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

Fiscal Impact:

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

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 2/27/17 Except: Second to last paragraph "affected" should be "effected."

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 2/27/2017 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 2/27/2017

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

Agenda Date: 3/7/2017

Revised April 2015

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

February 24, 2017

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Craig Ridgeline Residence**
LUC-16-00037
Planning Commission Recommendation

The Planning Commission unanimously approved a Minor Impact Land Use Change Recommendation for the Craig Ridgeline Residence, on January 20, 2017. This ridgeline project requires BOCC approval. The County Attorney's office has reviewed and approved of the required restrictive covenant.

Attachments:
Planning Commission Recommendation
Board Resolution
Exhibit A – Restrictive Covenant
HOA Approval Letter
Visual Analysis
Site Plan

Star Mountain Ranch Association

January 6, 2017

This is the approval letter for the Craig revised plans for lot 10 at Star Mountain Ranch.

The building plans have been reviewed by the Design Review Committee and subsequently by the Board of Directors and are unanimously approved as submitted with no changes requested.

Sincerely,

Gretchen Adams

President, SMR Board of Directors

Gretchenla@gmail.com

703-929-2000 cell

RESTRICTIVE COVENANT

FOR GOOD AND VALUABLE CONSIDERATION, the undersigned Darin and Cathy Craig, Craig Family Revocable Trust ("Grantors") voluntarily agree, jointly and severally, for themselves, their heirs, representatives, successors and assigns, with the Board of County Commissioners of Gunnison County, Colorado ("County") that Lot 10, Star Mountain Ranch, according to the plat recorded February 23, 1993, bearing Reception No. 440815 and the "As Built Road Survey" of Star Mountain Ranch, recorded November 10, 1994, Reception No. 45216, County of Gunnison, State of Colorado (Property") shall be forever burdened by and subject to the following restrictions:

1. No trees shall be removed from the Property except:

A. To clear the building site for construction of the improvements approved pursuant to Gunnison County Land Use Change No. 2016-00037;

B. To preserve and/or improve the health of the forest on the Property, except that no trees shall be removed which wholly or partially shield the building(s) on the Property from a ridgeline vantage (as defined in the Gunnison County Land Use Resolution) or which are seen behind the building(s) when viewed from a ridgeline vantage; and

C. To create defensible space for protection against wildfires.

In the event that Grantors remove such a tree or in the event that Gunnison County determines that such a tree dies or fails to continues to provide shielding, Grantors shall replace such tree during the next planting season following such removal or determination, with a tree that continues to provide screening and insure their survival. Star Mountain Ranch Association, a Colorado non-profit corporation, the Homeowners Association for Star Mountain Ranch, hereby approves this Restrictive Covenant and agrees to provide, at Grantors' expense, reasonable assistance to Grantors to facilitate and enable Grantors' performance of their obligations under this Restrictive Covenant.

2. All buildings shall have unobtrusive exterior colors and materials that blend as much as possible with the surrounding natural terrain and environment. No bright colors or materials shall be permitted.

3. The roof material shall be cedar shake, rusted metal or another comparably unobtrusive material. No shiny metal roofs shall be allowed.

4. In addition to the requirements in the Gunnison County Land Use Resolution, all exterior lighting shall be directed downward. No unsheathed exterior lighting shall be allowed. No mercury vapor or similar lighting shall be allowed.

5. The failure to enforce or obtain compliance as to any violation of this Restrictive Covenant shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of this Restrictive Covenant.

6. The terms and provisions hereof shall be enforceable by an action for damages, injunctive relief, specific performance and/or any other remedy available at law or in equity. All remedies shall be cumulative.

7. If any action is brought in a court of law to enforce, interpret or construe this

Restrictive Covenant or any document provided for herein or relating hereto, the prevailing party in such action shall be awarded all reasonable attorneys' fees and expert witness fees as well as all reasonable costs incurred in the prosecution or defense of such action.

8. This Restrictive Covenant, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of this Restrictive Covenant 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.

9. All contracts and agreements to sell or lease the Property, or any portion thereof, shall contain a provision incorporating therein the terms and provisions of this Restrictive Covenant and requiring that the purchaser or lessee of the Property, or any portion thereof, shall strictly observe the terms and provisions hereof.

10. The terms and provisions hereof shall forever inure for the benefit of Gunnison County, Colorado and be binding upon the heirs, representatives, successors and assigns of the Grantors and be appurtenant to and run with title to the Property as a perpetual covenant running with the land.

IN WITNESS WHEREOF, the undersigned have signed this Restrictive Covenant as of the_____day of _____, 2017.

GRANTORS

_____
Darin Craig

_____
Cathy Craig

ASSOCIATION

Linda C McGrath
Star Mountain Ranch Association
Sec/Treas.

ACCEPTANCE

The Board of County Commissioners of Gunnison County, Colorado accepts the foregoing Restrictive Covenant this_____day of _____ 2017.

Board of County Commissioners

_____
Phil Chamberland, Chair

ATTEST:

_____
Gunnison County Clerk and Recorder

STATE OF Arizona)
) ss.
COUNTY OF Mohave)

The foregoing Restrictive Covenant was hereby acknowledged before me this 17 day of January, 2017 by Darin Craig and Cathy Craig

Witness my hand and official seal. My commission expires:

Christine L Olson
Notary Public

CHRISTINE L OLSON
Notary Public, State of Arizona
Mohave County
My Commission Expires
August 27, 2020

STATE OF Colorad)
) ss.
COUNTY OF Gunnison)

The foregoing Restrictive Covenant was hereby acknowledged before me this 2nd day of February, 2017 by Linda C McGrath of Star Mountain Ranch Association, a Colorado non-profit corporation.

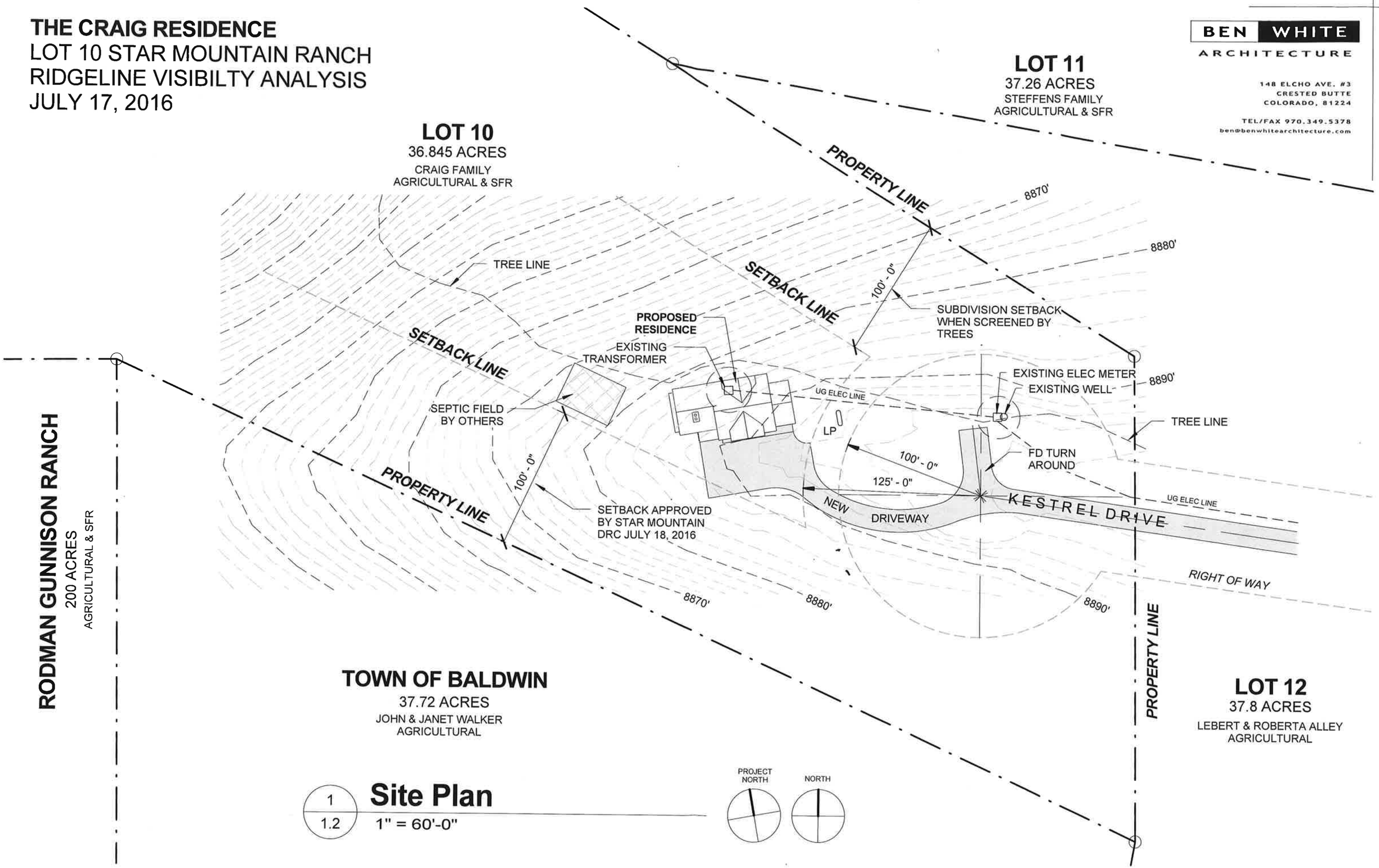
Witness my hand and official seal. My commission expires:

Cynthia Bolton
Notary Public

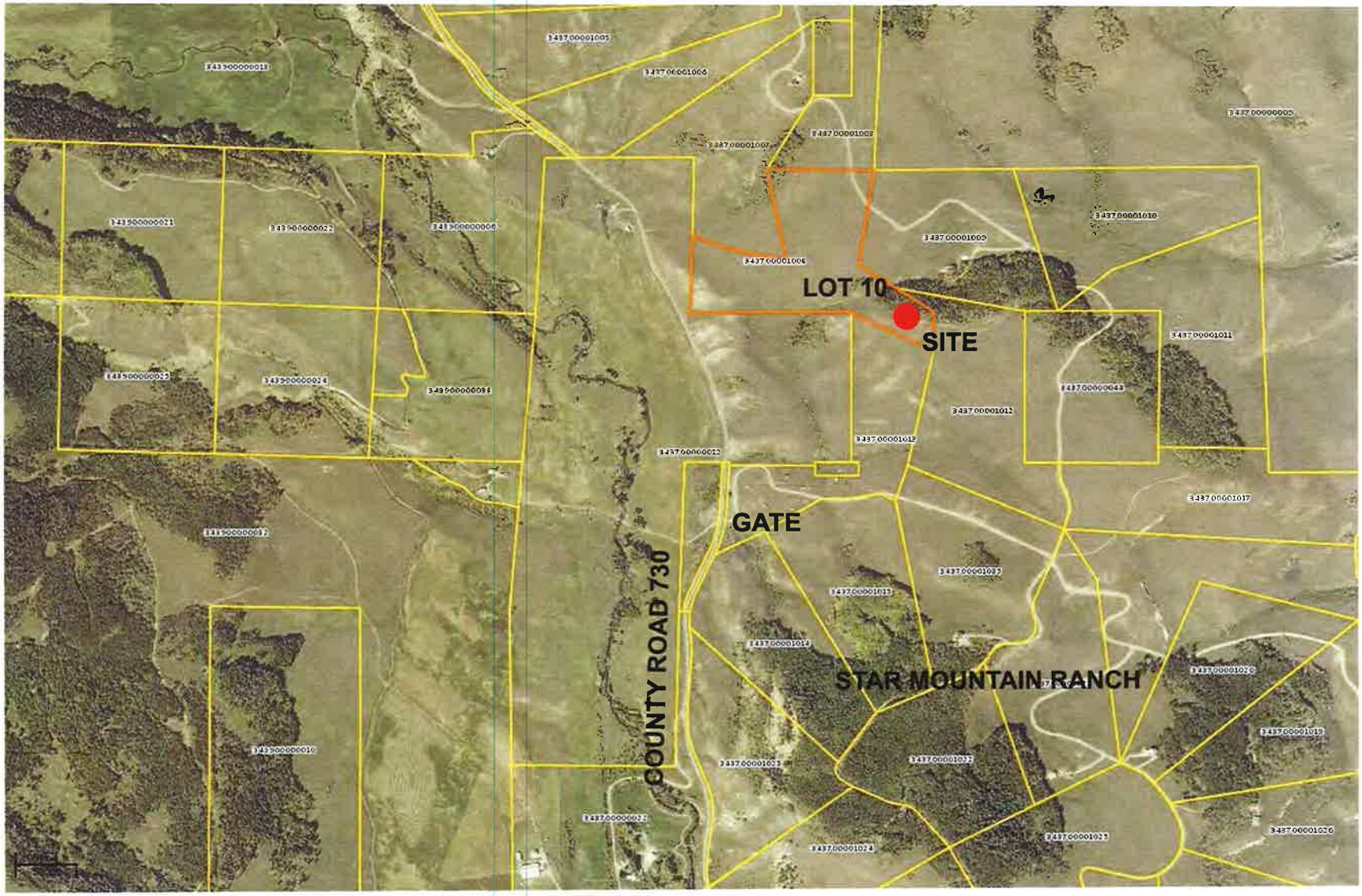
CYNTHIA BOLTON
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20024016583
COMMISSION EXPIRES 05/20/2018

THE CRAIG RESIDENCE
LOT 10 STAR MOUNTAIN RANCH
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016

BEN WHITE
ARCHITECTURE
148 ELCHO AVE. #3
CRESTED BUTTE
COLORADO, 81224
TEL/FAX 970.349.5378
ben@benwhitearchitecture.com

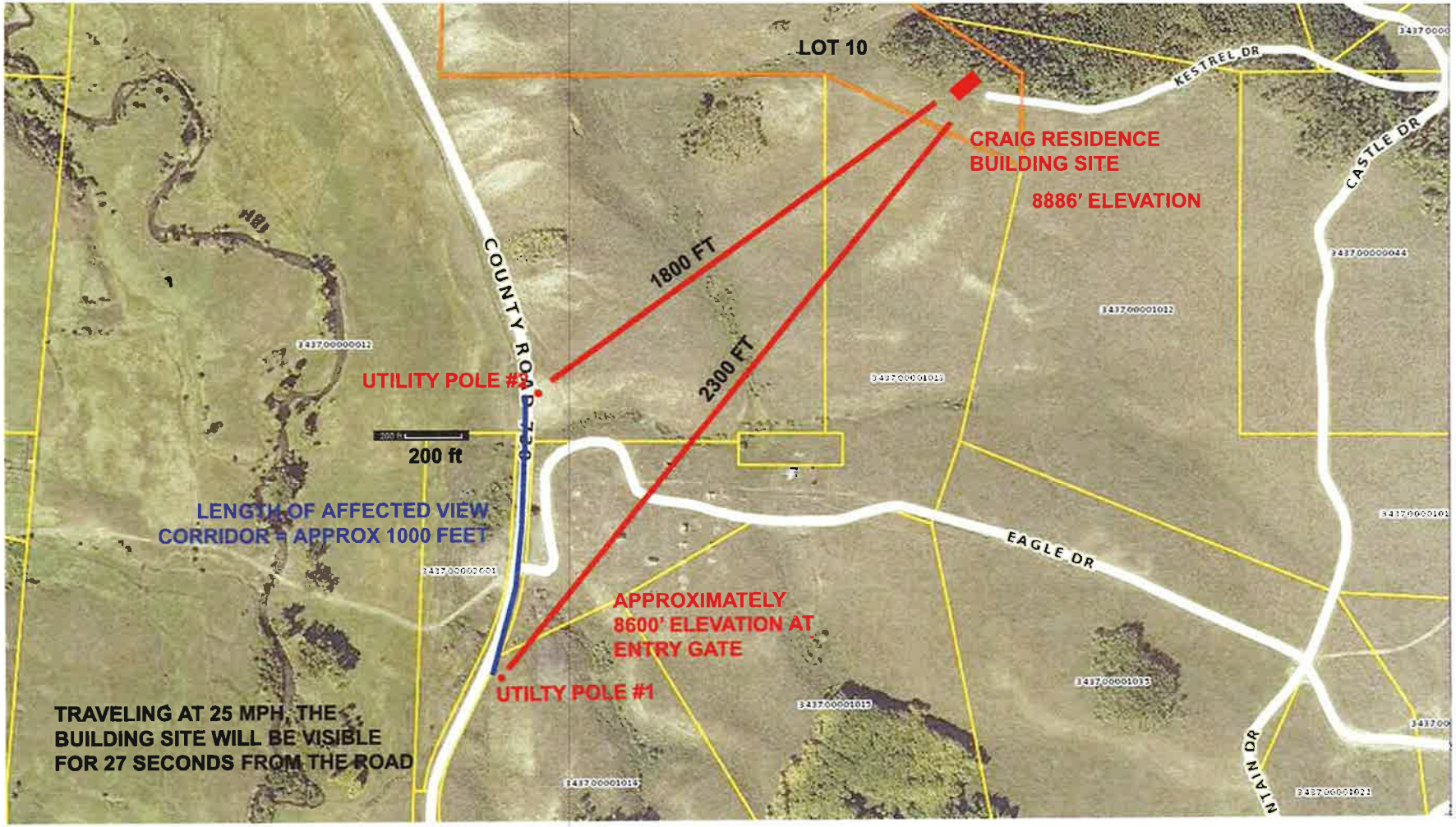


1 / 1.2 **Site Plan**
1" = 60'-0"



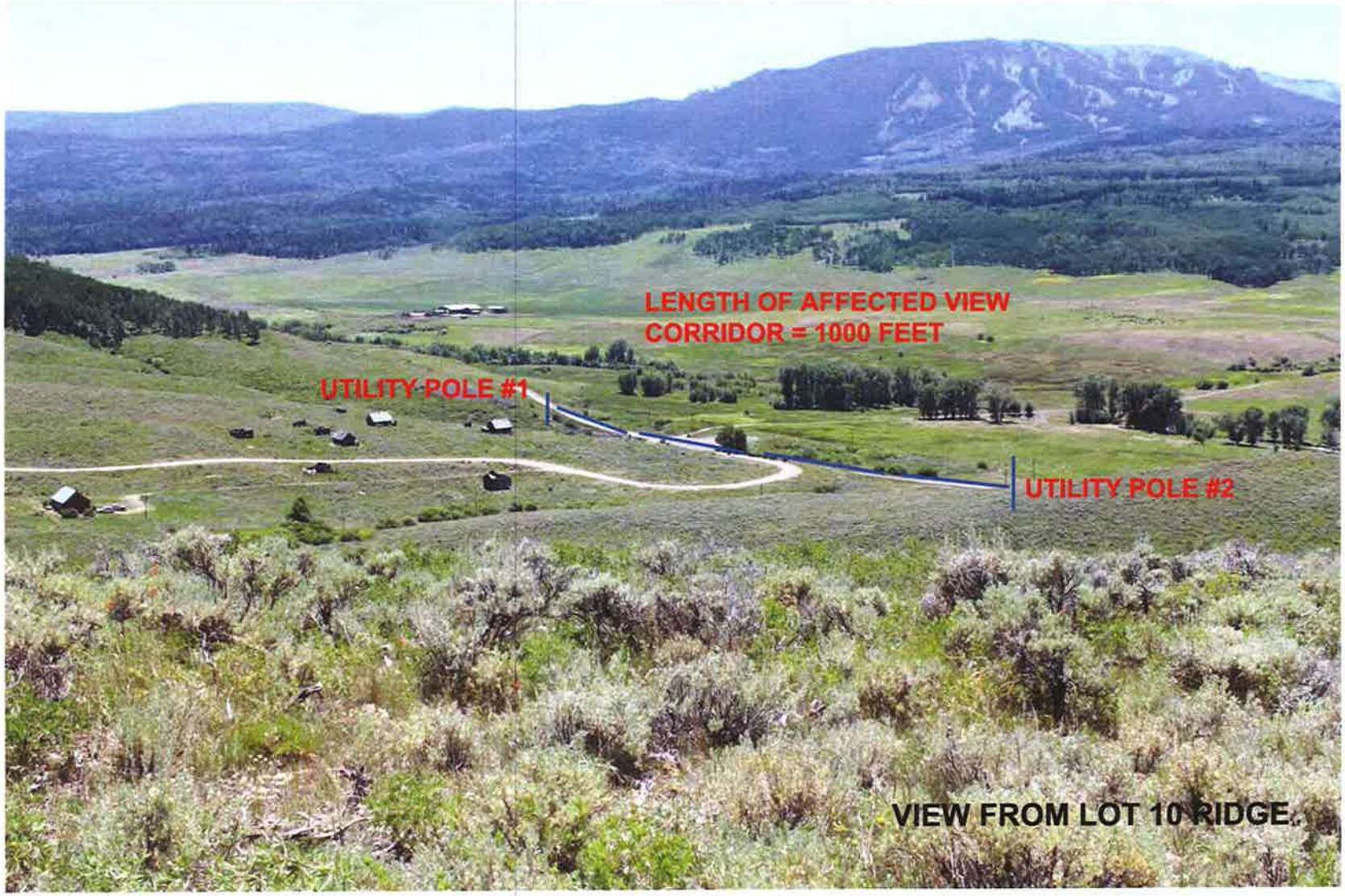
LOCATION MAP

CRAIG RESIDENCE
STAR MOUNTAIN, LOT 10
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016



VIEW CORRIDOR ANALYSIS

CRAIG RESIDENCE
STAR MOUNTAIN, LOT 10
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016

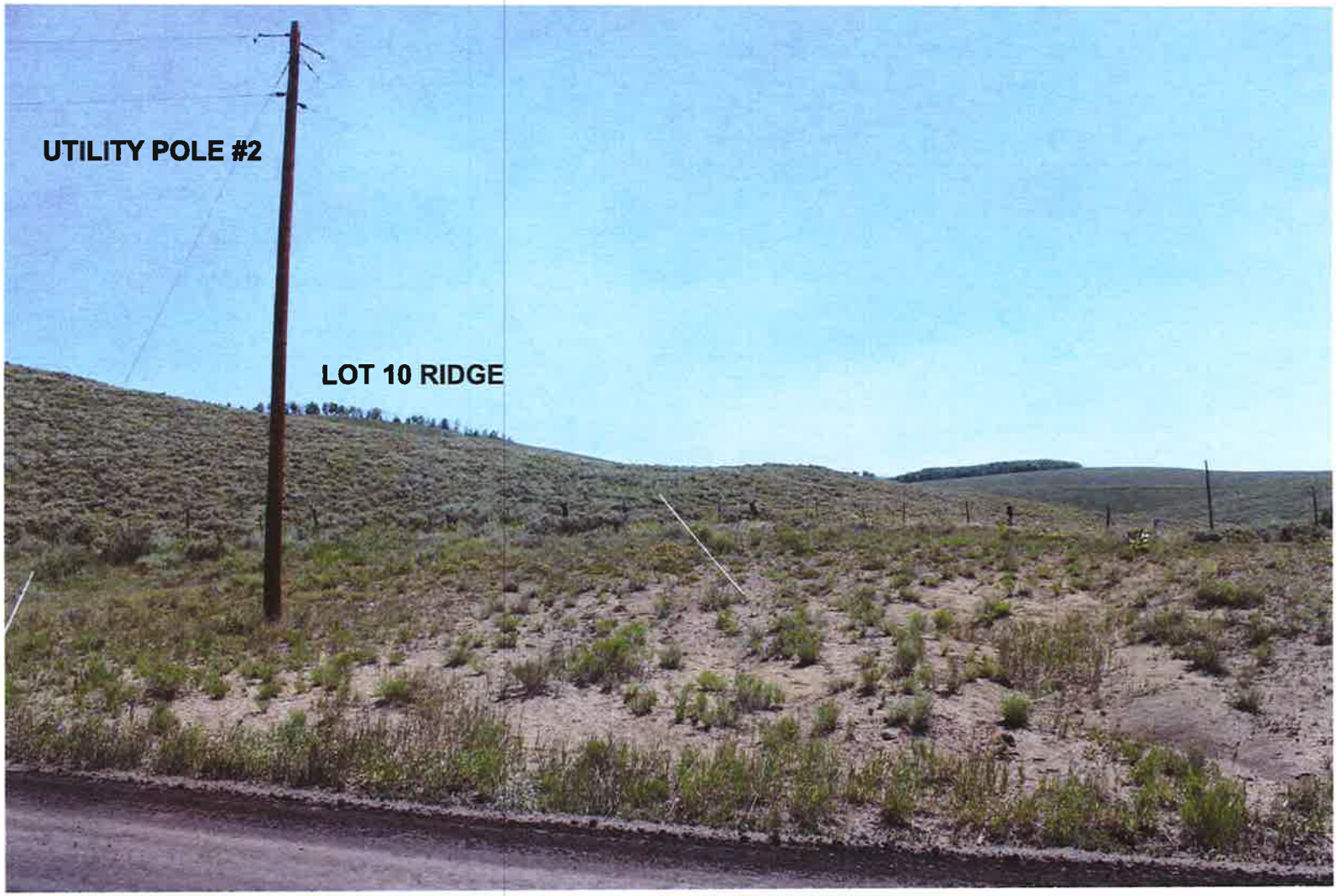


VIEW FROM SITE TO CR 730

CRAIG RESIDENCE
STAR MOUNTAIN, LOT 10
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016

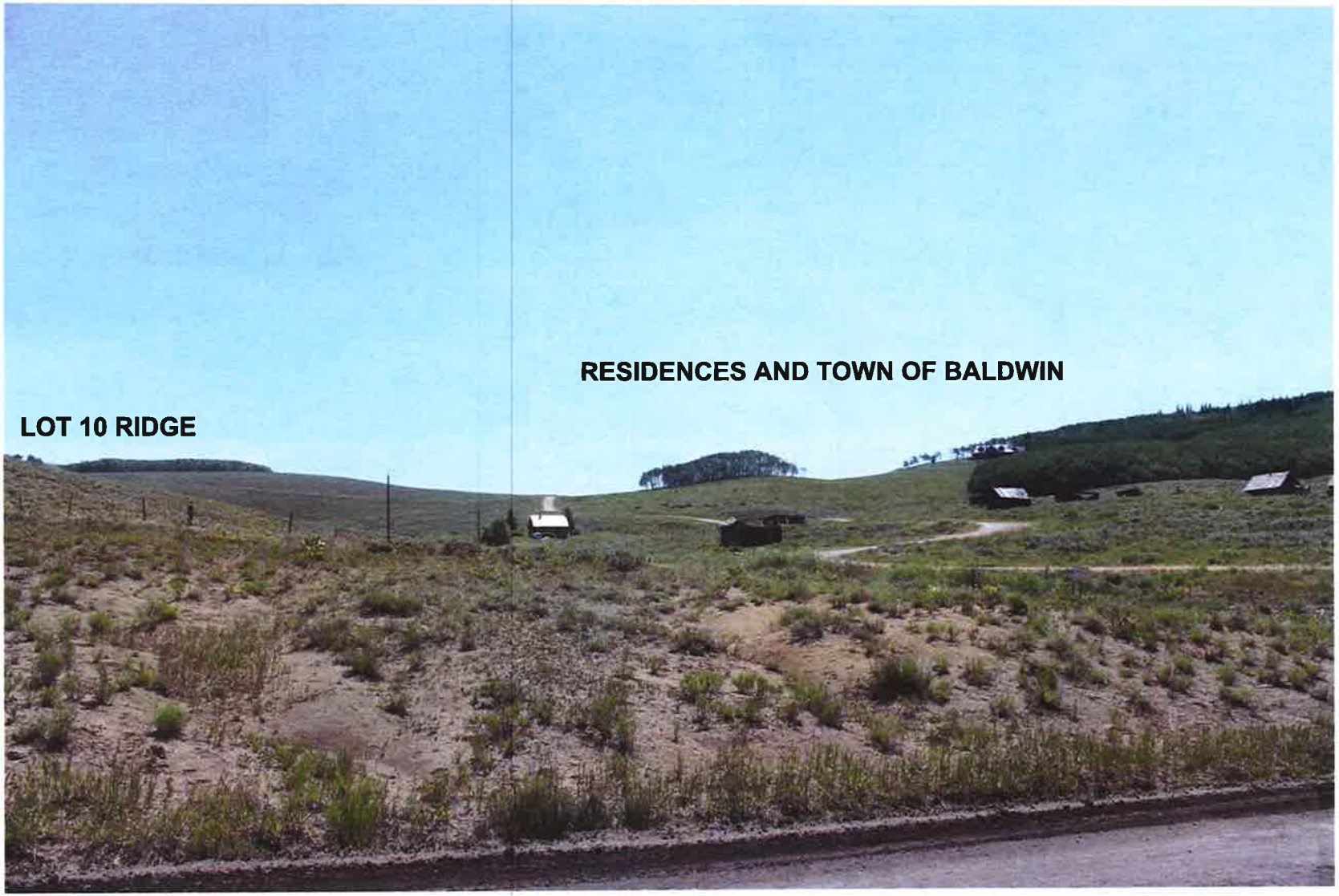
VIEW OF SITE FROM FIRST VANTAGE POINT, UTILTY POLE #1

CRAIG RESIDENCE
STAR MOUNTAIN, LOT 10
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016



VIEW OF SITE FROM SECOND VANTAGE POINT, UTILITY POLE #2

CRAIG RESIDENCE
STAR MOUNTAIN, LOT 10
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016



LOOKING EAST, OVERALL VIEW OF STAR MOUNTAIN RANCH ENTRY VALLEY

CRAIG RESIDENCE
STAR MOUNTAIN, LOT 10
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016

COMPUTER SIMULATION OF PROPOSED RESIDENCE AT 2200 FT, +286 FT ELEVATION

CRAIG RESIDENCE
STAR MOUNTAIN, LOT 10
RIDGELINE VISIBILTY ANALYSIS
JULY 17, 2016

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2017- ____

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. 2016-00037
A LAND USE CHANGE PERMIT FOR DARIN AND CATHY CRAIG
CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE ON A RIDGELINE
LOT 10, STAR MOUNTAIN RANCH

WHEREAS, Darin and Cathy Craig, represented by Ben White, Ben White Architecture have submitted a Land Use Change application for the construction of a single-family residence with an attached garage, in compliance with *Section 11-108: Standards for Development on Ridgelines*, *Gunnison County Land Use Resolution*.

The applicants provided a detailed ridgeline analysis, including detailed architectural drawings of the site profile, prepared by Ben White, Architect, Ben White Architecture. The drawings and site plans, as noted above, depict the location, form and scale of the proposed structures in relation to the existing trees on the parcel and the ridgeline vantage locations on Ohio Creek Road. The lot is predominately sagebrush, with the building site backed by a mixed stand of aspen and conifers.

The applicants have demonstrated through visual analysis that the structure will be significantly screened, in compliance with *Section 11-108: Standards for Development on Ridgelines. I.1.d: If Significant Screening Exists and Is Protected, Decision Shall Be Made By Board,* with existing vegetation that is of such volume, density and species that no part of the building that is partially visible will be visually obtrusive.

The Commission finds that there will be significant vegetative screening existing on the property, located behind the proposed residence to significantly screen the proposed residence, as to make it visually unobtrusive. The distance between the subject parcel and the closest point on the ridgeline vantage is significant and the duration of the visibility is of so short a period of time that those factors will limit the visibility of the proposed residence from the ridgeline vantage.

A restrictive covenant, attached as "Exhibit A," will ensure, in perpetuity, the existence and replacement of the natural vegetation on the applicant's property used for screening. Additionally, the structures on the ridgeline shall have minimum visual impact. The residence will not stand out among its surroundings, nor draw attention to themselves, through the use of reclaimed wood material for siding and exterior colors that blend with surrounding natural terrain. Additionally, rusted metal or another comparably unobtrusive material shall be used for the roof material. The residence is not visible from a municipal ridgeline vantage.

The site is located on Lot 10, Star Mountain Ranch, at the end of Kestrel Drive, approximately 18 miles north of the City of Gunnison, east of Ohio Creek Road; and

WHEREAS, after a review of the visual analysis, all information, documentation and related to it, and an on-site visit, the Gunnison County Planning Commission did, after a public hearing on January 20, 2017 forward a Recommendation of approval of that application to the BOCC with certain Findings and Conditions:

FINDINGS:

1. The 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 F. Development Requiring Detailed Ridgeline Vantage Visibility Analysis.*

2. A detailed visual ridgeline analysis and architectural drawings titled "Ridgeline Analysis – The Craig Residence" prepared by Ben White, White Architecture, March 12, 2016 was submitted with the application.

3. The information and analysis indicate that the proposed structure, under the definition of "ridgeline vantage," would be visible from Ohio Creek Road.

4. Pursuant to *Section 11-108: Standards for Development on Ridgelines*, I. Exceptions the Planning Commission finds by clear and convincing evidence that significant screening exists and that the building site meets or exceeds the following standard:

   d. If Significant Screening Exists and is Protected, Decision Shall Be Made by Board. If the Planning Commission finds that the project does not meet the first three requirements of this section, but that any building on the ridgeline shall be <u>significantly</u> screened by existing (as opposed to new) natural vegetation on the applicant's property, of such volume, density and species of tree cover, after provision of defensible space for wildfire hazard, so that no part of the building that is partially visible shall be visibly obtrusive from any ridgeline vantage, at any time of year, the Commission shall so note in a recommendation to the Board, and the Board shall be the decision making body. If approved, the approval shall include:

   1. *Recorded Covenant, Easement or Agreement*. A recorded mechanism (e.g. protective covenant, conservation easement, bonding agreement) acceptable to the County must be provided to ensure, in perpetuity, the existence and replacement of the natural vegetation on the applicant's property used for screening; and
   2. *Minimal Visual Impact*. When significant screening exists and is protected, the building on the ridgeline shall have minimal visual impact and:
      (a.) *Is Not Obtrusive or Visible From A Municipal Ridgeline Vantage*.
      Must comply with both of the following standards:
      (1.) *Obtrusiveness*. The building will blend in with its surroundings and will not stand out in the context of its surroundings nor draw attention to itself; and
      (2.) *Municipal Ridgeline Vantage*. The building will not be visible with the naked eye from a municipal ridgeline vantage; and
      (b.) *Must Not be Visible from Ridgeline Vantage or Visibility is Only Momentary*. Must comply with and with one of the following standards:
      (1.) *Distance from Ridgeline Vantage(s)*. The building will not be visible with the naked eye from near or distant ridgeline vantages; or
      (2.) *Number and Length or Duration of Ridgeline Vantages*. The number and length or duration of public road ridgeline vantages from which the building will be visible are so small that the building will be visible only momentarily to passersby.

5. A restrictive covenant was submitted, ensuring, in perpetuity, the existence and replacement of the natural vegetation on the subject property, attached as "Exhibit A".

6. The Planning Commission conducted a site visit on December 2, 2016 and viewed the building site and from points on the ridgeline vantage on Ohio Creek Road. The Commission found that the site would be visually unobtrusive due to distance and screening from the ridgeline vantage.

7. The elevation difference between the building site and the ridgeline vantage on Ohio Creek Road is greater than 150 feet.

8. The proposed structures will blend with the surroundings. The house siding will be reclaimed lumber, using unobtrusive exterior colors that blend with the surrounding natural terrain. The roof material proposed is rusted metal or another comparably unobtrusive material. No shiny metal roof shall be allowed, as identified in the restrictive covenant.

9. All exterior lighting shall be directed downward, as identified in the restrictive covenant.

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 comments at the public hearing, exhibits, references and documents as included therein.

11. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

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

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

CONDITIONS:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Site Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.

2. That this approval be memorialized by Board Resolution and recorded within the Office of the Gunnison County Clerk and Recorder.

3. A restrictive covenant ensuring, in perpetuity, the existence and replacement of the natural vegetation on the subject property, attached as "Exhibit A.", shall be executed prior to approval by the Board. The restrictive covenant shall be recorded contemporaneously with the Board Resolution, within the Office of the Gunnison County Clerk and Recorder.

4. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

5. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

6. Approval of this use implies no approval of any such similar use on any other parcel. Review of this application has considered the impact of this proposed use in the context of cumulative impacts to the environment and the community in the context of its compliance with County land use standards.

7. Approval of this use is based upon the facts presented and implies no approval of a similar use in a

different location and with different impacts on the environment and community. Each such future application shall be required to be reviewed and evaluated on its own facts, subject to its compliance with current regulations, and its impact to the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2017-00037, for Darin and Cathy Craig is approved as a Minor Impact, subject to each and all conditions of the decision document, as identified above, and;

THIS APPROVAL is effected 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 March, 2017.

BOARD OF COUNTY COMMISSIONERS

_____	_____	_____
Phil Chamberland, Chairperson	Jonathan Houck, Commissioner	John Messner, Commissioner

ATTEST:

Gunnison County Clerk and Recorder