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
NE1/4SW1/4 Section 26, Township 13 South, Range 86 West, 6th PM

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: **Homestead Cabin LLC, Starlight Subdivision**
Planning Commission Recommendation

The Planning Commission unanimously approved the Starlight Subdivision, subdivision of a 38-acre parcel into 2 lots, on February 17, 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-2016-00034
A LAND USE CHANGE PERMIT FOR HOMESTEAD CABIN LLC
STARLIGHT SUBDIVISION
NE1/4SW1/4 SECTION 26, TOWNSHIP 13 SOUTH, RANGE 86 WEST, 6TH P.M

WHEREAS, Homestead Cabin, LLC, represented by Kristine Kapushion, submitted a land use change application for the subdivision of 38-acres into two single-family lots; one of three-acres (Lot 1) and one of 35-acres (with exiting residence – Lot 2)). The Mt. Crested Butte Water and Sanitation District will provide water and sewer to Lot 1 and pursuant to a previous agreement with the Town of Mt. Crested Butte, access to Lot 1 will be via Big Sky Drive, within the Pitchfork development. Access to an existing residence on Lot 2 is from an existing driveway on Washington Gulch Road (CR 811).

The applicant has submitted protective covenants, titled Declaration of Protective Covenants of Starlight Subdivision (Covenants) and which identify specific design standards and limitations. A residence is limited to a maximum of 5,000 square feet and an aggregate square footage of all structures is limited to 7,500 square feet. A second residence is only allowed on Lot 2. The applicant has waived further development rights, eliminating further subdivision of the property; and

WHEREAS, after a review of the information, documentation and substantial public testimony related to it, the Gunnison County Planning Commission did, after joint public hearings, on February 17, 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 subdivision plat was reviewed and approved by the County Attorney's office, as to form and content.

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 Description" 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. 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.

3. 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.

4. The *Declaration of Protective Covenants of Starlight Subdivision* shall be recorded contemporaneously with the Plat.

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. 2016-00034, Homestead Cabin LLC, Starlight 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, Chairperson	Jonathan Houck, Commissioner	John Messner, Commissioner

ATTEST:

_____

Gunnison County Clerk and Recorder

STARLIGHT SUBDIVISION

GUNNISON COUNTY, COLORADO

LOCATED WITHIN THE
NE1/4 SW1/4 SECTION 26, TOWNSHIP 13 SOUTH, RANGE 86 WEST
OF THE 6TH PRINCIPAL MERIDIAN

VICINITY MAP
SCALE 1"=1000'±

ATTORNEY'S OPINION

I, David Leinadorf, an attorney at law licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands dedicated and shown on this Plat. Such title is vested in Homestead Cabin LLC, a Colorado limited liability company, free and clear of all liens, defects, encumbrances, restrictions and reservations, except:

1. The lien for 2017 real property taxes and assessments.
2. United States Patent recorded in Book 270 at page 405.
3. Any obligations, taxes, fees, assessment or charges by reason of inclusion of the property within the Town of Mt. Crested Butte Special Improvement District, Crested Butte Fire Protection District and the Mt. Crested Butte Water and Sanitation District.
4. Order of Inclusion recorded as Reception No. 511658 and Agreement Regarding Inclusion of Territory recorded as Reception No. 643737.
5. Easement recorded in Book 586 at page 78.
6. Non-Exclusive Utility Easement Agreement recorded in Book 787 at page 223.
7. Agreement recorded as Reception No. 511540.
8. Grant of Easement recorded as Reception No. 538437.
9. Grant of Utilities Easement recorded as Reception No. 573342.
10. Easements and rights of way for County Roads 317 and 811 as they adjoin and/or cross the property.

All Book and page and Reception No. references are to records in the office of the Gunnison County Clerk and Recorder.

Signed this 15T day of March, 2017

David Leinadorf, Attorney at Law
Colorado Supreme Court Registration
No. 2740

NOTES:

1. Any person who acquires any interest in any of the real property platted on this Plat shall be deemed to have accepted the terms, conditions, exceptions, restrictions, limitations and definitions set forth herein and in the Declaration of Protective Covenants of Starlight Subdivision recorded as Reception No. _____.
2. Homestead Cabin LLC reserves the right to modify this Plat until one year following completion of all road and utility construction, subject to approval by Gunnison County.
3. According to Colorado law you must commence legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based on any defect in this survey be commenced more than ten years from the date of the surveyor's certificate shown hereon.
4. Upon completion of the installation or maintenance of any utilities, the property disturbed or damages by such installation or maintenance shall be restored as near as reasonably possible to its original condition by the utility. Homestead Cabin LLC reserves the right to allow or deny any utility provider use of the easements reserved on this Plat.
5. Under Colorado's Fence Law, C.R.S. Title 35, Article 46, lot owners are hereby notified that fencing out livestock is the responsibility of the lot owners. The Owner of Lot 2 is responsible for maintaining the perimeter fence around Starlight Subdivision.
6. Driveways shall be located at least 15' from the side Lot lines.
7. Animals must be controlled by kenneling, leashing or other physical restraint. Any expense of enforcing domestic animal control restrictions by Gunnison County shall be at the expense of the individual Lot Owner.
8. An irrigation ditch owner has the right to enter the designated irrigation ditch maintenance easement, maintain the ditch and leave natural debris on the bank of the ditch.
9. BASIS OF BEARING - S01°42'46"E between the C1/4 and the S1/4 corners Section 26.

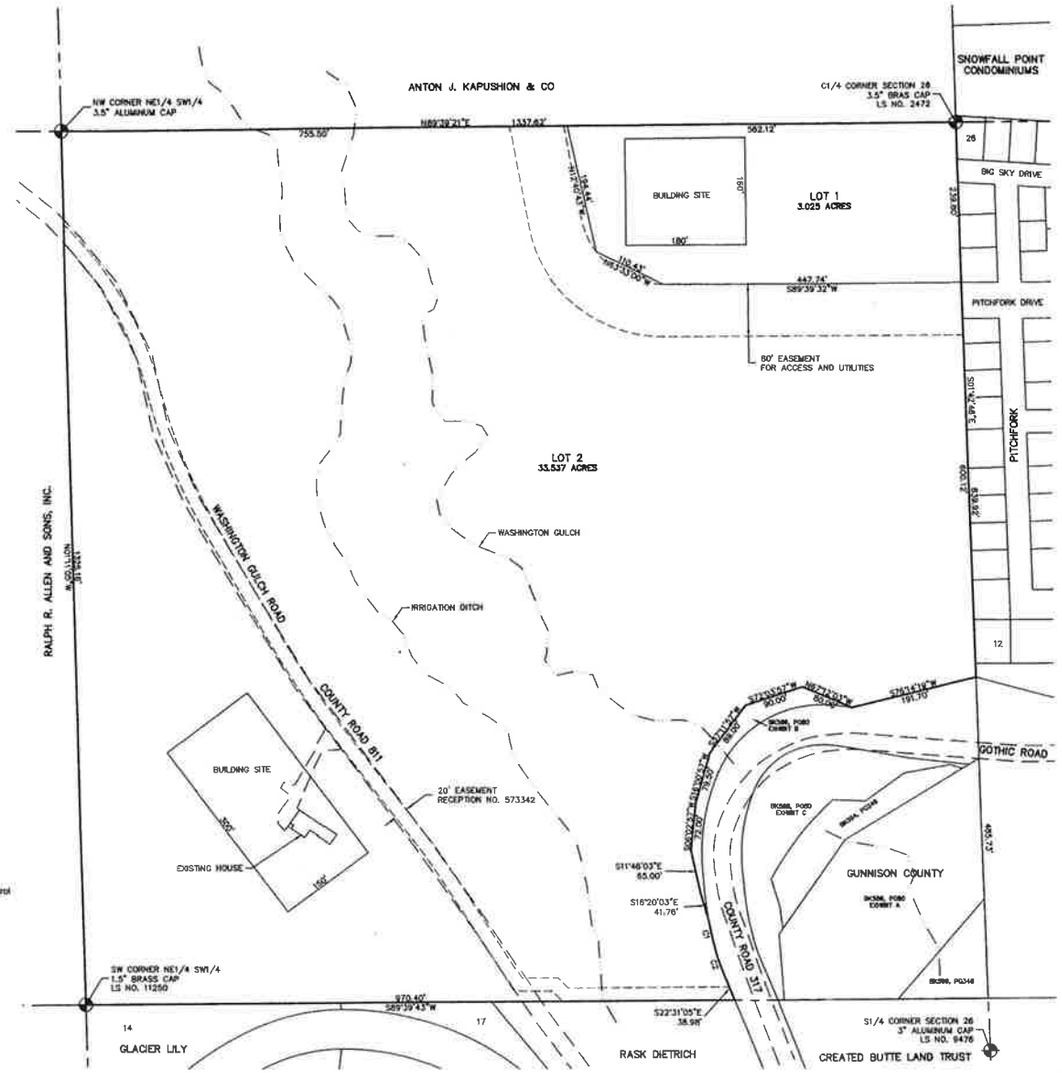
SURVEYOR'S CERTIFICATE

I, Norman C. Whitehead, do hereby certify that I am a Professional Land Surveyor licensed under the laws of the State of Colorado, that this Plat is a true, correct and complete Plat of STARLIGHT 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 subdivision as the same are staked upon the ground in compliance with applicable regulations governing the subdivision of land. I further certify that this Plat satisfies requirements of the C.R.S. Section 38-33.3-209.

COLORADO LICENSED
NORMAN C. WHITEHEAD
27739
1/11/2017
PLS
CRESTED BUTTE, COLORADO

Norman C. Whitehead
Colorado P.L.S. No. 27739
P. O. Box 3688
Crested Butte, Colorado 81224

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CH BEARING	CH
C1	49.74	495.00	5°45'25"	S12°32'59"E	49.71
C2	40.74	328.99	7°05'43"	S18°58'14"E	40.71



DEDICATION

Homestead Cabin LLC, a Colorado limited liability company ("Declarant"), owner of the land in the County of Gunnison, State of Colorado described as:

NE 1/4 SW 1/4 Section 26, Township 13S, Range 86W, 6th PM,

EXCEPTING all that property conveyed to the Board of County Commissioners of Gunnison County as set forth in deeds recorded November 5, 1982 in Book 586 at page 80, July 8, 1983 in Book 594 at page 248, and November 9, 1983 in Book 599 at page 348,

consisting of 38.562 acres ("Property"),

under the name of STARLIGHT SUBDIVISION, has laid out platted and subdivided the Property as shown on this Plat and does hereby permanently dedicate and convey to the lot owners the streets, alleys, roads and other areas as shown on this Plat and hereby permanently dedicates those portions of land labeled as easements for the installation and maintenance of public utilities as shown on this Plat. Declarant hereby dedicates easements for irrigation ditches as shown on this Plat.

IN WITNESS WHEREOF, Homestead Cabin LLC has subscribed its name this 14 day of March, A.D. 2017.

Homestead Cabin LLC, a Colorado limited liability company,

By: Antoinette C. Kapushion, Manager — By: Ina Kristine Kapushion, Manager

STATE OF COLORADO)
) ss.
County of Gunnison)

The foregoing Dedication was acknowledged before me this 14 day of March, 2017 by Antoinette C. Kapushion and Ina Kristine Kapushion, Managers of Homestead Cabin LLC, a Colorado limited liability company.

Witness my hand and official seal. My commission expires _____

Notary Public

DAVID LEINADORF
Notary Public - State of Colorado
Notary ID 19994014769
My Commission Expires Sep 16, 2020

GUNNISON COUNTY PLANNING COMMISSION RECOMMENDATION

The Planning Commission of Gunnison County, Colorado hereby recommends approval of this Plat, such recommendation being made at a meeting of said Planning Commission held on this _____ day of _____, 2017.

Gunnison County Planning Commission

By: _____
___ Chairperson

BOARD OF COUNTY COMMISSIONERS APPROVAL

This Plat of STARLIGHT SUBDIVISION is approved this ____ day of _____ A.D. 2017 and the dedication of roads and common areas is approved on the condition that such roads and commons areas shall be maintained and snowplowed by and at the expense of the lot owners, and not by Gunnison County or any other public agency.

Gunnison County Board of Commissioners

By: _____
___ Chairperson

Attest:

_____
Gunnison County Clerk and Recorder

GUNNISON COUNTY CLERK & 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 _____, 2017, Reception No. _____, Time _____

_____
Gunnison County Clerk and Recorder

N

100 50 0 100 200
SCALE: 1" = 100'

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 in the office of the Gunnison County Clerk and Recorder.

COMPLIANCE WITH CERTIFICATE OF APPROVAL

The property described on this Plat is subject to all the requirements, terms and conditions Certificate of Approval No._____, recorded at Reception No. _____, of the records in the office of the Gunnison County Clerk and Recorder.

PLAT OF
STARLIGHT SUBDIVISION
GUNNISON COUNTY, COLORADO

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

PROJECT: 16178.00	DWG.: PLAT
DATE: 1/11/17	SHEET 1 OF 1