

GUNNISON COUNTY PLANNING COMMISSION

REVISED PRELIMINARY AGENDA: Friday, May 2, 2008

- 8:30 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.
- 8:45 a.m.** Work session/possible action w/ Board of Commissioners to discuss possible schedule of **joint review of amendments to Special Development Project Regulations**
- 9:00 a.m.** **Gary Garland/Larkspur Hockey Rink**, continued public hearing/work session/ possible action, request for an amendment to the approved uses on the Recreation Parcel, Larkspur Subdivision, to include the use of an enclosed hockey rink, located on Lot R1, Larkspur Subdivision, south of the Town of Crested Butte
- 10:00 a.m.** Break
- 10:15 a.m.** **Gary Garland/Larkspur Hockey Rink**, continued public hearing/work session/ possible action, request for an amendment to the approved uses on the Recreation Parcel, Larkspur Subdivision, to include the use of an enclosed hockey rink, located on Lot R1, Larkspur Subdivision, south of the Town of Crested Butte, request for direction to staff on drafting of recommendation
- 11:00 a.m.** **Bill Wegert**, work session/no action, request for the installation of a residential wind turbine, located at 2833 County Road 17 (Antelope Creek Road)
- Noon** **Lunch**
- 12:15 p.m.** **Sky Ranch at Ute Trail**, work session/no action, request for amendment to land use change permit application for the expansion of the camp facility, located at 1329 Highway 149, approximately 43 miles southwest of Gunnison, 11 miles north of Lake City
- 1:00 p.m.** **Whetstone Business Park**, work session/possible action, business/residential park south of Crested Butte, continued work session/possible action on draft recommendation to Board
- 2:45 p.m.** Break
- 3:00 p.m.** **Whetstone Park Preliminary Plan**, business/residential development south of Town of Crested Butte on Highway 135, continued work session/possible action on draft recommendation to Board
- Adjourn**

GUNNISON COUNTY PLANNING COMMISSION
Regular Meeting
May 2, 2008

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

Chairman- Ian Billick
Vice- Chairman -Ramon Reed
Commissioner- Nick Lypps
Commissioner- Sam Lumb
Commissioner-Richard Karas
Commissioner-John Messner

Director of Planning- Joanne Williams
Assistant Director of Planning-Neal Starkebaum
Planner-Cathie Pagano
Administrative Assistant-Beth Baker

Absent was: Commissioner David Owen

Others present as listed in text

With a quorum present Chairman Ian Billick opened the regular meeting of the Commission.

MOVED: by Karas seconded by Lypps to approve the minutes of April 18, 2008 as amended.

SPECIAL DEVELOPMENT PROJECT REGULATIONS: The Planning Commission (Commission) and Board of County Commissioners (Board) conducted a work session to discuss possible scheduling of joint review of amendments to Special Development Project Regulations. Board members Hap Channell and Paula Swenson attended the work session.

With a quorum present Chairman Ian Billick opened the work session.

Channell explained the state has imposed a moratorium on any projects which come under 1041 regulations, in Gunnison County. The moratorium was put into place to give the county time to complete their updated 1041 regulations, however, due diligence is required for the review.

Channell said the Board, County Attorney David Baumgarten, and Director of Planning Joanne Williams have been working on the 1041 regulations. Baumgarten and Williams will continue the work on the 1041 regulations; they will have a draft ready for review in June. The Board and the Commission will then begin a joint review process, which will take place throughout the summer. The fall is the Board and Commission's goal for a final draft, at which time they would begin the public hearing process.

Channell said Baumgarten and Williams will be working with the commissioners; providing them with a basic review and understanding of 1041 regulations. The goal of this review is to have both the Board and Commission at the same point of understanding when the joint review process begins.

Channell requested that any writing mechanics or wordsmithing be done via e-mail, with Williams; not taking any time during the work sessions. They are tentatively planning ½ day meetings; this could require extra planning commission meetings.

Commissioner Richard Karas suggested subgroups of the Commission could be assigned the review; any other commissioners would be welcome to attend and comment. Commissioners Karas, Reed and Lypps agreed to be the 1041 committee. Billick stated that clear decision points are needed for the review.

LARKSPUR HOCKEY RINK: The commissioners and applicant Gary Garland conducted a continued public hearing to discuss the request for an amendment to the approved uses on the Recreation Parcel, Larkspur Subdivision, to include the use of an enclosed hockey rink, located on Lot R1, Larkspur Subdivision, south of the Town of Crested Butte.

With a quorum present Chairman Ian Billick opened the continued public hearing.

Billick explained the public hearing had been continued, to accommodate anyone who may have been on spring break during the previous public hearing.

President of Skyland Homeowners Association (HOA) Bill LaDuke said their primary concern is the increased traffic. He pointed out with the Buckhorn, Skyland, and Larkspur neighborhoods, and Mike Wright's potential development, there already is a tremendous amount of traffic. Although the rink is to be used by the Academy, the majority of the time it will be used continuously by the public, hockey teams, leagues and invitational tournaments; the result of the all that use will be a very congested Brush Creek Road. He acknowledged that a hockey rink is needed, but he questions the Larkspur location. Garland pointed out that the Skyland golf course creates consistent traffic.

Commissioner Nick Lypps asked when an increase in traffic will trigger a mandatory improvement of the intersection of Highway 135 and Brush Creek Rd. Director of Planning Joanne Williams said the traffic study itself will be what triggers changes to the intersection. Board of County Commissioner Hap Channell said there will be some work done at this intersection this summer. Garland explained the traffic is measured in incremental increases; the present build out has resulted in approximately 60% of maximum traffic.

Commissioner Ramon Reed asked about the present status of public transportation. Channell explained that the Board had met with the Rural Transportation Association (RTA) and Colorado Department of Transportation (CDOT.) CDOT has said there is no way to pull buses off onto the shoulder of Highway 135. Channell said that they are looking at a piece of property that is owned jointly by several entities including the County, Mt. Crested Butte and Crested Butte, for a park-and-ride; first it would just be an area to pull off the road. Lypps would prefer to see the Crested Butte kids get on a bus rather than be driven to the rink in cars. Reed agreed public transportation is a vital component.

Reed asked how the Academy will transport their students to the rink. Garland replied during the summer months, once the upper loops is open, they will ride bikes to the rink. Winter, spring and fall they will use a van provided by the Academy. Garland agreed carpooling will be important.

Commissioner John Messner asked if they will be using a RTA bus. Garland replied a RTA bus out of Gunnison will eventually include the rink in its route. The local Crested Butte bus will be part of the Alpine Express route. The RTA bus could eventually transport hockey players to and from Gunnison.

Bill LaDuke observed that waiting for a bus in the extreme winter weather will be difficult. He pointed out that public transportation is an idea for some time in the future; it is not currently viable. He said that public transportation is not a panacea.

Karas questioned if the impact was bearable, assuming the worst case scenario, all the traveling will be handled by private cars.

Commissioner Sam Lumb questioned the hours of operation. Garland explained the recreation facility had already been approved for the hours of 6 A.M. to 11 P.M., he is suggesting continuing those hours. He estimated the Academy will use the rink from approximately 6 A.M. to 3 P.M.

Messner acknowledged that the Gunnison outdoor rink does impact the residential neighborhood during night tournaments, but he pointed out the Larkspur indoor rink will contain all the increased lighting and noise.

Karas asked if the informal survey that Garland conducted included a reference to the hours of operation. Garland replied that the notice did not include hours of operation, but he reiterated the recreation facility had previously been approved for the hours of 6 A.M. to 11 P.M.

Billick asked if tournament hours need to be from 6 A.M. to 11 P.M. Garland responded that it is the nature of a hockey tournament. Commissioner Sam Lumb was concerned that 11P.M. could be too late in a residential neighborhood.

Lypps noted that the appearance of the building was also a concern of some of the Larkspur property owners.

Billick closed the public hearing at 9:55 a.m.

LARKSPUR HOCKEY RINK: The commissioners conducted a work session, to continue the review of a request for an amendment to the approved uses on the Recreation Parcel, Larkspur Subdivision, to include the use of an enclosed hockey rink, located on Lot R1, Larkspur Subdivision, south of the Town of Crested Butte, request for direction to staff on drafting of recommendation.

With a quorum present Billick opened the work session 9:58 a.m.

Garland said the hockey rink roof will not be as high the roof of the previously proposed indoor tennis facility. The roof peak will not exceed 30 ft. Reed questioned the metal roof; Garland responded the recreation facility had been approved for a metal roof, and the original proposed building was a metal building.

Garland submitted a map which illustrated the proposed 96 parking spaces and the snow storage areas. He explained the drainage patterns had not been changed, from the previous approval. The snow plowing of the parking lot will be done by the employees of the facility owners. The paving of the parking lot will be included in the Development Improvements Agreement, prepared and monitored by the County Attorney's office.

Garland said there will be a pedestrian cross walk at the rink. There also is a path around the lake that can be used to access the rink. The street will be an additional two ft. wide. Karas asked about the paving of the parking lot; Garland responded that they will pave the parking lot when the weather allows.

Garland said there will be no additional outside lighting; all lighting will be downcast and shielded, which will conform with the County regulations.

The commissioners questioned when a special events permit would be required. Garland acknowledged that both the HOA and the County would have to approve a special event. Director of Planning Joanne Williams explained an event with 50 cars or 200 people usually requires a special events permit. Reed suggested a ban on any street parking which could encourage tournament organizers to use car pooling. The commissioners requested that staff suggest a way to frame the threshold for special events permits.

Following a discussion of the operational hours of the hockey rink the Commission agreed to the hours of 6 A.M. to 10 A.M., with the HOA being able to extend those hours to 5 A.M. to 11 A.M., if they wish to. The extension of the hours would take a County Administrative Review Land Use Change, as well as approval from the HOA.

Lumb asked if there was a concession stand; Garland replied that there is a concession stand, and having it could eliminate some of the traffic, because people would not have to go back to town to eat.

Billick requested that the project description be specifically defined within the recommendation.

Lypps reiterated his concern that this truly be a community skating rink; particularly because of the previous promise, made by Garland, of \$1 million dollars for a community skating rink. Garland explained the Academy is the operational component. Williams added the Skyland approval included the condition that the golf course would have to be opened to the public; a similar requirement could be imposed on the hockey rink. The commissioners directed staff to craft the decision to specifically define the language; to the extent financially feasible using the rink should be affordable to the public.

Karas was concerned with protecting the publics' interest should ownership pass to another party own the rink. Garland said the owners of the rink will be, Mountain Sports Hockey LLC, as separate entity from the Academy.

The commissioners directed staff to prepare a recommendation that addresses the issues as presented at the work session:

- Definitive language addressing special events- identify numbers of cars and people
- Nail down the specific project description
- Provide language which clearly defines public use of the hockey rink
- The hours of operation will be 6 A. M to 10 P.M., unless the HOA approves extending the hours to 5 A.M. to 11 P.M., at which time a County administrative review Land Use Change would be required
- Note that the use of public transportation and car pooling are voluntary but highly encouraged

There will be another work session conducted to review the draft decision.

WEGERT- WIND TURBINE: The commissioners and applicant Bill Wegert conducted a work session to review the request for the installation of a residential wind turbine, located at 2833 County Road 17 (Antelope Creek Road.)

With a quorum present Chairman Ian Billick opened the work session.

Assistant Planning Director Neal Starkebaum explained that the Board of County Commissioners had discussed wind turbines and installation of wind turbines in residential areas. He said the county building height maximum is 30 ft, but a wind turbine is not a building, it is a structure. This application will be processed as a minor impact. The standards for this review will include impacts to adjacent owners; noise, visual impacts, and setbacks-for safety reasons.

Wegert described the wind turbine as a wind generator attached to a 45 ft. pole. It will be placed 130 ft. from the house. This parcel is approximately 124 acres. The nearest residence is ¼ mile away; it would be hard to see the wind turbine from any other residence. The distance from the tower and the property line is 35 ft.

Karas asked if the tower could be moved 10 ft. farther from the property boundaries; Wegert said that the foundation has already been poured. The commissioners explained that Wegert had two alternatives: he could adjust the property line, or he could agree to notify the buyer of the adjacent parcel.

Wegert described the wind turbine as a Skystream 3.7, which produces 1.8 to 1.9 kilowatts (when the wind blows.) All the energy produced will be fed back into the GCEA power system, with a goal of generating enough power for his residence. The noise generated is approximately 45 decibels at 40 ft. Starkebaum informed Wegert construction of the wind turbine would require a building permit.

The sage grouse coordinator will review the applications and provide comments to the Commission.

The site visit has been scheduled for Friday, May 9, 2008.

SKY RANCH AT UTE TRAIL: The commissioners conducted a work session with applicants attorney David Leinsdorf, applicants representatives Doug McClain and Leigh Dillenbeck, and property owner George Seay, to review a request for an amendment to their land use change permit application for the expansion of the camp facility, located at 1329 Highway 149, approximately 43 miles southwest of Gunnison, 11 miles north of Lake City.

With a quorum present Chairman Ian Billick opened the work session.

Assistant Planning Director Neal Starkebaum explained that this project had been defined as a minor impact project at the public hearing.

Billick questioned why the applicants had not submitted a new application, explaining that no new information had been submitted for over six months. He noted process concerns with applications that disappear for long periods of time.

Manager of the ranch Doug McClain said in fall of 2006 George Seay had expressed concerns with the barn; the request was changed to keep the barn. The septic system requirements had changed during this time, and now they will have to install a state regulated treatment facility. Leinsdorf said the amended application is a scaled back version of the original application. He added that the original application had already gone through the public hearing process and no public comment had been made; to make the applicants start over would serve no purpose.

Billick requested that the applicants submit a clear concise application; addressing the specifics of the amended request. The commissioners could conduct a work session to review that application, and decide at that time if another public hearing is necessary. Commissioner Ramon Reed reiterated the need for a clear and complete project description.

Dillenbeck explained they are proposing a 1,680 sq. ft. storage barn for storage, which is on the 60-acre lease property to the west of the camp. There will also be an area for trash collection. They will add exterior covered porches to the four existing cabins. The five new cabins will each be a 668 sq. ft., single story building. They are proposing a small remodel to the lodge, to include additional windows, and a porch roof on the north side of the building. The existing store will be expanded by 1,000 sq. ft, to be used as a meeting room. She estimated the total additions to be 6,600 sq. ft. The engineering of the entrance to the camp has been completed. The water tank for fire protection has been designed. The stable across the highway has been built but it is on the George Seay property and not part of this application. They have

had an overall financial restructure because of the cost of a septic processing facility. They are designing for a total maximum capacity of 200 campers and staff per day. The entry way has been engineered to county standards up through the public parking lot. They have not applied for the highway access permit yet.

Karas requested comments from public works, concerning the new engineering.

The commissioners flagged additional information needed as:

- Water availability explanation
- Ensure the permit will cover year round use of the camp
- Ensure water quality and quantity
- Landscaping, drip irrigation not mentioned in the update; please capture everything
- Winter transportation
- Commercial vehicles when and where they would be used
- Will there be any phasing?
- Identify the location of the proposed waste water treatment plant
- Increasing the number of campers by 46- provide specifics in the new application
- Explain the reference to Wilderness Campers
- Clarify that the intensity of uses will increase, although the square footage request has been decreased
- Provide complete list of all anticipated excavation; including the proposed soccer field
- Describe fire flows and fire safety - have Gunnison County fire marshal review the plan
- Provide fire hazard ratings of the steep slopes

There will be another work session conducted.

WHETSTONE BUSINESS PARK- PRELIMINARY PLAN: The commissioners conducted a work session with applicants John Councilman, Mike Potoker and applicants' attorney David Leinsdorf, to discuss the preliminary plan for the business/residential development south of Town of Crested Butte on Highway 135.

With a quorum present Chairman Ian Billick opened the work session.

Commissioners Sam Lumb and Nick Lypps recused themselves from the meeting.

Billick seated Commissioner John Messner.

Billick summarized that the Commission had previously reviewed approximately 1/3 of the recommendation, the commissioners were then charged with giving any changes to Planning Director Joanne Williams via-email; they have been memorialized in a list and made part of the public record.

Attorney representing Ted Colvin and Whetstone Mountain Ranch Bob Hoban expressed his concern with the net adverse impact this new business park could have on Colvin's property. He attempted to enter additional documentation into the record. Leinsdorf stated that the public hearing has been closed, and the objectors have had ample time to provide information; accepting any further documentation is inappropriate and out of order.

The commissioners continued the review of the third draft of the planning commission draft recommendation; commencing with page 14 of the draft recommendation.

Adjacent owner John Murphy reiterated his concern with the lack of details provided by the applicants; describing how they will limit the disturbance to the wetlands. Director of Planning Joanne Williams explained the approval of the Army Corps of Engineers will have to be in place, or the county will not take action on the final plan. John again asked for the specifics, because there is a lot going on in a small area. Billick encouraged the applicants to confer with John Murphy concerning this issue.

Hoban said although there have been many changes made to the layout, they still don't believe the applicants have accommodated the concerns brought forward; most significantly a net adverse impact to the adjacent property. They have provided an appraiser intended to prove that the adverse impacts can not be mitigated. They have also had another appraiser, Martin Froelich, who testified to that fact. It seems, Hoban said, that the Commission is trying to fit a square peg into a round hole. There is no transition from this project and the residential units in Riverland. It seems that they are trying to shift the impact to Riverland and Whetstone Mountain Ranch. He acknowledged that this parcel will be

developed, but should be done in some other way; it just does not fit. He pointed out that building should be forever, not for present profit. This is not a good thing for the entrance into Crested Butte. He reiterated that there is a net adverse impact that can not be mitigated.

Appraiser Martin Frolich attempted to submit documentation into the record; Reed explained that the public hearing had been closed. Billick agreed that no additional information will be accepted at this time. He said the public hearing was held and closed all submitted information was reviewed at that time; new information will not be accepted. Director of Planning Joanne Williams agreed that the public hearing was closed and no further documentation will be accepted.

MOVED: by Karas seconded by Reed to approve the recommendation of LUC-2004-82 as amended. The motion passed unanimously. Billick commented that early on, during sketch plan, the applicants made a convincing argument that an industrial area was needed; it had since been withdrawn. He noted that although he understood the reason for the withdrawal he remained disappointed. He was also disappointed with the clustering. Reed said if Riverland Industrial Park did not exist this proposal would not be appropriate, but because Riverland already exists this seems to an adequate solution on both sides. Karas said his biggest worry is the appearance of this development from Whetstone Ranch and the Highway. He is hoping that the berm will look good. He said that the affordable housing was a key component.

“...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

“C. 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.”

Section 7-103: C., Gunnison County Land Use Resolution

PROJECT SUMMARY

Applicant Whetstone Business Park, LLC (members Mike Potoker, John Nichols, and John Councilman, represented by attorney David Leinsdorf) submitted the Whetstone Park Preliminary Plan December 8, 2006. The project was previously titled “Whetstone Business Park.”

The proposed development includes a commercial/residential park on approximately 13 acres of land on Colorado State Highway 135 contiguous to the northwesterly boundary of Riverland Industrial Park Filing 2. Two commercial lots and 13 residential lots (potentially 23 residences) are proposed. Uses on individual lots are detailed in the table below. The proposal has undergone several conceptual alterations from its initial business/industrial park concept to the current proposal, which is that of providing residential and commercial uses where owners and employees can live onsite. The third commercial lot (Lot C-3) approved in the Sketch Plan has been eliminated; designated open space and residential lots have expanded in its place.

Of particular concern in this review has been the inclusion of a lumber and building supply yard, included and allowed as uses on commercial Lot C2. Over the course of the review, the applicant proposed and agreed to decrease building elevations on Lot C2 to minimize visual impacts to travelers on Highway 135, and to existing landowners around the development property. Building configuration, elevations and heights are specifically indicated on the Site Plan, dated January 12, 2008. Because of the sensitivity of the impacts of uses on C2 in particular, approval of this Land Use Change Permit application for Whetstone Park approves only the lumber and building supply yard, as specifically configured and limited in elevation/height; any use that differs from that is required to obtain a separate Land Use Change Permit, subject to applicable impact classification and review under the Land Use Resolution at the time such a change of use is requested.

Affordable or “essential” housing residences. Gunnison County currently has no adopted regulations requiring developers to provide affordable or “essential” housing within proposed developments. The applicant has voluntarily proposed the number of essential, deed-restricted units proposed within this plan, has been working with the Gunnison County Housing Authority to perfect deed-restrictions to ensure that essential housing residences will remain affordable, and has indicated that the restrictions designed by the Authority will apply to those residences. A copy of the deed-restrictions will be an attachment to the *Declaration of Protective Covenants*, or a similar document subject to approval by the Gunnison County Housing Authority and County Attorney. Specifics of the numbers of residences and whom they will house are detailed below.

Land uses adjacent and in close proximity to the proposed development. Nearby land uses remain unchanged from those described in the Sketch Plan submittal and approval, as follows: Approximately 630 feet of the northwest boundary of this site abuts one of two parcels owned by George Gers on which is located a single-family residence; along the west boundary for approximately 625 feet is undeveloped property owned by Ted Colvin (five lots created by partition suit; no application has yet been received by the County for any activity on that property). The applicant identified current land use on the Colvin parcel as being agricultural.

To the south is Filing 2 of Riverland Industrial Park, a development of “lighter” industrial and residential mixed uses: Five lots that are in Riverland, each approximately one acre, abut the proposed Whetstone Park parcel; four have been developed for business and residential uses. A fifth remains undeveloped. An open space lot owned by the Riverland Lot Owners’ Association abuts on the south boundary; the Slate River runs through that open space, approximately 200+ feet from the boundary of the proposed Whetstone Park parcel.

Whetstone Mountain Ranches, a 35-acre tract development that was statutorily exempt from County review and approval as a subdivision, is located to the north, west and southwest, separated from the proposed Whetstone Park by the Colvin parcels. The bulk of the Whetstone Ranches acreage is still maintained for agricultural uses. Single-family parcels lie immediately across CO Highway 135 and look down upon this parcel and upon Riverland.

Rozman Ranch, containing a large gravel pit, gravel-crushing facility and seasonal asphalt batch plant, lies further to the south and southeast. No application has been submitted for any additional development on that parcel.

Mutual Easement Agreement with Riverland Industrial Park. A proposed Mutual Easement Agreement with the adjacent Riverland Industrial Park (draft dated 12/19/07, submitted January 24, 2008) informs this recommendation in its material role in providing a solution for off-site drainage of Whetstone and location for one of its wells (and secondarily some fishing amenities for Whetstone residents).

The draft Agreement between Whetstone Business Park, LLC and Riverland Lot Owners Association notes that “Riverland requires additional water for fire suppression, which Whetstone is willing to supply on a non-exclusive basis. Whetstone requires access across the Riverland Property for various purposes.” The Easement, “...includes the right to pump water from Whetstone’s pond and convey it across Whetstone’s common area to Riverland Industrial Park and the right to access the Whetstone Property for the purpose of constructing, maintaining and operating a pipeline from Whetstone’s pond to the Riverland Industrial park. Such easement also includes the right to use Whetstone’s water to suppress fires.

“Riverland’s water rights shall be used to refill Whetstone’s pond following Riverland’s use of water from [the] pond and Riverland [is required] at its cost, [to] undertake all water court proceedings to implement and utilize its rights...Riverland will not be responsible for refilling the pond if an entity other than Riverland draws down the pond water level.

“Whetstone [is required] to construct and maintain the pond and pump system, including a stub at the property line for connection to Riverland’s fire suppression system pipeline. Riverland is required to] construct and maintain the pipeline from the stub to Riverland’s fire suppression system.” Whetstone will install an additional conduit under Highway 135 to accommodate Riverland’s future sewer line, and, “...shall pump effluent from 14 Riverland lots through Whetstone’s pump-back line to the East River Regional Sanitation District treatment plant. Riverland shall pay its pro rata share of operating and maintaining the pump-back line.” In exchange, Whetstone is granted “...the right to use the Riverland Property for fishing and other recreational purposes by Whetstone and the residents and owners of residential lots and residential units on the Whetstone Property [via two access passes for each of Whetstone’s 15 lots], the right to construct a well on the Riverland Property within 100 feet of the Slate River...including the right to construct, maintain and operate a pipeline, pump and related facilities to convey water from such well to the Whetstone Property,” and “A drainage easement from the Whetstone Property to the Slate river across the Riverland Property.” Whetstone is required to, “...ensure that all well, pipes, pumps, and related facilities used to convey water are designed and constructed to the highest standards, without any leaks, and reasonably minimizing visual impacts.”

Approval of the draft Agreement by the County Attorney’s Office is required prior to action by the Board on this Preliminary Plan. A copy of the final Agreement, signed by all relevant parties, is required to be submitted in the Final Plan, or alternative solutions detailed, including engineered designs for off-site drainage and applicable well and pipeline locations, should the Agreement not be effected. Such solutions and engineered designs shall be subject to full review by County staff, Planning Commission and Board, and outside consultants, as deemed necessary by the County.

Declaration of Protective Covenants for Whetstone Park. The *Declaration of Protective Covenants for Whetstone Park* allow a mix of permitted uses including construction of furniture, cabinets and other wood items; contractor’s yards; lumber and building supply yards; warehouses and mini-storage; wholesaling; display and sale of plumbing and electrical fixtures and supplies, paint, windows and window coverings, flooring and floor coverings, cabinets, appliances, tile, home furnishings and furniture; sales and rentals of vehicles and recreational vehicles under 26,000 lbs., equipment, boats, motorcycles and snowmobiles; offices; residences (including home occupations); and retail sales. Up to 23 residences would be allowed, 13 as single-family homes and the rest as deed-restricted multiple-family residences.

Protective covenants prohibit the following uses: Auto service; asphalt, concrete and other batch plants; gravel pits and storage; veterinarian facilities; animal hospitals and kennels; petroleum bulk storage facility; freight or trucking terminals; grocery and convenience stores; commercial laundries; nurseries; heavy equipment operations; commercial welding and metal fabrication; retail bakeries; drug stores and pharmacies; banks; movie theatres; museums; retail sales of jewelry, toys or books; retail clothing, except clothing related to “primary products” such as helmets, promotional t-shirts., etc. A restaurant no larger than 1,000 square feet is permitted on Lot C-1. Sizes of building footprint and building heights are limited, to minimize visual impact from Colorado Hwy. 135 and from property owners at the northwest boundary of Riverland Industrial Park Filing 2, on Whetstone Mountain Ranch, to the George Gers property, and to single-family residential lots across Hwy. 135; those limitations are delineated in the table below.

Outside storage is allowed only on those commercial lots facing inward to a courtyard. Operation of commercial activities are limited to the hours of 7 a.m. to 7 p.m.

An “industrial use” would be prohibited if that use were defined by the *Gunnison County Land Use Resolution* as “industrial,” at the time the use was proposed. (The *Resolution* was amended October 16, 2007 to include “light industrial” uses, meaning “...any establishment engaged in the commercial processing, fabrication, alteration, or manufacture of raw or semi-processed materials, manufactured goods, or any components thereof; and conforming to Section 9-301:E.: *Design Standards for Light Industrial Uses*.” “Light industrial” is thereby now differentiated in the *Resolution* from “industrial” by a set of specific standards, which currently establish an “industrial” use as greater than 5,000 square feet, except when an employee or owner residence is included, or 5,850 square feet if certain additional standards are met. So, were an owner of a Whetstone Park lot to request a use that met the *Resolution’s* definition and standards of “industrial” that use, in addition to the specific uses prohibited in the protective covenants, would be prohibited. Any use that the *Resolution* defined as “light industrial” that is permitted by the protective covenants would be allowed.)

Issues raised within the Sketch Plan approval required to be addressed within the protective covenants have been addressed, and the following are also, pursuant to the *Gunnison County Land Use Resolution*:

- *Homeowners’ Association Responsibilities.* Responsibilities of the Whetstone Park Association have been iterated, throughout the protective covenants, including managing the business of the Park, collecting dues, maintaining common areas, including berms and landscaping, improving infrastructure common to the development, prohibiting and/or regulating any permitted use that does not or will not comply with the Association Documents, collecting water tap fees, levying fines for violations of the protective covenants, removing abandoned vehicles, maintaining the perimeter fencing around the development property, impounding animals running at large within the development, snowplowing within the development, maintaining and repairing roads and buffer strips, snow storage areas and drainage facilities, compliance with the terms of any decree and any plan of augmentation regarding water rights owned or obtained by the Association, the maintenance of all records and other reporting requirements imposed by any decree and the maintenance, repair and replacement of all ditches, pipes, flumes, dams, ponds, outlet works, and other physical components required for the proper implementation of any plan of augmentation. and to oversee the maintenance of the general appearance of the development.
- *Enforcement of protective covenants by County.* Language is included (Section 16.2 A) that allows and requires enforcement of the protective covenants by Whetstone Park lot and residence owners, the Whetstone Park Association and by Gunnison County.
- *Amendment or termination of protective covenants subject to County approval.* Amendment of the protective covenants is subject to approval by Gunnison County (Section 16.4) ; the Final Plan submittal is required to include language within the protective covenants that allow no termination of them without approval by Gunnison County.
- *Building scale and location.* Language is included (Article 3) defining building heights, compatibility with terrain, and sizes of all structures that will be allowed by the protective covenants.
- *Architectural style and exterior appearance.* Language is included (Section 4.4) addressing building quantity, height, massing and exterior materials and color, the necessity of buildings to be designed “...in harmony...with the environment, the effect of building on the use and view of the Lot and surrounding Lots and property and the placement of the building(s) and improvement(s) with respect to topography, drainage, snow removal, ground elevations, existing natural and terrain features and the visibility from Colorado Highway 135, other Whetstone Park Lots and Common Areas and neighboring property outside of Whetstone Park.
- *Energy and resource conservation.* Language is included (Section 4.11) advising lot owners that an application to Gunnison County for a Building Permit must comply with all applicable building codes adopted and amended by

Gunnison County, and with any applicable energy and resource conservation standards required by the County at the time an application for Building Permit is submitted.

- *Solid fuel-burning devices.* As noted below, language is included (Section 5.9) limiting use of solid fuel-burning devices.
- *Use and maintenance of open space areas.* Language is included that lists uses allowed on, and requires maintenance of common areas by the Whetstone Park Association (Sections 6.8.F., 8.8.G. and 8.14). On individual lots, at least 15 feet of space adjacent to each Lot boundary line between Lots R-1 and R-13 shall remain open and undeveloped, except for fences and underground utilities, snow storage areas, ponds and landscaping (Section 5.2). Open Space may contain underground utilities, ponds, landscaping and snow storage areas, which must be large enough to store the snow on that Lot. No fences are allowed in designated open spaces (Section 6.15). Improved Common Areas and Building Sites are not included as open space.
- *Signs.* Language is included that except for one sign identifying Whetstone Park at its entrance, which cannot exceed 32 square feet, no sign in Whetstone Park may face Colorado Highway 135; installation of signs requires compliance with the *Gunnison County Land Use Resolution*, and may require a Gunnison County Sign Permit, pursuant to Section 13-109: *Signs*. No sign of any kind can be displayed on Lots R1-R13, except an identification sign no larger than three square feet at the Lot entrance. All signs within Whetstone Park shall be in a uniform style approved by the Architectural Review Board. Each business owner on Lots C1 and C2 may have one business identification sign no larger than 10 square feet or one square foot for each 200 square feet of floor area, whichever is smaller. A central business directory, at the entrance to Lots C2 and two central business directories at the entrances to Lot C1 are allowed, each no larger than 100 square feet or smaller if approved by the Whetstone Park Architectural Review Board.
- *Rules concerning parking.* Language is included (Sections 3.7 and 4.3.A.) prohibiting parking in Whetstone Park roadways. Each Lot is required to provide at least one parking space for each 400 square feet of commercial building, and plans are subject to approval by the Whetstone Park Architectural Review Board. Each residence is required to comply with the requirements of the *Gunnison County Land Use Resolution*. The final version of the covenants shall reflect those requirements.
- *Landscaping and buffering.* As noted, language is included in the protective covenants addressing maintenance of open space. Additionally (Section 6.8) Architectural Review Board approval is required for landscaping plans on individual lots. The perimeter of the development is required to be bermed as a “buffer zone” of at least 50 feet, exclusively for underground utilities, snow storage, ponds, and berms and/or landscaping.
- The following requirements apply to each lot: One foot of evergreen trees and two feet of aspen trees, all required to be irrigated and planted for each 400 square feet of building floor area, except residential floor area on Lot C1. Evergreen trees are required to be at least five feet high and aspen trees at least eight feet. Each boundary line between Lots R1-R13 is required to have a 30-foot wide buffer zone, 15 feet on each side of the boundary line, exclusively for fences, utilities, snow storage, driveways, berms and/or landscaping. No lot may have more than 600 square feet of irrigated grass. (At the Planning Commission meeting of March 14, 2008, the Commission requested and the applicant agreed that language would be changed to include “garden” within the maximum allowed irrigated square footage.) Xeriscaping, native grasses and wildflowers are encouraged. No building in Whetstone Park may be occupied or used and no temporary or permanent certificate of occupancy is allowed to be issued until the Architectural Review Board has certified in writing that all landscaping, including irrigation facilities, shown on the plans has been installed. The *Covenants* provide that the Architectural Review Board may allow occupancy before completion of landscaping upon receipt of a deposit equal to at least 200% of the estimated landscaping cost to guarantee landscaping completion within one year of occupancy. The Architectural Review Board is required to “require vacation” of any lot which is not in compliance with this section of the *Covenants*, and may levy fines for non-compliance.
- *Provision for snow removal and snow storage.* Language is included throughout the *Covenants* [and on the plans] identifying areas of the development in which snow storage is allowed/required, including on individual lots. Section 8.11 charges the Whetstone Park Association with the responsibility for the proper maintenance of all roads, including snow removal.
- *Fencing.* Language is included acknowledging Colorado’s “fence out” requirements, and placing responsibility for construction and maintenance of the fence with the Association. Additional language (Section 6.15) prohibits fences, walls or barriers on any lot except for lot boundary fences or fences within or adjacent to a building site. No fences are

allowed in any open space, including open space on Lots R1 through R13, except for the perimeter fence around the boundary of the development and “where necessary to protect public safety.” Fences are limited by the current language to a maximum not to exceed 42” in height and chain link fences are prohibited. The Planning Commission and applicant agreed at the Commission’s March 14, 2008 meeting that, primarily for purposes of mitigating impacts to adjacent lands, the covenants will be changed in the Final Plan submittal to allow a maximum six-foot high combination of fencing and berm, which complies with the limit allowed by the *Gunnison County Land Use Resolution*.

- *Exterior lighting.* Language is included (Section 5.7) requiring exterior lighting to comply with Section 13-114 of the *Gunnison County Land Use Resolution*. Bulb wattage is currently limited to a maximum 75 watts: This language will be removed in the Final Plan submittal. Security lighting connected to motion detectors may not remain illuminated longer than five minutes. All exterior light fixtures, including security lighting, is required to direct light to the ground and be “full cut-off” type. Lights cannot be used to light buildings, may not spill light beyond the building entrance, except as may be needed to reach parking areas. Lighting plans are required to be approved by the Architectural Review Board.
- *Reclamation and noxious weed control.* Language includes requirements (Section 6.8.G) that requires compliance with Section 13-115 of the *Gunnison County Land Use Resolution* regarding control of noxious weeds.
- *Grading and erosion control.* Language is included (Section 6.5) requiring that all grading and excavation be performed in compliance with Section 13-116 of the *Gunnison County Land Use Resolution*, and that any alteration of natural drainage be approved by the Architectural Review Board.
- *Domestic animal control.* Language is included (Section 7.2) requiring that all domestic animals be confined to the Owner's Lot, attached to a leash or other suitable control device. At the Commission’s March 14, 2008 meeting, the Commission requested and the applicant agreed to limit such animals to a total of four. At the Commission’s May 2, 2008 meeting, the Commission determined and the applicant agreed to limit such animals to a total of four per single-family residence; the total number in each apartment shall be limited to two. That language will be included in the final version of the covenants to be submitted with the Final Plan.
- *Outside storage.* Outside storage is prohibited on Lots R-1 through R-13. Outside storage is permitted inside the Courtyard on Lots C1 and C2, if it is substantially screened from view from Colorado Highway 135 by positioning, berms, landscaping, buildings and/or covered structures. All outside storage areas shall be approved by the Architectural Review Board.

Design Requirements. Design requirements are included within the *Declaration of Protective Covenants for Whetstone Park*, which may not be amended or terminated without Gunnison County approval. Separate additional guidelines may be adopted by the Whetstone Park Association that do not conflict with the protective covenants; variance from either those guidelines or the *Covenants* is required to comply with the *Gunnison County Land Use Resolution*.

Uses, building footprint, square footage and heights, roof pitches and outside storage requirements are included in the requirements of the protective covenants as follows:

BUILDING DESIGN REQUIREMENTS, PERMITTED USES AND OUTSIDE STORAGE LIMITATIONS IN DECLARATION OF PROTECTIVE COVENANTS FOR WHETSTONE PARK , LLC (AMENDMENT OR TERMINATION OF COVENANTS REQUIRES APPROVAL BY GUNNISON COUNTY)				
USES	COMMERCIAL LOTS		RESIDENTIAL LOTS	
	C1	C2*	R9-R13	R1-R8
Construction of furniture, cabinets & other predominantly wood items	Yes	Yes	Yes	No
Contractor’s yards	Yes	Yes	No	No
Lumber and building supply yards	Yes	Yes	No	No
Warehouses and mini-storage	Yes	Yes	No	No
Wholesaling	Yes	Yes	Yes	No
Display & sale of plumbing & electrical	Yes	Yes	No	No

**BUILDING DESIGN REQUIREMENTS, PERMITTED USES AND OUTSIDE STORAGE LIMITATIONS
IN DECLARATION OF PROTECTIVE COVENANTS FOR WHETSTONE PARK, LLC
(AMENDMENT OR TERMINATION OF COVENANTS REQUIRES APPROVAL BY GUNNISON COUNTY)**

USES	COMMERCIAL LOTS		RESIDENTIAL LOTS	
	C1	C2*	R9-R13	R1-R8
fixtures & supplies, paint, windows & window coverings, flooring and floor coverings, cabinets, appliances, tile, home furnishings & furniture				
Sales & rentals of vehicles and recreational vehicles under 26,000 lbs gross vehicle weight, equipment, boats, motorcycles, snowmobiles	Yes	Yes	No	No
Offices	Yes	Yes	Yes	No
Residences (including home occupation)	Yes	No	Yes	Yes
Retail Sales	Yes	Yes	No	No
Auto Rental and Sales	Yes	Yes	No	No
Outside Storage	Yes, if substantially screened from view from Colorado Highway 135 by positioning, berms, landscaping, buildings and/or covered structures		No	No
One Restaurant (1,000 sq.ft. maximum)	Yes	No	No	No
Maximum Building Footprint	9,000 sq. ft.	9,000 sq. ft.	3,800 sq. ft.	3,800 sq. ft.
Maximum Building Size	10,000 sq. ft.	10,000 sq. ft.	3,800 sq. ft.	3,800 sq. ft.
Maximum Lot Coverage (including storage)	80%	80%	40%	40%
Maximum total <u>commercial</u> floor area (including garages)	41,900 sq.ft.	24,000 sq.ft.	1,900 sq.ft./lot	N/A
Maximum total <u>residential</u> floor area (including garages)	12,800 sq.ft.	N/A	3,800 sq.ft. /lot minus commercial area	3,800 sq.ft. /lot
Maximum Building Height	24'	30'	30'	30'
Primary Roof Pitch	Flat	Flat	5:12 min	5:12 min

*Use of Lot C2 has been limited to construction and operation of a lumber and building supply yard as reviewed in this Preliminary Plan. Design and configuration of any other use will require a separate Land Use Change Permit.

Disclosure of conditions for property purchasers. To minimize possible conflicts between Whetstone Park buyers/residents and current industrial operations adjacent to them, the following language is included in the protective covenants (Section 3.19) disclosing the existence of industrial activities in the existing, adjacent Riverland Industrial Park:

“3.9. Notice: Whetstone Park is contiguous to Riverland Industrial park (“Riverland”) in which permitted uses include machine shops, welding, furniture refinishing, manufacturing, automobile servicing and repair, freight and trucking terminals, mixing plants for asphalt, concrete, plaster and mortar, bulk storage of petroleum products, animal kennels, commercial laundries and other uses which create dust, noise, vibration, glare and other impacts. Every person occupying or receiving a deed conveying any Whetstone Park property acknowledges and accepts the existence of such uses in Riverland and waives the right to object to such uses to the extent that such uses comply with the Riverland covenants and applicable law.”

Impact Fees and Dedications (pursuant to Section 1-120 of the Gunnison County Land Use Resolution)

Current County impact fees are limited to those imposed by agreement of the County with the Crested Butte Fire Protection District for individual Building Permits.

The applicant proposes to enter into an agreement with the Town of Crested Butte, whereby a retail sales assessment would be established for those lots in Whetstone Business Park whose operations would include retail sales. A portion of the fee would be paid to the Town; the remaining portion would go to the Whetstone Park Association for landscaping and other common area improvements.” That proposal would serve to assist in mitigation of potentially lost revenue to the town by businesses leaving town to relocate in the Park.

In March 18, 2007 comments from partner John Nichols concerning payment to the Town of Crested Butte for parks and recreational uses, Nichols indicated that, based upon figures the Town uses to determine necessary monetary contributions to the Town when a parcel annexes to it, \$2500 will be paid for each of the 13 residential lots at the time application for a Building Permit is submitted , which would equal “...the park and recreation contribution in the prior area plan.

Clustering. The Commission has reviewed the configuration of lots in Whetstone Park concentrates development, including buildings, driveways, and water supply and wastewater treatment facilities, on one or more compact areas of the development parcel, preserving the remainder as the required undeveloped open space, and avoids impacting areas of identified value for wildlife habitat, scenic features of a rural landscape, historical agricultural uses, and significant environmental features including wetlands, bodies of water, geologic hazards, or significant vegetation.

PHASING AND RELATIONSHIP TO APPROVED SKETCH PLAN

This Preliminary Plan addresses all of the areas presented in the approved Sketch Plan. Variations included in the Preliminary Plan (including reduction in the number of residences, square footages, redefinition and/or elimination of certain uses, locations of uses) have been included in response to conflicts and/or concerns cited by the public and Planning Commission, and so are considered significant only in that they serve to mitigate those conflicts.

No phasing is proposed for subdivision platting or installation of infrastructure in Whetstone Park. Phasing of construction of deed-restricted housing will be detailed in the Final Plan.

DOCUMENTS INFORMING THIS REVIEW AND ACTION

This review and recommendation incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this Preliminary Plan application, including all exhibits, references and documents included in the initial Preliminary Plan submittal dated December 8, 2006, and all such exhibits, references and documents submitted by the applicants and interested parties subsequent to that. Among those submitted by the applicant are site plans and narrative submittals that inform this review and in some cases reflect changes to the plan in response to Planning Commission and public comment throughout the Preliminary Plan review process, and include, but are not limited to:

1. January 9, 2007 letter from Gunnison County Housing Authority Director Denise Wise summarizing details of deed restrictions to be imposed on essential residences included within Whetstone Park. She noted that a value of the applicant’s proposal is that the proposed deed-restricted units will be constructed by the applicant:

“...There will be a total of 10 apartment type units. Four of the units are 1-bedroom, one unit is 2-bedroom, and five units are 3-bedroom....Seven (7) of the ten (10) units are earmarked to be deed-restricted. [Later changed by the applicant to include all ten units as deed-restricted.] The present plan is to deed restrict the four (4) 1-bedroom units utilizing deed restrictions approved and administered by the Gunnison County Housing Authority (GCHA)...[which] have specific qualifying criteria tied to income, residency, occupancy, and maximum amounts on equity growth and share for the owner..”

“...[T]he target population for the four (4) 1-bedroom units are incomes with ranges from 80%-140% of area median income as adjusted by household size determined by HUD...It is important that we agree on the price points that fit the income categories and the definition of affordability.” Additional discussion between GCHA and the applicants was to continue, to further refine how the units would be administered.

2. March 18, 2007 comments from partner John Nichols concerning payment to the Town of Crested Butte for parks and recreational uses, Nichols indicated that, based upon figures the Town uses to determine necessary monetary contributions to the Town when a parcel annexes to it, \$2500 will be paid for each of the 13 residential lots at the time application for a Building Permit is submitted , which would equal “...the park and recreation contribution in the prior area plan.
3. March 23, 2007 letter from Engineer Norman Whitehead stating that, “The existing FEMA floodplain maps for the Slate River adjacent to the Whetstone Park property show the 100 ye[ar] floodplain encroaching on lots R9 through R13. However, it has been found that the existing FEMA mapping in the Upper Gunnison Valley is inaccurate. The County is currently in the process of working with FEMA to update the floodplain mapping.

"Nevertheless, under the current FEMA mapping, the lowest lot elevation is still 14 feet above the normal high water line and no less than 20 feet above the actual 100 year floodplain elevation. If Gunnison County and FEMA have not completed the revisions to the floodplain maps at the time a building permit is request on any of Lots R9 through R13, a floodplain certificate will be required."

4. Email message from David Leinsdorf of May 25, 2007; the following elements were included in the plan, revised in response to public comment:

- 1200 square foot parking structure with five parking spaces for occupants of deed-restricted units to store motor vehicles and other property.
- A school bus stop added to residential area north of the cul-de-sac.
- Lot C1 was reduced by a half acre and 15,500 square feet of commercial building floor area. The half-acre was added to Lot C2.
- The area allocated for lumber sheds on Lot C2 was increased from 7,200 square feet to 14,400 square feet, to increase visual screening of the lot from Highway 135.
- Building square footage on Lot C3 [later deleted and converted to designated open space with no buildings and integrated into some of the single-family residential lots] was increased by 4,500 square feet by adding second stories to the building; overall height and exterior dimensions of the building were not increased.
- Building setbacks from the Riverland industrial Park boundary were reduced from 50 to 30 feet, eliminating the trail easement (which had been opposed by the Riverland Property Owners Association) to enable the grade for trucks entering the courtyard to be decreased.
- Overall commercial square footage was reduced by approximately 5,600 feet.

5. Email message from Mike Potoker of May 25, 2007:

"Our commitment is to build 10 apartments. We offer to deed restrict 30% of the residential units.(assuming 13 res lots and 10 apts=23 x.30 = 6.9 units) PLUS the restriction on the last three units of no re-sale of two years only on original developer sale.

1. 4 –one bedroom approx 600 sq ft perpetually deed restricted units. With requirements on sales of 1@80% ami, 1@100%ami 1@120%ami,1@140%ami. They all have an appreciation cap of 3% or CPI whichever is less. Purchaser must make, or will make upon moving here, 80% of their income in Gunnison county. Thru work not passive investments. If the unit goes unsold after 90 days in can be sold into the next higher category. If this happens then on future sales it reverts back to the original AMI category. The unit can be rented to an occupant in same category.
2. "3 units(1-two bedroom and 2-three bedroom) Perpetually deed restricted. These units may be sold or rented to occupants that make 80% of their income in Gunnison county thru work not investments. No price cap.
3. "3 units (3 bedroom). 2 year restriction on resell. First sale only. Can be rented with no restrictions."

6. Email message from Mike Potoker of June 29, 2007, noting that revised landscaping plans illustrating visual mitigation in computer renderings included the following: 15-15' tall pine trees; 15-15' tall aspen/cottonwood trees; 15-3' shrubs; 4-15' tall pine trees to the entrance [of the park]; 2-8' pine trees to the center island of the entrance.

7. *Landscaping Summary*, dated 7/25/2007 from applicant John P. Councilman, III, noting that the 5/24/07 Landscaping Plan included on the Park perimeter 106 5'-6' evergreens and 104 10'-12' aspen/cottonwoods, and citing that the 6/1/07 plan also included 15 15' evergreens in the northeast corner; 15 15' aspen/cottonwoods in the northeast corner; 4 15' evergreens at the entrance; 2 8'-10' evergreens on the entrance island; and 35 3' bushes on the berm along Highway 135. The *Summary* also notes that, "Each of the 13 residential lot owners will be required to plant 3 5'-6' evergreens for a total of; 3 10-12' aspens or cottonwoods totaling 39 items. The total number of required trees and bushes to be planted in the overall park and by individual residential lot owners: 322` trees; 35 bushes. [NOTE: The reconfiguration of numbers and types of trees and shrubs is finalized for purposes of this Preliminary Plan in the *Landscaping Plan*, dated 1/12/08, received 1/24/08, prepared by NCW & Associates. This version, however, has deleted labeling for delineated pervious vegetated areas as elements of the drainage plan that were shown on the September 20, 2007 plan; those elements are required to be returned to, and labeled on, the drainage and landscaping plans submitted in the Final Plan.]

8. July 27, 2007 memo from David Leinsdorf noting the following:

- All storage units were eliminated, Lot C-3 was turned into open space deleting commercial Lot C-3 (eliminating commercial uses on the northwest side of the access road; all commercial uses now are located on the southeast side of the road); Lots R1-R5 enlarged and with same building parameters as Lots R6-R13: These changes eliminated 13,500 square feet of commercial building area and added 4,000 square feet of residential living area for a net loss of 9,500 square feet and enabling buildings to be moved farther away from Highway 135.

9. September 18, 2007 email message from Mike Potoker committing to the applicant's contributing a pro rate share to a future pedestrian crossing of Highway 135 (formalized in the protective covenants, as noted below in David Leinsdorf letter of January 24, 2008). Potoker noted, "...We will pay our prorata share of the cost of the remedy, Our Prorata of all the residential lots within 1 mile radius of whetstone entrance and hwy 135. Includes riverbend, larkspur, skyland Riverland ind, rozmans proposed industrial, Whetstone mtn ranch, colvins, butte pasture."
10. Letter from David Leinsdorf, dated and received January 24, 2008, referencing attached copies of changes to the *Declaration of Protective Covenants*, cited below; an updated letter dated December 21, 2007 from Tyler Martineau, Water Resource Engineer, regarding Whetstone Park water requirements, detailed below; a copy of a Mutual Easement Agreement with Riverland Homeowners' Association, detailed above; copy of a letter from Norman C. Whitehead, P.E., regarding the pond liner; and a binder containing an application prepared by NCW & Associates, Inc., to the Colorado Department of Public Health and Environment for approval of a lift station.
11. Copy of *Whetstone Park Lift Station*, dated January 18, 2008, received January 24, 2008, prepared by the NCW & Associates, Inc., Norman Whitehead, P.E.-P.L.S.
12. The following sheets/plans, prepared by NCW & Associates, Inc, dated 1/12/08, unless otherwise noted, and all titled as "Whetstone Park, Gunnison County, Colorado" :
 - *Site Plan*. Indicating changes on this sheet and those that follow include the adjustment of the Lot C2 open space boundary; Lot A-1 removed; maximum residential size is 3,800 sq. ft.; building elevation on Lot C2 [lowered]; elevations on berms; Gers sewer service; pond stage table and drainage summary table.
 - *Grading Plan*. [Maximum grade on the interior entrance road is four percent, decreasing to one percent at the cul-de-sac, where a school bus stop is to be located.]
 - *Utilities*. (including a sewer stub to Riverland Industrial Park to accommodate 16 lots/48 units and an 8" sleeve to allowing tie-on by the Riverland force main; service lines along the internal roadway will extend to the 80' right-of-way line).
 - *Utility Details*.
 - *Landscaping Plan*, showing locations of perimeter evergreens and aspens, and perimeter shrubs, and detailing numbers and sizes as follows: On the perimeter: 104 evergreens 5'-6'; 2 8' evergreens; 19 15' evergreens; 104 10'-12' aspens; 15 15' aspens and 35 deciduous 5-gal shrubs. On the interior relative to Lots R-1-R-13: three each of 5' and 6' evergreens, and three each of 10' and 12' aspens. [NOTE: Clarification needed as to what is "interior," as no trees are visually designated on the plan.]
 - *Roadway and Sewer Profiles*.
 - *Force Main Profile*.
 - *Construction Drawings Waste Water Lift Station*.
 - *Highway Striping Plan*
 - *Drainage Plan*. (Reflecting changes in response to review by RTW Engineers, and including changes initially presented 9/26/2007 on NCW's *Alternate Drainage Plan Site Outflow at Historic Drainage Locations*.)
 - *Alternate Drainage Plan site Outflow at Historic Drainage Locations* (Dated 9/26/07)
 - *Sewage Lift Station and Fire/Irrigation Pump House*
 - *Domestic Pumphouse*
 - *Site Areas* (detailing required open space, by delineated residential and commercial uses)
 - *Whetstone Business Park* (Otherwise untitled, but showing visual schematic profiles of berm and building elevations adjacent to Highway 135; dated as received July 29, 2007.)
 - Enlarged photographs superimposed with computer-generated renderings of proposed buildings within Whetstone Park, from viewpoints along Highway 135. Untitled, dated as received July 29, 2007.
13. *Whetstone Park Lift Station Gunnison County, Colorado*, prepared by NCW & Associates, dated January 18, 2008, received January 24, 2008.
14. Letter from David Leinsdorf, dated February 12, 2008 and received February 13, 2008. adding a new paragraph 8.12 to the *Declaration of Protective Covenants* regarding water and sewer facility maintenance.

REVIEW COMMENTS BY OTHER AGENCIES

A copy of the Preliminary Plan was distributed to the following agencies: Colorado State Forest Service; Colorado Division of Water Resources; Colorado Department of Public Health and Environment; Colorado Department of Transportation; Colorado Division of Minerals and Geology; Colorado Division of Wildlife; Natural Resources Conservation Service; Gunnison County Rural Electric Association; East River Regional Sanitation District; Gunnison Trails Commission; Gunnison County Public Works Department; Gunnison County Weed Coordinator; Gunnison County Emergency Services; Gunnison County Sheriff; RE-1J School District; Crested Butte Fire Protection District; Town of Crested Butte; and the Town of Mt. Crested Butte. Those who responded, and their comments, include:

Gunnison County Trails Commission. In a May 2, 2007 memo, the Commission noted that it is "comfortable" with the applicant's provision of a trail easement along the Highway 135 right-of-way. Additionally the Trails Commission was supportive

of the applicant's providing dirt and the equivalent of \$3,000 worth of hauling for the Slate River Project, a project unrelated to this application.

Gunnison County Public Works Department. In a memo dated March 1, 2007 the Public Works Department noted: "The plans meet our standards for road construction and we would recommend accepting them as complete."

Town of Mt. Crested Butte. By letter of April 27, 2007, Town Manager Joseph W. Fitzpatrick, Jr. reiterated the Town's earlier support for the proposal (ref. letter dated February 17, 2005). "The need for commercial and business use land continues to grow in our valley. The Whetstone Park Preliminary Plan residential lots will provide a buffer with surrounding areas and also will provide local housing opportunities."

Town of Crested Butte. Before the applicant's submittal of Preliminary Plan, the Town of Crested Butte, in a letter dated April 13, 2006 indicated its support of the project, finding it "...substantially in compliance with the County's Comprehensive Plan and the Town's proposed Area Plan. The Town particularly appreciates that the proposed project will provide for considerable affordable housing, and that the project will connect to a central sewer system. While the Town would prefer that the project will contain fewer residential uses and have more industrial uses, the Town nonetheless supports the project.

"The proponents of the project have offered to designate the Town the beneficiary of a portion of the monies they intend to collect in the form of a retail sales assessment from the project. The Town is very interested in being the beneficiary of such monies, but the Town's support is not conditioned upon receipt of such monies."

Commenting on the Preliminary Plan submittal, the Town in a February 26, 2007 letter referred to its original comments, and noted, that it, "...continues to support the Whetstone Business Park." They had compared the Preliminary Plan to the Town's Area Plan and considered comments made by the applicants that were not expressed in the Preliminary Plan. They listed the following specific uses and requested that the Commission "address" the issues and include resolutions of them in the approved Preliminary Plan; the Town's comments are followed by relevant information that has developed through this Preliminary Plan review by the Commission:

- "Industrial uses are excluded in a location adjacent to Riverland Industrial Park." Industrial uses, as defined in the *Gunnison County Land Use Resolution* have been precluded from the Park by the protective covenants.
- "The plan should be sensitive to agricultural uses." Requirements for dog control, and required "fence-out" requirements, as well as larger single-family residential lots rather than multiple-family lots have been located on the northwest boundary closest to agricultural uses.
- "Maximum building size should not exceed 10,000 square feet." That limitation is included in the protective covenants.
- "All exterior lighting should use full cut-off fixtures." That requirement is included in the protective covenants.
- "Business signs should not be directed to SH 135." That requirement is included in the protective covenants.
- "A fee per residential unit will be paid to the Town to pay for park equipment." The applicant has committed to making that voluntary payment, and that is included as a condition of approval.
- "An agreement should be signed, before final approval, concerning the retail sales assessment between the developers and the Town of Crested Butte. The Town Council does not request an economic impact study regarding the Town of Crested Butte's retail sales tax base." This is a condition of Preliminary Plan approval.

RE-1J School District. Lori Smock, District Director of Transportation, in a May 25, 2007 letter noted that there are a number of regulatory constraints that limit where student pick-up may occur. She suggested an exception to existing District policy may be possible to allow school buses to enter the development to its cul-de-sac, over development (rather than public) roads. "...[W]e would need no less than 87 feet to turn the bus around without backing...Even though these roads will not be county roads I would still be in favor of bringing the bus into the development for the safety of the students as long as we can turn the bus around without backing, the roads are maintained to county road standards and are plowed in time for the bus routes. I would like 1 bus stop created."

A bus stop location has been included north of the cul-de-sac, which is approximately 90 feet in diameter. At the May 4, 2007 Planning Commission meeting, the applicant's engineer indicated that a shelter will be constructed next to a pump house. The design of the pump house with the attached shelter is required to be included within the Final Plan and the location shown on the Final Plat.

SUBMITTALS RESPONDING TO CONDITIONS OF SKETCH PLAN APPROVAL:

The following include all conditions of Sketch Plan approval, followed by the applicant's corresponding submittal in the Preliminary Plan:

Technically accurate models/storyboards shall be required to be submitted in the Preliminary Plan, to include site design impacts demonstrated, at a minimum from the following points, subject to the consent of each land owner: The Gers residence, the Corbin Marr residence, the Rozman residence, the Murphy lot, the intersection of Brush Creek Road and CO

Hwy 135, points approximately one mile to the north and one-fourth mile from the south boundary line of the subject property on CO Hwy 135; from the first lot at the first entrance of Skyland; from Lots 1 and 3 in Whetstone Mountain Ranches to the west.

An analysis of visual impacts of Whetstone Park is included in exhibits of the superimpositions of digital building images, fencing, landscaping and the proposed Whetstone Pond on photos taken from the required vantage points. Elevations of buildings on Lots C 1-3 present visual schematics of building appearance, as it would be regulated by requirements in the proposed protective covenants. Viewpoints of the proposed development were submitted as part of the original Preliminary Plan and at subsequent meetings of the Planning Commission as such additional information was requested by the Commission and/or landowners. They include the following viewpoints:

- One mile north of the site on Hwy 135, with landscaping
- ¼ mile south on Hwy 135, with landscaping
- Lot S-82, Skyland, with landscaping
- Lot 1, Whetstone Ranch, with landscaping
- Lot 3, Whetstone Ranch, with landscaping
- Brush Creek Road at Hwy 135, with landscaping
- Marr residence, with landscaping
- Murphy lot (in Riverland), with landscaping
- Murphy residence with fence
- Murphy residence with Whetstone Lake
- From Whetstone Park Lot R-12 towards Murphy residence “base”
- From Whetstone Park Lot R-12 towards Murphy residence with Whetstone Park Lake
- From Whetstone Park Lot R-12 towards Murphy residence with 6’ fence
- From Whetstone Park Lot R-12 towards Murphy residence with buildings
- From Whetstone Park Lot R-12 towards Murphy residence with vegetation
- Rozman residence, with landscaping
- Gers residence, with landscaping

Additionally, and as noted, the following also were submitted during the course of this Preliminary Plan review:

- Whetstone Business Park (Otherwise untitled, but showing visual schematic profiles of berm and building elevations adjacent to Highway 135; dated as received July 29, 2007.)
- Enlarged photographs superimposed with computer-generated renderings of proposed buildings within Whetstone Park, from viewpoints along Highway 135. Untitled, dated as received July 29, 2007.

As noted, of particular concern in this review has been the inclusion of a lumber and building supply yard, included and allowed as uses on commercial Lot C2. Over the course of the review, the applicant proposed and agreed to decrease building elevations on Lot C2 to minimize visual impacts to travelers on Highway 135, and to existing landowners around the development property. Building configuration, elevations and heights are specifically indicated on the Site Plan, dated January 12, 2008. Because of the sensitivity of the impacts of uses on C2 in particular, approval of this Land Use Change Permit application for Whetstone Park approves only the lumber and building supply yard, as specifically configured and limited in elevation/height; any use that differs from that is required to obtain a separate Land Use Change Permit, subject to applicable impact classification and review under the Land Use Resolution at the time such a change of use is requested.

The County will determine, based upon test results required to be submitted as part of the Preliminary Plan, whether, pursuant to Section 5-305: G. 8. of the Gunnison County Land Use Resolution, additional well testing will be required during January and February to ensure that a year-round consistent supply will be available to this development.

Stewart Water Information, LLC (certified tester Joe W. Knox) conducted a 48-hour well test February 26-28, 2005, reporting pumping at 14.75 gallons/minute. Therefore, no additional testing during this January/February season has been required.

An updated noise study is required to be submitted as part of the Preliminary Plan.

A report from Gunnison Hearing Center, dated September 24, 2007, is included in the submittal. In it Ellyn Houghton M.S., CCC-A (Noise Consultant) reported results of studies conducted in September to determine if heavy equipment (backhoe, forklift) will be within the business park’s noise guidelines at the Marr residence. Weather was clear with light winds; microphone was wind-capped. Time of testing was 2:10-3:20 in the afternoon.

A forklift was placed at the location designated as a lumber yard, approximately 250' from Highway 135. Sound level measurement was taken of beeper sounds at several points "...in a line toward the Marr property." Houghton reported that, "The highway contributes significant ambient background noise in this area; our recorded measurements are from times when traffic was minimal, to assess the noise just from the forklift beeper...Measurements at all locations except the [Marr] house showed that the noise levels from the forklift beeper are within the county's noise guideline of 50 dBA [Example: normal conversation] maximum at 25 feet off the property line. However, the house measurements were about 5 dBA above the guideline. I believe this is because the elevated site of the house has a direct line of sight to the future lumber yard. Marr's house is 35 feet higher than the site. The proposal for the [W]hetstone [B]usiness [P]arksite includes a 24' high berm to be constructed along the highway. The proposed berm and building will interrupt the line of sight between the lumber yard and the Marr House, substantially reducing the noise level and bringing it to within the county guidelines."

Language has been cited in this Recommendation regarding specific items that are to be addressed within the draft protective covenants to be submitted at Preliminary Plan. Those items are each to be included within that document and to demonstrate compatibility with development in the area surrounding the subject property.

As noted in description of specific protective covenants, the required language has been included.

Submittal of Preliminary Plan shall include documentation of consultation with the Colorado Division of Wildlife, and depending upon the DOW's determination of the presence of habitat, the inclusion of a wildlife habitat analysis, as described within Section 5-206 of the *Gunnison County Land Use Resolution*.

As noted, the plan indicates the applicants contacted the Division of Wildlife and were told the Division would not submit comments until it had received the Preliminary Plan. A copy of the Preliminary Plan was submitted by the Planning Department to the Division, which acknowledged its receipt by signature. No comments were received from the Division. Therefore, no wildlife habitat analysis has been, or is required for this application. Compliance with the standards for mitigation of impacts to wildlife required by the *Gunnison County Land Use Resolution* (now in Section 11-106) provide compliance with the intent and letter of this condition. The requisite language has been included in the protective covenants requiring that all garbage cans have bear-proof lids which attach securely to the garbage cans (Section 5.6) and that trash receptacles be protected from bears, wildlife, and other animals (Sections 5.6 and 6.9), and requiring that all [domestic] animals be confined to the Owner's Lot, attached to a leash or other suitable control device (Section 7.2).

An analysis of whether there is or is not an alternative site for these proposed uses reasonably attainable within or adjacent to the Town of Crested Butte or in or contiguous to Riverland Industrial Park based upon size of parcel needed, feasibility of necessary utilities and other infrastructure, and documentation of comparable sites is required to be submitted in the Preliminary Plan. Economic feasibility or practicality of comparable sites may be considered, but shall not be the deciding factor in determining suitability.

In response to issues raised by Planning Commission chairperson Ian Billick, Leinsdorf responded in a January 11, 2007 letter that Riverland Industrial Park is approaching buildout, that space in the Town of Crested Butte is expensive, and that Crested Butte South and Mt. Crested Butte do not have commercial zones that accommodate those uses in Whetstone Park, there is a demand for such parcels in the valley. The lots offer the combination of

commercial uses and affordable residential uses where people can work close to their work and/or the Town of Crested Butte.

Throughout the series of continued public hearings, testimony was received and considered concerning allowed uses in Crested Butte South, some of which are similar. Considered in that discussion was the balance of additional traffic caused Crested Butte residents traveling to Crested Butte south for services rather than to the Whetstone location.

It was also pointed out that a comparison of commercial uses should appropriately be to either Riverland Industrial Park or to the Town of Crested Butte, not Crested Butte South, pursuant to both primary and alternative locational standards in Section 10-104: *Locational Standards for Commercial, Industrial and Other Non-Residential Development*.

Engineered plans for sewage collection lines to each lot, the design, construction, maintenance and operation of which complies with the County's regulations and with the standards of the Colorado Department of Public Health and Environment are required to be submitted in the Preliminary Plan. Written documentation of acceptance of this development into the East River Regional Sanitation District is also required to be submitted.

The required plans have been submitted.

A listing of specific uses proposed to be allowed by the protective covenants and specific setbacks required on the lots are required to be included in the Preliminary Plan.

As noted in description of specific protective covenants, the required language has been included, and setbacks that meet the requirements of the *Land Use Resolution* are included on the plans.

Sign elements as allowed by the *Gunnison County Land Use Resolution* shall be proposed within the Preliminary Plan.

As noted, language has been included in the protective covenants delineating allowed uses both on individual lots and in directory signs for the subdivision that comply with the Resolution.

Identification within the draft protective covenants of a process of enforcement, first internally by lot owners and occupants within the development, and then by Gunnison County, with compensation for costs of such enforcement, is required to be included within the Preliminary Plan.

As noted in description of specific protective covenants, the required language has been included.

Location of building envelopes, and requirements includes in protective covenants/design guidelines are required to address limitations on outside storage, appearance and mass of structures and related elements, to specifically mitigate visual impacts to, at a minimum, the following points: The Gers residence, the Corbin Marr residence, the Rozman residence, the Murphy lot, the intersection of Brush Creek Road and CO Hwy 135, points approximately one mile to the north and one-fourth mile from the south boundary of the subject property on CO Hwy 135; from the first lot at the first entrance of Skyland; from Lots 1 and 3 in Whetstone Mountain Ranches to the west.

As noted in description of specific protective covenants and the above-cited condition concerning submittal of storyboards, the required language and submittals have been included.

The Preliminary Plan is required to specifically address open space design, including the compliance with requirements for a percentage of open space, clustering, and density and compatibility with adjacent densities and land uses, all information which must be generated via applicable engineering studies.

Open space design, evaluated by lots and combinations of lots and common areas have been included. At the most conservative computation, 32 percent open space is included in the plan.

Whether or not solid-fuel-burning devices will be allowed will be resolved in the Preliminary Plan review.

Leinsdorf's letter of January 24, 2008 provides the definitive language in the protective covenants(section 5.9). Use of solid-fuel-burning devices in Whetstone Park is prohibited, except as a supplemental (not primary) heat source on

Lots R-6-R13, and limits each of those lots to a maximum of one device, and all must comply with Gunnison County standards for those devices.

Integrating the standards of Gunnison County Land Use Resolution Section 5-419: Standards to Ensure Compatible Uses, as well as other measures to mitigate issues raised during this Sketch Plan review, is required within the Preliminary Plan submittal. In particular, mitigation is required to address the sizes of buildings proposed to be allowed within this development compared to those allowed in the immediately adjacent Riverland Filing 2.

As noted, of particular concern in this review has been the inclusion of a lumber and building supply yard, included and allowed as uses on commercial Lot C2. Over the course of the review, the applicant proposed and agreed to decrease building elevations on Lot C2 to minimize visual impacts to travelers on Highway 135, and to existing landowners around the development property. Building configuration, elevations and heights are specifically indicated on the Site Plan, dated January 12, 2008. Because of the sensitivity of the impacts of uses on C2 in particular, approval of this Land Use Change Permit application for Whetstone Park approves only the lumber and building supply yard, as specifically configured and limited in elevation/height; any use that differs from that is required to obtain a separate Land Use Change Permit, subject to applicable impact classification and review under the Land Use Resolution at the time such a change of use is requested.

Locations of building envelopes, reductions in sizes and uses of commercial buildings, elimination of industrial uses, enlargement of residential lots adjacent to potentially residential and existing residential lots to the northwest boundary, limitations placed on hours of use, maximum levels of allowable noise, provision of landscaping: All have been included throughout various changes to this plan to mitigate potential conflicts with adjacent land uses, and to ensure, as much as reasonably possible, compatibility between the two.

Building sizes have been limited to 10,000 square feet.

An assessment of the economic impact to the Town of Crested Butte of retail sales conducted within the proposed Whetstone Business Park and documentation of potential measures to mitigate potential impacts to the Town is required to be submitted in the Preliminary Plan.

As noted, the Crested Butte Town Council has noted that, "An agreement should be signed, before final approval, concerning the retail sales assessment between the developers and the Town of Crested Butte. The Town Council does not request an economic impact study regarding the Town of Crested Butte's retail sales tax base." This is a condition of Preliminary Plan approval.

The applicants are required to timely and fully obtain and comply with all applicable federal, state, municipal and other permits and terms and conditions of any municipal, state, federal permits required for the project.

Submittals of copies of applicable completed permits are required to be submitted as part of the Final Plan. Should U.S. Army Corps of Engineers permitting be required for construction of an access road across Riverland property per the Mutual Easement Agreement between Riverland Homeowners Association and Whetstone Park, a copy of that Permit or other required documentation of compliance with the Corps requirements is required to be submitted in the Final Plan.

Approval of this Sketch Plan application shall constitute a final decision of approval for the general development concept only, but shall not constitute approval of any detailed design or engineering submittals or proposed solutions to specific problems revealed during the Sketch Plan review or later in the review process. Sketch Plan approval by the Board shall not constitute approval of the Major Impact project, or permission to proceed with construction of any aspect of the proposed land use change. Approval at this stage only authorizes the applicant to submit a Preliminary Plan application. If, during the Preliminary and Final Plan reviews, the applicants are unable to fulfill all of the requirements of the Gunnison County Land Use Resolution, then the application shall be denied at the Preliminary or Final Plan review stage.

No submittal required.

The applicant shall be required to submit and actively pursue the completion of the Preliminary Plan application within 12 months after the date of approval of the Sketch Plan. Failure to submit a complete Preliminary Plan application within this time period shall render the Sketch Plan approval null and void, and unless this approval is extended by the Board, require the applicant to begin the Sketch Plan review process again.

The Preliminary Plan was submitted within the requisite period.

PUBLIC MEETINGS, SITE VISIT, AND PUBLIC HEARING:

The Planning Commission conducted work sessions January 12, 2007; February 2 and 15, 2007; March 16, 2007 and March 30, 2007, when the Commission also revisited the site. A joint public hearing was initially conducted by the Planning Commission and Board of County Commissioners, and was continued to and conducted on each of the following dates: May 4, 2007 (in Crested Butte); June 1, 2007; July 6, 2007; August 3, 2007; September 7, 2007; October 5, 2007. Testimony that was presented and the full record of that hearing, including written letters and oral testimony, is hereby incorporated into this record.

COMPLIANCE WITH locational standards, resource protection, development infrastructure and project design standards

[NOTE: Section numbers reflect those in the recodified *Gunnison County Land Use Resolution*, February 15, 2006; Section numbers referenced in the Sketch Plan recommendation for this application reflect the former *Land Use Resolution*; as a “pending application,” this application is subject to the requirements in place at the time the application was submitted.)

Section 10-102: *Locational Standards For Residential Development.*

The proposed project is within the Crested Butte Three Mile Plan area, and so complies.

Section 10-103: *Residential Density.*

Gunnison County has not adopted the Crested Butte Three Mile Plan nor has an intergovernmental agreement been effected between the two entities and therefore requirements of the Three Mile Plan are not mandatory. The County has considered the Crested Butte Three Mile Plan pursuant to the concerns raised by the Town.

Section 10-104: *Locational Standards For Commercial, Industrial And Other Non-Residential Development.*

The proposal is not located adjacent to a municipality. Alternative locational standards allow the opportunity for a commercial, industrial or other non-residential development to locate outside the preferred Three-Mile Plan Area of a municipality, when the cumulative impacts of the proposed development and existing development will result in no significant net adverse impact to adjacent lands or land uses, wildlife, visual quality, air or water quality, and the proposed use.

Discussion of this Preliminary Plan has extensively compared and contrasted existing and potential uses in Whetstone Park with those of Crested Butte South, an unincorporated subdivision approximately eight miles south of the Whetstone site. The Planning Commission has, after consideration of all submittals and testimony, determined that the existence in Crested Butte South of some lots allowing some uses similar to those proposed within Whetstone Park is not material to this evaluation; locations for comparable uses might more reasonably—because of location near the population centers in the north end of the valley—be sought in Riverbend, Skyland or the Town of Crested Butte. Additionally, there is not evidence sufficient to determine that lots are available in those locations for uses similar to those proposed in Whetstone. Of the comments submitted by the Towns of Crested Butte and Mt. Crested Butte, none have indicated that such parcels are available for such uses within the Towns’ boundaries; nor have other parcels outside the Towns been suggested by them as possible alternative or preferred locations.

The Commission has considered the number of individual and repeated activities proposed to take place as part of this development, in combination with those of existing development in the area, and the mitigation proposed by modifications to design, uses and lot configuration in response to other property owners, the public and Planning Commission, and the development’s tying on to the East River Regional Sanitation District. The Commission has determined that the net impacts of this proposed subdivision, after mitigation, may not please all who have participated in this process, but will not be significantly adverse.

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

As noted, Engineer Norman Whitehead, in a March 23, 2007 letter stated, “The existing FEMA floodplain maps for the Slate River adjacent to the Whetstone Park property show the 100 ye[ar] floodplain encroaching on lots R9 through R13. However, it has been found that the existing FEMA mapping in the Upper Gunnison Valley is inaccurate. The County is currently in the process of working with FEMA to update the floodplain mapping.

“Nevertheless, under the current FEMA mapping, the lowest lot elevation is still 14 feet above the normal high water line and no less than 20 feet above the actual 100 year floodplain elevation. If Gunnison County and FEMA have not completed the revisions to the floodplain maps at the time a building permit is requested on any of Lots R9 through R13, a floodplain certificate will be required.”

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

As noted, included within the Sketch Plan application is the *Soil & Geologic Hazard Report, Whetstone Business Park, Gunnison County, Colorado*, dated September 28, 2004, prepared by Tom Griepentrog, P.E. of Buckhorn Geotech, Civil, Structural and Geotechnical Engineers. Griepentrog reported that an onsite investigation was conducted in August, 2004. "The property slopes generally to the south at grades of 0 to 10% with one area sloping up to 20%, where the property changes terrace levels...The Slate River is located to the west and south of the property. Vegetation on the property consists primarily of native grasses and sagebrush, with a small cluster of shrubs and willows located in the southwest portion of the property.

"...The land is currently well vegetated and shows little evidence of slope instability or recent erosion. However, slope instability can be brought on by development practices that ignore the potential for earth movements...Providing logical landscape topography, developing an integrated grading and drainage plan, and retaining cut slopes over 3 feet high will be important in preserving slope stability...Erosion is not considered a significant hazard at this site based upon our observations, provided conscientious construction practices are followed...It is recommended that post-construction development include careful and judicious grading and landscaping/xeriscaping in disturbed areas.

"...Groundwater monitoring wells...were installed in excavations [on this site] prior to backfilling to allow future groundwater monitoring, if deemed necessary and requested by the owners. Seasonal high groundwater may cause movement of the near-surface soils and subsequent movement for foundations set into these soils, allow moisture penetration into crawlspaces and beneath slabs on-grade, and impede the percolation of effluent from a leach field. With proper foundation and septic design, these problems can be successfully mitigated."

The report specifically recommends that," Site specific investigation and testing should be done to verify applicability prior to design and construction of each lot," with specific methods employed for foundation, slab on-grade, retaining walls, type of cement to be used, evacuation of moisture around foundations and under slabs, individual drainage plans for sites, pavement design to prevent deterioration of asphalt roadway edges. Specific to the use of OWS or ISDS facilities for wastewater treatment, the report recommends that, "Water conservation devices should be used in the residential and commercial buildings to reduce the volume of water that will be passing through the OWS. Implementation of this recommendation will help to extend the working life of each system.

"Care must be taken in locating each disposal area to ensure proper system operation and compliance with state and local setback criteria. The specific types of uses for the residential and industrial lots in the subdivision have not yet been determined. Gunnison County guidelines must be met for the design of each individual system."

As noted, the development will be tying on to the East River Regional Sanitation District, and individual sewage disposal systems are no longer proposed. Language is required to be included in the protective covenants submitted with the Final Plan citing the specific recommendations by Buckhorn Geotech, referencing the Geologic Hazard Report, and attaching the study to the protective covenants. No disclaimer is required to be placed on the plat or signed by the applicant, as no hazard, per se, has been identified.

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

The project is located within the Crested Butte Fire Protection District. Language is included in the protective covenants (Section 5.10) requiring and ensuring compliance with the requirements of the District and giving the applicable district the authority to enforce those provisions.

Section 11-106: Protection of Wildlife Habitat Areas

As noted, the plan indicates the applicants contacted the Division of Wildlife and were told the Division would not submit comments until it had received the Preliminary Plan. A copy of the Preliminary Plan was submitted by the Planning Department to the Division, which acknowledged its receipt by signature. No comments were received from the Division. Therefore, no wildlife habitat analysis has been, or is required for this application. Compliance with the standards for mitigation of impacts to wildlife required by the *Gunnison County Land Use Resolution* (now in Section 11-106) provide compliance with the intent and letter of this condition. The requisite language has been included in the protective covenants requiring that all garbage cans have bear-proof lids which attach securely to the garbage cans (Section 5.6) and that trash receptacles be protected from bears, wildlife, and other animals (Sections 5.6 and 6.9), and requiring that all [domestic] animals be confined to the Owner's Lot, attached to a leash or other suitable control device (Section 7.2).

Section 11-107: Protection of Water Quality.

Building envelopes and proposed uses meet required setbacks of this Section. Road location on Riverland property, related to the *Mutual Easement Agreement* between Whetstone Business Park, LLC and the Riverland Homeowners' Association is subject to review and possible permitting requirements of the U.S. Army Corps of Engineers. Confirmation by the Corps that the proposal has been reviewed by them, and their confirmation either that no permits are required or that permits are required and certain conditions must be met are required to be submitted as part of the Final Plan. The Final Plan shall include engineering designs illustrating wetland disturbance and mitigation, including well access, installation and maintenance.

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 adjacent Colvin property and the nearby Rozman Ranches and Whetstone Ranches include agricultural operations. Language has been included in the protective covenants limiting the number of domestic animals, and requiring confinement of domestic animals to the Owner's Lot, and/or by under leash control (Sections 7.1 and 7.2).

There are no irrigation ditches on the property. Because the subject property is near agricultural operations, language has been included in the protective covenants requiring the homeowners' association with the responsibility for the expense of maintaining that part of the perimeter fencing around the development that is not maintained by the owner(s) of adjacent lands in order to fence out livestock. Pursuant to Section 3-110 of the *Land Use Resolution*, the County must provide owners of lots that are adjacent to agricultural operations with the County's Right-to-Ranch policy, and of the *Code of the West*.

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

The site is not located above timberline.

Section 12-103: Road System.

Roadway and Sewer Profiles, prepared by NCW & Associates, Inc, dated 1/12/08 are included as part of this Preliminary Plan. By memo of March 1, 2007 the Public Works Department noted: "The plans meet our standards for road construction and we would recommend accepting them as complete." Documentation of the department's approval of the plans is required to be submitted as part of the Final Plan.

As noted, language has been included in the protective covenants assigning responsibility for construction, maintenance and plowing; costs of construction and maintenance are the responsibility of the applicant, to be assured by surety and other requirements to be included within a Development Improvement Agreement at Final Plan.

The *Whetstone Park Traffic Impact Analysis*, prepared by NCW & Associates, undated, cites trip generation rate projections established by the Institute of Traffic Engineers (ITE) as its reference. In addition, field data was collected, noting the similarity in uses between the existing Riverland Industrial Park to the south and Whetstone Park. Morning and evening peak hour turn movement volume counts were taken at each entrance to Riverland to measure directional split of generated trips. An overall background volume was also counted, including traffic generated by development in the Brush Creek corridor (including the recently-approved Larkspur subdivision). Counts took place in September, 2004 7-9 a.m. and 4-6 p.m. on a Thursday and Friday.

Based on those observations, trip distribution and trip assignment data, projected traffic volume for Whetstone Park is estimated to be 1,537 average daily trips (ADT), with a morning peak hour volume of 134 ADT and an evening peak hour volume of 168 ADT. The report notes, "...The projected number of right turns out of the site are less than the threshold of 50 cited in the State Highway Access Code for warranting a right turn acceleration lane. However, right and left turn acceleration lanes would improve the efficiency of the operations of the Whetstone Park driveway intersection with Highway 135, particularly with truck traffic entering and exiting the highway from the site and the existing Riverland Industrial Park access. Acceleration lanes would also allow vehicles to safely and efficiently enter the highway traffic flow through the use of available short gaps in traffic flow on the highway instead of vehicles waiting for larger gaps.

"...Prior to finalizing construction plans for the Whetstone Park access point, some discussions with CDOT will need to take place to determine how such lanes will best fit in with the existing highway striping and existing access points. "the proposed Whetstone Park driveway entrance is offset from the Brush Creek Road intersection in a manner that does not create conflicting left turn movement. In addition, there is 550 feet between Brush Creek Road and the Whetstone Park entrance with good sight distance at both 'T' intersections. The existing highway embankment along the Whetstone Park access point will be eliminated.

“As discussed in the Traffic Impact Analysis for the Brush Creek Road/Highway 135 intersection done for the Larkspur Neighborhood, the current absence of a left turn acceleration lane at the Brush Creek Road intersection is not a safety or operational problem at this time. However, it should be noted that there is available pavement area to allow reconfiguration of existing striping for a left turn acceleration lane at Brush Creek Road when and if CDOT determines it to be beneficial to the overall Highway 135 corridor in the future.

“...Therefore-with construction of the auxiliary lanes on Highway 135 at the proposed Whetstone Park access point as discussed...and shown on the preliminary striping plan—there are no capacity or unusual safety issues created on the highway with developing the Whetstone park access point at the location proposed.”

A Highway Access Permit application has been submitted to CDOT, and a copy of the approved Permit is required to be submitted with the Final Plan.

Section 9.13 of the protective covenants (ref: Leinsdorf letter of January 24, 2008) addresses concerns raised by the public about the potential and inherent danger for children and other pedestrians in this development crossing Highway 135. The Section states:

“9.13 special assessment for Pedestrian Bridge or Underpass. In the event that the State of Colorado, Gunnison County or another public entity constructs a pedestrian bridge or underpass over or under Colorado Highway 135 in the vicinity of Brush Creek County road (County Road 738), the Whetstone Park Association shall assess all of its members and contribute its fair pro rata share to the cost of constructing such pedestrian bridge or underpass. Whetstone Park’s share shall be a fraction whose numerator is the number of residential units, at full build-out, in Whetstone Park and whose denominator is the number of residential units, at full build-out, in all development within a one mile radius of the entrance to Whetstone Park on Colorado Highway 135.”

Legally, only the cost of the impact directly generated by this development can be “charged back” to this development in the event such improvements are eventually constructed; this language ensures that this impact of this development and its share of required funding is captured.

The plans currently do not name the interior road of the subdivision; the road is required to be named and labeled upon submittal of the Final Plat and plan.

Before submittal of the Final Plan to the Planning Department, and to ensure that specific standards for road design and construction, as well as related costs are clearly itemized for purposes of identifying necessary surety and timelines within a Development Improvement Agreement, the applicant is required to provide the final plans and costs to the Public Works Department and secure written approval of that Department of those specifically dated and defined specifications and costs.

Section 12-104: Trails

No public trail currently exists on the subject property, nor is there existing access to public lands. No trail is required by this Section. During the course of this Preliminary Plan review, the applicant proposed including a trail around the perimeter of the property. The Riverland Property Owners’ Association opposed the inclusion of a trail on the shared Riverland boundary and subsequently the applicant agreed to include a public trail easement only along Highway 135. Section 12.6 of the protective covenants note that the Declarant has dedicated a public easement for pedestrians, bicyclists and cross country skiers 10 feet wide adjacent to the Colorado Highway 135 right of way, and the easement has been indicated on the Site Plan.

Section 12-105: Water Supply and Section 12-106: Sewage Disposal/Wastewater Treatment

The original application proposed use of individual sewage disposal systems, as are used within the adjacent Riverland Industrial Park and the Sketch Plan references a review of feasibility for tie-on to the East River Regional Sanitation District, including a determination that “...the cost of connection would be prohibitive.”

As of January 18, 2008 the applicant has submitted an application to the Colorado Department of Public Health and Environment to construct and expand an interceptor sewer, which notes that, at full buildout, the development will increase the loading of the East River Regional Sanitation District plant to 70 % of hydraulic and 36% of organic capacity.

As noted, language has been included in the protective covenants (Section 8.12, ref. Leinsdorf letter of February 12, 2008) that requires that “All water and sewer facilities ...including all ponds, water lines, sewer lines and sewer lift stations” must be constructed as required by the County’s Land Use Change Permit, and charges the Whetstone Park Association with maintenance and repair of those facilities.

Initial required information was submitted in the Preliminary Plan by Tyler Martineau, Water Resource Engineer, submittal dated October 6, 2006. In a December 21, 2007 (received January 24, 2008) follow-up letter, Martineau “updates technical information,” noting that the

08 May 02 PC Minutes
08 July 25 PC Approved

existing 15-gallon per minute well will be used to provide water for indoor uses; an onsite pond will be constructed to provide water for irrigation and fire suppression; and a 50 gpm gallery well will be constructed to provide water for non-potable purposes including irrigation, fire suppression, and filling of the pond. Included are estimates of water use based on water use rates approved by the water court in Case No. 03CW107 for the Upper Gunnison River Water Conservancy District's Meridian Lake Reservoir Plan for Augmentation.

The estimates address 23 residential units at 350 gallons per day in-house use per unit; 7,000 sq. ft. of office area, assuming 200 sq. ft. per office employee and 15 gpd per employee; and 13,400 sq. ft. of retail area, assuming 0.1 gpd per sq. ft.; 39,000 sq. ft. of warehouse/shops, assuming 500 sq. ft. per employee and 15 gpd per employee. Proposed augmented depletions to the Slate River are included, both without and with pumpback of in-house return flows from the East River [a project tentatively proposed by the East River Regional Sanitation District]. Martineau notes that, "Wastewater from indoor uses will be piped to the East River Regional Sanitation District Treatment Plant. Water from the treatment plant is released to the East River.

"The East River Regional Sanitation District is considering a project which would provide for water to be pumped through a pipeline from the vicinity of the East River Regional Treatment Plan to the Slate River in amounts equal to the amount of wastewater flows transported from the Slate River drainage to the East River drainage. Without this pumpback project, depletions to the Slate River from the domestic/commercial well will be equal to the diversions made through the well. With the pumpback project, the effect will be to reduce the depletion by the domestic/commercial well to the Slate River by Whetstone Park to the amount of consumptive use associated with the well."

Attorney John H. McClow, P.C., in a letter dated September 25, 2006, in a follow-up letter to information initially submitted July 6, 2005, noted that, "Although other options are likely available, Whetstone presently intends to use its on-site well to provide the water supply for the development, augmented by water purchased from the Upper Gunnison River Water conservancy District.

"At the time of my previous letter, Whetstone had reserved 30 Base units of Meridian Lake Reservoir water from the upper Gunnison River Water Conservancy District. Whetstone has since purchased those Base units. With a change from ISDS to connection to the East Rive Regional Sanitation District wastewater treatment facility, Whetstone will be required to purchase 270 additional Base Units to provide sufficient augmentation water. Ownership of these Base Units qualifies Whetstone for participation in the umbrella plan for augmentation adjudicated by the District in Case No. 03CW107. Therefore, no additional water rights or adjudication will be required to obtain the well permit for the subdivision. A copy of the decree in Case No. 03CW107 is included with Whetstone's submission." If the East River Regional Sanitation District's proposed pumpback line is approved, Whetstone Park will use the pumpback line, which would reduce its augmentation requirement from 300 Base Units to the 30 Base Units, currently owned by Whetstone Park. Documentation of purchase of the additional Base Units is required to be submitted in the Final Plan.

Additionally, and as noted, a draft Agreement between Whetstone Business Park, LLC and Riverland Lot Owners Association notes that "Riverland requires additional water for fire suppression, which Whetstone is willing to supply on a non-exclusive basis. Whetstone requires access across the Riverland Property for various purposes." The Easement, "...includes the right to pump water from Whetstone's pond and convey it across Whetstone's common area to Riverland Industrial Park and the right to access the Whetstone Property for the purpose of constructing, maintaining and operating a pipeline from Whetstone's pond to the Riverland Industrial park. Such easement also includes the right to use Whetstone's water to suppress fires.

"Riverland's water rights shall be used to refill Whetstone's pond following Riverland's use of water from [the] pond and Riverland [is required] at its cost, [to] undertake all water court proceedings to implement and utilize its rights...Riverland will not be responsible for refilling the pond if an entity other than Riverland draws down the pond water level.

"Whetstone [is required] to construct and maintain the pond and pump system, including a stub at the property line for connection to Riverland's fire suppression system pipeline. Riverland [s required to] construct and maintain the pipeline from the stub to Riverland's fire suppression system." Whetstone will install an additional conduit under Highway 135 to accommodate Riverland's future sewer line, and, "...shall pump effluent from 14 Riverland lots through Whetstone's pump-back line to the East river Regional Sanitation District treatment plant. Riverland shall pay its pro rata share of operating and maintaining the pump-back line." In exchange, Whetstone is granted "...the right to use the Riverland Property for fishing and other recreational purposes by Whetstone and the residents and owners of residential lots and residential units on the Whetstone Property [via two access passes for each of Whetstone's 15 lots], the right to construct a well on the Riverland Property within 100 feet of the Slate River...including the right to construct, maintain and operate a pipeline, pump and related facilities to convey water from such well to the Whetstone Property," and "A drainage easement from the Whetstone Property to the Slate river across the Riverland Property." Whetstone is required to, "...ensure that all well, pipes, pumps, and related facilities used to convey water are designed and constructed to the highest standards, without any leaks, and reasonably minimizing visual impacts."

Language has been included in the protective covenants (Section 8.12, ref. Leinsdorf letter of February 12, 2008) that requires that "All water and sewer facilities ...including all ponds, water lines, sewer lines and sewer lift stations" must be constructed as required by the County's Land Use Change Permit, and charges the Whetstone Park Association with maintenance and repair of those facilities.

Section 12-107: Fire Protection.

The project is located within the Crested Butte Fire Protection District. In the December 21, 2007 Tyler Martineau, Water Resource Engineer letter, he notes that the Whetstone Park Pond will "...provide water to suppress two fires, each with a fire flow requirement of 1,750 gpm for 2 hours."

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

Site-specific building envelopes, building heights, and lot sizes have been identified in the Plan, and comply with this Section.

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

Pursuant to this Section, front, rear and side setbacks are measured as the distance between the nearest lot line and the foundation of a structure, along a line at right angles to the lot line. Concern was raised during both the Sketch Plan and Preliminary Plan reviews that the residential uses did not meet a 300' setback requirement to adjacent industrial land uses in Riverland Industrial Park, and that future Whetstone Park residents could potentially protest the existing industrial uses. The County interprets this Section as requiring that new industrial uses must meet the 300' setback when located adjacent to existing residential uses; new residential uses within a new development, however, do not have to meet that requirement when being located adjacent to existing industrial uses, the logic being that persons buying those residences know they are purchasing adjacent to industrial uses and therefore waive their right to complain. As "belt and suspenders," to ensure that purchasers of residential lots (particularly Lots R11, R12 and R 13), however, the applicant has, as noted, included the following disclosure statement within the protective covenants:

"Notice: Whetstone Park is contiguous to Riverland Industrial park ("Riverland") in which permitted uses include machine shops, welding, furniture refinishing, manufacturing, automobile servicing and repair, freight and trucking terminals, mixing paints for asphalt, concrete, plaster and mortar, bulk storage of petroleum products, animal kennels, commercial laundries and other uses which create dust, noise, vibration, glare and other impacts. Every person occupying or receiving a deed conveying any Whetstone Park property acknowledges and accepts the existence of such uses in Riverland and waives the right to object to such uses to the extent that such uses comply with the Riverland covenants and applicable law."

Other setback requirements from property lines to building envelope boundaries are in compliance with this Section.

Section 13-105: Residential Building Sizes and Lot Coverages

The Preliminary Plan design complies with this Section.

Section 13-107: Installation of Solid Fuel-Burning Devices

Language has been included in the draft declaration of protective covenants (Section 5.9, submitted January 24, 2008) prohibiting solid fuel-burning devices, except "...as a supplemental (not primary) heat source on Lots R6-R-13." No lot may have more than one device per lot, and all are required to comply with Gunnison County regulations.

Section 13-108: Open Space And Recreation Areas

As a Major Impact project involving commercial uses, this project is required to provide open space by including landscaping elements and setbacks from property lines as required by As a Major Impact project that involves residential uses, a minimum of 30 percent is required to be permanently set aside for public, private, or common developed and/or undeveloped open space. At the most conservative computation, the Preliminary Plan includes residential open space that exceeds the required 30% pursuant to this Section.

Section 13-109: Signs.

As noted above in the description of the protective covenants, the *Covenants* address sign standards for the subdivision itself and for individual lot owners, in compliance with this Section.

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

The Preliminary Plan design and language within the protective covenants comply with this Section, including the numbers of required spaces based upon proposed square footage of the commercial buildings.

Section 13-111: Landscaping And Buffering.

As noted, a landscaping plan has been submitted that includes berming along the perimeter of the property, and specific vegetation within it and common areas. The declaration of protective covenants includes specific vegetation, irrigation and maintenance requirements and responsibilities in compliance with this Section.

Section 13-112: Snow storage.

Snow storage areas are delineated within the Site Plan for the development, and as noted, language is included within the protective covenants assigning responsibility for snow plowing, and for maintenance of snow storage areas. The Public Works Department has reviewed and approved the design plans that include the snow storage areas.

Section 13-113: Fencing

As noted, language is included in the declaration of protective covenants addressing the standards of this Section and includes notification of lot owners of the requirement for a "fence-out" provision relative to adjacent and nearby agricultural operations.

Section 13-114: Exterior Lighting.

An exterior lighting plan is included as part of the Preliminary Plan designed to meet the requirements of this section and of the Gunnison County Rural Electric Association (or the standards in the IES Lighting Handbook); and to indicate the locations of exterior lights within the development, and the type of lighting devices, fixtures, lamps, supports, reflectors and other devices; and to address the methods of shielding. No street lighting has been proposed or included as part of this Plan. Language has been included in the protective covenants requiring exterior lighting to comply with Section 13-114 of the *Gunnison County Land Use Resolution*. Bulb wattage is limited to a maximum 75 watts. Security lighting connected to motion detectors may not remain illuminated longer than five minutes. All exterior light fixtures, including security lighting, is required to direct light to the ground and be "full cut-off" type. Lights cannot be used to light buildings, may not spill light beyond the building entrance, except as may be needed to reach parking areas. Lighting plans are required to be approved by the Architectural Review Board. Gunnison County also requires a lighting plan be submitted with each application for a Building Permit.

Section 13-115: Reclamation And Noxious Weed Control.

Reclamation Permits are required for all construction, homesite clearing and berm construction. A Noxious Weed Control Plan has been included within the Preliminary Plan, pursuant to this section, and compliance with this Section is required of both the Whetstone Park Association and individual lot owners.

Section 13-116: Grading And Erosion Control.

Grading Plan, prepared by NCW & Associates, Inc, dated 1/12/08 is included in the Preliminary Plan in compliance with this Section. Construction of this project will require the applicant to secure a Reclamation Permit from the Public Works Department, pursuant to Section 13-115: *Reclamation and Noxious Weed Control*. Details of grading and erosion control are included on the submitted plans, and as noted, have been addressed in the protective covenants (Section 6.5) in compliance with this Section.

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

At the recommendation of the Planning Staff, an independent review of the drainage plans was conducted by Bob Orsatti, P.E. of Rothberg, Tamburini and Winsor, Inc. (RTW), the costs of which were borne by the applicant. RTW (Letter of September 4, 2007) iterated questions and comments, the most material of which was that, "...Assuming that wave action does occur [in the pond], it will occur above the liner and will result in further bank erosion and ultimate liner failure." NCW responded by providing some additional information, by clarifying information RTW found to be unclear, and by letter of January 24, 2008, Norman Whitehead, P.E. noted that the liner for the detention pond, "...will be installed so it will be [one] foot above the pond's high water line. As a result, water will exit the pond either via the pumping system or the outlet structure for the pond." The Final Plan design shall include this specification.

Revised drainage plans, titled *Drainage Plan*. (reflecting changes in response to the review by RTW Engineers, and including changes initially presented 9/26/2007 in NCW's *Alternate Drainage Plan Site Outflow at Historic Drainage Locations*.) were submitted in response, along with a September 27, 2007 memo from NCW titled "Whetstone Park-Alternate Drainage Plan," noting that, "The main difference between the original drainage plan and the alternate plan is the point at which the runoff leaves the Whetstone Park site. The original plan has a single discharge point that flows into the Riverland industrial park subdivision open space. The alternate plan has two discharge points; 1) at Design Point 9.1 (Historic Design Point B) which flows onto the Colvin property; and 2) at Design Point 9.2 (Historic Design Point A) which flows onto John Murphy's lot in Riverland Industrial Park subdivision. The pond would need to be raised 2 feet to allow for pond discharge to flow off the Whetstone Park property at existing ground elevations.

"Flows at Design Point C are reduced due to the diversion of approximately one half of Basin C to the pond. Design Point 4 (Historic Design Point D) is reduced slightly due to diversion of the majority of Basin D to the pond. The majority of the runoff at Design Point 4 is from the culvert that crosses under Highway 135 and drains to Basin E." As noted, the plan also has been subsequently changed so that the liner will be installed one foot above the pond's high water line. NCW's responses have been found by the Planning Commission to have answered those questions and recommendations iterated by RTW.

In the December 21, 2007 Tyler Martineau, Water Resource Engineer letter, he notes that the Whetstone Park Pond is proposed to include 490,000 gallons capacity for stormwater detention.

Ecological Resource Consultants, Inc., in a memo dated August 29, 2007, recommended that, "...to provide additional stormwater runoff water quality treatment beyond that of the detention pond for the proposed development, ERC recommends the use of a drop box, stormceptor, type system...ERC recommends the use of a Vortechs Model 16000

stormwater treatment system...[a hydrodynamic separator that removes finer sediment oil and grease, and floating and sinking debris. The system design allows for easy inspection and unobstructed maintenance.” The system has a 25 cfs treatment capacity , providing 80 percent total suspended solids removal, and “...adequately treat up to the calculated 2-year runoff event.” ERC specifically noted that, “Further analysis would be required in order to determine if the recommended model is fully compatible with the needs of the proposed development.” That final analysis, based upon the requirements of this Preliminary Plan approval, and final development design, is required to be submitted as part of the Final Plan.

Language is included in Section 8.11 of the protective covenants (January 24, 2008 Leinsdorf submittal) requiring that all storage areas and drainage facilities, including all pervious vegetated buffered strips are required to be constructed with the Land Use Change Permit for the development, and the homeowners’ association is required to maintain and repair those areas.

Section 13-118: *Water Impoundments*

No water impoundment separate from that included as part of this Preliminary Plan is proposed; no separate Land Use Change Permit is therefore required. As noted, in the December 21, 2007 Tyler Martineau, Water Resource Engineer letter, he notes that the Whetstone Park Pond is proposed to have a storage capacity of 2.20 acre-feet to accommodate dead storage, fire store and irrigation, plus 490,000 gallons capacity for stormwater detention.

Section 13-119: *Standards to Ensure Compatible Uses*

As noted, of particular concern in this review has been the inclusion of a lumber and building supply yard, included and allowed as uses on commercial Lot C2. Over the course of the review, the applicant proposed and agreed to decrease building elevations on Lot C2 to minimize visual impacts to travelers on Highway 135, and to existing landowners around the development property. Building configuration, elevations and heights are specifically indicated on the Site Plan, dated January 12, 2008. Because of the sensitivity of the impacts of uses on C2 in particular, approval of this Land Use Change Permit application for Whetstone Park approves only the lumber and building supply yard, as specifically configured and limited in elevation/height; any use that differs from that is required to obtain a separate Land Use Change Permit, subject to applicable impact classification and review under the Land Use Resolution at the time such a change of use is requested.

Locations of building envelopes, reductions in sizes and uses of commercial buildings, elimination of industrial uses, enlargement of residential lots adjacent to potentially residential and existing residential lots to the northwest boundary, limitations placed on hours of use, maximum levels of allowable noise, provision of landscaping: All have been included throughout various changes to this plan to mitigate potential conflicts with adjacent land uses, and to ensure, as much as reasonably possible, compatibility between the two.

Article 15: *Right-to-Ranch Policy*.

The applicant must be provided a copy of the *Right-to-Ranch Policy* and the *Code of the West*. If the applicant receives approval for a Land Use Change Permit, notification about the policy, and about the Code are required to be noted in a resolution of approval and on the final plat and are required to be provided to lot owners within the Park.

FINDINGS:

The Commission finds that:

1. The submitted Preliminary Plan relates to all of the 13.25 acres proposed for development.
2. This Preliminary Plan includes detailed information and mitigation proposals for evaluation, pursuant to Section 7-103 of the *Land Use Resolution*.
3. The proposed land use change is required to be compatible with, or to enhance the character of existing land uses in the area surrounding the subject property, and shall not adversely impact the future development of the area surrounding the subject property. This Preliminary Plan, as originally submitted and modified during this review, has incorporated mitigations of identified conflicts, and design features intended to minimize impacts to adjacent and nearby landowners and travelers on Highway 135. Those modifications, and compliance with requirements related to infrastructure including the connection with the East River Regional Sanitation District, ensure reasonable compatibility with the existing character of land uses in the area, and the potential for future development of the area including berming on the perimeter of the property to mitigate visual impacts, as illustrated on the *Landscaping Plan* dated January 12, 2008.
4. No phasing of subdivision platting or installation of infrastructure has been proposed by the applicant within this Preliminary Plan submittal, and none is being recommended by the Planning Commission. Phasing of construction of deed-restricted housing shall be addressed in the Final Plan submittal.

5. All uses have been identified on lots within this proposed subdivision.
6. The proposed project is not located adjacent to a municipality; it *is* located within the Three Mile Plan area of the Town of Crested Butte. The proposal complies with Section 10-102: *Locational Standards for Residential Development*.
7. A comparison of commercial uses should appropriately be to either Riverland Industrial Park or to the Town of Crested Butte, not Crested Butte South, pursuant to both primary and alternative locational standards in Section 10-104: *Locational Standards for Commercial, Industrial and Other Non-Residential Development*.
8. The proposal complies with Section 10-104: *Locational Standards for Commercial, Industrial and Other Non-Residential Development*.
9. Gunnison County has not adopted the Crested Butte Three Mile Plan nor has an intergovernmental agreement been effected between the two entities and therefore requirements of the Crested Butte Three Mile plan are not mandatory. The County has reviewed the Crested Butte Three Mile Plan and has been attentive to the objectives of policies of the Town.
10. The project meets the standards of Section 10-102: *Locational Standards for Residential Development*; and of Section 10-103: *Residential Density*. Lot size and density are not substantially similar to adjacent parcels, but conditions are appropriate for smaller lots or greater density.
11. A copy of the final executed retail sales agreement between the Town of Crested Butte and the applicants is required to be submitted as part of the Final Plan, and shall be subject to approval by the Gunnison County Attorney.
12. Of particular concern in this review has been the inclusion of a lumber and building supply yard, included and allowed as uses on commercial Lot C2. Over the course of the review, the applicant proposed and agreed to decrease building elevations on Lot C2 to minimize visual impacts to travelers on Highway 135, and to existing landowners around the development property. Building configuration, elevations and heights are specifically indicated on the Site Plan, dated January 12, 2008. Because of the sensitivity of the impacts of uses on C2 in particular, approval of this Land Use Change Permit application for Whetstone Park approves only the lumber and building supply yard, as specifically configured and limited in elevation/height; any use that differs from that is required to obtain a separate Land Use Change Permit, subject to applicable impact classification and review under the Land Use Resolution at the time such a change of use is requested.
13. Before submittal of the Final Plan to the Planning Department, and to ensure that specific standards for road design and construction, as well as related costs are clearly itemized for purposes of identifying necessary surety and timelines within a Development Improvement Agreement, the applicant is required to provide the final plans and costs to the Public Works Department and secure written approval of that Department of those specifically dated and defined specifications and costs.
14. A copy of the final *Mutual Easement Agreement* between Whetstone Park, LLC and Riverland Lot owners Association, signed by all relevant parties, is required to be submitted in the Final Plan, or alternative solutions detailed, including engineered designs for off-site drainage and applicable well and pipeline locations, should the Agreement not be effected. Such solutions and engineered designs shall be subject to full review by County staff, Planning Commission and Board, and, as deemed necessary by the County, outside consultants. Approval of the draft Agreement by the County Attorney's Office is required prior to action by the Board on this Preliminary Plan.
15. The *Landscaping Plan*, dated 1/12/08, received 1/24/08, prepared by NCW & Associates has deleted labeling of delineated pervious vegetated areas as elements of the drainage plan that were shown on the September 20, 2007 plan; those elements are required to be returned to, and labeled on, the drainage and landscaping plans submitted in the Final Plan.
16. Location of a well and any access to it, related to the *Mutual Easement Agreement* between Whetstone Business Park, LLC and the Riverland Homeowners' Association is subject to review and possible permitting requirements of the U.S. Army Corps of Engineers. Confirmation by the Corps that the proposal has been reviewed by them, and their confirmation either that no permits are required or that permits are required and certain conditions must be met are required to be submitted as part of the Final Plan.
17. The design requirements are included within the *Declaration of Protective Covenants for Whetstone Park*, which may not be amended nor terminated without Gunnison County approval. Separate additional guidelines may be adopted by the Whetstone Park Association that do not conflict with the Covenants; variance from either those guidelines or the *Covenants* is required to comply with the *Gunnison County Land Use Resolution*.
18. Language has been included in the draft protective covenants ensuring compliance with the requirements of the Crested Butte Fire Protection District and giving the District the authority to enforce those provisions.

19. Each Lot is required to provide at least one parking space for each 400 square feet of commercial floor space, and plans are subject to approval by the Whetstone Park Architectural Review Board. Each residence is required to comply with the requirements of the *Gunnison County Land Use Resolution*. The final version of the covenants shall reflect those requirements.
20. At the Planning Commission meeting of March 14, 2008, the Commission requested and the applicant agreed that language would be changed in the declaration of protective covenants to include "garden" within the maximum allowed irrigated square footage.
21. The Planning Commission and applicant agreed at the Commission's March 14, 2008 meeting that, primarily for purposes of mitigating impacts to adjacent lands, the covenants will be changed in the Final Plan submittal to allow a maximum six-foot high combination of fencing and berm, which complies with the limit allowed by the *Gunnison County Land Use Resolution*.
22. Bulb wattage is currently limited to a maximum 75 watts by the declaration of protective covenants: This language will be removed in the Final Plan submittal.
23. At the Commission's May 2, 2008 meeting, the Commission requested and the applicant agreed to limit such animals to a total of four per single-family residence; the total number in each apartment shall be limited to two. That language will be included in the final version of the covenants to be submitted with the Final Plan.
24. Because the Colorado Division of Wildlife provided no comments regarding the Preliminary Plan, no wildlife habitat analysis has been done, nor is it required for this application. Compliance with the standards for mitigation of impacts to wildlife required by the *Gunnison County Land Use Resolution* (now in Section 11-106) provide compliance with the intent and intended outcome of that section of the *Resolution*.
25. Water well testing was conducted in February, 2005 and results submitted as part of this Preliminary Plan. Pursuant to the *Gunnison County Land Use Resolution*, the required seasonal timing of testing has been accomplished.
26. Whetstone presently intends to use its on-site well to provide the water supply for the development, augmented by water purchased from the Upper Gunnison River Water conservancy District. With a change from ISDS to connection to the East River Regional Sanitation District wastewater treatment facility, Whetstone will be required to purchase 270 additional Base Units to provide sufficient augmentation water. Ownership of these Base Units qualifies Whetstone for participation in the umbrella plan for augmentation adjudicated by the District in Case No. 03CW107. Therefore, no additional water rights or adjudication will be required to obtain the well permit for the subdivision. If the East River Regional Sanitation District's proposed pumpback line is approved, Whetstone Park will use the pumpback line, which would reduce its augmentation requirement from 300 Base Units to the 30 Base Units, currently owned by Whetstone Park. Documentation of purchase of the additional Base Units is required to be submitted in the Final Plan.
27. The Final Plan shall include engineering designs illustrating wetland disturbance and mitigation, including well access, installation and maintenance.
28. An engineering and economic evaluation of the feasibility of providing a central wastewater treatment system or tying onto the East River Regional Sanitation District system was submitted as part of this Preliminary Plan. The development will be tying onto the District system.
29. Language is required to be included in the protective covenants submitted with the Final Plan citing the specific recommendations by Buckhorn Geotech, referencing the Geologic Hazard Report, and attaching the study to the protective covenants. No disclaimer is required to be placed on the plat or signed by the applicant, as no hazard, per se, has been identified.
30. The applicants' stormwater management design consultant has recommended a specific stormwater management system for the proposed development, with the caveat that further analysis is required in order to determine if the recommended model is fully compatible with the needs of the proposed development. That final analysis, based upon final development design, is required to be submitted as part of the Final Plan.
31. The applicant's engineer has noted that the liner for the detention pond, "...will be installed so it will be [one] foot above the pond's high water line. As a result, water will exit the pond either via the pumping system or the outlet structure for the pond." The Final Plan design shall include this specification, and the Development Improvement Agreement shall, subject to approval by the County Attorney, include surety sufficient to fund replacement of the liner should it fail.
32. A bus stop location has been included north of the cul-de-sac, which is approximately 90 feet in diameter for bus turnarounds. The applicant's engineer indicated that a shelter will be constructed next to a pump house. The design of the pump house with the attached shelter is required to be included within the Final Plan and the location shown on the Final Plat.

- 33.** The location of commercial uses to areas southeast of the subdivision's interior road and the sizing and location of residential lots to the northwest of the road creates a buffer between the larger residential and agricultural lots to the northwest, and the commercial/light industrial lots in Riverland Industrial Park to the southeast.
- 34.** The following, as listed by applicant Mike Potoker by email of May 25, 2007, and voluntarily incorporated in this development by the applicants are to be part of the Final Plan, including as described in an applicable section of the protective covenants or similar document subject to approval by the Gunnison County Housing Authority and County Attorney, and are a condition of this approval:
- a.** 30% of the residences (based on 13 residential lots and 10 apartments), totaling seven residences; the last three residences will be restricted to no resale for two years after the original sale of each by the developer to the first buyer.
 - b.** Four one-bedroom residences, each approximately 600 sq. ft. will be perpetually deed-restricted units. Prices of residences for sale by the applicant will be limited as follows: One at 80% AMI (Area Median Income); one limited to 100% AMI; one limited to 120% AMI; and one limited to 140% AMI. All will be limited to a maximum appreciation of 3% or by the Consumer Price Index (CPI), whichever is less. A purchaser will be required to earn 80% of their income (not passive investments) in Gunnison County. If the residence remains unsold after 90 days, it may then be sold at a price that qualifies in the next higher AMI category, reverting back to the original AMI category upon future resale. The residence may be rented to an occupant who qualifies in the same AMI category.
 - c.** Three residences (1-two bedroom and 2-three bedroom) will be perpetually deed-restricted but have no sale price cap, and may be sold or rented to occupants who make 80% of their income (not passive investments) in Gunnison county thru work not investments.
 - d.** Three residences (each 3 bedroom) will be restricted to no resale for two years after the original sale of each by the developer to the first buyer, and may be rented with no restrictions.
- 35.** The plans currently do not name the interior road of the subdivision; the road is required to be named and labeled upon submittal of the Final Plat and plan.
- 36.** The following language has been included in the protective covenants addressing concerns raised by the public about the potential and inherent danger for children and other pedestrians in this development crossing Highway 135. It is reasonable and appropriate that that language be required to appear in the final version of the covenants.
- "9.13. Special assessment for Pedestrian Bridge or Underpass. In the event that the State of Colorado, Gunnison County or another public entity constructs a pedestrian bridge or underpass over or under Colorado Highway 135 in the vicinity of Brush Creek County road (County Road 738), the Whetstone Park Association shall assess all of its members and contribute its fair pro rata share to the cost of constructing such pedestrian bridge or underpass. Whetstone Park's share shall be a fraction whose numerator is the number of residential units, at full build-out, in Whetstone Park and whose denominator is the number of residential units, at full build-out, in all development within a one mile radius of the entrance to Whetstone Park on Colorado Highway 135."
- 37.** Based upon figures the Town uses to determine necessary monetary contributions to the Town when a parcel annexes to it, Whetstone is offering to pay \$2500 for each of the 13 residential lots. The Commission finds this a reasonable voluntary contribution to mitigate recreational use impacts to the Town by this development.
- 38.** The configuration of lots in Whetstone Park concentrates development, including buildings, driveways, and water supply and wastewater treatment facilities, on one or more compact areas of the development parcel, preserving the remainder as the required undeveloped open space, and avoids impacting areas of identified value for wildlife habitat, scenic features of a rural landscape, historical agricultural uses, and significant environmental features including wetlands, bodies of water, geologic hazards, or significant vegetation. The development, therefore, is found to be clustered.
- 39.** The submittal for Preliminary Plan, including all elements submitted and considered subsequent to the original submittal, complies with the conditions of the Sketch Plan approval.
- 40.** The applicant has demonstrated by competent evidence in the submittal for Preliminary Plan, including all elements submitted and considered subsequent to the original submittal, that the proposed land use change, subject to compliance with the conditions recommended herein, complies with all applicable requirements of the *Gunnison County Land Use Resolution*.
- 41.** Approval of this Preliminary Plan application does not constitute approval of the project, or permission to proceed with construction of any aspect of the land use change. Approval shall only constitute authorization for the applicant to submit

a Final Plan, in accordance with the representations made by the applicant and in response to any conditions placed on any approval of the Preliminary Plan by the Board.

42. The applicant shall be required to submit and actively pursue the completion of the Final Plan application within 12 months after the date of approval of the Preliminary Plan. Failure to submit a complete Final Plan application within this time period shall render the Preliminary Plan approval null and void, and require the applicant to begin the Preliminary Plan review process again.
43. 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.
44. The applicants are required to timely and fully obtain and comply with all applicable federal, state, municipal and other permits and terms and conditions of any municipal, state, federal permits required for the project.

RECOMMENDATION:

The Gunnison County Planning Commission, having considered the submittals and record of the Whetstone Business Park Preliminary Plan (LUC #2004-82), onsite observations and public testimony, has reached the above Findings, and recommends that the Preliminary Plan be approved with the following conditions:

1. That the Board of Commissioners determine whether or not to conduct an additional public hearing, pursuant to Section 7-302: K. of the *Gunnison County Land Use Resolution*; such determination is required to be made within 20 days of receipt of this Recommendation.
2. All documents that are required to be submitted as part of the Final Plan, pursuant to Division 7-400: *Final Plan for Major Impact Projects* in the *Gunnison County Land Use Resolution*, shall be submitted within a Final Plan submittal.
3. The interior road of the subdivision is required to be named and labeled upon submittal of the Final Plat and plan.
4. The water supply system, including establishment, all applicable agreements and operational certainty for the protection of future buyers, is subject to approval by the Gunnison County Attorney prior to action on this Preliminary Plan by the Board of Commissioners.
5. A copy of the final *Mutual Easement Agreement* between Whetstone Park, LLC and Riverland Lot owners Association, signed by all relevant parties, is required to be submitted in the Final Plan, or alternative solutions detailed, including engineered designs for off-site drainage and applicable well and pipeline locations, should the Agreement not be effected. Such solutions and engineered designs shall be subject to full review by County staff, and Board, and, as deemed necessary by the County, outside consultants.
6. The concept and specific requirements included in the draft *Mutual Easement Agreement* between Whetstone Business Park, LLC and Riverland Lot Owners Association, and, as applicable, any required modifications is subject to approval by the Gunnison County Attorney prior to action on this Preliminary Plan by the Board of Commissioners.
7. Building configuration, elevations and heights on commercial Lot C2 are specifically indicated on the Site Plan, dated January 12, 2008. Approval of this Land Use Change Permit application for Whetstone Park approves only the lumber and building supply yard on this lot, as specifically configured and limited in elevation/height; any use that differs from that is required to obtain a separate Land Use Change Permit, subject to applicable impact classification and review under the Land Use Resolution at the time such a change of use is requested. This requirement shall be a condition of Final Plan approval.
8. Before submittal of the Final Plan to the Planning Department, and to ensure that specific standards for road design and construction, as well as related costs are clearly itemized for purposes of identifying necessary surety and timelines within a Development Improvement Agreement, the applicant is required to provide the final plans and costs to the Public Works Department and secure written approval of that Department of those specifically dated and defined specifications and costs.
9. The development is required to tie on to the East River Regional Sanitation District.
10. Final designs of the sewer system design and water system plan are subject to requirements and approval of Colorado Department of Public Health and Environment, and are required to be submitted as part of the Final Plan.

11. Documentation of the final decree for the well, and of purchase of the additional Base Units from the Upper Gunnison River Water conservancy District is required to be submitted in the Final Plan.
12. A copy of a signed agreement or similar document is required to be submitted in the Final Plan memorializing with the Town of Crested Butte that \$2500 per residential lot will be paid by the Whetstone Park Homeowners' Association to the Town as mitigation to recreational uses in the Town by residents of this development whenever a Building Permit application is submitted is for construction of a residence on a lot.
13. The inclusion of ten deed-restricted essential housing residences as voluntarily included in this development by the applicants and as described in an applicable section of the protective covenants or similar document subject to approval by the Gunnison County Housing Authority and County Attorney are to be included as part of the Final Plan. The following are required will be constructed:
 - a. 30% of the residences (based on 13 residential lots and 10 apartments), totaling seven residences; the last three residences will be restricted to no resale for two years after the original sale of each by the developer to the first buyer.
 - b. Four one-bedroom residences, each approximately 600 sq. ft. will be perpetually deed-restricted units. Prices of residences for sale by the applicant will be limited as follows: One at 80% AMI (Area Median Income); one limited to 100% AMI; one limited to 120% AMI; and one limited to 140% AMI. All will be limited to a maximum appreciation of 3% or by the Consumer Price Index (CPI), whichever is less. A purchaser will be required to earn 80% of their income (not passive investments) in Gunnison County. If the residence remains unsold after 90 days, it may then be sold at a price that qualifies in the next higher AMI category, reverting back to the original AMI category upon future resale. The residence may be rented to an occupant who qualifies in the same AMI category.
 - c. Three residences (1-two bedroom and 2-three bedroom) will be perpetually deed-restricted but have no sale price cap, and may be sold or rented to occupants who make 80% of their income (not passive investments) in Gunnison county thru work not investments.
 - d. Three residences (each 3 bedroom) will be restricted to no resale for two years after the original sale of each by the developer to the first buyer, and may be rented with no restrictions.

Phasing of construction of deed-restricted housing shall be addressed in the Final Plan submittal.

14. A letter from the Crested Butte Fire Protection District approving the final utility plan for the subdivision and for the requisite number of fire hydrants and storage shall be required to be submitted as part of the Final Plan.
15. Location of a well and any access to it, related to the *Mutual Easement Agreement* between Whetstone Business Park, LLC and the Riverland Homeowners' Association is subject to review and possible permitting requirements of the U.S. Army Corps of Engineers. The Final Plan shall include engineering designs illustrating wetland disturbance and mitigation, including any applicable well access, installation and maintenance. Confirmation by the Corps is required to be submitted as part of the Final Plan indicating that the proposal has been reviewed by that agency, and either that no permits are required or that permits are required and certain conditions must be met. If such permits are required by the Corps, they shall be required to be submitted as part of the Final Plan.
16. A copy of the final executed retail sales agreement between the Town of Crested Butte and the applicants shall be submitted as part of the Final Plan, and shall be subject to approval by the Gunnison County Attorney.
17. The East River Regional Sanitation District has acknowledged its willingness and ability to provide wastewater treatment to this development. Letters from the ERRSD and all other applicable utility companies approving the final plans are required to be submitted as part of the Final Plan.
18. Language is required to be included in the protective covenants submitted with the Final Plan citing the specific recommendations by Buckhorn Geotech, referencing the Geologic Hazard Report, and attaching the study to the protective covenants. No disclaimer is required to be placed on the plat or signed by the applicant, as no hazard, per se, has been identified.
19. Language shall continue to be included in the declaration of protective covenants (Section 5.9, submitted January 24, 2008) prohibiting solid fuel-burning devices, except "...as a supplemental (not primary) heat source on Lots R6-R-13, on which one device is allowed per lot."

20. Language shall continue to be included in the declaration of protective covenants (Section 3.19) disclosing that Whetstone Park is adjacent to the Riverland Industrial Park.
21. The final version of the declaration of protective covenants shall include the language that each Lot is required to provide at least one parking space for each 400 square feet of commercial floor space, and plans are subject to approval by the Whetstone Park Architectural Review Board, and that each residence is required to comply with the requirements of the *Gunnison County Land Use Resolution*.
22. The final version of the declaration of protective covenants will be changed in the Final Plan submittal to allow a maximum six-foot high combination of fencing and berm on the southeast boundary of the Whetstone property adjacent to Lot 28 of Riverland Industrial Park.
23. The final version of the declaration of protective covenants will be changed in the Final Plan submittal to limit domestic animals to a total of four per single-family residence; the total number in each apartment shall be limited to two.
24. The Final Plan design shall include the specification that the detention pond liner will be installed so it is one foot above the pond's high water line and water will exit the pond either via the pumping system or the outlet structure for the pond, and the Development Improvement Agreement shall, subject to approval by the County Attorney, include surety sufficient to fund replacement of the liner should it fail.
25. Delineated pervious vegetated areas as elements of the drainage plan and as illustrated on the September 20, 2007 *Landscaping Plan* prepared by NCW & Associates shall be returned to, and labeled on, the drainage and landscaping plans submitted in the Final Plan.
26. The bus stop location and the cul-de-sac approximately 90 feet in diameter for bus turnarounds shall be retained as indicated in the Preliminary Plan and shall be shown on the Final Plan.
27. The design of the pump house with the attached bus-stop shelter is required to be included within the Final Plan and the location shown on the Final Plat.
28. The following language that appears in the protective covenants submitted as part of this Preliminary Plan, and recommended for approval is required to appear in the final version of the covenants, and hereby is a condition of this approval:

“9.13. Special assessment for Pedestrian Bridge or Underpass. In the event that the State of Colorado, Gunnison County or another public entity constructs a pedestrian bridge or underpass over or under Colorado Highway 135 in the vicinity of Brush Creek County road (County Road 738), the Whetstone Park Association shall assess all of its members and contribute its fair pro rata share to the cost of constructing such pedestrian bridge or underpass. Whetstone Park’s share shall be a fraction whose numerator is the number of residential units, at full build-out, in Whetstone Park and whose denominator is the number of residential units, at full build-out, in all development within a one mile radius of the entrance to Whetstone Park on Colorado Highway 135.”
29. Approval of this Preliminary Plan is subject to the applicant's timely and fully obtaining and complying with all applicable federal, state, and other permits required for the project, and the conditions of those permits.
30. That prior to Board action on this Preliminary Plan, the County Attorney’s Office iterate its requirements for inclusion of elements to be addressed within a Development Improvement Agreement. At a minimum, such agreement should ensure surety and identified dates of completion to ensure the construction of elements illustrated on the following maps, and as further detailed by applicable sections of the *Declaration of Protective Covenants for Whetstone Park*, referenced in this recommendation:

The following sheets/plans, prepared by NCW & Associates, Inc, dated 1/12/08, unless otherwise noted, and all titled as “Whetstone Park, Gunnison County, Colorado’ :

 - *Site Plan*. Indicating changes on this sheet and those that follow include the adjustment of the Lot C2 open space boundary; Lot A-1 removed; maximum residential size is 3,800 sq. ft.; building elevation on Lot C2 [lowered]; elevations on berms; Gers sewer service; pond stage table and drainage summary table.
 - *Grading Plan*. [Maximum grade on the interior entrance road is four percent, decreasing to one percent at the cul-de-sac, where a school bus stop is to be located.]

- *Utilities.*(including a sewer stub to Riverland Industrial Park to accommodate 16 lots/48 units and an 8" sleeve to allowing tie-on by the Riverland force main; service lines along the internal roadway will extend to the 80' right-of-way line).
- *Utility Details.*
- *Landscaping Plan*, dated 1/12/08, received 1/24/08, prepared by NCW & Associates, showing locations of perimeter evergreens and aspens, and perimeter shrubs, and detailing numbers and sizes as follows: On the perimeter: 104 evergreens 5'-6'; 2 8' evergreens; 19 15' evergreens; 104 10'-12' aspens; 15 15' aspens and 35 deciduous 5-gal shrubs. On the interior relative to Lots R-1-R-13: three each of 5' and 6' evergreens, and three each of 10' and 12' aspens. This version, however, has deleted labeling for delineated pervious vegetated areas as elements of the drainage plan that were shown on the September 20, 2007 plan; those elements are required to be returned to, and labeled on, the drainage and landscaping plans submitted in the Final Plan.
- *Roadway and Sewer Profiles.*
- *Force Main Profile.*
- *Construction Drawings Waste Water Lift Station.*
- *Highway Striping Plan*
- *Drainage Plan.* (Reflecting changes in response to review by RTW Engineers, and including changes initially presented 9/26/2007 on NCW's *Alternate Drainage Plan Site Outflow at Historic Drainage Locations*. The design and contractor's specifications shall include the requirement that the detention pond liner is installed one foot above the pond's high water line and that water will exit the pond either via the pumping system or the outlet structure for the pond.)
- *Alternate Drainage Plan site Outflow at Historic Drainage Locations* (Dated 9/26/07)
- Plans and/or specifications resulting from the final analysis of the Vortechs Model 16000 stormwater treatment system, based upon the land uses approved in this Preliminary Plan approval and final development design. Should such analysis indicate another system is better suited to that design, such analysis shall fully define why another system is preferable, and that design and costs for it shall be the designed referenced within the Development Improvement Agreement.
- *Sewage Lift Station and Fire/Irrigation Pump House*
- *Domestic Pumphouse*, including an attached bus shelter
- *Site Areas* (detailing required open space, by delineated residential and commercial uses)
- *Whetstone Business Park* (Otherwise untitled, but showing visual schematic profiles of berm and building elevations adjacent to Highway 135; dated as received July 29, 2007.)

31. The applicant shall be required to submit the Final Plan application within 12 months after the date of the approval of the Preliminary Plan. Failure to submit a complete Final Plan application within this time period shall render the Preliminary Plan approval null and void, and require the applicant to begin the Preliminary Plan review process again.

32. Approval of the Preliminary Plan application shall not constitute approval of the Major Impact project, or permission to proceed with construction of any aspect of the land use change. Approval shall only constitute authorization for the applicant to submit a Final Plan, in accordance with the representations made by the applicant and in response to any conditions placed on the Preliminary Plan by the Board.

33. 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.

The regular meeting of the Gunnison County Planning Commission was adjourned at 4:25 P.M.

/S/ Beth Baker
 Administrative Assistant
 Gunnison County Planning