RESOLUTION NO. 2013-29

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO, AMENDING SECTIONS 62-1 AND 82-3 OF THE LA PLATA COUNTY LAND USE CODE AND ADDING SECTION 82-37 ADDRESSING APPLICATIONS FOR ADDITIONAL DWELLING UNITS

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 on July 25, 2013, and after receiving competent evidence at the hearing, made a recommendation to the Board to approve Project No. 2013-0218;

WHEREAS, the Board held a duly noticed public hearing on August 20, 2013 and heard testimony and received competent evidence that Sections 62-1 and 82-3 of the Code should be amended and Section 82-37 of the Code should be added to address applications for additional dwelling units 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 Sections 62-1 and 82-3 of the Code and add Section 82-37 of the Code to address applications for additional dwelling units 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:

1. That Sections 62-1 and 82-3 of the La Plata County Code shall be and is hereby amended and Section 82-37 shall be and is hereby added to address applications for additional dwelling units 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 20th day of August, 2013.

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

ATTEST:

Clerk to the Board

Robert A. Lieb, Jr., Chair

Absent

Julie Westendorff, Vice-Chair

Gwen Lachelt, Commissioner

EXHIBIT A

Sec. 82-37. Applications for additional dwelling units.

(a) *No required planning department review.* An application for a second dwelling unit on one parcel does not require any planning department review or approval if the parcel is at least 70 acres. An application for a third dwelling unit on one parcel does not require any planning department review or approval if the parcel is at least 105 acres.

(b) *Administrative review.*

(1) An application for a second or third dwelling unit on one parcel may be reviewed and approved by the director if sufficient written documentation is submitted and supports the following requirements:

(a) the parcel is at least 30 acres for a second dwelling unit and 45 acres for a third dwelling unit;

(b) the parcel was assessed as agricultural in the most recent County assessment; and

(c) the second or third dwelling meets the County Code requirements for wastewater and water, and the private driveway standards in Section 74-97.

(2) An application for one second dwelling unit on one parcel may be reviewed and approved by the director if sufficient written documentation is submitted and supports the following requirements:

(a) the livable floor area of the second dwelling does not exceed the size of the primary dwelling unit or 2,000 sq. ft., whichever is less;

(b) the second dwelling will share the same electrical meter, water source, wastewater treatment system, and access as the primary dwelling unit; and

(c) the second dwelling meets the County Code requirements for wastewater and water, and the private driveway standards in Section 74-97.

(d) if a central water or sewer system is proposed, written documentation from the water or sewer provider that the system can adequately handle the potential increase in capacity.

(c) *Class I review.* An application for a second dwelling unit on one parcel requires Class I review and approval by the board, if: (1) the parcel is at least 6 acres or more; and (2) is not eligible for administrative approval. A Class I second dwelling is subject to all Class I standards and shall be setback at least 30 feet from all property lines.

(d) *Class II review.* An application for a second or additional dwelling units on one parcel requires Class II review and approval by the board, if it is not eligible for administrative or Class I review and approval.

Sec. 62-1. Definitions.

Dwelling unit means one or more rooms designed, occupied, or intended for occupancy, as separate living quarters .

Sec. 82-2. Administrative land use permit.

Administrative review defined. Administrative land use permits shall include and a permit shall be required for any one or more of the following minor projects:

(1) Site plan review of projects in the Business/Industrial Park Overlay District pursuant to section 106-534.

(2) Second or third dwelling units on a parcel pursuant to section 82-37.

(3) Changes in land use from one class II use to a different class II use, when the different use will not generate more or different impacts from the existing use.

(4) A wildland fire remediation administrative permit pursuant to section 82-36. No fee shall be charged for the permit.

Sec. 82-3. Class I land use permit.

(a) *Class I defined.* Class I development or use shall include, and a permit shall be required for, any one or more of the following minor projects:

Second or additional dwelling units on a parcel pursuant to section 82-37.

(2) Duplexes.

(3) Temporary uses.

(4) Changes in land use from one class I use to a different class I use if the different use is likely to generate more or different impacts from the existing use, or increases in the intensity of a class I use.

(5) Large child care home, specialized group homes and small child care centers as defined and regulated by the state department of human services.

(6) Home businesses meeting the criteria in section 82-4.

(b) *Requirements.* Requirements for a class I permit are as follows:

(1) Procedure: Class I;

(2) Data requirements: General data requirements; and

(3) Standards: Required and encouraged standards.

Sec. 82-7. Development not requiring a land use permit.

(a) The following development does not require a county land use permit, provided that it meets all applicable established minimum requirements:

(9) Single-family residential development and redevelopment (additions) which does not require a land use permit as identified in subsection 82-37.