

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, November 16, 2012

- 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. SG Interests I, Ltd., executive session/work session/possible action, request for the Sperry/Clinger 11-90-1 gas well project, including five gas wells, located in northwest Gunnison County, legally described as HES 68 in Sections 11, 12 and HES 137 & lots 5, 6, 7 in Section 11, all in Township 11 South, Range 90 West, 6th P.M., west of Highway 133

10:00 a.m. John Nichols, work session/possible action, request for a concrete batch plant and storage yard for heavy equipment, located on Lot 4, Riverland Industrial Park, F #1, south of the Town of Crested Butte, west of Highway 135

Lunch

1:00 p.m. Leave for Site Visit - Watclarenone, Tim Watson, Majestic Mesa Monastery, request for a seasonal, mediation lodge, legally described as being located in TR 102 (E2NE4 & E2SE4) SEC 12,13 & TR 103 (W2NE4) SEC 12 48N5W 238.59 ACRES, 9380 Highway 50, approximately 35 miles west of the City of Gunnison

1:45 p.m. Watclarenone, Tim Watson, Majestic Mesa Monastery, site visit/no action, request for a seasonal, mediation lodge, legally described as being located in TR 102 (E2NE4 & E2SE4) SEC 12,13 & TR 103 (W2NE4) SEC 12 48N5W 238.59 ACRES, 9380 Highway 50, approximately 35 miles west of the City of Gunnison. Will meet at the gate on Highway 50, near Milepost 126

Adjourn

GUNNISON COUNTY PLANNING COMMISSION
Regular Meeting
November 16, 2012

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- Ramon Reed

Vice-Chairman- Jim Seitz

Commissioner- Susan Eskew

Commissioner- Warren Wilcox

Commissioner- Kent Fulton

Alternate Commissioner- Jeremy Rubingh

Alternate Commissioner- A. J. Cattles

Assistant Director of Community Development- Neal Starkebaum

Community Development Department Services Manager- Beth Baker

Gunnison County Attorney-(participating by phone) David Baumgarten

Deputy Gunnison County Attorney- Art Trezise

Others present as listed in text

With a quorum present Chairman Ramon Reed opened the regular meeting of the Commission.

MOVED; by Eskew seconded by Seitz to approve the minutes of November 2, 2012 as amended. The motion passed unanimously.

SG Interests- Sperry/ Clinger Gas Well Project; The Gunnison County Planning Commission (Commission) conducted a work session to review the request for the Sperry/Clinger 11-90-1 gas well project, including five gas wells, located in northwest Gunnison County, legally described as HES 68 in Sections 11, 12 and HES 137 & lots 5, 6, 7 in Section 11, all in Township 11 South, Range 90 West, 6th P.M., west of Highway 133.

With a quorum present Chairman Ramon Reed opened the work session.

County Attorney David Baumgarten participated by phone. Deputy County Attorney Art Trezise was present.

Applicant representative Eric Sanford was present. Applicant representative Catherine Dickert participated by phone.

Chairman Reed said during Commissioner Wilcox's recent campaign, Wilcox had received campaign contributions from several SG Interests employees. Reed noted, however, after consulting with legal counsel Reed has been advised this does not require Wilcox to recuse himself from the Sperry/ Clinger 11-90-1 review. Reed clarified the Commission does not have the authority to tell a member to recuse himself. Campaign donations are not in the Commission's purview. He added the primary consideration would be integrity of the process and the Commission.

Reed reviewed the Commission's guidelines, including those in both the Planning Commission Handbook and the Gunnison County Organization and Procedural Guidelines. He noted they are not regulations, but are recommended guidelines. He read the definition of Conflict of Interest. He referred to the Organizational Guidelines which state a member may recuse themselves for an inability to make a fair judgment because of a conflict of interest.

Reed listed Wilcox's campaign donations which included donations from SG Interests employees, etc.; the complete list can be found on the State website.

Wilcox said he entered into the campaign not expecting any contributions; none of the names mentioned were familiar to him; he has not spoken with any of those individuals. He has made no promises, and has never had any communications with any of them.

Deputy County Attorney Trezise clarified it is legal to accept campaign donations from applicants; that in itself does not imply a conflict of interest.

Commissioner Rubingh asked Wilcox if this would affect any decisions he would make on the Commission. Wilcox said it does not change the way he thinks or would act on this application. Rubingh said the concern is public perception. Reed

said politics should not be part of the proceedings. The campaign donations came about when SG had reviews in process with the Commission.

County Attorney David Baumgarten clarified the issue has been discussed, the questions have been asked. Commissioner Wilcox has stated this will not affect his decision, the issue is closed.

Applicant representative Eric Sanford said neither himself nor any of the other SG employees who donated to Wilcox's campaign have spoken to him.

Wilcox stated he will not recuse himself. He said he appreciated the question and that it has been settled.

Moved by Commissioner Fulton, seconded by Commissioner Eskew for the Commission to go into executive session with County Attorney David Baumgarten via phone, Deputy County Attorney Art Trezise and Assistant Director of Community Development Neal Starkebaum- for the purpose of discussing the Sperry/ Clinger Gas Well application including process issues on the motions made at the last meeting, and the Oil and Gas regulations relevant to Technical Infeasibility Waivers. The motion passed unanimously.

The Commission went into executive session at 9:25 a.m. *Executive sessions of the Gunnison County Planning Commission are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney; that I represent the Gunnison County Planning Commission; that I attended all of the above referenced executive session; that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____

David Baumgarten
Gunnison County Attorney

A. Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(4)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Planning Commission; that I attended all of the above referenced executive session; and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: _____

Ramon Reed, Chairperson Gunnison County Planning Commission

The Commission came out of executive session at 9:45 a.m.

Chairperson Reed stated the discussion had remained on the topic.

The Commission resumed their work session.

Chairman Reed withdrew his motion to amend, made at the prior meeting and Commissioner Eskew withdrew her second of the motion.

Wilcox asked about the contour lines on the map; Sanford answered they are 20 ft. contour lines.

Reed remained concerned with considering any evidence either oral or written which was not on the record. He added there was nothing contained in the site visit comments which refer to the slope being away from the creek. He said if it had not been important enough to add to the site visit comments; then there is nothing to support 9A in the draft decision.

Commissioner Cattles noted the steepness of the slope was so evident on the site visit, he assumed it was very clear and no comment was needed. Wilcox agreed it was very obvious on the site visit.

Sanford reminded the Commission the map which represents the slope and cut is on page six of the application.

Reed also questioned 9B in draft decision.

Reed noted the wording is very important, in regards to the Technical Infeasibility Waiver.

Following the discussion regarding the Technical Infeasibility Waiver, Chairman Reed requested a role call for a vote on the approval or denial of OG-12-0009.

Community Development Services Manager Beth Baker polled each Commissioner: Commissioner Fulton-yes, Commissioner Eskew-no, Commissioner Reed-no, Commissioner Seitz-yes, and Commissioner Wilcox-yes. The motion passed to approve OG-12-0009 SG Interests Sperry/ Clinger 11-90-1 as amended, with a vote of the Gunnison County Planning Commission of three yes, to two no.

PROJECT SUMMARY:

The applicant requests an Oil and Gas Operations permit for the Sperry/Clinger 11-90-1 gas well project, which includes the construction of an approximately 2.5-acre well pad, five gas wells, construction of an access road and gas and water pipelines to connect to the existing SG collection system, southeast of the proposed pad site.

Operations Plan:

Drilling: The well will be drilled using a conventional rotary drilling rig, operating 24 hours a day. Cuttings and drilling fluids will be maintained in a plastic lined reserve pit.

Completion: The well will be completed using a conventional daylight rig. Hydraulic fracturing is the planned stimulation for the well.

Transporting: If productive, the gas will be transported by buried pipeline. Produced water will be trucked or transported by buried pipeline.

Production: Production will be performed by conventional means. If artificial lift is required, a pumping unit will be used.

Post-Operation: If production is non-commercial, the well will be plugged and abandoned according to COGCC rules.

SURFACE OWNERSHIP:

Sperry Land Company
3797 County Road 265

MINERAL OWNER:

Clinger Trust
c/o John Baldwin
9745 East Hamden Avenue, Suite 230
Denver, CO 80231-4922

Sperry Land Company
20215 F Road
Delta, CO 81416

Leased to SG Interests I, Ltd.
Lonnie H and Renee Deal
PO Box 265
Eckert, CO 81418-0265

WELL LOCATION:

The well project is located in northwest Gunnison County, legally described as HES 68 in Sections 11, 12 and HES 137 in Section 1, 2, 11, 12, & Lots 5, 6, 7 in Section 11, all in Township 11 South, Range 90 West, 6th P.M.

Specific location of the well pad is identified on a map in the Community Development Department file.

ACCESS:

Access to the project area is via County Road 265 and private roads. SG Interests and Gunnison Energy Corporation have an existing agreement with Gunnison County to maintain County Road 265, for the application of magnesium chloride by Gunnison County, with financial reimbursement provided by SG Interests and Gunnison Energy.

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.

GUNNISON COUNTY, COLORADO TEMPORARY REGULATIONS FOR OIL AND GAS OPERATIONS: The application was reviewed for compliance with the *Gunnison County, Colorado Temporary Regulations for Oil and Gas Operations, May 18, 2004*, and is defined as a Minor Oil and Gas Operation Project.

The applicant submitted a request for a technical infeasibility waiver for the well pad, access road and gas and produced water pipelines, as all are located less than 500 feet from a waterbody (Spring Creek). The proposed oil and gas operation does not meet the setback standard in *Section 1-107: Oil and Gas Operation Standards, H. Waterbody Setbacks*.

WORK SESSIONS:

Work sessions were held by the Planning Commission on:

August 3, 2012

October 19, 2012

November 16, 2012

SITE VISIT:

The Planning Commission attended a site visit at the well pad on August 3, 2012. The site is located on private lands on which the owner will not allow public access. Therefore, only two Planning Commission members, at a time, visited the site. The Commissioners related their observations at the September 7, 2012 meeting, noting that the pad site and access road seems reasonable for the requested Oil and Gas Operation.

PUBLIC HEARING:

A public hearing was held by the Planning Commission on September 7, 2012 and continued to September 21, 2012. At that time, neighboring property owner Dan McIntyre stated his concerns with practices by SG Interests, such as leaving gates open and noise from a pump jack in the area and potential safety issues related to the increase in traffic to the well site.

A letter was received from Mark Carter, dated September 6, 2012, noting concerns with potential impact to his water supply and his mineral rights.

All testimony presented, and the full record of that hearing, including all testimony, is hereby incorporated into this record.

FINDINGS:

The Gunnison County Planning Commission, having considered the application, all exhibits and public testimony finds that:

1. Approval is limited to the location and description of the SG Interests I, Ltd. Sperry/Clinger 11-90-1 Gas Well Project, as described in the application. Any change 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 *Temporary Regulations for Oil and Gas Operations*, or as those may be hereinafter amended.
2. Subject to the Technical Infeasibility Waiver and the Conditions of Approval included in the Decision, below, the application is consistent with *Section 1-107: Oil and Gas Operations Standards, Gunnison County Temporary Regulations for Oil and Gas Operations, May 18, 2004*.
3. The applicant has requested a term of permit of five years in which to drill all five wells, which the Planning Commission finds appropriate.
4. The closest waterbody is Spring Creek (and adjacent wetlands), which is identified as an intermittent stream (waterbody), according to information from Steve Tuck, Lead Water Commissioner, District 40 – North Fork, Colorado Division of Water Resources.

5. The applicant has identified that the closest waterbody, Spring Creek (and adjacent wetlands), is within 500' of the well pad, the road access and gas and water pipelines.
6. The closest existing SG Interests gas/water pipeline collection system is located on the adjacent Falcon Seaboard Diversified Inc. property, associated with the Falcon Seaboard 11-90-12 #1 and #1A gas wells, located to the south of the proposed well pad.
7. The closest existing road, that would provide access to the proposed well pad, is located on the adjacent Falcon Seaboard Diversified Inc. property, associated with the Falcon Seaboard 11-90-12 #1 and #1A gas well pads, located to the south of the proposed well pad.
8. The northern boundary of the Bull Mountain Unit includes the north Section lines of Sections 11 and 12, Township 11 North, Range 90 West, 6th P.M.
9. The applicant submitted a request for a technical infeasibility waiver for the gas well pad. The proposed well pad does not meet the standard of *Section 1-107: Oil and Gas Operation Standards, H. Waterbody Setbacks*. Based upon onsite field observations and evidence provided in discussions with the applicant at the work session and the public hearing, the Commission finds that there are several factors affecting the technical infeasibility waiver request:
 - a. The proposed well pad is located on a bench above the Spring Creek drainage. The well pad location and the Spring Creek drainage are hydrologically separated by a physical topographic feature, consisting of a small topographic rise between the well pad location and the Spring Creek drainage. From the western edge of the drop-off into the Spring Creek drainage the topography slopes downhill to the southeast and away from the Spring Creek drainage. Surface flows would move down gradient to the southeast and away from the Spring Creek drainage, minimizing potential impacts to the closest waterbody (Spring Creek).
 - b. The applicant has indicated that based upon unitization requirements, to drill to a mineral lease located outside of the Bull Mountain Unit, the well is required to be located outside of the Bull Mountain Unit. The well is required to be located north of the section lines of Sections 11 and 12, continuous with the Sperry property, at this location. The proposed location is warranted and the feasibility to connect to the closest, existing SG Interests gas/water pipeline collection and road system, on the east side of the Spring Creek drainage, will minimize potential adverse impacts from additional road and pipeline construction.
 - c. The applicant has indicated that the location of the well pad is necessary to drill and collect both the mineral resource from the Sperry mineral lease (vertically) and attain the necessary displacement to achieve the engineered bend to intersect with the targeted area within the Clinger mineral lease. The bend (to horizontal), requires a minimum distance from the targeted mineral lease. The only location to drill the well on the Sperry parcel, capture both the Sperry and Clinger mineral resource and meet the necessary distance from the targeted mineral lease, is on the east side of the Spring Creek drainage.
10. The Planning Commission finds, in accordance with Section 1-107: Oil and Gas Operation Standards P. 2., that a technical infeasibility waiver is warranted and the applicant will implement the best available technology to conduct the Oil and Gas Operation, to the maximum extent feasible. Granting of the waiver will not cause substantial injury to the owner or occupant of adjacent lands; and the waiver will not cause substantial injury to the environment.
11. 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 these applications; including all exhibits, references and documents as included therein.

DECISION:

The Gunnison County Planning Commission, having considered the submitted applications, all exhibits, documentation and public testimony, and having reached the above Findings, hereby approves SG Interests I, Ltd. Sperry/Clinger 11-90-1 Gas Well Project; Oil and Gas Operations Permit No. OG2012-09, with the following conditions:

1. This permit is limited to the description of the SG Interests I, Ltd. Sperry/Clinger 11-90-1 Gas Well Project. Any substantive change 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 *Temporary Oil and Gas Regulations*, or as those may be hereinafter amended. The term of permit for the Operation is five years.

2. The applicant shall provide copies of all Spill Reports, associated with the Sperry/Clinger 11-90-1 Gas Well Project, as required by the Colorado Oil and Gas Conservation Commission, to the Community Development Department.
3. The applicant shall provide copies of all reports to the Colorado Oil and Gas Conservation Commission regarding water quality sampling, associated with the Sperry/Clinger 11-90-1 Gas Well Project, as required by the Colorado Oil and Gas Conservation Commission, to the Community Development Department.
4. The applicant has agreed to install a secondary containment berm off the western side of the well pad.
5. Nothing in this decision is or shall be construed to be a limitation on Gunnison County participating in any future regulatory process for said wells.
6. 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.
7. 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. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.
8. Approval of this permit 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.

Nichols- Riverland Batch Plant: The Gunnison County Planning Commission (Commission) conducted a work session to review the request for a concrete batch plant and storage yard for heavy equipment, located on Lot 4, Riverland Industrial Park, F #1, south of the Town of Crested Butte, west of Highway 135.

Applicant Nichols was present for the discussion.

Wilcox recused himself from this review

With a quorum present Chairman Reed opened the work session.

Assistant Director of Community Development Neal Starkebaum noted he had been on site and discussed the berm and landscaping of the berm with the Lot Owners Association representative Danny D'Aquila. The berm will tie into the existing berms, be the same height and the trees have been planted.

The Commission reviewed the draft decision as directed by the Commission and prepared by staff.

Commissioner Fulton recused himself from the vote.

Chairman Reed seated alternate commissioners Cattles and Rubingh for the vote on the application.

MOVED; by Seitz seconded by Cattles to approve LUC-12-00023, as amended. The motion passed unanimously.

PROJECT DESCRIPTION:

John Nichols, represented by Dena Hildreth, has submitted a land use application for a concrete batching operation and outside storage of heavy equipment, concrete trucks, and general construction equipment. This is shown on a site plan, signed by the Riverland Architectural Review Board, dated August, 2012 and elevation drawings, submitted with the application.

LOCATION:

Lot 4, Riverland Industrial Park, Filing No. 1; located south of the Town of Crested Butte, west of Highway 135.

WATER:

The operation will be served by the Riverland Industrial Park central water system.

WASTEWATER:

No wastewater will be generated by the use.

ACCESS:

Roads within Riverland Industrial Park are private and have been constructed to County standards. The applicant has legal access through Riverland Industrial Park to Highway 135.

COVENANTS:

The *Declaration of Protective Covenants of Riverland Industrial Park*, approved by the Board of County Commissioner and recorded with the Gunnison County Clerk and Recorder, at Book 584, Page 304, Reception No. 363535, on September 14, 1982, state:

5. USE OF SITES.

A. Permitted uses. It is the intention of the DECLARANT to provide a project specifically suited for industrial and heavy commercial use. In furtherance of this intention, permitted uses include the following:

1. All manufacturing businesses or industries
2. Contractor's yard or storage buildings;
3. Warehousing and mini-storage;
4. All wholesale uses;
5. Automobile service and repair;
6. Machinery and transportation equipment, storage, sales, rental, and service;
7. Public utilities;
8. Freight or trucking terminals;
9. Building material storage.yard;
10. Mixing plants for asphalt, concrete, plaster, or mortar;
11. Bulk storage of petroleum products;
12. Kennels or hospitals for animals;
13. Commercial laundries.

F. Storage.

1. Merchandise, supplies, equipment, or materials of any kind shall be stored within a building, shed or screened area.
2. No exterior storage shall be permitted on Lots 3, 4, 5, 6, 7, 20, 21, 22, 23, 24 and 25, as said lots are identified on the plat.

6. DESIGN AND USE REVIEW AND APPROVAL.In those case where the proposed use of the premises is not specifically permitted by Section 5A of this declaration, or where the owner is requesting a variance or relaxation of any of the requirements set forth herein, then the approval of the Board of County Commissioners of Gunnison County, State of Colorado, shall also be required prior to the commencement of construction for use of said lot.

PROPERTY OWNERS ASSOCIATION APPROVAL:

The Riverland Lot Owners Association conditionally approved the proposed use; in a letter from Scott Hargrove, Association President, dated August 14, 2012. The Lot Owners Association specifically articulates a variance to the outside storage restriction on Lot 4.

COMPLIANCE WITH COUNTY LAND USE REGULATIONS:

This land use change application is partially exempted from the requirements of the *2001 Gunnison County Land Use Resolution*, pursuant to *Section 1-106 Partially Exempted Land Use Changes*. There are no unmitigable conflicts with

County land use standards, so long as the structures and uses are maintained in compliance with the Declaration of Protective Covenants for Riverland Industrial Park.

COMPLIANCE WITH DIVISION 5-600: COMMERCIAL AND INDUSTRIAL USES:

The proposal complies with all standards within this Division.

LANDSCAPING:

Landscaping is required by the Covenants; each lot is required to have a minimum of 15 trees with a minimum average height of five feet within 18 months. The applicant indicates that he will plant in excess of the required landscaping, as identified on the site plan, which shows 30 – 6’ evergreens. The landscaping along Highway 135 will be planted on an 8’ high berm. All landscaping will be irrigated. Gunnison County requires a landscaping development improvements agreement to ensure installation and survival of the landscaping.

PUBLIC HEARING:

The Planning Commission conducted a public hearing on November 2, 2012. At that time, John Rozman said when the land was acquired from John Rozman, it was understood it would be for a leach field and sewer system, but it was not put in writing.

Neighbor across the highway Bill Lacy asked if the berm was complete; Nichols said yes, Lacy disagreed. Nichols said his portion is finished, Riverland’s is not. Nichols said there will be some visual block behind the trees.

Lacy noted in 2010 when the land exchange between Rozman and Nichols was approved he had been informed a building would be placed on site, and that structure would shield Lacy’s view. Lacy agreed to the land exchange based on the information. He said he would have opposed the land exchange if he had known there would be a batch plant.

Nichols said Rozman owns the existing gravel pit. Lacy said he knew there would be a batch plant on Rozman’s site, but he was not approving two batch plants. Lacy is opposed to Nichol’s silo; it was never approved. He noted the silo on the Rozman site is bermed and cannot be seen from Lacy’s property.

Attorney representing Bill Lacy Kendal Burgemeister submitted a letter to the Commission. He said the proper County process is not being followed. He added Riverland does not allow outdoor storage. He said the proposed project is contrary to Riverland’s covenants. Outside storage was prohibited in 1982 because it is an eyesore. Granting a variance from the subdivision was not mentioned in the draft decision, prepared by staff. He suggested the application be reviewed in the full context of *Gunnison County Land Use Resolution (LUR)*; review as a complete minor project if not major. Chairman Reed said in general the Commission reviews applications in Riverland as Minor Impact projects. Assistant Director of Community Development Neal Starkebaum noted authority was delegated to the Commission in the 2001 LUR. He added Riverland has given their approval. Chairman Reed said the Commission is the decision making body in this the process, but it also includes an appeal option to the BOCC by the applicant or anyone in opposition.

Burgemeister said the Commission should look at this application as a full review not a partially exempt review. Reed said that is noted. Burgemeister said landscaping and buffers are generally considered in a full review and need to be done here because they affect the adjacent landowners. Lacy said Nichols equipment can be seen from the highway; the impacts from this site should be protected from the view corridor. The original plan and building were very different than what is being considered now. The proposed building would have shielded all the visual impacts.

- A letter was received from Steve Curtiss, adjacent lot owner in Riverland Industrial Park, noting that Mr. Nichols has been a good neighbor and has tried to mitigate impacts. Does not have an issue with the operation.
- A letter was received from Kendall K. Burgemeister, Wilderson Lock & Hill, LLC, Attorneys at Law, November 1, 2012, contesting the partially exempt review process and identifying concerns related to the Riverland Industrial Park Declaration of Covenants.

COMPLIANCE WITH COUNTY LAND USE POLICIES:

This land use change request is partially exempted from the requirements of the *Gunnison County Land Use Resolution*, pursuant to *Section 1-106 Partially Exempted Land Use Changes*. Compliance to the maximum extent feasible with provisions of Section 1-105: Sections Necessary for the Immediate Preservation of Public Health and Safety is required.

There are no unmitigable conflicts with County land use standards, so long as the structure is constructed and maintained in compliance with the *Declaration of Protective Covenants for Riverland Industrial Park* and *Gunnison County ISDS Regulations*.

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

The parcel is not located in an area subject to flood hazards.

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

The parcel is not located in an area subject to geologic hazards.

SECTION 12-107: *Protection of Water Quality.*

Not applicable. The Slate River is in excess of 100 feet from the site.

SECTION 12-105: *Water Supply.*

This use will be served by the Riverland Industrial Park central water system.

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

No wastewater will be generated by the use.

SECTION 12-107: *Fire Protection.*

The lot is located within the Crested Butte Fire Protection District.

SECTION 11-109: *Development that affects Agricultural Lands. D: Domestic Animal Controls* 11-106: *Protection of Wildlife Habitat F. 1. b. 6. Domestic Animal Controls.*

Applicable.

SECTION 13-107: *Installation of Solid Fuel-Burning Devices.*

Not applicable.

SECTION 13-114: *Exterior Lighting.*

No exterior lighting is requested.

ADDITIONAL SECTION APPLICABLE TO PARTIALLY EXEMPTED COMMERCIAL, INDUSTRIAL OR OTHER NON-RESIDENTIAL LAND USE CHANGES. In addition to complying with the requirements listed at 1 through 9, above, new construction of, or expansion to, commercial, industrial or other non-residential land use changes that are partially exempted from this *Resolution* by Section 1-106: *Partially Exempted Land Use Changes*, shall comply to the maximum extent feasible with Section 5-303: *Road System*.

SECTION 12-103: *Road System.*

Roads within Riverland Industrial Park are private and are privately maintained. The applicant has legal access to State Highway 135 via Riverland Industrial Park roads.

FINDINGS:

The Gunnison County Planning Commission, based on the facts set forth in this Decision and on the material facts represented by the applicant, whether or not repeated herein, finds that:

1. This application is a Minor Impact Review.
2. The Riverland Lot Owners Association has reviewed and approved of the proposed use, subject to their conditions identified in the letter, Scott Hargrove, President, Riverland Lot Owners' Association, dated August 14, 2012. The Lot Owners Association approval specifically articulates a variance to the outside storage restriction on Lot 4.
3. This permit does not include the use of the property for an asphalt batch plant.
4. Discussion with Danny D'Aquilla, Riverland Industrial Park Manager, with staff on November 8, 2012 note that the area at the old south intersection of Highway 135 and Buckley Drive will be bermed and landscaped and completely

tie into the existing berms along the Highway to provide screening of uses within Riverland Industrial Park from the traveling public on Highway 135.

5. This land use change permit is in compliance with *Section 1-105 Sections Necessary For Immediate Preservation Of Public Health And Safety of the new Gunnison County Land Use Resolution*.
6. Roads within Riverland Industrial Park are private and are privately maintained. The applicant has legal access to State Highway 135, via Riverland Industrial Park roads..
7. Use of individual lots must comply with the *Declaration of Protective Covenants* for Riverland Industrial Park, including, but not limited to, compliance with those provisions which may affect employees, parking, the hours of operation, provision of landscaping, snow storage and other aesthetic and public health and welfare concerns.
8. The applicant has identified the installation of 30 – 6’ evergreen trees, to provide landscaping for the development, in compliance with the requirements of the Riverland Lot Owners Association (letter from Scott Hargrove, President, Riverland Lot Owners’ Association, dated August 14, 2012).
9. 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*.
10. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

DECISION:

The Gunnison County Planning Commission, having reviewed and evaluated this application and having reached the above Findings, determines that LUC #2012-23, Concrete Batching Operation, Lot 4, Riverland Industrial Park, Filing No. 1, John Nichols, is approved with the following conditions and that approval be memorialized by a recorded Certificate of Minor Impact Approval, including the language of these conditions and notations:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site plan. 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*. The application is solely for a concrete batching operation. No approval is granted for the use of the lot for an asphalt batching operation.
2. The applicant shall obtain approval from the Board of County Commissioners, pursuant to Section 6. DESIGN AND USE REVIEW AND APPROVAL, *Declaration of Protective Covenants of Riverland Industrial Park*, for the requested variance to outside storage.
3. The outside storage areas are limited to the two areas of the lot, as identified on the site plan, submitted with the application and approved by the Riverland Lot Owners Association.
4. The applicant shall provide documentation of any State Air Pollution Emission Notice or Permit, as may be required by the Colorado Department of Public Health and Environment, or documentation of an exemption from permitting requirements from the Colorado Department of Public Health and Environment, to the Community Development Department. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.
5. A cost estimate for the landscaping stock and installation labor, referencing the landscaping plan, as shown on the submitted site plan shall be submitted to the Gunnison County Attorney’s office. A Landscaping Development Improvements Agreement, prepared by the Gunnison County Attorney’s office, shall be executed by the Board of County Commissioners. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.
6. A performance bond, letter of credit or other means of surety acceptable to the County, shall be submitted to the

County Attorney's office, for the costs of the landscaping, including stock and labor for installation, plus 25 percent, and that said surety be retained by the County for a period of two growing seasons to ensure the survival of the landscaping. The applicant has identified the installation of 30 – 6' evergreen trees for landscaping. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.

7. 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.
8. 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.
9. Approval of this permit is not effective until the Certificate of Minor Impact Approval is recorded with the Gunnison County Clerk and Recorder.

Reed adjourned the meeting at 11:25 A.M.

WATCLARENONE- MEDITATION LODGE; The Gunnison County Planning Commission (Commission) conducted a site visit to observe the site for the request for a seasonal, meditation lodge, legally described as being located in TR 102 (E2NE4 & E2SE4) SEC 12,13 & TR 103 (W2NE4) SEC 12 48N5W 238.59 ACRES, 9380 Highway 50, approximately 35 miles west of the City of Gunnison.

Reed reconvened the meeting on site.

There were no minutes taken on the site visit.

The meeting was adjourned following the site visit.

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