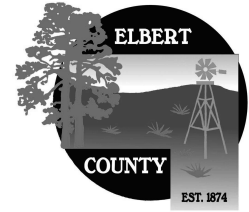




COUNTY OF ELBERT

COMMUNITY & DEVELOPMENT SERVICES OFFICE

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For: Elbert County Planning Commission Meeting of August 28, 2008

To: Planning Commission Members

From: Richard L. Miller, AICP
Director - Community & Development Services Office

Re: Proposed Amendments to the Elbert County Zoning Regulations, Elbert County Subdivision Regulations, Elbert County 1041 Regulations

Background Information

In the Court Order for Case No. 07CV48, (*Citizens for Responsible Growth, Elbert County vs. Board Of County Commissioners of the County of Elbert, State of Colorado; and RCI Development Partners, Inc*), District Court Judge Jeffrey K. Holmes determined that:

“Because Elbert County has included master plan compliance provisions in its legislatively adopted subdivision regulations, zoning regulations and 1041 regulations their master plan is no longer merely an advisory document, but sets forth mandatory requirements that must be observed.”

Based upon Judge Holmes' ruling, the Board of County Commissioners directed the Community & Development Services Office to review all the regulatory documents for any reference to the Elbert County Master Plan and recommend proposed changes to those documents to insure that the Elbert County Master Plan is an advisory document.

Recommendations:

The Community & Development Services Office has reviewed the Elbert County land use regulations for references to the Elbert County Master Plan and recommends that the Planning Commission and Board of County Commissioners refrain from making changes at this time. The Elbert County Master Plan, Zoning Regulations, Subdivision Regulations, and 1041 Regulations are all in need of update or complete re-write. The “Housing” section of the Master Plan is currently being revised and a grant for revisions to all Elbert County land use documents has been applied for through the Department of Local Affairs. The Community & Development Services Office believes that it would be better to make comprehensive changes to all the land use documents, rather than eliminate all references to the Master Plan from the current regulatory documents. If the ultimate desire is to make the Elbert County Master Plan truly an “advisory” document, the existing document needs to be completely re-written with that as a primary objective.

Should the Planning Commission and/or the Board of County Commissioners desire to modify the Zoning Regulations, Subdivision Regulations and 1041 Regulations at this time to removal all reference to the Master Plan, the appropriate changes are shown on the attached pages.

Respectfully submitted,

Richard L. Miller, AICP
Director – Community & Development Services Office

Elbert County
Zoning Regulations

Elbert County Zoning Regulations

The following pages in the Elbert County Zoning Regulations contain a reference to the Elbert County Master Plan:

- 1.) Page 22 – Part I, Section 6, B., 1., b., 3., g.
- 2.) Page 26 – Part I, Section 6, B., 2., b., 3., a.
- 3.) Page 67 – Part II, Section 9, D., 2.;
- 4.) Page 70 – Part II, Section 10, D., 2.
- 5.) Page 92 – Part II, Section 16, B., 5.
- 6.) Page 100 – Part II, Section 17, A., 10., a.
- 7.) Page 111 – Part II, Section 17, A., 46., a.
- 8.) Page 112 – Part II, Section 17, A., b., 2.
- 9.) Page 113 – Part II, Section 17, A., b.
- 10.) Page 114 – Part II, Section 17, A., c., 2.
- 11.) Page 115 – Part II, Section 17, A., c., 10.
- 12.) Page 116 – Part II, Section 17, B., 7., a.
- 13.) Page 117 – Part II, Section 17, C., 2., b., 1., e.
- 14.) Page 151 – Part II, Section 25 – Definitions

PART I, SECTION 6:

REZONING PROCEDURES AND REQUIREMENTS

A. INTENT

To provide for the orderly, well-informed, properly planned transition of historic land uses within Elbert County to those deemed more desirable or necessary to accommodate residential, commercial, business and industrial growth for the present and future citizens of Elbert County.

B. REZONING PROCEDURE AND SUBMITTAL REQUIREMENTS

Rezoning shall mean a revision to the zoning. Rezoning requests which do not incorporate within them a proposed use or uses, shall not be considered by the County due to lack of important planning data such as water availability, traffic impacts and environmental considerations. Rezoning involving subdivisions that are approved by the County, shall not become effective until the recording of an approved final plat of the subdivided areas. Rezoning applications involving major subdivisions shall be considered only in conjunction with a Preliminary Plat of the same land area and use, or a Public Hearing as a part of a PUD application. Rezoning requests may be initiated by the Board of County Commissioners, Planning Commission, Board of Adjustments or the owner of the parcel of land in question subject to the following procedures.

1. Preliminary Review

a. Procedure

- 1) A Preliminary Review shall be arranged by the applicant with the Planning Department to review the proposed project and make comments as appropriate. The Planning Department shall have up to ten (10) working days to review the proposal and formalize an administrative decision that can be used at the time of application for rezoning.
- 2) At the Preliminary Review, three (3) copies of the required Rezoning Exhibit and Narrative shall be submitted for initial review. The Planning Department's ten (10) day review shall not start until the three (3) copies are submitted and all fees have been paid.

b. Submittal Requirements:

- 1) Completed Land Use Application
- 2) Disclosure Form
- 3) Narrative (8-1/2" x 11")
The narrative shall include the following information:
 - a) General project concept;
 - b) The names and addresses of mineral and rights owners on the affected property and mineral rights lessees by CRS 30-28-133 3(a) and 30-28-133 (10).
 - c) The names and addresses of owner/applicant and representative;
 - d) Purpose of the request;
 - e) Proposed development staging and time;
 - f) How it relates to the existing land uses and adjacent property land uses;
 - ~~g) Compliance with Elbert County Master Plan;~~
 - g) Method of waste water treatment and disposal;

- b. Submittal Requirements:
 - 1) The Narrative and Plan Exhibit outlined in Subsection B, 1, b of this section, plus the following shall be submitted:
 - a) Legal description (metes and bounds); and
 - b) Proof of ownership - deed, current title policy or endorsement thirty (30) to sixty (60) days old.
 - 2) In addition, at the request of the Planning Department, the applicant shall provide any additional information on the proposal when needed to help clarify the request being made.
 - 3) Standards for Approval: The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all rezoning applications:
 - ~~a) Whether the proposed rezoning complies with the requirements of the Elbert County Master Plan.~~
 - a) Whether the proposed rezoning would adversely impact the provision of public services.
 - b) Whether the proposed rezoning would adversely impact the environment.
 - c) Whether the proposed rezoning would create traffic congestion or burden the existing road system.
 - d) Whether there has been a substantial change in the character of the neighborhood, since the land was last zoned.
 - e) Whether the proposed rezoning will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.

3. Notice of Hearing

a. Publication

At least thirty (30) days prior to a public hearing before the Planning Commission, notice of hearing shall be published in a newspaper of general circulation in Elbert County at least once. Publication of said notices shall be the responsibility of the applicant and shall read as follows:

"NOTICE OF PUBLIC HEARING"

“Rezoning from ___ to ___”

"Notice is hereby given that on _____(day of week), _____(month) _____(year), at _____(time A.M./P.M.), or as soon as possible thereafter, a Planning Commission Hearing will be conducted and on _____(day of week), _____(month) _____(year), at _____(time A.M./P.M.), or as soon as possible thereafter, a Board of County Commissioners hearing will be conducted. Hearings will be conducted in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado or at such other time and place as these hearings may be adjourned. Public hearings will be heard upon the application on file with the Elbert County Planning Department, 215 Comanche (Courthouse Annex), Kiowa, Colorado, 621-3136, by _____ (name of applicant), for a change in zoning pursuant to the current Elbert County Zoning Regulations. The affected property is located approximately _____ (distance and direction from nearest major intersection)."

6. Hospitals, nursing and convalescent homes and other extended care facilities.
7. Major facilities of a public utility.
8. Nursery schools and day-care centers.
9. Public, private and multiple use wastewater treatment and water storage facilities for domestic use in excess of five thousand (5,000) gallons.
10. Utility service facility.

D. MINIMUM AREA AND YARD SETBACK REQUIREMENTS

1. Lot area under 1 acre
2. Minimum lot area for each principal use: Refer to Master Plan for density ranges **recommendations**.
3. Lot widths (minimum) 75 feet
4. Front yard setback (minimum) from the road right-of-way right-of-way easement or at a point of minimum lot width, whichever is greater. 25 feet
5. Side yard setback (minimum) 10 feet
6. Rear yard setback (minimum) 25 feet
7. Building height (maximum) 35 feet
8. Accessory use or building:
 - a. Front setback: (minimum) from the property line. 25 feet
 - b. Side and rear setback (minimum) 15 feet
 - c. Building height (maximum) 20 feet
9. Corner lots must meet front yard setback requirements on each side the yard borders a public or private road, a vehicle right-of-way or a vehicle easement.

E. FENCES, HEDGES AND WALLS

1. Fences, hedges and walls shall be permitted in this zone and may be located in the yard setbacks.
2. Fences, hedges and walls shall not exceed thirty (30) inches in height for distances in excess of fifteen (15) feet, measured from property corners at intersections of streets, roads, highways and railroads restricting visibility.

2. Refer to Master Plan for density range recommendations.

2. Lot widths (minimum) 60 feet

3. Front yard setback (minimum): from the road right-of-way easement or at a point of minimum lot width, whichever is greater. 20 feet

4. Side yard setback (minimum) 15 feet

5. Rear yard setback (minimum) 15 feet

6. Building height (maximum) 35 feet

7. Distance between buildings (minimum) 10 feet

8. Corner lots must meet front yard setback requirements on each side the yard borders a public or private road, a vehicle right-of-way or a vehicle easement.

E. MINIMUM LOT AREA FOR ALL OTHER USES INDICATED UNDER SUBSECTIONS B AND C

Minimum lot size, yards and height for all other uses indicated under Subsections B and C.

1. Lot width (minimum) 100 feet

2. Front yard setback 25 feet

3. Side yard setback (minimum): from the road right-of-way easement or at a point of minimum lot width, whichever is greater 25 feet

4. Rear yard setback 25 feet

5. Building height (maximum) 35 feet

6. Corner lots must meet front yard set back requirements on each side the yard borders a public or private road, a vehicle right-of-way or a vehicle easement.

F. FENCES, HEDGES AND WALLS

1. Fences, hedges and walls shall be permitted in this zone and may be located in the yard setback (front, side and/or rear).

2. Fences, hedges and walls shall not exceed thirty (30) inches in height for distances in excess of fifteen (15) feet, measured from property corners at intersections of streets, roads, highways and railroads restricting visibility.

PART II, SECTION 16:

PLANNED UNIT DEVELOPMENT (PUD)

A. INTENT

Planned Unit Developments are encouraged in order to accommodate innovative approaches to residential, commercial, industrial and recreational land uses, creative design of land uses, energy conservation, efficient use of open space, preservation of environmental conditions and compatibility with overall County objectives.

B. GENERAL REQUIREMENTS

1. There shall be no minimum area required for any Planned Unit Development.
2. The uses permitted in a Planned Unit Development may be those uses permitted by right or by special review, applicable to the specific type of development, provided they are approved by the Planning Commission and Board of County Commissioners as legitimate uses and included in the Development Guide and/or Development Plan. Approval will be based upon compliance with the most restrictive improvement requirements applicable to the PUD and will be applied to the entire PUD.

For inclusion of Cellular Communication Facilities Standards in new or as a Development Guide Amendment to existing PUD's, see Part II, Section 18 - Uses Permitted by Special Use Review.

For inclusion of a Fire Station in a new or as a Development Guide Amendment to existing PUD's, the criteria are outlined in Resolution 99-19.

3. Any proposed change or amendment to an approved development guide or PUD requires public hearings and an approval before both the Planning Commission and the Board of County Commissioners, and is to include the appropriate fees.
4. For the rezoning of land to PUD, the applicant must submit a development plan depicting land uses within the project. In addition to the submittal of a development plan, the applicant must provide a development guide which shall reflect the variations in lot size, bulk, type of use or activity, density, lot coverage, open space or other regulations modified and approved by the Board of County Commissioners upon the recommendations of the Planning Commission.
5. The minimum lot area, front yard, side yard and rear yard requirements of the zone in which the Planned Unit Development is located may be varied, ~~provided that the gross density of the development is within the Land Use Area guidelines referenced in the Master Plan where the development is to be located;~~ and minimum area and yard setback requirements pertaining to the zone may be required along the boundaries and/or by a Homeowner's Association or similar arrangement to control, construct and maintain the mutually owned property.

- c) An alphabetical list and a map illustrating the location and proximity of owners of property adjacent to, and within five-hundred feet (500'), of the property under consideration.
- 6) By the action date the applicant must submit, to the Planning Department, the green postal receipts.
- 7) Any party wishing to object to the decision made by the Planning Department shall file their objection(s) within fifteen (15) days from the action date. The letter of appeal will be submitted to the Planning Department. The Planning Department will forward the appeal to the Board of County Commissioners.

f. FOR ANTENNA SUPPORT STRUCTURES HIGHER THAN 120.1 FEET:

Applications for antenna support structures whose height exceeds 120 feet shall be subject to the regular applicable “Special Use Review” procedures.

If applicable, evidence must be presented indicating that the proposed structure meets the requirements of the Federal Communications Commission and the Federal Aviation Administration.

- 6. Automobile service stations with gasoline pumps.
- 7. Banks with drive-in facilities.
- 8. Bird Foundation and Rescue.
- 9. Caretaker residence.
- 10. Cellular Communications Facilities Special Use Review Approval Standards
 - a. Intent - To provide Special Use Review approval standards for cellular communication facilities to ensure compatibility with surrounding development and environment ~~and compliance with the Elbert County Master Plan~~. Appropriate siting of cellular communication facilities will positively influence community property values while ensuring compatibility with surrounding uses and help protect the environment. The unique and diverse landscapes of Elbert County are among its most valuable assets. Protecting these assets will require that location and design of cellular communication facilities be sensitive to, and in scale and harmony with, the character of the landscape of Elbert County.

A cellular communication facility is defined as a low-power, unmanned facility providing wireless telecommunication including, but not limited to, paging, enhanced specialized mobile radio (ESMR), personal communications service, (PCS), commercial radio service (CMRS), cellular telephone and similar technologies within a network of interconnected sites.

45. Second Residence: A second residence, either a part of or separate from the primary residence, may be approved, provided central sewer and water are available to the site.
46. Solid waste disposal sites and facilities.
- a. Phase I and Phase II will follow the procedure outlined in C. of this chapter.

Phase I shall include, but not be limited to, information on impacts on the surrounding land uses, access and traffic impact **and** conformance with requirements of the Elbert County Zoning and Subdivision Regulations. ~~and conformance with policies of the Elbert County Master Plan.~~

After approval by Board of County Commissioners, application is forwarded to State Health Department. After approval is received from the State Health Department, applicant progresses to Phase II.

Phase II shall include, but not be limited to, information on:

- 1) Soils and Geology
 - a) Type, class, composition and thickness of soils on the site.
 - b) Representative horizontal and vertical permeabilities of the soils present at the site.
 - c) Type of bedrock.
 - d) Geologic structures.
 - e) Geologic and topographic hazards.
- 2) Hydrography and Hydrology
 - a) Lakes, streams, springs or wetlands on or near site.
 - b) Depth to top of uppermost aquifer; existing on-site water quality based on quarterly groundwater monitoring of the uppermost aquifer one (1) year prior to date of operation. Data should include at a minimum: specific conductance, pH, total organic carbon, calcium, iron, chloride, sulfate and nitrate.
 - c) Hydrologic properties of uppermost aquifer, including flow directions, potentiometric surfaces and flow rates.
 - d) Depth, water level and water quality of domestic wells within one (1) mile of property boundary, or as may be otherwise specified.
- 3) Operating Plan
 - a) Names, qualifications and communication contact data of persons responsible for the facility who will be available at all times to ensure safe operations and have the authority to take corrective action in the event of noncompliance.
 - b) Hours of operations.
 - c) Types and daily volumes of waste expected.
 - d) Projected life of the facility.
 - e) Number, classification and job descriptions of personnel to be employed at facility.
 - f) List and description of equipment to be used at facility, including haul vehicles.

- g) System of records to be maintained, including provisions for State and County waste disposal fees.
 - h) Frequency of application, type and quantity of cover.
 - i) Provisions to minimize nuisance conditions on site.
 - j) Provision and procedures for retrieval of windblown waste on and off site.
 - k) Plans which can be put into effect should water contamination occur or when nuisance conditions are confirmed off site.
 - l) Signage plan to clearly mark entrance to site, provide name and phone number of operator, list types of material accepted, schedule of charges and any other necessary information.
 - m) List of wastes that will not be accepted at the site.
 - n) Designation of haul routes to and from the site.
 - o) Provisions for monitoring incoming waste stream.
 - p) Schedule of charges.
 - q) Frequency of groundwater monitoring and parameters which will be tested.
 - r) Frequency of flammable gas monitoring.
 - s) Itemized cost estimates for weekly site operation in compliance with all operating conditions.
 - t) Itemized cost estimates for remedial actions to correct environmental damages.
- 4) Closure Plan
- a) Plan for final closure of the facility, including type and thickness of final cover material, landscaping, proposed post-closure use for the site, maintenance plan for the post-closure period and ultimate long-term responsibility for the property, including mitigation of any environmental damage.
 - b) Itemized cost estimate for facility closure in accordance with the closure plan.

Fees: See current Fee Schedule.

Phase I: See current Fee Schedule (additional fees may be required in paragraph C, 2, c of this chapter).

Phase II: See current Fee Schedule (additional fees may be required in paragraph A, a, 20 or A, b, 20 of this chapter.)

A per ton tipping fee as determined by the Board of County Commissioners.

- b. REGIONAL SOLID WASTE DISPOSAL SITES and facilities may be considered and permitted for Special Use provided that the following criteria are met by the applicant:

- 1) Phase I of the application and uses requested will be processed prior to the submittal of the application and uses to the Colorado Department of Health. Phase II, final approval, for the Special Use is conditional upon approval of the application and uses by the Colorado Department of Health.

~~2) The application and uses requested must be in compliance with the Elbert County Master Plan.~~

- 2) Any operation area of solid waste disposal site and facilities shall be located a minimum distance of five hundred feet (500') from any and all property lines of the site. The facility should be constructed in such a manner as to minimize visual impact during operation by using berms or natural plantings. Elevation of the site at closing should be consistent with the original reclamation plan.
- 3) Transportation route from the service areas to the site area may only be by way of the following roads: Elbert County Road 194, State Highway 86 or 24, Interstate 70, or as designated by the Board of County Commissioners.
- 4) Road access from the transportation route to the site boundary must be by way of road constructed or improved to the specifications of a major collector, as defined in the Elbert County Road and Bridge specification standards.
- 5) No portion of the site boundary may be closer than three (3) miles to a subdivision or town and must be at least one-half (1/2) mile and/or not visible from any State road or highway as defined in (4) above.
- 6) The road access from the transportation route to the site area may not travel through residential subdivisions.
- 7) No treed area disturbance will be permitted.
- 8) All active working faces of the landfill must be enclosed with a perimeter fence no less than ten (10) feet in height and having no mesh opening larger than six (6) inches square. The entire site boundary must be enclosed with a fence no less than six (6) feet in height having a mesh opening no larger than sixteen (16) inches square.
- 9) Elbert County encourages the recycling of readily recyclable materials such as paper products, aluminum, ferrous materials, recoverable plastic containers, glass, tires and other materials. A recovery program outlining a process of recycling at least twenty-five percent (25%) of the above-mentioned items should be included in the application or submit proof that such a program is unfeasible.
- ~~10) Site location will be consistent with the Elbert County Master Plan, and reference Landfill Proposal Boundaries Map of 4/90.~~
- 10) Must comply with all Federal and State regulations, rules and policies.
- 11) Applicants shall encourage the use of biodegradable waste containers.
- 12) The applicant shall provide a complete landscape plan for all entrances, parking areas or structures to insure the attractiveness of the site and compatibility with the surrounding area. All improvements must be completed within thirty (30) days of the site opening.
- 13) Based upon the type and size of the operation, the County will participate in a revenue sharing proposal with the operator. The applicant should include a compensation plan, which identifies anticipated income to the County over the life of the facility. The plan should include provisions to meet requirements of the fire district or Fire Marshall, whichever services the site.
- 14) Submit a quarterly report to the County summarizing the operation, including:
 - a) tonnage of waste taken in
 - b) gross revenue
 - c) copies of monitoring tests

- d) a list of the amount and type of materials recycled
 - 15) The applicant, upon his showing of good and compelling cause(s), may receive an exemption to one (1) or more of the criteria set forth above upon the recommendation of the Planning Commission for the exemption and upon approval of the recommendation of the Planning Commission by the Board of County Commissioners.
 - 16) Additional requirements may become necessary if a proposed development creates significant impacts above and beyond the norm. Such requirements shall have no defined standards, but will be evaluated on a case-by-case basis by affected agencies and the Board of County Commissioners. In no event shall the dedication fees exceed twenty (20%) percent of the gross acreage.
 - 17) Prior to the referral of the recommendations of the Board of County Commissioners regarding Phase I to the State Health Department, all fees must be paid, in full, for Phase I.
- c. LOCAL SOLID WASTE DISPOSAL SITES and facilities may be considered and permitted for Special Use provided that the following criteria are met by the applicant:
- 1) Phase I of the application and uses requested will be processed prior to the submittal of the application and uses to the Colorado Department of Health. Phase II, final approval, for the Special Use is conditional upon approval of the application and uses by the Colorado Department of Health.
 - ~~2) — The application and uses requested must be in compliance with the Elbert County Master Plan.~~
 - 2) Any operation area of solid waste disposal site and facilities shall be located a minimum distance of two hundred fifty (250) feet from any and all property lines of the site. The facility should be constructed in such a manner as to minimize visual impact during operation by using berms or natural plantings. Elevation of the site at closing should be consistent with the original reclamation plan.
 - 3) The transportation route from the service areas to the site area must be a major collector or greater as defined in the Elbert County Road and Bridge specifications standards.
 - 4) Road access from the transportation route to the site boundary must be by way of a road constructed or improved to the specifications of a rural and residential collector as defined in the Elbert County Road and Bridge specification standards.
 - 5) No portion of the site boundary may be closer than two (2) miles to a residential subdivision or town and must be at least one-half (½) mile and/or not visible from any nearby state road or highway.
 - 6) The road access from the transportation route to the site area may not travel through residential subdivisions.
 - 7) No treed area disturbance will be permitted.
 - 8) All active working faces of the landfill must be enclosed with a perimeter fence no less than ten (10) feet in height and having no mesh opening larger than six (6) inch square. The entire site boundary must be enclosed with a fence no less than six (6) feet in height having a mesh opening no larger than sixteen (16) square inches.

- 9) Elbert County encourages the recycling of readily recyclable materials such as paper products, aluminum, ferrous materials, recoverable plastic containers, glass, tires and other materials. A recovery program of these items should be included in the application or submit proof that such a program is unfeasible.
- ~~10) Site location will be consistent with the Elbert County Master Plan.~~
- 10) Must comply with all Federal and State regulations, rules and policies.
- 11) Applicants shall encourage the use of biodegradable waste containers.
- 12) The applicant shall provide a complete landscape plan for all entrances, parking areas or structures to insure the attractiveness of the site and compatibility with the surrounding area. All improvements must be completed within thirty (30) days of the site opening.
- 13) Based upon the type and size of the operation, the County will participate in a revenue sharing proposal with the operator. The applicant should include a compensation plan which identifies anticipated income to the County over the life of the facility. The plan should include provisions to meet requirements of the fire district or Fire Marshall, whichever services the site.
- 14) Submit a quarterly report to the County summarizing the operation, including:
 - a) tonnage of waste taken in
 - b) gross revenue
 - c) copies of monitoring tests
 - d) a list of the amount and type of materials recycled
- 15) The applicant, upon his showing of good and compelling cause(s) may receive an exemption to one (1) or more of the criteria set forth above upon the recommendation of the Planning Commission for the exemption and upon approval of the recommendation of the Planning Commission by the Board of County Commissioners.
- 16) Additional requirements may become necessary if a proposed development creates significant impacts above and beyond the norm. Such requirements shall have no defined standards, but will be evaluated on a case-by-case basis by affected agencies and the Board of County Commissioners. In no event shall the dedication fees exceed twenty (20%) percent of the gross acreage.
- 17) Prior to the referral of the recommendations of the Board of County Commissioners regarding Phase I, to the State Health Department, all fees must be paid in full for Phase I.

46. Temporary construction offices – Administrative Special Use approval similar to Group Homes, bonding may be required.
47. Temporary offices – Administrative Special Use approval similar to Group Homes, bonding may be required.
48. Theaters - indoor.
49. Uses associated with State and County road construction projects, may be exempted from the Special Use Regulations by the Board of County Commissioners, within the contract process and only for the length of the project.

50. Veterinary clinics and hospitals: Provided that such uses are located one-hundred (100) feet from all property lines.
51. Wind generators.
52. Other uses that may be deemed necessary by the Planning Department due to their unique situation and/or circumstances.

B. GENERAL REQUIREMENTS

1. All special use review permits will be reviewed annually or within a specified time as determined by the Board of County Commissioners. The Planning Department will review the permit for verification of allowed use and compliance with stipulations, if any.

If a permit is found to be in violation of stipulations, or the use has changed or has been discontinued, the Planning Department may request a public hearing with either or both the Planning Commission and the Board of County Commissioners, to determine the validity of the permit in regard to modification, continuation or termination.

2. The commencement of the Special Use must occur within the first year or within a specific time period as determined by the Board of County Commissioners. Failure to initiate the allowed use may be cause for termination of the Special Use Permit.
3. The provisions and uses outlined in this section shall not apply to the Planned Unit Development (PUD) zone. Provisions for these uses shall be contained in an approved Development Guide as described in Part II, Section 17 of these Regulations.
4. If the yard requirements for the zone in which the proposal is located are greater than the yard requirements stated in this section the greatest distance shall govern.
5. Outdoor storage areas shall be concealed by a solid wall or chain link fence with slats at least six (6) feet in height unless otherwise provided for by this section.
6. Expansion or changes to an existing facility would constitute a new application.
7. The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all Special Use Review applications:
 - a. Whether the proposed Special Use complies with ~~the requirements of the Elbert County Master Plan~~, Elbert County Zoning Regulations and the Elbert County Subdivision Regulations.
 - b. Whether the proposed Special Use is in harmony and compatible with the surrounding area and neighborhood.
 - c. Whether the proposed Special Use will adversely impact the provision of public services.
 - d. Whether the proposed Special Use will adversely impact the environment.
 - e. Whether the proposed Special Use will increase traffic congestion or burden the

- existing road system.
- f. Whether the proposed Special Use will be adequately landscaped, buffered and screened.
- g. Whether the proposed Special Use will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.

C. PROCEDURE

1. The applicant should meet with the Planning Department, informally, to discuss the request to be submitted and determine the requirements for such application, dependent upon the size and nature of the proposal.
2. Once the applicant determines to proceed, the applicant shall submit to the Planning Department the following information:
 - a. A completed application.
 - b. A narrative and site plan prepared by a qualified professional in accordance with the requirements of this section when determined by the Planning Staff to be applicable.
 - 1) Narrative Exhibit
 - a) General project concepts.
 - b) Zoning of property.
 - c) Proof of ownership, deed, current title policy or endorsement (thirty [30] to sixty [60] days old) and a disclosure letter from the owner recognizing the applicant as a representative.
 - d) Define overall impacts of the proposed special use on the adjoining properties.
 - ~~e) Compliance with the Elbert County Master Plan.~~
 - e) Statement of compliance with appropriate agencies if applicable.
 - f) Proof of water availability if applicable.
 - h) Method of wastewater treatment if applicable.
 - h) Type or method of fire protection.
 - i) Impacts on existing flora and fauna, wildlife, drainage, air quality and visual resources.
 - j) Impacts on County services.
 - k) Legal description.
 - l) Name and address of the owner, the developer, if different than the owner and the person(s) preparing the site plan.
 - 2) Site Plan Exhibit
 - a) Plans are to be prepared at a scale of 1"=50', 1"=100' or another scale approved by the Planning Director or his representative which allows for maximum clarity of the proposal.
 - b) The name of the proposed development and submittal phase centered at the top of the sheet.
 - c) A north arrow and scale which clearly defines the development.
 - d) Sheet size of 24" x 36" with the long dimension horizontal. The title block located in the lower right-hand corner of the sheet with the date of preparation.
 - e) Vicinity map showing the relationship of the site to the surrounding

Industrial Park: An area zoned and planned for industrial uses, developed and managed as an integrated unit under single ownership or control, dealing with common services, open space and theme.

Junk: Means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, appliances, or parts thereof, iron, steel, and other old or scrap ferrous or non-ferrous material.

Junkyard: Any establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard.

Kennel: Any premises where any combination of dogs or cats or other household pets totaling four (4) or more animals, four (4) months of age or older are kept.

Kennel, Boarding: Lot or premises where any combination of dogs or cats or other household pets totaling four (4) or more animals, not raised on the lot or premises are boarded.

Kennel, Commercial: The housing of one (1) or more dogs and/or cats as a commercial enterprise, or more than ten (10) dogs and ten (10) cats, owned by the owner.

Kennel, Large Private: The housing of more than four (4) dogs and four (4) cats, and less than ten (10) dogs and ten (10) cats, which are owned by the owner or operator of an agricultural parcel.

Land Held-In-Common: The total area and structures within a project which are designed, designated and maintained for common use and enjoyment by the owners of the project and their invitees, such as recreation areas and facilities, landscaped areas, open space area, natural areas, sidewalks and trails.

~~**Land Use Area (Master Plan):** Portion or portions of the County within which the use of lands, as well as the density or densities of housing units are designated to have specific densities, uses to depict specific goals and objectives for said use.~~

Landscape: Improvement to an area of land by the planting of a combination of trees, shrubs and ground covers, or the installation of other materials such as rock, bark, retaining walls and irrigation systems.

Livestock: Farm animals kept for use and profit.

Local Solid Waste Disposal Site And Facility: Any site or facility which has received a Certificate of Designation pursuant to CRS. 30-20-102 and 103 which provides for the deposit and/or final treatment of solid wastes solely for the residents of both unincorporated and/or incorporated portions of Elbert County.

Lot: A designed piece or parcel of land occupied by a building or a group of such buildings and accessory buildings together with such open spaces as are required by this Regulation and having frontage on any approved and accepted road which meets the standards of width and improvements as specified in the standard Subdivision Regulations for Elbert County, or upon an approved private street; provided, however, that if the intended use of said lot is for agricultural purposes or for single family or two (2) family dwelling, then piece or parcel of land need only have frontage on a public road or upon improved private road.

Lot, Corner: A site bounded by two (2) or more adjacent street lines which have an angle of intersection of not more than one hundred seventy (170) degrees.

Elbert County Subdivision Regulations

Elbert County Subdivision Regulations

The following pages in the Elbert County Subdivision Regulations contain a reference to the Elbert County Master Plan:

- 1.) Page 2 – Section I, C., 1.
- 2.) Page 6 – Section II, B., 3.
- 3.) Page 22 – Section VIII, A., 2.
- 4.) Page 69 – Section XVI, C., 1.

The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in the review of all-preliminary plat, final plat, and minor development applications:

1. Whether the application is in compliance with the requirements of these regulations ~~and the Elbert County Zoning Regulations. and the Elbert County Master Plan.~~
2. Whether the application is in compliance with all applicable statutory provisions.
3. Whether the application is in compliance with the Colorado Health Department and the Colorado Department of Transportation Regulations.

D. Control Over Platting

1. All plans, plats, and replats of land laid out in a subdivision or building lots, and the streets, highways, alleys, or other portions of the same, intended to be dedicated to a public use, shall be submitted to the Board of County Commissioners for approval before they are recorded. Acceptance of said proposed dedication to the public shall be given by action of the Board of County Commissioners, following recommendation by the Elbert County Planning Commission.
2. Building Permits - No building or structure shall be erected, nor shall a building permit be issued within a subdivision, before the plat thereof shall have been approved by the Board of County Commissioners, and recorded with the County Clerk and Recorder.
3. The approval of said plan or plat by such Commission, shall not be deemed an acceptance of the proposed dedication by the public. Such acceptance, if any, shall be given by the Board of County Commissioners. The owners and purchasers of such lots shall be presumed to have notice of public plans, maps, and reports of such Commission, affecting such property within its jurisdiction.
4. Public Improvements and Maintenance - The Board of County Commissioners shall withhold all public street improvements and public maintenance from all rights-of-way which have not been accepted for maintenance purposes by the Board of County Commissioners.

E. Fees

The Board of County Commissioners shall establish and adopt a schedule of fees, to be paid by the subdivider, to defray the expenses of the County in reviews and hearing proposals, requiring their approval, and for public improvements and dedications contained therein. The Board of County Commissioners reserves the right to change any fee

The purpose of the subdivision requirements listed on the following pages, is to provide Elbert County and the State with sufficient information to review and make determinations on intended land uses within the unincorporated areas of the County.

B. General Requirements

1. Narrative - A general narrative report shall be required at each stage of review, to either explain pertinent information, and/or to elaborate on information shown on any submitted plans.
2. Subdivision Summary Form - This brief form, provided by and returned to the Planning Director, is to be completed by the applicant at the Preliminary Plan/Flat and Final Plan/Plat application stages of review. The purpose of this information is initially to inform the appropriate State and regional agencies of the proposed development, and secondly, to allow the County to have an accurate summary and inventory of proposed and approved land uses for County planning purposes.
3. Proof of Ownership and Disclosure Letter - A significant amount of time and expense is involved in processing, reviewing and action on intended land uses within the County. To safeguard the interests of all parties involved, inclusive of the County's position, it is important for the owner of land within the jurisdiction of the Board of County Commissioners to be aware of, if not involved in, the applications and requests submitted to the Planning Commission and Board of County Commissioners for review and action. Additionally, the County should know from the outset of a request, that the applicant is the owner or contract owner for a proposed development or change in land use.

When the applicant chooses to not represent themselves in requests before the County, then representatives knowledgeable about the proposal may speak on the owner's or potential owner's behalf, only if they are authorized to do so. Authorization shall be in the form of a written letter by the owner indicating who is authorized to process the request on their behalf. ~~This information is required with the appropriate application at the Master Plan stage of review.~~

C. General Responsibilities

1. Applicant - Shall prepare plans and plats in accord with these Regulations, and shall process said plans/plats through the office of the Planning Director and the Planning Commission.
2. County Departments - The County Planning Director is given principle responsibility for reviewing submitted plats for proper compliance relevant to

PRELIMINARY PLAT

SECTION VIII

A. Intent

1. After the applicant has reached initial conclusions concerning the feasibility and design of his proposed subdivision, a Preliminary Plat and required supplemental data shall be prepared for presentation and reviewed by the Elbert County Planning Commission and action taken by the Board of County Commissioners.
2. The purpose of this preliminary review is to check the proposed subdivision against the technical requirements, design standards, and improvement requirements of the County, to be sure that the conditions imposed can be met. Additionally, the Planning Commission and Board of County Commissioners shall review the proposal for site planning characteristics and compatibility with adjoining land uses. The detailed review at this stage will help determine if the plan complies with County ~~Master Plan~~, zoning requirements and subdivision regulations.

B. The Preliminary plat shall be processed as follows

1. The applicant shall submit two (2) copies of the Preliminary Plat and required submittal materials to the Planning Department for review and formal discussion with the applicant, in addition to a completed application form, submittal fee and a disclosure letter, when applicable. Additionally, required information and plans for review by referral agencies shall be provided to the Planning Department, in unsealed manila envelopes, properly compiled.
2. After general review, if the plan and required information is determined by Staff to be in acceptable form for further processing, it shall be scheduled for hearing before the Planning Commission. The applicant shall provide for distribution, a sufficient number of plans and related supplemental information, for the following referral agencies, for their explicit review and comment:
 - a. Cities, towns or adjoining counties located within two miles of the area to be developed;
 - b. School District serving the area;
 - c. To any utility, local improvement and service district, or ditch company, when applicable; fire district serving area, law enforcement.
 - d. To the Colorado State Forest Service;

- d. Final construction drawings and related documents specifying materials and methods for construction of improvements.
 - e. *A rezoning application involving a subdivision.*
 - f. *A Concept Plan, as defined in Elbert County's Subdivision Regulations.*
7. Vested property right - Means the right to undertake and complete the development and use of property, under the terms and conditions of a Site Specific Development Plan.

C. Applications - Rules and Regulations

- 1. Except as otherwise provided in subsection (2) of this section, an application for a Site Specific Development Plan shall be governed by the adopted Zoning, Subdivision ~~and~~ 1041 Regulations ~~and Master Plan~~ in effect at the time the "Application" is deemed *substantially* complete by the Planning Department.
- 2. Notwithstanding the limitations contained in subsection (1) of this section, Elbert County may adopt a new or amended law or regulation when necessary, for the immediate preservation of public health and safety, and may enforce such law or regulation in relation to applications pending at the time such law or regulation is adopted.

D. Vested Property Right - Duration - Termination

A property right, which has been vested, as provided for in this section, shall remain vested for a period of three years. This vesting period shall not be extended by any amendments to a Site Specific Development Plan.

E. Development Agreements

The Board of County Commissioners *may* enter into a Development Agreement with the landowner for the extension of Vested Property Rights, where, in the sole discretion of the of the Board of County Commissioners, an extension is warranted, due to project size and/or phasing of the development. The Board of County Commissioners may also consider an extension of Vested Property Rights for economic cycles and/or market conditions.

F. Approval, Effective Date, Amendments

A Site Specific Development Plan shall be deemed approved upon the effective date of the Board of County Commissioners' approval action relating thereto, following a public hearing, as set forth in Section XVII Subdivision Public Notice. In the event amendments

Elbert County 1041
Regulations

The following pages in the Elbert County 1041 Regulations contain a reference to the Elbert County Master Plan:

- 1.) Page 2 – Chapter 1, Article 1, Section 1-106, (1)
- 2.) Page 4 – Chapter 1, Article 1, Section 1-109, Definitions
- 3.) Page 56 – Chapter 4, Article 3, Section 4-305, (3 & 4)
- 4.) Page 57 – Chapter 4, Article 3, Section 4-305, (12), B.
- 5.) Page 64 – Chapter 4, Article 3, Section 4-307, (1), (d)
- 6.) Page 78 – Exhibit C-1, 5
- 7.) Page 101 – Section 10300, A., 2 & 6

1-104 Applicability

These Regulations shall apply to all proceedings concerning identification and designation of any developments in any area of state interest, or any activity of state interest, which has been, or may hereafter, be designated by the Board of County Commissioners of Elbert County, and the control of development in any such area or activity.

1-105 Exemptions

The Portions of these Guidelines and Regulations authorized exclusively under Section 24-65.1-101, et seq., C.R.S., shall not apply to any development in an area of state interest or any activity of state interest, which meets any one of the following conditions, as of May 17, 1974:

- (1) The specific development or activity is covered by a current building permit issued by Elbert County;
- (2) The specific development or activity has been approved by the electorate of Elbert County; provided that approval by the electorate of any bond issue, by itself, shall not be construed as approval of the specific development or activity;
- (3) The specific development or activity is to be on land which has been conditionally or finally approved for planned unit development or for use substantially the same as planned unit development;
- (4) The specific development or activity is to be on land which has been zoned by Elbert County in response to an application which specifically contemplated said use; or
- (5) The specific development or activity is to be on land with respect to which a development plan has been conditionally or finally approved by Elbert County.

1-106 Relationship of Regulations to other County, State and Federal Requirements

- (1) Whenever these Guidelines and Regulations are found to be inconsistent with any other resolution ~~with any other resolution~~, ordinance, code, regulation, ~~master plan~~, or other enactment of Elbert County, the enactment imposing the more restrictive standards or requirements shall control.
- (2) In the event these Guidelines and Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202, C.R.S., the statutory criteria shall control.

jurisdiction, the remainder shall not be affected thereby, and is hereby declared to be necessary for the public health, safety and welfare.

1-109 **Definitions**

The words and terms used in these Guidelines and Regulations for administration of areas and activities of state interest shall have the meanings set forth below, unless the context requires otherwise:

(1) Applicant: any individual, partnership, corporation, association, company, or other public or corporate body, including the federal government or any federal entity, and including any political subdivision, agency, instrumentality, or corporation of the state, seeking a development permit under these Regulations.

(2) Board of County Commissioners or Board: the Board of County Commissioners, Elbert County, State of Colorado.

(3) Designation: only that legal procedure specified by Section 24-65.1-401, et seq., C.R.S., carried out by the Board of County Commissioners.

(4) Development: any construction or activity, which changes the inherent character, or the use of land, on which the construction or activity occurs.

~~(5) — Elbert County Growth Management Plan and Master Plan: The Elbert County Growth Management Plan as adopted in 1982 and as may be subsequently amended, including the adoption of a Master Plan.~~

(5) Layman's Description: a general, nonlegal description, and the popular name, if any, of the tract of land upon which the activity or development is to be conducted. The term "general description" means "layman's description."

(6) Legal Description: any description from which it is possible to locate accurately on the ground, the boundaries of the land being described.

(7) Matter of state interest: an area of state interest, or an activity of state interest, or both.

(8) Person: any private individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, including the federal government, and including any political subdivision, agency, instrumentality, or corporation of the State or the United States government.

(9) Planning Director: the Director of the Elbert County Planning Department.

- F) Applicant's financial capability to completely plan and develop the new community and the anticipated costs of development, the intent to use district financing, and the outstanding general obligation bond indebtedness within the impact area.
- G) Proximity and provision for gas, electric and communication utilities,

(3) Statement of compatibility with the goals, policies, guidelines and recommendations of the Elbert County Master Plan, and applicable land use regulations,

~~(4) Consistency with the maps contained in the Master Plan,~~

(5) Compatibility with surrounding land uses and zoning,

(6) Environmental constraints and hazards existing on the site, and analysis of impacts and proposed mitigation of adverse impacts,

(7) Integration of the transportation system into the Elbert County System,

(8) Traffic Impact on the existing road network and proposed mitigation,

(9) If applicable, compliance with the Best Management Practices of the applicable basin authority and the corresponding basin water quality master plan, including letter from Basin Authority attending to phosphorus allocation,

(10) Impact on wild life and proposed mitigation,

(11) Feasibility analysis,

(12) If located outside the urbanized areas designated on the Elbert County Master Plan, as amended, the following additional information shall be submitted:

- A) Water supply needed for full build out (in acre feet), source of water supply, acre feet adjudicated, percentage of tributary supply;
- B) Percentage of build out of approved residential and industrial/commercial/business in the urbanized areas

~~as identified in the Elbert County Master Plan, as amended;~~

C) Change in the compatibility with economic or land use conditions on the County.

(13) Fiscal impact (in five year increments to build out) on government institutions, service districts, etc. and proposed mitigation.

- (b) The application shall also be accompanied by a map, prepared on a 24" X 36" sheet, at a scale of 1"=100' or 1"=200' (unless otherwise approved by the Planning Director) which includes the following information:
- 1) USGS
 - 2) Depict trees and major strands of vegetation
 - 3) Shadow all areas having slopes greater than 20%
 - 4) Delineate all 100-year flood plains, major drainages and other natural hazard areas
 - 5) Label adjacent zoning and uses
 - 6) North arrow and date of preparation
 - 7) A vicinity map drawn at a scale of 1"=2,000' superimposed on a current Elbert County Subdivision map, showing the relationship of the site to the surrounding area within a minimum 1 mile radius
 - 8) Identify County or State designated scenic areas
 - 9) Identify historic or archaeological sites
 - 10) Major roads on, or adjacent to, the site and their existing and proposed functional classification
- (c) List of mineral and water rights owners and their rights affected by the project site
- (d) List of names and addresses of all surface property owners of the site and within 500 feet of the exterior boundaries of the property proposed to be disturbed.
- (e) Completed permit application (see Exhibit B-1)
- (f) Names and addresses of persons or entities with an interest in any real property proposed to be physically disturbed or crossed by the development of the new community, excluding mineral interest, but including, without limitation, those holding mortgages, judgments, liens, easements, contract rights, rights-of-way, reservations, exceptions or other encumbrances, at least to the extent shown in the records of the Clerk and Recorder in Elbert County, or of which applicant has actual knowledge.

communities permit, shall be effective only on approval of the relevant rezoning or subdivision applications.

- (3) Consistent with the procedures for receipt of the application, and referral procedures as specified in Chapter Two and otherwise, the Planning Director shall set a date for hearing of the permit application before the Planning Commission, and then before the Board of County Commissioners, a minimum of fourteen days following the Planning Commission hearing date. The Planning Director shall cause to be published in a newspaper of general circulation in Elbert County, a notice of both meetings, stating the time, date, place and subject matter of each, thirty (30) days before the Planning Commission Hearing.

4-307 Approval of Permit Application

- (1) The board of County Commissioners shall approve an application for a permit for site selection and development of a new community (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and development complies with the following criteria, to the extent applicable:
 - (a) The health, welfare and safety of the citizens of this County will be protected and served;
 - (b) The natural and socio-economic environment of this County will be protected and enhanced;
 - (c) The applicant has presented and committed to a satisfactory program to mitigate, and minimize adverse impacts;
 - (d) The nature and location or expansion of the new community complies with the intent of all applicable ~~provisions~~ ~~recommendations~~ of the Master Plan of this County, and other applicable regional, metropolitan, state, and national plans;
 - (e) The nature and location or expansion of the new community will not create an expansion of the demand for government services, beyond the reasonable capacity of the community or region to provide such services, as determined by the Board, or the plan contains adequate mitigation of such demands; in particular, the new community design shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities of existing communities in the impact area;

EXHIBIT C-1

**PERMIT ISSUED TO CONDUCT A DESIGNATED ACTIVITY
OF STATE INTEREST OR TO ENGAGE IN DEVELOPMENT IN A
DESIGNATED AREA OF STATE INTEREST IN ELBERT COUNTY,
COLORADO**

Pursuant to Guidelines and Regulations for Areas and Activities of State Interest of Elbert County heretofore adopted by the Board of County Commissioners, the County has received an application from _____ (hereinafter "Applicant") for a permit to conduct the following matter(s) of state interest: _____

and has approved that application.

This permit authorizes the Applicant:

1. To conduct the following activities:
2. On the following-described tract of land:
3. For the following period:
4. In accordance with the application, approved by the Board of County Commissioners on _____, 20____, as well as the guidelines for administration, adopted by Elbert County for [insert category of matter of state interest involved] adopted by Elbert County on [date].
5. On the condition that the Applicant proceeds in conformity with all applicable federal and state statutes and regulations, as well as all applicable local land use controls including, but not limited to, ~~applicable comprehensive or master plans~~, subdivision regulations, zoning and building codes, and the following additional conditions:
6. Financial security shall be posted under and this permit, and this permit shall not be effective until the Applicant has filed the proper security with the Board of County Commissioners, in form and content acceptable to them, pursuant to provisions of the Administrative and Permit Regulations. Such security shall be in the amount of _____ (\$ _____) and shall be subject to the following additional conditions:

This permit is valid for use only by the Applicant, and may not be transferred. In the event that the Applicant fails to take substantial steps to initiate the above development or activity within twenty-

final decision on the application until outstanding property rights, permits and approvals are obtained.

2. **The Proposed Project is consistent with ~~relevant provisions of the Master Plan and~~ any regional water quality plans.**
3. *Applicable to Major Review only.* **The applicant has the necessary expertise and financial capability to develop and operate the Proposed Project consistent with all requirements and conditions.**
4. *Applicable to Major Review only.* **The Proposed Project is technically and financially feasible.**
5. **The Proposed Project is not subject to significant risk from natural hazards.**
6. **The Proposed Project will not have a significant adverse effect on land uses ~~described in the Master Plan.~~**
7. **The Proposed Project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.**
8. *Applicable to Major Review only.* **The Proposed Project will not create an undue financial burden on existing or future residents of the County.**
9. *Applicable to Major Review only.* **The Proposed Project will not significantly degrade any sector of the local economy.**
10. *Applicable to Major Review only.* **The Proposed Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.**
11. **The planning, design and operation of the Proposed Project will reflect principals of resource conservation, energy efficiency and recycling or reuse.**
12. **The Proposed Project will not significantly degrade the environment.** Appendix "A" includes the considerations that will be used to determine whether there will be significant degradation of the environment. For purposes of this section, the term environment shall include:
 - a. Air quality.
 - b. Visual quality.