AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Resolution; Approving Land Use Change Permit No. L

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Planning Commission Recommendation
E1/2SE1/4 Section 22, Township 48 North, Range 2 West, NMPM

Fiscal Impact:

Submitted by: NEAL STARKEBAUM **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 3/31/2017 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 3/31/2017

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

Agenda Date: 4/4/2017

Revised April 2015

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

March 27, 2017

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

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Dawn Delany, Nine Mile Ranches Subdivision**
Planning Commission Recommendation

The Planning Commission unanimously recommended approval of the Nine Mile Ranches Subdivision, subdivision of a 38-acre parcel into 3 lots, on January 6, 2017.

Attachments:
Planning Commission Recommendation
BOCC Resolution

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 17-___

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. LUC-2016-00027
A LAND USE CHANGE PERMIT FOR DAWN DELANY
NINE MILE RANCHES SUBDIVISION
E1/2SE1/4 SECTION 22, TOWNSHIP 48 NORTH, RANGE 2 WEST, N.M.P.M.

WHEREAS, Dawn Delany, represented by Rose Foli, submitted a land use change application for the subdivision of 38-acres into three single-family lots: Lot 1, 9.7-acres (with existing residence); Lot 2, 13-acres; Lot 3, 13.6-acres. The new residences will be served by well and septic. Access will be from Highway 149. No covenants are proposed; and

WHEREAS, after a review of the information, documentation and substantial public testimony related to it, the Gunnison County Planning Commission did, after a joint public hearing on January 6, 2017 unanimously approve a Recommendation to the Board of County Commissioners, with certain Findings and Conditions:

FINDINGS:

1. The Planning Commission has classified the application as a Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects A. 2-4 Units*.

2. The land use change complies with all applicable requirements of the *Gunnison County Land Use Resolution* and *Section 6-10: Standards of Approval for Minor Impact Projects*.

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

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

CONDITIONS:

1. This permit is limited to activities described within the "Project Summary" of this application, and as depicted on the Site Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.

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

    1) Due to the proximity of Tier 1 Habitat, a Gunnison County Reclamation Permit will be required for any site disturbing activities on the proposed parcels. That permit should contain specific reclamation conditions. Disturbed areas need to be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix.

    2) For activities not requiring a Reclamation Permit, disturbed areas should be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural

Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

3) Woven wire fencing will not be allowed for perimeter fencing or as interior cross fencing. Perimeter and cross fencing must be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication *Fencing with Wildlife in Mind.*

4) Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance.

5) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution,* dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

3. A mylar subdivision plat, in compliance with Section 6-105, *Gunnison County Land Use Resolution*, shall be provided to the Community Development Department, for signature by the Board of County Commissioners. Approval shall not be effective until and unless the plat is recorded with the Office of the Gunnison County Clerk and Recorder.

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

5. 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.

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

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

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2016-00027, Dawn Delany, Nine Mile Ranches Subdivision, is approved as a Minor Impact Project, subject to each and all conditions of the Planning Commission Recommendation, as identified above.

THIS APPROVAL is effected noting that decision documentation includes, but is not limited to, the application and the entire Community Development Department Land Use Change Permit application file relative to this application. This approval is founded on each individual finding and requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and passed on this 4th day of April, 2017.

BOARD OF COUNTY COMMISSIONERS

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

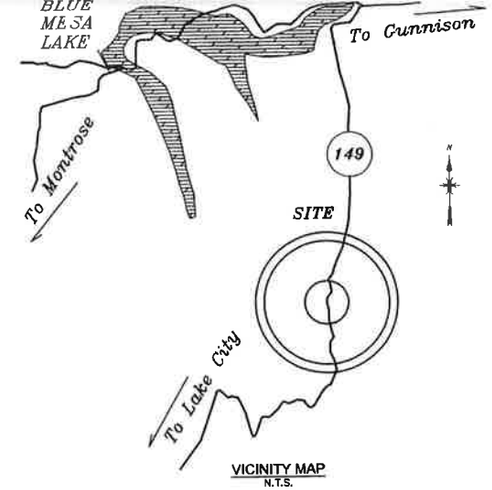
ATTEST:

_____

Gunnison County Clerk and Recorder

NINE MILE RANCHES SUBDIVISION

SITUATED IN E½SE¼ SECTION 22, TOWNSHIP 48 NORTH, RANGE 02 WEST, COUNTY OF GUNNISON, STATE OF COLORADO



VICINITY MAP
N.T.S.

DELANY SUBDIVISION

DEDICATION

Dawn L. Delany, being the owner and mortgagee of the land described as follows:

TOWNSHIP 48 NORTH, RANGE 2 WEST, N.M.P.M.

Section 22: SE1/4SE1/4 lying east of the easterly boundary of Colorado State Highway 149; excepting therefrom that part west of the east boundary line of Colorado State Highway 149.

Section 22: NE1/4SE1/4; excepting therefrom that part West of the east Boundary line of Colorado State Highway No. 149.

County of Gunnison,
State of Colorado.

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

In witness whereof, Dawn L. Delany have subscribed her, name this 1st day of March, A.D. 2017.

By: _____
Name: Dawn L. Delany

State of Colorado)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this 1 day of March A.D. 2017,

by Dawn L. Delany

My commission expires: 7/13/2018

Witness my hand and official seal.

Diana L DeBeau
Notary Public

CONSENT OF LENDER

The lender on the above property, Gunnison Savings & Loan Association under the Deed of Trust dated February 25, 2008 and recorded February 29, 2008 at Reception No. 582420 hereby consents to the and acknowledges this subdivision plat.

GUNNISON SAVINGS & LOAN
ASSOCIATION

By: Janice English
Name: Janice English
Title: Sr. Vice President

State of Colorado)
)ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this 21 day of March A.D. 2017,

by Janice English as Sr. Vice President of Gunnison Savings & Loan Association.

My commission expires 12/01/2020

Witness my hand and official seal.

Kimberly Delany
Notary Public

ATTORNEYS OPINION

I, Michael C. Dawson, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and subdivided. Such title is vested in the name of Dawn L. Delany, and is free and clear of all liens, defects, encumbrances, restrictions and reservations except as follows:

1. All Patent reservations as reserved in United States Patents recorded August 10, 1915 in Book 184 at page 20.
2. Right-of-Way conveyed to The Mountain States Telephone and Telegraph Company by J. H. Sanders in instrument recorded August 2, 1940 in Book 262 at page 163; and any and all assignments thereof or interests therein.
3. An undivided one-half interest in and to all oil and gas, coal and mineral rights, including the right of ingress and egress and reasonable use of the surface for the extraction of said oil and gas, coal and minerals as reserved in Warranty Deed to George Hervey recorded in Book 357 and page 428; and any and all assignments thereof or interests therein.
4. Any portion of the subject property which may lie within that land described in the deed from George Hervey to the Department of Highways, State of Colorado recorded April 6, 1966 in Book 386 at page 450.
5. Right-of-Way Easement granted to Gunnison County Electric Association, Inc., a Colorado cooperative electric association, its successors and assigns recorded October 19, 2001 as Reception No. 515201; and any and all assignments thereof or interests therein.
6. 16. Right-of-Way Easement granted to Gunnison County Electric Association, Inc., a Colorado cooperative electric association, its successors and assigns recorded March 4, 2005 as Reception No. 551471; and any and all assignments thereof or interests therein.
7. Taxes for the current year are due and payable in the following year.

Dated: March 6, 2017.

Michael C. Dawson, Esq., Reg. No. 27,249
O'HAYRE DAWSON, P.C.
120 North Taylor - P.O. Box 179
Gunnison, Colorado 81230
Telephone: 970-641-3326
www.ouclaw.com

COMMENTS

1. Nine Mile Ranches Subdivision is subject to the Declaration of Protective Covenants of Nine Mile Ranches Subdivision recorded at Reception No. _____ of the records of Gunnison County, Colorado.

2. The driveways within Nine Mile Ranches Subdivision are private driveways dedicated to the owners of the Lots served by such private driveways. Costs of improvement and maintenance of shared driveways shall be shared equally between the owners of the Lots that they access.

3. The owner of each Lot shall have a common right of usage of the utility easements to provide utility service to each Lot under rules and regulations as determined by the Nine Mile Ranches Subdivision Homeowners Association.

4. All homeowners acknowledge that they are required to construct and maintain fencing in order to keep livestock off his/her property, as required by Colorado's "Fence Out" law, CRS § 35-46-101 et seq., and the Right-to-Ranch Policy adopted by Gunnison County, as may be amended.

Plat Notes:

Flood Note:

This site is not in a Special Flood Hazard Area, according to FIRM, Gunnison County Colorado, Panel 1525 of 1975, Map Number 08051C1525D, Effective Date May 16, 2013.

Pursuant to Section 11-103: F. 1: of the Gunnison County Land Use Resolution:

Colorado's Fence Out Requirements: A property owner is required to construct and maintain fencing in order to keep livestock off his/her property.

Compliance with Board of County Commissioners' Resolution

The property described on this plat is subject to all the requirements, terms and conditions of the Board of County Commissioners' Resolution

No. _____, recorded at Reception No. _____ of the Records of the Clerk and Recorder of Gunnison County.

Gunnison County Planning Commission Approval

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

_____
Chairperson

Board of County Commissioners' Approval

The within plat of the NINE MILE RANCHES SUBDIVISION is approved this day of _____, A.D. 2017, and the private dedication of roads and common areas is approved on the condition that such roads and common areas shall be maintained and snow plowed, by and at the expense of the lot owners and not by Gunnison County or any other public agency.

_____
Chairperson, Gunnison County Board of Commissioners

Attest:

_____
Gunnison County Clerk and Recorder

Land Surveyor's Certificate

I, Jack William Starnes, do hereby certify that I am a Professional Land Surveyor, licensed under the law of the State of Colorado, that this plat is a a true, correct and complete plat of NINE MILE RANCHES SUBDIVISION as laid out, platted, dedicated and shown hereon, that such plat was made by me from an accurate survey of said property by me, and under my supervision and correctly shows the location and dimensions of the boundary and easements of said parcel as the same are staked upon the ground in compliance with applicable regulations governing the subdivision of land.

Jack William Starnes LS20696

Gunnison County Clerk and Recorder's Acceptance

This plat was accepted for filing in the office of the Clerk and Recorder of Gunnison County, Colorado on

this _____ day of _____, A.D. 2017.

Reception Number _____, Time _____, Date

_____
Gunnison County Clerk and Recorder

NOTICE: According to Colorado Law (13-80-105, CRS) you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown hereon.

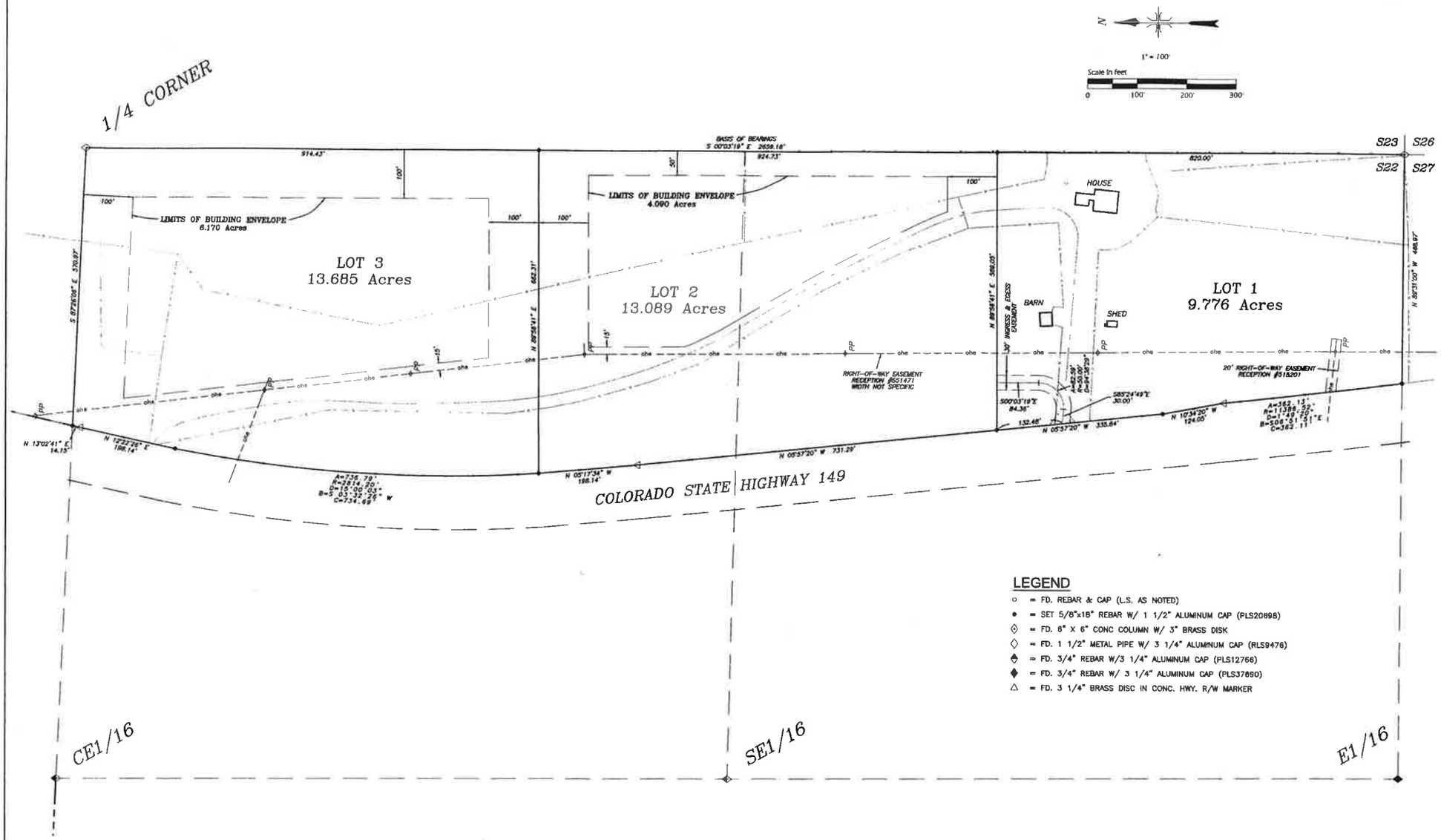
DMC DEL-MONT CONSULTANTS, INC.
ENGINEERING ▼ SURVEYING

FIELD BOOK: 817	DRAWN BY: F.A.B.	DATE: 01 MAR, 2017
SHEET: 1 of 2	FILE: 16027V_SUBD	JOB NO.: 16027

TITLE: NINE MILE RANCHES SUBDIVISION
CLIENT: DAWN DELANY
ACCESSION & PACKETS:
TYPE: SUBDIVISION

NINE MILE RANCHES SUBDIVISION

SITUATED IN E½SE¼ SECTION 22, TOWNSHIP 48 NORTH, RANGE 02 WEST,
COUNTY OF GUNNISON, STATE OF COLORADO



LEGEND

- ○ = FD. REBAR & CAP (L.S. AS NOTED)
- ● = SET 5/8"x18" REBAR W/ 1 1/2" ALUMINUM CAP (PLS20698)
- ⊗ = FD. 6" X 6" CONC COLUMN W/ 3" BRASS DISK
- ◇ = FD. 1 1/2" METAL PIPE W/ 3 1/4" ALUMINUM CAP (RLS9476)
- ◆ = FD. 3/4" REBAR W/3 1/4" ALUMINUM CAP (PLS12766)
- ◆ = FD. 3/4" REBAR W/ 3 1/4" ALUMINUM CAP (PLS37690)
- △ = FD. 3 1/4" BRASS DISC IN CONC. HWY. R/W MARKER

BASIS OF BEARINGS:

The bearing between the found 1 1/2" metal pipe with 3 1/4" aluminum cap at the E1/4 corner of Section 22, Township 48 North, Range 02 West, N.M.P.M. and the found 6" X 6" concrete column with 3" brass disk at the SE corner of said Section, bears S.00°03'19"E (ASSUMED)

LINEAL UNITS STATEMENT:

The Lineal Unit used on this plat is U.S. Survey Feet

NOTICE: According to Colorado Law (13-80-105, CRS) you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown hereon.

DMC DEL-MONT CONSULTANTS, INC.
ENGINEERING ▼ SURVEYING

FIELD BOOK: 817	CHECKED BY: F.A.B.	DATE: 14 NOV., 2016

TITLE: NINE MILE RANCHES SUBDIVISION

CLIENT: DAWN DELANY

ADDRESS & PHONE: 27010 State Highway 149 Gunnison Colorado 81230

TYPE: SUBDIVISION