AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; Approving LUC No. 2016-00009 Prelimina

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Preliminary/Final Plan Approval

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 6/1/17

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 6/1/2017 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 6/1/2017

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

Agenda Date: 6/6/2017

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

May 30, 2017

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Cypress Foothills LP**
Slate River Development Subdivision
Planning Commission Recommendation - Preliminary/Final Plan

At their May 19, 2017 meeting, the Planning Commission unanimously approved a recommendation to the Board of County Commissioners to approve the Preliminary-Final Plan application.

Attachments:

Planning Commission Recommendation
BOCC Resolution

TO: **Board of County Commissioners**

SUBJECT: **Planning Commission Preliminary/Final Plan Recommendation**
Slate River Development
LUC #2016-00009

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

DATE: **May 19, 2017**

APPLICANT: **Cypress Foothills, LP**
8443 Douglas Avenue, Suite 200
Dallas, TX 75225

REPRESENTATIVE: **Marcus J. Lock**
Law of the Rockies
525 N. Main Street
Gunnison, CO 81230

At its regular meeting on May 19, 2017, the Planning Commission unanimously approved the following Preliminary/Final Plan application, moved by Jack Diani and seconded by Tom Venard:

*****

"…Compliance of the proposed land use change with these standards shall be determined broadly and conceptually during Sketch Plan review, in detail during Preliminary Plan review, and definitively during Final Plan Review. "

Section 7-102, Gunnison County Land Use Resolution

"PRELIMINARY PLAN PROVIDES DETAILED SOLUTIONS AND DESIGN. *Preliminary Plan review requires the applicant to formulate detailed, designed/engineered solutions to the issues and concerns identified during Sketch Plan review, and to address, in a site-specific manner, all other issues that are relevant to the Preliminary Plan. The burden in the Preliminary Plan review is on the applicant to provide detailed information and mitigation proposals for evaluation."*

"FINAL PLAN FORMALIZES PROJECT. *The purpose of the Final Plan review procedure is to provide a permanent and accurate public record of the development plan: exact size, shape and location of all approved activities and uses, and, as applicable, lots, blocks, streets, easements and other parcels of land within the development, together with all applicable protective covenants, conditions, use restrictions and design and development criteria:*

Section 7-103, Gunnison County Land Use Resolution

The Board of County Commissioners approved the Slate River Development Sketch Plan on August 16, 2016, Board Resolution 2016-33, recorded with the Gunnison County Clerk and Recorder's Office, Reception No. 641341, August 17, 2016. The Board of County Commissioners authorized the applicant to submit a combined Preliminary/Final Plan application, submitted on December 6, 2016.

PRELIMINARY/FINAL PLAN – PROJECT DESCRIPTION:
Cypress Foothills, LP, represented by Marcus J. Lock, Law of the Rockies, submitted the *Slate River Development Preliminary/Final Plan*, which proposes the subdivision of a 44.5-acre parcel, which has been described as a "hybrid-format" development proposal. This application is the final step in the land use review of the subdivision. The property is bisected by the Slate River, which divides the land into a "West Parcel" and an "East Parcel". The dichotomy of the hybrid-format is explained below.

The West Parcel (14.1-acres - west of the Slate River), will be severed from the 44.5-acres and remain a remainder tract, which will be annexed to the Town of Crested Butte, pursuant to a *Pre-Annexation Agreement*, in place with the Town of Crested Butte. While the West Parcel is an element of this subdivision and hybrid-format development, the County land use review primarily addresses the residential development of the East Parcel. The only County approval the applicant is seeking with respect to the West Parcel is (a) the construction of an access road (Pyramid Avenue) and utility extensions to the East Parcel, (b) certain grading, berming, landscaping, and trail construction as shown on Cypress's engineered plans; (c) the cleanup of the old Town landfill pursuant to and in accordance with a Voluntary Clean Up Plan ("VCUP"), with the Town of Crested Butte, approved and overseen by the Colorado Department of Public Health and Environment; and (d) any other County approval necessary to effectuate the intent and purposes of the *Pre-Annexation Agreement* or satisfy the terms and conditions thereof. No other uses are approved on the West Parcel.

The East Parcel (30.4-acres - east of the Slate River) will be subdivided into 23 single-family residential lots, with the opportunity for a secondary residence on each lot, and a Homeowners Association Lot, on which an owner's complex may be potentially constructed. However, in the event the owner's complex is constructed, it will not contain any bedrooms to accommodate sleeping within it. Lot sizes range from one-third to just under an acre. Access to the East Parcel will be from Gothic Road, via construction of a new road (Pyramid Avenue). The lots will be restricted to a maximum primary residential building size of 5,000 square feet, a detached secondary residence or accessory buildings up to 750 square feet and the aggregate square footage of all buildings of 5,750 square feet. Water will be provided by connection to the Town of Crested Butte's municipal water system, and wastewater will be provided by central sewer, via connection to the Town of Crested Butte's municipal sewer system. The applicant has identified that this development will not be a "gated community". A final narrative of the subdivision protective covenants has been submitted addressing the homeowner association responsibilities, architectural style and design guidelines and County required covenant provisions.

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

No phasing of the County development is proposed.

PROPERTY LOCATION:
The parcel is legally described as being located in the SW 1/4 of Section 35, Township 13 South, Range 86 West, 6th P.M, Tract Q (aka Lot 13). The land is adjacent to the Town of Crested Butte, immediately north of the Town's Public Works Yard and wastewater treatment plant, and south and east of the Town cemetery.

SURROUNDING LAND USES:
Town of Crested Butte, residential and agricultural lands, and Crested Butte Cemetery.

DOCUMENTS INFORMING THIS REVIEW AND ACTION - PLANS/REPORTS/SUBMITTALS:
Plans, reports, and other submittal documents informing this Recommendation include, but are not limited to:

- Preliminary/Final Plan Application, and supplements and revisions thereto, as submitted, including all exhibits, maps, and documents
  - Plat of Slate River Development, SGM, May 11, 2017
  - *Declaration of Protective Covenants – Slate River Development*, March 13, 2017
  - *Visual Rendering of Development* from CB Cemetery –
  - *Natural Features Map*, 2 pages, SGM, March 23, 2106
  - *Geologic Hazards Evaluation and Preliminary Geotechnical Investigation*, CTL Thompson, January 30, 2008
  - *Wildlife Habitat Analysis and Mitigation Plan*, Bio-Logic, Inc., March 8, 2017
  - *Wetland Report for Slate River Development*, Bikis Water Consultants, March 2016
  - Road Restriction Agreement, March 15, 2016
  - Alta Survey, SGM, January 17, 2008
  - Driveway Certification, Tyler Harpel, P.E., SGM, February 28, 2017
  - Water Supply Plan, SGM, February 2017
  - Landscaping Plan, EDSA, February 22, 2017
  - Erosion Control Plan, SGM, March 6, 2017
  - Drainage Report, SGM, March 2017
  - Town of Crested Butte, Wastewater Treatment system compliance letter, Rodney Due, Public Works Director, Town of Crested Butte, February 9, 2016
  - Aperture Homeowners Association, Inc., Articles of Incorporation, January 1, 2017
  - Engineering Plan Set, *Slate River Development*, Sheets 1-32, SGM, May 17, 2017, as revised and submitted
- Town of Crested Butte *Pre-Annexation Agreement*, recorded with the Office of the Gunnison County Clerk and Recorder, Reception No. 638399, March 14, 2016.
- Amendment to the Pre-Annexation Agreement, dated, and recorded in the office of the Gunnison County Clerk and Recorder, Reception No. 643828, December 7th, 2016.
- Town of Crested Butte Comments, Michael Yerman, Town Planner, April 21, 2017
- Marlene Crosby, Public Works Director, memo of April 21, 2017
- Ric Ems, Fire Chief/Marshal and Scott Wimmer, Fire Inspector, Crested Butte Fire Protection District, letter of April 11, 2017
- Colorado Division of Parks and Wildlife, J Wenum, Area Wildlife Manger, February 17, 2017.
- Applicant response to County Public Works comments, April 26, 2017
- Revised *Declaration of Protective Covenants – Slate River Development*, May 18, 2017
- Town of Crested Butte Comments, Michael Yerman, Town Planner, May 12, 2017
- Marlene Crosby, Public Works Director, memo of May 16, 2017
- *Snow Storage Plan*, SGM, May 11, 2017
- *Lot 9 & 10 Driveways Plan*, SGM, May 11, 2017

This review and Preliminary/Final Plan Recommendation incorporates, but is not limited to, all documentation submitted to the County and included within the Community Development Department file relative to this application; including all exhibits, references, testimony and documents as included therein.

COMPLIANCE WITH CONDITIONS OF SKETCH PLAN APPROVAL:
The following include the conditions of Sketch Plan approval, followed by the applicant's corresponding submittal in the Preliminary/Final Plan:

The Board of County Commissioners approved the Sketch Plan application on August 16, 2016, Board Resolution 2016-3;

Condition No. 1: The following are specifically identified as Preliminary Plan submittal items of particular attention:

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

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

- Visual analysis of the lots/residences from the Crested Butte Cemetery.

- The potential of the Town of Crested Butte to provide potable water for the development.

- The viability of the extension/connection of Eighth Street to Road A.

First Concern: *Analysis of the location of Pyramid Avenue (formerly known as Road A) on the West Parcel at its intersection with Gothic Road, as it related to the properties across Gothic Road, concerning the impact of vehicle headlights on existing residential properties.*

The Final Plan provides for a location of the intersection of Pyramid Avenue and Gothic Road to minimize the impact of vehicle headlights on existing residential properties. Pyramid Avenue has been relocated as far south as possible while still observing a setback of 50 feet from the wetland adjacent to Gothic Road and without having to destroy existing infrastructure.

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

Colorado Parks and Wildlife has concluded that, "The proponents have adequately addressed these concerns in the Slate River Development Subdivision Wildlife Habitat Analysis and Mitigation Plan. We appreciate their efforts to reduce and mitigate impacts to wildlife and their habitat from the proposed development."

Third Concern*: Visual analysis of Lots 7-13 from the Crested Butte Cemetery.*

As shown from the visual analysis, the impact of the development on views from the cemetery (including, importantly, the view of Mt. Crested Butte) are relatively minimal, and proposed buffering will further reduce any visual impact to the cemetery.

Fourth Concern: *Investigation of the potential for the Town of Crested Butte to provide potable water for the development.*

> Cypress and the Town have agreed for the Town to provide potable water for the development. This agreement is memorialized in the Amendment to Pre-Annexation Agreement, dated December 7, 2016, and recorded in the office of the Gunnison County Clerk and Recorder at reception number 643828 (the "Amendment"). The original Pre-Annexation Agreement between Cypress and the Town is dated February 16, 2016, and recorded in the Office of the Gunnison County Clerk and Recorder at reception number 638399 was Exhibit A to the Sketch Plan Application (the "Original Pre-Annexation Agreement"). The Original Pre-Annexation Agreement and the Amendment are referred to in this Application collectively as the "Town Agreement."

Fifth Concern: *Viability of the extension/connection of Eighth Street to Road A.*

> Pursuant to the Commissioners' request, Cypress is still pursuing this connection with the Town of Crested Butte (the "Town"). In section 6.4.12 of the pre-annexation agreement between Cypress and the Town, the parties agreed that, "It is possible that there are portions of the Old Town Landfill within this right of way [for Eighth Street], on the Town's property, on Applicant's property, or both." Depending on whether this is present and whose property it is on, if present, the Town may elect to clean up that portion of the landfill and proceed with the extension. The annexation agreement is written in such a manner as to facilitate this connection to the fullest extent practicable. Indeed, in negotiating the Amendment, the parties added the following language at the end of section 6.4.12 of the pre-annexation agreement to further facilitate the construction of the Eighth Street extension: "Once the parties have agreed upon the construction of Eighth Street pursuant to Section 6.4.12, Applicant shall enter into a standard development improvements agreement with the Town that is (a) substantially similar to the development improvement agreements the Town has previously used, and (b) not inconsistent with this Amendment. All infrastructure constructed pursuant to such development improvements agreement shall be constructed in accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by the Applicant."

The applicant has fully designed and engineered the Eighth Street connection.

On May 12, 2017, the Crested Butte Town Council unanimously approved a License Agreement allowing the applicant to access the Eighth Street right of way, include this right of way in the applicant's VCUP application via amendment, perform remediation activities pursuant to the VCUP process, and construct the Eighth Street extension north from Butte Avenue to Pyramid Avenue.

MEETING DATES:

The Planning Commission and Board (as applicable) held meetings on the following dates:

- April 7, 2017 - Work Session
- May 12, 21017 - Site Visit and Joint Public Hearing
- May 19, 2017- continued Joint Public Hearing; work session

SITE VISIT:

The Planning Commission and Board conducted a site visit during the Preliminary/Final Plan review on May 12, 2017, at which time the Planning Commission and Board members walked the property and viewed the neighborhood, the proximity of the development to the Crested Butte Cemetery and adjacent properties, the wetlands, and the proposed locations of the lots, roads and bridge. Additionally, the members viewed the location of the relocated intersection of Pyramid Avenue and Gothic Road.

PUBLIC HEARING:
The Planning Commission and the Board of County Commissioners conducted a joint public hearing on May 12 and 19, 2017. At that time

Written Public Comments:
- Adam Schichtel, letter of May 11, 2017, noting his objection to the proposed development.
- Fred Sandusky, letter of May 18, 2017, noting his objection to the proposed development.

Public Hearing Comments:
- Dan Jones - concerns about the scale of the houses, square footage, naming of the streets
- Adam Schichtel, - noting his objections to the proposed development.
- Harvey Castro - view from the cemetery is mitigated, but concerned with the views from the rec path, fencing, wood burning stoves and 8th Street traffic.
- Jim Schmidt – (as private citizen) aggregate square footage should be 5000.
- John Hess – noted multiple concerns with the development.

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 Division of Wildlife** – J Wenum, Area Wildlife Manger, letter dated May 5, 2016:

  "My staff has reviewed the Slate River Development Subdivision Wildlife Habitat Analysis and Mitigation Plan submitted by BIO-Logic Inc. on behalf of Cypress Foothills, LP.

  The subdivision proposal raised the following wildlife concerns: obstruction of an elk migration corridor, the potential for human/bear conflicts, fence construction, and the threat household pets pose to wildlife.

  The proponents have adequately addressed these concerns in the Slate River Development Subdivision Wildlife Habitat Analysis and Mitigation Plan. We appreciate their efforts to reduce and mitigate impacts to wildlife and their habitat from the proposed development."

- **Crested Butte Fire Protection District** –Scott Wimmer, Fire Inspector and Ric Ems, Fire Chief/Fire Marshal, letter dated April 11, 2017, provided comments pertaining to the Fire District requirements.

  "The Fire Division of the Crested Butte Fire Protection District (CBFPD) has received the Preliminary- Final Plan Application packet for the above noted project. After reviewing the application, we have the following notes and comments.

  We note that:
  1. The proposed development is within the boundaries of the CBFPD.
  2. Cyprus Foothills proposes 23 residential homes and a maximum of23 accessory dwelling units on 30.4 acres.
  3. The maximum floor area of all buildings on a lot in the East Parcel shall not exceed 5,750 square feet in the aggregate, consisting of 5,000 square feet main residence and 750 square feet detached accessory buildings.
  4. Average Daily Trips for the East Parcel equals approximately 460, at full buildout.
  5. There are two proposed bridges on Pyramid Avenue, one being a half culvert.
  6. The potential for Eighth Street to connect with Pyramid Avenue north of Butte Avenue.

7. The potential for non-motorized pedestrian access to the Property from Butte Avenue.
8. The proposed development is in an area of "low" wildfire hazard zone per the Gunnison County Wildfire Hazard map.
9. The application includes reasonable provisions for the mitigation of wildfire hazards, including language ensuring compliance with the requirements of the CBFPD with authority to enforce such provisions.
10. Narrative of Covenants, section 2, states, "No roof shall contain untreated cedar wood shake shingles or other combustible roofing material."
11. Narrative of Covenants, section 2, states, "All chimneys will include spark arrestors on chimney terminations and all chimney caps or shrouds shall provide access for cleaning and servicing said chimneys."
12. Narrative of Covenants, section 2, states, "Monitored, automatic fire suppression systems shall be included in all residences."

Comments:
Regarding bullet point 5 above, bridges shall have their weight limit posted on both sides of the bridge(s).

Regarding bullet points 6 and 7 above, CBFPD encourages more than one point of access to the subdivision. We strongly recommend the completion of Eighth Street north of Butte Avenue to Pyramid Avenue and strongly recommend that the non-motorized pedestrian path be engineered to accommodate access of emergency apparatus.

Regarding bullet point 10 above, CBFPD strongly recommends not to allow wood shake shingles treated or otherwise. It is our experience that treated wood shingles dry out in our environment and potentially lose their fire resistive qualities. It is our understanding that products are available that mimic the shape, style and appearance of wood shake shingles and may be an appropriate alternative.

Regarding bullet points 15 & 16 above, the proposed layout for the fire hydrants is acceptable.

In conclusion:
CBFPD has no objections to the Preliminary-Final Plan Application as submitted with the exception of the comments noted above. CBFPD looks forward to reviewing detailed plans and working with the proponents and Gunnison County in the completion of this project.

- **Gunnison County Public Works Department** – Marlene Crosby, Public Works Director, memo of April 21, 2017, notes:

"Gunnison County offers the following comments about the proposed Slate River Development Preliminary-Final application:

Our department received a request from Casey Resources, Inc. ("CRI") to dispose of approximately 8,000 cubic yards of trash from the Old Town Landfill at the Gunnison County Landfill. We know they are working through the VCUP process with the CDPHE. We have referred that request to our landfill consultant. The contact information is:

Michael Pretti, P.E.
Senior Engineer II
Souder, Miller & Associates
Engineering, Environmental & Surveying 8000 W.
14th Avenue
Lakewood, CO 80214
www.soudermiller.com
(303) 239-9011 (office)

(920) 562-9021 (mobile)
(303) 239-0745 (fax)

Regarding the intersection with CR #317 (Gothic Road) the Public Works Department will accept the construction of the intersection as presented for the 23 single family lots. A southbound left turn lane on Gothic Road will be a required condition of approval. In discussion with Town staff they indicated they would like to consider the potential of a bus stop on Gothic Road. The bus stop needs to be within the property, not on the County road. It would significantly impact winter plowing operations and the safety of people waiting at the stop. Internally it would be closer to people using the bus to access the public buildings that are being considered.

We met with Tyler Harpel of SGM on Monday to discuss our concerns and expect to receive some updated information from him.

The plans show that there is a 60 foot ROW with a 24 foot wide hard surfaced road. The intent is for the remainder of the ROW to be used for snow storage. Gunnison County's experience, especially this year, is that if you do not have additional snow storage room or a location to haul snow that is not adequate. Initially it appeared that it might be possible to store snow in the open space, but snow cannot be deposited in wetland areas so that is not available. The impact of
23 driveways will significantly reduce the amount of snow storage and the space to push the snow. Since there is a 25-foot easement along Pyramid Avenue and a 15-foot easement on Aperture Lane on the front side of each lot, we suggested that the easement/setback be reserved as snow storage. That would mean that no landscaping that might be damaged or that would damage plow equipment would be allowed. Public Works also recommends that all lots be prohibited from pushing snow into the ROW.

There should also be a restriction, at least during winter months, to prohibit on-street parking. The only other concern that we discussed with Tyler was concerning driveways. The Gunnison County Public Works Department will issue access permits. Access to Lot 10 will be difficult and there is not a location for an access on Lot 9 due to the location of the Wetlands Dispersion structure. No revised plans have been submitted to Public Works for review, but we suggest that the lot lines for lots 8-10 be reconfigured to accommodate snow storage, access and infrastructure.

Thank you."

Marlene Crosby, Public Works Director, memo of May 16, 2017:
"The Public Works Department has reviewed the submittal from SGM labeled Lots 9 & 10 Driveway Exhibit and also the Pyramid Ave Plan and Profile Station 1+00 to Station 10+00, and offer the following comments:

The approaches to Lot 9 and Lot 10 have been revised per our earlier discussion. We will now be able to issue an Access Permit for each of these lots.

The submittal for the left turn lane into the development from the Gothic Road (CR#317) is acceptable. On the plans on each end of the intersection area there is some type of island, but the only label shows a saw cut. If the islands are going to be painted on the asphalt surface, that is acceptable. We cannot approve any type of above road grade structure due to the impact on winter plowing."

- **Town of Crested Butte** – Michael Yerman, Town Planner, Town of Crested Butte, comments in letter of April 21, 2017, notes:
  "The Town has met with representatives from both the County Community Development and Public Works Departments. The Town also contracted with JVA engineers to review the plans. As the service provider for both water and sewer to the County residential portion of the development, the

Town's initial comments primarily focus on the extension of these utilities, as well as a civil review of future roads on the western portion of the development. These roads will be annexed and maintained by the Town into the future.

The JVA letter dated April 14, 2017 is attached to this memorandum. Town staff would like elaborate on comments in this letter with the following comments:

1. The Town and the developer assigned the County Planning Commission and BOCC the authority in the original Pre-Annexation Agreement to include the proposed Town uses along Pyramid Avenue for future improvements at the intersection with Gothic Road. The Town uses include a possible preschool and fire hall. This intersection could also accommodate a possible bus route in the future. These uses should be considered by the County in consideration of possible intersection improvements. The Town respectfully requests that the improvements be required at the time of the installation of Pyramid Avenue and meet the County specifications and warranty periods for such improvements.

2. The Town and developer are working together on the inclusion of the 8th Street right-of-way as part of the VCUP application to CDPHE. These discussions are ongoing.

3. The Town requests all easements for water and sewer be recorded on the Final Plat and platted through HOA retained lands. The Town will be working with the County and developer to propose adequate language to be recorded with the Final Plat for these easement areas. An additional easement for the future extension of sewer service should be included on the eastern boundary of Lot 9 for sewer. This easement will be consistent with the Town fulfilling its obligations to provide sewer service to lands located in the Town's Waste Water Service Area to the north of the development as identified in the Upper East River Valley Area Wide 201 Facilities Plan.

4. The Town and developer are engaged in ongoing discussions regarding the proposed cottage being used as a dwelling unit on the HOA lot, and its use under the Amended Pre-Annexation Agreement.

5. The Town and developer are discussing snow plowing on Pyramid Avenue from the intersection of 8th Street to the bridge. The turn-around radius located at the entrance to the bridge is inadequate for Town snow plowing operations."

Michael Yerman, Town Planner, Town of Crested Butte, comments in letter of May 12, 2017:
"**Response to Applicant's Letter Dated April 26, 2017**
After reviewing the Applicant's letter dated April 26, 2017, the Town would like to submit the following responses for the County's consideration.

Easement for the extension of sewer services on Lot 9
Section 6.4.15 of the original Pre-Annexation Agreement contemplates that if the Town receives a written request from a neighboring property owner, the applicant will work to provide an appropriate easement. At this time, the Town has not received a request from the neighboring property owner. Therefore, the easement request through Lot 9 to the Planning Commission is withdrawn at this time.

Cottage for use by lot owners as a dwelling
Discussions are ongoing regarding the use of future owners of the cottage as a dwelling unit. The underlying issue at play is an interpretation of the Amended Pre-Annexation Agreement which only grants 23 dwelling units for water service. An owner's complex that would be heated and plumbed was permitted, however the addition of sleeping facilities in the owner's complex create an additional dwelling unit as defined by the Town's code. The Town is working with the applicant to find a solution regarding water service to the owner's complex as defined under the Amended Agreement.

Revised engineered plans
The Town has not had ample time to conduct a review of the revised engineered plans submitted this week. The Town respectfully requests the Planning Commission allow the Town an additional week to review the revised plans.

Extension of 8th Street
The Town Council will be considering entering into a license agreement with Cypress on May 15th to allow a small portion of the dump to be cleaned up to allow 8th Street to be constructed.

Easements for water and sewer lines
The Town has recently received revised easement language. The Town respectfully requests an additional week to review the recently submitted plat and easement language"

- **Gunnison County RE-IJ School District** - No comments were received.

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

Section 9-508: Keeping of Livestock not on an Agricultural Operation.
The protective covenants will prohibit lot owners from keeping or permitting livestock on the property.

Section 10-102: *Locational Standards for Residential Development.*
The proposed subdivision meets the primary locational standard, as it is within a municipal Three Mile Plan area of the Town of Crested Butte and the Town of Crested Butte and applicant have executed a Pre-Annexation Agreement, dated February 16, 2016

Section 10-103: *Residential Density.*
The proposed development is within the Town of Crested Butte's Area Plan. While no adopted intergovernmental agreement is in place, the applicant and the Town of Crested Butte have executed a Pre-Annexation Agreement, dated February 16, 2016, which identifies the number of residential units and lot sizes proposed for the East Parcel development and therefore the residential density. Overall potential residential density for the East Parcel would be 46 units/30.4-acres or 1.4 units/acre.

Section 11-103: *Development in Areas Subject to Flood Hazards*.
The Slate River corridor contains a mapped FEMA 100-year floodplain. Information from SGM identifies that the location of the 100-year floodplain does not affect development of the subject property. All building envelopes are out of the 100-year floodplain. The bridge over the Slate River meets a required minimum one-foot freeboard, above the Base Flood Elevation.

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 subject property is within an area with low wildfire hazard, as identified by County mapping.

Section 11-106: *Protection of Wildlife Habitat Areas.*
The property is identified as sensitive wildlife habitat, pursuant to the *Land Use Resolution*, based upon comments from the Colorado Parks and Wildlife, concerning the use of the property as an elk migration corridor. Comments were received from the Colorado Division of

Wildlife, J Wenum, Area Wildlife Manger, letter of February 17, 2017, noting their approval of the *Wildlife Habitat Analysis and Mitigation Plan* submitted by BIO-Logic Inc. on behalf of Cypress Foothills, LP and mitigation measures.

Section 11-107: *Protection of Water Quality*.
The applicant has identified wetlands on the parcel, contained in a *Wetland Report for the Slate River Development*, prepared by Bikis Water Consultants. All building envelopes will maintain a minimum 25-foot setback from wetlands. Areas of the development that contain "high quality" wetlands, will meet a 50' setback, for building envelopes.

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

Section 11-109: *Development that Affects Agricultural Lands.*
The development is adjacent to the Moon Ridge Subdivision conservation covenant open space, which allows grazing. The Spann parcels, located to the north, are identified as agricultural use. The developer shall advise future property owners of Gunnison County's *Right-to-Ranch Policy.*

Section 11-110: *Development of Land beyond Snowplowed Access*.
Not applicable, the site is not located beyond snowplowed access.
Section 11-111: *Development on Inholdings in the National Wilderness.*
Not applicable, the site is not located on a National Wilderness inholding.

Section 11-112: *Development on Property above Timberline.*
Not applicable, the site is not located above timberline.

Section 12-103: *Road System*.
Pyramid Avenue will be the primary access route to the subdivision from Gothic Road. Future extension of Eighth Street will provide direct access into the Town of Crested Butte. The applicant will construct the portion of Pyramid Avenue on and through the West Parcel to the specifications of the Town of Crested Butte. All roads within the Property will have a 24' wide paved width, 4' shoulders, open channel drainage swales, and a right of way 60 feet in width. Additionally, the applicant has agreed to install a southbound turn lane on Gothic Road. The applicant provided an additional exhibit demonstrating the feasibility of driveways for lots 9 and 10, and a snow storage specific sheet to clarify the location and amount of snow storage areas. The proposed protective covenants have been amended to notify lot owners shall not plow onto, or store snow on, subdivision roads or other common areas. The covenants have also been amended to provide that landscaping on lots and common areas within six feet of any right of way for any street or road shall be of a character and type that will not be damaged from the storage of snow on such areas nor otherwise interfere with snow plowing and storage.

Marlene Crosby, Public Works Director, Gunnison County Public Works, provided initial comments, memo of April 21, 2017. And comments dated May 16, 2017 regarding the Pyramid/Gothic intersection turn lane, snow storage and driveway access points on Lots 9 and 10.

Section 12-104: *Public Trails*.
No new public trails are contemplated in this application for the East Parcel. The existing Mt. Crested Butte-Crested Butte Recreation Path is located adjacent to, but not on the property.

There is no access to the Mt. Crested Butte-Crested Butte Recreation Path from the East Parcel.

Section 12-105: *Water Supply*.
The Project will provide a central water supply that is legally and physically adequate in terms of quality, quantity, dependability, and pressure, via connection the Town of Crested Butte's water system pursuant to and in accordance with the Town Agreement. This agreement is memorialized in the Amendment to the Pre-Annexation Agreement, dated December 7th, 2016, and recorded in the office of the Gunnison County Clerk and Recorder at reception number 643828.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*
The development will be served by central sewer, via connection to the Town of Crested Butte's wastewater treatment plant. The applicant and the Town of Crested Butte have executed a *Pre-Annexation Agreement*, dated February 16, 2016 that identifies provision of sewer service provided by the Town. Additionally, Rodney Due, Town of Crested Butte, Director of Public Works, letter of February 9, 2016, notes the existing capacity of the Town's wastewater treatment works to serve the development.

Section 12-107: *Fire Protection*.
The property is served by the Crested Butte Fire Protection District. Scott Wimmer, Fire Inspector and Ric Ems, Fire Chief/Fire Marshal, letter of letter dated April 11, 2017, provided comments pertaining to the Fire District requirements. The District indicated it has no objection to the development.

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, except for Lots 7, 10, and 14, which due to topography and wetlands, have been adjusted to 15 feet from the road right-of-way. As these are interior lot line setbacks and do not affect adjacent property, the review is under the purview of the Planning Commission, as part of the design of the subdivision, and no variance is required.

Section 13-105: *Residential Building Sizes and Lot Coverages.*
Building envelopes have been delineated on the lots. All improvements will be located within the building envelopes. The lots will be restricted to a maximum primary residential building size of 5,000 square feet, a detached secondary residence or accessory buildings to 750 square feet and the aggregate square footage of all buildings is limited to a maximum of 5,750 square feet.

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. The covenants require compliance with the Town of Crested Butte's Municipal Code. No building can contain more than one (1) solid fuel burning device.

Section 13-108: ***Open Space and Recreation Areas***
The proposed development is within the Town of Crested Butte Three-Mile Plan, however there are no adopted Intergovernmental Agreement for open space, therefore the county standards apply. The development sets aside approximately 17-acres or 55% of the land for open space. The open space is be required to be maintained by the Homeowners Association and will be limited to passive uses.

Section 13-109: ***Signs.***
Signage is proposed as part of the submitted application. Sign elements are allowed by this section and require a sign permit.

Section 13-110: ***Off-Road Parking and Loading.***
A minimum of two parking spaces is required for each single-family residence. The covenants include additional restrictions on parking. The covenants also provide that operable vehicles shall be parked only within individual lots and that each lot shall provide sufficient parking areas so that no parking shall occur on the roads within the subdivision.

Section 13-111: ***Landscaping and Buffering.***
A landscaping plan has been submitted, showing that open space will be maintained in native vegetation. A detailed landscaping plan on common areas, including the type and location of plantings, planting schedule and a plan for maintenance, is identified in the Landscaping Plan, EDSA, February 22, 2017. The covenants provide that landscaping on lots and common areas within six feet of any right of way for any street or road shall be of a character and type that will not be damaged from the storage of snow on such areas nor otherwise interfere with snow plowing and storage.

Section 13-112: ***Snow storage****.*
The Homeowners Association is responsible for snow removal, as noted in the covenants, Article 8, Section 7 Roads. The location and amount of snow storage areas are identified on the *Snow Storage Plan*, SGM, and has been reviewed and approved by Marlene Crosby, Public Works Director, memo of May , 2017.

Section 13-113: ***Fencing***
All fencing shall comply with this Section. Colorado Parks and Wildlife recommends the use of "wildlife friendly" fencing and is required within the development. Specific fencing requirements are addressed in the covenants, Article 8, Section 12. Fencing.

Section 13-114: ***Exterior Lighting.***
All new structures are required to comply with this section, including the use of fully shielded exterior light fixtures.

Section 13-115: ***Reclamation and Noxious Weed Control.***
An Erosion Control Plan, prepared by SGM, March 6, 2017, addresses reclamation and noxious 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*. An Erosion Control Plan has been prepared by SGM, March 6, 2017.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*
The applicant indicates that the layout of the lots and road are intended to minimize potential erosion and sedimentation. The Preliminary/Final Plan includes an engineered drainage and stormwater management plan.

Section 13-118: *Water Impoundments.*
No water impoundments are proposed.

Section 13-119: Standards to Ensure Compatible Uses.
Design standards and limitations on the uses have been identified in the covenants, including design standards and limitations addressing neighborhood compatibility. Maximum aggregate square footage of the strucutres is 5,750; 5000 square feet for the primary residence and 750 square feet for a detached secondary residence of accessory builidng. This is similar to adjacent developments.

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

FINDINGS:
The Commission finds that:

1. 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.
2. The Commission reviewed the revised plan location of the Pyramid Avenue/Gothic Road intersection in onsite visits and in reaching a determination that the relocation of the intersection minimizes the impact of vehicle headlights on the existing residential property across Gothic Road.
3. The Commission utilized the applicant's visual renderings of the development from the Crested Butte Cemetery in its onsite visits, and in reaching a determination that views from the cemetery, including the views of Crested Butte Mountain from the cemetery, will not be significant impacted.
4. Colorado Parks and Wildlife staff determined that the proponents have adequately addressed the elk migration and wildlife concerns for the development in the *Slate River Development Subdivision Wildlife Habitat Analysis and Mitigation Plan* and by financial contribution to the *Trust for Public Lands* to assist in preserving the Upper East River/Farris Creek conservation easement on the Trampe Ranch.
5. The Town of Crested Butte will provide potable water and sanitary sewer service for the development. This agreement is memorialized in the *Amendment to Pre-Annexation Agreement*, recorded in the office of the Gunnison County Clerk and Recorder at Reception Number 643828, December 7, 2016.
6. The applicant and the Town of Crested Butte are in agreement to extend Eighth Street, dependent upon the outcome of the old Town landfill cleanup.
7. Traffic mitigation measures, particularly the installation of a southbound left turn lane on Gothic Road are sufficient for full buildout of the Slate River Development. The applicant agrees to construct a southbound left turn lane on Gothic Road at the Pyramid Avenue intersection. The applicant anticipates that paving and striping associated with this roadwork will not occur until the subdivision is paved in 2018.

8. The Crested Butte Fire Protection District reviewed the subdivision plans and has commented that it has no objection to the development.

9. The proposed land use change is compatible with the character of existing land uses in the development area, and will not adversely impact the future development of the development area.

10. Specific uses on all lots have been identified in this Plan.

11. The proposed land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution*, pursuant to *Division 7-300: Preliminary Plan for Major Impacts* and *Division 7-400: Final Plan for Major Impact Projects* of the Resolution.

12. Pursuant to Section 16-117 of the *Gunnison County Land Use Resolution* a Development Improvement Agreement is required to be achieved during a Final Plan review, ensuring collateral and identified dates of completion to ensure the construction of: roads (including the installation of southbound turn lane on Gothic Road), drainage, a potable water system, a water system for fire protection and landscaping, a sewer system, the installation of electrical, telephone and natural gas lines, landscaping and reclamation, as rendered within plans listed within the above "Documents Informing this Review and Action."

13. Pursuant to Section 7-302: K. of the *Gunnison County Land Use Resolution*, the Board has the option of conducting another public hearing to consider this Preliminary/Final Plan application and the Planning Commission's recommendation. Within 20 days of receipt of the Planning Commission's recommendation, the Board is required to determine whether to conduct a public hearing. A decision to conduct or not to conduct such a hearing shall be based on the Board's determination of whether it is in the public interest to do so, and considering among other factors the following whether there has or has not been substantial public interest in the proposal; or whether it is reasonably probable that new issues related to the Preliminary Plan application of the proposed land use change will be identified; or whether it is reasonably probable that new information related to the Preliminary/Final Plan of the proposed land use change will be provided. The Planning Commission is neither required nor prohibited from recommending that the Board conduct such a hearing.

14. The Commission finds that, given the lack of significant alterations in the plan during the course of Preliminary/Final Plan review, concerns of public interest have been substantially mitigated; further, that issues have been addressed, discussed and considered in depth during this review and it is reasonably improbable that either new issues will be identified, or new information provided, should another hearing be conducted.

15. 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.

16. 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.

RECOMMENDATION:

The Gunnison County Planning Commission, having considered the submitted Plan, site observations and public testimony has reached the above Findings and recommends to the Board of County Commissioners that LUC-2016-00009, Slate River Development, Preliminary/Final Plan, be approved with the following conditions:

1. A mylar subdivision plat, in compliance with Section 7-401 M., *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.

2. 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.

3. The applicant shall record the *Declaration of Protective Covenants – Slate River Development* contemporaneously with the subdivision plat.

4. The applicant's consultant shall coordinate with the County's consultant regarding the disposal of the Town of Crested Butte's Old Town landfill materials at the Gunnison County landfill.

5. The applicant shall construct a southbound left turn lane on Gothic Road to Pyramid Avenue.

6. The development shall not be a "gated community".

7. A Development Improvements Agreement shall be executed by the applicant and Gunnison County, including identified infrastructure costs, subject to review and approval by the Gunnison County Attorney, referencing the infrastructure plans, to include: construction of roads (including the installation of the southbound turn lane on Gothic Road), drainage, potable water system, water system for fire protection and landscaping, sewer system, installation of electrical, telephone and natural gas service lines, landscaping and reclamation, as rendered within plans identified in the "Documents Informing this Review and Action."

8. The Development Improvement Agreement shall require the applicant to provide to the County a guarantee of financial security, acceptable to the County, in an amount established by the Board based on no less than 125 percent of the estimated cost of the project, and payable on demand to the County. Said surety shall be retained by the County to a date acceptable to the County to certify completion of improvements.

9. 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.

10. 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.

11. 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. 17-___

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

WHEREAS, Cypress Foothills, LP, represented by Marcus J. Lock, Law of the Rockies, submitted the *Slate River Development Preliminary/Final Plan*, which proposes the subdivision of a 44.5-acre parcel, which has been described as a "hybrid-format" development proposal. This application is the final step in the land use review of the subdivision. The property is bisected by the Slate River, which divides the land into a "West Parcel" and an "East Parcel". The dichotomy of the hybrid-format is explained below.

The West Parcel (14.1-acres - west of the Slate River), will be severed from the 44.5-acres and remain a remainder tract, which will be annexed to the Town of Crested Butte, pursuant to a *Pre-Annexation Agreement*, in place with the Town of Crested Butte. While the West Parcel is an element of this subdivision and hybrid-format development, the County land use review primarily addresses the residential development of the East Parcel. The only County approval the applicant is seeking with respect to the West Parcel is (a) the construction of an access road (Pyramid Avenue) and utility extensions to the East Parcel, (b) certain grading, berming, landscaping, and trail construction as shown on Cypress's engineered plans; (c) the cleanup of the old Town landfill pursuant to and in accordance with a Voluntary Clean Up Plan ("VCUP"), with the Town of Crested Butte, approved and overseen by the Colorado Department of Public Health and Environment; and (d) any other County approval necessary to effectuate the intent and purposes of the *Pre-Annexation Agreement* or satisfy the terms and conditions thereof. No other uses are approved on the West Parcel.

The East Parcel (30.4-acres - east of the Slate River) will be subdivided into 23 single-family residential lots, with the opportunity for a secondary residence on each lot, and a Homeowners Association Lot, on which an owner's complex may be potentially constructed. However, in the event the owner's complex is constructed, it will not contain any bedrooms to accommodate sleeping within it. Lot sizes range from one-third to just under an acre. Access to the East Parcel will be from Gothic Road, via construction of a new road (Pyramid Avenue). The lots will be restricted to a maximum primary residential building size of 5,000 square feet, a detached secondary residence or accessory buildings up to 750 square feet and the aggregate square footage of all buildings of 5,750 square feet. Water will be provided by connection to the Town of Crested Butte's municipal water system, and wastewater will be provided by central sewer, via connection to the Town of Crested Butte's municipal sewer system. The applicant has identified that this development will not be a "gated community". A final narrative of the subdivision protective covenants has been submitted addressing the homeowner association responsibilities, architectural style and design guidelines and County required covenant provisions; and

WHEREAS, a joint public hearing was conducted May 12 and May 19, by the Planning Commission and Board of County Commissioners; and

WHEREAS, after a review of the application and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, at its regular meeting on May 19, 2017 forward to the Board of County Commissioners a Recommendation of approval of that application with certain Findings and Conditions;

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

FINDINGS:

1. 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.

2. The Commission reviewed the revised plan location of the Pyramid Avenue/Gothic Road intersection in onsite visits and in reaching a determination that the relocation of the intersection minimizes the impact of vehicle headlights on the existing residential property across Gothic Road.

3. The Commission utilized the applicant's visual renderings of the development from the Crested Butte Cemetery in its onsite visits, and in reaching a determination that views from the cemetery, including the views of Crested Butte Mountain from the cemetery, will not be significant impacted.

4. Colorado Parks and Wildlife staff determined that the proponents have adequately addressed the elk migration and wildlife concerns for the development in the *Slate River Development Subdivision Wildlife Habitat Analysis and Mitigation Plan* and by financial contribution to the *Trust for Public Lands* to assist in preserving the Upper East River/Farris Creek conservation easement on the Trampe Ranch.

5. The Town of Crested Butte will provide potable water and sanitary sewer service for the development. This agreement is memorialized in the *Amendment to Pre-Annexation Agreement*, recorded in the office of the Gunnison County Clerk and Recorder at Reception Number 643828, December 7, 2016.

6. The applicant and the Town of Crested Butte are in agreement to extend Eighth Street, dependent upon the outcome of the old Town landfill cleanup.

7. Traffic mitigation measures, particularly the installation of a southbound left turn lane on Gothic Road are sufficient for full buildout of the Slate River Development. The applicant agrees to construct a southbound left turn lane on Gothic Road at the Pyramid Avenue intersection. The applicant anticipates that paving and striping associated with this roadwork will not occur until the subdivision is paved in 2018.

8. The Crested Butte Fire Protection District reviewed the subdivision plans and has commented that it has no objection to the development.

9. The proposed land use change is compatible with the character of existing land uses in the development area, and will not adversely impact the future development of the development area.

10. Specific uses on all lots have been identified in this Plan.

11. The proposed land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution*, pursuant to *Division 7-300: Preliminary Plan for Major Impacts* and *Division 7-400: Final Plan for Major Impact Projects* of the Resolution.

12. Pursuant to Section 16-117 of the *Gunnison County Land Use Resolution* a Development Improvement Agreement is required to be achieved during a Final Plan review, ensuring collateral and identified dates of completion to ensure the construction of: roads (including the installation of southbound turn lane on Gothic Road), drainage, a potable water system, a water system for fire protection and landscaping, a sewer system, the installation of electrical, telephone and natural gas lines, landscaping and reclamation, as rendered within plans listed within the above "Documents Informing this Review and Action."

13. Pursuant to Section 7-302: K. of the *Gunnison County Land Use Resolution*, the Board has the option of conducting another public hearing to consider this Preliminary/Final Plan application and the Planning

Commission's recommendation. Within 20 days of receipt of the Planning Commission's recommendation, the Board is required to determine whether to conduct a public hearing. A decision to conduct or not to conduct such a hearing shall be based on the Board's determination of whether it is in the public interest to do so, and considering among other factors the following whether there has or has not been substantial public interest in the proposal; or whether it is reasonably probable that new issues related to the Preliminary Plan application of the proposed land use change will be identified; or whether it is reasonably probable that new information related to the Preliminary/Final Plan of the proposed land use change will be provided. The Planning Commission is neither required nor prohibited from recommending that the Board conduct such a hearing.

14. The Commission finds that, given the lack of significant alterations in the plan during the course of Preliminary/Final Plan review, concerns of public interest have been substantially mitigated; further, that issues have been addressed, discussed and considered in depth during this review and it is reasonably improbable that either new issues will be identified, or new information provided, should another hearing be conducted.

15. 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.

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

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

1. A mylar subdivision plat, in compliance with Section 7-401 M., *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.

2. 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.

3. The applicant shall record the *Declaration of Protective Covenants – Slate River Development* contemporaneously with the subdivision plat.

4. The applicant's consultant shall coordinate with the County's consultant regarding the disposal of the Town of Crested Butte's Old Town landfill materials at the Gunnison County landfill.

5. The applicant shall construct a southbound left turn lane on Gothic Road to Pyramid Avenue.

6. The development shall not be a "gated community".

7. A Development Improvements Agreement shall be executed by the applicant and Gunnison County, including identified infrastructure costs, subject to review and approval by the Gunnison County Attorney, referencing the infrastructure plans, to include: construction of roads (including the installation of the southbound turn lane on Gothic Road), drainage, potable water system, water system for fire protection and landscaping, sewer system, installation of electrical, telephone and

natural gas service lines, landscaping and reclamation, as rendered within plans identified in the "Documents Informing this Review and Action."

8. The Development Improvement Agreement shall require the applicant to provide to the County a guarantee of financial security, acceptable to the County, in an amount established by the Board based on no less than 125 percent of the estimated cost of the project, and payable on demand to the County. Said surety shall be retained by the County to a date acceptable to the County to certify completion of improvements.

9. 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.

10. 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.

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

THIS APPROVAL is effected noting that decision documentation includes, but is not limited to, the application and the entire Community Development 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 6th day of May, 2017.

BOARD OF COUNTY COMMISSIONERS

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

ATTEST:

_____

Gunnison County Clerk and Recorder