

Site Plan Review Regulations Draft Text Amendments

4-102 Agricultural (A) District

E. Lot, Building, and Structure Requirements

1. Minimum lot size... 35 acres
2. Minimum setbacks (if significant adverse impacts are demonstrated through analysis of the Site Plan Review criteria in Section 4-806.A, the Director may increase the setbacks to an amount greater than the minimum).
 - a. Front yard... 35 feet
 - b. Side yard... 7 feet
 - c. Rear yard... 15 feet
 - d. From an irrigation ditch... 50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may- with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.
 - e. Supplementary requirements may apply, refer to Article 7-1400.
3. Structure Size
 - a. Appeals to the Director's interpretation of this subsection shall be decided by the Board of County Commissioners considering the provisions in 4-1202.A.
 - b. If significant adverse impacts are demonstrated through analysis of the Site Plan Review criteria in Section 4-806.A, the Director may limit the Residential Floor Area to an amount less than the maximum.
 - c. The Boulder County Assessor's Records will be the data source to determine the median size within the defined Neighborhood and the existing Residential Floor Area on a given parcel, as verified by Community Planning & Permitting staff. The median Residential Floor Area calculation will include the total Residential Floor Area on the subject Parcel.
 - (i) For Parcels other than those specifically listed in (ii) through (vi) below, the maximum Residential Floor Area for a Parcel shall be limited to the larger of either the median Residential Floor Area of the defined Neighborhood or:
 - (A) On a Parcel with 1,500 square feet or less of Residential Floor Area, an additional 1,000 square feet over the existing Residential Floor Area on the Parcel as of [EFFECTIVE DATE].
 - (B) On a Parcel with Residential Floor Area between 1,501 and 3,000 square feet, an additional 750 square feet over the existing Residential Floor Area on the Parcel as of [EFFECTIVE DATE].
 - (C) On a Parcel with Residential Floor Area between 3,001 square feet and 4,500 square feet, an additional 675 square feet over the existing Residential Floor Area on the Parcel as of [EFFECTIVE DATE].
 - (D) On a Parcel with Residential Floor Area exceeding 4,501 square feet, additional Residential Floor Area is allowed up to the median of the defined Neighborhood.
 - (ii) For a Parcel within the mapped Townsite of Eldorado Springs, 1,500 square feet of Residential Floor Area.*
 - (iii) For a Parcel encumbered by a Boulder County conservation easement, recorded agreement, or other approval that specifies an allowable Residential Floor Area on that

Parcel that exceeds the zone district maximum, the Residential Floor Area specified in that conservation easement, recorded agreement with the County, or other approval shall be the maximum.

- (iv) For a Parcel where the Existing Residential Floor Area exceeds the size maximum for the zoning district, the Residential Floor Area as of [EFFECTIVE DATE] shall be the maximum for the Parcel.
 - (A) A one-time 200-square foot maximum of additional Residential Floor Area may be added, provided the Floor Area has not been otherwise limited through a previous land use review process.
 - (B) If the Residential Floor Area is removed and not rebuilt in one year, the maximum square footage allowed will revert to the limits prescribed in this section's parts (i) through (vi). In addition, any construction and rebuilding will be subject to the Site Plan Review standards set forth in Section 4-806.
 - (v) For a Parcel with existing historic structure(s) that are landmarked or otherwise protected, where an addition or structure causes the Residential Floor Area to exceed the size limitation, may be granted additional Residential Floor Area provided there is not a conflict with the Site Plan Review standards set forth in Section 4-806 and provided that the proposed development does not conflict with the intent of the landmark designation, and any new square footage does not exceed the Structure Size maximum.
 - (vi) For a Parcel, the retrofitting of an existing structure to make a demonstrated energy efficiency improvement or associated with the use of building material or design intended to achieve heightened energy efficiency or the use of low carbon materials, such as an incremental increase in wall thickness due to the use of straw-bale construction techniques, the Director may approve a reasonable allowance of additional Floor Area over the zone district maximum provided there is not a conflict with the Site Plan Review standards set forth in Section 4-806.
4. Maximum building height (If significant adverse impacts are demonstrated through analysis of the Site Plan Review criteria in Section 4-806.A, the Director may limit the height of a structure to an amount less than the maximum).
- a. Residential structures:
 - (i) On subdivided land...

*This language will need to be modified for each zoning district where it is applicable.

- For the Estate Residential District, Eldorado Springs.
- For Forestry, Allenspark, Eldorado Springs, Eldora, Raymond, and Riverside.
- For Business, Allenspark, Eldorado Springs, Raymond, and Riverside.
- For Mountain Institutional, Allenspark.
- For Multifamily, Eldorado Springs.

4-800 Site Plan Review

4-801 Purpose

- A. Site Plan Review is an administrative review procedure for certain proposed developments which are considered likely to significantly impact important ecosystems, agricultural lands, surrounding land uses and neighborhoods, and infrastructure needs and demands, and which may be unsafe due to natural hazards.

- B. This Site Plan Review process for proposed new development will allow any significant adverse impacts on the environment, agricultural lands, surrounding land uses and neighborhoods, and infrastructure to be identified, evaluated, and avoided or acceptably mitigated through the imposition of reasonable conditions.

4-802 Applicability and Scope of the Site Plan Review Process for Development

- A. Site Plan Review shall be required for (unless not required or ~~waived~~ expedited pursuant to sections B and C below):
1. Any development requiring a building permit on vacant parcels in unincorporated Boulder County, except for:
 - a. Season-Extending Agricultural Structures, if the dimensions of the Season-Extending Agricultural Structures on a property fall below the thresholds identified in 4-802.A.15.
 - ~~2. Any increase in residential floor area which results in a total residential floor area greater than 125% of the median residential floor area for the defined neighborhood in which the subject parcel is located. In determining if the proposed development is greater than 125% of the residential median floor area, any demolition and rebuilding of any existing residential structure or any portions thereof, shall be counted toward the threshold.~~
 2. Any cumulative increase in Floor Area of more than 1,000 square feet (residential and nonresidential) on a parcel over that existing as of September 8, 1998.
 - a. In calculating this 1,000 square foot threshold, any demolition and rebuilding of any existing structure or any portions thereof, shall be counted toward the threshold.
 - b. Any Floor Area not legally existing as of September 8, 1998, shall be counted toward the threshold.
 - c. Calculation of this threshold includes ~~applies to~~ all principal and accessory structure(s), except for:
 - (i) Season-Extending Agricultural Structures, if the dimensions of the Season-Extending Agricultural Structures on a property fall below the thresholds identified in 4-802.A.15.
 - (ii) Agricultural Sales Structures less than 500 square feet.
 - (iii) Structures identified in 17-300.A.1. that fall below the thresholds for a building permit.
 3. New structures of any size requiring a building permit when the site is located within a Natural Landmark or Natural Area as described in the Environmental Resources Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County.
 4. New structures 500 square feet or more in the 250-foot buffer associated with a Natural Landmark or Natural Area as described in the Environmental Resources Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County.
 5. New structures or additions to existing structures of any size on a property over which a conservation easement has been granted.
 - a. The Director may exempt a Season-Extending Agricultural Structure(s) from this provision if the holder of the conservation easement confirms in writing that, in the opinion of the easement holder, the proposed structure(s) would not conflict with the terms of the easement.
 6. Development occurring in a Rural Community District as described in the regulations for that District.
 7. Any development in the Floodplain Overlay District involving new structures, elevation of an existing building or additions to existing buildings that expand the footprint of the structure.

8. Any grading permit for over 50 cubic yards of earthwork (including grading associated with an access permit).
9. A change of use of a parcel, except for a change in use to a Single Unit Dwelling or Vacation Rental.
10. A commercial telecommunications facility utilizing an existing structure and meeting the height requirements of the district in which the facility is located.
11. A small wind-powered energy system.
12. A ground-mounted or parking canopy solar energy system as a Principal Use or Accessory Use, as specified in Article 4-514 and 4-516.
13. Any proposal which is eligible ~~to be waived from~~ for an expedited Site Plan Review, but for which an approval waiver was not granted.
14. An Agricultural Sales Structure larger than 500 square feet, or greater than 12 feet in height.
15. Season-Extending Agricultural Structure(s) greater than 5,000 cumulative square feet located on parcels 5 acres or larger, or greater than 3,000 cumulative square feet located on parcels less than 5 acres, or Season-Extending Agricultural Structure(s) greater than 12 feet in height.
 - a. Season-Extending Agricultural Structures that do not go through a Site Plan Review process will go through an administrative review to ensure proposed structures are constructed within applicable setbacks and adhere to applicable Floodplain Overlay District provision (4-400).
16. Any application proposing to utilize the retrofitting of an existing structure for the purpose of making a demonstrated energy efficiency improvement or the use of building materials or design intended to achieve heightened energy efficiency as an exemption from compliance with the zone district maximum Residential Floor Area.
17. Any application proposing to utilize a landmarked or otherwise protected historic structure(s) as an exemption from compliance with the zone district maximum Residential Floor Area.

B. Site Plan Review shall not be required for:

1. Earthwork that is part of normal agricultural or mining practices.
2. Accessory structures less than 1,000 square feet.
 - a. Except in those circumstances in which Site Plan Review is required because of cumulative thresholds specified in this section A(2) ~~or A(3)~~.
 - b. Except in a Natural Landmark, a Natural Area, or in the associated 250' buffer as specified in this section A(3) and (4)
 - c. Except on conservation easements held by Boulder County.
 - d. Except Agricultural Sales Structures as specified in 4-802.A.14.
3. Restoration of a structure or access that has been damaged or destroyed by causes outside the control of the property owner or their agent.
 - a. Restoration must involve the original location along the stream for stream spanning hydraulic structures and in the case of a non-hydraulic structure, the original location, floor area, and height, if applicable. Such restoration must meet the other applicable provisions of this Code, including but not limited to the applicable zoning district setback and height requirements and the provisions of the Floodplain Overlay District (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).
 - b. Restoration must be commenced within one year after the date on which the structure or access was damaged or destroyed, or a latent defect discovered. This limitation may be extended in the case of extenuating circumstances as determined by the Director.
 - c. Restoration of bridges, box culverts, low-water crossings, or other hydraulic structures, either as a temporary or permanent hydraulic structure, and accesses are subject to review

by the County Engineer for compliance with the Boulder County Storm Drainage Criteria Manual and the Multimodal Transportation Standards. The County Engineer may additionally impose conditions on the construction to assure basic safety.

- d. The provisions of this Section 4-802(B)(3) shall not apply to Substantial Improvements to buildings in the Floodplain Overlay District as provided for in Section 4-400 of this Code.
 4. Development on subdivided land with a final plat approved after February 22, 1994, unless the plat approval otherwise requires Site Plan Review for the lots.
 5. Development in approved Neighborhood Conservation Overlay Districts to the extent that the approved Neighborhood Conservation plan covers the relevant Site Plan Review criteria detailed in this Article 4-806.
 6. Any development or earthwork eligible for a General Floodplain Development Permit.
 7. Any development or earthwork requiring an individual Floodplain Development Permit, so long as the Community Planning & Permitting Director finds no conflicts with the standards listed in Article 4-806 of this Code.
- C. Site Plan Review may be waived expedited for the following circumstances if the Community Planning & Permitting Director determines that there is no potential for any significant conflict with the criteria listed in Article Section 4-806 of this Code.
1. Any increase in the total Residential Floor Area ~~to a size less than 125% of the median Residential Floor Area for the defined Neighborhood in which the subject parcel is located~~, up to an increase of 2,000 square feet provided no exemption from compliance with the zone district maximum Residential Floor Area is proposed.
 - a. This provision includes instances in which Site Plan Review would be required because the Floor Area exceeds the cumulative threshold specified in this section ~~A(2) and B(2)(a).~~
 2. In the plains, any nonresidential accessory structure less than 5,000 square feet, with the exception of Agricultural Sales Structures.
 3. In the mountainous areas, any nonresidential accessory structure less than 2,000 square feet, with the exception of Agricultural Sales Structures.
 4. Any structure on a Parcel over which a conservation easement is held, if the holder of the conservation easement confirms in writing that the proposed structure(s) would not conflict with the terms of the easement.
 5. Any application proposing to utilize the one-time maximum of 200 square feet exemption from compliance with the zone district maximum Residential Floor Area.
 6. Any grading permit involving under 500 cubic yards of earthwork.
 7. Any free-standing small wind-powered energy system that meets the height limitations for the zone district.
 8. Any roof-mounted small wind-powered energy system as described in that use classification description 4-516. A principal or accessory ground-mounted solar energy system less than 0.5 acre.
 9. A parking canopy solar energy system less than 0.5 acre or an Accessory Solar Energy System that does not satisfy the additional provisions described in Article 4-516.L.5.e.
- D. In considering an expedited Site Plan Review waiver determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days following such notification and shall consider any comments received by the public. In ~~waiving any requirement for expediting~~ expediting Site Plan Review as authorized under this section 4-802, the Director may impose written terms and conditions ~~on the waiver~~ as may be reasonably necessary to ensure that the regulatory basis for the ~~waiver~~ review is not contravened once the subject use or construction is commenced.

- E. If the proposed permit or development requires Special Review, Limited Impact Special Review, Development Plan Review, Historic District Review (Section 4-114), or Subdivision Regulations or PUD Review, Subdivision Exemption, or Exemption Plat Review, the applicable Review process shall substitute for the Site Plan Review process under this section. In any such combined review process, the standards in Section 4-806 shall be applied to the part of the proposal requiring Site Plan Review.

4-803 Pre-application Conference

- A. A pre-application conference is defined in Section 3-201 shall be held prior to the submission of an application for Site Plan Review.

4-804 Application and Submittal Requirements

- A. Within four days of the time application is made, all proposed access points, driveways, wells, leach fields, cisterns turn-out, turn-arounds, and at least four corners of the proposed structures must be visibly marked on the property with clearly labeled stakes.
- B. For the purpose of referring the project to applicable agencies, the applicant shall submit ~~a minimum of three copies of~~ one copy of the following information:
 1. The application form provided during the Pre-application Conference with all required information and signatures.
 2. ~~All applicable maps provided in the pre-application conference.~~ Name of the proposed development or use and total number of acres.
 3. A site plan at a scale which best conveys the conceptual aspects of the plan and allows for effective public presentation. This site plan must have the following elements:
 - a. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north)
 - b. Clearly identified boundary lines, corner pins, dimensions of the subject property, and distance of structures from property lines.
 - c. Location, and dimension of all structures, existing and proposed.
 - d. Parking areas, driveways, emergency turn-outs, and emergency turn-arounds will be shown, with locations and dimensions including all proposed grading for the property.
 - e. All roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements on or adjacent to the parcel.
 - f. Significant on-site features including, but not limited to: natural and artificial drainage ways, wetland areas ditches, hydrologic features (with flooding limits based on information available through the County), aquatic habitat, geologic features (including slopes, alluvial fans, areas of subsidence, rockfall areas, USDA soil classification and landslide areas), vegetative cover, dams, reservoirs, excavations, and mines.
 - g. Location and size of leach field, sewer service lines, treatment facilities, well(s) and/or water lines to serve the proposed development.
 - h. (For mountainous area properties only) Existing and proposed topographic contours at maximum intervals of five feet for at least 50 feet around all proposed disturbances. The remainder of the site may show greater contour intervals (e.g. 20-foot intervals) or obtain contours from the area's U.S.G.S. topographic map.
 - i. Any Floodplain, 100-year Floodplain or Floodway located on the property as indicated in Article 4-400 of this code.
 - j. Any Natural Landmark or Natural Area along with a 250-foot buffer zone surrounding the landmark or area as shown on the Zoning District Maps of Boulder County. Any Environmental Resources identified in the Comprehensive Plan must also be included on the site plan.

- k. The location(s) and type(s) of proposed exterior lighting.
 - 4. Four elevation drawings showing existing grade, finished grade, and height of the structure above existing grade. The location and dimensions of all windows must also be included on each of the elevations.
 - 5. Verification that the site is a legal building lot under this code and that legal access from a public road has been obtained.
- C. The following information may be required to be submitted with a site plan application if the Director determines that such information is necessary to allow the site plan standards of 4-806 to be adequately evaluated:
- 1. A detailed site plan of developed portions of the property presented at a larger scale than required in (B) above.
 - 2. Land survey data to identify the subject property including section corners and distance and bearing to these corners, quarter corners, township, range, etc.
 - 3. Verification of legal access to the subject parcel and/or proposed development location.
 - 4. (For non-mountainous portions of the county) Existing and proposed topographic contours at maximum intervals of five feet for at least 50 feet around all proposed disturbances. The remainder of the site may show greater contour intervals (e.g. 20-foot intervals) or obtain contours from the area's U.S.G.S. topographic map.
 - 5. Location, width, and typical cross-section of all existing and proposed earthwork, including but not limited to: driveways, pedestrian paths, parking areas, and berms. This information may include earthwork calculations, grading plan, drainage plan, and/or geotechnical/soils reports. The Director may request that any or all of this information be certified by a Colorado registered Professional Engineer.
 - 6. Information regarding the use of ignition/fire resistant construction materials.
 - 7. Location of existing and proposed landscaping including a revegetation plan. The site plan shall illustrate the type, height, and/or caliper of the trunk of proposed plantings. All plantings will be specified by type and location.
 - 8. Location and results of soil percolation tests (Boulder County Public Health approval) where on-site wastewater systems or similar systems are proposed. This may include site approval and discharge permit, if required, as issued by the Colorado Department of Health.
 - 9. Erosion control and revegetation plan.
 - 10. The areas of all development and/or Disturbed Area in square feet and percentage of site, including total square feet of developed driveways, parking, and buildings.
 - 11. A development report addressing the standards in 4-806.
 - 12. A letter of verification of a search of Inventory of Cultural Resources from the State Historical Society, a report defining the archaeological or historical resources on the site (based on information available from the State Historic Preservation Officer) or the appropriate archeological field survey report.
 - 13. A Wildfire Mitigation Plan demonstrating the appropriate site location of structures, construction design and the use of ignition resistant building material, defensible space and fuel reduction around the structures, driveway access for emergency vehicles, and an emergency water supply for firefighting.
 - 14. A control plan for noxious weeds.
 - 15. A topographic survey certified by a Colorado Registered Surveyor or Professional Engineer.
 - 16. Information regarding the type of glass used on the structure as it relates to reflectivity of sunlight and their emission of internal lighting.
 - 17. A wildlife impact report meeting the requirements of Section 7-1700 of this Code. The requirement for a wildlife impact report shall not be construed to import the substantive

requirements of Article 7-1700 into the Site Plan Review process, but rather shall provide additional information for the County to apply the site plan review criteria to the facts of the application.

18. An outdoor lighting plan showing the location and type of proposed lighting, in compliance with Article 7-1600 Outdoor Lighting and Article 18 Fully Shielded Light Fixture.

4-805 Review by the Director

- A. Once an application for SPR is filed and deemed complete, the Director shall promptly forward one copy of the application and supporting materials to Access and Engineering the Transportation, Public Health, Parks & Open Space Departments, local fire district, and any other potentially affected agencies or organizations. The Director shall also post a sign on the property stating the Site Plan Review number and the address and phone number of the Community Planning & Permitting Department. The Director may require that a notification sign be posted off-site when on-site posting would not allow for notification of those potentially impacted. Referrals shall be returned to the Director 18 21 days from date the application is referred.
- B. Any determination by the Director to approve, conditionally approve, or deny a site plan application must be in writing and mailed or otherwise provided to the applicant no later than ~~28~~ 35 days after the date on which the Site Plan Review application is deemed complete. Once the determination is made, the Director shall also provide notice of the determination to all referral agencies and the adjacent property owners within 1,500 feet of the property. If the Director fails to make a determination on the Site Plan Review application within this time period, the application as submitted shall be considered approved and the applicant's building permit shall be processed.
- C. The Director may suspend the ~~28~~ 35-day decision period required in Subsection 4-805.B., above, at any time during the ~~28~~ 35-day period under the following circumstances:
 1. At the request of the applicant, or;
 2. Whenever the Director or a referral agency determines that the application requires more information to conduct adequate review of the standards The Director shall promptly notify the applicant of the shortcomings.
- D. The decision period will resume when either the applicant indicates to the Director in writing that they are ready to proceed, or the Director notifies the applicant that the department has received sufficient information upon which to evaluate the application. If the new information submitted results in an application that is substantially different than the original, or requires additional review, a new ~~18~~ 21-day referral may be required prompting the ~~28~~ 35-day decision period to restart. When the decision period resumes and a new referral is not required, the Director shall have ten days or the remainder of the original ~~28~~ 35-day decision period, whichever is greater, to issue a determination.
- E. The Director may declare a Site Plan Review application withdrawn if the application is not completed within 6 months of the date of it either being deemed incomplete or the decision period being suspended by the applicant or the Director as permitted by this Code. The 6-month time frame may be extended should the Director determine that circumstances beyond the control of the applicant prevent timely completion of the application. If the application is withdrawn, a new application and new fee must be submitted to continue the project. If the application is not completed within 6 months of the date of being deemed incomplete or any subsequent suspension, the Director may declare the application withdrawn. The 6-month time frame may be extended should the Director determine that circumstances beyond the control of the applicant prevent a timely completion of the application.

4-806 Site Plan Review Standards

- A. All Site Plan Review applications shall be reviewed in accordance with the following standards which the Director has determined to be applicable based on the nature and extent of the proposed development. When two or more of the standards listed below conflict, the Director shall evaluate the applicability and importance of each of the conflicting standards under the facts of the specific application and make a reasonable attempt to balance the conflicting standards in reaching a site plan decision.
1. ~~To provide a greater measure of certainty as to the applicable neighborhood relevant for comparison, the following definition of neighborhood shall be used to review proposed Site Plan Review applications:~~
 - a. ~~For applications inside platted subdivisions, which have seven or more developed lots, the neighborhood is that platted subdivision.~~
 - b. ~~For applications within the mapped historic townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, the neighborhood is defined as the mapped townsite.~~
 - c. ~~For applications outside of platted subdivisions with seven or more developed lots or the townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, the defined neighborhood is the area within 1,500 feet from the applicable parcel. The neighborhood shall not include any parcels inside municipal boundaries, platted subdivisions with seven or more developed lots or the townsites of Allenspark, Eldora, Eldorado Springs, Gold Hill Historic District, Raymond, and Riverside.~~
 2. ~~The size of the resulting development (residential or nonresidential) must be compatible with the general character of the defined neighborhood.~~
 - a. ~~In determining size compatibility of residential structures with the defined neighborhood, it is presumed that structures of a size within the larger of a total residential floor area of either (1) 125% of the median residential floor area for that defined neighborhood or (2) of a total residential floor area of 1,500 square feet in the mapped townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, or 2,500 square feet for all other areas of the County, are compatible with that neighborhood, subject also to a determination that the resulting size complies with the other Site Plan Review standards in this section 4-806.A.~~
 - (i) ~~The Boulder County Assessor's Records will be the base source of data to determine both the median size within that defined neighborhood as well as the existing residential floor area on a given parcel, as verified by Community Planning & Permitting staff for the subject parcel.~~
 - (ii) ~~Median floor area will include the total residential floor area, as defined in Section 18-189D.~~
 - b. ~~Either the applicant or the Director may demonstrate that this presumption limitation does not adequately address the size compatibility of the proposed development with the defined neighborhood.~~
 - (i) ~~Factors to be considered when determining the adequacy of this presumption limitation and whether a proposed development can be excepted it can be overcome include:~~
 - (A) ~~The visibility of the proposed development from other private parcels within the defined neighborhood, as well as visibility from either public roads or open space both within and outside that defined neighborhood.~~
 - (1) ~~The proposed development must be minimally visible from the above-listed areas. Mitigation of visibility impacts may be achieved by:~~
 1. ~~the use of natural topography to screen the proposed development, or~~

- ~~2. underground construction to screen the proposed development; existing underground residential floor area may be considered, or~~
- ~~3. distance of the proposed development from other private parcels, public roads and open spaces.~~

- ~~(B) The distribution of residential floor area within the defined neighborhood, taking into consideration the sizes (a minimum of two) adjacent to the subject property.~~
 - ~~(1) If the proposed development is able to overcome the size presumption due to the adjacent sizes, the size of the resulting development may not exceed the median residential floor area of those adjacent to the subject property that are over the size presumption.~~
- ~~(C) For properties which are encumbered by a Boulder County conservation easement that specifies an allowable house size on that parcel, that specified home size is a factor to be considered in rebutting a compatible size presumption which is smaller than the house size defined in the conservation easement.~~
- ~~(D) Significant adverse impacts demonstrated according to Standards 3 through 16 of this Section 4-806.A.~~
- ~~(E) Demolition and rebuilding of legally existing residential floor area that is not in conflict with the other standards set forth in this Section 4-806.~~
- ~~(F) Retrofitting of an existing structure for purposes of making a demonstrated energy efficiency improvement.~~
- ~~(G) Existing residential floor area that already exceeds the compatible size presumption and has not been limited through a prior County land use approval.~~
 - ~~(1) Up to a one-time maximum of 200 square feet of residential floor area may be granted under this factor.~~
- ~~(H) Historic structure(s) that are landmarked or otherwise protected cause the residential floor area to exceed the size presumption.~~

1. The location of existing or proposed buildings, structures, equipment, grading, or uses shall not impose an undue burden on public services and infrastructure.
2. The proposed development shall avoid natural hazards, including those on the subject property and those originating off-site with a reasonable likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors. Natural hazards may be identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the Site Plan Review process using the best available information. Best available information includes, without limitation, updated topographic or geologic data, Colorado Geologic Survey landslide or earth/debris flow data, interim floodplain mapping data, and creek planning studies. Development within or affecting such natural hazards may be approved, subject to acceptable measures that will satisfactorily mitigate all significant hazard risk posed by the proposed development to the subject property and surrounding area, only if there is no way to avoid one or more hazards, no other sites on the subject property can be reasonably developed, or if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
3. The site plan shall satisfactorily mitigate the risk of wildfire both to the subject property and those posed to neighboring properties in the surrounding area by the proposed development. In assessing the applicable wildfire risk and appropriate mitigation measures, the Director shall consider the referral comments of the County Wildfire Mitigation Coordinator and the applicable

fire district, and may also consult accepted national standards as amended, such as the Urban-Wildland Interface Code; National Fire Protection Association (NFPA); International Fire Code; and the International Building Code.

4. The proposed development shall not alter historic drainage patterns and/or flow rates or shall include acceptable mitigation measures to compensate for anticipated drainage impacts. The best available information should be used to evaluate these impacts, including without limitation the Boulder County Storm Drainage Criteria Manual, hydrologic evaluations to determine peak flows, floodplain mapping studies, updated topographic data, Colorado Geologic Survey landslide, earth/debris flow data, and creek planning studies, all as applicable given the context of the subject property and the application.
5. The development shall avoid significant natural ecosystems or environmental features, including but not necessarily limited to riparian corridors and wetland areas, plant communities, and wildlife habitat and migration corridors, as identified in the Comprehensive Plan or through the Site Plan Review process. Development within or affecting such areas may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
6. The development shall avoid agricultural lands of local, state or national significance as identified in the Comprehensive Plan or through the Site Plan Review process. Development within or affecting such lands may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
7. The development shall avoid significant historic or archaeological resources as identified in the Comprehensive Plan or the Historic Sites Survey of Boulder County, or through the Site Plan Review process. Development within or affecting such resources may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
8. The development shall not have a significant negative visual impact on the natural features or neighborhood character of surrounding area. Development shall avoid prominent, steeply sloped, or visually exposed portions of the property. Particular consideration shall be given to protecting views from public lands and rights-of-way, although impacts on views of or from private properties shall also be considered. Development within or affecting features or areas of visual significance may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
 - a. In reviewing development proposals in the Peak-to-Peak Scenic Corridor Area, special attention will be paid to the visibility of the development from the Peak-to-Peak Highway, with the intent to ensure development is minimally visible from the Highway.
 - b. For development anywhere in the unincorporated areas of the county, mitigation of visual impact may include changing structure location, reducing or relocating windows and glazing to minimize visibility, reducing structure height, changing structure orientation, requiring exterior color and materials that blend into the natural environment, and/or lighting requirements to reduce visibility at night.
9. The location of the development shall be compatible with the natural topography and existing vegetation and the development shall not cause unnecessary or excessive site disturbance. Such

disturbance may include but is not limited to long driveways, over-sized parking areas, or severe alteration of a site's topography. ~~Driveways or~~ All earthwork and grading shall have a demonstrated associated Principal Use.

10. Access, including non-county maintained roads and driveways, shall meet the Boulder County Multimodal Transportation Standards. All driveways shall have a demonstrated associated Principal Use.
11. Runoff, erosion, and/or sedimentation from the development shall not have a significant adverse impact on the surrounding area.
12. The development shall avoid Natural Landmarks and Natural Areas as designated in the Goals, Policies & Maps Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County. The protection of Natural Landmarks and Natural Areas shall also be extended to their associated buffer zones. Development within or affecting such Landmarks or Areas may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
13. ~~Where an existing principal structure is proposed to be replaced by a new principal structure, construction or subsequent enlargement of the new structure shall not cause significantly greater impact (with regard to the standards set forth in this Section 4-806) than the original structure.~~
14. The proposal shall be consistent with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.

4-807 Community Planning & Permitting Department Director's Determination

- A. If the Director finds in reviewing a site plan application that the application meets the applicable standards set forth in Section 4-806, the Director shall approve the application site plan and the applicant can continue to process the building permit.
- B. If the Director finds that the application does not meet an applicable standard or standards, and that a reasonable basis for mitigation measures has been demonstrated, the Director shall approve the application with reasonable conditions that will avoid or acceptably mitigate the significant adverse impacts of the development. These conditions may include, but are not necessarily limited to the relocation or modification of proposed structures, additional landscaping, buffering, screening, relocation of access, or any other measures necessary to mitigate any significant impact or reduce hazards. The Director shall specify when the conditions shall be met.
- C. If the Director finds that the application does not meet an applicable standard or standards and that a reasonable basis for mitigation measures has not been demonstrated, the Director shall deny the application as proposed. The Director's determination must specify the reasons for the denial based upon the Site Plan Review standards in Section 4-806.
- D. Once the Director issues a determination, the determination shall not be final, and no permit based upon the determination shall be issued, for 14 calendar days after the date of the determination, in order to allow time for the applicant to appeal, or for the Board of County Commissioners to call up the determination for further review, pursuant to Sections 4-808 and 4-809 of this Article. The Director's determination shall become final, and permits applied for in accordance with the determination may be issued, only after the expiration of this 14-day period, and only if the determination is not reviewed and acted upon by the Board of County Commissioners at a subsequent appeal or call-up hearing.

4-808 Applicant's Right of Appeal of a Conditional Approval or Denial

- A. If the Director denies a site plan or conditionally approves it with conditions to which the applicant objects, the applicant shall be entitled to appeal the Director's determination to the County Commissioners.
- B. The applicant must file an appeal for this purpose with the Community Planning & Permitting Department in writing received no later than 14 calendar days after the date of the Director's determination.
- C. The Board shall review the Director's determination at a public hearing held as soon as practical after the appeal has been filed. Prior written notice of this hearing shall be provided to the applicant and to property owners within 1,500 feet, and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.
- D. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the appeal, but may review any aspect of the site plan application. Based upon this evidence the Board may affirm the Director's decision, alter conditions, add new conditions, or reverse the Director's determination on any aspect of the Site Plan Review application. In the case of denial of a site plan, the Board shall state its reasons for its decision based upon the Site Plan Review standards in Section 4-806. No permit shall be issued until and unless the Board acts on the Director's determination at the public hearing, and approves the site plan.
- E. Any site plan application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, shall be considered to be a "final application" under Section 29-20-108 on which final County action in the event of an appeal shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection 4-808.E., "submission" shall be considered to be the submission of a complete application as required by this Article 4, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

4-809 Board of County Commissioner's Review ("Call-up") of a Conditional Approval or Denial

- A. No permit may be issued for 14 calendar days after the date of the Director's approval.
- B. At the same time written approval of the site plan is provided to the applicant, the Director shall forward to the Board a written statement including:
 - 1. the location of the affected property,
 - 2. a description of the proposed development under the permit, and
 - 3. the basis for the Director's determination. The Director's determination can be either that there is no significant adverse impact, that the significant adverse impacts can be avoided or acceptably mitigated through the conditions imposed as specified in the statement, or that the application be denied for reasons specified in the statement.
- C. Upon receiving the Director's statement, and no later than 14 calendar days after the date of the approval, the Board may call the Director's determination up for review before the Board. The call-up generally shall be made by the Board at a public meeting convened within this 14-day period. However, if it is not practical for the Board to convene a public meeting for this purpose within the 14-day period, any member of the Board may authorize a call-up within the 14-day period, which

call-up shall be effective provided that the Board subsequently ratifies the call-up at a public meeting held within a reasonable period of time after the 14-day period expires.

1. The Board shall review the Director's determination at a public hearing held as soon as practical after the Director's determination. Prior written notice of this hearing shall be provided to the applicant and to property owners within 1500 feet, and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.
- D. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the call-up, but may review any aspect of the site plan application. Based upon this evidence, the Board may affirm the Director's decision, alter conditions, add new conditions, or reverse the Director's determination on any aspect of the Site Plan Review application. In the case of denial of a site plan, the Board shall state its reasons for its decision based upon the Site Plan Review standards in Section 4-806. No permit shall be issued until and unless the Board acts on the Director's determination at the public hearing, and approves the site plan.
- E. Any site plan application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, shall be considered to be a "final application" under Section 29-20-108 on which final County action in the event of a call-up shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection 4-808.E., "submission" shall be considered to be the submission of a complete application as required by this Article 4, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

4-810 The Effect of an Approved Site Plan

- A. A Site Plan Review determination or determination for an waive expedited Site Plan Review shall expire 3 years from the date the application was approved.
- B. The approval of a site plan by the Director does not result in the vesting of development rights, nor does it permit the violation of any county or state regulations to preclude the Building Official from refusing to issue a permit if the plans and specifications do not comply with applicable regulations, or that the work described in the application for the permit does not conform to the requirement of the Uniform Building Code as adopted by Boulder County.

4-811 Amendments to an Approved Site Plan

- A. Any proposal to change a site plan approved under this Article shall require a request to the Community Planning & Permitting Department to determine whether the proposed change constitutes a substantial modification to the approved plan. If the Director determines that the change constitutes a substantial modification, no such change shall be allowed to proceed until an application to amend the approved site plan is filed with the Director and approval granted in accordance with this Article. The applicant or its successor may appeal the Director's decision to require an amended site plan to the Board of County Commissioners, provided that any such appeal shall be in writing and shall be filed with the Community Planning & Permitting Director no later than 30 days following the date of the Director's decision to require a site plan amendment.

4-1002 Nonconforming Structures

- A. A nonconforming structure is any existing structure which does not conform to the structure regulations of this Code for the zoning district in which such nonconforming structure is located, as a result of either (1) the adoption or amendment of this Code, or (2) a final county administrative or judicial decision precluding Boulder County from enforcing this Code specific to a structure on the basis of estoppel, laches, or waiver.
 - 1. For the purposes of these regulations, structure(s) with Existing Floor Area as of [EFFECTIVE DATE] that exceed the zoning district Residential Floor Area maximum shall not be considered Nonconforming Structures.

4-1201 Appeals to the Board of Adjustment

- A. Appeals to the Board of Adjustment may be taken by any person aggrieved by any decision of the Community Planning & Permitting Director or County Engineer made in the course of the administration or enforcement of Article 4 or any related provision of this Code, unless the Code provides that the decision will be appealed to the Board of County Commissioners.
- B. An application for an appeal must be made within 30 days after the Director or County Engineer makes a written decision on the matter being appealed. The 30 days shall start to run on the third day after the date of mailing of the decision to the last known address of the person concerning whom the decision is made. If not appealed to the Board of Adjustment the decision shall be final.
- C. The process for filing an appeal and specifics regarding the public hearing before the Board of Adjustment are outlined in Article 3 of this Code.
- D. Appeals to the Board of Adjustment related to any matters under Article 12, Special Review for Oil and Gas Operations, must be specifically permitted under Article 12.
- E. Any party to a proceeding before the Board of Adjustment may appeal the Board of Adjustment's final decision under C.R.C.P. 106(a)(4).

2-800 Boulder County Board of Adjustment

- A. Short Title
 - 1. The Boulder County Board of Adjustment may also be referred to as the 'Board of Adjustment.'
- B. Membership, Selection, and Term
 - 1. The Board of County Commissioners appoints five regular Board of Adjustment members. Members of the Planning Commission may take the place of a regular Board of Adjustment member in the event of a temporary absence or vacancy; however, not more than two members of the Board of Adjustment may concurrently be members of the Planning Commission.
 - 2. All members must be residents of the County.
 - 3. The term of regular members is three years.
- C. Duties and Responsibilities
 - 1. The Board of Adjustment holds regular meetings to hear appeals of any order, requirement, decision, or determination made by the Land Use Director or County Engineer in administering or enforcing Article 4 related provisions (e.g. definitions in Article 18) of this Code, to hear appeals of the Director specified provisions of Article 12, and to consider certain variances from the requirements of Article 4 of this Code.
 - 2. The Board of Adjustment does not have the authority to grant any variance:
 - a. from uses permitted in the zoning district;

- b. from the minimum lot size required, maximum gross density, or Floor Area maximums of any zoning district;
- c. from any definition;
- d. from the height or yard requirements which may be obtained, or have been denied, through the approval of a special use;
- e. which authorizes a substantial modification of a planned unit development or special use approved by the Board of County Commissioners; or
- f. which will cause an increase in the base flood to occur;
- g. from any provision of Article 12.

Article 18 Definitions

18-17X Existing Floor Area

- A. Floor Area existing on a Parcel in compliance with County building permit requirements including:
 - 1. Floor Area constructed according to a valid County building permit;
 - 2. Floor Area constructed without a County building permit, if the Floor Area preexisted the effective date of building permit requirements in the County (January 27, 1966 for Subdivided Land, and December 22, 1975, of Unsubdivided Land), or was exempt from applicable building permit requirements.

18-179C Neighborhood

- A. For ~~applications~~ Parcels inside platted subdivisions, which have seven or more developed lots, the neighborhood is that platted subdivision.
- B. For ~~applications~~ Parcels within the mapped historic Townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, the neighborhood is the mapped historic Townsite.
- C. For ~~applications~~ Parcels outside of platted subdivisions with seven or more developed lots or the townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, the neighborhood is the area within 1,500 feet from the applicable parcel. The neighborhood shall not include any parcels inside municipal boundaries, platted subdivisions with seven or more developed lots or the townsites of Allenspark, Eldora, Eldorado Springs, Gold Hill Historic District, Raymond, and Riverside.

18-189D Residential Floor Area

For the purposes of ~~Site Plan Review and the presumptive size thresholds associated with the Expanded Transfer of Development Rights Program~~ and the application of zone district Floor Area regulations Residential Floor Area includes all attached and detached Floor Area (as defined in 18-162) on a parcel including principal and accessory structures used or customarily used for residential purposes, such as garages, studios, pool houses, storage sheds, home offices, and workshops. (Exemptions: Gazebos, carports, solar parking canopies, detached greenhouses, renewable energy storage facilities, breezeways, structures that do not require a building permit in accordance with Article 17-300, and hoop houses up to a total combined size of 400 square feet.)

Article 19-500 Marshall Fire (December 2021)

- C. Fire-Damaged/Destroyed Structures Eligible for Expedited Rebuilding
 - 3. Proposed construction that is outside the scope of the defined parameters outlined in Section 19-500.F may be undertaken if approved under the applicable provisions of the other articles of this Code, such as Site Plan Review.

- a. Projects outside of the scope of the defined parameters outlined in Section 19-500.F shall be reviewed according to the Site Plan Review and Zone District regulations in effect at the time of the Fire.