

**CHAPTER 3
DEVELOPMENT REVIEW AND APPROVAL PROCEDURES**

§3.1 | General

The general provisions of this section apply to all development applications and procedures under this Chapter unless otherwise stated.

3.1.1 | Authority to File Applications

- C. Rezoning (Zoning Map Amendments) Applications
Applications for Rezoning (Zoning Map Amendments) under this Chapter may be initiated by the owners of the property involved or the owner's authorized agents. Proof of authority to file an application on behalf of an owner must be provided in writing. Also, an application may be filed by the Department of Planning and Economic Development upon the request of the Board of County Commissioners or Mesa County Planning Commission. Such a request must be made by a formal affirmative vote of the requesting Board or Commission and is done without prejudice toward the outcome of the application. The Board of County Commissioners shall adopt policies related to the process for consideration of rezone requests initiated by the Board or Planning Commission. Consent of the property owner is required for approval of the rezone of their respective individual property.
- D. All other Applications
All other applications under this Chapter must be initiated by the owners of the property involved or the owner's authorized agent, except where otherwise specified in this Chapter. Proof of authority to file an application on behalf of an owner must be provided in writing.

3.1.2 | Form of Application

Applications required under this Chapter must be submitted in a form and in such numbers as required by the official responsible for accepting the application. Application forms for procedures that require Pre-application Meetings will be made available only at the time of the Pre-application Meeting.

3.1.3 | Application Filing Fees

Applications must be accompanied by the fee that has been established by the Board of County Commissioners. Fees are not required with applications initiated by the Board of County Commissioners, Board of Adjustment, Planning Commission, or County agencies. Application fees are nonrefundable.

3.1.4 | Application Completeness

An application will be considered complete if it is submitted in the required number and form; includes all mandatory information; and is accompanied by the applicable fee. A determination of application completeness shall be made within ten (10) working days of application filing. If an application is determined to be incomplete, the Planning Director shall provide written notice to the applicant, along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within thirty (30) days, the application shall be considered withdrawn, and the application shall be returned to the applicant.

3.1.5 | Planning Director and Agency Review

In conducting required reviews, the Planning Director shall comply with those referral requirements set forth in C.R.S. §30-28-136.1(c), and shall be authorized to distribute the application and other submittals to County departments and other agencies for the purpose of soliciting comments and ensuring that the proposal complies with all applicable standards and requirements. Comments received from reviewers shall be included in any required report. See The Handbook for a list of appropriate review agencies for each type of development.

3.1.6 | Pre-application Meetings

Applicants shall be responsible for scheduling Pre-application Meetings with Planning Department staff when such meetings are required. The purpose of a Pre-application Meeting is to inform the applicant of applicable procedures, submittal requirements, development standards, alternatives, and other pertinent matters, before the applicant finalizes the development proposal. Application forms are also made available during Pre-application Meetings. Staff opinions presented during Pre-application Meetings are informational only and do

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not represent a commitment on behalf of Mesa County regarding the acceptability of the development proposal. If a development application is not submitted within one hundred and eighty (180) days of the Pre-application Meeting, applicants must schedule and attend another Pre-application Meeting before submitting applications.

3.1.7 | Preliminary Completeness Check

Applications will be reviewed at the front counter for a preliminary completeness check.

3.1.8 | Notices

A. Content

Written and published (not posted) notices required under this Land Development Code must: (1) indicate the time and place of the public hearing or action; (2) describe the property involved by street address or by legal description and nearest cross street; (3) describe the nature, scope and purpose of the application or proposal being advertised. All notices will indicate where additional information can be obtained.

B. Written (Mailed) Notice

When the provisions of this Land Development Code require that written or mailed notice be provided, the County shall be responsible for preparing and mailing the written notice as provided below:

Application Property Location	Type of Application Review	Required Notice Radius
Within an Urban Zoning District	Public Hearing Required or Administrative Review	500 feet of subject property
Within one of the six (6) Rural Communities	Public Hearing Required or Administrative Review	500 feet of subject property
Within a Rural Zoning District and NOT within one of the six (6) Rural Communities	Public Hearing Required	2,500 feet of subject property
Within a Rural Zoning District and NOT within one of the six (6) Rural Communities	Administrative Review	1,000 feet of subject property
Public right-of-way within a Rural Zoning District (for right-of-way vacations)	Public Hearing Required or Administrative Review	1 mile of the subject right-of-way
Public right-of-way within an Urban Zoning District or one of the six (6) Rural Communities (for right-of-way vacations)	Public Hearing Required or Administrative Review	500 feet of the subject right-of-way

Ownership information shall be based on the records of the Mesa County Assessor's Office. Written notice shall also be mailed to Registered Neighborhood Associations whose boundaries lie within required notification areas and, for Right-of-way Vacations, to registered recreational and trail user groups. In order to be registered, neighborhood associations and user groups must provide to the Mesa County Planning Division: 1) a copy of their current bylaws, 2) a list of officers, 3) a map outlining the area they represent, and 4) a narrative describing the purpose of the association and the number of persons the association represents. All registrations must be updated each year.

C. Posted Notice

When the provisions of this Land Development Code require that notice be posted on the subject property, the applicant shall: (1) post the notice on weatherproof signs that have been provided by the County; and (2) place the signs on the property that is the subject of the application. The applicant shall ensure that the signs remain in place during the period leading up to the public hearing. Signs shall be placed along and perpendicular to each abutting street in a manner that makes them clearly visible to neighboring residents and passers-by. At least one (1) sign shall be posted on each adjacent street.

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Posted notice for right-of-way vacations will be placed at each end of the right-of-way section proposed for vacation. If the subject right-of-way proposed for vacation is not County maintained or is maintained seasonally, posted notice containing the name of the subject right-of-way will also be placed along and perpendicular to the nearest public road or roads as determined by the Planning Director. These public road(s) must be maintained year round.

All signs must be posted until a decision has been rendered. Applicants shall be responsible for removing the signs within one (1) week after the final decision.

Development Review Procedures Summary Table									
Procedure	Section/ Page	Pre-application Meet.	Review (R), Decision Making (DM) and Appeal (A) Bodies (See General note [4])				NOTICE		
			Staff/ Planning Director	PC	BCC	BOA	Published	Posted	Written
Master Plan Amendments									
Text Amendments	§3.2	YES	R	DM[1]			√		
Map Amendments	§3.2	YES	R	DM[1]			√	√	√
Land Development Code Amendments	§3.3	YES	R	R	DM		√		
Rezones	§3.4	YES	R	R	DM		√	√	√
Administrative Reviews									
Extinguishment of Utility Easement	§3.5.5	YES	DM				√	√	√
Minor Subdivisions	§3.5.6	YES	DM				√	√	√
Simple Land Divisions	§3.5.7	YES	DM				√	√	√
Agricultural Divisions	§3.5.8	YES	DM				√	√	√
Property Line Adjustments	§3.5.9	YES	DM				√	√	√
Physical & Legal Separations	§3.5.10	YES	DM				√	√	√
Site Plans, Major	§3.5.11	YES	DM					√	
Site Plans, Minor	§3.5.11	YES	DM						
Major Subdivision									
General Meeting	§3.6	YES	DM						
Concept Plan		YES	DM	R	A		√	√	√
Final Plan		YES	DM		A				
Final Plat		NO	DM		A				
Planned Unit Developments									
General Meeting	§3.7	NO	R						

Development Review Procedures Summary Table									
Procedure	Section/ Page	Pre-application Meet.	Review (R), Decision Making (DM) and Appeal (A) Bodies (See General note [4])				NOTICE		
			Staff/ Planning Director	PC	BCC	BOA	Published	Posted	Written
Concept Plan/Rezoning		YES	R	R	DM		√	√	√
PUD Final Plan		YES	DM		A				
PUD Final Plat		NO	DM		A				
Conditional Use Permits	§3.8	YES	R	R	DM		√	√	√
Floodplain Develop. Permit	§3.9	YES	DM			A[2]			
Vacations (ROW/Access)	§3.10	NO	R		DM		√	√	√
Administrative Adjustments	§3.11	NO	DM		A		√	√	√
Zoning Variances	§3.12	NO	R			DM	√	√	√
Floodplain Variances	§3.13	NO	R			DM[3]	√	√	√
Stormwater Variance	§3.19	NO	DM		A [5]				
Stormwater Permit	§3.19	NO	DM		A [5]				
Written Interpretations	§3.14	NO	DM		A				
Appeals of Admin. Decisions	§3.15	NO			DM	DM	√	√	√
Historic Designation	§3.22	YES	R	R	DM		√	√	(See §3.22.6)

Development Review Procedures Summary

General Note: In cases where no Appeal Body is shown, or where the Board of County Commissioners is shown as the final Decision-Making Body (with no appeal), appeals shall be taken to the courts, as provided by law.

- [1] Master Plan Amendment applications affecting a jointly adopted plan with a municipality may be considered in a public hearing with the respective municipal Planning Commission.
- [2] Appeals of Floodplain Administrator’s decision on Floodplain Development Permits taken to Floodplain Board of Appeals.
- [3] Floodplain Board of Appeals is the Decision-Making Body on Floodplain Variances.
- [4] All Appeals, except Appeals taken to the courts, must be filed within thirty (30) days of the decision by the Decision-Making Body.
- [5] BOCC shall serve as the board of appeals for The Stormwater Administrator’s decisions.

D. Published Notice

When the provisions of this Land Development Code require that notice be published, the County shall be responsible for preparing the content of the notice, and shall ensure that notice is published in the newspaper that has been selected by the County. Right-of-way vacations will be advertised in

the “A” section of the newspaper at the applicant’s expense. The advertisement shall be a minimum size of 2 inches by 3 inches.

E. Timing of Notices

Unless otherwise expressly provided in state statutes or this Land Development Code, notice, when required, shall be provided as follows:

Review of Decision-Making Body Holding Hearing or Taking Action	Notice Required (days before hearing/action)		
	Written	Published	Posted
Planning Director/Other Admin. Official	15	15	15
Planning Commission	15	15	15
Board of Adjustment	15	15	15
Floodplain Board of Appeals	15	15	15
Board of County Commissioners (Text Amendments)		14	
Board of County Commissioners (Other)	15	30	15
Appeals to the Board of County Commissioners	15	15	15
Administrative Review of Major Subdivisions	15	15	15

F. Constructive Notice

Minor defects in a notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Failure of a party to receive written notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing and the location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding regarding whether there was substantial compliance with the notice requirements of this Land Development Code before proceeding with the hearing.

3.1.9 | Conditions of Approval

In approving development applications, the Decision-Making Body shall be authorized to impose such conditions upon the premises as may be necessary to carry out the general purpose and intent of this Land Development Code. Any discretionary conditions imposed on a development approval shall be based upon duly adopted standards that are: (a) contained in this Land Development Code, the Mesa County Master Plan, or another document adopted by the County; and (b) sufficiently specific to ensure that the condition is imposed in a rational and consistent manner. Any condition imposed on a development approval that would require the applicant to dedicate real property to the public, or to pay money to the public in an amount that is determined on an individual and discretionary basis, shall only be imposed if: (a) there is an essential nexus between the dedication or payment and a legitimate local governmental interest; and (b) the dedication or payment is roughly proportional both in nature and extent to the impact of the proposed use or development of such property. If the required amounts of land dedications or fees in lieu have been established by a formula applicable to one (1) or more classes of land, rather than on an individual and discretionary basis, the foregoing sentence shall not apply to requirements for park or school land dedications, or fees in lieu of such dedications, as set forth in Chapter 7 of this Land Development Code, or to any other land dedication or fee in lieu of requirements adopted by the County.

3.1.10 | Continuation of Applications

- A. A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this Land Development Code, provided that the continuance is set for a date within forty (40) days, and the date and time of the continued hearing is announced at the time of the continuance.
- B. A Major Subdivision application being considered through the administrative review process may be continued for up to forty (40) days with written permission from the project applicant, or authorized representative.

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3.1.11 | Standing to Appeal

Appeals allowed under the procedures of this Chapter may be filed only by “Parties of Record,” who shall be deemed to include the following:

- A. the applicant;
- B. the property owner or holder of any interest or easement in the subject property; or
- C. any person who submitted written comments on the application before final action was taken (excluding persons who have only signed petitions or form letters).

3.1.12 | Burden of Proof or Persuasion

The burden of demonstrating that an application complies with applicable review and approval criteria is on the applicant. The burden is not on the County or other parties to show that the criteria have not been met.

3.1.13 | Simultaneous Processing

Whenever two (2) or more forms of review and approval are required under this Chapter (e.g., a Rezoning and a Conditional Use Permit), the applications for those development approvals may be processed simultaneously. However whenever this Land Development Code requires two (2) types of review for the same approval (e.g., a Concept Plan and Final Plan), those two (2) review and approval procedures must be completed as separate steps in the order specified.

3.1.14 | Processing Cycles

The Planning Director shall issue timetables for reviewing each type of development application under this Chapter. Timetables may be revised from time to time and may include:

- A. dates of regular meetings of review bodies and decision-makers;
- B. deadlines for receipt of a complete application for consideration of such application at a particular meeting; and
- C. schedule and routing of staff and agency reviews.

3.1.15 | Failure to Act within Required Time Frames

Unless withdrawn by the applicant, any development application, except rezoning requests, that is not approved, approved with conditions, or denied within any time frame required by this Land Development Code, or mutually agreed to in writing by the County and the applicant at the time of application filing, shall be deemed approved. Time frames for action may be extended by the County when necessary to receive recommendations or reports from a reviewing agency, but no such extension shall exceed thirty (30) days.

3.1.16 | Compliance with Mineral and Energy Resources Master Plan

In any area containing a known commercial mineral deposit, no authorization, in any form, shall be given which would interfere with the present or future extraction of such deposit by an extractor. Certain uses may be authorized, but only if said use does not permit erection of permanent structures upon, or otherwise permanently preclude, the extraction of commercial mineral deposits by an extractor from, land subject to said use.

Nothing in this section shall be construed to prohibit: (a) the Board of County Commissioners from zoning for agricultural use, only, land not otherwise zoned on July 1, 1973; (b) a use of zoned land permissible under the zoning governing such land on July 1, 1973; and (c) the Board of County Commissioners from acquiring property known to contain a commercial mineral deposit and using said property for a public purpose; except that such use shall not permit erection of permanent structures which would preclude permanently the extraction of commercial mineral deposits.

3.1.17 | General Approval Criteria

In addition to specific approval criteria listed for each type of development review process, the Decision-Making Body shall consider if the proposal:

- A. complies with all applicable standards, provisions, and the Purposes (Section 1.5), of this Land Development Code;

- B. is consistent with review agency comments; and
- C. is consistent with applicable intergovernmental agreements between the County and other entities.

§3.2 | Master Plan Amendments

This section applies to periodic amendments to the Mesa County Master Plan; not to thorough, comprehensive reviews, updates and amendments of the Master Plan as may be recommended in the Master Plan.

3.2.1 | Timing

The text and future land use maps of the Mesa County Master Plan may be amended whenever amendments are determined to be necessary by the Mesa County Planning Commission.

3.2.2 | Pre-application Meeting

Applicants shall schedule and attend a Pre-application Meeting before filing an application (see Section 3.1.6).

3.2.3 | Application Filing

Applications for an amendment to the Mesa County Master Plan shall be submitted to the Planning Director.

3.2.4 | Public Hearing Notice

- A. **Master Plan Text Amendments**
Notice of the public hearing shall be published in accordance with the requirements of Section 3.1.8.
- B. **Master Plan Map Amendments**
Written, published and posted notice of the public hearing shall be provided in accordance with the requirements of Section 3.1.8.

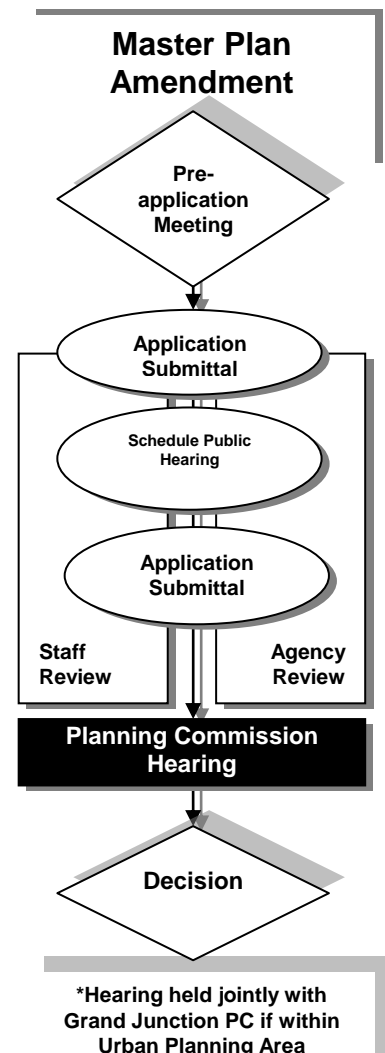
3.2.5 | Planning Director’s Review and Report

The Planning Director shall review each proposed Master Plan amendment in light of the Approval Criteria of Section 3.2.8, and provide a report to the Planning Commission.

3.2.6 | Joint Municipal Plan Amendments

Master Plan Amendments may be approved, approved with conditions, or denied, based on the Approval Criteria of Section 3.2.8.

- A. **Decision Making Body**
Decision making for Master Plan amendments will be governed by geographic location as follows:
 1. The municipality shall decide questions of amending the Master Plan for property within the corporate limits of the respective municipality.
 2. Outside municipal corporate limits, the Mesa County Planning Commission shall have sole authority to amend the Master Plan and consider text amendments. The appropriate municipality shall be given the opportunity to review and comment upon all such proposed amendments prior to action by Mesa County; and
 3. Plans adopted jointly with a municipality, including area, neighborhood, sub-area, and community plans (part of the Master Plan) require the Mesa County Planning Commission and the appropriate municipality to jointly amend the plan.



- B. **Concurrent Review**
The applicant will decide if the application will be considered concurrently with any development review process, e.g., a rezoning or subdivision, or whether the Master Plan amendment will be considered separately.
- C. **Initial Review**
A request to amend the Master Plan shall first be referred to the applicable jurisdiction for interpretation, consistent with the respective administrative policies of each, such as the 1998 Intergovernmental Agreement Between the City of Grand Junction and Mesa County Relating to City Growth And Joint Policy Making For The Persigo Sewer System [October 13, 1998], and other adopted plans and agreements.
- D. **Review Process**
When a municipality and the Mesa County Planning Commission both must act, at least one public hearing will be held and a vote shall be made within thirty (30) calendar days of the close of the hearing. A joint public hearing is permissible, but not mandatory. Such hearings shall be conducted as determined by the presiding chairperson. If a joint hearing is held, the chairpersons shall jointly determine how to conduct such a hearing.

The appropriate municipality shall be given the opportunity to review and comment upon all proposed Master Plan Amendments prior to action by Mesa County; and

The Mesa County Planning Commission shall approve a Master Plan Amendment only if they determine that the Master Plan Amendment is consistent with the overall purpose and intent of the adopted Master Plan. Keeping in mind the broad legislative and other authorities of the parties to consider all relevant factors, the determination shall be based on the Approval Criteria of Section 3.2.8.

When a municipality and the Mesa County Planning Commission both must act, failure to agree means the Master Plan is not amended.

3.2.7 | Rural Planning Area Amendments

The Mesa County Planning Commission shall hold a public hearing on all proposed Master Plan Amendments affecting the Rural Planning Area and, at the close of the public hearing, act to approve, approve with conditions, or deny the Master Plan Amendment, based on the Approval Criteria of Section 3.2.8.

3.2.8 | Approval Criteria

The Planning Commission may approve proposed Master Plan Amendments only if it is determined that the proposed amendment is consistent with the overall purpose and intent of the Mesa County Master Plan and with any intergovernmental agreements then in effect between the County and any other unit of government and only after consideration of each of the following criteria:

- A. there was an error in the original Master Plan such that then-existing facts, projects, or trends (that were reasonably foreseeable) were not accounted for;
- B. events subsequent to the adoption of the Master Plan have invalidated the original premises and findings;
- C. the character and/or condition of the area has changed enough that the amendment is acceptable;
- D. the change is consistent with the goals and policies of the Master Plan, including applicable special area, neighborhood, and corridor plans;
- E. public and community facilities are adequate to serve the type and scope of land use proposed;
- F. an inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and

- G. the community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

3.2.9 | Written Findings Required

The decision of the Mesa County Planning Commission shall be accompanied by written findings of fact, which shall include a finding of whether the Master Plan Amendment is consistent or inconsistent with the overall intent of the Mesa County Master Plan and any applicable intergovernmental agreements. Those written findings shall be stated in the Planning Commission's resolution approving or denying the Master Plan Amendment. The findings shall also address each of the approval criteria in Section 3.2.8. The resolution shall be filed with the Planning Department and the Clerk and Recorder of Mesa County.

3.2.10 | Planning Commission Certification

If a Master Plan Amendment is approved by the Planning Commission, certification of the amendment shall be provided to the Board of County Commissioners and other municipalities in the County, in accordance with state statutes.

§3.3 | Land Development Code Amendments

3.3.1 | Pre-application Meeting

Applicants shall schedule and attend a Pre-application Meeting before filing a Land Development Code Amendment application (see Section 3.1.6).

3.3.2 | Application Filing

Applications to amend the text of this Land Development Code shall be submitted to the Planning Director.

3.3.3 | Public Hearing Notice

Notice of Planning Commission's and Board of County Commissioners' public hearings shall be published in accordance with Section 3.1.8.

3.3.4 | Planning Director's Review and Report

The Planning Director shall review each proposed Land Development Code amendment to determine whether it complies with the purpose of the Land Development Code set forth in Section 1.5, Purpose, and whether the amendment would conflict with other sections in the Land Development Code, and, if deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Planning Director shall provide a report to the Planning Commission.

3.3.5 | Planning Commission's Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed text amendment, and, at the close of the public hearing, make a recommendation to the Board of County Commissioners.

3.3.6 | Board of County Commissioners' Review and Decision

After receiving the recommendation of the Planning Commission, the Board of County Commissioners shall hold a public hearing, and, at the close of the public hearing, act to approve, approve with modifications, or deny the proposed text amendment.

3.3.7 | Corrections for Errors or Omissions

If it is discovered that there is a minor typographic or scrivener error or omission, the Planning Director shall record an Affidavit of Correction in the records of the Mesa County Clerk and Recorder to be incorporated into the Land Development Code. The Planning Director and the County Attorney shall verify the Affidavit to ensure that the meaning and intent of the text approved by recorded resolution are not altered.

3.3.8 | Adoption by Resolution

Land Development Code Amendments shall be approved in the form of resolutions.

§3.4 | Rezoning (Zoning Map Amendments)

3.4.1 | Pre-application Meeting

Applicants shall schedule and attend a Pre-application Meeting before filing a Rezoning application (see Section 3.1.6).

3.4.2 | Application Filing

Rezoning applications shall be submitted to the Planning Director.

3.4.3 | Public Hearing Notice

Notice of the Planning Commission’s and Board of County Commissioners’ public hearings shall be provided by mail, posting, and publishing, in accordance with the requirements of Section 3.1.8.

3.4.4 | Planning Director’s Review and Report

The Planning Director shall review each proposed Rezoning in light of the Approval Criteria of Section 3.4.7, and, if deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Planning Director shall provide a report to the Planning Commission.

3.4.5 | Planning Commission’s Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed Rezoning, and, at the close of the public hearing, recommend approval, approval with conditions or denial of the application based on the Approval Criteria of Section 3.4.7.

3.4.6 | Board of County Commissioners’ Review and Decision

After receiving the recommendation of the Planning Commission, the Board of County Commissioners shall hold a public hearing on the proposed Rezoning and, at the close of the public hearing, act to approve, approve with conditions, or deny the Rezoning, based on the Approval Criteria of Section 3.4.7.

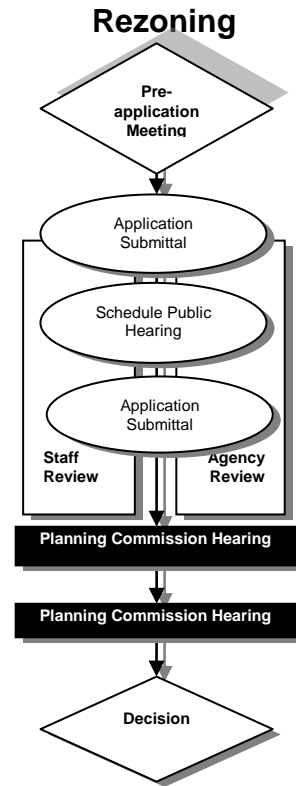
3.4.7 | Approval Criteria

In acting on a Rezoning application, the Board of County Commissioners shall consider the General Approval Criteria in Section 3.1.17, consider the stated purpose of the proposed zoning district, and may approve the Rezoning application only after considering the following:

- A. the rezone is consistent with the goals and policies of the Master Plan, including applicable special area, neighborhood and corridor plans;
- B. the proposed zoning district’s allowed uses are or can be made to be similar to or compatible with surrounding and nearby land uses
- C. the land to be rezoned was previously zoned in error or conditions have changed so that the rezoning is consistent with the County’s goals, policies and/or Master Plan; and
- D. public and community facilities and services including but not limited to sewage and waste disposal, domestic water, irrigation water [where available], gas, electricity, police and fire protection, and roads and transportation are or can be made adequate to serve the types and scope of land uses allowed in the proposed zoning district;

3.4.8 | Written Findings Required

The decision of the Board of County Commissioners shall be accompanied by written findings of fact, which shall include a finding of whether the Rezoning is substantially consistent or inconsistent with any applicable intergovernmental agreements between the County and other entities. Those written findings shall be stated in the Board’s resolution approving or denying the Rezoning. The findings shall also be filed with the Planning Department and the Clerk and Recorder of Mesa County. In the event of denial, the Board of County Commissioners’ written findings shall state the Board’s reasons for denial.



3.4.9 | Adoption by Resolution

Rezoning shall be adopted by resolution. The Planning Department shall ensure that all approved Rezoning are depicted on the official zoning map promptly after the resolution authorizing the rezoning is adopted by the Board of County Commissioners.

3.4.10 | Appeals

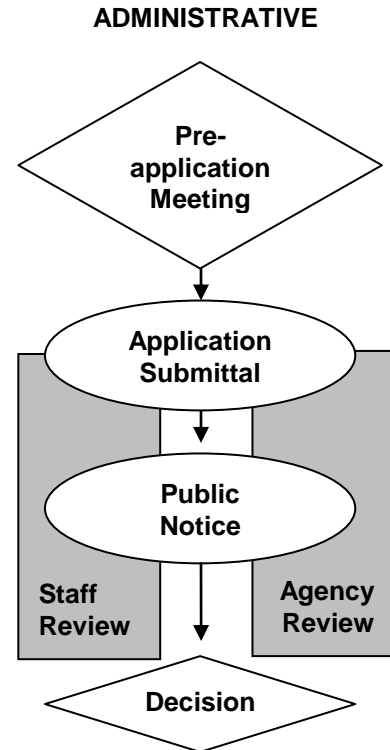
Appeals of decisions of the Board of County Commissioners shall be made to the courts, as provided by law.

§3.5 | Administrative Reviews

3.5.1 | Applicability

The following shall be processed in accordance with the procedures of this section:

- A. Extinguishment of Utility Easements
- B. Minor Subdivisions
- C. Simple Land Divisions
- D. Agricultural Land Divisions
- E. Property Line Adjustments
 - 1. Boundary Line Adjustments (Unplatted Land)
 - 2. Re-subdivisions (Previously Platted Land)
- F. Physical and Legal Separations
- G. Site Plans
- H. Thirty-five Acre Parcels Created by Plat
- I. Subdivision for Public Purposes



3.5.2 | Pre-application Meeting

Applicants shall schedule and attend a Pre-application Meeting before filing an Administrative Review application (see Section 3.1.6).

3.5.3 | Application Filing

Administrative Review applications shall be submitted to the Planning Director.

3.5.4 | Notice

Notice of filing of an Administrative Review application shall be mailed and posted in accordance with the requirements of Section 3.1.8.

3.5.5 | Extinguishment of Utility Easement

The Planning Director may approve an Administrative Review application for an Extinguishment of a Utility Easement if no utility provider objects to the proposal and the Planning Director determines that it is consistent with the General Approval Criteria. Final approval of the application shall be by resolution of the Board of County Commissioners.

3.5.6 | Minor Subdivisions

Minor Subdivisions may be approved as Administrative Reviews.

- A. Eligibility
The following may be processed as Minor Subdivisions:

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1. If located within an Urban Residential or Nonresidential zoning district, one (1) unplatted parcel may be divided into no more than four (4) platted parcels, in accordance with the Minor Subdivision procedures of this section.
2. For the purpose of interpreting the Minor Subdivision eligibility requirements of this subsection, any proposed Minor Subdivision which clearly is intended to evade the Major Subdivision regulations of this Code or would result in a *de facto* Major Subdivision through the combination of previous contiguous Minor Subdivisions is not eligible for Minor Subdivision.

B. Standards

The following standards shall apply to Minor Subdivisions:

1. Parcels are eligible for a Minor Subdivision only once, and further divisions of the original or newly created parcels shall be processed as Major Subdivisions.
2. The plat and site plan shall contain a plat note stating that further Minor Subdivisions of any portion of the subject tract are prohibited, and that further divisions shall be processed through the Major Subdivision procedures of Section 3.6. *Required wording for plat and site plan notes is found in The Handbook.*

C. Approval Criteria

The Planning Director may approve an Administrative Review application for a Minor Subdivision only after considering the General Approval Criteria in Section 3.1.17 and determining that all of the following criteria have been met:

1. new building sites are located:
 - a. on the least productive farmland, if applicable; and
 - b. future building site envelopes are shown on the site plan;
2. the proposal is compatible with abutting land uses and will not interfere with accepted management practices on those lands;
3. facilities and services (including sewage and waste disposal, domestic and irrigation water [where available], gas, electricity, police and fire protection, and roads and transportation, as applicable) shall be available upon completion of the project to serve the subject property while maintaining adequate levels of service to existing development;
4. no new public access road is required to be constructed (see Sections 7.15 and 7.16); and the Mesa County Road Access Policy); and
5. any hazards identified on the property must be mitigated (see Section 7.6).

3.5.7 | Simple Land Divisions

Simple Land Divisions may be approved as Administrative Reviews.

A. Eligibility

The following may be processed as Simple Land Divisions:

1. If located within a Rural Zoning District (AFT & AF-35) and if no portion of the unplatted parcel has been divided through a Simple Land Division, one (1) unplatted parcel containing at least ten (10) acres of land may be divided into no more than two (2) platted parcels, in accordance with the Simple Land Division procedures of this section. The eligible parcel must be ten (10) gross acres (precise number 10.0) at the time the person applying for the Simple Land Division acquired the property. The parcel is still eligible for the Simple Land Division if:
 - a. right-of-way was dedicated by the current property owner and resulted in less than ten (10) acres; or

- b. the required dedication through the Simple Land Division process results in less than ten (10) acres.
 2. For the purpose of interpreting the Simple Land Division eligibility requirements of this subsection, any proposed Simple Land Division which clearly is intended to evade the Major Subdivision regulations of this Code, or would result in a *de facto* Major Subdivision through the combination of previous contiguous Simple Land Divisions, is not eligible for Simple Land Division.
- B. Standards
The following standards shall apply to Simple Land Divisions:
 1. Parcels are eligible for a Simple Land Division only once, and further divisions of the original or newly created parcel shall be processed as Major Subdivisions.
 2. The plat and site plan shall contain a note stating that further Simple Land Divisions of any portion of the subject tract are prohibited, and that further divisions shall be processed through the Major Subdivision procedures of Section 3.6. Required wording for plat and site plan notes is found in The Handbook.
 3. If located within or adjacent to the Rural Planning Area, the Administrative Review for a Simple Land Division shall include a plat note reciting the County's Right to Farm and Ranch policy.
- C. Approval Criteria
The Planning Director may approve an Administrative Review application for a Simple Land Division only after considering the General Approval Criteria in Section 3.1.17, and after determining that all of the following criteria have been met:
 1. new building sites are located:
 - a. on the least productive farmland, if applicable; and
 - b. future building site envelopes are shown on the site plan;
 2. the proposal is compatible with abutting land uses and will not interfere with accepted management practices on those lands;
 3. facilities and services (including sewage and waste disposal, domestic and irrigation water [where available], gas, electricity, police and fire protection, and roads and transportation, as applicable) shall be available upon completion of the project to serve the subject property while maintaining adequate levels of service to existing development; and
 4. no new public road is required to be constructed (see Sections 7.15 and 7.16); and
 5. any hazards identified on the property must be mitigated (see Section 7.6).

3.5.8 | Agricultural Division

- A. Purpose:
 1. To allow agriculturalists to stay on the land and continue farming and/or ranching to protect the rural lifestyle.
- B. Eligibility:
 1. The Tract must be zoned Agricultural Forestry Transitional (AFT).

2. The applicant must own at least fifty (50) acres in contiguous parcels (the "Tract"). These parcels may be either platted as part or all of a thirty-five (35) acre plat; a previous Agricultural Division tract; platted as a Simple Land Division; or unplatted.
 3. The applicant or the applicant's immediate family must have owned the Tract for a minimum of five (5) years. In no case may the Agricultural Division application exceed the maximum density allowed by the AFT zone district.
 4. The entire Tract must be classified as "Agricultural" in the County Assessor's parcel records and have retained that classification for a minimum of five (5) years consecutively prior to and up to the date of the application.
 5. The majority of the Tract must be actively cultivated or ranched (producing crops and/or raising livestock for sale).
- C. Frequency:
- One (1) new parcel may be divided from the Tract for each twenty-five (25) acres owned in the Tract. (For example, if the applicant owns one hundred ten (110) acres in the Tract, a maximum of four (4) divisions could be permitted using this process.) Up to six (6) divisions created through the Agricultural Division may be permitted using this process when the Tract is comprised of one hundred fifty (150) acres or more. Additional land divisions may be applied for, pursuant to the Land Development Code using the Major Subdivision criteria and AFT density criteria. The acreage in the lots created through the Agricultural Division processes will be added back into the Tract or parent parcel to calculate future major subdivision density.
- D. Process:
- The process is comprised of two (2) steps. The applicant must submit a sketch plan showing all lots to be applied for presently and should show lots anticipated to be applied for in the future (for access permitting and circulation planning purposes). The Planning Director will review the sketch plan and advise the applicant in writing of the viability of the proposal based on the approval criteria below and any other adopted County regulations that apply. The applicant may then submit a final plat application for review and recording to complete the process.
- E. Approval Criteria:
1. The applicant shall obtain an approved Notice of Intent to permit access from a County road or public right-of-way. Shared driveways shall be utilized to serve the new lots where required by the Notice of Intent. Right-of-way may be called for to serve the Tract for future development but will not be required to extend through the Tract until the applicant enters into a Major Subdivision or unless the right-of-way is designated by the Road Access Policy or on any adopted transportation plan as a minor collector or a higher classification to serve the greater area. A shared driveway is allowed to be built within the dedicated right-of-way until the number of dwelling units utilizing the right-of-way exceeds four (4), then a road meeting County standard specifications must be constructed.
 2. Either approval of service by a water district or a well permit is required for the new lots. This process is not considered an exempt subdivision for the purpose of compliance with Section 7.8, Potable Water Supply, as amended in the Land Development Code.
 3. If irrigation water is supplied to the new lots after the division, an irrigation maintenance agreement must be recorded.
 4. The division shall not detract from the integrity and efficiency of the farm or ranch operations, as demonstrated by the property owner.
 5. New lots shall be less than five (5) acres in size unless an exception is approved by the Planning Director for reasons related to topography, natural or man-made features, or soils conditions which would cause a larger lot size to be logical. The minimum lot size will be established by compliance with the Wastewater Standards in Chapter 7.

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6. New lots may be created with indirect access (no street frontage) in order to locate them in a manner to allow the agricultural use to continue.
7. New lots may be located anywhere within the Tract.

F. Definitions:

Tract – All contiguous parcels owned by the applicant (and/or immediate family) comprising at least fifty (50) acres which are classified by the County Assessor as “Agricultural”. Parcels are considered contiguous unless they are divided by:

1. parcels owned by someone other than the applicant or applicant’s immediate family;
2. roads functionally classified as minor collectors or higher; or
3. severe topographical divisions of the land such as bluffs, rivers, and major washes.

Immediate Family – Father, mother, sons and daughters are to be considered immediate family.

Agriculturalist – those who practice cultivating the soil, producing crops or raising livestock and in varying degrees the preparation and marketing of the resulting products. (Source: Miriam-Webster’s dictionary online)

3.5.9 | Property Line Adjustments

This subsection applies to Property Line Adjustments between adjacent parcels whether the parcels are platted or unplatted.

A. Standards

The following standards shall apply to Property Line Adjustments:

1. Only boundary lines used as part of a legal description in a deed for the subject property or properties can be used as property lines in order to consider any property to be eligible for a Property Line Adjustment. Other lines created by the Public Lands Survey System, formerly referred to as the General Land Office (GLO), being the lines that define a section, its interior aliquot parts and tracts, as noted in the Bureau of Land Management "Manual of Survey Instructions", may not be used as property lines in order to consider any property to be eligible for a Property Line Adjustment;
2. In order to be eligible to be part of a Property Line Adjustment application, all properties which are part of the Property Line Adjustment application must be buildable before any of the properties are reconfigured through the Property Line Adjustment process. For example, the properties must be of sufficient size to allow for installation of a septic system (if the properties are not connected to a municipal wastewater system) and must be of sufficient size to allow construction of a dwelling or other principal structure on the property;
3. Minimum lot frontage as stated in section 6.1, Table of Density and Dimensional Standards, is not required if legal access to a public road for all parcels or lots resulting from the Property Line Adjustment is provided;
4. Property Line Adjustments are not required to meet the density requirements of the Mesa County Master Plan;
5. Property Line Adjustments may not be used to increase the number of parcels;
6. No parcel resulting from a Property Line Adjustment of a thirty-five (35) acre or larger parcel shall have an area of less than thirty-five (35) acres (unless the adjustment is being made to adjust property boundary lines to match an historic fence line, stream channel, ditch, irrigation canal, or other natural feature in the same vicinity);

7. If located within or adjacent to the Rural Planning Area, an Administrative Review application for a Property Line Adjustment must include a plat or Site Plan note reciting the County’s Right to Farm and Ranch policy; and
8. A Property Line Adjustment shall not unreasonably interfere with or prohibit the use of a recorded easement without the prior approval of the beneficiary of the easement.

B. Approval Criteria

The Planning Director may approve an Administrative Review application for a Property Line Adjustment after applying the General Approval Criteria in Section 3.1.17 and determining that:

1. street locations will not be changed;
2. the proposal will neither create a nonconformity nor increase the degree to which any structure or lot is nonconforming; and
3. facilities and services (including sewage and waste disposal, domestic and irrigation water [where available], gas, electricity, police and fire protection, and roads and transportation, as applicable) shall be available upon completion of the project to serve the subject property while maintaining adequate levels of service to existing development.

3.5.10 | Physical and Legal Separations

An Administrative Review for a Physical and Legal Separation of Land may be approved in accordance with this subsection.

A. Eligibility

In order to qualify as a Physical and Legal Separation, the separation must:

1. be in the form of an actual physical barrier, such as a public road, a railroad track, a river, or a ditch or canal; and
2. one (1) or more intervening parcels must be owned by an unrelated third party.

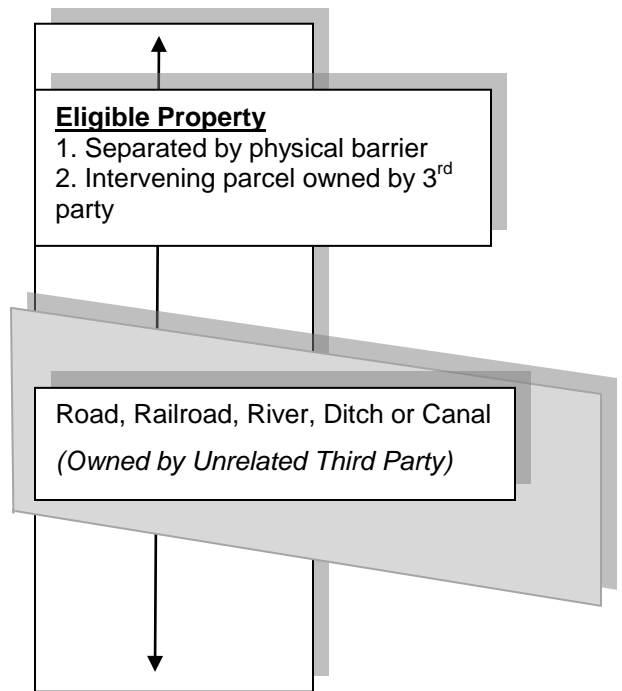
B. Standards

The following standards shall apply to Physical and Legal Separations:

1. an Administrative Review shall not be approved if the Physical and Legal Separation was caused by a voluntary conveyance of the intervening parcel by the present owner or a previous owner within the ten (10) years preceding the date of filing the Administrative Review application;
2. if located within or adjacent to the Rural Planning Area, an Administrative Review application for a Physical and Legal Separation shall include a site plan note reciting the County’s Right to Farm and Ranch policy; and
3. an Administrative Review for a Physical and Legal Separation shall not be approved unless instruments reflecting the Legal Separation appear in the public record.

C. Approval Criteria

The Planning Director may approve an Administrative Review application for a Physical and Legal Separation after applying the General Approval Criteria in Section 3.1.17, and determining that:



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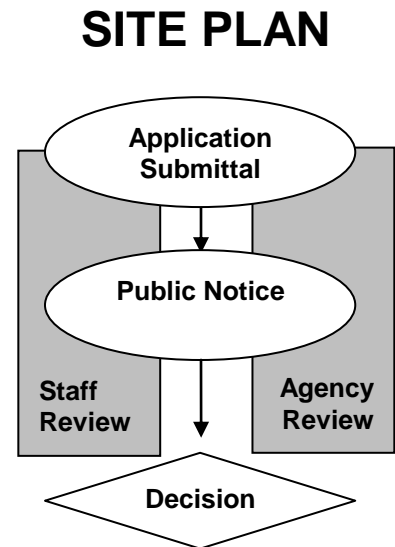
1. the proposal will neither create a nonconformity nor increase the degree to which a structure is nonconforming; and
2. facilities and services (including sewage and waste disposal, domestic and irrigation water, gas, electricity, police and fire protection, and roads and transportation, as applicable) shall be available upon completion of the project to serve the subject property while maintaining adequate levels of service to existing development.

3.5.11 | Site Plans

A. Site Plan Approval Required

Site Plan approval, in accordance with the procedures of this section, shall be required before issuance of a building permit for any of the following:

1. any non-residential development;
2. any residential or agricultural development;
3. any project requesting a density bonus under the provisions of Chapter 9 that is not reviewed as an Administrative Review or Major Subdivision;
4. any development using Transferable Density Credits under the provisions of Chapter 9 that is not reviewed as an Administrative Review or Major Subdivision;
5. any accessory dwelling unit or internal conversion;
6. any temporary use.



3.5.11.1 | Minor Site Plans

Minor Site Plans are applications which require a lesser review and approval process than Major Site Plans require. Examples include:

- alteration of drainages;
 - temporary uses;
 - expansion of an existing use, including parking, by no more than fifty percent (50%) of the principal building square footage or fifty percent (50%) of the outdoor storage area; and
 - a change of a non-residential or non-agricultural use without expansion of buildings. (a change of an agricultural or residential use is applied for through a residential/agricultural site plan pursuant to Section 3.5.11.3.)
- A. **Application Filing**
Applications for Minor Site Plan approval shall be submitted to the Planning Director. The application shall be submitted in person during a check in meeting (see Section 3.1.7).
 - B. **Review and Action**
The Planning Director shall review each application for Minor Site Plan approval, and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 3.5.11.1.D.
 - C. **Notice**
No notice requirements are necessary.
 - D. **Approval Criteria**
The Planning Director shall approve a Minor Site Plan application if the Planning Director determines that the proposed development will comply any conditions of approval and all applicable requirements

of this Land Development Code, including, but not limited to, the Use Regulations in Chapter 5, Density and Dimensional Standards in Chapter 6, and the Development Standards in Chapter 7.

E. Lapse of Approval

The right to develop in accordance with an approved Site Plan shall lapse and be of no further effect if all development shown on the approved Site Plan is not complete within three (3) years of the date of Site Plan approval. A copy of the approved site plan shall be provided to the applicant and placed in the file with an expiration clause and date stamped thereon in accordance with this section.

3.5.11.2 Major Site Plans

Major Site Plans are applications which require a more stringent review and approval process than Minor Site Plans require. Examples of a major site plan include a change in use where the building area is proposed to expand more than fifty percent (50%); expansion of an existing use more than fifty percent (50%), and new uses on vacant land (including multi-family residential uses) or as determined by the Planning Director.

A. Application Filing

Applications for Major Site Plan approval shall be schedule and attend a Pre-application Meeting before filing an Administrative Review application. (see Section 3.1.6).

B. Review and Action

The Planning Director shall review each application for Site Plan approval, and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Sec 3.5.11.2.D.

C. Notice

Notice of filing of an application for Major Site Plan approval shall be posted in accordance with the requirements of Section 3.1.8. Notice is not required to be mailed or advertised.

D. Approval Criteria

The Planning Director shall approve a Site Plan application if the Planning Director determines that the proposed development will comply with any conditions of approval and all applicable requirements of this Land Development Code, including, but not limited to, the Use Regulations in Chapter 5, Density and Dimensional Standards in Chapter 6, and the Development Standards in Chapter 7.

E. Lapse of Approval

The right to develop in accordance with an approved Site Plan shall lapse and be of no further effect if all development shown on the approved Site Plan is not complete within three (3) years of the date of Site Plan approval. A copy of the approved site plan shall be provided to the applicant and placed in the file with an expiration clause and date stamped thereon in accordance with this section.

3.5.11.3 | Residential/Agricultural Site Plans

Residential/agricultural site plans are applications for development of all new residential or agricultural land uses. Accessory buildings with a footprint size of less than one hundred and twenty (120) square feet shall not require a residential/Agricultural site plan approval.

A. Application filing

Applications for Residential/Agricultural Site Plan approval shall be submitted to the Planning Director.

B. Review and action

The Planning Director shall review each application for Residential/Agricultural Site Plan approval, and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 3.5.11.3.D.

C. Notice

No notice of the application for Residential/Agricultural Site Plan is required.

- D. Approval criteria
The Planning Director shall approve a Residential/Agricultural Site Plan application if the Planning Director determines that the proposed development will comply with any conditions of approval and all applicable requirements of this Land Development Code, including, but not limited to, the Use Regulations in Chapter 5, Density And Dimensional Standards in Chapter 6, the Road Access Policy and Development Standards in Chapter 7.
- E. Additional approval criteria for accessory dwellings
In addition to the approval criteria set forth in Section 3.5.11.3.D. above, Accessory Dwellings shall be subject to the approval criteria set forth in Section 5.3.7.
- F. Lapse of approval
The right to develop in accordance with an approved Residential/Agricultural Site Plan shall lapse and be of no further effect if all development shown on the approved Site Plan is not complete within the time frame required to complete construction according to a valid building permit.

3.5.12 | Thirty-five (35) Acre Parcels Created by Plat

The Planning Director shall be responsible for reviewing thirty-five (35) acre parcels created by plat for zoning and access requirements.

3.5.13 | Subdivision for Public Purposes

An administrative review may be approved in accordance with this subsection.

- A. Purpose: To allow one (1) subdivided lot to be used for public purposes not subject to the density requirements in the Master Plan and applicable zoning district. The public purpose shall be limited to those proposed by municipalities, quasi-municipal districts (Public Improvement Districts, Title 32 & 37 districts, etc.) or government entities.
- B. Eligibility:
 - 1. A use for public purposes must be proposed as the reason for the application. The use must be permitted in the underlying zoning district on the subject property as listed in Table 5.1, as an Allowed Use (Site Plan application) or Conditional Use (CUPs). This process does not relieve the applicant of the responsibility of an application for a Conditional Use Permit or Site Plan.
 - 2. The property may be platted or unplatted.
- C. Approval Criteria:
 - 1. Only one (1) lot for the public purpose may be created using this process.
 - 2. The lot shall be of sufficient size to meet the requirements in the Land Development Code.
 - 3. Lots may be created with indirect access (no street frontage) depending on the proposed use. Public uses that do not generate traffic may not require street frontage (for example, a trail or open space parcel may not need road frontage, but a fire station would).
 - 4. Provision of potable water, through service by a water district or a well permit, may be required for the new lot. Uses that can reasonably demonstrate no water use may be exempt from Section 7.8. Depending on the public purpose, and upon demonstration that no water use is required, the application may be considered exempt from Section 7.8, Potable Water Supply, in the Land Development Code.
 - 5. If irrigation water is supplied to the new lot after the division, an irrigation maintenance agreement must be recorded.
 - 6. The remainder lot (the lot not used for public purposes) shall meet all requirements in Chapter 6, Density and Dimensional Standards.
 - 7. Screening for noise and visual issues must be provided even if it is not mandatory in Section 7.2 in order to mitigate impacts on the neighborhood.

8. Structures for uses that generate traffic (such as police or fire stations) shall be a minimum of fifty (50) feet from all property lines.
9. Activities that generate traffic shall not access roads internal to a subdivision. These uses shall be located on external roads.
10. A Plat Restriction (a legal restriction on the use of the land for public purposes, recorded in the records of the Clerk and Recorder) shall be placed as a note on the site plan, which is recorded with the plat.

3.5.14 | Notice of Decision

Notice of the decision on an Administrative Review shall be mailed to the applicant and all other parties who have made a written request for notification.

3.5.15 | Acceptance of Improvements

Approval of an Administrative Review shall not constitute acceptance of any public improvements. Such acceptance will require separate action by the Board of County Commissioners.

3.5.16 | Recording and Depositing

The Planning Director shall record with the Mesa County Clerk and Recorder all approved Minor Subdivision plats, Simple Land Division plats, Agricultural Land Division Plats, and Subdivision replats; and Subdivisions for Public Purposes plats; and deposit all Boundary Line Adjustments, and Physical and Legal Separation plats, upon approval.

3.5.17 | Appeals

A. Appeals of Planning Director's Decision

Appeals of the action of the Planning Director regarding an Administrative Review may be taken to the Board of County Commissioners by filing an appeal with the Planning Director within thirty (30) days of the Planning Director's decision on the matter. The Board of County Commissioners shall consider the appeal as a new matter, and act to approve, approve with conditions, or deny the application. The required notice and approval criteria shall be the same as required of the original action before the Planning Director; however, evidence shall be weighed independently by the Board. If more than one (1) appeal is filed concerning a single decision, the appeals may be consolidated into a single appeal for review at the discretion of the Board.

B. Appeals of Board of County Commissioners' Decision

Appeals of decisions of the Board of County Commissioners shall be made to the courts, as provided by law.

§3.6 | Administrative Review of Major Subdivisions

3.6.1 | Applicability

The Major Subdivision procedures of this Section 3.6 apply to the following:

- A. all land divisions that do not qualify for an Administrative Review application (Administrative Reviews include but are not limited to Minor Subdivisions, Simple Land Divisions, Agricultural Land Divisions, Re-subdivisions, Physical and Legal Separations, and thirty-five (35) Acre Parcels Created by Plat);
- B. all additional divisions of parcels that have been included in a Minor Subdivision or Simple Land Division, or Agricultural Land Division; and
- C. any additional division of platted parcels previously created through the Major Subdivision process, or any process in place prior to the May 1, 2000 effective date of this Code, which created platted lots.

The procedures of this Section 3.6 shall not apply to those exceptions provided for in C.R.S. §30-28-101(10), or to development or permit applications eligible for processing under the Administrative Review procedures of Section 3.5, unless there is clear intent to evade these Major Subdivision regulations.

3.6.2 | General Meeting

A. General Meeting

A General Meeting is required for all Major Subdivision applications. The General Meeting application shall be submitted in the format established by the Planning Director. The General Meeting application shall be reviewed by the Planning Director and other administrative officials, and within seven (7) calendar days of the General Meeting, the reviewing officials will complete a written report. A meeting with the applicant to discuss the General Meeting report will be scheduled within fifteen (15) working days of the completion of the review and will serve as the Pre-application Meeting for the Concept Plan application. Meeting notes will be prepared within three (3) working days of that meeting to assist the applicant in preparing the Concept Plan.

B. Lapse of General Meeting

A General Meeting report shall lapse if a Concept Plan application for the subdivision, or a phase of the subdivision has not been submitted within one hundred and eighty (180) days of the date of the Concept Plan General Meeting unless an extension of not more than one hundred and eighty (180) days has been requested and approved by the Planning Director. Applicants must schedule a new General Meeting once the General Meeting report has lapsed.

3.6.3 | Concept Plan

A. Application Filing

Concept Plan applications shall be submitted to the Planning Director in the form required in the application packet.

B. Neighborhood Meeting

The Applicant shall hold a meeting with area property owners after the Department completes a review of the Concept Plan. Property owners within the notification area shall be invited to the meeting, which will be held at a reasonable time to encourage maximum participation. The purpose of the meeting is for the Applicant to discuss the application with area property owners and to identify issues that may need to be resolved to meet the approval criteria in this Land Development Code and any other adopted County regulations. A written narrative describing the meeting attendance and results must be submitted to the Planning Director prior to Concept Plan approval.

C. Application Notice

Notice of application shall be provided by mail, publishing and posting, in accordance with the requirements of Sec. 3.1.8. Written notice of the application shall also be provided to subsurface (mineral rights) owners at least five (5) days before the Neighborhood Meeting in accordance with the requirements of Sec. 3.1.8, C.R.S. §30-28-133(10) and §24-65.5-103. The Concept Plan shall have submitted with it certification that the notice of the application has been sent to the mineral estate owners, and shall include the names and addresses of all surface owners, mineral owners, and lessees of mineral owners to whom notices of an application have been sent as their names may appear upon the plats or records in the County Clerk and Recorder's office and as their most recent addresses may appear in a telephone or other directory of general use in the area of the property or on the tax records of the County.

D. If construction is planned in phases, a phasing plan and schedule must be submitted for review by staff and review agencies as a part of the development application.

E. Planning Commission Review

The Planning Commission shall act as a review agency after the neighborhood meeting and shall provide comments and recommendations to the Planning Director.

F. Planning Director's Review and Decision

After reviewing the application, the Planning Director shall act to approve, approve with conditions, or deny the application, based on the Approval Criteria of Sec. 3.6.3.G, other applicable standards in this Land Development Code and any other adopted County regulations.

G. Approval Criteria

A Concept Plan may be approved by the Planning Director when considering the General Approval Criteria in Section 3.1.17 and the following:

1. the county and other service providers will be able to provide adequate facilities and services (including sewage and waste disposal, domestic water, and irrigation water, [where available], gas, electricity, police and fire protection, and roads and transportation, as applicable) which shall be available upon completion of the project to serve the subject property while maintaining adequate levels of service to existing development;
2. the proposed subdivision will not result in significant and demonstrable adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife and vegetation;
3. the proposed subdivision will not impede future development of surrounding land at densities and intensities shown in the Mesa County Master Plan;
4. the proposal is not significantly different from surrounding and nearby land uses and/or allowed uses in terms of density, intensity and impacts, and it mitigates any potential adverse impacts to the maximum extent practical (traffic generation, noise, odor, dust, and other external impacts);
5. the proposed subdivision, if located within the Rural Planning Area, does not result in the division of, or hinder, conservation of prime or prime and unique agricultural land, as defined by the Natural Resources Conservation Service; and
6. the proposed subdivision, if located within or adjacent to the Rural Planning Area, includes a site plan and plat note reciting the County's Right to Farm and Ranch policy.

H. Findings of Fact

The decision of the Planning Director shall be accompanied by written findings of fact, which shall include a finding of whether the Major Subdivision is consistent or inconsistent with any applicable intergovernmental agreements between the County and other entities. Those written findings shall be stated in the document approving or denying the Concept Plan. The findings shall also be filed with the Clerk and Recorder of Mesa County. In the event of denial, the written findings shall specify the provisions of the County's adopted regulations that the proposal failed to satisfy.

I. Technical Disputes

As a means of resolving technical disputes between the applicant's licensed or registered professionals and the County, such disputes may be referred to a qualified employee of the appropriate state department for a recommendation pursuant to CRS §30-28-133.5.

J. Lapse of Concept Plan Approval

An approved Concept Plan shall lapse and be of no further force and effect if a complete Final Plan application for the subdivision, or a phase of the subdivision has not been submitted within one (1) year of the date of Concept Plan approval by the Planning Director (date of approval document). A maximum of three 12-month extensions of time may be approved by the Planning Director upon review of a written request when deemed necessary to resolve review comments, or due to unforeseen circumstances. The Planning Director may decline to grant an extension if there is the potential for adverse impacts on the development of surrounding properties, or there has been a substantial change in the surrounding area, or the proposed development would no longer be consistent with adopted plans of this Code. If approval lapses, the Planning Director shall record a lapse of approval affidavit with the Mesa County Clerk and Recorder.

3.6.4 | Final Plan

After approval of a Concept Plan, a Final Plan application for the subdivision may be submitted.

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- A. **Application Filing**
Final Plan applications shall be submitted to the Planning Director in the form required in the application packet.
- B. **Planning Director's Action**
The Planning Director shall review each Final Plan application, and act to approve or deny the Final Plan based on the Approval Criteria of Sec. 3.6.4.C.
- C. **Approval Criteria**
The Planning Director shall approve a Final Plan only if the Planning Director determines that the Final Plan is consistent with the approved Concept Plan and meets all conditions imposed by the Planning Director during the approval of the Concept Plan. A Final Plan is deemed to be consistent with the approved Concept Plan when 1) the locations of connections to public roads and adjacent properties not owned by the applicant are not altered and internal street and pedestrian path alignments may be slightly modified; 2) drainage and detention facility locations are retained within the general areas identified in the approved Concept Plan; 3) all applicable requirements of this Land Development Code are met; and 4) other modifications are determined by the Planning Director to be consistent with the approved Concept Plan. If circumstances pertaining to the overall development change, a phasing plan may be approved by the Planning Director in response to a written request stating the specific circumstances. The applicant shall notify the applicable utilities and adjacent property owners. Any Final Plan which is determined to be inconsistent with the Concept Plan approval per this section may either be revised to be consistent with such previous approval or may be submitted as a new Concept Plan under Section 3.6.3.
- D. **Time Frames**
The Final Plan shall be approved within one (1) year of the date of submittal. One (1) extension of one (1) year may be approved by the Planning Director upon review of a written request.

3.6.5 | Final Plat

After approval of a Final Plan, a Final Plat application for the subdivision may be submitted.

- A. **Public Improvements/Development Improvements Agreements**
Before approval of a Final Plat, the applicant must install all required public and private improvements in accordance with the approved improvements construction plans or execute a Development Improvements Agreement to install such improvements, in accordance with Section 3.16.
- B. **Application Filing**
Final Plat applications shall be submitted to the Planning Director. The application shall be submitted in person during a check in meeting (see Section 3.1.7).
- C. **Planning Director's Action**
The Planning Director shall review each Final Plat application, and act to approve or deny the Final Plat, after determining whether or not it is consistent with the approved Final Plan.
- D. **Acceptance of Improvements**
Approval of a Final Plat shall not, in and of itself, constitute acceptance of any public improvements. Such acceptance will require separate action by the Board of County Commissioners.
- E. **Recording; Lapse of Approval**
If the approved Final Plat is not recorded with the Clerk and Recorder of Mesa County within three (3) years of the date of approval of the Final Plan, the Concept Plan and Final Plan shall lapse and be of no further effect. Two (2) one-year (1) extensions of time may be approved by the Planning Director upon review of a written request when deemed necessary due to unforeseen circumstances. If approval lapses, the Planning Director shall record a lapse of approval affidavit with the Mesa County Clerk and Recorder.
- F. **Corrections for Errors or Omissions for Minor Changes to Recorded Plats**
If it is discovered that there is a minor survey or drafting error, the Registered Land Surveyor who has certified the plat shall be notified of any errors or omissions, where upon the Registered Land

Surveyor shall submit an Affidavit of Correction to the County Surveyor for verification. If the Surveyor who certified the plat is absent, the County Surveyor shall prepare the Affidavit of Correction. The completed Affidavit shall be submitted to the Mesa County Planning Department to be recorded with the Mesa County Clerk and Recorder within ten (10) days of completion.

3.6.6 | Appeals

- A. Appeals of Planning Director's Decision
Appeals of the actions of the Planning Director regarding Major Subdivision Concept Plans and Final Plans may be taken to the Board of County Commissioners by filing an appeal with the Planning Director within thirty (30) days of the Planning Director's decision on the matters. Appeals will be reviewed by the Planning Commission in a public workshop with comments presented to the Board of County Commissioners. The Board of County Commissioners shall consider the appeal as a new matter, and act to approve, approve with conditions, or deny the application. The required notice and approval criteria shall be the same as required of the original action before the Planning Director; however, evidence shall be weighed independently by the Board. If more than one (1) appeal is filed concerning a single decision, the appeals may be consolidated into a single appeal for review at the discretion of the Board.
- B. Appeals of Board of County Commissioners' Decision
Appeals of decisions of the Board of County Commissioners shall be made to the courts, as provided by law.

§3.7 | Planned Unit Developments (PUD)

Planned Unit Developments are approved and processed in the same manner as Major Subdivisions. The first step involves scheduling a General Meeting. A Planned Unit Development application will follow the General Meeting and Neighborhood Meeting processes described in Chapter 3.6, Major Subdivisions.

3.7.1. Concept Plan

- A. Public Hearing Notice
Notice of the Planning Commission's and Board of County Commissioners' public hearings shall be provided by mail, publishing and posting, in accordance with the requirements of Section 3.1.8. Written notice of the Planning Commission's public hearing shall also be provided to subsurface (mineral rights) owners at least five (5) days before the hearing in accordance with the requirements of Section 3.1.8 and C.R.S. §30-28-133(10) and §31-23-215. The Concept Plan shall have submitted with it the names and addresses of all surface owners, mineral owners, and lessees of mineral owners to whom notices of a hearing shall be sent as their names may appear upon the plats or records in the County Clerk and Recorder's office and as their most recent addresses may appear in a telephone or other directory of general use in the area of the property or one (1) the tax records of the County.
- B. Phased Development
If construction is planned in phases, a phasing plan and schedule must be submitted for review by staff and review agencies and approval by the Board of County Commissioners in the public hearing as a part of the development application.
- C. Public Hearing Scheduling
Public hearings shall be scheduled to a date certain. Subsequent to the initial application for administrative review, the applicant has ninety (90-calendar) days to respond to the review comments and may request one (1) ninety (90-calendar) day extension of time to respond. If the Applicant does not respond to review comments within either the ninety (90-calendar) days or the extension period, the application will be considered automatically withdrawn. The Applicant may request a public hearing, subsequent to the first response time period, if the Applicant wishes to proceed and the Application does not demonstrate compliance with County regulations, adopted policies and intergovernmental agreements, and review agency concerns and requirements. After three (3) review periods have been completed and the application contains deficiencies such that it does not meet County regulations, does not address adopted policies and intergovernmental agreements, or

does not satisfy review agency concerns or requirements, the Planning Director will schedule the application for public hearing unless the Applicant withdraws it entirely.

- D. **Planning Commission's Review and Recommendation**
The Planning Commission shall hold a public hearing on the proposed Concept Plan, and, at the close of the hearing, recommend approval, approval with conditions or denial of the application based on the Approval Criteria of Section 3.7.1.E, other applicable criteria in this Land Development Code and any other adopted County regulations and other applicable standards. Failure of the Planning Commission to make its recommendation within thirty (30) days of the date of its receipt of the Concept Plan application shall constitute a recommendation for approval of the application unless the applicant agrees in writing to an extension of this period.
- E. **Board of County Commissioners' Review and Decision**
After receiving the recommendation of the Planning Commission, the Board of County Commissioners shall hold a public hearing on the Concept Plan, and, at the close of the hearing, act to approve, approve with conditions, or deny the application, based on the Approval Criteria of Section 3.7.1.D, other applicable criteria in this Land Development Code and any other adopted County regulations and other applicable standards.
- F. **Concept Plan and PUD Rezoning Approval Criteria**
Concept Plans and PUD Rezoning applications may be approved by the Board of County Commissioners only if they find that all of the following criteria have been met:
1. the proposed Concept Plan is consistent with the Mesa County Master Plan pursuant to C.R.S. §24-67-104;
 2. the Concept Plan is necessary to address a unique situation or represents a substantial benefit to the County, compared to what could have been accomplished through strict application of otherwise applicable base zoning district standards, based on the Purposes set out in Section 1.5;
 3. the Concept Plan complies with the PUD regulations of Section 4.4.1;
 4. the proposal is not significantly different from surrounding land uses in terms of density, intensity and impacts, and it mitigates any potential adverse impacts to maximum extent practical;
 5. facilities and services (including sewage and waste disposal, domestic water, irrigation water [where available], gas, electricity, police and fire protection, and roads and transportation, as applicable) shall be available upon completion of the project to serve the subject property, while maintaining adequate levels of service to existing development; and
 6. the same development could not be accomplished through the use of other techniques, such as rezoning to a non-PUD district, variances, or administrative adjustments.
- G. **Findings of Fact**
The decision of the Board of County Commissioners shall be accompanied by written findings of fact, which shall include a finding of whether the proposed Concept Plan and Rezoning are consistent or inconsistent with the Mesa County Master Plan pursuant to C.R.S. §24-67-104; and substantially consistent or inconsistent with any applicable intergovernmental agreements between the County and other entities. Those written findings shall be stated in the Board's resolution approving or denying the Concept Plan and Rezoning. The findings shall also be filed with the Planning Department and the Clerk and Recorder of Mesa County. In the event of denial, the Board of County Commissioner's written findings shall specify the provisions of the County's adopted regulations that the proposal failed to satisfy.
- H. **Effect of Concept Plan Approval**
Concept Plans shall be approved concurrently with PUD Rezoning applications. No Concept Plan may be approved without a PUD Rezoning, and no PUD Rezoning application may be approved until a Concept Plan for the development has been approved. Approval of a Concept Plan shall constitute

acceptance of the uses, maximum development intensities, and general layout proposed for the PUD development. As such, the Concept Plan shall govern the preparation of the required Final PUD Plans. The approved Concept Plan shall be supported by the project final design. Should the Concept Plan prove unbuildable or otherwise not feasible based on the final PUD Plans, the Concept Plan must be revised to reflect the limitations identified in the design of the final PUD Plans.

I. Lapse of Concept Plan Approval

An approved Concept Plan shall lapse and be of no further force and effect if a complete Final PUD Plan application for the PUD or a phase of the PUD has not been submitted within one (1) year of the date of Concept Plan approval by the Board of County Commissioners. One (1) extension of time up to eighteen (18) months may be approved by the Planning Director upon review of a written request when deemed necessary to resolve review comments or due to unforeseen circumstances. In the event that approval lapses, the Concept Plan shall be of no effect, and the property may be developed only in accordance with the regulations of the underlying base zoning district. In the event of lapse of approval, the Planning Director shall record a lapse of approval affidavit with the Mesa County Clerk and Recorder, and initiate action to rezone the property to a zoning classification that is consistent with the Mesa County Master Plan, in accordance with the Rezoning procedure of Section 3.4.

3.7.2 | Final PUD Plans

After approval of a Concept Plan, a Final Plan application for the subdivision may be submitted.

A. Application Filing

Final Plan applications shall be submitted to the Planning Director in the form required in the application packet.

B. Planning Director's Action

The Planning Director shall review each Final Plan application, and act to approve or deny the Final Plan, based on the Approval Criteria of Section 3.7.1.C.

C. Approval Criteria

The Planning Director shall approve a Final Plan only if the Planning Director determines that the Final Plan is consistent with the approved Concept Plan and meets all conditions imposed by the Board of County Commissioners during their approval of the Concept Plan. A Final Plan is deemed to be consistent with the approved Concept Plan when 1) the locations of connections to public roads and adjacent properties not owned by the applicant are not altered and internal street and pedestrian path alignments may be slightly modified; 2) drainage and detention facility locations are retained within the general areas identified in the approved Concept Plan; 3) all applicable requirements of this Land Development Code are met; and 4) other modifications are determined by the Planning Director to be consistent with the approved Concept Plan. If circumstances pertaining to the overall development change, a phasing plan may be approved by the Planning Director in response to a written request stating the specific circumstances. The applicant shall notify the applicable utilities and the adjacent property owners. Any Final Plan which is determined to be inconsistent with the Concept Plan approval per this section may either be revised to be consistent with such previous approval or may be submitted as a new Concept Plan under Section 3.7.1.

D. Time Frames

The Final Plan shall be approved within one (1) year of the date of submittal. One (1) extension of one (1) year may be approved by the Planning Director upon review of a written request.

E. Appeals

1. Appeals of Planning Director's Decision

Appeals of the action of the Planning Director on a PUD Final Plan may be taken to the Board of County Commissioners by filing an appeal with the Planning Director within thirty (30) days of the Planning Director's decision on the matter. The Board of County Commissioners shall consider the appeal as a new matter, and act to approve, approve with conditions, or deny the application. The required notice and approval criteria shall be the same as required of the original action before the Planning Director; however, evidence shall be weighed independently

by the Board. If more than one (1) appeal is filed concerning a single decision, the appeals may be consolidated into a single appeal for review at the discretion of the Board.

2. Appeals of Board of County Commissioners' Decision
Appeals of decisions of the Board of County Commissioners shall be made to the courts, as provided by law.

3.7.3 | Final Plat

After approval of a Final Plan, a Final Plat application shall be submitted for a PUD which subdivides the property.

- A. Public Improvements/Development Improvements Agreements
Before approval of a Final Plat, the applicant must install all required public and private improvements in accordance with the approved improvements construction plans or execute a Development Improvements Agreement to install such improvements, in accordance with Section 3.16.
- B. Application Filing
Final Plat applications shall be submitted to the Planning Director. The application shall be submitted in person during a check in meeting (see Section 3.1.7).
- C. Planning Director's Action
The Planning Director shall review each Final Plat application, and act to approve or deny the Final Plat, after determining whether or not it is consistent with the approved Final Plan.
- D. Acceptance of Improvements
Approval of a Final Plat shall not, in and of itself, constitute acceptance of any public improvements. Such acceptance will require separate action by the Board of County Commissioners.
- E. Recording; Lapse of Approval
If the approved Final Plat or Site Development Plan is not recorded with the Clerk and Recorder of Mesa County within three (3) years of the date of approval of the Final Plat, the Concept Plan and Final Plans shall lapse and be of no further effect. Two (2) one-year (1) extensions of time may be approved by the Planning Director upon review of a written request when deemed necessary due to unforeseen circumstances. If approval lapses, the Planning Director shall record a lapse of approval affidavit with the Mesa County Clerk and Recorder.
- F. Corrections for Errors or Omissions for Minor Changes to Recorded Plats
If it is discovered that there is a minor survey or drafting error, the Registered Land Surveyor who has certified the plat shall be notified of any errors or omissions, where upon the Registered Land Surveyor shall submit an Affidavit of Correction to the County Surveyor for verification. If the Surveyor who certified the plat is absent, the County Surveyor shall prepare the Affidavit of Correction. The completed Affidavit shall be submitted to the Mesa County Planning Department to be recorded with the Mesa County Clerk and Recorder within ten (10) days of completion.

3.7.4| Expiration of Previously Approved Planned Unit Developments

If an Official Development Plan for a Planned Unit Development that was approved before the effective date of this Code (May 1, 2000) lapses or has lapsed prior to adoption of this Code, the subject property shall be governed by the regulations of the zoning district that existed on the property immediately before approval of the Planned Unit Development. Applications to rezone such property to a zoning classification that is consistent with the Mesa County Master Plan shall be accepted without the payment of a fee. If a previously approved Official Development Plan expires, the Planning Director shall record a lapse of approval affidavit with the Mesa County Clerk and Recorder. Within five (5) years of recording of such an affidavit, the Planning Director shall initiate action to rezone the property to a zoning classification that is consistent with the Mesa County Master Plan, in accordance with the Rezoning procedure of Section 3.4.

§3.8 | Conditional Use Permits

3.8.1 | Pre-application Meeting

Applicants shall schedule and attend a Pre-application Meeting before filing a Conditional Use Permit application (see Section 3.1.6).

3.8.2 | Application Filing

Applications for Conditional Use Permits shall be submitted to the Planning Director.

3.8.3 | Planning Director’s Review and Report

The Planning Director shall review each Conditional Use Permit application in light of the Approval Criteria of Section 3.8.7 and, if deemed necessary, distribute the application to other reviewers. Based on those reviews, the Planning Director shall provide a report to the Planning Commission. The Planning Director shall be authorized to require that a qualified consultant be hired at the applicant’s expense when staff resources are unavailable or inadequate to conduct a competent analysis of the application.

3.8.4 | Public Hearing Notice

Notice of the public hearing shall be mailed and posted, in accordance with Section 3.1.8.

3.8.5 | Planning Commission’s Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed Conditional Use Permit and, at the close of the public hearing, recommend approval, approval with conditions, or denial of the application based on the Approval Criteria of Section 3.8.7.

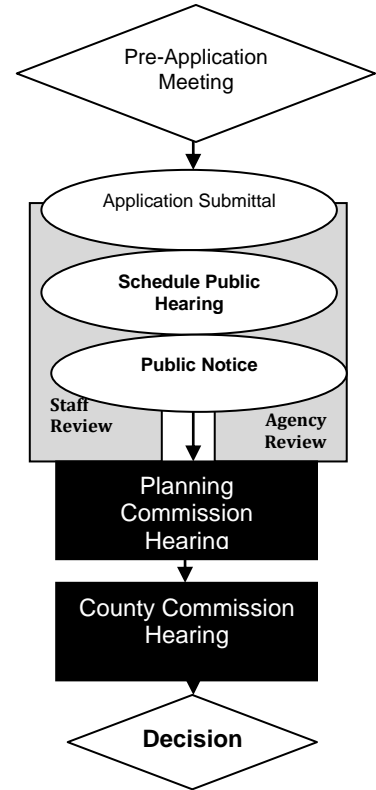
3.8.6 | Board of County Commissioners’ Review and Decision

After receiving the recommendation of the Planning Commission, the Board of County Commissioners shall hold a public hearing on the proposed Conditional Use Permit application and, at the close of the public hearing, act to approve, approve with conditions, or deny the application, based on the Approval Criteria of Section 3.8.7.

3.8.7 | Approval Criteria

A Conditional Use Permit may be approved by the Board of County Commissioners after applying the General Approval Criteria in §3.1.17 and after considering the following:

- A. the proposed use is not significantly different from adjacent uses in terms of appearance, site design, operating characteristics (hours of operation, traffic generation, noise, odor, dust, and other external impacts) or, if the use is different, that any adverse impacts resulting from the use will be mitigated to the maximum extent practical and reclamation of the site will be adequate for appropriate future uses of the site where applicable;
 - 1. Applications which request an exception to the height limitations of a zone district as identified in Table 6.1 must demonstrate that:
 - a. the strict application of the provisions of this Land Development Code would result in practical difficulties to, and exceptional and undue hardship upon, the proposed use, and
 - b. the proposal is compatible with features in the area such as vegetation, topography or similar structures and
 - c. the proposal will not have an adverse impact upon the properties located within the written notification area defined in Section 3.1.8 of the Code.



Proposals must address measures to blend the structure into the existing landscape and skyline and provide visual representation of such mitigation.

- B. facilities and services (including sewage and waste disposal, recycling, domestic and irrigation water [where available], gas, electricity, security measures, police and fire protection, and roads and transportation, special fencing, and signage, as applicable) shall be available upon completion of the project to serve the subject property while maintaining adequate levels of service to proposed and existing development during regular, periodic, and peak usages;
- C. access will be provided as necessary to prevent traffic hazards and to minimize traffic congestion in public streets and alleys;
- D. adequate assurances of ongoing maintenance have been provided;
- E. any significant adverse impacts on the natural environment will be mitigated to the maximum extent practical, including whether soils and geologic suitability are adequate for the proposed use, and whether prevailing winds might cause adverse impacts on-site and off-site; and
- F. there is a need for the use on a community wide basis.

3.8.8 | Findings of Fact

The decision of the Board of County Commissioners shall be accompanied by written findings of fact, which shall include a finding of whether the Conditional Use Permit is consistent or inconsistent with any applicable intergovernmental agreements between the County and other entities. Those written findings shall be stated in the Board of County Commissioners’ resolution recommending approval or denying the Conditional Use Permit. In the event of denial, the Board of County Commissioners’ written findings shall specify the provisions of the County’s adopted regulations that the proposal failed to satisfy.

3.8.9 | Appeals of Board of County Commissioners’ Decision

Appeals of decisions of the Board of County Commissioners shall be made to the courts, as provided by law.

3.8.10 | Amendments

The procedure and criteria for amending any Conditional Use Permit shall be the same as required for approving a new permit pursuant to Section 3.8 of this Code.

§3.9 | Floodplain Development Permit

Pre-application Meeting

Applicants shall schedule and attend a Pre-application Meeting before filing a Floodplain Development Permit application (see Section 3.1.6).

3.9.1 | Application Filing

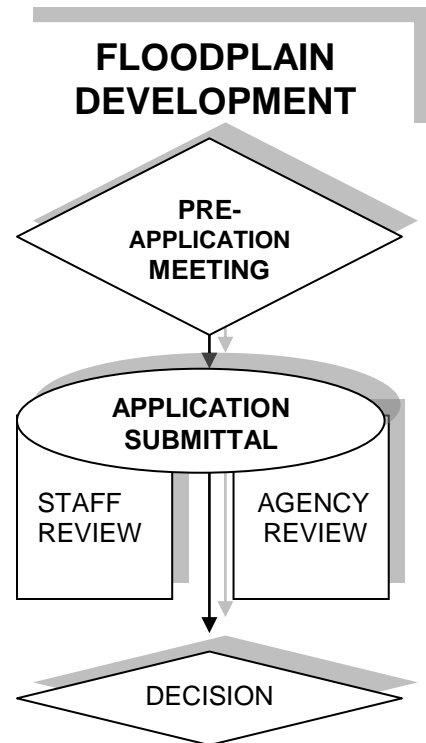
Floodplain Development Permit applications shall be submitted to the Floodplain Administrator.

3.9.2 | Floodplain Administrator’s Review and Action

The Floodplain Administrator and other relevant review agencies shall review each Floodplain Development Permit application to determine the specific flood hazard at the site, and to evaluate the suitability of the proposed use in relation to the flood hazard. At the conclusion of the review period, the Floodplain Administrator shall act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 3.9.4. The Floodplain Administrator shall be authorized to require that a qualified consultant be hired at the applicant’s expense when staff and agency resources are unavailable or inadequate to conduct a competent analysis of the application.

3.9.3 | Approval Criteria

In determining whether to approve a Floodplain Development Permit, the



Floodplain Administrator shall consider the following items.

- A. The effect of the flood on the site itself, including:
 - 1. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site;
 - 2. the susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owners;
 - 3. whether the proposed use will be inhabited or only used on a part time basis;
 - 4. the proposed water supply and sanitation systems, and the ability of these systems to prevent contamination or unsanitary conditions;
 - 5. the community importance of the services provided by the proposed facility;
 - 6. the requirements of the facility for a waterfront location, and the availability of alternative sites for the use;
 - 7. the compatibility of the proposed use with existing development and development anticipated in the future;
 - 8. the precedent that would be set by granting the permit, and the cumulative effect of numerous similar permits, if issued;
 - 9. the safety of access to the property in times of flood for emergency and non-emergency vehicles; and
 - 10. whether the property is endangered by channel relocation due to natural causes.
- B. The effects conveyed downstream or upstream of allowing such a use, including:
 - 1. the effect on depth and velocity of floodwater (i.e., peak flow characteristics);
 - 2. the danger to life and property downstream due to increased flood velocities and heights caused by encroachment or obstruction upstream or downstream;
 - 3. whether the depth of floodwaters on neighboring parcels would be increased by more than the designated height above normally expected flood depths;
 - 4. increased probability of erosion to property, as opposed to normal stream bank erosion, because of accelerated flood velocities, or direction of floodwaters resulting from the obstruction or encroachment;
 - 5. whether additional public expenditures for increased flood protection may be necessitated, such as dike or bridge maintenance;
 - 6. whether the applicant would obtain an undue advantage compared to later applicants who might require a permit;
 - 7. the danger that materials may be swept downstream and cause injury to persons or property; and
 - 8. possibility of contamination downstream from ruptured waste disposal systems, or stored treatment-related, toxic chemicals and/or bacteriological substances.
- C. The preservation of the efficiency and capacity of the watercourse to transmit and discharge floodwaters, and the capacity of the floodplain area to absorb floodwaters.

3.9.4 | Conditions of Approval

The Floodplain Administrator shall ensure that the proposed development complies with Floodplain Regulations of Section 7.13. The Floodplain Administrator shall be authorized to impose conditions necessary to ensure compliance with those standards, including those set out in Section 7.13.11 and the following:

- A. Modification of waste disposal and water supply facilities to minimize or eliminate infiltration of flood waters.
- B. Limitations on periods of use and operations.
- C. Imposition of operational controls, sureties, and deed restrictions.
- D. Requirements of prohibitions of channel modifications, dikes, levees, and other protective measures.
- E. Placement of a structure on the site so that it offers minimum obstruction to flood waters by requiring that its longitudinal axis be parallel to the direction of the flood waters and on the same line as those of adjoining structures, or by requiring greater setbacks from the watercourse than would otherwise be required.
- F. Location of building pad envelopes.
- G. Flood Proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rates of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The administrator shall require that the applicant submit a plan or document certified by a registered professional engineer or architect testifying that the Flood Proofing measures are consistent with the regulatory flood elevation and associated flood factors for the particular area. Flood Proofing measures may include:
 1. installation of watertight doors, bulkheads, and shutters, or similar methods of construction;
 2. reinforcement of walls to resist water pressures;
 3. addition of mass or weight to structures to resist flotation;
 4. use of paints, membranes, or mortars to reduce seepage of water through walls;
 5. installation of pumps to lower water levels in structures;
 6. installation of pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall flood pressures;
 7. construction to resist rupture or collapse caused by water pressure from debris;
 8. installation of accessible valves or controls on sanitary and storm drains, which will permit the drains to be closed to prevent back-up of sewage and storm waters into the structure; and
 9. location of electrical equipment, circuits, and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the flood waters.

3.9.5 | Appeals

Appeals of the Floodplain Administrator's decision on a Floodplain Development Permit application may be taken to the Floodplain Board of Appeals in accordance with the procedures of Section 3.15.

3.9.6 | Lapse of Approval

An approved Floodplain Development Permit shall be valid for a period of one (1) year from the date of issuance. If construction has not been commenced and diligently pursued during the one (1) year period, the permit shall lapse and be of no further effect. An extension of a Floodplain Development Permit shall require review and approval of a new permit, pursuant to the procedures of this section.

§3.10 | Vacation of Rights-of-Way, and Renaming of Streets

3.10.1 | Applicability

The procedures of this section shall apply to the vacation of any right-of-way providing access to property and to the renaming of streets.

3.10.2 | Application Filing

Applications shall be submitted to the Planning Director. The application shall be submitted in person during a check in meeting (see Section 3.1.7).

3.10.3 | Planning Director’s Review and Report

The Planning Director shall review each application in light of the Approval Criteria of Section 3.10.6 , and, if deemed necessary, distribute the application to other reviewers. Based on those reviews, the Planning Director shall provide a report to the Board of County Commissioners.

3.10.4 | Public Hearing Notice

Notice of the Board of County Commissioners’ public hearings shall be provided by mail and posting, in accordance with the requirements of Section 3.1.8.

3.10.5 | Board of County Commissioners’ Review and Decision

After receiving the recommendation of the Planning Director, the Board of County Commissioners shall hold a public hearing on the proposal, and, at the close of the public hearing, act to approve, approve with conditions, or deny the application, based on the Approval Criteria of Section 3.10.6.

3.10.6 | Approval Criteria

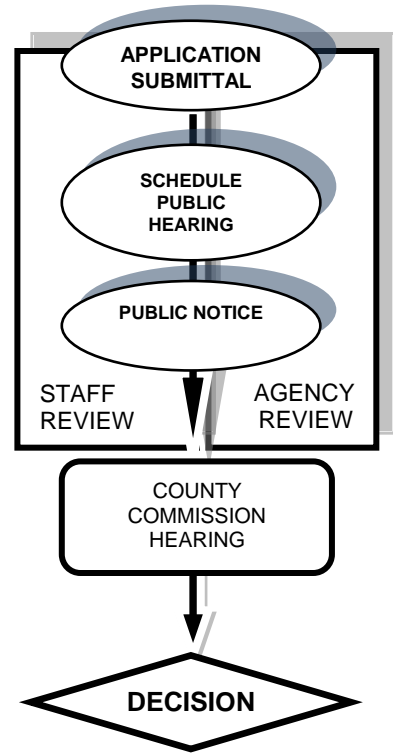
A. Vacations

A vacation application under this section may be approved by the Board of County Commissioners if the Board of County Commissioners determines that the requested vacation will not:

1. create any landlocked parcels;
2. negatively impact adjacent properties;
3. restrict access to any parcel so that access is unreasonable or economically prohibitive;
4. reduce the quality of public services to any parcel of land;
5. be inconsistent with any adopted transportation plan, including the Grand Valley MPO Transportation Plan;
6. affect the historic movement of livestock;
7. create a circuitous alternate route for area residents or other members of the public;
8. negatively affect utility access or utility distribution networks; or
9. eliminate public access to public lands.

A vacation of a right-of-way may be approved on a Subdivision Plat as long as the above criteria are met, and:

- a. the right-of-way being vacated was previously dedicated to the public;
- b. the right-of-way being vacated is entirely within the plat being created;



- c. existing utilities are accommodated with sufficient easements; and
- d. access to adjoining parcels that existed because of this right-of-way is not jeopardized.

B. Street Renaming

The Board of County Commissioners may approve an application for renaming a street if it finds that both of the following criteria have been met:

- 1. the proposed new name for the street is not so similar to the name of an existing street in the County or any town or city in the County that it would create public confusion as to the location of the street; and
- 2. the proposed renaming will not otherwise create any continuing confusion to drivers, public safety personnel, or area residents as to the location of the street.

3.10.7 | Appeals

Appeals of decisions of the Board of County Commissioners shall be made to the courts, as provided by law.

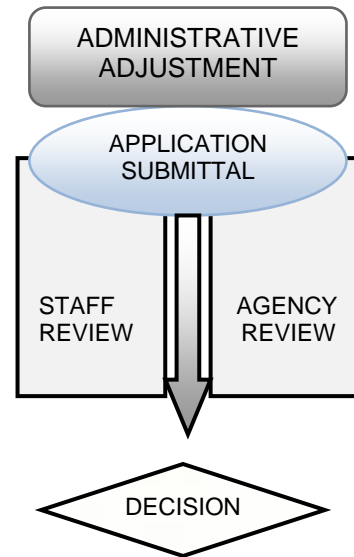
§3.11 | Administrative Adjustments

3.11.1 | Applicability

This section sets out the required review and approval procedures for Administrative Adjustments, which are modifications to any numeric standard set out in Section 4.4 and Chapter 6, except those related to building height, residential density, or nonresidential intensity.

3.11.2 | Application Filing

Applications for Administrative Adjustments shall be submitted to the Planning Director. The Planning Director may require the Applicant to include, as part of the application, any materials necessary to provide adequate information to allow the Planning Director to conduct a complete review of the application. Such materials may include, but are not limited to, a survey prepared by a licensed Colorado surveyor.



3.11.3 | Review and Action

The Planning Director shall review each application for an Administrative Adjustment and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 3.11.4.

3.11.4 | Approval Criteria

Administrative Adjustments may be approved by the Planning Director only upon a finding that all of the following criteria have been met:

- A. the requested adjustment will have no significant adverse impact on the health, safety or general welfare of the applicant, residents of the subject property, surrounding property owners or the general public; and
- B. any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical;
- C. there are special circumstances or conditions (including but not limited to exceptional topographic conditions, narrowness, shallowness, or the shape of property) that are peculiar to the land or building for which the Administrative Adjustment is sought that do not apply generally to land or buildings in the area;
- D. the strict application of the provisions of this Land Development Code would result in peculiar and practical difficulties in the use of the land or building; and

- E. the requested Administrative Adjustment is the minimum necessary to relieve the applicant of the peculiar and practical difficulties in the use of the land or building.

3.11.5 | Findings of Fact

The decision of the Planning Director shall be accompanied by written findings of fact. Those written findings shall be filed in the Planning Department and with the Clerk and Recorder of Mesa County.

3.11.6 | Appeals

Appeals of the Planning Director’s decision on an Administrative Adjustment may be taken to the Board of County Commissioners in accordance with the procedures of Section 3.15.

§3.12 | Zoning Variances

This section sets out the required review and approval procedures for Zoning Variances.

3.12.1 | Use Variances Prohibited

No variance shall be approved that has the effect of allowing a use that is not allowed in the subject zoning district.

3.12.2 | Application Filing

Applications for Zoning Variances shall be submitted to the Planning Director. A check-in meeting shall be required (see Section 3.1.7).

3.12.3 | Public Hearing Notice

Notice of the public hearing shall be published, mailed and posted, in accordance with Section 3.1.8.

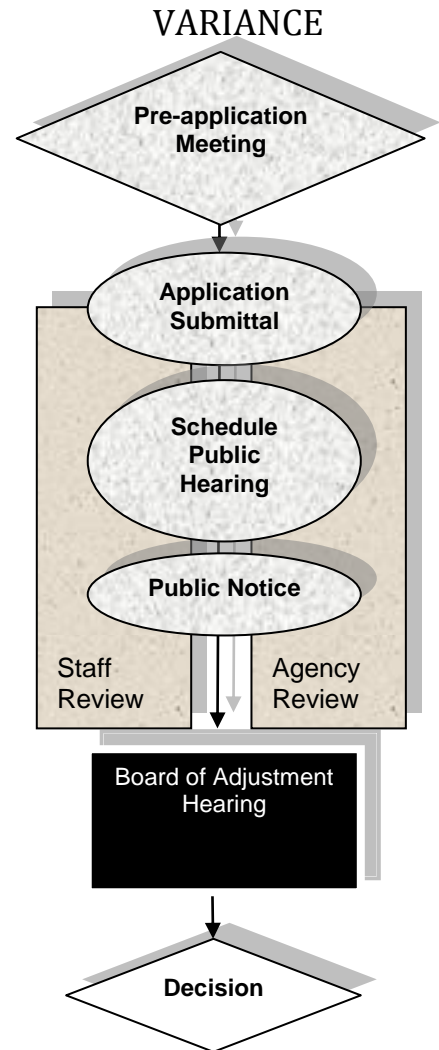
3.12.4 | Review and Action

The Board of Adjustment shall hold a public hearing on each Zoning Variance application, and at the close of the public hearing, act to approve, approve with conditions, or deny the Zoning Variance based on the Approval Criteria of Section 3.12.5.

3.12.5 | Approval Criteria for Zoning Variances

A zoning variance may be granted by the Board of Adjustment only if it finds that all of the following criteria have been met:

- A. the requested Variance is consistent with the Purposes set out in Section 1.5 of this Land Development Code;
- B. there are special circumstances or conditions (such as exceptional topographic conditions, narrowness, shallowness, or the shape of the property) that are peculiar to the land or building for which the Variance is sought that do not apply generally to land or buildings in the area;
- C. the special circumstances and conditions that account for the need for a Variance are not the result of the owners’ actions;
- D. The special circumstances and conditions are such that the strict application of the provisions of this Land Development Code would result in peculiar and practical difficulties to, and exceptional and undue hardship upon, the use of the land or building;
- E. The granting of the Variance is the minimum necessary to relieve the applicant of the practical difficulties and exceptional and undue hardship in the use of the land or building; and
- F. The granting of the Variance will not have an adverse impact upon the properties located within the written notification area defined in Section 3.1.8.



3.12.6| Approval Criteria for Accessory Dwellings

- A. Variances to the maximum allowed size of an accessory dwelling may be approved by the Board of Adjustment only if it finds that the following criteria 1 through 5 have been met:
 - 1. The requested variance is consistent with the Purposes set out in Section 1.5 of the Land Development Code;
 - 2. The available building area of the property, as shown on a survey or site analysis map submitted by the applicant, would allow the construction of the proposed accessory dwelling, including adequate space for a septic system and replacement septic system as required by Mesa County;
 - 3. Except for maximum size, the proposed accessory dwelling will meet all applicable requirements of the Land Development Code;
 - 4. The approval of the accessory dwelling is not sought to subsequently compel or influence approval of an application to subdivide the property or to circumvent subdivision regulations; and
 - 5. Notice of the requirements and restrictions pertaining to the accessory dwelling will be provided to potential future owners by recording the variance approval resolution in the public records of the Mesa County Clerk and Recorder.

- B. In addition to the accessory dwelling variance approval criteria listed in paragraph 3.12.6.A above, the Board of Adjustment shall consider the following:
 - 1. Whether there are special circumstances or conditions that are peculiar to the land or building for which the Variance is sought that do not apply generally to land or buildings in the area;
 - 2. Whether the special circumstances and conditions are such that the strict application of the provisions of this Land Development Code would result in peculiar and practical difficulties to, and exceptional and undue hardship upon, the use of the land or building;
 - 3. Whether the requested Variance is the minimum necessary to relieve the applicant of the practical difficulties and exceptional and undue hardship in the use of the land or building;
 - 4. Whether the granting of the Variance will have an adverse impact upon the properties located within the written notification area defined in Section 3.1.8.; and
 - 5. Whether the principal dwelling and accessory dwelling will be compatible with one (1) another in appearance including similar styles of architecture and rooflines and similar exterior construction materials. (However, if the existing dwelling is a manufactured home, this requirement shall not apply to the proposed new dwelling, irrespective of whether the new dwelling is proposed as the accessory dwelling or the principal dwelling).

3.12. 7| Findings of Fact

The decision of the Board of Adjustment shall be accompanied by written findings of fact specifying the reason for the decision. Those written findings shall be filed in the Planning Department and with the Clerk and Recorder of Mesa County.

3.12.8 | Notice of Decision

Notice of the decision shall be mailed to the applicant and all other parties who have made a written request for notification.

3.12.9 | Appeals

Appeals of decisions of the Board of Adjustment shall be made to the courts, as provided by law.

§3.13 | Floodplain Variances

This section sets out the required review and approval procedures for Floodplain Variances.

3.13.1 | Application Filing

Applications for Floodplain Variances shall be submitted to the Floodplain Administrator. A check-in meeting shall be required (see Section 3.1.7).

3.13.2 | Review and Action

The Floodplain Board of Appeals shall hold a public hearing on each Floodplain Variance application, and, at the close of the public hearing, act to approve, approve with conditions, or deny the Floodplain Variance based on the Approval Criteria of Section 3.13.4.

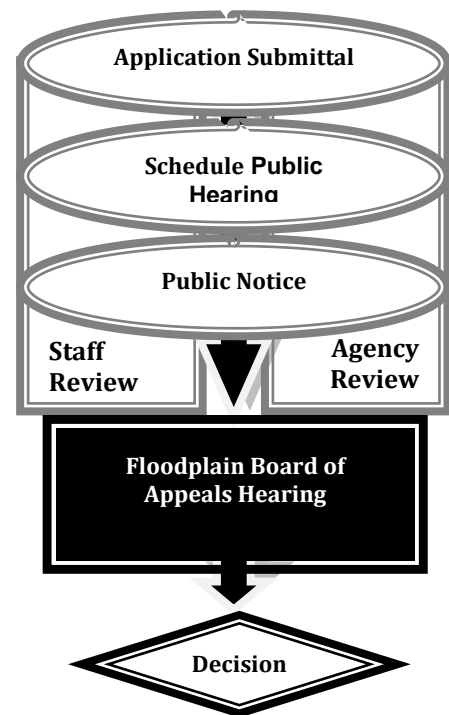
3.13.3 | Public Hearing Notice

Notice of the public hearing shall be mailed and posted, in accordance with Section 3.1.8.

3.13.4 | Approval Criteria In acting upon applications for Floodplain Variances, the Floodplain Board of Appeals shall consider the Floodplain Regulations of Section 7.13; all technical evaluations; and the following criteria:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding and erosion damage; and
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners; and
- D. The importance of the services provided by the proposed facility to the community; and
- E. The necessity to the facility of a waterfront location, where applicable; and
- F. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage; and
- G. The compatibility of the proposed use with the existing and anticipated development, and;
- H. Whether the proposed use is consistent with the Mesa County Master Plan and the floodplain management program for that area; and
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles; and
- J. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as gas, sewer, electrical, and water systems, streets and bridges.

FLOODPLAIN VARIANCE



3.13.5 | Findings of Fact

The decision of the Floodplain Board of Appeals shall be accompanied by written findings of fact specifying the reason for the decision. Those written findings shall be filed in the Planning Department and with the Clerk and Recorder of Mesa County.

3.13.6 | Conditions of Approval

In granting a Floodplain Variance, the Floodplain Board of Appeals may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially adverse effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of this Land Development Code. Any condition imposed must relate to a situation created or aggravated by the use or the proposed Floodplain Variance and must be roughly proportional to its impact. More specifically:

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (A-K) in Section 3.13.4 have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justifications required for issuing the variances increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause;
 - 2. a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - 3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Section 3.13.4 or conflict with existing local laws or ordinances.
- F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

3.13.7 | Notice of Decision

Notice of the decision shall be mailed to the applicant and all other parties who have made a written request for notification.

3.13.8 | Appeals

Appeals of decisions of the Floodplain Board of Appeals shall be made to the courts, as provided by law.

§3.14 | Written Interpretations

3.14.1 | Application Filing

Applications for Written Interpretations of this Land Development Code shall be submitted to the Planning Director. A check-in meeting shall be required (see Section 3.1.7).

3.14.2 | Planning Director's Review and Decision

Within 30 days of receipt of a complete application for a Written Interpretation, the Planning Director shall: (1) review and evaluate the application in light of the text of this Land Development Code, the Official Zoning Maps, the Mesa County Master Plan, and any other relevant documents; (2) consult with the County Attorney and other staff, as necessary; and (3) render a Written Interpretation.

3.14.3 | Form

The interpretation shall be provided to the applicant in writing, and shall be filed in the official record of interpretations.

3.14.4 | Official Record of Interpretations

The Planning Director shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection in the Planning Department during normal business hours.

3.14.5 | Appeals

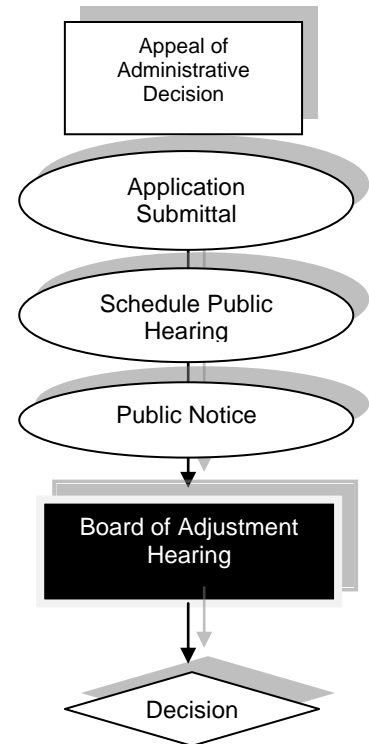
Appeals of the Planning Director’s Written Interpretation may be taken to the Board of County Commissioners in accordance with the procedures of Section 3.15.



§3.15 | Appeals of Administrative Decisions

3.15.1 | Applicability

- A. Board of Adjustment
Unless otherwise specifically provided in this Land Development Code, the Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of the zoning requirements of this Land Development Code in Chapters 4 and 6.
- B. Floodplain Board of Appeals
The Floodplain Board of Appeals shall hear and decide appeals of decisions of an administrative official regarding interpretation of floodplain boundaries, issuance or denial of Floodplain Development Permits, conditions attached to Floodplain Development Permits, or any other provision of the Floodplain Regulations of Section 7.13.
- C. Board of County Commissioners
Unless otherwise specifically provided in this Land Development Code, the Board of County Commissioners shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of this Code, except as specifically provided for above in subsections A. and B.



3.15.2 | Standing to Appeal

Appeals of Administrative Decisions may be filed by Parties of Record aggrieved by any decision of an administrative official in the administration or enforcement of the requirements of this Land Development Code (see Section 3.1.11).

3.15.3 | Application Filing

Applications for Appeals of Administrative Decisions shall be submitted to the Planning Director. A check-in meeting shall be required (see Section 3.1.7).

3.15.4 | Timing

Appeals of Administrative Decisions must be filed within thirty (30) days of the date of the decision or action being appealed.

3.15.5 | Effect of Filing

Once a complete application for appeal has been received by the Planning Director, no other development approvals or permits will be issued for the subject property, unless the official whose decision is being appealed certifies that such a hold on permits and approvals would cause immediate peril to life or property. If

such a certification is made, development approvals and permits may be issued for the subject property, unless a stop work order is issued by the Board of County Commissioners, Board of Adjustment, or the Floodplain Board of Appeals, or a restraining order is issued by a court.

3.15.6 | Public Hearing Notice

Notice of the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals public hearing shall be published, mailed, and posted, in accordance with the requirements of Section 3.1.8.

3.15.7 | Record of Administrative Decision

Before the public hearing on the appeal, the official whose decision is being appealed shall transmit to the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals all papers constituting the record of the decision being appealed.

3.15.8 | Review and Action

The Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals shall hold a public hearing on the appeal within thirty (30) days of receipt of a complete application and take action on the appeal within twenty (20) days of the public hearing.

A. Appeal Powers

In exercising the appeal power, the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals shall have all the powers of the official from whom the appeal is taken, and they may reverse or affirm wholly or partly or may modify the decision being appealed. If the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals determines that it is necessary to obtain additional evidence in order to resolve the matter, it may remand the matter to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.

B. Consideration of Evidence

At the public hearing, the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals shall consider the submitted evidence and any additional material it deems appropriate. Strict rules of evidence shall not apply, but all additional oral evidence shall be reduced to writing in summary form.

C. Burden of Persuasion or Error

In acting on the appeal, the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals shall grant to the administrative official's decision a presumption of correctness; the burden of persuasion of error shall be on the appellant.

3.15.9 | Approval Criteria

An appeal shall be sustained only if the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals finds that the administrative official erred.

3.15.10 | Findings of Fact

The decision of the Board of County Commissioners, Board of Adjustment, or Floodplain Board of Appeals shall be accompanied by written findings of fact specifying the reason for the decision. Those written findings shall be filed in the Planning Department and with the Clerk and Recorder of Mesa County. Notice of the decision shall be mailed to the appellant and all other parties who have made a written request for notification.

3.15.11 | Appeals

Appeals of decisions of the Board of County Commissioners, Board of Adjustments or Floodplain Board of Appeals shall be made to the courts, as provided by law.

§3.16 | Development Improvements Agreements

3.16.1 | Purpose

The County seeks to protect the health, safety, and general welfare of the community by requiring a timely completion of the required public improvements and to limit the effects of uncompleted subdivisions. The Development Improvements Agreement is a requirement of the Colorado Revised Statutes. Therefore, the

purpose of the Development Improvements Agreement is to protect the County from assuming the cost to complete subdivisions and to abide by the Colorado Revised Statutes.

3.16.2 | Applicability

Whenever public improvements are required, the developer shall enter into a Development Improvements Agreement, which shall be executed and recorded with the Final Plat. Staff may require a Development Improvements Agreement for other types of Development Applications.

3.16.3 | Procedure

Development Improvements Agreements shall be reviewed together with the development to which they relate. The Agreement shall be administered and extinguished per the provisions of the Agreement.

3.16.4 | Guarantees

The Guarantee security amount for the Agreement shall accurately reflect the quantities and costs of all public improvements and common private improvements and shall be sufficient to make reasonable provision for the completion of required development improvements in accordance with construction documents, design and time specifications.

A Development Improvements Agreement shall be secured by one or a combination of the guarantees as described in the Development Improvements Agreement. Upon agreement by both parties, any guarantee options may be substituted for another guarantee.

§3.17 | Development Agreements

3.17.1 | Purpose

In connection with any Rezoning, Major Subdivision, or Planned Unit Development approval, the Board of County Commissioners shall be authorized to enter into a Development Agreement with the applicant. Development Agreements may include provisions clarifying the phasing of construction, the timing, location and financing of infrastructure, reimbursement for oversized infrastructure, vesting of property rights for periods of between three (3) and ten (10) years, assurances that adequate public facilities (including roads, water, sewer, fire protection, and emergency medical services), will be available as they are needed to serve the development, and mitigation of anticipated impacts of the development on the general public.

3.17.2 | Review Criteria

Any proposed Development Agreement shall be reviewed by applicable Review and Decision-Making Bodies at the same time that the Rezoning, Major Subdivision, or Planned Unit Development is reviewed. Review Bodies shall have the same power to make recommendations regarding the proposed Development Agreement as they do for the related development approval. Procedures for review and approval of Development Agreements shall be the same as for the related development approval. In reviewing and acting upon proposed Development Agreements, Review and Decision Making Bodies shall consider the Approval Criteria for the development application, and the following additional criteria:

- A. whether the benefit of the Development Agreement to the County outweighs its costs;
- B. whether the Development Agreement is required to mitigate impacts that would otherwise make the proposed development unacceptable; and
- C. whether the County has received adequate assurances that the development will go forward as planned in return for any vesting of property rights beyond the statutory three (3) year vesting period.

3.17.3 | Contents

Development Agreements may, without limitation, contain the following:

- A. descriptions of the acceptable and prohibited uses on the property;
- B. the density of proposed uses, including maximum floor area and height of buildings;
- C. provisions for the reservation or dedication of land for public purposes;

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- D. proposed schedule for the construction of public improvements, and assurances that public improvements will be available as needed to serve new development;
- E. proposed timing and phasing of the development project;
- F. provisions to mitigate the impacts of proposed development on the general public, including the protection of environmentally sensitive lands;
- G. provisions for public benefits or improvements in excess of what is required by current County policy or law;
- H. terms relating to applicant financing of facilities and subsequent reimbursement;
- I. terms for subsequent discretionary actions, provided such terms shall not prevent the development of the property for the uses set forth in the agreement;
- J. a provision that construction shall begin by a specified date, or that certain phases shall be completed within a specified time; and
- K. termination date for the Development Improvements Agreement.

§3.18 | Assignment of Addresses

3.18.1 | Applicability

Anyone constructing a new structure or locating or relocating mobile homes shall obtain an address notification form or address notification form serial number from the Planning Department. For purposes of this section, a “new structure” is defined as any principal nonresidential building, residential dwelling unit or multi-dwelling structure that will be occupied for the first time, and that will require an installation visit to obtain service.

3.18.2 | No Utility Service Before Address Assignment

No utility company shall furnish its utility services to any new structure or mobile home, including a mobile home that is moved from one (1) location to another, until it has received from the subscriber: (1) the street and structure number assigned by the County, and (2) either an address notification form issued by the County or a serial number from such address notification form.

3.18.3 | Applications

Applications for an address notification form may be made by telephone or in writing to the Planning Department. The resident of the property must obtain an application, and the applicant shall include the approximate location along with any identifying structures or landmarks which may help locate the structure or property requiring the address. The applicant shall complete the address notification form, and the Department shall assign a serial number to such form. The department shall furnish the applicant with sufficient copies of the form to present to the utility companies and the U.S. Postal Service, and shall maintain a record of all addresses issued

§3.19 | Stormwater Construction Permit

This section sets out the required review and approval procedures for Stormwater Construction Permits.

3.19.1 | Pre-application meeting

Applicants may schedule and attend a Pre-application Meeting before filing a Stormwater Construction Permit application with Stormwater Administrator (see Section 3.1.6).

3.19.2 | Application filing

Completed Stormwater Construction Permit applications shall be submitted to the Stormwater Administrator (See Section 3.1.4).

3.19.3 | Review and Action

The Stormwater Administrator and other relevant review agencies shall review each Stormwater Construction Permit application to evaluate the suitability of the proposed Construction Stormwater Management Plan. At

the conclusion of the review period (See Section 3.1.15), the Stormwater Administrator, shall act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 3.19.4.

3.19.4 | Approval Criteria

In determining whether to approve a Stormwater Construction Permit, the Stormwater Administrator shall consider if the Construction Site shall meet the Stormwater Discharge Limitations of Section 1503.1 of the Stormwater Management Manual (SWMM) and the Stormwater Regulations of Section 7.23.

3.19.5 | Appeals

Appeals of the Stormwater Administrator's decision on the Stormwater Construction Permit application may be taken to the Board of County Commissioners in accordance with the procedures of Section 3.15, Appeals of Administrative Decisions.

3.19.6 | Lapse of Approval

Earthwork, in compliance with the approved Stormwater Construction Permit, shall commence on a site that has an approved Stormwater Construction Permit within one (1) year from the date of issuance. If construction has not been commenced during the one (1) year period and diligently pursued, the permit shall lapse and be of no further effect. An extension of a Stormwater Construction Permit shall require review and approval of a new permit.

§3.20 | Stormwater Construction Permit Variances

This section sets out the required review and approval procedures for Stormwater Construction Permit Variances. The variance from permitting does not relieve the owner from meeting discharge limitations described in the Mesa County Stormwater Management Manual (SWMM) Section 1503.1, and the stormwater regulations in Section 7.23.

3.20.1 | Application Filing

Applications for Stormwater Construction Permit Variances shall be submitted to the Stormwater Administrator. A check-in meeting shall be required with the Stormwater Administrator (See Section 3.1.7)

3.20.2 | Review and Action

The Stormwater Administrator shall review each Stormwater Construction Permit Variance, and act to approve, approve with conditions, or deny the Stormwater Construction Permit Variance based on the Approval Criteria of Sec 3.20.3.

3.20.3 | Approval Criteria

In acting upon applications for Stormwater Construction Permit Variances, the Stormwater Administrator shall consider the Stormwater Regulations of Section 7.23; all technical evaluations, and meet one (1) or more of the following criteria:

- A. Land disturbance activities in areas where the topography would prohibit runoff from leaving the site or enter a waterway.
- B. Agricultural and silviculture activities such as home gardening and tilling a field for weed control.
- C. Maintenance activities, such as re-grading a dirt road, re-landscaping a lawn, cleaning out roadside ditches, and other land disturbances that do not alter original line and grade, hydraulic capacity or original purpose.
- D. Re-paving a roadway, providing that underlying and/or surrounding soil is not cleared, graded, excavated or otherwise disturbed.
- E. For small construction activity (i.e.: from 1- to 5-acres of earth disturbance) based on the Rainfall Erosivity Factor (i.e.: the R Factor) (see Colorado Discharge Permits System Regulation No. 61 @ 61.3(2)(f)(ii)(B)) and duration of the exposed disturbance. To obtain a waiver from the CDPS Construction General Permit, the applicant must submit calculations to the WQCD (see "Policy on the State Approved Method for Calculating the Rainfall Erosivity Factor" in SWMM, which can be obtained in pdf form at <http://www.cdphe.state.co.us/wq/permitsunit/index.html>)

- F. Grading or an excavation below finished grade for basements, footings, retaining wall, or other structures provided the land disturbance is less than one (1-acre) and are not part of a Larger Common Plan of Development or Sale.

3.20.4 | Findings of Fact

The decision of the Stormwater Administrator shall be accompanied by written findings of fact specifying the reason for the decision.

3.20.5 | Notice of Decision

Notice of the decision shall be mailed to the applicant and all other parties who have made a written request for notification.

3.20.6 | Appeals

Appeals of the Stormwater Administrator's decision on the Stormwater Construction Permit Variance application may be taken to the Board of County Commissioners in accordance with the procedures of Section 3.15, Appeals of Administrative Decisions.

§3.21 | Exemptions

This section sets out exemptions from the stormwater quality program. The exemption from permitting does not relieve the owner from meeting discharge limitations described in the Mesa County Stormwater Management Manual (SWMM) Section 1503.1, and the stormwater regulations in Section 7.23. The following activities are considered exempt:

- A. Land disturbance activities in areas where the topography would prohibit runoff from leaving the site or entering waters of the state.
- B. Agricultural and silviculture activities such as home gardening and tilling a field for weed control.
- C. Maintenance activities, such as re-grading a dirt road, re-landscaping a lawn, cleaning out roadside ditches, and other land disturbances that do not alter original line and grade, hydraulic capacity or original purpose.
- D. Re-paving a roadway, providing that underlying and/or surrounding soil is not cleared, graded, excavated or otherwise disturbed.
- E. Grading or an excavation below finished grade for basements, footings, retaining wall, or other structures provided the land disturbance is less than one (1-acre) and are not part of a Larger Common Plan of Development or Sale.

§3.22 | County Register of Historic Landmarks

3.22.1 | Purpose

The Mesa County Register of Historic Landmarks is established to recognize the historic, architectural and cultural heritage of Mesa County; to increase public appreciation of Mesa County's unique heritage; and to enable owners of Historic Resources in the County to take advantage of opportunities, benefits and programs that may be available to assist in the recognition and preservation of the historic properties. Designation as a Historic Landmark will not impart additional regulatory control over the development of historic properties, i.e. the design of additions, alterations or new construction, or demolition, with respect to impacts on historic character or integrity. The County Register implements in part the Mesa County Master Plan.

3.22.2 | County Register of Historic Landmarks Established

- A. The County Register of Historic Landmarks (County Register) is hereby established, and is contained in Appendix G of this Code. Historic buildings, structures, sites, objects or districts may be listed on the County Register upon designation by the Board of County Commissioners.
- B. All properties listed on the National Register of Historic Places or the State Register of Historic Properties are eligible for inclusion on the County Register but are not designated until approval is obtained pursuant to the requirements of this Section.

3.22.3 | Designation of Historic Structures, Sites and Districts

- A. The Board of County Commissioners pursuant to this Code:
 - 1. May designate as historic an individual building, structure, site, object or other feature, or an integrated group of structures or features on a lot or site, having a special historical, architectural or cultural value, subject to the qualifications listed in Section 3.22.10; or
 - 2. May designate as a historic district an area containing a number of buildings, structures or sites having a special historical, architectural or cultural value, subject to the qualifications listed in Section 3.22.10.
- B. Each such designation shall include a description of the characteristics of the building, structure, site, object or historic district that justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the building, structure, site, object or district.
- C. No individual structure or site shall be designated without the consent of all owners of record. Historic Districts may be designated with the consent of the owners of record of at least sixty percent (60%) of the contributing properties.
- D. Properties within municipalities may be listed on the County Register, following consultation and coordination with the municipality. The listing of properties within municipalities on the County Register shall not confer on Mesa County the authority to regulate the land use or grant any development approvals or permits for those properties, except where otherwise allowed by law.

3.22.4 | Pre-application Meeting

Applicants shall schedule and attend a Pre-application Meeting before filing a Historic Landmark Designation application (see Section 3.1.6).

3.22.5 | Application Filing

Applications to designate a Historic Landmark or Historic District shall be submitted to the Planning and Economic Development Department.

- A. An application for designation may be made by the Mesa County Board of Commissioners, the Mesa County Planning Commission, or the property owner.
- B. Applications for designation must include the following:
 - 1. Legal description of the location and boundaries of the property;
 - 2. A narrative describing the architectural, historical and/or cultural significance of the property or district;
 - 3. Photographs showing the historical attributes and existing condition of the property or district; and
 - 4. A map showing the location of the property. For historic districts, the map shall show the proposed boundaries of the district and the location of all contributing sites and structures.

3.22.6 | Application Notice

Notice of an application for designation shall be provided in accordance with Section 3.1.8. Additionally, all property owners within the boundaries of a proposed historic district shall receive written notice.

3.22.7 | Planning Commission Review

The Planning Commission shall act as a review agency and shall provide comments and recommendations to the Planning Director.

3.22.8 | Planning Director's Review

The Planning Director shall review each application for designation to determine whether it complies with the Purpose of the Land Development Code set forth in Section 1.5, Purpose, and whether it would conflict with other sections in the Land Development Code, and, if deemed necessary, distribute the application to other reviewers. After receiving the recommendation of the Planning Commission, the Planning Director shall prepare a resolution to approve, approve with modifications, or deny the application for designation and shall forward the resolution to the Board of County Commissioners for adoption.

3.22.9 | Adoption by Resolution

Designation as a Historic Landmark or Historic District shall be in the form of a resolution, adopted by the Board of County Commissioners in a public hearing. The resolution shall be filed with the Planning and Economic Development Department and recorded by the Clerk and Recorder of Mesa County. A copy of the recorded resolution shall be transmitted to the property owner of record. For Historic Districts, a copy of the recorded resolution shall be transmitted to the property owners of record of all contributing properties.

3.22.10 | Designation Criteria

In order to be listed on the County Register of Historic Landmarks, buildings, structures, sites or objects must be at least fifty (50) years old. Contributing sites within a Historic District must be at least fifty (50) years old. Buildings, structures, sites, objects and districts less than fifty (50) years in age may be designated only if deemed to be of exceptional historical, architectural or cultural importance.

A. Approval Criteria

In designating a building, structure, site, object or district as a Historic Landmark, a finding shall be made that the designation satisfies one or more of the following criteria for historical, architectural or cultural significance:

1. Represents a specific architectural style or period;
2. Represents a unique example of a structure or building type;
3. Represents an innovation in construction, materials, or design;
4. Demonstrates superior craftsmanship or high artistic value;
5. Is an example of the work of a master architect or builder;
6. Represents the built environment of a group of people in an era of history;
7. Is associated with a significant historic event;
8. Is associated with a notable person or the work of a notable person;
9. Exemplifies the cultural, political, economic, or social heritage of the community, region, state or nation;
10. Is an established and familiar natural setting or visual feature of the County; and/or
11. Has the potential to make an important contribution to the knowledge of the area's history or pre-history.

B. Physical Integrity

Each property shall also be evaluated based on physical integrity using one or more of the following criteria:

1. Retains original design features, materials and/or character;
2. Is in the original location or in the same historic context if it has been moved; or

3. Has been accurately reconstructed or restored.

C. Historic Districts

1. For the purposes of this Section, a Historic District is a geographically definable area including a concentration, linkage or continuity of buildings, structures, sites and/or objects. A Historic District is related by a pattern of either physical elements or social and cultural activities.
2. Significance is determined by applying the criteria of Subsection A, above, to the pattern and unifying elements.
3. Properties that do not contribute to the significance of the Historic District may be included within the boundaries so long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historical development. Noncontributing elements shall be evaluated for their magnitude of impact by considering their size, scale, design, location and/or information potential.
4. Historic District boundaries shall be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or site density as established through testing or survey.

3.22.11 | Revocation or Amendment of Designation

A. Revocation of Historic Landmark Designation

If a building, structure, object or special feature on a designated site has been altered so as to negate the features necessary to retain designation, the owner may apply for a revocation of the designation. The Planning Director or the Planning Commission may recommend revocation of the designation to the Board of County Commissioners in the absence of the owner's application to do so. If a designated building, structure or object is moved or demolished, the designation shall, without application or notice, be terminated by resolution of the Board of County Commissioners. If moved, a new application for designation at the new location must be made in order for designation to be considered.

B. Revocation or Amendment of Historic District Designation

If a significant number of contributing properties within a historic district have been altered, moved, and/or demolished so as to diminish the concentration, linkage or continuity necessary to retain the integrity of the district, an application to amend or revoke the historic district designation may be submitted by the owners of record of sixty percent (60%) of the contributing properties. The Planning Director or the Planning Commission may recommend revocation of the designation to the Board of County Commissioners in the absence of the owners' application to do so.

With the consent of the owners of record of sixty percent (60%) of the contributing properties, the Board may amend the boundaries of the historic district to exclude the properties that no longer contribute to the historic district or may amend the description of the historic district to remove those features or properties that no longer contribute to the district. The approval criteria for designation of a historic district as set forth in Section 3.22.10 shall be used when considering an amendment of a historic district.

C. Action

The Planning Director shall prepare a resolution for revocation or amendment for adoption by the Board of County Commissioners, which shall be filed with the Planning and Economic Development Department and recorded by the Clerk and Recorder of Mesa County. Upon adoption of the resolution to revoke or amend a designation, the Planning Director shall cause notice to be sent to the property owner(s) and shall amend the Register.