AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution 2018-16; A Resolution Approving the Pre

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Planning Commission recommendation for Preliminary/Final Plan application approval

Fiscal Impact:

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

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:

Reveiwed by: GUNCOUNTY1\mhoyt Discharge Date: 5/10/2018 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 5/10/2018

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

Agenda Date: 5/15/2018

Revised April 2015

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

May 7, 2018

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Whetstone Industrial Park – Preliminary/Final Plan Approval**
Planning Commission Recommendation

On April 6, 2018 the Planning Commission unanimously approved the Preliminary/Final Plan recommendation for the Whetstone Industrial Park, subdivision of a 35-acre parcel into 17 lots, ranging in size from 1.25-2.15 acres, for a commercial/industrial park, with an allowance for an accessory residential unit, in association with a primary light industrial use.

Attachments:
Planning Commission Recommendation
Subdivision Plat
BOCC Resolution

TO: **Board of County Commissioners**

SUBJECT: **Planning Commission Preliminary/Final Plan Recommendation**
Whetstone Industrial Park
LUC #2016-00013

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

DATE: **April 6, 2018**

APPLICANT: **L & D Ranches, LLC**
24474 Highway 135
Crested Butte, CO 81224

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

At its regular meeting on April 6, 2018, the Planning Commission unanimously approved the following Preliminary/Final Plan Recommendation, as amended, moved by Molly Mugglestone and seconded by Vince Rogalski:

*****

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

Section 7-102, Gunnison County Land Use Resolution

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

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

Section 7-103, Gunnison County Land Use Resolution

The Board of County Commissioners approved the Slate River Development Sketch Plan on November 15, 2016, Board Resolution 2016-46, recorded with the Gunnison County Clerk and Recorder's Office, Reception No. 643379, November 16, 2016. The Board of County Commissioners authorized the applicant to submit a combined Preliminary/Final Plan application.

PRELIMINARY/FINAL PLAN – PROJECT DESCRIPTION:
L & D Ranches, LLC, represented by Marcus J. Lock, Law of the Rockies, submitted the *Whetstone Industrial Park Preliminary/Final Plan*, subdivision of a 35-acre parcel into 17 lots, ranging in size from 1.25-2.15 acres. The development is for industrial and light industrial uses, with an allowance for residential use only in association with a light industrial use. Water will be supplied by a central water system and wastewater treatment will be provided by individual onsite wastewater treatment systems. Access will be via a subdivision access road, via Buckley Drive, to Highway 135.

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

No phasing of the development is proposed.

PROPERTY LOCATION:
The parcel is legally described as a TRACT IN W2NW4 SEC 18 14S85W & IN E2NE4 SEC 13 14S86W.

SURROUNDING LAND USES:
Riverland Industrial Park, United Companies batching facility, residential, and agricultural uses.

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

- Preliminary/Final Plan Application, and supplements and revisions thereto, as submitted, including all exhibits, maps, and documents
  + Plat of Whetstone Industrial Park, SGM, April 5, 2018
  + Final Revised *Declaration of Protective Covenants – Whetstone Industrial Park,* April 4, 2018
  + Engineering Final Plan Set, *Whetstone Industrial Park*, Sheets 1-28, SGM, March 15, 2018
  + *Landscaping and Berm Plan - revised, Final Plan Sheet 27, March 15, 2018*
  + *Building Heights for Lots 1-4 Schematic,* SGM, March 28, 2018
  + Water Supply Plan – Updated, Tyler Harpel, P.E. SGM, March 14, 2018
  + Final Revised Cost Estimate, Tyler Harpel, P.E. SGM, March 27, 2018
  + Colorado Department of Transportation Access Permit No. 318007
  +Applicant response to Riverland Industrial Park comments, April 26, 2017

- Colorado Division of Water Resources **–** Megan Sullivan, P.E., Water Resource Engineer, letter dated December 22, 2017
- Colorado Division of Wildlife – Brandon Diamond, District Wildlife Manger, letter dated December 22, 2017
- Crested Butte Fire Protection District – Ric Ems, Fire Chief/Fire Marshal and Chris Davis, Fire Inspector, letters dated January 10, March 15, 2018 and April 4, 2018
- Town of Crested Butte Comments, Michael Yerman, Community Development Director, email of January 12, 2018

- Marlene Crosby, Public Works Director, email of January 12, 2018
- Deborah Shaner, P.E., Fire Protection Engineer, letter of April 3, 2018
- Tyler Harpel, SGM, letter of April 3, 2018 (Fire Suppression comments)

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

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

The Board of County Commissioners approved the Sketch Plan application on November 15, 2016, Board Resolution 2016-46;

Condition No. 3.: The following are specifically identified as Preliminary/Final Plan application submittal items of particular attention:

- Analysis of the visibility of the development from Highway 135 and mitigation through buffering, berming and/or landscaping.
- Segregation/limitations of types of uses, including segregation/limitations on accessory residential use, within the development.
- Protection of water quality of the Slate River.
- Response to the Riverland Industrial Park Lot Owners Association comment letter of August 31, 2016, as appropriate.
- Compliance with the Crested Butte Fire Protection District requirements.
- Level of commercial/retail permitted within the development.
- What level of county land use review will be required for varying uses.

Applicant's Response to Sketch Plan Conditions:

1. ***Analysis of the visibility of the development from Highway 135 and mitigation through buffering, berming and/or landscaping.***
   As part of the improvements for the subdivision, berming will occur along the Highway 135 corridor as shown on Exhibit J-17. Open space is provided at the south end of the subdivision to add buffering. Pursuant to Article 8, Section 4 of the proposed covenants, the lot owners association will maintain all landscaping and buffering on the common areas. Covenants, Art. 8.
   The buffering, berming and landscaping are intended to make the development less visible from Highway 135 than the existing Riverland Industrial Park.
   Pursuant to Article 8 of the covenants, building height is limited to reduce visibility from Highway 135.

2. ***Segregation/limitations of types of uses, including segregation/limitation on accessory residential use, within the development.***

The covenants provide that industrial, light industrial and subordinate residential use is permitted. A lot with industrial use is not permitted adjacent to a lot with subordinate residential. Lots will be designated at the time of purchase through the recording of a document for that lot, which will also identify all adjacent lots. The designation document is included as Exhibit B to the covenants. This approach is intended to provide flexibility to meet market demands while still providing at least one lot worth of buffering between any subordinate residential use and any use designated for industrial use. In addition, the covenants prohibit certain uses because of concerns with compatibility with subordinate residential, including for example kennels.

The covenants provide that, "No commercial use or business enterprise of any nature shall be allowed or permitted on any Lot except as expressly set forth in this Article." ***Exhibit K (Covenants)****, Art. 6.*

Pursuant to the definition of "Subordinate Residential" in the covenants, the ratio of residential use area to other permitted use areas in a building cannot exceed 1:1 and is limited to a maximum of 1,500 square feet. ***Exhibit K (Covenants)****, Art. 1.*

Applicant will also reserve the right to deed restrict certain lots to prohibit industrial uses to further control buildout of the subdivision consistent with the protective covenant provision set forth above.

3. Protection of water quality of the Slate River.

The covenants provide that, "All applicable buffers from the Slate River will be observed and Owners shall protect the Slate River during and after construction from all construction debris and other uses on such Owner's Lot. All Owners and the Association shall have the obligation to provide Gunnison County with access necessary to obtain water samples from the Slate River for testing purposes during normal business hours upon seven days written request, which shall not occur more frequently than four times per year." ***Exhibit K (Covenants)****, Art. 8.*

In addition, the Applicant intends to place 3,000 lineal feet of gravel infiltration trenches at the south end of all lots to collect treat and infiltrate water. That, in combination with the augmentation pond catching runoff and the re-grading and flattening of the overall site will result in more than a 20% reduction is storm water runoff post development than exists today. The infiltration swale used will be set back from the top edge of the slope leading down to the Slate River to ensure the protection of the slope from erosion and the river from pollutants in the runoff from the development

Further, the overall site drainage methodology fully integrates the LID (low impact design) drainage concept. This is different than the "traditional" drainage methodology of capturing runoff piping it and treating it at larger "regional" detention or retention location. The LID concept incorporates the idea of having many smaller dispersed treatment areas, limiting the connectivity of impervious areas, increasing the opportunity for filtration and infiltration. The main goal is to slow down, treat and infiltrate the storm water before it ever becomes a concentrated flow where it has a much more erosive and destructive force.

In addition to maintaining historic flow rates and flow paths in a much smaller footprint (because treatment happens before significant concentration), the LID drainage Best Management Practices (BMPs) also provide a higher water quality treatment than traditional drainage detention and retention models. This is because the traditional drainage models are primarily designed to handle large destructive storm events like the 25 and 100 year events. However, it has been found that more than 80% of all pollutants in storm water occur in the "first flush" in the less than 2- year storm events. In the process of evaluating the LID BMPs research has found not only do they treat for suspended solids but they are also every effective in removing, bacteria, metals, nutrients and oils and greases (see the international storm water BMP database for more information on percent removal abilities www.bmpdatabase.org).

The primary BMPs used in this development are:

- *Minimization of site disturbance, keeping paved and gravel areas to a minimum and keeping native vegetative buffers.*
- *Keeping a native slope to the Slate River and a berm on the river side of the full development so drainage is forced through infiltration trenches.*
- *Wetlands dispersion outlets, to disperse and infiltrate all areas in the development where storm water could become concentrated before they reach the wetlands or rivers.*

- *No curb and gutter so water sheet flows as much as possible directly into infiltration trenches directly adjacent to the paved road.*
- *There are no impervious areas directly running onto impervious areas. All impervious areas, road, roof, and driveways sheet flow directly onto pervious areas.*
- *Minimizing slopes in all areas, lengthening runoff channels and flattening out slopes on pervious areas in all locations.*
- *Use of filtrated Infiltration Swales (IS) in place of curb and gutter and traditional roadside ditches. The ISs have a sub-surface structure of specially formulated granular material to have rapid infiltration sitting over a gravel section providing filtration, subsurface storage and infiltration to native soils.*
- *Keeping the existing drainage basin path and location intact as much as possible, and not having anything flow onto the roadways to pick up pollutants.*
- *No touching or disturbing the steep slopes that drain directly to the river or wetlands.*
- *Not creating any new slopes (roadside cuts or fills) with more than 4:1 slopes on the site.*
- *Augmentation Pond that will catch all runoff from one basin. The full drainage report can be found at* ***Exhibit J-19 (Drainage Report)****.*

4. ***Response to the Riverland Industrial Park Lot Owners Association comment letter of August 31, 2016, as appropriate.***
   Please see ***Exhibit G-7 (Response to Riverland LOA Concerns)****.*

5. ***Compliance with the Crested Butte Fire Protection District requirements****.*
   The proposed development complies with the requirements of the Crested Butte Fire Protection District as discussed in more detail in the water supply plan included as ***Exhibit J-12 (Water Supply Plan).***

6. ***Level of commercial/retail permitted within the development****.*

Article 6 of the covenants provides as follows:

ARTICLE 6: Use of Lots

Section 1. Permitted Uses. Each Lot shall be designated as industrial, Light Industrial, or Subordinate Residential at the time such Lot is conveyed by Declarant. Such designation shall be memorialized through the recordation in the real property records of Gunnison County, Colorado of a notice substantially in the form attached hereto as Exhibit B, which will be recorded on the title of the Lot conveyed and all Lots immediately adjacent thereto. Any Lot designated as industrial may be used for industrial purposes, including industrial purposes that meet the requirements for Light Industrial. Any Lot designated as Light Industrial may be used for Light Industrial uses, but shall not be used for any other industrial use. Any Lot designated as Subordinate Residential may be used for any industrial purpose that meets the requirements for Light Industrial and may also be put to Subordinate Residential use. No Lot designated as Light Industrial or Subordinate Residential may be put to any industrial use that does not meet the standards for Light Industrial. Every Lot may be used for limited commercial uses set forth in Section 3 of this article. All Lots shall be used exclusively for the uses for which they are designated. In no event may a Lot be designated for Subordinate Residential when adjacent to a Lot already designated for industrial. In no event may a Lot be designated for industrial when adjacent to a Lot already designated as Subordinate Residential. The designation of a Lot may only be changed by the written agreement of the owners of the designated lot, the owners of the adjacent lots, the Association, and Gunnison County as part of an administrative land use change application. Such amendment of a designation shall be permitted, but only permitted, if it will not result in a Subordinate Residential Lot being located adjacent to a Lot designated as industrial.

A. Provided that such use is implemented in a manner that complies with the given Lot's designation, the following uses are expressly permitted:
   1. All manufacturing businesses or industries not expressly excluded;
   2. Contractor's yards or storage buildings;
   3. Warehousing and mini-storage;
   4. All wholesale uses;
   5. Automobile storage, service and repair, including without limitation R.V., snowmobile, ATV, and boat service, repair and storage;

6. Machinery and transportation equipment, storage, sales, rental, and service;
7. Public utilities;
8. Freight or trucking terminals;
9. Building material storage yard;
10. Mixture plant for mortar, grout and other masonry materials excluding any expressly prohibited below;
11. Distillery and brewing of beverages containing alcohol;
12. Commercial storage and retail sales of construction materials, including without limitation dirt, gravel, lumber, and other large construction materials that typically require a large warehouse for retail sales.

B. The following uses are expressly prohibited on all Lots:
1. Manufacturing, processing or warehousing or storage of explosives such as fireworks; and
2. Refining oil or other fossil fuels;
3. Kennels or hospitals for animals;
4. Marijuana or hemp grow operations or the manufacture and processing of marijuana and related products, including hemp;
5. Mixing plants for asphalt or concrete;
6. Any activity that will necessarily produce noise in excess of permitted residential levels by the State of Colorado between 10:00 p.m. and 4:00 a.m., such as activities that by their nature will produce substantial noise during those hours, unless such activity is related to snowplowing within the Property or ingress and egress for vehicles and equipment involved in off-site snowplowing activities.

C. Provided that such use is not expressly prohibited above, any Lot may be used for any industrial or Light Industrial Use consistent with its designation. It may not be possible to implement some expressly permitted uses identified above on a Lot identified as Light Industrial or Subordinate Residential and inclusion of permitted uses above should not be construed as excusing Light Industrial or Subordinate Residential Lots from meeting the requirements for Light Industrial with respect to any use implemented on such Lots. Notwithstanding the foregoing, if the use is not expressly permitted or prohibited above, the use may be permitted upon approval by the Board of Directors of the Association and upon an amendment to these Covenants specifically adding such use to the list of permitted uses. Such an amendment must also receive approval from Gunnison County, Colorado and any application to Gunnison County, Colorado will be at the Owner's sole expense.

Section 2. Building Envelope. All Buildings and other Improvements, including without limitation all primary structures and detached structures shall be located within the designated Building Envelope of the Lot, except for driveways and approved landscaping. All septic systems will be designed, installed and maintained so as to comply with all applicable setbacks. All activities will be conducted in such a manner as to not cause damage to any septic system that is in use.

Section 3. Commercial Uses. In addition to the expressly approved purposes above, all Lots may also be used for incidental and subordinate commercial uses, such as the sale of goods or materials produced or manufactured, in whole or in part, on the Lot, or which are related to the goods or services produced or manufactured, in whole or in part, on the Lot. Wholesaling is expressly permitted. Also expressly permitted is the retail sales of construction materials, including without limitation dirt, gravel, lumber, and other large construction materials that typically require a large warehouse for retail sales. Any such retail seller of construction materials may also include incidental and subordinate retail, which would include, by way of illustration, retail sales of construction equipment and supplies.

5. ***What level of county land use review will be required for varying uses***?
The covenants specifically provide a non-exhaustive list of permitted uses that will not require a land use change. Any use that is not one of the expressly permitted uses will require approval of the Association, amendment to the covenants, and an administrative review by Gunnison County of the amendment and related use.

MEETING DATES:

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

- February 2, 2018 - Work Session
- March 16, 2018 - Work session and Joint Public Hearing

- April 6, 2018 - continued Joint Public Hearing; work session

SITE VISIT:
The Planning Commission and Board conducted a site visit during the Sketch Plan review on September 2, 2017, at which time the Planning Commission and Board members walked the property and viewed the neighborhood, the proximity of the development to the adjacent properties, the Slate River corridor, and the proposed locations of the lots and roads.

PUBLIC HEARING:
The Planning Commission and the Board of County Commissioners conducted a joint public hearing on March 16 and April 6, 2018. At that time

Written Public Comments:
- Aaron Huckstep, attorney for the Riverland LOA, submitted comments dated March 3, 2018.

Public Hearing Comments:
- Aaron Huckstep, attorney for the Riverland LOA, said they do not object to the subdivision, their comments were intended to promote a harmonious co-existence.

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

REVIEW AGENCY REFERRAL COMMENTS:
Comments were received from the following agencies:

- **Colorado Division of Water Resources –** Megan Sullivan, P.E., Water Resource Engineer, comments in a letter dated December 22, 2017, notes:

"We have reviewed the above referenced proposal to subdivide a parcel of 35.19 acres into 17 lots of mixed industrial/commercial use, including subordinate residential. Each lot has the potential to have, in addition to industrial/commercial use, a single family dwelling and 2,000 square feet of landscaping. An additional 1.5 acres of vegetation buffer/berms will also be irrigated. The proposed water supply will be provided by a central system from up to two wells. Wastewater treatment for each lot is to be provided by Onsite Wastewater Treatment Systems (OWTS).

According to the water supply report dated May of 2017 prepared SMG, the water requirements for the industrial/commercial uses and for residential in-house uses (based on 350 gallons per day per each single family residence) for the 17 lots, are estimated to average 24,735 gallons per day (27.7 acre-feet per year). Irrigation demands are based on a calculated 0.949 ac- ft per acre requirement and 80% irrigation efficiency. For the total 2.3 acres of lawn and gardens (0.78 acres within the 17 lots and the 1.5 acres of lawn and landscaping on common property) annual irrigation requirements are calculated to be 2.70 acre-feet.

For subdivisions created after 1972, Section 37-92-602(3)(b)(III), C.R.S., requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. The source of the proposed water supply would be from, or tributary to, the Gunnison River. This area of the Gunnison River basin is over-appropriated; therefore, an augmentation plan is required to offset depletions caused by the pumping of any wells. The applicant has indicated that the wells providing the central supply for this project will operate pursuant to the decreed plan for augmentation approved by the Division 4 Water Court in case no. 2016CW3035.

Pursuant to this decree, the calculated depletions to the stream system are based on a consumptive use rate of 10% of the amount diverted for in-building water uses, which are limited to ordinary household purposes within the single family dwellings and drinking and sanitary uses within the commercial/industrial buildings.

The decree does allow for other use of water within the commercial/industrial buildings that could consume up to 100% of the demand such as a distillery or greenhouse. The total amount of these 100% consumed uses cannot exceed two acre-feet per year and must be separately metered.

According to the May 2017 SMG water supply report, a well was constructed on the property as a monitoring well under well permit no. 303734, in April 2017. A 24 hour pump test was conducted on April 12 through April 13, during which the well produced 58 gallons per minute with a drawdown of two feet below the static water level and the well recovered to the static water level within five minutes after pumping ceased. SGM estimates that to meet the total average day demand at full build out, the well will be required to pump 10.2 hours per day. Provided the well continues to produce at a similar production rate, the water supply should be physically adequate for the in-building water demands. Please note that the long term adequacy of any ground water source may be subject to fluctuation due to hydrological and climatic trends.

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the proposed water supply should be physically adequate and will not cause material injury to decreed water rights so long as the applicant obtains and maintains a well permit(s) issued pursuant to Section 37-90-137(2), C.R.S. to operate the well(s) as a production well, and operates the well in accordance with the terms of the augmentation plan decreed in case no. 2016CW3035. Note, Section 37-90-137(2), C.R.S., requires that no well permit shall be issued unless the location of the proposed well(s) will be at a distance of more than 600 feet from an existing production well unless the State Engineer has found after a hearing that the circumstances in a particular instance so warrant."

- **Colorado Division of Wildlife** – Brandon Diamond, District Wildlife Manger, comments in a letter dated December 22, 2017 notes:

"I have reviewed the Whetstone Industrial Park & Subdivision Preliminary/Final Plan application. The applicant is requesting the subdivision of 35-acres into 17 lots, each approximately 1 acre, with the remainder in roads and open space. The project is for an industrial park, with mixed industrial/commercial use, including subordinate residential. Colorado Parks and Wildlife (CPW) has provided several comment letters to Gunnison County as this project has evolved (reference CPW letters dated 212512011 and 71112016).

Although a variety of different wildlife species are present in and around the project area, black bears remain the most significant wildlife concern with this development, and planned conflict mitigation should be a priority. The adjacent communities of Crested Butte South, Crested Butte, and Mt. Crested Butte have a significant history of human/bear conflicts, which in most cases are directly linked to the communities' management of pet food, bird feeders, and the careless storage of household and commercial waste. To avoid negative human/bear encounters, the storage and handling of trash should be given a high priority. CPW's "Living with Wildlife in Bear Country" brochure provides guidance on proper trash management and other tips to avoid creating bear conflicts The use of bear-proof trash containers has proven to be the safest and most effective way to avoid human/bear conflicts. A prudent course of action would be for the project leads to require bear proof trash containers (both individual and communal) from the onset of the development.

Project leads might also consider incorporating wildlife-friendly Best Management Practices (BMP's) into future Covenants and/or Declarations so that wildlife has consideration in perpetuity. Such BMP's might address trash management, bird feeders and other wildlife attractants, wildlife-friendly fencing, and pet management (eg. Dogs must be on leash, pet food must be securely stored, etc.). CPW has a variety of resources available to landowners both on our website (http://cpw.state.co.us/) and at our Area Offices. Please feel free to contact us if you would like additional information.

It is important to point out that as the Gunnison Basin continues to develop, habitat available for wildlife is incrementally lost and conflicts with wildlife will increase. Although this project in itself affects only a small fragment of available habitat the effects of "minimal impact project s such as this are cumulative and should be considered as such. We strongly encourage the developer to advise potential property owners of wildlife that inhabits the area, and ways to avoid and reduce human/wildlife conflicts. Thank you for the opportunity to comment."

- **Crested Butte Fire Protection District** – Ric Ems, Fire Chief/Fire Marshal and Chris Davis, Fire Inspector, letters dated March 15, 2018 and April 3, 2018 provided additional comments:

"RE: Access and water supply review for the Final Plan for Major Impact Project/ Whetstone Industrial Park located at 24063 Hwy 135 near Crested Butte, Colorado

The Fire Division of the Crested Butte Fire Protection District (CBFPD) has received the plans for the above noted project. After reviewing the plans for compliance with adopted codes and ordinances, we have the following comments and requirements.

Access...as shown on the site plan submitted on March 15, 2015...is approved.

I. The road names (Rozman Drive and Bifano Drive) are compliant as shown.
Please note that this does not constitute approval by the Gunnison County Public Works Department. Please contact their office for their requirements.

Water Supply...as shown on the site plan submitted on March 15, 2018...is not approved.
Compliant:

1. The proposed water storage for the required fire flow systems and required fire suppression systems.
2. Fire hydrant spacing as drawn.
3. The 8-inch main from the augmentation pond to the fire hydrants.

Non-Compliant:

1. The fire suppression line off the fire main must be calculated by a fire suppression engineer to ensure compliance with the proposed covenants and hazard class. The currently proposed size of the fire suppression line needs to be evaluated based on the covenants, proposed hazard class and requirements of NFPA 13.

Natural Gas...approval of individual gas meter locations will be determined on a case-by-case basis upon issuance of a building permit.
Please resubmit your responses to the non-compliant issues listed above for review.
At the applicable time, we will review your plan submittal for the fire pump, generator and control systems to be installed in the "fire booster building". The approval of the fire booster building will be evaluated at that time."

Letter of April 4, 2018…notes:

"We have received the Whetstone FPE Report and letter of explanation from Tyler Harpel with SGM and Deborah Shaner with Shaner Life Safety dated April 3, 2018. The non-comp liant water supply issue noted in the CBFPD letter 2018-2-015 dated March 15,2018 has been satisfied. Reference: Shaner Life safety letter. We will review each proposal on a case by case basis as per Tyler Harpers letter referencing Gunnison County building process "Article 8, Section 3, Compliance with Applicable Code; Fire Protection Matters"

- **Gunnison County Public Works Department** – Marlene Crosby, Public Works Director, comments in an email of March 16, 2018, notes:

"Tyler dropped off the revised set of road plans and detail sheet late yesterday. I just reviewed them and they have added the 4' shoulders as requested. The roads are now compliant with our Standards."

- **Colorado Department of Transportation (CDOT)** – Dan Roussin, Permit Unit Manager, CDOT, comments in email of March 19, 2018, notes:

"CDOT has reviewed the traffic study and we are in general agreement with the report. The applicant has applied for an access permit for Buckley Drive/SH 135. At this time, CDOT is experiencing computer issues that won't allow us to offer an access permit. When these technically issues have been resolved, CDOT will issue a permit with the following conditions: (These conditions are outlined in the traffic study.)

- NB to WB deceleration lane

- NB to EB deceleration lane (maintain existing length)
- SB to WB deceleration lane
- SB to EB deceleration lane (maintain existing length)
- EB to SB acceleration lane
- EB to NB acceleration lane
- WB to NB acceleration lane (maintain existing length)

CDOT would recommend Gunnison County to provide a term and condition in their land-use approval that requires the applicant to have an approved access permit with the initial acceptance of the improvements as recommended in the traffic study."

- **Town of Crested Butte** – Michael Yerman, Community Development Director, Town of Crested Butte, comments in email of January 12, 2018, notes:
  "We have no comments. Thanks for asking."

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

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

Section 9-508: Keeping of Livestock not on an Agricultural Operation.
Not applicable. The protective covenants prohibit lot owners from keeping or permitting livestock on the property. Article 8. Section 11. Domestic Animal Control; No Livestock. B. No horses or other livestock shall be allowed on the Property.

Section 10-102: *Locational Standards for Residential Development.*
Not applicable, the residential component proposed as part of the subdivision is accessory to a primary light industrial use on each lot. No primary use of the lots for a residence is permitted.

Section 10-103: *Residential Density.*
Not applicable.

Section 11-103: *Development in Areas Subject to Flood Hazards*.
The Slate River has a mapped FEMA 100-year flood plain. Information from SGM shows the location of the 100-year flood plain does not affect development of the subject property. All developable portions of the lots are on a bench above the Slate River and out of the 100-year floodplain.

Section 11-104: *Development in Areas Subject to Geologic Hazards*.
The property is not within a geologic hazard area, according to County mapping.

Section 11-105: *Development in Areas Subject to Wildfire Hazards.*
The subject property is within an area with low wildfire hazard, as identified by County mapping. The development contains a centralized fire suppression system, including sufficient water supply for fire hydrants and sprinklering of buildings. The covenants provide for Section 3. Compliance With Applicable Code; Fire Protection Matters. All Buildings and other Improvements will meet all applicable requirements of all applicable governing bodies, including without limitation the applicable fire code and building code. All Lots shall maintain defensible space to protect against wildfire hazards in such minimum distances and in such a manner as may be recommended from time to time by the local fire protection district and Gunnison County.

Section 11-106: *Protection of Wildlife Habitat Areas.*
Comments were received from the Brandon Diamond, District Wildlife Manger, comments in a letter dated December 22, 2017. The applicant has incorporated recommendations into the covenants, Section 8. Standards to Ensure Compatible Uses., including all trash must be promptly placed in bear proof trash receptacles and all pet food shall be securely stored.

Section 11-107: *Protection of Water Quality*.
The applicant has specifically addressed protection of the Slate River water quality in Response to Sketch Conditions, No. 3.
The covenants provide for **Article 8. Section 7. Roads and Snow Removal.** Plowing, dumping and storage of snow in the Slate River is prohibited.

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

Section 11-109: *Development that Affects Agricultural Lands.*
The development is adjacent to Rozman Ranch, which conducts grazing operations. No specific impacts are identified to those lands. The developer shall advise future property owners of Gunnison County's *Right-to-Ranch Policy.*

Section 11-110: *Development of Land beyond Snowplowed Access*.
Not applicable, the site is not located beyond snowplowed access.

Section 11-111: *Development on Inholdings in the National Wilderness.*
Not applicable, the site is not located on a National Wilderness inholding.

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

Section 12-103: *Road System*.
Access is from Highway 135, via Buckley Drive. The road system includes Bifano Road and Rozman Road, which will be built to County Road and Bridge Specification standards. The roads will be paved, except for the portion of Rozman Road below Lot 17. Dan Roussin, Permit Unit Manager, CDOT, comments in email of March 19, 2018, notes approval of the State Highway Access Permit. Marlene Crosby, Public Works Director, Gunnison County Public Works, email of March 16, 2018, notes approval of the roads.

Section 12-104: *Public Trails*.
No new public trails are contemplated in this application.

Section 12-105: *Water Supply*.
The applicant has demonstrated that the development will provide a central water supply that is legally and physically adequate in terms of quality, quantity, and dependability.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*
On-site wastewater treatment systems are proposed for each lot. Each lot is a minimum of 1-acre, compliant for minimum parcel size for installation of OWTS.

Crystal Lambert, Environmental Health Official, in comments dated July 7, 2016 notes that "Mixed uses on a parcel can present challenges for the on-site treatment of wastewater…..It is important that only "domestic wastewater" can be put in an OWTS. All industrial wastewater, including floor

drains, must be permitted as a CLV injection well and obtain approval through the EPA. After review, it does appear that each proposed parcel would be able to accommodate an OWTS in accordance with the regulations, which would be a requirement at the time of application for individual parcel development."

Section 12-107: *Fire Protection*.
The property is served by the Crested Butte Fire Protection District. Ric Ems, Fire Chief/Fire Marshal and Chris Davis, Fire Inspector, letters dated March 15, 2018 and April 4, 2018 provided additional comments pertaining to the Fire District requirements. The applicant is providing central fire suppression, with adequate storage, for fire suppression in the development. Additional review and comments regarding fire flow and suppression capabilities provided by Deborah Shaner, P.E., Fire Protection Engineer, letter of April 3, 2018

Section 13-103: *General Site Plan Standards and Lot Measurements.*
The site plan for the subdivision complies with the standards of this Section. Article 8. Section 2. Building Matters. H. H. No structure or Building shall exceed 45 feet in height; in addition, and as a further restriction on height, no structure or Building on Lot 3 shall exceed 42 feet in height, and no structure or Building on Lot 4 shall exceed 41 feet in height.

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 envelopes have been delineated on the lots. All improvements will be located within the building envelopes. The lots will be restricted to a maximum subordinate residential building size, pursuant to Gunnison County regulations in place at the time of construction. Building heights on Lots 3 and 4 have been restricted, Article 8. Section 2. Building Matters.H. to minimize visual impacts of the buildings from Highway 135.

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

Section 13-107: *Installation of Solid Fuel-Burning Devices*
Installation of solid fuel-burning devices is subject to the standards of this Section at the time of building permit application. The covenants address this in Article 8, Section 6. Solid Fuel Burning Devices. Owners shall adhere to the regulations regarding solid-fuel-burning devices contained in the LUR.

Section 13-108: *Open Space and Recreation Areas*
The application complies with Section 13-108: F.1 and 2. through the inclusion of landscaping elements and property line setbacks and the inclusion of a minimum 30% open space. The applicant has identified open space areas within the development, totaling 37% of the development, including a 6-acre open space parcel and pond, buffering an existing residential property to the south.

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

Section 13-110: *Off-Road Parking and Loading.*
Off-road parking is required. Article 8. Section 14. Parking. Requires all vehicles, heavy equipment, machinery, and trailers shall be parked only within individual Lots and shall be operational. Each Lot shall provide sufficient parking areas so that no parking shall occur on the roads, easements, or right of ways within the subdivision.

Section 13-111: *Landscaping and Buffering.*
A landscaping plan has been submitted, *Landscaping and Berm Plan - revised, Final Plan Sheet 27, March 15, 2018* showing landscaping and berming, including irrigation, along the Highway 135 frontage, providing a buffer between the highway and the development.

Section 13-112: *Snow storage*.
The Homeowners Association is responsible for snow removal, as identified in the covenants, Article 8 Section 7. Roads and Snow Removal. The location of snow storage areas are identified on the *Snow Storage Plan*, SGM, Plan Sheet 23, Final Plan Set.

Section 13-113: *Fencing*
All fencing shall comply with this Section. Colorado Parks and Wildlife recommends the use of "wildlife friendly" fencing.

Section 13-114: *Exterior Lighting.*
All new structures are required to comply with this section, including the use of fully shielded exterior light fixtures. Article 8, Section 1. Lighting**.** Exterior lighting fixtures shall be full cutoff, fully-shielded, shielded by roof elements, or effectively recessed.

Section 13-115: *Reclamation and Noxious Weed 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*. Addressed in the covenants, Article 8, Section 15. Weed Control and Revegetation.

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*. The applicant has identified a fully integrated LID (low impact design) drainage concept to address erosion and stormwater controls. A Grading and Drainage Plan has been prepared by SGM, March 15, 2018, Plan Sheet 22, Final Plan Set.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*
The Preliminary/Final Plan includes an engineered drainage and stormwater management plan. A Grading and Drainage Plan has been prepared by SGM, March 15, 2018, Plan Sheet 22, Final Plan Set.

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

Section 13-119: Standards to Ensure Compatible Uses.
The proposal shall be designed, constructed, and maintained in a manner that will not adversely affect the character and tranquility of nearby residential or public use areas. The Gunnison/Crested Butte Industrial Special Area is a discrete geographic area in which land development and land use is identified as being appropriate for industrial uses on lands adjacent to and compatible with the uses within the Riverland Industrial Park. Design standards

and limitations on the uses have been identified in the covenants. Protective covenants, include design standards and limitations on uses to address compatibility.

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

FINDINGS:
The Commission finds that:

1. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.
2. The applicant has satisfactorily addressed all of the items identified in Condition No. 3 of the Sketch plan approval.
3. The proposed land use change is compatible with the character of existing land uses in the development area, and will not adversely impact the future development of the development area.
4. The proposed land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution*, pursuant to *Division 7-300: Preliminary Plan for Major Impacts* and *Division 7-400: Final Plan for Major Impact Projects* of the Resolution.
5. Pursuant to Section 16-117 of the *Gunnison County Land Use Resolution* a Development Improvement Agreement, including cost estimates certified by a licensed professional engineer, is required to be achieved during a Final Plan review, ensuring collateral and identified dates of completion to ensure the installation of: construction and paving of the subdivision roads, construction of turn lane improvements on Highway 135, drainage improvements, a potable water system, water system for fire protection and landscaping, the installation of electrical and natural gas lines, landscaping, berming and reclamation, as rendered within plans listed within the above "Documents Informing this Review and Action."
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.

RECOMMENDATION:
The Gunnison County Planning Commission, having considered the submitted Plan, site observations and public testimony has reached the above Findings and recommends to the Board of County Commissioners that LUC-2016-00013, Whetstone Industrial Park, Preliminary/Final Plan, be approved with the following conditions:

1. A mylar subdivision plat, in compliance with Section 7-401 M., *Gunnison County Land Use Resolution*, shall be provided to the Community Development Department, for signature by the Board of County Commissioners. Approval shall not be effective until and unless the plat is recorded with the Office of the Gunnison County Clerk and Recorder.

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

3. The applicant shall record the *Declaration of Protective Covenants – Whetstone Industrial Park* contemporaneously with the subdivision plat.

4. The applicant shall have an approved CDOT Highway access permit in place with the initial acceptance of the improvements as recommended in the traffic study.

5. A Development Improvements Agreement shall be executed by the applicant and Gunnison County, including identified infrastructure costs, subject to review and approval by the Gunnison County Attorney, referencing the infrastructure plans, to include: construction and paving of the subdivision roads, construction of turn lane improvements on Highway 135, drainage improvements, a potable water system, water system for fire protection and landscaping, the installation of electrical and natural gas lines, landscaping, berming and reclamation, as rendered within plans identified in the "Documents Informing this Review and Action."

6. The Development Improvement Agreement shall require the applicant to provide to the County a guarantee of financial security, acceptable to the County, in an amount established by the Board based on no less than 125 percent of the estimated cost of the project improvements, and the improvements to State Highway 135, payable on demand to the County. Said surety shall be retained by the County to a date acceptable to the County to certify completion of improvements.

7. 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.

8. 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.

9. 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. 2018 - ___

A RESOLUTION APPROVING THE PRELIMINARY/FINAL PLAN FOR WHETSTONE INDUSTRIAL PARK
LUC NO. 2016-00013
PART OF LOT 1, ALL LOTS 2, 3, 4, PART OF THE SENW, PART OF NESW, SESW 33.93-ACRES IN SWSE, 0.41-ACRES IN SESE SECTION 18, LOT 1 E1/2NW 3.51-ACRE IN W1/2NWNE
SECTION 19, TOWNSHIP 14 SOUTH, RANGE 85 WEST, 6TH P.M.
L & D RANCHES, LLC

WHEREAS, L & D Ranches, LLC, represented by Marcus J. Lock, Law of the Rockies, submitted the Whetstone Industrial Park Preliminary/Final Plan application, which proposes the subdivision of a 35-acre parcel into 17 lots, ranging in size from 1.25-2.15 acres, for a commercial/industrial park, with an allowance for an accessory residential unit, in association with a primary light industrial use. Water is proposed to be supplied by a central water system and wastewater treatment will be provided by individual onsite wastewater treatment systems. Access will be via a new access road, via Buckley Drive, to State Highway 135. The property is located in Part of Lot 1, All Lots 2, 3, 4, Part of the SENW, Part of NESW, SESW 33.93-acres in SWSE, 0.41-acres in SESE Section 18, Lot 1 E1/2NW 3.51-acre in W1/2NWNE Section 19, Township 14 South, Range 85 West, 6th P.M.; and

WHEREAS, a joint public hearing was conducted March 16 and April 6, 2018, by the Planning Commission and Board of County Commissioners; and

WHEREAS, after a review of the application and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, at its regular meeting on April 6, 2018 forward to the Board of County Commissioners a Recommendation of approval of that application with certain Findings and Conditions;

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

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

2. The applicant has satisfactorily addressed all of the items identified in Condition No. 3 of the Sketch plan approval.

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

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

5. Pursuant to Section 16-117 of the *Gunnison County Land Use Resolution* a Development Improvement Agreement, including cost estimates certified by a licensed professional engineer, is required to be achieved during a Final Plan review, ensuring collateral and identified dates of completion to ensure the installation of: construction and paving of the subdivision roads, construction of turn lane improvements on Highway 135, drainage improvements, a potable water system, water system for fire protection and landscaping, the installation of electrical and natural gas lines, landscaping, berming and reclamation, as rendered within plans listed within the above "Documents Informing this Review and Action."

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.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that no additional public hearing on the Whetstone Industrial Park Preliminary/Final Plan need be conducted by the Board, and further, the Board hereby approves the Whetstone Industrial Park Sketch Plan for LUC No. 2016-00013 as recommended by the Planning Commission, with the following conditions:

1. A mylar subdivision plat, in compliance with Section 7-401 M., *Gunnison County Land Use Resolution*, shall be provided to the Community Development Department, for signature by the Board of County Commissioners. Approval shall not be effective until and unless the plat is recorded with the Office of the Gunnison County Clerk and Recorder.

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

3. The applicant shall record the *Declaration of Protective Covenants – Whetstone Industrial Park* contemporaneously with the subdivision plat.

4. The applicant shall have an approved CDOT Highway access permit in place with the initial acceptance of the improvements as recommended in the traffic study.

5. A Development Improvements Agreement shall be executed by the applicant and Gunnison County, including identified infrastructure costs, subject to review and approval by the Gunnison County Attorney, referencing the infrastructure plans, to include: construction and paving of the subdivision roads, construction of turn lane improvements on Highway 135, drainage improvements, a potable water system, water system for fire protection and landscaping, the installation of electrical and natural gas lines, landscaping, berming and reclamation, as rendered within plans identified in the "Documents Informing this Review and Action."

6. The Development Improvement Agreement shall require the applicant to provide to the County a guarantee of financial security, acceptable to the County, in an amount established by the Board based on no less than 125 percent of the estimated cost of the project improvements, and the improvements to State Highway 135, payable on demand to the County. Said surety shall be retained by the County to a date acceptable to the County to certify completion of improvements.

7. 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.

8. 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.

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

THIS 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 adopted on this ____ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

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

ATTEST:

_____
Gunnison County Clerk and Recorder