

SECTION 3B CLUSTER-35 PLAN

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SECTION 3B CLUSTER-35 PLAN *(Adopted 7/22/08)***301B Intent** *(Amended 4/14/09)*

To provide for an alternative to a statutory 35-acre residential development in the A-1 zone district through an administrative site plan and corresponding exemption process that offers the ability to cluster parcels in part to reduce infrastructure costs. Cluster-35 Plans should preserve key attributes of a particular site and its surroundings by providing for residential development outside of areas determined to have significant environmental, geological, historical, and/or visual value. Although not required, the use of conservation easements in a Cluster-35 Plan is highly encouraged.

302B Cluster-35 Plan - Applicability

A Cluster-35 Plan (C-35) is an optional alternative to a statutory 35-acre development, where 35-acre parcels have not yet been created, or where existing 35-acre parcels are proposed to be vacated and reconfigured. In conjunction with, and separate from, the approval of a C-35, the applicant shall be required to process an exemption application in accordance with Article 9 - Exemption, of the Douglas County Subdivision Resolution, as amended. Implementation of the approved C-35 shall only be allowed in accordance with an approved exemption.

303B Cluster-35 Plan - Approval Standards

The C-35 Plan Review Board shall be responsible for the review and approval of C-35s. The C-35 Plan Review Board is composed of the Development Review Manager—Site Plan, Planning Division, and the Development Review Manager, Engineering Division. The Development Review Manager, Planning Division, serves as the C-35 Plan Review Board Manager. The C-35 shall be reviewed by the C-35 Plan Review Board for conformance with the following approval standards:

- 303B.01 The C-35 shall comply with the Douglas County Comprehensive Master Plan (CMP), as amended.
- 303B.02 The C-35 design shall conform to the Resource Conservation Exhibit (RCE) described in Section 305B in order to preserve significant environmental, geological, historical and visual resources and features. The exhibit shall serve as the basis for identifying residential parcels.
- 303B.03 The C-35 shall meet the Intent as described in Section 301B herein.
- 303B.04 A mandatory homeowner's association or other entity shall be established that provides the responsibility, authority, and financial capability to manage and maintain in perpetuity, the private roads, storm drainage facilities and any other amenities designated.

- 303B.05 Water should be provided by private, individual wells or by a special district, developed in compliance with the Special District Act, Title 32 of the Colorado Revised Statutes, and Douglas County Resolution #R-000-089, Special District Service Plan Review Procedures, as amended. A water supply narrative may be required to assess water availability. If deemed necessary by the County, a declaration of restrictive covenants in a form prescribed by the County may be required to reserve sufficient water in perpetuity. The C-35 Plan may be denied if it is determined by the County that the water supply is insufficient. The State Engineer's Office is responsible for the evaluation of all well permits.
- 303B.06 All roads shall be private roads located in an access easement, and shall be designed and constructed in accordance with the Douglas County Roadway Design and Construction Standards, as amended. All roads shall be privately owned and maintained.
- 303B.07 A Cluster-35 Plan Improvements Agreement (C35PIA) shall be required for all improvements. Road, drainage, grading, and erosion control plans shall be approved by the County Engineering Division. The C35PIA may be approved after Board exemption approval, but shall be approved prior to recordation of the C-35.
- 303B.08 Approval of an exemption, in accordance with Article 9 of the Douglas County Subdivision Resolution, as amended, shall be required in order to implement an approved C-35. Failure to obtain and record such exemption approval within 180 days of the C-35 approval shall void the C-35 approval.

304B Cluster 35 Plan - Site Design Criteria

The following site design criteria shall apply to all proposed C-35s and shall be documented as notes on the final exhibit.

304B.01 Parcel Size, Location and Configuration

Residential parcel size, location, and configuration shall be determined through an analysis of the RCE, compatibility with adjacent land uses, compliance with the CMP policies, Tri-County Health Department and other applicable regulations. Parcels shall be configured in a manner that respects the rural character of the area and no-build areas may be designated. A two-acre minimum parcel size is required to support individual wells and septic systems.

304B.02 Number of Units

One principal residential unit shall be permitted on each parcel. One additional residential unit (caretaker or guest house) per parcel is allowed when a residential parcel is five acres or greater and when the

project is located in the Central Basin or the Margin B-Water Supply Zone, as defined in this Resolution, or when served by a special district as described in Section 303B.05.

304B.03 Wildlife Habitat

Important wildlife habitat and movement corridors identified on the RCE shall be preserved.

304B.04 Animals

The keeping of animals shall comply with Section 24 of this Resolution.

305B Cluster-35 Plan - Presubmittal Requirements

The applicant shall meet with staff to review site characteristics and to discuss development of a RCE. The applicant shall provide a map of the site delineating boundaries, adjacent land uses, and existing improvements at the initial meeting.

The applicant may be required to develop a RCE that at a minimum identifies and prioritizes key site attributes. A site visit shall be necessary. County maps and resources may be used to develop the RCE. Staff may solicit input from other entities regarding conservation and prioritization of site characteristics. Residential parcels, to the extent feasible, shall be located outside of sensitive areas as depicted by the RCE. Site attributes may include, but are not limited to, the following:

- floodplain, wetlands and seasonal watercourses;
- slopes greater than 20%;
- geologic features, hazards, and rock outcroppings;
- vegetative cover;
- important wildlife habitat and movement corridors; and
- historic and cultural features.

306B Cluster 35 Plan - Submittal Requirements

306B.01 A completed land use application

306B.02 A RCE, as required

306B.03 2 copies of the C-35 exhibit

306B.04 Proof of ownership - This shall include an updated or current title insurance policy or title commitment no more than thirty days prior to the date of application

306B.05 Notification that all tax payments are current

- 306B.06 A notarized letter of authorization from the landowner permitting a representative to process the application, if applicable
- 306B.07 A narrative describing how the C-35 preserves key site characteristics
- 306B.08 Preliminary drainage and flood plain analysis
- 306B.09 Preliminary roadway construction plans
- 306B.10 Traffic Study if required by the Engineering Division
- 306B.11 Water Supply Narrative if required by the Planning Division, that includes the following:
 - 306B.11.1 description of the water demands for the C-35 Plan and the type of well permits sought;
 - 306B.11.2 the source(s) of water to be used to meet the development demand;
 - 306B.11.3 proof in the form of an attorney's opinion letter that the water supply is owned and can be used by the applicants for the purposes intended;
 - 306B.11.4 proof that all necessary decrees, permits, and any other legal requirements are in place that allow the legal use of the water supply.

307B Cluster 35 Plan - Review Process

- 307B.01 The submittal to the Planning Division shall be reviewed for completeness. The applicant shall be notified of any inadequacies. An incomplete submittal, as determined by the C-35 Plan Review Board Manager or designee, shall not be accepted and/or processed.
- 307B.02 Once the submittal has been determined to be complete and no revisions are requested prior to referral, the staff planner will request referral packets.
- 307B.03 The applicant shall provide referral packets for the Building, Engineering, Open Space and Natural Resources Divisions, applicable fire district, the Division of Wildlife, Tri-County Health Department, and other agencies identified by staff whose comments would be relevant to the proposed C-35. The referral agencies shall comment within 21 days of receiving a complete submittal.

- 307B.04 The applicant shall provide stamped envelopes addressed to the abutting landowners, and to other impacted landowners as determined by staff, for courtesy notification of the proposed C-35 application.
- 307B.05 Upon receipt of referral comments, staff shall forward referral responses to the applicant. The applicant shall revise the C-35 based on the referral responses. When a C-35 is developed to the satisfaction of staff or the applicant requests a meeting, the C-35 shall be presented to the C-35 Plan Review Board for approval.
- 307B.06 The Review Board shall approve, approve with conditions, or deny a C-35 Plan. A decision from the C-35 Plan Review Board shall be provided to the applicant within 10 working days of the meeting.
- 307B.07 An appeal of the decision of the C-35 Review Board regarding a proposed C-35 may be submitted to the Board of Adjustment in writing, within 30 days of the decision. Upon failure to file an appeal, the decision becomes final. A resubmittal of the same, or substantially same request, as determined by the Director, shall not be accepted within 1 year of a denial.
- 307B.08 If the C-35 is approved by the Review Board, the applicant shall seek an exemption approval in accordance with Article 9 of the Douglas County Subdivision Resolution, as amended. The exemption application may be processed concurrently with the C-35 application. The exemption will include a condition of approval that the exemption is for the exclusive purpose of implementing the C-35. The exemption shall include a note prohibiting further subdivision of any real property within the C-35 boundaries without further County approval.
- 307B.09 Following approval of the exemption, the approved C-35 shall be recorded in the Clerk and Recorder's Office, as required herein.
- 307B.10 A copy of the approved C-35 shall be sent to the State Engineer, by the staff planner, within 10 days of approval. [Section 30-28-404, C.R.S.]
- 307B.11 Files that become inactive whereby the applicant has failed to submit requested information for a period of 6 months are subject to closure. Inactive files will result in the staff planner sending written notice that the file will be closed.
- 307B.11.1 Once the file is closed, any further process will require resubmittal of a new application.
- 307B.11.2 The Director may grant an extension, not to exceed 6 months, upon written request from the applicant, within 14 days of the date closure notice is sent.

308B Cluster-35 Plan - Plan Exhibit

The C-35 shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State of Colorado as follows:

- 308B.01 Sheet size shall be 24" X 36" with the long dimension horizontal. All plans shall be a tapeless, spliceless and creaseless drawing using only permanent black ink (no ball point, transfer type or stickybacks) or an acceptable "fix-line" photographic reproduction or computer generated reproduction (emulsion up) of the original drawing. Inaccurate, incomplete or poorly drawn plans shall be rejected.
- 308B.02 The C-35 shall be drafted at a scale that best conveys the attributes from the RCE, survey, engineering, and design and confines the drafting error to less than 1%. An example of an acceptable scale is 1"=200'. When a proposal requires multiple sheets, a composite, on 24" X 36" paper, shall be provided that delineates the boundaries and identifies each sheet number. The scale may be different than the individual sheets as approved by the staff planner.
- 308B.03 The name of the C-35, which shall not duplicate any subdivision or planned development, shall be placed at the top of the sheet along the long dimension of the sheet, followed by a legal description, stating the aliquot portion of the section, township, range, 6th P.M., and Douglas County, the total acreage and number of residential parcels proposed. Identify the RCE and the RCE with Rural Site Plan Overlay separately.

MILLER'S CLUSTER 35 PLAN

A part of the SW/4 of Sec. 9, Township 6 South,
Range 67 West of the 6th P.M., Douglas County Co
640 Acres – 18 residential parcels

File #

- 308B.04 A block in the lower right-hand corner shall include the following: the preparation date (including revision dates); a north arrow designated as true north; a written and graphic scale; the names and addresses of the applicant, developer, engineer or surveyor who prepared the exhibit; and the number of the sheet and the total number of sheets. For the RCE, not the resources used for each layer of information (i.e. CGS map quadrant, aerial photos, Douglas County Riparian Conservation Zone, etc).
- 308B.05 A vicinity map that depicts the area to be developed and the area which surrounds the proposed development, within a 2 mile radius, superimposed on a current Douglas County Zoning Map, maintaining the same scale shall be included.

308B.06 All easements shall be depicted including:

- existing and proposed;
- public and private;
- on and adjacent to the proposed development;
- their purpose or use;
- principal dimensions;
- owners of the easement;
- recorded book and page number;
- name of the entity responsible for construction or maintenance, as applicable

If any easement already of record cannot be definitely located, a statement of its existence, the nature thereof and its recorded reference must appear on the C-35. Distances and bearings on the side lines of

parcels which are cut by an easement must be shown with an arrow or so shown to clearly indicate the actual length of the parcel lines. The widths of all easements and sufficient data to definitely locate the same with respect to each parcel must be shown. All easements must be clearly

labeled and identified. If an easement shown on the plan is already of record, its recorded reference must be given.

308B.07 Delineate all 100-year floodplains, all existing and proposed watercourses, retention and detention areas.

308B.08 Display ties to aliquot section corners and to the County GPS, if available, which shows dimensions of all primary boundary survey control points with complete monument and location descriptions, all parcel lines showing dimensions with lengths, bearings, and curve data, including chord lengths and bearings, basis of bearings and relation to true meridian and similar data. Only circular curves shall be used. No spirals, parabolas, etc. shall be used unless approved by the County. All dimensions are to be shown to the nearest 0.01' or in the case of degrees, to the nearest second. An accuracy of 1:50,000 (second order) minimum for linear and angular (bearing) closure shall be required for the boundary. All internal parcels shall have a closure accuracy of 0.01'.

308B.09 All parcels shall be located, identified, and labeled with the appropriate dimension with sufficient linear, bearing, and curve data. No ditto marks shall be used for dimensions. All parcels shall be shown in their entirety on one sheet. Parcels shall be consecutively numbered. Include the acreage within each parcel to the nearest 0.01 of an acre. All parcels or areas of land inadvertently created and not identified shall be presumed to be outlots and shall not be considered to be residential building sites.

- 308B.10 All lands to be dedicated or reserved in deeds or easements shall be depicted (where appropriate) for the use of landowners, residents, or the general public. Notes shall be included to indicate the disposition and maintenance responsibility for all such parcels.
- 308B.11 The name and principal dimension of all roads shall be located and provided. Identify road grades, centerline radii, and other pertinent roadway information such as distance between intersections. Also, indicate the maintenance responsibility in the plan notes
- 308B.12 Legal and physical access to the proposed development, even if not part of the development shall be depicted.
- 308B.13 All potential hazard areas including, but not limited to, geologic hazard areas, floodplains, and areas of 20% or greater slope shall be depicted. The RCE, if required, may fulfill this requirement.
- 308B.14 Plan notes should be included pertinent to the development standards describing:
- the site attributes to be conserved as designated on the RCE;
 - parcel size;
 - minimum well and/or ISDS separation requirements, if applicable;
 - maintenance responsibility for private roads/easements and drainage, and any amenities; and
 - landscaping and vegetation requirements.
- 308B.15 The following density statement shall appear on the C-35 plan and the corresponding exemption exhibit:
- The density of _____ units has been allocated to _____ acres. Further subdivision is not permitted by zoning, regardless of parcel size.
- 308B.16 Access permits shall be required for all private road connections to a County road or State Highway. No driveway permits will be issued from the site directly onto public roads.

308B.17 Ownership Block

The undersigned, being all the owners of the land described herein, and the beneficiaries of any deeds of trust encumbering that land, hereby consent to this Cluster-35 Plan.

OWNER(S)

(signature)
(print landowner's name)

If corporation: _____ (Name)

By: _____

Title: _____

(signature)
(print landowner's name)

ATTEST:

Acknowledged before me this ____ day of _____, 20__, by ____*(print name)_____.

WITNESS my hand and official seal.

Notary Public

My commission expires:

*Signatures of officers signing for a corporation shall be acknowledged as follows:

_____(Name) as _____(Title) of _____(Corp.) , a _____(State)

Corporation.

BENEFICIARY OF DEED OF TRUST

(Name of company)

BY: _____(Print name) _____(Signature)

TITLE: _____

ATTEST:

Acknowledged before me this ____ day of _____, 20__, by ____ (Name) as
_____(Title) of ____ (Beneficiary) _____, a ____ (State) ____ (Entity)_____.

WITNESS my hand and official seal.

Notary Public

My commission expires: _____

308B.18 Title Verification

Ownership Certification

I/we ____, a (1 of the following: qualified title insurance company, or attorney at law), duly qualified, insured or licensed by the State of Colorado, do hereby certify that I/we have examined the title of all lands depicted and described hereon and that title to such land is owned in fee simple by ____ at the time of this application.

(Notarized Signature)

Name of Authorized Official (date)

(Signature) (Registration No.)

Name of Attorney (date)

308B.19 Surveyors Certificate

I, (Surveyor's Name), a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plan truly and correctly represents the results of a survey made on (date of survey), by me or under my direct supervision and that all monuments exist as shown hereon; that mathematical closure errors are less than 1:50,000 (second order); and that said survey has been prepared in full compliance with all applicable laws of the state of Colorado dealing with monuments or surveying of land.

I attest the above on this ___ day of _____, 20____.

(signature)

(Surveyor's Name)

Colorado registered Professional Land Surveyor #

Surveyor's seal shall appear with this certificate.

308B.20 Approval Certificate

APPROVAL CERTIFICATE

THIS CLUSTER-35 PLAN IS COMPLETE AND IN ACCORDANCE WITH DOUGLAS COUNTY REGULATIONS.

Engineering Division

Date

Planning Division Date

Building permits may be issued pursuant to this plan, as noted heron, and subsequent exemption. A grading permit is required prior to road/driveway construction.

308B.21 Note the following on the C-35 Plan regarding the private internal roads:

All internal roads for this Cluster-35 Plan are private. Maintenance is the responsibility of (name) . The County will not plow snow from, or repair the surface of such roads. The School District may not provide bus service.

309B Cluster-35 Plan - Amendments

The applicant shall submit an amended C-35 in accordance with the Site Design Criteria and Cluster-35 Plan Exhibit sections. The application will be processed in accordance with the Cluster-35 Plan - Review Process.

309B.01 The C-35 Plan Review Board may approve an amendment request in accordance with the approval standards contained herein.

309B.02 A final decision regarding the C-35 amendment may be appealed to the Board of Adjustment, in writing, within 30 days of the decision. Upon failure to file an appeal, the decision becomes final. A resubmittal of the same, or substantially same request, as determined by the Director, shall not be accepted within 1 year of a denial.

310B Post Approval Responsibility

The applicant shall prepare final road, grading, and drainage plans in conformance with the approved C-35 to be submitted to the County Engineering Division. Building permits will be issued only upon the fulfillment of the conditions of approval and compliance with the approved C-35, Cluster-35 Plan Improvement Agreement, and exemption.

311B Cluster-35 Plan - Recordation

311B.01 Upon approval of the C-35 by the C-35 Plan Review Board, the applicant shall have 180 days to submit the approved C-35, along with any required supporting documents, including but not limited to, the approved exemption, the covenants, controls and restrictions, and the homeowner's association documentation of incorporation.

311B.02 Within 30 days of receipt of the C-35 and supporting documents, the staff planner shall review the documents for compliance with the C-35 Plan Review Board's approval, obtain the County Officials' signatures and submit to the Clerk and Recorder's Office for recordation.

311B.03 The Director may grant an extension of time, of not more than 1 year, upon a written request by the applicant prior to the expiration of the 180-day period. An extension request shall include an extension fee and a narrative stating the reasons for the applicant's inability to comply with the deadline, listing any changes in the character of the neighborhood, any changes in the Douglas County Comprehensive Master Plan,

Subdivision Resolution, as amended, or this Resolution that have occurred since approval of the C-35.

- 311B.04 If the request for an extension of time for recordation of the C-35 is denied by the Director, the applicant may appeal the denial in writing to the Board of Adjustment within 10 days from the date of the denial by the Director. Denial of the extension, or failure to appeal, shall void the C-35.

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