

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, July 21, 2017

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

9:00 a.m. Gunnison West Gravel Pit Expansion, Oldcastle SW Group, Inc. dba United Companies, represented by Ben Langenfeld, Greg Lewicki and Associates, PLLC, public hearing/possible action, request expansion of the West Gunnison sand and gravel, on 7.5-acres, for a new gravel pit, directly west of the existing operational gravel pit. No other changes to the existing processing operation are proposed. The location is approximately one mile south of the City of Gunnison, west of County Road 38 (Gold Basin), within the W1/2 Section 11, Range 49 North, Range 1 West, NMPM, 1681 Gold Basin Road.

10:00 a.m. Sciortino Subdivision, work session/possible action, request to legitimize the conveyance of an illegal 25-acre parcel as a legal lot. The property is located directly east of Highway 135, approximately 18.5 miles north of the City of Gunnison. The property is legally described as being within the SW1/4NW1/4 Section 2 and the SE1/4NE1/4 Section 3, Township 15 South, Range 85 West, 6th P.M, consisting of 25.32-acres.
LUC-16-00038

Adjourn

The applications can be viewed on gunnisoncounty.org, link to <http://204.132.78.100/citizenaccess/>

- Public access
- Projects
- Application #
- Attachments

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
July 21, 2017**

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

Chairman- Kent Fulton Vice-Chairman- Jack Diani Commissioner- AJ Cattles Commissioner-Tom Venard Commissioner-Molly Muggleston Alternate Commissioner- Sarah Coleman Alternate Commissioner- Vince Rogalski	Director of Community Development- Cathie Pagano Assistant Director- Neal Starkebaum Manager of Administrative Services- Beth Baker Others present as listed in text
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With a quorum present Vice Chairman Diani opened the July 21, 2017, regular meeting of the Planning Commission.

Chairman Fulton seated Commissioners Coleman and Rogalski for the vote on the minutes.

Moved by Fulton seconded by Cattles to approve the minutes of July 7, 2017 as amended. The motion passed unanimously.

Gunnison West Gravel Pit Expansion (LUC-17-00018) The Gunnison County Planning Commission conducted a public hearing/ with possible action. They reviewed the requested expansion of the West Gunnison pit, on 7.5-acres, for a new gravel pit, directly west of the existing operational gravel pit. No other changes to the existing processing operation are proposed. The location is approximately one mile south of the City of Gunnison, west of County Road 38 (Gold Basin), within the W1/2 Section 11, Range 49 North, Range 1 West, NMPM, 1681 Gold Basin Road.

With a quorum present Chairman Fulton opened the public hearing.

Administrative Services Manager Beth Baker confirmed adequate public notice. The applicant submitted the certified mailing receipts and proof of posting and the Community Development Department had the notice published in the Crested Butte News and Gunnison Country Times.

Present representing staff: Assistant Director of Community Development Neal Starkebaum, Manager of Administrative Services Beth Baker.

Present representing the Planning Commission: Commissioners Fulton, Diani, Cattles, Venard, Mugglestone, Coleman and Rogalski.

Present representing the application: Ben Langenfeld with Greg Lewicki and Associates.

Site Visit Comments

- **Cattles-** good to see the pond that has been reclaimed.
- **Rogalski-** saw no problems.
- **Coleman-** agreed with Cattles.
- **Venard-** agreed with previous comments.
- **Diani-** agreed with previous comments
- **Fulton-** good to see how and where the berms will move, and he agreed with previous comments.

Langenfeld explained the request. He said the Ready Mix Pit aka Gunnison West Gravel Pit. Is requesting an expansion of 7.5 to 8 acres. The expansion will be south and west along Tomichi Creek; all the processing and stockpiles will be in the existing area. They are requesting a new pit, the existing pit is close to mined out. The mined out pits will be turned into lakes. The new deposit is very deep, and it will be mined to final grade. The lifespan of the new pit is estimated at 10 to 12 years, but it is all market driven.

Fulton asked if the new berm would go in first, before the knockdown of the old berm. Langenfeld said the new berm will go up first and be established before the old berm comes down.

Coleman asked if the existing mature vegetation could be moved to the new berm. Langenfeld said there are just a few trees and reseeding usually works better than moving vegetation. He noted erosion control is the priority. He said they will leave the trees which are currently there, and only cut out a small access point.

Starkebaum noted Attorney Kendall Burgermeister, representing the Dunbar Ranch, had submitted a comment letter.

Fulton asked about ditches that run through the project. Lewiki said they do not want to dry up any area not needed, to allow for continued grazing.

Burgemeister explained the Dunbar Family Partnership concerns were visibility of the pit from their property. Langenfeld said the visibility concern has always been from the west side of the pit. They would consider berming the north side as well. The issue will be if there is enough top soil to establish a berm on the north side of the pit.

Paul Jones, representing Tomichi Creek Wetlands, said they were present to maintain their water rights in the ditches.

Moved by Diani seconded by Venard to approve LUC-17-00018, Gunnison West Gravel Pit Expansion; the expansion of the West Gunnison sand and gravel pit, on 7.5-acres, for a new gravel pit, directly west of the existing operational gravel pit. The motion passed unanimously.

Fulton closed the public hearing.

PROJECT DESCRIPTION:

Oldcastle SW Group, Inc., dba United Companies, represented by Lewicki and Associates, Ben Langenfeld, request the expansion of the existing Gunnison West Pit (also known as the Ready Mix Pit), to allow the mining of an additional 7.5-acres, directly to the west of the existing mined gravel pit, in conjunction with a Colorado Division of Reclamation, Mining and Safety (DRMS) Permit. The location of the existing processing operations, including crushing, screening, washing and stockpiling of materials for the existing operation will not change and there will be no changes to the historic operation of the processing of materials. The site will be reclaimed pursuant to the DRMS permit.

LOCATION:

The location is approximately one mile south of the City of Gunnison, west of County Road 38 (Gold Basin), within the W1/2 Section 11, Range 49 North, Range 1 West, NMPM, 1681 Gold Basin Road.

SURROUNDING LAND USES:

East – Gunnison County – Wilson Ranch
West – Vacant, agricultural
North - Gunnison County Public Works facility
South - Tomichi Creek Preserve

IMPACT CLASSIFICATION:

The Planning Commission reviewed the criteria for impact classification found in Section 3-111: Impact Classification. As the request only involves the following:

- expansion of the operation is solely to allow a new mining pit to extend the life of the mine, and

- no changes to the existing historical processing activities;
- no increased demand for public services;
- no increase of traffic;
- limited impacts to the area and environment.

The Planning Commission unanimously determined that the classification for the review of the project is a Minor Impact Project.

DOCUMENTS INFORMING THIS REVIEW AND ACTION:

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, maps, references and documents, but are not limited to:

- Minor Impact Application
- DRMS 112 (c) Permit
- Comments from Jim Cochran, Wildlife Coordinator, February 15, 2016

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

Section 9-100: Uses Secondary to a Primary Residence.

Not applicable. No secondary uses are proposed as part of this application.

Section 9-200: Special Residential Uses.

Not applicable. No special residential uses are proposed as part of this application.

Section 9-300: Commercial and Industrial Uses.

Not applicable. This permit is solely for the expansion of the mining pit and not an expansion of the existing industrial processing operations historically conducted on the property.

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

The table below shows the distance from the nearest example of each type of item a setback is required from and compliance with setback.

Table 4: Setbacks for Construction Materials Operations

	Setback Req. Distance	Pit Distance
Public Roads	500' from centerline; 50' from edge of ROW	>500'
Natural Water Body	100'	>100'
Federally Designated Wilderness, Parks or Rec Area, Dedicated Open Space of Public	1000'	>1000'
Residential Structures	125' or less with owner consent; 250' for	>500'
Public and Civic Buildings	1,000'	>1000'
Public Cemetery	125'	>1 mile
Adjacent Property, Right-of-Way, or Irrigation Ditch	30'	>30'
Sensitive Wildlife Habitat	As required by Section 11-106 in the county LUC	

Section 9-405: General Development Standards for Mining Operations

A. Access and Transportation Plan

Access will be directly from the existing processing area. No new access to the County Road or increase in traffic is proposed as part of the pit expansion.

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

No changes to the existing location of the processing operations; crusher/screener system, and wash plant. Asphalt is occasionally produced at the site, but concrete is not currently being batched.

C. Impacts on Environmental and Cultural Resources

1. Water

The pit operation will eventually encounter groundwater, that will be pumped out as excavation of the pit and mining continues, similar to the existing operation.

2. Avoidance of Sensitive Areas

The pit will not affect any sensitive areas as defined in the Land Use Resolution.

3. Air Quality

Dust generated by mining operations and traffic will be minimized by watering of the disturbed areas and roadways.

4. Significant Cultural, Historical, and Archeological Resources

A cultural resources study was performed, Alpine Archeological Consultants, Inc., as part of the DRMS permit application.

Standard protocol will be in place for personnel to notify the mine manager or shift foreman of anything encountered.

D. Mine Wastes and Hazardous Materials

Hazardous materials expected to be present on site during mining consist exclusively of petroleum products and similar materials. These will be stored in accordance with the required SPCC plan for the site.

E. Visual Impacts

The new pit will be bermed on the west. The pit will also be bermed on the north, contingent upon a sufficient supply of topsoil being available. The pit will not be able to be seen from Gold Basin Road, or surrounding areas.

F. General Operations

1. Compliance with MSHA

All operations at the pit will be conducted in compliance with all state, federal, and local safety regulations that apply.

2. Hours of Operation

No changes to the current hours of operation.

3. Phasing of Mining Operations

No phasing proposed.

4. Fire Protection

The area is within a low wildfire hazard area. Staff conversation with Dennis Spritzer, Fire Marshall, Gunnison County Fire Protection District, noted no concerns with the operations. The operator is required to have a Spill Prevention and Control (SPCC) Plan in place, and on-site fire suppression.

5. Fencing

Fencing may be erected to keep cattle out of the pit area.

6. Noise

Once the pit is excavated below grade, the noise generated will be similar to the current mining operation.

G. Post-Operational Land Use

The end reclamation plan for the pit is a lake and rangeland habitat.

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

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

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

Not applicable, the subject site is not in an area of flood hazards.

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

Not applicable, the subject site is not in an area of geologic hazards.

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

Applicable, the subject parcel is in an area of low wildfire hazard.

Section 11-106: Protection of Wildlife Habitat Areas.

Applicable, the subject parcel is not located within sensitive wildlife habitat. Comments from Jim Cochran, Wildlife Coordinator, February 15, 2016, noted:

“Based on this analysis and a review of the data available, I find that the proposed development on this parcel will not adversely impact Gunnison sage-grouse and/or their habitats.

Because there is Gunnison sage-grouse habitat nearby, I recommend the following permit conditions. These conditions are intended to avoid, minimize and/or mitigate offsite impacts to Gunnison sage-grouse and their habitats that may result from the proposed development and associated activities.

- 1) A Gunnison County Reclamation Permit should be required for this project if the disturbed area is 10,000 square feet or larger. That permit should contain specific reclamation conditions. Disturbed areas should be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix. All reclamation activities, including seed application and final grading should be completed according to NRCS guidance on timing of reclamation plantings at this elevation and latitude.
- 2) If a Reclamation Permit is not required, disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.
- 3) The property owner should be required to control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: <http://www.colorado.gov/cs/Satellite?c=Page&cid=1174084048733&pagename=Agriculture-Main/CDAGLayout> The Gunnison County Weed Management Program should be contacted (970-641-4393) for additional information and technical assistance.
- 4) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution*, dogs and cats should be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.
- 5) Development outside of the area proposed in this application should additionally be reviewed for impacts to Gunnison sage-grouse and their habitats.”

Section 11-107: Protection of Water Quality.

Not applicable in context with this section, as no disturbance is within 100 feet of a waterbody.

Section 11-108: Standards for Development on Ridgelines.

Not applicable. The site is not located on a ridgeline.

Section 11-109: Development that Affects Agricultural Lands.

Not applicable, the subject parcel will not directly affect adjacent agricultural lands. There are agricultural lands to the west, owned by the applicant, that have been used for grazing.

Section 11-110: Development of Land beyond Snowplowed Access.

Not applicable, the site is not located beyond snowplowed access.

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

Not applicable, the site is not located on a National Wilderness Inholding.

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

Not applicable, the site is not located above timberline.

Section 12-103: *Road System.*

Applicable. No changes to the existing access or traffic patterns.

Section 12-104: *Public Trails.*

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

Section 12-105: *Water Supply.*

The current operation operates under a substitute water supply plan, approved by the State Division of Water Resources.

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

Not applicable. No sewage treatment is required for this use. Employees will utilize the existing sanitary facilities in the existing building.

Section 12-107: *Fire Protection.*

The proposed development is located within the Gunnison Fire Protection District. The applicant shall comply with the State Spill Prevention and Response Plan.

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

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

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

See Section 9-404: Setbacks for Mining Operations.

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

Not Applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable to mining operations.

Section 13-109: *Signs.*

Applicable, identification signs are permitted.

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

Applicable. The applicant has sufficient areas for parking.

Section 13-111: *Landscaping and Buffering.*

Section 13-111 is specifically not applicable to mining operations.

Section 13-112: *Snow storage.*

Not applicable. This is a seasonal operation.

Section 13-113: Fencing

Applicable, all fencing shall comply with this section.

Section 13-114: Exterior Lighting.

Not applicable. No exterior lighting is required.

Section 13-115: Reclamation And Noxious Weed Control.

Applicable, reclamation and noxious weed control is required by the State Division of Reclamation and Mining Safety permit, and contained in the reclamation plan for the operation.

Section 13-116: Grading and Erosion Control.

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

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

Applicable, as required, a stormwater management plan is required within the requirements of the State Division of Reclamation and Mining Safety permit and will be concurrent with requirements of the State permit for the mining activities.

Section 13-118: Water Impoundments.

Not applicable, this project does not propose a water impoundment that is greater than 99-acre feet.

Section 13-119: Standards to Ensure Compatible Uses.

The site was chosen to provide the least impact to the area, in proximity to the existing operation, while providing a suitable supply of materials for the project. The site is adjacent to the existing historical sand and gravel operation. The use has coexisted with development in the vicinity for decades. There is no record of any complaints from the mining operation.

Article 15: Right-to-Ranch Policy.

This section is not applicable.

WORK SESSIONS/ SITE VISIT:

The Planning Commission conducted a work session and site visit on July 7, 2017. The Commission toured the location and viewed the site in relation to the existing operation and development in the area.

PUBLIC HEARING:

The Planning Commission conducted a public hearing on July 21, 2017. At that time.

Kendall K. Burgemeister, Law of the Rockies, representing the adjacent landowner, Dunbar Family Partnership, LP, noted concerns with the berming and irrigation ditches.

Paul Jones, Tomichi Creek Wetlands, noted that they did not want their water rights impacted.

Kendall K. Burgemeister, Law of the Rockies, representing the adjacent landowner, Dunbar Family Partnership, LP, letter dated July 20, 2017, noted concerns with the berming and irrigation ditches.

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

FINDINGS:

The Commission finds that:

1. The proposed project is classified as a Minor Impact Project, based upon a review of criteria for impact classification found in Section 3-111: Impact Classification.
2. Pursuant to *Section 6-103: Standards of Approval for Minor Impact Projects*, the Commission finds that this project complies with the standards of approval and requirements of the *Resolution*.

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

DECISION:

The Gunnison County Planning Commission, having reviewed all the documentation submitted to the County and included within the Planning Office file relative to this application and public testimony and having reached the above cited Findings, approves LUC #2017-00018, Oldcastle SW Group, Inc., dba United Companies, Gunnison West Pit expansion, with the following conditions:

1. This permit is limited to activities described within this application, and as depicted on the site plans submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
2. The Operator shall comply with the applicable standards identified in *Section 9-405: General Development Standards for Mining Operations*.
3. The applicant shall follow the recommended conditions noted in Jim Cochran, Wildlife Coordinator, February 15, 2016 comments:
 - 1) Disturbed areas should be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix. All reclamation activities, including seed application and final grading should be completed according to NRCS guidance on timing of reclamation plantings at this elevation and latitude.
 - 2) If a Reclamation Permit is not required, disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.
 - 3) The property owner should be required to control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: <http://www.colorado.gov/cs/Satellite?c=Page&cid=1174084048733&pagenam e=Agriculture-Main/CDAG Layout The Gunnison County Weed Management Program> should be contacted (970-641-4393) for additional information and technical assistance.
 - 4) Per Section 11-106 G.3.d.1. of the Gunnison County Land Use Resolution, dogs and cats should be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.
 - 5) Development outside of the area proposed in this application should additionally be reviewed for impacts to Gunnison sage-grouse and their habitats."
4. The applicant shall coordinate with the Colorado Division of Reclamation, Mining and Safety (DRMS) in the appropriate seed mixes used for reclamation, as the reclamation permit is issued by the DRMS.
5. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
6. The applicant shall construct a berm on the west edge of the pit, at the time of topsoil stripping.
7. The applicant shall construct a berm on the north edge of the pit, at the time of topsoil stripping, contingent upon having sufficient topsoil materials available.

8. These permits may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
9. 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.
10. Approval of this Plan is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

Sciortino Subdivision (LUC-16-00038) The Gunnison County Planning Commission conducted a work session with possible action. They reviewed the application for the request to legitimize the conveyance of an illegal 25-acre parcel as a legal lot. The property is located directly east of Highway 135, approximately 18.5 miles north of the City of Gunnison. The property described as being within the SW1/4NW1/4 Section 2 and the SE1/4NE1/4 Section 3, Township 15 South, Range 85 West, 6th P.M, consisting of 25.32-acres.

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

Present representing staff: Assistant Director of Community Development Neal Starkebaum, Manager of Administrative Services Beth Baker.

Present representing the Planning Commission: Commissioners Fulton, Diani, Cattles, Venard, Mugglestone, Coleman and Rogalski.

Present representing the application: applicant Trey Sciortino, and attorney Marcus Lock.

Starkebaum pointed out the joint public hearing conducted on May 19, 2017, was closed, so the information submitted by Lock cannot be placed in the public record. Lock requested the public hearing be reopened. Fulton said the public hearing would remain closed.

The Planning Commission reviewed the draft decision.

Moved by Diani seconded by Fulton to deny LUC-16-00038, Sciortino Subdivision request to legitimize the conveyance of an illegal 25-acre parcel as a legal lot. The motion passed with Commissioners Fulton, Diani, Venard, Cattles, voting yes and Muggleston voting no.

PROJECT SUMMARY:

Trey Sciortino (currently under contract to purchase the property), as authorized by Caleb M. Brewer and Chad Anderson (owners), and as represented by Marcus Lock, is requesting to legitimize an illegally created 25-acre parcel as a legal, subdivided lot, to allow the issuance of County building and onsite wastewater treatment system permits.

BACKGROUND: The following is a timeline of the conveyance of the subject parcel. On June 9, 2005 Diane K. Anderson sold a 60-acre parcel to Tad Puckett, deed recorded in the Office of the Gunnison County Clerk and Recorder, at Reception No. 554424. On January 23 2006, Tad Puckett conveyed 35-acres of the 60-acre parcel to Bersaw LLC, deed recorded in the Office of the Gunnison County Clerk and Recorder, at Reception No. 562395, resulting in a remainder tract of 25-acres (the subject parcel). This conveyance created an illegal subdivision of land pursuant to Colorado CRS 30-28-101(10)(b) and the *Gunnison County Land Use Resolution*. Tad Puckett subsequently sold the property to Caleb M. Brewer and Chad Anderson, on June 23, 2016, deed recorded in the Office of the Gunnison County Clerk and Recorder, at Reception No. 640115.

LOCATION:

The property is located directly east of Highway 135, approximately 18.5 miles north of the City of Gunnison. The property is legally described as being within the SW1/4NW1/4 Section 2 and the SE1/4NE1/4 Section 3, Township 15 South, Range 85 West, 6th P.M, consisting of 25.32-acres.

SURROUNDING LAND USES:

West – 35-acre parcels in the Reserve on the East River development, vacant (across Highway 135)
North – Colorado Department of Transportation Exempt Parcel – 23-acres; vacant - (part of 1, Section 3, the other part of Lot 1, Section 3 is a 12-acre CDOT parcel west of and across Highway 135 – Highway 135 bisects the total 35-acres. The CDOT highway maintenance facility is located on this parcel.
East – USFS – National Forest
South – 35-acre parcel (Bersaw, LLC), created through the illegal subdivision of the 60-acre parcel; 35- acre parcels in the Roaring Judy Ranch development

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

PLANS/REPORTS/SUBMITTALS:

- Plans, reports, and other submittal documents informing this Decision include, but are not limited to:
- Minor Impact Land Use Change Application

MEETING DATES:

The Planning Commission held meetings on the following dates:

- January 6, 2017 Work Session
- April 7, 2017 Work Session
- May 19, 2017 Joint Public Hearing
- July 21, 2017 Work Session

SITE VISIT:

The Planning Commission conducted a site visit on April 7, 2017. The Commissioners viewed the parcel, the adjacent parcels, and the parcels comprising the neighborhood.

PUBLIC HEARING:

The Planning Commission and the Board of County Commissioners conducted a joint public hearing on May 19, 2017. At that time, no members from the public were present and one written public comment was received from William E. Abraham, President, Reserve on the East River Homeowners Association, noting they have no objection to the request, if the development was limited to one single-family residence.

Substantial time was taken to discuss the issues associated with the creation of an illegal lot and the avenues for reviewing such an application.

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

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

The request is to legitimize an illegal subdivision of land, via an after-the-fact subdivision request. The main focus of the Planning Commission’s review of the standards of the *Land Use Resolution* was compliance with *Article 10: Locational Standards.*

Compliance with additional standards of the *Land Use Resolution* was discussed, but the Commission advised the applicant that they did not want the applicant to invest a significant amount of time and money in addressing additional development standards, until compliance with the Locational Standards was determined.

ARTICLE 10: Locational Standards

Section 10-101: Purpose

This Article establishes improvement standards that are intended to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights, to encourage development in areas closest to existing population centers, to foster growth that is orderly and reasonable in its rate and location, and is compatible with existing uses, and to promote the use of existing infrastructure.

Section 10-102: Locational Standards for Residential Development.

A. APPLICABILITY. Any application for a new subdivision shall be subject to the requirements of this Section.

- 1. EXEMPTION FOR PARCELS PART OF AGRICULTURAL OPERATION.** A new subdivision on a parcel on which an agricultural operation is conducted and that creates one new lot in addition to the existing parcel shall be exempt from the requirements of this Section except that subdivisions may not be obtained sequentially to avoid compliance with this Section. One such exemption per parcel shall be allowed every five years.

Not applicable. An agricultural operation is not conducted on the property.

B. LOCATIONAL STANDARDS. In addition to all applicable standards of this Resolution, An application for a new subdivision shall initially be reviewed for its location relative to existing development and shall be located:

- 1. ADJACENT TO EXISTING POPULATION CENTER.** Adjacent to the established population centers of Somerset, Ohio City, Almont or Crested Butte South or the incorporated municipalities of Gunnison, Crested Butte, Mt. Crested Butte, Pitkin or Marble, or to a subdivision that is served by a central wastewater treatment system that was platted and approved pursuant to the requirements of the former Gunnison County Land Use Resolution.

Noncompliant. The property is not adjacent to an existing population center.

- 2. WITHIN A MUNICIPAL THREE MILE PLAN AREA.** Within a municipal Three Mile Plan area.

Noncompliant. The property is not within a Municipal Three Mile Plan Area.

The request does not meet the primary residential density standard. The proposed subdivision is not located adjacent to an existing population center or within a municipal three-mile area.

- 3. LOCATION RESULTS IN NO SIGNIFICANT NET ADVERSE IMPACT TO THE NEIGHBORHOOD.** When the applicant has demonstrated that a proposed residential development cannot satisfy the locational standard, the location may be approved if the Board finds that in addition to meeting all of the applicable requirements of this Resolution, the cumulative impacts of the proposed development and existing development will result in no significant net adverse impact to neighborhood lands or land uses, wildlife, visual quality, air or water quality, including impacts caused by a proliferation of individual sewage disposal systems and/or individual water wells.

Article 2. Definitions. NEIGHBORHOOD means an area or locality characterized by similar or compatible land uses, that may be identified by a place name and/or has boundaries composed of major streets, distinct changes in land use and/or land formations, topography or water bodies.

The Planning Commission determined that the “neighborhood” for this project is defined as the lands adjacent to Highway 135, demarcated by a corridor extending north of County Road 813 (Jack’s Cabin cut-off) and south of the Red Mountain Ranch 35-acre development. This corridor, adjacent to Highway 135, consists primarily of existing large ranching parcels (35+acre parcels) and existing 35-acre development parcels, (not subject to County subdivision review).

SECTION 10-103: RESIDENTIAL DENSITY

A. PURPOSE. The purpose of this Section is to prevent sprawl and leapfrog development and to allow for flexibility in residential subdivision design.

B. APPLICABILITY. Any application for a proposed subdivision shall be subject to the requirements of this Section.

1. **EXEMPTION FOR PARCELS PART OF AGRICULTURAL OPERATION.** A new subdivision on a parcel on which an agricultural operation is conducted and that creates one new lot in addition to the existing parcel shall be exempt from the requirements of this Section except that subdivisions may not be obtained sequentially to avoid compliance with this Section. One such exemption per parcel shall be allowed every five years.

Not applicable. There is no agricultural operation conducted on the property.

C. PRIMARY RESIDENTIAL LOT SIZE AND DENSITY STANDARDS. Residential lot sizes and density of a land use shall change shall initially be reviewed relative to existing development.

1. **COMPLIANCE WITH MUNICIPAL THREE MILE PLAN AREA.** When the proposal is for development located within a municipal three-mile plan area, the development proposal shall address how it comports with the objectives and policies of the applicable municipal three-mile plan. The County shall consider how the proposed development has addressed those objectives and policies, and any further intergovernmental agreement between the County and the municipal government regarding the three-mile plan area. Where there is a conflict between the objectives or policies of a three-mile plan or the intergovernmental agreement, and County standards, County standards shall apply; and

Noncompliant. The property is not within a Municipal Three Mile Plan Area.

2. **DETERMINATION OF DENSITY CONSIDERS SEWAGE DISPOSAL REQUIREMENTS.** Location, configuration, and the final maximum density of lots one acre or larger in a proposed development shall be determined subject to feasibility of use of individual sewage disposal systems pursuant to the Gunnison County On-Site Wastewater Treatment System Regulations. In no case shall any lots smaller than an acre be allowed in a new subdivision unless served by a central or regional wastewater treatment system, and
3. **LOT SIZE AND LOT DENSITY CONSIDERATIONS.** Unless exempted pursuant to Section 10-103: B.1.: Exemption for Parcels on Agricultural Operation, lot size and lot density shall be substantially similar to neighborhood parcels unless the standards of either (a) or (b) are met:

- a. **CONDITIONS ARE APPROPRIATE FOR SMALLER LOTS OR GREATER DENSITY.** The project shall be considered for smaller lots or greater density when all of the following four requirements are met:
 1. **DEVELOPMENT SERVED BY PUBLIC WASTEWATER TREATMENT SYSTEM.** The development is or will be served by a public wastewater treatment system, by approval of the subject application pursuant to Section 12-106: Sewage Disposal/Wastewater Treatment.

Noncompliant. The property cannot be served by a public wastewater treatment system. There is no public wastewater treatment system within several miles.

2. **DEVELOPMENT SERVED BY OTHER SERVICES AND FACILITIES.** To the maximum extent feasible, the development is or will be served by a public water supply, public transportation and other public services and facilities by approval of the subject application.

Noncompliant. The property cannot be served by a public water supply system. There is no public water system within several miles.

3. **COMPATIBLE WITH NEIGHBORHOOD.** The development is compatible with the neighborhood existing when the Land Use Change Permit application is submitted. Methods of ensuring compatibility may include, but are not limited to:

- a. **PERMANENT COVENANTS TO ENSURE CONTINUED COMPATIBILITY WITH NEIGHBORHOOD USES AND DENSITIES.** The proposed development includes permanent protective covenants that, at a minimum, address the following, to ensure that, if approved, it remains compatible with the neighborhood-uses and densities that exist as of the date of approval of the Land Use Change Permit:

1. **DESIGN STANDARDS.** Building exterior design standards.
2. **LANDSCAPING.** Landscaping requirements.
3. **OUTSIDE PARKING AND STORAGE.** Standards and limitations on outside parking and storage.

- 4. COMPATIBILITY OF USES.** *Conditions pursuant to Section 13-119: Standards to Ensure Compatible Uses.*
- 5. BUILDING SIZE.** *Building size.*
- b. SITE LAYOUT AND DESIGN.** *The proposed development shall locate buildings and lots to minimize to minimize visual impact.*

Noncompliant. The density of the majority of the parcels in the neighborhood is 1 unit/35 acres or larger. The Commission determines that the application is not compatible with existing neighborhood uses and densities, and therefore permanent covenants that allow only one single family residence do not ensure compatibility. The parcel is 25-acres, however, the area of developable land is only two acres, due to the steepness of the remainder of the parcel and the significant rockfall hazard that is present on the property. The small developable area limits the options for the location of the residence, with regard to visibility from the highway and compatibility with the existing development in the area.

- 4. IMPACT OF INCREASED DENSITY IS MITIGATED.** *The decision-making body finds that impacts of the increased density have been reasonably mitigated; methods of mitigation may include, but are not limited to:*
 - a. ADDITIONAL OPEN SPACE.** *The amount of open space included in the proposed development exceeds the amount required by Section 13-108: Open Space and Recreation Areas by at least ten percent of the total land designated for residential uses within the development.*
 - b. PROVISION OF ESSENTIAL RESIDENCES.** *Provision of Essential Residences that equal at least ten percent of the total number of residences, in addition to any other applicable requirements of this Resolution.*
 - c. CLUSTERING OF RESIDENCES.** *Residences are clustered to minimize visual impact and impacts on wildlife habitats as depicted on Wildlife Habitat Maps.*
 - d. PARTICIPATION IN PUBLIC TRANSPORTATION SYSTEM.** *As applicable, provision of a bus stop or similar facility for use with an existing public transportation system.*

The impact of increased density cannot be mitigated as the methods of mitigation are not reasonably applicable to one lot.

FINDINGS:

The Commission finds that:

1. The 25-acre subject parcel was created through an illegal subdivision of land, in violation of Colorado CRS 30-28-101(10)(b) and the *Gunnison County Land Use Resolution*. The previous owner, Tad Puckett, was advised of the subdivision regulations in Gunnison County, through previous conversations with Planning Staff.
2. The Planning Commission classifies the request as a Minor Impact Project review.
3. *Article 10: Location Standards of the Land Use Resolution* establishes improvement standards that are intended to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights, to encourage development in areas closest to existing population centers, to foster growth that is orderly and reasonable in its rate and location, and is compatible with existing uses, and to promote the use of existing infrastructure.
4. The Planning Commission finds that the request is contrary to *Section 10-101: Purpose* and that the illegal subdivision of land and request for an after-the-fact legitimization does not further the planned and orderly use of land, is not close to an existing population center, and does not foster growth that is orderly and reasonable in its location.

5. The Planning Commission determined that the “neighborhood” for this request is defined as the lands adjacent to Highway 135, demarcated by a corridor extending north of County Road 813 (Jack’s Cabin cut-off) and south of the Red Mountain Ranch 35-acre development. The neighborhood consists primarily of existing large ranching parcels (35+acre parcels) and existing 35-acre parcels, within 35-acre developments, (not subject to County subdivision review).
6. The neighborhood is predominately 35-acre and larger parcels. The subject 25-acre is not substantially similar to the size of neighborhood parcels, and the project does not meet the standards to be considered for smaller lots when all four of the requirements of *Section 10-103 C. 3. a. Conditions are Appropriate for Smaller Lots or Greater Density* are applied.
7. The Planning Commission finds that the creation of a 25-acre parcel is inconsistent with the character of and the existing land uses within the neighborhood. The request would double the impacts to wildlife, visual quality, additional water withdraw from a well and onsite wastewater treatment system, as compared to one residence on the original 60-acres.
8. The Commission finds that the application does not comply with *Section 10-102: Locational Standards for Residential Development*.
9. The Commission finds that the application does not comply with *Section 10-103: Residential Density*.
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.

RECOMMENDATION:

The Gunnison County Planning Commission, having considered the submitted plans, exhibits, and public testimony, has reached the above Findings and recommends to the Board of County Commissioners that LUC No. 2016-00038 Sciortino Subdivision be denied.

Fulton adjourned the meeting at 10:40 A.M.

/S/ Beth Baker

Community Development Department Services Manager
Gunnison County Community Development Department