

CUSTER COUNTY SUBDIVISION REGULATIONS



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SECTION 1

GENERAL PROVISIONS

1.1 Title and Authorization

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

1.2 Purpose

In order to assist in efficient and integrated development of the County, these Regulations, unless otherwise exempted, shall apply to all "Subdivision" or "Subdivided Land" as defined in Section 2. All requests shall be processed and reviewed for 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. It is the intent of the BOCC that any subdivision request be considered and processed similar to Planned Unit Development (P.U.D.) as contained in the Custer County Zoning Resolution.

1.3 Rules of Language 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 a "firm", "associations", "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 provision of these Regulations shall be liberally construed for the promotion of 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 submitted after this enactment. Any applications in progress or pending will be processed under regulations in place at the date of submittal.

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 these 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. Covenants and deed restrictions are required to be included in the Final Plan. It is not the County's responsibility to enforce covenants. Covenants and deed restrictions are enforced by the land owners involved, usually a home owner's association, through civil court action.

1.8 Enforcement

All requirements of these Regulations shall be met before any permit or county land use approval shall be issued. Any person or entity who transfers, leases, sells or agrees to sell or offers to sell any parcel or lot subject to these Regulations who has not received final approval and recorded the appropriate documentation shall be guilty of a misdemeanor and shall be subject to a fine for each parcel or interest which is sold, offered for sale, transferred, or leased (C.R.S. § 39-28-124, 30-28-124.5 and 30-128-110, as amended) .The County may enjoin such transfer, lease, sale or agreement, by action for injunction brought by civil action in any court of competent jurisdiction and withhold a zoning permit.

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 Review Process: A process by which eligible lands may not require review by the PC and BOCC. See Section 5.

Aliquot Description: A land description utilizing the parcel descriptions of a congressional grid-defined section of land. For example, the SE4SE4 (South East Quarter of the South East Quarter) of Sec 3. is an aliquot description. Aliquot descriptions are sometimes loosely called quarter-quarter calls because many land descriptions refer to 40 acre tracts.

BOCC: The Board of County Commissioners of Custer County, Colorado.

Colorado Revised Statutes (C.R.S.): The C.R.S. is amended from time to time and it is the responsibility of the user of this document to ensure that they are using the most current version.

Common Elements: Land amenities, buildings or portions thereof, central services and utilities, and any other interest owned and used by all property owners and designated on the subdivision plat as common elements.

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.

Dedication: The intentional appropriation or conveyance of land or an interest in land by the owner to public or private facilities, uses, areas and/or services made necessary by the effects of the subdivision and its inhabitants.

Engineer: A person licensed as a Professional Engineer by the State of Colorado.

Exactions: A contribution or payment-in-lieu required as a condition for receiving development approval and permits.

Final Plan: The approved plat and supporting materials, including the final engineering plans, any development agreements, letters of credit, conservation easements, covenants, and all other documents, reports, or studies necessary for final Subdivision approval and recording with the County Clerk and Recorder.

Fire Flow: Water flow out of hydrants as specified by the appropriate fire authority.

Geographic Information System (GIS): A computerized information system that integrates, stores, edits, analyzes, shares, and displays geographic information.

Guaranty of Improvements Agreement: A written security agreement the Subdivider must sign with the BOCC that provides the Subdivider will guarantee all construction within the Subdivision of those public improvements, dedications and exactions required by these regulations will be accomplished in a timely, efficient manner with good workmanship. The agreement will include sufficient collateral to make provision for the completion of such improvements in accordance with cost, time line and design specifications of the approved Subdivision. The collateral shall include any one or a combination of the types as outlined in (See Section 3.2.O).

Interior Lot Line: Plotted lot line between two adjoining lots within the subdivision.

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, nor can it result in a non-conforming lot unless it was non-conforming prior to the adjustment.

Light Pollution: Degradation of the night sky by artificial light rays above the projected horizontal plane of a light fixture.

Master Plan: An advisory document to guide land development decisions (C.R.S. § 30-28-106). Although the plan is advisory, it serves as the basis for land use regulatory measures, primarily the Custer County Zoning Resolution, the Custer County Subdivision Regulations, and other land use regulations. The Master Plan is adopted by the Custer County PC and will be amended from time to time.

Minor Plat Amendments: Minor errors or necessary minor revisions on a recorded plat, which do not affect the character or density 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
- Any minor additions to, or deletions from, the legal description or dedicatory language that are not typographical in nature
- Incorrect certificates or signatures
- Other minor items or circumstances to be determined by the Planning and Zoning Office Staff

Open Space: Area of land or water which is essentially unimproved and devoted to preservation or management of natural resources and/or for use as active or passive outdoor recreation areas. The term shall not include space devoted to streets, or parking and loading areas.

Outlot: Any parcel not designated as a lot, public street, or public dedication.

Parcel: Fee simple property, defined as: lot, block, aliquot description, government lot, tract or described by metes and bounds.

Parcel Consolidation: The removal of a boundary line between two or more parcels to create a single parcel.

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 and parcels. (Refer to C.R.S. § 38-51-104 for applicable locations and physical standards.)

PC: The Planning Commission of Custer County Colorado; Members are appointed by the BOCC.

Plat: A document prepared by a Colorado Registered Professional Land Surveyor in accordance with these Subdivision Regulations and/or the County Zoning Resolution as an instrument that delineates property lines and shows monuments and landmark locations for the purpose of identifying and recording real property interests with the County Clerk and Recorder. See Appendix B for Plat Standards.

Preliminary Plan: The maps/diagrams and drawings of a proposed Subdivision, and specified supporting documentation, drawn and submitted in accordance with these Regulations to enable evaluation of the proposal.

Public Hearing: A scheduled meeting to solicit input and comments from the public on a specific proposal prior to consideration for a decision by the BOCC. A public hearing may be held as part of a public meeting.

Public Meeting: A scheduled meeting of an elected or appointed board at which the business of the board is discussed and decisions are made. The public may participate as deemed appropriate by the board.

Security: A performance bond or other form of guaranty.

Sketch Plan: A map of a proposed Subdivision and the supporting documentation drawn and submitted in accordance with these Regulations, at the initial stage of planning, to evaluate the feasibility and design characteristics of a proposed Subdivision.

Subdivider: 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 or 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 as provided in C.R.S. § 30-28-101(10).

Unless the method of disposition is adopted for the purpose of evading these Regulations, the terms "Subdivision" or "Subdivided land", shall not apply to any right or interest in land:

1. Which is created by order of any court in this State or by operation of law;
2. Which is created by a lien, mortgage, deed of trust or any other security instrument;
3. 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;
4. Which creates cemetery lots;
5. 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;
6. 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;
7. 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; and
8. 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.
9. The BOCC may, on recommendation of the PC along with sufficient findings in accordance with these Regulations, exempt from this definition

any division of land, if the BOCC determines that such division is not within the purposes of these Regulations, as provided in C.R.S. § 30-28-101(10)(d).

Subdivision Roads: Roads may be either public or private and maintained subject to the specific dedication. There is no obligation for Custer County to own or maintain the roads.

Undersized Lot: An approved parcel of land created after the Zoning Regulation went into effect (April 6, 1971) that does not meet the minimum lot area per unit as prescribed for that district.

Workshop: A meeting or series of meetings designed to address issues between an applicant and the board hearing the request. Workshops are open to the public.

SECTION 3

SUBDIVISION DEVELOPMENT STANDARDS

The following is an outline of the requirements which will be more detailed in Section 3.2. Every applicant shall address the following requirements at the Sketch, Preliminary, and Final Plan Process. Failure to address these requirements shall be an appropriate basis for denial of any application for Subdivision approval.

3.1 General Requirements

Every applicant shall address the following requirements at the Sketch, Preliminary, and Final Plan:

- A. Compatible with the goals of the Master Plan.
- B. Design system to address drainage and to mitigate any runoff created by the development;
- C. Avoid development in hazardous, geologically sensitive or riparian areas;
- D. Conform with Custer County Zoning Resolution;
- E. Minimize adverse effects on community capital improvements programs, community facilities and services;
- F. Mitigate adverse impacts on wildlife;
- G. Mitigate air, water, noise and light pollution;
- H. Minimize potential fire hazards;
- I. Mitigate traffic congestion or traffic hazards;
- J. Develop land in a manner appropriate for the site with an emphasis on correcting unsuitable land conditions prior to development;
- K. Provide utilities including, but not limited to, water, sewer, power, and telecommunications services that are adequate to serve the Subdivision and give assurance that the methods of financing, constructing and maintaining these utilities and public services are sufficient.
- L. No interest in land located within a subdivision shall be transferred or sold before approval of the Final Plan by the BOCC and recorded and filed in the Office of the County Clerk and Recorder.

- M. No building or other structure shall be erected nor shall a zoning permit be issued within a subdivision before approval of the Final Plan by the BOCC and recorded and filed in the Office of the County Clerk and Recorder.

ALERT

Subdividers are forewarned that water is a primary concern for Subdivisions in Custer County and in the State of Colorado. Subdividers must be aware that before approval of the Subdivision request is considered, the following conditions must be met.

- Proof of ownership of a water source, adjudicated by final decree.
- An engineer designed water source, distribution and treatment system will be required.
- Test wells may be required for all ground water sources.
- Provide written estimates of total usage in number of gallons per day based on full time occupancy and 100% build out including fire hydrants with sufficient fire flow, if applicable.
- All water systems must be metered and must meet the Colorado Department of Public Health and Environment and the Colorado Division of Water Resources standards and requirements.

3.2 Specific Subdivision Plan Design Criteria

The following design criteria shall govern the PC and the BOCC's consideration of any request for approval of a Subdivision. The following design criteria shall be addressed at specific stages in the subdivision approval process:

A. Water Systems

1. The Subdivider must submit engineer designed water source, distribution, and treatment systems which provide for a physically available and legally adequate water supply adjudicated by final water decree and meet all of the requirements contained in this Subparagraph A.
2. Subdivider must provide evidence from a current hydrology report by a professional hydrologist that a potable water supply will be available to serve the Subdivision that is sufficient in terms of quality, quantity and dependability based on 100% build out and full time occupancy. Such written evidence shall include, but shall not be limited to:
 - a. ownership of water rights;
 - b. historic use and estimated yield of claimed water rights;
 - c. public or private water owners can and will supply water to the Subdivision in the event that the decreed water is out of priority;

- d. potability for the proposed water supply for the Subdivision can be determined from test wells or other means as provided by the hydrology report.
 - e. Identify any event or circumstance, likely or reasonably possible, that may significantly affect the long-term adequacy of the water supply.
3. If a water distribution system is proposed, hydrants with sufficient fire flow are required for the proposed build-out.
4. All water systems, whether individual or central, are to be metered at the source. Data from the meter shall be provided to the County at the same time it is provided to the State.
5. Parcels whose sole water supply is a cistern must have a contract to supply water for a minimum of twenty five (25) years.
6. 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.

B. Sewage Treatment

1. The Subdivider must submit a collection and wastewater treatment system designed by an engineer. The sewage disposal plan shall include an estimated calculation of the total number of gallons of sewage to be treated per day, detailed plans on whether the treatment will be performed by a central wastewater treatment facility or by some other system, and meet all requirements contained in this Subparagraph B.
2. The Subdivider shall submit evidence that the sewage treatment will comply with the terms of the water augmentation decree.
3. The Subdivider shall also provide evidence that these facilities shall meet or exceed the standards set by the CDPHE. All systems must comply with federal, state and local laws and regulations in effect at the time of submission of the Final Plan.

C. Storm Drainage

1. The Subdivider shall submit an engineer designed storm drainage system designed for the 100 year storm which meets all the requirements of this Subparagraph C and all applicable federal, state, county and local regulations.
2. The storm drainage system shall include maps and plans that provide easements for storm water drainage.
3. All existing or planned drainage features which are incorporated in the design must be identified on the plat(s) by easements or dedications necessary for their installation and/or maintenance.

D. Open Space

1. Open Space within the Subdivision, including any area being used as a public or private recreation site, shall be protected by covenants running with the land, conservation easements, and/or deed/plat restrictions.
2. The Subdivider must submit a long term open space management plan which addresses ownership, maintenance, succession and wildfire mitigation. This plan will undergo appropriate legal review.

E. Roads

1. The Subdivider shall submit a road plan that defines and specifies the dimensions of the dedicated rights-of-way, ownership status and a maintenance plan for all roads created by the Final Plat. Ownership and maintenance statements shall be included on the Final Plat.
2. The Subdivider shall provide engineered construction, traffic and access plans. Multiple ingress and egress routes must also be addressed in the road plan. These plans must meet the County Road Specifications and receive the approval of the BOCC, the Custer County Road and Bridge Department and the appropriate emergency services authority.
3. Authorized access to Subdivision lots and sites is required by either public or private roads.
4. Where roads are to be constructed through timber, all road sight lines must be kept clear and the timber removed from the rights-of-way by the Subdivider to achieve traffic safety goals of the County.
5. The Subdivider and/or Home Owners Association (HOA) or Property Owners Association (POA) shall provide and maintain reflective street signs and traffic control devices installed in the Subdivision, and obtain addresses from the appropriate County authority. Street sign design and street names must meet the approval of BOCC, appropriate emergency services authority and the Road and Bridge Department. Street names shall not be duplicated within the County.
6. The Subdivision road plan shall conform to the state highway access code as required by C.R.S. § 43-2-147 and/or the Custer County Road Specifications.

F. Easements and Rights-of-Way

1. The Subdivider shall dedicate public and/or private rights-of-way on the Final Plat.
2. Utility easements shall meet the requirements of all appropriate utilities.
3. A storm water easement, drainage right-of-way if required, and/or irrigation ditch/drainage if located on the plat shall be provided in the final plat.

G. Subdivision Fire Protection Plan

1. The Subdivider shall meet with the Fire Chief and/or Fire Inspector that serve the area and develop a Fire Protection Plan which meets all the requirements of this Subparagraph G.
2. Fire hydrants and/or a water storage supply are required. If a central water system is used, it will include fire hydrants. Hydrants and/or water storage tanks shall be installed and located according to the engineer's design and the recommendations of the recognized local fire authority.
3. The Subdivision Fire Protection Plan shall address issues of fire hazard mitigation and wildland/urban interface.
4. The Subdivision Fire Protection Plan shall include a map which shows 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 approved by the Fire Chief and/or Fire Inspector.
5. Slash from road construction shall be addressed in the Subdivision Fire Protection Plan.
6. The Subdivision Fire Protection Plan shall be in compliance with the county-wide fire plan as applicable.

H. Utilities

1. The Subdivider shall 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, and water and sanitation district.
2. The utility plan will provide that utility lines are placed underground,
3. The utility plan must indicate provisions have been made to ensure reliable and adequate utility services for the Subdivision. Submission of a Letter-of-Agreement between the Subdivider and each utility serving the site shall be deemed sufficient to establish adequate provisions of service to each property within the subdivision.
4. The County Road and Bridge Department retains the authority to inspect underground utility work performed in the Subdivision roadways and easements, and to collect applicable fees.

I. Dedications and Exactions

1. The purpose of land dedication, and/or payment-in-lieu thereof, is to provide public facilities, areas and/or services made necessary by the effects of the Subdivision and its inhabitants. The factors considered come from both the demands of the Subdivision and the burdens it places upon the County. The dedication and/or payment-in-lieu shall be proportional to the cost the Subdivision would impose on the County in or outside the

Subdivision, and the increased need of services deemed necessary by the approval of the Subdivision.

2. The Subdivider shall provide a comprehensive study to demonstrate the actual impacts of the Subdivision upon public services and facilities. The study shall include an evaluation of the County's demand and capacity for all public services required by the Subdivision and its inhabitants. An initial meeting between the PC and the Subdivider and his consultant(s) shall establish the expected areas of impact. Subsequent meetings may involve other individuals and/or organizations. Impact areas will involve both direct and indirect costs to the County. The identified impacts will dictate the appropriate dedications. The study shall also identify the public land and improvements required to be dedicated or constructed by the Subdivider in order to serve the demand generated by the proposal. Any cost to the County for review or consultation concerning the study will be paid by the Subdivider.
3. The BOCC, after the study has been reviewed by the PC and upon consideration of their recommendations, will require the dedication of sites and land, which are deemed necessary. The BOCC may allow payment of a sum of money in-lieu of dedication of sites and land, not exceeding the fair market value of such sites, or may allow a combination of such payment and land dedication. The potential recipients of such sites or payments shall provide input to the BOCC as part of the decision-making process within 30 days.
4. The County will require the dedications to be of suitable use, size, type and location for public use as schools, parks, open space, and necessary public facilities. 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 BOCC, shall be required to make payment-in-lieu to the County for some or all of the required land dedication. Such payment shall be based on the anticipated fair 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 the purpose of calculating a payment-in-lieu, the County will require that the Subdivider obtain an appraisal(s).
5. All land to be dedicated shall be designated on the final approved plat as outlots, and these outlots shall not be residential lots. Such outlots shall be deeded to the County or other public entities as agreed, at the time of approval of the Final Plat and by dedication on the Final Plat. A policy of title insurance and a certificate of representations and warranties concerning title and use of the entire property shall be required for all lands prior to approval of the Final Plat.
6. 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.

7. 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 shall contain a plat note irrevocably stating that the Subdivider conveys and dedicates 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 BOCC. The Final Plat should contain a separate statement certifying the BOCC's acceptance of dedicated property. Acceptance of public rights-of-way or public improvements does not imply acceptance for maintenance.
8. 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 purchase the dedicated land as provided in C.R.S. § 30-28-133(4)(a)(II).
9. Additional exactions may be required by the PC and the BOCC that may include, but are not limited to: sidewalks and/or pedestrian and bicycle trails, street lighting, and landscaping.

J. Wildlife Impacts

1. The Planning and Zoning Office will forward a copy of the Subdivision proposal to the Colorado Division of Wildlife (CDOW) for their review and recommendations.
2. The Wildlife Review Proceedings found in Appendix C will be triggered if;
 - a. The Subdivider and the CDOW cannot come to a resolution on the mitigation standards.
 - b. The CDOW determines that a more formal review is necessary.
 - c. The PC deems that a formal review is necessary.
3. The following minimum guidelines common to all properties should be incorporated on development plats and recorded protective covenants by the Subdivider:
 - a. Large solid waste receptacles (dumpsters)
 1. Large solid waste receptacles sites should be located as far from houses as is practical and should serve as many home sites as is reasonable.
 2. These sites should be located with the assistance of the Division of Wildlife Manager prior to preparation of plats.
 - b. All edibles, including pet food and bird feeders, should not be left outside at night.
 - c. Dogs should be physically restrained or under the direct control of a person.
4. Fences will be in compliance with the current CDOW guidelines.

K. Home Owners Associations and Covenants

1. Home Owners Association (HOA) or Property Owners Association (POA) Responsibilities
 - a. The Subdivider shall institute a HOA or POA, or other comparable association, which among other duties, is responsible for maintaining and managing: water augmentation plans, open space, common elements, roads, signs and traffic control devices. This organization shall be responsible for enforcing and modifying covenants.
 - b. Until the HOA or POA is functioning, the Subdivider is responsible for maintaining and managing: water augmentation plans, open space, common elements, roads, signs, and traffic control devices.
2. The Subdivider shall submit the proposed covenants, easements and/or deed restrictions for review. These shall include the ownership and maintenance of all open space, common elements and roads. There may be additional cost to the Subdivider for review by the county attorney.
3. Covenants must comply with state statutes and cannot be less restrictive than current County Regulations.
4. The County will require prior notification of changes to the association and/or the covenants which affect land use.

L. Landscaping

1. The Subdivider shall incorporate appropriate landscaping guidelines into the subdivision covenants. These guidelines should reflect water conservation practices and will be dependent on availability of water.
2. Trees, shrubs and all other landscape objects shall be placed within property lines and only in areas not encumbered by a line of site for traffic purposes.
3. Noxious weed abatement requirements in the state statutes and county weed policy, as administrated by the County Extension Agent and County Weed Control Board, shall be observed.

M. Signage

1. All Subdivision road entrances must have identifying signs, which shall display the Subdivision name and a map showing lot configuration, lot numbers, and addresses as assigned. The Subdivider will have the sign in place within fifteen (15) days of approval of the final plat. The Subdivider or HOA/POA or designated organization shall be responsible for maintaining this sign.
2. The signs shall meet the Custer County Zoning Resolution sign requirements and not block traffic sight lines.
3. Individual property signs must conform to County specifications.

4. Individual address signs must be highly visible day and night, 6x18 inches and green with white reflective letters on both sides.

N. Refuse/Trash Disposal

1. The Subdivider must submit a refuse/trash disposal plan.

O. Guaranty of Improvements

1. The Subdivider shall submit a financing plan that includes, but is not limited, to a summary of estimated construction costs and proposed method of financing the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required by the County.
2. The Final Plat(s) shall constitute only a portion of the approved Final Plan. No Final Plat shall be recorded until it has been reviewed by the County Attorney and approved by the BOCC, who have agreed upon the following:
 - a. All improvements are completed consistent with the approved plan and have passed inspection by the appropriate authority;
 - b. A form of collateral including:
 1. Performance or property bonds;
 2. Private or public escrow agreements;
 3. Loan commitments;
 4. Assignments of receivables;
 5. Liens on property;
 6. Letters of credit;
 7. Deposits of certified funds or other similar surety agreements.
 - c. Any other negotiated agreement or contract setting forth the plan, method and parties responsible for the construction of any required public improvements shown on the Final Plat sufficient to make reasonable provision for the completion of said improvements.
3. Any improvements constructed pursuant to these Regulations shall be accomplished in accordance with the design and time specifications and construction schedules established by the Subdivider and approved by the County.
4. As improvements are completed, the Subdivider may request release of up to 90% of the collateral deposited for that portion of the improvements completed. If the BOCC determines that any of the improvements are not constructed in substantial compliance with the design specifications, it shall furnish the Subdivider a list of specific deficiencies and shall withhold collateral sufficient to ensure compliance. If the BOCC determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications and/or construction timeline, the BOCC will

withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements.

5. Lots in the Subdivision shall not be contracted for or sold prior to the completion of improvements with as-built-drawings and Final Plat(s) approval and recordation.

P. Hazardous Site Conditions

The Subdivider must provide evidence that all hazards or special concerns stemming from soil, topographic, or geologic conditions have been identified and adequately addressed.

Q. Mineral Estates

Owners of record and Lessees of Mineral Estates will be informed of any planned use change prior to public hearing on any application for Preliminary Plan or Final Plat approval. The Subdivider must certify compliance with notice requirements to mineral rights owners pursuant to C.R.S. § 30-38-133 (10)o, *et. seq.*, and as amended.

R. Other Requirements

All applicable federal, state, and local regulations shall be followed.

Failure of the Subdivision proposal to satisfy the above Subdivision plan design criteria shall be an appropriate basis for denial of any application for Subdivision approval.

3.3 Procedure for Processing Subdivision Applications

The general requirements to be followed for each phase of the Subdivision Approval Processes are listed below (also see Appendix A – Subdivision Application Process). The consequences of non-compliance with these procedures shall be postponement on the agenda until the next regularly scheduled meeting.

A. The Subdivider shall:

1. Schedule and attend a non-binding pre-application conference with the Planning and Zoning Office, to which the Chairman of the PC, or his representative, will be invited. Other individuals may attend the conference, and an on-site evaluation may be included;
2. Submit a complete written application and all additional required documentation, for each Subdivision phase, to the Planning and Zoning Office. The Subdivider shall provide applicable fees, and such documentation as may be necessary to demonstrate compliance with the conditions and requirements set forth for the particular use;
3. Appear in person, or by authorized representative, at a regularly scheduled public meeting/hearing of the PC to present each phase of the plan and appear at any associated workshops deemed necessary;
4. Appear in person, or by authorized representative, before the Custer County Regional PC (if seated).
5. Appear in person, or by authorized representative, at the designated site tour, if deemed necessary by the PC or the BOCC;
6. Appear in person, or by authorized representative, at a Public Hearing of the PC and BOCC to present each phase of the plan.
7. Maintain a complete packet of documentation that includes an Index of Recordings to be submitted to the Planning and Zoning Office prior to Final Plat recording.

B. The Planning and Zoning Office shall:

1. Invite the PC chair or representative to the pre-application conference. Meet with the Subdivider and the PC representative for the pre-application conference, which may include an on-site tour. The Zoning Office will provide the applicant with a current checklist and timetable for each step of the submittals to aid in an orderly and transparent process. This should include all meeting dates and deadlines;
2. Review the application and associated documentation to determine if the application is complete;
3. Process the submitted fees;
4. Schedule the application as an agenda item for a regularly scheduled PC meeting;
5. Research and verify the Subdivider's request and documentation;
6. Prepare and mail a public notice of each sketch, preliminary, and final plan meeting/hearing to each landowner identified by the Subdivider at the Sketch Plan phase;

7. Prepare a report for the PC that includes the background information concerning the application, a list of suggested conditions and areas of concern prior to the PC meeting at which the application is presented;
8. Schedule a Public Hearing 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 documentation for completeness and prepare packets for all three phases for dissemination to the following:
 - a. PC members and associates;
 - b. BOCC;
 - c. Adjoining property owners and applicable home owners association.
10. Schedule workshop(s) and site tour(s), 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 GIS Department
 - d. County Assessor
 - e. County Attorney (Bond issues and Guaranty of Improvements)
 - f. Colorado Department of Public Health and Environment, State Engineer, Colorado Division of Water Resources
 - g. Colorado Department of Local Affairs
 - h. Mineral rights owners
 - i. Appropriate utilities (public and private)
 - j. Each municipality within a three (3) mile radius of the proposed Subdivision
 - k. Area school district
 - l. Special districts
 - m. NRCS.
 - n. Colorado Geological Survey
 - o. Appropriate agencies including, but not limited to, the following: US Forest Service (USFS) State Forest Service (CFS) Bureau of Land Management (BLM) Colorado Department of Transportation (CDOT) Frontier Pathways and Scenic Byways, State Land Board, area ditch companies, County Road & Bridge, County Sheriff's Office, and County Health Department
 - p. Colorado Division of Wildlife
 - q. State and local Historical Societies
 - r. Owners of water rights when a water course, irrigation ditch, a storm easement or drainage right-of-way, channel or stream traverses a Subdivision.
 - s. Any other agency, entity or individual deemed necessary by the PC.

Failure of any of these referral agencies to respond to any request for recommendations 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 BOCC, shall be deemed an approval of the proposed Subdivision plan as provided in C.R.S. § 30-28-136(2).

Where such plan involves twenty (20) or more dwelling units, it will be necessary for the impacted school district(s) to submit recommendations with respect to adequacy of school sites and the adequacy of school structures.

12. Send a letter of notification to the applicant detailing the actions, recommendations, and conditions evolving from each phase.

C. The Custer County PC shall:

1. Review each phase of the application and accompanying documentation 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 (see sec 7.1.B), if deemed necessary;
2. On each phase of the Subdivision Approval Process:
 - a. Negotiate and list recommendations and conditions pertinent to the application;
 - b. Direct the Planning and Zoning Office to schedule and publish notice of the public meeting/hearing on the application, to include posting on County web calendar;
 - c. Conduct workshops, as necessary, from which all input and results will be presented at the next public hearing. Obtain public input on the application and accompanying conditions;
 - d. Hold public hearing;
 - e. After closing the public hearing, make a recommendation to the BOCC, including pertinent findings supporting the recommended action and conditions. The PC 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. County Attorney shall:

1. Review and provide comments and recommendations based on each phase and accompanying documentation of the application, as well as the PC recommendations. Also, review any additional conditions or changes in any phase of the plan for compliance with these Regulations;

2. Review the agreement of the Subdivider in complying with the Guarantee of Improvements requirements of Section 3.2.O and make any recommendations to the BOCC;
3. Provide legal advice to the BOCC and staff of Custer County, as necessary or when called upon.

E. The BOCC shall:

1. Review each phase of the application and accompanying documentation before taking action on the application. Such documentation will include all items included in the review and study by the PC, as well as their recommendations. The BOCC may impose additional conditions or changes in any phase of the plan in order to comply with the purposes of these Regulations;
2. Enter into a written agreement with the Subdivider requiring that the Subdivider comply with the Guaranty of Improvements of Section 3.2.O before granting final approval of the Subdivision;
3. May grant waivers of procedural requirements;
4. Act on each phase of the Subdivision Application Process.

F. The Public may:

1. When recognized, provide input in a courteous and orderly manner during the public hearing;
2. Address the PC and BOCC from the podium after stating their name for the record.

3.4 Requests for Modification or Redesign

The PC and/or the BOCC may request redesign on all or any portion of any plan for subdivision approval submitted pursuant to these Regulations. Such request shall be based on specific 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.

3.5 Subdivision Application Denials

The denial by the BOCC of any application for subdivision approval submitted pursuant to these Regulations 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 Sub divider's request and expense, to the appropriate state agency for a recommendation to facilitate resolution of the dispute.

3.6 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 meeting/hearing shall be to a certain date. The failure of an adjoining property owner to receive a certified mailed notice of a Preliminary Plan or Final Plan meeting/hearing shall not affect the jurisdiction of the PC and/or the BOCC in the subdivision process or their decisions. Such notices are merely advisory and are not a precondition for a subdivision approval or denial.

3.7 Waiver

At any time from pre-application conference to the end of the sketch plan phase, the applicant may request of the BOCC a waiver to eliminate the preliminary plan phase.

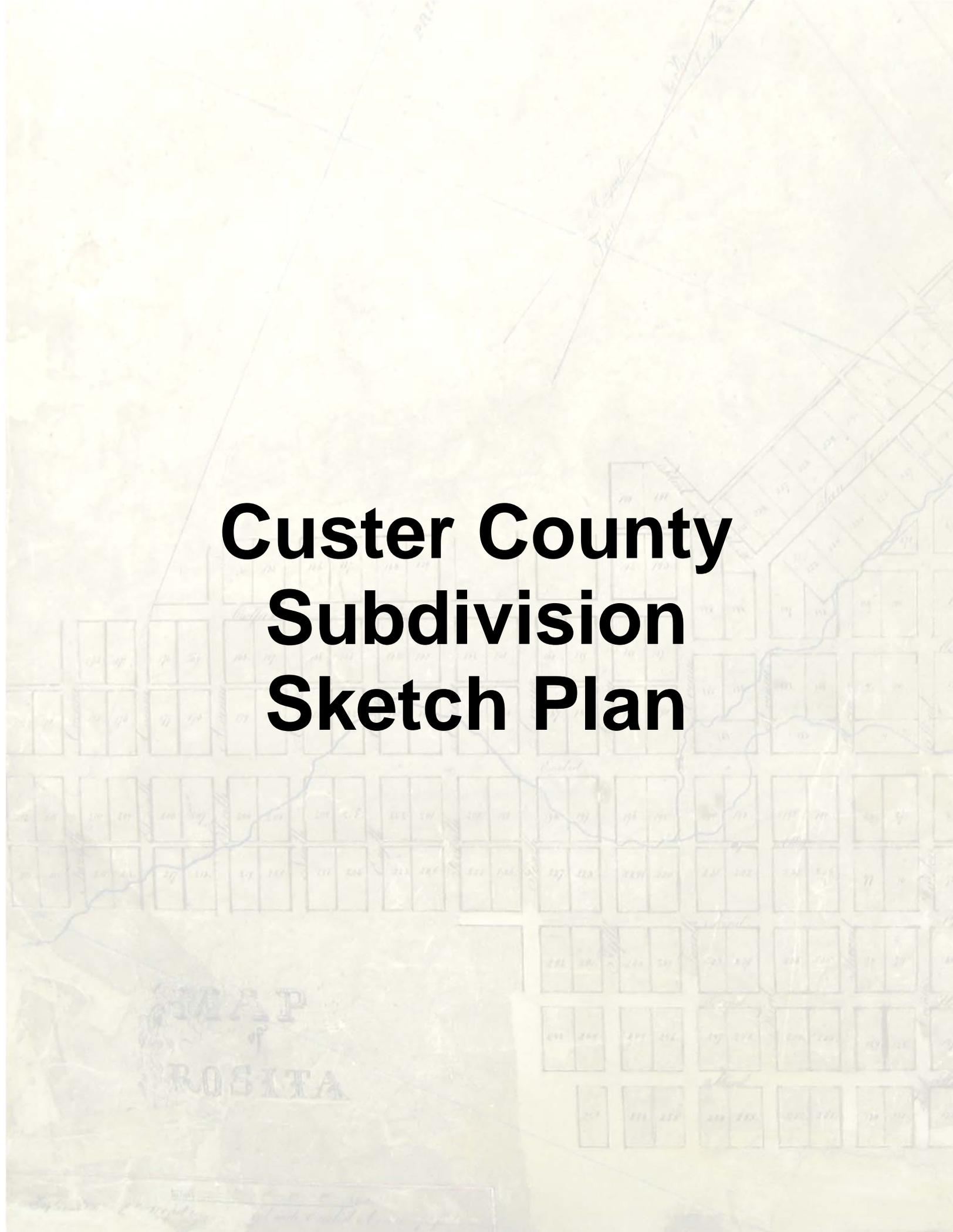
3.8 Timeframe for Decision on Applications for Subdivision Approval

Unless withdrawn by the Subdivider, any phase of any application for subdivision approval submitted pursuant to these Regulations that has been neither approved nor denied within a time 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. (**See C.R.S. § 3028-133.5**)

3.9 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 BOCC, 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 the approved Final Plat must follow the approval requirements for Preliminary and Final Plat review as outlined Section 4 of these Regulations.



Custer County Subdivision Sketch Plan

MAP
of
CUSTER
COUNTY
SOUTH DAKOTA

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SECTION 4

SUBDIVISION APPROVAL PROCESS

The subdivision approval process consists of three phases: the Sketch Plan, the Preliminary Plan and the Final Plan. The approval of the Sketch Plan, Preliminary Plan and Final Plan will be done by the PC and the BOCC.

4.1 Sketch Plan

The Sketch Plan allows the PC and the BOCC to review and comment on the concept of the proposed Subdivision with the understanding that additional detailed design material will be provided during the later approval processes.

The Sketch plan phase will consist of:

- Pre-application conference (s);
- Applicant submitting a "Request for Subdivision" application and documentation with all applicable fees;
- Staff review(s)
- Site tour by the PC and BOCC. Applicant or representative must be present.
- Presentation of the plan with appropriate documentation at a regularly scheduled public meeting/hearing before the PC to review the plan for general scope and compliance.

The public will be allowed to participate at the meeting/hearing when the plan is presented to the PC. The PC may make recommendations to the applicant. If the applicant requests waiver of a specific provision of the Subdivision Regulations a written application requesting the same shall be submitted to the BOCC. The waiver may be granted upon a finding that the waiver would not be in conflict with the substantive and procedural intent and purpose of the Subdivision Regulations.

The PC will take action on the Sketch Plan application at a scheduled hearing.

The Custer County Planning and Zoning Office will prepare a report of the public hearing to be submitted to the BOCC and applicant. This report to include:

- Site tour findings;
- Written and verbal comments from adjoining property owners;
- Written and verbal comments from interested parties;
- PC minutes;
- PC recommendations;
- Reasons for the vote by seated members of the PC;
- Conditions

At a subsequent public meeting/hearing the BOCC will approve or deny the concept. Approval at the Sketch Plan phase does not guarantee final approval.

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 at a regularly scheduled meeting/hearing. Prior to the 180 day deadline, the application for an extension must be submitted to the Planning and Zoning Office thirty (30) days prior to the regular scheduled meeting.

4.2 Sketch Plan Requirements

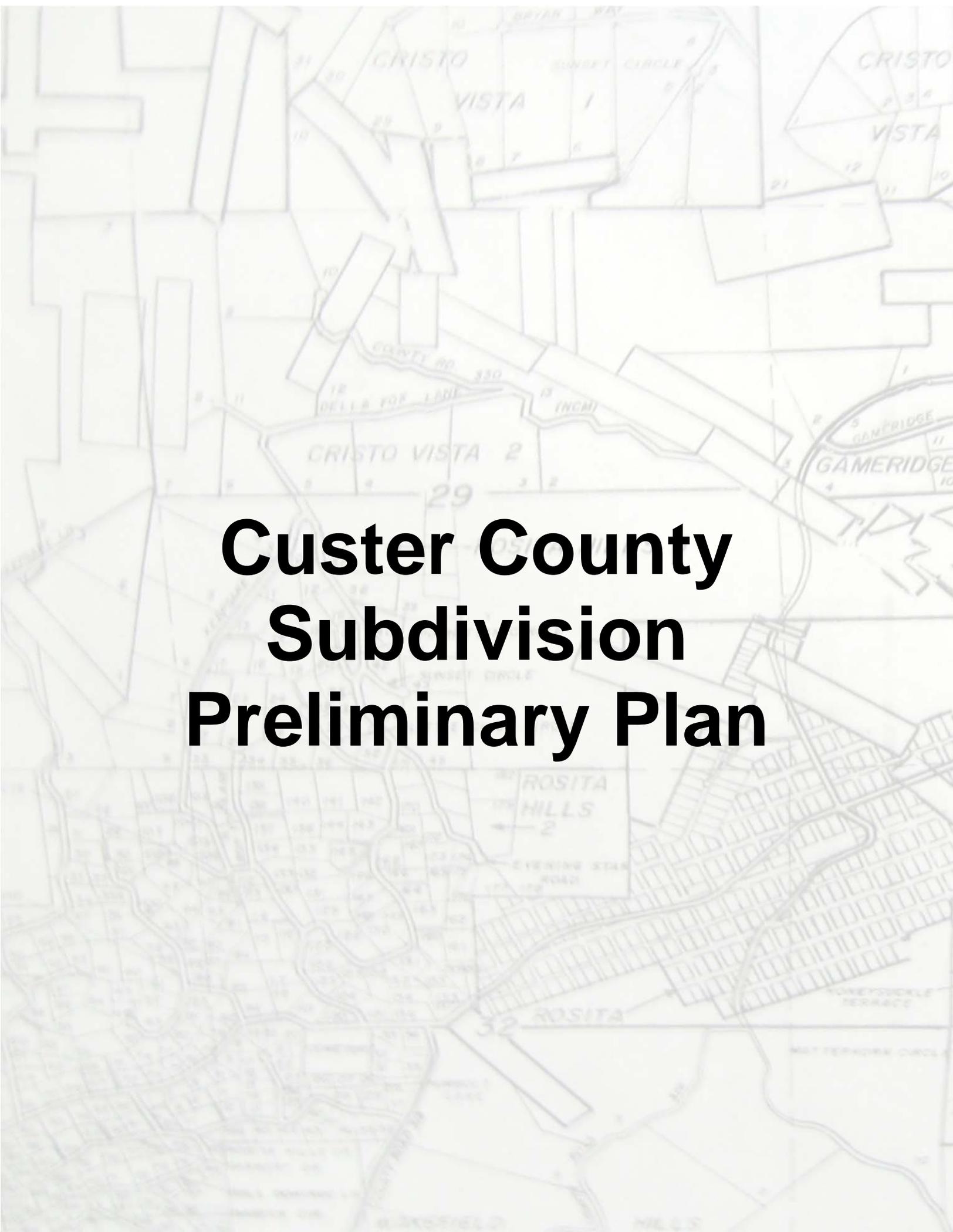
The Sketch Plan shall include, at a minimum, in writing:

- A. 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;
- B. The name, address, and contact information of the landowner(s) and the Subdivider(s), as well as any planners, consultants or other experts used and authorization to act form when applicant is different from the property owner;
- C. Proposed water system and evidence that a water supply will be developed that is sufficient in terms of quality, quantity and dependability for the Subdivision;**(See Section 3.2 A)**
- D. Suitability of the land for the proposed Subdivision in terms of slope, flood plain, soil erosion, drainage and vegetation;
- E. Evidence of compatibility of the Subdivision with surrounding land uses;
- F. A map showing the location of the Subdivision, its property boundaries and the significant natural and man-made features on the site and within one-half (1/2) mile of any portion of the site, which can be obtained from existing identified sources;
- G. A current topographic map with contours at twenty (20) foot intervals drawn from available data, such as United States Geological Survey (USGS) maps;
- H. Evidence of title of ownership of the land to be subdivided;
- I. The potential impact to streams, lakes, topography, vegetation, and wildlife habitat;

- J. Wildlife impact designation, which can be obtained from the CDOW Significant Wildlife Habitat Overlay Map;
- K. A lighting plan that describes the outside lighting, if any, to be provided or installed within the subdivision, including lighting of roads, common elements, and subdivision gates. The plan shall identify the location of any such lighting, the types of fixtures to be used, and the power or voltage ratings of the fixtures, and describe any shielding or other measures to be taken to mitigate the potential that the lighting will contribute to light pollution or illuminate adjoining property;
- L. Geologic characteristics and hazards of the area significantly affecting the land use, such as, but not limited to, radiation hazards and steep slopes;
- M. Potential impact to all infrastructures, public facilities, and services within the County;
- N. Proposed sewage system;
- O. Proposed land use design: road alignment, lot configuration, easements, etc., showing the area. Dimensions will be shown to the nearest five (5) feet;
- P. The acreage of the entire tract to the nearest half (1/2) acre and percent of the total area to be allocated to streets and to each other type of use;
- Q. Soil types and their boundaries, as shown on soil survey maps, such as the original Custer County Area Soil Survey prepared by the U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS) and a table of interpretations for the soil types shown on the soil map prepared by the NRCS. Additional documentation may be required during the Preliminary Plan by the PC;
- R. The applicable Zone District(s); per the current Custer County Zoning Resolution;
- S. Initial wildfire hazard/mitigation considerations;
- T. Names and addresses of adjoining property owners from the records of the County Assessor.

The dimensions of each Sketch Plan drawing submitted for public presentation shall be no smaller than twenty-four (24) inches by thirty-six (36) inches. Each copy shall be submitted in a reproducible size and/or electronic format meeting GIS data standards

and/or the specification of the Planning and Zoning Office. In the case of multiple sheets, a key map showing the relationship of the individual sheets shall be provided.



**Custer County
Subdivision
Preliminary Plan**

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4.3 Preliminary Plan

The Preliminary Plan is the second phase in the subdivision approval process. The Subdivider must have received Sketch Plan approval in order to proceed with the Preliminary Plan application. The Subdivider must receive Preliminary Plan approval before proceeding to the Final Plan process. Applicant may request waiver of the preliminary plan phase (see Section 3.7).

The Preliminary Plan phase consists of submitting an application, the applicable fees, and the Preliminary Plan Requirements (**See Sec. 4.4**).

The Custer County Planning and Zoning Office will:

- Review the submitted information;
- Contact professionals;
- Schedule a site tour by the PC (if necessary). Applicant or representative must be present;
- Send packets to all interested parties and agencies as applicable;

There will be a public meeting/hearing before the PC. The PC may make recommendations to the applicant. The PC and BOCC may have several workshops, meetings, or hearings with the Subdivider before a decision on the Preliminary Plan is made.

The PC will take action on the Preliminary Plan application at a scheduled meeting/hearing.

The Custer County Planning and Zoning Office will prepare and submit to the BOCC and the applicant a report on the meetings/hearings to include, but not limited to: site tour (if taken), any subsequent workshops, meetings/hearings with the Subdivider, the PC recommendations, reasons for the vote of the seated members of the PC and conditions.

At a subsequent public meeting/hearing the BOCC will approve or deny the request.

Approval of the Preliminary Plan does not guarantee approval of the Final Plan. Upon approval of the Preliminary Plan, the Subdivider will have one hundred and eighty (180) days to submit all data for the Final Plan phase, unless an extension is granted at a regularly scheduled meeting/hearing, prior to the 180 day deadline. The application for extension must be submitted to the Planning and Zoning Office thirty (30) days prior to the regular scheduled meeting.

4.4 Preliminary Plan Requirements

The Preliminary Plan Application shall contain the following:

- A. Boundary survey that meets state statutory requirements for a surveyor's plat and a property survey that complies with the Plat Standards. (See Appendix B);
- B. Written documentation:
 1. Final water decree;
 2. The name, address, and contact information of the landowner(s) and the Subdivider(s), as well as any planners, consultants or other experts used if different from original submittal;
 3. A map showing 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 including:
 - a) Dimensions of all lots to the nearest foot;
 - b) Lots and blocks numbered consecutively;
 - c) Location and identification of all existing and proposed public and private easements;
 - d) Existing and proposed street names;
 - e) Sites to be reserved or dedicated for open space, parks, playgrounds, schools, community facilities or other public uses; and
 - f) Calculations of the area devoted to each type of use to an accuracy based on 4.4.B.4.
 4. 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. All drawings must be drawn to meet the current standards at a legible, graphically-defined scale to be determined by the Planning and Zoning Office
 5. Location of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features. This will include direction of flow, water level elevations, typical depths, location and extent of areas subject to inundation.
- C. Environmental characteristics and analysis applicable to the Subdivision including the following:
 1. Preliminary flood hazard storm drainage plan: 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 in the flood plain. Recognized published sources may be used. If this information is

not available publicly, the information must be certified by a Colorado professional engineer. **(See Section 3.2.C);**

2. Geologic and Hydrology Reports:
 - a. A report prepared by a professional geologist, including map(s) relative to the lot layout, concerning geological characteristics, radiological hazards, asbestos hazards. Any hazardous conditions should be expounded upon, and any mitigation measures explained;
 - b. The Subdivider must submit a check or money order, payable to the Colorado Geological Survey, in the amount necessary to cover fees charged for the Preliminary Plan review.
 - c. A hydrology report by a Professional Hydrologist consisting of quantity, quality, and availability of water..
3. Soil suitability: maps and tables concerning suitability of types of soil in the proposed Subdivision in accordance with the N.R.C.S.;
4. Identify important resource areas including: potential mineral resources, historical, archeological, significant wildlife habitat, and agricultural land;
5. Preliminary long term open space management plan. **(See Section 3.2.D);**
6. Preliminary road plan. **(See Section 3.2.E);**
7. Preliminary fire/wildfire hazard plan. **(See Section 3.2.G);**
8. Dedication and public services and facilities impact study (involving at least the school, medical clinic and sheriff's office). **(See Section 3.2.I);**
9. Wildlife review. **(See Section 3.2.J);**
10. Map of utilities, both existing and proposed, including preliminaries of: the sewage treatment facility plan, the water system plan, lighting plan, easements and rights-of-way plan, and the utilities plan. **(See Section 3.2);**
 - a. A Subdivision development guide that addresses the following: Evidence from a current hydrology report that a water supply, adjudicated/procured by final water decree, will be available, sufficient in terms of quality, quantity and dependability, for the subdivision. Test wells are required for ground water sources. This is part of the Water System Plan required in Section 3.2.A;
 - b. Preliminary copy of any proposed covenants and restrictions to the properties, including the landscaping design guidelines as detailed in Section 3.2.L;
 - c. Names, addresses, and contact information of Subdivider, designer of the Subdivision, surveyor (who shall be licensed by the Colorado State Board of Examiners for land surveyors), and consultants, including their qualifications;
 - d. Evidence that the development plan will be in compliance with State Regulations for the extraction of mineral

resources on or under the subject property if the mineral interests are severed;

- e. The estimated quantity of domestic solid waste to be generated, the types of waste involved and proposed disposal as detailed in Section 3.2.N;
 - f. Build out and growth projections for 2, 5, 10 and 20 years;
 - g. Vicinity map showing the relationship of the proposed Subdivision to the nearest towns, and direct routes via public roads to the Subdivision from such towns.
 - h. Guaranty of Improvements Agreement. (**See Section 3.2.O**)
 - i. Weed management plan. Plan must be in accordance with the Custer County Weed Management Plan and approved by the Weed Advisory Board.
 - j. Map that is drawn to scale which shows the uses of property which are abutting to the subdivision.
- D. Any additional evidence required to be in compliance with the Subdivision Development Standards of Section 3.
- E. Any additional documentation determined to be necessary for disclosure will be required by the PC, BOCC and/or the Planning and Zoning Office.

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4.5 Final Plan

The submission of the Final Plan is the last step in the subdivision approval process. The Subdivider must have received Preliminary Plan approval before proceeding with the Final Plan process. The Final Plan process will review all of the required documents for compliance with these Regulations.

The Final Plan phase begins with submitting an application, final plan recommendations and applicable fees,

The Custer County Planning and Zoning Office will;

- Review the information submitted for completeness;
- Schedule a site tour by the PC and BOCC Members (if necessary). Applicant or representative must be present.

The PC and BOCC may have several meetings/hearings with the Subdivider before a decision on the Final Plan is made.

There will be public meetings/hearings before the PC and the public of the Final Plan. The PC may make recommendations' to the applicant.

The PC will take action on the Final Plan application at a scheduled hearing.

The Custer County Planning and Zoning Office will prepare and submit to the BOCC and the applicant a report on the public meetings/hearings, site tour (if taken), any subsequent workshops, meetings/hearings with the Subdivider; the PC action taken; reasons for the vote of seated members of the PC; and conditions.

The BOCC may impose additional conditions or approve incentives pertaining to final studies, reports, engineering details and completed professional design of the subdivision before the Final Plat is approved.

The BOCC will hold a hearing within ninety (90) days of the complete application for Final Plan approval, unless a longer time frame is agreed to by the Subdivider in writing.

Upon approval, all recording on pertinent documents will commence.

4.6 Final Plan Requirements

The Final Plan consists of the following:

- A. Preliminary Plan approval from the BOCC;
- B. Final copy of the water supply plan approved by the Division of Water Resources, State Engineer and the District Engineer.
- C. Final documentation complying with specific design criteria detailed in Section 3.2, A-R, including a copy of any covenants and restrictions, conditions, conservation easements and the guaranty of improvements for the Subdivision;
- D. Legal proof of ownership, by a commitment of a Title Insurance Policy that is not more than thirty (30) days old.
- E. Plan and profiles for the following:
 - 1. All streets and roads;
 - 2. Sanitary and storm sewer systems;
 - 3. Water distribution system.
- F. Construction timeline detailing all construction phases and proposed completion dates;
- G. Final Plat Requirements:
 - 1. Adhere to Plat Standards, as detailed in Appendix B of this document.
 - 2. Plat Monumentation:
 - a) Meet all applicable statute requirements including: C.R.S. § 38-51-104, C.R.S. § 38-51-105, C.R.S. § 24-4-103
 - b) Aliquot monuments must be upgraded, and monument records prepared and submitted at the state level, as per applicable provisions of the Colorado Revised Statutes, and as amended.
 - c) All vertical control will be physically described, elevation noted and datum referenced.
 - d) Placement as follows:
 - 1) At all boundary corners;
 - 2) At a minimum of every 1400' along all boundary lines;
 - 3) At all changes in direction and the beginning and end of all curved boundaries and radial changes of all lots and roads within the subdivision;
 - 4) At all controlling corners referenced in the legal description or as required by aliquot description.
 - e) Meet the physical standards as required by BLM regulations if abutting BLM lands.
 - f) Lot corners, with exception of intermediate points of deflection, will be stamped with line markings and lot numbers.

3. Drawing Specifications:
 - a) All drawings must be drawn to meet the current standards at a legible, graphically-defined scale to be determined by the Planning and Zoning Office;
 - b) 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;
 - c) All signatures and seals must be original and permanent on the Final Plat to be recorded;
 - d) Must have margins as follows:
 - 1) 36" side, a minimum width of ½";
 - 2) 24" side, a minimum width of 1" on left-hand side and a minimum width of ½" on the right-hand side.
4. Plat Contents must:
 - a) Meet requirements of C.R.S. § 38-51-106;
 - b) Show Section Lines and all boundaries of the Subdivision lots and other land entities with accompanying annotation and corner references to legend by symbol or text description;
 - c) Indicate the acreage for the following: total, lots, roads, other land entities;
 - d) Identify all controlling monumentation, including aliquot lines, with annotated ties and references to legend by symbol or text description;
 - e) Show all elements as dimensioned and distance-related to the boundaries. Any elements shown graphically and by scale only will be so labeled;
 - f) Be comprised of the following text, at a minimum:
 - 1) Legal description of the subdivision boundary;
 - 2) Signature of owner(s) acknowledging execution of the Final Plat.
 - 3) Notary statement to owner(s) signature;
 - 4) Signature and accompanying notary by any mortgage holder in the property signifying consent to the plat.
 - 5) Dedication indicating intentions and specifics of the owner(s) request for acceptance and dedication of public elements of the plat;
 - 6) Surveyor's statement and signature/seal per statute;
 - 7) Statement and signature of acceptance/approval by the appropriate government agencies, such as:
 - Board of Zoning Adjustment
 - PC
 - BOCC
 - Special District Boards(s)
 - 8) Standard wording used in the signature blocks must be pre-approved by the County Attorney;
 - 9) Filing statement and signature by the County Clerk & Recorder's office;

- 10) 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;
 - 11) Tract boundary lines, all rights-of-way including easements, and property lines of all lots must have accurate dimensions, bearings or angles, and radii, arcs or chords, and central angles of all curves;
 - 12) Name of each street, and width of all rights-of-way;
 - 13) Any easement, including those indicating perpetual open space required by the PC or BOCC or granted to public utility companies shall be included, and the location, dimension, and purpose of such easement shall be given;
 - 14) All deed restrictions.
 - 15) Addresses for all lots must be shown and approved by the appropriate county entity.
- g) The annotation of coordinates is optional but if shown the following minimum information is required:
- 1) For 3 monumented locations at boundary extremities; and,
 - 2) Defined in 3-dimensions based on an accepted datum. Basis, datum and method, and date of observations shall be included as a notation in the legend, or alongside the actual position on the drawing.
- h) Provide plat annotations as follows:
- 1) All bearings or angles in degrees, minutes, and seconds;
 - 2) Distances in feet to two decimal places;
 - 3) Acreage to two decimal places;
 - 4) Elevation in feet to two decimal places;
 - 5) Coordinates dictated by other accuracy levels on the Plat and Datum used.
- i) Provide electronic submittal of the Final Plat:
A copy of the Final Plat, as approved and prior to recording shall be submitted to the Planning and Zoning Office in a reproducible size, electronic format meeting GIS data standards and/or the specification of the Planning and Zoning Office.
- H. Any documentation, including disclosure acknowledgments, required by the PC, BOCC or the Planning and Zoning Office;
- I. It is the responsibility of the Subdivider to maintain an Index of Recordings of all filed and recorded documents relating to the Final Plan and submit that index list along with a complete packet of Subdivision documentation to the Planning and Zoning Office prior to Final Plat recording;
- J. Permits for construction on individual lots will not be issued until as-built drawings for all constructed improvements are provided AND the final plat has been approved and recorded.

4.7 Final Plat Recording

- A. All subdivision Final Plats must be recorded in the County Clerk and Recorder Office. After approval has been given by all parties, and the appropriate signatures are verified on the plat and recording fees collected from the applicant, the plat will remain in the possession of the Planning and Zoning Office to be recorded in accordance with paragraph B below.
- B. Recording will take place once the Final Plat has been approved. The Guaranty of Improvements Agreement, the Covenants, and Homeowner's Association Documents will be recorded concurrently with the Plat.
- C. All recording fees are the responsibility of the applicant.

SECTION 5

ADMINISTRATIVE REVIEW PROCESS

5.1 Eligibility for Administrative Review

The following actions may be processed using an Administrative Review Application:

- A. Lot Line and/or Boundary Adjustments;
- B. Minor Plat Amendments; and
- C. Vacation of Interior Lot Lines and Creation of Undersized Lot.

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

- A. Does not increase net density of the Subdivided Land;
- B. Does not have any apparent negative impact on adjoining properties or easements; and
- C. Conforms to the Zoning Resolution.

5.2 Standards and Procedures

Upon receipt of an Administrative Review Application and the required documentation, the Planning and Zoning Office staff, in consultation with the Chairman of the PC or his representative, shall review the Application to determine whether it qualifies for Administrative Review. Once eligibility has been determined, the request shall be processed.

- A. The Planning and Zoning Office shall consider the following criteria in reviewing the application:
 - 1. Review title and proof of ownership;
 - 2. The Applicant's purpose in submitting the application;
 - 3. The degree to which the application decreases net density, and whether such alteration increases or decreases the amount of nonconformance with the Zoning Resolution and the Master Plan;
 - 4. The impact on adjoining property owners, interested parties and easements, to include traffic impact.
 - 5. 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 reconfigured lot.
- B. Application Procedures:

1. The Applicant shall:
 - a. Provide proof of ownership;
 - b. Submit a written application to the Planning and Zoning Office, along with proper fees and such evidence as may be necessary to demonstrate compliance with the qualifications and requirements set forth in this Section;
 - c. Be available to answer questions from office staff and, if deemed necessary, appear before the PC and BOCC to present the request; and
 - d. Meet the requirements as set forth in the Planning and Zoning Office letter of notification.
2. The Planning and Zoning Office shall:
 - a. Upon receipt of an Administrative Review Application and in consultation with the Chairman of the PC or his representative, review the Application to determine whether it qualifies for Administrative Review. Once eligibility has been determined, the request shall be processed.
 - b. Process the submitted fees;
 - c. Research and verify the applicant's request and documentation;
 - d. Prepare a staff report that includes background information and areas of concern with the application and any action or requirements for consideration; and
 - e. Send a letter of notification to the applicant detailing the action and requirements that need to be met once determined by the Planning and Zoning Office Staff.
 - f. Review the application and accompanying evidence with the Chairman of the PC before taking action on the application. Before a final decision is made such evidence will include all input and items researched by the Planning and Zoning Staff; and
 - g. Grant or deny the application. If the application is denied, the applicant will have the option to have the request reviewed by the PC and BOCC.

5.3 Final Documentation

After final approval has been granted through the Administrative Review Process, pertinent documentation shall be recorded with the County Clerk and Recorder within sixty (60) days of approval. In all instances, a letter describing the action shall be recorded by the Planning and Zoning Office. The applicant shall record the approved plat with all appropriate signatures.

SECTION 6

VACATION OF A PLAT OF RECORD

6.1 Vacation Standards

A land owner shall submit an application to vacate any previously approved subdivision plat or portion of a plat of record under the following conditions:

- A. The plat to be vacated is a legal plat of record;
- B. Owners of all affected property be signatory to the vacation process;
- C. Proof of ownership of the plat to be vacated;
- D. Vacation of the plat will not interfere with development of, nor deny access via public thoroughfare to, adjoining properties, utility services or other improvements;
- E. Vacation of the plat will not be contrary to the Custer County Zoning Resolution or Master Plan;
- F. All parties, or their representatives, signatories to the original plat, (i.e. utilities, roads), shall be signatories on any documentation vacating the original plat; and
- G. No development of subdivision's infrastructure, roads and utilities has occurred.

6.2 General Procedures

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

6.3 Application Process

The general requirements for vacating a plat are:

- A. The applicant shall:

1. Arrange a pre-application conference with the Planning and Zoning Office. The Chairman of the PC, or his representative, will be invited to participate. Other individuals may be included and a site evaluation may be required;
 2. Submit a written application, and provide sufficient copies of information to be sent to interested parties, to the Planning and Zoning Office at least sixty (60) days prior to a proposed hearing date, along with proper fees, and such evidence as may be necessary.
- B. The Planning and Zoning Office shall:
1. Meet with the applicants for the pre application conference and the site tour evaluation;
 2. Review the application and associated documentation;
 3. Process the submitted fees;
 4. Research and verify the applicant's request and documentation;
 5. Prepare a report for the PC and BOCC which includes the background information concerning the application, suggested conditions, approval recommendation and areas of concern;
 6. Review the documentation for completeness and include it in the information packets disseminated to the following interested parties:
 - a. Adjoining property owners and applicable homeowners association;
 - b. Regional PC (if seated)
 - c. PC members and associates;
 - d. BOCC.
 7. Send notice of the proposed vacation, including information from applicant, to the following interested parties, as applicable, in addition to the parties listed above:
 - a. County Assessor
 - b. County Surveyor
 - c. County GIS Department
 - d. County Assessor
 - e. County Attorney (Bond issues and Guaranty of Improvements)
 - f. Colorado Department of Public Health and Environment, State Engineer, Colorado Division of Water Resources
 - g. Mineral rights owners
 - h. Appropriate utilities (public and private)
 - i. Each municipality within a three (3) mile radius of the Subdivision
 - j. Area school district
 - k. Special districts
 - l. Appropriate agencies including, but not limited to, the following: US Forest Service, State Forest Service, Bureau of Land Management, Colorado Department of Transportation (CDOT), Frontier Pathways and Scenic Byways, State Land Board, area ditch companies, County Road & Bridge
 - m. Colorado Division of Wildlife District Manager

- n. Any other agency deemed necessary by the PC.

Failure of any of these referral agencies to respond to any request for recommendations within twenty-one (21) days after the mailing by the County or its authorized representative signifies their acceptance and/or approval.

SECTION 7

FEE REQUIREMENTS

7.1. Fee Requirements

- A. Fees for the Subdivision process or modification shall be established by the BOCC and published in the Planning and Zoning Fee Schedule. Recording fees, as determined at the time of approval, will be due and collected from the applicant.
- B. The Subdivider shall pay all legal and professional fees incurred by the County in connection with reviewing the application submitted pursuant to these Regulations. Pre-payment of sufficient funds to cover 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.
- C. Before any Final Plat approval shall be issued for a Subdivision, the BOCC shall require that the Subdivider furnish collateral as detailed in Section 3.2.O. Such collateral shall be payable to and held in escrow by Custer County.

APPENDIX A
SUBDIVISION APPLICATION PROCESS

SKETCH PLAN

Pre-application conference with the Planning and Zoning Office



Submit application/documentation/applicable fees



Review(s) of application by the Planning and Zoning Office



Site Tour by PC (if necessary)



Presentation to PC of Sketch Plan Phase



Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjoining property owners written and verbal comments
3. Interested parties written and verbal comments
4. PC minutes
5. PC recommendation
6. Findings by seated members of the PC
7. Conditions



Planning and Zoning Office report submitted to BOCC and Applicant



PC public hearing of Sketch Plan Phase



PC recommendations to BOCC



Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjoining property owners written and verbal comments
3. Interested parties written and verbal comments
4. PC minutes
5. PC recommendation
6. Findings by seated members of the PC
7. Conditions



Planning and Zoning Office report submitted to BOCC and Applicant



BOCC public hearing and action within forty five (45) days



PRELIMINARY PLAN PHASE

(if necessary, see Section 3.7 Waiver)



Submit application, documentation, and applicable fees



Review(s) of application by the Planning and Zoning Office and Professionals
(if necessary)



Site Tour by BOCC and PC (if necessary)



Send packets to the interested parties and agencies, as applicable, for
both the Preliminary Plan and Final Plan



Public Hearing to PC of Preliminary Plan



Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjoining property owners additional written and verbal comments
3. Interested Parties additional written and verbal comments
4. PC minutes
5. PC recommendation
6. Findings by seated members of the PC
7. Conditions



Planning and Zoning Office report submitted to BOCC and Applicant



BOCC public hearing and action within forty five (45) days



FINAL PLAN



Submit application, documentation, and applicable fees



Site Tour by BOCC and PC (if necessary)



PC Public Hearing of Final Phase



Preparation of report by the Planning and Zoning Office to include:

1. Site tour findings
2. Adjoining property owners additional written and verbal comments
3. Interested parties additional written and verbal comments
4. PC minutes

5. PC recommendation
6. Findings by seated members of the PC
7. Conditions



Planning and Zoning Office report submitted to BOCC and Applicant



BOCC public hearing and action within forty five (45) days

The above steps presuppose approval of a given phase prior to advancing to the next phase. In the event that approval is not received, the process will not continue. Approval of the Sketch Plan or Preliminary Plan does not guarantee approval of the Final Plan. Workshops may be required, at any phase, to allow the PC, BOCC, and the Subdivider to reach an agreement on specific actions or requirements. Site Tours may be required at all phases.

At any time from the pre-application conference to the end of the sketch plan phase, the applicant may request of the BOCC a waiver to eliminate the preliminary plan phase.

APPENDIX B

PLAT STANDARDS

Plats submitted to the Planning and Zoning Office for approval by the PC and/or BOCC must meet both parts A.1 and A.2 as stated below.
The more restrictive will apply.

B.1 Minimum State Requirements set by C.R.S. § 38-51-106 (quoted below)

C.R.S. § 38-51-106. "Land survey plats". (1) All land survey plats shall include but shall not be limited to the following:

1. A scale drawing of the boundaries of the land parcel;
2. All recorded and apparent rights-of-way and easements, and, if research for recorded rights-of-way and easement is done by someone other than the professional land surveyor who prepares the plat, the source from which such recorded rights-of-way and easements were obtained; or
3. If the client wishes not to show rights-of-way and easements on the land survey plat, a statement that the client did not want such rights-of-way and easements shown;
4. All dimensions necessary to establish the boundaries in the field;
5. A statement by the professional land surveyor that the survey was performed by such surveyor or under such surveyor's responsible charge;
6. A statement by the professional land surveyor explaining how bearings, if used, were determined;
7. A description of all monuments, both found and set, which mark the boundaries of the property and of all control monuments used in conducting the survey;
8. A statement of the scale or representative fraction of the drawing and a bar-type or graphical scale;
9. A north arrow;
10. A written property description, which shall include, but shall not be limited to a reference, to the county and state together with the section, township, range and principal meridian or established subdivision, block and lot number, or any other method describing the land as established by the general land office or bureau of land management;
11. The signature and seal of the professional surveyor;
12. Any conflicting boundary evidence.

B.2 County Requirements

In addition to the previously referenced State Statutes, the previously referenced C.R.S. requirements are set forth by the Custer County Zoning Resolution and may be more restrictive than state requirements:

1. The survey must include language that explains the intent of the survey, and dedications of any road, right-of-way or property to the county, as applicable;
2. The plat(s) must include appropriate signature blocks for county authorities indicating that the plat is approved and that any dedicated property is accepted;
3. The plat must contain required signatures.. Proof of ownership shall be evidenced by a Title Commitment or Policy that is not older than thirty (30) days from the date of application or submission;
4. The survey must be submitted thirty (30) days before the Joint Meeting of the BOCC, PC, and Board of Zoning Adjustment, so the County Surveyor and/or County Cartographer has adequate time to review the submittal;
5. The plat must show compliance with the provisions of the Wildlife Review Process and Colorado Division of Wildlife (DOW) Provisions as authorized by C.R.S. § 24-65.1-101, et seq., 1973, and H.B. 1041;
6. The plat must show all easements and rights-of-way contained within the Title Commitment or Policy. It must also show any physical evidence of any apparent easements or rights-of-way burdening the property which were discovered during the course of the survey, such as, but not limited to, irrigation and drainage ditches, roads serving other properties, and utilities. (Note: Lot line vacations do not eradicate easements.)

APPENDIX C

WILDLIFE REVIEW PROCEDURE

Detailed explanations of the Wildlife Review as referred to in Custer County Zoning Resolution: Section 6.7 and Section 8.7.

C.1 Application Procedure

- A. Applicants for a Wildlife Review shall:
 - 1. Submit a written application and preliminary plat to Planning and Zoning Office at least 60 days prior to the hearing date, along with proper fees;
 - 2. Appear in person, or by authorized representative, at the designated site tour with the PC;
 - 3. Appear in person, or by authorized representative, before the PC in a public hearing to present the application.
- B. The Planning and Zoning Office shall:
 - 1. Review the application and associated plat for completeness;
 - 2. Process the submitted fees;
 - 3. Submit the plat to the DOW District Manager for review and recommendations;
 - 4. Inform the applicant of DOW's recommendations;
 - 5. Schedule the public hearing on the application;
 - 6. Schedule the site tour;
 - 7. Prepare a report for the PC and BOCC that includes a list of areas of concern.
- C. The PC shall:
 - 1. Review the application and accompanying plat before taking action on the application. Included in the review shall be:
 - a. Any recommendations or questions by the DOW or the Planning and Zoning Office;
 - b. Public input on the application;
 - c. Any additional input.
 - 2. Make a recommendation of action to the BOCC, including pertinent background information supporting the recommended action or conditions pertinent to approval.
- D. The BOCC shall:
 - 1. Review the application and accompanying plat before taking action on the application. Such evidence will incorporate all items included in the review by the PC, as well as their recommendation.
 - 2. Rule on the request. If the application is approved, the plan becomes a part of the subdivision application submittal.

C.2 Submission Requirements for Wildlife Review

The wildlife review will require the following submissions with the application. If documentation has already been submitted as part of the application that meets the following criteria, it will be used.

A. Plat and documentation standards

Plats and maps must be prepared in a professional manner per Appendix B. They must be drawn to an identified scale as determined by the Planning and Zoning Office. The maps must show the following:

1. The location of the proposed development site. For development of multiple lots, include a boundary survey prepared, signed, and sealed by a licensed Colorado land surveyor;
2. The relationship of the site to surrounding topographic features, such as roads, streams, and location of existing structures, to the nearest public road;
3. The nature and density of the proposed development or land use change;
4. Proposed building, improvement, and infrastructure locations related to common uses;
5. A legend which includes:
 - a. Complete and accurate legal description, including total acreage of the parcel;
 - b. Title, scale and North arrow;
 - c. Date, including revision dates, if applicable;
 - d. A "prepared by" signature block.
6. Existing structures, infrastructure, and significant landscape features including the name and location of water courses, ponds, and other bodies of water;
7. Accessory documentation:
 - a. Proof of Ownership in the form of a current Ownership & Encumbrances certificate, or commitment for a policy of Title Insurance;
 - b. Authorization to act on behalf of a land owner.
8. Such additional information as may be required by the BOCC in order to determine if the intent and purpose of the Wildlife Review have been fulfilled.

C.3 Wildlife Mitigation Standards

To meet the intent of the Wildlife Review, mitigation measures must be targeted to the specific species or habitat impact brought about by a particular development. Multiple steps may be necessary to mitigate all potential impacts to wildlife and habitat.

The following criteria should be followed if impacts to wildlife and wildlife habitats are identified:

1. All measures should first be considered that would avoid or minimize potential impacts to wildlife and wildlife habitat. If not deemed feasible and practical, then;
2. Compensation measures for the impacts to wildlife and habitat may be made by replacing or providing substitute resources and environments as recommended by the Division of Wildlife.

APPENDIX D

Resolution

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Debbie Livengood-Custer County Clerk Colorado

CUSTER COUNTY RESOLUTION

RESOLUTION NUMBER # 11-08

A RESOLUTION OF the Board of County Commissioners of Custer County, Colorado, acting in their capacity to rescind the existing Sub-Division Regulations and adopt the 2011 Sub-Division Regulations of Custer County Resolution.

WHEREAS, the Board of County Commissioners held a Public Hearing on July 13, 2011 and July 18, 2011 after having given notice thereof by publication as required by law; and

WHEREAS, the Board of County Commissioners finds that the adoption of the 2011 Sub-Division Regulations will be in the best interest of the public and the present and future residents, citizens and inhabitants of Custer County.

NOW BE IT RESOLVED, that we, the Custer County Board of County Commissioners, Colorado do hereby adopt the 2011 Sub-Division Regulations for Custer County.

Adopted this 29th day of July, A.D. 2011



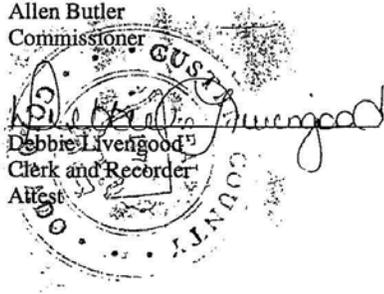
Lynn Attebery
Chairman



Jim Austin
Vice-Chairman



Allen Butler
Commissioner



Debbie Livengood
Clerk and Recorder
Attest