AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Planning Commission Recommendation and Resolution;

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Subdivision of 3.75-acres into three 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 1/11/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 1/11/2018 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 1/12/2018

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

Agenda Date: 1/16/2018

Revised April 2015

Gunnison County Community and
Economic 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

January 8, 2018

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Tina McGuiness**
McGuiness Subdivision
Planning Commission Recommendation – LUC-16-00042

At their June 2, 2017 meeting, the Planning Commission unanimously approved a recommendation to the Board of County Commissioners to approve the McGuiness Subdivision application. Due to delays working with her surveyor, it has taken Tina since that time to have the plat prepared.

Attachments:

Planning Commission Recommendation
BOCC Resolution
Subdivision Plat

TO: **Board of County Commissioners**

FROM: **Planning Commission**

SUBJECT: **Planning Commission Recommendation**
McGuinness Subdivision
LUC-2016-00042

DATE: **June 2, 2017**

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

APPLICANT: **David and Tina McGuinness**
723 D N. 10th Street
Gunnison, CO 8123

At its regular meeting on June 2, 2017, Sarah Coleman was seated and the Planning Commission unanimously approved the following Minor Impact Recommendation, as amended, moved by AJ Cattles and seconded by Jack Diani:

PROJECT SUMMARY:
The applicant is requesting the subdivision of 3.75-acres into three single-family lots: Lot 1, 1.75-acres (with existing residence); Lot 2, 1-acre; Lot 3, 1-acre. The new residences will be served by well and septic. An existing driveway access serves Lot 1. A new shared driveway access to Lots 2 & 3 is proposed to be constructed from County Road 10. No covenants are proposed for the development.

LOCATION:
The property is located approximately 5 miles northeast of the City of Gunnison, north of and adjacent to County Road 10. The property is legally described as being within the NE1/4NE1/4 Section 19, Township 50 North, Range 1 East, N.M.P.M.

SURROUNDING LAND USES:
West – Guerrieri Ranch – 440-acre tract; agricultural
North – Esty Ranch 445-acre tract; agricultural
East – 1.8-acre lot; Residential
Southeast – North Valley Subdivision; ranging from .14-acre to 10-acre lots
South – City of Gunnison 55-acre tract; Cranor Ski Area

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 Recommendation include, but are not limited to:

- Minor Impact Review Application
- Brooke Vasquez, NRCS, Sage-grouse comments May 17, 2016
- Chris Parmeter, District Wildlife Manager, CPW, letter of February 17, 2017
- Greg Larson, Chairperson, City of Gunnison P & Z Commission, letter of February 22, 2017
- Well Permit #80656, CDWR, issued for two single family residences
- Megan Sullivan, P.E., Water Resource Engineer, letters of March 16 and April 14, 2017

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

- March 17, 2017 Work Session
- May 19, 2017 Joint Public Hearing
- June 2, 2017 Continued Joint Public Hearing

SITE VISIT:
The Planning Commission determined that a site visit was not necessary, as they were familiar with the property and surrounding neighborhood.

PUBLIC HEARING:
The Planning Commission and the Board of County Commissioners conducted a joint public hearing on May 19, 2017 and continued to June 2, 2017. At that time, the following members of the public presented comments:

- Michael Dawson, representing Bar Slash Bar Ranch LLLP, adjacent landowners to the west, noting the issues with the Gunnison and Tomichi Valley Ditch Association, Ditch NO. 17, which traverses the subject property and objections to the development in his letter of May 18, 2017.
- Jack and Donna Barker, adjacent landowners to the east, noting their objections to the development.
- Jody Resser, area neighbor, noting that the density was appropriate.

Written Comments were received from:

- Michael Dawson, representing Bar Slash Bar Ranch LLLP, letter of May 18, 2017
- Jack and Donna Barker, undated letter

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:

Gunnison County Public Works: Marlene Crosby, Public Works Director, via email of March 22, 2017:

> "When this project was in the early submittal stages I talked to Tina and Jim Kint talked to Mr. McGuinness. Our answer to both of them was that driveways were possible, but would not be inexpensive.
>
> Our opinions have not changed, we can assist in locating suitable access points, but the construction will be expensive. It will include willow removal/management without impacting the integrity of the ditch bank and a large culvert. The best option if possible would be a shared driveways."

City of Gunnison: Greg Larson, Chairperson, City Planning & Zoning Commission, letter of February 22, 2017 notes:

> "Thank you for providing us the opportunity to comment on the land us change permit submitted by Tina McGuinness. Based on the Three Mile Map, the site is designated as rural residential (1 Unit/5-35 or more acres).
>
> It is requested that any future driveway improvements on the O'Fallon Ditch be subject to review and approval by the City Public Works director, since the City possesses significant water rights from this ditch.
>
> We appreciate the opportunity to review this application."

Sage-Grouse Review: Brooke Vasquez, Wildlife Biologist, NRCS, letter of October 6, 2016, notes:

"The owner is proposing to subdivide the original 3.82± acre parcel into three lots, two 1± acre lots and one 1.82± acre lot with existing development. A single family residence is proposed on one of the 1±acre lots. The proposed activity is not within 0.6 miles of a Gunnison Sage-grouse lek. This parcel is not within Gunnison Sage-grouse Tier 1 habitat (score 15) as mapped using the 2012 Habitat Prioritization tool (Gunnison Basin Sage-grouse Strategic Committee 2012). The overall habitat score on this parcel is a low of -19 to a high of 2. The parcel is located along County Road 10 and has existing development on the parcel and adjacent to the parcel.

Based upon this analysis, a review of the data available, and the nature of the proposed activity, I find that the proposed activity will not adversely impact Gunnison Sage-grouse or their habitats beyond that which has already occurred.

Because Gunnison Sage-grouse are in the general area, I recommend that the following requirements/conservation actions be applied as conditions of all Gunnison County permits issued for projects on this parcel to protect Gunnison Sage-grouse and their habitats:

1) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution*, dogs and cats must 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.

2) A Gunnison County Reclamation Permit is not recommended for activities on this parcel unless the surface disturbance is 10,000 sqft or more. If a Reclamation Permit is required, all 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) Property owners must 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: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance."

Colorado Division of Water Resources: Megan Sullivan, P.E., Water Resource Engineer, letters of March 16 and April 14, 2017. Excerpts include:

"We have reviewed the above referenced proposal to subdivide a 3.8 acre tract into three single family lots, where one lot will be 1.8 acres and the other two lots will be one acre each. An existing house served by an existing well is located on the proposed 1.8 acre lot. According to information provided, there are no plans to develop the middle one acre lot. The remaining one acre lot will have a single family residence and an accessory dwelling unit (referred in the submitted materials as a mother-in-law apartment) built above a detached garage. The two, one-acre lots will be served by a shared well.

The existing residence on the proposed 1.8 acre lot is currently served by an existing well, Well Permit No. 80655-F. According to our records, the well permit was issued on March 6, 2017 to use an existing well. Under this permit, use of groundwater from the well is limited to ordinary household purposes inside one (1) single family dwelling and the irrigation of not more than 10,890 square feet of home lawn and gardens. The well is to operate in accordance with the Upper Gunnison River Water Conservancy District's Augmentation Plan. The well was constructed on September 7, 1979 under Permit no. 109939 (now cancelled) to a depth of 30 feet. No information was provided on the installation of a permanent pump. Note, as required for non-exempt well permits such as Permit no. 80655-F, evidence of pump

installation must be provided prior to the expiration of the permit. As no information was provided in the previous permit file as to if a pump had been installed, in order for the current permit, Permit No. 80655-F, to remain valid, evidence of pump installation must be received before the expiration date of March 6, 2018.

According to our records, Permit No. 80656-F was issued on March 6, 2017 to construct a new well. This well would be located on the one-acre lot with the proposed single family residence and accessory dwelling unit. For the purposes of well permitting, in the majority of cases an accessory dwelling unit that is independent of the primary residence in terms of use is considered to be the same as a single family dwelling. It appears for this proposal, that in terms of well permitting, this one-acre lot would have two (2) single family dwellings. Under Permit No. 80656- F, use of groundwater from the well is limited to ordinary household purposes inside two (2) single family dwellings and the irrigation of not more than 10,890 square feet of home lawn and gardens. The well is to operate in accordance with the Upper Gunnison River Water Conservancy District's Augmentation Plan.

As stated in CRS 30-28-133(3)(d), the subdivider is required to submit "Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed." Typically adequate evidence is usually provided in the form of a water resource report, prepared by a professional engineer or water consultant, which addresses the quality, quantity, and dependability issues. However, if there is a recent well test available in which water levels and a pumping rate are measured in intervals over the length of the test, a water resource report may not be necessary. Unfortunately, a review of our records did not reveal a well in the immediate vicinity with a pump installation report. There were, however, a few records further away with some information to indicate that those wells produced 15 gallons per minute after a two hour pump test. Because the existing well on the parcel was constructed in 1979 and now Permit No. 80655-F will require evidence of pump installation to remain valid, we recommend that a well test be performed on the well and the results provided to the County.

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the proposed water supply can be provided without causing material injury to decreed water rights so long as the applicant maintains well permits issued pursuant to C.R.S. § 37-90-137(2) and the plan for augmentation issued to Upper Gunnison River Water Conservancy District, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of said plan for augmentation. Provided the results of a well test for the existing well confirm the well has a sustained yield similar to the pump rates reported by other wells in the larger area and if the additional well on the parcel has a similar production rate, the water supply is expected to be physically adequate. Please note that the long term adequacy of any ground water source may be subject to fluctuation due to hydrological and climatic trends."

"The applicant submitted a pump test conducted by Williams Drilling Company on March 29, 2017, for well Permit No. 80655-F. The report indicates that a two hour pump test was performed and according to the report, the well was drawn down less than one foot from the static water level of 3 foot 8 inches while pumping at twelve gallons per minute. After pumping stopped, the well recovered to the static water level within minutes. If the proposed additional well has a similar production rate and sufficient storage capacity, the water supply should be physically adequate."

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

Section 9-508: Keeping of Livestock not on an Agricultural Operation.

The applicant proposes to allow 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 a municipal three-mile area. See comments from City of Gunnison, letter of February 22, 2017.

Section 10-103: ***Residential Density.***
The request proposes the subdivision of 3.75-acres into three single-family lots: Lot 1, 1.75-acres (with existing residence); Lot 2, 1-acre; Lot 3, 1-acre. The neighborhood consists of the area consisting of both agricultural and residential development along County Road 10 and within a quarter mile from the subject property. Multiple residential parcels are located in the neighborhood. The adjacent residential lot to the east is .78-acre. North Valley Subdivision is located across County Road 10 to the southeast, consisting of approximately 30+ residential homes; parcel sizes ranging in size from .14-acres to 10-acres. Several large ranch properties are located within the neighborhood.

Section 11-103: ***Development in Areas Subject to Flood Hazards*****.**
The property contains no 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 occupied Gunnison Sage-grouse habitat. A sage-grouse Habitat Site Specific Analysis Pre-Application review was conducted. See comments from Brooke Vasquez, Wildlife Biologist, NRCS, letter of May 17, 2016. No significant impacts to Sage-grouse were noted. See comments were received from the Chris Parmeter, District Wildlife Manager, CPW, letter of February 17, 2017. No significant impacts to wildlife were identified.

Section 11-107: ***Protection of Water Quality*****.**
No water bodies are located on the property. Irrigation ditches are not defined as water bodies.

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 in the immediate area. The plat will contain required language addressing concerns with domestic animals, fencing and ditch maintenance, pursuant to Section 1-105. L.8.e. of the *Land Use Resolution*.

Section 11-110: ***Development of Land beyond Snowplowed Access*****.**
The property is not 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***.
An existing driveway serves the existing residence on Lot 1. A new shared driveway access to Lots 2 & 3 is proposed to access from County Road 10. See comments from Marlene Crosby, Director, Gunnison County Public Works, via email on March 22, 2017.

Section 12-104: ***Public Trails***.
There is no public trail existing or proposed.

Section 12-105: ***Water Supply*****.**
The water supply for Lot 1 will supply the existing residence from the existing well. A new well will supply water to Lots 2 and 3. The applicant has submitted contracts from the Upper Gunnison Water Conservancy District, for augmentation water. The Colorado Division of Water Resources has issued Well Permit #80656-F, to supply two single family residences. Comments from Megan Sullivan, Water Resources Engineer, Colorado Division of Water Resources, note that the subdivision can be legally and physically served by the proposed water supply, letter of April 14, 2017.

Section 12-106: ***Sewage Disposal/Wastewater Treatment.***
Residences on Lots 2 and 3 will be served by new Onsite Wastewater Treatment systems. There is an existing septic system on Lot 1. Other residences in the neighborhood have existing permitted wastewater treatment systems.

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.***
The subdivision plat identifies site-specific building envelopes on each lot. Minimum lot size complies with OWTS regulations. 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 may be 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 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 and Use Resolution* and *Section 6-10: Standards of Approval for Minor Impact Projects*.

3. The property is within 400 feet of the North Valley pressurized sewer main.

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

5. 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. 2016-00042 McGuinness 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 coordinate the construction of the County Road 10 driveway access with the Gunnison County Public Works Department and the City of Gunnison.

3. The applicant shall consult with the Gunnison County Public Works Department regarding the feasibility of sewer connection to the North Valley Subdivision sewer pump station.

4. The applicant shall comply with the following conditions for the protection of Gunnison Sage-grouse and Sage-grouse habitat:

   1) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution,* dogs and cats must 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.

   2) A Gunnison County Reclamation Permit is not recommended for activities on this parcel unless the surface disturbance is 10,000 sq ft or more if a Reclamation Permit is required, all 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) Property owners must 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: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance.

5. There is currently an assertion by the water rights holders in the Gunnison and Tomichi Valley Ditch Association, Ditch No. 17, which runs between County Road 10 and the applicant's property, that any crossing of the ditch must be with consent of all of the ditch owners.

6. Nothing in this approval is or shall be construed to be a determination by Gunnison County of the legal merits of the positions of either party.

7. Approval of this application is subject to constraints or allowances of any recorded or other legal easement, as may be determined by a Court, or otherwise agreed upon in written and recorded form by the applicant and the easement grantor. Approval of this application does not imply that the County has made any determination as to the validity of any claim regarding any easement.

8. In the alternative, the existing driveway from County Road 10, crossing the Gunnison and Tomichi Valley Ditch Association, Ditch No. 17, is approved as the access to Lots 2 and 3 McGuinness Subdivision.

9. 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. The applicant shall ensure that the plat will contain required language addressing concerns with domestic animals, fencing and ditch maintenance, pursuant to Section 1-105. L.8.e. of the *Land Use Resolution*.

10. 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.

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

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

13. Approval of this use is based upon the facts presented and implies no approval of similar use in 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. 18-___

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. LUC-2016-00042
A LAND USE CHANGE PERMIT FOR TINA MCGUINNESS
NE1/4NE1/4 SECTION 19, TOWNSHIP 50 NORTH, RANGE 1 EAST, N.M.P.M.
MCGUINNESS SUBDIVISION

WHEREAS, Tina McGuinness, submitted a land use change application for the subdivision of 3.75-acres into three single-family lots: Lot 1, 1.75-acres (with existing residence); Lot 2, 1-acre; Lot 3, 1-acre. The new residences will be served by well and septic. An existing driveway access serves Lot 1. A new shared driveway access to Lots 2 & 3 will be constructed from County Road 10. No covenants are proposed for the development; and

WHEREAS, after a review of the information, documentation and substantial public testimony related to it, the Gunnison County Planning Commission did, after a joint public hearing on May 19, 2017 the Planning Commission sent a unanimously recommendation, on June 2, 2017, to the Board of County Commissioners, to approve the McGuiness Subdivision, LUC-16-00042 with certain Findings and Conditions:

FINDINGS:

1. The Planning Commission 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 6-103: Standards of Approval for Minor Impact Projects*.

3. The Commission finds that the proposed three-lot 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 Description" of this application, and as depicted on the Site Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.

2. The applicant shall coordinate the construction of the County Road 10 driveway access with the Gunnison County Public Works Department and the City of Gunnison.

3. The applicant shall comply with the following conditions for the protection of Gunnison Sage-grouse and Sage-grouse habitat:

    1) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution,* dogs and cats must 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.
    2) Property owners must 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: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance.

    3) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution,* dogs and cats must 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.

4. 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.

5. 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.

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

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

8. 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.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2016-00042, McGuinness Subdivision, is approved as a Minor Impact Project, subject to each and all conditions of the Planning Commission Recommendation, as identified above.

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 16th day of January, 2018.

BOARD OF COUNTY COMMISSIONERS

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

ATTEST:

_____

Gunnison County Clerk and Recorder

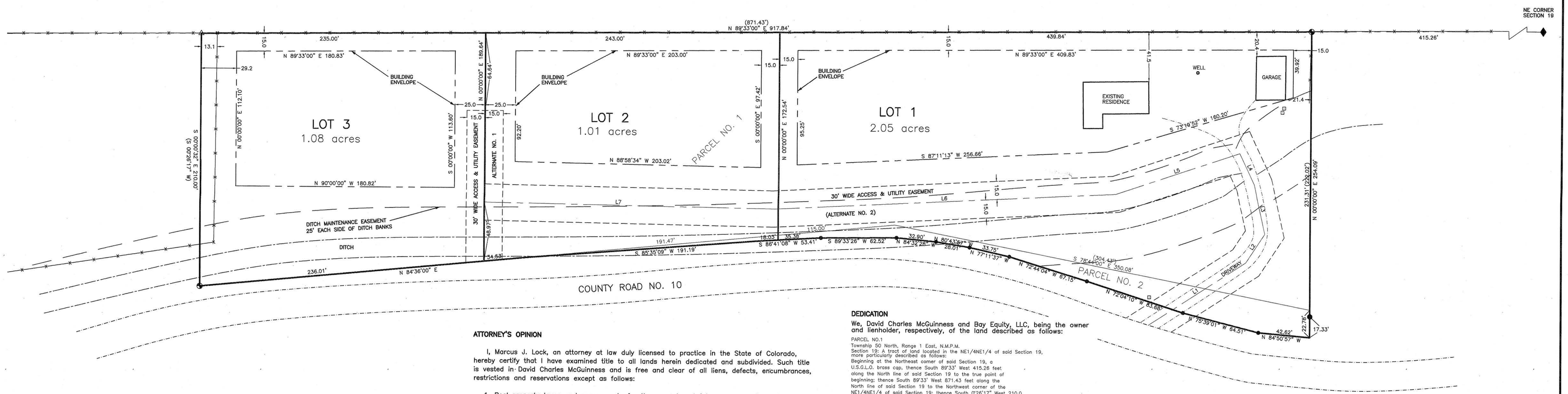
MCGUINNESS SUBDIVISION
within NE1/4NE1/4 OF SECTION 19, TOWNSHIP 50 NORTH, RANGE 1 EAST, N.M.P.M.
GUNNISON COUNTY, COLORADO

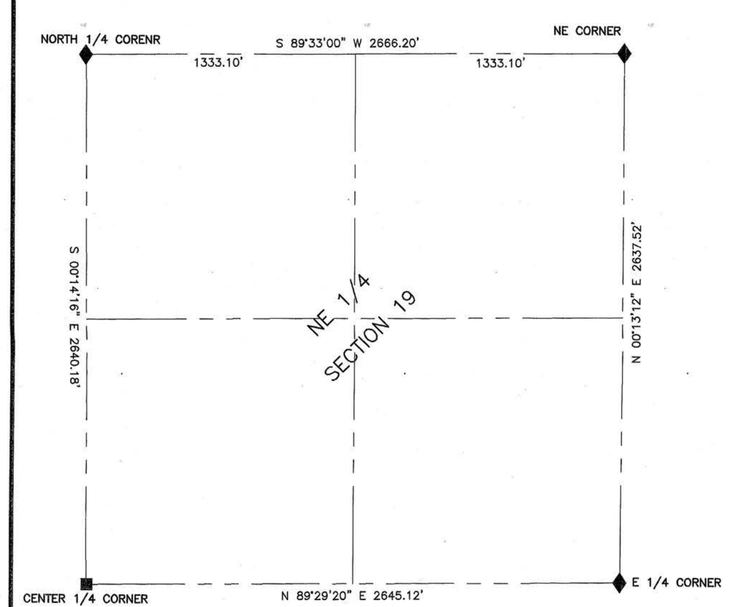
EASEMENT CENTERLINE SEGMENTS

NUMBER	DIRECTION	DISTANCE
L1	N 56°57'42" E	95.95'
L2	N 33°24'06" E	28.43'
L3	N 12°36'53" W	42.01'
L4	N 25°01'40" W	28.57'
L5	S 71°22'01" W	107.97'
L6	S 87°09'03" W	283.34'
L7	N 88°58'34" W	238.88'

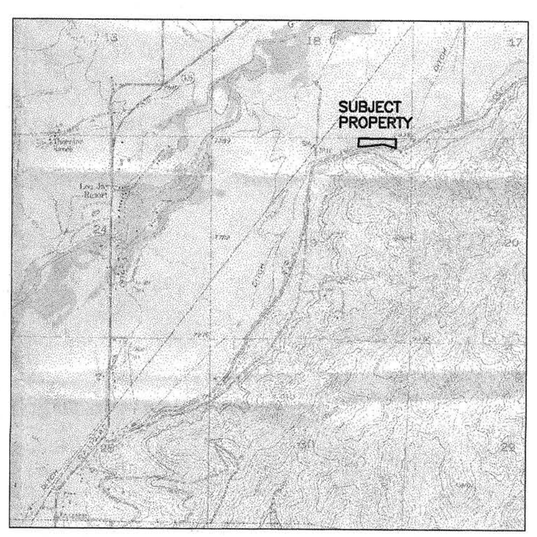
40 0 40 80
Scale: 1" = 40'

N





CONTROL MAP



VICINITY MAP

LEGEND

- Found USGLO brass cap
- Found aluminum cap monument "LS 30105"
- Set aluminum cap monument "LS 34979"
- Found rebar with no cap
- Found rebar with plastic cap "LS 11250"
- Utility pedestal
- Fence

ATTORNEY'S OPINION

I, Marcus J. Lock, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and subdivided. Such title is vested in David Charles McGuinness and is free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

1. Real property taxes and assessments for the current and future years, a lien not yet due and payable.
2. All matters shown on this plat.
3. Reservation of right of way for any ditches or canals constructed by authority of United States, in U.S. Patent recorded in the real property records of Gunnison County, Colorado on April 25, 1925 in Book 184 at page 497, and all other matters contained therein or Acts Authorizing the issuance thereof, including without limitation exceptions and reservations by the United States of all the coal and other minerals in the lands so entered and patented together with the right to prospect for, mine and remove the same pursuant to the provision and limitations of the Act of December 29, 1916 (39 Stat.862).
4. Any and all rights of way of for County Road 10.
5. Deed of Trust from David Charles McGuinness to the Public Trustee of Gunnison County for the benefit of Bay Equity, LLC to secure an indebtedness in the principal sum of $174,000.00, and any other amounts and/or obligations secured thereby, dated April 28, 2016 and recorded in the real property records of Gunnison County, Colorado on May 3, 2016 at Reception No. 639210.
6. The effect of Certificate of Minor Impact Project Approval as recorded in the real property records of Gunnison County, Colorado at Reception No. _____ .

Dated this 12th day of December, A.D. 2017.

Attorney-at-Law

SURVEYOR'S CERTIFICATE

I, Timothy E. Pearson, a registered land surveyor in the State of Colorado, certify that this plat and the survey referred to herein were made under my direction and control and that both are true and correct to the best of my knowledge.

Dated this 12th day of December, 2017.

Timothy E. Pearson
Colorado L.S. No. 34979

COLORADO REGISTERED TIMOTHY E. PEARSON 34979 PROFESSIONAL LAND SURVEYOR

GENERAL NOTES:

1. CONFINEMENT OF DOMESTIC ANIMALS: Domestic animals must be controlled by kenneling, leash, fencing or other physical constraint; any expense of enforcement of domestic animal control restrictions by the County shall be at the expense of the responsible individual.

2. AWARENESS OF COLORADO "FENCE-OUT" REQUIREMENTS: Pursuant to C.R.S. § 35-46-101 etseq, a property owner is required to construct and maintain fencing in order to keep livestock off his/her property.

3. IRRIGATION DITCH MAINTENANCE: An irrigation ditch owner has the right to enter the designated irrigation ditch maintenance easement, maintain the ditch, and leave natural debris on the bank.

SURVEY NOTES:

1. Basis of bearings is S 89°33' West between found monuments at the northeast corner of Section 19 and at the north quarter corner of Section 19.

2. Record bearings and distances are shown in parentheses where they differ from measured or calculated bearings and distances.

3. The south boundary of Parcel No. 2 is assumed to be 30 feet northerly of the field measured centerline of County Road No. 10, and Parcel No. 2 is displayed hereon only where the south boundary of Parcel No. 1 is more than 30 feet northerly of said centerline.

DEDICATION

We, David Charles McGuinness and Bay Equity, LLC, being the owner and lienholder, respectively, of the land described as follows:

PARCEL NO.1
Township 50 North, Range 1 East, N.M.P.M.
Section 19: A tract of land located in the NE1/4NE1/4 of said Section 19, more particularly described as follows:
Beginning at the Northeast corner of said Section 19, a U.S.G.L.O. brass cap, thence South 89°33' West 415.26 feet along the North line of said Section 19 to the true point of beginning; thence South 89°33' West 871.43 feet along the North line of said Section 19 to the Northwest corner of the NE1/4NE1/4 of said Section 19; thence South 0°26'17" West 210.0 feet along the West line of the NE1/4NE1/4 of said Section 19; thence North 84°36' East 577.0 feet along the South line of a tract of land described in Book 296 at page 400; thence South 78°44' East 304.43 feet along said South line to the point of intersection with the West line of the tract of land as described in Book 456 at page 424; thence North 222.02 feet along the west line of the tract of land as described in Book 456 at page 425, to the true point of beginning.

PARCEL NO.2
A tract of land lying south of the following described real property:
Township 50 North, Range 1 East, N.M.P.M.
Section 19: A tract of land located in the NE1/4NE1/4 of said Section 19, more particularly described as follows:
Beginning at the Northeast corner of said Section 19, a U.S.G.L.O. brass cap, thence South 89°33' West 415.26 feet along the North line of said Section 19 to the true point of beginning; thence South 89°33' West 871.43 feet along the North line of said Section 19 to the Northwest corner of the NE1/4NE1/4 of said Section 19; thence South 0°26'17" West 210.0 feet along the West line of the NE1/4NE1/4 of said Section 19; thence North 84°36' East 577.0 feet along the South line of a tract of land described in Book 296 at page 400; thence South 78°44' East 304.43 feet along said South line to the point of intersection with the West line of the tract of land as described in Book 456 at page 424; thence North 222.02 feet along the west line of the tract of land as described in Book 456 at page 425, to the true point of beginning.
AND North of the North boundary of the Lost Canyon County Road, being County Road No. 10.
Containing 4.14 acres more or less.

in Gunnison County, Colorado, under the name of MCGUINNESS SUBDIVISION, have laid out, platted and/or subdivided the same as shown on this plat and do hereby permanently dedicate and convey to the owners of lots, tracts or parcels within this subdivision and their guests but not to the public at large, the common right to use streets, alleys, roads and other areas as shown hereon and hereby permanently dedicate those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof David Charles McGuinness has subscribed his name this 12th day of December, 2017.

By: _____
David Charles McGuinness

State of Colorado)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this 12th day of December, A.D. 2017, by David Charles McGuinness.
My commission expires 7-21-2021.
Witness my hand and official seal.

Notary Public

MARY JO MARVEL
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20054028754
My Commission Expires July 21, 2021

~~Bay Equity, LLC~~ Mortgage Electronic Registration Systems, Inc., ISAOA
By: _____
Its: Vice President

State of New Jersey)
)ss.
County of Mercer)

ROBERT J. CASTRILLA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires August 17, 2020
ID# 2453287

The foregoing instrument was acknowledged before me this _____ day of December, A.D. 2017, by Mark F. Kellaugh as Vice President of ~~Bay Equity, LLC~~ MERS, Inc.
My commission expires 8/17/20.
Witness my hand and official seal.

Notary Public

COMPLIANCE WITH BOARD OF COUNTY COMMISSIONERS' RESOLUTION

The property described on this plat is subject to all the requirements, terms and conditions of the Board of County Commissioners' Resolution No. _____ recorded at Reception No. _____ of the Records of the Clerk and Recorder of Gunnison County.

GUNNISON COUNTY PLANNING COMMISSION APPROVAL

The Planning Commission of Gunnison County, Colorado, hereby recommends approval of this plat of the above subdivision, such recommendation being made at a meeting of said Commission held on this 2nd day of June ,A.D. 2017.

_____
Chairperson, Gunnison County Planning Commission

BOARD OF COUNTY COMMISSIONERS APPROVAL

The within plat of McGuinness Subdivision is approved this _____day of _____A.D. 20____ and the private dedication of roads and common areas is approved on the condition that such roads and common areas shall be maintained and snowplowed, by and at the expense of the lot owners and not by Gunnison County or any other public agency.

_____
Chairman

ATTEST:

_____
County Clerk

GUNNISON COUNTY CLERK AND RECORDER'S ACCEPTANCE

This plat was accepted for filing in the office of the Clerk and Recorder of Gunnison County, Colorado on this _____ day of _____, A.D. 20____, Reception Number_____, Time _____, Date _____.

_____
Gunnison County Clerk and Recorder

PEARSON SURVEYING P.O. BOX 652 GUNNISON, CO 81230 970-641-2910 PROJECT # 17-1-21	DATE : 11/7/17 LATEST REVISION DATE : 12/11/17 SHEET 1 OF 1