



COUNTY PLANNING COMMISSION

MEETING AGENDA SEPTEMBER 9, 2020

Online Meeting

MEETING INFORMATION - This meeting will be held online due to the COVID-19 virus. To join the meeting: <https://zoom.us/join>, Meeting ID: 373 757 8496, Password: 534277; Audio only: Dial 1-301-715-8592 or 1-253-215-8782 (long distance rates may apply)

1. **9:00 AM CALL TO ORDER.**
2. **APPROVAL OF MINUTES, PLANNING COMMISSION AND STAFF COMMENTS**
3. **9:15 AM ANNUAL REVIEW** of the Erdman Energy Enterprises LLC: Solar Facility Special Use Permit, Last Dollar Road, approval granted March 20, 2019. MOTION
4. **LAND USE CODE AMENDMENT RECOMMENDATION:** Subdivisions Code Amendment pertaining to Final Plat requirements and Survey Monuments. MOTION
5. **LAND USE CODE AMENDMENT RECOMMENDATION:** Mining Two-step Code Amendment to the San Miguel County Land Use Code. MOTION
6. Adjourn

NOTE: All times are approximate; items may begin earlier (except public hearings) or later than scheduled. For more information contact Planning Department at (970) 728-3083.

The official, designated posting place for all Planning Commission (CPC) notices, agendas is online at <https://www.sanmiguelcountyco.gov/AgendaCenter>. Use this link to view the agenda with any last-minute changes, or to view CPC meeting packets. Planning Commission packets are posted on the Monday before the meeting. To be automatically notified please sign up at www.sanmiguelcountyco.gov, sign up for alerts, and follow the prompts.

**SAN MIGUEL COUNTY PLANNING COMMISSION
MINUTES – REGULAR MEETING**

August 12, 2020

On-line Meeting

Present: Lee Taylor, Chair
M.J. Schillaci, Secretary
Ian Bald, Member
Josselin Lifton-Zoline, Member
Tobin Brown, Jr. Alternate

Absent: Matthew Bayma, Sr. Alternate
Pamela Hall, Vice-chair

Planning Staff Present: Kaye Simonson, Planning Director
Troy Hangen, Senior Planner
John Huebner, Senior Planner

County Staff Present: Amy Markwell, County Attorney
Nancy Hrupcin, Legal Assistant, County Attorney’s Office

9:16 a.m. Chair called the meeting to order.

APPROVAL OF MINUTES

MOTION by Ian Bald to approve the minutes as written.
SECONDED BY Josselin Lifton-Zoline. **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	<u>Absent</u>
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	<u>Absent</u>
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

LAND USE CODE AMENDMENT RECOMMENDATION: SECTION 5-29 MEDICAL AND RETAIL MARIJUANA FACILITIES & ESTABLISHMENTS, TO ALLOW LIMITED OUTSIDE COMMERCIAL CULTIVATION OPERATIONS.

Those who addressed the commission: Kaye Simonson, Planning Director
Greg Powers, Division of Water Resources
Mark Caddy, Colorado Parks and Wildlife
Dan Covault, San Miguel County Sheriff
Nolan Murphy, Alpine Wellness

Kaye Simonson, County Planning Director, presented the Land Use Code Amendment to Section 5-29, to allow limited outside commercial cultivation operations for medical and retail marijuana facilities and establishment that the BOCC had directed the Planning Department staff to prepare. The major change proposed is to allow limited outdoor commercial marijuana cultivation operations. The new regulations would allow 20,000 square foot areas of outdoor cultivation on 35 acres or more. Growers could have green houses, or outdoor cultivation areas, or any combination thereof.

There are two options to choose from in the draft amendment. Option 1 retains the LUC's current limitation on a total of three cultivation areas on a parcel greater than 35 acres in size, which would allow about 600 plants total, whether indoors or outdoors. Most premises are licensed by the State for more plants. Option 2 would allow the applicant to request the number of cultivation areas that would allow them to grow the number of plants allowed under their State license. Alpine Wellness has a Tier 1 Retail State license, which allows up to 1,800 plants.

The amendment would also allow the use of non-substantial greenhouses, or hoop houses, on a temporary, up to two-year basis, with an annual inspection to ensure they are being maintained.

There is no change proposed to the plant count limits for personal, non-commercial, cultivation and use.

There was a Planning Commission work session held in Norwood on March 11, 2020 on this topic.

On May 28, 2020 a Temporary Use Permit was granted to Alpine Wellness for the 2020 season to plant 20,000 square feet of outdoor marijuana. The standards contained within the draft Code Amendment were used as guidance in reviewing and issuing that permit. Because of the lateness in the season, Alpine Wellness was only able to fence and plant 5,400 square feet.

Kaye iterated the setback and fencing requirements. Alpine Wellness was required by the state to add an additional layer to their wildlife fence for the temporary use. There is also a proposed addition to the LUC to allow another 3,000 square foot building for hanging and trimming. Screening may be provided where appropriate. There were also some additional submission requirements, including what would the plant count be, to provide fence design, identifying irrigation water source, and providing a drainage and storm water management plan.

Public notice for LUC amendments are not required at this time. There will be a BOCC notice for the September 9, 2020 meeting. There were display ads placed in the Telluride Daily Planet August 7 & 9th. Planning will also place an ad in the Norwood Post. Notified Referral Agencies include the County Attorney, Building Department Official, San Miguel County Sheriff, Towns of Mountain Village, Telluride, Norwood, Ophir and Sawpit, Colorado Parks and Wildlife, the Marijuana Enforcement Division, the Division of Water Resources, and all County Marijuana Licensees.

The following agency comments were received; Sheriff Masters noted concerns regarding security, in particular gates, the location of facility, and the reliability of the operator as a factor. Patti Grafmyer, Town of Norwood asked to be consulted when considering applications in their area.

Greg Powers with the Division of Water Resources noted there are limited times when surface irrigation water is available, and there may be usage restrictions on well permits. Mark Caddy with Colorado Parks and Wildlife requested that we consider requiring removable fence panels to allow wildlife movement through the cultivation areas when growing is not occurring and there is no security risk to the site. He requested that clean-up of hoop house and weed barrier material be required. He also asked that there be some treatment and capture of irrigation run-off, particularly if there are fertilizers in use.

Marijuana Licensee, Dahlia Mertens commented that other counties have not had problems with outdoor cultivation. She was in support of Option 2, which allows up to the State License plant count limit.

Greg Viditz Ward, Marijuana Licensee, asked that we allow screening.

Review standards for Code Amendments have been met. The purposes of the LUC is to provide clear, regulatory framework and to act in the interests of the public, health, safety and welfare.

The Planning Department's recommendation is to adopt the Amendment to the Land Use Code as presented and that the County Planning Commission choose either Option 1 or 2.

Dan Covault expressed his concern over Colorado Parks and Wildlife request to allow animal movement through the area when cultivation is not taking place. Most of these growers are growing year round and their fences encompass their greenhouses. To open those fences reduces the security for their greenhouses.

Kaye read page 7 of the draft, under fences, "Portions of the fence may be required to be removable during periods when outdoor cultivation is not occurring, to allow the seasonal movement of wildlife through the property and where such removal would not compromise the security of the facility". This provision addressing Dan's concerns are included in the draft.

Lee Taylor asked for a description of the security requirements for the state.

Kaye Simonson replied that it basically is an 8' chain link fence, secure gates, and cameras to monitor the operation. Nolan Murphy added that he has 8' fence with two strands of barbed wire. The state wouldn't approve their elk fencing, but did approve the game fencing with a second layer. He also has security cameras and motion sensors on the inside, door sensors, and 40 days of video stored at all times.

Toby Brown stated that when the marijuana cultivation issue first came up there were a lot of concerns of what might happen as a result. He stated he is looking for some direction. He questioned if there been any issues in the West End of the county, and that if things are going

relatively smoothly this really might not be the issue we thought it might be when the regulations were approved?

Dan Covault replied that there has not been the pushback that there was at the beginning. To date he has not received any complaints about any of the regulated operations on Wright's Mesa and they are continuously in compliance with our regulations.

Josselin Lifton-Zoline asked if the growers have to prove adequate water when they apply for the state license. Nolan replied no, not with the state.

She also asked about the runoff and drainage plans, and was wondering if what they are asking for is similarly required of other Agricultural operations on Wright's Mesa? Kaye replied that because this is not an agricultural crop, planning can ask for details of how it is being handled.

Josselin Lifton-Zoline questioned the proposed hoop houses as temporary structures, and if Dan felt this change to now allow them was concerning. Dan replied not with the regulated operations. The sheriff's concerns were with private citizens doing their own marijuana grows in a hoop house with no security. She asked if the grower would have to prove to the county that they had an adequate water supply. Kaye replied that Alpine Wellness was required to get a commercial well permit. Growers cannot use treated water from the Town of Norwood tap.

Lee Taylor asked if any of the irrigation ditches fell under federal control, and if that might be an issue. Nolan said the Lone Cone Ditch which they use is not, so they are good. Alpine Wellness can use the ditch water, and can store it until flow season is over in October. Lee asked if outdoor grows required more water, and Nolan said the outdoor uses less water than the greenhouse.

Dan Covault said the Sheriff's Department is concerned with outdoor odor from marijuana, and annoyance with the outdoor grow, so growers must follow the required setbacks. Other than that, he had no objection to the amendment as written.

9:50 a.m. Dan Covault left the meeting.

Lee Taylor noted a couple of mark-up questions on the language of the amendment.

Toby Brown asked if the hoop houses are meant to be transitional before growers are ready to move into the substantial greenhouse operation. Kaye stated that they are transitional and will require an annual inspection.

MJ Schillaci asked about the number of plants that could be grown in a space.

Josselin Lifton-Zoline asked Nolan Murphy if from his point of view, would Option 1 or Option 2 would be ideal? Nolan answered that Option 2 would be ideal, to avoid having to go through a further review in one year.

MOTION by Tobin Brown to recommend to the Board of County Commissioners to adopt the amendment to San Miguel County Land Use Code Section 5-29 to allow Outdoor Cultivation at a Medical or Retail Cultivation Facility and to allow the temporary use of Non-substantial Greenhouses, based on the finding that the proposed amendment complies with the standards of Land Use Code Section 1-4, Purposes of the Land Use Code, and meets the intent of the marijuana regulations and standards as stated in Section 5-2903, Department of Revenue Marijuana Facilities and Establishments, in that the standards will ensure that licensed establishments are located and developed so they blend into the rural ranching and agricultural landscape, are not highly visible or have the location of these facilities readily apparent to neighboring landowners and the general public. It is further recommended to adopt Option 2 as set forth in the proposed amendment, which allow a facility on a property that is 35 acres or larger to seek approval for the number of cultivation areas necessary to achieve the plant count limits of the State license. **SECONDED** By Josselin Lifton-Zoline.

AMENDMENT TO MOTION: Lee Taylor added that he would like to add an amendment to the motion that the hoop houses be limited to 1 year and to provide for an administrative review for second year.

Tobin Brown and Josselin Lifton-Zoline agreed to the amendment

Lee Taylor asked Kaye if this amendment goes into effect, would the two operators on the mesa need to now apply for an amendment to their special use permit? Kaye responded that yes they would. Nolan has approval for 1 greenhouse and the temporary special use permit for this season. He would need to apply for a new use permit for next year.

VOTE PASSED 5-0

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	Aye	Nay	Abstain	<u>Absent</u>
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	Aye	Nay	Abstain	<u>Absent</u>
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

LAND USE CODE AMENDMENT RECOMMENDATION: SECTION 5-30 SHORT-TERM RENTALS, TO PROVIDE CLARIFICATION TO THESE REGULATIONS.

Troy Hangen presented to the commission an amendment to the San Miguel County Land Use Code to update and clarify specific standards of Short Term Rentals including water and trash, length of stay, what structures can be rented, and remediation of taxes.

The goal of the amendment is to clarify a short term stay is less than (30) thirty consecutive days. Short term rentals are only allowed in primary dwellings, not in RV's or accessory dwelling units. Units should only be rented to a single party. Planning also wanted more direction regarding tax remitting. A rental needs to have their Colorado Tax ID on file with the State and County so there can be a direct path for the taxes. Clarification that a rental property must have potable water from a municipality source or a permitted well is included. Trash containers must be bear proof.

The amendment was reviewed by the County Attorney, Amy Markwell, and Mike Bordogna, County Manager.

Planning staff recommended that the County Planning Commission recommend to the Board of County Commissioners to adopt the amendment.

Ian Bald asked how does the tax collection process work and how do you enforce violations? Kaye replied that planning can require a rental to have a state tax id number, and if they fail to file their tax reports with the state, the state enforces that issue.

MJ Schillaci inquired if the county's definitions match the Town of Telluride and Mountain Village's. Specifically the less than (30) consecutive day stay as a transient, short term rental. Troy stated that at 30 days or more it becomes a long term rental and is exempt from the sales tax collection.

Josselin Lifton-Zoline asked for an overview of the number of short term rentals in the county and where it is happening. Troy Hangen replied the Lodging Committee has a matrix to show occupancy rates. Per the Public Health Orders there are regulated occupancies that are allowed per phase. Right now we are on an extended Phase 2 which limits occupancy to 50%. Currently, the Lodging Committee has around 150 properties that they are monitoring for short term rentals. The County has 19 short term rentals that are permitted and planning is reviewing others to make sure everyone is properly permitted.

Josselin Lifton-Zoline asked where properties could have an accessory dwelling unit (ADU). Kaye replied that there can be caretaker units on the 35 acres parcels. An owner can stay in their caretaker unit and rent out the principal house, but cannot live in the primary house and rent out the accessory dwelling unit. In subdivisions like Ski Ranches, they are permitted to have an accessory dwelling unit but cannot short term rent the accessory unit. Due to the affordable housing rules Ski Ranches HOA did not want accessory units to become profit centers.

Lee Taylor asked if the County was monitoring social media for short term rentals that might not be permitted. Kaye replied that her department is not actively seeking them out, but with the COVID-19 public health rules some people are self-reporting their short term rentals. Lee asked if there have been many complaints. John Huebner replied mostly from Hastings Mesa and that one case is in enforcement.

MOTION by Josslin Lifton-Zoline to recommend to the BOCC to adopt the amendments to the San Miguel County Land Use Code Section 5-30 short term rentals based on the finding that the amendment as proposed is consistent with and complies with the review standards in section 5-1802 Land Use Code amendment and is consistent with the Land Use Code 1-4, Purpose of the Land Use Code

SECONDED by Ian Bald. **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	Aye	Nay	Abstain	<u>Absent</u>
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	Aye	Nay	Abstain	<u>Absent</u>
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

PLANNING COMMISSION AND STAFF COMMENTS

Kaye Simonson, County Planning Director updated the Commission on various matters.

Two Land Use Code Amendments are upcoming. One regarding Mining and a Two-step review process. Second, to clarify subdivision regulations, process and definitions.

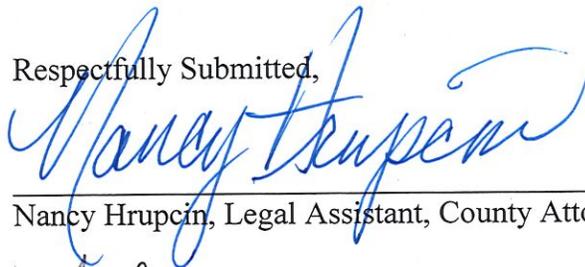
The Telluride Region Master Plan Amendment is on hold until such time when there can be significant public input and discussion. Josselin Lifton-Zoline asked if the DOLA grant money is still available. Kaye responded it is until 2022.

The application for the Burro Mines DOE clean-up waste-rock project is pending.

Lee Taylor asked about the Norwood AT&T Tower and if co-location by other cell carriers is allowed. John Huebner replied it is but that the rental rate is rather high for this tower. T-Mobile is co-located on that tower, but Verizon is not. Verizon does have an application for an improvement modification on the Grayhead Tower.

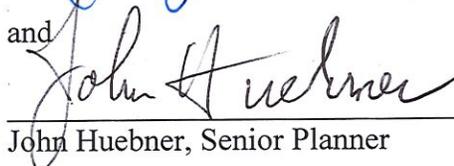
10:54 a.m. Adjourned.

Respectfully Submitted,



Nancy Hrupcin, Legal Assistant, County Attorney

and



John Huebner, Senior Planner

Approved on _____, 2020.

SAN MIGUEL COUNTY PLANNING COMMISSION

M.J. Schillaci, Secretary

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MEMORANDUM

TO: San Miguel County Planning Commission
FROM: John Huebner, Senior Planner
RE: Erdman Enterprises, LLC Special Use Permit (SUP) Solar Facility, Deep Creek Mesa, Annual Review
DATE: September 9, 2020 [Z:\Applications\2019_Erdman Energy Enterprises LLC_SUP_Deep Creek Mesa_10 Review Period\CPC Review Report ErdmanEnergy.SUP.Solar Facility 090920]

Background

The Board of County Commissioners in February 2019 conditionally approved a Solar Array Facility Special Use Permit (SUP) for Erdman Energy Enterprises (Erdman), LLC, on a 1.6-acre portion of a 36.78-acre parcel, Tract A, Parcel 456530420167, located north of Last Dollar Road (CR T60) and 500 feet north of the Telluride Regional Airport, zoned Forestry, Agriculture and Open. (BOCC Resolution 2019-006 attached) The total approved size of the solar facility is 366 kilowatts (kW). Up to 274kW of the renewable electricity generated may be sold to San Miguel Power Association members at an agreed upon price. The remaining 92kW is reserved for a future on-site single-family residence. An annual review is required of this Special Use Permit by the San Miguel County Planning Commission and Board of County Commissioners after the first full calendar year of operation in August 2020.

The solar panels installed onsite for community solar purposes are operational and can generate up to 274kW in renewable electricity. Erdman needs final approval from the State electrical inspector before selling the power to contracted SMPA members. The power generated to date from the solar facility has been donated to local charities and to the Telluride Regional Airport. Erdman plans to install additional solar panels that will generate 92kW in renewable electricity to power a future single-family residence on the property.

Erdman has applied 300 pounds of "Aldasoro" native seed mix with a hydromulching process on approximately five acres of the soils disturbed during construction, and is using a variety of methods to control for noxious weeds (hand pulling, spraying, and sheep). He developed a pond system to provide a reliable water source to clean the solar array and to irrigate the associated required landscape planting plan as well as all revegetation activity. (Development Permit application attached) Erdman plans to plant up to 150 aspen bare root trees within the fenced enclosure to prevent wildlife from damaging the trees. He estimates tree growth at 5-10 feet within 5 years.

Public Noticing

Planning Staff provided notice of the Planning Commission's review of the Erdman SUP to be held on September 9, 2020. An email notice was sent August 27, 2020 to the neighbors and individuals, who had commented on this SUP application, and to the entities listed in BOCC Resolution 2019-006. Those contacted were requested to make known their support, questions, comments or concerns regarding Erdman's first year of operations following approval of the SUP.

A Notice of the September 9, 2020 CPC Public Meeting was published in the Telluride Daily Planet and in the Norwood Post on Wednesday, September 2, 2020.

Public Comments

As of the writing of this report, no public comments have been received.

Referral Agencies

The notice of the Erdman SUP annual review was sent to the County Attorney, County Road and Bridge, Federal Aviation Administration, San Miguel Power Association (SMPA), Telluride Regional Airport, the Towns, and nearby HOA's for their review and comment.

Terry Schuyler, SMPA, stated SMPA and Erdman do have a fully executed PPA in place, and have been distributing the monthly shares of energy to his list of SMPA member CSG subscribers. He clarified that Erdman does have a 1-yr temporary permit sufficient to operate the array now, and is getting close to meeting the last condition to get the final in place (waiting for UL labels to be mailed from manufacturer- required to check the last box).

Planning Comments

The Applicant has complied with the applicable terms and conditions of the Solar Array Facility Special Use Permit approved by the Board of County Commissioners. The dry conditions this summer has inhibited regrowth on the reseeded areas. He plans to plant trees this fall for vegetative screening of the solar array. Planning staff will work with the applicant and County Weed Manager to ensure revegetation is adequately reestablished and that an efficient tree screening is planted. (Site photos attached)

Recommendation

Staff recommends that no changes be made to the Erdman Energy Enterprises LLC Solar Facility Special Use Permit.

Sample Motion:

I move to recommend to the Board of County Commissioners that no changes be made to the Erdman Energy Enterprises LLC Special Use Permit, based on the finding that Erdman has complied with the Special Use Permit terms and conditions of approval.

**RESOLUTION OF THE BOARD OF COMMISSIONERS,
SAN MIGUEL COUNTY, COLORADO,
CONDITIONALLY APPROVING A SOLAR ARRAY FACILITY SPECIAL USE
PERMIT, IN THE FORESTRY, AGRICULTURE AND OPEN ZONE DISTRICT,
FOR ERDMAN ENERGY ENTERPRISES LLC ON DEEP CREEK MESA**

Resolution 2019-006

WHEREAS, Ahmad Sawalmeh, on behalf of Erdman Energy Enterprises, LLC (Applicant), owner of a 36.78-acre parcel, Tract A, submitted an application for a Solar Array Facility Special Use Permit on a 1.6-acre portion of the property, parcel #456530420167, and more particularly described as shown on Exhibit A, Legal Description. The property is located north of Last Dollar Road (CR T60) and 500 feet north of the Telluride Regional Airport, and is zoned Forestry, Agriculture and Open (F);

WHEREAS, the size of the proposed solar array is 366 kilowatts (kW). Up to 274 kW of the renewable electricity generated from this array will be available for purchase in increments of one panel (1/3kW) to San Miguel Power Association members. The remaining 92 kW are reserved for the applicant's personal use in conjunction with a future single-family residence on the property;

WHEREAS, a Solar Array Facility is subject to Two-step Special Use Permit Review, i.e. review and recommendation by the Planning Commission and review and action by Board of County Commissioners pursuant to Land Use Code (LUC) Section 5-307 F. V. Public Utility Structures. The primary LUC review standards for this application are LUC Section 5-10 Special Use Permits, 5-407 Wildlife Areas, 5-417 Development near Airports, 5-418 Telluride Regional Airport, 5-709 Public Utility Structures, 5-21 Scenic Quality, 2-30 Energy Conservation, and the County Master Plan;

WHEREAS, the SUP application was referred to the County Attorney, the County Road & Bridge Department, Colorado Parks and Wildlife (CPW), Telluride Regional Airport Authority (TRAA), the Federal Aviation Administration (FAA), San Miguel Power Association (SMPA), Town of Mountain Village, Town of Telluride, the Aldasoro Ranch Homeowners Association (HOA), the Deep Creek Ranches HOA, the Grey Head HOA, the Golden Ledges HOA, the Diamond Ranch HOA, and the West Meadows HOA for review and comment;

WHEREAS, the Applicant sent Notice of the application and the County Planning Commission (CPC) Public meeting to be held on February 20, 2019 to all property owners within 500 feet of the subject parcel, and signs were posted on the property noticing the proposed use and the CPC meeting to be held on February 20, 2019;

WHEREAS, at its regular meeting held on Wednesday February 20, 2019, following its consideration of this application, the referral comments provided, and public comments received prior to and during the public meeting, the County Planning Commission (CPC) unanimously recommended approval of the Erdman Energy Enterprises LLC Special Use Permit subject to specific terms and conditions. In making its recommendation to the Board of County

Commissioners the CPC made the finding that the Erdman Energy Enterprises LLC Special Use Permit application as proposed in the application and supplements is consistent with and complies with the review standards in LUC Section(s) 5-10 Special Use Permits, 5-407 Wildlife Areas, 5-417 Development near Airports, 5-418 Telluride Regional Airport, 5-709 Public Utility Structures, 5-21 Scenic Quality, 2-30 Energy Conservation, and the County Master Plan;

WHEREAS, the County Planning Commission's recommendation including the terms and conditions of approval of the Erdman Energy Enterprises LLC Solar Array Facility Special Use Permit application are set forth in the minutes from the February 20, 2019 CPC meeting;

WHEREAS, the Applicant sent notice of the proposed application and the Board of County Commissioner (BOCC) Public Hearing to be held on Wednesday, March 20, 2019 to all property owners within 500 feet of the subject parcel, and posted a notice sign on the property of the proposed use and the BOCC Public Hearing to be held on March 20, 2019. The Planning Department also sent notice via email to property owners (Pam and Scott Bennett, Kim and Russell Montgomery, and Charles and Jesse Price) who had expressed interest in this SUP application;

WHEREAS, a Public Hearing Notice for the proposed SUP application and the Board of County Commissioners meeting to be held on March 20, 2019 was published in the Norwood Post and the Telluride Daily Planet on February 27, 2019;

WHEREAS, a list of the items included in the Public Hearing Record is attached to this resolution as Exhibit "B";

WHEREAS, the Board of Commissioners of San Miguel County, Colorado, considered this application, along with relevant evidence and testimony, at a public hearing in Telluride on Wednesday, March 20, 2019.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of San Miguel County, Colorado, approves the Erdman Energy Enterprises, LLC Solar Array Facility Special Use Permit, based on the finding that the project as proposed in the application and supplements is consistent with and complies with the review standards in Land Use Code Sections 5-10 Special Use Permit, 5-407 Wildlife Areas, 5-417 Development Near Airports, 5-418 Telluride Regional Airport, 5-709 Public Utilities Structures, 5-21 Scenic Quality, 2-30 Energy Conservation, and the County Master Plan, subject to the following terms and conditions:

1. This SUP is granted for the life of the Power Purchase Agreement with SMPA. It is transferrable to another property owner only to the extent allowed by the Power Purchase Agreement. This SUP shall end upon termination or expiration of the Power Purchase Agreement, except for that portion dedicated to personal use on the property, which shall run with the land and is transferable to successors.
2. The SUP approval is subject to all written representations in the SUP application to include all written supplements unless modified or made more restrictive by the BOCC terms and conditions of approval.

3. This Special Use Permit conditional approval shall not take effect until such time as the Power Purchase Agreement with San Miguel Power Association (SMPA), and the Tri-State Agreement with SMPA for the Last Dollar Community Solar Garden are finalized and approved.
4. Obtain a Development Permit and contact the Planning Department prior to start of construction.
5. The Applicant shall provide a copy to the Planning Department of the Notice of Determination issued by the FAA following its analysis of Form 7460-2, Part 2, Notice of Actual Construction or Alteration, which shall be filed within five (5) days after the construction reaches its greatest height to the FAA by the Applicant.
6. The solar panel frames and support structure shall be a dark anodized finish or frameless.
7. Conduct a pre-disturbance weed survey. The weed control plan and the revegetation & landscaping plan shall be designed by a landscape architect, and is subject to county staff approval. The applicant and County staff should be cognizant of the water usage of the plants and trees for the proposed vegetation screening. County staff are to consider decreased efficiencies to the operation of the solar array caused by shading, and not just scenic quality when reviewing the revegetation and landscaping plan. Submit the weed control plan and revegetation & landscaping plan with the Development Permit.
8. Provide a determination by the County's Weed Manager that the revegetation has been adequately reestablished when seventy percent (70%) of the pre-construction cover has been attained.
9. Comply with Colorado Parks and Wildlife comments that the entire solar array is enclosed with 8 ft. woven wire fencing, including gates, to exclude deer and elk.
10. Applicant shall apply for a Road & Bridge Special Construction Permit for the installation of underground electric power utility line within the CR T60 right-of-way to the subject property.
11. No expansion of either of the solar array or the equipment shed is allowed, without proper administrative review or public review process, and authorization of an amendment to the site-specific approval and site map.
12. After the operational life of the facility is over, or upon discontinuance of the use, or upon termination or expiration of the Power Purchase Agreement, the facility shall be decommissioned and the solar array and all associated equipment, materials and fencing shall be removed. Any portion of the facility that is operational and dedicated to personal use on the property may remain for its useful life, even after the Power Purchase Agreement is terminated or expires. The owner shall provide a reclamation plan prior to discontinuance of the use or partial discontinuance of the use, demonstrating the return of the site to its natural state and reseeding with an approved native seed mix. Reclamation shall be completed no less than six (6) months from the date the use is discontinued.
13. There shall be an annual review after the first full calendar year of operation (October, 2020). Prior to this annual review, Notice will be provided to the neighbors and individuals who have commented on this SUP application, and to include the Town of Mountain Village, Town of Telluride, Aldasoro Ranch Homeowners Company, Deep Creek Ranches Homeowners Association, Gray Head Homeowners Association, Golden Ledge Homeowners Association, and West Meadow Homeowners Association, and Diamond Ranch LLC prior to the scheduled public meeting so they may make their questions or concerns known to the BOCC. The BOCC may then take action to allow the

uses to continue as approved, add conditions, or even revoke the SUP for non-compliance with terms and conditions of approval. As a part of its consideration the BOCC may make a determination in its discretion if there is a need for additional on-going annual reviews, or periodic reviews of the terms and conditions of the SUP in the future or not.

DONE AND APPROVED by the Board of County Commissioners of San Miguel County, Colorado, on March 20th, 2019.

**SAN MIGUEL COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

By: Kris Holstrom
Kris Holstrom, Chair

Vote:	Hilary Cooper	<u>Aye</u>	Nay	Abstain	Absent
	Kris Holstrom	<u>Aye</u>	Nay	Abstain	Absent
	Lance Waring	<u>Aye</u>	Nay	Abstain	Absent

ATTEST:

By: Carmen Warfield
Carmen Warfield, Chief Deputy Clerk



EXHIBIT "A" Legal Description, and

EXHIBIT "B"- Public Hearing Record list are attached to this resolution

[Z:\Applications\2019_Erdman Energy Enterprises LLC_SUP_Deep Creek Mesa\1 Staff Memo(s) and Resolution(s) / BOCC Reso 2019-0 Erdman Solar Array Facility SUP]

EXHIBIT "A"

Property in Section 30, Township 43 North, Range 9 West New Mexico Principal Meridian described as Follows:

Tract A according to Replat of Lot 166R Aldasaro Ranch, Recorded May 6, 2011, Plat Book 1, Page 4470.

All in the County of San Miguel, State of Colorado

Public Hearing Record

Board of County Commissioners

Application: Erdman Energy Enterprises LLC

Special Use Permit: Solar Array Facility, Forestry, Agricultural, Open (F) Zone
District

Date: March 20, 2019

1. San Miguel County Land Use Code (Adopted 11/30/90) with all amendments to date (By Reference Only).
2. San Miguel County Comprehensive Development Plan (Adopted 8/3/78) with all amendments to date (By Reference Only).
3. Memorandum to the San Miguel County Board of County Commissioners from County Planning Staff dated March 20, 2019.
4. Public Hearing Notice published in the Norwood Post and Telluride Daily Planet on February 27, 2019.
5. Minutes of the February 13, 2019 County Planning Commission meeting.
6. Memorandum to the San Miguel County Planning Commission from County Planning Staff dated February 13, 2019.
7. Application submitted by Erdman Energy Enterprises, LLC received November 6, 2018, and amendments to application received January 10, 2019 and January 25, 2019.
8. Applicant's "Certification of Compliance with the Public Noticing Requirements" of C.R.S. § 24-65.5-103(1) and County Land Use Code Section 3-9 dated January 20, 2019 and February 27, 2019.
9. Email from John Huebner, Associate Planner, to Scott Bennett, etal. dated March 8, 2019 (Further Public Notice).
10. Email from John Huebner, Associate Planner, to Scott Bennett, etal. dated January 11, 2019 (Further Public Notice).
11. Certification of Application Completeness from John Huebner, Associate Planner, to Ahmad JP Sawalmeh, Applicant representative dated January 11, 2019.
12. Email from Mike Rozycki, County Planning Director, to Tim Erdman, Applicant, dated January 23, 2019.
13. Email from John Huebner, Associate Planner, to Ahmad JP Sawalmeh, Applicant representative dated January 24, 2019.

14. Email from Ahmad JP Sawalmeh, Applicant representative, to John Huebner, Associate Planner, January 25, 2019.
15. Email and Attachments from Ahmad JP Sawalmeh, Applicant representative, to John Huebner, Associate Planner, January 31, 2019.
16. Email and Attachment from Ahmad JP Sawalmeh, Applicant representative, to John Huebner, Associate Planner, January 31, 2019.
17. Email from Ahmad JP Sawalmeh, Applicant representative, to John Huebner, Associate Planner, January 31, 2019.
18. Email from Ahmad JP Sawalmeh, Applicant representative to John Huebner, Associate Planner February 1, 2019.
19. Email and Attachment from Ahmad JP Sawalmeh, Applicant representative, to John Huebner, Associate Planner, February 8, 2019.
20. Email received from Ahmad JP Sawalmeh, Applicant representative, to John Huebner, Associate Planner, March 19, 2019.

AGENCY COMMENTS

21. Memorandum and Email from John Huebner, Associate Planner to Referral Agencies dated January 11, 2019.
22. Email from Mike Rozycki to Ryan Righetti, County Road Superintendent, dated January 14, 2019.
23. Email from Ryan Righetti, County Road Superintendent, to John Huebner, Associate Planner dated January 15, 2019.
24. Email from Kenny Maenpa, Telluride Regional Airport Manager, to John Huebner, Associate Planner dated January 15, 2019.
25. Letter from Kelly Crane, Colorado Parks and Wildlife District Wildlife Manager, to John Huebner dated January 17, 2019.
26. Email from Terry Schuyler, San Miguel Power Association Energy Services Executive, to John Huebner dated March 19, 2019.

PUBLIC COMMENTS

27. Email from Marc Nager, 77 Hillside Lane, Telluride, to John Huebner dated January 27, 2019.

28. Email from Jesse Johnson, Telluride resident, to John Huebner dated February 4, 2019.
29. Letter from Bo James Nerlin, Attorney, for Charles and Jessie Price, Wilson Mesa residents, to Mike Rozycki, Planning Director and Planning Commission dated February 6, 2019.
30. Email from Mike Rozycki, Planning Director to Bo James Nerlin, Attorney, for Charles and Jessie Price, Wilson Mesa residents, dated February 8, 2019.
31. Email from Rita Marie Robinson, Old Elam Ranch resident, to John Huebner and Planning Commission dated February 7, 2019.
32. Petition circulated by Ahmad JP Sawalmeh to SMPA in Telluride and Mountain Village - 14 supporters dated February 7, 2019.
33. Email and Attachment from Charles Price to the Board of County Commissioners dated March 12, 2019.
34. Email received from Russ Montgomery, Aldasoro Ranch resident, to Board of County Commissioners dated March 18, 2019.
35. Letter received from Art Goodtimes, former County Commissioner and Norwood resident, to Board of County Commissioners dated March 20, 2019.

OTHER

36. Technical Guidance for Evaluating Selected Solar Technologies on Airports, Federal Aviation Administration, April 2018.
37. Road and Bridge Driveway Permit #2010-8, Aldasoro Ranch HOC, CR T60, Access to parking area and Lot 166R, Aldasoro Ranch.



John Huebner <johnh@sanmiguelcountyco.gov>

Notice of Annual Review: Erdman Energy Enterprises Solar Facility Special Use Permit- Deep Creek Mesa

1 message

John Huebner <johnh@sanmiguelcountyco.gov>

Thu, Aug 27, 2020 at 2:34 PM

To: Amy Markwell <amym@sanmiguelcountyco.gov>, Ryan Righetti <ryanr@sanmiguelcountyco.gov>, Kenny Maenpa <Kenny@tellurideairport.com>, Linda.Bruce@faa.gov, Wiley Freeman <wiley@smpa.com>, Michelle Haynes <mhaynes@mtnvillage.org>, Ross Herzog <rherzog@telluride-co.gov>, Pamela Bennett <pam@aldasoro.com>, Tom Kennedy <tom@tklaw.net>, Steve Catsman <steve@catsman.com>, kandy@telluridecolorado.net, Anita Cody--Property Management of Telluride LLC <info@propertymanagementoftelluride.com>, HOA Administrator <hoa@businessasap.com>, Mark Caddy <mark.caddy@state.co.us>, Tim Erdman <timerdman@gmail.com>, Scott Bennett <sbennett@telluridecolorado.net>, Charles Price <Charles@varmint.us.com>, RUSSELL <rkmontgomery8@msn.com>, Terry Schuyler <terry.schuyler@smpa.com>

Cc: Kaye Simonson <kayes@sanmiguelcountyco.gov>, Troy Hangen <troyh@sanmiguelcountyco.gov>

All,

San Miguel County Planning staff is providing you Notice of the annual review by the San Miguel County Planning Commission (CPC) and the Board of County Commissioners (BOCC) of the Erdman Energy Enterprises (Erdman) Solar Facility Special Use Permit (SUP). This notice is being provided to the neighbors and individuals who have commented on this SUP application, and to the Town of Mountain Village, Town of Telluride, Aldasoro Ranch Homeowners Company, Deep Creek Ranches Homeowners Association, Gray Head Homeowners Association, Golden Ledge Homeowners Association, and West Meadow Homeowners Association, and Diamond Ranch LLC. We welcome you to make known your support, questions, comments or concerns regarding Erdman Energy Enterprises' first year of operations following approval of its SUP by the BOCC. Please send your comments to Planning staff via email to planning@sanmiguelcountyco.gov or by US Mail to SMC Planning Department, PO Box 548, Telluride CO 81435 by noon Friday, September 4, 2020.

The CPC at its September 9, 2020 meeting will make their recommendation to the BOCC as to any recommended changes to the conditions of the approved SUP, if any. The BOCC will then consider this recommendation afterward at a regular meeting at a date to be determined.

Attached for your information is the list of terms and conditions of the conditional approval of the Erdman SUP application as approved by the BOCC in March 2019, and contained in the recorded Resolution 2019-006, and recorded March 22, 2019 in the Office of the County Clerk and Recorder, recording No. 457767.

If you have any questions regarding this notice or any related matter please do not hesitate to contact me, or Kaye Simonson, County Planning Director, at 970-728-3083 or kayes@sanmiguelcountyco.gov.

Regards,
John

John Huebner
Senior Planner
San Miguel County
P:970-728-3083
333 W Colorado Ave, 3rd Flr
Telluride, CO 81435

www.sanmiguelcountyco.gov



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Erdman Energy SUP Solar Facility BOCC 2019 Approval Conditions.pdf

87K

San Miguel County Development Permit

PAGE 1

Wetland Permit App.

RECEIVED
8/27/20

Paid \$150 ck # 0206

2020 3640

Tim Erdman, Owner/Manager
Erdman Energy Enterprises, LLC
11 Nimbus Dr
Telluride, CO 81435

Re: 2014 Last Dollar Rd

I am the owner, funder, builder and project manager of the Last Dollar Community Solar Garden on my 36.78 acre, Lot 166R, land that I solely own outright (without any liens or encumbrances) just north of the Telluride Regional Airport. As part of the Solar Garden, I developed two ponds on my property to provide a reliable water source from the 1.5 cfs water rights I own from two irrigation ditches, Sheep Creek and Adams Canal. The water is being used both to water the landscaping and clean the solar panels in addition to other uses around the property.

I am now applying for wetlands special use permits for the ponds and a development permit for the work I am doing on the property in addition to the original development permit I received for the Solar Garden work. This additional work is in anticipation of a possible future house, barn and ancillary structures and development, including, but not limited to, roads, terraces, fences, corals, agricultural fields and additional on-site renewable energy demonstrations and development.

This letter is to satisfy submission requirement: 4-202.

Page 3- Vicinity Map: 4-203

Page 4 - Ownership & Legal Access: San Jaun Surveying: 4-204 & 4-205

Page 5 - Standards Report?: 4-206

Page 6 - Pre-App Conf Summary: 4-207

Page 7 - Site Plan: 4-208

PAGE 2

Page 8 - Revegetation Plan: 4-210

Page 9 - Weed Control Plan: 4-211

The Wetlands Special Use Permit is requested because a reliable source of water is required to maintain the Solar Garden and associated County required planting plan as well as all revegetation activity that is already well along to being accomplished.

No existing wetlands have been impacted and additional wetlands are being created which should only enhance and increase opportunity for wetlands that occur in the County. I have already seen more wildlife activity.

I have enclosed a check for \$200 to cover the fees for a Development and Wetlands permit.

Sincerely,

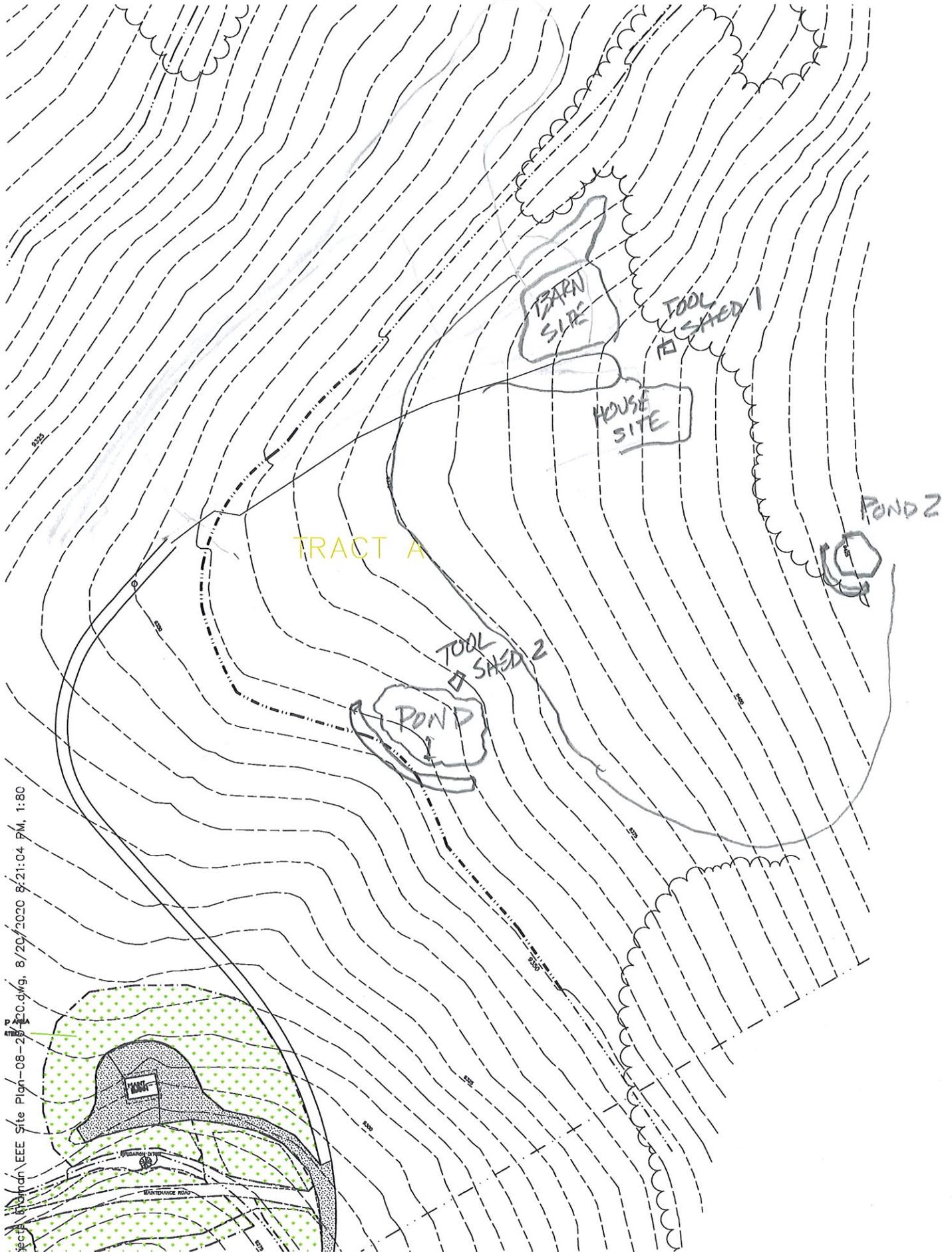


Tim Erdman

Timerdman@gmail.com

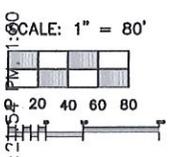
(970) 708-1532 or (608) 692-1444

PAGE 7 - SITE PLAN



D:\Projects\Huron\EEE Site Plan-08-20\00.dwg, 8/20/2020 8:21:04 PM, 1:80

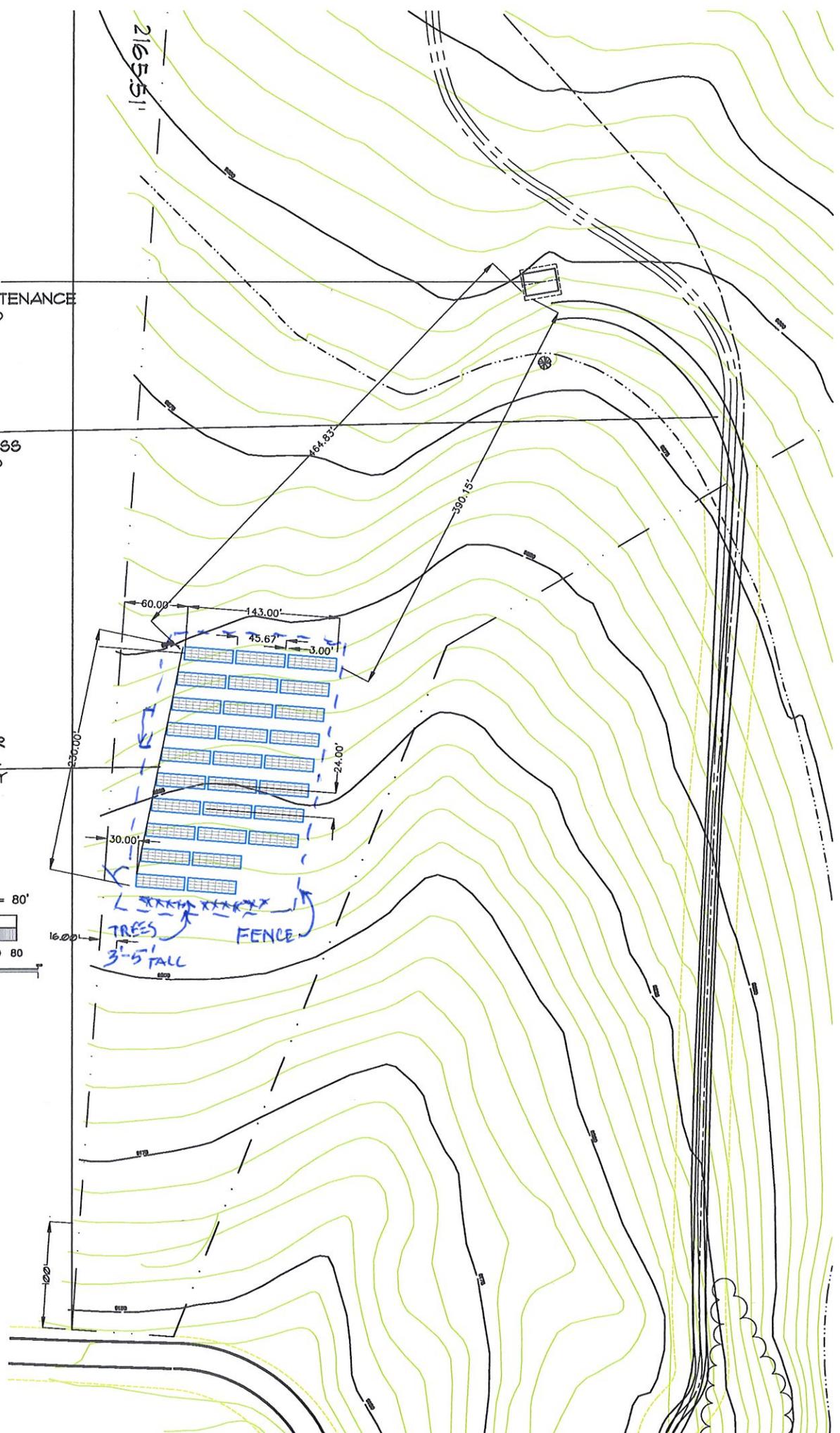
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SOLAR
PANEL
ARRAY
FIELD

NEW
MAINTENANCE
SHED

NEW
ACCESS
ROAD





10801 E. 54th Ave Denver, CO 80239 – Ph#: (303) 696-8964

August 17, 2020

Customer: Erdman Energy

Dear Tim,

The following is our recommendation based on the soils reports and site conditions from the soil analysis on August 6th. This recommendation is based on the soil report pH, organic matter, NPK, organic nitrogen, salts, trace minerals etc. our recommendation would be:

- **Biosol Forte at 1200 – 1500 lbs. per acre**
 - This will increase the amount of nitrogen, phosphorous and organic matter up to acceptable levels. While also help increase soil pH. Biosol Forte is a stable long-lasting organic nitrogen and soil amendment which will feed the soil bacteria / fungi and plants for years which in turn continues to help that soil pH. Biosol Forte will not leach but will be available for several years, great in sandy soils.

- **Granular Humate @ 300 – 400 lbs. per acre**
 - Humate is going to help in raising the micronutrients in the soils. Humate is a natural soil conditioner that has a negative ion charge. The humic acid will hold onto water and nitrogen longer to keep it from leaching through a sandy loam soil. Humate will help release the bound-up nutrients in the sandy loam soil and efficiently transfer them to the plant root. With the little amount of moisture this humate will also last for several years.

- **Endo Mycorrhizae at 20 lbs. per acre of Granular or 10 lbs. of powder or if you are going to drill seed we can apply at a lower rate.**
 - A (Multiple species at 1 – 1.2 Million Propagules per acre (minimum). The Mycorrhizae will help retrieve any P and K that is in the existing soil or bound up in the surrounding area. This will also enhance germination and help plants through environmental stress. This may also create a nutrient flush for new seed due to the current nutrient level.

Please let me know if you have any additional questions.

Thank You,
Tom Bowman II
Division President
Rocky Mountain Bio Products
A Division of Bowman Construction Supply

Soil Nutrient Laboratory Report

Lab No.: 200806143-01 Date Rec: 8/6/20 Reported: 8/14/20	Report To: Thomas Bowman	Company: Rocky Mtn Bio Products A Division of Bowman Construction 10801 East 54th Avenue Denver CO 80239
---	---------------------------------	--

Sample ID: Upper North

Project: Erdman Energy

Laboratory Results:	Sample Result	Low	Ave	High
Field Texture (EST)	Sandy Loam			
pH (units)	6.8	*****		
Salts (MMHOS/CM)	0.5	*****		
CEC Est. (MEQ/100G)	14.6	*****		
Lime (Qual.)	Low			
Organic Matter (%)	4.7	*****		
Organic N (lbs/acre)	140.8	*****		
Sodium (meq/100g Soil)	0.08	*		
Available Nutrients (ppm)				
Nitrate Nitrogen	10.5	*****		
Phosphorus	9.2	*****		
Potassium	611.0	*****		
Calcium	3520.0	*****		
Magnesium	322.8	*****		
Sulfur	2.5	**		
Boron	0.6	****		
Zinc	1.2	*****		
Iron	25.1	*****		
Manganese	2.5	*****		
Copper	0.4	*****		

Note: Average Values are for Colorado Soils

Fertilizer Recommendations	
General Landscape	
Nitrogen:	110 lbs/Acre
Phosphorus - P2O5:	80 lbs/Acre
Potassium - K2O:	0 lbs/Acre
Sulfur SO4-S:	60 lbs/Acre
Lime:	0 lbs/Acre

**To convert recommendations to lbs/1000 sq. ft. divide by 40.*

Comments	Split Nitrogen Recommendations 2 to 3 Times Throughout the Growing Season.
-----------------	---

Soil Nutrient Laboratory Report

Lab No.: 200806143-02 Date Rec: 8/6/20 Reported: 8/14/20	Report To: Thomas Bowman	Company: Rocky Mtn Bio Products A Division of Bowman Construction 10801 East 54th Avenue Denver CO 80239
---	---------------------------------	--

Sample ID: Lower South

Project: Erdman Energy

Laboratory Results:

Sample Result	Low	-----	Ave	-----	High
---------------	-----	-------	-----	-------	------

Field Texture (EST)	Sandy Loam	
pH (units)	6.6	*****
Salts (MMHOS/CM)	0.7	*****
CEC Est. (MEQ/100G)	14.4	*****
Lime (Qual.)	Low	
Organic Matter (%)	4.6	*****
Organic N (lbs/acre)	136.9	*****
Sodium (meq/100g Soil)	0.11	*

Available Nutrients (ppm)

Nitrate Nitrogen	26.5	*****
Phosphorus	9.4	*****
Potassium	483.0	*****
Calcium	4265.5	*****
Magnesium	402.5	*****
Sulfur	6.9	*****
Boron	0.5	**
Zinc	1.8	*****
Iron	47.9	*****
Manganese	2.9	*****
Copper	0.6	*****

Note: Average Values are for Colorado Soils

Fertilizer Recommendations

General Landscape

Nitrogen:	80 lbs/Acre
Phosphorus - P2O5:	80 lbs/Acre
Potassium - K2O:	0 lbs/Acre
Sulfur SO4-S:	50 lbs/Acre
Lime:	0 lbs/Acre

**To convert recommendations to lbs/1000 sq. ft. divide by 40.*

Comments

Split Nitrogen Recommendations 2 to 3 Times Throughout the Growing Season.

PAGE 9
WEED CONTROL PLAN
8/20/20

























John Huebner <johnh@sanmiguelcountyco.gov>

RE: Notice of Annual Review: Erdman Energy Enterprises Solar Facility Special Use Permit- Deep Creek Mesa

1 message

Terry Schuyler <terry.schuyler@smpa.com>
To: John Huebner <johnh@sanmiguelcountyco.gov>
Cc: Wiley Freeman <wiley@smpa.coop>

Tue, Sep 1, 2020 at 2:47 PM

John,

Yes you have this all correct. He does have a 1-yr temporary permit sufficient to operate the array now, and is getting close to meeting the last condition to get the final in place (waiting for UL labels to be mailed from manufacturer- required to check the last box).

I plan a visit to the array before the 9th to do my own informal inspection. And I would be happy to be on the call if you can send me an invite or link or zoom access codes etc.

Best

Terry Schuyler

Energy Services and Key Account Executive



P.O. Box 1150

Ridgway, CO 81432

Office: 970-626-5549 x232

Mobile: 303-883-6272

Terry@smpa.com

www.smpa.com



It is the Mission of San Miguel Power Association, Inc. to demonstrate corporate responsibility and community service while providing our members with safe, reliable, cost effective and environmentally responsible electrical service.

SMPA is an equal opportunity provider and employer.

San Miguel Power Association is an equal opportunity provider and employer. In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Person with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202)720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800)877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call

(866) 632-9992. Submit your completed form or letter to USDA by:

*(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;*

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

From: John Huebner <johnh@sanmiguelcountyco.gov>
Sent: Tuesday, September 1, 2020 2:39 PM
To: Terry Schuyler <terry.schuyler@smpa.com>
Cc: Wiley Freeman <wiley@smpa.coop>
Subject: Re: Notice of Annual Review: Erdman Energy Enterprises Solar Facility Special Use Permit- Deep Creek Mesa

Terry,

I appreciate your current response. I understood from Tim that he was waiting for final approval from the State electrical inspector prior to beginning selling the generated electricity, and that he was giving the electricity generated to various non-profits and the Airport. If you care to expand your comments for the benefit of the Planning Commission and Board of County Commissioners in their review capacity that would be great. If you wish to appear via ZOOM that would also be welcomed. Thank you!

John

John Huebner

Senior Planner

San Miguel County
P:970-728-3083

[333 W Colorado Ave, 3rd Flr](#)

[Telluride, CO 81435](#)

www.sanmiguelcountyco.gov



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On Tue, Sep 1, 2020 at 1:17 PM Terry Schuyler <terry.schuyler@smpa.com> wrote:

Hi John,

Do you need anything from SMPA regarding our support or concurrence with the conditions of the SUP? Do you want me to attend the Sept. 9th meeting? We do have a fully executed PPA in place, and have been distributing the monthly shares of energy to his list of SMPA member CSG subscribers.

Happy to help.

Terry Schuyler

Energy Services and Key Account Executive



P.O. Box 1150

Ridgway, CO 81432

Office: 970-626-5549 x232

Mobile: 303-883-6272

Terry@smpa.com

www.smpa.com



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From: John Huebner <johnh@sanmiguelcountyco.gov>
Sent: Thursday, August 27, 2020 2:34 PM
To: Amy Markwell <amym@sanmiguelcountyco.gov>; Ryan Righetti <ryanr@sanmiguelcountyco.gov>; Kenny Maenpa <Kenny@tellurideairport.com>; Linda.Bruce@faa.gov; Wiley Freeman <wiley@smpa.coop>; Michelle Haynes <mhaynes@mtnvillage.org>; Ross Herzog <rherzog@telluride-co.gov>; Pamela Bennett <pam@aldasoro.com>; Tom Kennedy <tom@tklaw.net>; Steve Catsman <steve@catsman.com>; kandy@telluridecolorado.net; Anita Cody-- Property Management of Telluride LLC <info@propertymanagementoftelluride.com>; HOA Administrator <hoa@businessasap.com>; Mark Caddy <mark.caddy@state.co.us>; Tim Erdman <timerdman@gmail.com>; Scott Bennett <sbennett@telluridecolorado.net>; Charles Price <Charles@varmint.us.com>; RUSSELL <rkmontgomery8@msn.com>; Terry Schuyler <terry.schuyler@smpa.com>
Cc: Kaye Simonson <kayes@sanmiguelcountyco.gov>; Troy Hangen <troyh@sanmiguelcountyco.gov>
Subject: Notice of Annual Review: Erdman Energy Enterprises Solar Facility Special Use Permit- Deep Creek Mesa

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Regards,

John

John Huebner

Senior Planner

San Miguel County
P:970-728-3083

[333 W Colorado Ave, 3rd Flr](#)

[Telluride, CO 81435](#)

www.sanmiguelcountyco.gov



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MEMORANDUM

TO: San Miguel County Planning Commission
FROM: Kaye Simonson, AICP, Planning Director
RE: Amendment to the San Miguel County Land Use Code Articles 3, 4, 5, and 6 regarding Subdivisions
DATE: September 9, 2020
[Z:\Applications\2020_Subdivisions_LUC Amendment\1 Staff Memo(s) and Resolution(s)]

Background

County Surveyor David Foley submitted a request to the Planning Department to amend Article 4, Submission Requirements, and Article 5, Standards, with the intent of providing complete and current standards for the review of subdivisions and final plats. Prior to submission of the request, Surveyor Foley consulted other elected officials, County staff, professional surveyors, title companies, and land use attorneys.

Proposed Amendment

The draft amendment to the San Miguel County Land Use Code regarding Subdivisions is attached. The proposed amendments are to Article 3, Procedures; Article 4, Submission Requirements; Article 5, Standards; and Article 6, Definitions. New text is shown in red underline and deletions are shown in ~~red strike-through~~.

The proposed amendments for the most part are not substantive. While it may appear there is a significant number of additions and deletions, most changes are best described as clarifications and reorganization. Most blocks of text that are struck-through have been moved to a different section. The intent is to provide better guidance in the review of subdivisions and the preparation of Final Plats, consistent with State Statute and best practices. Application requirements and standards are reorganized so like items are together and under the correct subject headings. Highlights of the proposed changes include:

- Development Application types, particularly Subdivision Exemptions, are reconciled between the three sections so language is consistent and citations are correct. For example, “Correction of Survey Errors” is used throughout; the current Code sometimes refers to “Survey Errors.”
- The form of the “Subdivision Improvements Agreements” is moved from Article 3, Procedures, to Article 4, Submission Requirements.
- In Sections 4-6 and 4-7, the lists of application types are proposed to be deleted and replaced with references to Chapter 3. This reduces the potential for errors and inconsistencies.
- Specific requirements for Final Plats and language for Certificates and Acknowledgements are provided. Section 4-5, Final Plat Subdivision Reviews, is substantially reorganized and clarified. Notably, 4-502 Requirements for Final Plats, and 4-503 Certificates and Acknowledgments, are now clearly organized, with the correct items under each section heading. The current code mixes topics in no particular order.
- More detail is added to the submission requirements for preliminary subdivisions

- and PUDs, particularly regarding easements, water, and drainage.
- Section 5-706, Monuments, provides greater detail, consistent with Statute and best practices.
 - Section 5-124, Vacation of Lot Lines, is added. Currently, those are reviewed using Section 5-1203, Lot Line Adjustments, and while similar, there are differences. For example, once a lot line is vacated, it can only be reestablished through the subdivision process.
 - Final plat requirements are specified for the Subdivision Exemptions, as listed in Section 5-12. Most refer to Article 4, but types that require different certifications on the final plats include more specific language. For example, the certificates for Lot Line Vacations and Property Line Adjustments are different if the lots are in a platted subdivision.
 - Two definitions are proposed to be added to Article 6 – “County Surveyor” and “Platted subdivision lot.” Terms such as Final Plat, Lot, Parcel, Plat, and Subdivision are already defined.

While preparing the draft, staff found inconsistencies related to Wright’s Mesa Subdivision Exemptions, including sizes of lots and one-step vs. two-step processes. After examining BOCC Resolution 2010-6, which adopted the new Wright’s Mesa zone district standards, staff determined the text amendments as proposed herein match the intent of that Code amendment. Review standards for subdivision exemptions on parcels 150 acres or larger have been added. Staff began with the standards for parcels less than 150 acres and chose those which seemed most relevant with respect to the intent of the subdivision exemption. Clarifications were also added to the Open Land Protection and Wright’s Mesa Open Land Protection sections regarding number of lots and review processes.

Other changes include updating terms, correcting formatting errors, and properly cross-referencing sections. Some formatting corrections are not shown as changes because they are not easily denoted, such as correcting hanging indents.

Public Noticing

There are no noticing requirements for Planning Commission consideration of Land Use Code amendments. As a courtesy, a display ad was published in the Telluride Daily Planet and Norwood Post on September 2, 2020.

Referral Agencies

The proposed Land Use Code text amendment was sent to the County Surveyor; County Attorney; County Building Department; County Manager; County Treasurer; County Clerk & Recorder; County GIS Coordinator; Town of Telluride; Town of Mountain Village; Town of Sawpit; Town of Ophir; and Town of Norwood. Additionally, e-mails were sent as a courtesy to local surveyors and land use attorneys.

Responses were received from the San Miguel County Surveyor, GIS Coordinator, and County Attorney requesting minor clarifications and corrections, which were made. Upon further discussion, Staff is considering removing the Subdivision Improvements

Agreement form from the Land Use Code and moving it to an Appendix so changes can be made to that document without amending the Code.

Public Comments

As of the writing of this report, no public comments have been received.

Review Standards

Review Standards for Land Use Code Amendments are contained in LUC Section 5-1802 and state, "Land Use Code Amendments may be initiated by the County or by persons who are residents of, or own property in, San Miguel County subject to compliance with the following standard." This amendment was requested by the County Surveyor. The only review standard, LUC Section 5-1802 A., states "Land Use Code Amendments shall be drafted in a form consistent with the organizational format and style of the code." The proposed amendment has been drafted in the format and style of the code. As needed, the amendment corrects formatting errors that do not change the substance of the Code. The draft, as presented, includes a number of formatting corrections that are not marked as changes, e.g. correcting indents and number styles.

In addition, Section 1-4, Purposes of the Land Use Code, should be considered.

1-402 Implement Policies

To implement the policies of San Miguel County regarding land use and development, housing, growth and related issues, as adopted and amended from time to time.

1-403 Create Common System of Administration and Regulation

To combine the regulation of all aspects of land use and development and the use of land and natural resources into a common system of administration and regulation.

1-404 Simplify the Land Use Regulatory Process

To simplify the application and review process for such regulatory system.

1-405 Protect Health, Safety and Welfare

To protect the health, safety and public welfare of San Miguel County.

C.R.S. § 30-28-133 *et seq.* establishes Subdivision regulations, requires every county to adopt subdivision regulations, and prescribes submission requirements. C.R.S. § 30-28, Part 3, establishes Subdivision Exemption Plats for the purpose of correcting legal descriptions. C.R.S. Title 38, Articles 50, 51, 52, and 53 provide standards for land surveys, plats, and monuments. The Subdivision standards and procedures as drafted

meet the statutory requirements.

Sample Motion:

I move to recommend to the Board of County Commissioners to adopt the amendments to San Miguel County Land Use Code Articles, 3, 4, 5, and 6, regarding Subdivisions, based on the finding that the proposed amendment complies with the standards of Land Use Code Section 5-1802, Land Use Code Amendments; is consistent with Land Use Code Section 1-4, Purposes of the Land Use Code; and is consistent with applicable Colorado Revised Statutes, with the following direction:

1. Amend Section 4-508 B. to move the Subdivision Improvements Agreement format to an Appendix to the Land Use Code.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SAN MIGUEL COUNTY LAND USE CODE

ARTICLE 3

PROCEDURES

FIGURE 3-1

LAND USE ACTIVITIES AND REVIEW PROCEDURES

Administrative Reviews

Caretaker, Accessory Dwelling & Secondary Dwelling Units

Development of a Residence, and /or Access & Utilities associated with a Residential Unit in a Wetland Area

Enhancement or protection against property loss and/or damage in a Wetland area

Development in a Watershed Protection Area

Release of Collateral

Open Land Protection for Four or Fewer Lots

Wright's Mesa Open Land Protection for Ten or Fewer Lots

Minor Review of a Single-family Residence in an Area of Local and State Interest/C.R.S.1041
Environmental Hazard Review

Minor Amendments to Special Use Permits

Minor Amendments to Special Approvals Granted to Land Uses Subject to One-step Planning
Commission or Board of County Commission Approval

Scenic Foreground Overlay Review for One Single-family Dwelling Unit

Insubstantial Amendments to Final Plat or Planned Unit Development (PUD)

Underground Electricity Transmission and Distribution Lines

Additions are in red underline. Deletions are in ~~red strikethrough~~.

Temporary Uses with minimal adverse short-term impacts

Minor Facility Oil and Gas Development

One-step Planning Commission Reviews

Special Use Permits/Planning Commission Approvals

Approval of Specific Land Uses Identified within Article 5 as Uses Subject to One-step Planning Commission Review

Scenic Foreground Overlay Reviews for all development other than construction of one Single-family dwelling unit

Major Review of a Single-family Residence in an Area of Local and State Interest / C.R.S. 1041 Environmental Hazard Review

Mining and Mineral Processing (West End Zone District)

One-step Board of County Commissioner Reviews

Subdivision Exemptions for the following activities:

- a. Correction of Surveying Errors;
- b. Lot line adjustments;
- c. Parcels for Essential Community Facilities;
- d. Reversion to Acreage Plats;
- e. Agricultural Lands Lots Split;
- f. Open Land Protection (5 or more lots);
- g. Fully Developed Residential Property;
- h. Single-~~lot~~ Lot Split in an Existing Subdivision;
- i. Wright's Mesa Subdivision Exemption (parcels 150 acres or greater);
- j. West End;
- k. Wright's Mesa Open Land Protection (11 or more lots);
- l. Wright's Mesa Essential Community Facilities & Parks;
- m. Vacation of Lot Lines

Acceptance of Subdivision Roads

Reduction in Highway Setbacks

Road Standard Variances

Additions are in red underline. Deletions are in ~~red strikethrough~~.

Two-step reviews

Development in Wetland Areas other than a Residential Home and Access & Utilities associated with a Residential House

Special Use Permits

Substantial Plat Amendments

Substantial Planned Unit Development (PUD) Amendments

Land Uses Requiring Special Use Permits

Land Use Code Amendments

Rezoning

Conditional Uses on Federal Lands

All Development in Areas of Local and State Interest/ C.R.S. 1041 Environmental Hazard Review with the exception of the construction of one single-family dwelling unit

Public Utility Structures and Above ground Electricity Transmission and Distribution Lines

Modification of Ecological Sensitivity Area Boundaries

Road Vacations

Flood Plain Development Permits for Special Uses

Major Facility Oil and Gas Development

Wright's Mesa Subdivision Exemption for parcels ~~greater than~~ 37 acres or larger and less than 150 acres

Five-step Reviews

Subdivisions

Planned Unit Developments

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SECTION 3-4: ADMINISTRATIVE REVIEW PROCEDURES

3-401 General

The development applications identified in Figure 3-1 and listed in this section are subject to the Administrative review procedures described in this part of the Code. Figure 3-3 is a guide to the procedures, submission contents and review standards for Administrative reviews.

- 3-401 A. Accessory Dwelling Units (Refer to Section 4-7 for submission contents and Section 5-13 for review standards).
- 3-401 B. Minor Review of a Single-Family Residence in an Area of Local and State Interest/C.R.S. 1041 Environmental Hazard Review (refer to Section 4-6 for submission contents and Section 5-4 for review standards).
- 3-401 C. Minor Amendments to Special Use Permits (Refer to Section 4-7 for submission contents and Section 5-10 for review standards).
- 3-401 D. Minor Amendments to Special Approvals Granted to Land Uses Subject to One-step Planning Commission or Board of County Commission Review (Refer to Section 4-7 for submission contents and section 5-10 for standards).
- 3-401 E. Scenic Foreground Overlay Review for One Single-family Dwelling Unit (Refer to Section 4-8 for submission contents and Section 5-316 for standards).
- 3-401 F. Insubstantial Amendments to Final Plat or Planned Unit Development (PUD) (Refer to Section 4-6 for submission contents and Section 5-15 for standards).
- 3-401 G. Underground Electricity Transmission and Distribution Lines (Refer to Section 4-7 for submission contents and 5-709 for standards).
- 3-401 H. Development in a Wetland Area or Wetland Area Buffer Zone of Access, Utility associated with a residence and/or Residence (Refer to Sections 4-2 and 5-2203 F. for submission contents and 5-22 for standards).
- 3-401 I. Caretaker Units in the Forestry, Agriculture and Open (F) Zone District (Refer to Section 5-307 C.I.).
- 3-401 J. Development in a Watershed Protection Area (Refer to Section 5-25).
- 3-401 K. Subdivision Exemption for Open Land Protection for Four or Fewer Lots (Refer to Section 5-1207).
- 3-401 L. Release of Collateral (Refer to Section 3-1203).
- 3-401 M. Minor Oil and Gas Development (Refer to Section 5-26 for submission contents and requirements).
- 3-401 N. Subdivision Exemption for Wright's Mesa Open Land Protection for Ten or Fewer Lots (Refer to Section 5-1212).

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SECTION 3-5: ONE-STEP REVIEWS

3-501 General

The development applications identified in Figure 3-1 and listed in this section are subject to the one-step Planning Commission or the one-step Board of County Commissioners review procedures described in this part of the Code. Figure 3-4 serves as a guide to procedures, submission contents and review standards for one-step reviews.

- 3-501 A. The land use activities listed in this section are subject to One-step Planning Commission Review.
- ~~3-501 A.I.~~ Approval of Specific Land Uses Identified within Article 5 as Uses Subject to one-step Planning Commission Review (Refer to Section 4-6 for submission contents and Section 5-10 for review standards);
 - ~~3-501 A.II.~~ Scenic Foreground Overlay Reviews for all development other than construction of one single-family dwelling unit (Refer to Section 4-8 for submission contents and Section 5-316 for review standards);
 - ~~3-501 A.III.~~ Major Review of a Single-Family Residence in an Area of Local and State Interest C.R.S. 1041 Environmental Hazard Review (refer to Section 4-6 for submission contents and Section 5-4 for review standards);
 - ~~3-501 A.IV.~~ Determination of Parking Requirements (Refer to Section 4-7 for submission contents and Section 5-702 F. for standards); ~~and~~
 - ~~3-501 A.V.~~ Amendments to the Comprehensive Development Plan; such amendments require a public hearing before the Planning Commission~~;~~
 - ~~3-501 A.VI.~~ Development of equestrian centers, allowed only in the Low Density (LD) Zone District (see Section 4-2 for submission requirements and Sections 5-10 and 5-24 for standards)~~;~~
 - ~~3-501 A.VII.~~ Reduction in Highway Setbacks (Refer to Section 4-7 for submission contents and Section 5-505 for review standards)~~;~~
 - ~~3-501 A.VIII.~~ Mineral Exploration and Mining (Refer to Section 5-16 for standards)~~;~~
 - ~~3-501 A.IX.~~ Logging (Refer to Section 5-17 for standards).

Additions are in red underline. Deletions are in ~~red strikethrough~~.

3-501 B. The land use activities listed in this section are subject to One-step Board of County Commissioners Review.

~~3-501 B~~.I. Subdivision Exemptions for the following activities:

- a. Correction of Surveying Errors (Refer to Section 4-6 for submission contents and Section 5-1202 for review standards);
- b. Lot line adjustments (Refer to Section 4-6 for submission contents and Section 5-1203 for review standards);
- c. ~~Subdivision of~~ Parcels for Community Facilities (Refer to Section 4-6 for submission contents and Section 5-1204 for review standards); ~~and~~
- d. Reversion to Acreage Plats (Refer to Section 4-6 for submission contents and Section 5-1205 for review standards);
- ~~ei.~~ Agricultural Lands Lots Split (Refer to Section 4-6 for submission contents and Section 5-1206 for review standards); ~~and~~
- ~~fi.~~ Open Land Protection, creating 5 parcels or more (Refer to Section 4-6 for submission contents and Section 5-1207 for review standards);
- ~~giii.~~ Fully Developed Residential Property (Refer to Section 5-1208 for standards);
- ~~hiv.~~ Single-~~lot~~ Lot Split in an Existing Subdivision (Refer to Section 5-1209 for standards);
- ~~iv.~~ Wright's Mesa Subdivision Exemption for parcels 150 acres or greater (Refer to Section 4-6 for submission contents and Section 5-1210 for review standards); ~~and~~
- ~~jvi.~~ West End (Refer to Section 4-6 for submission contents and Section 5-1211 for review standards);~~;~~
- ~~kvii.~~ Wright's Mesa Open Land Protection, creating 11 parcels or more (Refer to Section 4-6 for submission contents and Section 5-1212 for review standards);~~;~~
- ~~lviii.~~ Wright's Mesa Essential Community Facilities & Parks (Refer to Section 4-6 for submission contents and Section 5-1213 for review standards);~~;~~
- m. Vacation of Lot Lines (Refer to Section 4-6 for submission contents and Section 5-1214 for review standards).

~~3-501 B~~.II. Acceptance of Subdivision Roads (Refer to Section 4-6 for submission contents and Section 5-504 for review standards).

Additions are in red underline. Deletions are in ~~red strikethrough~~.

FIGURE 3-4

ONE-STEP REVIEWS: SUBMISSION CONTENTS AND STANDARDS		
Land Use Activity	Land Use Code Section	
	Submission Contents	Standards*
Land Use Activities Subject to Planning Commission Review		
Approval of Specific Land Uses Identified within Article 5 as Uses Subject to One-step Planning Commission Review	4-6	5-10
Scenic Foreground Overlay Reviews for all development other than construction of one Single-Family Dwelling Unit	4-8	5-316
Major Review of a Single-family Residence in an Area of Local and State Interest / 1041 Environmental Hazard Review	4-6	5-4
Equestrian Centers (allowed in Low Density Zone District only)	4-2	5-10, 5-24
Land Use Activities Subject to Board of County Commissioner Review		
Subdivision Exemptions for:		
Correction of Surveying Errors	4-6	5-1202
Lot Line Adjustments	4-6	5-1203
Subdivision of Parcels for Community Facilities	4-6	5-1204
Reversion to Acreage Plats	4-6	5-1205
Agricultural Lot Split	4-6	5-1206
Open Land Protection, <u>5 lots or more</u>	4-6	5-1207
Fully Developed Residential Property	4-6	5-1208
Single-lot Split <u>in an Existing Subdivision</u>	4-6	5-1209
Wright's Mesa <u>Subdivision Exemption, 150 acres or larger</u>	4-6	5-1210
West End	4-6	5-1211
Wright's Mesa Open Land Protection, <u>11 lots or more</u>	4-6	5-1212
Wright's Mesa Essential Community Facilities & Parks	4-6	5-1213
<u>Vacation of Lot Lines</u>	<u>4-6</u>	<u>5-1214</u>
Acceptance of Subdivision Roads	4-6	5-504
Reduction in Highway Setbacks	4-7	5-505

* Other standards may apply.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

3-502 Procedure

- 3-502 A. One-step reviews shall be conducted pursuant to the applicable stages of the ten-stage land use review process described in Section 3-202 and this section of the Code. An applicant seeking a one-step review approval for any of the applications identified in Figure 3-1 and listed in 3-501 shall submit an application to the Planning Director consistent with the submission contents described in Article 4 of the Code.

- 3-502 B. One-step reviews shall occur at public meetings of the Planning Commission or the Board of County Commissioners, depending upon which body has jurisdiction, pursuant to Section 3-501.

3-503 Platting Procedure

An applicant seeking approval for a Subdivision Exemption shall be required to prepare and record with the County Clerk and Recorder a final plat approved by the Planning Director and signed by the County Attorney and Chairperson of the Board of County Commissioners consistent with the submission requirements in Article 4 and Section 5-12 of the Land use Code.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

FIGURE 3-5

TWO-STEP REVIEWS: SUBMISSION CONTENTS AND STANDARDS		
	Land Use Code Section	
Land Use Activity	Submission Contents	Standards*
Substantial Plat Amendments	4-6	5-15
Substantial Planned Unit Development (PUD) Amendments	4-6	5-14
Land Uses Requiring Special Use Permits	4-6	5-10
Land Use Code Amendments	4-7	5-18
Rezoning	4-6	5-18
Conditional Uses on Federal Lands	4-7	5-11
All Development in Areas of Local and State Interest /C.R.S. 1041 Environmental Hazard Review with the exception of the construction of one Single-Family Dwelling Unit	4-6	5-4
Public Utility Structures, Above Ground Electricity Transmission and Distribution Lines Longer Than 1,000 Feet and Underground Electricity Transmission and Distribution Lines Carrying More Than 115 Kilovolts	4-701 J 4-701 J. 4-702	5-709
Development in Wetland Area other than Access, Utility, House on Previously Approved Parcel	4-2, 5-2203 E.	5-22
Modification of Ecological Sensitivity Boundaries	5-2502 B.	5-25
Major Facility Oil and Gas Development	5-2604 B.	5-2604
Subdivision Exemption for Wright's Mesa <u>Subdivision Exemption</u> Greater Than 37 Acres <u>or Larger</u> & Less Than 150 Acres	4-6	5-1210

* Other standards may apply.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SECTION 3-6: TWO-STEP REVIEWS

3-601 General (including Land Use Code Amendments)

The development applications identified in Figure 3-1 and listed in this section are subject to two step review procedures described in this part of the Code (Figure 3-5 serves as a guide to the procedures, submission contents and review standards for two-step reviews):

- 3-601 A. Substantial Plat Amendments (Refer to Section 3-703 for continuance requirements, Section 4-6 for submission contents and Section 5-15 for review standards).
- 3-601 B. Substantial Planned Unit Development (PUD) Amendments (Refer to Section 3-703 for continuance requirements, Section 4-6 for submission contents and Section 5-15 for review standards).
- 3-601 C. Land Uses Requiring Special Use Permits (Refer to Section 4-7 for submission contents and Section 5-10 for review standards).
- 3-601 D. Land Use Code Amendments (Refer to Section 4-7 for submission contents and Section 5-18 for review standards).
- 3-601 E. Rezoning (Refer to Section 4-6 for submission contents and Section 5-18 for review standards).
- 3-601 F. Conditional Uses on Federal Lands (Refer to Section 4-7 for submission contents and Section 5-11 for standards).
- 3-601 G. All Development in Areas of Local and State Interest/1041 Environmental Hazard Review with the exception of the construction of one single-family dwelling unit (refer to Section 4-6 for submission contents and Section 5-4 for review standards).
- 3-601 H. Public Utilities Structures, Above Ground Electricity Transmission and Distribution Lines Longer Than 1,000 Feet, and Underground Electricity Transmission and Distribution Lines Carrying More Than 115 Kilovolts (Refer to Sections 4-701 I. and 4-703 for submission contents and Section 5-709 for standards).
- 3-601 I. Development in Wetland Areas or Wetland Buffer Zone Areas (See Sections 4-2 and 5-2203 E. for submission requirements and Section 5-22 for standards.).
- 3-601 J. All reviews required pursuant to CRS 30-28-110(1) regarding construction, use or modification of public facilities, including rights-of-way.
- 3-601 K. Modification of Watershed Protection, Ecological Sensitivity Area Boundaries.
- 3-601 L. Major Oil and Gas Development (Refer to Section 5-26 for submission contents and review standards).
- 3-601 M. ~~Subdivision Exemption for~~ Wright's Mesa Subdivision Exemption for parcels ~~greater than~~ 37 acres or larger but less than 150 acres in size.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SECTION 3-7: FIVE-STEP REVIEWS

3-701 General

The development applications identified in Figure 3-1 and listed in this section are subject to five-step review procedures described in this section of the Code (Figure 3-6 serves as a guide to the procedures, submission contents and review standards for five-step reviews:

- 3-701 A. Subdivisions (Refer to Section 4-3, 4-4 and 4-5 for submission contents and Figure 3-6 for review standards); and
- 3-701 B. Planned Unit Developments (Refer to Sections 4-3, 4-4, 4-5 and 4-9 for submission contents and Section 5-14 for review standards).

FIGURE 3-6

FIVE-STEP REVIEWS: SUBMISSION CONTENTS AND STANDARDS

Land Use Activity	Land Use Code Section	
	Submission Contents	Standards*
Subdivisions	4-3, 4-4 and 4-5	2-1 to 2-33 5-1 to 5-10
Planned Unit Developments	4-3, 3-4, 4-5 and 4-9	2-1 to 2-33 5-1 to 5-10, 5-14

* Other standards may apply.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SECTION 3-12: IMPROVEMENT AGREEMENTS AND PERFORMANCE GUARANTEES

3-1201 Improvements Agreements

Prior to the issuance of a building permit and the recording of a final plat, an applicant shall submit for approval to the Board of County Commissioners an improvements agreement for construction of any required public improvements designated on the final plat.

3-1202 Performance Guarantee

- 3-1202 A. Prior to the issuance of any building permit, the Board of County Commissioners may require an applicant to file a financial guarantee in order to insure compliance with any or all requirements of the Board stipulated in the improvements agreement and the final plat.
- 3-1202 B. The financial guarantee, in the judgment of the Board of County Commissioners, shall be sufficient to make reasonable provision for completion of said improvements in accordance with design and time specifications.
- 3-1202 C. Ordinarily, a letter of credit to the Board of County Commissioners from a commercial bank, savings and loan institution, insurance company or other qualified lending institution(s) licensed or authorized to do business in the State of Colorado, or a letter from the Federal Housing Administration or Veterans Administration in a form satisfactory to the County Attorney shall be required.
- 3-1202 D. Nothing in Section 3-1202 C. shall preclude the Board of County Commissioners from approving other forms of financial security.

3-1203 Release of Collateral

- 3-1203 A. As public improvements are made, an applicant may apply to the County for release of part or all of the collateral deposited with the County.
- 3-1203 B. Upon inspection and approval, the County shall release collateral, provided that in the event a combination of forms of collateral has been accepted, the County shall release collateral on a priority basis it deems appropriate.
- 3-1203 C. If the County Engineer determines that any of the required improvements are not constructed in substantial compliance with specifications, it shall furnish the applicant a list of specifications and shall be entitled to withhold collateral sufficient to insure substantial compliance.
- 3-1203 D. If the County determines that the applicant will not construct any or all of the improvements in accordance with all of the specifications, the County may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications

Additions are in red underline. Deletions are in ~~red strikethrough~~.

3-1204 Form of Agreement

The form of the Improvements Agreement shall be as set forth in Section 4-508 B.

~~All Improvement Agreements shall utilize as a guide the following format, with such provisions as may be approved by the Board of County Commissioners:~~

**~~THE SUBDIVISION IMPROVEMENTS AGREEMENT
FOR
(Name of the Development)
(Date)~~**

~~THIS AGREEMENT is entered into this _____ day of _____, 19__, between SAN MIGUEL COUNTY ("County"), a governmental entity, and _____ ("Developer").~~

~~WHEREAS, C.R.S. 30-28-137(1) requires that prior to the recording of a Final Plat, the Board of County Commissioners of San Miguel County ("Board") must enter into a subdivision improvements agreement wherein the Developer agrees to construct those public improvements required by the County and which agreement requires the pledging of collateral that is sufficient, in the judgment of the Board, to make reasonable provision for the completion of the required improvements in accordance with design and time specifications set forth in the agreement; and~~

~~WHEREAS, C.R.S. 30-28-101, et seq., especially 30-28-133, requires that a condition of Board approval of any preliminary or final plat is the Developer's compliance with County subdivision regulations, including making all payments, dedications and exactions provided therein; and~~

~~WHEREAS, the Developer is the subdivider of the real property development ("Development") known and described as (legal description) located in San Miguel County Colorado, and has presented to the County a Final Plat for this Development; and~~

~~WHEREAS, the San Miguel County Land Use Code and State statutes require the execution of an Subdivision Improvements Agreement ("Agreement") between the Developer and the County whereby the Developer shall agree to construct certain improvements, the completion of which are guaranteed to the County, prior to filing the Final Plat; and~~

~~WHEREAS, the County seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the Development and thereby limit the harmful effects of substandard development and subdivision; and~~

~~WHEREAS, the purpose of this Subdivision Improvements Agreement ("Agreement") is to protect the County from incurring the cost of completing the improvements under this Subdivision Improvements Agreement and not to benefit those providing work, services or material or the lot or home buyers in the Development; and the purpose of this Agreement is further to guarantee performance of Developer's other obligation.~~

Additions are in red underline. Deletions are in ~~red strikethrough~~.

~~**NOW, THEREFORE, in consideration of the mutual promises contained herein, IT IS AGREED AS FOLLOWS:**~~

~~1. Construction of Improvements. The Developer agrees to construct or to enter into a contract with such person, firm or corporation as is chosen by the Developer to construct the required improvements, including water distribution system (for commercial, municipal and domestic uses, and for landscaping and fire protection), sanitary sewers, storm drainage, roads, bridges and associated improvements, fire protection system, street monuments, electrical system, public trails and landscaping (hereinafter referred to as "Improvements"); more specifically described in Exhibit A that is attached hereto and incorporated herein by this reference. The required Improvements shall be constructed in accordance with the Plans and Specifications submitted by the Developer and in accordance with all applicable legal standards. The Developer's obligation to complete the Improvements will arise upon final plat approval by the County and will be independent of any obligations of the County contained herein and will not be conditioned upon the commencement of construction in the Development or sale of any lots or Improvements within the Development. Developer shall obtain all applicable federal, state, county, and municipal approvals and permits required for construction of the Improvements, including, but not limited to, domestic water system(s), sewer and/or septic system(s), and road(s).~~

~~In addition, the Developer will ensure that telephone service will be available within the immediately adjacent easements and/or rights-of-way of each platted lot in the Development prior to or at the time the certificate of occupancy or satisfactory final building inspection is issued by the County for the respective lot. No security will be required to ensure the availability of telephone service.~~

~~2. Regulations and Specifications. The required Improvements shall be designed and constructed in accordance with the County's regulations and specifications in effect as to the date of this Agreement, other applicable state or federal regulations, if any, the Final Plat of the Development, and the Plans and Specifications retained by the County Engineer and the County Planning Department, all of which are hereby incorporated herein by reference and made a part of this Agreement. All Plans and Specifications shall have been submitted to and reviewed for exceptions by the County Engineer and the County Planning Director prior to submission of the Final Plat for approval or execution. No changes, additions, and/or deletions to the Improvements, from the approved Plans and Specifications, shall become effective until and unless approved by the County Engineer and the County Planning Director.~~

~~3. Completion Date. The required Improvements shall be completed no later than (insert mutually agreed upon completion date), unless the County, in its sole discretion, grants in writing an extension of this completion date to the Developer. A written extension agreement shall be signed by the Chairman of the Board and the Developer. No less sixty (60) days prior to the above scheduled completion date, or any extension thereof, the Developer shall notify the County Planning Director in writing of the upcoming completion deadline and include a progress report which shall include a statement of whether the Developer expects to complete the required Improvements by the completion date. The Developer's failure to provide this notice shall be grounds for the County to withdraw from the commitment guarantee in accordance with this Agreement (See e.g. par. 11, 16, 23, etc.).~~

Additions are in red underline. Deletions are in ~~red strikethrough~~.

~~4. Estimated Cost. The Developer's engineer of record for the Development shall be responsible for the preparation of the construction estimate for the required Improvements. Prior to execution of this Agreement and the Developer's submittal of the Commitment Guarantee, the County Engineer shall review the estimate, which review shall include, but not be limited to, determining that the estimate includes all required Improvements, and that the amount of the financial guarantee is consistent with the Engineer's estimate. Should the County Engineer find and determine that the engineer's estimate is inaccurate, or otherwise require revision, the Developer's engineer shall revise his estimate in accordance with the County Engineer's findings. The Developer's Commitment Guarantee shall be consistent with such revised construction estimate. The cost of constructing the Improvements is estimated to be \$_____. This cost estimate is based upon the assumption that the work will be performed by an independent contractor, was prepared by and bears the seal of an engineer licensed to practice in the State of Colorado, which shall be attached hereto as Exhibit "B."~~

~~This estimated construction cost includes the estimated present construction cost, and an additional amount equal to twenty percent of the estimated construction costs, which shall be retained for the duration of the warranty period following substantial completion of the improvements, plus an estimated inflation factor determined by the County and calculated to the completion date. If change orders are required during the course of construction that increase the cost by more than five percent (5%) of the estimated cost of any subsequently agreed amount that may result from increased costs of material or labor, the amount of the commitment guarantee shall be adjusted accordingly. The Developer shall notify the County in writing of any such change and supply the County with the adjusted commitment guarantee.~~

~~5. Commitment Guarantee. Developer's performance under this Agreement is guaranteed by (insert description of financial guarantee provided: escrow deposits, irrevocable letters of credit. Deeds of trust, or other conveyances of real property are unacceptable as security). The commitment guarantee will be retained by the County until released or used as provided in this Agreement. Should the Improvements not be completed at least thirty (30) days prior to the expiration of any commitment guarantee, the Developer agrees to the extension of said guarantee and designates the County his agent to request said extension. The Developer shall pay all costs of guarantee extension; and it is mutually understood and agreed that the County will pay no interest to the Developer on the commitment guarantee. If the County determines guarantee is insufficient to warrant construction of Improvements, the County shall notify the Developer who shall produce such additional security as the County determines necessary.~~

~~6. Transfer of Title. If the County is to have any ownership interest or maintenance responsibility in the Improvements, before commencing the construction of any of the required Improvements, the Developer shall acquire, at its own expense, good and sufficient title to all lands and facilities traversed by any required Improvements. In addition, if County is to have ownership in dedications of parks, trails, right-of-ways, covenants, etc., for this Development, Developer shall acquire at its own expense good and sufficient title to all such property. All such property, lands and facilities so required shall be conveyed to the County and all necessary documents of conveyance shall be furnished to the County prior to and for recording with the Final Plat.~~

Additions are in red underline. Deletions are in ~~red strikethrough~~.

~~7. — Release of Liability Insurance. The Developer shall indemnify and save harmless the County from any and all suits, actions or claims of every nature and description occurring during the period of construction of the required Improvements and for one year thereafter, and caused by, arising from, or on account of the construction process or any other Developer obligations hereunder, and pay any and all judgments rendered against the County on account of any such suit, action or claim, together with all reasonable expenses and attorney's fees incurred by the County in prosecuting or defending such suit, action or claim.~~

~~8. — Insurance. The Developer shall ensure that all contractors and other employees engaged in the construction of the required Improvements will maintain workmen's compensation insurance. Before proceeding with any construction of the required Improvements, the Developer shall provide the County with written evidence of Public Liability Insurance with limits not less than Five Hundred Thousand Dollars (\$500,000.00) for bodily injury, One Hundred Thousand Dollars (\$100,000.00) for property damage in coverage forms approved by the County Attorney and protecting the County against any and all claims for damages to persons or property resulting from or installation of any required Improvements on public property. The policy will provide that the County shall be notified at least thirty (30) days in advance of any reduction in coverage, termination or cancellation of the policies. Such notice shall be sent certified mail. The Developer also warrants that any contractors engaged by or for the Developer to construct the required Improvements shall maintain Public Liability Insurance coverage in limits not less than those mentioned above.~~

~~9. — Warranty. — The Developer hereby warrants that all required Improvements will be installed in a good and workmanlike manner and in accordance with the provisions of Sections 1 and 2 hereof.~~

~~10. — Release of Commitment Guarantee. From time to time, as required Improvements are substantially completed, the Developer may apply in writing to the County Planning Director and to the County Engineer for a partial release of the commitment guarantee. The application must show:~~

- ~~a. — Dollar amount of commitment guarantee;~~
- ~~b. — Work completed, including dollar value;~~
- ~~c. — Work not completed, including dollar value;~~
- ~~d. — Amount of previous releases; and~~
- ~~e. — Amount of commitment guarantee requested released.~~
- ~~f. — Release or waivers of mechanics liens of all persons who have furnished work, services or materials.~~
- ~~g. — Certification by the Developer's engineer that all of the work included in the application is substantially complete, and complies with all applicable plans and specifications.~~

~~— Upon receipt of the application, the County or its agent shall inspect the Improvements both completed and those uncompleted. If the County determines from the inspection that the Improvements shown on the application as being substantially completed have been completed as provided herein, a portion of the commitment guarantee shall be released. The release shall be~~

Additions are in red underline. Deletions are in ~~red strikethrough~~.

~~made in writing signed by the County Engineer and approved by the County Planning Director. The amount to be released shall be the total amount of the commitment guarantee less (i) twenty percent (20%) of the original amount of the commitment guarantee and (ii) one hundred percent (100%) of the projected costs of the Improvements not completed. Notwithstanding the foregoing provisions, the Developer shall not apply for a partial release of the commitment guarantee in the amount less than twenty percent (20%) of the total original amount, except for the last such release. The Improvements shall be considered to be "substantially complete" when all of the required Improvements, or a designated portion thereof, are sufficiently complete, in accordance with the approved plans and specifications, that they can be used for their intended purpose.~~

~~11. Failure to Comply with Specifications — Agreement Cancellation. If the County determines that the required Improvements have not been constructed in accordance with the Plans and Specifications provided to and reviewed by the County Engineer pursuant to paragraph 2 above, the County shall notify the Developer of noncompliance setting forth in writing the reasons for noncompliance. Such written notification shall set forth a reasonable schedule for correction of the improvements in noncompliance. Should the County determine at any time that the guarantee on deposit is insufficient to complete construction of said Improvements, the County may require the Developer to deposit additional funds which the County deems necessary to complete the Improvements. Should the Developer fail or refuse to comply with the County's directive to increase the Commitment Guarantee within the time period specified, the County may declare the Developer to be in default of its obligations. If the County determines that the Developer can not and/or will not construct any or all of the Improvements in accordance with this Agreement, the County may, upon written notification to the Developer and the commitment guarantor, and without the necessity of public hearing, withdraw from the commitment guarantee such funds as may be necessary, in the opinion of the County, to construct or complete said Improvements in accordance with the agreed specifications.~~

~~12. Completion Procedures and Inspections. Upon substantial completion of all of the Improvements, the Developer's designated project engineer shall prepare and deliver to the County Planning Director and the County Engineer in writing a proposed Certificate of Substantial Completion for all of the required Improvements constructed and in place, certifying that such Improvements have been constructed in substantial compliance with the approved plans and specifications, and requesting the County Engineer's inspection of all of the substantially completed Improvements. The Engineer's Certificate of Substantial Completion for all of the required Improvements, upon review and approval by the County Engineer of the required Improvements, shall establish the date of Substantial Completion for warranty purposes. The County Engineer or his agent, within thirty days of receipt of the engineer's Certificate of Substantial Completion for all of the required Improvements, shall inspect said Improvements and shall notify the Developer in writing of nonacceptance or approval of the substantially completed Improvements. However, no County Engineer substantial completion inspection shall occur during the months of November through May. If the Improvements are not accepted, the reasons for non-acceptance shall be stated in writing and corrective measures shall be developed by the County with the assistance of the Developer and at the Developer's sole expense. Should the developer fail or refuse to implement the corrective measures required by the County within the specified cure period, the County at its discretion, may declare the Developer to be in default of~~

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~~its obligations, and following written notice to the Developer, the County may, but shall not be obligated to, draw upon the Commitment Guarantee.~~

~~Upon issuance by the Developer's designated project engineer of a Certificate of Substantial Completion of all of the required Improvements, and the approval of the Certificate by the County Engineer, the amount of security in the Commitment Guarantee may be reduced in accordance with the provisions of paragraph 10 above to twenty percent (20%) of the project engineer's estimated cost for said Improvements. Said twenty percent (20%) retention shall be for the purpose of insuring the correction of the Improvements due to deficiencies in workmanship and/or material during the warranty period by the Developer. As-built engineering drawings shall be submitted for all utility installments and roads upon completion of all required utility and road improvements and prior to request for, or issuance of, certificates of occupancy. Nothing herein shall be construed to require the County to make inspections during periods when climatic conditions make thorough inspections unfeasible.~~

~~13. Final Inspection, Warranty Period, and Maintenance for Improvements. The warranty period for required Improvements shall run for one year from certification of substantial completion for all of the required Improvements, as approved by the County Engineer. Final Inspection of the required improvements by the County Engineer shall be performed within thirty days after expiration of the warranty period and shall only occur in the months of June through October. However, the Developer's warranty obligations shall not expire until the County Engineer's approval of all required improvements following Final Inspection. During the warranty period, the Developer shall, at its own expense, make all needed repairs or replacements due to defective materials or workmanship, including Improvements not constructed in substantial compliance with the approved plans and specifications for the Development, and shall be responsible for all maintenance of said Improvements. Developer's warranty obligations shall remain in full force and effect until the defects and deficiencies in the required Improvements specified in the County Engineer's Final Inspection report have been corrected to the County's satisfaction. It is specifically understood that the Developer will be responsible for road maintenance or care, including snow removal or street cleaning, unless and until the road maintenance or care is finally accepted and that the Developer is responsible for maintenance of all Improvements as provided herein. In the event of default of any of these obligations by the Developer, the County, with prior written notice to the Developer, may do the same at the sole expense of the Developer and withdraw from the commitment guarantee to pay for such expenses.~~

~~Landscaping shall be inspected only during the month of July and at least three (3) months after preliminary approval. The County shall notify the Developer in writing of non-approval or of final approval. If the Improvements are not approved, the reasons for the County Engineer's non-approval shall be stated in writing and corrective measures shall be developed and implemented by the Developer within the cure period specified in the Notice of Non-approval, with the assistance of the Developer and at Developer's sole expense. Should the Developer fail or refuse to implement the specified corrective measures within the cure period specified in the County's notice of non-approval the County may declare the Developer to be in default of its obligations and upon prior written notice to the Developer proceed to draw upon the Commitment Guarantee to the extent required to complete the Improvements.~~

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~~———— If the Improvements, following the County Engineer’s final inspection, are found to be in compliance with plans and specifications, the County, following a Resolution of Approval of Improvements by the County Commissioners, shall release the remaining retained balance of the commitment guarantee for such approved Improvements.~~

~~———— All improvements intended or designated for common use within the development and not dedicated to and accepted by the County, shall be maintained in perpetuity by the Developer or an association of homeowners in the development. Until a homeowners association has been formed, and is legally bound to provide perpetual maintenance of the Improvements, as determined by the County, the Developer is obligated to maintain the Improvements in the Development.~~

~~———— 14. Recording Agreement. After receiving Final Plat approval, the Developer shall record this Agreement with the Clerk and Recorder of San Miguel County, Colorado, and with the Final Plat of the above referenced development. However, both this Agreement and the Final Plat shall be submitted to the County Planning Director for final review immediately prior to recording.~~

~~———— 15. Events of Default. The following conditions, occurrences or actions will constitute a default by the Developer during the completion period:~~

- ~~a. ——— Developer's failure to complete construction of the improvements within the time period specified.~~
- ~~b. ——— Developer's failure to complete construction of the Improvements within two years of final plat approval.~~
- ~~c. ——— Developer's failure to cure the defective construction of any improvement within the applicable cure period.~~
- ~~d. ——— Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer.~~
- ~~e. ——— Foreclosure of any lien against the development or a portion of the development or assignment or conveyance of the development in lieu of foreclosure.~~
- ~~f. ——— Developer's failure to comply with any other material provision of this Agreement or with any federal, state or county law or regulation effecting the property, including the County Land Use Code.~~

~~———— 16. County's Rights Upon Default. In the event of default by the Developer occurs, the County may draw on the commitment guarantee. The County will have the right, but no obligation, to complete Improvements itself or contract with a third party for completion, and the Developer hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Development for the purposes of constructing, maintaining, and repairing such Improvements. Alternatively, the County may assign all, or any part of, the proceeds of the commitment guarantee to the Developer’s successor(s) in interest, such as the Homeowner’s Association, if any, individual lot purchasers, or a subsequent developer, including a lender, who has acquired the Development, or a portion, by purchase, foreclosure or otherwise who will then have the same rights of completion as the County, If and only if, the Homeowner’s Association, individual lot purchasers, or a subsequent developer (including a lender) agrees in writing to complete the unfinished Improvements. In addition, the County may also suspend Final Plat approval during which time the Developer will have no right to sell,~~

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~~transfer, or otherwise convey lots or homes within the Development without the express written approval of the County or until the Improvements are completed and accepted by the County.~~

~~17. Enforcement. If the County determines that there is or has been a violation of any applicable federal or state laws or regulations, County regulations, Planning Commission requirements, and/or the terms and provisions of this Agreement by the Developer or his agents, including any independent contractor(s) hired by the Developer, the County Planning Director may issue a cease and desist order. Thereafter, the Developer acknowledges irreparable harm and injury to the County for purposes of an application by it to the Courts for a restraining order hereunder. Should the County deem the collateral on deposit insufficient to guarantee completion of the required Improvements, the County may require the Developer or successors to post additional collateral to guarantee completion of Improvements. The County has the right to pursue any remedy provided by this Agreement or by law and, if the County obtains any such remedy, attorney's fees and costs. As an alternative to the remedies provided by this paragraph and paragraph 11, the County has the right to withdraw its approval of the Development.~~

~~18. Miscellaneous. This Agreement runs with the land and is binding on and inures to the benefit of the heirs, representatives, transferee, successors and assignees of the parties. The paragraph headings are descriptive only and neither amplify nor limit the substantive material. The failure to enforce or the waiver of any specific requirements of this Agreement by either party shall not be construed as a general waiver of this Agreement of any provision herein, nor shall such action act to stop either party from subsequently enforcing this Agreement according to the terms hereof. This Agreement shall be subject to and deemed to incorporate all present and future ordinances and regulations of the County applicable thereto. Should any section, paragraph, clause or provision of this Agreement be declared by a court of competent jurisdiction to be invalid, said decisions shall not affect the validity of this Agreement as a whole or any part hereof other than the part declared to be invalid, and the parties hereby affirm that they would have entered into this Agreement and each of its provisions independently of each of its other provisions. The Developer is not an agent or employee of the County. This Agreement constitutes the entire integrated understanding of the parties regarding the subject matter set forth herein and no prior or contemporaneous promise, representation, term, condition, or understanding shall be of any legal force or effect, unless embodied herein in writing, or in a written amendment mutually agreed to by the parties.~~

~~19. Disclosure to and Consent of Mortgagee and Lender. The Developer hereby represents that he has disclosed the terms of this Agreement to any mortgagees of the Development involved and to all lenders who have provided financing to the Developer for the construction of this project and that said mortgagees and lenders consent to this Agreement as evidenced by their authorized signatures below.~~

Name & Address	Mortgagee/Lender	Signature of Authorized Officer
_____	_____	_____

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~~Execution of this Agreement by a lender or holder(s) of Deed(s) of Trust signifies their consent to this Agreement but does not obligate them to perform any of the terms of this Agreement unless they or one of them takes title to all or a portion of the subject Development.~~

~~20. Notice. All notices, demands or writings in this Agreement provided to be given or made or sent that may be given or made or sent by either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, certified and postage pre-paid, and addressed to the party at the following address:~~

San Miguel County
Board of County Commissioners
P. O. Box 1170
Telluride, CO 81435

with copies to:

with copies to:

San Miguel County Attorney
P.O. Box 791
Telluride, CO 81435

~~The address to which any notice, demand or writing may be given or made or sent to any party as above provided may be changed by written notice given by such party as above provided.~~

~~21. Subsequent Plats. Approval of subsequent Final Plats by the Board will be based, in part, upon the extent to which the terms and conditions of this Agreement have been met by the Developer. Approval may be withheld if substantial compliance is not had with the terms hereof and the submissions required herein.~~

~~22. Cumulative Remedies. The Developer acknowledges that the Board reserves the right to sue for specific performance and to seek other remedies allowed at law or in equity if Developer does not strictly comply with all the provisions of this Agreement and any plans, specifications or other approvals granted as a result of this Agreement or in any subsequent agreement entered into by the parties.~~

~~23. County No Duty. If the Improvements are not installed or are not properly installed pursuant to this Agreement, then the County shall have the right, but not the duty or obligation to either the Developer or any third party, to complete the construction of the Improvements. The parties acknowledge and agree that if the County, in its sole discretion, chooses to attempt to complete the Improvements, then:~~

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~~23.1 Use of Collateral Proceeds. The Board of County Commissioners shall use all liquid collateral and all net proceeds from the sale of any collateral pledged pursuant to this Agreement for the purpose of completing the Improvements and for no other purpose; and~~

~~23.2 No Obligation. The Board shall have no obligation to utilize any other funds or assets of the County to pay for the completion of any Improvements; the parties acknowledge that the County has no duty or obligation of any nature, to either the Developer or any third party, to complete or repair any or all of the Improvements.~~

~~24. Financial Disclosure. Subject to the provisions of paragraphs 24.1, 24.2 and 24.3, from time to time upon the written request of the Board, the Developer shall allow the County to review its then most recent audited financial statements.~~

~~24.1 Confidentiality. All financial information provided by the Developer to the County shall be done in absolute and strict confidence. Under no circumstance shall any of the financial information provided by Developer be disclosed in any manner to any person other than a member of the Board, the San Miguel County Attorney, San Miguel County Planner, and one certified public accountant employed by the County to assist it in its review of the financial statements.~~

~~24.2 Return of Material. After the completion of the review of the financial information, all statements, reports, copies, notes and paperwork of any kind that were prepared for or in conjunction with the financial review shall be returned to Developer. Neither the County nor any officer, agent or employee of the County shall retain any personal notes, information or paperwork of any nature in regard to the financial disclosure.~~

~~24.3 Annual Limit. The County may only request to review an audited financial statement once during each calendar year. The parties acknowledge that often times delays occur in the preparation of audited financial statements and; therefore, subject to the limitation set forth in the following sentence, if the audited financial statements have been completed, then the Developer shall provide them to the County within five (5) days of the County's request. Nothing to the contrary withstanding, the Developer shall have no obligation to have the audited financial statements completed before the November 1st following the end of the applicable fiscal year.~~

~~24.4 Executive Sessions. The financial information disclosed to the County pursuant to this paragraph shall only be discussed in executive sessions properly called in conjunction with the regular meetings of the Board.~~

~~24.5 Solvency Representation. The Developer represents to the County that at the time of execution of the Agreement that it is solvent.~~

~~25. Vested Rights. The County does not warrant by this Agreement that the Developer is entitled to any other approvals required by the County, if any, before the Developer is entitled to commence development or to transfer ownership of property in the Development. Developers vested rights for this Development, if any, are determined by the vested rights sections of the County Land Use Code (Section 3-14) and by CRS 24-68-101, et seq.~~

SAN MIGUEL COUNTY LAND USE CODE

ARTICLE 4

SUBMISSION REQUIREMENTS

SECTION 4-1: GENERAL

This Article establishes the submission contents for land development applications. Figure 4-1 serves as a guide to this Article of the Code by providing the essential information listed below:

4-101 Listing of Development Applications

A listing of development applications or groups of development applications which require similar submission contents; and

4-102 Code Section References

References to Code sections containing applicable submission contents, procedures and review standards.

SECTION 4-2: MINIMUM SUBMISSION CONTENTS FOR ALL LAND USE APPLICATIONS

4-201 General

All applications for land use approvals shall include, at a minimum, the information and materials specified in this section of the Code. During the pre-application conference the Planning Office staff may authorize modifications to the required submission contents.

4-202 Required Background Information

A letter signed by the property owner containing the property owner's name, the applicant's name, address and telephone number, and if applicable, the name, address and telephone number of the representative authorized to act on behalf of the property owner.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

FIGURE 4-1

LAND USE APPLICATIONS: REVIEW PROCEDURES AND STANDARDS

Land Use Activity	LAND USE CODE SECTION	
	Procedure	Standards*
Subdivision	3-7	2-1 to 2-33 5-1 to 5-10
Planned Unit Developments	3-7	2-1 to 2-33 5-1 to 5-10, 5-14
<u>GROUP I (LUC Section 4-6)</u>		
Major Development Applications		
Acceptance of Subdivision Roads	3-5	5-504 B .
Amendments to a Final Plat	3-5 or 3-6	5-15
Planned Unit Development (PUD) Amendments	3-5 or 3-6	5-15
Subdivision Exemptions for:		
<u>Correction of Survey Errors</u>	3-5	5-1202
Lot Line Adjustment	3-5	5-1203
Subdivision of Parcels for <u>Essential</u> Community Facilities	3-5	5-1204
Reversion to Acreage Plats	3-5	5-1205
Agricultural <u>Lands</u> Lot Split	3-5	5-1206
Open Lands Protection	3-5	5-1207
<u>Fully Developed Residential Property</u>	<u>3-5</u>	<u>5-1208</u>
Single-Lot Split in an Existing Subdivision	3-5	5-1209
Wright's Mesa <u>Subdivision Exemption</u>	3-5	5-1210
West End	3-5	5-1211
Wright's Mesa Open Land Protection	3-5	5-1212
Wright's Mesa Essential Community Facilities & Parks	3-5	5-1213
<u>Vacation of Lot Lines</u>	<u>3-5</u>	<u>5-1214</u>
Rezoning	3-6	5-1803
All Types of Development in Areas of State and local Interest/ C.R.S. 1041 Environmental Hazard Review	3-4	5-4

* Other standards may apply.

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Land Use Activity	LAND USE CODE SECTION	
	Procedure	Standards*
<u>GROUP II (LUC Section 4-7)</u>		
Other Development Applications		
Approval of Specific Land uses <u>Uses</u> Identified within Article 5 as Uses Subject to One-step Planning Commission Review	3-5	5-10
Approval of Specific Land Uses Identified within Article 5 as Uses Subject to One-step Board of County Commissioners Review	3-5	5-10
Minor Amendments to Special Uses Subject to One-step Board of County Commissioners or Planning Commission Review	3-4	5-10
Land Use Requiring Special Use Permits	3-6	5-10, 5-319 K., 5-320 K.
Minor Amendments to Special Use Permits	3-4	5-10, 5-319 K., 5-320 K.
Land Use Code Amendments	3-6	5-1802
<u>Master Plan Amendments</u>	<u>3-5</u>	<u>C.R.S. 30-28-106</u>
Conditional Uses on Federal Lands	3-6	5-11
Accessory Dwelling Unit	3-4	5-1303 2
Affordable Housing Unit	3-4	5-1303
Determination of Parking Requirements	3-5	5-702 E.
Reduction in Highway Setbacks	3-5	5-505 D.
Underground Electricity Transmission and Distribution Lines	3-4	5-709
Scenic Foreground Reviews	3-4 or 3-5	5-316
Mining and Mineral Processing	3-6	5-16
Logging	3-6	5-17
Oil and Gas Exploration & Development	3-4, 3-6	5-26

* Other standards may apply.

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4-203 Parcel Description

The street address and current legal description of the parcel on which the development is proposed to occur and an 8-1/2" x 11" vicinity map locating the subject property within San Miguel County.

4-204 Disclosure and Proof of Ownership

A disclosure of ownership of the parcel on which the development is proposed to occur, consisting of a current certificate from a title insurance company or attorney licensed to practice law in the State of Colorado, listing the names of all owners of the property and all holders of subsurface mineral interests of record listed in the real estate records of the San Miguel County Clerk and Recorder, mortgages, judgments, liens, easements, contracts and agreements affecting use and development of the parcel and proof of the owner's right to use the land for the purposes identified in the development application. This shall normally require proof of complete ownership or written consent from all owners. The staff may also request the applicant to supply information regarding the subject property and contiguous property sufficient to indicate that the subject lot was legally created.

4-205 Legal Access

Sufficient information to demonstrate that the applicant has adequate legal access to the parcel for the development proposal.

4-206 Standards Report

A written report demonstrating that the proposed development complies with the applicable substantive review standards.

4-207 Pre-Application Conference Summary Sheet

A copy of the pre-application conference summary sheet provided to the applicant at the pre-application conference.

4-208 Site Plan

~~The number of copies of 24" x 36" and 8-1/2" x 11" site utilization maps as specified by the staff during the pre-application conference.~~ A site utilization map shall be submitted. Where applicable, a preliminary or final plat shall also be submitted. During the pre-application conference, the Planning Office may authorize an applicant to consolidate or delete specific maps that may not be applicable to a particular development proposal. Site maps shall include identification of Areas of Local and State Interest as set forth in Section 5-4 and Wetland Areas as set forth in Section 5-22, for all areas where development activity is proposed.

4-209 Copies of Application

During the pre-application conference the staff shall specify the number of copies of the

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application to be submitted, including the number of copies of 24" by 36" maps or plats, if applicable. The Planning Office may authorize the submission of application materials, including maps and plats, in electronic format in lieu of paper copies.

4-210 Revegetation Plan

A plan for revegetation of all surfaces disturbed in conjunction with Development that employs predominantly native species, includes replacement of topsoil and specifies a maintenance schedule and techniques, ~~as approved by the County Environmental Health Department.~~

4-211 Weed Control Plan

A plan for control of noxious weeds, as listed in the San Miguel County Weed Identification List, for all surfaces disturbed in conjunction with Development, ~~as approved by County staff.~~ Disturbed surfaces over one (1) cumulative acre in size will require bonding for revegetation and weed control.

4-212 Employee Housing Mitigation Plan

A plan that complies with Section 5-13 of this Code to provide appropriate employee housing mitigation for the proposed development in the R-1 School District, if applicable.

SECTION 4-3 : SKETCH PLAN SUBDIVISION AND PLANNED UNIT DEVELOPMENT REVIEWS

4-301 General

A land development application for sketch plan subdivision review shall include:

- 4-301 A. The minimum submission contents for all land development applications listed in Section 4-2;
- 4-301 B. The maps identified in Section 4-302;
- 4-301 C. The written responses to the standards identified in Section 4-303 of the Code.

Refer to Section 3-7 for the five-step review procedure for subdivision applications.

4-302 Maps

This section lists the maps to be prepared and submitted by an applicant with sketch plan subdivision applications.

- 4-302 A. Location, Ownership, Zone Districts

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A map showing:

- I. Location of the proposed subdivision;
- II. All adjacent lands in common ownership or lands under option to the applicant;
- III. Commonly known landmarks; and
- IV. Zone district in which the proposed subdivision and adjacent properties are located.

4-302 B. Lot and Street Layout

A map showing:

- I. Legal Access to the property from a public road;
- II. Conceptual lot and street layout;
- III. Approximate layout of individual lots and access to the lots;
- IV. All off-street parking spaces; and
- V. School bus stops.

4-302 C. Natural Features

A map(s) showing:

- I. Topography of the site;
- II. Streams and lakes;
- III. Natural drainage basins;
- IV. Vegetation types;
- V. Areas of State and Local Interest (1041 environmental hazards); and
- VI. Soil types.

4-302 D. Existing Man-made features

A map including, but not limited to, the following existing features:

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- I. Buildings;
- II. Irrigation ditches;
- III. Utility lines;
- IV. Bridges and culverts;
- V. Drainage and sedimentation systems; and
- VI. Mines and/or mine dumps.

4-302 E. Land Use Map

A map showing applicable proposed land use divisions, including:

- I. Residential land uses;
- II. Agricultural and wildlife areas;
- III. Commercial and industrial land uses;
- IV. Community facilities;
- V. Open space, including public use or common areas;
- VI. Trails, parks or access points to public lands to be dedicated to the public;
- VII. Site data tabulation including listing of:
 - a. Total number and size of free market and restricted affordable housing units lots;
 - b. Total square feet of non-residential space;
 - c. Acreage of land in the proposed subdivision;
 - d. Number of bedrooms per dwelling unit;
 - e. Ground coverage of the proposed structures and improvements including parking areas, streets, and sidewalks; and
 - f. Acreage of agricultural land and open space to be preserved.

4-302 F. Utility Systems

Additions are in red underline. Deletions are in ~~red strikethrough~~.

A map showing the proposed type and layout of the water supply and sewage treatment systems, electrical service, gas lines, and any other utilities or service infrastructure.

4-302 G. Drainage Plan

A map showing the proposed drainage plan.

4-302 H. Landscape Plan

A map depicting the proposed landscaping plan.

4-303 Standards Report

An applicant shall submit a written report demonstrating that the proposed development complies with the standards set forth in Figure 4-1.

4-304 Environmental Report

An applicant shall submit a written report addressing potential impacts on the environmental features listed in this section.

4-304 A. Streams, lakes, topography, wetlands, wildlife habitats (refer to Section 5-407 A.) and vegetation;

4-304 B. Geologic characteristics of the area, along with a determination of the impact of such characteristics on the proposed subdivision;

4-304 C. Potential radiation hazard; and

4-304 D. Suitability of types of soil in the proposed subdivision, in accordance with the national cooperative soil survey.

SECTION 4-4: **PRELIMINARY SUBDIVISION AND PLANNED UNIT DEVELOPMENT REVIEWS**

4-401 General

A land development application for preliminary subdivision review shall include the minimum submission contents for all land development applications listed in Section 4-2 in addition to the other submission contents specified in this part of the Code. Refer to Section 3-7 for the procedure for a preliminary subdivision review.

4-402 Maps

Additions are in red underline. Deletions are in ~~red strikethrough~~.

This section lists the maps to be prepared by a qualified cartographer and submitted with a preliminary subdivision application.

4-402 A. Approved Sketch Plan Subdivision Maps

Copies of the maps identified in Sections 4-302 A. B. E. and F. as were approved by the Board of County Commissioners during sketch plan subdivision review.

4-402 B. Location, Ownership, Zone Districts

A map showing the information specified in Section 4-302 A.

4-402 C. Lot, Street Layout and Grading

I. Title

The tract name different from any other subdivision name in the County, date, north point, scale and sufficient boundaries to define the proposed tract.

II. Names and Addresses

Name, address, and telephone number of record owner, subdivider, engineer and/or surveyor.

III. Adjacent Streets

Location, names, present width and grades of adjacent, or abutting roads, streets, highways and ways.

IV. Streets

The location, names, widths and approximate grades of all roads, streets, highways, and ways and rights-of-way in the proposed subdivision, designated as public or private or to be offered for dedication.

V. Preliminary Conceptual Grading Plans

The existing and proposed grades, the extent of cut and fill, and the slope angles of all banks. Preliminary grading plans may be based on a photogrammetric survey to a scale not less than one inch equals one hundred feet (1" = 100'). Contour lines of existing grades shall have the following maximum intervals:

- a. Ten-foot (10') contour interval for ground slope over fifteen (15) percent.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- b. Five-foot (5') contour interval for ground slope below fifteen (15) percent.

VI. Inundated Areas and Floodplains

- a. Approximate location of all areas subject to inundation or combined storm water overflow, and the location, width, and direction of flow of all watercourses.
- b. A map, with computation addenda, showing the lateral limits of a one hundred year flood flow, and, if such flood plain shall be altered by the development, proposed drainage and/or flood control measures.

VII. Easements

The location and width of all apparent easements and existing recorded easements, and the approximate width and location of all proposed easements for drainage, water, sewage, ~~and~~ public utilities, ingress/egress, and other purposes. The reception numbers for all recorded easements shall be noted on the sketch plan or plat.

VIII. Lots

The approximate area and dimension of all lots, and radii of all curves.

IX. Structures

The location of all existing structures with indications of whether they are to remain on the property or to be removed. Dimensions of structures and setbacks to existing and proposed property lines shall be shown to demonstrate compliance with development standards.

X. Cross Sections

Typical cross sections and proposed grades of all streets, highways, and alleys, and details of curbs, gutters, sidewalks and other improvements shall accompany the preliminary plan and shall be of such scale as to show clearly all details thereof. In lieu of such cross sections, references may be made to the table of standards contained in this article.

4-402 D. Preliminary Landscaping Plan

The preliminary landscaping plan shall show the information in this section:

- I. All existing trees spaced more than thirty (30) feet apart by common name

Additions are in red underline. Deletions are in ~~red strikethrough~~.

and spread. Trees to be removed shall be indicated.

- II. In densely wooded areas or in tree clusters, only outlines need be shown. However, individual, outstanding trees within the clusters must be shown if they are to be removed.
- III. A conceptual plan for proposed trees and other plant material.
- IV. Any other recognizable feature of importance to the subdivision design such as rock outcroppings.

4-403 Standards Report

An applicant shall submit a written report demonstrating compliance with any condition of the Board of County Commissioner's sketch plan subdivision approval and resolution of any technical problems.

4-404 Environmental Report

An applicant shall submit a written report addressing the potential impacts on the environmental features listed in this section.

- 4-404 A. Streams, lakes, wetlands, wildlife habitat, topography, and vegetation;
- 4-404 B. Geologic characteristics of the area, along with and a determination of the impact of such characteristics on the proposed subdivision;
- 4-404 C. Potential radiation hazard;
- 4-404 D. Suitability of types of soil in the proposed subdivision, in accordance with the national cooperative soil survey.

4-405 Preliminary Drainage Plan

The drainage plan shall show drainage and/or flood control measures. Applicant shall submit maps and plans for facilities to prevent storm waters caused by the proposed subdivision and in excess of historic runoff from entering, damaging, or being carried by conduits, water supply ditches and appurtenant structures, and other storm drainage facilities.

4-406 Water Supply Plan

An applicant shall submit detailed information on the proposed water supply indicating whether the provisions of Section 5-605 can be complied with. Such information shall demonstrate a water supply that is sufficient in terms of quality, quantity and dependability to insure an adequate supply of water for the type of subdivision proposed. The application shall include, but not be limited to evidence of: ownership of right to use, historic use, and estimated yield of claimed water rights,

Additions are in red underline. Deletions are in ~~red strikethrough~~.

amenability of existing rights to a change in use if needed, water amount, and feasibility thereof, and evidence of potability of the proposed supply. The submitted information ~~listed in this section shall be submitted~~. shall include the following:

~~4-406 A. Estimated total number of gallons per day of sewage to be treated where a central sewage treatment facility is proposed, or sewage disposal means and suitability where no central sewage treatment facility is proposed;~~

4-406 BA. Total number of proposed dwellings;

4-406 CB. Total number of square feet of proposed non-residential floor space;

~~4-406 D. Total number of proposed off-street parking spaces, excluding those associated with single-family residential development;~~

4-406 EC. Estimated total number of gallons per day of water system requirements where a distribution system is proposed;

4-406 D. Evidence that public or private water providers or owners can and will supply water to the proposed subdivision, stating the amount of water available for use within the subdivision and feasibility of extending service to that area; and

4-406 FE. Estimated construction cost and proposed method of financing public water system improvements; ~~and~~.

~~4-406 G. Proposed covenants, if any.~~

4-407 Sewage Disposal

An applicant shall submit detailed information on proposed sewage disposal facilities, demonstrating compliance with the standards of Section 5-607.

~~4-407 A. The estimated total number of gallons per day of sewage to be treated shall be provided.~~

~~4-407 B. Evidence that the property can and will be served by a public sewage treatment facility or by an Onsite Wastewater Treatment System (OWTS) shall be provided.~~

4-407 AC. Engineered Sewage Disposal Systems
Whenever an engineered sewage disposal system is required by the County Sanitarian OWTS administrator, a State of Colorado Registered Engineer shall submit two (2) sets of stamped plans and calculations for County approval, one (1) set to be retained by the Sanitarian OWTS administrator. The OWTS Administrator may also request that plans and calculations be submitted electronically.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

4-408 Public Utilities

An applicant shall submit information describing how the development will be served with public utilities including power and protection systems.

4-409 Mineral Resources

If the Board of County Commissioners or Planning Commission believes that the subdivision may be located in a mineral resource area, the Board or Commission may request that the subdivider submit a report compiling all available existing data on mineral resources in the subject property. The applicant shall submit a record of ownership of mineral estates including mineral lessees, if any.

4-410 Site Data Tabulation

The applicant shall submit a site data tabulation including the information in this section:

- 4-410 A. The percentage of the site, to the nearest five (5) percent of the total area proposed to be devoted to streets and each other type of use;
- 4-410 B. Total number and size of free market dwelling units and deed-restricted affordable housing units/lots;
- 4-410 C. Total square feet of non-residential floor space;
- 4-410 D. Acreage of land in the proposed subdivision;
- 4-410 E. Number of bedrooms per dwelling unit; ~~and~~
- 4-410 F. Ground coverage of the proposed structures and improvements including parking areas, streets, and sidewalks-; and
- 4-410 G. Total number of proposed off-street parking spaces.

4-411 Scenic Quality Report

An applicant for development within the Telluride R-1 School District shall submit a report showing how design and construction standards will minimize the visual impact of a development on natural terrain, streams, vegetation, other characteristics and features of the landscape and neighboring developments and public use areas, in accordance with the standards established in Section 5-21 of this Land Use Code.

4-412 Planned Unit Development Agreement

An applicant seeking Preliminary Approval for a Planned Unit Development (PUD) shall submit a proposed Development Plan Approval document, commonly known as a PUD Agreement. The

Additions are in red underline. Deletions are in ~~red strikethrough~~.

PUD Agreement shall present all findings and conditions upon which potential Board of County Commissioners approval may be based, shall propose all provisions necessary to protect citizens purchasing property or otherwise investing in such PUD and shall contain all use, density, area and bulk, height, setback and other relevant specifications governing development within the PUD, including any that may vary from those stipulated in the Land Use Code, in accordance with Section 5-1404 and CRS 24-68-101 et. seq. Approval of a PUD Agreement by the Board of Commissioners shall in no way vest any rights to the zoning proposed, in accordance with Section 3-14. The Board of Commissioners may approve a proposed PUD Agreement only if the document meets all relevant requirements of Colorado law, including the Planned Unit Development Act of 1972 (CRS 24-67-101 et. seq.), and a PUD Agreement may in no way vary the subdivision requirements set forth in CRS 30-28-101 et. seq.

4-413 State Stormwater Discharge Permit

An applicant seeking preliminary approval for a subdivision that would disturb more than five (5) acres must demonstrate that an application for a stormwater discharge permit from the Colorado Department of Health, Water Quality Control Division has been submitted for that proposed subdivision. Approval of such a permit, if required, shall be a prerequisite to any final plat approval.

4-414 Law Enforcement Authority

An applicant seeking preliminary subdivision approval for a development with a population density of one hundred (100) or more persons must submit a plan pursuant to CRS 30-11-401 *et seq.* for creating a Law Enforcement Authority, or for joining an existing Law Enforcement Authority, that would generate funds sufficient to cover all costs associated with provision of law enforcement in excess of those services that would be normally provided by the County Sheriff for the proposed development.

4-415 Construction Costs

An applicant shall submit estimated construction costs and the proposed method of financing public improvements, streets and related facilities, water distribution systems, sewage collection systems, storm drainage facilities, and other such utilities and infrastructure as may be required of the developer by the County. A draft Subdivision Improvements Agreement shall be submitted. (See Section 4-509 B for the form of the Agreement.)

4-416 Covenants

An applicant shall submit proposed covenants, if any.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SECTION 4-5 : FINAL PLAT SUBDIVISION REVIEWS

4-501 General

A land development application for final plat subdivision review shall include the minimum submission contents for all land development applications listed in Section 4-2 in addition to the other submission contents specified in this part of the Code. Refer to Section 3-7 for the procedures for a final plat subdivision review and Section 3-12 for the procedures for Improvements Agreements.

~~4-502 Size and Scale~~

~~The final plat shall be clearly and legibly drawn upon indelible mylar of good quality. The final plat recorded in the Office of the Clerk and Recorder of San Miguel County shall be a non-erasable mylar copy of such original. All lines, letters, and figures shall be clearly and legibly drawn. The plat shall be so made and shall be in such condition when filed that good legible prints can be made therefrom. The size of the sheets of mylar shall be 24" x 36", leaving margins of one inch. The scale of the final plat shall be sufficiently large to clearly show the details of the plan (preferably 1"=100').~~

4-502 Requirements for Final Plats

4-502.A. Material

The final plat shall be drawn with permanent non-fading waterproof black ink on double-matte mylar having a minimum thickness of three (3) mils. Signatures and seals shall be permanent non-fading, waterproof black ink. Crimp-type seals shall not be used. No "sticky back" adhesive paper shall be placed on the final plat.

4-502 B. Size

Sheet size shall be twenty four (24) inches by thirty six (36) inches with one-inch (1") margins all around the sheet. Leave a three-inch (3") wide by five-inch (5") tall blank area inside the margins on Sheet 1, on the edge of the drawing area, for the County Clerk to attach a card with the filing information.

4-502 C. Legibility

The final plat shall be clearly and legibly drawn so that when filed, good legible scans and subsequent prints can be made. Spelling of all signatures and key words shall be correct. Text size shall be no smaller than 0.07 times the drawing scale.

4-502 D. Scale

The scale of the final plat shall be sufficiently large to clearly show the details of the plan. The plat shall be drawn to an even multiple of standard Engineering scales (e.g. one inch equals 100 feet, etc.), or a scale approved in advance by the County

Additions are in red underline. Deletions are in ~~red strikethrough~~.

Surveyor.

~~4-503 Title~~

4-502 E. Title

~~The title of the final plat shall be approved in advance by the Planning Director and The title sheet shall contain the title, consisting of the name of the tract, and such name~~ shall not be the same as the name of any existing city, town, tract, or subdivision of land into lots in this County, or so nearly the same as to mislead the public or cause confusion as to the identity thereof. Include the filing number, if applicable. If any of the land being subdivided has been previously shown on a recorded plat, a sub-title referring to said recorded plat must be given. ~~If the property included within the subdivision lies wholly in unincorporated territory, the following words shall appear below the title: A subtitle shall appear below the title, substantially worded as follows: "located within Section __, T. __ N., R. __ W., N.M.P.M., in the County of San Miguel, Colorado."; if the property lies partly within an incorporated town, the following words shall be used: "lying within and adjoining the Town of _____."~~ Patented mining claims shall also indicate the claim name and mineral survey number in the subtitle. Reference to lots, tracts, streets and subdivisions in the description must be worded identically with original records, and reference to book and page or reception number of record must be included. The title shall utilize a text size that is large enough to be prominent on the sheet. The title shall also appear in the Owner's Certificate (see Section 4-503 A). ~~Every sheet comprising the plat shall bear the tract name, scale, north point, legend, sheet number, and number of sheets comprising the plats. Below the title shall be clearly noted the basis of bearing for the survey.~~

4-502 F. Plat Key

When the final plat consists of more than two plat sheets, a key map showing the relation of the sheets shall be placed on sheet one. Every sheet comprising the final plat shall bear the title, scale, north arrow, sheet number, and the number of sheets comprising the plat.

4-502 G. Vicinity Map

A map that shows the relationship of the final plat to the surrounding area shall be clearly labeled with major streets and sufficient landmarks to identify the general location of the final plat. The vicinity map shall be placed on the first page of the final plat and shall be of sufficient scale to be legible when prints are made.

4-502 H. Legend

A legend describing all symbols, abbreviations, line types or other information shall be placed on each sheet of the final plat that needs such information.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

4-502 I. Adjoiners

Adjoining parcels and roads shall be identified on the final plat. Adjoining parcels that are a part of a recorded subdivision plat shall be identified by lot number and subdivision name with plat book and page number. Adjoining parcels that are unplatted shall be referenced by owner's name and deed recording information. Adjoining patented mining claims shall be referenced by claim name, mineral survey number and owner's name. Adjoining Federal or State lands shall be referenced by the name of the agency of the government that administers such land.

4-502 J. Tract Border

The perimeter boundary lines of the final plat shall be designated by a heavy solid line. Such lines shall not interfere with the legibility of figures or other data.

4-502 K. Land Survey Plat

A complete land survey and monumentation of the final plat boundary is required. Final plats, at a minimum, shall include all information necessary to comply with the requirements of C.R.S. 38-51-106. Pursuant to C.R.S. 38-51-106 (II) (k), conflicting boundary evidence shall be shown and dimensioned on the final plat. San Miguel County may require reasonable resolution of any boundary conflicts that affect interests within the area of the final plat.

4-502 L. Legal Description

A legal description of the land to be finally platted, with the total acreage of the land to be finally platted indicated to the nearest hundredth of an acre, shall be indicated in the Owner's Certificate (see Section 4-503 A.). The description may utilize generally accepted methods to describe the land being finally platted such as aliquot, proportional, metes and bounds, or lot, block and subdivision formats. The description shall correctly reflect the boundary as surveyed. If a metes and bounds description is used, label the boundary of the plat in the same direction as the legal description. The legal description and boundary dimensions must agree.

4-502 M. Lot Numbering

I. All lots and tracts shall be identified and numbered. All lots and tracts shall be numbered consecutively in a logical fashion with no omissions or duplications throughout the entire subdivision. Block numbers shall not be used unless approved in advance by the Planning Director. Circles or other geometric figures shall not be drawn around lot or tract numbers. Each lot or tract must be shown entirely on one sheet.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- II. An excepted parcel located within the interior of the final plat shall be marked “not included in this plat” and the boundary described accurately by dimensions.

4-502 N. Streets

- I. All new streets being created on the final plat shall be named on the final plat, shall comply with the current Land Use Code Appendix B: Street Naming and Addressing, as administered by the County Building Department, and shall not be the same as the name of any existing street in the County or so nearly the same as to mislead the public or to cause confusion as to the identity thereof. The final plat shall show the side lines, total width, dimensions and acreage of all streets being created on the final plat. If a street or any portion thereof is being dedicated, show the full dimensions, width and acreage of the area to be dedicated.
- II. All County Roads that are within the area being finally platted shall be dedicated to San Miguel County on the final plat. All public roads within the area being finally platted shall be dedicated as easements for public road right-of-way.

4-502 O. Monument Data

- I. The accurate location and description of all monuments shall be shown on the final plat.
- II. Monuments shall comply with the requirements pursuant to C.R.S. 38-51-104 and 38-51-105 and to State Board of Registration for Professional Engineers and Professional Land Surveyors Rules and conform to the standards of Section 5-706 of the Land Use Code.

4-502 P. Lot Dimensions

- I. Sufficient data must be shown to readily determine the dimension of every lot and tract line, street line and perimeter boundary line. Each lot, tract and street must be fully dimensioned around the perimeter of each, not as a calculated value from other dimensions. Dimensions of all perimeter boundary lines shall be indicated outside the boundary line, not inside with the lot dimensions.
- II. Dimensions of lines shall be shown in feet and hundredths of a foot. All bearings and central angles shall be shown to the nearest second. The dimensions shown around the perimeter of all lots, tracts and streets must close within a tolerance of two hundredths of one foot (0.02 feet). Computer printout sheets must be submitted to the County Surveyor showing

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boundary closure and area.

- III. All lots, tracts and streets being created on the final plat shall show acreage of each to the nearest hundredth of an acre. In situations where lots, tracts and streets being created on the final plat have an area less than two-tenths (0.20) acres, the acreage shown of each shall be expressed to the nearest one-thousandth (0.001) of an acre or may be shown in square feet expressed to the nearest foot.
- IV. Perimeter boundaries must show ties to any controlling monuments used in the boundary survey.
- V. Sufficient data for all curves shall be shown to enable establishment of curves on the ground. Such data shall include radius, central angle and arc length for each tangential circular curve. In addition, non-tangential circular curves shall be indicated as such and shall also include the long chord bearing and chord length. Inclusion of a curve data chart is optional.

4-502 Q. Easements

- I. The final plat shall show the location, width and dimensions of all recorded easements to which lots, tracts or streets are subject. Apparent easements, not of record, shall be noted on the plat.
- II. Easements that are recorded must be clearly labeled with a reference to the document of record.
- III. If an easement is being created by the final plat, proper language for the creation of such easement including the beneficiaries and purposes for said easement shall be set out in the Owner's Certificate.
- IV. Easements shall be indicated with dashed or other broken line types, not as a solid line type similar to lot or boundary lines.
- V. Dimension and tie all easements that are of record or are being created by the final plat. Sufficient ties are required to definitely locate the easements with respect to each lot, tract or right-of-way on the final plat. Easement ties along the sidelines of lots must be shown in a manner that will not cause confusion with lot dimensions.

4-503 Certificates and Acknowledgements

The certificates and acknowledgements listed in this section shall be required on the final plat, if applicable, and shall be placed on the first page of the final plat, and shall be worded substantially as follows:

Additions are in red underline. Deletions are in ~~red strikethrough~~.

4-503 A. Owner's Certificate

I. A certificate signed and acknowledged by all parties having any record fee title ownership interest in the land described in the legal description per Section 4-502 L., consenting to the preparation and recordation of said plat. For most Subdivision final plats, the Owner's Certificate shall be worded substantially as follows:

Know all persons by these presents:

That (name of owner(s) of record), being the owner(s) of the land described at Reception No. _____ in the office of the Clerk and Recorder, further described as follows: (insert legal description per Section 4-502 L.), under the name of (Title of final plat per Section 4-502 E., in capital letters), has laid out, platted and subdivided same as shown on this plat.

II. In the case of complex Subdivision applications, the applicant's attorney may want to prepare a unique Owner's Certificate subject to approval by the County Planning Director and County Attorney. The applicant shall request a Waiver of Requirements per Section 4-505.

III. The owners of record shall sign below the Owner's Certificate and have their signatures properly acknowledged.

IV. If the Owner's Certificate is being signed by persons acting in a representative official capacity, or as attorney-in-fact, then insert the name and said capacity of said persons and reference the document establishing such capacity; if by corporation, trust, partnership, limited liability company or other entity, then insert the name of the person authorized to sign and their title, naming the corporation, trust, partnership, limited liability company or other entity.

V. The signatures of parties owning the following types of interests may be omitted from the Owner's Certificate:

1. Rights-of-way, easements, mineral interests or other interests, none of which can ripen into a fee;

2. Rights-of-way, easements or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value and whose signatures it is impossible or impractical to obtain. In this case a reasonable statement of the circumstances preventing the procurement of the signatures shall be endorsed on the plat.

3. Any portion of the legal description including territory originally patented by the United States or the State of Colorado, under the

Additions are in red underline. Deletions are in ~~red strikethrough~~.

patent reserving interest to either or both of these entities, may be recorded under the provision of this title without the consent of the United States or the State of Colorado thereto or to dedications made thereon.

4-503 B. Dedication

If certain parcels of land, rights-of-way, easements or other described interests in real property are to be dedicated for public use, then a dedication statement, worded substantially as follows, shall be added to the Ownership Certificate:

The [owner(s)] hereby dedicate(s) to San Miguel County, Colorado for the perpetual use of the public the streets, roads, alleys, and other public areas as shown hereon and hereby dedicate(s) those portions of land labeled as utility easements for the installation and maintenance of public utilities as shown hereon.

4-503 C. Licensed Surveyor

A certificate by the Colorado licensed surveyor responsible for the survey and final plat, to which shall be affixed the surveyor's official seal:

Land Surveyor’s Certificate

I, (printed name of Land Surveyor, indicating firm affiliation, if any) being a Colorado Licensed Surveyor, do hereby certify that this plat and survey of (Title of final plat per Section 4-502 E., in capital letters) was made by me or under my responsible charge in compliance with the applicable provisions of the San Miguel County Land Use Code and Title 38, Article 51, C.R.S., and that both are true and accurate to the best of my knowledge and belief. I further certify that all monuments were set in the ground as required by San Miguel County Land Use Code Sections 4-502 O and 5-706 and Article 51 of Title 38, C.R.S. (this sentence may be omitted when the monuments are to be set as part of an Improvement Agreement per Sections 3-12 and 5-9).

(signature) _____
P.L.S. No. _____ Date _____

4-503 D. County Clerk and Recorder

A certificate for execution by the County Clerk and Recorder:

Clerk and Recorder’s Certificate

This plat was filed in the office of the Clerk and Recorder of San Miguel County, Colorado on this _____ day of _____, 20 ____ A.D. in

Additions are in red underline. Deletions are in ~~red strikethrough~~.

Reception No. _____
Time _____

(signature) _____
San Miguel County Clerk

4-503 E. Planning Commission

If applicable, a certificate demonstrating approval by the Planning Commission:

Planning Commission Approval

This plat has been approved by the San Miguel County Planning Commission on this ____ day of _____, 20__.

(signature) _____

Chair.

4-503 F. County Treasurer

A certificate for execution by the County Treasurer:

County Treasurer’s Certificate

According to the records of the San Miguel County Treasurer there are no liens against the subject property that is being finally platted or any part thereof for unpaid state, County, municipal or local taxes or special assessments due and payable, in accordance with Land Use Code Section 3-101.

(signature) _____
San Miguel County Treasurer Date

4-503 G. Board of County Commissioners

A certificate for execution by the chair of the Board of County Commissioners and attested by the clerk of that board approving the final plat as submitted and accepting or not accepting the areas dedicated for public use:

County Commissioner’s Approval

This plat has been accepted for filing by the San Miguel County Board of County Commissioners, in accordance with Board Resolution No. _____, recorded at Reception No. _____.

County acceptance of any dedication for public use of streets, roads, alleys, or other

Additions are in red underline. Deletions are in ~~red strikethrough~~.

public areas depicted upon the plat, shall not constitute acceptance of such dedication for County maintenance purposes. Compliance with the provisions of section 5-504 of the San Miguel County Land Use Code is required for County acceptance of dedications for maintenance purposes.

(signature) _____
Chair

Dated this _____ day of _____, 20____.

Attest:

(signature) _____
Clerk

4-503 H. Vested Property Right

Each final plat may contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right (see Section 3-14).

4-503 I. Security Interest Holder's Consent (if applicable):

This certificate's inclusion on a final plat is mandatory should there be any Deeds of Trust, Mortgages, Instruments creating security interests, or liens, filed of record in the San Miguel County Clerk and Recorder's Office concerning the subject property. Such certificate shall be acknowledged and be in substantially the following form:

The undersigned (insert printed name of person or entity), as a beneficiary of a deed of trust (or identify other mortgage instrument or agreement creating a security interest in the subject property) which constitutes a lien upon the owner's property, recorded at Reception Number _____, in the San Miguel County Clerk and Recorder's real property records, hereby consents to the (subdivision, lot line adjustment, or other final plat process) of the real property as depicted on this Plat. (If applicable, add this statement to the last sentence: "and to the dedication of land as streets, alleys, roads and other public areas, as designated on this Plat, and hereby releases said dedicated lands from the lien created by said instrument.")

(signature) _____
(printed name and title) _____ Date _____

4-503 J. Certificate of Title

Additions are in red underline. Deletions are in ~~red strikethrough~~.

A certificate by a title insurance or abstract company licensed to practice in the State of Colorado, or a title opinion by an attorney licensed to practice in the State of Colorado, certifying that the names of all persons having any right, title or interest in the lands to be final platted and whose consent is necessary to convey clear title to the said land is shown in the Owner's Certificate of the final plat, and that the title to such lands is free and clear of all liens and taxes, except as noted:

Title Insurance Company Certificate

(name of title insurance company) does hereby certify that we have examined the title to all lands herein shown on this plat and that the title to such lands is in the names of those persons indicated in the Owner's Certificate of said plat, and is free and clear of all liens and taxes, except as follows:

(List same or indicate NONE)

(signature)

Title Insurance Company Representative

4-503 K. Vested Property Rights

Each final plat shall contain the following language: "Approval of this plan may create a vested property right pursuant to article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right.

4-503 L. Notes of Clarification

There shall be a set of notes placed on the final plat to help clarify the changes to real property:

1. The following lots, tracts and rights-of-way have been created by this plat:
(list or NONE)

2. The following lots, tracts and rights-of-way have been deleted by this plat:
(list or NONE)

3. The following lots, tracts and rights-of-way have been modified by this plat:
(list or NONE)

4-503 M. Covenants

If applicable, any existing protective covenants or restrictions shall be noted on the plat, with the recording information. Any new protective covenants or restrictions shall be noted on the final plat with recording information. New protective covenants or restrictions may be recorded at the same time as the final plat if a property owner's representative accompanies the County Planning Department representative when the final plat is presented to the County Clerk and Recorder for recordation.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

4-503 N. Additional Certificates

Any additional plat certificates and/or acknowledgments shall be subject to County approval.

~~4-504 Plat Key~~

4-504 Required Data for the County Geographic Information System

4.504 A. The land surveyor who prepares the final plat shall provide accurate Latitude and Longitude values for at least two data points on the external boundary of the final plat. These data points shall be submitted to the County Surveyor by e-mail by completing a Geographic Information System – Survey Control Data Sheet, which is available on the County Surveyor website. If the land surveyor who prepares the final plat does not have GPS surveying equipment and is not able to determine accurate Latitude and Longitude values, or the project area is unsuitable for use of GPS equipment, a waiver of this requirement can be obtained from the County Surveyor.

4-504 B. An electronic drawing file of the final plat, in a format and version acceptable to the County GIS Department, shall be submitted by e-mail to the County GIS Department. If the land surveyor who prepares the final plat does not have drafting software capable of producing an acceptable electronic drawing file, a waiver of this requirement can be obtained from the Planning Director or County Surveyor.

4-505 Waiver of Requirements

If unusual circumstances warrant, a waiver of any of the requirements of Section 4-502 can be obtained if approved by the County Surveyor. If unusual circumstances warrant, a waiver of any of the requirements of Section 4-503 can be obtained if approved by the County Planning Director. The applicant's attorney may prepare a unique Owner's Certificate per Section 4-503 A. II, provided a waiver of the requirement for the wording of the Owner's Certificate per Section 4-503 A. I is approved by the County Planning Director and County Attorney.

4-506 High Water and Inundated Areas

If the subdivision is within areas subject to periodic inundation by flood, the final plat shall show the high water line of the 100-year floodplain.

~~4-5057~~ Reversion to Acreage

Plats filed for the purpose of reverting subdivided land to acreage shall be conspicuously designated with the title, "Reversion to Acreage Plat."

~~4-506~~ Boundary and Monument Data

Additions are in red underline. Deletions are in ~~red strikethrough~~.

~~The final plat shall clearly show the exact location of all monuments as required by Section 5-706. Adjoining parcels shall be identified by lot and block numbers, lot number and subdivision name, owner's name and deed recording information, or other proper designation. Adjoining roads with names shall be shown.~~

~~4-507 Lot Dimensions~~

~~4-507 A. — Sufficient data must be shown to determine readily the bearing and length of every lot line, block line, and boundary line. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside with lot dimensions.~~

~~4-507 B. — Dimensions of lots shall be shown in feet and hundredths of feet. All lots shall be tied mathematically to adjoining streets or access ways.~~

~~4-507 D. — Lots shall show net acreage to nearest hundredths.~~

~~4-507 E. — Sufficient data shall be provided for all curves to enable establishment of curves on the ground. Such data shall include radius and arc length for each circular curve, and long chord bearing and chord length for each non-tangential circular curve~~

~~4-508 Established Lines~~

~~Wherever the County has established a system of coordinates, the survey shall be tied into such system.~~

~~4-509 High Water and Inundated Areas~~

~~If the subdivision is adjacent to areas subject to periodic inundation by flood, the final plat shall show the high water line of the 100-year floodplain.~~

~~4-510 Tract Border~~

~~The boundary of the tract shall be designated by a prominent border on the drawing. Such borders shall not interfere with the legibility of figures or other data.~~

~~4-511 Lot and Block Numbering~~

~~4-511 A. — All lots shall be numbered consecutively with no omissions or duplications throughout the entire subdivision including all units of any subdivision that have the same tract name.~~

~~4-511 B. — No block division or numbering is required, but if desired by the subdivider, then each block shall be numbered consecutively.~~

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~~4-511 C. — Circles or other geometric figures shall not be drawn around numbers.~~

~~4-511 D. — Each lot must be shown entirely on one sheet.~~

~~4-512 Streets~~

~~The final plat shall show the side lines, total width, width of the portion being dedicated and width of existing dedications of all streets.~~

~~4-513 Easements~~

~~4-513 A. — The final plat shall show the location and width of all easements to which the lots are subject.~~

~~4-513 B. — Easements must be clearly labeled and identified by recorded reference.~~

~~4-513 C. — If any easement is not recorded, the dedication of such easement must appear on the title sheet.~~

~~4-513 D. — Easements for storm drains, sewers and other purposes shall be designated by dotted lines.~~

~~4-513 E. — Distances and bearings on the side lines of lots cut by easements must be arrowed or so shown that the plat will indicate clearly the actual lengths of the lot lines.~~

~~4-513 F. — Width of easements and lengths and bearings of the lines thereof and sufficient ties thereto to definitely locate the easements with respect to the subdivision must be shown.~~

~~4-513 G. — If the easement is being dedicated by the plat, it shall be properly set out in the owner's certificate of dedication.~~

~~4-514 Parcel Boundaries~~

~~4-514 A. — The final plat shall particularly define, delineate and designate all lots intended for sale or reserved for private purposes, and all parcels offered for dedication for any purpose, with all dimensions, boundaries and courses clearly shown and defined in every case.~~

~~4-514 B. — Parcels offered for dedication but not accepted shall be clearly designated as such on the plan.~~

~~4-515 Certificates and Acknowledgements~~

~~The certificates and acknowledgements listed in this section, and all other certificates and acknowledgements now or hereafter required by law, shall appear on the final plat (such certificates may be combined where appropriate):~~

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~~4-515 A. Owners~~

~~A certificate signed and acknowledged by all parties having any record title interest in the land subdivision, consenting to the preparation and recordation of said plat. However, the signatures of parties owning the following types of interests may be omitted if their names and nature of their interests are endorsed on the plat:~~

~~4-515 A.I. Rights of way, easements or other interests, none of which can ripen into a fee.~~

~~4-515 A.II. Rights of way, easements or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value and whose signatures it is impossible or impractical to obtain. In this case a reasonable statement of the circumstances preventing the procurement of the signatures shall be endorsed on the plat.~~

~~4-515 B. Patented Mining Claims~~

~~Any plat including territory originally patented by the U.S. or the State of Colorado, under the patent reserving interest to either or both of these entities may be recorded under the provision of this title without the consent of the United States or the State of Colorado thereto or to dedications made thereon.~~

~~4-515 C. Dedication~~

~~A certificate for execution acknowledged as above, offering for dedication for public use those certain parcels of land, rights of way, easements, and other described interests in real property which said parties desire to dedicate, which shall be added to the Owners Certificate, as follows: [owner(s)] hereby dedicate(s) to San Miguel County for the perpetual use of the public the streets, roads, alleys, and other public areas as shown hereon and hereby dedicate(s) those portions of land labeled as utility easements for the installation and maintenance of the public utilities as shown hereon.~~

~~4-515 D. Licensed Surveyor~~

~~A certificate by the Colorado licensed surveyor responsible for the survey and final plat in substantially the following form, to which shall be affixed the surveyor's official seal:~~

~~I, (printed name of Land Surveyor, indicating firm affiliation, if any) being a Colorado Licensed Surveyor, do hereby certify that this plat and survey of (name of subdivision in capital letters) was made by me and under my supervision in compliance with the applicable provisions of Title 38, Article 51, C.R.S., and that both are true and accurate to the best of my knowledge.~~

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~~4-515 E. County Clerk and Recorder~~

~~A certificate for execution by the County Clerk and Recorder stating the date and time at which the final plat was recorded in the Office of the San Miguel County Clerk and Recorder as well as the applicable reception number assigned to the plat for recording purposes.~~

~~4-515 F. Planning Commission~~

~~A certificate demonstrating approval of preliminary plat by the Planning Commission.~~

~~4-515 G. County Treasurer~~

~~A certificate for execution by the County Treasurer that states: According to the records of the San Miguel County Treasurer there are no liens against the subdivision or any part thereof for unpaid state, County, municipal or local taxes or special assessments due and payable, in accordance with Land Use Code Section 3-101.~~

~~4-515 H. Board of County Commissioners~~

~~A certificate for execution by the chair of the Board of County Commissioners and attested by the clerk of that board approving the final plat as submitted and accepting or not accepting the areas dedicated for public use. Such certificate shall include the following provision concerning dedications for public use:~~

~~County acceptance of any dedication for public use of streets, roads, alleys, or other public areas depicted upon the plat, shall not constitute acceptance of such dedication for County maintenance purposes. Compliance with the provisions of section 5-504 of the San Miguel County Land Use Code is required for County acceptance of dedications for maintenance purposes.~~

~~4-515 I. Required Language~~

~~Each final plat may contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right (see Section 3-14).~~

~~4-515 J. Security Interest Holder's Consent (if applicable):~~

~~This certificate's inclusion on a subdivision plat is mandatory should there be any Deeds of Trust, Mortgages, Instruments creating security interests, or liens, filed of record in the San Miguel County Clerk and Recorder's Office concerning the subject property. Such certificate shall be in substantially the following form:~~

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~~The undersigned (insert printed name of person or entity), as a beneficiary of a deed of trust (or identify other mortgage instrument or agreement creating a security interest in the subject property) which constitutes a lien upon the declarant's property, recorded at Reception Number _____, in the San Miguel County Clerk and Recorder's real property records, hereby consents to the subdivision of the real property as depicted on this Plat and to the dedication of land as streets, alleys, roads and other public areas, as designated on this Plat, and hereby releases said dedicated lands from the lien created by said instrument.~~

~~**4-516 Additional Drawing Requirements**~~

~~All plats shall include all information necessary to comply with all requirements of CRS 38-51-102.~~

~~**4-517 Certificate of Title**~~

~~There shall be filed with the final plat evidence of title issued by a reputable title insurance or abstract company or title opinion by an attorney licensed to practice in the State of Colorado, showing the names of all persons having any right, title or interest in the lands proposed to be subdivided and whose consent is necessary to convey clear title to the said land. Such evidence of title shall be filed with the final plat for record in the office of the County Clerk and Recorder.~~

4-51808 Improvement Agreements and Performance Guarantees

4-508 A. Plat Note

An applicant shall submit an Improvement Agreement subject to the procedures and conditions of Sections 3-12 and 5-9. The following statement shall appear on the final plat:

The approval of this final plat is subject to all terms, conditions, obligations and restrictions set forth in the (insert name of subdivision improvements agreement) recorded in the office of the San Miguel County Clerk and Recorder at Reception No. _____.

4-508 B. Form of Agreement

All Improvement Agreements shall utilize as a guide the following format, with such provisions as may be approved by the Board of County Commissioners:

THE SUBDIVISION IMPROVEMENTS AGREEMENT
FOR
(Name of the Development)
(Date)

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THIS AGREEMENT is entered into this _____ day of _____, 19____, between SAN MIGUEL COUNTY ("County"), a governmental entity, and _____ ("Developer").

WHEREAS, C.R.S. 30-28-137(1) requires that prior to the recording of a Final Plat, the Board of County Commissioners of San Miguel County ("Board") must enter into a subdivision improvements agreement wherein the Developer agrees to construct those public improvements required by the County and which agreement requires the pledging of collateral that is sufficient, in the judgment of the Board, to make reasonable provision for the completion of the required improvements in accordance with design and time specifications set forth in the agreement; and

WHEREAS, C.R.S. 30-28-101, et seq., especially 30-28-133, requires that a condition of Board approval of any preliminary or final plat is the Developer's compliance with County subdivision regulations, including making all payments, dedications and exactions provided therein; and

WHEREAS, the Developer is the subdivider of the real property development ("Development") known and described as (legal description) _____ located in San Miguel County Colorado, and has presented to the County a Final Plat for this Development; and

WHEREAS, the San Miguel County Land Use Code and State statutes require the execution of an Subdivision Improvements Agreement ("Agreement") between the Developer and the County whereby the Developer shall agree to construct certain improvements, the completion of which are guaranteed to the County, prior to filing the Final Plat; and

WHEREAS, the County seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the Development and thereby limit the harmful effects of substandard development and subdivision; and

WHEREAS, the purpose of this Subdivision Improvements Agreement ("Agreement") is to protect the County from incurring the cost of completing the improvements under this Subdivision Improvements Agreement and not to benefit those providing work, services or material or the lot or home buyers in the Development; and the purpose of this Agreement is further to guarantee performance of Developer's other obligation.

NOW, THEREFORE, in consideration of the mutual promises contained herein, IT IS AGREED AS FOLLOWS:

1. **Construction of Improvements.** The Developer agrees to construct or to enter into a contract with such person, firm or corporation as is chosen by the Developer to construct the required improvements, including water distribution system (for commercial, municipal and domestic uses, and for landscaping and fire protection), sanitary sewers, storm drainage, roads, bridges and associated improvements, fire protection system, land survey monuments, electrical system, public trails and landscaping (hereinafter referred to as "Improvements"); more specifically described in Exhibit A that is attached hereto and incorporated herein by this reference. The required Improvements shall be constructed in accordance with the Plans and Specifications submitted by the Developer and in accordance with all applicable legal standards. The Developer's

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obligation to complete the Improvements will arise upon final plat approval by the County and will be independent of any obligations of the County contained herein and will not be conditioned upon the commencement of construction in the Development or sale of any lots or Improvements within the Development. Developer shall obtain all applicable federal, state, county, and municipal approvals and permits required for construction of the Improvements, including, but not limited to, domestic water system(s), sewer and/or septic system(s), and road(s).

In addition, the Developer will ensure that telephone service will be available within the immediately adjacent easements and/or rights-of-way of each platted lot in the Development prior to or at the time the certificate of occupancy or satisfactory final building inspection is issued by the County for the respective lot. No security will be required to ensure the availability of telephone service.

2. Regulations and Specifications. The required Improvements shall be designed and constructed in accordance with the County's regulations and specifications in effect as to the date of this Agreement, other applicable state or federal regulations, if any, the Final Plat of the Development, and the Plans and Specifications retained by the County Engineer and the County Planning Department, all of which are hereby incorporated herein by reference and made a part of this Agreement. All Plans and Specifications shall have been submitted to and reviewed for exceptions by the County Engineer and the County Planning Director prior to submission of the Final Plat for approval or execution. No changes, additions, and/or deletions to the Improvements, from the approved Plans and Specifications, shall become effective until and unless approved by the County Engineer and the County Planning Director.

3. Completion Date. The required Improvements shall be completed no later than (insert mutually agreed upon completion date), unless the County, in its sole discretion, grants in writing an extension of this completion date to the Developer. A written extension agreement shall be signed by the Chairman of the Board and the Developer. No less sixty (60) days prior to the above scheduled completion date, or any extension thereof, the Developer shall notify the County Planning Director in writing of the upcoming completion deadline and include a progress report which shall include a statement of whether the Developer expects to complete the required Improvements by the completion date. The Developer's failure to provide this notice shall be grounds for the County to withdraw from the commitment guarantee in accordance with this Agreement (See e.g. par. 11, 16, 23, etc.).

4. Estimated Cost. The Developer's engineer of record for the Development shall be responsible for the preparation of the construction estimate for the required Improvements. Prior to execution of this Agreement and the Developer's submittal of the Commitment Guarantee, the County Engineer shall review the estimate, which review shall include, but not be limited to, determining that the estimate includes all required Improvements, and that the amount of the financial guarantee is consistent with the Engineer's estimate. Should the County Engineer find and determine that the engineer's estimate is inaccurate, or otherwise require revision, the Developer's engineer shall revise his estimate in accordance with the County Engineer's findings. The Developer's Commitment Guarantee shall be consistent with such revised construction estimate. The cost of constructing the Improvements is estimated to be \$ _____. This cost estimate is based upon the assumption that the work will be performed by an independent

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contractor, was prepared by and bears the seal of an engineer licensed to practice in the State of Colorado, which shall be attached hereto as Exhibit "B."

This estimated construction cost includes the estimated present construction cost, and an additional amount equal to twenty percent of the estimated construction costs, which shall be retained for the duration of the warranty period following substantial completion of the improvements, plus an estimated inflation factor determined by the County and calculated to the completion date. If change orders are required during the course of construction that increase the cost by more than five percent (5%) of the estimated cost of any subsequently agreed amount that may result from increased costs of material or labor, the amount of the commitment guarantee shall be adjusted accordingly. The Developer shall notify the County in writing of any such change and supply the County with the adjusted commitment guarantee.

5. Commitment Guarantee. Developer's performance under this Agreement is guaranteed by (insert description of financial guarantee provided: escrow deposits, irrevocable letters of credit. Deeds of trust, or other conveyances of real property are unacceptable as security). The commitment guarantee will be retained by the County until released or used as provided in this Agreement. Should the Improvements not be completed at least thirty (30) days prior to the expiration of any commitment guarantee, the Developer agrees to the extension of said guarantee and designates the County his agent to request said extension. The Developer shall pay all costs of guarantee extension; and it is mutually understood and agreed that the County will pay no interest to the Developer on the commitment guarantee. If the County determines guarantee is insufficient to warrant construction of Improvements, the County shall notify the Developer who shall produce such additional security as the County determines necessary.

6. Transfer of Title. If the County is to have any ownership interest or maintenance responsibility in the Improvements, before commencing the construction of any of the required Improvements, the Developer shall acquire, at its own expense, good and sufficient title to all lands and facilities traversed by any required Improvements. In addition, if County is to have ownership in dedications of parks, trails, right-of-ways, covenants, etc., for this Development, Developer shall acquire at its own expense good and sufficient title to all such property. All such property, lands and facilities so required shall be conveyed to the County and all necessary documents of conveyance shall be furnished to the County prior to and for recording with the Final Plat.

7. Release of Liability - Insurance. The Developer shall indemnify and save harmless the County from any and all suits, actions or claims of every nature and description occurring during the period of construction of the required Improvements and for one year thereafter, and caused by, arising from, or on account of the construction process or any other Developer obligations hereunder, and pay any and all judgments rendered against the County on account of any such suit, action or claim, together with all reasonable expenses and attorney's fees incurred by the County in prosecuting or defending such suit, action or claim.

8. Insurance. The Developer shall ensure that all contractors and other employees engaged in the construction of the required Improvements will maintain workmen's compensation insurance. Before proceeding with any construction of the required Improvements, the Developer shall provide the County with written evidence of Public Liability Insurance with limits not less

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than Five Hundred Thousand Dollars (\$500,000.00) for bodily injury, One Hundred Thousand Dollars (\$100,000.00) for property damage in coverage forms approved by the County Attorney and protecting the County against any and all claims for damages to persons or property resulting from or installation of any required Improvements on public property. The policy will provide that the County shall be notified at least thirty (30) days in advance of any reduction in coverage, termination or cancellation of the policies. Such notice shall be sent certified mail. The Developer also warrants that any contractors engaged by or for the Developer to construct the required Improvements shall maintain Public Liability Insurance coverage in limits not less than those mentioned above.

9. Warranty. The Developer hereby warrants that all required Improvements will be installed in a good and workmanlike manner and in accordance with the provisions of Sections 1 and 2 hereof.

10. Release of Commitment Guarantee. From time to time, as required Improvements are substantially completed, the Developer may apply in writing to the County Planning Director and to the County Engineer for a partial release of the commitment guarantee. The application must show:

- a. Dollar amount of commitment guarantee;
- b. Work completed, including dollar value;
- c. Work not completed, including dollar value;
- d. Amount of previous releases; and
- e. Amount of commitment guarantee requested released.
- f. Release or waivers of mechanics liens of all persons who have furnished work, services or materials.
- g. Certification by the Developer's engineer that all of the work included in the application is substantially complete, and complies with all applicable plans and specifications.

Upon receipt of the application, the County or its agent shall inspect the Improvements both completed and those uncompleted. If the County determines from the inspection that the Improvements shown on the application as being substantially completed have been completed as provided herein, a portion of the commitment guarantee shall be released. The release shall be made in writing signed by the County Engineer and approved by the County Planning Director. The amount to be released shall be the total amount of the commitment guarantee less (i) twenty percent (20%) of the original amount of the commitment guarantee and (ii) one hundred percent (100%) of the projected costs of the Improvements not completed. Notwithstanding the foregoing provisions, the Developer shall not apply for a partial release of the commitment guarantee in the amount less than twenty percent (20%) of the total original amount, except for the last such release. The Improvements shall be considered to be "substantially complete" when all of the required Improvements, or a designated portion thereof, are sufficiently complete, in accordance with the approved plans and specifications, that they can be used for their intended purpose.

11. Failure to Comply with Specifications -- Agreement Cancellation. If the County determines that the required Improvements have not been constructed in accordance with the Plans

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and Specifications provided to and reviewed by the County Engineer pursuant to paragraph 2 above, the County shall notify the Developer of noncompliance setting forth in writing the reasons for noncompliance. Such written notification shall set forth a reasonable schedule for correction of the improvements in noncompliance. Should the County determine at any time that the guarantee on deposit is insufficient to complete construction of said Improvements, the County may require the Developer to deposit additional funds which the County deems necessary to complete the Improvements. Should the Developer fail or refuse to comply with the County's directive to increase the Commitment Guarantee within the time period specified, the County may declare the Developer to be in default of its obligations. If the County determines that the Developer cannot and/or will not construct any or all of the Improvements in accordance with this Agreement, the County may, upon written notification to the Developer and the commitment guarantor, and without the necessity of public hearing, withdraw from the commitment guarantee such funds as may be necessary, in the opinion of the County, to construct or complete said Improvements in accordance with the agreed specifications.

12. Completion Procedures and Inspections. Upon substantial completion of all of the Improvements, the Developer's designated project engineer shall prepare and deliver to the County Planning Director and the County Engineer in writing a proposed Certificate of Substantial Completion for all of the required Improvements constructed and in place, certifying that such Improvements have been constructed in substantial compliance with the approved plans and specifications, and requesting the County Engineer's inspection of all of the substantially completed Improvements. The Engineer's Certificate of Substantial Completion for all of the required Improvements, upon review and approval by the County Engineer of the required Improvements, shall establish the date of Substantial Completion for warranty purposes. The County Engineer or his agent, within thirty days of receipt of the engineer's Certificate of Substantial Completion for all of the required Improvements, shall inspect said Improvements and shall notify the Developer in writing of nonacceptance or approval of the substantially completed Improvements. However, no County Engineer substantial completion inspection shall occur during the months of November through May. If the Improvements are not accepted, the reasons for non-acceptance shall be stated in writing and corrective measures shall be developed by the County with the assistance of the Developer and at the Developer's sole expense. Should the developer fail or refuse to implement the corrective measures required by the County within the specified cure period, the County at its discretion, may declare the Developer to be in default of its obligations, and following written notice to the Developer, the County may, but shall not be obligated to, draw upon the Commitment Guarantee.

Upon issuance by the Developer's designated project engineer of a Certificate of Substantial Completion of all of the required Improvements, and the approval of the Certificate by the County Engineer, the amount of security in the Commitment Guarantee may be reduced in accordance with the provisions of paragraph 10 above to twenty percent (20%) of the project engineer's estimated cost for said Improvements. Said twenty percent (20%) retention shall be for the purpose of insuring the correction of the Improvements due to deficiencies in workmanship and/or material during the warranty period by the Developer. As-built engineering drawings shall be submitted for all utility installments and roads upon completion of all required utility and road improvements and prior to request for, or issuance of, certificates of occupancy. Nothing herein

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shall be construed to require the County to make inspections during periods when climatic conditions make thorough inspections unfeasible.

13. Final Inspection, Warranty Period, and Maintenance for Improvements. The warranty period for required Improvements shall run for one year from certification of substantial completion for all of the required Improvements, as approved by the County Engineer. Final Inspection of the required improvements by the County Engineer shall be performed within thirty days after expiration of the warranty period and shall only occur in the months of June through October. However, the Developer's warranty obligations shall not expire until the County Engineer's approval of all required improvements following Final Inspection. During the warranty period, the Developer shall, at its own expense, make all needed repairs or replacements due to defective materials or workmanship, including Improvements not constructed in substantial compliance with the approved plans and specifications for the Development, and shall be responsible for all maintenance of said Improvements. Developer's warranty obligations shall remain in full force and effect until the defects and deficiencies in the required Improvements specified in the County Engineer's Final Inspection report have been corrected to the County's satisfaction. It is specifically understood that the Developer will be responsible for road maintenance or care, including snow removal or street cleaning, unless and until the road maintenance or care is finally accepted and that the Developer is responsible for maintenance of all Improvements as provided herein. In the event of default of any of these obligations by the Developer, the County, with prior written notice to the Developer, may do the same at the sole expense of the Developer and withdraw from the commitment guarantee to pay for such expenses.

Landscaping shall be inspected only during the month of July and at least three (3) months after preliminary approval. The County shall notify the Developer in writing of non-approval or of final approval. If the Improvements are not approved, the reasons for the County Engineer's non-approval shall be stated in writing and corrective measures shall be developed and implemented by the Developer within the cure period specified in the Notice of Non-approval, with the assistance of the Developer and at Developer's sole expense. Should the Developer fail or refuse to implement the specified corrective measures within the cure period specified in the County's notice of non-approval the County may declare the Developer to be in default of its obligations and upon prior written notice to the Developer proceed to draw upon the Commitment Guarantee to the extent required to complete the Improvements.

If the Improvements, following the County Engineer's final inspection, are found to be in compliance with plans and specifications, the County, following a Resolution of Approval of Improvements by the County Commissioners, shall release the remaining retained balance of the commitment guarantee for such approved Improvements.

All improvements intended or designated for common use within the development and not dedicated to and accepted by the County, shall be maintained in perpetuity by the Developer or an association of homeowners in the development. Until a homeowners association has been formed, and is legally bound to provide perpetual maintenance of the Improvements, as determined by the County, the Developer is obligated to maintain the Improvements in the Development.

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14. Recording Agreement. After receiving Final Plat approval, the Developer shall record this Agreement with the Clerk and Recorder of San Miguel County, Colorado, and with the Final Plat of the above-referenced development. However, both this Agreement and the Final Plat shall be submitted to the County Planning Director for final review immediately prior to recording.

15. Events of Default. The following conditions, occurrences or actions will constitute a default by the Developer during the completion period:

- a. Developer's failure to complete construction of the improvements within the time period specified.
- b. Developer's failure to complete construction of the Improvements within two years of final plat approval.
- c. Developer's failure to cure the defective construction of any improvement within the applicable cure period.
- d. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer.
- e. Foreclosure of any lien against the development or a portion of the development or assignment or conveyance of the development in lieu of foreclosure.
- f. Developer's failure to comply with any other material provision of this Agreement or with any federal, state or county law or regulation effecting the property, including the County Land Use Code.

16. County's Rights Upon Default. In the event of default by the Developer occurs, the County may draw on the commitment guarantee. The County will have the right, but no obligation, to complete Improvements itself or contract with a third party for completion, and the Developer hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Development for the purposes of constructing, maintaining, and repairing such Improvements. Alternatively, the County may assign all, or any part of, the proceeds of the commitment guarantee to the Developer's successor(s) in interest, such as the Homeowner's Association, if any, individual lot purchasers, or a subsequent developer, including a lender, who has acquired the Development, or a portion, by purchase, foreclosure or otherwise who will then have the same rights of completion as the County. If and only if, the Homeowner's Association, individual lot purchasers, or a subsequent developer (including a lender) agrees in writing to complete the unfinished Improvements. In addition, the County may also suspend Final Plat approval during which time the Developer will have no right to sell, transfer, or otherwise convey lots or homes within the Development without the express written approval of the County or until the Improvements are completed and accepted by the County.

17. Enforcement. If the County determines that there is or has been a violation of any applicable federal or state laws or regulations, County regulations, Planning Commission requirements, and/or the terms and provisions of this Agreement by the Developer or his agents, including any independent contractor(s) hired by the Developer, the County Planning Director may issue a cease and desist order. Thereafter, the Developer acknowledges irreparable harm and injury to the County for purposes of an application by it to the Courts for a restraining order hereunder. Should the County deem the collateral on deposit insufficient to guarantee completion of the required Improvements, the County may require the Developer or successors to post additional

Additions are in red underline. Deletions are in ~~red strikethrough~~.

collateral to guarantee completion of Improvements. The County has the right to pursue any remedy provided by this Agreement or by law and, if the County obtains any such remedy, attorney's fees and costs. As an alternative to the remedies provided by this paragraph and paragraph 11, the County has the right to withdraw its approval of the Development.

18. Miscellaneous. This Agreement runs with the land and is binding on and inures to the benefit of the heirs, representatives, transferee, successors and assignees of the parties. The paragraph headings are descriptive only and neither amplify nor limit the substantive material. The failure to enforce or the waiver of any specific requirements of this Agreement by either party shall not be construed as a general waiver of this Agreement of any provision herein, nor shall such action act to stop either party from subsequently enforcing this Agreement according to the terms hereof. This Agreement shall be subject to and deemed to incorporate all present and future ordinances and regulations of the County applicable thereto. Should any section, paragraph, clause or provision of this Agreement be declared by a court of competent jurisdiction to be invalid, said decisions shall not affect the validity of this Agreement as a whole or any part hereof other than the part declared to be invalid, and the parties hereby affirm that they would have entered into this Agreement and each of its provisions independently of each of its other provisions. The Developer is not an agent or employee of the County. This Agreement constitutes the entire integrated understanding of the parties regarding the subject matter set forth herein and no prior or contemporaneous promise, representation, term, condition, or understanding shall be of any legal force or effect, unless embodied herein in writing, or in a written amendment mutually agreed to by the parties.

19. Disclosure to and Consent of Mortgagee and Lender. The Developer hereby represents that he has disclosed the terms of this Agreement to any mortgagees of the Development involved and to all lenders who have provided financing to the Developer for the construction of this project and that said mortgagees and lenders consent to this Agreement as evidenced by their authorized signatures below.

<u>Name & Address</u>	<u>Mortgagee/Lender</u>	<u>Signature of Authorized Officer</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Execution of this Agreement by a lender or holder(s) of Deed(s) of Trust signifies their consent to this Agreement but does not obligate them to perform any of the terms of this Agreement unless they or one of them takes title to all or a portion of the subject Development.

20. Notice. All notices, demands or writings in this Agreement provided to be given or made or sent that may be given or made or sent by either party hereto to the other, shall be

Additions are in red underline. Deletions are in ~~red strikethrough~~.

deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, certified and postage pre-paid, and addressed to the party at the following address:

San Miguel County
Board of County Commissioners
P. O. Box 1170
Telluride, CO 81435

(Developer)
(address)

with copies to:

with copies to:

San Miguel County Attorney
P.O. Box 1170
Telluride, CO 81435

The address to which any notice, demand or writing may be given or made or sent to any party as above provided may be changed by written notice given by such party as above provided.

21. Subsequent Plats. Approval of subsequent Final Plats by the Board will be based, in part, upon the extent to which the terms and conditions of this Agreement have been met by the Developer. Approval may be withheld if substantial compliance is not had with the terms hereof and the submissions required herein.

22. Cumulative Remedies. The Developer acknowledges that the Board reserves the right to sue for specific performance and to seek other remedies allowed at law or in equity if Developer does not strictly comply with all the provisions of this Agreement and any plans, specifications or other approvals granted as a result of this Agreement or in any subsequent agreement entered into by the parties.

23. County - No Duty. If the Improvements are not installed or are not properly installed pursuant to this Agreement, then the County shall have the right, but not the duty or obligation to either the Developer or any third-party, to complete the construction of the Improvements. The parties acknowledge and agree that if the County, in its sole discretion, chooses to attempt to complete the Improvements, then:

23.1 Use of Collateral Proceeds. The Board of County Commissioners shall use all liquid collateral and all net proceeds from the sale of any collateral pledged pursuant to this Agreement for the purpose of completing the Improvements and for no other purpose; and

23.2 No Obligation. The Board shall have no obligation to utilize any other funds or assets of the County to pay for the completion of any Improvements; the parties acknowledge that the County has no duty or obligation of any nature, to either the Developer or any third-party, to complete or repair any or all of the Improvements.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

24. Financial Disclosure. Subject to the provisions of paragraphs 24.1, 24.2 and 24.3, from time to time upon the written request of the Board, the Developer shall allow the County to review its then most recent audited financial statements.

24.1 Confidentiality. All financial information provided by the Developer to the County shall be done in absolute and strict confidence. Under no circumstance shall any of the financial information provided by Developer be disclosed in any manner to any person other than a member of the Board, the San Miguel County Attorney, San Miguel County Planner, and one certified public accountant employed by the County to assist it in its review of the financial statements.

24.2 Return of Material. After the completion of the review of the financial information, all statements, reports, copies, notes and paperwork of any kind that were prepared for or in conjunction with the financial review shall be returned to Developer. Neither the County nor any officer, agent or employee of the County shall retain any personal notes, information or paperwork of any nature in regard to the financial disclosure.

24.3 Annual Limit. The County may only request to review an audited financial statement once during each calendar year. The parties acknowledge that often times delays occur in the preparation of audited financial statements and; therefore, subject to the limitation set forth in the following sentence, if the audited financial statements have been completed, then the Developer shall provide them to the County within five (5) days of the County's request. Nothing to the contrary withstanding, the Developer shall have no obligation to have the audited financial statements completed before the November 1st following the end of the applicable fiscal year.

24.4 Executive Sessions. The financial information disclosed to the County pursuant to this paragraph shall only be discussed in executive sessions properly called in conjunction with the regular meetings of the Board.

24.5 Solvency Representation. The Developer represents to the County that at the time of execution of the Agreement that it is solvent.

25. Vested Rights. The County does not warrant by this Agreement that the Developer is entitled to any other approvals required by the County, if any, before the Developer is entitled to commence development or to transfer ownership of property in the Development. Developers vested rights for this Development, if any, are determined by the vested rights sections of the County Land Use Code (Section 3-14) and by CRS 24-68-101, et seq.

26. Third Party Rights. No person or entity that is not a party to this Agreement will have any right of action under this Agreement. Provided, however, that any purchaser of land subject to a plat restriction which is the security portion of this Agreement or the purchaser of land within the Development may bring an action to enforce this Agreement and the conditions of the Development permit as provided in the Land Use Code and State statutes. It is the intent of the parties that no third party beneficiary rights shall be created by this Agreement, except pursuant to section 30-28-137(3),C.R.S.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

27. Benefits. The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the County. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors, and assigns of the Developer. There is no prohibition of the right of the County to assign its rights under this Agreement. The County will release the original Developer's guarantees if it accepts new security from any developer or lender who obtains the Development. However, no act of the County will constitute a release of the original Developer from his liability under this Agreement.

28. Governmental Immunity. Nothing contained in this Agreement constitutes a waiver of the County's immunity under applicable state law.

29. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to this Agreement or guarantees will be deemed to be proper only if such action is commenced in District Court for San Miguel County. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

30. Amendments. If the County determines that certain provisions of this Agreement fail to achieve the goal of limiting the County's liabilities and/or obligations under this Agreement, the County may modify the Agreement without the consent of the Developer.

EFFECTIVE DATE: _____, 2005.

(DEVELOPER)

ATTEST:

By: _____
(Authorized Signatory)

By: _____

STATE OF COLORADO _____)
) ss.
COUNTY OF SAN MIGUEL _____)

Acknowledged, subscribed and sworn to before me this _____ day of _____, _____, by (Developer).

Witness my hand and official seal.
My commission expires: _____

Notary Public

SAN MIGUEL COUNTY COMMISSIONERS

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ATTEST:

By: _____
Chair

By: _____
Deputy Clerk

STATE OF COLORADO _____)
_____) ss.
COUNTY OF SAN MIGUEL _____)

Acknowledged, subscribed and sworn to before me this _____ day of _____, _____, by _____ as Chair of the Board of Commissioners for San Miguel County and by _____ the Deputy Clerk of San Miguel County.

Witness my hand and official seal.
My commission expires: _____ _____
Notary Public

4-5~~1909~~ Certification of Water and Sewer Facilities and Fire Protection

4-5~~1909~~ A. Sewer

An applicant shall submit a letter from the County ~~Environmental Health Department~~ Onsite Wastewater Treatment System (OWTS) administrator or appropriate sanitary district or sanitation district having jurisdiction certifying that satisfactory arrangements have been made with them for adequate provisions for sewage disposal for each lot within the subdivision.

4-5~~1909~~ B. Water

An applicant shall submit a letter from the ~~County Environmental Health Department~~, engineer for the State Division of Water Resources or appropriate public water supply district certifying that satisfactory arrangements have been made with them for the installation of an adequate and safe water supply to each lot within the subdivision.

4-5~~1909~~ C. Fire Protection

An applicant shall submit a letter from the appropriate Fire Protection District certifying that satisfactory arrangements have been made for the provision of adequate fire protection services, including access for emergency service vehicles.

4-5~~2010~~ Report to County Assessor

An applicant shall submit a report to the San Miguel County Assessor along with the final plat. The report form may be obtained from the County Planning Department. The information

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provided in the report will be used in the assessor's office only and will not be open to public scrutiny.

4-5~~21~~11 Report Addressing Preliminary Approval Conditions

An applicant shall submit a written report demonstrating compliance with all conditions imposed by the Board of County Commissioners during the preliminary subdivision review.

4-5~~22~~12 Additional Information

An applicant shall submit any other evidence and material that is or may be hereafter required by law or by the conditions of approval of the preliminary plan.

4-5~~23~~13 Law Enforcement Authority

An applicant seeking final plat subdivision approval for a development with a population density of one hundred (100) or more persons must comply with the provisions of CRS 30-11-401 *et seq.* regarding creation of a Law Enforcement Authority, or join an existing Law Enforcement Authority, that will generate funds sufficient to cover all costs associated with provision of law enforcement in excess of those services that would be normally provided by the County Sheriff for the proposed development prior to final plat approval.

SECTION 4-6 : MAJOR DEVELOPMENT APPLICATIONS

4-601 General

This part of the Code establishes the required submission contents for Group I development applications. Figure 4-1 of this Article 4 identifies the various land development applications in Group I, Code sections that contain the review procedures and the review standards applicable to each type of land development application. ~~Group I development applications are listed below:~~

~~4-601 A. Acceptance of Subdivision Roads (Refer to Sections 3-5 for procedures and 5-504 for review standards);~~

~~4-601 B. Amendments to a Final Plat (Refer to Sections 3-5 or 3-6 for procedures and 5-15 for review standards); and~~

~~4-601 C. Planned Unit Development (PUD) Amendments (Refer to Sections 3-5 or 3-6 for procedures and 5-15 for review standards);~~

~~4-601 D. Subdivision Exemptions for the following activities:~~

~~I. Survey Error (Refer to Sections 3-5 for procedures and 5-1202 for review standards);~~

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- ~~II. Lot Line Adjustments (Refer to Sections 3-5 for procedures and 5-1203 for review standards);~~
- ~~III. Subdivision of Parcels for Community Facilities (Refer to Sections 3-5 for procedures and 5-1204 for review standards);~~
- ~~IV. Reversion to Acreage Plats (Refer to Sections 3-5 for procedures and 5-1205 for review standards);~~
- ~~V. Agricultural Land Lot Split (Refer to 3-5 for procedures and 5-1206 for review standards);~~
- ~~VI. Open Land Protection (Refer to Section 3-5 for procedure and Section 5-1207 for standards);~~
- ~~VIII. Fully Developed Property (Refer to Section 3-5 for procedure and Section 5-1208 for standards);~~
- ~~IX. Single lot Split (Refer to Section 3-5 for procedure and Section 5-1209 for standards);~~
- ~~X. Wright's Mesa (Refer to Section 3-5 for procedures and Section 5-1210 for standards);~~
- ~~XI. West End (Refer to Section 3-5 for procedures and Section 5-1211 for standards);~~
- ~~XII. Wright's Mesa Open Land Protection (Refer to Section 3-5 and Section 5-1212 for standards);~~
- ~~XIII. Wright's Mesa Essential Community Facilities & Parks (Refer to Section 3-5 and Section 5-1213 for standards).~~
- ~~4-601 E. Rezoning (Refer to Sections 3-6 for procedures and Section 5-18 for standards).~~
- ~~4-601 F. All Types of Development in an Area of Local and State Interest / C.R.S. 1041 Environmental Hazard Review (refer to Section 3-4 for procedures and Section 5-4 for review standards);~~

4-602 Application Contents

Development applications for activities categorized ~~in~~ as Major Development Applications (Group I) shall include the minimum submission contents for all land development applications listed in Section 4-2 and a written report demonstrating that an application complies with the applicable review standards identified in Figure 4-1 and with any other relevant Land Use Code standards.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

4-603 Existing Official Plat or Planned Unit Development (PUD) Plan

An applicant shall submit copies of the approved plat or PUD plan.

4-604 Proposed Plat, Plan or Map

An applicant shall submit ~~printed copies of~~ the proposed plat or plan, map of the roads proposed to be accepted by the County, or area proposed for rezoning in the size and format directed by the Planning Department. Applicants for development in an Area of State and Local Interest (1041 environmental hazard review) need not submit this plat or map.

4-605 Special Submission Contents for Acceptance of Subdivision Roads

4-605 A. Revenue projection consisting of:

- I. Current and past years assessed value of all property within the subject subdivision and Road and Bridge mill levy;
- II. Highway Users Tax Fund per mile - the County average per mile for each of the last two years for San Miguel County;
- III. Other revenue if applicable from any of the following:
 - a. Homeowners Association;
 - b. Improvement District;
 - c. Metropolitan District; and
- IV. Estimates of expenditures for snowplowing, and grading based on:
 - a. Frequency of plowing snow and estimated total hours per month with respect to the road(s) in question;
 - b. Frequency of grading and estimated total hours per month;
 - c. Previous year's cost of average man-hour plus proportional benefit;
 - d. Estimated fuel cost per month;
 - e. Estimated cost of equipment based on the stated rental rate for required equipment and total work hours; and
- V. Consent form supplied by the County executed by applicant(s):
 - a. Holding San Miguel County harmless from and indemnifying the

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County with respect to acceptance and maintenance of roads;

- b. Outlining service that will be provided and service that will not be provided; and
- c. Acknowledging that San Miguel County may drop maintenance, pursuant to State statute, if revenue fails to equal or exceed expenses for maintenance.

4-606 Special Submission Contents for All Applications for Development in an Area of Local and State Interest/ C.R.S. 1041 Environmental Hazard Review

Applications for any type of development in an Area of Local and State Interest shall also submit a neat, legible ink drawing on a 24" x 36" sheet of indelible mylar depicting the information in this Section. The purpose of a site plan for development in an Area of Local and State Interest (1041 Environmental Hazard Review) is to record the boundaries of an approved building envelope and development conditions.

- 4-606 A. Title identifying type of review;
- 4-606 B. Boundaries of the parcel(s);
- 4-606 C. Vicinity map showing relationship of parcel to proximate public roads;
- 4-606 D. List of all conditions relating to site development;
- 4-606 E. Existing watercourses, if any;
- 4-606 F. North directional arrow;
- 4-606 G. Date;
- 4-606 H. Scale;
- 4-606 I. Legal Description of parcel
- 4-606 J. Location and dimensions of building envelope setbacks from property lines;
- 4-606 K. Waiver stating: "Applicant acknowledges that he/she has been informed by San Miguel County of the existence of 1041 environmental hazard areas that might affect the property, any improvements, and the use and occupancy thereof;"
- 4-606 L. Planning Director signature block for minor review or Planning and Zoning Commission Chairperson signature block for major review; and
- 4-606 M. In the case of major reviews, the Planning and Zoning Commission Resolution

Additions are in red underline. Deletions are in ~~red strikethrough~~.

number.

SECTION 4-7: OTHER DEVELOPMENT APPLICATIONS

4-701 General

This part of the Code establishes the required submission contents for Group II development applications. Figure 4-1 of this Article 4 identifies the various land development applications in Group II, Code sections that contain the review procedures and the review standards applicable to each type of land development application. ~~Group II development applications are listed below:~~

- ~~4-701 A. Approval of Specific Land Uses Identified within Article 5 as Uses Subject to One-step Planning Commission Review (Refer to Sections 3-5 for procedures and 5-10 for standards);~~
- ~~4-701 B. Approval of Specific Land Uses Identified within Article 5 as Uses Subject to One-step Board of County Commissioners Review (Refer to Sections 3-5 for procedures and 5-10 for standards);~~
- ~~4-701 C. Minor Amendments to Specific Uses Subject to One-step Board of County Commissioners or Planning Commission Review (Refer to Section 3-4 for review procedure and Section 5-10 for standards);~~
- ~~4-701 D. Land Use Requiring Special Use Permits (Refer to Sections 3-6 for procedures and 5-10 for standards);~~
- ~~4-701 E. Minor Amendments to Special Use Permits (Refer to Section 3-4 for procedures and 5-10 for standards);~~
- ~~4-701 F. Land Use Code Amendments (Refer to Sections 3-6 for procedures and 5-1802 for standards) and County Master Plan Amendments (Refer to Sections 3-5 for procedures and C.R.S. Section 30-28-106 et seq. for standards);~~
- ~~4-701 G. Conditional Uses on Federal Lands (Refer to Sections 3-6 for procedures and 5-11 for standards);~~
- ~~4-701 H. Accessory Dwelling Unit (Refer to Sections 3-4 for procedures and 5-13 for standards);~~
- ~~4-701 I. Determination of Parking Requirements (Refer to Section 3-5 for procedures and Section 5-702 for standards);~~
- ~~4-701 J. Reduction in Highway Setbacks (Refer to Section 3-5 for procedures and Section 5-505 for standards);~~
- ~~4-701 K. Underground Electricity Transmission and Distribution Lines Carrying Less Than~~

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~~115 Kilovolts (Refer to Section 3-4 for procedures and Section 5-709 for standards); and~~

~~4-701 L. Public Utilities Structures, Above Ground Electricity Transmission and Distribution Lines Longer Than 1,000 Feet, and Underground Electricity Transmission and Distribution Lines Carrying More Than 115 Kilovolts (Refer to Section 3-6 for procedures and Section 5-709 for standards).~~

~~4-701 M. Major Oil and Gas Facility Development (Refer to Section 3-6 and Section 5-26 for standards).~~

4-702 Application Contents

Development applications for activities categorized in Group II shall include the minimum submission contents for all land development applications listed in Section 4-2 and a written report demonstrating compliance with the review standards listed in Figure 4-1.

4-703 Public Utilities Structures and Underground and Above-ground Electricity Transmission and Distribution Lines

Applications for public utilities structures and underground and above ground electricity transmission and distribution lines shall contain the submission contents in this section in addition to the submission contents in Sections 4-701 K. and 4-701 L.

- 4-703 A. Summary of the effects of the proposed site selection and construction upon the natural and socio-economic environment for the impact area as applicable to submission requirements. Included should be an analysis of impacts upon agricultural productivity and agricultural resources.
- 4-703 B. Summary of major natural and socio-economic environmental constraints as they affect the site selection and construction of the facility as proposed.
- 4-703 C. Analysis of the long-term effects of the proposed site selection and construction upon the physical and socio-economic development of the impact area.
- 4-703 D. Justification of the proposed site selection and construction against present and alternative uses of the resources in the impact area.
- 4-703 E. Description of a program to minimize and mitigate adverse impacts and to maximize the positive impacts of the proposed site selection and construction. Bonding may be required to insure that environmental impacts are mitigated.
- 4-703 F. Analysis of non-structural alternatives as applicable.
- 4-703 G. Analysis of air and water pollution control alternatives.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

4-703 H. Other information as required by the San Miguel County Planning Commission.

SECTION 4-8: SCENIC FOREGROUND REVIEWS

4-801 General

A land development application for the review of developments located partially or completely within the Scenic Foreground Overlay Zone District shall include the minimum submission contents for all land development applications in Section 4-2 and a written report explaining how an application complies with the applicable review standards in Section 5-316, Section 5-505 and Section 5-21. Refer to Section 3-4 or 3-5 for the review procedure. The additional information and/or materials in Section 4-802 shall be submitted.

4-802 Site Plan

An applicant shall submit a site plan of the subject site and proposed development on a topographic map with a scale not less than one inch equals four hundred feet (1" = 400').

SECTION 4-9: PLANNED UNIT DEVELOPMENT

4-901 General

A land development application for a PUD (Planned Unit Development) shall include the minimum submission contents for all land development applications in Section 4-2 and a written report explaining how the application complies with the applicable review standards in Section 5-14. Refer to Section 3-7 for the review procedure. The additional information and/or materials specified in this part of the Code shall be submitted.

4-902 Phasing Schedule

A sketch plan subdivision review shall include a phasing schedule that describes:

- 4-902 A. A phased submission of preliminary subdivision applications;
- 4-902 B. The parcels to be constructed upon in each phase and the submission date for each phase;
- 4-902 C. The number of dwelling units, tourist accommodation units or commercial square footage to be constructed within each phase;
- 4-902 D. A proposed schedule for the construction of other improvements or dedications to San Miguel County or public districts.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

4-903 Architectural and Landscaping Plans

A preliminary subdivision review or, in the case of five-step reviews, the final plat subdivision review shall include:

- 4-903 A. An architectural site plan depicting elevation drawings of the proposed development from perspectives as specified by the Board of County Commissioners during the Sketch Plan review.
- 4-903 B. A landscaping plan depicting treatment of exterior spaces including the species of vegetation, their size and siting.

4-904 Listing of Proposed Land Uses

The application shall include a listing of proposed land uses and an explanation of the interrelationship of the land uses.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SAN MIGUEL COUNTY LAND USE CODE

ARTICLE 5

STANDARDS

5-319 Wright's Mesa (WM)

- 5-319 F. Uses Allowed Subject to One-Step Board of County Commissioner Review
 - I. Open Land Protection Subdivision Exemption for five or more lots (see Section 5-1207);
 - II. Logging Operations resulting in hauling of more than 300,000 board feet in any 12-month period beginning with commencement of hauling, in accordance with all provisions of Section 5-319 K. and 5-17; and
 - III. Wright's Mesa Subdivision Exemption ~~for Wright's Mesa (for parcels 40 acres or larger~~ for parcels one hundred fifty (150) acres or greater in size) to create a new parcel between two (2) and five (5) acres (see Section 5-1210).

- 5-319 G. Uses Allowed Subject to Two-Step Planning Commission and Board of Commissioners Special Use Permit Review (see Section 5-319 K.)
 - XI. Wright's Mesa Subdivision Exemption (for parcels thirty seven (37) acres or larger but less than one hundred fifty (150) acres) to create a new parcel between two (2) and five (5) acres (see Section 5-1210).

Additions are in red underline. Deletions are in ~~red strikethrough~~.

SECTION 5-7: IMPROVEMENTS

5-706 Monuments

5-706 A. Monumenting

- ~~I. In making a survey, the surveyor shall monument all corners, angle points and curve points in the exterior boundary of the subdivision; all lot corners, angle points and curve points within the interior of the subdivision; and all angle points and curve points in the right of way lines of all streets, alleys, easements or other lands to be dedicated for public use.~~
- ~~II. Monuments shall not be less substantial than 5/8-inch iron pins 18 inches long driven to a depth of 16 inches. Affixed to the monument shall be a metal tag stamped with the registration number of the surveyor.~~
- I. Monuments shall be set at all corners, angle points, and points of curvature in the exterior boundary of the final plat, at all corners, angle points, and points of curvature within the interior of the final plat, and at all corners, angle points and points of curvature in the right-of-way lines of all streets or other parcels created for dedication for public use.
- II. One or more witness corners or reference monuments may be set when a monument position falls on ground not suitable for a permanent monument. It is preferred to have witness corners set along a property line, and "WC" and the distance to the actual corner point shall be stamped on the metal cap. When a witness corner cannot be set along a property line, two or more reference monuments will be set with "RM" and the distance to the actual corner point shall be stamped on the metal cap.
- III. Monuments shall not be less substantial than five-eighths-inch (5/8") iron rebar, eighteen (18) inches long, driven to a depth so that no more than four (4) inches protrudes above the ground. Affixed to the top of the monument shall be a durable metal cap stamped with the registration number of the surveyor.
- IV. If a monument position falls in solid rock or concrete, a metal cap with an attached metal stem shall be drilled into the rock or concrete and set with epoxy, or a witness corner may be set in a more practical location along the property line.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

5-706 B. Inspection and Installation

~~All monuments shall be subject to the inspection and approval of an authorized representative of the Board of County Commissioners and shall be either installed prior to recording of the final plat or included as part of the work to be completed under the agreement and improvement bond required in Section 5-902.~~

All monuments shall be either installed prior to recording of the final plat or included as part of the work to be completed under an Improvement Agreement and improvement bond per Section 3-12, Section 4-508, and Section 5-9.

SECTION 5-10: SPECIAL USES

5-1002 Standards for All Special Uses and Other Uses Requiring One-step and Two-step Review

All Uses requiring One-step and Two-step Review, except Oil and Gas Exploration and Development (Section 5-26), shall comply with the standards in this section.

5-1002 A. Consistency with Master Plan, Land Use Polices, Zone District and Neighborhood

The Use shall be:

- ~~5-1002 A.I.~~ Consistent with the County Master Plan;
- II. Consistent with County Land Use Policies in Article 2;
- III. Consistent with the purpose of the Zone District in which it is proposed to be located;
- IV. Consistent with and Compatible with the Character of the Neighborhood of the Parcel proposed for Development and surrounding land Uses, and may enhance the mixture of complimentary Uses and activities in the Neighborhood of the Parcel proposed for Development;
- V. Necessary for public convenience at the proposed location; and

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- VI. Designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

5-1002 E. The following must be addressed as part of any application:

- I. A Site plan including:
 - a. Ownership, Use and zoning of all adjacent Parcels;
 - b. Driveways, streets and right-of-way, Access ways, including points of ingress, egress, parking plan;
 - c. Recorded and apparent easements;
 - d. Location and dimensions of Structures and Signs;
 - e. Typical elevations/Heights of such Buildings;
 - f. Landscaping;
 - g. Topography;
 - h. Specific areas proposed for specific types of land Use/the identification of specific land Uses; and
 - i. Information regarding the function and characteristics of any Building or Use proposed, including: days and hours of operation, number of employees, number of students, number of rooms for rent, etc., as applicable;
- II. Lighting plan;
- III. Signs - all Signs must meet Section 5-704 standards;
- IV. Water/sewer plan - must meet state standards and may include verification of a commercial well permit;
- V. Drainage plan;
- VI. Grading plan;
- VII. Dust control plan;
- VIII. Detailed engineered plans and specifications by a registered Colorado Professional Engineer as requested by staff or Referral Agents;

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- IX. Weed control plan that must include use of weed free hay or straw;
- X. Wildlife Plan (see Section 5-407 A. XII.); and
- XI. Additional permits as necessary from other agencies.

SECTION 5-12: SUBDIVISION EXEMPTIONS

5-1201 General

This Section establishes standards for the following subdivision exemptions:

- 5-1202 Correction of Survey Errors;
- 5-1203 Lot Line Adjustments;
- 5-1204 Parcels for Essential Community Facilities;
- 5-1205 Reversion to Acreage Plats;
- 5-1206 Agricultural Lands Lot Split;
- 5-1207 Open Land Protection;
- 5-1208 Fully Developed Residential Property;
- 5-1209 Single-~~lot~~ Lot Split in an Existing Subdivision;
- 5-1210 Wright's Mesa Subdivision Exemption;
- 5-1211 West End;
- 5-1212 Wright's Mesa Open Land Protection; ~~and~~
- 5-1213 Wright's Mesa Essential Community Facilities & Parks; and
- 5-1214 Vacation of Lot Lines

5-1202 Correction of Survey Errors

A subdivision exemption to correct surveying or engineering errors may be permitted subject to compliance with standards in this section (refer to Sections 3-5 and 4-6 for procedures and submission contents).

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- 5-1202 A. The correction shall be made to a recorded plat that has been approved by San Miguel County;
- 5-1202 B. The correction(s) increase(s) or do(es) not affect the degree of compliance with Code standards; and
- 5-1202 C. The revised final plat shall comply ~~complies~~ with the final plat submission contents ~~(refer to Section 4-5) of Section 4-5.~~

5-1202 D. Nature and Purpose. The revised final plat shall have a statement explaining the reason for the revised plat to be prepared and filed.

5-1203 Lot Line Adjustments

A subdivision exemption to adjust a lot line between separately deeded adjacent parcels or lots ~~under separate ownership~~ may be permitted (refer to Section 3-5 and 4-6 for procedures and submission contents) provided that:

- 5-1203 A. The adjustment creates not more than the original number of lots or parcels.
- 5-1203 B. The purpose or effect of the lot line adjustment is not the creation of a new lot or parcel (that is, one substantially different in size or dimensions) for development or resale purposes.
- 5-1203 C. In the case of conforming lots and parcels, any resulting lot or parcel shall conform to the minimum requirements for area and width established by the provisions of the Code.
- 5-1203 D. In the case of a nonconforming size lot or parcels, any resulting lot or parcel shall not increase in nonconformity.
- 5-1203 E. The applicant shall prepare a subdivision exemption lot line adjustment map (final plat).

I. The requirements for a final plat will vary according to whether all of the lots, tracts or streets in the application meet the definition of "Platted Subdivision" per C.R.S. 38-51-102(15).

II. For an application that has all of the lots, tracts or streets that meet the definition of "Platted Subdivision" per C.R.S. 38-51-102(15), the applicant shall prepare a final plat in compliance with Sections 4-502, 4-503 and 4-504, and comply with the additional requirements in Section 5-1203 F.

III. For an application that has one or more of the lots, tracts or streets

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that does not meet the definition of “Platted Subdivision” per C.R.S. 38-51-102(15), the applicant shall prepare a final plat in compliance with the requirements in Sections 4-502 A. through 4-502 I, inclusive; Section 4-504; Section 5-1203 F; and comply with the additional requirements of Section 5-1203 G.

5-1203 F. Lots, Tracts and Streets that are a “Platted Subdivision” per C.R.S. 38-51-102(15):

I. Tract Border

The new agreed-upon common boundary lines of the final plat shall be designated by a heavy solid line and labeled as “Boundary Line by Agreement of Adjoiners” or similar language. The previous common boundary lines that are no longer applicable should be indicated by a less prominent dashed or background line type and labeled as “vacated lot line” or similar language. Such lines shall not interfere with the legibility of figures or other data.

II. Lot Numbering

All lots or tracts of the final plat that are part of an approved and recorded plat in the office of the Clerk and Recorder shall be indicated with a new lot number that is a slight variation to the old lot number. For example, Lots 1 and 2 can be redesignated as Lots 1A and 2A.

III. Streets

- a. All streets having a lot line adjustment on the final plat shall be named exactly with the same name as existed previous to the lot line adjustment.
- b. All County Roads that are within the legal description being finally platted shall be dedicated to San Miguel County on the final plat. All public roads within the legal description being finally platted shall dedicate an easement for public road right-of-way.

IV. Monument Data

Monuments that marked the previous common boundary and are no longer applicable after the lot line adjustment is approved and recorded shall be tied to the survey with dimensions and be indicated on the plat as removed from the ground. Monuments so indicated shall be actually removed.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

V. Owner’s Certificate (to be used in lieu of Section 4-503 A)

A certificate signed and acknowledged by all parties having any record title interest in the land described in the legal description per Section 4-502 L., consenting to the preparation and recordation of said plat, shall be worded substantially as follows:

Owner’s Certificate

Know all persons by these presents:

That (name of owner(s) of record), being the owner(s) of the land described at Reception No. _____ in the office of the Clerk and Recorder, further described as follows:

(insert legal description of the first parcel, previous to the lot line adjustment)

That (name of owner(s) of record), being the owner(s) of the land described at Reception No. _____ in the office of the Clerk and Recorder, further described as follows:

(insert legal description of the second parcel, previous to the lot line adjustment).

(repeat as necessary for each owner)

under the name of (Title of final plat per Section 4-502 E., in capital letters), do hereby agree upon the property lines as set forth hereon and do further grant, sell and convey to the other owners such of their real property as may lie on the other party’s side of the boundary lines set forth on this plat and do hereby agree that the boundary lines as shown on this plat are the boundary lines by agreement of adjoiners pursuant to the provisions of C.R.S. 38-44-112.

VI. Licensed Surveyor (to be used in lieu of Section 4-503 C)

A certificate by the Colorado licensed surveyor responsible for the survey and final plat, to which shall be affixed the surveyor’s official seal:

Land Surveyor’s Certificate

I, (printed name of Land Surveyor, indicating firm affiliation, if any) being a Colorado Licensed Surveyor, do hereby certify that this plat and survey of (Title of final plat per Section 4-502 E., in capital

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letters) was made by me or under my responsible charge in compliance with the applicable provisions of the San Miguel County Land Use Code and Title 38, Article 51, C.R.S., and that both are true and accurate to the best of my knowledge and belief. I further certify that all monuments were set in the ground as required by San Miguel County Land Use Code section 5-1203 and Article 51 of Title 38, C.R.S. and that all monuments were removed from the ground as required by San Miguel County Land Use Code section 5-1203 F. III.

(signature) _____
P.L.S. No. _____ Date _____

VII. Nature and Purpose

The final plat shall have a statement explaining the reason for the final plat to be prepared and filed.

5-1203 G. Lots, Tracts and Streets that are not a “Platted Subdivision” per C.R.S. 38-51-102(15)

I. Land Survey Plat

A complete land survey and monumentation of the final plat boundary for any of the lots, tracts or streets that meet the definition of “platted subdivision” per C.R.S. 38-51-102(15) is required, which shall include all information necessary to comply with the requirements of C.R.S. 38-51-106. A complete land survey and monumentation of the boundary for any of the lots, tracts or streets that do not meet the definition of “platted subdivision” per C.R.S. 38-51-102(15) is not required, and the survey of such lots, tracts or streets does not need to comply with the requirements of C.R.S. 38-51-106. A complete land survey and monumentation of the new agreed-upon boundary line is required. Final plats shall include all information listed in the requirements of C.R.S. 38-51-106 (a),(e),(g) (h) and (l).

II. Legal Description

A legal description of the land to be final platted shall be indicated in the Owner’s Certificate (see Section 5-1203 F. V.). The description may utilize generally accepted methods to describe the land being final platted such as aliquot, proportional, metes and bounds, or lot, block and subdivision formats.

III. Lot Numbering

Additions are in red underline. Deletions are in ~~red strikethrough~~.

All lots or tracts of the final plat which are part of an approved and recorded plat in the office of the Clerk and Recorder shall be indicated with a new lot number that is a slight variation to the old lot number. For example, Lots 1 and 2 can be redesignated as Lots 1A and 2A. Parcels that are not part of an approved and recorded plat in the office of the Clerk and Recorder shall be labeled with the owner's name and deed recording information. Patented mining claims shall also indicate the claim name and mineral survey number.

IV. Monument Data

- a. The accurate location and description of all monuments, both found and set, which mark the boundaries of any of the lots, tracts or streets that meet the definition of "platted subdivision" per C.R.S. 38-51-102(15) shall be shown on the final plat. The accurate location and description of all monuments, both found and set, which mark the boundaries of the new agreed-upon common boundary lines shall be shown on the final plat, and all control monuments used in conducting the survey shall be shown.
- b. Monuments shall comply with the requirements pursuant to C.R.S. 38-51-104 and 38-51-105 and to Rules of the State Board of Registration for Professional Engineers and Professional Land Surveyors, and conform to the standards of Section 5-706 of the Land Use Code.
- c. Monuments shall be set at all corners, angle points, and points of curvature on the boundaries of any of the lots, tracts or streets that meet the definition of "platted subdivision" per C.R.S. 38-51-102(15), and at all corners, angle points, and points of curvature of the new agreed-upon boundary line of the final plat.
- d. Any conflicting boundary evidence for the boundaries of any of the lots, tracts or streets that meet the definition of "platted subdivision" per C.R.S. 38-51-102(15) shall be shown. Any conflicting boundary evidence for the terminus at each end of the new agreed-upon boundary lines shall be shown.

V. Lot Dimensions

- a. Sufficient data must be shown to readily determine the dimensions of lots, tracts or streets that meet the definition

Additions are in red underline. Deletions are in ~~red strikethrough~~.

of “platted subdivision” per C.R.S. 38-51-102(15), and for the new agreed-upon common boundary line with respect to each of the lots, tracts, parcels or streets being modified.

- b. Dimensions of lines shall be shown in feet and hundredths of a foot. All bearings and central angles shall be shown to the nearest second. The dimensions shown around the perimeter of all lots, tracts and streets that meet the definition of “platted subdivision” per C.R.S. 38-51-102(15) must close within a tolerance of 0.02 feet.
- c. New agreed-upon common boundary lines and boundary lines for lots, tracts or streets that meet the definition of “platted subdivision” per C.R.S. 38-51-102(15), must show ties to any controlling monuments used in the boundary survey.
- d. Sufficient data for all curves that are dimensioned shall be shown to enable establishment of curves on the ground. Such data shall include radius, central angle and arc length for each tangential circular curve. In addition, non-tangential circular curves that are dimensioned shall be indicated as such and shall also include the long chord bearing and chord length. Inclusion of a curve data chart is optional.

VI. Easements

- a. For lots, tracts or streets that meet the definition of “platted subdivision” per C.R.S. 38-51-102(15), the final plat shall show the location, width and dimensions of all recorded easements to which such lots, tracts or streets are subject, and also show any apparent easements, not of record. For lots, tracts or streets that do not meet the definition of “platted subdivision” per C.R.S. 38-51-102(15), the final plat does not need to show recorded or apparent easements to which such lots, tracts or streets are subject.
- b. Apparent easements, not of record, which intersect the new agreed-upon common boundary line shall be noted on the plat.
- c. Easements shown that are recorded must be clearly labeled with a reference to the document of record.
- d. If an easement is being created by the final plat, proper language for the creation of such easement including the

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beneficiaries and purposes for said easement shall be set out in the Owner’s Certificate.

e. Easements shall be indicated with dashed or other broken line types, not as a solid line type similar to lot or boundary lines.

f. Dimension and tie all easements that are being created by the final plat. Sufficient ties are required to definitely locate the easements with respect to each lot, tract or right-of-way on the final plat. Easement ties along the sidelines of lots must be shown in a manner that will not cause confusion with lot dimensions.

VII. Certificates and Acknowledgements

At a minimum, the certificates and acknowledgements from Section 5-1203 F. V., VI. and VII., and Section 4-503 B., D., F., G., H., I., L. and J. shall be required on the final plat, shall be placed on the first page of the final plat and shall be worded substantially as described in each Section.

5-1203 H. Waiver of Requirements

If unusual circumstances warrant, a waiver of any of the requirements of Sections 5-1203 E., 5-1203 F. or 5-1203 G. can be obtained if approved by the Planning Director and the County Surveyor.

5-1204 Parcels for Essential Community Facilities

The subdivision of land for essential governmental and community facilities is exempt from the subdivision regulations of this Code, provided that development occurs in compliance with the standards in this section and prepare a final plat in compliance with the requirements in Section 4-5 ~~the submission contents for preparation of a final plat in Section 4-5~~ (Refer to Sections 3-5 for procedures and 4-6 submission contents).

- 5-1204 A. To qualify for an exemption the proposed use or activity must:
 - I. Provide a basic or fundamental public service upon which the community is dependent for support;
 - II. Be available to the general public;
 - III. Serve primarily the local community; and

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- IV. Provide facilities in response to growth, while not generating growth.

5-1204 B. Mitigation of Service Demands

An applicant for the exemption shall demonstrate the mitigation of demands for:

- I. Additional affordable housing;
- II. Transportation services and parking; and
- III. Basic services such as water supply, sewage treatment, fire and police protection and solid waste disposal.

5-1204 C. Mitigation of Environmental Impacts

An applicant shall demonstrate the development has negligible adverse impacts on:

- I. Air quality;
- II. Water, land and energy resources; and
- III. Scenic quality.

5-1205 Reversion to Acreage Plats

Reversion to Acreage Plats are exempt from subdivision provided they are in compliance with the standard in this section (Refer to Sections 3-5 for procedures and 4-6 submission contents):

5-1205 A. The lots, tracts, parcels or streets being reverted to acreage will permanently be removed from the platted subdivision that it was a part of. All previous development rights associated with the parcel according to the previous subdivision will be extinguished, and the new parcel will have the development rights associated with one parcel in the zone district to which it will revert. A reversion to acreage is permanent and cannot be undone at a later date.

5-1205 ~~AB~~. An applicant must ~~submit a certificate from a licensed surveyor attesting to the correctness of the plat. prepare a final plat in compliance with the requirements in Section 4-5 and comply with the following additional requirements:~~

- I. Lot Numbering

Additions are in red underline. Deletions are in ~~red strikethrough~~.

(Replaces 4-502 M.) The lots, tracts, parcels or streets being reverted to acreage shall indicate a new parcel name that is different than the former subdivision lot, tract, parcel or street name. The former subdivision lot, tract, parcel or street name shall also be indicated in parenthesis and designated as “former lot (or tract, parcel, street)”.

II. Streets

Any private streets that will become public roads upon being reverted to acreage, shall dedicate an easement for public road right-of-way.

5-1206 Agricultural Land Lot Split

Land in the Forestry, Agriculture and Open (F) Zone District may be subdivided once to create one (1) single-family residential building lot, provided such development occurs in compliance with the standards in this section:

- 5-1206 A. The land must have been continuously held in the same ownership since April 6, 1972;
- 5-1206 B. The parcel to be created will not be less than two (2) acres in size;
- 5-1206 C. The fathering parcel has not been subdivided since April 6, 1972;
- 5-1206 D. The exemption parcel has a reasonable building site;
- 5-1206 E. The site will be served with electric power, an approved water system, waste disposal and a public access road at least thirty (30) feet in width;
- 5-1206 F. The fathering parcel contains at least seventy (70) acres;
- 5-1206 G. The parcel shall constitute a bona fide and on-going agricultural operation; and
- 5-1206 H. The applicant has prepared a final plat in compliance with the ~~submission contents~~ requirements in Section 4-5.

5-1207 Open Land Protection (OLP)

- 5-1207 E. Submittal Requirements

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- I. In addition to the minimum contents of all Land Development Applications in Section 4-2, an applicant shall submit:
 - a. A site plan, as required by Section 4-208, that identifies:
 - i. property boundaries;
 - ii. lot lines for developed parcels;
 - iii. open space parcel boundaries;
 - iv. existing structures;
 - v. roads and driveways that comply with the applicable standards of Section 5-5;
 - vi. site constraints including flood plains, streams, wetlands, slopes over thirty (30) percent, wildlife habitat, unique plant communities and irrigated lands; and (vii) building envelopes, if necessary to demonstrate compliance with applicable review standards.
 - b. A final plat in compliance with the requirements in Section 4-5.
 - ~~c.~~ Either plans for a well water supply and sewage disposal plan that complies with Sections 30-28-101, 30-28-401 et seq. and 37-92-602 C.R.S. or, if applicable, a community water supply system;
 - ~~ed.~~ Identification of the entity (entities) (private landowner(s), a homeowners association, non-profit organization or government entity) that will have legal responsibility for managing and maintaining private roads and the restricted open land parcels; and
 - ~~de.~~ A copy of both a plat note and either a conservation easement, deed restriction, or other covenant that restricts development on the open space parcel and names San Miguel County as a beneficiary. The restriction shall apply in perpetuity; however, after a minimum of forty (40) years, the owner of the open space parcel may request through two-step Planning Commission and Board of County Commissioners review to remove or modify the restriction. The Board of Commissioners may only release the

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restriction upon a finding that the purposes of the restriction can no longer be fulfilled either due to Land Use Code and/or Master Plan amendments or to change in surrounding development patterns and the Planning Commission and the Board of Commissioners shall consider any testimony offered by homeowners in the vicinity of the subject parcel. If the restriction is released, use of the subject parcel shall be governed by all applicable County regulations for the underlying Zone District.

5-1208 Fully Developed Residential Property

The Board of Commissioners may grant a subdivision exemption for the purpose of subdividing property already developed for residential uses to or in excess of the maximum density allowed under current zoning. Such exemptions may be granted regardless of whether development occurred under existing zoning or prior zoning, provided that the lots and uses are now nonconforming, and provided that the development was achieved legally, in conformance with zoning at the time of development and not for the purpose of avoiding subdivision or other land use regulations. The maximum number of lots that may be created by such exemption may not be greater than the total number of existing detached structures containing housing units on the property.

The applicant shall prepare a final plat in compliance with the requirements in Section 4-5.

5-1209 Single-lot Split in an Existing Subdivision

The Board of Commissioners may grant a Subdivision Exemption for the purpose of splitting an individual lot in an existing County-approved Subdivision and/or Planned Unit Development under which such lot was approved for multiple units. Such exemption may be granted only for the purpose of creating separate parcels; no change of zoning, use, density, mass and scale and/or other applicable lot restriction may be considered. The lot split must meet all basic water system, sewage system, access, survey and final plat requirements set forth in the Land Use Code.

The applicant shall prepare a final plat in compliance with the requirements in Section 4-5.

5-1210 Wright's Mesa Subdivision Exemption

5-1210 A. Purpose

The Wright's Mesa Subdivision Exemption is intended to encourage and retain agriculture on Wright's Mesa by allowing a landowner to create a

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small parcel and home site for a family member or long-time employee, or to generate cash to finance an on-going agricultural operation. The exemption provides an alternative to creating or dividing a 35-acre parcel from the larger agricultural or ranch parcel.

5-1210 B. **Applicability**

A person or landowner is entitled to one (1) exemption on a parcel from the San Miguel County Subdivision Regulations for the purpose of creating a lot for one (1) single-family residence and allowed accessory uses, provided the applicant demonstrates to the satisfaction of the Board of County Commissioners that the exemption is consistent with the purpose statement in 5-1210 A. and if applicable, the review standards in 5-1210 C.

- I. Such exemption may be granted by the BOCC through the one-step review process for parcels one hundred fifty (150) acres or greater in size with an existing single-family dwelling; or
- II. Such exemption shall be reviewed for compliance with the applicable standards through the two-step review process for parcels that are greater than thirty seven (37) acres in size but less than one hundred fifty (150) acres in size.

5-1210 C. **Review Standards**

- I. The review standards for a subdivision exemption on parcels less than one hundred fifty (150) acres include the following:
 - ~~I~~a. An existing single-family dwelling exists on the property;
 - ~~II~~b. The proposed parcels may not be less than thirty five (35) acres and two (2) acres, respectively and the smaller proposed parcel shall not be larger than five (5) acres;
 - ~~III~~c. The water supply for the new parcel shall be connected to and be served by a tap provided by the Norwood Water Commission;
 - ~~IV~~d. The new parcel shall be located within non-productive agricultural land (i.e., a dry land area);
 - ~~V~~e. The proposed subdivision exemption will promote continued crop irrigation and/or viable agriculture;
 - ~~VI~~f. Neither of the parcels shall be dependent on water hauled from off-site;

Additions are in red underline. Deletions are in ~~red strikethrough~~.

~~VHg.~~ The dwelling on the new parcel shall be located within three hundred (300) feet of the dwelling on the original parcel; and

~~VIIIh.~~ The subdivision shall be consistent with the purpose and intent of the Wright's Mesa Subdivision Exemption.

II. The review standards for a subdivision exemption on parcels one hundred fifty (150) acres or greater include the following:

a. The smaller proposed parcel shall not be less than two (2) acres and shall not be larger than five (5) acres;

b. The adequacy of water supply for the single-family residential use to be located on the new parcel shall be demonstrated.

c. The new parcel shall be located within non-productive agricultural land (i.e., a dry land area);

d. The proposed subdivision exemption will promote continued crop irrigation and/or viable agriculture;

e. The subdivision shall be consistent with the purpose and intent of the Wright's Mesa Subdivision Exemption.

5.1210 D. Submittal Requirements

~~An application for the Wright's Mesa Subdivision Exemption shall be submitted to the Planning Department and shall include a plat that conforms to the Final Plat submission requirements of Section 4-5. In addition, the~~ The application shall include a statement demonstrating the adequacy of the water supply for the single-family residential use to be located on the new parcel, and compliance with all applicable review standards. The applicant shall prepare a final plat in compliance with the requirements in Section 4-5.

5-1211 West End

5-1211 A. Recognizing that the continued viability of agriculture hinges on a complex array of technical skills, long and intense periods of physical effort by entire families, and a high level of financial risk, and recognizing that the number of full-time farm and ranch families are declining resulting in the need for ranchers and farmers to hold additional jobs, with agriculture being practiced on smaller parcels, the Board of Commissioners may grant a Subdivision Exemption in the West End (WE) Zone District for the purpose of creating four (4) or fewer additional new parcels, each three (3) acres or larger, from a single original parcel. None of these parcels are eligible for

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further subdivision or subdivision exemption.

5-1211 B. The applicant shall prepare a final plat in compliance with the requirements in Section 4-5.

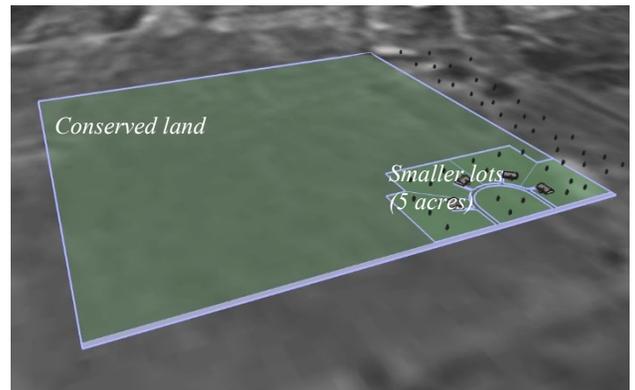
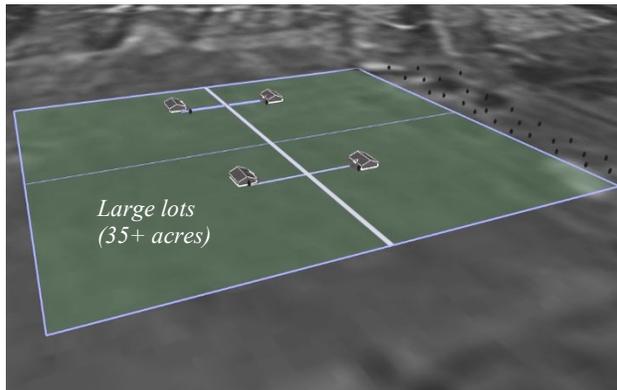
5-1211 C. ~~An application must be submitted to the Planning Department that includes proof of adequate water supply, and a plat that conforms to the Final Plat submission requirements of Section 4-5.~~ The plat must include a note citing the guidelines listed in LUC Section 5-320 J. II. a., b. and c.

5-1211 D. The applicant must show proof of adequate water supply.

5-1212 Wright's Mesa Open Land Protection (WMOLP) Subdivision Exemption

5-1212 A. Purpose and Intent

The purpose and intent of the WMOLP subdivision exemption is to provide landowners in the WMRA zone district with an alternative way to obtain equity from their land and encourage a more compact form of development that retains rural character, scenic views, productive agricultural lands, and biological diversity. The WMOLP subdivision exemption employs an expedited review process that is easier to use than the standard subdivision process. This subdivision exemption encourages a pattern of development that retains the rural character of Wright's Mesa by encouraging smaller lots in a concentrated pattern while maintaining in perpetuity the rest of the land in its open, natural, and productive condition. The process is an alternative to conventional 35-acre development that is exempt from state and county subdivision regulations. It encourages the sensitive location of lots and home sites and careful design of roads, structures, and fences to protect important scenic landscapes, agricultural and ranching lands, riparian areas, wetlands, wild flora, and critical wildlife habitats.



Above examples: (a) Standard 35-Acre subdivision with four 40-acre lots carved out of a 160-acre parcel, and (b) Amended OLP with four 5-acre lots within 160-acre parcel with 140 acres conserved. (Note: This example does not show the extra bonus lot.)

Additions are in red underline. Deletions are in ~~red strikethrough~~.

5-1212 B. Applicability

- I. The WMOLP subdivision exemption is limited to the WMRA zone district.
- II. A minimum of seventy (70) acres is required for use of this WMOLP subdivision exemption.
- III. This WMOLP subdivision exemption shall not apply to any land already encumbered by any conservation easement or other permanent restriction prohibiting development or otherwise eliminating density.
- VI. The WMOLP subdivision exemption shall not apply for parcels located entirely within the Gunnison Sage-grouse Habitat Overlay or within the Wright’s Mesa Source Water Protection Area Overlay.

5-1212 C. Allowed Density

- I. Allowed density is based on the percentage of protected open space land set aside on the parcel. The more land that is conserved, the greater the allowed lot bonus as follows.

Protected Open Land	Lot Bonus
70%	50%
80%	100%
90%	150%

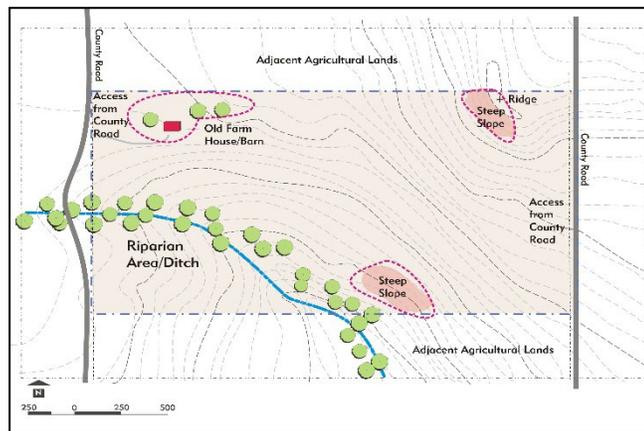
- II. No fraction of a residential lot may be counted in the bonus calculation.
- III. Secondary dwelling units are permitted in WMOLP only if a central water and sewer system and/or water augmentation plan is used.
- VI. The total density of all residential units on a parcel, including secondary dwelling units, shall not exceed three (3) units per thirty five (35) acres.

5-1212 D. Review Standards

- I. The site plan and layout shall, to the maximum extent feasible:
 - a. Minimize development on open, exposed portions of the landscape;

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- b. Locate development in one or more compact area(s) and utilize a design character compatible with the rural landscape;
- c. Protect irrigated hay and pasture land;
- d. Protect wetlands, riparian areas, unique plant communities, critical wildlife habitat, and natural features, and landmarks;
- e. Minimize development on ridgelines and along Highway 145 in the view corridor;
- f. Minimize development in high fire hazard areas;
- g. Minimize road and utility infrastructure and potential burden on County services;
- h. Consolidate driveways to minimize driveway cuts along county roads;



Sample site plan and layout showing compliance with the WMOLP subdivision exemption.

- i. Minimize tree, vegetation, and soil disturbance or removal and avoid scarring of hillsides with roads/utilities;
 - j. Minimize visual and noise impacts on neighbors; and
 - k. Demonstrate that any individual cluster greater than ten (10) units is compatible with the natural topography and landscape and will not cause adverse impacts on surrounding areas.
- II. The minimum lot size is two (2) acres unless Norwood water and sewer are utilized.
 - III. A single open space parcel shall be designated. Such open space parcel maybe owned by private landowner(s), a homeowners association, non-profit organization or government entity. Activities permitted by right on the open space parcel shall be

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limited to agricultural and ranching operations and associated structures, and non-commercial outdoor recreation Special Use Permit activities may be considered on the open space parcel pursuant to the Table of Allowed Uses and general and use-specific standards

- IV. The application shall meet all basic water system, sewage system, access and survey requirements set forth in this Land Use Code.
- V. If a well water supply system ~~is~~ is proposed, the application must comply with Sections 30-28-101, 30-28-401 et seq., and 37-92-602 C.R.S. (concerning water well permits in cluster developments), including demonstration of at least two-thirds contiguous open space.
- VI. Development of a WMOLP may be phased in accordance with an approved plan submitted by the applicant.

5-1212 ~~DE~~. Submittal Requirements

- I. In addition to the minimum contents of all Land Development Applications in Section 4-2, an applicant shall submit:
 - a. A site analysis map that identifies:
 - i. Roads, trails, ~~utility~~ all apparent easements, existing recorded easements, and rights-of-way;
 - ii. Topography (slopes over 30 percent and ridgelines);
 - iii. Streams, floodplains, ditches, source water protection area, and wetlands;
 - iv. Gunnison Sage-grouse habitat;
 - v. Geologic hazard areas;
 - vi. Irrigated lands;
 - vii. Adjacent public lands;
 - viii. Existing conservation easements or protected lands;
 - ix. Adjacent property lot sizes, setbacks, and building sizes;
 - x. Built features, including driveways, farm roads, buildings, fences, walks, barns or sheds, drainage fields, utilities and utility easements; and
 - xi. Historically and culturally significant sites or structures.
 - b. A site plan, as required by Section 4-208, that identifies:
 - i. Property boundaries;
 - ii. Lot lines for developed parcels;
 - iii. Open space parcel boundaries;
 - iv. Existing structures;

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- v. Roads and driveways that comply with the applicable standards of Section 5-5;
 - vi. Site constraints listed in subsection a above; and
 - vii. Building envelopes, if necessary to demonstrate compliance with applicable review standards.
- c. An open space parcel map that includes:
- i. Contiguity with adjacent open lands, conservation areas, and agriculture lands;
 - ii. Unique natural, historic, or cultural site features (including wildlife habitat area, watershed protection);
 - iii. A minimum buffer of 100 feet between any residential structure and adjacent agricultural activities or open lands; and
 - iv. A minimum buffer for residential lots of 100 feet along county roads or along Highway 145.
- d. Either plans for a well water supply and sewage disposal plan that complies with Sections 30-28-101, 30-28-401 et seq., and 37-92-602 C.R.S., or if applicable, a community water supply system;
- e. Identification of the entity (entities) (private landowner(s), a homeowners association, non-profit organization or government entity) that will have legal responsibility for managing and maintaining private roads and the restricted open land parcels; and
- f. A copy of both a plat note and either a conservation easement, deed restriction, or other covenant that restricts development on the open space parcel and names San Miguel County as a beneficiary. The restriction shall apply in perpetuity; however, after a minimum of 40 years, the owner of the open space parcel may request through two-step Planning Commission and Board of County Commissioners review to remove or modify the restriction. The Board of Commissioners may only release the restriction upon a finding that the purposes of the restriction can no longer be fulfilled either due to Land Use Code and/or Master Plan amendments or to change in surrounding development patterns and the Planning Commission and the Board of Commissioners shall consider any testimony offered by homeowners in the vicinity of the subject parcel. If the restriction is released,

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use of the subject parcel shall be governed by all applicable County regulations for the underlying Zone District.

g. The applicant shall prepare a final plat in compliance with the requirements in Section 4-5.

5-1212 ~~EF~~. Review Process

- I. Projects with ten (10) or fewer lots shall be reviewed administratively, and projects with eleven (11) or more ~~than 10~~ lots will require one-step Board of County Commissioners review.
 - a. Administrative Review (10 or fewer lots):
 - i. Pre-application Conference Summary prior to submittal to review WMOLP concept and site-specific information;
 - ii. Application may be referred to the County Road Superintendent, County Environmental Health Official, County Engineer, Colorado Division of Water Resources, Colorado ~~Colorado~~ Parks and Wildlife and/or other applicable agencies;
 - iii. Notification by the applicant of all landowners within 300 feet of the subject property pursuant to Section 3-9; and
 - iv. Planning Director action.
 - b. One-Step Board of Commissioners Review (more than 10 lots):
 - i. Pre-application Conference Summary (see above);
 - ii. Application referred (see above);
 - iii. Optional conceptual work session with the Board of County Commissioners and staff prior to applicant submitting engineering and survey drawings;
 - iv. Notification of adjacent landowners; and
 - v. Board of Commissioner review at a scheduled public meeting.

5-1213 Wright's Mesa Essential Community Facilities & Parks

A parcel thirty-five acres in size, or larger, a portion of which is to be used for an Essential Community Facility, as defined in Section 5-319 K., is eligible for an exemption from the San Miguel County Subdivision Regulations for the purpose of creating and/or acquiring a less than 35-acre parcel for essential governmental and community services within the Norwood Master Plan Area as identified in the Wright's Mesa Master Plan. This Essential Community Facility Subdivision Exemption for property within the Norwood Master Plan Area may also allow the seller to retain the development rights on a fifteen (15) acre or

Additions are in red underline. Deletions are in ~~red strikethrough~~.

larger parcel but less than 35-acre parcel, that is not the parcel on which the essential community facility is to be located, where San Miguel County recognizes such parcel of property for development purposes, zoning, and under Colorado law as if it were 35-acres.

The subdivision of land for a Park, as defined in Article 6, is exempt from the San Miguel County Subdivision Regulations for the purpose of creating and/or acquiring a less than 35-acre parcel for a Park site. The minimum lot area for a Park in the WMRA Zone district shall be established through the One-step Special Use Permit Review for the proposed Park use.

The subdivision exemption for a WM Essential Community Facility or Park is subject to compliance with Section 3-5 procedures, preparation of a Subdivision Exemption Plat pursuant to Section 4-5, and the submission contents in Section 4-6.

5-1213 A. To qualify for a Wright's Mesa Essential Community Facilities & Park Subdivision Exemption the applicant must also apply for and obtain approval of the proposed Essential Community Facility or Park in accordance with the applicable Wright's Mesa Zone District Standard set forth in Land Use Code Section 5-319 Wright's Mesa Zone Districts and must meet the General Standards in 5-319 as well as the Use-Specific standards for the proposed use.

5-1213 B. The applicant shall prepare a final plat in compliance with the requirements in Section 4-5.

5-1214 Vacation of Lot Lines

A subdivision exemption to vacate lot lines may be permitted subject to compliance with standards in this section.

5-1214 A. To vacate a lot line(s), two or more lots, tracts, parcels or streets will permanently merge into one parcel. All previous development rights for two or more parcels will be extinguished, and the new parcel will have the development rights associated with one parcel. A lot line vacation and merger of lots, tracts, parcels or streets is permanent and cannot be undone at a later date.

5-1214 B. To vacate a lot line(s), the lots, tracts, parcels or streets need to be in the exact same ownership name.

5-1214 C. To vacate lot lines, contiguity between the lots, tracts, parcels or streets being merged must exist with no gaps between them.

5-1214 D. Final Plat

I. The requirements for a final plat will vary according to whether all of the lots, tracts or streets in the application meet the definition of

Additions are in red underline. Deletions are in ~~red strikethrough~~.

“platted subdivision” per C.R.S. 38-51-102(15).

II. For an application that has all of the lots, tracts or streets that meet the definition of “Platted Subdivision” per C.R.S. 38-51-102(15), the applicant shall prepare a final plat in compliance with Sections 4-502, 4-503 and 4-504, and comply with the additional requirements in Section 5-1214 E.

III. For an application that has all of the lots, tracts or streets that do not meet the definition of “Platted Subdivision” per C.R.S. 38-51-102(15), the applicant shall prepare a final plat in compliance with the requirements in Sections 4-502 A. through 4-502 I, inclusive; Section 4-503 A., B., D., E., F., G., H., and J.; Section 4-504; Section 5-1214 E. I.; Section 5-1214 E. III. through 5-1214 E. VI., inclusive; and comply with the additional requirements of Section 5-1214 F.

5-1214 E. Lots, Tracts and Streets that are a “Platted Subdivision” per C.R.S. 38-51-102(15)

I. Tract Border

The perimeter boundary lines of the new parcel shall be designated by a heavy solid line. The previous boundary lines which are being vacated and are no longer applicable, should be indicated by a less prominent dashed or background line type and labeled as “vacated lot line” or similar language. Such lines shall not interfere with the legibility of figures or other data.

II. Lot Numbering

The new merged lots or tracts of the final plat which are part of an approved and recorded plat in the office of the Clerk and Recorder shall be indicated with a new lot number that is a slight variation to the old lot number. For example, the new lot created by the vacation of the common lot line between Lots 1 and 2 can be redesignated as Lot 1A. The former lot numbers shall be indicated in background text or parenthesis and labeled as “Former Lot ____.”

III. Streets

All streets having a lot line vacation on the final plat shall be named exactly with the same name as existed previous to the lot line vacation.

IV. Monument Data

Additions are in red underline. Deletions are in ~~red strikethrough~~.

Monuments that marked the vacated lot line and are no longer applicable after the lot line vacation is approved and recorded, shall be tied to the survey with dimensions, indicated on the plat as removed from the ground and actually removed from the ground.

V. Owner’s Certificate

(Replaces Section 4-503 A. I.) A certificate signed and acknowledged by all parties having any record title interest in the land described in the legal description per Section 4-502 L., consenting to the preparation and recordation of said plat, shall be worded substantially as follows:

Know all persons by these presents:
That (name of owner(s) of record), being the owner(s) of the land described at Reception No. _____ (or Book and page No.) in the office of the Clerk and Recorder, further described as follows:

(insert legal description of the first parcel, previous to the lot line vacation)

AND

(Insert legal description of the second parcel, previous to the lot line vacation),

(repeat as necessary for each parcel)

under the name of (Title of final plat per Section 4-502 E., in capital letters), has vacated the common parcel lines and merged the parcels as shown on this plat.

VI. Licensed Surveyor

A certificate by the Colorado licensed surveyor responsible for the survey and final plat, to which shall be affixed the surveyor's official seal:

Land Surveyor’s Certificate:

I, (printed name of Land Surveyor, indicating firm affiliation, if any) being a Colorado Licensed Surveyor, do hereby certify that this plat and survey of (Title of final plat per Section 4-502 E., in capital letters) was made by me or under my responsible charge in compliance with the applicable provisions of the San Miguel County

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Land Use Code and Title 38, Article 51, C.R.S., and that both are true and accurate to the best of my knowledge and belief. I further certify that all monuments were set in the ground as required by San Miguel County Land Use Code section 5-1203 and Article 51 of Title 38, C.R.S. and that all monuments were removed from the ground as required by San Miguel County Land Use Code section 5-1214 E. IV.

(signature) _____
P.L.S. No. _____ Date _____

5-1214 F. Lots, Tracts and Streets that are not a “Platted Subdivision” per C.R.S. 38-51-102(15)

I. Land Survey Plat

Final plats do not need to meet the requirements of a Land Survey Plat per C.R.S. 38-51-106, but shall include all information listed in the requirements of C.R.S. 38-51-106 (a),(e),(g),(h) and (l).

II. Legal Description

A legal description of the land to be final platted, shall be indicated in the Owner’s Certificate (see Section 5-1214 E.V.). The description may utilize generally accepted methods to describe the land being final platted such as aliquot, proportional, metes and bounds, or lot, block and subdivision formats.

III. Lot Numbering

Parcels that are not part of an approved and recorded plat in the office of the Clerk and Recorder shall be labeled with the owner’s name and deed recording information. Patented mining claims shall also indicate the claim name and mineral survey number. The former lot numbers or designations shall be indicated in background text or parenthesis and labeled as “Former _____.”

IV. Monument Data

- a. Monuments are not required to be set around the perimeter boundary of the newly merged parcel(s).
- b. Monuments that demonstrate the contiguity of two lots, tracts, parcels or streets may be required to show or clarify this situation.
- c. Monuments that marked the vacated lot line and are no longer applicable after the lot line vacation is approved and recorded,

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shall be indicated on the plat as removed from the ground, and actually removed from the ground.

V. Lot Dimensions

- a. If needed, sufficient data must be shown to readily determine the contiguity of the lots, tracts, parcels or streets being merged. Measured dimensions of lines shall be shown in feet and hundredths of a foot. All measured bearings and central angles shall be shown to the nearest second.
- b. When available, record deed or survey plat dimensions shall be shown around the perimeter of each lot, tract, parcel or street being merged, with reference to the document of record. Unsurveyed aliquot parts of sections and other unusually large parcels may omit this requirement.

VI. Easements

- a. Recorded and/or apparent easements are not required to be shown on the final plat. If the owner wishes not to show recorded and/or apparent easements on the final plat, a statement must be made on the final plat that indicates the owner did not want rights-of-way and easements shown.
- b. Recorded and apparent easements may be shown on the final plat, and if research for recorded rights-of-way and easements is done by someone other than the professional land surveyor who prepares the final plat, a statement is required which states the source from which such recorded rights-of-way and easements were obtained.
- c. Easements shown that are recorded must be clearly labeled with a reference to the document of record.
- d. Easements shall be indicated with dashed or other broken line types, not as a solid line type similar to lot or boundary lines.

VIII. Certificates and Acknowledgements

At a minimum, the certificates and acknowledgements from Section 5-1214 E, V, and VI, and Section 4-503 A., B., D., F., G., H., J., and L. shall be required on the final plat. The certificates and acknowledgements shall be placed on the first page of the final plat and shall be worded substantially as described in each Section.

5-1214 G. Waiver of Requirements

If unusual circumstances warrant, a waiver of any the requirements of Sections 5-1214 D., 5-1214 E. or 5-1214 F. can be obtained if approved by

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the Planning Director and the County Surveyor.

SECTION 5-15: FINAL PLAT AND PLANNED UNIT DEVELOPMENT (PUD) AMENDMENTS

5-1501 General

This section of the Code establishes standards for insubstantial and substantial amendments to a final plat and PUD.

5-1502 Insubstantial Amendment

Insubstantial amendments to a final plat or a PUD are permitted. Refer to Section 3-4 for procedures and 4-6 for submission contents. The final plat shall state the purpose of the Amendment and whether the Amendment amends or supersedes in whole or in part the previously approved final plat. An insubstantial amendment shall be limited to technical or engineering considerations first discovered during actual development, which could not reasonably have been anticipated during the approval process. The Planning Director shall compare the proposed amendment to the original approval, and, if any other amendments have been approved since the original approval, shall consider the cumulative impact of all approvals granted. The following shall not be considered an insubstantial amendment:

- 5-1502 A. A change in the use or character of the development.
- 5-1502 B. An increase by greater than three percent in the overall coverage of structures on the land.
- 5-1502 C. Any amendment that substantially increases trip generation rates of the proposed development, or the demand for public facilities.
- 5-1502 D. A reduction by greater than three percent of the approved open space.
- 5-1502 E. A reduction by greater than one percent of the off-street parking and loading space.
- 5-1502 F. A reduction in required pavement widths or rights-of-way for streets and easements.
- 5-1502 G. An increase of greater than two percent in the approved gross leasable floor area of commercial buildings.
- 5-1502 H. An increase of greater than one percent in the approved residential density of the proposed development.

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5-1503 Substantial Amendment

Any amendment that is not insubstantial according to the criteria in Section 5-1502 shall be approved pursuant to the procedures in Section 3-601, and the submission contents and standards of Section 4-5 for final plat review and the standards in this section (refer to section 3-702 C. for procedures and Section 4-5 for submission contents). The final plat shall state the purpose of the Amendment and whether the Amendment amends or supersedes in whole or in part the previously approved final plat.

- 5-1503 A. The proposed amendments must be consistent with the approved sketch plan subdivision approval, however in the absence of a valid sketch plan approval the amendment shall be compared to the preliminary plat;
- 5-1503 B. The proposed amendment must be necessary to achieve the intent and purposes of the Planned Unit Development (PUD); and
- 5-1503 C. The proposed amendment must be consistent with the standards of Section 5-1803.

DRAFT

AUGUST 2020

Additions are in red underline. Deletions are in ~~red strikethrough~~.

ARTICLE 6 DEFINITIONS

County Surveyor

Elected official with the duties and powers defined by C.R.S. 30-10-903 and as authorized by the Board of County Commissioners.

Platted subdivision lot

Any lot created pursuant to state law, which has received subdivision approval by the Board of County Commissioners since September 1, 1972. (See also Lot.)

J. David Foley
San Miguel County Surveyor
P. O. Box 825, Ophir, CO 81426
Phone/fax 970-728-9998
surveyfoley@gmail.com

San Miguel County Planning Department
PO Box 548
Telluride, CO 81435

January 13, 2020

Application for Amendments to the Land Use Code

I am applying for Amendments to the Land Use Code that pertain to Final Plat requirements and to Survey Monuments. As the County Surveyor, I am required to review and comment on Final Plat applications and I have been using a set of standards from our Land Use Code that are very incomplete and outdated. I desire to update our Code with a modern set of review standards that I can use to have the authority to make sure we have good quality public records in our Subdivision Map files kept in the County Clerk's office.

The Sections of the Code that I am proposing amendments to are:

1. *Figure 4-1 Land Use Applications: Review Procedures and Standards.*
Wording additions for consistency with Section 5-12 of the Code, plus addition of Section 5-1214 for Vacation of Lot Lines
2. *Section 4-208 Minimum Submission Contents for all Land Use Applications. Site Plan.*
Added reference to final plat if applicable.
3. *Section 4-3 Sketch Plan Subdivision Reviews.*
Formatting changes only, to be consistent with the Code.
4. *Section 4-4 Preliminary Plan Subdivision Reviews.*
Formatting changes, to be consistent with the Code.
5. *Section 4-5 Final Plat Subdivision Reviews.*
This Section was completely re-written to comply with modern land surveying standards.
6. *Section 4-601 Major Development Applications. General.*
Formatting changes and added several Subdivision Exemptions.

7. *Section 4-605 Special Submission Contents for Acceptance of Subdivision Roads.*

Formatting changes only, to be consistent with the Code.

8. *Section 5-7 Improvements. Monuments.*

This Section was completely re-written to comply with modern land surveying standards.

9. *Section 5-12 Subdivision Exemptions.*

Added a requirement that the final plat for each different Subdivision Exemption shall comply with the final plat submission requirements of Section 4-5.

10. *Section 5-1203 Subdivision Exemptions. Lot Line Adjustments. Final Plat.*

This Section was completely re-written to comply with modern land surveying standards.

11. *Section 5-1214 Subdivision Exemptions. Vacation of Lot Lines. Final Plat.*

This Section was added. The Final Plat requirements were made to comply with modern land surveying standards.

With regards to the proposed Section 4-5 Final Plat Subdivision Reviews, I had a series of meetings with County officials and local professionals to receive advice and recommendations on these proposed changes to the Land Use Code. I had a meeting to discuss these changes with all of the local land surveyors, Kaye Simonson, Mike Rozycki and Amy Markwell. I discussed the proposed changes with the applicable County department heads including the County Clerk, the County Treasurer and the GIS mapping department. I asked for review and advice from a local title company and also from several local real estate attorneys. The application contains many recommendations that I received from these people.

Please review my proposed changes, I look forward to meeting with the Planning Commission and County staff to move forward in implementing these badly needed changes to the Land Use Code.

J. David Foley
San Miguel County Surveyor
P. O. Box 825, Ophir, CO 81426
Phone/fax 970-728-9998
surveyfoley@gmail.com

January 13, 2020

Application for Amendments to the Land Use Code – Review Standards

Section 5-1802 Land Use Code Amendments

5-1802 A. Land Use Code Amendments shall be drafted in a form consistent with the organizational format and style of the code.

The proposed Land Use Code Amendments are drafted in a format that is consistent with the existing organizational format and style of the Land Use Code.

J. David Foley
San Miguel County Surveyor
P. O. Box 825, Ophir, CO 81426
Phone/fax 970-728-9998
surveyfoley@gmail.com

January 13, 2020

Application for Amendments to the Land Use Code – Section 4-2 Minimum Submission Requirements

4-201 General

This application contains the information and materials specified in this section of the Code.

4-202 Required Background Information

The applicant is J. David Foley, the San Miguel County Land Surveyor. Mr. Foley has a home office at 48 Marmot Way, Trout Lake and a mailing address of PO Box 825, Ophir, CO 81426, office phone of 970-728-9998.

4-203 Parcel Description

Not applicable.

4-204 Disclosure and Proof of Ownership

Not applicable.

4-205 Legal Access

Not applicable.

4-206 Standards Report

A written report is attached demonstrating that the proposed Amendments to the Land Use Code comply with the applicable substantive review standards in Section 5-1802.

4-207 Pre-Application Conference Summary Sheet

A copy of the pre-application conference summary sheet is provided with the application.

4-208 Site Plan

Copies of the proposed changes to Sections 4 and 5 of the Land Use Code are provided

4-209 Copies of Application

___ copies of the application are provided.

4-210 Revegetation Plan

Not applicable.

4-211 Weed Control Plan

Not applicable.

4-212 Employee Housing Mitigation Plan

Not applicable.



John Huebner <johnh@sanmiguelcountyco.gov>

Agency Referral: San Miguel County Subdivisions LUC Amendment

1 message

John Huebner <johnh@sanmiguelcountyco.gov>

Mon, Aug 24, 2020 at 10:59 AM

To: David Foley <surveyfoley@gmail.com>, Amy Markwell <amym@sanmiguelcountyco.gov>, Mike Bordogna <mikeb@sanmiguelcountyco.gov>, Jan Stout <jans@sanmiguelcountyco.gov>, Heather Widlund <heatherw@sanmiguelcountyco.gov>, Stephannie VanDamme <stephanniev@sanmiguelcountyco.gov>, Patti Grafmeyer <grafmyer@norwoodtown.com>, Ross Herzog <rherzog@telluride-co.gov>, Kim Montgomery <kmontgomery@mtnvillage.org>, Mike Kimball <michaelnjoyce@msn.com>, dave@bulsonsurveying.com, jhaskell@foleyassoc.com, Chris Kennedy <office@sanjuansurveying.net>, David Royer <ezhogan@yahoo.com>, allpointslandsurvey@gmail.com, Tom Kennedy <tom@tklaw.net>, Nicole Pieterse <nicole.rplaw@gmail.com>, Michael Lynch <mlynch@rwolaw.com>

Cc: Kaye Simonson <kayes@sanmiguelcountyco.gov>, Troy Hangen <troyh@sanmiguelcountyco.gov>

All,

Please find attached draft Subdivision Code Amendments to the San Miguel County Land Use Code. Thank you for reviewing these draft amendments and providing your feedback.

The Planning Department requests that you please provide your review comments by September 2, 2020 to Kaye Simonson, Planning Director, kayesimonson@sanmiguelcountyco.gov.

The Subdivision Code Amendments are scheduled for review by the Planning Commission on September 9, and October 7 by the Board of County Commissioners. Regards,

John

John Huebner

Senior Planner

San Miguel County

P:970-728-3083

333 W Colorado Ave, 3rd Flr

Telluride, CO 81435

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LUC Amendment Subdivisions DRAFT August 2020.pdf

868K



RE: draft Subdivision amendments

1 message

surveyfoley@gmail.com <surveyfoley@gmail.com>
To: Kaye Simonson <kayes@sanmiguelcountyco.gov>
Cc: Amy Markwell <amym@sanmiguelcountyco.gov>, John Huebner <johnh@sanmiguelcountyco.gov>, Troy Hangen <troyh@sanmiguelcountyco.gov>

Mon, Aug 24, 2020 at 6:44 PM

Kaye,

I have reviewed the proposed changes to the LUC and have a few minor revisions I would like to make. I have indicated my proposed revisions by adding Comments at each Section. In summary, these are the revisions I am proposing:

Article 3 – no revisions

Article 4

- 1. 4-502 E. shorten sentence to read "Patented mining claims shall also indicate the claim name and mineral survey number in the subtitle."
- 2. 4-503 K. eliminate bold type for statement.
- 3. 4-508 1. Change "street monuments" to "land survey monuments".

Article 5

- 1. 5-1203 E. I. capitalize Platted Subdivision.
- 2. 5-1203 F. III. Add to sentence ... be indicated on the plat as removed from the ground and actually removed from the ground.
- 3. 5-1203 F. III. And IV. Switch the order of 2 Sections to be consistent with the same order of items in Section 4-502. Streets to be III. And Monument Data to be IV.
- 4. 5-1203 F. V. add (Replaces 4-503 A.). Also format to make Owner's Certificate a heading as a line by itself.
- 5. 5-1203 F. VI. add (Replaces 4-503 A.). Also format to make Owner's Certificate a heading as a line by itself.
- 6. 5-1203 G. VII. Eliminate 4-503 A. and E.. Add 4-503 I. and L.
- 7. 5-1212 E. I. a. add a section – all apparent easements and existing recorded easements.
- 8. 5-1214 F. VIII. Eliminate 4-503 E. and add 4-503 L.

Article 6 – no revisions

J. David Foley
San Miguel County Surveyor
PO Box 825
Ophir, CO 81426
970-728-9998

From: Kaye Simonson <kayes@sanmiguelcountyco.gov>
Sent: Friday, August 21, 2020 3:37 PM
To: Dave Foley <surveyfoley@gmail.com>
Cc: Amy Markwell <amym@sanmiguelcountyco.gov>; John Huebner <johnh@sanmiguelcountyco.gov>; Troy Hangen <troyh@sanmiguelcountyco.gov>
Subject: draft Subdivision amendments

Dave, at long last I have the draft Subdivision Code Amendment ready for review.. There were a few bumps. For example, we found some other problems, such as the Wright's Mesa Subdivision Exemption, incorrectly listing the minimum lot size and process. So I also had to fix Chapter 3, Procedures.

In the Word documents, the changes are hard-formatted, meaning the added text is underlined and the deleted text is struck through. We don't use Track Changes at this point because we run the risk of losing track of the changes, which have to be documented in the resolution. (There are some instances where I did not identify non-substantive formatting changes. That would be messy beyond belief, and I'll address that as a note in the resolution.) You can use Track Changes to make comments, although "Comments" might be preferable. Let me know if you have any questions or want to discuss further.

This will be on the Planning Commission meeting on Septemebr 9, and October 7 for the BOCC. I'll actually send this out to reviewers (County manager, Attorney, the towns) next week but just the PDFs; you'll be copied on that.

Thanks.

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For information about San Miguel County's response to COVID-19 (Coronavirus), please visit <https://www.sanmiguelcountyco.gov/590/Coronavirus>

Kaye Simonson, AICP
Planning Director
San Miguel County Planning Department
Office: (970)369-5436
Cell: (970)729-9929
www.sanmiguelcountyco.gov



2 attachments

- Article 4 Subdivisions DRAFT.docx
98K
- Article 5 Subdivisions DRAFT.docx
622K



Re: Agency Referral: San Miguel County Subdivisions LUC Amendment

1 message

Heather Widlund <heatherw@sanmiguelcountycoco.gov>
To: Kaye Simonson <kayes@sanmiguelcountycoco.gov>, Dave Foley <surveyfoley@gmail.com>

Fri, Aug 28, 2020 at 10:43 AM

Hi Kaye,
I have reviewed the proposed amendments.

1. What is going to be the process for reviewing street names, section 4-502 N? I would like a sign-off on acceptable names.
2. Is it possible or desirable to indicate that house numbers will be assigned by the County upon submission of a building permit? In other words, no pre-addresses on the plat.
3. I would like to include in section 4.504 A that with the lat/long coordinates, the datum and epoch are specified.
4. Dave, the Survey Control Data Sheet they are supposed to submit in section 4.504 A - if's not currently on the website. Is that something you can send to me to review? Do we want them to submit it to me as well, as a backup?

Thank you,
Heather

On Mon, Aug 24, 2020 at 11:00 AM John Huebner <johnh@sanmiguelcountycoco.gov> wrote:
All,

Please find attached draft Subdivision Code Amendments to the San Miguel County Land Use Code. Thank you for reviewing these draft amendments and providing your feedback.

The Planning Department requests that you please provide your review comments by September 2, 2020 to Kaye Simonson, Planning Director, kayesimonson@sanmiguelcountycoco.gov.

The Subdivision Code Amendments are scheduled for review by the Planning Commission on September 9, and October 7 by the Board of County Commissioners. Regards,

John

John Huebner
Senior Planner
San Miguel County
P:970-728-3083
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Heather Widlund
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GIS Coordinator
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www.sanmiguelcountycoco.gov

For information on COVID-19 (coronavirus), please visit:
<https://www.sanmiguelcountycoco.gov/coronavirus>





Re: draft Subdivision amendments

1 message

Amy Markwell <amym@sanmiguelcountycoco.gov>
To: Dave Foley <surveyfoley@gmail.com>
Cc: Kaye Simonson <kayes@sanmiguelcountycoco.gov>, John Huebner <johnh@sanmiguelcountycoco.gov>, Troy Hangan <troyh@sanmiguelcountycoco.gov>

Thu, Sep 3, 2020 at 10:50 AM

Sorry it has taken me a bit to get to this. I have a few comments:

4-503 J has the title "Certificate of Title" but the information below is all about certificate of title insurance. Should the title actually be "Certificate of Title Insurance"?

In the section that has the Subdivision Improvement Agreement:

pg 4-34: the insurance requirements for the Developer - do you want to change the wording to be more generic so that it can change as the statutory requirement changes rather than putting in specific limits? Those are the current limits but if they go up I wouldn't want to have to amend that section of the code each time.

In accordance with C.R.S. 24-10-114(1)(b), the limitations on judgments set forth in C.R.S. 24-10-114(1)(a)1)&(II) are as follows:

- For all claims for relief that accrue on or after January 1, 2018 and before January 1, 2022 the adjusted limitation is:
- \$387,000 for any injury to one person in any single occurrence.
- \$1,093,000 for any injury to two or more persons in any single occurrence; except that, in such instance, no person may recover in excess of \$387,000.

What This Means to Counties

The Colorado Governmental Immunity Act (CGIA) is a vital tool in limiting claim costs for governmental entities. Counties should review their contracts that contain insurance requirements to ensure that you are requesting the CGIA limits at a minimum. You may prefer to refer to the CGIA statutory reference when requesting CGIA limits so the contract is dynamic and stays current with statutory changes. In many cases, depending on the scope of the contract, you will want limits higher than the CGIA provides to protect your county in the event of a federal claim which is not subject to Colorado's limits.

- pg 4-39: the PO Box for the County Attorney's office is actually 1170. We now use the same box as the commissioners.

Amy

On Sat, Aug 29, 2020 at 12:55 PM <surveyfoley@gmail.com> wrote:

Thanks, Kaye, looks great.
I have one small change to 4-504 that I am discussing with Heather.

Dave

From: Kaye Simonson <kayes@sanmiguelcountycoco.gov>
Sent: Friday, August 28, 2020 4:44 PM
To: Dave Foley <surveyfoley@gmail.com>
Cc: Amy Markwell <amym@sanmiguelcountycoco.gov>, John Huebner <johnh@sanmiguelcountycoco.gov>, Troy Hangan <troyh@sanmiguelcountycoco.gov>
Subject: Re: draft Subdivision amendments

Dave, I think I got all of your suggested changes. See the attached files. Anything I've changed since sending it out for review, I've highlighted in yellow, just to help my tracking right now. Let me know if I got it right. Thanks for your very thorough and prompt review. The cross-referencing is a little mind numbing and needed more eyes on it.

Kaye

On Mon, Aug 24, 2020 at 6:44 PM <surveyfoley@gmail.com> wrote:

Kaye,

I have reviewed the proposed changes to the LUC and have a few minor revisions I would like to make. I have indicated my proposed revisions by adding Comments at each Section. In summary, these are the revisions I am proposing:

Article 3 - no revisions

Article 4

- 1. 4-502 E. shorten sentence to read "Patented mining claims shall also indicate the claim name and mineral survey number in the subtitle."
2. 4-503 K. eliminate bold type for statement.
3. 4-508 1. Change "street monuments" to "land survey monuments".

Article 5

- 1. 5-1203 E I. capitalize Platted Subdivision.
2. 5-1203 F. III. Add to sentence ... be indicated on the plat as removed from the ground and actually removed from the ground.
3. 5-1203 F. III. And IV. Switch the order of 2 Sections to be consistent with the same order of items in Section 4-502. Streets to be III. And Monument Data to be IV.
4. 5-1203 F. V. add (Replaces 4-503 A.). Also format to make Owner's Certificate a heading as a line by itself.
5. 5-1203 F. VI. add (Replaces 4-503 A.). Also format to make Owner's Certificate a heading as a line by itself.
6. 5-1203 G. VII. Eliminate 4-503 A. and E. Add 4-503 I. and L.
7. 5-1212 E. I. a. add a section - all apparent easements and existing recorded easements.
8. 5-1214 F. VIII. Eliminate 4-503 E. and add 4-503 L.

Article 6 - no revisions

J. David Foley
San Miguel County Surveyor
PO Box 825
Ophir, CO 81426
970-728-9998

From: Kaye Simonson <kayes@sanmiguelcountycoco.gov>
Sent: Friday, August 21, 2020 3:37 PM
To: Dave Foley <surveyfoley@gmail.com>
Cc: Amy Markwell <amym@sanmiguelcountycoco.gov>, John Huebner <johnh@sanmiguelcountycoco.gov>, Troy Hangan <troyh@sanmiguelcountycoco.gov>
Subject: draft Subdivision amendments

Dave, at long last I have the draft Subdivision Code Amendment ready for review.. There were a few bumps. For example, we found some other problems, such as the Wright's Mesa Subdivision Exemption, incorrectly listing the minimum lot size and process. So I also had to fix Chapter 3, Procedures.

In the Word documents, the changes are hard-formatted, meaning the added text is underlined and the deleted text is struck through. We don't use Track Changes at this point because we run the risk of losing track of the changes, which have to be documented in the resolution. (There are some instances where I did not identify non-substantive formatting changes. That would be messy beyond belief, and I'll address that as a note in the resolution.) You can use Track Changes to make comments, although "Comments" might be preferable. Let me know if you have any questions or want to discuss further.

This will be on the Planning Commission meeting on Septemehr 9, and October 7 for the BOCC. I'll actually send this out to reviewers (County manager, Attorney, the towns) next week but just the PDFs; you'll be copied on that.

Thanks.

--
For information about San Miguel County's response to COVID-19 (Coronavirus), please visit https://www.sanmiguelcountycoco.gov/590/Coronavirus

Kaye Simonson, AICP
Planning Director
San Miguel County Planning Department

9/3/2020

San Miguel County Mail - Re: draft Subdivision amendments

Office: (970)369-5436
Cell: (970)729-9929
www.sanmiguelcountyco.gov

[] []

--

For information about San Miguel County's response to COVID-19 (Coronavirus), please visit <https://www.sanmiguelcountyco.gov/590/Coronavirus>

Kaye Simonson, AICP
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Cell: (970)729-9929
www.sanmiguelcountyco.gov

[] []

MEMORANDUM

TO: San Miguel County Planning Commission
FROM: John Huebner, Senior Planner
RE: Amendment to the San Miguel County Land Use Code Article 3 and Sections 5-307, 5-318, 5-319, 5-320, 5-321 to require Two-step Review for all Mining and Mineral Processing Use applications in all applicable Zone Districts
DATE: September 9, 2020
[\"Z:\Applications\2020_Mining 2-step Process_LUC Amendment\Mining.2-step.luca.docx\"]

Background

Board of County Commissioners met with the Planning Director recently to request that all Mining and Mineral Processing use applications require Two-step rather One-step review only. They directed staff to research and prepare a Land Use Code Text Amendment and for their consideration.

Proposed Amendment

The draft amendment to the San Miguel County Land Use Code for the purpose of requiring Two-step Review for all Mining and Mineral Processing Use applications in all Zone Districts is attached. It also corrects inconsistency between Section 5-11, Conditional Uses on Federal Lands, plus Figure 3-5, where it specifies such applications shall be a two-step review, and the individual zone districts, where it is either listed as a one-step process or omitted from permitted uses.

Public Noticing

There are no noticing requirements for Land Use Code amendments. A display ad and legal ad has been published in the Norwood Post and Telluride Daily Planet on September 2, 2020.

Referral Agencies

The application was referred to the County Attorney, County Manager, County Natural Resources Director, and to the Towns of Telluride, Mountain Village, Ophir, Sawpit and Norwood. Responses were received as follows:

Amy Markwell, County Attorney, requested clarification for different language in the different sections specific to the “commencement and/or expansion” language. Mike Bordogna, County Manager, stated he agreed with the proposed changes. He wondered if changes were need to also change the review of logging to two-step. Lynn Padgett, County Natural Resources Director, suggested changes to the mining and mineral processing review standards. *This amendment process is procedural rather than substantive. When a substantive review of the mining standards is done we will address the various nomenclature used within the zone districts.*

Public Comments

As of the writing of this report, no public comments have been received.

Review Standards

Review Standards for Land Use Code Amendments are contained in LUC Section 5-1802 and state, "Land Use Code Amendments may be initiated by the County or by persons who are residents of, or own property in, San Miguel County subject to compliance with the following standard." This amendment was requested by an individual commissioner and the BOCC directed staff to prepare the draft amendment. The only review standard, LUC Section 5-1802 A., states "Land Use Code Amendments shall be drafted in a form consistent with the organizational format and style of the code." The proposed amendment has been drafted in the format and style of the code. As needed, the amendment may correct formatting errors that do not change the substance of the Code.

In addition, Section 1-402 Policies of the Land Use Code, should be considered.

To implement the policies of San Miguel County regarding land use and development, housing, growth and related issues, as adopted **and amended from time to time**.

In addition, Land Use Policy 2-35, Mining and Mineral Processing Operations, should be considered.

It is the policy of the County to permit commencement or expansion of Mining and Mineral Processing Operations only in appropriate areas identified pursuant to the Comprehensive Development Plan, **with review**, as appropriate, under Land Use Code Section 5-4 and C.R.S. 24-65.1-101 et. seq., "Areas and Activities of State Interest," subject to adequate mitigation of environmental, noise, traffic, and other impacts of such activities.

Recommendation

This proposed amendment is a simple procedural change, for now. Any future substantive update to Section 5-16 Mining standards would also deal with unifying the descriptions of mining activities. The Board of County Commissioners is scheduled to review this amendment at its October 7, 2020 meeting.

Sample Motion:

I move to recommend to the Board of County Commissioners to adopt the amendment to the San Miguel County Land Use Code Article 3 and Sections 5-307, 5-318, 5-319, 5-320, 5-321 to require Two-step Review for all Mining and Mineral Processing Use applications and all Conditional Uses on Federal Lands in all applicable Zone Districts, based on the finding that the proposed amendment complies with the standards of Land Use Code Section 5-1802, Land Use Code Amendments; is consistent with Land Use Code Section 1-402, Implement Policies of the Land Use Code; and Land Use Policy 2-35, Mining and Mineral Processing Operations, in that the proposed Two-step Review will ensure that mining and mineral processing operations within the county on private or public lands will be in sited in appropriate areas and the impacts of these activities will be sufficiently mitigated.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

ARTICLE 3

PROCEDURES

FIGURE 3-1

LAND USE ACTIVITIES AND REVIEW PROCEDURES

One-Step Planning Commission Reviews

Special Use Permits/Planning Commission Approvals

Approval of Specific Land Uses Identified within Article 5 as Uses Subject to One-step Planning Commission Review

Scenic Foreground Overlay Reviews for all development other than construction of one Single-family dwelling unit

Major Review of a Single-family Residence in an Area of Local and State Interest / C.R.S. 1041 Environmental Hazard Review

~~Mining and Mineral Processing (West End Zone District)~~

Two-Step reviews

Development in Wetland Areas other than a Residential Home and Access & Utilities associated with a Residential House

Special Use Permits

Substantial Plat Amendments

Substantial Planned Unit Development (PUD) Amendments

Land Uses Requiring Special Use Permits

Land Use Code Amendments

Rezoning

Mining and Mineral Processing

Conditional Uses on Federal Lands

Additions are in red underline. Deletions are in ~~red strikethrough~~.

All Development in Areas of Local and State Interest/ C.R.S. 1041 Environmental Hazard Review with the exception of the construction of one single-family dwelling unit

Public Utility Structures and Above ground Electricity Transmission and Distribution Lines

Modification of Ecological Sensitivity Area Boundaries

Road Vacations

Flood Plain Development Permits for Special Uses

Major Facility Oil and Gas Development

Wright’s Mesa Subdivision Exemption for parcels greater than 37 acres and less than 150 acres

SECTION 3-5: ONE-STEP REVIEWS

3-501 General

The development applications identified in Figure 3-1 and listed in this section are subject to the one-step Planning Commission or the one-step Board of County Commissioners review procedures described in this part of the Code. Figure 3-4 serves as a guide to procedures, submission contents and review standards for one-step reviews.

- 3-501 A. The land use activities listed in this section are subject to One-step Planning Commission Review.
 - I. Approval of Specific Land Uses Identified within Article 5 as Uses Subject to one-step Planning Commission Review (Refer to Section 4-6 for submission contents and Section 5-10 for review standards);
 - II. Scenic Foreground Overlay Reviews for all development other than construction of one single-family dwelling unit (Refer to Section 4-8 for submission contents and Section 5-316 for review standards);
 - III. Major Review of a Single-Family Residence in an Area of Local and State Interest C.R.S. 1041 Environmental Hazard Review (refer to Section 4-6 for submission contents and Section 5-4 for review standards);
 - IV. Determination of Parking Requirements (Refer to Section 4-7 for submission contents and Section 5-702 F. for standards); and
 - V. Amendments to the Comprehensive Development Plan; such amendments require a public hearing before the Planning Commission.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

- VI. Development of equestrian centers, allowed only in the Low Density (LD) Zone District (see Section 4-2 for submission requirements and Sections 5-10 and 5-24 for standards).
- VII. Reduction in Highway Setbacks (Refer to Section 4-7 for submission contents and Section 5-505 for review standards).
- ~~VIII.—Mineral Exploration and Mining (Refer to Section 5-16 for standards).~~
- VIIIX. Logging (Refer to Section 5-17 for standards).

FIGURE 3-5

TWO-STEP REVIEWS: SUBMISSION CONTENTS AND STANDARDS

Land Use Activity	Land Use Code Section	
	Submission Contents	Standards
Substantial Plat Amendments	4-6	5-15
Substantial Planned Unit Development (PUD) Amendments	4-6	5-14
Land Uses Requiring Special Use Permits	4-6	5-10
Land Use Code Amendments	4-7	5-18
Rezoning	4-6	5-18
<u>Mining and Mineral Processing</u>	<u>4-7</u>	<u>5-16</u>
Conditional Uses on Federal Lands	4-7	5-11
All Development in Areas of Local and State Interest /C.R.S. 1041 Environmental Hazard Review with the exception of the construction of one Single-Family Dwelling Unit	4-6	5-4
Public Utility Structures, Above Ground Electricity Transmission and Distribution Lines Longer Than 1,000 Feet	4-701 J	
and Underground Electricity Transmission and Distribution Lines Carrying More Than 115 Kilovolts	4-701 J. 4-702	5-709

Additions are in red underline. Deletions are in ~~red strikethrough~~.

Development in Wetland Area other than Access, Utility, House on Previously Approved Parcel	4-2, 5-2203 E.	5-22
Modification of Ecological Sensitivity Boundaries	5-2502 B.	5-25
Major Facility Oil and Gas Development	5-2604 B.	5-2604
Subdivision Exemption for Wright's Mesa Greater Than 37 Acres & Less Than 150 Acres	4-6	5-1210

SECTION 3-6: TWO-STEP REVIEWS

3-601 General (including Land Use Code Amendments)

The development applications identified in Figure 3-1 and listed in this section are subject to two step review procedures described in this part of the Code (Figure 3-5 serves as a guide to the procedures, submission contents and review standards for two-step reviews):

- 3-601 A. Substantial Plat Amendments (Refer to Section 3-703 for continuance requirements, Section 4-6 for submission contents and Section 5-15 for review standards).
- 3-601 B. Substantial Planned Unit Development (PUD) Amendments (Refer to Section 3-703 for continuance requirements, Section 4-6 for submission contents and Section 5-15 for review standards).
- 3-601 C. Land Uses Requiring Special Use Permits (Refer to Section 4-7 for submission contents and Section 5-10 for review standards).
- 3-601 D. Land Use Code Amendments (Refer to Section 4-7 for submission contents and Section 5-18 for review standards).
- 3-601 E. Rezoning (Refer to Section 4-6 for submission contents and Section 5-18 for review standards).
- 3-601 F. Conditional Uses on Federal Lands (Refer to Section 4-7 for submission contents and Section 5-11 for standards).
- 3-601 G. All Development in Areas of Local and State Interest/1041 Environmental Hazard Review with the exception of the construction of one single-family dwelling unit (refer to Section 4-6 for submission contents and Section 5-4 for review

Additions are in red underline. Deletions are in ~~red strikethrough~~.

standards).

- 3-601 H. Public Utilities Structures, Above Ground Electricity Transmission and Distribution Lines Longer Than 1,000 Feet, and Underground Electricity Transmission and Distribution Lines Carrying More Than 115 Kilovolts (Refer to Sections 4-701 I. and 4-703 for submission contents and Section 5-709 for standards).
- 3-601 I. Development in Wetland Areas or Wetland Buffer Zone Areas (See Sections 4-2 and 5-2203 E. for submission requirements and Section 5-22 for standards.).
- 3-601 J. All reviews required pursuant to CRS 30-28-110(1) regarding construction, use or modification of public facilities, including rights-of-way.
- 3-601 K. Modification of Watershed Protection, Ecological Sensitivity Area Boundaries.
- 3-601 L. Major Oil and Gas Development (Refer to Section 5-26 for submission contents and review standards).
- 3-601 M. Subdivision Exemption for Wright’s Mesa parcels greater than 37 acres but less than 150 acres in size.

3-601 N. Mining and Mineral Processing

Additions are in red underline. Deletions are in ~~red strikethrough~~.

ARTICLE 5

STANDARDS

SECTION 5-3 ZONE DISTRICT STANDARDS

5-307 Forestry, Agriculture and Open (F)

5-307 D. Uses Allowed Subject to One-step Planning Commission Review

~~VII. Conditional Uses on Federal Lands – Mineral Exploration and Mining and Logging, subject to applicable State and Federal statutes and regulations;~~

(Renumber subsequent sections VIII-XII.)

5-307 F. Uses Allowed Subject to Two-step Special Use Permit Review

IX. Commencement and/or expansion of mining and mineral processing operations, including sand and gravel operations, in accordance with all provisions of Sections 5-10 and 5-16;

XIV. Conditional Uses on Federal Lands – Mineral Exploration and Mining and Logging, subject to applicable State and Federal statutes and regulations.

5-318 Rangeland Grazing (RG)

5-318 C. Uses Allowed by Special Use Permit Subject to Two-Step Planning Commission and Board of County Commissioner Review.

I. Commencement and/or expansion of mining and mineral processing operations, including sand and gravel operations, in accordance with all provisions of Sections 5-10 and 5-16.

5-319 Wright's Mesa (WM)

5-319 E. Uses Allowed Subject to One-step Planning Commission Special Use Permit Review (see Section 5-319 K.)

~~XVII. Conditional uses on federal lands – mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations;~~

(Renumber subsequent sections XVIII-XX.)

Additions are in red underline. Deletions are in ~~red strikethrough~~.

5-319 G. Uses Allowed Subject to Two-Step Planning Commission and Board of Commissioners Special Use Permit Review (see Section 5-319 K.)

VII. Commencement and/or expansion of non-chemical mining and mineral processing operations, subject to Section 5-16;

XI. Conditional uses on federal lands - mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations.

5-319 Wright’s Mesa Zone Districts (adopted March 2010)

5-319 E. Allowed Uses

VI. Table of Allowed Uses

TABLE 5-319-3: TABLE OF ALLOWED USES						
USE CATEGORY	USE TYPE	WMRA	WMRR	WMLJ	WMTR	USE-SPECIFIC STANDARDS General standards in 5-319 I. apply to all uses. Additional use-specific standards in 5-319 H. may apply as noted.
INDUSTRIAL USES Overlay restrictions may apply to Industrial Uses. See Section 5-319 J.						
General Industrial Service	Minor	S-1		S-1		
	Major	S-2				Section 5-319 H.V.c.
Resource Extraction	Logging	S-1				Section 5-319 H.V.a. (note: certain amounts exempt development permit) and 5-10 and 5-17
	Mining and/or Mineral Processing	S-2				Section 5-16 and 5-17
	<u>Conditional uses on federal lands - mineral exploration, mining and logging</u>	<u>S-2</u>				<u>Section 5-11</u>
	Oil and Gas Facility, Major	S-2				Section 5-26
	Oil and Gas Facility, Minor	P-D				Section 5-26
Manufacturing and Production	Manufacturing, heavy	S-2				Section 5-319 H.V.c.
	Manufacturing, light			S-1		Section 5-319 H.V.b.
	Shop-Craft Business or Industry	S-1		P-D		
Warehouse and Storage	Construction staging Area/Stockpiling of dirt	S-2		S-2		Section 5-319 H.V.d.
	Mini-storage			S-1		Section 5-319 H.V.e.
	Recreational Vehicle (RV) Storage and Service	S-2		S-2		Section 5-319 H.V.f.
	Storage or Hauling Company			S-1		
	Warehouse			P-D		
Waste and Salvage	Material Recovery Facility	S-2				Section 5-319 H.V.g.
	Salvage, Junk Yard	S-2				Section 5-319 H.V.g.

Additions are in red underline. Deletions are in ~~red strikethrough~~.

5-320 West End (WE)

5-320 B. Uses Allowed by Right

- V. Mining of sand and gravel or other minerals for personal (non-commercial) use;

5-320 D. Uses Allowed Subject to One-step Planning Commission Special Use Permit Review (see Section 5-320 K.)

- ~~V. Expansion of or new commercial mineral resource development and extraction operations and facilities;~~

(Renumber subsequent sections VI-XV.)

5-320 F. Uses Allowed Subject to Two-Step Planning Commission and Board of Commissioners Special Use Permit Review (see Section 5-320 K.)

- XVI. Expansion of or new commercial mineral resource development and extraction operations and facilities;

- XVII. Conditional uses on federal lands - mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations.

5-321 High Country Area (HCA)

5-321 H. Uses Allowed Subject to Two-step Special Use Permit Review Subject to Section 5-10.

- II. Commencement and/or expansion of mining and mineral processing operation, or development of mining related structures or buildings, in accordance with all provisions of Section 5-10 and 5-16. This does not include sand and gravel mining or processing.

- V. Conditional uses on federal lands - mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations.



John Huebner <johnh@sanmiguelcountyco.gov>

Agency Referral: San Miguel County Mining Two-step LUC Amendment

1 message

John Huebner <johnh@sanmiguelcountyco.gov>

Mon, Aug 24, 2020 at 11:03 AM

To: Mike Bordogna <mikeb@sanmiguelcountyco.gov>, Amy Markwell <amym@sanmiguelcountyco.gov>, Lynn Padgett <lynnp@sanmiguelcountyco.gov>, Ross Herzog <rherzog@telluride-co.gov>, Patti Grafmeyer <grafmyer@norwoodtown.com>, Kim Montgomery <kmontgomery@mtnvillage.org>, Mike Kimball <michaeljoyce@msn.com>

All,

Please find attached draft Mining Two-step Code Amendment to the San Miguel County Land Use Code. Thank you for reviewing these draft amendments and providing your feedback.

The Planning Department requests that you please provide your review comments by September 2, 2020 to Kaye Simonson, Planning Director, kayesimonson@sanmiguelcountyco.gov.

The Mining Code Amendment is scheduled for review by the Planning Commission on September 9, and October 7 by the Board of County Commissioners. Regards,

John

John Huebner

Senior Planner

San Miguel County

P:970-728-3083

333 W Colorado Ave, 3rd Flr

Telluride, CO 81435

www.sanmiguelcountyco.gov



For information about San Miguel County's response to COVID-19 (Coronavirus), please visit <https://www.sanmiguelcountyco.gov/590/Coronavirus>



Mining 2-Step Process DRAFT August 2020.pdf

189K



John Huebner <johnh@sanmiguelcountyco.gov>

Re: Agency Referral: San Miguel County Mining Two-step LUC Amendment

1 message

Kaye Simonson <kayes@sanmiguelcountyco.gov>

Fri, Aug 28, 2020 at 10:45 AM

To: Lynn Padgett <lynnp@sanmiguelcountyco.gov>

Cc: Amy Markwell <amym@sanmiguelcountyco.gov>, Mike Bordogna <mikeb@sanmiguelcountyco.gov>, John Huebner <johnh@sanmiguelcountyco.gov>

Like I said, I just went at the simple procedural change for now, because I do not have answers to all of this right now and it seems to be part of the bigger mining standards review. I started to have these same questions too, until I told my brain to shut up and look away.

Kaye

On Fri, Aug 28, 2020 at 10:40 AM Lynn Padgett <lynnp@sanmiguelcountyco.gov> wrote:

Hi,

Amy, great question! I can imagine (but I haven't check the historical minutes) a conversation in the WE zone that locals have long accessed near surface coal seams for personal use and sand/gravel/dimension stone for personal use, thus the "new commercial" language.

I don't have any idea why non-chemical mining appears in the WM zone only. Exploration that disturbs the land surface or requires heavy equipment mobilization is something that seems worth having go through a permit process.

Is there a chemical mining that requires a three-step process or is just not allowed? There was a push from INFORM and SMA and other regional environmental groups 10 – 18 years ago to outright ban heap-leach style processing. I don't know if this is related?

Is it worth exploring a single definition of mining across all zones:

Commencement and/or expansion of **mining and mineral processing operations, including sand and gravel operations and facilities, exploration activities causing ground disturbance greater than 0.25 acre, and/or development of mining related structures or buildings.**

And then for WE & HCA zones add the sand/gravel clarification (assuming there are good political reasons to retain it):
Commencement and/or expansion of **mining and mineral processing operations, including sand and gravel operations and facilities, exploration activities causing ground disturbance greater than 0.25 acre, and/or development of mining related structures or buildings, EXCEPT sand and gravel mining.**

Loop holes to consider: chemical processing is now being moved to underground mills, because the state does not regulate these types of underground discharges. Some mines build trophy residences and claim they are mine offices and mine-related. BLM allows up to 5 acres of surface disturbance out of each 20-acre mining claim without a plan of operations. The USFS generally requires a plan of operations for any ground disturbance or occupation of a mining claim (like camping). Should there be a definition of mining and mineral processing operations, facilities, exploration, etc. If someone wants to drill exploratory bore holes, will the 0.25 acre trigger be per mining company or per each

mining claim? Exploratory drill holes bored into the tundra still require pads and proper abandonment. Seismic exploration can cause varying levels of surface disturbance and even cause earthquakes. Suction/dredging can remove macroinvertebrates and sterilize a stream bed for years afterward, affecting fisheries. So exploration seems like a topic worth exploring for a 2-step process.

Is it worth understanding more of the history of how the land use code got its present form and what should be modernized going forward?

Best,

Lynn



LYNN PADGETT, DIRECTOR

GOVERNMENT AFFAIRS/NATURAL RESOURCES

PO Box 2011, Telluride, CO 81435

O: 970-369-5441 | C: 970-258-0836

lynnp@sanmiguelcountyco.gov

From: Amy Markwell <amym@sanmiguelcountyco.gov>

Sent: Thursday, August 27, 2020 7:05 PM

To: Kaye Simonson kayes@sanmiguelcountyco.gov

Cc: Mike Bordogna <mikeb@sanmiguelcountyco.gov>; John Huebner <johnh@sanmiguelcountyco.gov>; Lynn Padgett <lynnp@sanmiguelcountyco.gov>

Subject: Re: Agency Referral: San Miguel County Mining Two-step LUC Amendment

I know I am showing my ignorance, but is there a reason for different language in the different sections specific to the "commencement and/or expansion" language?

In the F Zone:

5-307 F. Uses Allowed Subject to Two-step Special Use Permit Review

IX. Commencement and/or expansion of **mining and mineral processing operations, including sand and gravel operations**, in accordance with all provisions of Sections 5-10 and 5-16;

XIV. Conditional Uses on Federal Lands – Mineral Exploration and Mining and Logging, subject to applicable State and Federal statutes and regulations.

In the WM Zone:

5-319 G. Uses Allowed Subject to Two-Step Planning Commission and Board of Commissioners Special Use Permit Review (see Section 5-319 K.)

VII. Commencement and/or expansion of **non-chemical mining and mineral processing operations**, subject to Section 5-16;

XI. Conditional uses on federal lands - mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations.

In the WE Zone:

5-320 F. Uses Allowed Subject to Two-Step Planning Commission and Board of Commissioners Special Use Permit Review (see Section 5-320 K.)

XVI. Expansion of or new commercial **mineral resource development and extraction operations** and facilities;

XVII. Conditional uses on federal lands - mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations.

In the HCA Zone:

5-321 H. Uses Allowed Subject to Two-step Special Use Permit Review Subject to Section 5-10.

II. Commencement and/or expansion of **mining and mineral processing operation, or development of mining related structures or buildings**, in accordance with all provisions of Section 5-10 and 5-16. This does not include sand and gravel mining or processing.

V. Conditional uses on federal lands - mineral exploration, mining and logging, subject to applicable state and federal statutes and regulations.

Thanks!

Amy

On Tue, Aug 25, 2020 at 8:51 AM Kaye Simonson <kayes@sanmiguelcountyco.gov> wrote:

That is something that would need a little more thought and consideration. We were trying to keep this piece as simple as possible to address the Board's most immediate concern.

Kaye

On Tue, Aug 25, 2020 at 8:15 AM Mike Bordogna <mikeb@sanmiguelcountyco.gov> wrote:

Thanks John,

I am good with the proposed changes. I only wondered if we wanted to make logging a two-step, or to allow for forest health projects, such as thinning in areas to stay at the current process? Thanks, Mike

From: John Huebner [mailto:johnh@sanmiguelcountyco.gov]

Sent: Monday, August 24, 2020 11:04 AM

To: Mike Bordogna <mikeb@sanmiguelcountyco.gov>; Amy Markwell <amym@sanmiguelcountyco.gov>; Lynn Padgett <lynnp@sanmiguelcountyco.gov>; Ross Herzog <rherzog@telluride-co.gov>; Patti Grafmeyer <grafmyer@norwoodtown.com>; Kim Montgomery <kmontgomery@mtnvillage.org>; Mike Kimball <michaelnjoyce@msn.com>

Subject: Agency Referral: San Miguel County Mining Two-step LUC Amendment

All,

Please find attached draft Mining Two-step Code Amendment to the San Miguel County Land Use Code. Thank you for reviewing these draft amendments and providing your feedback.

The Planning Department requests that you please provide your review comments by September 2, 2020 to Kaye Simonson, Planning Director, kayesimonson@sanmiguelcountyco.gov.

The Mining Code Amendment is scheduled for review by the Planning Commission on September 9, and October 7 by the Board of County Commissioners. Regards,

John

John Huebner

Senior Planner

San Miguel County

P:970-728-3083

[333 W Colorado Ave, 3rd Flr](#)

[Telluride, CO 81435](#)

www.sanmiguelcountyco.gov



For information about San Miguel County's response to COVID-19 (Coronavirus), please visit <https://www.sanmiguelcountyco.gov/590/Coronavirus>

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Kaye Simonson, AICP

Planning Director

San Miguel County Planning Department

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