

**RESOLUTION NO. 2014-31**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO, AMENDING THE LA PLATA COUNTY LAND USE CODE TO ESTABLISH A JOINT PLANNING COMMISSION AND PROCESSES FOR LAND USE DEVELOPMENT WITHIN THE JOINT PLANNING AREA**

**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 duly noticed public hearings on June 26, 2014 and July 10, 2014, and after receiving competent evidence at the hearings, made a recommendation to the Board to approve Project No. 2014-0149;

**WHEREAS**, the Board held a duly noticed public hearing on August 5, 2014 and heard testimony and received competent evidence that the Code should be amended to modify and add provisions related to the Joint Planning Commission, planning document amendments, and development within the Joint Planning Area, as set forth in the attached Exhibit A; and

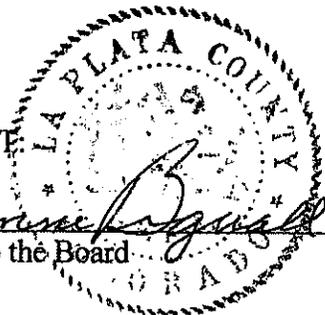
**WHEREAS**, the Board received competent evidence that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to amend the Code to modify and add provisions related to the Joint Planning Commission, planning document

amendments, and development within the Joint Planning Area, as set forth in the attached Exhibit A.

**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 modify and add provisions related to the Joint Planning Commission, planning document amendments, and development within the Joint Planning Area, as set forth in the attached Exhibit A.
2. The enactment of this Resolution is necessary for the immediate preservation of public health, safety and welfare and, therefore, this Resolution shall take effect on date of its adoption.

**DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 5<sup>TH</sup> day of August, 2014.**

ATTEST:   
*Jessica Burgess*  
Clerk to the Board

BOARD OF COUNTY COMMISSIONERS OF  
LA PLATA COUNTY, COLORADO

*Julie Westendorff*  
Julie Westendorff, Chair

*Gwen Lachelt*  
Gwen Lachelt, Vice-Chair

*Robert A. Lieb, Jr.*  
Robert A. Lieb, Jr., Commissioner

## EXHIBIT A

### Sec. 62-1. Definitions.

*Action* means a decision made, by motion, on a particular application by the planning commission, joint planning commission and/or board of county commissioners.

*Joint planning area* shall mean the unincorporated area designated by the board of county commissioners in the Joint Planning Area Map.

### Sec. 66-1. Powers and duties.

(a) *Board of county commissioners.* In accordance with Colorado Revised Statutes, the board of county commissioners shall have the authority to regulate the location and use of buildings and structures, and the use or occupancy of lands for residence, recreation, agriculture, industry, commerce and other purposes in the county; and have the authority to regulate the subdivision of land. The exercise of the board of county commissioners' legal authority shall be in accordance with the provisions of this subpart B.

(b) *Planning commission.* The planning commission shall make recommendations to the board of county commissioners concerning planning matters and decisions as provided for by this subpart B. The planning commission may prepare and recommend amendments to a comprehensive plan for the purpose of promoting the public health, safety and general welfare of the unincorporated areas of the county, and certify the plan to the board of county commissioners. The planning commission shall also render decisions regarding development proposals which are referred to them. Conduct of the planning commission shall be in accordance with their adopted rules of procedure.

(c) *Joint planning commission.* The joint planning commission shall render decisions regarding development proposals pursuant to the requirements of his subpart B.

(d) *Planning department.* The planning department shall have the responsibility to serve the board of county commissioners by accepting complete applications, establishing procedure, serving as public liaison, preparing reports and recommendations to the planning commission, joint planning commission, and board of county commissioners, rendering decisions on development proposals as authorized by this subpart B, inspecting development for compliance with the provisions of this subpart B, notifying the county attorney and board of county commissioners of any suspected violations, and maintaining records and maps regarding the performance of these duties.

(e) *Planning department director.* The planning department director or his or her agent shall administer all permits.

(e) *County surveyor.* The county surveyor shall perform duties as outlined per state statute, and as may be supplemented by resolution of the board of county commissioners.

#### **ARTICLE IV. JOINT PLANNING COMMISSION.**

##### **Sec. 66-57. Established.**

There is hereby established a county joint planning commission for development projects within the joint planning area.

##### **Sec. 66-58. Membership.**

The joint planning commission shall consist of six members, three of whom shall be current members of the City of Durango planning commission and three of whom shall be current members of the planning commission. The City of Durango shall designate the three members from the City of Durango planning commission and the director shall designate the three members from the planning commission. The members may be designated for a term or solely for each joint planning commission meeting.

##### **Sec. 66-59. Quorum, Officers and Bylaws.**

(a) Four members of the joint planning commission shall constitute a quorum for the transaction of business. If a quorum is present, the decision of one or more members to abstain from voting thereon shall not be deemed to constitute less than a quorum for the transaction of business. Action of the joint planning commission shall be by majority vote of those voting at a meeting at which a quorum is present. A tie vote constitutes a denial of an application by the joint planning commission.

(b) The chairperson of the joint planning commission shall be a member of the planning commission and shall be designated for each meeting by the director.

(c) The joint planning commission shall be empowered to adopt such bylaws governing its procedure as it may consider necessary or advisable.

##### **Sec. 66-60. Compensation.**

Members of the joint planning commission shall receive no compensation for their services, except that they shall be reimbursed for actual expenses incurred, subject to applicable provisions of the state statutes and procedures for reimbursement of expenses as approved by the board of county commissioners.

##### **Sec. 66-61. Record of proceedings.**

The joint planning commission shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times pursuant to the policies and procedures of the county.

##### **Sec. 82-9. Location and extent review.**

(a) *Purpose.* The purpose of the location and extent review is to evaluate public uses and utilities, whether publicly or privately owned, for consistency with the comprehensive plan and to provide the planning commission, or joint planning commission, and public with the opportunity to comment on such uses. Location and extent review is intended to be a review process, not a permitting process.

(b) *Uses subject to location and extent review.* Unless excluded under subsection (c) of this section, the following uses shall be subject to location and extent review:

- (1) Public roads and parks;
- (2) Public ways, grounds, and spaces; and
- (3) Public buildings and structures and utilities, whether publicly or privately owned.

(c) *Exclusions from location and extent review.* The following uses are excluded from location and extent review:

- (1) Uses located on unincorporated land that is an enclave within a municipality;
- (2) Upgrades to an existing use, including repairing and/or replacing old or outdated equipment, that are required by state, federal, or local regulation, provided that, in the director's discretion, the improvements do not materially expand levels of service beyond design capacity and that the upgrades do not materially alter the existing location of the existing use;
- (3) Any use or subdivision that has been reviewed and approved by the county as part of a separate land use process; and
- (4) Any use that is solely necessary to serve development that is exempt from land use review under subsection 82-7(a).

(d) *Application contents.* An applicant for location and extent review shall submit the following:

- (1) Applicant and agent's (if applicable) name;
- (2) Address and phone number;
- (3) If the applicant is not the owner of the property where the use is proposed, the parcel number, and the name and address of the property owner(s) where the use is proposed;
- (4) Project narrative that provides a general description of the full scope of the project; and

- (5) Map prepared at an easily readable scale showing:
  - a. Boundary, or alignment for linear projects, of the proposed use;
  - b. Relationship of the proposed use to surrounding topographic and cultural features such as roads, streams, and existing structures;
  - c. Proposed building improvements and infrastructure related to the project; and
- (6) Any other information that the applicant deems beneficial to the public review of the proposed use.

(e) *Planning department application review.* The planning department shall have ten business days to determine completeness of a location and extent application. If the application is incomplete, the planning department shall provide written notice to the applicant citing the application's deficiencies within the ten-day review period.

(f) *Planning commission/joint planning commission review.* Once an application is deemed complete, the planning department shall schedule a hearing before the planning commission or if the project is within the joint planning area, the joint planning commission. Such hearing shall occur within 30 calendar days of the date on which the application is deemed complete. The City of Durango shall be provided notice of any application that is within three miles of its boundaries within three days of the application being deemed complete. The planning department shall mail notice of the hearing to interested local, state and federal agencies and/or other jurisdictions, and to adjacent landowners within 500 feet, or as otherwise determined appropriate by the director based on potential impacts of the property or easement boundaries. The planning commission or joint planning commission may approve the application, disapprove the application, or approve the application with conditions. A hearing may be continued upon consent of the applicant.

(g) *Appeal and notification of decision.* The planning commission or joint planning commission's decision may be appealed pursuant to C.R.S. § 30-28-110(1)(c). In the event the planning commission or joint planning commission's decision is overruled by the body or official having jurisdiction as provided in C.R.S. § 30-28-110(1)(c), the applicant shall notify the planning department in writing of such final decision, and any conditions related thereto, no later than 14 business days after the decision is made.

#### **Sec. 82-11. Subdivision and minor exemption subdivision.**

(a) *Permit required.* No person, corporation, partnership or agency shall subdivide land, or begin the physical layout or development of a subdivision or minor exemption subdivision without first obtaining the approval of the board of county commissioners in the form of a subdivision or minor exemption subdivision permit. A subdivision is subject to a preliminary plat review by the planning commission or joint planning commission and the board, followed by a final plat review by the planning commission, joint planning commission, and/or the board. Final

plat planning commission review may be waived by the planning director if the conditions of section 82-95(c) are met. A minor exemption subdivision is subject to a single plat review before the joint planning commission or board of county commissioners.

(b) *Defined.* See the definitions of the terms "subdivision" and "minor exemption subdivision" in articles I and II of chapter 102 of subpart B of this Code.

(c) *Requirements.* Requirements for subdivision and minor exemption subdivision are as follows:

- (1) Procedure: Subdivision or minor exemption subdivision procedure;
- (2) Data requirements: Subdivision application contents and general data requirements; and
- (3) Standards: Required and encouraged standards. Subdivision design standards and appendices; mobile home and recreational vehicle subdivision standards, if applicable.

#### **Sec. 82-14. Joint planning area development .**

(a) *Joint planning area development defined.* The following types of development within the joint planning area shall be defined as joint planning area development:

- (1) Development requiring a class II permit pursuant to section 82-4;
- (2) Development requiring a subdivision permit, including a minor exempt subdivision permit, pursuant to section 82-11; and
- (3) Development proposing a development agreement pursuant to C.R.S. § 24-68-104(2).

(b) *Requirements.* Joint planning area development shall be required to meet the following requirements:

- (1) Class II or subdivision application, data and noticing requirements;
- (2) Class II or subdivision standards; and
- (3) Procedural requirements, including but not limited to, the specific procedures identified in sections 82-78, 82-81, 82-89 and 92-91.

#### **Sec. 82-15. Amendments.**

(a) *Permits.* Amendments to approved land use permits shall be subject to the following requirements:

- (1) *Major.* Major changes to an approved plat or permit shall require a new application. Major changes shall include, but not be limited to: changes in use, access, any condition of approval, any change resulting in increased offsite impacts, and any similar changes. The director may reclassify the type of application required for a major change. An application to amend an approved permit for a major change shall be a condition precedent to an appeal under section 82-15 based upon such proposed amendment or major change.
  - (2) *Minor.* Minor changes to an approved permit shall require a new application. Minor changes shall include, but are not limited to: corrections of minor drafting errors, modifications of the configuration of structures, reconfiguration of parking areas resulting in no net loss of spaces, changes with no potential for new and increased adverse impacts associated with such a change, and similar changes. The director may reclassify the type of application required for a minor change.
- (b) *Planning documents.* Amendments to planning documents including, comprehensive plans, district plans, and maps, shall be subject to the following requirements:
- (1) *Procedure and notice.* Requests for amendments to planning documents may be made by any person owning an interest in property that is subject to the proposed amendment, the planning department, the planning commission or the board of county commissioners. All amendment requests shall require a public hearing before the planning commission. The planning commission shall consider applications at its annual April and October meetings, except requests for amendments to planning documents directed by the board of county commissioners may be considered at any hearing. Applications shall be submitted to the planning department no later than February 1, and August 1, of each year in order to be eligible for consideration at the next semi-annual planning commission meeting. Notice of the planning commission hearing shall be published at least 14 days in advance in a newspaper of general circulation in the county.
  - (2) *Additional procedures for the Durango District and La Posta Road Area District.* In addition to the requirements set forth in paragraph (1) of this subsection, requests for amendment of the Durango District Plan or La Posta Area District Plan shall be submitted simultaneously to the planning department and the City of Durango. A joint hearing before the planning commission and City of Durango Planning Commission shall be held on the applications, but the decisions of the two commissions shall be made independently.
  - (3) *Criteria.* For planning document amendment requests, the planning commission may consider, but is not limited to, the following criteria:
    - a. Changes in the character of the area;

- b. Consistency with existing plans;
  - c. Whether the property and existing or potential future infrastructure would support the proposed change; and
  - d. The impact on the health, safety, and welfare of the neighbors, area, and community.
- (4) Planning document amendment approval. Amendments to planning documents shall be accomplished through a resolution approved by the planning commission and executed by its chair and secretary. A copy of the approved amendment shall be certified to the board of county commissioners and incorporated municipalities within the county.

**Sec. 82-78. Procedures for land use permit applications.**

- (a) The procedures for administrative land use permits shall be as follows:
- (1) Submittal of complete application by applicant;
  - (2) Determination by planning department; and
  - (3) Potential call-up to the board pursuant to section 82-91.
- (b) The procedures for class I land use permits shall be as follows:
- (1) Submittal of complete application by applicant;
  - (2) Review by planning department;
  - (3) Determination by planning commission; and
  - (4) Potential call-up to the board pursuant to section 82-91.
- (c) For joint planning area development, the procedure shall be as follows:
- (1) Submittal of pre-application by applicant;
  - (2) Referral to and review by the City of Durango for annexation determination;
  - (3) Submittal of a complete application to and review by the planning department;
  - (4) Review by and conference with the City of Durango for development proposing an alternative public water system;
  - (5) Determination by the joint planning commission; and

- (6) Potential call-up to the board pursuant to section 82-91.
- (d) For development not within the joint planning area, the procedures for class II land permits, conceptual development plans and subdivision plats shall be as follows:
  - (1) Submittal of complete application by applicant;
  - (2) Review by planning department;
  - (3) Recommendation by planning commission; and
  - (4) Determination by the board.

**Sec. 82-81. Director report; administrative review; class I projects, lot consolidations, minor exemption subdivisions and boundary adjustments.**

(a) Administrative review shall be subject to all procedures in this chapter, except sections 82-82, 82-83, 82-85, 82-88, 82-92(b),(d),(e) and (f), 82-93.

(b) Class I projects and lot consolidations shall be subject to all of the procedures in this chapter, except sections 82-82, 82-83 and 82-95. Boundary adjustments and minor exemption subdivisions shall be subject to all of the procedures in this chapter except sections 82-82 and 82-83. The director shall make a recommendation to approve, approve with conditions or deny the proposal. If the proposed development implements or has no effect on all relevant required standards, the director shall recommend approval of the proposed development. The director may attach conditions which are reasonably required or necessary to comply with the standards of this division. The results of this recommendation shall be referred to the joint planning commission or the planning commission for a public hearing. At the public hearing at which the project is presented to the joint planning commission or the planning commission, the joint planning commission or the planning commission may, by vote, approve, deny, approve with conditions, continue or remand the project to the planning director for additional review.

(c) Where class I projects, lot consolidations, minor exemption subdivisions and boundary adjustments, and any other project or facility made eligible for this procedure by this division, meet or exceed all required standards, requirements, procedures and specifications, and which are recommended for approval, or approval with conditions, the planning director, or his designee, may, but shall not be so required, place such matters on a minor projects proposed consent planning public hearing agenda. The planning commission may approve such consent agenda with a single motion, or pull any such project off of the proposed consent agenda for project specific review, at that public hearing. Any commissioner, member of the public, applicant or county staff person may request such project specific review at the public hearing.

**Sec. 82-89. Joint planning area development requirements..**

(a) *Referral to and review by the City of Durango.* Applications for joint planning area development shall be referred to the City of Durango for a determination on eligibility for annexation and central water services. The City of Durango shall have thirty (30) days to review and comment on annexation eligibility and central water or sewer services. If written comment is not received from the City of Durango within thirty (30) days from the date of referral, then the subject property shall be deemed ineligible for annexation.

(b) *Annexation.*

(1) **Eligible properties.** If the property is eligible for annexation, the application for joint planning area development shall not be processed by the planning department until it receives written notice from the City of Durango that:

- a. the owner of the property subject to the application does not desire annexation and there is no other basis for voluntary annexation under C.R.S. § 31-12-107;
- b. the City of Durango does not desire to annex the subject property;
- c. annexation of the subject property has been denied;
- d. the planning department did not receive comment on eligibility within the timeframe referenced in subsection (a) of this section; or
- e. annexation is not required pursuant to subsection (d) of this section.

(2) **Ineligible properties.** If the property is not eligible for annexation, the application for joint planning area development shall be processed by the planning department.

(c) *Water.*

(1) **Implied consent agreements.** If the application for joint planning area development is not eligible for annexation but is either required pursuant to section 82-182 to connect to or proposes to connect to the City of Durango's central water system, an executed implied consent agreement between the property owner and the City of Durango shall be required, unless a determination is made pursuant to subsection (d) of this section that an implied consent agreement is not required.

(2) **Applications proposing public water systems.** Any application for joint planning area development that proposes use of a public water system must meet and confer with the City of Durango. The City of Durango shall have sixty (60) calendar days from the date of the meeting to determine whether it will agree to allow the extension of water service for the proposed development. If the City of Durango determines that it is willing to allow the extension of water service to the

proposed development annexation or an implied consent agreement with the City of Durango will be required, subject to subsection (d) of this section, unless the applicant can demonstrate that the public water system satisfies the requirements of sections 82-183 and 82-186 and that the use of the proposed public water system is compatible under the compatibility standards set forth in sections 82-191 and 82-192.

(d) *Annexation and implied consent review.*

- (1) **Review procedure.** When a determination is made that annexation or an implied consent agreement is required under subsection (b) or (c) of this section, an applicant may request an annexation or implied consent review if the applicant is unable to agree to the terms proposed by the City of Durango in an annexation or implied consent agreement. A review request shall be submitted to the director in writing and explain the key provisions in the proposed agreement and why such agreement cannot be achieved. A hearing shall be set before the joint planning commission for review of the agreement within twenty-one (21) calendar days of receipt of the letter. The joint planning commission shall review the applicant's submittals and shall make a determination of whether the City of Durango is proposing requirements in the agreement that exceed the then current City Development Standards and Land Use Code. The applicant or the City of Durango may appeal the determination of the joint planning commission to the board of adjustment pursuant to the process set forth in section 66-22.
- (2) **Determinations.** If a determination is made that the proposed requirements in the agreement do not exceed City Development Standards and Land Use Code, the applicant shall be required to either annex or enter into the proposed implied consent agreement according to the proposed terms required by the City of Durango. If it is determined that such standards have been exceeded, the joint planning commission's determination shall set forth in writing and with specificity the nature and extent of the proposed requirements that exceed the current Development Standards and Land Use Code. The City of Durango shall have twenty-one (21) calendar days after the decision to determine if it is willing to bring the requirements into compliance with the then current City Development Standards and Land Use Code. If the City of Durango does not modify its proposed agreement as required by the joint planning commission, annexation or an implied consent agreement shall no longer be required and the joint planning area development application may be processed with the removal of the requirement that the proposed public water system demonstrate compatibility pursuant to sections 82-191 and 82-192. However, the applicant must still demonstrate the public water system satisfies the requirements of sections 82-183 and 82-186.

**Sec. 82-91. Call up procedure.**

(a) *Administrative and Class I call up procedure.* The director and the planning commission's determination for administrative and class I applications, respectively, shall be subject to a call-up hearing before the board. Within twenty (20) calendar-days following the determination by the director or the planning commission, the applicant, a surrounding landowner entitled to receive mailed notice of the application pursuant to section 82-85, or an individual county commissioner may request review of the director or the planning commission's determination by submitting a written request to the planning department. Upon receipt of a request for a call-up hearing by the planning department, the director or planning commission's determination shall be reviewed no later than twenty (20) calendar days from the date of the planning department's receipt of such request. At the call-up hearing, the board shall conduct a *de novo* review of the administrative or class I application and may either continue the project, approve the project, conditionally approve the project, deny the project, or remand the project to the director or the planning commission for further consideration pursuant to the requirements and standards adopted in this subpart b.

(b) *Joint planning commission call-up procedure.* The joint planning commission's determination for class II applications, subdivision applications, and development agreements shall be subject to a call-up hearing before the board. Within twenty (20) calendar-days following the determination by the joint planning commission, the applicant, a surrounding landowner entitled to receive mailed notice of the application pursuant to section 82-85, the Durango City Council, or a member of the board, may request review of the joint planning commission's determination by submitting a written request to the planning department. The joint planning commission's determination shall be reviewed by the board no later than twenty (20) calendar days from the date of the planning department's receipt of such request. At the call-up hearing, the board shall conduct a *de novo* review of the class II application and may either continue the project, approve the project, conditionally approve the project, deny the project or remand the project to the joint planning commission for further consideration pursuant to the requirements and standards adopted in this subpart b.

(c) *Final action.* A determination by the director on administrative applications, the planning commission on class I applications or the joint planning commission on class II applications, subdivision applications and development agreements shall be deemed final after either:

- (1) The expiration of the twenty (20) day call-up period following the director, the planning commission, or the joint planning commission's determination where there was no request to call-up the application to the board; or
- (2) If a call-up is requested, the board's final decision on the application, unless remanded to the director, the planning commission or the joint planning commission.

(d) *Plat or agreement execution.* After final action as defined by sub-section (c) above, an associated plat or agreement shall be signed and dated by the Chair of the board and attested by the Clerk to the board, regardless of whether the project was called-up to the board.

(e) *Judicial appeals/ripeness.* As a prerequisite to seeking judicial review of a determination by the director on an administrative application, the planning commission on a class I application or the joint planning commission on a class II application, subdivision application and development agreement, consideration of the application must have been called up pursuant to sub-section (a) or (b) above.

**Sec. 82-92. Action by planning office.**

(a) *Review for completeness; accept or reject.* Incomplete applications, as determined by the planning staff, shall not be accepted for review. The planning staff shall review the application for completeness within fourteen (14) calendar days of the receipt of agency review comments. If the application is deemed to be incomplete, the planning staff shall notify the applicant by mail of the deficiencies in the application and how the deficiencies may be remedied. The planning staff has no obligation to place incomplete applications on the planning commission or joint planning commission agenda. Complete applications shall be accepted.

(b) *Compatibility assessment; special study.* Within ten working days of the acceptance of a complete application, the planning staff shall determine whether a compatibility assessment and/or special study shall be required. (See sections 82-191 and 82-196.)

(c) *Review compliance with standards.* The planning staff shall review the application in terms of compliance with the required standards, encouraged standards of the permit system, and contents of subpart B of this Code. Within twenty-one (21) working days after acceptance of a complete application, the planning staff shall notify the applicant of the results of the review and how any deficiencies may be mitigated. Any and all variances to required standards shall be obtained prior to the processing of any project to the planning commission, joint planning commission and/or board of county commissioners. Applications shall not be processed subject to obtaining such a variance to any required standard.

(d) *Staff recommendation and report.* The planning staff shall write a staff report and recommendation. The report and recommendation shall include discussion of the relevant issues pertaining to the compliance of the application to the standards of this division and a recommendation of approval, denial or continuance for additional information. After the review of the standards is complete, should the applicant so desire, the applicant may request a conference with the director or his designee. The director shall make a decision to recommend approval, approve with conditions or deny the proposal. The director may recommend the attachment of conditions which are reasonably required or necessary to comply with the standards or this division. Such report shall include a copy of the application, the staff's impact analysis for the project, and any other relevant materials. At the public hearing at which the project is presented, the planning commission, joint planning commission or board of county commissioners may, by vote, approve, deny, approve with conditions, continue or remand the project for additional review.

(e) *Distribution of planning staff report and recommendation.* The planning staff shall send copies of the report and recommendation to the applicant, planning commission, joint planning commission and county attorney. The report and recommendation are also available, upon

request, to adjacent property owners. The same process shall be used prior to the board of county commissioners hearing except that the board of county commissioners shall also be sent copies of the recommendation of the planning commission.

(f) *Notice of hearing publicized.* The director shall distribute notice of the public hearing to the applicant, the adjacent and surrounding landowners (those within 500 feet of any portion of the property boundary), and the planning commission or the joint planning commission no later than seven days before the scheduled hearing. Such notice may be by postcard. The planning staff shall publicize the planning commission and the joint planning commission's agenda once within a period of not less than ten (10) nor more than thirty (30) days before the scheduled hearing in a local newspaper. The contents of that notice shall be as follows:

- (1) Time and place of the public hearing;
- (2) Legal and practical description of the property and specific characteristics of the proposed development; and
- (3) The address and telephone number of the county planning office where information concerning the proposed development can be obtained.

The planning staff shall follow the same procedure in publicizing the board of county commissioners agenda prior to the scheduled meeting of the board of county commissioners.

**Sec. 82-93. Planning commission/joint planning commission/board of county commissioners action; all applications.**

(a) *Quorum; planning commission.* There shall be at least a quorum of three members of the planning commission in order to entertain motions at a meeting. In the event of the absence of a quorum, the application shall be deemed continued to the next meeting of the planning commission.

(b) *Quorum; joint planning commission.* There shall be at least a quorum of four members of the joint planning commission in order to entertain motions at a meeting. If a quorum is not present, applications shall be deemed continued until the next meeting of the joint planning commission.

(c) *Quorum; board of county commissioners.* There shall be at least a quorum of two members of the board of county commissioners in order to entertain motions to approve, deny, remand or continue applications. If a quorum is not present, applications shall be deemed continued until the next board of county commissioners planning agenda.

(d) *Record of proceedings.* The planning commission, joint planning commission and the board of county commissioners shall maintain a record of its proceedings in the form of written minutes. The minutes shall include any and all comments as well as any written evidence presented during the proceedings.

Sec. 82-94. Action.

The planning commission, joint planning commission and board of county commissioners shall hear relevant evidence from the applicant, neighbors, governmental agencies and other concerned citizens before taking action on an application. The planning commission, joint planning commission and the board of county commissioners shall have the discretion to continue any application for purposes of additional information. The planning commission, joint planning commission or the board of county commissioners shall take one or more of the following actions:

(1) *Review criteria and staff recommendation.* All applications shall be reviewed in accordance with the adopted standards and policies as set forth in subpart B of this Code. The county planning staff recommendations shall be reviewed and considered.

(2) *Approval.* If the application meets all required standards, and is determined to be a compatible development, the application may be approved. The application may contain conditions or stipulations which attach to the permit. The conditions or stipulations shall be as specific as possible and shall be based on and carry out the objectives set forth in subpart B of this Code. An adopted motion to approve shall be deemed to be a finding of compatibility.

(3) *Permit denial.* If the application does not meet all the required standards and/or is determined not to be a compatible development, the permit application shall be denied. This shall not be construed as limiting the denial of any application to those applications which fail to meet required standards. The chair shall encourage commissioners to state their reasons for voting for denial.

(4) *Continuance of application.* Continue the application and direct the applicant and/or the planning staff to take specific steps to bring the application into conformance with the required and/or encouraged standards and the purpose of this division. The planning commission, joint planning commission and the board of county commissioners may direct the applicant and/or the planning staff to gather additional specific information or studies relevant to the application. The board of county commissioners may, but shall not be so required, remand the application for additional planning director, planning commission, or joint planning commission review. The board of county commissioners should state the basis for the remand in the motion to remand.

Sec. 82-95. Final subdivision plats.

(a) *Applicant to draft final plat; meet deadline.* After an applicant has received preliminary plat approval from the joint planning commission or board of county commissioners, the applicant may prepare and submit a final plat application. The final plat application shall incorporate all the changes, suggestions, conditions or stipulations required by the joint planning commission or board of county commissioners at preliminary plat approval.

(b) *Director of planning review.* The director of planning has no obligation to accept a final plat application which is incomplete, incorrect and/or does not include all the conditions or stipulations attached to the preliminary plat and/or conceptual development plan approvals.

(c) *Conditions of approval.* If the final plat application meets all conditions of approval and required standards, the director of planning may, but shall not be so required, process the final plat directly to the joint planning commission or board of county commissioners for a public hearing. The director of planning shall report to the planning commission those final plats processed directly to the board of county commissioners.

(d) *Hearings and filings.* The planning commission, if applicable, the joint planning commission and the board of county commissioners shall hear final plat applications according to procedures outlined in this section. Approved final plats and associated documents shall be filed and recorded with the county clerk and recorder. The county clerk and recorder shall sign the plat and record all the associated documents. Preliminary plats need not be recorded.

**Sec. 82-167. Density.**

(a) *Density requirements for class I development.* The density requirements for class I development are set forth in subsection 82-37(c).

(b) *Density requirements and lot size criteria for other developments.* The density requirements for all developments except those specified in subsection (a) of this section shall be as follows:

- (1) *Lot size review.* The applicant shall propose the sizes of lots intended for the development. If the joint planning commission or board of county commissioners finds that the proposed lot sizes and/or number of lots are not compatible, it shall request alternative lot sizes/numbers. The permit application shall be denied or tabled until appropriate lot sizes/numbers are proposed by the applicant.
- (2) *Development shall function on one lot.* The development shall function efficiently and safely without overcrowding on one lot, given the lot's topography, location, hazards and the development's utilities; vehicular, pedestrian, and emergency access; parking; individual sewage disposal systems; storage of trash, snow and other items; structures; open space; and room for expansion.
- (3) *Mitigate external nuisances.* The developed lot shall contain and/or mitigate external nuisances. External nuisances include, but are not limited to: odor, noise, vibration, glare, dust, smoke, water vapor and radiation.
- (4) *Compatibility of density.* The development shall be compatible with adjoining and/or surrounding densities and uses in terms of the preservation of view, the design, bulk and height of the proposed structures, and preserve the privacy of neighbors. Development which disrupts views and is incompatible with neighboring development in terms of bulk, height and use is discouraged.

- (5) *Class II multifamily.* Class II multifamily developments may go below the 10,000 square feet per dwelling unit standard when central water and sewer is provided and the project meets all other applicable required standards.

**Sec. 82-178. Setbacks.**

(a) *Development prohibited within right-of-way.* Development within a county right-of-way or road easement is prohibited and shall be removed by the property owner immediately upon discovery; failure to remove development within the right-of-way or road easement shall constitute a violation of this division and be considered a public nuisance.

(b) *Setbacks; Administrative and Class I developments.* The following minimum setbacks shall apply to all structures within developments that are approved by way of Administrative and Class I processes.

- (1) Front setback for all lots: Twenty (20) feet from the lot line.
- (2) Side and rear setbacks for lots over 10,000 square feet: Ten (10) feet from the lot line.
- (3) Side and rear setbacks for lots 10,000 square feet and less: Five (5) feet from the lot line.

(c) *Setback criteria; Class II developments.* The applicant shall propose setbacks which meet the criteria of this subsection. The planning commission, joint planning commission and/or board of county commissioners shall review the adequacy of the proposed setbacks using the setback criteria. If the joint planning commission or board of county commissioners finds that the proposed setbacks are inadequate in terms of the criteria, it shall require alternative setbacks. The permit application shall be denied or continued until setbacks that comply with this subsection are provided. A minimum setback of 20 feet from public roads shall be required. Structures shall be set back far enough from the property line to allow for:

- (1) Sunlight and air to enter the structure;
- (2) Preventing the spread of fire;
- (3) Maintaining existing vegetation whenever possible. Existing vegetation may require alternative setbacks;
- (4) Protecting the privacy of neighbors. Development which causes noise, odor, dust, smoke, glare, vibration, unsightly equipment or other external effects which can reasonably disturb neighbors may require alternative setbacks;
- (5) Compatibility with similar existing setbacks in the general area;
- (6) Providing room for snow removal and for preventing the shedding of snow onto

adjacent properties or facilities and roadways;

- (7) Adequate visibility of traffic from driveways and intersections;
  - (8) Meeting building code requirements; and
  - (9) Adequate ingress, egress and general traffic safety.
- (d) *Setbacks from streams, rivers and wetlands.* Structures shall have a minimum setback of 50 horizontal feet from delineated wetlands and bank high-water line of streams and rivers.
- (e) *General setback application.*
- (1) The front lot line shall be that from which primary access is obtained;
  - (2) On corner lots, each right-of-way frontage shall meet front setback regulations;
  - (3) Above-grade architectural features such as cornices, attached canopies (excluding carports), eaves, bay windows, or similar features may encroach up to four (4) feet into a required setback; and
  - (4) Above-grade surface equipment for the service of propane and other utility gasoline or oil shall be a minimum of ten (10) feet from any right-of-way.
  - (5) When dedicated open space exists between a lot line and a public right-of-way, the open space may be used for the appropriate portion of the required setback.

**Sec. 82-191. Applicability.**

- (a) Compatibility assessment shall be required if the proposed development has the potential to produce or is influenced by one or more of the following adverse external effects:
- (1) Conflicting land uses and/or density.
  - (2) Substantial increases in traffic above existing levels, reduction in service level of the affected road, or the generation of traffic beyond the capacity of existing roads.
  - (3) Adverse change in or unsightly views.
  - (4) Glare.
  - (5) Dust.
  - (6) Smoke.

- (7) Pollution.
- (8) Water vapor.
- (9) Noise.
- (10) Vibration.
- (11) Odor.
- (12) Other potential or existing negative effects due to the mixture of development.

(b) The compatibility of the project shall ultimately be determined by the planning commission, joint planning commission or board of county commissioners. The director shall make the initial determination based on the information supplied in the application, as well as available information or documentation concerning the character of the existing neighborhood.

**Sec. 82-193. Procedure.**

(a) *Generally.* The assessment procedure shall involve the following:

- (1) Review by director.
- (2) Neighborhood compatibility meeting.
- (3) Planning commission or joint planning commission hearing.
- (4) Board of county commissioners hearing, unless there is no call-up of the planning commission or joint planning commission determination.

(b) *Neighborhood compatibility meeting.*

- (1) *Purpose.* A neighborhood meeting, which is not a public hearing, shall be held prior to the public hearing for the project. The purpose of the meeting is to provide public input to land use decisions at the local level. The planning commission, joint planning commission or board of county commissioners shall determine whether the proposed development meets compatibility standards as outlined in subsection (c) of this section.
- (2) *Notification of parties.* The county shall mail notice of the neighborhood meeting to owners of property adjacent to and within 500 feet of the perimeter of the proposed development at least seven days prior to the meeting.
- (3) *Procedure and content.* The staff shall prepare an agenda and chair the meeting. The applicant shall explain the proposed project and shall produce a sketch plan showing how the buildings and associated uses will be located on the site, as well

as distances to property lines, adjoining homes, buildings, streams and the like. The sketch plan may be rough in nature and need not be drawn to scale, but accurate distances shall be shown. The applicant shall state what methods are planned to make the use compatible with adjoining and surrounding uses. Following the applicant's presentation, the neighbors may question the applicant on issues presented and the impacts of the use on the neighborhood. After problems have been discussed, possible solutions will be sought by the applicant and the neighbors. Possible solutions include, but are not limited to, the following:

- a. *Increased traffic.* Upgrade road design; control access; separate pedestrian and vehicular traffic; buffer parking and roads.
  - b. *Unightly view.* Screen use or view with natural or manmade materials; increase distance between proposed use and surrounding development; provide for the tidy arrangement of outdoor storage areas.
  - c. *Noise.* Create a noise buffer or barrier; shield noise generator; increase distance between noise generator and surrounding uses.
  - d. *Odor, dust, glare, smoke, water vapor, radiation.* Change emitter specifications to mitigate problem; buffer; increase distance between the source of the problem and surrounding uses; increase lot size.
  - e. *Creation of effluent.* Filter or scrub pollution; increase distance between pollution generator and surrounding uses; change specification of emitter to reduce effluent.
  - f. *Change of neighborhood character.* Dedicate land for public use; buffer; increase lot size; combine above techniques.
- (4) *Summary.* Following the exchange of views between the applicant and the neighbors, the staff shall summarize the points of agreement and contention, and ask those present whether the positions thus stated are an accurate representation of the consensus of those present. On the basis of the summary discussion, the staff shall prepare a report on the compatibility meeting. The report shall include whether an agreement has been reached between neighbors and the applicant, the points of agreement and contention, and, if an agreement has been reached, recommended conditions of approval to be placed on the permit application.
- (c) *Planning commission/joint planning commission/board of county commissioners hearing.*
- (1) The planning commission, joint planning commission and board of county commissioners shall be given the report of the neighborhood meeting. The board of county commissioners shall be given the report of the planning commission determination. The planning commission at its hearing, the joint planning

commission at its hearing and the board of county commissioners at its hearing shall make a determination on whether or not the development is compatible. In making its determination, the planning commission, joint planning commission and board of county commissioners shall use the criteria outlined in this subsection (c). This determination may be rendered as a finding in the decision on the development application. A recommendation of approval for the project shall constitute a finding of compatibility.

- (2) A compatible development is one which will meet all of the following standards:
- a. Traffic generated by the development will not create safety hazards, create traffic which is beyond the capacity of affected roads, or result in substantial increases over existing traffic volumes, or which results in the reduction of existing service levels;
  - b. Any one of the following will not disturb neighbors: noise, odor, smoke, dust, vibration, glare, radiation or late hours of operation;
  - c. The development will not create adverse or unsightly views for neighbors and/or the traveling public;
  - d. The development will not cause pollution of ground or surface waters;
  - e. The development will not adversely change the character of the neighborhood;
  - f. The development will not significantly disturb the privacy of neighbors.

(3) Mitigation of identified significant adverse impacts may constitute compatibility. The applicant shall have the burden of proof in this regard.

**Sec. 82-196. Analysis required.**

An analysis of a proposed development may be required if any of the following conditions exist:

- (1) *Public revenue and expenditures.* The proposal has the potential of causing significant shortterm or longterm public expenditures which will not be covered by revenues derived from the development. Expenditures include, but are not limited to, road and bridge construction and maintenance, law enforcement, general government, health services, fire protection, human services, and/or educational services.
- (2) *Hazards and flood.* The proposed development may pose a threat to the health, safety and welfare of citizens of the county because of potential natural or manmade hazards including, but not limited to: flood, avalanche, landslide, earthquake, slope movement, severe soil limitations and mine subsidence.

(3) *External effects; required standards.* The proposed development has the potential of producing unmitigated negative external effects including, but not limited to: endangerment of the safety of citizens, traffic, noise, vibration, odor, glare, dust, smoke and the pollution of groundwater or surface water, or any other negative external effect as necessary to determine compliance with any required standard.

The staff, planning commission, joint planning commission or board of county commissioners may request a special study during their review of the project if they determine that additional information is required to render a recommendation or decision, and determine the scope and content of the study.

**Sec. 82-198. Review of study and decision; review and hearing.**

(a) The planning commission/board of county commissioners may find that the required study is inadequate for specific reasons, and may require additional information for specific issues or items.

(b) Upon accepting a study as adequate, the planning commission/board of county commissioners will review the study and hear evidence from the planning staff, the applicant and other concerned agencies and individuals. After hearing the evidence, the planning commission/board of county commissioners shall approve, approve with conditions, table or deny the permit application using the standards outlined in this subpart B, including those outlined as follows:

- (1) A project may be denied a permit if significant shortterm or longterm public deficits occur due to the development.
- (2) A project may be denied a permit if potential natural or manmade hazards are not mitigated.
- (3) Development may be denied if negative external effects are not mitigated, or required standards are not met.

**Sec. 82-201. Land use permit conditions and requirements.**

The following conditions and requirements shall apply to all permits:

- (1) Construction or commencement of the use must begin within the period of time specified in section 82-202 for the permit to remain valid. If the permit has expired, the applicant must apply for and be granted a new permit to proceed with the project.
- (2) Modifications to a permit are subject to subsection 82-15(1).
- (3) Any development not constructed in accordance with an approved permit shall render the permit void and represent a violation of the permit, unless affirmatively authorized by the department of planning services.

(4) The board of county commissioners may revoke a permit if the development is not developed and/or used in compliance with the approved permit. Noncompliance with standards, the contents of the permit, and/or the attached permit conditions shall constitute a violation of this division. Failure to fulfill any condition imposed during construction or occupancy of development shall result in the revocation of the permit. Such permit may be revoked after a hearing before the board of county commissioners, which will be held after notification of the permit holder and other interested parties to the extent practicable under the circumstances.

(5) All representations made in an application for a permit or variance that are necessary for compliance with any standard are binding. All verbal, written and graphic representations made in the course of hearings before the planning commission, board of adjustment and board of county commissioners shall be considered a part of the application. Failure to fulfill any representation during construction or occupancy of a development shall result in suspension or revocation of a permit.

(6) All development within a subdivision shall be in conformance with this section. An application for a building permit may be denied if the permit application is for an illegally sold or illegally subdivided lot. A permit for any development shall not be granted if the planning commission, the joint planning commission or board of county commissioners determines that a violation exists or is created by issuance of a permit or will continue to exist on the property subject to the permit after the permit is issued. Issuance of a permit does not exempt an applicant or landowner from the standards or regulations of this section.

(7) The county will not enforce private covenants, nor shall the provisions of this division be superseded by any private covenant.

(8) Any additional permit conditions and/or information may be required as necessary to ensure that the purposes of this division are carried out. Conditions and/or additional information requirements shall be in written form and attached to the permit.

(9) Any false or misleading information given in the permit application or in other representations to the planning staff shall render the permit null and void and represent a violation of this division.

(10) By accepting the benefits of the permit, the applicant acknowledges that he understands the permit conditions, will comply with them, and grants authorized county personnel the right of ingress and egress on such lands for any and all inspection purposes necessary to the exercise of the permit. The applicant, by accepting the benefits of the permit, also certifies, to the best of his knowledge, that the permit application materials are true and correct.

(11) Notwithstanding any time limit or period within which the board of county commissioners, planning commission, director of planning services or planning services is required by subpart B of this Code to do any act or thing, such time limit or period shall not be construed as mandatory, but shall only be construed as directory, and no rights whatsoever shall

Resolution 2014-31  
Page 25 of 29

vest in any applicant or other person by reason of the failure of the same to comply with any such time period or limitation.

(12) If a court of competent jurisdiction in an action brought by the applicant shall find that any condition of approval of any permit shall be invalid for any reason, it is the declared intent of the board of county commissioners that the entire permit shall then become void, and the underlying land use unlawful and prohibited pending a new application approval.

**Sec. 102-23. Minor exemption subdivision.**

(a) An applicant may apply to the county for a minor exemption subdivision where the proposal meets the requirements of this section and would divide land into three or fewer lots or parcels. The county may determine the application to be eligible for minor exemption subdivision after review and recommendation by the planning staff if all of the following conditions exist:

- (1) The applicant is not seeking any variances to any required standards contained in this chapter.
- (2) The lot or parcel was created prior to May 5, 1972, or the lot or parcel is 70 acres or larger in size; and
- (3) The lot or parcel has been taxed agriculturally for the five years preceding MES review; and
- (4) The lot or parcel does not require a variance to any LPLUS required standard.

(b) An application for a minor exemption subdivision shall be subject to a hearing before the joint planning commission or board of county commissioners. The procedure for a minor exemption subdivision shall be similar to a final plat hearing. The following plat note is required on all minor exemption subdivision plats:

The creation of a total of three lots out of the original tract as recorded under reception \_\_\_\_\_ may be created by the minor exemption subdivision process. Any additional lot splits are required to be processed through full subdivision review.

(c) The board of county commissioners hereby determines that minor exemption subdivision, as set forth in this section and in LPLUS, shall function as an exemption from the subdivision review process, and are not within the purposed of Title 30, Article 28, Part 1 C.R.S. 1973 and the board of county commissioners further determines that such projects are exempted from the definitions of "subdivision" and "subdivided land" as those terms are utilized at C.R.S. § 30-28-101(10).

**Sec. 102-105. Lot design specifications.**

(a) *Topography.* To the maximum extent practicable, all lots shall be designed to conform to the existing topography in such a way as to avoid future problems or conflicts with access, drainage or utility service, as well as to preserve existing natural features such as unusual rock formations and bodies of water.

(b) *Shape.* Lots shall have a depth to width ratio of no greater than four to one, or minimum buildable area of three to one. Depth and width shall be calculated using the average width and depth for the lot.

(c) *Layout.*

(1) A single lot shall not be divided by a public or private road, alley or another lot; unless the director determines that the lot layout protects the natural features of the site or creates additional open space.

(2) Side lot lines should be at approximate right angles or radial to the road right-of-way or centerline.

(3) Each lot shall abut a private street, a private access easement or right-of-way, or a dedicated street.

(4) Through lots shall be avoided, except where necessary to buffer residential development from conflicting uses, or to overcome specific disadvantages of topography.

(5) Wedge shape lots shall not be less than 25 feet in width at the front property line, or from the road easement if the property line extends into the easement.

(6) No single lot shall be divided by a municipal, county or state boundary line.

(d) *Lot size.*

(1) Minimum lot sizes and dimensions shall exclude street/and or road rights-of-way.

(2) The following are the minimum lot size for residential development. These minimums may be achieved by counting a prorated share of open space owned in common by all lot owners within the subject subdivision:

- a. The minimum lot size shall be three acres if the lot is to be served by individual water and individual sewage systems. The ability to achieve this minimum lot size shall be dependent on the ability of the site to meet ideal conditions for standard absorption systems in accordance with the San Juan Basin Health Department's individual sewage disposal system regulations for septic systems, and requirements of the state division of water resources for water.

- b. The minimum lot size shall be one acre if the lot is to be served by a central/community water or sewer system, but not both. The ability to achieve this minimum lot size shall be dependent on the ability of the site to meet ideal conditions for standard absorption systems in accordance with the San Juan Basin Health Department's individual sewage disposal system regulations for septic, or requirements of the state division of water resources for water, whichever is the applicable individual system proposed.
  - c. The minimum lot size shall be 10,000 square feet if the lot is served by a central/community water and sewer system, except a lot shall be a minimum size of 8,000 square feet if a minimum average of 2,000 square feet per lot is dedicated on the final plat as open space.
- (3) Each lot not served by both common water and sewer shall have included within its boundaries at least one contiguous area a minimum of 15,000 square feet in size, and must contain a buildable area.
- (4) The minimum lot size for commercial and industrial development shall be determined by the following criteria:
- a. *Lot size review.* The applicant shall propose the sizes of the lots intended for the development. The planning commission, joint planning commission, and/or the board of county commissioners shall review the adequacy of the lot sizes proposed using the required standards outlined in subsections (d)(4)b., c. and d. of this section. If the joint planning commission or board of county commissioners finds that proposed lot sizes and/or number of lots are inadequate in terms of the criteria, they shall request alternative lot sizes/numbers. The permit application shall be denied or continued until the appropriate lot size/numbers are proposed by the applicant.
  - b. *Development shall function on one lot.* The development shall function efficiently and safely without overcrowding, given the lot's topography, location, hazards and the development's:
    - 1. Utilities;
    - 2. Vehicular, pedestrian and emergency access;
    - 3. Parking;
    - 4. Individual sewage disposal systems;
    - 5. Storage of trash, snow and other identified items associated with the use;

Resolution 2014-31  
Page 28 of 29

- 6. Existing and proposed structures;
  - 7. Open space; and
  - 8. Room for expansion.
- c. *Mitigates external nuisances/effects.* The developed lot shall contain and/or mitigate external nuisances. External nuisances include, but are not limited to:
- 1. Odor;
  - 2. Noise;
  - 3. Vibration;
  - 4. Glare;
  - 5. Dust;
  - 6. Smoke;
  - 7. Water vapor; and
  - 8. Radiation.
- d. *Compatibility.* The development shall be compatible with adjoining and/or surrounding densities and uses in terms of the preservation of views; the design, bulk and height of the proposed structures; and the need to preserve the privacy of neighbors. If the proposed development is not similar to adjoining and/or surrounding uses, it shall be made compatible through adequate mitigation of the impacts of its differences as per adopted standards. If mitigation of the impacts is not possible, a different location should be chosen for the project.

**Sec. 106-112. Animas Valley Land Use Plan.**

- (a) *Use.* This article is to be used in conjunction with the Animas Valley Land Use Map.
- (b) *Basic plan provisions.* The basic plan provisions are as follows:
  - (1) Any preexisting, legal lot of record made nonconforming by this plan shall be entitled to one single-family residence, uses that are customarily secondary to a single family residence, including accessory uses, and other developments that do

not require a land use permit as described in section 82-7 and other applicable provisions of this Code.

- (2) Any preexisting dwelling unit made nonconforming in terms of density shall enjoy the right of replacement unless the entire site is being redeveloped, at which time the entire site shall be made to conform to the plan.
  - (3) Uses made legally nonconforming shall enjoy the right to regular maintenance, repair and to some extent replacement and expansion, as provided in section 82-20(4).
  - (4) No new subdivisions shall occur on steep slopes (30 percent or greater). One (1) dwelling unit is permitted on any preexisting, legal lot of record lying on steep slopes. This subsection shall in no way supersede the county's geologic hazards map regulations.
  - (5) Accessory uses shall be allowed in all Animas Valley Land Use Plan Districts so long as meeting the standards established in section 82-5 and/or permitted pursuant to section 82-5.
- (c) *Special use permit.* Special use permits shall only be approved through the class II land use permit procedures.
- (d) *Conformance.* Applications for development which are not in conformance with the Animas Valley Land Use Plan shall not be accepted by the planning department. To be submitted, the plan must first be amended to allow for the intended use or density. The process for considering amendments to the plan shall be the full class II process, with a public hearing before the planning commission, joint planning commission, and/or the board of county commissioners.
- (e) *Notification.* Any project proposed by a special use permit shall require a notification of adjoining landowners within 1,000 feet of the subject site.

**Sec. 106-536. Established districts enumerated.**

The following business/industrial park overlay districts have been established:

- (1) Gem Village (Resolution No. 1995-35).