AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Boundary Line Adjustment; Vista Business Park

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Boundary Line Adjustment for Lots 2 and 3, Vista Business Park and Lot 15, Signal Peak Industrial Park

Fiscal Impact:

Submitted by: Cathie Pagano **Submitter's Email Address:** cpagano@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 6/19/19

Reveiwed by: Discharge Date: 6/19/2019 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 6/21/2019

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

Agenda Date: 7/2/2019

Revised April 2015

Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360 FAX: (970) 641-8585
Website: www.gunnisoncounty.org
Email: planning@gunnisoncounty.org

To: BOCC

From: Cathie Pagano, Director of Community and Economic Development

Date: June 18, 2019

Re: Vista Business Park

Link, LLC represented by Hal Hearne has submitted an application for a boundary line adjustment between Lots 2 and 3, Vista Business Park and Lot 15, Signal Peak Industrial Park, Filing 1. Hearne owns all three parcels. He proposes changing the boundary lines of the three parcels to better accommodate Golden Eagle Trash Services on the proposed Lot 3.

Hearne also proposes to amend the covenants of Vista Business Park. The proposed amendments are attached. Hearne's attorney, Kendall Burgemeister explained the proposed amendments in an email dated June 19, 2019:

> *"The amendment regarding the dry hydrant is to make the covenants consistent with the final LUC approval (one hydrant versus two).*
>
> *The amendment regarding trees is to eliminate the requirement for evergreen trees, and to require Cottonwood trees to be cottonless. The number and height of trees is unchanged.*
>
> *The amendment regarding parking confirms that the "adequacy" of screening of parking areas is determined by the Association (not the owner).*
>
> *The amendments to section 10 address the easement changes that were a result of the boundary adjustment."*

Thank you and please let me know if you have questions or concerns.

Elizabeth Mense

From: Cathie Pagano
Sent: Thursday, June 20, 2019 3:50 PM
To: Elizabeth Mense
Subject: FW: VBC Covenant amendment
Attachments: 20190619 Second Amendment to VBC Declaration.docx; Community Development Department Memo Form 2010.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Liz,

Can you add this to the Vista Business Park request (including email below) for the boundary line adjustment? I've attached a revised memo to the BOCC. Thanks.

Cathie Pagano, AICP CEP
Director of Gunnison County Community and Economic Development
221 N Wisconsin St. Suite D
Gunnison, CO 81230
Ph. 970-641-7985

From: Kendall K. Burgemeister <kburgemeister@lawoftherockies.com>
Sent: Wednesday, June 19, 2019 12:06 PM
To: Cathie Pagano <CPagano@gunnisoncounty.org>
Cc: Hal Hearne <hlhearne@pcrs.net>; 'Leslie Hearne' <hearneleslie@icloud.com>
Subject: VBC Covenant amendment

Cathie,

Hal requested that I send to you the attached proposed amendments to the Declaration for VBC.

The amendment regarding the dry hydrant is to make the covenants consistent with the final LUC approval (one hydrant versus two).

The amendment regarding trees is to eliminate the requirement for evergreen trees, and to require Cottonwood trees to be cottonless. The number and height of trees is unchanged.

The amendment regarding parking confirms that the "adequacy" of screening of parking areas is determined by the Association (not the owner).

The amendments to section 10 address the easement changes that were a result of the boundary adjustment.

Please let me know if you have any questions or need anything else from me.

Thank you,

Kendall Burgemeister
Member | Law of the Rockies

525 North Main Street
Gunnison, CO 81230
Tel: 970-641-1903 ext. 3
Fax: 970-641-1943
kburgemeister@lawoftherockies.com
www.lawoftherockies.com

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Second Amendment to the Declaration of Protective Covenants
for Vista Business Center

Recitals

Whereas:

The Declaration for Protective Covenants for Vista Business Center ("Declaration") was recorded April 22, 2016, in the real property records of Gunnison County as Reception No. 639022;

Section 13.4 of the Declaration provides that the Declaration may be amended by vote or agreement of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, provided that the amendment is also approved by the Board of County Commissioners and placed of record in the office of the Clerk and Recorder of the County of Gunnison, Colorado;

The Colorado Common Interest Ownership Act (the "Act") provides that this amendment must be indexed in the grantee's index in the name of the common interest community and the association and in the grantor's index in the name of each person executing the amendment;

The Act provides that amendments required to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association;

Section 10.8 of the Declaration describes certain easements illustrated on the Plat of Vista Business Center recorded at Reception No. 639021;

The Owner of Lots 2, 3, and 4 of Vista Business Center desires to adjust the boundaries between those Lots, and make corresponding adjustments to certain of the easements across those Lots;

The Owners of Lots in Vista Business Center desire to make other minor amendments to the Declaration as described below; and

The boundary line adjustment and amendments to the Declaration have been approved by the members of the Association in the manner required by the Declaration.

Amendment

Now, therefore, the Declaration is amended as follows:

> Section 5.13.2.2 shall read in its entirety: The Declarant has installed, and the Association shall maintain, on the Property in the location indicated on the Plat, one dry hydrant that complies with the current standards of the Gunnison County Fire Protection District.
>
> Section 5.14.4 shall read in its entirety: Each lot owner shall be responsible for planting and maintaining no less than three trees, all of which shall be irrigated, and all of which shall be at least 8 feet tall, for each 1200 square feet of Building floor area. Cottonwood trees shall be of a cottonless variety.
>
> Section 5.20.5 shall read in its entirety: Parking areas shall be adequately screened, as determined by the ARB, to mitigate visual impact to Colorado Highway 50.
>
> Section 10.8.4 shall read in its entirety: Along the lot line between Lots 6 and 7, and along the southern lots lines of Lots 5-7 adjacent to the southern Common Area, a 30 foot wide easement for pedestrian access to the southern Common Area, for the benefit of the Owners.
>
> Section 10.8.5 shall read in its entirety: Along the southern portion of Lot 3, a 40 foot wide limited access easement for the benefit of the Declarant and the Association, to access the Common Area (including Griffing Road) from Lot 15 of Signal Peak Industrial Park for the purpose of performing maintenance and repairs to the Common

Area, including snow removal. This easement does not grant any rights in or across Lot 15 of Signal Peak Industrial Park.

Section 10.8.6 shall read in its entirety: Easements for drainage and for the installation of utilities as shown on the Plat, the benefit of the Declarant and Association.

Section 10.8.7 shall read in its entirety: Between the building envelopes of Lots 1 and 2, a pedestrian access easement for the owner of the Expansion Property.

Certification by the Association: The foregoing Second Amendment to the Declaration of Protective Covenants for Vista Business Center was approved by vote or agreement of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated in accordance with Section 13.4 of the Declaration.

VBC Owners Association, a Colorado non-profit corporation

By:_____
Hal Hearne, President

STATE OF COLORADO)
)
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this ___ day of_____, 2019, by Hal Hearne, President of VBC Owners Association, a Colorado non-profit corporation. Witness my hand and official seal. My commission expires:_____.

Approval of the Board of County Commissioners:

The foregoing Second Amendment to the Declaration of Protective Covenants for Vista Business Center was approved by the Board of County Commissioners of Gunnison County, Colorado, on the _____ day of _____, 2019.

_____	_____	_____
Jonathan Houck, Chairperson	John Messner, Commissioner	Roland Mason, Commissioner

Attest: _____
Gunnison County Clerk & Recorder

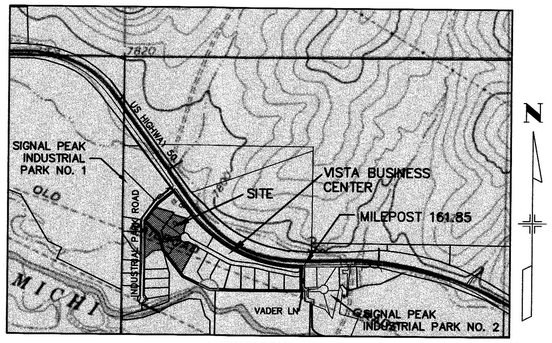
This amendment shall be indexed as follows:

Grantee's index:
Vista Business Center
VBC Owners Association

Grantor's index:
VBC Owners Association
Link, LLC
Board of County Commissioners of Gunnison County, Colorado

BOUNDARY LINE ADJUSTMENT OF LOTS 2, 3, AND 4 OF VISTA BUSINESS CENTER AND LOT 15 OF SIGNAL PEAK INDUSTRIAL PARK

BEING LOCATED WITHIN
THE N1/2SW1/4 AND S1/2NW1/4 OF SECTION 3
TOWNSHIP 49 NORTH, RANGE 1 EAST, NEW MEXICO PRINCIPAL MERIDIAN
GUNNISON COUNTY, COLORADO



VICINITY MAP
1"=2000'±

ATTORNEY'S OPINION

I, Kendall K. Burgemeister, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein identified on this plat. Such title is vested as follows:

Lots 2, 3, and 4, Vista Business Center, according to the plat thereof recorded April 22, 2016 at Reception No. 639021 are owned by Link, LLC, and are free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

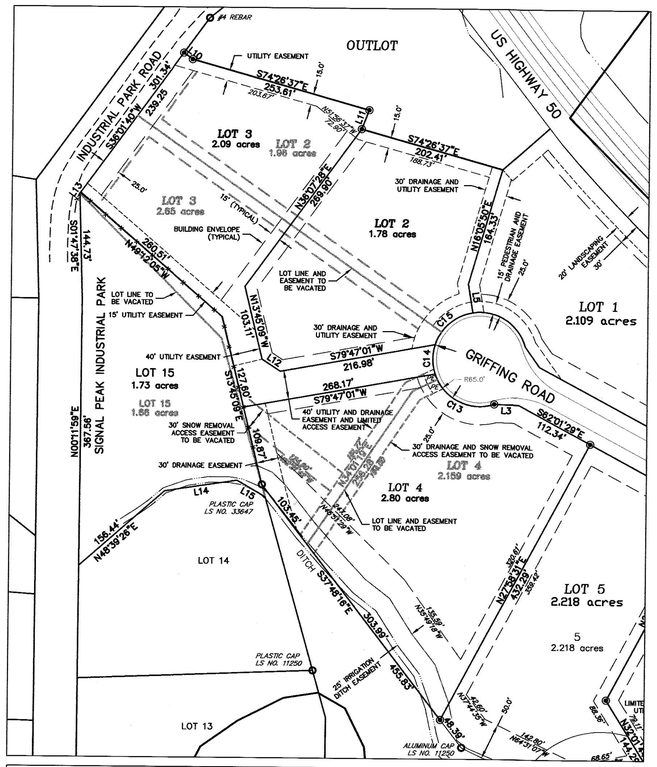
1. Any rights, claims, liens, defects, encumbrances, or easements not shown by the public records or first appearing in the public records or attaching subsequent to the effective date hereof.
2. Any and all unpaid taxes and assessments.
3. Declaration of Protective Covenants for Vista Business Center recorded April 22, 2016 at Reception No. 639022, as amended by the First Amendment to the Declaration of Protective Covenants for Vista Business Center, recorded April 18, 2017, at Reception No. 645954.
4. Plat of Vista Business Center, recorded April 22, 2016, at Reception No. 639021.
5. Certificate of Major Impact Approval recorded April 8, 2016, at Reception No. 638800, and Resolution Approving Final Plan Application for Vista Business Center, recorded April 6, 2016, at Reception No. 638784.
6. All reservations as set forth in United States Patents recorded May 1, 1893 in Book 115 at page 107 and April 11, 1905 in Book 101 at page 342.
7. Right of Way as set forth in instrument recorded August 11, 1910 in Book 190 at Page 265; and any and all assignments thereof or interests therein.
8. Right of Way as set forth in instrument recorded July 9, 1931 in Book 241 at page 282; and any and all assignments thereof or interests therein.
9. Easement Agreement as set forth in instrument recorded February 28, 2013 as Reception No. 618770; and any and all assignments thereof or interests therein.

Lot 15, Signal Peak Industrial Park Filing No. 1, according to the amended plat thereof filed August 19, 1980 at Reception No. 352398 is owned by Signal Peak Self Storage, LLC, and is free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

1. Any rights, claims, liens, defects, encumbrances, or easements not shown by the public records or first appearing in the public records or attaching subsequent to the effective date hereof.
2. Any and all unpaid taxes and assessments.
3. All reservations as set forth in United States Patent recorded July 9, 1931 in Book 241 at page 282.
4. Right of way set forth in instrument recorded in Book 374 at Page 394 and in Book 376 at Page 417.
5. Signal Peak Industrial Park Protective Covenants recorded in Book 547 at Page 890
6. Resolution Approving an Amendment to the Protective Covenants of the Signal peak Industrial Park recorded February 17, 1981 in Book 562 at Page 720.
7. Affidavit regarding Signal Peak Industrial Park Protective Covenants recorded February 22, 1996, in Book 778 at Page 942.
8. Amended Plat of Signal Peak Industrial Park Filing No. 1, recorded August 19, 1980 at Reception No. 352398.
9. Underground Right-of-Way Easement recorded at Reception No. 544170.
10. Deed of Trust for the benefit of The Gunnison Bank and Trust Company, recorded January 27, 2016, at Reception No. 637697.

Dated this 16th day of June, 2019.

Kendall K. Burgemeister, Attorney Reg. No. 41593



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CH BEARING	CH
C13	101.74	65.00	89°40'53"	S63°19'29"E	91.67
C14	41.30	65.00	36°24'18"	S00°16'53"E	40.61
C15	71.35	65.00	62°53'38"	S49°22'05"W	67.82

LINE TABLE		
LINE	BEARING	LENGTH
L3	N88°16'20"W	33.75
L5	N09°11'06"W	40.03
L10	N53°53'38"W	15.00
L11	N21°12'38"E	28.03
L12	N56°59'04"W	30.00
L13	S36°05'48"W	2.08
L14	N81°18'25"E	101.23
L15	S59°56'41"E	45.01

LEGEND
- ◉ FOUND BOUNDARY MARKER LS NO. 27739
- ○ FOUND BOUNDARY MARKER AS NOTED.

LAND SURVEYOR'S CERTIFICATE

I, Norman C. Whitrhrad, 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 10th day of June, 2019.

COLORADO LICENSED NORMAN C. WHITEHEAD 27739 6/10/19 LAND SURVEYOR L.S. & P.L.S.

Norman C. Whitehead, Colorado L.S. #27739
P.O. Box 3688
Crested Butte, CO 81224

GENERAL NOTES

1. CONFINEMENT OF DOMESTIC ANIMALS. Domestic animals must be controlled by kenneling, leash, fencing or other physical constraint and that any expense of enforcement of the domestic animal control restrictions by the County shall be at the expense of the responsible association or individual.
2. AWARENESS OF COLORADO "FENCE-OUT" REQUIREMENTS. C.R.S. § 35-46-101 et seq., requires a property owner 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.
4. Basis of Bearing: S21°33'31"E between found monuments located at the northwesterly corner of Lot 2 and the southeast corner of Lot 4.
5. Bearings for Lot 15 were rotated to bearings relating to Vista Business Center.
6. According to Colorado law you must commence legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based on any defect in this survey be commenced more than ten years from the date of the surveyor's certificate shown hereon.

CONSENT OF OWNERS AND CONVEYANCE

Signal Peak Self Storage, LLC, as the owners of Lot 15, Signal Peak Industrial Park Filing No. 1, according to the amended plat thereof filed August 19, 1980 at Reception No. 352398, hereby consents to the adjustment of the lot lines as set forth on this plat, and hereby quitclaims and conveys to Link, LLC, all of its right, title, and interest in and to Lots 2, 3, and 4, of Vista Business Center as revised by this boundary adjustment plat.

Signal Peak Self Storage, LLC

By: _____
Hal Hearne, Manager

The foregoing consent and conveyance was acknowledged before me in Gunnison County, Colorado, this 13th day of June, 2019, by Hal Hearne, as Manager of Signal Peak Self Storage, LLC. Witness my hand and official seal. My commission expires: November 9, 2019.

Notary Public

BRADLEY WAYNE BUCKHORN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20154043781
My Commission Expires November 9, 2019

Link, LLC, as the owners of Lots 2, 3, and 4, Vista Business Center, according to the plat thereof recorded April 22, 2016 at Reception No. 639021, hereby consents to the adjustment of the lot lines as set forth on this plat, and hereby quitclaims and conveys to Signal Peak Self Storage, LLC, all of its right, title, and interest in and to Lot 15, Signal Peak Industrial Park as revised by this boundary adjustment plat.

Link, LLC hereby dedicates the easements as shown hereon and more fully described in the Declaration of Protective Covenants for Vista Business Center, as amended, and consents to the vacation of easements as shown hereon.

Link, LLC

By: _____
Hal Hearne, President

The foregoing consent and conveyance was acknowledged before me in Gunnison County, Colorado, this 13th day of June, 2019, by Hal Hearne, as President of Link, LLC. Witness my hand and official seal. My commission expires: November 9, 2019.

Notary Public

BRADLEY WAYNE BUCKHORN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20154043781
My Commission Expires November 9, 2019

CONSENT OF LIENHOLDERS

The Gunnison Bank and Trust Company, as the beneficiary of the Deed of Trust recorded at Reception No. 637697, hereby consents to the adjustment of the lot lines as set forth on this plat.

The Gunnison Bank and Trust Company

By: _____ (sign)

Name: Chad W Zummach

Title: Vice President

The foregoing consent and conveyance was acknowledged before me in Gunnison County, State of Colorado, this 13th day of June, 2019, by Chad W Zummach as Vice President of The Gunnison Bank and Trust Company. Witness my hand and official seal. My commission expires: November 9, 2019.

Notary Public

BRADLEY WAYNE BUCKHORN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20154043781
My Commission Expires November 9, 2019

Certification by the Association

This Boundary Line Adjustment Plat, including the vacation and platting of easements shown hereon, was approved by vote or agreement of Owners to which at least sixty-seven percent of the votes in the Association are allocated in accordance with Section 13.4 of the Declaration.

VBC Owners Association, a Colorado non-profit corporation

By: _____
Hal Hearne, President

The foregoing certification acknowledged before me in Gunnison County, Colorado, this 13th day of June, 2019, by Hal Hearne, as President of the VBC Owners Association. Witness my hand and official seal. My commission expires: November 9, 2019.

Notary Public

BRADLEY WAYNE BUCKHORN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20154043781
My Commission Expires November 9, 2019

BOARD OF COUNTY COMMISSIONERS' APPROVAL

The within plat of the BOUNDARY LINE ADJUSTMENT OF LOTS 2, 3, AND 4 OF VISTA BUSINESS CENTER AND LOT 15 OF SIGNAL PEAK INDUSTRIAL PARK is approved this ____ day of _____, 2019.

_____
Chairperson, Gunnison County Board of Commissioners

Attest:

_____
Gunnison County Clerk and Recorder

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 _____, 2019,

Reception Number _____, Time _____, Date _____

_____
Gunnison County Clerk and Recorder

BOUNDARY LINE ADJUSTMENT OF
LOTS 2, 3, AND 4 OF VISTA BUSINESS CENTER
AND
LOT 15 OF SIGNAL PEAK INDUSTRIAL PARK
GUNNISON COUNTY, COLORADO

Prepared By:
NCW & Associates, Inc.
P.O. Box 3688 (970) 349-6384
Crested Butte Colorado 81224

PROJECT: 19080.00	DWG.: ADJPLAT
DATE: 5/21/19	SHEET 1 OF 1

ORIGINAL SHEET SIZE = 24"X36"