

PLANNING AND ZONING COMMISSION  
June 26, 2013 MEETING PACKET  
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**AGENDA  
CITY OF GUNNISON  
PLANNING & ZONING COMMISSION  
REGULAR MEETING  
Rev 6/19/2013**

**DATE:** WEDNESDAY, JUNE 26, 2013  
**TIME:** 7:00 P.M.  
**PLACE:** CITY HALL, COUNCIL CHAMBERS, 201 WEST VIRGINIA AVE.

**7:00pm**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE TO THE FLAG**
- III. UNSCHEDULED CITIZENS**
- IV. MAJOR CHANGE APPLICATION, ZA 13-2, TO AMEND THE GUNNISON RISING PUD BY ADDING THE MASTER DRAINAGE STUDY AS APPENDIX F. AMENDMENTS INCLUDE THE ADDITION OF APPENDIX F AND CORRECTION OF ERRORS IN APPENDIX A.**
- V. INTRODUCTION TO THE MARIJUANA CODE TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE**
- VI. CONSIDERATION OF THE JUNE 12, 2013 MEETING MINUTES**
- VII. COUNCIL UPDATE**
- VIII. COMMISSIONER COMMENTS**
- IX. PLANNING STAFF UPDATE**
- X. ADJOURN**

**TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL  
NEEDS ARE REQUESTED TO CONTACT THE CITY OF GUNNISON  
COMMUNITY DEVELOPMENT DEPARTMENT AT 641.8090**

This agenda is subject to change, including the addition or deletion of items at any time. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are on the City website at [www.cityofgunnison-co.gov](http://www.cityofgunnison-co.gov). Work sessions are not recorded and formal action cannot be taken. For further information, contact the Community Development Department at 641-8090.

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STAFF REPORT  
MAJOR CHANGE TO A PUD  
Gunnison Valley Properties, LLC

TO: Planning and Zoning Commission  
FROM: Community Development Staff  
DATE: June 26, 2013  
RE: *Gunnison Rising PUD Development Standards – Major Change*

**CODE PROVISIONS**

The *Land Development Code (LDC)*, Section 15.150.070 F.1. (Major Changes) states “changes which alter the concept or intent of the planned unit development including increases in density, changes in the height of buildings, reductions in proposed open space, changes in the development sequencing, changes in road standards, or changes in the final governing agreements, provisions, or covenants may be approved only by submission and reconsideration of a new PUD zoning plan and supporting data.” A public hearing is required and all major changes to the PUD must be recorded with the Gunnison County Clerk and Recorder.

The Planned Unit Development *LDC* Section 15.150.030.D through F. specifies that a Major Change to a PUD application be reviewed by the City of Gunnison Planning and Zoning Commission (Commission) at a public hearing after 15 days public notice. The Commission recommends to City Council, to approve, approve with conditions, deny or remand the application back to the applicant with instructions for modification. City Council shall consider the recommendation of the Commission at a public hearing and shall, by ordinance, approve, deny or remand the application back to the applicant with instructions for modification or additional information.

Documents relevant to this review include, but are not limited to:

- *Gunnison Rising PUD Development Standards;*
- *Gunnison Rising Annexation Agreement;*
- *Gunnison Rising Supplement to Annexation Agreement;*
- *City of Gunnison Land Development Code;* and
- *City of Gunnison Master Plan.*

**APPLICATION**

The applicant is Gunnison Valley Properties, LLC. The application proposes two amendment components to the approved *Gunnison Rising PUD Development Standards*:

- Appendix A: Development Phasing; and
- Appendix F: Master Drainage Study.

Application contents include the minimum submittal requirements listed in *LDC* section 15.150.040. The application contents also include the *Master Drainage Study for Gunnison Rising*. The applicant’s narrative states:

“The intent of the proposed Major Change to the *Gunnison Rising PUD Development Standards* is to complete the requirement to include APPENDIX F within the Development Standards document. None of the approved *Gunnison Rising PUD Development Standards* will be affected by this change. In order to ensure a complete application for City review, this written statement will reference sections of the Gunnison

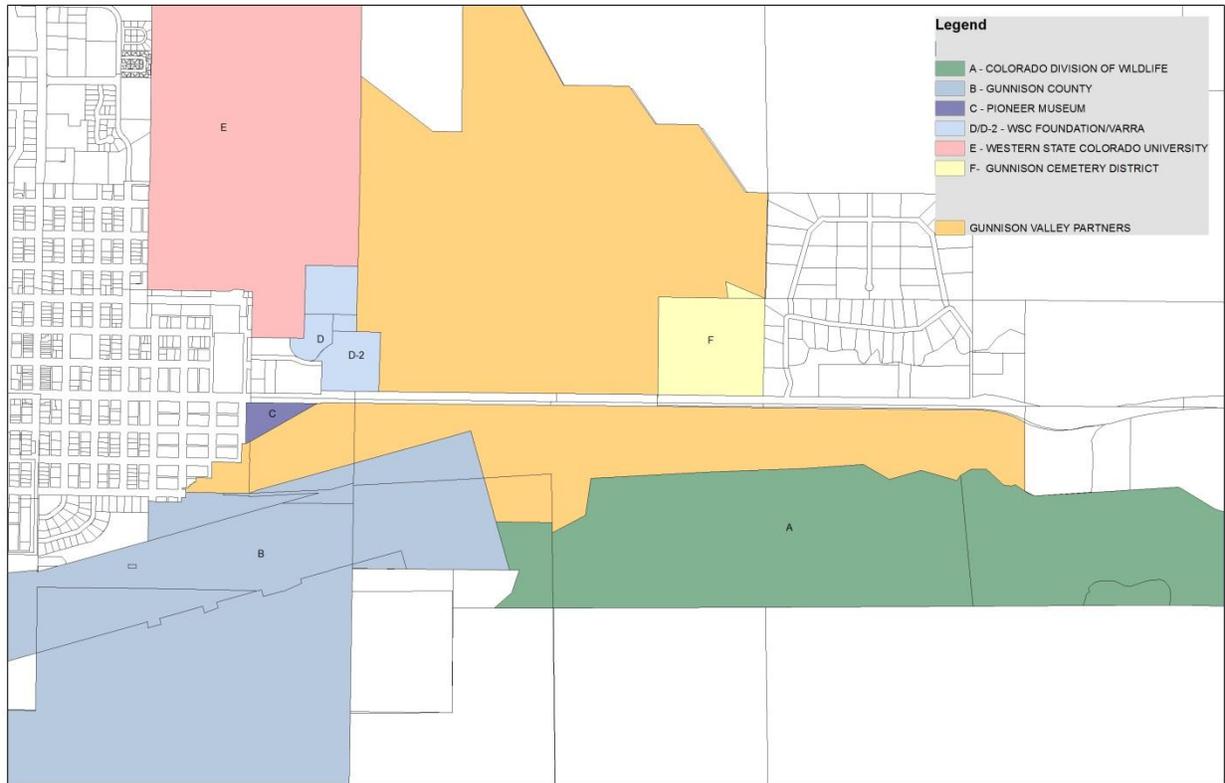
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Rising PUD Development Standards that are not being modified to satisfy the submittal requirements as identified in the City of Gunnison Land Development Code (LDC)...”

**SUMMARY**

**Property Description**

Gunnison Rising land uses are varied and consist of a mixture of residential, commercial, light industrial and open space. The Gunnison Rising site is bisected by Highway 50 on both the south and north sides. The majority of the project development area is located on the north side of the highway; the western edge of the project abuts the campus of Western State Colorado University, the east edge abuts the Gunnison County Cemetery and the Tomichi Heights subdivision. The south portion of the project is bounded by the Gunnison-Crested Butte Regional Airport to the west, and the Tomichi Creek Wildlife Area to the south; the eastern-most extent terminates in the vicinity of Mr. Bratton’s home.



Gunnison Rising consists of approximately 633 acres. The site generally slopes to the south with a slope angle range from 1% to 40%, and the majority of the Gunnison Rising property is located outside the 100 year floodplain. The soils within the site are sandy loam and are classified as Hydrologic Soil Groups A, B and C (Natural Resources Conservation Service, NRCS). This NRCS classification is critical for designing stormwater systems because it establishes the soil’s infiltration capacity (permeability) to absorb stormwater runoff. The majority of the soils in Gunnison Rising are C & D Hydrologic Soil Groups, indicating lower absorption rates. Vegetation within the project area consists of native grasses, sagebrush and sedge plant types.

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The property south of Highway 50 is subject to high groundwater especially when irrigation ditches are operating. Irrigation discharge for the north and south sites will be controlled and any runoff will be conveyed to the water quality/detention facilities as each site is developed.

#### DRAINAGE BASINS AND SUB-BASINS

The site is divided into three sections: Section 1 encompasses the property located to the north of the Gunnison and Tomichi Valley Ditch (Cemetery Ditch); Section 2 is from this irrigation ditch south to Highway 50; and Section 3 includes the annexed land area located to the south of Highway 50.

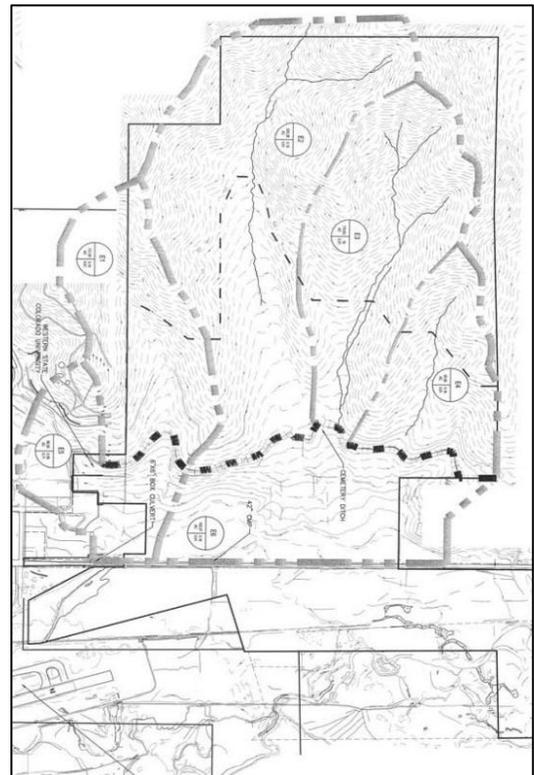
#### Drainage System Concept

Drainages on the north side of the highway are separated into six existing basins. The majority of stormwater flow will be routed by curb and gutters and stormwater sewage pipe into detention structures located within each major drainage basin. Flows out of the detention basins will be conveyed across the highway via an existing 42" CMP culvert.

Future land uses were used to determine the percent impervious cover for the developed drainage basins. Developed stormwater runoff coefficients are defined in Appendix B of the *Master Drainage Study*. Each defined basin noted on the Proposed Drainage Plan will provide a water quality/detention facility, which will be sized in relation to the developed runoff.

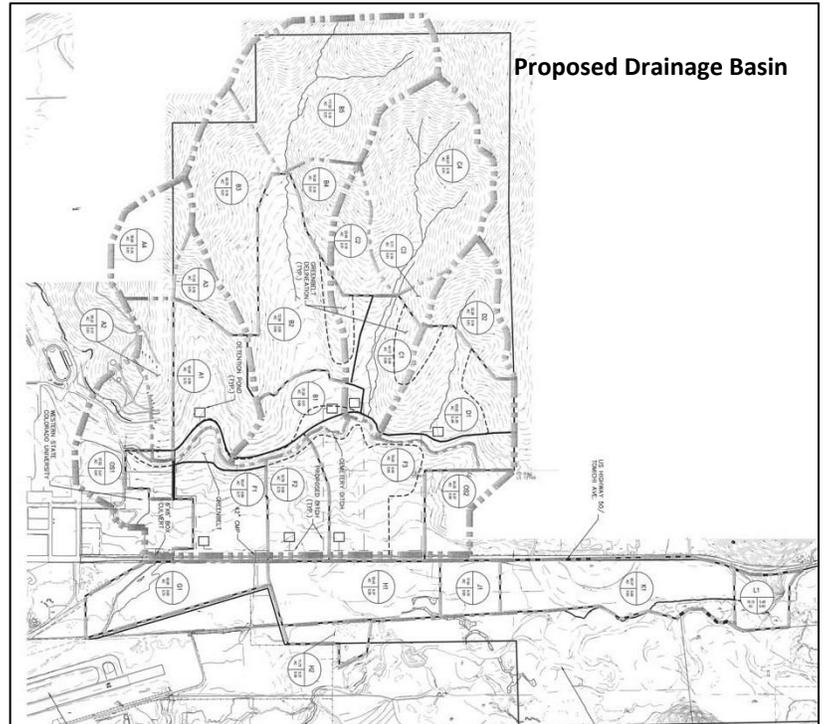
Open space and low density residential development south of the highway will allow for low-impact drainage design. The Industrial Modified Business and Research Park (IM), Commercial RV Resort (CRV), Government (GOV) and Commercial (C) zone district uses will be required to use standard water quality treatments and detention ponds. As each parcel develops, a Drainage Study and Stormwater Management Plan will be required to demonstrate that proposed construction will use Best Management Practices (BMPs) as approved by the City.

The ultimate downstream outfall for the entire proposed development is Tomichi Creek. The primary outfall point is located within the Gunnison–Crested Butte Regional Airport. The secondary outfall conveys flow from the eastern two-thirds of the land uses located south of the highway to the Tomichi Creek Wildlife Area southeast of the I-Bar Ranch facilities. The stormwater discharge rate for outfall areas are based on historic (undeveloped) stormwater flow being conveyed from the *Gunnison Rising Master Drainage Study* area.



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The *Master Drainage Study* establishes the parameters for the overall development from a stormwater perspective. The study was developed under the guidance of the City of Gunnison City Engineer and Community Development Director. The intent of the study is to provide overall direction for the development of the stormwater drainage system as development occurs in Gunnison Rising. It contemplates incremental development consisting of site-specific drainage engineer plans that follow the direction established by the *Gunnison Rising Master Drainage Study*. Developed properties will be required to accommodate upstream conveyance to the ultimate downstream outfall. The method of conveyance as well as any associated agreements/easement will be designed and submitted for approval by the City of Gunnison during subdivision and development review.



#### DRAINAGE DESIGN CRITERIA

*City of Gunnison Draft Stormwater Management Manual* and the *Urban Storm Drainage Criteria Manual*, Volumes I, II and III (UDFCD, 2001), were used for the *Master Drainage Study*. Two existing stormwater drainage studies were critical to the development of the *Gunnison Rising Master Drainage Study*. Both were developed for the Gunnison-Crested Butte Regional Airport. A drainage report established by Knight Piesold was used to determine possible stormwater outfall locations and the undeveloped historic flow that can be accommodated. Proposed developed basins will restrict releases based upon the historic storm of the same periodic reoccurrence. Restricting flows to historic rates ensures that existing storm conditions are not surpassed. The storm hydrograph for the creek will not be altered with the development of this project. The following criteria were utilized in developing the proposed drainage system.

- The proposed drainage system concept is designed to match, as best as possible, the historic drainage patterns occurring at the site.
- The proposed drainage system concept attempts to limit the diversion of storm runoff from one basin to another (basin transfer).
- Runoff generated from drainage sub-basins is conveyed either directly or via storm sewer systems or channels to outfall locations into a conceptual regional detention pond where

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water quality facilities are located. (As each basin develops additional detention ponds may be designed.)

## STORMWATER MANAGEMENT FACILITY DESIGN

### **Stormwater Conveyance Facilities**

As parcels are reviewed for subdivision and development, the submittal of a drainage report and construction design documentation will be required. Developments plans will address all stormwater quality standards by providing the appropriate temporary and permanent BMPs. Each development will be required to provide a stormwater quality/detention facility design to control the allowable release rates not to exceed the historic flow rates.

Proposed storm sewer systems will consist of storm inlets, storm sewer piping, storm manholes, energy dissipation devices, water quality BMPs, water quality/detention facilities and outlet structures. All of the proposed detention ponds will have restricted release rates that will be determined based upon the historic flow rates per UDFCD.

Each proposed project will be required to be designed in conformance with the PUD and City of Gunnison standards. Easements and maintenance agreements may be required by the City.

### **Stormwater Storage Facilities**

Each water quality/detention pond will be designed based upon the Rational Volume Method per the *City of Gunnison Stormwater Design Standards*. The outlet structures are to be three-stage systems for the Water Quality Capture Volume (WQCV), the 10-year (minor) storm and the 100-year (major) storm.

Detention pond volumes and release rates have been calculated based upon the basin parameters of this report (Appendix B). These volumes are subject to change based upon individual and specific site plans as each parcel develops.

All water quality/detention ponds are to be privately owned and maintained. Each developing parcel will be required to submit to the City a *Stormwater Maintenance and Operations Manual* for each proposed facility. This manual will outline scheduled maintenance of the facility, assigned parties responsible for maintenance, dedicated funding source provisions and legal organizational structure. Refer to the *City of Gunnison Municipal Code*, Title 10, Special Improvement Districts.

### **Water Quality Enhancement Best Management Practices**

Extended detention basins will provide water quality. Basins may incorporate regional ponds or multiple ponds based upon final site plans and grading configurations. Ponds are designed with multi-stage structures to provide water-quality and flood detention. Low flow channels are designed for capacity for the minor storms and as energy dissipation. Proper landscaping shall be considered that will enhance water quality as well as aesthetics. Maintenance of ponds is a critical part of the design.

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Grass-lined swales will be incorporated where possible to route stormwater to and from extended detention basins or prior to entering stormwater inlets. Swales are designed with landscaped ground cover pursuant to *City of Gunnison Stormwater Design Standards*. Porous landscape detention systems may also be used in future developments pursuant to reduce developed stormwater flow.

U.S. Fish and Wildlife Service may list the Gunnison Sage Grouse as either Threatened or Endangered by Fall 2013. Site-specific development applications may be required to address new requirements or regulations promulgated by the U.S. Fish and Wildlife Service.

PROPOSED CHANGES TO THE GUNNISON RISING PUD DEVELOPMENT STANDARDS

During the review of this PUD Major Change application some typographical errors were discovered in the Development Phasing Plan (Appendix A) of the *Gunnison Rising PUD Development Standards*. The applicant has agreed to amend these typographical errors as part of this Major Change application. Proposed changes to the Phasing Plan include:

- A.4.5 Phase V, C. Utility Improvements: This phase will be accompanied by a Development Phase Submittal as defined in Section ~~2.6~~ 2.7 of these *PUD Development Standards*. The Development Phase Submittal will define necessary domestic water, wastewater, storm water, irrigation and electric system utility requirements needed to serve Phase V, as well as the systems' sizing needs to extend services to adjacent future development phases.
- A.4.6 Phase VI, B.3. A traffic signal will be installed at the intersection of Highway 50 and Adams when the CDOT determines that Average Daily Trips (ADT) on Highway 50 and intersecting collector roads warrant the installation. Off-site impacts from the transportation study as defined in Section 2.7 of these *PUD Development Standards* are required to be addressed. The City may exercise any authority granted by CDOT for the installation of traffic signals prior to meeting "warranted thresholds."
- A.4.6 Phase VI, C. Utility Improvements: This phase will be accompanied by a Development Phase Submittal as defined in Section ~~2.6~~ 2.7 of these *PUD Development Standards*. The Development Phase Submittal will define necessary domestic water, wastewater, storm water, irrigation and electric system utility requirements needed to serve Phase VI, as well as the systems' sizing needs to extend services to adjacent future development phases.
- A.4.8 Phase VIII, C. Utility Improvements: This phase will be accompanied by a Development Phase Submittal as defined in Section ~~2.6~~ 2.7 of these *PUD Development Standards*. The Development Phase Submittal will ~~defining~~ define necessary domestic water, wastewater, storm water, and electric system utility requirements needed to serve Phase VIII, as well as the systems' sizing needs to extend services to adjacent future development phases.

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This PUD Major Change application amends the Gunnison Rising PUD Development Standards, Appendix F: Stormwater Management Master Plan – Utilities, by the adopting the *Gunnison Rising Master Drainage Study* as Appendix F. All future development shall be subject to complying with Appendix F.

DEPARTMENTAL COMMENTS:

Building Official: No issue.

Fire Marshal: No issue.

Parks and Recreation Department: No issue.

Police Department: No issue.

Public Works Director: No issue, pending airport review.

City Engineer: No issue, pending airport review.

Water and Sewer Superintendent: Provisions for future utilities should be considered.

Electric Superintendent: Provisions for future utilities should be considered – ie: conduits.

STAFF OBSERVATIONS

1. The request is to amend the following components of the *Gunnison Rising PUD Development Standards*:
  - Appendix A: Development Phasing; and
  - Appendix F: Master Drainage Study.
2. This PUD Major Change application proposes amendments to the *Gunnison Rising PUD Development Standards* and fulfills the requirement of a Stormwater Management Master Plan set forth in Section 11.8 of the *Gunnison Rising Annexation Agreement* (and supplements to the *Agreement*).
3. The request corrects referenced sections within Appendix A: Development Phasing, regarding utility and traffic improvements.
4. The Master Draining Study provides drainage design criteria for Gunnison Rising.
5. Storm drainage system design was based on the *City of Gunnison Draft Stormwater Management Manual* and the *Urban Storm Drainage Criteria Manual*, Volume I, II, and III (UDFCD, 2001).
6. As each parcel (basin) is developed a City-approved drainage report and construction documentation will be required and shall address all stormwater quality standards by providing the appropriate temporary and permanent BMPs.
7. Development of the *Master Drainage Study* has been a cooperative effort between Gunnison Valley Properties, LLC, their consulting engineers (CLC Associates, Inc.), the City Engineer and the Community Development Director.
8. The adoption of the *Master Drainage Study* provides the appropriate direction whereby the design and construction of future facilities can be accomplished in a coordinated manner that ultimately saves time, money and provides water quality protection for the community.

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PUD ZONING REVIEW – PURPOSES, STANDARDS, AND CRITERIA

**Reader note: Direct quotes from the LDC are highlighted.**

**Purposes of a Planned Unit Development (PUD)**

Based on the *City of Gunnison Land Development Code*, Section 15.60.060, an approval of a PUD constitutes a zone district amendment and is established by rezoning an area in an existing zone district to PUD zoning or by initial zoning of newly annexed territory to PUD zoning. A PUD proposal must meet the majority, but not all, of the following specific purposes:

**15.60.060 A.1** To encourage innovation in residential, commercial and industrial development so that the needs of the population may be met by greater variety in type, design and layout of buildings and land uses and by the conservation and more efficient use of open space.

**No Conflict.** The *Master Drainage Study* was developed using the land uses and the zone district designations as specified in the *Gunnison Rising PUD Development Standards*. The Gunnison Rising PUD was developed to provide for a variety of land uses and the conservation of open space, and the *Master Drainage Study* will help direct proper design and construction of stormwater utilities needed to serve the development.

**15.60.060 A. 2.** To encourage land development that, to the greatest extent possible, preserves natural vegetation; respects natural topographic and geologic conditions; incorporates the unique, natural and scenic features of the landscape; and refrains from adversely affecting flood corridors, soil, drainage, and other natural ecological conditions.

**No Conflict.** The Major Change sets forth directives for stormwater management of Gunnison Rising and fulfills the requirements set forth in Section 11.8 of the *Gunnison Rising Annexation Agreement* (and supplements to the agreement). Implementation of the *Master Drainage Study* will ensure that sustainable development will occur with minimal impact upon water quality and ecological conditions.

**15.60.060 A.3.** To combine and coordinate architectural styles, building forms and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner.

**Not Applicable.** The Major Change request does not alter the land use and the zone district designations as specified in the *Gunnison Rising PUD Development Standards*.

**15.60.060.A.4.** To allow efficient design and use of solar access.

**Not Applicable.**

**15.60.060 A. 5.** To provide for adequate, accessible, and properly located open and recreation space, schools or other facilities.

**Not Applicable.**

**15.60.060 A.7.** To promote the efficient use of land resulting in a network of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources.

**No Conflict.** The Major Change request promotes efficient use of the land and infrastructure as specified in the *Gunnison Rising PUD Development Standards* and fulfills the requirement of a

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*Stormwater Management Master Plan* set forth in Section 11.8 of the *Gunnison Rising Annexation Agreement* (and supplements to the *Agreement*). Additionally, the request corrects typographical errors found in Appendix A: Development Phasing.

**15.60.060 A.8.** To enable new land developments to be compatible with adjacent and nearby land developments.

**No Conflict.** The *Master Drainage Study* contemplates the historic stormwater discharge rates to off-site properties and ensures rates will be maintained as development occurs in the future.

**15.60.060 A.9.** To ensure that development takes account of environmentally sensitive areas, and occurs on land physically suited to construction.

**No Conflict.** The *Gunnison Rising PUD Development Standards* addresses environmental and natural resource protection and the Major Change request helps to ensure the protection of environmentally sensitive areas in the future.

**15.60.060 A.10.** To allow unique and unusual land uses to be planned for and located in a manner that ensures harmony with the surrounding community and achieves beneficial relationships with the surrounding area.

**No Conflict.** Future implementation of the *Master Drainage Study* will help fulfill this policy directive.

**15.60.060 A.11.** To create a method for the permanent preservation of historic buildings, landmarks and/or sites.

**Not Applicable.**

#### STANDARDS FOR A PUD ZONE DISTRICT

Based on the *LDC*, Section 15.60.060. C (Standards). Every PUD must be in conformance with the *Gunnison Municipal Code*, the *City Master Plan* and other adopted plans. Design and layout requirements otherwise applicable to the development and zone district regulations may be varied within a PUD where the variation will produce a benefit to the community over traditional zone district standards. The following standards and requirements shall apply to all PUD zone districts:

**15.60.060 C.1.** Land Use District Designations. Every PUD shall be divided into one or more land use districts as established in the *LDC*, Section 15.50.010 C. Zone Districts.

**Not Applicable.**

**15.60.060 C.2** Open Space Land Use District. For the purpose of a PUD zone district only, an Open Space land use district may be used for the purpose of defining areas within a PUD zone district to be used for either public or private open space and recreational uses. Within a PUD zone district Open Space land use districts shall be limited to indoor and outdoor recreation and community facilities characterized by potentially light or moderate impact on traffic, the natural environment, and surrounding neighborhood. Such facilities include, but are not limited to country clubs; golf courses; athletic fields; skateboard parks; swimming, bathing, wading, and other therapeutic facilities; tennis, handball, and basketball courts and ice skating rinks. Open

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Space land use district may also include natural areas such as public parks, trails, greenbelts or natural land preservation areas. Open Space land area may not be used for high intensity commercial recreation such as aerial tramway; alpine or water slides; amusement rides; auto, cycle and go-cart race tracks; campgrounds; stadiums; drive-in theaters; horse or dog racing tracks; shooting ranges; stables; zoos or other similar commercial recreation uses.

**Not Applicable.** The major change does not affect open space requirements within the *Gunnison Rising Annexation Agreement* and the *Gunnison Rising PUD Development Standards*.

**15.60.060 C.3.** Land Use District Uses. Specific uses permitted within a PUD zone land use district must be of a type and so located as to be compatible with surrounding neighborhoods, community character, the *City of Gunnison Master Plan* and other adopted plans.

**No Conflict with Master Plan:**

*City of Gunnison Master Plan*, Chapter 4, Environment, Goal: Natural features and resources will be preserved. Area river systems remain a focus for conservation, protection, and recreation. The air continues to be clean, stars illuminate the dark nighttime skies and rivers run clear.

*City of Gunnison Master Plan*, Chapter 4, Environment, Policy 1.4: Maintain surface and ground water quality to ensure healthy drinking water, recreation opportunities and viable habitat conditions for aquatic and terrestrial wildlife.

*City of Gunnison Master Plan*, Chapter 9, Utilities and Infrastructure, Policy 6.5: Create a Master Stormwater Drainage Plan and implement Low Impact Design (LID) standards for erosion control and stormwater management.

**No Conflict Gunnison Rising Annexation Agreement (and Supplements to the Agreement):**

*Gunnison Rising Annexation Agreement*, Section 11.8 (Storm Water Control System), states “Annexor will provide a *Stormwater Management Master Plan* for all of the Property. The *Stormwater Management Master Plan* shall be deemed to be a Major Change to the PUD Plan and shall be reviewed and approved by the City in accordance with applicable City procedures and requirements. No subdivision or development application shall be accepted by the City until final approval of the *Stormwater Management Plan* Major Change, except for the following: (i) public trail improvements; (ii) improvements associated with snow storage operations; and (iii) the subdivision and other development review applications in the Government District to accommodate the proposed Colorado Division of Parks and Wildlife facilities...”

**15.60.060 C. 4.** Land Use District Density. The net density of a PUD land use district zone is not necessarily required to precisely correspond with the net density of zoning on adjacent properties, but instead should reflect the existing character of the area or the character of the area proposed in the *City Master Plan* and other adopted plans. The density should result from the proper design of the PUD including provisions for adequate infrastructure, open space, amenities, complementary building types and design. Maximum net density, either expressed as maximum residential units or maximum square footage of nonresidential uses, shall be specified in the PUD zone districts.

**Not Applicable.** This Major Change application does not alter the land use densities established in the *Gunnison Rising PUD Development Standards*.

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**15.60.060 C.5.** Open Space. At least 20 percent of the total gross area of every PUD shall consist of common open space. At least half of this common open space shall be developed for recreation which may include playing fields, tennis courts, picnic sites, trails, fishing access and similar recreation sites for use by all PUD residents. Provisions shall be made for permanent care and maintenance of open spaces according to the provisions in *GMC 15.160.100(F)*.  
**Not Applicable.** This Major Change request does not alter the open space requirements outlined in the *Gunnison Rising Annexation Agreement* and the *Gunnison Rising PUD Development Standards*.

**15.60.060 C.6.** Community Benefits. In return for flexibility in land use mix and design standards, the goal of a PUD is to provide a higher quality development than found in traditional zone districts. Every PUD must consider and offer community benefits in the form of park land dedication, public recreation facilities including community centers, trails, greenbelts, natural and/or historic preservation areas, and other amenities which may be identified in the *City of Gunnison Master Plan* and other adopted plans, or which may be goals of the City Council.  
**No Conflict.** The *Master Drainage Study* is a critical component to the Gunnison Rising PUD and as the study is implemented through more specific engineering design the community will benefit from the directions established by the study.

**15.60.060 C.7.** PUD Perimeter. The boundary between a PUD and adjacent land uses shall provide an adequate transition between land uses.  
**Not Applicable.** The major change request does not alter the PUD perimeter within Gunnison Rising.

**15.60.060 C. 8.** Phasing of Development. Where a PUD is developed in phases, a proportional amount of any required open space, recreation areas and other community benefits shall be included in each phase such that the project, as it is built, will comply with the overall density and open space requirements of this code at the completion of each phase of development.  
**Not Applicable.** The major change request does not alter the phasing of development outlined in the *Gunnison Rising Annexation Agreement* and the *Gunnison Rising PUD Development Standards*. The major change request corrects some typographical errors found in Appendix A of the *Gunnison Rising PUD Development Standards*.

## REVIEW STANDARDS FOR MAP AMENDMENTS

*LDC* Section 15.120.060.C, states that “...an application that fails to comply with any applicable review standard shall be denied.” The *LDC* Section 15.150.060 states that “...an application for an amendment to the official zoning map shall comply with the following four standards:”

**15.150.060 A.** Consistent with *Master Plan*. The proposed amendment shall be consistent with the *City of Gunnison Master Plan*.

**No Conflict.** See the *Master Plan* narrative review found in Section 15.60.060 C.3., above.

**15.150,060 B.** Consistent with Purpose of Zone District. The proposed amendment shall be consistent with the purpose of the zone district to which the property is designated.

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**No Conflict.** The proposed Major Change complies with provisions of the existing *Annexation Agreement* and the master planning concept of the *Gunnison Rising PUD Development Standards*.

**15.150.060 C.** Compatibility with Surrounding Zone Districts and Uses. The development permitted by the proposed amendment shall be compatible with surrounding zone districts, land uses, and neighborhood character.

**Not Applicable.**

**15.150.060 D.** Changed Conditions or Error. The applicant shall demonstrate that conditions affecting the subject parcel or the surrounding neighborhood have changed, or that due to incorrect assumptions or conclusions about the property, one or more errors in the boundaries shown on the official zoning map have occurred.

**Not Applicable.** The major change request does not alter the zone districts or land uses specified in the *Gunnison Rising PUD Development Standards*.

### RECOMMENDATION

During the Planning and Zoning Commission meeting held on June 26, 2013, Commissioner \_\_\_\_\_ moved, Commissioner \_\_\_\_\_ seconded and the Planning and Zoning Commission voted to recommend APPROVAL, to City Council of Zoning Amendment application ZA 13-2, for a Major Change to the *Gunnison Rising PUD Development Standards*, based on the following Findings of Fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*, *Gunnison Rising Annexation Agreement* (December 3, 2009), the *Supplement to Annexation Agreement* (September 14, 2010), *Second Supplement to Annexation Agreement* (July 26, 2011), and the *Gunnison Rising PUD Development Standards*.
2. The Planning and Zoning Commission finds that the *Gunnison Rising PUD Development Standards* (November 2009) were approved by City Council and recorded with the Gunnison County Clerk and Recorder in association with the Gunnison Rising Annexation.
3. The Planning and Zoning Commission finds that a major change to a PUD may be approved only by submission and reconsideration of a new PUD zoning plan and supporting data.
4. The Planning and Zoning Commission finds that the request is to amend the following components of the *Gunnison Rising PUD Development Standards*:
  - Appendix A: Development Phasing; and
  - Appendix F: Master Drainage Study.

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MAJOR CHANGE TO A PUD  
Gunnison Valley Properties, LLC

5. The Planning and Zoning Commission finds that the request fulfills a requirement set forth in Section 11.8 of the *Gunnison Rising Annexation Agreement* (and supplements to the *Agreement*) to provide a *Stormwater Management Master Plan*.
6. The Planning and Zoning Commission finds that the request corrects some typographical errors found in Appendix A: Development Phasing.
7. The Planning and Zoning Commission finds that the stormwater drainage system design was based on directives in the *City of Gunnison Draft Stormwater Management Manual* and the *Urban Storm Drainage Criteria Manual*, Volumes I, II, and III, (UDFCD, 2001).
8. Development of the *Gunnison Rising Master Drainage Study* has been reviewed and assessed by the City Engineer and the Community Development Director from its initial draft through the final plan development. The Planning and Zoning Commission finds that the City staff recommends approval of this PUD Major Change application.
9. The Planning and Zoning Commission finds that, based on the Findings cited above, the approval of this Major Change will be a positive attribute for the protection of the community's health, safety and welfare.

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**Application Fact Sheet**  
 City of Gunnison Land Development Code  
 Minimum Application Contents  
 In Accordance With 15.120.030 C.

**City of Gunnison**  
 P.O. Box 239  
 Gunnison, CO 81230  
 (970)641-8090

**Applicant Name(s):** GUNNISON VALLEY PROPERTIES

**Phone #:** 641-4531 **Fax #:** \_\_\_\_\_ **E-Mail:** rbratton@hfak.com

**Mailing Address:** 234 N. MAIN STREET, SUITE 3A

**City:** GUNNISON **State:** CO **Zip:** 81230

**Summary of Request:** Major Amendment to the Gunnison Rising PUD to add the Master Drainage Study as Appendix F

**Disclosure of Ownership- Please provide one of the following:**

- Assessor Parcel Info   
  Mortgage   
  Deed   
  Judgments  
 Liens   
  Contract   
  Easement Agreement   
  Other Agreements

**Legal Description**

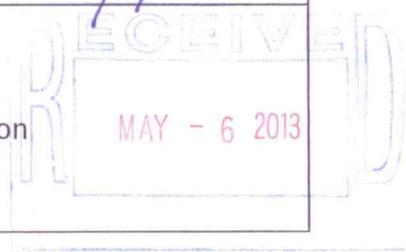
**Site Address of Property:** VACANT LAND - SEE ATTACHED **Zoning:** PUD  
**Block:** \_\_\_\_\_ **Lot(s):** \_\_\_\_\_ **Addition:** \_\_\_\_\_

- Attachments:**  Vicinity Map (8.5"x11")     Written Narrative/Description of Proposal  
 Names, Addresses and Map of Adjoining Property Owners (From Assessor's Office)  
 Vested Property Rights     Letter/Authorization of Agent (from Owner if not applicant)  
 Site Plan (11"x17") **to scale**, includes dimensions and location of all structures, parking spaces and access, snow storage, landscaping, live cover, utility lines, road/street names, land uses of adjacent properties, setbacks. Includes a table for all dimensional requirements based on 15-7-4. (See attached sample)

**YOU ARE REQUIRED TO SUBMIT FOUR (4) COMPLETE COPIES OF YOUR APPLICATION**

**Signature(s)** Submit via e-mail  
 \_\_\_\_\_  
 By: L. Richard Bratton, Co-manager Date: \_\_\_\_\_  
Date: 5/6/13

- For Office Use Only
- Conditional Use   
  Variance   
  Zoning Amendment  
 Major Subdivision   
  Minor Subdivision   
  Subdivision Exemption  
 Mobile Home/RV Park   
  PUD   
  Vacation  
 Consolidated Application



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# Gunnison Rising PUD Development Standards Major Change Application

May 2013

## PUD Written Statement

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### INTRODUCTION

The intent of the proposed Major Change to the *Gunnison Rising PUD Development Standards* is to complete the requirement to include APPENDIX F within the *Development Standards* document. None of the approved Gunnison Rising PUD Development Standards will not be affected by this change. In order to ensure a complete application for City review, this written statement will reference sections of the *Gunnison Rising PUD Development Standards* that are not being modified to satisfy the submittal requirements as identified in the City of Gunnison Land Development Code (LDC).

### LAND DEVELOPMENT CODE REQUIREMENTS

Pursuit to LDC Section 15.150.070.B.2, Zoning Plan Submittal, there are several specific items that must be included with the Major Change Application. Since the focus of the change to the Gunnison Rising PUD Development Standards is to add the Master Drainage Study as APPENDIX F, all of the application contents are satisfied by the existing PUD standards in effect.

Therefore, the following items are included by reference but are not being modified with this Major Change:

1. Zoning Districts – Figure 2.17, Zoning Map
2. Survey Map – Appendix N: Legal Description
3. Existing Uses – Figure 1.1 Site Context and Zoning Map

Pursuit to LDC Section 15.150.070.B.2.b.i, the following items are referenced as part of this submittal. Any items that have been modified are specifically listed.

- (A) Land Use Types: *Gunnison Rising PUD Development Standards* Chapters 1,2, and 7
- (B) Proposed Districts: *Gunnison Rising PUD Development Standards* Figure 2.17
- (C) Residential Uses: *Gunnison Rising PUD Development Standards* Table 2.1 and Figure 2.17
- (D) Open Space: *Gunnison Rising PUD Development Standards* Table 2.1 and Figure 2.17
- (E) Circulation System: *Gunnison Rising PUD Development Standards* Appendix B and Section 16
- (F) School and Public Sites: *Gunnison Rising PUD Development Standards* Table 2.1 and Figure 2.17
- (G) Zoning Districts: *Gunnison Rising PUD Development Standards* Table 2.1 and Figure 2.17
- (H) Utilities Description: *Gunnison Rising PUD Development Standards* Appendices E and F along with supplemental requirements required by the PUD Written Statement (see LDC Section 15.150.070.B.2.b.iii.D. 1-3)
- (I) Development Standards: *Gunnison Rising PUD Development Standards* and *Gunnison Rising Annexation Agreement*
- (J) PUD Improvement Concept: *Gunnison Rising PUD Development Standards* Chapter 16 - Architectural Character, Appendix G – Illustrative Master Plan

LDC Section 15.150.070.B.2.b.ii requires that a site topographic map be provided along with some additional analysis of slopes, vegetation, streams, rivers ditches and areas subject to 100-year flooding. A topographic map was provided with the original Gunnison Rising PUD application and there have been no identified changes within the property. Tomichi Creek is most significant natural feature is along the south boundary and the accompanying 100-year flood plain is mapped. Cemetery Ditch traverses the property north of Highway 50. Both corridors have open space amenities along the the frontage of the property.

LDC Section 15.150.070.B.2.b.iii list items A-G to be addressed within the PUD Written Statement. The items below discuss each requirement.

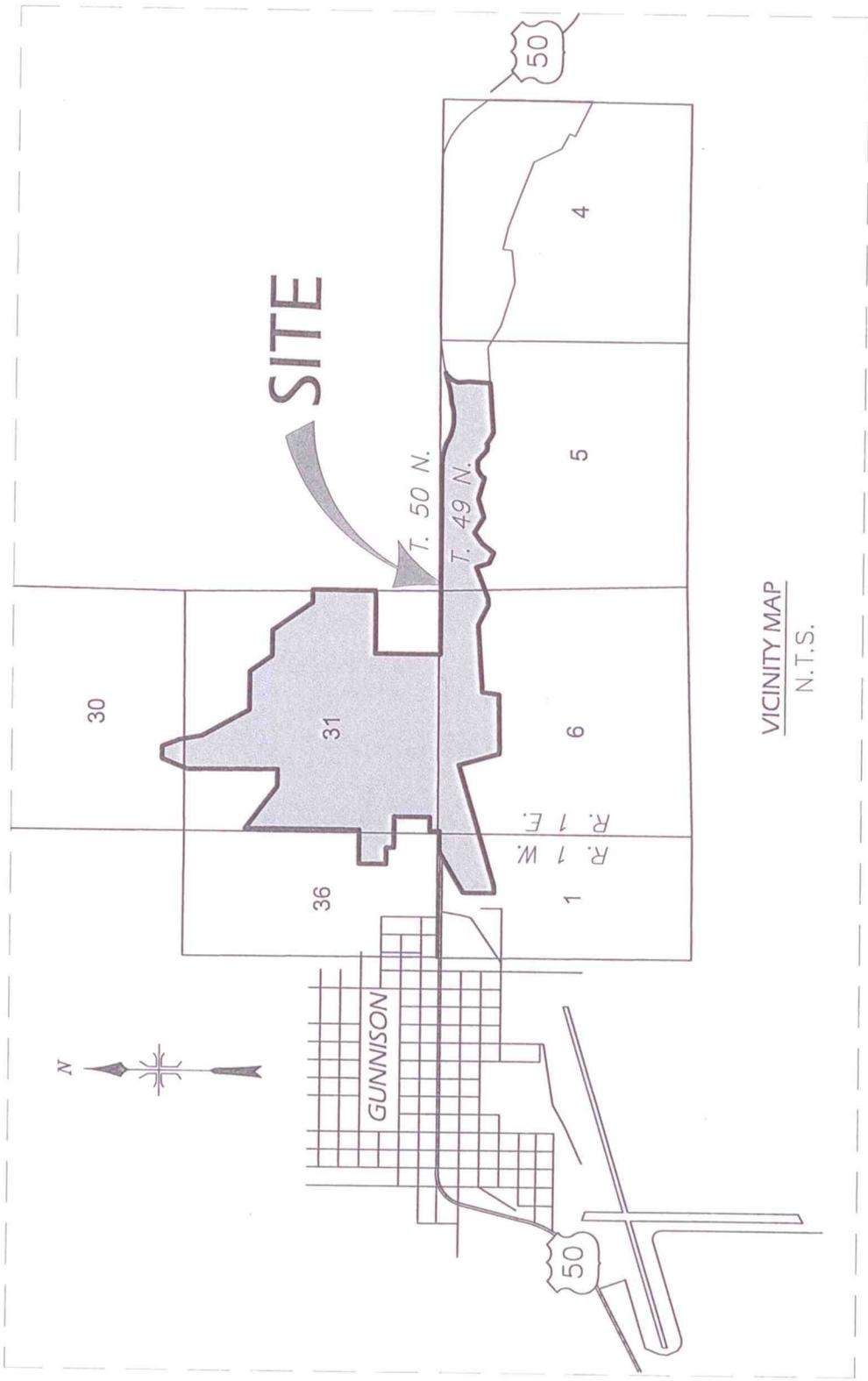
- (A) The objectives of the Gunnison Rising PUD are contained within Chapter 1 of the *Gunnison Rising PUD Development Standards*. Section 1.3 specifically addresses the purpose of each zone district within the project.
- (B) Phasing of the project is contained within Section 2.7 and Appendix A of the *Gunnison Rising PUD Development Standards* along with requirements associated with each development effort.
- (C) No changes to any special covenants, conditions, or restrictions are proposed with this application. Section 2.11 of the *Gunnison Rising PUD Development Standards* addresses how and when protective covenants will be enacted.
- (D) (1) Water Source and (2) Sewage Treatment were addressed with documents submitted with the original PUD application and review, Section 2.7.3 addresses the requirement for additional requirements as part of a development submittal. (Item 3), included with this application is the Master Drainage Study for Gunnison Rising prepared by CLC Associates. Item (4) Natural hazards are addressed within Chapter 2 section 2.7.6 – Geologic and Geotechnical Review Purpose.
- (E) Circulation and roadway improvements are specifically discussed in Appendix B and Section 16 of the Gunnison Rising Annexation Agreement.
- (F) Natural hazards are addressed in several locations within the *Gunnison Rising PUD Development Standards*. Within Chapter 2 General Provisions, Sections 2.2.11, 2.2.12, and 2.7.6 all discuss issues relative to the natural hazards. Chapter 14 of the *Gunnison Rising PUD Development Standards* provides detailed provisions relating to floodplains, wetlands, and wildlife habitat. The project's natural and historic character have been addressed within the Section 2.7.7 and Chapter 14 of the *Gunnison Rising PUD Development Standards* provides detailed provisions relating to floodplains, wetlands, and wildlife habitat
- (G) Included with this application is a copy of the Master Drainage Study for Gunnison Rising prepared by CLC Associates and reviewed by City Staff.

#### **SPECIFIC TEXT MODIFICATIONS**

A proposed text amendment is focused on two sections within the *Gunnison Rising PUD Development Standards*. The sections to be modified are:

- Appendix F - Remove the text "Pursuant to Annexation Agreement - to be adopted by major alteration"

- Appendix A: Development Phasing – A.4.5 Phase V, par C. Change “Section 2.6” to “Section 2.7”
- Appendix A: Development Phasing – A.4.6 Phase VI, par B.3 italicize *PUD Development Standards*
- Appendix A: Development Phasing – A.4.6 Phase VI, par C Change “Section 2.6” to “Section 2.7”
- Appendix A: Development Phasing – A.4.8 Phase VIII, par C Change “Section 2.6” to “Section 2.7” and change the following: The Development Phase Submittal will ~~defining~~ define necessary domestic water....



VICINITY MAP  
N.T.S.

**LEGAL DESCRIPTION -GUNNISON RISING PUD**

A tract of land situated in Section 1, Township 49 North, Range 1 West, Section 36, Township 50 North, Range 1 West, Sections 5 & 6, Township 49 North and Sections 30 & 31, Township 50 North, Range 1 East, New Mexico Principal Meridian, Gunnison County, State of Colorado, more particularly described as follows:

Beginning at the E $\frac{1}{4}$  corner of said Section 31; Thence S 00°23'38" W 1324.57 Ft. to the Southeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 31; Thence S 89°43'41" W 1339.66 Ft. to the Southwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 31; Thence S 00°06'24" W 1364.37 Ft. to the South Right-of-Way of U.S. Highway 50; Thence N 89°47'13" E 1335.75 Ft. along said South Right-of-Way; Thence N 89°46'08"E 2629.52 Ft. along said South Right-of-Way to a curve; Thence 568.43 Ft. along the arc of a curve to the right along said South Right-of-Way having a radius of 1382.50 Ft., a central angle of 23°33'29" and a chord of S 80°51'50" E 564.44 Ft. to a reverse curve; Thence 897.91 Ft. along the arc of a curve to the left along said South Right-of-Way having a radius of 1005.00 Ft., a central angle of 51°11'25" and a chord of S 83°46'55" E 868.34 Ft. to a compound curve; Thence 278.27 Ft. along the arc of a curve to the left along said South Right-of-Way having a radius of 1980.00 Ft. a central angle of 08°03'09" and a chord of N 83°10'10" E 278.04 Ft.; Thence S 67°42'16" W 53.30 Ft.; Thence S 40°54'57" W 145.71 Ft.; Thence S 23°32'39" W 126.67 Ft.; Thence S 04°53'25" E 223.24 Ft.; Thence S 03°24'52" W 398.71 Ft.; Thence S 85°33'42" W 700.92 Ft.; Thence N 66°21'06" W 93.44 Ft.; Thence N 58°06'04" W 191.98 Ft.; Thence S 68°05'02" W 44.26 Ft.; Thence N 85°52'10" W 94.86 Ft.; Thence N 48°17'08" W 297.80 Ft.; Thence S 89°20'32" W 198.37 Ft.; Thence S 57°04'57" W 163.61 Ft.; Thence S 31°48'25" W 68.93 Ft.; Thence N 74°42'38" W 467.51 Ft.; Thence S 73°08'43" W 414.66 Ft.; Thence N 60°44'16" W 376.57 Ft.; Thence S 85°00'41" W 740.78 Ft.; Thence S 86°55'49" W 1238.95 Ft.; Thence S 86°09'44" W 1447.72 Ft.; Thence S 07°27'36" W 470.05 Ft.; Thence S 61°10'21" W 472.51 Ft.; Thence N 01°10'36" W 365.64 Ft.; Thence S 89°09'54" W 766.41 Ft. along the North line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 6 to a Point on the East boundary of the Gunnison County Airport Property Conveyed to Gunnison County by court order, recorded May 29, 2002 at reception number 520716; Thence N 16°24'30" W 946.95 Ft. along said Airport Boundary; Thence S 73°35'30" W 2887.24 Ft. along said Airport Boundary to the West line of Government Lot 1 of said Section 1; Thence N 00°08'15" W 637.48 Ft. along the West line of Government Lot 1 of said Section 1 to the Southerly line of the Pioneer Society Addition to the City of Gunnison; Thence N 59°40'00" E 992.74 Ft. along said Addition to the South Right-of-Way of U.S. Highway 50; Thence N 89°45'50" E 31.74 Ft. along said South Right-of-Way; Thence N 00°14'10" W 10.00 Ft. along said South Right-of-Way; Thence N 89°45'50" E 422.59 Ft. along said South Right-of-Way; Thence N 00°19'28" E 199.26 Ft. to the South line of the Wilson Subdivision; Thence N 89°44'13" E 298.29 Ft. to the Southeast corner of said Subdivision; Thence N 00°24'42" E 749.87 Ft. to the Northeast corner of said Subdivision; Thence S 90°00'00" W 665.54 Ft. to the Northwest corner of said Subdivision; Thence N 00°20'16" E 160.44 Ft. to the North line of the Western State College tract of land described in Book 592 Page 374, Gunnison County Records;

Thence S 89°59'20" W 354.96 Ft. to the Northwest corner of said tract of land; Thence N 00°20'16" E 573.73 Ft. to the Northwest corner of the E½S½S½NE¼SE¼ of said Section 36; Thence N 89°59'34" E 723.64 Ft. to the East line of said Section 36; Thence N 00°25'34" E 998.76 Ft. to the East ¼ corner of said Section 36; Thence N 00°16'22 W 1408.93 Ft. to a point on the West line of Section 31; Thence S 53°25'47" E 1135.40 Ft.; Thence S 89°58'56" E 366.73 Ft.; Thence N 00°33'12" W 1911.81 Ft. to the Southwest corner of the SE1/4SW1/4 of Section 31; Thence N 22°23'07" E 572.25 Ft.; Thence S 88°48'33" E 267.61 Ft.; Thence S 21°46'27" E 386.90 Ft.; Thence S10°59'31" E 483.90 Ft.; Thence S 29°21'37" E 1146.79 Ft. to the Northeast corner of the SE1/4NW1/4 of Section 31; Thence N 89°39'15" E 820.64 Ft.; Thence S 35°58'54" E 582.64 Ft.; N 89°39'15" E 536.57 Ft.; Thence S 35°50'18" E 1042.33 Ft.; Thence N 89°41'54"E 272.84 Ft. to the Point of Beginning containing 633.024 Acres, more or less.

Basis of bearings is the North line of said Section 6 being S 89°46'00' W according to the U.S.G.L.O. Plat of Township 49 North, Range 1 East, N.M.P.M.

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED**, made this 9<sup>th</sup> day of February, 2012, between GUNNISON VALLEY PARTNERS, LLC, a Colorado limited liability company, whose legal address is 2 North Cascade Avenue, Suite 1280, Colorado Springs, CO 80903 ("Grantor") and GUNNISON VALLEY PROPERTIES, LLC, a Colorado limited liability company, whose legal address is c/o Byron Chrisman, Chrisman Commercial, 864 W. South Boulder Rd., Louisville, CO 80027 ("Grantee"):

**WITNESSETH**, that the Grantor, for and in consideration of the sum of Ten and NO/100 Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, and convey unto the Grantee, its successors and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Gunnison, State of Colorado, as described as follows:

See Exhibit "A" attached hereto and by this reference incorporated herein.

**TOGETHER** with all and singular, the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances unto the Grantee and its successors and assigns forever.

**TO HAVE AND TO HOLD** the said premises above described, with the appurtenances, unto the Grantee, its successors and assigns forever. And the Grantor, for itself, its successors and assigns, does covenant, grant, bargain and agree to and with the Grantee, its successors and assigns, that at the time of the ensembling and delivery of these presents, it is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever.

The Grantor shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of Grantee, its successors and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof, by, through or under Grantor, subject to those matters of record as of the date of this deed. The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

This Deed is an absolute conveyance, the Grantor having sold said land to the Grantee for a fair and adequate consideration, such consideration, in addition to that above recited, being partial satisfaction of all obligations secured by the Deed of Trust dated April 4, 2006 executed by Grantor for the benefit of U.S. Bank National Association, formerly First Community Bank, successor in interest to Heritage Bank, and recorded on April 19, 2006 in the real property records of the Clerk and Recorder of Gunnison County, Colorado at Reception No. 564495, as it has been amended or modified from time to time.

The Grantor declares that this conveyance is freely and fairly made, and that there are no agreements, oral or written, other than this Deed between Grantor and Grantee with respect to said land.

This conveyance is made pursuant to the terms of that certain Agreement for Deed in Lieu of Foreclosure dated February 9, 2012 by and among Grantor, Schuck Gunnison, LLLP, Schuck Colorado, LTD., L. Richard Bratton, Stephen M. Schuck, William D. Schuck, and Grantee.

[signature on following page]



EXHIBIT A  
LEGAL DESCRIPTION

PARCEL NO. 1

Township 49 North, Range 1 East, N.M.P.M.

A tract of land consisting of the S1/2N1/2 of Section 5, the S1/2NE1/4 of Section 6, and all that part of Lot 1, Lot 2, Lot 3 and Lot 4, in Section 5, and of Lot 1, Lot 2 and Lot 3 in Section 6 lying South of the southerly most right of way line of U.S. Highway No. 50, said tract being more particularly described as follows:

Beginning at a point on the West line of said Section 5 and on the South line of said U.S. Highway No. 50, from whence the Northwest corner of said Section 5 bears North 50.1 feet (from the section corner the brass cap witness corner is located North 0°25' East 50.16 feet). Thence East along the South right of way line of said Highway No. 50, a distance of 2,573.9 feet; thence North 89°39' East, along said Highway, a distance of 117.8 feet; thence along said Highway along the arc of a curve to the right having a radius of 1,382.5 feet a distance of 632.1 feet (the chord of this arc bears South 76°54' East a distance of 626.7 feet); thence along said highway along the arc of a curve to the left having a radius of 1,005.0 feet, a distance of 738.5 feet (the chord of this arc bears South 84°51'30" East a distance of 722.3 feet; thence along said Highway along the arc of a curve to the left having a radius of 1,980.0 feet a distance of 147.9 feet (the chord of this arc bears North 83°07'30" East a distance of 147.9 feet); thence along said Highway North 78°59'30" East a distance of 203.7 feet; thence along said Highway North 71°20' East a distance of 172.7 feet; thence along said Highway North 77°59' East a distance of 161.2 feet; thence along said Highway along the arc of a curve to the right having a radius of 5,680.0 feet, a distance of 597.2 feet (the chord of this arc bears North 80°59'30" East a distance of 597.0 feet) to a point on the East line of Section 5; thence Southerly along the East line of said Section 5 to the East-West centerline of said Section 5; thence Westerly along said centerline and along the centerline of said Section 6 to the North-South centerline of said Section 6; thence Northerly along said centerline to the Southeast corner of said Lot 3 of Section 6; thence Westerly along the South line of said Lot 3 to the Southwest corner of said Lot 3; thence Northerly along the West line of said Lot 3 to the Southerly line of said U.S. Highway No. 50; thence Easterly along said Highway line to the point of beginning.

TOGETHER WITH a 60-foot wide non-exclusive easement for an access road and for the installation of underground utilities along an existing roadway situated in the NE1/4 of Section 5, Township 49 North, Range 1 East, N.M.P.M., 30 feet on each side of the following described centerline:

Beginning at a point on the South right-of-way of U.S. Highway 50 from which the Northeast corner of said Section 5 bears N 39°19'42" E 47.06 feet;  
Thence S 00°16'15" E 30.18 feet to a point of curve;  
Thence 558.42 feet along the arc of a curve to the left having a radius of 5650.00 feet, a central angle of 05°39'46" and a chord of S 80°32'29" W 558.20 feet;  
Thence S 74°32'05" W 334.62 feet to a point of curve;  
Thence 40.24 feet along the arc of a curve to the right having a radius of 2010.00 feet, a central angle of 01°08'50" and a chord of S 78°29'01" W 40.24 feet;  
Thence S 67°42'16" W 43.17 feet to a point;  
Thence S 40°54'57" W 133.99 feet to a point;  
Thence S 23°32'39" W 114.48 feet to a point;  
Thence S 04°53'25" E 217.82 feet to a point;  
Thence S 03°24'52" W 539.98 feet to a point;  
Thence S 12°15'48" W 355.81 feet to a point;  
Thence S 58°25'05" W 94.31 feet to a point;  
Thence S 78°13'24" W 145.19 feet to a point;  
Thence S 01°26'29" W 237.97 feet to a point;  
Thence S 54°59'56" E 530.63 feet to a point on the North line of the above-described tract of land, a Point of Terminus from which the East 1/4 corner of said Section 5 bears S 74°15'04" E 1049.78 feet;

EXCEPTING THEREFROM the E1/2NW1/4NE1/4 and the W1/2NE1/4NE1/4 of said Section 5.

FURTHER EXCEPTING THEREFROM that portion of the above described property which lies within the property in Rule and Order to the Board of County Commissioners, Gunnison County recorded May 29, 2002 as Reception No. 520716.

AND FURTHER EXCEPTING THEREFROM a tract of land situated in the NE1/4 of Section 5, Township 49 North, Range 1 East, N.M.P.M. conveyed to the United States of America in Warranty Deed recorded July 14, 2005 as Reception No. 555705.

AND FURTHER EXCEPTING THEREFROM a tract of land situated in the SE1/4NE1/4 of Section 5, Township 49 North, Range 1 East, N.M.P.M., more particularly described as follows:

Beginning at a point lying S 88°48'51" W 144.93 feet from the East 1/4 corner of said Section 5, a point which is also 10 feet West of the bank of an existing ditch, the point of beginning;  
Thence N 07°41'10" E 94.43 feet following said ditch bank offset for the next 25 courses, to a point;  
Thence N 01°02'33" W 61.66 feet to a point;  
Thence N 13°11'04" W 53.48 feet to a point;  
Thence N 26°35'11" W 56.63 feet to a point;  
Thence N 44°24'25" W 52.95 feet to a point;  
Thence N 61°56'59" W 38.36 feet to a point;  
Thence N 83°33'52" W 35.42 feet to a point;  
Thence S 84°34'42" W 122.01 feet to a point;  
Thence S 78°48'34" W 62.09 feet to a point;  
Thence S 70°29'54" W 186.20 feet to a point;  
Thence N 89°13'22" W 76.19 feet to a point;  
Thence N 63°20'44" W 115.18 feet to a point;  
Thence N 77°41'30" W 45.44 feet to a point;  
Thence S 89°13'15" W 106.35 feet to a point;  
Thence S 83°41'05" W 45.86 feet to a point;  
Thence S 83°41'05" W 43.38 feet to a point;  
Thence S 67°09'55" W 47.16 feet to a point;  
Thence S 47°58'00" W 77.74 feet to a point;  
Thence S 36°47'02" W 17.43 feet to a point;  
Thence S 04°24'10" E 18.63 feet to a point;  
Thence S 23°03'32" E 33.83 feet to a point;  
Thence S 63°27'23" W 36.94 feet to a point;  
Thence S 13°02'12" W 146.88 feet to a point;  
Thence S 36°16'46" W 14.77 feet to a point on the South line of the NE1/4 of said Section 5;  
Thence N 88°48'51" E 1080.70 feet along the south line of said NE1/4 to the point of beginning,

AND FURTHER EXCEPTING THEREFROM that portion of the above described property situated in the NE1/4 and NW1/4 of Section 5, and the NE1/4 and NW1/4 of Section 6, Township 49 North, Range 1 East, N.M.P.M. conveyed to the State of Colorado acting by and through the Department of Natural Resources for the use and benefit of the Division of Wildlife and Wildlife Commission in Special Warranty Deed recorded November 30, 2009 as Reception No. 595412.

PARCEL NO. 2

Township 49 North, Range 1 East, N.M.P.M.

Section 4: N1/2, N1/2SE1/4, EXCEPTING THEREFROM that portion of Lot 1 lying North of the right of way of U.S. Highway No. 50,

FURTHER EXCEPTING THEREFROM that portion of the subject property conveyed to the Department of Highways, State of Colorado in Special Warranty Deed recorded in Book 345 at page 107.

AND FURTHER EXCEPTING THEREFROM a tract of land situated in the NW1/4 of Section 4, Township 49 North, Range 1 East, N.M.P.M. conveyed to the United State of America in Warranty Deed recorded July 14, 2005 as Reception No. 555707.

EXCEPTING FROM PARCEL NO. 2 above that property conveyed to the United States of America in Warranty Deed recorded May 12, 2004 as Reception No. 541963.

PARCEL NO. 3

Township 49 North, Range 1 West, N.M.P.M.

Section 1: All of Lot I (The NE1/4NE1/4);

The portion of Lot II (NW1/4NE1/4), located in Boutcher's Addition to the Town of Gunnig, formerly described as follows:

Lots 5 through 10 inclusive, and that portion of Lots 3 and 4 which lies South of a tract conveyed to the Pioneer Society of Gunnison County, Colorado by Warranty Deed dated June 29, 1965, recorded in Book 385 at page 298, all in Block 20;

ALL of Blocks 21 and 22;

Lots 12 through 17 inclusive, the South 100 feet of Lot 18, the South 80 feet of Lot 19, the South 60 feet of Lot 20, the South 40 feet of Lot 21, and the South 20 feet of Lot 22;

TOGETHER WITH that one-half portion of the vacated streets and alleys which adjoin said lots and blocks as vacated in the instruments recorded May 29, 1956 in Book 297 at page 242 and recorded July 8, 1983 in Book 594 at page 266.

EXCEPTING THEREFROM the following parcels:

EXCEPTION NO. 1: That property conveyed to the Department of Highways, State of Colorado in Special Warranty Deed recorded in Book 345 at page 114 and any other property within U.S. Highway 50.

EXCEPTION NO. 2: That property conveyed to the Pioneer Society of Gunnison County, Colorado in Deed recorded in Book 385 at page 298.

Township 49 North, Range 1 East, N.M.P.M.

Section 6: Lot 4, lying southerly of U. S. Highway 50, SE1/4NW1/4

EXCEPTING FROM all of PARCEL NO. 3 the following property:

EXCEPTION NO. 1: All that portion of PARCEL NO. 3 above lying South and West of the following line:

Beginning at a point which is the southeast corner of the Southeast quarter of the Northwest quarter (SE1/4NW1/4) of said Section 6;

a. Thence 740 feet westerly along the south line of the Southeast quarter of the Northwest quarter

(SE1/4NW1/4) of said Section 6 to the center of Tomichi Creek;

b. Thence North 48°30'00" East 290 feet along the center of Tomichi Creek;

c. Thence North 17°45'00" East 300 feet along the center of Tomichi Creek to the south right-of-way line of an abandoned railroad;

- d. Thence South 89°44'00" West 1450 feet along the south right-of-way line of an abandoned railroad to the east property line of the Gunnison County Airport;
- e. Thence North 16°24'30" West 1185 feet along the east property line of the Gunnison County Airport to the northeast corner of the Gunnison County Airport property;
- f. Thence South 73°16'59" West 345.51 feet along the northerly property line of the Gunnison County Airport to the west line of Section 6;
- g. Thence South 77°54'15" West 293.0 feet along the North right-of-way line of County Road 49 to a point;
- h. Thence continuing along said right-of-way line South 86°24'12" West 933.83 feet to a point;
- i. Thence continuing along said right-of-way line South 89°19'33" West 83.30 feet to a point;
- j. Thence continuing along said right-of-way line North 89°50'04" West 19.77 feet to the West boundary of said Lot 1, Section 1, Township 49 North, Range 1 West, N.M.P.M.
- k. Thence continuing North 89°50'04" West along a vacated portion of San Juan Avenue 793.00 feet to a point formed by the intersection of said right-of-way line with the southerly extension of the East line of Pitkin Street,

EXCEPTION NO. 2: That property owned by the County of Gunnison as described in Rule and Order recorded May 29, 2002 as Reception No. 520716.

PARCEL NO. 4

Township 50 North, Range 1 East, N.M.P.M.

Section 30: SE1/4, NE1/4SW1/4, S1/2SW1/4

EXCEPTING THEREFROM that parcel of land conveyed to The Board of County Commissioners of County of Gunnison, Colorado in Warranty Deed recorded April 1, 1999 as Reception No. 491994.

Section 31: NE1/4, SW1/4, NE1/4SE1/4, W1/2SE1/4, NW1/4

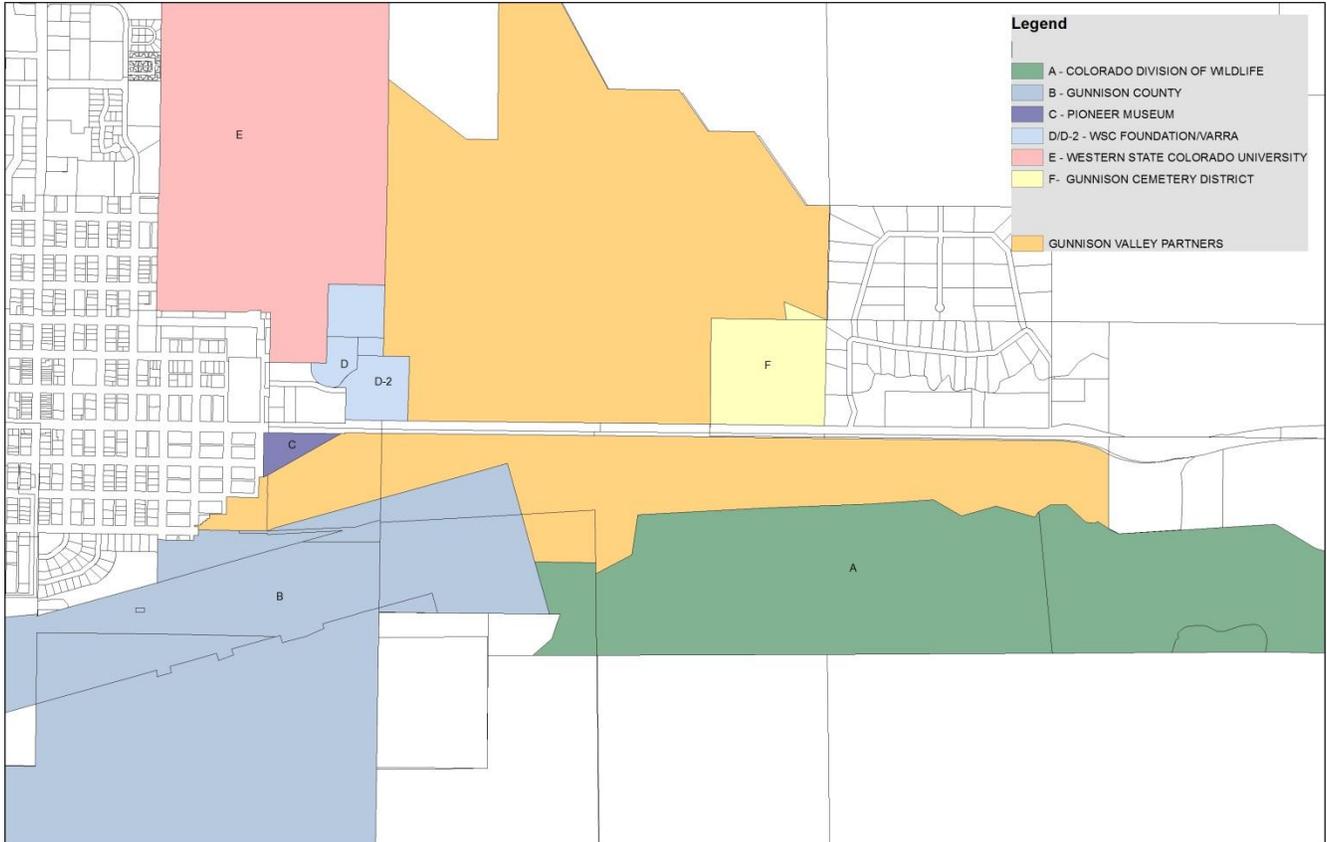
EXCEPTION THEREFROM the following tracts of land:

- a) That property conveyed to The Department of Highways, State of Colorado in Deed recorded March 2, 1960 in Book 345 at page 114.
- b) Wilson Subdivision according to the Plat recorded April 19, 1995 as Reception No. 459307.
- c) That property conveyed to Gunnison Cemetery District #1 in Special Warranty Deed recorded May 25, 2010 as Reception No. 598628.

County of Gunnison,  
State of Colorado.

**Adjacent property owners notified by certified mail:**

- |  |  |
|--|--|
| <p><b>A</b> Colorado Division of Wildlife<br/>6060 Broadway<br/>Denver, CO 80216-102949</p>                                | <p><b>D-1</b> Western State College Foundation<br/>P.O. Box 1264<br/>Gunnison, CO 81230</p>                                  |
| <p><b>B</b> Gunnison County Board of County Commissioners<br/>200 E. Virginia Avenue, Suite 104<br/>Gunnison, CO 81230</p> | <p>Pasquale Varra<br/>43420 Augusta Dr.<br/>Broomfield, CO 80023-4003</p>  |
| <p><b>C</b> Gunnison County Pioneer Museum<br/>P.O. Box 824<br/>Gunnison, CO 81230</p>                                     | <p><b>E</b> Western State Colorado University<br/>Office of the President<br/>600 N. Adams Street<br/>Gunnison, CO 81231</p> |
| <p><b>D</b> Western State College Foundation<br/>P.O. Box 1264<br/>Gunnison, CO 81230</p>                                  | <p><b>F</b> Gunnison Cemetery District<br/>P.O. Box 7079<br/>Gunnison, CO 81230</p>  |



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## MEMORANDUM

TO: Planning and Zoning Commission  
FROM: Steve Westbay  
DATE: June 26, 2013  
RE: Draft Ordinance Prohibiting Commercial Marijuana Businesses and Regulating Personal Grow Operations

In November 2012, the citizens of the State of Colorado passed Amendment 64 to the *Colorado Constitution* establishing certain rights and protections, under state law, regarding the growing, distribution, and consumption of marijuana. This memorandum provides a general overview of recent ordinances passed by the City of Gunnison in response to the passage of Amendment 64, and introduces a proposed ordinance to amend the *City of Gunnison Land Development Code* to address land use regulations that are in response to the passage of Amendment 64.

### **Existing Ordinances in Response to Amendment 64**

At the beginning of 2013 the City Council passed two ordinances in response to passage of Amendment 64. On January 23, 2013, the Council passed Ordinance Number 2, Series 2013 amending Chapter 5.10 of the *Gunnison Municipal Code* relating to General Offenses, which are enforced by the Police Department. Specifically, Ordinance 2, Series 2013 amended police enforcement provisions for the possession and cultivation of marijuana for personal use. On February 12, 2013, the Council passed Ordinance 6, Series 2013 prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores within the boundaries of the city of Gunnison.

### **Proposed Land Development Code Ordinance**

Enclosure 1 of this memorandum is a draft ordinance which will address *Land Development Code* regulations responding to the passage of Amendment 64. The proposed ordinance will allow for the personal use of marijuana, pursuant to the *Colorado Constitution*, but it sets certain standards limiting the floor area of a home that can be used for growing marijuana. It also restricts the use of combustible gases (butane, propane, and hexane) that are sometimes used for growing plants.

The proposed ordinance also prohibits commercial retail and commercial growing operations and also prohibits marijuana clubs that may gain revenues by patrons using marijuana in club facilities.

The technical outline of the ordinance proposes to change the *City of Gunnison Land Development Code* Use Tables. The Use Tables identify uses that are allowed, conditionally permitted, or prohibited in the various zoning districts within the city. The ordinance also adds several definitions to the *Land Development Code* and establishes specific regulations for the personal growth and consumption of marijuana.

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ORDINANCE NO. \_\_\_\_  
Series 2013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLE 15 (*LAND DEVELOPMENT CODE*), OF THE *CITY OF GUNNISON MUNICIPAL CODE* ESTABLISHING STANDARDS FOR THE HOME CULTIVATION AND PERSONAL PROCESSING OF MARIJUANA, AND PROHIBITING MARIJUANA CLUBS.

WHEREAS, Colorado voters approved an amendment to Article XVIII, Section 16 of the *Colorado Constitution* that makes the personal use, possession and limited home growing of marijuana for adults twenty-one years of age or older legal under Colorado law; and

WHEREAS, under Article XVIII, Section 16(3) of the *Colorado Constitution*, any person who is twenty-one years of age or older may possess, grow, process or transport no more than six marijuana plants, with three or fewer being mature flowering plants, provided that the growing takes place in an enclosed locked space, is not conducted publicly or openly and is not made available for sale; and

WHEREAS, Gunnison City Ordinance No. 2, Series 2011, prohibits the use of land in the city boundaries for the retail sale, distribution, cultivation and dispensing of medical marijuana and the processing and sale of infused products; and

WHEREAS, Gunnison City Ordinance No. 2, Series 2013, defines offenses and penalties related to personal marijuana use, possession and cultivation and prohibits the sale of marijuana without a license; and

WHEREAS, Gunnison City Ordinance No. 6, Series 2013, prohibits the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the City limits; and

WHEREAS, the City Council has carefully considered the provisions of Article XVIII, Section 16(3) of the *Colorado Constitution*, and the impact of marijuana cultivation, processing and consumption for personal use in residential structures on the health, safety and welfare of the City and the inhabitants thereof, and has determined, as an exercise of its local land use authority, to regulate such activity in residential structures in a manner consistent with the City land use regulations; and

WHEREAS, the Governor's Task Force recommendations (March 13, 2013) find that the use of compressed, flammable gases (including butane, propane and hexane) as solvents in the extraction of THC in a residential setting presents a significant life-safety risk concern to the citizens of the State of Colorado and the City of Gunnison; and

WHEREAS, the City Council has considered whether the consumption of marijuana and marijuana products in commercial or industrial buildings, such as in marijuana “clubs” may be inconsistent with surrounding uses, or may otherwise be detrimental to the public health, safety and welfare; and

WHEREAS, the City Council has considered whether the existence of marijuana “clubs” in residential areas is inconsistent with surrounding uses, or may otherwise be detrimental to the public health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:

**Section 1. Findings.** The City Council hereby finds as follows:

A. Article XVIII, Section 16(3) of the *Colorado Constitution* sets forth certain broad directives for marijuana cultivation, processing and consumption for personal use in residential structures, without any specific legislative directive at this time, and the City Council finds and determines that this ordinance complies with the broad directives under the Colorado Constitution; and

B. The City Council finds and determines that the adoption of Ordinance 2, Series 2011, prohibited retail activities for medical marijuana by prohibiting the establishment of medical marijuana centers, optional premises cultivation operation and medical marijuana-infused product manufacturers within the City of Gunnison; and

C. The City Council finds and determines that the adoption of Ordinance No. 2, Series 2013, defines offenses and penalties related to personal marijuana use, possession and cultivation and prohibits the sale of marijuana without a license; and

D. The City Council finds and determines that the adoption of Ordinance No. 6, Series 2013, prohibits the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores within the City limits; and

E. The City Council finds and determines that the Governor’s Task Force (March 13, 2013) established that the use of compressed, flammable gases (including butane, propane and hexane) as solvents in the extraction of THC in a residential setting presents a significant life-safety risk to the citizens of the State of Colorado; and

F. The City Council finds that processes, methods, and certain materials used for growing, cultivating, and processing marijuana may present life-safety risks to citizens which risks may be reduced by the regulation of marijuana growth and cultivation; and

G. The City Council finds and determines that the consumption of marijuana and marijuana products in commercial or industrial buildings, such as in marijuana “clubs” is inconsistent with surrounding uses, or may otherwise be detrimental to the public health,

safety and welfare; and

H. The City Council finds and determines that the existence of marijuana “clubs” in residential areas is inconsistent with surrounding uses, or may otherwise be detrimental to the public health, safety and welfare.

**Section 2. Authority.** The City Council hereby finds, determines, and declares that it has the power and authority to adopt this Article pursuant to:

- A. Article XVIII, Section 16 of the *Colorado Constitution*;
- B. The authority granted to home rule municipalities by Article XX of the *Colorado Constitution*;
- C. The powers contained in the *City of Gunnison Home Rule Charter*.
- D. The *Local Government Land Use Control Enabling Act*, Article 20 of Title 29, *C.R.S.*;
- E. Part 3 of Article 23 of Title 31, *C.R.S.*, (concerning municipal zoning powers);
- F. Section 31-15-101, *C.R.S.*, (concerning municipal bodies politic powers);
- G. Section 31-15-401, *C.R.S.*, (concerning municipal police powers); and
- H. Section 31-15-501, *C.R.S.*, (concerning municipal authority to regulate businesses).

**Section 3. Definitions.** Section 15.40.010, Definitions, of the *City of Gunnison Municipal Code* is hereby amended by the addition of the following definitions:

“Colorado Medical Marijuana Code” means Article 43.3 of Title 12, *Colorado Revised Statutes*.

“Consumer” means a person twenty-one years of age or older who purchases marijuana or marijuana products for personal use by persons twenty-one years of age or older, but not for resale to others.

“Industrial hemp” means the plant of the genus *cannabis* and any part of such plant, whether growing or not, with Delta-9 Tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

“Marijuana” or “Marihuana” means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” or “Marihuana” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from

the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topic or oral administrations, food, drink or other product.

“Marijuana accessories” means any equipment, products, or material of any kind which are used, intended for use, or designed for the use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

“Marijuana club” means a place of private assembly, operated for purposes of inviting members to use or consume marijuana on site.

“Marijuana cultivation facility” means an entity licensed to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

“Marijuana establishment” means marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility, or retail marijuana store.

“Marijuana product manufacturing facility” means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

“Marijuana products” means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

“Marijuana testing facility” means an entity licensed to analyze and certify the safety and potency of marijuana.

“Medical marijuana center” means an entity licensed by a state agency to sell marijuana and marijuana products pursuant to Article XVIII, Section 14 of the *Colorado Constitution* and the *Colorado Medical Marijuana Code*.

“Primary residence” means the place that a person or family member, by custom and practice, makes his or her principle domicile and address and to which the person or family member intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water and utility billing. A person or family member shall have only one primary residence.

“Retail marijuana store” means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

“Secure area” means an area within the primary residence or associated accessory structure accessible only to the person possessing, growing or processing the marijuana plant for personal use. Secure areas shall be partitioned space with doors, walls, ceilings and floors constructed with rigged wood, sheet rock or other typical construction materials and locked to prevent access by children, visitors, casual passersby, vandals, or anyone not authorized to possess marijuana.

**Section 4. Uses in Residential Zone Districts.** Table 15.70.010: Schedule of Uses – Residential Zone Districts, of the *City of Gunnison Municipal Code*, is hereby amended to read as follows:

**Table 15.70.010: Schedule of Uses – Residential Zone Districts**

(A = Allowed, C = Conditional, P = Prohibited)	R-1	R-1M	R-2	R-2M	R-3	Standards*
<b>Residential Uses</b>						
Accessory buildings and structures	A	A	A	A	A	
Accessory dwelling unit	P	P	C	C	C	GMC 15.70.020(A)
Duplex dwelling units	P	P	A	A	A	
Multiple-family units	P	P	P	A	A	
Single-family dwelling unit	A	A	A	A	A	
Manufactured housing	A	A	A	A	A	GMC 15.70.020(B)
Mobile home park	P	P	P	P	C	GMC 15.70.020(C)
Recreational vehicle park	P	P	P	P	C	GMC 15.70.020(D)
Rooming or boarding house, fraternity, sorority or dormitory	P	P	P	C	C	
Personal use of marijuana	A	A	A	A	A	GMC 15.70.020(I)
<b>Residential Business Uses</b>						
Daycare home	C	C	A	A	A	GMC 15.70.020(E)
Daycare school	P	P	C	C	C	GMC 15.70.020(E)

(A = Allowed, C = Conditional, P = Prohibited)	R-1	R-1M	R-2	R-2M	R-3	Standards*
<b>Residential Business Uses (continued)</b>						
Daycare center	P	P	C	C	C	GMC 15.70.020(E)
Home occupation	A	A	A	A	A	GMC 15.70.020(F)
Home business	C	C	C	C	C	GMC 15.70.020(F)
Medical marijuana centers	P	P	P	P	P	
Medical marijuana-infused products manufacture	P	P	P	P	P	
Optional premises cultivation operation	P	P	P	P	P	
Marijuana cultivation facility	P	P	P	P	P	
Marijuana establishment	P	P	P	P	P	
Marijuana product manufacturing facility	P	P	P	P	P	
Marijuana testing facility	P	P	P	P	P	
Retail marijuana store	P	P	P	P	P	
<b>Clubs/Public Assembly/Institutional Uses</b>						
Church, parish home and religious education building	C	C	C	C	C	
Clubs operated by and for their members	C	C	C	C	C	
Marijuana club	P	P	P	P	P	
Community buildings and uses	C	C	C	C	C	
Government administrative facilities, services, and buildings	P	P	P	P	C	
Group home	P	P	P	P	C	GMC 15.70.020(G)
Hospice	P	P	C	C	C	
Hospital	P	P	C	C	C	
Nursing home	P	P	C	C	C	
Parks and recreation facilities	A	A	A	A	A	
(A = Allowed, C = Conditional,	R-1	R-1M	R-2	R-2M	R-3	Standards*

<b>P = Prohibited)</b>						
<b>Clubs/Public Assembly/Institutional Uses (continued)</b>						
Satellite reception device	A	A	A	A	A	GMC 15.70.020(H)
School	C	C	C	C	C	
<b>Notes:</b> *The standards referenced herein are in addition to all other applicable standards of this <i>Land Development Code</i> .						

**Section 5. Uses Prohibited in Commercial/Industrial Zone Districts.** Table 15.70.030: Schedule of Uses – Commercial/ Industrial Zone Districts, of the *City of Gunnison Municipal Code*, is hereby amended to read as follows:

**Table 15.70.030: Schedule of Uses – Commercial/Industrial Zone Districts**

(A = Allowed, C = Conditional, P = Prohibited)	B-1	CBD	C	I	Standards <sup>1</sup>
<b>Commercial and Office Uses</b>					
Clubs operated by and for their members	C	A	A	P	
Marijuana club	P	P	P	P	
Marijuana establishment	P	P	P	P	
Marijuana retail store	P	P	P	P	
Commercial lodging	P	C	A	P	
Commercial parking lots and garages	P	C	A	A	
Drive-in facility	P	C	A	P	GMC 15.70.040(A)
Drive-in food or beverage facility	P	C	A	P	GMC 15.70.040(A)
Indoor amusement and entertainment establishments	P	A	A	P	
Indoor and outdoor eating and drinking establishments	C	A	A	C	
Medical marijuana centers	P	P	P	P	
Professional offices	A	A	A	C	
Publishing business	A	A	A	A	
Radio and television studios	A	A	A	A	

(A = Allowed, C = Conditional, P = Prohibited)	B-1	CBD	C	I	Standards <sup>1</sup>
<b>Commercial and Office Uses (continued)</b>					
Recreational vehicle park	P	P	C	P	
Retail sales establishment	C	A	A	P	GMC 15.70.040(B)
Sexually oriented businesses	P	P	P	A	GMC 15.70.040(D)
Temporary commercial activities	P	C	C	P	GMC 15.70.040(C)
<b>Personal Services</b>					
Bank, credit and loan services	C	A	A	P	
Beauty and barber shop	A	A	A	P	
Catering services	C	A	A	A	
Funeral home and mortuary	P	C	A	P	
Laundry and dry cleaners	P	A	A	C	
Photographic studios	A	A	A	P	
Repair and maintenance of small appliances, electronics and sporting goods	P	A	A	A	
Secretarial, copying and related service	A	A	A	A	
Self-service laundromat	P	P	A	P	
Tailor, tack or shoe repair services	P	A	A	C	
Travel agency	A	A	A	P	
<b>General Services</b>					
Agricultural feed and equipment supply store	P	P	C	A	
Automobile sales and rental	P	A	A	A	
Automobile service and repair	P	P	C	A	
Commercial storage of personal property in enclosed storage areas	P	P	P	A	
Commercial storage of personal property in open areas	P	P	P	C	
Gasoline service station and car wash	P	P	A	A	
Kennel	P	P	C	C	
Lumber and building supply store	P	P	C	A	

(A = Allowed, C = Conditional, P = Prohibited)	B-1	CBD	C	I	Standards <sup>1</sup>
<b>General Services (continued)</b>					
Mobile home and recreational vehicle sales and service	P	P	C	A	
Nursery, greenhouses and garden supply	P	P	C	A	
Rental, repair and service of light motorized and nonmotorized tools and equipment and large appliances	C	A	C	A	
Veterinary clinic	P	P	C	C	
<b>Light Industrial Uses</b>					
Bulk laundry, dry cleaning or carpet cleaning plant	P	P	P	C	
Cabinet and carpenter shop	P	P	C	A	
Manufacture or assembly of products from the following previously prepared materials: electronic components and wire, fibers, glass, leather, paper, plastics, textiles and wood	P	P	C	A	
Marijuana cultivation facility	P	P	P	P	
Marijuana product manufacturing facility	P	P	P	P	
Marijuana testing facility	P	P	P	P	
Industrial Hemp production	P	P	P	A	
Medical marijuana-infused products manufacture	P	P	P	P	
Optional premises cultivation operation	P	P	P	P	
Plumbing, heating, electrical, sheet metal, construction or paint contractors	P	C	C	A	
Printing establishments	C	C	C	A	
Satellite or electronic transmitting devices including radio or television stations	P	P	C	C	GMC 15.70.020(H)
Repair, rental, sales, service or storage of heavy equipment, heavy machinery, large appliances and boats	P	P	C	A	
Satellite or electronic reception devices	C	C	C	C	GMC 15.70.020(H)
Sign making and sign sale or repair shop	C	C	A	A	

(A = Allowed, C = Conditional, P = Prohibited)	B-1	CBD	C	I	Standards <sup>1</sup>
<b>Light Industrial Uses (continued)</b>					
Upholstery shop	P	C	C	A	
Warehouses and truck terminal	P	P	C	A	
Welding or machine shop	P	P	C	A	
Wholesale businesses	P	C	C	A	
Wood truss manufacture	P	P	C	A	
<b>General Industrial Uses</b>					
Bulk fuel storage facilities and wholesale sales of fuels	P	P	P	C	
Processing of aggregate, mineral, and other subsurface resources	P	P	P	C	
Junk yard, salvage yard, or automobile wrecking yard	P	P	P	C	
Laboratories	P	C	C	C	
Manufacture of chemicals and explosives	P	P	P	C	
Meat processing plant	P	P	C	C	
Ready mix concrete or hot mix plant	P	P	P	C	
Wood processing, including millwork and sawmill	P	P	C	A	
Tire retreading or vulcanizing shop	P	P	P	C	
Yards for stockpiling coal, sand, gravel, and other materials	P	P	P	C	
<b>Airport Uses</b>					
Air cargo terminal	P	P	P	A	
Air passenger terminal, including airline ticketing facilities and ground support facilities; food, personal service, and retail businesses within the terminal	P	P	P	A	
Aircraft sales, rental, repair, service, and storage	P	P	P	A	
Air side facilities such as runways, taxiways and aprons for the arrival and departure of aircraft	P	P	C	A	

(A = Allowed, C = Conditional, P = Prohibited)	B-1	CBD	C	I	Standards <sup>1</sup>
<b>Airport Uses (continued)</b>					
Aviation fuel storage, hangars, and air traffic control facilities	P	P	P	A	
<b>Public and Institutional Uses</b>					
Bus station	P	C	C	C	
Church, parish home, and religious education building	C	A	A	P	
Community buildings and uses	C	A	A	P	
Government administrative facilities, services and buildings	C	A	A	A	
Hospital	P	P	C	P	
Nursing home	P	P	A	P	
Parks and recreation facilities	A	A	A	A	
Public parking facilities	P	C	C	C	
School	C	C	C	C	
<b>Residential Business Uses</b>					
Bed and breakfast inn	C	C	C	P	
Daycare home	A	A	A	C	GMC 15.70.020(E)
Daycare school	C	C	C	C	GMC 15.70.020(E)
Daycare center	P	P	C	P	GMC 15.70.020(E)
Home occupation	A	A	A	P	GMC 15.70.020(F)
Home business	A	A	A	P	GMC 15.70.020(F)
Rooming or boarding house <sup>2</sup>	C	C	C	P	
<b>Residential Uses</b>					
Personal use of marijuana	A	A	A	A	GMC 15.70.020(I)
Single-family dwelling unit <sup>3</sup>	A	C	C	P	
Duplex Dwelling unit <sup>3</sup>	A	C	C	P	

(A = Allowed, C = Conditional, P = Prohibited)	B-1	CBD	C	I	Standards <sup>1</sup>
<b>Residential Uses (continued)</b>					
Multiple-family dwelling units <sup>3</sup>	C	P	C	P	
One or more dwelling units on the same site as a commercial or industrial use <sup>4</sup>	A	A <sup>5</sup>	C	A	
<p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. The standards referenced herein are in addition to all other applicable standards of this <i>Land Development Code</i>.</li> <li>2. Provided county/state health code space and sanitation requirements are met.</li> <li>3. These uses refer to dwelling units which are the primary use of the property.</li> <li>4. These dwelling units shall be accessory to a commercial or industrial use.</li> <li>5. In the CBD, dwelling units on the same site as commercial uses shall only be located off the street level.</li> </ol>					

**Section 6.** Section 15.70.020, Review standards applicable to particular residential uses, of the *City of Gunnison Municipal Code* is hereby amended by the addition of sub-section (I) which shall read as follows:

**(I) Personal Use of Marijuana.** Possessing, growing, or processing marijuana in any residential district and any structure with residential dwelling units shall be governed by the following standards.

1. Any person or family member for the purposes of this section and consistent with Article XVIII, Section 16(3)(b) of the *Colorado Constitution*, who is twenty-one years of age or older that is cultivating marijuana plants for their own use, may only do so within their primary residence or associated accessory structure.
2. Possession, growing and processing of such marijuana plants must not be perceptible from the exterior of the primary residence or accessory structure, including, but not limited to:
  - a. common visual observation, including any form of signage;
  - b. unusual odors, smell, fragrances, or other olfactory stimulus; or
  - c. light pollution, glare, or brightness that disturbs the repose of another.
3. Marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development.
4. The use of compressed gases including, but not limited to butane, propane, and hexane, in the cultivation, production, growing and possessing of marijuana plants shall be prohibited.

5. Cultivation, production, growing and possessing of marijuana plants shall be limited to the following space limitations:
  - a. Within a single family dwelling unit, which is defined as Group R-3 in the *International Building Code*, the aggregate area used for the production, and growing of marijuana plants shall be confined to a contiguous 75 square foot secure area.
  - b. Within a multi-family dwelling unit, which is defined as Group R-2 in the *International Building Code*, the aggregate area used for the production, and growing of marijuana plants shall be confined to a contiguous 35 square foot secure area.
6. Notwithstanding the standards established herein, the possession, growing and processing of marijuana shall comply with all adopted City building and life-safety codes and regulations as the same may be amended from time to time.
7. The Community Development Director shall have the authority to inspect any primary residence or associated accessory structures used for the possession, growing and processing of marijuana plants, following the provisions of Section 15.20.010 (Authority to inspect) of the *LDC*.

**Section 7. Penalty.** Any person, upon conviction of a violation of the provisions of this ordinance, shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days, or both such fine and imprisonment. Each and every day, or portion thereof, during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall be deemed a separate offense, all in accordance with Section 15.20.040 of the *City of Gunnison Municipal Code*. In addition, the City is specifically authorized to seek an injunction to discontinue the violation of any provision of this ordinance, and all remedies provided for herein shall be cumulative and not exclusive in accordance with Section 15.20.030 of the *City of Gunnison Municipal Code*.

**Section 8. Severability.** Should any section, clause, phrase, or provision of this ordinance be ruled invalid or unenforceable by any court of competent jurisdiction, it is hereby declared the intent of the City Council of the City of Gunnison that the remaining provisions of this ordinance shall be given full force and effect if it is possible to do so.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2013, on first reading, and introduced, read, and adopted on second and final reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

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**DRAFT MINUTES JUNE 12, 2013  
CITY OF GUNNISON PLANNING AND ZONING COMMISSION  
REGULAR MEETING**

**7:00PM**

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<b>MEMBERS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
Erik Niemeyer	X		
Erich Ferchau	X		
Andy Tocke	X		
Bob Beda	X		
Greg Larson	X		
Stephanie White	X		
Councilor Stu Ferguson	X		

OTHERS PRESENT: City Planner Andie Ruggera, Planning Technician Pam Cunningham, City Clerk Gail Davidson, and Frank Vader.

**I. CALL TO ORDER AT 7:00 PM BY CHAIR VICE CHAIR GREG LARSON**

**II. PLEDGE OF ALLEGIANCE TO THE FLAG**

**III. SWEARING IN OF NEW PLANNING AND ZONING COMMISSION MEMBERS.** City Clerk Gail Davidson administered the Oath of Office for new Planning and Zoning Commissioners Bob Beda, Greg Larson and Stephanie White.

**IV. ELECTION OF NEW OFFICERS. VICE CHAIR LARSON OPENED THE FLOOR FOR NOMINATIONS FOR CHAIR AND VICE CHAIR.** Councilor Ferguson nominated Greg Larson for Chair. Commissioner Beda seconded the motion. Commissioner Larson accepted the nomination.

Roll Call Yes: Niemeyer, Ferchau, Tocke, Larson, White, Beda, Ferguson  
 Roll Call No:  
 Roll Call Abstain:  
 Motion carried

Councilor Ferguson moved and Commissioner Niemeyer seconded to nominate Bob Beda for Vice Chair. Commissioner Beda accepted the nomination.

Roll Call Yes: Ferchau, Tocke, Beda, Larson, White, Niemeyer, Ferguson  
 Roll Call No:  
 Roll Call Abstain:  
 Motion carried

**V. UNSCHEDULED CITIZENS.** There were none.

**VI. CONDITIONAL USE APPLICATION CU 13-2 SUBMITTED BY FRANK VADER TOOPERATE A FUNERAL HOME/MORTUARY SERVICE IN THE CENTRAL BUSINESS DISTRICT (CBD).**

**Open Public Hearing.** Chair Larson opened the Public Hearing at 7:04 p.m.

**Review of Process.** Planner Ruggera reviewed the process for a Conditional Use and provided an overview of the site assessment.

**Applicant Presentation.** Frank Vader addressed the Commission stating that he is applying for a Conditional Use for a location zoned CBD to operate a small mortuary service. He explained that the space is only big enough for an office, meeting room for families and small visitation room. He stated that he recently purchased the remaining assets of the LeChot Funeral Home and has opted to move out of the mall. He has been unable to find a space available in the Commercial zone district.

Councilor Ferguson asked if, since Mr. Vader has purchased the LeChot assets, he is the only mortuary service in town. Mr. Vader responded that he is, and is in the process of partnering with Crippen Funeral Home in Montrose to create Gunnison Funeral Services. Crippen Funeral Home does all of the embalming and has a crematory.

Commissioner Tocke asked if Mr. Vader plans to expand his business in the future. He stated that he hopes to create a funeral home much like the previous Miller's Funeral Home, which was also in the CBD. He said that is a long-term goal and the business would have to move to a different location. He said he would like to eventually buy or build a building.

**Public Input.** There was none.

**Staff Presentation.** Planner Ruggera said that no issues were raised by the staff review. The staff observation is that the use is compatible with the neighborhood. Because the space is not large enough for funerals the use is similar to a professional office. There are no conflicts with the Review Standards and staff is recommending approval with no conditions.

#### **Commission Discussion**

- Commissioner Niemeyer asked if there had been any feedback from adjacent property owners. Planner Ruggera replied that there had been none.
- Commissioner Ferchau asked Mr. Vader if he has talked to his neighbors. Mr. Vader replied that he has not—he said there are very few adjoining properties that are strictly residential—most also have businesses in their home. He hasn't heard from any of the restaurants.

**Close Public Hearing.** Chair Larson closed the public hearing at 7:11 p.m.

#### **ACTION**

During the regular Planning and Zoning Commission meeting held on June 12, 2013, Commissioner moved to APPROVE Conditional Use Application CU 13-2, submitted by Frank Vader to operate a mortuary at 106 South Taylor Street, based on the following findings of fact:

#### **FINDINGS OF FACT:**

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the City of Gunnison *Land Development Code* and the City of Gunnison *Master Plan*.

2. The Planning and Zoning Commission finds that this conditional use application is for a mortuary in the Central Business District zone.
3. The Planning and Zoning Commission finds that a mortuary is compatible with the surrounding neighborhood.
4. The Planning and Zoning Commission finds that the mortuary use does not include funeral or memorial services.
5. The Planning and Zoning Commission finds that 12 off-street parking spaces are located on the site and accessed from the north/south alley.
6. The Planning and Zoning Commission finds that a mortuary will not be a detriment to the community's health, safety and welfare.

Commissioner Beda seconded the motion.

Roll Call Yes: Niemeyer, Ferchau, Tocke, Larson, White, Beda, Ferguson  
Roll Call No:  
Roll Call Abstain:  
Motion Carried

**VII. THREE MILE COUNTY REFERRAL, PRELIMINARY PLAN AND FINAL PLAN APPLICATION FOR A MAJOR IMPACT – MINING OPERATION PROPOSED AS TOMICHI PIT.**

Planner Ruggera gave an overview of the Three-Mile Review process and the Intergovernmental Agreement with the County for the benefit of the new Commissioners. She then gave an overview of the application and the draft letter to the County. She explained that nothing has changed from the sketch plan that the Commission saw in August—this application had more detail and included a Traffic Study and Access Design Plan, letters and certifications including a Wetlands Report, a Cultural Resource Inventory Report and a Mining Operations Air Pollution Emission Control Plan. The draft letter to the County is similar to the letter that the Commission sent in August.

Commissioner Beda asked if Tomichi Creek runs through the site. Planner Ruggera stated that it is in the southeast corner.

Councilor Ferguson observed that the mitigation plan includes berms and vegetation screening. He said that developers usually plant sticks and soon they are dead twigs and there is no condition that they have to replace them when they die. He continued, saying that trees provide a visual barrier, improve air quality and dampen noise so they are a wonderful mitigation tool. Chair Larson agreed and said that the Commission could make a request in the letter. The following sentence will be added: *Knowing that trees are used as a visual and sound buffer, the City would ask that the landscaping be maintained in a living state.*

Councilor Ferguson moved to authorize Chair Larson to sign the revised letter and to submit the letter to the County Planning Commission. Commissioner Tocke seconded the motion.

**DRAFT MINUTES JUNE 12, 2013  
CITY OF GUNNISON PLANNING AND ZONING COMMISSION  
REGULAR MEETING**

**7:00PM**

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Roll Call Yes: Niemeyer, Ferchau, Beda, Larson, White, Tocke, Ferguson  
Roll Call No:  
Roll Call Abstain:  
Motion carried

**VIII. CONSIDERATION OF THE MAY 8, 2013 MEETING MINUTES.** Commissioner Tocke moved and Commissioner Niemeyer seconded to approve the May 8, 2013 meeting minutes as presented.

Roll Call Yes: Ferchau, Beda, Larson, Niemeyer, Tocke  
Roll Call No:  
Roll Call Abstain: White, Ferguson  
Motion carried

**IX. COUNCIL UPDATE.** Councilor Ferguson said he is happy to be back with the Planning and Zoning Commission and feels it is one of the most important functions in the community.

- Councilor Ferchau asked if Council discussed the letter he sent regarding the Access Control Plan. Planner Ruggera interjected that the topic will be on the June 18<sup>th</sup> Council agenda.
- Council had a discussion [at their June 11<sup>th</sup> meeting] as result of proceeding with construction of the Communication Center. At that meeting Councilor Ferguson expressed his frustration that local contractors don't get bids for government projects. He said that the project is being driven by working backwards from the "move out date" [that the County has given] and that there wasn't any opportunity to try to do something different. Ridgeway Construction (the successful bidder) does have at least one-third [of the project subcontractors] spent on local contractors. Councilor Ferguson took the position that the government agencies should find a way to take the lead with local contractors to help them be successful but also spend wisely and spend dollars in our community. This will be a topic at the City Council retreat on June 15<sup>th</sup>.
  - Chair Larson asked if municipalities could do a training session with contractors to help them to put in qualified bids. Councilor Ferguson responded that if there is enough interest, there might be resources available to help contractors in Gunnison County be successful. They need help to be more competitive, not only here but elsewhere.
  - Councilor Beda stated that the larger picture is that there is revenue [from contactors from outside Gunnison County] for hotels, restaurants and other services.
  - Commissioner Niemeyer asked if Council has considered some kind of training for the contractors. Councilor Ferguson will bring that up at the retreat. He said that some of the larger organizations are using specific software for bids and the locals don't have that software. Commissioner Niemeyer said that perhaps [the software could be obtained] and the contractors could "check out" the package.
  - Commissioner Ferchau stated that the other challenge is the bonding requirement. There has to be a work-around where the County or the City can provide assistance. It does mean they assume greater risk, but that is part of the challenge. The other is the volume of workforce—the efficiency of the project requires bigger operations. There are fundamental issues that are hard for a small contractor to overcome. Councilor Ferguson responded that the important question is whether the community is willing to accept more risk to keep the business here. The City's purchasing policy allows a three percent preference for locals. Councilor Ferchau asked if the City can self-bond. Councilor Ferguson replied that it is not always City's choice. The Communications Center [is funded in part by a] state grant with strings attached. One of the reasons the City has been able to get DOLA grants is because it

is known as making great use of the dollars awarded and projects are completed on time and on budget.

- Commissioner Ferchau asked what the scope of the Council Retreat will be. Councilor Ferguson responded that it is an opportunity for Council members to get acquainted but to also for them to list their priorities for next two years and to share what their constituents say is important.

**X. COMMISSIONER COMMENTS.**

- Commissioner Niemeyer asked Chair Larson about his thoughts on how to proceed to wrap up the *LDC*. Chair Larson replied that “our number one priority is to get the *LDC* finished in the next month or two. After that, we need to look at the *Master Plan* and the *Three Mile Plan*.”
- Commissioner Ferchau stated he has spent time talking with the County regarding the Courthouse plans and “the consideration of how each of those decisions can affect other things in a positive way to stimulate the economy. The fact that WSCU, the ski area and the airport are the key elements of the economy, if we are going to do something how can we make it smoother and build momentum? We think singularly, not about “what if?” to make it a better place.” Chair Larson responded that “we have done that in the *LDC*. We need to always look at the big picture.” Commissioner Ferchau said that “we need to try to rally significant private money to fund things like the Parks and Wildlife Center. People that give that kind of money like to see results. That is why I have tried to encourage that decision-making process.”
- Commissioner Beda observed that the fire danger is high. There is no fire ban in effect now, but we all need to be careful. He asked if the shaved ice business has opened (from the Conditional Use on April 10<sup>th</sup>). [It hasn’t yet.] He also observed that the John Roberts building came down fast.
- Commissioner White said she is excited to here and Commissioner Ferchau encouraged her to ask questions.

**XI. PLANNING UPDATE.** Planner Ruggera updated the Commission on recent activity in the Community Development Office.

- The agenda for the June 26<sup>th</sup> meeting will include a Major Change to a PUD for the Master Drainage Plan for Gunnison Rising and review of the *LDC*;
- The Highway 50 Access Control Plan is on the agenda for a joint City Council / Board of County Commissioners meeting on June 18<sup>th</sup> at 9:30;
- Staff has been working on a grant to the Colorado Water Conservation Board for a river restoration project and a grant to the Federal Lands Access Program for trail development;
- The Building Department has been busy with permits; and,
- Sales tax revenue is up 6%.

**XII. ADJOURN.** Chair Larson adjourned the meeting at approximately 7:58 p.m.

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Greg Larson, Chair

Attest:

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Pam Cunningham, Secretary