

GUNNISON COUNTY PLANNING COMMISSION
AGENDA: JULY 21, 2006

- 8:45 a.m.
- **Call to order; determine quorum**
 - **Approval of Minutes**
 - **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are not scheduled on the day's agenda.
- 9:00 a.m. **Horse Meadows Subdivision, represented by Jessica Stone,** continued joint public hearing/no action, preliminary plan, subdivision of 48.56 acres into ten single-family lots and one common open space area, located north of the City of Gunnison, north of Seneca Drive and east of Chekwa Way
- 11:00 a.m. **SG Interests I, Ltd., represented by Lynn Garner, Nika Energy Operating,** public hearing/possible action, request for 2 natural gas wells, located in the East Muddy Creek area, west of State Highway 133
- *Noon ***Planning Commission,** work session; general discussion about issues of Commissioner interest
- 1:00 p.m. **Buffington,** work session/possible action, request to subdivide an 8.64 acre parcel into two lots, located east of Ohio Creek Road, north of Allen Lane, 3148 County Rd. 730
- 1:45 p.m. **Slate River Holdings, LLC,** work session/possible action, request for 10,000 square foot commercial structure w/residence, located on Lot 16, Riverland Industrial Park F# 2
- 2:30 p.m. **Casey and Kassie Shook,** work session/no action, proposed subdivision of 3.26 acres from 22.96-acre parcel for single-family use on each lot off County Road 744, in Sec. 22, in S1/2 NW ¼, Twn 15 S, R 84 W, 6th P.M.

Adjourn

GUNNISON COUNTY PLANNING COMMISSION
Regular Meeting Minutes
July 21, 2006

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

Chairman-Dave Houghton	Director of Planning-Joanne Williams
Vice-Chairman- Jeff Wilkinson	Assistant Director of Planning- Neal Starkebaum
Commissioner- Ramon Reed	Planner- Cathie Pagano
Commissioner- Richard Karas	Administrative Assistant- Beth Baker
Commissioner- Nick Lypps	Others listed as presented in text
Commissioner- Mike Potoker	

Chairman Dave Houghton determined a quorum existed and opened the regular meeting of the Gunnison County Planning Commission at 8:45, July 21, 2006.

County attorney David Baumgarten was present to clarify the process of closing a public hearing. He explained a public hearing can be closed then be followed by a work session. He noted a legitimate opportunity must be given to the public to express their concerns. It is a very delicate balance and should be considered carefully. Do not be precipitous when closing the public hearing but there must be a time when the public hearing is closed.

HORSE MEADOWS SUBDIVISION: The Planning Commission held a continued joint public hearing with applicant's attorney Mike Dawson and applicant John Stock. They reviewed his request to subdivide 48.56 acres into ten single-family lots and one common open space area, located north of the City of Gunnison, north of Seneca Drive and east of Chekwa Way. Board members Paula Swenson and Jim Starr and County Attorney David Baumgarten were present for the continued joint public hearing.

With a quorum present Chairman Dave Houghton opened the continued joint public hearing.

Commissioner Richard Karas recused himself from the proceedings.

Vice-Chairman Jeff Wilkinson stated the last meeting was primarily centered on the septic systems. Planner Cathie Pagano noted the Commission had requested attorney David Baumgarten attend the current meeting as well as Water Commissioner Richard Rozman. Baumgarten did attend, Rozman did not attend.

Commissioner Ramon Reed explained that the Commission had requested Baumgarten's opinion on water rights because several neighbors have inferred this subdivision could injure their rights to the historic tail water. Baumgarten pointed out Injury and potential water rights should be the purview of water court. He advised the Commission to go forward with the decision assuming the proponent's water rights are legitimate. He added that the Commission would then note within the decision there is an objection from an adjacent land owner. If it is decided in water court that the adjacent land owner is indeed injured the decision would be revisited. He added the neighbor has a right to bring a law suit at any time. Baumgarten reiterated the protection of water rights is absolutely the purview of water court and not the Commission.

Attorney Mike Dawson said the applicant has submitted an augmentation plan to water court and that plan has been accepted. He added within the approved decision it has been noted the neighbor has objected. Dawson explained the division engineer in this case did recommend approval of the augmentation plan with corrections to be made by the proponent. These corrections have since been made.

Commissioner Nick Lypps said the neighbors could have historically been enjoying more water than they are entitled to. He said if there is a measuring device installed there is a possibility it could be proved the neighbors are receiving at least if not more than their amount of decreed water. Baumgarten repeated the water court decision should be the final word.

Applicant John Stock said they have gone around the perimeter of the property and reestablished old ditches that had been there historically. This has resulted in the neighboring parcels getting not only their decreed amount of water but much more water.

Commissioner Ian Billick said it was his opinion the water issues have essentially been resolved and the Commission should move forward.

Commissioner Nick Lypps suggested it would be preferable to have one master irrigator in an area. The irrigator would be responsible to the highest degree possible to ensure the historical irrigation water flow continued. Dawson said the homeowners association will appoint one person to be the irrigator for the subdivision.

The Commission concluded the applicant had accomplished adequate irrigation water flow with the rerouting of the ditches and the installation of the measuring device. Stock stated it is his intent to continue to irrigate the land as a pasture. He also agreed to require the homeowners association to hire an irrigator as opposed to individual property owners.

Adjacent neighbor Peter Gauss said they occasionally get flooded by the ditch water. He explained Sierra Vista Estates has a ditch on the east side but not the west side and this results in his property being flooded occasionally. He asked for some mitigation because as excess water goes into the ditch there will be additional excess water on his property. He agreed to work with the county to get the problem solved. The numbers of horses allowed was also a concern. The general safety of the access was noted because the increasing traffic. He said as the county develops these are issues that the county will need to deal with. Stock said they have been cleaning the ditches and with the relocation of the ditches the results have been good. Gauss acknowledged this year the water has been very well controlled.

Houghton asked if there is any thing that can be done to mitigate the excess water on the neighbors' property. Stock explained his plan and said they are placing ditches on both sides of the road. The road should be dry and the water should spread across the parcel.

Adjacent owner Judy Ruthven agreed the cleaning and rerouting of the ditches resulted in less flooding and an adequate amount of tail water reaching her property. Her concern was with any future irrigators and their ability to continue the successful irrigating.

Houghton stated the Commission had reached a consensus on the water issues; agreeing the applicant had sufficiently addressed the water and irrigation issues.

The Commission discussed the pump test seasonality report that was submitted by the applicant. The report noted the test in February would result in the same amount of water as summer months. Each individual owner will have a well they are responsible for. Lypps said it is very important when drilling a well to take into consideration infiltration of fecal matter. Stock and Dawson explained it is state statute that a well must be cased for the first 20 feet.

Houghton stated the Commission was satisfied with the density.

Stock said the number of horses allowed had been decreased to two per lot and they have added a requirement of a four inch stubble height. They will adhere to the recommendations made in the county noxious weed plan. They will be using best practices methods. Lypps said they have gone as far as they can but the practical matter of horses on property will bring the standard problems of dust, fecal matter and bugs. The location of the livestock area within a building envelope should be placed carefully. Stock agreed to define the livestock areas more clearly. Commissioner Ian Billick was concerned with the number of horses. Stock said if managed properly this parcel can support horses. Commissioner Mike Potoker agreed the number of horses could be a problem and suggested setbacks might help alleviate the problem. Houghton suggested a 50 ft setback on the sides of the lots for the corrals. The applicant agreed to add a 50 ft setback requirement to the covenants. Houghton stated the Commission and applicant had come to an agreement on the number of horses and the placement of horses on the lots.

Houghton said traffic and safety of the access had been addressed at sketch plan. Lypps asked at what point traffic patterns are examined. Board member Paula Swenson explained the County is currently working with the Colorado Department of Transportation (CDOT). Board member Jim Starr said when it comes to the point that a traffic study is done each subdivision should pay their proportionate share of the study. The Commission discussed verbiage requiring a pro-rata share for the improvements. Starr suggested that at some time in the future when improvements are done this subdivision should agree to participate in a special improvement district improvement. Potoker said it may not be fair to saddle this small subdivision with this requirement when the past subdivisions were not required to. Billick said if mechanisms do not exist to deal with development responsibly we are "hiding from them."

Wilkinson explained that the feasibility of septic systems was discussed with Environmental Health official Richard Stenson at the prior meeting. Stenson had indicated all the septic systems will have to be engineered above ground systems. Wilkinson stated the systems that have been installed within the last five years are far superior to the old systems. Stenson had been concerned that there was no monitoring system. Engineer Bob Williams had argued that this would not be reasonable and practically impossible to do. Potoker noted that it will be likely be a requirement in the future when reviewing subdivisions. Billick questioned at what point the water would be monitored. It was noted that well water monitoring would be done annually and the county would have access to the results. The septic systems will be required to be pumped every five years. Commissioner Ramon Reed said he is comfortable with the applicant's proposal. Lypps said the long range solution is extending the north Gunnison sewer extension. The maintenance agreement will be in place and will include pumping the systems every five years and inspections of each septic system with the results made available to the county. Annual tests of the quality of the water in the individual wells will also be done with the results available to the county. Stock and Dawson agreed to place these requirements in the covenants.

Starr asked what the consequences of a failure of the monitoring tests would be. Planning Director Joanne Williams said complaints of failure are referred to the state and usually replacement or repairs are required. She added that the state regulations are more than adequate.

Houghton closed the public hearing.

Houghton said he is ready to give staff direction to draft a recommendation of approval. Wilkinson agreed. Billick agreed and complimented the applicant on there progress with the irrigation issues and septic issues. Reed and Lypps agreed. Potoker agreed but questioned the landscaping. Dawson said as many cottonwood trees as possible will be left in place and each individual homeowner will propose a landscaping plan.

The Commission directed the staff to prepare a draft recommendation of approval, of the preliminary plan, at the applicants next work session.

SG INTERESTS/TWO NATURAL GAS WELLS: The Planning Commission held a public hearing to review the request for two natural gas wells, located in the East Muddy Creek area, west of State Highway 133. Diane McCowan representing SG Interests and Lynn Garner was present to represent Nika Energy.

Chairman Dave Houghton determined a quorum existed and opened the public hearing.

Administrative Assistant Beth Baker confirmed the applicant had submitted the certified mailing receipts and proof of posting. The Planning Department had the public hearing notice published in the Gunnison Country Times, Crested Butte News and the Delta Independent.

High Country Citizens Alliance (HCCA) representative Dan Morris asked if the County Attorney David Baumgarten had contacted the state's Oil and Gas commission, in reference to the county's 1041 regulations. Assistant Planning Director Neal Starkebaum explained that Baumgarten had not contacted the Oil and Gas commission yet.

Applicant Lynn Garner said these wells are fully permitted through the state.

Houghton explained the Commission recognizes the county's jurisdiction is limited to safety and roads.

Garner submitted a map that illustrated each well that has been permitted in the Bull Mountain Unit. Garner said the first well was drilled July 20, 2006. They have three approved locations on Forest Service land in Gunnison County and one in Delta County. They are now drilling replacement wells and plugging and abandoning the existing wells. They are re-drilling wells that were originally drilled as far back as 1960. Some of those wells have casing problems and are in questionable health with some potential environmental issues. They are temporarily abandoning the existing wells while they are drilling the replacement wells. The existing wells then will be capped. The Bureau of Land Management (BLM) and the state receive notification of any work done. They technically comply with the most stringent applicable regulations.

Morris asked if any other oil companies have rigs in these areas. Garner replied the other operators are not drilling at this time, in this drainage. Morris asked how much pipeline has been installed. Garner replied between four and five miles. This winter the balance of between four and five miles will be installed. There are two types of pipelines- one for water and one for gas. The water lines are between one and four inches in size and the gas lines are between four and twenty

four inches in size. Morris asked if there are roads that follow each pipeline. Garner responded that there is not a road that follows each pipeline. Morris asked if they are seeing trespass problems. Garner said they are not.

Houghton acknowledged a letter from public works. Garner explained they are currently working with public works concerning the line of sight issues.

Houghton closed the public hearing.

The Commission reviewed the draft recommendation of approval.

MOVED: by Wilkinson seconded by Potoker to approve OG-2006-12 and OG-2006-13 as amended. The motion passed unanimously.

PROJECT SUMMARY:

The applicant has submitted applications to drill and complete two natural gas wells. The wells will be drilled using a standard drilling program, including but not limited to drilling mud pits, wellheads, pumping units, separators, water storage tanks and fracture stimulation. The applicant has submitted an "Operation Plan" for each well. The Falcon Seaboard No.2 will be drilled on an existing well pad. All wells will be located, generally, in the East Muddy Creek area, west of Highway 133. Specific locations are identified on site maps for each well.

Access is via County Road No. 265 (Buzzard Divide - East Muddy Creek), Forest Road No. 265, and private roads.

The Colorado Oil & Gas Conservation Commission and Bureau of Land Management have issued permits for each of the wells.

OWNERS:

<u>Well Name</u>	<u>Owner - Surface</u>	<u>Owner - Mineral</u>
Federal 11-90-26 #1	Aspen Leaf Ranch	United States
Falcon Seaboard 11-90-12 #2	Falcon Seaboard Diversified	Falcon Seaboard Diversified

WELL NAME/ LOCATION:

The proposed wells are identified and located as follows:

<u>Well Name</u>	<u>COGCC API No.</u>	<u>Location</u>
Federal 11-90-26 #1	20060053	NENE S 26 T11S R90W
Falcon Seaboard 11-90-12 #2	20060793	NWNE S 12 T11S R90W

REGULATORY REVIEW:

The applications are subject to the Gunnison County *Temporary Regulations For Oil And Gas Operations*, adopted by the Gunnison County Board of County Commissioners May 9, 2003, BOCC Resolution No. 2003-50, amended – May 18, 2004 BOCC Resolution No. 2004-27.

Pursuant to the decision by the Gunnison County District Court Case 03CV76 and the subsequent Gunnison County Board of County Commissioners Resolution No. 2003-50, the following sections of the *Temporary Regulations*, as amended, have been temporarily suspended pending further action of the Board:

- a. Section 1-107: A. Drainage And Erosion Control;
- b. Section 1-107: D. Wildlife and Wildlife Habitat;
- c. Section 1-107: E. Livestock and Livestock Grazing;
- d. Section 1-107: F. Recreation Impacts;
- e. Section 1-107: G. Water Quality;
- f. Section 1-107: H. Waterbody Setbacks;
- g. Section 1-107: I. Cultural and Historic Resources;
- h. Section 1-107: J. Wildfire Hazard;
- i. Section 1-107: K. Geologic Hazard;
- j. Section 1-107: L. Impact Mitigation Costs;
- k. Section 1-107: M. Access To Records

- I. Section 1-107: O. Financial Guarantees;
- m. Section 1-107: P. Technical Infeasibility Waiver.

Gunnison County has appealed the decision of the District Court to the Colorado Court of Appeals, in BOCC v. BDS, International, LLC, etal, Case No. O4CA1679. It is anticipated that a decision will be made within the next 9 months to a year.

APPLICABLE SECTIONS OF TEMPORARY REGULATIONS FOR OIL AND GAS OPERATIONS:

The standards of Section 1-107: Oil and Gas Operation Standards of the *Regulations* the County may apply are:

- B. ACCESS ROADS.** All public access roads, under the jurisdiction of Gunnison County, shall be constructed and maintained in compliance with the *Gunnison County Standard Specifications for Road and Bridge Construction*, as necessary to accommodate the traffic and equipment related to the Oil and Gas Operation and emergency vehicles.
- C. PUBLIC ROADWAY AND TRAFFIC IMPACTS.**
 - 1. INGRESS AND EGRESS.** Ingress and egress points to public roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.
 - 2. MAINTENANCE AGREEMENT OR FINANCIAL ASSURANCE.** If the projected use of the public roads resulting from the Oil and Gas Operation will result in a need for an increase in roadway maintenance or snow removal, the County shall require the Operator to: i) enter into an agreement with the County whereby the operator provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or ii) provide a bond or other financial assurance in an amount acceptable to the County to cover the costs of impacts to the roads.

The applicant has voluntarily entered into an agreement with Gunnison County to construct improvements on County Road No.265. This is identified in a Gunnison County Road Improvement Agreement, No. 05-85, dated September 13, 2005 between the Gunnison County Board of County Commissioners, SG Interests I, Ltd., and Beavers Construction Company, Inc. The cost of the improvements is in the amount of \$400,000. Most of the improvements have been completed and the applicant and the County continue to work towards completion of the improvements to County Road No. 265.

Comments: Allen Moores, Engineering Representative, Gunnison County Public Works, in a memo (attached) of June 28, 2006, notes that:

“Our office is continuing to work on road improvements on County Road 265, and has no comments at this time.”

- N. EMERGENCY RESPONSE.** Oil and Gas Operations shall provide a written emergency response plan for the potential emergencies that may be associated with the operation of the facilities. This shall include, but not be limited to any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous material vehicle accidents or spills. Operation specific emergency preparedness plans are required for any Oil and Gas Operation that involves drilling or penetrating through known zones of hydrogen sulfide gas. The plan shall include a provision for the Operator to reimburse the appropriate emergency response service provider for costs incurred in connection with the emergency.

The applicant submitted an emergency response plan for emergency preparedness, including responder contact information. Due to the locations of the proposed wells, first response will come from Paonia and Delta County. Gunnison County Emergency Management has coordinated with the Delta County Emergency Services. The plan is attached.

Comments: Scott Morrill, Gunnison County Office of Emergency Management, previously reviewed the emergency response plan, which is the same one as submitted with these wells and as he noted in a letter (attached) of March 31, 2006, that:

"This plan incorporates the revisions requested by myself and Rob Fielder, Delta County Emergency Manager. Mr. Fielder and I met in Montrose yesterday to review the plan, and we are in agreement that it meets our needs and is acceptable."

PUBLIC HEARING:

The Planning Commission conducted a public hearing July 21, 2006. At that time Dan Morse, HCCA, asked several questions regarding the activities in the area and how many miles of pipeline have been installed.

FINDINGS:

The Commission finds that:

1. The Commission is limited in the scope of its review to the standards set forth in Section 1-107: Oil and Gas Operation Standards B., C. and N., based upon District Court Case 03CV67 and the Gunnison County Board of County Commissioners Resolution No. 2003-50. Gunnison County has appealed the decision of the District Court to the Colorado Court of Appeals, in BOCC v. BDS, International, LLC, etal, Case No. O4CA1679. It is anticipated that a decision will be made within the next 9 months to a year.
2. The proposed activities are defined as a Minor Oil and Gas Operation, pursuant to Section 1-103 E. Classification Of Impact Review For Oil And Gas Permit, Gunnison County *Temporary Regulations For Oil And Gas Operations*.
3. The application is in compliance with the standards set forth in Section 1-107: Oil and Gas Operation Standards B., C. and N., Gunnison County *Temporary Regulations For Oil And Gas Operations*.
4. The Colorado Oil and Gas Conservation Commission and Bureau of Land Management have issued permits for the subject wells.
5. The applicant has indicated that they do not expect to encounter any known zones of hydrogen sulfide gas.
6. This Permit is limited to activities described within the "Project Summary" of these applications, as submitted. Expansion or change of this use may 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 *Temporary Regulations For Oil And Gas Operations*.
7. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Department file relative to this application, including all exhibits, references and documents as included therein.
8. Approval of this use is based upon the facts presented and implies no approval of a similar use in a different location. Each such future application shall be required to be reviewed and evaluated on its own facts, subject to its compliance with current regulations, and its impact to the County.

DECISION:

The Gunnison County Planning Commission, having reviewed all the documentation submitted to the County and included within the Planning Department file relative to these applications, including all exhibits, references and documents as included therein, and having reached the above cited Findings, determines that the applications be classified as a Minor Oil and Gas Permit Review, approved with the following conditions and such approval be memorialized by recordation of the appropriate Oil and Gas Operation Permits, with the following conditions:

1. This permit is limited to the activities as described within the "Project Summary" of this application, and as depicted on plans submitted as part of the applications. The expansion or change of these uses will require either an application for amendment of these permits, or submittal of an application for new permits, in compliance with applicable requirements of the Gunnison County *Temporary Regulations For Oil And Gas Operations*.
2. The applicant shall obtain all required permits from Gunnison County Public Works prior to mobilization of equipment

on County Road No. 265 and shall comply with all requirements for signage and traffic control during mobilization.

3. Gunnison County reserves the right to require further, appropriate review of this decision in compliance with the determination in Court of Appeals Case No. 04CA1679.
4. 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.
5. Approval of this use is based upon the facts presented and implies no approval of similar use in a different location. Each such future application shall be required to be reviewed and evaluated on its own facts, subject to its compliance with current regulations, and its impact to the County.

PLANNING COMMISSION DISCUSSION: The Planning Commission held a general discussion. No minutes were taken. Wilkinson left the meeting for the day at 12:15 P.M.

BUFFINGTON SUBDIVISION: The Planning Commission held a work session with applicants Frank and Marlys Buffington, to discuss a request to subdivide an 8.64 acre parcel into two lots, located east of Ohio Creek Road, north of Allen Lane, 3148 County Rd. 730.

Applicant Frank Buffington explained they had adjusted the driveways resulting in the enlargement of the smaller lot. They have inserted plat notes as directed. The covenants were changed to reflect a 30 ft height limitation. The fences were addressed. Livestock and pets were addressed. Cats and dogs were limited to one of each. Stubble height was defined as a minimum of four inches. Enforcement of domestic animal control will be at the expensive of the individuals. Irrigation ditch maintenance was addressed.

The Commission reviewed the draft recommendation.

Houghton seated Commissioner Richard Karas.

MOVED: by Karas seconded by Potoker to approve the recommendation of LUC-2005-82 as amended. The motion passed unanimously.

PROJECT DESCRIPTION:

Frank and Marlys Buffington have submitted an application to subdivide one existing 8.037 acre parcel into two parcels—Lot 1 is to be 6.086 acres and Lot 2 is to be 1.951 acres. There is an existing residence existing on the parcel that is to be described as Lot 1. A building envelope and corral area have been identified on Lot 2 and protective covenants have been drafted which will only apply to Lot 2.

LOCATION:

The parcel on which the Land Use Change is proposed is north of the City of Gunnison in the Ohio Creek drainage. The parcel is legally described as being in the Southeast quarter, Section 35, Township 51 North, Range 1 West, N.M.P.M. The existing residence is located at 3148 County Road 730.

SITE CHARACTERISTICS:

The site is located in the Ohio Creek valley. The parcel is mostly irrigated hay meadow with the exception of the portion of Lot 1 that has been developed for the Buffington residence and associated outbuildings. The parcel is not in the floodplain.

ADJACENT AND NEARBY USES:

The Buffington parcel is bordered by Fairview Subdivision to the north and agricultural parcels to the east, west and south. The parcels in Fairview Subdivision are all approximately one acre. The adjacent agricultural parcels range in size from 21 acres to 792 acres.

WATER SUPPLY:

The applicant has proposed individual wells for the lots. There are currently three wells on the Buffington parcel. The applicant proposes to move well #2 (as identified on the site plan dated October 13, 2005) to the proposed Lot 2. The other two wells will remain the same on the proposed Lot 1; one well will be used for the household water supply and the other well will be used for stock watering.

The Colorado Division of Water Resources submitted comments on March 14, 2006:

The plat map provided with the submittal shows three wells on the subject property. Two of the wells are labeled 'Domestic' and the third is labeled 'Stock Water.' However, permits exist for only two of the wells. Permit No. 28484 was issued on August 15, 1966 to Colorado State University for a pumping rate of 20 gpm for stock water use. The applicant should

complete a *Change in Ownership* (Form No. GWS-11, available on our website) for this well. Permit No. 28579-A was issued December 8, 2005 for the relocation and change/increase in use of an existing stock well. The uses allowed by the permit are limited to fire protection, ordinary household purposes inside not more than one single-family dwelling, the irrigation of not more than 5000 square feet of home gardens and lawns, and the watering of domestic animals. The maximum pumping rate for this well is limited to 20 gpm. Neither a valid permit nor a pending application were referenced for the third well, which would appear to be the domestic well located next to the existing house shown on the map. Use of water from a well without a well permit or for unpermitted uses is illegal. The applicant must either apply to our office to change the use of the well under Permit No. 28484 from stock water to domestic use, or, if the unregistered well was first used for domestic purposes before May 8, 1972, the applicant may apply to our office to late register the well for its historical uses.

No information was provided concerning the physical adequacy of the water supply. 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." 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....

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(l), that the proposed water supply will cause material injury to decreed water rights, unless the applicant obtains and maintains valid well permits. Due to a lack of information, we are unable to comment on the physical adequacy of the water supply.

The applicant contacted Cynthia Love of the Division of Water Resources and she requested that Buffington register the household well that has been in existence since 1879 and change the name on the well that Colorado State University installed in 1966 that is used as a stock well. The applicant has filled out the appropriate forms and is awaiting final confirmation from the Division of Water Resources regarding the water supply. The Planning Commission may make a recommendation on the application for subdivision but staff will not present the recommendation to the Board of County Commissioners until the water supply has been approved by the State of Colorado.

WASTEWATER TREATMENT:

An individual sewage disposal system is proposed for the new lot. There is an existing individual sewage disposal system on the proposed Lot 1.

ACCESS:

Access is via County Road 730. A new driveway may be constructed for Lot 2 which shall meet Gunnison County Road and Bridge Standards and be approved by the Gunnison County Public Works Department.

WILDLIFE:

The Colorado Division of Wildlife submitted written comments on February 14, 2006. Comments from J Wenum, Area Wildlife Manager, noted that:

The site is mapped by CDOW WRIS database as being within occupied Gunnison Sage Grouse range, including being within a two mile radius of several major leks and within brood rearing habitat. It is also identified as being with winter range and winter concentration areas for elk and mule deer and severe winter range for both species.

However this site has also seen intensive development in the distant and recent past and is adjacent to the Fairview Subdivision. A simple subdivision into two parcels and the addition of another single-family residence should not in and of itself have a negative effect on the wildlife species in the area. What are difficult to quantify are the cumulative effects of additional development in this area that is so close to several Gunnison Sage Grouse leks.

The applicant is proposing to place covenants on the 1.64 acre parcel and refrain from covenants on the 6.4 acre piece which has none at present. We recommend that any covenants and restrictions contain language that addresses domestic pets, specifically dogs and cats and restricts them to roofed kennels, leashes, or indoor living only to avoid predation on sage grouse and other avian species and disturbance to elk and deer that inhabit the area, primarily in the winter. We also recommend that refuse disposal covenants require bear resistant containers to mitigate attractants to bears, primarily in the summer and fall months. We also recommend that the covenants and restrictions apply to both properties to avoid wildlife/human conflicts on the entire property.

At present the applicants parcel is used to board livestock, primarily horses. The presence of horse feed including hay and grain can attract elk, deer, and bears. By implementing the above recommendations, negative impacts to wildlife outside of additional fragmentation and human caused impacts due to activity and pets should be minimized.

The parcel is within sage grouse occupied habitat and any building, individual sewage disposal, driveway or reclamation permits would be subject to the *Temporary Sage Grouse Regulations* or any other regulation in place at the time permits are applied for.

IMPACT CLASSIFICATION:

The project, by definition, is a minor impact.

ONSITE VISIT:

06 July 21 PC Minutes

06 August 18, 2006 PC Approved

The Planning Commission did not conduct a site visit because of their general familiarity with the area however they did assign Commissioner Karas to take photographs of the parcel and present them to the Commission.

PUBLIC HEARING:

The Planning Commission conducted a public hearing on May 5, 2006. There was no public comment.

COMPLIANCE WITH APPLICABLE SECTIONS OF ARTICLE 5, GUNNISON COUNTY LAND USE RESOLUTION:

Section 10-102: Locational Standards for Residential Development.

Applicable, the applicant meets the requirements of alternative locational standards.

Section 10-103: Residential Density.

Applicable, the applicant is required to comply with this section. The applicant is not required to provide open space. The size of the proposed lots meets the standards of the *Gunnison County Individual Sewage Disposal System Regulations*. The lot sizes proposed, 6.086 acres and 1.951 acres, are substantially similar to adjacent lots. Adjacent lot sizes range from 1 acre to 792 acres. There are twelve lots in the Fairview Subdivision, all approximately one acre in size. Other adjacent parcels are assessed agricultural and range in size from 21 acres to 792 acres.

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

The site is not located within the floodplain.

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

The site is not located within areas subject to geologic hazards.

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

The proposed development is located within the Gunnison County Fire District; the District has no adopted standards. A copy of the application was sent to the Fire District on January 23, 2006; no comments have been received.

Section 11-106: Protection of Wildlife Habitat Areas.

The Colorado Division of Wildlife submitted written comments on February 14, 2006. Comments from J Wenum, Area Wildlife Manager, noted that:

The site is mapped by CDOW WRIS database as being within occupied Gunnison Sage Grouse range, including being within a two mile radius of several major leks and within brood rearing habitat. It is also identified as being with winter range and winter concentration areas for elk and mule deer and severe winter range for both species.

However this site has also seen intensive development in the distant and recent past and is adjacent to the Fairview Subdivision. A simple subdivision into tow parcels and the addition of another single-family residence should not in and of itself have a negative effect on the wildlife species in the area. What are difficult to quantify are the cumulative effects of additional development in this area that is so close to several Gunnison Sage Grouse leks.

The applicant is proposing to place covenants on the 1.64 acre parcel and refrain from covenants on the 6.4 acre piece which has none at present. We recommend that any covenants and restrictions contain language that addresses domestic pets, specifically dogs and cats and restricts them to roofed kennels, leashes, or indoor living only to avoid predation on sage grouse and other avian species and disturbance to elk and deer that inhabit the area, primarily in the winter. We also recommend that refuse disposal covenants require bear resistant containers to mitigate attractants to bears, primarily in the summer and fall months. We also recommend that the covenants and restrictions apply to both properties to avoid wildlife/human conflicts on the entire property.

At present the applicants parcel is used to board livestock, primarily horses. The presence of horse feed including hay and grain can attract elk, deer, and bears. By implementing the above recommendations, negative impacts to wildlife outside of additional fragmentation and human caused impacts due to activity and pets should be minimized.

The parcel is within sage grouse occupied habitat and any building, individual sewage disposal, driveway or reclamation permits would be subject to the *Temporary Sage Grouse Regulations* or any other regulation in place at the time permits are applied for.

Section 11-107: Protection of Water Quality.

The site is not within 125 feet of a water body or mudflow, and this section does not apply.

Section 11-108: Standards For Development On Ridgelines.

The site is not located on a ridgeline.

Section 11-109: Development That Affects Agricultural Lands.

The site is adjacent to agricultural land. Development roads must meet adequate setbacks from property boundaries so that maintenance of roads does not damage boundary fences, and dust control will be required to minimize impacts to agricultural operations. Protective covenants or deed restrictions are required along with language on final plat regarding confinement of domestic animals, "fence-out" requirements, and irrigation ditch maintenance.

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Section 11-110: Development Of Land Beyond Snowplowed Access.

The site is not located beyond snowplowed access.

Section 11-111: Development On Inholdings In The National Wilderness.

The site is not located on a National Wilderness inholding.

Section 11-112: Development On Property Above Timberline.

This site is not located above timberline.

Section 12-103: Road System.

Applicable, no new road is proposed. Access is via County Road 730. Allen Moores of the Gunnison County Public Works program met with Buffington on site and did not have any concerns with the proposed access.

Section 12-104: Public Trails.

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

Section 12-105: Water Supply.

The applicant has proposed individual wells for the lots. There are currently three wells on the Buffington parcel. The applicant proposes to move well #2 (as identified on the site plan dated October 13, 2005) to the proposed Lot 2. The other two wells will remain the same on the proposed Lot 1; one well will be used for the household water supply and the other well will be used for stock watering.

The Colorado Division of Water Resources submitted comments on March 14, 2006:

The plat map provided with the submittal shows three wells on the subject property. Two of the wells are labeled 'Domestic' and the third is labeled 'Stock Water.' However, permits exist for only two of the wells. Permit No. 28484 was issued on August 15, 1966 to Colorado State University for a pumping rate of 20 gpm for stock water use. The applicant should complete a Change in Ownership (Form No. GWS-11, available on our website) for this well. Permit No. 28579-A was issued December 8, 2005 for the relocation and change/increase in use of an existing stock well. The uses allowed by the permit are limited to fire protection, ordinary household purposes inside not more than one single-family dwelling, the irrigation of not more than 5000 square feet of home gardens and lawns, and the watering of domestic animals. The maximum pumping rate for this well is limited to 20 gpm. Neither a valid permit nor a pending application were referenced for the third well, which would appear to be the domestic well located next to the existing house shown on the map. Use of water from a well without a well permit or for unpermitted uses is illegal. The applicant must either apply to our office to change the use of the well under Permit No. 28484 from stock water to domestic use, or, if the unregistered well was first used for domestic purposes before May 8, 1972, the applicant may apply to our office to late register the well for its historical uses.

No information was provided concerning the physical adequacy of the water supply. 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." 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....

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the proposed water supply will cause material injury to decreed water rights, unless the applicant obtains and maintains valid well permits. Due to a lack of information, we are unable to comment on the physical adequacy of the water supply.

The applicant contacted Cynthia Love of the Division of Water Resources and she requested that Buffington register the household well that has been in existence since 1879 and change the name on the well that Colorado State University installed in 1966 that is used as a stock well. The applicant has filled out the appropriate forms and is awaiting final confirmation from the Division of Water Resources regarding the water supply. The Planning Commission may make a recommendation on the application for subdivision but staff will not present the recommendation to the Board of County Commissioners until the water supply has been approved by the State of Colorado.

Section 12-106: Sewage Disposal/Wastewater Treatment.

An individual sewage disposal system is proposed for the new lot. An onsite visit by Environmental Health is not required for a minor impact project. There is an existing individual sewage disposal system on what is proposed to be Lot 1.

Section 12-107: Fire Protection.

The proposed development is located within the Gunnison County Fire District; the District has no adopted standards. A copy of the application was sent to the Fire District on January 23, 2006; no comments have been received.

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

The site plan for this proposed development must meet the site plan criteria of this section, including proposed and existing roads, driveways, lot lines, building sites, and natural features of the site. The site plan meets the site plan criteria.

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

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This section applies; a building envelope has been established which complies with the setback requirements.

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

All requirements of this Section apply. The proposed protective covenants have identified a maximum of 4,000 square feet of living space, excluding attached garage.

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*

This section applies.

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

This section does not apply.

Section 13-109: *Signs.*

There are no signs proposed as part of the submitted application.

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

The number of parking spaces complies with **Tables 5-11 and 5-12** of this section.

Section 13-111: *Landscaping And Buffering.*

A landscaping plan is not required for this application.

Section 13-112: *Snow storage.*

Design elements have been included within the site layout design allowing for adequate storage. The Public Works Department has indicated no concerns related to snow storage.

Section 13-113: *Fencing*

This section applies because the parcel is adjacent to agricultural land and has been noted on the plat and in the protective covenants.

Section 13-114: *Exterior Lighting.*

Applicable, any new structures that are proposed will be required to comply with this section.

Section 13-115: *Reclamation And Noxious Weed Control.*

A reclamation permit is required for road cutting and/or construction, homesite clearing and berm construction.

Section 13-116: *Grading And Erosion Control.*

Construction of this project will require the applicant to secure a Reclamation Permit from the Public Works Department, pursuant to Section 5-415: *Reclamation and Noxious Weed Control.*

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

Applicable, this will be addressed as part of Driveway and Building permits.

Section 13-118: *Water Impoundments.*

Not applicable, this project does not propose a water impoundment.

Section 15-103: *Right-to-Ranch Policy.*

Applicant must be provided a copy of the Right-to-Ranch Policy and the Code of the West. Notification about the policy and about the *Code* are required to be noted in the resolution of approval and on the final plat.

FINDINGS:

The Commission finds that:

1. This application, by definition, is classified as a Minor Impact.
2. The proposed lot sizes are similar and compatible to other lots within the area.
3. The applicant will utilize individual wells for the water supply. There are three existing wells (Well Permit No. 28579, 28484, and an as yet unpermitted well).
4. The applicant has not received final approval from the State Division of Water Resources for the water supply plan.
5. This application is generally consistent with the standards and requirements of this *Resolution*.
6. No phases are proposed for this development.

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7. Access will be from the existing County Road 730; Allen Moores of Gunnison County Public Works has reviewed the application and did not have any concerns with the proposed access other than to note that a new driveway for Lot 2 will be required to meet the Gunnison County Road Standards.
8. Language regarding the containment of domestic animals, irrigation ditches and the "fence-out" requirement has been noted on the plat.
9. Approval is limited to the plan described within the "Project Description" of this application, and as depicted on the site plan as submitted. 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 former *Land Use Resolution*.
10. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

RECOMMENDATION:

The Gunnison County Planning Commission, having considered the submitted plan, site observations and public testimony, has reached the above Findings and recommends that LUC No. 2005-82 be classified as a Minor Impact, and be approved with the following conditions:

1. The recommendation and application for subdivision shall not be forwarded to the Board of Commissioners until the State Division of Water Resources approves the water supply plan.
2. All domestic animals shall be confined to the property.
3. There shall be no further subdivision of Lot 2.
4. A stubble height of 4 inches shall be maintained on Lot 2.
5. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the 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*.
6. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
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.

SLATE RIVER HOLDINGS: The Planning Commission held a work session with applicants Ken Lodivoco and Jeff Pike, to review a request for a 10,000 square foot commercial structure w/residence, located on Lot 16, Riverland Industrial Park F# 2.

Chairman Dave Houghton noted a public hearing had been held July 7, 2006. A site visit was done by Commissioners Potoker and Karas. Houghton added he had been on site as well.

The applicants addressed issues that had been discussed in the prior meeting. They submitted an engineered drainage plan. The landscaping plan had been submitted previously. The applicants have agreed to address the two steps necessary to comply with building code requirements; it could require going on the outside of the building.

A leach field was discussed. Houghton said he became concerned with the feasibility of a leach field, after he had visited the site. Pike said the drainage plan was designed by engineer Jerry Greene. Greene designed 1000 sq ft of drainage. There are now two drainage swales. Water from the roof runoff will go to the left and into the drainage swale. The swales will contain gravel.

Environmental Health official Richard Stenson submitted a memo previously which explained a leach field is possible but could be difficult.

Karas said the variable outer buffer restrictions do not apply because runoff does not drain directly into a water body. He said he verified this by going on site.

The loading zones are now designated on the plat. There will be signs indicating the location of the loading zones.

The Commission reviewed the draft decision.

Houghton seated Karas for the vote.

MOVED: by Billick seconded by Potoker to approve LUC-2006-31 as amended. The motion passed unanimously.

PROJECT DESCRIPTION:

Slate River Holdings, LLC, represented by Ken Lodovico, has submitted a land use application for the construction of a 10,000 square foot commercial/ residential structure: two 875 square foot tenant shop spaces; two 750 square foot tenant shop spaces on three levels; two 365 square foot office spaces; 3500 square feet of heated interior storage space; and 1350 square feet for a residence. This, as shown on a site plan and accompanying architectural renderings prepared by Sol Space and Light, Architectural Design and Drafting, dated 2005.

LOCATION:

Lot 16, Riverland Industrial Park, Filing No. 2, south of the Town of Crested Butte.

WATER:

The uses will be served by the Riverland Industrial Park central water system.

WASTEWATER:

Wastewater from the development is proposed to be treated by an individual sewage disposal system, subject to compliance with the *Gunnison County Individual Sewage Disposal System Regulations*. Richard Stenson, Environmental Health Specialist notes in a memo, dated July 6, 2006, that "*the Environmental Health Office, at this time submits that it appears feasible, with further engineering, to have an onsite waste water system for this application*". An individual sewage disposal system permit application has been submitted and will include further review and assessment of the site for the type and design of ISDS to be installed.

In addition, Part XV 15-101 of the *Gunnison County ISDS Regulations* identifies the *Requirements for Business, Commercial, Industrial Waste Systems, Table 5 Point Source Operations Excluded from County ISDS Permits*. The applicant has agreed to record a deed restriction on Lot 16 identifying the list of tenant uses excluded.

ACCESS:

Access will be via a driveway from Riverland Drive which connects to State Highway 135.

PROPERTY OWNERS ASSOCIATION APPROVAL:

Scott Moss, President, Riverland Lot Owners' Association, in a letter dated June 6, 2006, stated that the Association approved the construction plans for Lot 16.

COMPLIANCE WITH COUNTY LAND USE REGULATIONS:

This land use change application is partially exempted from the requirements of the *2001 Gunnison County Land Use Resolution*, pursuant to *Section 1-106 Partially Exempted Land Use Changes*. There are no unmitigable conflicts with County land use standards, so long as the structures and uses are maintained in compliance with the Declaration of Protective Covenants for Riverland Industrial Park and the *Gunnison County ISDS Regulations*.

COMPLIANCE WITH DIVISION 5-600: COMMERCIAL AND INDUSTRIAL USES:

The proposal complies with all standards within this Division.

RECLAMATION:

A reclamation permit must be obtained from the Gunnison County Public Works Department for all newly disturbed areas.

LANDSCAPING:

Landscaping is required by the Covenants; each lot is required to have a minimum of 15 trees with a minimum average height of five feet within 18 months of being issued a building permit. Landscaping was previously installed when the building permit was issued. The applicant indicates that the applicant will plant in excess of the required landscaping, as identified on the site plan. Gunnison County requires a landscaping development improvements agreement for the landscaping.

PUBLIC HEARING:

The Planning Commission conducted a public hearing on July 7, 2006. At that time Park Nelson, adjoining property owner, had several questions on drainage as it might affect his property. The public hearing was closed.

SITE VISIT:

At the June 16, 2006 Planning Commission meeting, Mike Potoker and Richard Karas were appointed as project coordinators for the purpose of conducting a site visit and reporting their observations and comments to the commission. The site visit on was conducted on July 7, 2006. Potoker and Karas submitted photos of the site (Appendix A) and observed that:

- a) Much of the site has been built up from the original slope by means of fill, as noted in the engineer's report
- b) If a narrow leach field, close to Riverland Drive, is constructed, it appears that the LUR's setback requirements can be met. The issues of leach field setback, impact on adjacent wetlands, soil suitability, and other technical requirements lie within the purview of Richard Stenson, the County's Environmental Health Specialist, whose report is a part of this decision.
- c) There do not appear to be any compatibility conflicts with adjacent properties. Indeed, one adjacent property also has dwelling units on its top floor, as does the proposed building.

COMPLIANCE WITH COUNTY LAND USE POLICIES:

This land use change request is partially exempted from the requirements of the new *Gunnison County Land Use Resolution*, pursuant to *Section 1-106 Partially Exempted Land Use Changes*. There are no unmitigable conflicts with County land use standards, so long as the structures are constructed and maintained in compliance with the Declaration of Protective Covenants for Riverland Industrial Park and *Gunnison County ISDS Regulations*.

SECTION 5-203: *Development in Areas Subject to Flood Hazards.*

The parcel is not located in an area subject to flood hazards.

SECTION 5-204: *Development in Areas Subject to Geologic Hazards.*

The parcel is not located in an area subject to geologic hazards.

SECTION 5-207: *Protection of Water Quality.*

Not applicable.

SECTION 5-305: *Water Supply.*

This use will be served by the Riverland Industrial Park central water system.

SECTION 5-306: *Sewage Disposal/Wastewater Treatment.*

Wastewater from the new development is proposed to be treated by an individual sewage disposal system, subject to compliance with the *Gunnison County Individual Sewage Disposal System Regulations*.

In addition, Part XV 15-101 of the *ISDS Regulations* identifies the *Requirements for Business, Commercial, Industrial Waste Systems, Table 5 Point Source Operations Excluded from County ISDS Permits*. The applicant has agreed to record a deed restriction on Lot 27 identifying the list of tenant uses excluded in Part XV.

SECTION 5-307: *Fire Protection.*

The lot is located within the Crested Butte Fire Protection District. The District will review the building plans at submittal of building permit application.

SECTION 5-209: D: *Domestic Animal Controls*; and Section 5-206: F.1.b.(6.): *Domestic Animal Controls.*

Applicable.

SECTION 5-407: *Installation of Solid Fuel-Burning Devices.*

The residence will comply with the current regulations for solid fuel-burning devices.

SECTION 5-414: Exterior Lighting.

The applicants have submitted a lighting plan, dated August 4, 2004. The Planning Commission finds the lighting plan is in compliance with Section 5-414.

SECTION 13-117: Drainage, Construction And Post-Construction Storm Water Runoff.

The applicant has submitted a drainage study and plan, prepared by Jerry Greene, dated July 19, 2006, and as reflected on a revised site plan, received on July 21, 2006.

ADDITIONAL SECTION APPLICABLE TO PARTIALLY EXEMPTED COMMERCIAL, INDUSTRIAL OR OTHER NON-RESIDENTIAL LAND USE CHANGES. In addition to complying with the requirements listed at 1 through 9, above, new construction of, or expansion to, commercial, industrial or other non-residential land use changes that are partially exempted from this *Resolution* by Section 1-106: *Partially Exempted Land Use Changes*, shall comply to the maximum extent feasible with Section 5-303: *Road System*.

SECTION 5-303: Road System.

Access is via an existing driveway from Riverland Drive which connects to State Highway 135.

FINDINGS:

The Gunnison County Planning Commission, based on the facts set forth in this Decision and on the material facts represented by the applicant, whether or not repeated herein, finds that:

1. The Riverland Lot Owners Association has reviewed and approved of the proposed use, subject to their conditions identified in the letter, Scott Moss, President, Riverland Lot Owners' Association, dated June 6, 2006.
2. This land use change permit is in compliance with *Section 1-105 Sections Necessary For Immediate Preservation Of Public Health And Safety of the new Gunnison County Land Use Resolution*.
3. Use of individual lots must comply with the *Declaration of Protective Covenants* for Riverland Industrial Park, including, but not limited to, compliance with those provisions which may affect employees, parking, the hours of operation, provision of landscaping, snow storage and other aesthetic and public health and welfare concerns.
4. Richard Stenson, Environmental Health Specialist notes in a memo, dated July 6, 2006, that "*the Environmental Health Office, at this time submits that it appears feasible, with further engineering, to have an onsite waste water system for this application*".
5. The applicant will record a deed restriction on the lot requiring exclusion of tenant uses identified in Part XV 15-101 Requirements for Business, Commercial, Industrial Waste Systems, Table 5 Point Source Operations Excluded from County ISDS Permits.
6. Approval of the land use change permit does not constitute approval of a building or individual sewage disposal system permit. Each of those permits is required to be obtained by the applicants, and the construction and use of the improvements shall comply with the *Uniform Building Code, American Disabilities Act* and the *Gunnison County Individual Sewage Disposal System Regulations*.
7. 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. Any use other than that allowed by the *Declaration of Protective Covenants* for Riverland Industrial Park 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*.
8. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

DECISION:

The Gunnison County Planning Commission, having reviewed and evaluated this application and having reached the above Findings, determines that LUC #2006-31, Lot 16, Riverland Industrial Park, Filing No. 2, is approved with the following conditions and that approval be memorialized by a recorded Certificate of Minor Impact Approval, including the language of these conditions and notations:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site plan titled "Site Plan – Riverland Lot 16", 2005 and 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. Uses on this lot shall comply with the *Declaration of Protective Covenants for Riverland Industrial Park*.
3. Uses on this lot shall comply with the *Gunnison County Individual Sewage Disposal System Regulations*.
4. A reclamation permit shall be issued by the Gunnison County Public Works Department.
5. No building or septic permits shall be issued until the applicant provides the Planning Department with documentation, recorded with the Gunnison County Clerk & Recorder, of a deed restriction on Lot 16, including:
 - a. The exclusion of tenant uses identified in *Part XV 15-101 Requirements for Business, Commercial, Industrial Waste Systems, Table 5 Point Source Operations Excluded from County ISDS Permits*.
 - b. Acknowledgement that in the event of septic absorption field failure, and no other suitable location is available on the lot, then the lot owner will provide for the removal of the absorption field materials, provide legal disposal, and provide for the reconstruction of a new absorption field with replacement materials in the same location.
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. A Landscaping Development Improvements Agreement with Gunnison County shall be submitted by the applicant subject to approval by the Gunnison County Attorney, including a cost estimate for the landscaping stock and labor for installation of the landscaping, and referencing the landscaping plan as shown on the submitted site plan, shall be executed by the Board of County Commissioners. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.
8. That a performance bond, letter of credit or other means of surety acceptable to the County, shall be submitted to cover costs of the landscaping, including stock and labor for installation, plus 25 percent and that said surety be retained by the County for a period of two growing seasons to ensure the survival of the landscaping. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.
9. The applicant shall comply with the drainage plan, as designed by Jerry Greene, plan dated July 19, 2006.
10. The applicant shall employ best management practices during site preparation and construction, including installation of silt fencing on the top of the slope, to provide for erosion and sedimentation control and protection of water quality. The silt fencing shall be installed, and the applicant shall provide photographic evidence of installation prior to the issuance of septic or building permits.
11. 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.
12. Approval of this permit is not effective until the Certificate of Minor Impact Approval is recorded with the Gunnison County Clerk and Recorder.

SHOOK SUBDIVISION: The Planning Commission held a work session to discuss a subdivision of 3.26 acres from 22.96-acre parcel for single-family use on each lot off County Road 744, in Sec. 22, in S1/2 NW 1/4, Twn 15 S, R 84 W, 6th P.M.

Director of Planning Joanne Williams illustrated on a map exactly where this parcel is located. She said the surrounding lots sizes are smaller than the proposed site. The water supply has not been reviewed by the Division of Water Resources (DOW) yet. Williams recommended a geotechnical study be required for any new structure on either lot.

The public hearing will be set after the DOW makes their comments.

The Commission defined issues to be addressed as:

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- Driveways
- ISDS
- Access on to Spring Creek Rd.

A site visit will be held August 4, 2006.

The regular meeting of the Gunnison County Planning Department was adjourned at 2:45 P.M., July 21, 2006.

/S/ Beth Baker
Administrative Assistant
Gunnison County Planning