

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 19 SERIES 1999

A RESOLUTION CONDITIONALLY APPROVING LAND USE CHANGE
APPLICATION NO. 1998-76 A LAND USE CHANGE PERMIT FOR
LACY AND DOW LLC

WHEREAS, Lacy and Dow, LLC ("Applicant") has submitted land use change Application No. 1998-76 for a land use change permit to construct a road to serve seven to nine 35+ acre tracts ("Subject Property") in the W ½ NW ¼ Sec. 1, and N ½ Sec. 2, Twn 14 S, R 86 W, 6th P.M., east of the Town of Crested Butte; and

WHEREAS, after a review of the Application and all submitted information, documentation and testimony related to it, the Gunnison County Planning Commission did, on April 9, 1999 forward a Recommendation of approval of that Application with certain Findings and conditions; and

WHEREAS, the Applicant voluntarily has committed to certain covenants and restrictions on future development of the subject land; and

WHEREAS, the Board of County Commissioners has reviewed the available information, including that Recommendation, and has, on May 12, 1999, conducted an onsite visit to the property to observe its characteristics as they relate particularly to this application for land use change permit; and

WHEREAS, the owner of the Subject Property has submitted to Gunnison County his authorization for this Land use Change Application; and

WHEREAS, the Town of Crested Butte has submitted to the Board of County Commissioners a letter dated May 6, 1999, advising the Board of County Commissioners that the Town of Crested Butte does not oppose the processing of this Land Use Change Application by Gunnison County; and

WHEREAS, having considered and evaluated the Application, the Recommendation and all submitted information, documentation and testimony related to it, the Board is fully informed in the matter;

NOW, THEREFORE, the Board of County Commissioners of Gunnison County, Colorado, makes the following findings and approves Land Use Change Application No. 1998-76 as a development of Minor Impact, with the following conditions:

1. The Town of Crested Butte ("Town") and the Applicant have both taken the position that all of the Subject Property is outside of Town, although disconnection of the westerly 90+ or - acres has not legally occurred as required by statute. The Applicant has filed with the Town, an application, signed by the owner of the Subject Property, for disconnection of the westerly 90+ or - acres of the Subject Property. The approval of Land Use Change Application No. 1998-76 is explicitly conditioned upon the final adoption by the Town and recording in the records of the Clerk and Recorder of Gunnison County of a Town ordinance confirming the full and final disconnection from the Town of the westerly 90+ or - acres of the subject property. Unless the Ordinance of disconnection is finally so adopted and recorded, the Board of County Commissioners of Gunnison County will not have clear jurisdiction to grant an approval of all of the land proposed in Application 1998-76. Therefore, this conditional approval will have no legal, equitable or other effect unless and until this explicit condition is met.

2. The Applicant has applied to the Town of Crested Butte, Colorado, for annexation of the westerly 79.28 acres. Access to the Subject Property from the streets of the Town from the subject parcel is subject to the reasonable authority of the Town. Subject to that reasonable authority, the access point herein approved is:

- a. Elk Avenue if the annexation is approved; or
- b. Teocalli Avenue if the annexation is not approved.
- c. Such other location as may be approved by the Board of County Commissioners, the Town of Crested Butte and the Applicant.

3. The Applicant voluntarily has committed on behalf of itself, its successors and assigns:

a. To permanently restrict by Declaration of Protective Covenants the applicable portions of which shall not be amended without the prior written approval of Gunnison County, and by such other mechanisms as may be reasonably required by Gunnison County, the Subject Property so that no further subdivision shall occur of the proposed 35-plus acre parcels or the open space; and

b. To permanently restrict the Subject Property, by Declaration of Protective Covenants the applicable portions of which shall not be amended without prior written approval of Gunnison County, and by such other mechanisms as may be reasonably required by Gunnison County, the following:

- i. Fencing. No parcel shall be fenced more than one (1) acre outside the platted building envelope on each lot;

ii. Total building size. All buildings on any one lot shall not exceed 7500 square feet aggregate of living area; the primary building on any one lot shall not exceed 5000 square feet of living area.

iii. Building Height. The Lot 6 building height shall not exceed 35' from natural grade to the highest point of the building. On all other lots, building height shall not exceed 35' from the lowest point where the foundation meets grade to the highest point of the building.

c. Fully disclose this Resolution to each potential purchaser of the Subject Property or any portion of it; and

d. To indemnify, defend and hold harmless the Board of County Commissioners of Gunnison County, Colorado, its officials, employees and agents from and against any claim, demand, lawsuit or damages that may arise directly or indirectly from this approval filed prior to the final enactment a Town ordinance confirming disconnection of the westerly 90 + or - acres of the Subject Property from Town by any person or entity who presently has or acquires from Applicant a recorded, contractual or other interest in the Subject Property. The Applicant shall provide security in a form acceptable to Gunnison County in the amount of fifty thousand dollars (\$50,000.00) cash to the County for this provision; such security shall be released upon final enactment of such Town ordinance of disconnection. In all events, the County shall have the right, subject to the Applicant's reasonable approval to chose the attorney(s) to defend the County, pursuant to this provision.

e. This conditional approval will have no legal, equitable or other effect unless and until documentation has been provided to Gunnison County and accepted by the Board of County Commissioners that such commitments have been met by Applicant.

4. All roads within the property shall be constructed as a "Rural Lane" in accordance with the requirements of the Gunnison County Road and Bridge Standards issued by the County. All maintenance and snowplowing shall be the responsibility of the property owners association; the County shall not be responsible for maintenance, snowplowing or improvement of the roads. The roads shall be private unless easements are granted by the owner of the Subject Property to the public in the future.

5. A development improvements agreement in a form and substance acceptable to Gunnison County and accompanied by sufficient collateral shall be submitted by the Applicant or its representative subject to approval by the Gunnison County Attorney. Such agreement shall fully incorporate the construction design plans prepared by Schmueser Gordon Mayer, dated February 12, 1999 by the cover sheet, as may be amended by the

County and Applicant, and Town of Crested Butte if the annexation is approved. This conditional approval will have no legal, equitable or other effect unless and until this explicit condition is met.

6. All construction is subject to requirements of the Gunnison County Board of Commissioners Resolution Series 1998 No. 13, "A Resolution Adopting a Policy Requiring the Implementation of Earthmoving Site Revegetation and Noxious Weed Control Plans for Development and Land Use Changes."

7. At such time in the future as an application may be submitted to the County for construction of a second dwelling unit on any parcels of the Subject Property, additional land use change, environmental health and other applicable County permit applications shall be required.

8. A copy of the plat of these parcels, with location of roads and driveways shall be submitted by Applicant to the Gunnison County Planning Director and shall be recorded by the Applicant at Applicant's cost. Upon completion of the road construction Applicant shall submit to the Planning Director two (2) sets of "as-built" plans.

9. A copy of the U.S. Army Corps of Engineers 404 Wetland Permit shall be submitted by the Applicant to the Planning Director prior to initiation of any road construction approved herein.

10. Any and all development on the subject land shall comply with all then existing regulations, requirements and standards of the Crested Butte Fire Protection District.

11. Dust control during and after road construction will be provided by the Applicant, its successors or assigns, by application of water, magnesium chloride or other appropriate measures as required by Gunnison County.

12. Bridge design is subject to the approval of the County Department of Public Works. Bridge design shall be to a fifty year flood standard, shall comply with requirements as may be imposed by a U.S. Army Corps of Engineers 404 wetlands permit, and shall be reviewed by an independent engineer, selected by the County Department of Public Works, at the expense of the Applicant.

13. All roads that are abandoned shall be reclaimed and revegetated with appropriate native vegetation by Applicant at Applicant's cost.



493678 06/09/1999 02:01P 447

5 of 6 R 0.00 D 0.00 N 0.00 Gunnison County

14. The Applicant shall submit to Gunnison County, on the plat of the Subject Property before it is recorded, appropriate recordable documentation that ensures snow removal from the access to this property so long as residences are located on the property.

15. Approval of this application is not and shall not be construed to be approval by Gunnison County of any covenants for this development except as expressly provided herein.

16. Board of County Commissioners of Gunnison County Resolution No. 95-34 affirms that it is the policy of Gunnison County that individual parcels of land greater than 35 acres in size are subject to the same County review and regulatory processes as individual parcels less than 35 acres in size except, as is generally provided in current state statute, for the act of subdividing such parcels into resultant parcels all of which are 35 acres or greater in size. Except as expressly provided herein, nothing in this Resolution is or shall be construed to be an approval or waiver by Gunnison County of any land use, environmental, building, environmental health, driveway or other regulatory requirement, or approval of any building envelope, on the Subject Property or any resultant parcel into which it may be divided.

17. This Resolution does not mean or imply that any lot or parcel accessed by the road approved herein is suitable for or shall receive County approval for any residential or other development.

18. This conditional approval is limited to activities described within the "Project Description" of this application and as depicted on the site plan and the road plan and profile submitted as part of this application. The site plan is a one (1) page document dated December 18, 1998; the road plan and profile is a six (6) page document dated February 12, 1999. Expansion or change of this use except minor realignments of the road will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the Gunnison County Land Use Resolution.

19. The road approved by this Resolution shall provide access only to seven (7) 35+ acre parcels; if annexation is not approved by the Town of Crested Butte, the road shall provide access only to an additional two (2) 35+ acre parcels of the 79.28 acres that are the subject of the annexation.

THIS CONDITIONAL APPROVAL is made noting that decision documentation includes, but is not limited to the application and the entire Planning Department land use change permit file relative to this application.



493678 06/09/1999 02:01P 447

6 of 6 R 0.00 D 0.00 N 0.00 Gunnison County

FURTHER, THIS CONDITIONAL APPROVAL SHALL TERMINATE AND BE OF NO LEGAL, EQUITABLE OR OTHER EFFECT unless all the conditions specified above are accomplished by December 31, 2001.

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

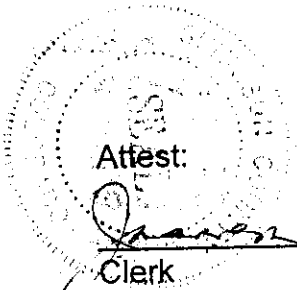
INTRODUCED by Commissioner Field, seconded by Commissioner Zanetell, and passed on this 18th day of May, 1999.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By Fred Field
Fred Field, Chairperson

By Marlene Zanetell
Marlene Zanetell, Commissioner

By OPPOSED
Jim Starr, Commissioner



Attest:

James Reitzel
Clerk