

## SECTION 4 – SUBDIVISION REGULATIONS

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### 4.1 GENERAL

Any division of land should be carefully considered. It is much easier to divide land than to re-assemble parcels for future conservation and development.<sup>1</sup>

#### 4.1.1 Purpose and Intent:

New subdivisions require review and evaluation so that they may be located properly with respect to their effects on surrounding properties and Archuleta County at large. New subdivisions may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the location and operation of the new subdivision is in accordance with the development objectives of the County (per the *Archuleta County Community Plan*) and will not be detrimental to other uses or properties.

4.1.2 **Subdivision Regulations:** A Subdivision of land, as defined by State Statute in CRS §30-28-101 and by these Regulations, is both a process and a result—the process of dividing property, and the resulting parcel of divided land (including land used for condominiums and townhomes) with certain exceptions, such as the exemption for parcels of land thirty-five acres or larger in single ownership. Any Subdivision of land less than 35 acres must be approved by the Board of County Commissioners in conformance with these Regulations and State Statutes to be considered a Legal Lot. The sale of subdivided lots prior to County approval is illegal and punishable by civil and criminal prosecution and penalty (CRS §30-28-110(4)).

##### 4.1.2.1 Major Subdivision

A Major Subdivision is any division of land into four (4) or more tracts, spaces, or separate interests or interests in common, except as exempt under the definition of Subdivision in Chapter 11.

- (1) Divisions of land subject to Subdivision review include condominiums, townhomes, and other common interest communities, but not divisions of land by lease or rent.<sup>2</sup>
- (2) The Major Subdivision review process includes Sketch Plan, Preliminary Plan and Final Plat review, in accordance with the procedures in Section 4.2, Section 4.3, and Section 4.4.

##### 4.1.2.2 Minor Subdivision

A Minor Subdivision, formerly known as a Minor Impact Subdivision, is any subdivision which involves the division of land into three (3) or fewer tracts, spaces, or separate interests.

See also definition of **Legal Lot:** A Lot, Parcel or tract of land created prior to **September 1, 1972**; or after that date by Subdivision Review or exempted from Subdivision Review by the Board of County Commissioners.

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<sup>1</sup> Amendments to Section 4.1, May 2019 (Res. 2019-39)

<sup>2</sup> Amended August 2011 (Res. 2011-41); May 2019 (Res. 2019-39)

- (1) All lots in a Minor Subdivision must be able to be accessed and served with existing improved roads and utilities, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of these Regulations.
  - a. Any Subdivision which requires new or improved roadways shall follow a Major Subdivision Review process.
- (2) The Minor Subdivision review process includes Sketch Plan and Final Plat review, in accordance with the procedures in Section 4.2 and Section 4.4.

#### 4.1.2.3 Condominium or Common Interest Community

Creation of condominiums, townhomes or Common Interest Community shall follow the appropriate Major or Minor Subdivision Review process, and demonstrate conformance with CRS Article 33 and/or Article 33.3 as appropriate.

#### 4.1.2.4 Amended Plat

Amendment of a Subdivision Plat previously approved by the Board of County Commissioners shall follow procedures in Section 4.6, which may include Sketch Plan, Preliminary Plan and/or Final Plat review as determined by the Development Director.

## 4.2 SKETCH PLAN<sup>3</sup>

### 4.2.1 Purpose and Intent:

Sketch Plan is an informal initial review of the concept and general scope of the proposal at an early stage in the planning. Sketch Plan review is an opportunity for Applicants and Archuleta County to clarify policies, provide procedural guidance, make Applicants aware of initial concerns, and discuss relevant provisions of the *Archuleta County Community Plan* and Land Use Regulations, in order to ensure the best chance of the Applicant's project success.

### 4.2.2 Submittal Requirements:

Applicant shall submit a complete Archuleta County Land Use Permit application, the application fee, and any supplemental data for the proposed subdivision to the Planning Department, , as determined at the Pre-Application Conference (Section 2.2.4.1). Certain information may be waived for Amendments to existing Subdivisions. The Sketch Plan application shall include:

**4.2.2.1 A vicinity map** prepared at an appropriate scale showing the proposed project area and approximately one-half ( ½ ) mile adjacent area, indicating land use, access, utilities, and significant natural or man-made features.

**4.2.2.2 Sketch Plan** prepared by a professional surveyor, architect or engineer, showing proposed lots, access, and ownership of the land to be subdivided; and ownership of adjacent lands at scale sufficient for initial review at 11x17" or 24"x36" in print, and number of copies determined at Pre-Application.

<sup>3</sup> CAmendments to Section 4.2, May 2019 (Res. 2019-39)

- (1) A formal property survey and documentation of ownership of the surface and mineral estates including mineral lessees, if any, are required by CRS §30-28-133(3)(a), and shall be submitted with Preliminary Plan and/or Final Plat review.

**4.2.2.3** A written **narrative description** of the development including, where applicable the following information:

- (1) **Subdivision Design Standards:** Assurance of all-weather access from existing county or state roads, and provisions for maintenance of roads, as required by Section 5.1 of the Land Use Regulations.
- (2) **Environmental Resources:** Information such as surface water resources (including streams, lakes and wetlands), natural features and vegetation, and natural hazards, including steep slopes, geologic hazards, flood hazards, wildfire hazards, and radiation hazards) required by Section 5.2 of the Land Use Regulations.
  - a. Geology and soil suitability affect new development. Include maps and tables concerning suitability of types of soil, in accordance with standard soil classifications, such as reports from the National Cooperative Soil Survey available from the USDA Natural Resource Conservation Service (NRCS), and any additional preliminary information.
  - b. For property subject to (or likely to be subject to) flooding, especially in the Special Flood Hazard Area, include a FEMA *FIRMette* or floodplain map.
- (3) **Infrastructure:** Information on availability of Infrastructure, including access to public roads and trails, on-site drainage, public utilities, provision of suitable water supply and sewage treatment, and fire protection, as required by Section 5.3 of the Land Use Regulations.

**4.2.2.4** More detailed information and studies may be required depending on the scope of the proposed development, including a written description of the layout or plan of development including, where applicable, the following information:

- (1) Total acreage of land to be subdivided; and number and approximate size of proposed lots and tracts.
- (2) Reasonable evidence that a water supply that is sufficient in terms of quality, quantity and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed.
- (3) Type of sewage disposal and treatment system proposed for the subdivision and explanation of how the proposed system complies with San Juan Basin Public Health (SJBPH) and/or Colorado Department of Public Health and Environment (CDPHE) rules and regulations.
- (4) Information concerning provision of services and amenities, such as public safety and fire protection, electricity and broadband, recreation, schools, etc.

(5) Assurance of all-weather access to the proposed subdivision from an existing county or state road.

(6) Any existing or proposed Covenants, Codes & Restrictions (CC&Rs).

#### **4.2.3 Review Procedure:**

**4.2.3.1** The Planning Department shall review the Sketch Plan for conformance with the *Community Plan*, these Regulations, and other adopted County policies and ordinances. Planning Staff will circulate the Sketch Plan for Review by Referral Agencies as provided in Section 2.2.5.

**4.2.3.2** Either the applicant or the Planning Department may request that the Sketch Plan be reviewed by the Planning Commission if needed to clarify policies or provide additional guidance, in particular for Major Subdivision review. In such instances, the Sketch Plan will be reviewed at the next available Planning Commission meeting at the discretion of the Chair of the Planning Commission.

**4.2.3.3** The Planning Department will provide the applicant with written comments regarding the proposed subdivision within five (5) working days following the close of reviews in Section 4.2.3.1 or Planning Commission review in Section 4.2.3.2.

**4.2.3.4** A Preliminary Plan or Final Plat, as appropriate, must be submitted within twelve (12) months from the date of the written comments described in 4.2.3.3; otherwise a new Sketch Plan must be submitted, unless an extension is granted by the Director.

(1) Preliminary Plan or Final Plat applications are subject to any amendments of these regulations that may take place between Sketch Plan approval and the date of that application, as provided in Section 1.1.8. It is the Applicant's responsibility to be aware of any proposed changes to these Regulations during the interim.

### **4.3 PRELIMINARY PLAN<sup>4</sup>**

#### **4.3.1 Purpose and Intent:**

The Preliminary Plan submittal is the second step in the Major Subdivision review process, and is not required for a Minor Subdivision. The Preliminary Plan will be presented to the Planning Commission for their review and consideration for approval.

#### **4.3.2 Submittal Requirements:**

In accordance with review of the Sketch Plan, the applicant shall prepare and submit one complete copy of an updated Archuleta County Land Use Permit application, the non-refundable application fee, and any supplemental data for the proposed subdivision to the Planning Department, as determined by Sketch Plan Review. The Preliminary Plan application shall comply with the requirements of the Development Standards in Section 5, and shall include:

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<sup>4</sup> Amendments to Section 4.3, May 2019 (Res. 2019-39)

**4.3.2.1** A **vicinity map** prepared at an appropriate scale covering at least one-half mile around the proposed subdivision (or farther if necessary to show all influencing factors) and showing existing roads, streams, municipal boundaries, platted areas, adjoining ownerships, utilities and similar major natural or man-made features of the area. The nearest section lines shall be indicated for reference purposes.

**4.3.2.2** The **Preliminary Plan map** shall be prepared at an appropriate scale with outer dimensions of twenty four by thirty six inches (24"x36"), legible as a PDF. The number of printed copies shall be determined by Sketch Plan Review. If more than one (1) map is required to show the subdivision, a key map showing the whole subdivision shall be submitted with detail as to how each map ties together. It shall include or show:

- (1) Proposed name of the subdivision.
- (2) Date of preparation, true north arrow, scale and signature of the person responsible for preparing the map.
- (3) Names and addresses of the landowner, the applicant and the designer of the subdivision.
- (4) An accurate survey of the perimeter boundary of the area to be subdivided with ties to permanent location markers, such as existing section corner markers or other suitable points acceptable to the Planning Commission. Total acreage must be specified.
- (5) Topography, indicated by contour lines at intervals of two (2) feet on land less than six (6) percent slope, five (5) feet on land sloping seven (7) percent to twenty (20) percent, or ten (10) feet on land sloping over twenty (20) percent; shading shall be provided on land sloping over twenty (20) percent - thirty (30) percent and greater than thirty (30) percent.
- (6) Location and principal dimensions for all existing and proposed street right-of-ways (including street names), alleys, buildings, easements, water and sewer lines, telephone lines, power lines, gas lines, water courses and other important features within and adjacent to the property to be subdivided.
- (7) Principal dimensions to the nearest foot (which may be scaled values) and the approximate area (square feet or acres) of all proposed lots, parcels and tracts.
- (8) The proposed type of use for each lot, parcel and tract.
- (9) Lots shall be numbered consecutively, either throughout the subdivision or block by block. Other parcels or tracts shall also be individually identified by number or letter.

- (10) The names of abutting subdivisions or the names of the owners of the abutting un-platted property.
- (11) Delineation of any area subject to a base flood and the flood water elevations at representative cross sections. All floodplain areas shall be shaded on the map. Easements for storm drainage shall be provided as necessary.
- (12) Reasonable access shall be provided to adjoining public and private lands by suitable right-of-ways or easements where such access is desirable or appropriate for present or future use of adjoining lands.
- (13) Planned Unit Developments have special requirements which must be addressed. (See Section 3.1.6).

**4.3.2.3** Evidence to establish that definite provision will be made for a **water supply** that is sufficient in terms of quantity, dependability and quality to provide for the proposed subdivision. Applicant shall provide a report signed and sealed by a professional engineer registered in the State of Colorado, which must include, as a minimum, the following information:

- (1) The expected water requirements of the subdivision at full development including various water uses to be permitted.
- (2) The estimated consumptive use of water by the subdivision.
- (3) The source of water for the subdivision and the dependability of this source.
- (4) If applicable, evidence of ownership or right of acquisition of, or use of, existing and proposed water rights.
  - a. Historic use and estimated yield of claimed water rights.
  - b. Amenability of existing water rights to a Water Court decreed change in use, if necessary.
  - c. The dependability of claimed water rights for use as a subdivision water supply.
  - d. An evaluation of the potential for material injury to other existing water rights as a result of the subdivision water usage, including the cumulative effect of on-lot household or domestic wells.
  - e. A plan of augmentation or plan of exchange whereby any material injury to existing water rights is prevented.
- (5) If applicable, evidence that public or private water owners can and will supply water to the proposed subdivision stating the amount of water available for use by the proposed subdivision and the feasibility of extending service to the new area.
- (6) Evidence concerning potability of the proposed water supply for the subdivision.

- 4.3.2.4** Evidence to establish that, if a **public sewage disposal system** is proposed, provision has been made for such system and, if other methods of sewage disposal are proposed, evidence that such systems will comply with state and local laws and regulations which are in effect at the time of submission
- 4.3.2.5 No County Maintenance of streets or roads.** The County’s acceptance of this plat constitutes acceptance, on the public’s behalf, of the offer of dedication of rights-of-way over the subdivision roads, but does not constitute acceptance of road maintenance obligations. Owner(s) of property in the subdivision and/or the homeowners’ association shall retain all road maintenance obligations for all roads in the subdivision.
- 4.3.2.6** If the subdivision does not abut an existing county or state road so as to provide direct access to the subdivision, evidence as to **how public all-weather access** is to be provided and maintained. The applicant shall be responsible to provide access road or roads. Plat notes on the Preliminary Plan map and Final Plat shall state that it is the responsibility of the property owners to maintain such road or roads.
- 4.3.2.7** All proposed subdivisions shall submit a **fire protection plan** reviewed by the Fire Chief/Fire Marshall of the Pagosa Fire Protection District or other qualified individual.
- 4.3.2.8** Information explaining how the subdivision application complies with the **public land dedication** requirements in Section 6.
- 4.3.2.9** Proposed **covenants** or restrictions to control activities or land uses, which would be recorded along with a final plat.
- 4.3.2.10** If the proposed subdivision lies in an identified **flood hazard area**, or is suspected by Staff to lie in a flood hazard area, the applicant shall submit, certified by a Colorado licensed professional engineer, the following:
- (1)** On the Preliminary Plan map, show the area which would be covered by a base flood and flood water surface elevations at representative cross sections. This area shall be shaded on the Preliminary Plan map and Final Plat.
  - (2)** On the Preliminary Plan map, show lowest floor elevation, size and location of all proposed and existing structures and improvements; and location and elevation of streets, water supply systems and sewage facilities.
  - (3)** Proposed flood proofing measures, if any.
  - (4)** Specifications for building construction and materials, filling, dredging, grading, channel changes, storage of materials, water supply systems and sanitary facilities.
  - (5)** Descriptions of any construction activity which would affect the hydraulic capacity of the floodway.

- (6) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

**4.3.2.11** If the proposed subdivision lies in an identified **geologic hazard area**, or is suspected by the Planning Commission to lie in a geologic hazard area, the applicant shall submit the following maps, reports or data prepared by a qualified geologist:

- (1) A map or maps portraying the geologic conditions of the area with particular attention given to the applicable geologic hazard. If appropriate, sub-surface geologic cross sections shall also be utilized to portray such conditions at depth. The geologic maps shall be at the same scale and in the same format as the Preliminary Plan maps.
- (2) A geologic report explaining the above maps and cross sections with particular emphasis on evaluating and predicting the impact of such geologic or hazardous conditions on the proposed land use changes and developments. It shall also include recommended mitigating procedures to be employed in meeting the purposes of these regulations.
- (3) The applicant, in narrative, pictorial or graphic form, shall explain the nature, density and intensity of the proposed development or land use change and shall explain mitigation procedures which will be needed and are planned to carry out the objectives of these regulations.
- (4) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

**4.3.2.12** If the proposed subdivision lies in an identified **wildfire hazard area**, or is suspected by the Planning Commission to lie in a wildfire hazard area, the applicant shall submit the following information certified by a qualified professional forester:

- (1) Maps or overlays portraying the existing wildfire conditions of the area with particular attention given to the effects of slope, topographic and vegetative (living and dead) conditions. Such maps shall be on a scale sufficiently detailed to meet the objectives of these regulations.
- (2) The procedures proposed to reduce or control conditions of wildfire hazard.
- (3) The fire protection plan for the proposed land use including all fire suppression facilities which are necessary to meet the objectives of these regulations.
- (4) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

**4.3.2.13** If the proposed subdivision lies in an identified **mineral resource area**, or is suspected by the Planning Commission to lie in a mineral resource area, the applicant shall submit the following data prepared by a qualified geologist:



- (1) Ownership of the mineral rights affected.
- (2) Type and location of mineral resources under the property.
- (3) An analysis of the commercial feasibility of extracting the mineral resource.
- (4) A map or maps portraying the geologic conditions of the area with particular attention given to the applicable mineral resource deposit. If appropriate, sub-surface geologic cross sections shall also be utilized to portray such conditions at depth. The geologic maps shall be at the same scale and in the same format as the development plan maps.
- (5) An analysis of the fiscal impacts on local services and facilities.
- (6) Evidence that the development plan will present no obstacle to extraction of the mineral resources on or under the subject property or evidence that the proposed development will be of greater economic value than the minerals present.
- (7) Plat notes on the Preliminary Plan map and Final Plat stating that a mineral resource exists.

**4.3.2.14** If the proposed subdivision lies in a **radiation hazard area**, or is suspected by the Planning Commission to lie in such an area, the applicant shall submit:

- (1) A report of the hazard as prepared by the Geological Survey or a qualified geologist.
- (2) Plat notes on the Preliminary Plan map and Final Plat stating that such a hazard exists.

**4.3.2.15** When a proposed street will intersect with a **State of Federal highway**, a copy of the applicable access application or permit issued by the Colorado Department of Transportation shall be submitted.

**4.3.2.16** An **erosion control plan** shall be submitted.

**4.3.2.17** A **drainage plan** shall be submitted.

**4.3.2.18** When site conditions warrant, the Planning Commission, County Engineer, or Planning Department may determine that in order to make an informed decision, the applicant shall submit additional supplemental data. This supplemental data shall be determined at the Sketch Plan stage or at the Preliminary Plan Pre-Application meeting. This supplemental data can include, but is not limited to, preliminary engineered construction drawings, preliminary drainage plans, etc.

**4.3.3 Review Procedure:**

**4.3.3.1** The Planning Department shall review the Preliminary Plan for conformance with the *Community Plan*, these Regulations, and other adopted County policies and ordinances and circulate for Review by Referral Agencies as provided in Section 2.2.5.

**4.3.3.2** The Preliminary Plan will be scheduled for review in a public hearing at the next available Planning Commission meeting for which public notice can be given as provided in Sections 2.2.2 and 2.2.3.

**(1)** Applicant shall certify notice as provided in Section 2.2.3, prior to the public hearing.

**4.3.3.3** The Planning Commission, at a public hearing, shall review the Preliminary Plan and after considering the comments and recommendations of the agencies specified in Section 2.2.5, testimony of the general public, and impacts on adjoining areas and the county as a whole, from factors such as natural resources, natural hazards, erosion, county services, transportation, education, socio-economic factors, and county needs and benefits, the Planning Commission shall approve, conditionally approve, continue or disapprove the Preliminary Plan.

**4.3.3.4** In the event the Planning Commission disapproves a Preliminary Plan, the applicant may appeal to the Board of County Commissioners and present the Preliminary Plan for its disapproval or approval as submitted (before proceeding to prepare a Final Plat).

**4.3.3.5** In the event the Planning Commission continues a Preliminary Plan, no public hearing shall continue for more than forty (40) days from the date of commencement without the written consent of the applicant. Any continuation of a public hearing shall be to a date certain.

**4.3.3.6** Preliminary Plan approval shall be valid no longer than one (1) year. In the event a Final Plat is not submitted to the Planning Commission within this time, the Preliminary Plan approval becomes null and void and of no further force nor effect. An extension of time may be applied for on the basis of unforeseen circumstances.

**(1)** The applicant shall, in writing, request an extension citing the specific reasons for such extension and for how long the extension is required.

**(2)** One written extension of time may be granted by the Planning Commission.

**(3)** If an extension of time is granted, these Regulations, as may be amended, shall apply.

#### 4.4 FINAL PLAT<sup>5</sup>

##### 4.4.1 Purpose and Intent:

The Final Plat submittal is the last step in the subdivision review process. The Final Plat review will be presented to the Planning Commission for their review and recommendation to the Board of County Commissioners.

##### 4.4.2 Submittal Requirements:

Not more than twelve (12) months after Sketch Plan review or Preliminary Plan approval (and after any such extension time as may have been granted), the applicant shall prepare and submit one complete copy of an updated Archuleta County Land Use Permit application and Final Plat, the non-refundable application fee, and any supplemental data for the proposed subdivision to the Planning Department. The Final Plat application shall comply with the requirements of the Development Standards in Section 5, and shall include:

**4.4.2.1** A **mylar plat map** and PDF, prepared by a Colorado-licensed surveyor at an appropriate scale, with outer dimensions of twenty four by thirty six inches (24"x36") as printed and suitable for recording with the County Clerk & Recorder. In the case of multiple sheets, a small key map showing the relationship of the individual sheets shall be shown on each sheet.

- (1) Shading shall be provided on land sloping from twenty (20) percent – thirty (30) percent and another form of shading shall be provided for land sloping thirty (30) percent or greater. All information shall be accurate and legible.
- (2) Submission of the mylar original of the Final Plat to the Planning Department may be deferred until approval of the plat by the Board of County Commissioners.

**4.4.2.2** The **Final Plat** shall contain the following information and shall be prepared and signed by a registered Colorado land surveyor.

- (1) Subdivision name, scale, true north arrow, date of preparation and basis of bearings.
- (2) The property owner's name and mailing address.
- (3) Legal description of property and the total acreage. This should be part of the dedication statement.
- (4) Complete survey data which shall include all information necessary to establish the boundaries in the field; a description of all monuments, both found and set, which mark the boundaries of the property; and a description of all control monuments used in conducting the survey. All monumentation shall be in place prior to final plat submittal to the County Surveyor.

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<sup>5</sup> Amendments to Section 4.4, May 2019 (Res. 2019-39)

- (5) Subdivision boundary lines; street and other right-of-way lines; easements; property lines of lots, parcels and tracts; showing in all cases accurate distances, bearings, curve radii, central angles and arc lengths.
- (6) Street names or easement descriptions and widths of each right-of-way or easement.
- (7) A number or other means to identify each lot, parcel or tract, and the area (square feet or acres) of each.
- (8) The type of use permitted (other than single family residential) for each lot, parcel or tract.
- (9) A vicinity map, drawn at an appropriate scale showing the perimeter outline of the platted area, accesses, abutting subdivisions or ownerships, surrounding section lines, and other relevant information so the subdivision location may be ascertained by persons unfamiliar with the area.
- (10) All appropriate plat notes and appropriate shading, such as floodplain information, geological hazard, mineral resources, access information, etc.
- (11) The following certifications and dedications shall appear on the Final Plat and shall be substantially in conformance with the format on file with the Planning Department.
  - a. Dedication and waiver by the applicant.
  - b. Surveyor's Certification.
  - c. County Surveyor's Certification.
  - d. Planning Commission Certification.
  - e. County Commissioners' Conditional Certification.
  - f. County Commissioners' Approval to Record Certification.
  - g. Clerk and Records Certification.
  - h. Lien Holder Certification.<sup>6</sup>

**4.4.2.3** The **County Surveyor** shall review all plats for accuracy at the applicant's expense.

- (1) Surveyor fees shall be paid to the Planning Department prior to submittal to the County Surveyor and a paid receipt presented to the County Surveyor. The County Surveyor shall have up to fourteen (14) calendar days to review the plat.
- (2) The County Surveyor shall review the plat and if any corrections are needed, the applicant shall have the corrections made and two (2) copies of the corrected plat shall be re-submitted to the County Surveyor and two (2) copies to the Planning Department. Re-check fees shall be paid to the Planning Department and a paid receipt presented to the County Surveyor. If corrections are needed, the County Surveyor shall have an additional fourteen (14) calendar days for review from the date the corrected plat is received by the County Surveyor.

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<sup>6</sup> Amended Oct.2006 (Res. 2006-29)

- 4.4.2.4 Tax Certificate** from the County Treasurer showing that no taxes are currently due or delinquent against the property.
- 4.4.2.5 A Title Report** from within three (3) months of the Final Plat submission showing the names of all surface owners, and lien holders in the platted area as the names may appear upon records in the County Clerk and Recorder's Office. The Title Report shall also include all easements of record.
- 4.4.2.6** Applicant shall identify **mineral estate owners** entitled to notice under CRS §24-65.5-101 *et seq.*.
- 4.4.2.7** Statements from **utility companies** (water, sewer, electric, gas, telephone, etc.), as applicable, concerning the extent to which service can be provided to the subdivision, and at whose expense.
- 4.4.2.8** The restrictions or protective **covenants** to be recorded controlling the use of land and activities in the subdivision, if applicable.
- 4.4.2.9** In the **Airport Overlay (AO) District**, a copy of the avigation easement to be recorded for said land, within an airport influence area. The avigation easement shall be substantially in conformance with the format on file with the Planning Department.
- 4.4.2.10 Subdivision Summary Form** appropriately filled out. The Subdivision Summary Form is available from the Planning Department.
- 4.4.2.11** When a proposed road will intersect with a **state or federal highway**, a copy of the applicable access permit issued by the Colorado Department of Transportation.
- 4.4.2.12** Assurance that there will be **all-weather access** to the subdivision via public roads, conforming to county standards, from existing county or state roads and that maintenance, including snow removal, is assured for said access roads.
- 4.4.2.13** For Major Subdivisions, the applicant shall submit two (2) complete sets of **Design and Construction drawings** prepared by a professional engineer licensed in the State of Colorado. These Construction Drawings shall include roadway/utility plan and profiles, roadway/utility cross-sections, a drainage plan, and other details necessary for construction, at a scale no smaller than one inch equals forty feet (1" = 40'), unless otherwise approved by the County Engineer. These Design and Construction drawings will also be presented to area utility companies by the applicant. All utility companies, the County Road and Bridge Department, and the Planning Department shall approve the Construction Drawings prior to recommending Final Plat Conditional approval to the Planning Commission and to the Board of County Commissioners.
- (1)** Construction Drawings shall be prepared on a twenty four by thirty six inch (24"x36") plan and profile sheets at a minimum horizontal scale of one inch equals forty feet (1" = 40'), with a vertical scale of one inch equals five feet (1" = 5'). Other scales and sheet sizes may be considered, as determined by the County

Engineer. Each drawing shall include a title block showing the project identity, scale and date, name and title of designer; and shall include north arrow, legend and general notes.

- (2)** Roadway design shall be prepared on plan and profile drawings. The plan view of the roadway is to be shown by centerline stationing with curve control points being identified by stationing. The curve radii, delta angles and bearings of tangents shall be shown when required by the County Engineer. All road elements such as curbs, gutters, utilities, easements and road rights-of-way shall be shown. All County roads by number and proposed roads by name shall be identified.

The profile shall depict vertical alignment for existing and proposed roads and storm sewers by stationing and grade. The plan and profile of any given road shall be depicted on the same sheet. The cross culvert locations shall be shown by stationing and skew angle. The design specifications and standards in these regulations shall be followed.

- (3)** Major intersections will be defined by the County Engineer. Major intersection design will require details to be shown at a scale of one inch equals twenty feet (1" = 20'), on a twenty four by thirty six inch (24"x36") plan-drawing sheet. The configuration and channelization shall be shown in detail to include elevations of the roadway surface, curbs, and gutters; striping and paving; and signalization, when required by the County Engineer.
- (4)** Unless waived by the County Engineer, a professional engineer licensed in the State of Colorado will conduct a drainage study of the area to be developed and adjacent areas that affect the development.
- a.** The drainage study shall be shown at a scale to correlate with the roadway drawings scale, and shall be shown on a separate twenty four by thirty six inch (24"x36") plan drawing sheet.
  - b.** The drawing shall include contours of existing conditions and of developed conditions. The topography shall depict flow paths of storm waters. Contour intervals shall be at two-foot (2') intervals for up to twenty (20) percent terrain slopes and ten (10) foot intervals for terrain slopes greater than twenty (20) percent. At an appropriate scale, depict also the outlines of the sub and major drainage basin flows to and within the proposed development. Runoff control measures such as detention basins shall be shown.
  - c.** Describe the effect of offsite flows on the development and how they are affected by the development. Describe the control measures, which will be necessary for their proper conveyance.
  - d.** Define the system that will convey the historic and developed onsite flows throughout the development and how they will be dispersed off-site.
- (5)** Construction details of proposed roadway and drainage structures shall be shown at a scale of one inch equals twenty feet (1" = 20') or of one inch equals ten feet (1" = 10'), whichever is appropriate, on a separate twenty four by thirty six inch (24"x36") plan-drawing sheet. The sheet shall be identified by a title block to

include all pertinent information. The details may be additionally presented on an eight and a half by eleven inch (8 ½"x11") paper to be included in the construction specifications report. The drawings shall depict construction details of items such as erosion protection at entrances and exits of culverts, drop inlets (when required), detention pond facilities, final roadway template showing structural data, channel cross sections, and other structures pertinent to construction.

**4.4.2.14** In areas subject to **Natural or Manmade Hazards**, identified by Sketch Plan and/or Preliminary Plan review:

- (1) In areas subject to flooding, including the Flood Hazard Overlay District, any Special Flood Hazard Areas indicated and Base Flood Elevations shaded and noted on the Final Plat, as required by Section 10 of these regulations.
- (2) Geologic or Radiation hazard mitigation plan, when required as a result of Preliminary Plan review, and noted on the Final Plat.
- (3) Wildfire control plan, when required by the Fire Marshall during Sketch Plan or Preliminary Plan review, and noted on the Final Plat.

**4.4.2.15 Fire Protection Plan** reviewed by the Fire Marshall of the Fire Protection District or other qualified individual, if required.

**4.4.2.16** Appropriate deeds or arrangements covering **land for public purposes** or money in lieu thereof.

#### **4.4.3 Review Procedure:**

**4.4.3.1** The Planning Department shall review the Final Plat for conformance with the Community Plan, these Regulations, and other adopted County policies and ordinances and circulate for Review to any Referral Agencies which made comments on Sketch Plan or Preliminary Plan Review.

**4.4.3.2** The Final Plat will be reviewed at the next available Planning Commission meeting which occurs at least twenty one (21) days after receipt of a complete application (as provided in Table 1).

**4.4.3.3** At the scheduled meeting the Planning Commission shall review the proposed Final Plat and, taking into consideration all pertinent factors including, but not limited to, impact on natural resources, transportation, education, socio-economic factors, county services, county needs and benefits; and general health, safety and welfare implications; shall thence recommend to disapprove or approve, as submitted, the proposed subdivision.

**4.4.3.4** Upon the Planning Commission recommendation of the Final Plat, the application will be scheduled for review in a public hearing at the next available Board of County Commissioners meeting for which public notice can be given as provided in Section 2.2.2 and 2.2.3.

- (1) The Board of County Commissioners meeting may be scheduled for concurrent notice with the Planning Commission meeting, at the Applicant's risk that continuance or re-scheduling may require updating that notice.
- (2) Applicant shall certify notice as provided in Section 2.2.3, prior to the public hearing.

**4.4.3.5** No plat for any land division shall be approved by the Board of County Commissioners unless at the time of the approval of platting the Subdivider provides certification of the County Treasurer's office that all ad-valorem taxes applicable to such subdivided land are current and there are no delinquent taxes.

**4.4.3.6** The Board of County Commissioners, at a public hearing with notice as provided in Table 2, shall review the subdivision proposal and after considering testimony from any interested parties and the applicant, and the Planning Commission recommendations, shall conditionally approve or disapprove the Final Plat.

- (1) Conditional approval shall include specific arrangements for providing any land for public purposes or money in lieu thereof required by Section 6 Dedications, and an improvements agreement to be executed with an exhibit listing all required improvements.
- (2) Conditional approval shall be evidenced by signing the County Commissioners' Conditional Certification on the Final Plat.
- (3) No site preparation for any proposed subdivision shall commence until the County Commissioners' signing of the Conditional Certification on the Final Plat and Applicant has completed a pre-construction meeting with the Development Director and the County Engineer or designee(s).
- (4) The Final Plat approval assures the applicant that upon satisfactory completion of the listed improvements and completion of the arrangements for land or money for public purposes, the Final Plat will be accepted for recording.

**4.4.3.7** Final Plat Approval: Upon conditional approval by the Board of County Commissioners, the mylar original of the Final Plat shall immediately be returned to the Planning Department to be held until the required public improvements have been complete to the satisfaction of the County Engineer and the Development Director.

- (1) No alterations of any kind shall be made to the Final Plat after approval by the Board of County Commissioners.
- (2) When no improvements are required, Applicants shall have one (1) year to request final approval and recording of the Final Plat mylar.
- (3) Upon completion of all required improvements, and of arrangements for land or money for public purposes, and within a two (2) year time limit, the applicant shall



notify the Planning Department and request final approval and recording of the Final Plat.

**4.4.3.8** The Board of County Commissioners, after ascertaining satisfactory completion of the required improvements and of the arrangements for land or money for public purposes, may give final approval of the Final Plat for recording. This shall be evidenced by signing the Approval to Record Certification on the Final Plat and accept a warranty bond or other assurance.

**(1)** The final approval shall be evidenced by signing the Approval to Record Certification on the Final Plat and release of the Performance bonding obligation.

**(2)** The warranty bond or other assurance shall be for any engineering or construction defects or inadequacies that appear in the completed improvements within two years from the date of final approval. Such bond or other assurance shall be an amount recommended by the Archuleta County Engineer and approved by the Board of County Commissioners.

**4.4.3.9** The Planning Department shall then have recorded, without undue delay, the Final Plat and any appropriate supplemental instruments such as covenants, avigation easements, etc.

**4.4.3.10** The Board of County Commissioners may withdraw approval of a plat if and when it is determined that information provided by the applicant, upon which such approval was based, is false or inaccurate. The Board of County Commissioners may also withdraw approval if the applicant fails to complete the required improvements within the allotted time period.

## **4.5 RURAL LAND USE PROCESS SUBDIVISION**

### **4.5.1 Purpose and Intent:**

The purpose and intent of the Rural Land Use Process Subdivision is to:

**4.5.1.1** Recognize the current thirty-five (35) acre exemption law and implement the provisions of Section 30-28-401, *et seq.*, C.R.S., and amendments to Section 37-92-601, C.R.S.

**4.5.1.2** Preserve and protect land such as agricultural land, open lands, parks and trails, as well as distinct landscapes, forest land, ecosystems, watersheds, ridge lines, wildlife, wetlands, hazardous areas, scenic view corridors, and historic and archeological sites, and to encourage development that respects these areas.

**4.5.1.3** Encourage development that fosters continued agricultural land uses and protects the County's rural character, open space, and the character of existing communities while recognizing current land use regulations.

- 4.5.1.4 Implement “Community Character and Cultural Traditions” policies from the *Community Plan* that call for incentives encouraging “genuine” farming and ranching operations and preservation of agricultural lands.
- 4.5.1.5 Implement “Land Use and Growth Management” policies from the Community Plan.
- 4.5.1.6 Develop new methods that, with incentives, encourage the retention of agricultural and forest land as productive resources.
- 4.5.1.7 Give priority consideration for protection to parcels containing areas designated as critical wildlife habitat areas through the use of incentives and to conclude this process and negotiations in a timely manner consistent with other thirty-five (35) acre developments.
- 4.5.1.8 Assist in larger parcel planning.
- 4.5.1.9 Facilitate cooperation among neighboring landowners to create a single proposal for clustering on one property or a combination with appropriate economic incentives to each.
- 4.5.1.10 Provide flexibility in land use regulations responding to the needs of the agricultural community (i.e., additional family dwelling units, migrant farm housing, caretaker/foreman quarters, guest housing, etc.).

**4.5.2 Applicability:**

A RLUP Subdivision may be used for any land in Archuleta County that involves a single parcel, or two (2) or more contiguous parcels, at least seventy (70) acres in size and meeting the criteria of this Section.<sup>7</sup>

**4.5.3 Submittal Requirements:**

In lieu of the submittal requirements typically required for a Major or Minor Subdivision, the applicant for a RLUP Subdivision shall submit one complete copy of an Archuleta County Land Use Permit application, the application fee, and any supplemental data for the proposed subdivision to the Planning Department, as determined by Sketch Plan Review.<sup>8</sup>

**4.5.3.1 Vicinity Map.** A map that identifies the general location and boundaries of the parcel to be subdivided, together with identification of the uses of all lands adjacent to the parcel.

**4.5.3.2 Site Plan.** A site plan that includes the following information:

- (1) Boundary lines, corner pins, dimensions and other land survey information; dimensions of the parcel to be exempted.

<sup>7</sup> Amended May 2019 (Res. 2019-39)

<sup>8</sup> Amended May 2019 (Res. 2019-39)

- (2) Existing and proposed topography at contours at vertical intervals suitable to demonstrate the drainage and grading features.
- (3) Location of wells and septic systems.
- (4) General location of roadways, easements; rights-of-way, both existing and proposed.
- (5) Description of natural features such as ridges, wildlife corridors, waterways and wetlands, soils, vegetative cover and other features that would, in the opinion of the County, influence development.

**4.5.3.3 RLUP Subdivision Plat:** A plat suitable for recording, that includes the following information:

- (1) All boundary survey control points with monument descriptions to create blocks, lots, rights-of-ways and easements.
- (2) Purpose, width and location of all easements.
- (3) Location of all lots and blocks with accurate dimensions.
- (4) Location, identification and dimensions of roads, driveways and trails.
- (5) Location and dimensions of open space parcels and preserved areas.
- (6) Location of utilities.

**4.5.3.4 Development Report:**

- (1) The existing environmental conditions on the parcel to be developed and the effects of the development on those conditions.
- (2) The design and engineering of any septic or sewer system, including provisions for on-going operation and maintenance.
- (3) A description of the conservation values to be preserved and the means to preserve those values for the two-thirds (2/3) of the area of the parcel that will remain undeveloped as open space, pasture or grazing lands, parkland, wildlife habitat or other conservation uses acceptable to the County. Examples of means to preserve the property include, without limitation, creation of a conservation easement, conveyance of land to a land trust, conveyance to homeowners association.
- (4) A description of the proposed water supply.

**4.5.4 Review Procedure:**

**4.5.4.1** The review procedure for a RLUP Subdivision shall be in accordance with the Major Subdivision process. The Major Subdivision review process includes Sketch Plan, Preliminary Plan and Final Plat review, in accordance with the procedures in Section 4.2, Section 4.3, and Section 4.4.

**4.5.4.2** No later than ten (10) days after approval, the Board of County Commissioners shall notify the state engineer of such approval and shall provide the state engineer with a copy of the approved RLUP.

**4.5.5 Review Criteria:**

The Planning Commission and Board of County Commissioners shall be guided by the following criteria in reviewing RLUP Subdivision applications:<sup>9</sup>

**4.5.5.1** That the application meets all of the minimum requirements of this Section.

**4.5.5.2** That the application fulfills the goals of the County to preserve open space and scenic corridors, protect wildlife habitat and watersheds, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations.

**4.5.5.3** That at least two thirds (2/3) of the total area of the tract is reserved for the preservation of contiguous open space.

**4.5.5.4** That the application reduces the extension of roads and utilities to serve the proposed development.

**4.5.5.5** That the proposed development will not exceed two (2) dwelling units for each thirty-five (35) acre increment, before Incentives in Section 4.5.6.

**4.5.5.6** That the application permits landowners to implement smart growth on land that is otherwise exempt from subdivision regulation.

**4.5.5.7** That approval of the application would preserve existing agricultural uses.

**4.5.5.8** That approval of the application would protect existing view sheds of benefit to present and future residents and visitors to the County.

**4.5.5.9** That a water-court approved plan for augmentation shall be required and shall accompany any approved RLUP Subdivision when water usage in the development would exceed an annual withdrawal rate of one (1) acre-foot for each thirty-five (35) acres within the development, provided, however, that this requirement shall not apply in the event the development will be served by the use of treated domestic water provided by any public or private entity.

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<sup>9</sup> Amended May 2019 (Res. 2019-39)

**4.5.6 Permitted Incentives for Approval of RLUP Subdivisions:**

The Planning Commission may recommend, and the Board of County Commissioners may consider, the following incentives which may be granted in connection with approval of the RLUP Subdivision application:

**4.5.6.1** Density bonuses, not to exceed a gross density of one (1) dwelling unit per seventeen and one half (17.5) acres.

**4.5.6.2** The density bonus permitted hereby may be used for construction of additional family dwelling units, migrant farm housing, caretaker/foreman quarters, and guest housing at a higher density than permitted by underlying zoning.

**4.5.6.3** Qualification of preserved scenic corridors and wildlife habitat areas as a Sending Site to the extent permitted by the County through the Transfer of Development Rights program in Section 2.6 of these Regulations.

**4.5.7 Conditions:**

In exchange for the permitted incentives in Section 4.5.6, any of the following conditions may be imposed by the Board of County Commissioners upon the approval of a RLUP Subdivision:

**4.5.7.1** That the RLUP Subdivision set aside land for open space, scenic corridors, watershed protections, wildlife habitat, or critical areas of importance as identified in Section 4.5.1.2 , in a conservation easement held by a qualified land trust.

**4.5.7.2** That the RLUP Subdivision shall not permit development of any preserved land set aside in either a perpetual conservation easement or a conservation easement for at least forty (40) years. In the event a non-perpetual conservation easement of forty (40) years or more is used to preserve land, the RLUP shall stipulate a “first right of refusal” allowing the County and/or a qualified land trust the option to purchase, at prevailing market value, the development rights available at the conclusion of the term of the non-perpetual conservation easement.

**4.6 AMENDMENTS<sup>10</sup>****4.6.1 Purpose and Intent:**

Amendment of a Subdivision plat previously approved by the Board of County Commissioners provides property owners the opportunity to combine lots; reconfigure lots, tracts and rights-of-way; change conditions of approval and notes on the face of a plat; or generally address any inadequacies in the original plat. Amendment of an existing plat requires review and evaluation to ensure conformance with the *Community Plan*, the Land Use Regulations, any other County regulations and ordinances, and State Statutes.

<sup>10</sup> Amendments to Section 4.6, May 2019 (Res. 2019-39)

**4.6.2 Applicability:**

**4.6.2.1** Amendments to a recorded plat shall typically be accomplished by re-plat (including re-subdividing, minor boundary adjustments, single transaction large lot subdivision, or any other changes to a recorded plat) prepared by a Colorado-licensed surveyor. The Review process may include Sketch Plan, Preliminary Plan, and/or Final Plat as provided in Section 4.6.4.3 and determined by the Development Director.

**4.6.2.2** Amendments to a recorded plat, for the purpose of minor corrections, may be completed as a Correction Plat as provided in Section 4.6.4 below.

**4.6.2.3** Amending a plat does not change any covenants or restrictions previously recorded pertaining to the subdivision since they run with the land and can be changed only with the written approval of all parties having a legal or equitable interest in the whole subdivision.

**4.6.2.4** All platted utility easements shall remain on the subject property unless appropriate releases are obtained. Additional easements, including drainage easements, may be needed when re-subdividing or amending a plat.

**4.6.2.5** All plat amendments shall comply with these Regulations.

**4.6.3 Submittal Requirements:**

The applicant shall submit one complete copy of an Archuleta County Land Use Permit application for the appropriate review process required by Section 4.6.4.3 and as determined at the Pre-Application Conference, the non-refundable application fee, and any required supplemental data for the proposed subdivision amendment to the Planning Department. The application shall include:

**4.6.3.1** A written statement giving the details of the proposed plat amendments and the reasons why they are necessary.

**4.6.3.2** The appropriate plans and plats for review required by Sections 4.2, 4.3, and 4.4, as determined at Pre-Application.

**4.6.3.3** An original Tax Certificate(s) for all lots, parcels and/or tracts involved from the County Treasurer showing that no taxes are currently due or delinquent against the property.

**4.6.3.4** An original Title Report done within three (3) months of submission from a licensed Colorado Title Company shall be provided showing the names of all surface owners, and lien holders. An Owners & Encumbrance Report or Mortgage Guarantee Report may be sufficient for an Amended Plat at the Development Director's discretion.

**(1)** A Title Report including mineral owners and lessees of mineral rights may be required.

- 4.6.3.5** Any supplemental data, as required by the Planning Department, which is deemed necessary to adequately review the request.
- 4.6.3.6** In addition, the following information may be needed, if there is no past history on file or information is not adequate, to assist in making a determination as to whether the plat amendment is feasible: topography, geology, soils, drainage, floodplain, hazards, roads, etc.
- 4.6.3.7** All of the costs of amending a plat including, but not confined to notification, plat preparation, surveying, recording, etc., shall be paid by the applicant.

**4.6.4 Review Procedure and Criteria for Approval:**

- 4.6.4.1** The Planning Department shall review the Amended Plat for conformance with the Community Plan, these Regulations, and other adopted County policies and ordinances and circulate for Review by Referral Agencies as provided in Section 2.2.5.
- 4.6.4.2** The County Surveyor shall review the Amended Plat for accuracy, prior to review by the Planning Commission, at the applicant's expense. Surveyor fees shall be paid to the Planning Department prior to submittal to the County Surveyor and a paid receipt presented to the County Surveyor. The County Surveyor shall have up to fourteen (14) calendar days to review the plat.
- (1)** If any corrections are needed, the applicant shall have the corrections made and two (2) copies of the corrected plat shall be re-submitted to the County Surveyor, and two (2) copies to the Planning Department. Re-check fees shall be paid to the Planning Department and a paid receipt presented to the County Surveyor. If corrections are needed, the County Surveyor shall have an additional fourteen (14) calendar days for review from the date the corrected plat is received by the County Surveyor.
- 4.6.4.3** Amendments to a recorded plat may need to go through one or more steps of the subdivision review process including Sketch Plan, Preliminary Plan and Final Plat review, as determined by the Development Director after the Pre-Application Conference (Table 1).
- (1) Correction Plat.** If it is discovered that there is a minor survey or drafting error on a recorded plat, the applicant shall be required to submit an Amended Plat application indicating the revisions made as compared to the previously recorded plat. Such a correction plat may be approved by the County Commissioners without the otherwise required review or hearing procedures if the corrections are consistent with the approved Final Plat; and after such approval, it shall be recorded.
- a.** If, however, correction of an error results in conditions which do not comply with these Regulations or results in changes affecting parties other than the applicant, the Amended Plat shall then be reviewed by the Planning Commission in accord with the procedures for Final Plat processing before the County Commissioners review or recording.

- (2) Minor Lot Line Adjustment:** As defined by these regulations, an MLLA may be reviewed by the Planning Commission and Board of County Commissioners at public meetings, rather than requiring public hearings and without the benefit of Sketch Plan Review (Table 1).
- a. Reducing 3 lots to 2 lots, eliminating an established lot in the process, may be accomplished by Minor Lot Line Adjustment.
  - b. All criteria of these regulations must be met, and:
    1. No new lots or parcels are created;
    2. The resulting lots or parcels are comparable to the size and character of lots or parcels within that subdivision;
    3. No lot or parcel is rendered non-conforming, and any existing non-conforming lot or parcel is not rendered more non-conforming;
    4. There shall be no significant effect to the adjoining property due to the boundary adjustment.
- (3) Lot Consolidation:** Consolidation of legal lots in an approved Subdivision may be accomplished by Resolution, and reversal of a Consolidation by Resolution, as provided in Section 4.7.

**4.6.4.4** If the Amended Plat is approved by the Board of County Commissioners, the applicant must complete all conditions and pay all fees, and record the Amended Plat no later than twelve (12) months from the date of the County Commissioners approval, or the Amended Plat becomes null and void.<sup>11</sup>

- (1)** All back fees, including but not limited to, property owners fees, water and/or sewer district fees, or metro district fees, that were voided or reduced as a result of an Amended Plat shall be paid in full when required, before the plat is recorded.
- (2)** It is the responsibility of the applicant to submit to the Planning Department from each entity, either a paid receipt or a written document stating no back fees are due.

#### **4.6.5 Amending a Plat for Right-of-Way and Easement Vacations<sup>12</sup>**

The purpose of this section is to provide for the vacation of rights-of-way and easements for roads, utilities, or other purposes, created by a Subdivision Plat, and that no longer serve the public. The process may be applied for by a property owner, or initiated by the County via resolution. Vacation of road rights-of-way and access easements not created by plat (typically by deed or resolution) may be accomplished by Board resolution and shall follow procedures in the *Archuleta County Road & Bridge Design Standards* and C.R.S. §43-2-301 et seq.

<sup>11</sup> Amended May 2013 (Res. 2013-22) Deleted former sections 4.6.4.3(3)-(5) and amended 4.6.4.4; Amended May 2019 (Res. 2019-39)

<sup>12</sup> Amended March 2012 (Res. 2012-15) Entire section added. Amended May 2019 (Res. 2019-39)



**4.6.5.1 Application:** The applicant shall submit one complete copy of an Archuleta County Land Use Permit application, application fee, and a written statement of details and the reasoning behind the vacation.

- (1) A plat map (vacation plat) and PDF prepared by a Colorado-licensed surveyor shall be submitted, at appropriate scale showing ownership, acreage and vesting of property in compliance with C.R.S. §43-2-302.

**4.6.5.2 Review Procedure:** All applications for right-of-way or access or utility easement vacations shall follow the Review Procedure as described in Section 2.2 and 4.6.4 herein, except as required by C.R.S. §43-2-303. The County Engineer shall review all applications for right-of-way and access easement vacations for conformance with the *Archuleta County Road & Bridge Design Standards*.

- (1) Notices other than those required in Section 2.2.3 are required only when a subject roadway has been established for use as such; in this case, the notice must follow C.R.S. §43-2-302(2)(b).

**4.6.5.3 Review Criteria:** A public right-of-way or easement of record, or any portion thereof, which the County has jurisdiction over, shall be eligible for vacation if the following criteria are met:

- (1) Approval of the vacation request will not leave any land adjoining the right-of-way without an established public road or private access easement connecting the land with another established public road, or without utility or drainage services;
- (2) That the vacation will provide a public benefit, and/or will be for a public purpose. When necessary, the County may reserve an easement in the right-of-way for existing or planned utilities, or for drainage. Any easement shall be recorded with the County Clerk at the expense of the petitioner.
- (3) The recommendations of referral agencies have been considered.

**4.6.5.4 Vesting of Vacated Property:** Any right-of-way that is vacated will be divided proportionally among the affected lots, unless it can be demonstrated the entirety of the right-of-way was originally taken from one parcel. In that case, the right-of-way will be returned to that parcel.

- (1) Property owners on each side of the right-of-way are allowed to divide the vacated right-of-way differently but may transfer ownership only after final approval and recordation of the vacation.

## 4.7 LOT CONSOLIDATIONS AND UN-CONSOLIDATIONS<sup>13</sup>

### 4.7.1 Purpose and Intent:

A Subdivision plat of record may be amended by resolution of the Archuleta Board of County Commissioners to consolidate two or more *abutting* (bordering) legal lots into one legal lot of record. The resolution eliminates the interior lot lines but has no effect by itself on recorded easements. A lot consolidation by Resolution may be reversed by Resolution when certain criteria can be met. Reversal of any consolidation of legal lots may also be considered by Amended Plat, according to the procedures outlined in Section 4.6 above.

**4.7.1.1** Consolidation of lots on a subdivision plat may be considered when:

- (1) All lots are in the same block, unit, or phase of a platted subdivision;
- (2) All lots are in the same zoning district;
- (3) All lots are in the same taxing districts;
- (4) Vested ownership in all lots is the same; the title in which they are held is the same (names on the deeds are the same) and must held the same (for example, single ownership, joint tenants, tenants in common, or in trust).

**4.7.1.2** Reversal of a lot consolidation, or un-consolidation, may be considered when:

- (1) Un-consolidation by resolution will only be allowed once per 3-year period.
- (2) A Resolution shall have the effect of undoing the most recent Resolution, and the consolidated lots shall be returned to a pre-consolidation boundary configuration. The original and all applicable subsequent plat name(s) and recording number(s) shall be referenced in the Resolution.
- (3) A resolution to reverse a consolidation may result in no more than three (3) lots.
- (4) If any improvements encroach on property lines or current setbacks, then un-consolidation shall only be considered by Plat Amendment under Sec. 4.6.

**4.7.1.3** A Pre-Application Conference is required prior to application, as provided by Section 2.2.4.1.

### 4.7.2 Submittal Requirements:

The Applicant shall submit one complete copy of an Archuleta County Land Use Permit application, non-refundable application fee, and supporting material as determined at the Pre-Application Conference (Section 2.2.4.1).

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<sup>13</sup> Amendments to Section 4.7, Deleted Subdivision Exemption Plat provisions and moved to Section 4.9, replaced with previous Section 4.9 and 4.10 for Lot Consolidations & Reversal and amended, May 2019 (Res. 2019-39).

**4.7.2.1** Applications for lot consolidation or reversing consolidation shall provide:

- (1)** An Ownership and Encumbrance (O&E) or Mortgage Guarantee report from a licensed Colorado title company, not more than three months old. Such document shall evidence the following for each lot described individually:
  - a.** The report shall describe exact names of all owners, for all lots to be consolidated or unconsolidated. Properties shall be vested identically (names by vary only as allowed in accordance with C.R.S. §38-35-116).
  - b.** All lots are titled identically, whether joint tenancy or tenants in common.
  - c.** All liens (or specifically state there are no lien holders). Any and all lien holders will be required to complete the “Lien Holder Consent to Consolidate Lots” form as part of the application submittal.
  - d.** Property description including legal descriptions and reception numbers for related resolutions or plats and other historical information.
- (2)** Original notarized signature(s) of lien holders as shown on the O&E or Mortgage Guarantee Report, giving their approval of the lot consolidation, is required and shall be included with the submittal. A sample form is available from the Planning Department.
- (3)** A copy of a tax receipt or other written proof showing that no taxes are currently due or delinquent against the lot(s) involved. The tax receipt or other written proof must also show that the lots are in the same tax district.
- (4)** Notice of Intent, as detailed in Section 4.7.2.3 below.
- (5)** Any supplemental data identified by the Planning Staff at the Pre-Application Conference, which is deemed necessary to adequately review the request. Incomplete submissions will not be considered.

**4.7.2.2** When Reversing a Lot Consolidation if there are any improvements located on the consolidated lot, Applicant shall also provide an Improvement Location Certificate from a licensed Colorado surveyor.**4.7.2.3** Applicant shall provide Notice of Intent to apply for Lot Consolidation or Reversing a Consolidation, with their application.

- (1)** Upon completion of the Pre-Application Conference and confirmation by Applicant of their intent to apply for Lot Consolidation or Un-consolidation, Planning Staff shall cause to be prepared Notification which shall include the following:
  - a.** A description of the proposed consolidation;
  - b.** A vicinity map showing the lots which are being consolidated and nearby roads or other identifying landmarks (the County GIS website may be used);
  - c.** An invitation to comment on the application;
  - d.** The address and telephone number for the Planning Department; and
  - e.** The date when responses must be received by the Planning Department (no sooner than thirty days from the date sent).

- (2) The Notification shall be sent shall be sent via Certificates of Mailing to:
  - a. All utility companies, applicable property owners association(s) and special districts.
  - b. When Reversing a Lot Consolidation, Notification shall also be mailed to all adjacent property owners at the address shown in the Assessor’s records.
  - c. The original Certificate of Mailing receipts shall be submitted to the Planning Department
  
- (3) Planning Staff will schedule consideration of an application by the Board of County Commissioners no sooner than 30-days after the post mark on the Certificate of Mailing receipts.

#### **4.7.3 Effects on Platted Easements**

Consolidating or Un-consolidating lots does not change any of the previously recorded, platted utility easements and they shall remain as platted on the subject property. Easements where utilities are physically present should remain, unless those utility lines are relocated at the Applicant’s expense.

**4.7.3.1** As an alternate to the process in Section 4.6.5 above, Applicant may make a written request to all utility companies actively serving Archuleta County, to vacate utility easements along the interior lot lines (typically side yard but may be rear yard) to be abandoned.

**4.7.3.2** If a lot consolidation is requested because of plans to build over the interior lot lines, Applicants shall check with utility companies before proceeding with the lot consolidation, to ensure that all utility companies will abandon the easements.

- (1) To have utility easements abandoned along the interior lot lines, Applicants must obtain written releases (such as Quit Claim Deeds) from each utility company serving Archuleta County, after approval of the lot consolidation by Archuleta County.

- (2) Written releases must be recorded in the County Clerk and Recorder's Office, at the Applicant’s expense, after the Archuleta Board of County Commissioners has passed a Resolution approving Applicant’s request to Consolidate said lots.

**4.7.3.3** When Reversing a Lot Consolidation, in the event that utility easements as dedicated on the original recorded plat have been vacated, easements as required under the current Regulations at the time of application must be granted and conveyed to each utility company which previously vacated such easement.

- (1) Applicant shall prepare and submit a grant of easement by deed or other legal instrument for review by Planning Staff.

- (2) After approval of the Resolution, these documents shall be recorded in the office of the Archuleta County Clerk and Recorder at the Applicant’s expense.

**4.7.4 Review Process and Criteria for Approval**

Once an application for Lot Consolidation or Un-Consolidation is submitted (including all notice requirements), Planning Staff will review the request within seven (7) days of a complete application, and inform the Applicant of any deficiencies.

**4.7.4.1** Upon completion of the 30-day period for the Notice of Intent (Section 4.7.2.3), Planning Staff shall submit a Resolution of Approval for consideration at the next public meeting of the Board of County Commissioners.

**4.7.4.2** The Board shall consider any written comments if received during the Notice period.

**4.7.4.3** Applicants shall be aware they may be liable for fees to property owners' associations, water and sanitation districts, and metropolitan districts.

(1) When Reversing a Lot Consolidation, the return of such consolidated lots to their original platted configuration may result in an increase in property taxes for any lot remaining vacant.

**4.8 VACATION OF A RECORDED SUBDIVISION****4.8.1 Purpose and Intent:**

The vacation of a recorded subdivision requires review and evaluation so that the effects on surrounding properties and Archuleta County at large can be evaluated. The vacation of a recorded subdivision may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the vacation of a recorded subdivision is in accordance with the development objectives of the County (per the Archuleta County Community Plan) and will not be detrimental to other uses or properties.

**4.8.2 Submittal Requirements:**

The applicant shall submit seventeen (17) copies of the Petition for Vacation application, the non-refundable application fee, and any required supplemental data for the Application for Vacation to the Planning Department. The application shall include:

**4.8.2.1** A title report completed within the past three (3) months by a licensed Colorado Title Company showing the names of all surface owners and lien holders as the names may appear upon records in the County Clerk and Recorder's Office.

**4.8.2.2** A statement of approval by signature notarized by a Notary Public of one hundred (100) percent of all owners, equitable and legal lien holders of the property making up the recorded subdivision. Said statement of approval by record Owner and lien holders shall be in a form approved by the Planning Department.

**4.8.2.3** A Tax Certificate from the County Treasurer showing that no taxes are currently owed and/or delinquent against the property to be vacated.

- (1) As a prerequisite to the vacation of the recorded subdivision the applicant shall pay and provide evidence of payment of the pro-rated taxes on the property to be vacated as of the date of vacation of the property in question.

**4.8.2.4** Evidence that all holders of easements crossing the subdivision property have legally conveyed the originally conveyed easements back to the applicant.

- (1) It shall be an express condition of the approval to a vacation of a recorded subdivision that the holder of the benefit of any easement granted by the platting of a recorded subdivision convey to the applicant their interest in the easement.
- (2) A Petition for Vacation of any previously subdivided property shall not be approved where vacation of the subdivision eliminates rights-of-way or easements within the subdivision servicing or potentially servicing adjoining property.
- (3) At the discretion of the Board of County Commissioners, if alternate means of access or easements crossing the subject property can be facilitated to service adjoining properties, the County may allow such alternatives in granting the Petition for Vacation of the subject properties. Except at the discretion of the Board of County Commissioners an easement may not be eliminated.

**4.8.3 Review Procedure:**

**4.8.3.1** The Planning Department shall review the Petition for Vacation for conformance with the Community Plan, these Regulations, and other adopted County policies and ordinances. Following Staff review, the Petition for Vacation shall be scheduled for consideration by the Planning Commission.

**4.8.3.2** At the scheduled meeting, the Planning Commission shall review the Petition for Vacation and take into consideration all pertinent factors.

**4.8.3.3** Upon recommendation of approval of the Petition for Vacation, it shall be held by the Planning Department for presentation to the Board of County Commissioners.

**4.8.3.4** The Board of County Commissioners, at a public hearing, shall review the Petition for Vacation and after considering testimony from any interested parties and the applicant, and the Planning Commission recommendation, shall approve or disapprove the Petition for Vacation.

**4.8.3.5** If approved, the Planning Department shall then have recorded, without undue delay, the vacation plat and any appropriate supplemental instruments.

**4.8.3.6** The cost of recording the vacation plat and the cost of recording supplemental instruments shall be paid by the applicant.

**4.9 SUBDIVISION EXEMPTION**

The Board of County Commissioners may exempt a division of land from the definition of Subdivision in C.R.S. §30-28-101 and in these Regulations, if the Board can determine that such division is not intended to evade the purposes of this Section 4 and C.R.S. Article 28 Part 1.<sup>14</sup>

**4.9.1 Purpose and Intent:**

Exemption from Subdivision Review by the Board of County Commissioners may be appropriate in very limited circumstances. Among these is for the benefit of the traditional ranching/farming family to allow more than one family to remain living on the property to assist with the operation of the farm and ranch. However, State Law does allow the Board of County Commissioners the option to consider exceptions for other extraneous circumstances unrelated to the traditional ranching family conditions.

**4.9.2 Submittal Requirements:**

The applicant shall submit one complete copy of an Archuleta County Land Use Permit application, non-refundable application fee, and supporting material as determined at the Pre-Application Conference (Section 2.2.4.1). Certain data may be waived by the Development (Planning) Director.

**4.9.2.1** Exemption plat and PDF prepared by a Colorado-licensed surveyor shall be submitted, at appropriate scale showing ownership and acreage.

**4.9.2.2** Written description of the request and how the proposal meets Criteria for Approval.

**4.9.2.3** Copies of well permits and Onsite Wastewater Treatment Systems (OWTS) permits, for any wells or septic systems on the parcel.

**4.9.2.4** Title Report from within three (3) months of application showing the names of all surface owners and lien holders as the names may appear upon records in the County Clerk and Recorder's Office. The Title Report shall include all easements of record.

**4.9.3 Review Procedure:**

The Development Director shall refer the application for review as provided in Section 2.2.5.

**4.9.3.1** The Planning Department shall schedule the application for a Public Hearing at the next available Board of County Commissioners meeting for which public notice can be given as provided in Section 2.2.2 and 2.2.3.

**(1)** Notice shall be provided as required by Table 2. Notice to Mineral Estate Owners and Lessees may also be required by State law.

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<sup>14</sup> Section 4.9 originally Amended May 2013 (Res. 2013-23), entire Section replaced. Amended May 2019 (Res. 2019-39) previous Section 4.9 combined with Section 4.10 and moved to Section 4.7; previous Section 4.7 moved to Section 4.9 and amended.

**4.9.4 Criteria for Approval:**

The Board of County Commissioners must be able to find that the proposed division of land is not proposed to evade requirements of Section 4 of the *Archuleta County Land Use Regulations* and C.R.S. §30-28-101 *et. seq.* Also:

**4.9.4.1** Access from public roads shall remain the same;

**4.9.4.2** There shall be no more than one home on a divided tract, or two homes remaining on the original tract;

**4.9.4.3** For divisions of land benefiting a traditional ranching/farming family, the minimum lot size in the Agricultural/Ranching (AR) zoning district of 35 acres (Table 4) may be waived once, through this Exemption process.

**4.9.4.4** Additional deed restrictions may apply.