9

RESOLUTION NO. 2014-40

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO AMENDING DRIVEWAY DEVELOPMENT REGULATIONS IN THE LA PLATA COUNTY LAND USE CODE

WHEREAS, pursuant to the Colorado Planning Code, C.R.S. § 30-28-101, *et seq.*, the Board of County Commissioners of La Plata County, Colorado (the "Board") is empowered to plan and provide for the physical development of the unincorporated territory of La Plata County (the "County");

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, *et. seq.*, empowers the Board to plan for and regulate the use of land within the unincorporated territory of the County, including but not limited to: regulating the use of land on the basis of the impact thereof on the community or surrounding areas; regulating the location of activities and developments which may result in significant changes in population density; providing for phased development of services and facilities; and otherwise planning for and regulating use of land so as to provide for the planned and orderly use of land;

WHEREAS, Colorado counties possess those powers enumerated by the Colorado Constitution and Colorado Revised Statutes and such further incidental implied powers as are reasonably necessary to carry out the express powers;

WHEREAS, the Colorado Planning Code and Local Government Land Use Control Enabling Act constitute a broad delegation of authority to the County generally encompassing the subject of land use;

WHEREAS, pursuant to these authorities, the Board adopted land use regulations and subdivision regulations set forth in Subpart B of the La Plata County Code (the "Code");

WHEREAS, the Planning Commission for the County held a duly noticed public hearing November 20, 2014, and after receiving competent evidence at the hearing, made a recommendation to the Board to approve Project No. 2014-0275;

WHEREAS, the Board held a duly noticed public hearing on December 9, 2014 and heard testimony and received competent evidence that Sections 66-1 and 74-97 of the Code should be amended, as set forth in the attached Exhibit A, to address new driveway development; and

WHEREAS, the Board received competent evidence that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to amend Sections 66-1 and 74-97 of the Code, as set forth in the attached Exhibit A, to address new driveway development.

NOW THEREFORE, BASED UPON THE EVIDENCE AND TESTIMONY PRESENTED AT THE PUBLIC HEARINGS, BE IT RESOLVED BY THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS, THAT:

1. The La Plata County Code shall be and is hereby amended to revise the La Plata County Land Use Code regulations for new driveway development in the unincorporated portions of La Plata County, as set forth in the attached Exhibit A.

2. The revised driveway regulations, as identified in the attached Exhibit A, shall become effective and applied to all new driveway development applications beginning on April 1, 2015.

DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 9TH day of December, 2014.

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

ATTEST:

Clerk to the Board

Julie Westendorff, Chair

Gwen Lachelt, Vice-Chair

Robert A. Lieb, Jr., Commissioner

EXHIBIT A

The following definition shall replace the definition of "driveway" in Section 62-1:

Driveway means a roadway, from the intersection with the adjacent public or private road, measured from the shoulder or surface edge to the furthest dwelling unit or accessory structure that provides access to a maximum of two (2) lots or three (3) dwelling units with twenty-four (24) or less ADT.

The following section shall replace the current version of Section 74-97:

Sec. 74-97. Driveways.

(a) *Purpose.* The intent of this section is to provide safe ingress and egress for driveways and adequate access for emergency responders to protect the health, safety and welfare of the community, while recognizing the need for flexibility in driveway development.

(b) *Permits for new development; exceptions.*

(1) A driveway permit that complies with this section shall be obtained from the department of public works prior to issuance of the following:

a. A final building permit or certificate of occupancy for a new dwelling unit; and

b. An Administrative, Class I or Class II permit that serves twenty-four (24) or less ADT.

(2) A driveway permit is not required for and all standards in this section shall not apply to the following:

a. Development of additional dwelling units that are subject to administrative review pursuant to section 82-37(b);

b. Redevelopment or reconstruction of an existing dwelling unit. For the purposes of this section, a manufactured home shall be considered a dwelling unit;

c. Development of a dwelling unit that was issued a valid building permit prior

to April 1, 2015;

d. Development of a primary dwelling unit on a parcel that duly obtained a driveway permit from the County and constructed such driveway prior to April 1, 2015; and

e. Development of a dwelling unit that utilizes a driveway that is less than 125 feet in length and intersects with a private road or public non-County road.

(3) Reserved.

(4) A driveway or access that intersects with a County road and serves a vacant lot or an agricultural use shall be exempt from the requirements of this section but shall be required to obtain a permit prior to commencing work within the right-of-way.

(5) Development of a primary dwelling unit on a parcel that intersects with County Road 124 at a point north of where the County's winter maintenance terminates shall not be required to obtain a driveway permit; however, such driveway shall be required to obtain a permit prior to commencing work within the right-of-way.

(c) *General standards.* Driveways shall meet the following requirements:

(1) Surface width. For horizontal tangent (straight) sections of driveway, the surface width shall be twelve (12) feet, with two (2) foot clear zones on each side that are free from unmovable obstructions. For curved sections with a centerline radius of 150 feet or less, the surface width shall be sixteen (16) feet with two (2) foot clear zones that are free from unmovable obstructions with appropriate tapering from tangent sections. Curved sections that are less than 100 feet in length, as measured along the centerline, and that do not exceed a 90 degree change in direction, shall be permitted to maintain a surface width of twelve (12) feet.

(2) Surface. To ensure that a driveway can support a 60,000 lb vehicle, the driveway surface, including turnouts and turnarounds, shall be constructed of a minimum 4" Class 6 (3/4" minus) aggregate surface placed on a compacted subgrade material, from the intersection of the roadway to the primary structure(s). The subgrade shall be scarified and compacted to a minimum depth of 12 inches below finished grade and shall be free of roots, sod, weeds, wood, construction debris, ice, snow, or other frozen materials, and deleterious matter. The clear zones are not required to meet a surfacing requirement, but shall not exceed a four (4) foot horizontal to one (1) foot vertical grade. The surfacing requirements are minimum standards and an applicant

may choose to exceed these standards.

(3) Cut and fill slopes. Cut slopes shall not be greater (steeper) than one (1) foot horizontal to one (1) foot vertical and four (4) feet high. Fill slopes shall not be greater (steeper) than two (2) feet horizontal to one (1) foot vertical and four (4) feet high. A slope that exceeds the minimum cut or fill requirements of this paragraph shall either be certified as stable in its current finished state by a Colorado-licensed engineer or shall be designed by a Colorado-licensed engineer.

(4) Maximum grade. The maximum grade shall not exceed twelve (12) percent for horizontal tangent (straight) sections. For curved sections with a centerline radius of 150 feet or less, the grade shall not exceed ten (10) percent. Curved sections that are less than 100 feet in length, as measured along the centerline, and that do not exceed a 90 degree change in direction, shall be permitted to maintain a maximum grade of twelve (12) percent.

(5) Overhead clearance. The minimum overhead clearance shall be thirteen (13) feet, six (6) inches for the width of the entire surface and clear zone. All overhead impediments, including but not limited to wires, tress, and gates, shall remain clear from the intersection of the access road to the termination of the driveway.

(6) Access to a legal property. A driveway shall provide access to a lot that was legally created and has obtained all required land use permits under subpart B.

(7) Legal access. Evidence of legal access across adjoining properties shall be provided through an express grant or a written description of the prescriptive use.

(8) Interior curves. Minimum thirty (30) foot radius inside curves shall be provided.

(9) Turnarounds. Driveways that are longer than 400 feet shall provide a turnaround within 150 feet of the nearest point of the primary dwelling unit. The turnaround shall be designed and constructed to allow a thirty-five (35) foot long emergency vehicle to turn around. Where topography or the length of the driveway influences the location of the turnaround, the public works director is encouraged to contact the applicable fire district for comment on the proposed location. After receipt of comment from the applicable fire district, the public works director may waive or reduce the requirement for a turnaround.

(10) Turnouts. Driveways that are longer than 800 feet shall provide a turnout every 400 feet as measured from the access road. Turnouts shall meet the surface

requirements of this section, shall be sixty (60) feet in length and shall provide twenty (20) feet in surface width with reasonable tapering and two (2) foot clear zones on each side. Driveways that are 1,000 feet or less in length and allow an unobstructed line of sight from the adjacent road to the structure shall not be required to construct turnouts. Where topography or the length of the driveway influences the location(s) of the turnout, the public works director is encouraged to contact the applicable fire district for comment on the proposed location(s). After receipt of comment from the applicable fire district, the public works director may reduce the number of required turnouts or vary the locations of the turnouts.

(11) Drainage. Driveway design and construction shall not adversely affect the drainage on a roadway and any adjacent properties.

(12) Flood hazard areas. Driveways within flood hazard areas shall comply with the requirements in chapter 78 of subpart b.

(13) Bridges. Driveways that utilize bridges shall comply with the standards for low ADT roads as identified in section 74-92 of subpart b and the flood hazard area requirements as identified in chapter 78 of subpart b.

(14) Costs. The cost of all driveway construction, reconstruction and maintenance, including any portion in a public or private right-of-way, including but not limited to culvert design, installation, and replacement, shall be the responsibility of the property owner, unless provided otherwise in a separate written agreement.

(15) Intersection of a driveway and roadway.

a. Driveways that intersect with a county road shall slope away from the shoulder of the road surface at a minimum grade of at least two (2) percent for the first ten (10) feet. All other driveways shall not exceed five (5) percent for the first fifteen (15) feet from the intersection with the shoulder of the road.

b. The axis of the driveway at the intersection with the roadway shall be no less than a sixty (60) degree angle to the centerline.

c. The intersection of the driveway and the roadway shall be at least fifty (50) feet from the intersection of any roadways. The public works director may allow a driveway within fifty (50) feet of an intersection if the driveway is located on a local or low ADT road and there is a determination that the location would not adversely impact the safety of the traveling public.

d. The public works director shall determine if a culvert is required at the intersection of a driveway and a county road. If a culvert is required, the minimum culvert size shall be fifteen (15) inches along a County road and twelve (12) inches along all other roads and the minimum culvert cover shall be eight (8) inches. Culverts along County roads shall be constructed of metal or concrete and shall maintain a slope consistent with the roadside drainage. The public works director may require that a larger culvert and culvert cover is required based on the location of the proposed driveway.

e. Sight distance along a county or state access road at the intersection of the driveway shall meet the Colorado State Highway Access Code minimum standards. Sight distance along all other roads at the intersection of the driveway shall provide adequate sight distance in both directions along the roadway in order to maneuver safely and without interfering with roadway traffic. The public works director may require a Colorado licensed engineer to certify that there is adequate sight distance in both directions along the roadway.

f. House addressing signs shall be visible from the intersection of the roadway and driveway. Such signs shall be made of a non-combustible and reflective material that contrasts in color with the background. Numbers shall be a minimum of four (4) inches high and shall have a minimum stroke width of .5 inches.

g. A maximum of one driveway shall be permitted for a lot with less than 100 feet of frontage. The public works director may allow for more than one driveway for lots with 100 or more feet of frontage after making a determination that an additional driveway does not adversely impact the safety of the traveling public.

(d) *Process*. An application for a driveway permit shall be obtained from the public works department or building department. After review of the design of the driveway and determination of compliance with the provisions of this section, the public works director shall issue a conditional approval of a driveway permit. A conditional approval shall be valid for one (1) year from the date of approval. Upon completion of construction of the driveway, the property owner shall contact the public works department for a final inspection. The public works director shall issue a final approval of a driveway permit if the inspection demonstrates that the driveway construction complies with the provisions of this section. A final building permit or certificate of occupancy may be issued prior to

final approval of a driveway permit if the public works director determines that seasonal conditions prevent the immediate surfacing or completion of the driveway; in such case, a final approval shall be obtained when the seasonal conditions would allow the surfacing to be completed, which shall not be more than six (6) months after issuance of the final building permit.

(e) *Waivers.*

(1) Process. An applicant may submit a written request for a waiver of any general standard in this section to the public works director. The applicant shall provide to the director a postage-paid, addressed envelope and form that seeks comment from the applicable fire district on the waiver request. In addition, the applicant is encouraged to meet with the applicable fire district to discuss the waiver request. The applicable fire district shall be the fire district that provides emergency response to the property served by the proposed driveway. The fire district shall have ten (10) working days from the date of receipt of the comment request to provide the director with comments. Comments received from the fire district shall be placed in the file. The director may grant a waiver from the application of the general standard no earlier than twenty-one (21) days after submittal of the request to the applicable fire district. The applicable fire district shall be treated as a commenting agency and the director shall consider any and all timely comments submitted prior to issuing a final decision. Any waiver granted by public works will be provided in writing and notice shall be provided to the applicable fire protection district.

(2) Mitigating factors to consider. If the public works director receives comment from the fire district that granting the waiver request would present health, safety, and welfare concerns, the director may consider, but is not limited to, the following factors when determining whether to grant the waiver request:

a. Plans for and implementation of substantial defensible space measures, as identified in the State of Colorado Forest Service, Creating Wildfire-Defensible Zones Guide;

b. Provision of adequate on-site water supply capable of supplying fire flow for fire protection, as set forth in Chapter 34 of the La Plata County Code;

c. Design and construction of internal automatic fire sprinkler systems designed and installed in compliance with Chapter 34 of the La Plata County Code for all properties served;

d. Paving of the driveway; and

e. Use of a substantial amount of fire-resistant building construction types and designs recognized for fire adapted communities for all properties served.

(3) Criteria for director determination. The public works director may grant a request for a waiver if he or she determines that the following elements have been satisfied:

a. Topography challenges or other site-specific constraints make it extremely difficult to comply with the standards; and

b. The granting of a waiver will not be detrimental to the health, safety, and welfare of the public, including the occupants of the residential structure(s) served by the driveway.

(4) Limitation of extent of waiver and conditions. The public works director may limit the extent of a waiver to the degree necessary to comply with subparagraph (2). In addition, the director may condition the waiver on the implementation of measures that mitigate health, safety, and welfare concerns. The director's final determination shall be in writing and a copy shall be provided to the applicable fire district.