

# **CUSTER COUNTY SUBDIVISION REGULATIONS**

2003

## **SECTION 1 - GENERAL PROVISIONS**

### **1.1 Short Title**

Short Title - These Regulations, along with all future amendments, shall be known and may be cited as “The Custer County Subdivision Regulations” and are authorized by C.R.S. § 30-28-133.

### **1.2 Jurisdiction**

These Regulations, unless otherwise exempted herein, shall apply to all “Subdivision” or “Subdivided Land” as defined in Section 2 herein and shall be processed for review and approval, conditional approval or denial pursuant to the submission requirements and the procedure established in these Regulations. These Regulations are declared supplemental to the current Custer County Zoning Resolution, and it is the intent of the Board of County Commissioners that all applications for Subdivision or Subdivided Land be considered and processed similar to Planned Unit Developments (P.U.D.) as contained in the Custer County Zoning Resolution.

### **1.3 Rules of Construction**

For the purpose of these Regulations and when not inconsistent with the context:

- \* Words used in the present tense include the future;
- \* Words in the singular include the plural;
- \* Words in the plural include the singular;
- \* The masculine includes the feminine;
- \* The word "shall" is mandatory;
- \* The word "may" is permissive;
- \* The particular controls the general;
- \* Where not defined, words and phrases should be given their ordinary meaning;
- \* Text shall control captions, titles and maps.

### **1.4 Interpretation**

Certain words and phrases are defined and certain provisions shall be interpreted as set forth, when not inconsistent with the context. The word "building" includes the word "structure"; the word "person" includes "firm", "associates", "corporation", "partnership", and "natural person"; the word "used" includes the words "occupied", "arranged", "designed", or "intended to be used"; the word "construct" includes the words "erect", "reconstruct", "alter", "move in", and "move upon".

In interpretation and application, the provisions of this Regulation shall be liberally construed for the promotion of the public health, safety and welfare.

## **1.5 Transitional Provisions for New Regulations**

These Regulations are effective on the date of their enactment and apply to all applications for approvals under these Regulations submitted after their enactment.

## **1.6 Severability Clause**

Should any section, clause, or provision of these Regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Regulations as a whole, or any part thereof other than the part declared to be invalid.

## **1.7 Conflict**

Whenever the requirements of these Regulations are in conflict with the requirements of any other County ordinance, rule, regulation, or State statute, the more restrictive or that imposing the higher standards, shall govern. Private covenants and deed restrictions are not researched or enforced by Custer County and recourse is a civil matter.

## **1.8 Enforcement**

No permits or other county land use approvals shall be issued for the construction of any building or any other improvements requiring a permit, upon any land for which a plat or Administrative Review Application (as herein defined) approval is required by these Regulations, unless and until the requirements have been met. Any person, or entity, who transfers or sells or agrees to sell or offers to sell any parcel or lot subject to these Regulations that has not received final approval and recordation shall be guilty of a misdemeanor and shall be subject to a fine for each parcel or interest which is sold or offered for sale (C.R.S. § 30-28-124, and as amended.) The County may enjoin such transfer, or sale, or agreement, by action for injunction brought by civil action in any court of competent jurisdiction.

## **SECTION 2 - DEFINITIONS**

Except as set forth below, terms used in these Regulations shall have the meanings set forth in the Definition Section of the current Custer County Zoning Resolution.

**Administrative Process:** Method of processing an Administrative Review Application which exempts certain Subdivision activities from review as delineated in Section 3 herein.

**Administrative Review Application:** An application for exemption approval, as defined in Section 3, related to Subdivision or Subdivided Land, including but not

limited to the following:

- lot line/boundary line adjustments
- minor plat amendments
- vacation of interior lot lines

**Conservation Standard:** Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide prepared by the Natural Resource Conservation Service (a.k.a. Soil Conservation Service) for Custer County, adopted by the County Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation plan. [THIS TERM DOES NOT APPEAR TO BE REFERENCED ANYWHERE IN THE REGULATIONS]

**Custer County Area Soil Survey:** A soil survey conducted by the U.S. Department of Agriculture in cooperation with the State Agricultural Experiment Stations and other federal and state agencies. [THIS TERM DOES NOT APPEAR TO BE REFERENCED ANYWHERE IN THE REGULATIONS]

**Final Plat:** The final plat process reviews the final engineering plans, any development agreements, letters of credit, conservation easements, home owners' covenants, the plat and all other documents, reports, or studies necessary for final Subdivision approval.

**Plat:** A map and supporting materials of certain legally described land prepared in accordance with these Regulations as an instrument utilized by Custer County for recording real property interests with the County Clerk and Recorder.

**Lot Line and/or Boundary Adjustments:** The transfer of part of one lot to another for the purpose of improving the lot, correcting the lot line or legal description, or settling a boundary line dispute. Such adjustment cannot result in a change in the number of lots affected thereby.

**Master Plan:** The Master Plan of Custer County, Colorado, adopted by the Custer County Planning Commission pursuant to C.R.S. § 31-23-201, *et seq.*, and as amended.

**Major Plat Amendments:** Any amendment or change to a recorded subdivision plat that is not a Minor Plat Amendment.

**Minor Plat Amendments:** Minor errors or necessary minor revisions on a recorded plat which do not affect the character of a Subdivision or Subdivided Land, including, but not limited to, the following:

- \* Typographical and spelling errors or transpositions,
- \* Incorrect seals,
- \* Incorrect dates,
- \* Monumentation incorrectly noted, drawn or missing,
- \* Incorrect or missing bearings and/or dimensions on the drawing,
- \* Missing or incorrectly displayed arrows or symbols,
- \* Street name changes or corrections,
- \* Vacation of or revisions to utility easements upon approval of all affected utility companies,
- \* Additions to or deletions from the legal description or dedicatory language that are not typographical in nature,
- \* Incorrect certificates or signatures, and
- \* Other minor items or circumstances to be determined by the Planning Director.

**Permanent Monument:** Any marker of masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference to property lines, blocks and lots. (Refer to C.R.S. § 38-51-104 for applicable locations and physical standards.)

**Preliminary Plan:** The map(s) of a proposed Subdivision, and specified supporting materials, drawn and submitted in accordance with these Regulations to permit evaluation of the proposal prior to detailed engineering and design.

**Sketch Plan:** A map of a proposed Subdivision drawn and submitted in accordance with these Regulations to evaluate feasibility and design characteristics of a proposed Subdivision at an early stage of planning.

**Subdivider or Developer:** Any person, partnership, joint venture, association, firm or corporation who shall participate as owner, promoter, designer or sales agent in the planning, platting, development, promotion, sale or lease of real property.

**Subdivision; Subdivided Land:** All divisions of land into two (2) or more parcels, separate interests, or interests in common which meet the density requirements of the underlying Zoning District as defined in the Custer County Zoning Resolution. Any Subdivision resulting in parcels smaller than the minimum lot size required in the applicable Zoning District shall be subject to the requirements of a P.U.D. as provided in the Custer County Zoning Resolution. The terms "Subdivision" and "Subdivided Land" shall not apply to any division of land which creates parcels of land each of which comprise thirty-five (35) or more acres of land, none of which is intended for use by multiple owners.

In addition, unless the method of disposition is adopted for the purpose of evading these

Regulations, the terms "Subdivision" and "Subdivided land", shall not apply to any division of land:

- a. Which is created by order of any court in this State or by operation of law;
- b. Which is created by a lien, mortgage, deed of trust or any other security instrument;
- c. Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in any investment entity;
- d. Which creates cemetery lots;
- e. Which creates a severable interest or interests such as oil, gas, minerals or water which are now or hereafter severed from the surface ownership of real property; and
- f. Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common and any such interest shall be deemed for the purposes of these Regulations as only one interest;
- g. Which is created by the combination of contiguous parcels of land into one larger parcel; if the resulting parcel is less than thirty-five acres (35) in land area, only one interest in said land shall be allowed; if the resulting parcel is greater than thirty-five (35) acres in land area, divided by the interests in the resulting parcel, must result in thirty-five (35) acres or more per interest. Easements and right of ways shall not be considered interests for the purposes herein;
- h. Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide pursuant to these Regulations and any applicable Custer County regulations, the land which said purchaser is to acquire pursuant to the contract;

The Board of County Commissioners may, on recommendation of the Planning Commission and sufficient findings and pursuant to these Regulations, exempt from this definition any division of land, if the Board determines that such division is not within the purposes of these Regulations, as provided in C.R.S. § 30-28-101(10)(d).

**Subdivision Improvements Agreement:** One or more security arrangements accepted by the Board to secure the construction within the Subdivision of those public improvements required by these Regulations, including collateral sufficient to make reasonable provision for the completion of such improvements in accordance with time and design specifications of the approved Subdivision. This Agreement(s) may include any one or a combination of the following types of collateral:

1. Restrictions on the conveyance, sale, or transfer of any lot, lots, tract or

tracts of land within the Subdivision as set forth on the Final Plat documents (“Plat Restrictions”);

2. Performance or property bonds;
3. Private or public escrow agreements;
4. Loan commitments;
5. Assignments of receivables;
6. Liens on property;
7. Letters of credit;
8. Deposits of certified funds or other similar surety agreements;

Security, other than Plat Restrictions, shall equal the value of the cost of improvements to be completed, but shall not be required on the portion of the Subdivision subject to Plat Restrictions. The Board of County Commissioners shall not require security with collateral arrangements in excess of the actual costs of construction.

**Vacation of Interior Lot Line:** The removal of a boundary line between two or more lots to create a single lot.

## **SECTION 3 - SUBDIVISION DEVELOPMENT STANDARDS**

### **3.1 General Subdivision Design Standards**

The following general standards shall govern the Planning Commission and the Board of County Commissioners’ consideration of any request for approval of a Subdivision:

1. appropriateness and compatibility of the Subdivision, and any phased development thereof, to and with the surrounding area, neighborhoods, and the underlying Custer County Zone District;
2. adequate provision of water and sewer services;
3. adequate design features to address any onsite drainage and to mitigate any runoff created by the development which exceeds natural runoff;
4. attractiveness of the plan of development of the Subdivision and preservation of the rural character of Custer County;
5. avoidance of development in geologically sensitive, hazardous or wetland areas;
6. furtherance of the protection of the health, safety of welfare of the citizens of Custer County;
7. conformity with Custer County Zoning Resolution and Custer County Master Plan, as amended;
8. minimization of adverse effects on community capital improvements programs, community facilities and services;
9. mitigation of adverse impact on wildlife;
10. mitigation of impact on air, water, noise or light pollution;

11. minimization of potential fire hazards;
12. mitigation of undue traffic congestion or traffic hazards;
13. development of Subdivided Land in a manner appropriate for the site with an emphasis on correcting unsuitable land conditions prior to development; and
14. Existing and proposed utility services are adequate to serve the proposed Subdivision and that the methods of financing, construction and maintenance are sufficient to insure the on-going provision of such services to the Subdivision.

In addition to the other criteria contained in these Regulations, failure of the proposed Subdivision to satisfy these criteria shall be an appropriate basis for denial of any application for Subdivision approval.

### **3.2 Specific Subdivision Plan Design Criteria**

The following specific design criteria shall govern Planning Commission and the Board of County Commissioners' consideration any request for approval of a Subdivision:

#### **A. Water Systems**

1. The Subdivider must submit engineer designed water collection and distribution systems and water treatment systems that provide for a physically available and legally adequate water supply, and meets all of the requirements contained in this Subparagraph A;
2. All water systems shall be subject to applicable standards, technical procedures, and requirements of the Colorado Department of Public Health and Environment (CDPHE) and the Colorado Division of Water Resources;
3. Water lines shall be designed to connect each lot in accordance with applicable engineering standards;
4. If a water distribution system is proposed, the Subdivider shall provide an estimated total number of gallons per day of water system requirements;
5. Subdivider must provide adequate evidence that a potable water supply will be available to serve the proposed Subdivision that is sufficient in terms of quality, quantity and dependability. Such evidence may include, but shall not be limited to:
  - i. evidence of ownership or right of acquisition or use of existing or proposed water rights;
  - ii. historic use and estimated yield of claimed water rights;
  - iii. amenability of existing rights to a change in use;
  - iv. evidence that public or private water owners, can or will supply, water to the proposed Subdivision, stating the amount of water available for use within the proposed Subdivision and the feasibility of extending service to that area; and/or

- v. evidence of the potability of the proposed water supply for the Subdivision.

**B. Sewage Treatment**

1. The Subdivider must submit engineer designed collection systems and waste water treatment systems and a sewage disposal plan that contains an 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.
2. The Subdivider must also provide evidence that these facilities shall meet or exceed the standards set by the Colorado Department of Public Health and Environment and that such systems will comply with state and local laws and regulations which are in effect at the time of submission of the Preliminary Plan or Final Plat.

**C. Storm Drainage**

1. The developer shall provide a storm drainage system of sufficient capacity designed by a Colorado registered engineer and meet all of the requirements of this Subparagraph C.
2. All existing drainage features which are to be incorporated in the design shall be identified. The drainage and flood plain systems shall be designed to allow the unimpeded flow of natural water courses and insure adequate drainage of low points.
3. The storm drainage plan must include maps and plans for facilities to prevent storm waters in excess of historic run-off caused by the proposed Subdivision, from entering, damaging or being carried by conduits, water supply ditches and appurtenant structures, and other storm drainage facilities.

**D. Open Space**

1. Open Spaces within the Subdivision, including those spaces being used as public or private recreation sites, shall be protected by adequate covenants running with the land, conservation easements, deed or plat restrictions.
2. Open Space must be functional in terms of optimal preservation of natural features.
3. The Sudivider shall provide a “Long Term Open Space Management Plan” which will undergo appropriate legal review.

**E. Roads**

1. The Subdivider must submit a plan that defines the dedicated right-of-way, ownership status and the maintenance for all roads created by the Final Plat. Ownership and maintenance statements shall be included on the Final Plat.
2. Roads, bridges, culverts, traffic plans and access must meet the County Road Specifications and the approval of the Board of County Commissioners, Custer County Road and Bridge Department and Emergency Services.
3. Access to Subdivision lots and sites will utilize Subdivision roads.
4. Where roads are to be constructed through timber, the timber must be cleared from the rights-of-way by the Subdivider.
5. Street signs shall be installed at all intersections in the Subdivision, according to street names approved by the Board of County Commissioners. Street sign design must meet the approval of Board of County Commissioners, Emergency Services and Road and Bridge Department.
6. All lots and parcels created by the Subdivision must have access to a state highway system in conformance with the state highway access code as required by C.R.S. § 43-2-147.

**F. Easements and Right-of Ways**

1. The Subdivider must dedicate public rights-of-way on the Final Plat.
2. Utility Easements shall meet the requirements of the appropriate utility.
3. When a water course, irrigation ditch, channel, or stream traverses a Subdivision, a storm water easement or drainage right-of-way shall be provided.

**G. Fire Protection**

1. The Subdivider must meet with the Fire Chief and Fire Inspector that serve the area and develop a Fire Protection Plan which meets all the requirements of this Subparagraph G.
2. Fire hydrants or adequate water storage supply shall be required. Hydrants and/or water storage tanks shall be installed and located according to state requirements and the recommendations of the local fire district.
3. The Plan should address fire hazard and wildfire hazard mitigation, including ingress/egress.
4. A map showing the location of fire/wildfire hazards and the reason for the hazard, such as: slope, aspect, topography, and fuel. A written report must accompany this map. It should include information regarding specific fire prevention and suppression plans. This information must be prepared by a

professional forester or experienced fire inspector.

#### **H. Utilities**

1. The Subdivider must submit a Utility Plan to all impacted local utilities, as applicable, including, but not limited to: the electric company, propane company, postal service, telephone company, water and sanitation district.
2. The Utility Plan should provide that utility lines are placed underground whenever feasible.
3. The Utility Plan shall include evidence that provision has been made for facility sites, easements and rights of way access for electrical and natural gas utility service sufficient to ensure reliable and adequate electric, or, if applicable, natural gas service for the proposed Subdivision. Submission of a letter agreement between the Subdivider and the utility serving the site shall be deemed sufficient to establish that adequate provision of electric, or if applicable, natural gas service to the proposed subdivision has been made.

#### **I. Dedications**

1. The Board of County Commissioners, after review by the Planning Commission, may require the dedication of sites and land within a proposed Subdivision which are deemed necessary to serve the residents thereof. The Board may also require payment of a sum of money, not exceeding the full market value of such sites, or a combination of such payment and land dedication, in lieu of dedication of sites and land, after review by the Planning Commission and with advice from the potential recipient of such sites.
2. The County may require the dedication of areas or sites, and/or payment in lieu thereof, of suitable type, size and location for public use as parks, open space, and necessary public facilities.
3. The purpose of the dedication and/or payment is to provide the public facilities and/or services made necessary as a consequence of the Subdivision in an amount roughly proportional to the impact of the Subdivision upon such facilities and/or services or the increased need for them brought about by the Subdivision.
4. The Subdivider shall have the option, in its sole discretion, to accept the County's calculation of the required dedication, or to perform such studies as are necessary to demonstrate the actual impact of the Subdivision upon public services and facilities and the resulting appropriate dedication or other contribution.
5. Prior to final approval for all Subdivisions, the Subdivider shall satisfy the

requirements of this Section by one (1) or a combination of the following:

- a. Reservation and Dedication. An area of the gross land area on each final plat shall be reserved for dedication to and accepted by the Board of County Commissioners for one or more essential public purposes.
  - b. Fulfillment of such other arrangements or conditions as may be desirable or necessary to alleviate the effects of, or increase the benefits caused by, the Subdivision.
6. In the event that the Subdivider disagrees with the County's determination of required dedication, the Subdivider may prepare a study evaluating the demand for public land and improvements made necessary or generated by the proposed Subdivision. Such study shall be undertaken at the Subdivider's sole cost by a licensed professional engineer or other professional approved in advance by the County. To the greatest extent possible, the study shall include an evaluation of the County's present supply or capacity and present demand for all public services required by the proposed Subdivision. The study shall identify the necessary public land and improvements required to be dedicated or constructed by the developer in order to serve the demand generated by the proposed Subdivision. The study shall be considered by the County in determining the dedication of land.
  7. In those cases where the proposed dedications of land are in such locations, configurations or sizes that the property required to be dedicated is unacceptable to the County, the Subdivider at the option of the Board may be required to pay the County cash-in-lieu of some or all of the required land dedication. Such payment shall be based on the anticipated market value, based on completion of proposed platting of the entire property as it may exist when all required infrastructure is completed and functioning. In determining the fair market value of land for purposes of calculating a fee-in-lieu payment, the County may require that the developer obtain an appraisal.
  8. All land to be dedicated shall be designated on the final approved plat as outlots, and these outlots shall not be building lots. Such outlots shall be deeded to the County or other public entities as agreed, at the time of recording of the final plat, or by dedication on the final plat. A policy of title insurance acceptable to the County provided by a title insurance company authorized to do business in the State and a certificate of representations and warranties concerning title and usability of the property shall be required for all such lands prior to recording of Final Plat.
  9. Should any entity to whom a dedication is made pursuant to this requirement request that the land or site be sold, the Subdivider shall have the right of first refusal to purchased the dedicated land as provided in

C.R.S. § 30-28-133(4)(a)(II).

10. Approval of a Subdivision shall not constitute an acceptance by the County for maintenance of the roads, streets, alleys, or other public lands as indicated for dedication on the plat. The final plat should contain a plat note unequivocally stating that the subdivider intends to convey and dedicate those areas designated for public use and dedication. The dedication of any of these lands for public use of any nature within the County shall be accepted by the County only by specific action of the Board. The final plat should contain a separate statement evidencing the Board's acceptance of dedicated property. The Board of County Commissioners shall withhold all public street improvements and public maintenance from all rights-of-way which have not been officially accepted for such purposes.
11. If any governmental or quasi-governmental agency (e.g. school or fire district) requires the Subdivider to dedicate facilities for a non-residential purpose, such requirement shall not alter the residential nature of the Subdivision.

**J. Wildlife Impacts**

1. The developer shall submit his Subdivision proposal to the Planning and Zoning Office, who will forward it to the Colorado Division of Wildlife for their review and recommendations. Any Subdivision approval must adequately mitigate, to the extent feasible, significant wildlife impacts created by the proposed Subdivision.
2. The Subdivider shall comply with the requirements of Appendix F in the Custer County Zoning Resolution for the Wildlife Review Standards which are incorporated and made applicable herein by reference and shall include the information outlined therein as part of any application for Subdivision Approval.

**K. Home Owner's Associations and Private Covenants**

1. The Subdivider shall institute a home owner's association (HOA) or property owner's association (POA), where deemed necessary by the County, which among other duties, shall be responsible for maintaining and managing open space, common areas and roads and which shall be responsible for enacting private covenants related to such duties.
2. The Subdivider shall submit to the Planning Commission and the Board of County Commissioners the proposed private covenants, easements and/or deed restrictions for appropriate legal review. These shall include the ownership and maintenance of all open space, common areas and roads.

**L. Landscaping**

1. The Subdivider shall include landscaping guidelines in the private

subdivision covenants enacted pursuant to these Regulations.

2. The private covenants will contain, at a minimum, the following restrictions: (a) trees and shrubs shall be planted within property lines; and (b) trees and shrubs are prohibited within street right-of-way sight lines except upon recorded approval by the Board of County Commissioners. [ANY OTHER LANDSCAPING GUIDELINES???

**M. Signage**

All Subdivision entries must have identifying placards, which shall display the Subdivision name and a map showing lot configuration and lot numbers. The Home Owner's Association shall be responsible for maintaining this sign.

**N. Refuse/Trash Disposal**

The Subdivider shall submit a Refuse/Trash Disposal Plan for approval. This Plan must include, but may not be limited to, waste disposal container locations and proof of service provider.

**O. Guaranty of Improvements**

1. The Subdivider must submit with any application for Subdivision a summary of estimated construction costs and proposed method of financing of the streets, related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required by the Subdivider by the County.
2. No Final Plat shall be recorded until the Subdivider has submitted and the Board of County Commissioners has approved, one or a combination of the following:
  - a. A Subdivision Improvements Agreement under which the Subdivider agrees to construct any required improvements shown on the Final Plat documents, together with collateral which is sufficient in the Board's judgment to make reasonable provision for the completion of said improvements in accordance with design and time specifications; or
  - b. Any other negotiated agreement or contracts, setting forth the plan, method and parties responsible for the construction of any required public improvements shown on the Final Plat documents which are sufficient in the Board's judgment to make reasonable provision for the completion of said improvements in accordance with design and time specifications.
3. Any improvements constructed pursuant to these Regulations shall be accomplished in a professional manner, in accordance with the specifications and construction schedules established by the Subdivider and approved by the County.
4. As improvements are completed, the Subdivider may apply to the Board

of County Commissioners for a release of part or all of the collateral deposited. If the Board determines that any of the improvements are not constructed in substantial compliance with the specifications, it shall furnish the Subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications, the Board may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements as required by the Final Plat documents.

- a. If the required improvements are not completed within three (3) years of the approval date for the Final Plat, or by the time required in any Subdivision Improvements Agreement or other Final Plat approval document, the Final Plat authorization shall be deemed null and void. The Board of County Commissioners may extend the time frame for completion of improvements upon written request from the Subdivider.
- b. Unless the Final Plat approval contains a phasing plan, lots in the Subdivision may not be sold prior to the completion of improvements.

**P. Hazardous Site Conditions**

The Subdivider shall provide evidence that all areas of the Proposed Subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed use of such areas are compatible with such conditions.

**Q. Mineral Estates**

Prior to any public hearing on any application for Preliminary Plan or Final Plat approval, Subdivider must provide evidence of the notice requirements of C.R.S. § 24-65.5-101, *et. seq.*

In addition to the other criteria contained in these Regulations, failure of the proposed Subdivision to satisfy these criteria shall be an appropriate basis for denial of any application for Subdivision approval.

## **SECTION 4 - SUBDIVISION APPROVAL PROCESS**

### **4.1 Sketch Plan**

The Sketch Plan is the first step in the three step Subdivision Approval Process. It is an advisory proceeding in which the Planning Commission and the Board of County Commissioners provide input and comment to a proposed subdivision. No official action is taken at the Sketch Plan stage. The Subdivider must receive approval of the Sketch Plan, or conditional approval, in

order to proceed to the second step, the Preliminary Plan, the approval of which leads to the submission of the third phase, the Final Plat. The Sketch Plan process allows the Planning Commission and the Board of County Commissioners to review the feasibility of the proposed Subdivision on a conceptual design level with the understanding that additional detailed design materials will be provided during the later approval processes.

The Sketch Plan phase will consist of a pre-application conference; appearance at a regularly scheduled public meeting and hearing; presentation of plan with appropriate documentation to enable the Planning Commission and Board of County Commissioners to review the plan for general scope and compliance with these Regulations. Planning Commission or Board comments during the Sketch Plan process does not guarantee approval at subsequent stages of the subdivision review process. Upon completion of the Sketch Plan process, the applicant will have one-hundred and eighty days (180) days to submit all data for the Preliminary Plan phase, unless an extension is granted in writing by the Planning Commission.

#### **4.2 Sketch Plan Requirements**

The Sketch Plan shall include at a minimum:

1. The name of the Subdivision. No Subdivision in the County shall bear the same name as another Subdivision unless adjoining and using consecutive filing numbers;
2. The name and address of the owner(s) and the Subdivider(s), as well as any planners, consultants or other experts used;
3. Suitability of the land for the proposed Subdivision in terms of slope, flood plain, soil erosion, drainage and vegetation;
4. Evidence of compatibility of the Subdivision with surrounding land uses;
5. The location of the Subdivision and its property boundaries and significant natural and man-made features on the site and within one-half mile of any portion of the site;
6. Existing topographic contours at ten (10) foot intervals drawn from available data, such as United States Geological Survey (USGS) maps;
7. Reports on the potential impacts on streams, lakes, topography, vegetation, and wildlife habitat;
8. Geologic characteristics of the area significantly affecting the land use including radiation hazards;
9. Potential impact on public facilities and services, including schools;
10. Evidence that a water supply will be available that is sufficient in terms of quality, quantity and dependability for the Subdivision, and proposed water system;
11. Proposed sewage system;
12. Proposed land use arrangement: road alignment, lot configuration, easements, etc. showing area and dimensions to the nearest five (5) feet;
13. Evidence of title of ownership of the Subdivided Land;
14. Wildlife impact designation;
15. The acreage of the entire tract and the area, to the nearest half (1/2) acre and percent of total area to be allocated to streets and to each other type of use;

16. Soil types and their boundaries, as shown on soil survey maps prepared by the U.S. Department of Agriculture, Natural Resource Conservation Service, and also a table of interpretations for the soil types shown on the soil map prepared by the Soil Conservation Service. This will include geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed Subdivision;
17. Evidence of the existing Custer Zoning Resolution District(s);
18. Wildfire hazard/mitigation report;
19. Names and addresses of adjoining property owners within two hundred (200) feet of the boundary line of the proposed subdivision.

The dimensions of each Sketch Plan submitted shall be no smaller than twenty-four (24) inches by thirty-six (36) inches. In the case of multiple sheets, a key map showing the relationship of the individual sheets shall be provided.

### **4.3 Preliminary Plan**

The Preliminary Plan is the second step of the three step Subdivision Approval Process. The Subdivider must have received approval or conditional approval of a Sketch Plan in order to proceed with the Preliminary Plan application. The Preliminary Plan process will review the feasibility of the proposed design of the Subdivision pursuant to these Regulations and will generally contain more engineering detail than the Sketch Plan. The Subdivider must receive Preliminary Plan approval before proceeding to the Final Plat process.

The Preliminary Plan phase involves a detailed review of the entire concept of the proposed Subdivision. It requires the preliminary engineer reports including hydrology report, hazard maps, development guide, and evidence that a water supply will be available that is sufficient in terms of quality, quantity and dependability for the Subdivision. The purpose of this phase is to negotiate all the potential problems of the Subdivision. The Planning Commission and Board of County Commissioners may have several meetings or hearings with the developer before approval of the Preliminary Plan is granted. Approval of the Preliminary Plan does not guaranty approval of the Final Plat. Upon approval of the Preliminary Plan, the Subdivider will have one hundred and eighty (180) days to submit all data for the Final Plat approval, unless an extension for submitting such materials is granting in writing by the Planning Commission.

### **4.4 Preliminary Plan Requirements**

The Preliminary Plan shall contain the following:

1. Boundary survey that meets State statutory requirements for a surveyor's plat. The property survey shall consist of:
  - a. Minimum Standard as outlined in the Custer County Plat Standards. (See Appendix A of the Custer County Zoning Resolution, incorporated herein by reference);
2. Evidence of the following:

- a. Legal proof of ownership, based on the boundary survey, for all severable rights such as: land, mineral, water, with a full disclosure of all mortgages, liens and encumbrance against said property;
  - b. Name of the Subdivision;
  - c. Total acres to be subdivided;
  - d. Name and address of land owner, Subdivision designer and consultants;
  - e. Location of the Subdivision;
  - f. Location of section lines, and approximate location and principal dimensions for all existing and proposed streets, alleys, easements, rights-of-way, lot lines, areas to be reserved for public use, recreation areas, open space and other important features within and adjacent to the tract to be developed;
  - g. Lot and street layout including:
    - i. Dimensions of all lots to the nearest foot (which may be scaled values);
    - ii. Lots and blocks numbered consecutively;
    - iii. Location and identification of all existing and proposed public and private easements;
    - iv. Existing and proposed street names;
    - v. Sites to be reserved or dedicated for parks, playgrounds, schools, or other public uses;
    - vi. Sites, if any, for community facilities;
    - vii. Location of open space; and
    - viii. The area, to the nearest half (1/2) acre and percent of the total area of the Subdivision devoted to streets and to each other type of use.
  - h. Topography at vertical intervals of two (2) feet where the average slope of the Subdivision is less than ten (10) percent and at vertical intervals of five (5) feet where the average slope of the Subdivision is ten (10) percent or greater. USGS datum may be used if it meets the interval requirements;
  - i. Location of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features, including direction of flow, water level elevations and typical depths and location and extent of areas subject to inundation, whether such inundation is frequent, periodic or occasional; and
  - j. Calculations of total development area, including the total number of proposed dwelling units; total number of square feet of proposed non-residential floor space; and total number of proposed off-street parking spaces, excluding those associated with single family residential development.
3. Relevant environmental characteristics and analysis applicable to the proposed Subdivision including the following:
- a. Preliminary Flood Hazard Storm Drainage Plan: A map showing the boundaries of a hundred (100)-year flood, delineating the possible depth of flood waters in the proposed Subdivision, and provisions for addressing the hazards of construction of improvements in the flood plain. This

- information must be certified by a Colorado Professional Engineer;
- b. **Geologic Hazard:** A report concerning geologic characteristics, including radiological hazards and a hydrology study, of the area significantly affecting the proposed land use. Any hazardous conditions should be expounded upon and measures, if any, that could be taken to mitigate these conditions explained. This information must be prepared by a professional geologist. (A check or money order, payable to the Colorado Geological Survey, must be submitted in the amount necessary to cover fees charged for review of the Preliminary Plan by the Colorado Geological Survey);
  - c. **Soil Suitability:** Maps and tables concerning suitability of types of soil in the proposed Subdivision in accordance with the National Soil Survey;
  - d. **Identify Important Resource Areas:** Including potential mineral resources, historically significant or archeologically important areas and prime agricultural land;
  - e. **Map of utilities, both existing and proposed, including preliminaries of:** the Sewage Treatment Facility Plan, the Water System Plan, Easements and Rights-of-Way Plan, and the Utilities Plan, as detailed in Section 3.2;
  - f. **A Subdivision development guide that addresses the following:**
    - i. Evidence that a water supply will be available that is sufficient in terms of quality, quantity and dependability for the subdivision. Include evidence of ownership or right of, acquisition of, or use of, existing and proposed water rights, historic use and estimated yield of claimed water rights and the ability to amend existing rights to the proposed uses. This may be part of the Water System Plan required in Section 3.2;
    - ii. Preliminary copy of any proposed covenants and restrictions to the properties, this should include the Landscaping Design guidelines detailed in Section 3.2;
    - iii. Names and addresses of developer, designer of the Subdivision, surveyor (who shall be licensed by the Colorado State Board of Examiners for land surveyors), and consultants used along with their qualifications;
    - iv. Evidence that the development plan will present no obstacle to extraction of mineral resources on or under the subject property if the mineral interests are severed;
    - v. The estimated quantity of domestic solid waste to be generated, the types of waste involved and proposed disposal;
    - vi. Build out and growth projections for 2, 5, 10 and 20 years;
    - vii. Vicinity map drawn to scale showing the relationship of the proposed Subdivision to the nearest towns, and direct routes via County roads to the Subdivision from such towns;
    - viii. Proposed method of meeting financial responsibility in relation to proposed development costs;
    - ix. **Weed Management Plan:** plan must be in accordance with the

Custer County Weed Management Plan and approved by the Weed Board.

4. Any additional evidence required to be in compliance with the Subdivision Development Standards contained in Section 3 above.
5. Any additional documentation as required by the Planning Commission, Board of County Commissioners or the Planning and Zoning Office.

#### **4.5 Final Plat**

The submission of the Final Plat is the last step in the Subdivision Approval Process. The Subdivider must have received Preliminary Plan approval, or conditional approval, in order to proceed with the Final Plat process. The Final Plat process will review all of the required Subdivision Approval documents for compliance with these Regulations.

The Final Plat phase consists of final engineering and completed professional design of the Subdivision. The Final Plat requires road plans, final plat of the Subdivision, cost estimates, final copy of the covenants or deed restrictions and other specified documents. The Planning Commission and Board of County Commissioners may have several meetings with the developer before approval of the Final Plat is granted. In approving a Subdivision, the County Commissioners may impose additional conditions or approve incentives as agreed upon by all parties involved before the Final Plat is approved. The Planning Commission and Board of County Commissioners will hold a hearing within ninety (90) days of the complete application for Final Plat approval, unless a longer time frame is agreed to by the Subdivider in writing.

#### **4.6 Final Plat Requirements**

The Final Plat consists of the following:

1. The approved Preliminary Plan and any required documentation;
2. Final court decree adjudicating water for the Subdivision;
3. Final copy of the Water Supply Plan approved by the Division of Water Resources and State Engineer.
4. Final copy of any proposed covenants and restrictions for the proposed Subdivision;
5. Proof of a bond, if applicable;
6. Centerline profiles for all street and roads;
7. Sanitary and storm sewer profiles;
8. Water distribution system profiles;
9. Construction timeline detailing all major construction and completion dates;
10. Final Plat Requirements:
  - a. Must adhere to Plat Standards as detailed in Appendix A to the Custer County Zoning Resolution;
  - b. Monuments: Affixed securely to the tip of each monument shown on the

final plat shall be the Colorado registration number of the land surveyor responsible for establishment of said monument and the lot designation. Reasonably permanent external boundary survey monuments shall be set at locations approved by the Board of County Commissioners, provided that such monuments shall be set not more than one thousand four hundred (1400) feet apart along any straight boundary line, at all angle points and at the beginning, end and points of change of direction or change of radius of any curved boundary;

- c. Drawing Specifications:
  - i. Drawing must be at a legible scale, both drawing and text, to be depicted on a 24 x 36 sheet;
  - ii. Drawn in permanent black ink or reproduced in a fixed black ink on dimensionally stable Mylar or polyester film of a minimum 4 mil thickness;
  - iii. All signatures and seals must be original and permanent on the Final Plat to be recorded;
  - iv. Must have a minimum margin/ border of ½ inch.
- d. Plat Contents:
  - i. Must meet statute requirements 38-51-106 C.R.S.;
  - ii. All boundaries of the parcel with total and individual lot acreages must be shown;
  - iii. Monumentation, both found and set, by individual note or legend symbol will be shown. The physical description of all monumentation will be indicated as well;
  - iv. All aliquot or other public reference monuments within or controlling the subdivision will be shown, tied by dimension and bearing to the boundary, and physically described. Coordinates for two boundary corners of a Subdivision must be shown on the plat;
  - v. All elements shown will be dimensioned and related to the boundaries. Any elements shown graphically and by scale only will be so labeled;
  - vi. Text will be comprised of the following elements at a minimum:
    - a. Legal description of the subdivision boundary;
    - b. Signature of owner(s) acknowledging execution of the Final Plat.
    - c. Notary statement to owner(s) signature;
    - d. Dedication indicating intentions and specifics of the owner(s) request for acceptance and dedication of public elements of the plat;
    - e. Surveyor's statement and signature/ seal as per statute;
    - f. Statement/ signature of acceptance/ approval by the appropriate government agencies such as but not limited to:  
Board of Zoning Adjustment

Planning Commission  
County Commissioners  
Special District Board(s)

(Wording used in the signature blocks must be approved by the County Attorney);

- g. Filing statement/ signature by the County Clerk & Recorder;
  - h. Legend and notes by the surveyor describing lines, symbols, monumentation and defining other depicted plat elements including: title, graphic bar type scale and north arrow.
  - i. Tract boundary lines, all rights-of-way including easements, property lines of all lots, must have accurate dimensions, bearings or angles, and radii, arcs or chords, and central angles of all curves;
  - j. Name of each street, and width of all rights-of-way;
  - k. Any easement, including those indicating perpetual open space, required by the Planning Commission or Board of County Commissioners or granted to public utility companies shall be included, and the location, dimension, and purpose of such easement shall be given;
  - l. Any accompanying deed restrictions that shall be recorded, and shall be referred to on the Final Plat.
12. Any documentation as required by the Planning Commission, Board of County Commissioners or the Planning and Zoning Office;
13. Permits for construction on individual lots will not be issued for construction until the Subdivider has received Final Plat approval.

#### **4.7 Final Plat Recordation**

- 1. All subdivision plats must be recorded in the County Clerks office. After approval has been given by all parties and appropriate signatures made on the plat, the plat will remain in the possession of the Planning and Zoning Office until the surveyor has completed all monumentation requirements. Then at a time arranged in advance, the surveyor will accompany a Planning and Zoning Office representative to the Office of the Clerk and Recorder and recordation will take place.
- 2. Recording will take place within 90 days of Final Plat approval unless a written request of time extension is approved by the County Commissioners.
- 3. A digital copy of the plat shall be submitted to the Planning and Zoning Office in CAD format specified by the Planning and Zoning Office.

#### **4.8 Procedure for Processing Subdivision Applications**

The general requirements to be followed for each phase of the Subdivision Approval Process are as follows:

- A. The Subdivider shall:
  - 1. Arrange a pre-application conference with the Planning and Zoning Office to which the Chairman of the Planning Commission, or his representative, will be invited to participate; other individuals may be included and a site evaluation may be included;
  - 2. Submit a complete written application, and all additional required documentation, for each phase, to the Planning and Zoning Office as required under these Regulations. The Subdivider shall provide applicable fees, and such evidence as may be necessary to demonstrate compliance with the conditions and requirements set forth for the particular use according to these Regulations, along with sufficient copies of information to be sent to interested parties;
  - 3. Appear in person, or by authorized representative, at a regularly scheduled public meeting of the Planning Commission to present each phase of the plan;
  - 4. Appear in person, or by authorized representative, before the Custer County Regional Planning Commission to present the sketch plan phase and other phases as required by the Planning Commission;
  - 5. Appear in person, or by authorized representative, at the designated site tour, if deemed necessary by the Planning Commission or the Board of County Commissioners;
  - 6. Appear in person, or by authorized representative, at a Public Hearing of the Planning Commission and Board of County Commissioners to present each phase of the plan.
  
- B. The Planning and Zoning Office shall:
  - 1. Meet with the Subdivider for the pre-application conference and the site tour evaluation;
  - 2. Review the application and associated documentation and determine if the application is sufficiently complete;
  - 3. Process the submitted fees;
  - 4. Schedule the application as an agenda item for a regularly scheduled Planning Commission meeting;
  - 5. Prepare and mail a notice of each first preliminary plan and final plat hearing before the Planning Commission and Board of County Commissioners to each landowner identified by the Subdivider at the Sketch Plan phase.
  - 6. Research and verify the Subdivider's request and documentation;

7. Prepare a report for the Planning Commission that includes the background information concerning the application, a list of suggested conditions and areas of concern prior to the Planning Commission meeting at which the application is presented;
8. Schedule a Public Hearing at the request of the Planning Commission and ensure a Public Notice appears in a newspaper of general circulation within Custer County at least thirty (30) days prior to hearing date;
9. Review the above documentation for completeness and prepare the packets for dissemination to the following interested parties:
  - a. Planning Commission members and associates;
  - b. Board of County Commissioners;
  - c. Regional Planning Commission;
  - d. Adjoining property owners and applicable home owners association.
10. Schedule the site tour, if deemed necessary;
11. Send packets, including information from applicant, to the following interested parties, as applicable, for both the Preliminary Plan and Final Plan reviews, in addition to the parties listed above:
  - a. County Engineer
  - b. County Surveyor
  - c. County Cartographer
  - d. Colorado Department of Public Health and Environment  
State Engineer, Colorado Division of Water Resources
  - e. Colorado Land Use Commission
  - f. Mineral rights owners
  - g. Propane/gas companies
  - h. Electrical companies
  - i. Each municipality within a two mile radius of the proposed  
Subdivision
  - j. Area school district
  - k. Area Soil Conservation District
  - l. Colorado Geological Survey
  - m. Appropriate governmental agencies including, but not limited to,  
the following: US Forest Service, State Forest Service, Bureau of  
Land Management, State Highway Department, State Land Board,  
area ditch companies, County Road & Bridge, County Sheriff's  
Office, and County Hospital District
  - n. Fire protection district
  - o. Colorado Division of Wildlife District Manager
  - p. State Historical Society
  - q. County Attorney
  - r. Any other agency deemed necessary by the Planning Commission.

Failure of any of these referral agencies to respond to any request for recommendation within twenty-one (21) days after the mailing by the County or its authorized representative (unless a necessary extension of not more than thirty (30) days has been consented to by the Subdivider and the Board of County Commissioners) shall be deemed an approval of the proposed Subdivision plan as provided in C.R.S. § 30-28-136(2). However, where such plan involves twenty or more dwelling units, a school district shall be required to submit recommendations with respect to adequacy of school sites and the adequacy of school structures within the twenty-one (21) days or any extension thereof.

C. The Custer County Planning Commission shall:

1. Review each phase of the application and accompanying evidence at a public meeting prior to publishing notice of a Public Hearing on the application. Included in the review process shall be:
  - a. The report prepared by the Planning and Zoning Office;
  - b. Information ascertained from the site tour, if necessary;
  - c. Additional expert advice, if deemed necessary;
  - d. Any recommendations or questions by the Regional Planning Commission.
2. On each phase of the Subdivision Approval Process:
  - a. Negotiate and list alterations and conditions pertinent to the application;
  - b. Direct the Planning and Zoning Office to schedule and publish notice of the Public Hearing on the application;
  - c. Hold a Public Hearing to obtain input on the application and accompanying conditions;
  - d. Make a recommendation to the Board of County Commissioners, including pertinent findings supporting the recommended action and/or conditions if approved. The Planning Commission shall only recommend for approval, those plans which it finds to be developed in accordance with the intent, standards and criteria specified in these Regulations and in conformity to the Zoning Resolution.

D. The Board of County Commissioners shall:

1. Review each phase of the application and accompanying evidence before taking action on the application. Such evidence will include all items included in the review and study by the Planning Commission, as well as their recommendations. The County Commissioners may impose additional conditions or changes in any phase of the plan in order to comply with the purposes of this Regulation;
2. Require that the Subdivider comply with the subdivision improvements security requirements of Section 3.2.O before granting final approval of the Subdivision;
3. Act on each phase of the Subdivision Application Process.

#### **4.9 Requests for Modification or Redesign**

The Planning Commission or the Board of County Commissioners may request redesign or all or any portion of any plan for subdivision approval submitted pursuant to these Regulations. Such request shall be based on specific, objective criteria. If the Subdivider redesigns a plat or plan in accordance with any such request, no further redesign shall be required, unless such redesign is agreed to by the Subdivider in writing or unless such redesign is necessary to comply with these Regulations or any other County resolution, ordinance or regulation.

#### **4.10 Subdivision Application Denials**

The denial by the Planning and Zoning Commission or the Board of County Commissioners of any application for subdivision approval submitted pursuant to this Section shall be in writing and shall specify the provisions of these Regulations that the application failed to address or satisfy, unless the Subdivider waives the necessity for such findings in writing. Any technical dispute between a licensed or registered professional consultant of the Subdivider and that of the County may be referred, at the Subdivider's request and expense, to a qualified employee in the appropriate state department for a recommendation to facilitate resolution of the dispute.

#### **4.11 Hearing Timeframes**

Any required public hearing pursuant to these Regulations shall be conducted expeditiously and concluded when all those present and wishing to testify have been offered an opportunity to do so. No public hearing pursuant to these Regulations shall be continued for more than forty (40) days from the date of commencement, without the written consent of the Subdivider. Any continuation of a public hearing shall be to a date certain. The failure of an adjoining or nearby property owner to receive mailed notice of a preliminary plan or final flat hearing shall not affect the jurisdiction of the Planning Commission and/or the Board of County Commissioners in subdivision process or their decisions. Such notices are merely advisory and are not a precondition for a subdivision approval or denial.

#### **4.12 Timeframe for Decision on Applications for Subdivision Approval**

Unless withdrawn by the Subdivider, any phase of any application for subdivision approval submitted pursuant to these Regulations that has been neither approved, conditionally approved, nor denied within a time certain mutually agreed to by the County and the Subdivider at the time of filing such application shall be deemed approved. The Subdivider may waive this requirement in writing. In addition, such period may be extended by the County to receive a recommendation by any referral agency referenced in these Regulations, but such extension shall not exceed thirty (30) days unless the agency has notified the County that it will need additional time to complete its recommendation.

#### **4.13 Modification of a Final Plat Approval**

Any proposed modifications, which do not increase density, to a Final Plat that has received final approval from the Board of County Commissioners must follow Final Plat approval procedures as outlined in Section 4 of these Regulations.

Any modification that would increase density or change an approved use in a Final Plat must follow the approval requirements for Preliminary and Final Plat review as outlined Section 4 of these Regulations.

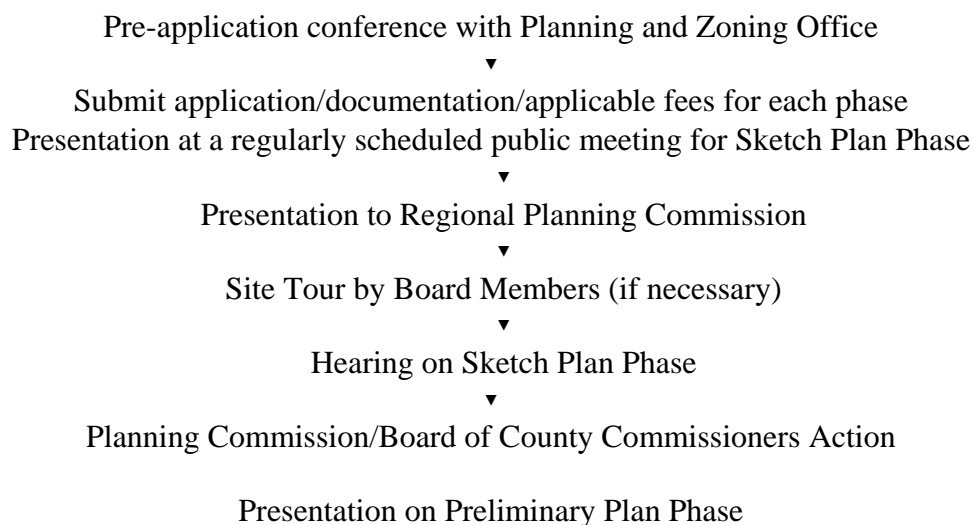
#### **4.14 Combined Submissions**

The Preliminary Plan may be combined with the Sketch Plan submission if the Planning Director determines after a review of the Subdivision Application that such combined submissions is appropriate due to the nature of the proposed Subdivision.

#### **4.15 Plat Monumentation**

1. Must meet statute requirements:
  - C.R.S. § 38-51-104
  - C.R.S. § 38-51-105
  - C.R.S. § 24-4-103
2. Monuments must be upgraded as per statute and monument records prepared and submitted at the state level as per applicable provisions of the Colorado Revised Statutes, and as amended.
3. All vertical control will be physically described, elevation noted and datum referenced.

#### **Subdivision Application Flow Chart**





The above Flow Chart presupposes acceptance or approval of a given phase prior to advancing to the next phase. In the event that acceptance or approval is not received, the process will not continue. Acceptance or approval of the Sketch Plan or Preliminary Plan does not guarantee approval of the Final Plat. Workshops may be required, at any phase, to allow the Planning Commission, Board of County Commissioners and the Subdivider to reach agreement on specific actions or requirements.

## **SECTION 5 - ADMINISTRATIVE PROCESS**

### **5.1 Eligibility for Administrative Review**

The following actions, as defined in Section 2 herein, may be processed using an Administrative Review Application:

1. Lot Line and/or Boundary Adjustments;
2. Minor Plat Amendments; and
3. Vacation of Interior Lot Lines.

In order to qualify for the Administrative Process the Administrative Review Application must meet the following conditions:

1. the proposal does not increase net density of the Subdivided Land;
2. the proposal does not substantially impact neighboring properties or other property rights, including easements; and
3. the proposal is not contested by any person directly impacted by the proposal.

## **5.2 Procedure**

Upon receipt of an Administrative Review Application and the required documentation, the Planning Director or his staff shall review the Application to determine whether it qualifies for Administrative Review. Once eligibility has been determined, the request shall be processed.

The Planning and Zoning Office shall consider the following criteria in reviewing the application:

1. The degree to which the application decreases net density, and whether such alteration renders the property in non-compliance with the Zoning Resolution and the Master Plan;
2. The impact from the change in traffic expected as a result of the Application;
3. The impact on adjacent property owners, neighbors and interested parties, as well as the County;
4. The Applicant's purpose in submitting the application;
5. The impact on easements and any other property interest; and
6. Extenuating circumstances affecting the property(ies) subject to the Application.

## **5.3 Additional Provisions**

Where lots are increased in size as a result of any action requested in an Administrative Review Application, well and dwelling permits will be restricted to one (1) per lot and shall not exceed the original number of permits allowed under the original Subdivision approval.

Any Administrative Review Application, other than that seeking a Vacation of Interior Lot Lines, must contain approval signature of all affected parties and proof of ownership of the properties affected by the Application.

## **5.4 Final Documentation**

After any final approval has been granted through the Administrative Review Process, documentation shall be recorded with the County Clerk and Recorder. In all instances a letter describing the action shall be recorded by the Planning and Zoning Office. The applicant shall record the any approved plat with all appropriate signatures except in the case of a Vacation of Interior Lot Lines approval, in which case a deed with the new legal description for the lot shall be recorded.

# **SECTION 6 - VACATION OF A PLAT OF RECORD**

## **6.1 Vacation Standards**

A land owner may submit an application to vacate any previously approved subdivision plat or

portion of a plat of record under the following conditions:

1. The plat to be vacated is a legal plat of record;
2. Affected property is all in the same ownership;
3. Vacation of the plat will not interfere with development of, nor deny access via public thoroughfare to, adjoining properties, utility services or other improvements; and
4. Vacation of the plat will not be contrary to the Custer County Zoning Resolution or Master Plan.
5. All parties affected by the original plat, (i.e. utilities, roads), shall be signatories on any documentation vacating the original plat.
6. No development of subdivisions infrastructure, roads and utilities has occurred.

## **6.2 General Procedures**

The land owner shall present his application to vacate the plat and a copy of the plat containing the legal description of the Subdivision created thereby to the Planning and Zoning Office. The staff shall study the proposal and shall submit recommendations to the Planning Commission and Board of County Commissioners for a decision at a properly noticed Public Meeting. The Board of County Commissioners has final authority to approve or deny the proposal. If the Board of County Commissioners votes to approval the application to vacate the plat, the Board will pass a Resolution authorizing the same. If the proposal is approved by Resolution, it shall then be recorded in the office of the County Clerk. All fees for the recording of such vacation shall be paid by the land owner/applicant proposing the plat vacation.

## **SECTION 7 - FEES**

1. Fees for the Subdivision process or modification shall be established by the Board of County Commissioners and published in the Planning and Zoning Fee Schedule.
2. The Subdivider shall pay all legal and professional fees incurred by the County in connection with reviewing the any applications submitted pursuant to these Regulations. Pre-payment of sufficient funds to cover required review by experts may be required upon submission of any request for approval submitted under these Regulations. Subdivider will be required to pay additional postage, if postage for all applicable hearings exceeds twenty percent (20%) of each phase's application fee.
3. Before any Final Plat approval shall be issued for a Subdivision, the County Commissioners shall require that the Subdivider furnish collateral as detailed in Section 3.2.\_\_\_\_. Any such collateral shall be payable to: Custer County, and held

in escrow by the Board of County Commissioners.