AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

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

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Replat of Church Lot into 2 single-family lots

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 9/27/27

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 9/27/2017 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 9/29/2017

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5

Agenda Date: 10/3/2017

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

September 26, 2017

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Goddard/Church Lot Subdivision – Riverwalk Estates**
LUC-17-00023
Planning Commission Recommendation

The Planning Commission approved a Minor Impact Land Use Change Recommendation for the Goddard/Church Lot Subdivision – Riverwalk Estates project, on September 15, 2017.

Attachments:
Planning Commission Recommendation
Church Lot Replat
Board Resolution

TO:	**Board of County Commissioners**
FROM:	**Planning Commission**
SUBJECT:	**Planning Commission Recommendation Goddard/Church Lot Subdivision - Riverwalk Estates Subdivision LUC-2017-00023**
DATE:	**September 15, 2017**
PREPARED BY:	**Neal Starkebaum, Assistant Director**
OWNER:	**Gunnison Church of Christ PO Box 806 Gunnison, CO 81230**
APPLICANT:	**William R. Goddard, Jr. PO Box 1485 Ardmore, OK 73402**
REPRESENTED BY:	**David Leinsdorf**

At its regular meeting on September 15, 2017, Vince Rogalski was seated and the Planning Commission unanimously approved the following Minor Impact Recommendation, moved by Vince Rogalski and seconded by AJ Cattles:

PROJECT SUMMARY:
The applicant is requesting the subdivision of the Church Lot, Riverwalk Estates, a 12.75-acre parcel, into two single-family lots; which will become Lot 37- 7.759-acres and Lot 38 - 4.989 acres. The Church Lot was originally approved for a church, a residential parsonage and ancillary building, constrained by two building envelopes. Water and sewer service to the residences will be serviced by individual wells and connection to the North Gunnison Sewer District Sewer system. Kokanne Court will provide access to the lots. An amendment to the *Riverwalk Estates Declaration of Protective Covenants* will revise the permitted uses on the Church Lot, to allow for one single-family residence/lot. The replat and changes to the covenants are supported by the Riverwalk Estates Homeowners Association Board of Directors, letter of June 7, 2017, Jacob A. With.

LOCATION:
The property is located approximately two miles north of the City of Gunnison, west of Highway 135, within Riverwalk Estates. The property is legally described as Church Lot, Riverwalk Estates Subdivision.

BACKGROUND:
The Riverwalk Estates Subdivision was approved by the Board of County Commissioners on January 4, 2005, including 44 single family residential homesites ranging from 1.0-2.14 acres each, a 13+ acre site reserved for use as a church, a public walking trail easement along the Gunnison River, private internal trails for residents, and a public non-motorized trail easement along the south portion of the property. The plat is recorded in the Office of the Gunnison County Clerk and Recorder, Reception No. 555976, July 22, 2005.

The 13-acre parcel was donated to the Gunnison Church of Christ. The *Riverwalk Estates Declaration of Protective Covenants* allow for "…a new sanctuary, residence and an auxiliary building(s) planned in the future (all subject to County approval) on the building envelope on the southwest side of Riverwalk Estates, the Church will have the right to use their property along the Gunnison River to construct one or more gazebos, bench/rest or picnic areas for reflection, prayer and small gatherings.

The 2005 approval also included as a condition: There shall be no resubdivision of any parcel within this development. However, the change in use, from the use of a church and parsonage, supported by the Homeowners Association, will reduce traffic and make the property more harmonious with the existing residential neighborhood. There is no previous precedent set by an affirmative restriction on resubdivision of lots within a subdivision. The restriction was proffered by the applicant in 2004, and was not a condition of Gunnison County. Circumstances change over time and in this case the church was never built. It is therefore reasonable that the change in use, to add a residential lot, is compatible with the existing residential neighborhood and will have no adverse impacts to the subdivision, or the surrounding land uses.

COVENANTS:
The applicant is proposing changes to the *Riverwalk Estates Declaration of Protective Covenants* to reflect the subdivision and change in use on the Church Lot. Additionally, as part of this application and review, the Riverwalk Estates Association, vis-à-vis the applicant, is requesting two other changes to the covenants.

1. Permitting a secondary detached garage or shop on each lot.
2. Restricting the building height on front entry Lots 20, 21, 22, 23, 24, 25, 26, and 27 to 20 feet.

SURROUNDING LAND USES:
Adjacent parcels to the south and west are agricultural, and lots to the north and east are residential.

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
- Subdivision Plat – prepared by NCW & Associates, June 7, 2017
- Jacob A. With - Riverwalk Estates HOA Board of Directors, letter of June 7, 2017
- Marlene Crosby, Public Works Director, letter of June 28, 2017
- Greg Larson, Chairperson, City of Gunnison Planning and Zoning Commission, letter of August 9, 2017

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

- August 18, 2017 – Work session and Site Visit
- September 15, 2017 Joint Public Hearing

SITE VISIT:
The Planning Commission conducted a site visit on August 18, 2017. The Commissioners viewed the Church Lot, the access from Kokanne Court, the surrounding lots and neighborhood.

PUBLIC HEARING:
The Planning Commission and the Board of County Commissioners conducted a joint public hearing on September 15, 2017. At that time Tracy Lenard, Riverwalk Estates Subdivision HOA President noted the Association's support of the request. Mike Nelson, resident of Riverwalk Estates Subdivision, requested that Mr. Goddard provide the trail connection to CR 13. Ryan Pringle, from the Church of Christ, noted that the plans for a church on the property were unattainable.

The following emails were received and entered into the record:
Patrick Plumley – September 15, 2017
Sherri Deetz and Mike Nelson – September 14, 2017
John Holder – September 9, 2017

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:*

Section 9-508: Keeping of Livestock not on an Agricultural Operation.
Covenant restrictions allow no livestock on the property.

Section 10-102: *Locational Standards for Residential Development.*
The request meets the primary residential density standard. The proposed subdivision is located within the City of Gunnison's municipal three-mile area. The City of Gunnison has no concerns with the proposed subdivision. Letter from Greg Larson, Chairperson, City of Gunnison Planning and Zoning Commission, August 9, 2017.

Section 10-103: *Residential Density.*
One residence, on the 13-acre parcel, was approved as part of the original Riverwalk Estates subdivision. Parcel sizes are compatible with existing residential development in the neighborhood. The additional of one residential lot will result in no significant net adverse impacts to the neighborhood.

Section 11-103: *Development in Areas Subject to Flood Hazards*.
The building envelopes on the subject parcels are not located within the floodplain, according to County mapping.

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 property is in a low wildfire hazard area, according to County mapping.

Section 11-106: *Protection of Wildlife Habitat Areas.*
The property is within mapped Sage-grouse habitat, however, there are no additional impacts, as the property is already within a County approved area for residential development.

Section 11-107: *Protection of Water Quality*.
Wetlands have been mapped on the subject property, but the building envelopes are located outside of the restrictive inner buffer.

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

Section 11-109: ***Development that Affects Agricultural Lands.***
There are agricultural lands located to the south of the subject lots, used for grazing, across the 100 foot trail easement. The building envelopes are in excess of 170' from the subdivision boundary. No additional impacts to the agricultural lands are indicated.

Section 11-110: ***Development of Land beyond Snowplowed Access*****.**
Not applicable. The subject property has year-round 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***.
The proposed lots are accessed by the existing Kokanne Court road. No comments regarding the access were received from the County Public Works Department.

Section 12-104: ***Public Trails***.
Not applicable. No trail is affected by this application.

Section 12-105: ***Water Supply*****.**
Water will be supplied by individual wells. The applicant has submitted a letter from the Upper Gunnison Water Conservancy District, identifying availability of augmentation water, Frank Kugel, General Manager, July 11, 2017

Section 12-106: ***Sewage Disposal/Wastewater Treatment.***
The residences will be served by connection to the North Gunnison Sewer District central sewer system. Letter from Marlene Crosby, Public Works Director, June 28, 2017 notes that the District has the capacity and interest in serving the lots.

Section 12-107: ***Fire Protection*****.**
The property is within the Gunnison County Fire Protection District. No comments were received from the District.

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

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

Section 13-105: ***Residential Building Sizes and Lot Coverages.***
Building sizes are required to comply with the required maximum square footages at time of building permit application.

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

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

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

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

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

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

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

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

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

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

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

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*
Construction activities are required to secure a Reclamation Permit from the Public Works Department.

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

Section 13-119: Standards to Ensure Compatible Uses.
The development is compatible with the existing residential and agricultural neighborhood.

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

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

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

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

4. 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. 2017-00023 Goddard – Church Lot Subdivision, be approved with the following conditions:

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

2. The applicant shall provide a letter from the Riverwalk Estates HOA certifying the approval of the covenant amendments, prior to scheduling before the Board of County Commissioners.

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

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

5. 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.

6. 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.

7. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment 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 LAND USE CHANGE PERMIT NO. 2017-00023
A LAND USE CHANGE PERMIT FOR WILLIAM R. GODDARD, JR.
CHURCH LOT REPLAT
CHURCH LOT, RIVERWALK ESTATES SUBDIVISION

WHEREAS, William R. Goddard, Jr, represented by David Leinsdorf, submitted a land use change application requesting the replat/subdivision of the Church Lot, Riverwalk Estates Subdivision, a 12.75-acre parcel, into two single-family lots; which will become Lot 37- 7.759-acres and Lot 38 - 4.989 acres. The Church Lot was originally approved for a church, a residential parsonage and ancillary building, constrained by two building envelopes. Water and sewer service to the residences will be serviced by individual wells and connection to the North Gunnison Sewer District Sewer system. Kokanne Court will provide access to the lots. An amendment to the *Riverwalk Estates Declaration of Protective Covenants* will revise the permitted uses on the Church Lot, to allow for one single-family residence/lot; and

WHEREAS, after a review of the application, documentation and public testimony related to it, the Gunnison County Planning Commission did, after joint public hearings, on September 15, 2017 unanimously approve a Recommendation with certain Findings and Conditions:

FINDINGS:

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

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

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

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

CONDITIONS:

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

2. The applicant shall provide a letter from the Riverwalk Estates HOA certifying the approval of the covenant amendments, prior to scheduling before the Board of County Commissioners.

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

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

5. 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.

6. 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.

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

AND WHEREAS, Jacob With, representing the Riverwalk Estates Homeowners Association, Inc., provided a letter, dated September 21, 2017, certifying approval of the Church Lot covenant amendment, by the Riverwalk Estates Homeowners Association. The applicant shall record the Covenant amendment contemporaneously with the replat, in the Office of the Gunnison County Clerk and Recorder.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2017-00023 Goddard – Church Lot Replat, is approved as a Minor Impact Project, subject to each and all conditions, as identified above.

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 3rd day of October, 2017.

BOARD OF COUNTY COMMISSIONERS

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

ATTEST:

_____

Gunnison County Clerk and Recorder