. The County is authorized to enforce the animal control restrictions set forth in this Section, and any expense of enforcement by the County shall be at the expense of the responsible individual. If the responsible individual fails or refuses to reimburse the County for such expense, the Ranch Owners Group shall reimburse the County, provided however that any amount reimbursed by the Ranch Owners Group shall become a lien in favor of the Ranch Owners Group against any Lot or Lots owned by the Owner of the animal necessitating the enforcement action.

G. Unless pre-empted by Federal or State law, all non-indigenous gallinaceous

game-birds shall be imported only in compliance with all applicable Gunnison County laws, rules and regulations in effect at the time of the importation. At this time, Gunnison County laws, rules and regulations provide, among other things, that such importation shall not occur without written approval by Gunnison County.

Section 3.5 - Parking and Storage. Vehicles, including recreational vehicles, all terrain vehicles, snowmobiles, other similar vehicles, and trailers, shall be parked only within individual Lots. Each Lot shall provide sufficient parking area so that no parking shall occur on the road easement to the individual Lots. Equipment and other implements shall be stored within a garage or other approved improvement, except a minimal amount of equipment is allowed to be stored outside so long as it does not create a nuisance. No idle, abandoned or inoperable vehicles of any kind may be stored or parked on any portion of Little Cimarron Creek Ranch, except in an enclosed parking garage. "Idle, abandoned or inoperable vehicle" is defined as any vehicle which has not been driven under its own propulsion for a period of four months or longer.

Section 3.6 – Camping. Notwithstanding the provisions of Sections 3.5 and 3.12, tent camping as well as R.V., trailer, motor home and other camping by Owners and their guests on such Owners' respective Lots shall be permitted for a period of not more than 60 days per calendar year. At such time as two residences have been constructed within Little Cimarron Creek Ranch, only 30 days of such camping shall be permitted per calendar year.

Section 3.7 - Mining and Drilling. Little Cimarron Creek Ranch shall not be used for the purpose of mining, quarrying, drilling, boring, exploring for, or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth; provided, however, that materials on or under a Lot may be removed and incorporated into Buildings and improvements constructed on such Lot.

Section 3.8 - Signs. Signs shall be erected or maintained only in compliance with the Gunnison County Sign Code, which may require a permit.

Section 3.9 - Light, Sounds and Odors. Exterior lighting must comply with Gunnison County regulations, as amended. Exterior lighting fixtures shall be full cutoff/fully-shielded, shielded by roof elements or effectively recessed. No obnoxious or offensive activity shall be carried on within Little Cimarron Creek Ranch, nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted to exist or operate within Little Cimarron Creek Ranch so as to be detrimental to any neighboring land.

Section 3.10 - Refuse. Little Cimarron Creek Ranch shall be maintained in a neat and tidy condition at all times. No refuse may be thrown or dumped on any part of Little Cimarron Creek Ranch.

Section 3.11 - Continuity of Construction. Once commenced, all construction, alteration and demolition shall be prosecuted with reasonable diligence and shall be completed within twelve months of commencement, provided however that extensions of time may be permitted in accordance with applicable Gunnison County regulations.

Section 3.12 - Mobile Homes. No mobile home or temporary structure shall be permitted within the Property, except on a temporary basis for use exclusively as a construction office while the Lot residence is being constructed, which use shall not include temporary occupancy as a residence. In no event shall a mobile home or temporary structure be in place longer than 18 months. Such use shall comply with all applicable regulations of Gunnison County. This Section does not apply to recreational vehicles or camping, which are permitted consistent with other applicable provisions in this Declaration.

Section 3.13 - Drainage. Owners shall not alter the natural drainage more than the minimum necessary or in a manner which damages any Building or improvement on other land.

Section 3.14 - Weed Control and Revegetation. Following construction of a driveway, Buildings and other improvements, if required by applicable law, the ground shall be revegetated in accordance with the reasonable recommendations of Gunnison County's Weed Control Specialist. Owners must attempt to comply with the most current version, if any, of the Gunnison Basin Weed District Management Plan or such other plan as may be prescribed by the Gunnison County Weed District for the Owner, if any.

Section 3.15 - Home Occupations. In-home occupations and other commercial activities shall be allowed provided that the standards of Gunnison County are satisfied and that such occupations are approved by the Ranch Owners Group.

Section 3.16 - Landscaping. All landscaping should be constructed and maintained so as to ensure the natural beauty of the premises.

Section 3.17 - Reclamation Permit and Weed Control. A Gunnison County Reclamation Permit is required prior to construction of any Buildings or improvements. Reclamation and weed control shall be performed in accordance with Gunnison County regulations and standards. Owners must control or attempt to eradicate any noxious weeds that occur on the Property.

Section 3.18 - Repairs. All buildings and structures shall be kept in good and proper repair and in appearance by the Owner thereof.

Section 3.19 - Utility Easements. No building, structure, fence, barriers, trees or obstruction of any nature shall be placed or permitted on said easements which may damage or interfere with the installation, maintenance and repair of any utilities constructed or placed thereon except that fences or landscaping may be constructed upon said utility easements, subject to the right of the owner of such easement to remove the same without liability for replacement, if required to do so for the construction, maintenance, or repair of utilities within said easement.

Section 3.20 - Water. Each Lot shall have its own domestic well. Each Owner hereby consents and agrees to a well being drilled and used on each Lot. Each Owner shall apply and pay for a well permit and shall pay all other costs of drilling and installing a well on his Lot. Declarant shall initially acquire and pay for the augmentation water for each Lot, and upon their

purchase of a Lot, individual Lot Owners shall reimburse Declarant or its successor for cost of the augmentation water necessary to service the Lot purchased. Each Owner is responsible for maintaining the augmentation water for his or her respective Lot. Each Owner must comply with the terms of the contract for the augmentation water with Upper Gunnison River Water Conservancy District and, as appropriate, is responsible for renewing such contract upon the expiration of its term. Notwithstanding the foregoing, each Owner is responsible for investigating the availability of wells and augmentation water directly with the Upper Gunnison River Water Conservancy District and Colorado Division of Water Resources, or their successors. Each Owner recognizes, acknowledges and agrees that the legal and physical availability of water will change over time and, as a result, the statements contained in this Declaration of Protective Covenants regarding water and wells may become inaccurate, obsolete, or misleading. Each Owner recognizes, acknowledges and agrees that it is each Owner's sole and exclusive responsibility to determine the availability of all or any water, including wells, on his, her or its Lot prior to acquiring his, her or its Lot and that such Owner is exclusively relying upon representations and documentation provided by the Upper Gunnison River Water Conservancy District and Colorado Division of Water Resources, or their successors, in determining water and well availability at the time the Owner acquires his, her or its Lot.

Section 3.21 – Septic. In conjunction with construction of a residence on a Lot, such Lot shall be required to have a septic, which shall be constructed and maintained in accordance with the applicable law and regulations.

Section 3.22 - Fencing. No privacy fencing is permitted except within a building envelope. Other fencing is permitted. An Owner is permitted to have separate fencing on such Owner's lot for the purpose of corralling horses or other livestock. The Ranch Owners Group may in its sole discretion construct and maintain perimeter fencing around the subdivision for grazing purposes. Except for the perimeter fencing, maintenance of any applicable fence for the purposes of fencing out livestock is the responsibility of the individual lot owner. Owners must be aware of C.R.S. §§ 35-46-101, *et. seq.* regarding agricultural fencing. Fencing must comply with all applicable regulations. No woven wire fencing is allowed for perimeter fencing or as interior cross fencing unless required to exclude and/or control domestic sheep. Perimeter and cross fencing shall be built using specifications from the most recent edition of the Colorado Parks and Wildlife publication *Fencing with Wildlife in Mind*.

Section 3.23 - Ditch Easements. Little Cimarron Creek Ranch is subject to the rights and right-of-ways, to the extent established and maintained in accordance with Colorado law, of persons who own water rights and ditch rights, for access over and through the Property for the use and benefit of such water or ditch rights. Established irrigation ditch owners may have the right to enter any ditch easement on the Property to maintain the ditch, and to leave natural debris on the bank of the ditch within the easement.

Section 3.24 – Sage-grouse Review. No roads, routes or trails, with the exception of the proposed driveways shall be constructed on the Property without additional review by Gunnison County for impacts to Gunnison Sage-grouse; provided, however, that if such review is required to be performed by law or regulation by the U.S. Fish and Wildlife Service it shall be sufficient to obtain such review and approval by the U.S. Fish and Wildlife Service.

Section 3.25 – Additional Wildlife Matters. All garbage cans and trash storage areas shall be protected from bears, wildlife and other animals by, at a minimum, using heavy duty latch-able metal trash cans or metal trash lockers. Owners are warned to be careful with their use of attractants such as bird feeders which may inadvertently attract bears.

ARTICLE 4

BUILDING DESIGN

Section 4.1 - Building Design Requirements and Considerations.

A. The roof pitch for the primary roofs of a Building shall be 5/12 minimum.

B. Building and improvement height may not exceed 30 feet.

C. Residences shall have a minimum of 1,200 square feet of living area and such maximum square feet of living area as may be prescribed by Gunnison County, if any.

D. Exterior surfaces, including walls and roofs, shall be colors and materials complementary to the existing natural environment. Acceptable materials include, without limitation, stone, cultured stone, log, wood, imitation wood, and metal roofs.

E. Solid-fuel burning devices are permitted within the subdivision, but must comply with Gunnison County regulations and may be limited in number by Gunnison County.

F. All Buildings and improvements shall be constructed in accordance with the applicable law, including such building code or fire code, as may apply. Owners should be aware that Gunnison County requires a building permit for many types of construction that may not typically be assumed to require a permit, such as decks and driveways.

G. The architectural plans and designs for all Buildings must be submitted to the Ranch Owners Group for review and approval and such approval shall not be withheld provided that the plans and designs are reasonably consistent with this Declaration. Within 30 days of receipt of such plans and designs, the Ranch Owners Group shall, in writing, either approve the plans and designs or disapprove the plans and provide an explanation for such disapproval. No Building shall be constructed unless plans or designs for the same have been approved in writing by the Ranch Owners Group. Notwithstanding the foregoing, if the Ranch Owners Group fails to approve or disapprove plans or designs within 30 days of receipt of the same, the plans or designs shall be deemed approved by the Ranch Owners Group.

H. The Ranch Owners Group may, in its sole discretion, provide a variance from the above design criteria upon request if the Ranch Owners Group believes that such variance is consistent with the purposes of this Declaration as set forth in Article 1 above.

Section 4.2 - Building Permit. The Owner is responsible for obtaining all approvals, licenses and permits as may be required by Gunnison County prior to starting construction, alteration or demolition of any Building or improvement.

ARTICLE 5

HOME OWNERS RANCH OWNERS GROUP

Section 5.1 - Organization. The Ranch Owners Group shall be organized as a Colorado nonprofit corporation no later than the date the first Lot in the subdivision is conveyed to a purchaser. The membership of the Ranch Owners Group shall at all times consist exclusively of all Owners.

Section 5.2 - General Powers. Subject to the specific provisions of this Declaration and the Bylaws of the Ranch Owners Group, the Ranch Owners Group may:

A. Adopt and amend bylaws and rules and regulations;

B. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Owners;

C. Hire and terminate managing agents and other employees, agents, and independent contractors;

D. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the subdivision;

E. Make contracts and incur liabilities;

F. Regulate the use, maintenance, repair, replacement, modification and construction of the common elements, which includes the road easement owned by the Ranch Owners Group, including the installation of "no trespassing", "private drive" or other signage within the Property and the installation of any cattle guard or gate on the shared access road;

G. Cause additional improvements to be made as a part of the common elements;

H. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, except that the common elements may be conveyed or subjected to a security interest only pursuant to law;

I. Grant easements, leases, licenses, and concessions through or over the common elements;

J. Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements;

K. Impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Ranch Owners Group, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of this Declaration, Bylaws, and rules and regulations of the Ranch Owners Group;

L. Impose reasonable charges for the preparation and recordation of amendments to this Declaration or statements of unpaid assessments;

M. Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

N. Exercise all other powers that may be exercised in this state by legal entities of the same type as the Ranch Owners Group; and

O. Exercise any other powers necessary and proper for the governance and operation of the Ranch Owners Group.

Section 5.3 - Ranch Owners Group Membership. Every person or entity holding an ownership interest in any Lot or any of the land in the Property, and by whatever means acquired, shall automatically be a member of the Ranch Owners Group, in accordance and in compliance with this Declaration, the Articles of Incorporation, and the Bylaws. If ownership of a Lot is jointly held, then the appertaining membership shall also be jointly held. There shall not be more than one membership for each Lot. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 5.4 - Voting Rights. All voting rights of the Ranch Owners Group shall be exercised by the members, each membership being entitled to one (1) vote for the appertaining Lot. If a membership is jointly held, all holders are entitled to participate in the affairs of the Ranch Owners Group, but must act unanimously with respect to any vote to be cast for their membership. If the holders of a membership interest, that is jointly held, fail to act unanimously, they will be treated as having abstained. The Ranch Owners Group shall be entitled to presume that the vote, if properly cast, is the united expression of such joint Owners, and shall not be required to otherwise inquire as to the authority of any one joint holder to act on behalf of the others. Any designation of a proxy to act for joint holders of a membership must be signed by all such holders.

Section 5.5 - Vote Required. Unless expressly stated otherwise in the Bylaws, or the Articles of Incorporation for the Ranch Owners Group, or unless required otherwise by law, any

action by the Ranch Owners Group requires the majority vote of its Board of Directors either in writing or at a meeting at which a quorum is present; provided, however, that where there is a tie in such a vote, the matter shall be referred to the membership and the action shall not be approved unless a majority of the membership approves the action.

Section 5.6 - Maintenance of Common Elements. The Ranch Owners Group shall maintain and repair the common elements. The Ranch Owners Group shall, as a common expense, maintain and repair all roads and utility easements within the Property, including dust control, snow removal and snow storage, unless and until Gunnison County accepts such roads for maintenance, plowing and/or dust control or the Ranch Owners Group determines that snow removal, dust control, and/or storage would not be appropriate. Unless otherwise voted by the majority of Members of the Ranch Owners Group, the Ranch Owners Group shall not undertake or otherwise be responsible for the expense of snow removal except at such time as three Owners permanently reside one their respective Lots during the winter months. In the absence of the Ranch Owners Group performing or causing such snow removal to be performed, any Owner using the Property during the winter is responsible for and may perform such snow removal as is necessary for such Owner to enjoy vehicle access to his or her lot.

Section 5.7 - Assessments. Each Owner is obligated to pay to the Ranch Owners Group annual common expense assessments and special and other assessments and fines which are hereby secured by a lien upon the Lot of the Owner against whom the assessment is made. The amount of annual common expense assessments shall be limited to $650.00 per Lot unless a majority of the members of the Ranch Owners Group approve a larger annual common expense assessment for the given year. The Owners of each Lot shall be liable for one-fourth of the common expenses. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after receiving written notice by certified mail, return receipt requested of the assessment, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Ranch Owners Group may assess a monthly late charge thereon in such amount or at such rate as may be established by the Board from time to time. The Ranch Owners Group may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, late charges, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. All fines which are not paid when due shall be included as a delinquent assessment and included in the lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his or her Lot. The Ranch Owners Group shall keep a summary of assessments collected and expenses paid.

The Ranch Owners Group's lien shall be prior and superior to all other liens and encumbrances upon a Lot except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) a security interest on the Lot which has priority over all other security interests on the Lot and was recorded before the date on which the assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or other charges against the Lot. A lien under this section is also prior to all security interests described in (2) above to the extent of an amount equal to the common expense assessments based on the periodic budget adopted by the Ranch Owners Group which would have become due, in the absence of acceleration, during the six (6) months immediately preceding institution by either the Ranch Owners Group or the holder of a first priority security

interest of an action or a nonjudicial foreclosure either to enforce or extinguish either the Ranch Owners Group's lien or a security interest described in (2) above. To the fullest extent permitted by law, the Ranch Owners Group is not subject to the provisions of the Colorado Common Interest Ownership Act.

Section 5.8 - Board of Directors. The affairs of the Ranch Owners Group shall be managed by the Board which may, however, by resolution, delegate any portion of its authority to a Committee or an Officer or Manager of the Ranch Owners Group.

Section 5.9 - Articles of Incorporation and Bylaws. The purposes and powers of the Ranch Owners Group and the rights and obligations with respect to memberships may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Ranch Owners Group. Such Articles and Bylaws may include any reasonable provisions with respect to corporate matters, including provisions with respect to notices, record dates and quorums for meetings of members, but no such provisions may be inconsistent with any provision of this Declaration.

Section 5.10 - Limitations on Liability. The Ranch Owners Group shall be solely responsible for the maintenance of the shared access road within the Property. Declarant shall comply with any initial construction requirements that are part of the approval of this subdivision by Gunnison County. Except for Declarant's obligation to complete certain initial construction as part of the subdivision approval process, the Ranch Owners Group and the Owners hereby agree to indemnify and hold harmless Declarant from any and all claims, causes of action, counterclaims, cross claims, debts, demands, personal injury and other liability arising out of or relating to the Property, including without limitation its use by any guests or invitees of any Owner. The Owners hereby agree to indemnify and hold harmless the Ranch Owners Group from any and all claims, causes of action, counterclaims, cross claims, debts, demands, personal injury and other liability arising out of or relating to the use of the shared access road within the Property by such Owners and their family members, agents, employees, tenants, guests and invitees. The right to use the shared access road within the Property shall be limited to the actual location of such road and any use outside of the location of such road by any Owner or their agents, tenants, guests or invitees is trespassing. Each Owner hereby waives, releases and acquits and agrees to indemnify and hold harmless every other Owner of any claim or cause of action of the Owner and its family members, agents, employees, tenants, guests and invitees of any nature against any other Owner arising out of or relating to any accident or personal injury suffered or occurring through the use of the shared access road within the Property unless such accident or personal injury is the result of an intentional or reckless act or omission of such other Owner.

Each Owner individually and for their family members, and their agents, employees, tenants, guests and invitees expressly covenants and agrees that no cause of action nor claim of any kind shall lie or be taken against the Ranch Owners Group, or the members of its board of directors or the duly appointed representative(s) or agent(s) of said entities for any personal injury, property or other economic damage arising from or in connection with the use of the common areas by any person, or of any property within the Property, or from the exercise of authority granted said entities, their members, or representatives in the conduct of the Ranch Owners Group's business or affairs, unless caused by an intentional or reckless act or omission.

Further, the Owners and Ranch Owners Group shall indemnify and hold harmless the individual members of the Ranch Owners Group's board of directors, as well as their agents and employees, from any liability or damage adjudicated against them, except for that arising from their intentional or reckless act or omission, and for any cost or expense, including attorney's fees, associated with any litigation or other manner of claim against them.

ARTICLE 6

ENFORCEMENT OF COVENANTS

Section 6.1 - Violations Deemed a Nuisance. Every violation of this Declaration, the Articles and Bylaws of the Ranch Owners Group, or any rules or regulations adopted by the Ranch Owners Group shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof.

Section 6.2 - Failure to Comply. The failure to comply herewith shall be grounds for an action to recover damages, for injunctive relief, for specific performance, or for any other relief available in law or at equity.

Section 6.3 - Who May Enforce. Any action to enforce any provision of this Declaration and the Plat may be brought by the Declarant, the Ranch Owners Group, any Owner or Gunnison County.

Section 6.4 - No Waiver. The failure to enforce or obtain compliance as to any violation shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents. Notwithstanding any other provisions of this Declaration, however, a majority of the members of the Ranch Owners Group may waive any non-compliance of any Owner if such majority of the members votes in favor of such action after finding that such waiver will satisfy the purposes set forth in Article 1.

Section 6.5 - Attorneys' Fees. In the event of any legal action or arbitration to interpret or enforce any of the provisions of this Declaration, or to restrain the violation of this Declaration, whether judicial, non-judicial or administrative, the prevailing party shall be awarded all costs, fees and expenses incurred by it in such action, including all reasonable attorneys' fees that it may incur.

ARTICLE 7

DURATION OF COVENANTS

Section 7.1 - Term. The term of this Declaration of Protective Covenants, and any amendments or supplements thereto, shall be from the date of recording in the records of Gunnison County, Colorado and until September 1, 2035. Thereafter, this Declaration of Protective Covenants shall be automatically extended for successive periods of ten years each, unless otherwise terminated or amended as hereafter provided.

Section 7.2 - Amendment. The conditions, restrictions, stipulations, agreements and covenants herein contained may not be waived, abandoned, terminated or amended except by an instrument setting forth the written consent of the Owners of 75 percent of the Lots, and approved by the Board of County Commissioners of Gunnison County, Colorado, which instrument shall be duly executed, acknowledged and recorded in Gunnison County, Colorado.

Section 7.3 - Mortgage Holder Approval Not Required. This Declaration and/or Plat may be amended as set forth herein and such amendment shall be effective against the holders of mortgages and deeds of trust encumbering Little Cimarron Creek Ranch, notwithstanding the fact that such holders of mortgages and deeds of trust have not approved such amendment; provided, however, that no such amendment shall amend Section 5.7 of this Declaration or alter the priority of any mortgage or deed of trust without at least 60 days prior written notice to the beneficiary or grantee of such mortgage or deed of trust at the mailing address identified in such mortgage or deed of trust.

ARTICLE 8

PRINCIPLES OF INTERPRETATION

Section 8.1 - Severability. This Declaration, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of this Declaration is determined to be invalid, unenforceable or prohibited by any court, the same shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

Section 8.2 - Headings. The headings on any section or article are included only for purposes of convenient reference and shall not affect the meaning or interpretation of this Declaration.

Section 8.3 - Applicable Law. The exclusive proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of this Declaration or the Plat shall be the County Court or District Court of Gunnison County, Colorado.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Protective Covenants as of the day and year first above written.

Lakeside on the Colorado, LTD.

By: Jay Dickens, President
Solid Rock Investors, Inc.,
General Partner of Lakeside on the Colorado, LTD.

STATE OF TEXAS)
) ss.
COUNTY OF IRION)

The above and foregoing Declaration of Protective Covenants for Little Cimarron Creek Ranch was acknowledged before me this 23rd day of March, 2016 by Jay Dickens as President of Solid Rock Investors, Inc., general partner of Lakeside on the Colorado, LTD.

Witness my hand and official seal.
My Commission expires: 8-29-19.

KATHRYN REYNOLDS
Notary Public, State of Texas
My Commission Expires
August 29, 2019

Kathryn Reynolds
Notary Public

Exhibit A
(Property Description)

Plat of Little Cimarron Creek Ranch Subdivision, Recorded _____, at Reception No. _____, Gunnison County Clerk and Recorder.