



**BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 19 SERIES 2015**

**A RESOLUTION APPROVING PRELIMINARY PLAN APPLICATION FOR VISTA BUSINESS
PARK, REPRESENTED BY LINK, LLC FOR THE SUBDIVISION OF 13 LOTS AND THE
DEVELOPMENT OF A COMMERCIAL AND INDUSTRIAL PARK**

WHEREAS, Link, LLC has submitted a preliminary plan application to subdivide a 28.07-acre parcel into thirteen lots, each approximately 1.1 to 2.6 acres in size, to be developed into an industrial and commercial park, with ancillary residential use on specific lots. Lots 1- 5 will be permitted to have industrial and commercial uses as specified in the Protective Covenants. Lots 7-12 are intended to be light industrial and/or commercial uses with ancillary residential uses allowed. Lot 6 is intended to be a buffer lot between the lighter industrial and commercial uses on Lots 7-12 and the heavier industrial and commercial uses on Lots 1-5. Lot 6 is not permitted to have a residence, nor are Lots 1-5. Uses and operations on Lots 6-12 are proposed to be contained wholly indoors with the exception of nurseries, employee parking, loading, unloading and storage. The impacts must be contained to the Lot and not produce more than a de minimis amount of, and in no event exceed Gunnison County standards, for noise, vibration, electrical or magnetic interference, glare, fumes, odors, dust, smoke, heat or waste.

The parcel identified as "Outlot" on the Site Plan contains an existing residence and outbuildings that the current owner, W.K. Edwards will continue to own. The "outlot" will be subject to a lifetime lease granted to the current owner of the subject property. The developer will reserve a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease, in accordance with the Colorado Common Interest Ownership Act. The outlot will be subject to the same standards and restrictions as Lots 1-5. The existing residence may remain in place; at such time that the residence is removed no new residence shall be constructed or allowed on the Outlot, in compliance with the design and use standards for Lots 1-5 and Articles 5 and 6 of the Protective Covenants.

The applicant proposes that certain, defined uses be permitted without any additional Land Use Change permit. Section 3.1 of the draft Declaration of Protective Covenants ("Declaration") addresses the uses that can be developed on the lots, uses that can be made only after review and approval by the Association and the County, and uses that are expressly prohibited. It is the Applicant's desire to create a subdivision that will allow for a diverse mix of industrial and commercial activities. The applicant has not proposed an exhaustive list of permitted uses that are allowed on the lots but rather relies on the design standards of Article 5 of the Protective Covenants to create parameters for acceptable commercial and industrial uses.

The applicant has identified (Section 3.1.1.3 of the draft Protective Covenants) that the following uses are prohibited in the Vista Business Park development: asphalt or concrete batch plants, adult oriented uses (as defined in the Gunnison County *Land Use Resolution*); mining operations, except for concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, which shall be uses permitted after review; and, veterinary clinics and animal shelters.

The applicant has identified specific uses that are allowed after review by the Property Owner's Association and Gunnison County (i.e. an additional land use change permit is required):



- The following mining operations: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation, upon compliance with *LUR* Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials*.
- Recreational vehicle parks and campgrounds, upon compliance with *LUR* Section 9-305: *Seasonal Recreational Vehicle Parks and Campgrounds*.
- Uses that require a variance from any provision of Article 5 or 6 of the Protective Covenants.

The covenants restrict retail sales in the development in Section 6.16 of the Covenants. No more than 33% of the floor area of any building shall be used for the retail sale of goods.

Marijuana cultivation, manufacturing, and/or testing facilities are expressly permitted so long as the same remain legal under Colorado law and Gunnison County regulations. Section 9-104: *Marijuana Cultivation, Manufacturing or Testing Facility* of the Gunnison County *Land Use Resolution* allows marijuana manufacturing and testing facilities in Gold Basin, Riverland or Signal Peak Industrial Parks. The location of marijuana manufacturing, testing, and/or cultivation facilities outside of those specific industrial park requires a Minor Impact Land Use Change permit, as identified in Section 9-104: G.2. Section 9-104: H. states that marijuana facilities and residential facilities cannot be collocated in the same structure. Any proposed marijuana facility in the Vista Business Park development shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that the Gunnison County *Land Use Resolution* is amended. Any person may initiate an amendment to the *Land Use Resolution (LUR)*.

The Covenants require that, "merchandise, supplies, equipment, or materials of any kind, shall be stored within a building, shed or screened area." Vehicles used as part of a commercial and/or industrial use shall also be parked indoors or in a screened parking area. The subdivision will also include dedicated open space (common property), as illustrated on the site plan included in the Preliminary Plan. Some of the open space will remain undisturbed. Other portions of the open space will be utilized for the construction of augmentation ponds necessary for the operation of the Water Court-approved plan for augmentation serving the subdivision. A portion of the open space along Highway 50 will be landscaped to provide a visual buffer. The open space may be utilized for snow storage and the installation of utilities, as needed.

The parcel is located approximately two miles east of the City of Gunnison within the City's Three Mile Plan area. The parcel is legally described as 28.07 acres in the NW1/4SW1/4 and SW1/4NW1/4, Section 3, Township 49 North, Range 1 East, N.M.P.M., also known as 43950 Highway 50.

WHEREAS, after a review of the Preliminary Plan and all information, documentation and testimony related to it, the Gunnison County Planning Commission did on August 7, 2015, forward a recommendation of approval of that application to the Board of County Commissioners with certain findings and conditions; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that the Preliminary Plan for Land Use Change Permit No. 11-00035, for Link LLC, is approved, subject to each and all conditions of the Preliminary Plan recommendation document, as identified above, and the following findings and conditions:



Findings:

1. This application, by definition, is classified as a Major Impact.
2. The Gunnison County Board of Commissioners identified the subject parcel as an area appropriate for industrial development in the 2012 Land Use Analysis, Resolution No. 15, 2014.
3. The proposed development is not located adjacent to a municipality but is within the City of Gunnison Three Mile Plan area.
4. Gunnison County and the City of Gunnison have an Intergovernmental Agreement for the Three Mile Plan area.
5. Lots 1, 2, 3, 4, and 5 shall be permitted to have industrial and commercial uses as identified in the Protective Covenants. Lots 6, 7, 8, 9, 10, 11, and 12 are subject to additional restrictions in Section 6.17 of the Covenants to ensure compatibility with residential land uses. Residential uses are allowed only on Lots 7-12.
6. The parcel identified as "Outlot" contains an existing residence and outbuildings. The developer reserves a development right to add the outlot as the thirteenth lot upon the termination or expiration of the lifetime lease. The Outlot shall be permitted to have the same uses and restrictions as Lots 1-5.
7. The Protective Covenants identifies that the following uses are prohibited in the development: asphalt or concrete batch plants; adult oriented uses; mining operations; and veterinary clinics and animal shelters.
8. The Protective Covenants allow the following uses after the approval of a site specific Land use Change permit for the proposed use: concentration of ores, milling, evaporation, and other processing, construction and use of accessory office and storage buildings, and transportation; recreational vehicles parks and campgrounds; any use that requires a variance from any provision of Article 5 or 6 of the Protective Covenants.
9. Marijuana cultivation, manufacturing and/or testing facilities are permitted by the Protective Covenants. Section 9-104 of the Gunnison County *Land Use Resolution* only allows the development of those facilities after a Minor Impact Land Use Change permit unless the use is in Gold Basin, Signal Peak or Riverland Industrial Parks.
10. Portions of the subject parcel are in the 100-year floodplain.
11. Gunnison County Wildlife Coordinator and the Colorado Parks and Wildlife have reviewed the application relative to Gunnison Sage-grouse impacts and found that there will be no additional impacts to the bird from the proposed development.
12. CDOT requires a right turn deceleration lane be installed on Highway 50 into Vader Lane after the sale of the eight lot in the development.
13. A CDOT access permit is required.
14. The applicant has amended the water court decree to allow for the development of individual wells on each proposed lot. The final court decree has not been issued at this time.
15. Gunnison County Fire Protection District has requested that a dry hydrant be installed at the development.
16. The landscaping plan is in compliance with Gunnison County standards and also mitigates visual impacts from the proposed development to Highway 50 traffic.
17. The applicant has requested a variance to Section 13-109: Signs relative to the size and height of the proposed sign. The request is attached as Exhibit A.
18. The proposed sign in Exhibit A is 138 square feet and 22 feet high. The applicant has not demonstrated that the hardship is not self-imposed, nor that there is a need nor that it is consistent with the neighborhood, relative to the proposed area of the sign. With respect to the height the applicant has demonstrated that there is a hardship due to the topography at the site.

Conditions:



1. Any property owner that submits a building permit application shall be required to submit a detailed narrative to Gunnison County Community Development describing how they comply with Article 5 and 6 of the Protective Covenants and are a permitted use (use that does not require an additional Land Use Change permit).
2. A Land Use Change permit shall be required for any use that includes the concentration of ores, milling, evaporation and other processing.
3. A Land Use Change permit shall be required if a proposed use in the development requires a variance from any provision of Article 5 or 6.
4. No specific uses are contemplated or approved for extraction, exploration and/or processing of minerals and construction materials.
5. Any proposed marijuana facility in Vista Business Park shall be subject to the standards of Section 9-104 of the Gunnison County *Land Use Resolution* and shall be required to obtain a Minor Impact Land Use Change permit unless and until such time that an amendment is made to the Gunnison county Land Use Resolution allowing the development of marijuana facilities with an Administrative Review Land Use Change permit.
6. Retail sales, in compliance with Section 6.16 of the Protective Covenants are allowed in the proposed development.
7. The landowner shall sign and notarize the "Warning and Disclaimer of Floodplain Hazards Affecting Use and Occupancy of this Property," which shall be included on the Final Plat for subdivision.
8. The Development Improvements Agreement shall include a provision requiring bonding for the right turn deceleration lane.
9. A CDOT Highway Access permit is required to be submitted with the Final Plan application.
10. Evidence that a final court decree has been approved shall be submitted at Final Plan.
11. A dry hydrant, in compliance with the standards of Gunnison County Fire Protection District shall be installed.
12. The landscaping shall be installed as described in the Landscaping Plan. It shall also be included as part of the Development Improvements Agreement.
13. The variance request for a sign area greater than 70 square feet is denied. A sign 70 square feet or less, consistent with the design submitted is approved.
14. The variance request for a sign greater than 16 feet tall (approximately 22 feet in height) is approved.
15. Approval of the Preliminary Plan 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.
16. 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.
17. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
18. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
19. 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.
20. 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.
 21. 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.

WHEREAS, 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.

THIS APPROVAL is affected noting that decision documentation includes, but is not limited to, the application and the entire Planning 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 Houck, seconded by Commissioner Chamberland, and passed on this 18th day of August, 2015.

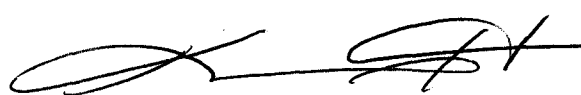
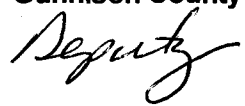
BOARD OF COUNTY COMMISSIONERS


Paula Swenson,
Chairperson


Phil Chamberland,
Commissioner


Jonathan Houck,
Commissioner

ATTEST:


Gunnison County Clerk and Recorder

Deputy

