

# Section 14-1000 RURAL CLUSTER OPTIONS

Figure (Right): Hypothetical 320 Acre Parcel in A-E Zoning District with a stream and ridgeline

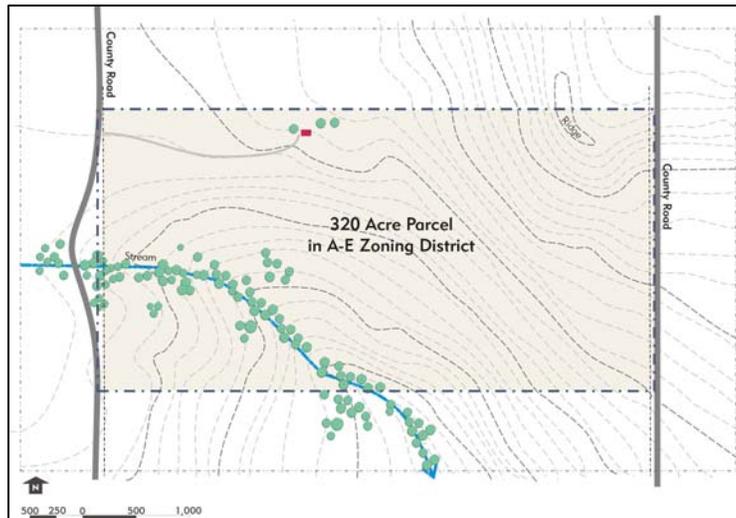


Figure (Right): Without the Rural Cluster Option, applicant would be eligible for nine (9) 35-acre parcels on this 320 Acre Parcel

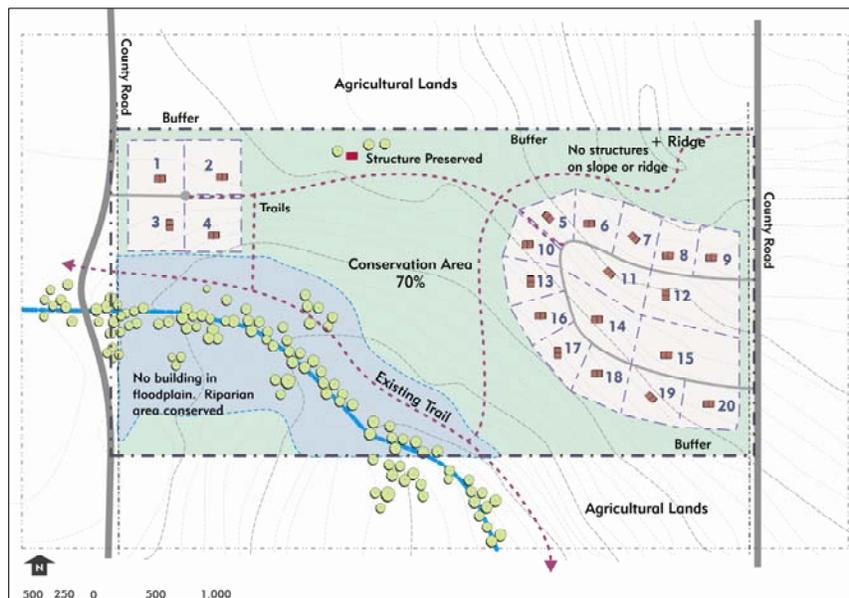
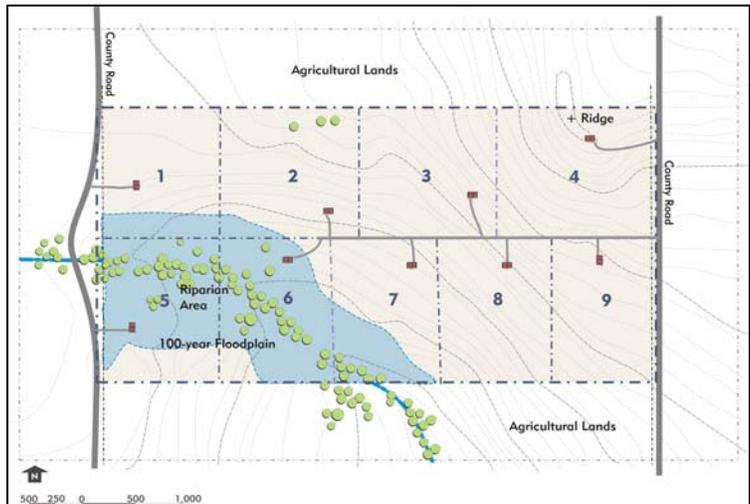


Figure (Left): The Rural Cluster Option allows the applicant to locate 20 lots on the site and to conserve 70% of the parcel as open lands. Natural and man-made features, such as the stream corridor and ridgeline, are undisturbed.

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### 14-1000 PURPOSE AND INTENT

- A. The rural cluster option implements the Comprehensive Plan and allows residential development in agricultural zone districts within the Rural Area to be sited creatively to maintain the rural open character and agricultural viability of Arapahoe County's Rural lands. This option permits single-family residential development on parcels of 70 acres or more to be clustered on lots smaller than otherwise permitted by the Arapahoe County Land Development Code. The option requires a portion of the property be set aside as an open "conservation area," with a limited range of allowed uses and activities. The rural cluster option provides incentives for landowners to choose cluster developments as an alternative to large-lot conventional subdivisions and dispersed development on 35-acre and larger parcels. The County does not intend to allow rural cluster developments solely as a tool for gaining greater densities in the Rural Area; instead, the County intends any additional density allowed under this option as *quid pro quo* for the permanent conservation of valuable natural, cultural and agricultural resources and lands.
- B. More specifically, the purpose and intent of the rural cluster option is to:
1. Implement the Rural Area policies of the Arapahoe County Comprehensive Plan;
  2. Protect the open character of eastern Arapahoe County's agricultural districts;
  3. Encourage continued use of these lands for ranching and agricultural activities, especially prime farm lands;
  4. Conserve Sensitive Development Areas, such as rivers, streams, floodplains, riparian areas, wetlands, view sheds ecological resources, steep slopes and ridgelines, historic and archaeological sites, and wildlife habitat and corridors;
  5. Allow a diversity of lot sizes to accommodate a variety of residential preferences;
  6. Minimize extension of roads and utilities for development and reduce the County's cost of providing services; and
  7. Promote compatibility of new cluster development with existing and allowed adjacent land uses.

### 14-1001 GENERAL REQUIREMENTS

#### 14-1001.01 APPLICABLE DISTRICTS

Property shall be located within one of the following areas to be eligible for the rural cluster option:

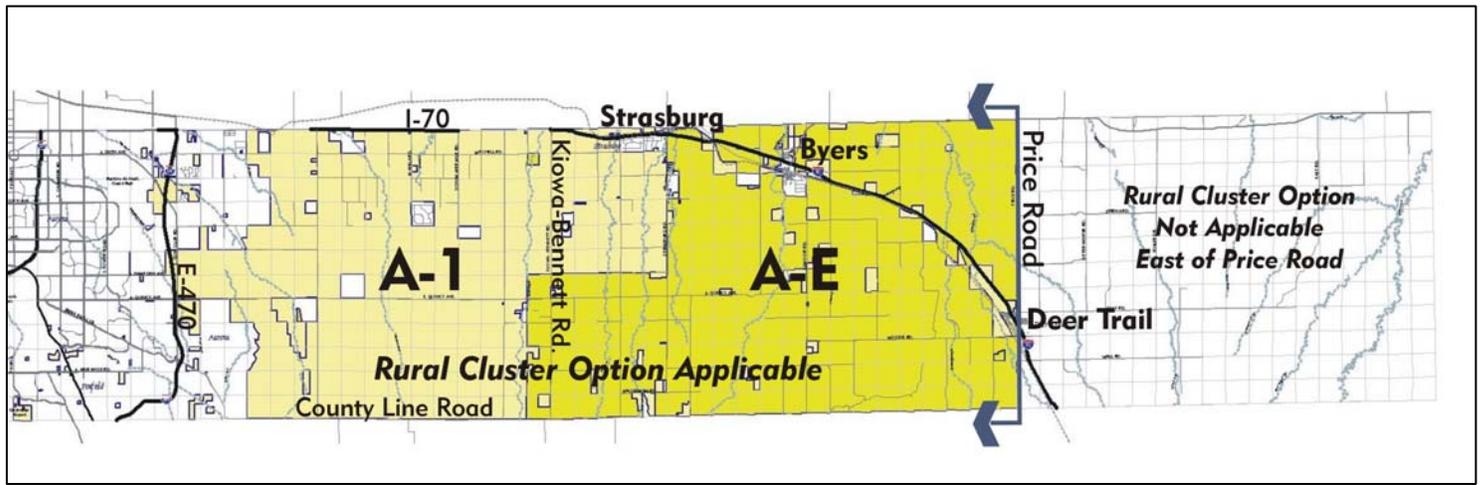
##### **14-1001.01.01 A-E (Agricultural) Zoning district, west of Deer Trail**

Eligible property shall be located in the Rural Area and zoned "A-E", provided the property is located west of the Town of Deer Trail and west of Price Road; as shown in Figure 1 below.

##### **14-1001.01.02 A-1 (Agricultural) Zoning district**

Eligible property shall be located in the Rural Area and zoned "A-1", as shown in Figure 1 below.

Figure 1: Applicability of Rural Cluster Option



**14-1001.02 MINIMUM LAND AREA—70 ACRES**

The application for the rural cluster option must involve a single parcel of eligible land under common ownership and at least 70 acres in total area or, alternately, two or more contiguous parcels of eligible land under different ownerships and with an aggregate size of at least 70 acres.

**14-1001.03 ALLOWED USES – GENERAL**

The proposed uses of the subject parcel under this rural cluster option shall be limited to single-family detached residences, agricultural uses and activities, passive open space or recreation, as further described in Section 7-300, “Rural Cluster Option,” of the Zoning Regulations.

**14-1001.04 PAVED COUNTY ROAD ACCESS REQUIRED**

All applications for the Rural Cluster option must have primary access from a paved County road across the full frontage of the proposed subdivision. The County road must be paved to the County construction standards.

**14-1002 REVIEW PROCEDURES AND ADMINISTRATION**

A proposal for development under the rural cluster option shall be processed as a subdivision of land, subject to an expedited “Cluster Subdivision Process,” as described in this Section 14-1000. An applicant shall submit a final Cluster Subdivision Plat that meets the general submittal requirements for a final plat according to Section 14-304 of these Subdivision Regulations, and a separate “Site Analysis Map” as required in this Section 14-1002. County approval of a final plat for a cluster subdivision is required prior to any land disturbing activity, including clearing and grading, on the proposed cluster development site.

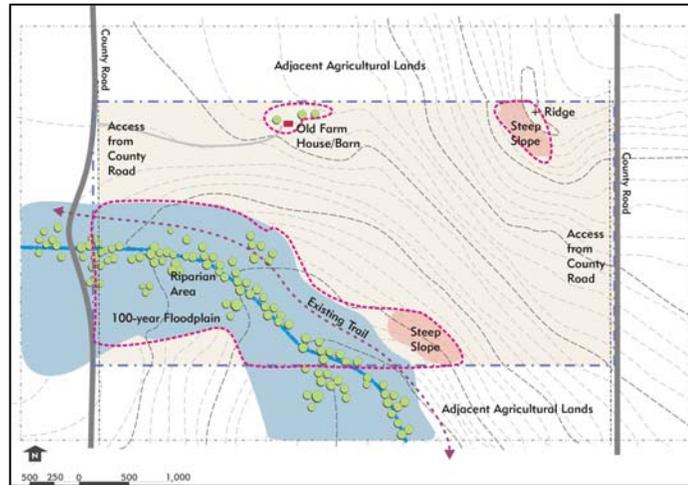
**14-1002.01 CLUSTER SUBDIVISION REVIEW PROCESS**

- A. The cluster subdivision process provides an abbreviated and expedited review process for rural cluster developments that comply with Section 13-1100 (Rural Cluster Option) of the Zoning Regulations and with Section 15-100 of these Subdivision Regulations.
- B. The steps in the review of a cluster subdivision application shall be:
  - 1. **Pre-Submittal Meeting.** Prior to submittal of a cluster subdivision application, the applicant shall meet with representatives of the Planning and Engineering Divisions at a pre-submittal meeting to discuss the procedure and submittal requirements. Of particular importance should be discussion of preparation of the site analysis map and scheduling of staff’s site visit.

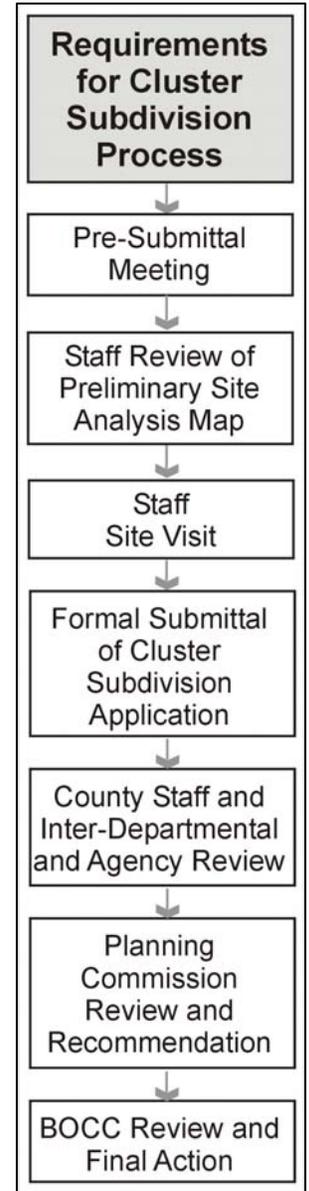
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2. **Review of Preliminary Site Analysis Map.** After the pre-submittal meeting, but before the applicant's formal submittal of the cluster subdivision application, the applicant shall prepare and submit a preliminary site analysis map that analyzes existing conditions both on the proposed cluster development site and on all lands within 1,500 feet of the subject site's boundaries.

*Figure 2: Preliminary Site Analysis Map - Identifies site conditions on the site and on lands within 1,500 feet of the subject site. The site analysis identifies natural and man-made features.*



- a) The preliminary site analysis map shall comply with the following preparation requirements:
  - i. The format for the preliminary site analysis map shall comply with the minimum format for preliminary plats stated in Section 2-204.06 of these Regulations.
  - ii. Map scale shall be not less than 1 inch = 200 feet, or if the site contains slopes exceeding 10% and the applicant is proposing an onsite wastewater system, the scale shall be not less than 1 inch = 100 feet.
  - iii. Map shall show the relationship of the subject property to natural and man-made features located within 1,500 feet of the subject site's boundaries.
  - iv. The natural and man-made features to be shown include:
    - a) Public roads.
    - b) Trails.
    - c) Utility easements and rights-of-way, as filed with the County Clerk and Recorder's office.
    - d) Topography (from USGS maps), including steep slopes, as defined in these regulations.
    - e) Land areas that qualify as "Sensitive Development Areas," as defined in these regulations.
    - f) Former waste disposal sites.
    - g) Public lands.
    - h) Land protected under existing conservation easements.
    - i) Man-made features, including but not limited to driveways, farm roads, buildings, foundations, walls and fences, wells, drainage



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fields, dumps, and utilities.

3. **Staff Site Visit.** After the applicant submits a preliminary site analysis map, and before the applicant formally submits the application, County staff shall schedule a site visit to the property and invite the applicant to participate. Before the site visit, the applicant shall provide staff with written permission to allow staff to enter the property. The purpose of this site visit is to:
  - a) Familiarize staff with the property's existing conditions and special features;
  - b) Identify potential site development issues; and
  - c) Provide an opportunity to discuss rural cluster design concepts, including the general location and layout of the conservation area, the potential locations for proposed lots and building envelopes within lots (as applicable), and the potential locations for utilities, roads, and other development features.

Comments made by officials or staff during the site visit are not binding in any way, and shall be interpreted as suggestions only. No official decisions shall be made during the site visit.

4. **Formal Submittal of Cluster Subdivision Application.** The applicant shall submit a complete cluster subdivision application that complies with the submittal requirements stated in Section 14-1002.02. The County shall not accept incomplete applications.
  - a) The applicant may be required to submit additional materials, provided the Planning Division Manager informs the applicant of the additional material at either the pre-submittal meeting or within five (5) days of the site visit, and based on the Planning Division Manager's determination that the additional material is necessary and relevant to the County's review.
  - b) The Planning Division Manager may waive or vary certain submittal requirements in order to tailor the requirements to the information necessary to review a particular application. An applicant shall request a waiver or variation prior to submitting an application, and should discuss the request with staff at the pre-submittal meeting if possible. The Planning Division Manager may waive or vary such submittal requirements where the Manager finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed cluster subdivision support such waiver/variation.
5. **Referral to Appropriate Agencies.** As part of the review process, referral agencies are notified and have the opportunity to respond in writing. The applicant may be required to pay any fees assessed by these referral agencies in advance of their review. This referral period is thirty (30) days, and may be extended by up to 30 additional days by mutual consent of the applicant and the Planning Division Manager or designee. Failure of an agency to respond within the prescribed time period (or extended period) shall indicate approval by that agency.
6. **Planning Commission Recommendation.**
  - a) **Recommendation at Public Hearing.** Following referral agency review, staff will determine the application's readiness for a public hearing with the Planning Commission. When determined ready, the cluster subdivision application, along with the available comments of the Planning and Engineering staff and appropriate agencies, shall be presented at a public hearing of the Planning Commission. Priority review shall be granted the cluster subdivision application according to Section 14-1002.01.04. At least fourteen (14) days prior to the date of the Commission hearing, the applicant shall provide posted sign notice and

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give mail notice to all adjacent property owners of the Commission meeting time and place, in accord with the County's notice requirements in Part 3 of this Code. In addition, the County shall give notice of the time and place of the hearing in at least one publication of a newspaper of local circulation in the vicinity of the proposed subdivision (e.g., in the *I-70 Scout*).

- b) **Planning Commission Action.** The Planning Commission shall take action on the application by recommending approval, approval with conditions, or denial. The Planning Commission may utilize standard conditions of approval and standard motions for approval, which incorporate other requirement conditions, limitations, or restrictions. The Planning Commission's decision shall be based upon the evidence presented, the record relating to the application, and applying the standards set forth in this section. The Planning Commission may continue the hearing to allow additional/supplemental information to be submitted and considered

### 7. Board of County Commissioners Final Action.

- a) **Final Action at Public Hearing.** Following the recommendation by the Planning Commission, staff shall schedule the cluster subdivision application on the Consent Agenda or the General Business Agenda of the Board of County Commissioners for final action at a public meeting. Priority review shall be granted the cluster subdivision application according to Section 14-1002.01.04. Staff shall notify the applicant of the public meeting date and time
- b) **Option for Consideration at Public Hearing.** The case will be scheduled for ratification by the Board of County Commissioners, unless prior to ratification, the Board member representing the district in which the cluster subdivision will be located decides that the application shall be considered at a public hearing. If the application is rescheduled for a Board of County Commissioners public hearing, the hearing shall be *de novo*, and the Board's action shall be based upon the record developed at the Board hearing. Staff shall notify the applicant of the County's decision to schedule the application as a public hearing, and the applicant shall be responsible for complying with the County's notice requirements for the hearing.
- c) **Board Action.** The Board shall evaluate the cluster subdivision application, staff recommendations, referral agency comments, Planning Commission recommendations, public testimony (as applicable), and other information relevant to the proposed cluster subdivision, and shall approve, approve with conditions, or deny the application. The Board's action shall be based on compliance with the adopted standards and review criteria for rural cluster subdivisions, and other applicable regulations, policies, and guidelines.
- d) **Effect of Board Denial.** If denied by the Board, the submittal of a new application and processing fee shall be required in order to pursue the proposed cluster subdivision. The re-submittal of a cluster subdivision application for the same or substantially the same request, as determined by the Planning Division Manager or designee, shall not be accepted within one (1) year of such denial. The applicant may appeal the decision of the Division Manager, or designee, in writing, to the Board within 10 days from the date of the decision.

### 8. Review Criteria

The Board may approve a cluster subdivision application upon findings that the proposed Cluster Subdivision Plat and Final Site Analysis Map, including any bonus

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densities requested, further the purpose and intent of the Rural Cluster Option, and comply with: (1) the standards in Section 13-1100 (Rural Cluster Option) of the Zoning Regulations; (2) the standards of this Section 14-1000; and (3) the standards for approval of final plats stated in Sections 14-302 of these Subdivision Regulations, except where the Board expressly permits exceptions and variances to such standards.

- a) The Board retains the discretion to deny a rural cluster application if it finds that the subject property uniformly exhibits such extraordinary natural and environmental value, as evidenced by the property's composite ranking on the Arapahoe County Resource Composite Map, that the Board determines the densities permitted by the Rural Cluster Option would result in unmitigated, adverse impacts on the natural environment.
- b) The Board also retains the discretion to approve the proposed Rural Cluster Subdivision conditioned on the applicant agreeing to a reduced residential density if the Board finds that such condition would mitigate potential adverse impacts related to the requested density.

### 9. **Limitations Prior to Approval or Recording of Cluster Subdivision Plat.**

- a) **Guarantee of Public Improvements.** No Cluster Subdivision Plat shall be recorded until the applicant has submitted, and the County has approved, one or a combination of Subdivision Improvement Agreements, as applicable.
- b) **Payment of Past Assessed Taxes and Fees.** The Board shall not approve a Cluster Subdivision Plat unless all delinquent taxes and special assessments related to the subject property have been paid, and unless such property is classified in the appropriate zoning district as defined in the current Zoning Regulations.
- c) **Address Plat Required.** No Cluster Subdivision Plat shall be recorded until the applicant has submitted an Address Plat final mylar in accordance with Section 14-308 of the Subdivision Regulations. The Address Plat shall be a photographic mylar or equivalent (prepared such that the text/line work does not bleed, flake, or scratch off) on 24" x 36" single/double matte mylar. The drawing shall be in upper case sans serif with a minimum 12-point font unless otherwise approved by the Planning Division Manager or designee.

### 10. **Recordation Procedure.**

- a) **All approved Cluster Subdivision Plats must be recorded.** The applicant shall follow the procedures and prerequisites for recordation of Final Plats stated in Section 14-306 of these Subdivision Regulations.
- b) The applicant shall follow the procedures and prerequisites for recordation of conditions, covenants, and restrictions (C.C.&R's), the Final Site Analysis map(s), and the Plan for Management of the Conservation Areas, conservation area(s) deeds and easements concurrent with, and after, the Cluster Subdivision Plat.

### 11. **Expiration of Approval.**

- a) Failure by the applicant to submit all required documentation within 60 days of approval shall render approval of the Cluster Subdivision Plat voidable and may result in the necessity for a new submittal of the cluster subdivision application and plat. Resubmittals are subject to all processing fees, submittal requirements, and review standards in effect at the time the resubmittal is accepted by the county.

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- b) The Planning Division Manager, or designee, may grant extensions of time up to twelve (12) months upon a written request by the applicant or staff for good cause being shown. Good cause may include, but is not limited to, signatories are out of the state or country, or a major change was requested by the Board of County Commissioners.
- c) An extension of time request shall include a fee and narrative stating the reasons for the applicant's inability to comply with the specified deadlines. The applicant shall list any changes in the character of the neighborhood, and any changes in the County's Comprehensive Plan, Zoning Resolution, or Subdivision Regulations that have occurred since approval of the final Cluster Subdivision Plat. These changes may affect the Cluster Subdivision Plat and the anticipated time schedule for completing the cluster subdivision process. A fee schedule is available from the Planning Division office. Additional review of the Cluster Subdivision Plat may occur, resulting in additional conditions as applicable.
- d) The denial of an extension by the Planning Division Manager, or designee, may be appealed to the Board within ten (10) working days of the decision by the Planning Division Manager, or designee.

### **C. PRIORITY REVIEW**

The County shall give complete and conforming cluster subdivision applications submitted pursuant to this Section 14-1002 priority over other land development applications submitted pursuant to the Zoning or Subdivision Regulations that are being reviewed by staff/referral agencies, the Planning Commission, or the Board. At each step or phase of review, each cluster subdivision application shall be placed on the first scheduled Commission or Board agenda for which it can be properly noticed, as applicable. On each such agenda, the cluster subdivision application shall be placed for consideration before all other land development applications.

### **14-1002.02 SUBMITTAL REQUIREMENTS**

#### **14-1002.02.01 GENERAL SUBMITTAL REQUIREMENTS**

The applicant shall submit a cluster subdivision application and accompanying Cluster Subdivision Plat that meet the general submittal requirements and plat exhibits for a Final Plat required by Sections 14-304 and 14-305 of these Subdivision Regulations, and that also satisfies the supplemental requirements stated in this subsection. In addition, the applicant shall submit a separate document entitled "Final Site Analysis Map" which meets the submittal requirements stated in this subsection.

#### **14-1002.02.02 CLUSTER SUBDIVISION PLAT—ADDITIONAL SUBMITTAL REQUIREMENTS**

Taking into account the constraints and opportunities identified in the preliminary site analysis map and during the site visit, the applicant shall identify tracts containing the conservation area(s) and lot lines on the Cluster Subdivision Plat according to Section 14-1003, "Residential Cluster Development and Conservation Area Requirements." In addition to the general submittal requirements for a Final Plat (Sections 14-304 and 14-305), the Cluster Subdivision Plat submittal shall include the following additional elements and exhibits:

- A. The boundaries of proposed residential cluster(s) and individual lot lines within each residential cluster.
- B. The boundaries of all Sensitive Development Areas as shown on the Arapahoe County Resource Composite Map, or as identified by the applicant on the preliminary site analysis map and confirmed through subsequent investigation;

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- C. Septic field boundaries, as applicable;
- D. Reference to the Final Site Analysis Map;
- E. Notes regarding ownership and future maintenance of the tracts containing the conservation area(s), and appropriate references (e.g., reception numbers) indicating the existence of site-specific conditions, covenants, or restrictions that may apply within or adjacent to the conservation area tract(s) concerning:
- F. Roads and driveways,
- G. Detention and water quality ponds, and
- H. Landscaping/buffers.
- I. Reference to an approved Management Plan, if applicable.

### **14-1002.02.03 FINAL SITE ANALYSIS MAP SUBMITTAL REQUIREMENTS**

- A. Taking into account the constraints and opportunities identified in the preliminary site analysis map and during the site visit, the applicant shall identify tracts containing the conservation area(s), lot lines, and building envelopes (as applicable) on the Final Site Analysis Map according to Section 14-1003, "Residential Cluster Development and Conservation Area Requirements." In addition, the Final Site Analysis Map shall include the following elements and exhibits, which the applicant shall show on the map using scales and format consistent with the scales and format used on the Cluster Subdivision Plat: The Final Site Analysis Map, however, is a separate document from the Cluster Subdivision Plat and is required to be recorded.
- B. Concurrent with the C.C.& R's and the Management Plan.
  - 1. All Sensitive Development Areas, man-made features, and any former waste disposal sites identified on the preliminary site analysis map and confirmed through subsequent investigation and the site visit;
  - 2. The proposed tract or tracts containing the required conservation area(s);
  - 3. The boundaries of the proposed residential cluster(s); and
  - 4. Lot lines within each residential cluster and building envelopes within each residential cluster lot. Building envelopes shall be shown only if the cluster lot includes or is adjacent to a septic field or to a Sensitive Development Area (as defined by this Code)

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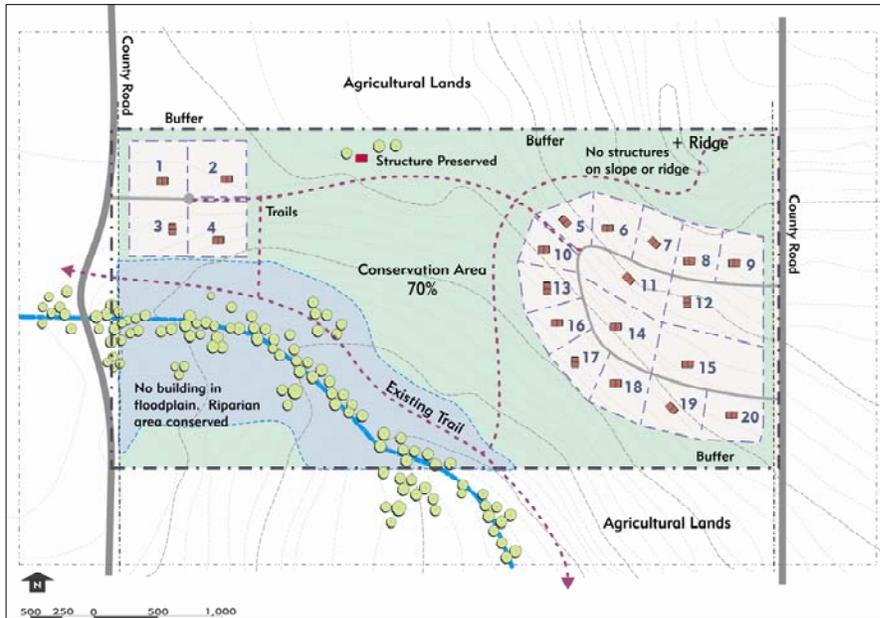


Figure 3: **Final Site Analysis Map** that shows the proposed residential clusters, tracts containing the proposed conservation areas, and critical natural and man-made features identified on the preliminary site analysis map.

- C. If an onsite wastewater system will not be included inside the building envelope for the lot served, the applicant shall also show the separate envelope for the system's location.
- D. Notes regarding site specific standards that may apply within or adjacent to the conservation area tract(s) concerning:
  - 1. Roads;
  - 2. Detention and water quality ponds;
  - 3. Landscaping/buffers;
  - 4. Fences, or
  - 5. Structures, and
  - 6. Reference to an approved Management Plan, if applicable, which may be attached to and become part of the Final Site Analysis Map.

### **14-1002.03 AMENDMENTS TO APPROVED CLUSTER PLAT AND MAP**

The County shall process all minor modifications to an approved Cluster Subdivision Plat or to an approved Final Site Analysis Map according to the "Administrative Amendment" criteria and procedures stated in Section 13-500 of the Zoning Regulations. A modification that does not qualify as an "Administrative Amendment" under Section 13-500 must be processed according to the cluster subdivision approval process stated in this Section 14-1002.

## **14-1003 RESIDENTIAL CLUSTER DEVELOPMENT AND CONSERVATION AREA REQUIREMENTS**

### **14-1003.01 COMPONENTS OF A CLUSTER SUBDIVISION**

A cluster subdivision has two components: (1) the residential cluster and (2) the conservation area. The residential cluster is the portion of the development parcel that is subdivided into lots for single-family residential and accessory uses. The conservation area is the larger portion of the development parcel that is platted as a tract(s) and permanently preserved for agricultural or open space uses.

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**14-1003.02 SUMMARY OF GENERAL DEVELOPMENT STANDARDS**

Table 14-1003-A presents a summary of the general requirements under the rural cluster option. The applicant shall refer to Section 13-1100, “Rural Cluster Option,” of the Zoning Regulations for all applicable standards related to permitted density, allowed uses, lot size and dimensions, and building height.

**Table 14-1003-A: Summary of General Requirements for the Rural Cluster Option**

<b>Agricultural Zoning District</b>	<b>Minimum Land Area</b>	<b>Maximum Gross Density Under Rural Cluster Option</b>	<b>Number of Lots per Cluster</b>	<b>Lot Size</b>	<b>Minimum Conservation Area (% of Total Gross Land Area of Development Parcel)</b>
<b>A-E</b>	70 acres	2.25 dwelling units per 35 acres (125% increase)	Maximum: 20 lots.	Minimum: 2.5 acres Maximum: 10 acres, except for conservancy lots	70%
<b>A-1</b>	70 acres	1.75 dwelling units per 19 acres (75% increase)	Maximum: 20-70 lots.	Minimum: 2.5 acres Maximum: 10 acres, except for conservancy lots	60-70%

**14-1003.03 STANDARDS FOR RESIDENTIAL CLUSTERS**

**14-1003.03.01 MAXIMUM DENSITY & BONUS DENSITY PROVISIONS**

The maximum permitted densities, and density bonus provisions, for rural cluster subdivisions in the A-E and A-1 Zone Districts are stated in Section 7-200, “Rural Cluster Option,” of the Zoning Regulations.

**14-1003.03.02 LOCATION & SIZE OF RESIDENTIAL CLUSTERS**

Residential lots within a cluster subdivision shall be located in one or more residential clusters, which shall comply with the following standards.

- A. General Site Design Standard.** In general, the layout of residential clusters shall promote the rural character of the zone district, avoid the creation of new rural towns or villages, support the viability of existing agricultural activities on or adjacent to the site, and protect significant natural, historic, or cultural resources on or adjacent to the site, as applicable.
- B. Siting Criteria for Residential Cluster(s).** The applicant shall site the residential cluster(s) according to the following criteria. The cluster(s) shall be sited to:
  1. Avoid Sensitive Development Areas, and other significant natural or man-made features, as described in Section 14-1003.02.03, “Delineation of Conservation Areas,” below;
  2. Preserve the open sky backdrop above any ridgelines, as viewed from Interstate 70 or from adjacent county roads;
  3. To the maximum extent feasible, preserve significant views of the rural, open character of the district, as viewed from Interstate 70 or from adjacent county roads;
  4. Avoid interference with existing or viable agricultural operations and activities;
  5. Provide a minimum separation from existing rural development (1 unit per 35 acres or less density) on adjacent properties by maintaining a minimum 100-foot setback from the adjacent rural property’s boundaries; and

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6. Provide contiguity of open space and conservation area(s).

### C. Siting of Multiple Residential Clusters.

#### 1. Minimum Separation Required.

- a) To avoid the creation of rural towns or villages and to maintain the open, rural character of the zone district, multiple residential clusters shall be non-contiguous except as the County may allow according to this subsection.
- b) If the total land area within the cluster subdivision is more than 320 acres, a residential cluster shall be separated from all other residential clusters by at least 1,320 feet.
- c) If the total land area within the cluster subdivision is 320 acres or less, a residential cluster shall be separated from all other residential clusters by at least 600 feet.
- d) Separation of multiple residential clusters is required regardless whether the clusters are located within the same cluster subdivision or in a different cluster subdivision.
- e) For purposes of this subsection, separation between residential clusters shall be measured as the shortest linear distance between the two closest building envelopes designated for principal residential dwellings located in the different residential clusters, or if building envelopes are not shown on the Final Site Analysis Map, then the shortest distance between the two closest points of the boundary for each cluster.

2. Exception to Minimum Separation Requirement. The Planning Manager may reduce the minimum separation requirement in this subsection (C) if he or she finds that the smaller separation satisfies the general and specific site design standard and criteria in subsections (A) and (B) above, and that either:

- a) The overall site design takes advantage of the site's natural topography to hide multiple residential clusters from each other's view and from the public's view as seen from Interstate 70 or from county roads; or
- b) The smaller separation is necessary to accommodate conservation of Sensitive Development Areas, such as riparian corridors; or
- c) The smaller separation is necessary and desirable to better preserve the contiguity of on-site and off-site conservation areas; or
- d) The smaller separation is necessary and desirable to enable ongoing operations of agricultural activities in the vicinity of the clusters.

In no case shall the separation between clusters be less than 200 feet.

D. **Number of Cluster Lots per Residential Cluster.** Within a cluster subdivision, lots are typically organized into one or more clusters or groupings of lots. For example, the hypothetical cluster subdivision illustrated in Figure 3, above, depicts two separate clusters of lots. The following standards govern how large a single cluster may be, keeping in mind the county's general goals to maintain a rural, open character and avoid the *de facto* creation of new rural towns.

E. **General Rule.** Within a cluster subdivision, the maximum number of lots allowed in a single residential cluster shall be 20 lots, except as specifically allowed in the A-1 Zone District in subsection (2) below.

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F. **Allowance for Larger Clusters in the A-1 Zone District.** Where the applicant can evidence all of the following conditions, the County may approve an increase in the size of a single residential cluster in the A-1 Zone District only, as shown in Table 14-1003-B below.

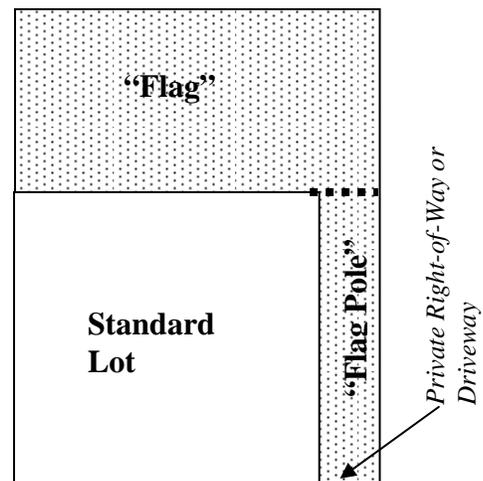
1. The property is located entirely within an A-1 zone district;
2. The property is located within the distance specified in Table 14-1003-B from either the Urban Service Area boundary shown in the Comprehensive Plan, or from a mapped Urban Growth Boundary adopted for the Towns of Bennett, Strasburg, Byers, or Watkins. This distance shall be measured as the shortest horizontal distance (plan view) between any part of the project site’s boundary to the closest boundary line of the Urban Services Area or Urban Growth Boundary;
3. The applicant will install a community water or sewer system to serve all or a portion of the cluster subdivision, and the increase in cluster size is necessary to support the economic feasibility of such installation; and
4. The County finds that the cluster subdivision meets the general site design and siting criteria stated in subsections (A) and (B) above.

<b>Table 14-1003-B: Factors for Increasing Residential Cluster Size in the A-1 Zone District</b>	
<b>Maximum Distance from Urban Service Area Boundary or Urban Growth Boundary</b>	<b>Maximum Number of Lots per Single Cluster</b>
3 miles	70
5 miles	50
10 miles	30

G. **Cluster Lot Size/Lot Dimensions/Building Height.** The minimum lot area and building height requirements set forth in Sections 4-107 and 4-208 of the Zoning Regulations for the A-E and A-1 districts, respectively, shall not apply to lots within a residential cluster. Please refer to Section 13-1100, “Rural Cluster Option,” in the Zoning Regulations for applicable cluster lot sizes, lot dimension, and building height requirements.

**14-1003.03.03 FLAG LOTS.**

- A. Flag lots are permitted within a rural cluster subdivision, subject to the following standards:
  1. **Maximum Size.** Flag lots shall be a maximum of 10 acres in size, except that larger conservancy lots in a cluster subdivision may be flag lots. The “flag pole” part of the lot, when less than the minimum required frontage or lot width, is not included in the calculation of minimum lot area.
  2. **Minimum Street Frontage/Flagpole Width.** Each flag lot shall have at least 32 feet of street frontage and at least 32 feet of width for the entire length of the “flag pole” portion of the lot.
  3. **Limit on Number and Contiguity.** A maximum of one (1) flag lot is allowed in cluster



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subdivisions containing 4 or less cluster lots. No more than 20 percent of the cluster lots in a cluster subdivision of 5 or more lots may be flag lots. No more than 2 flag lots sharing a single access may be contiguous.

4. **Prohibition on Future Subdivision.** A flag lot shall not be further subdivided into additional lots. This prohibition on future subdivision shall be included as a note on the recorded Cluster Subdivision Plat.

### **14-1003.03.04 ALLOWED USES ON RESIDENTIAL CLUSTER LOTS**

Please refer to Section 13-1100, "Rural Cluster Option," in the Zoning Regulations for applicable standards addressing principal and accessory uses allowed on residential cluster lots.

### **14-1003.04 CONSERVATION AREA(S)**

#### **14-1003.04.01 MINIMUM PERCENTAGE—CONSERVATION AREA(S)**

- A. Except as specifically allowed by this Section, the minimum percentage of the cluster development parcel's total gross land area that shall be set aside as conservation area(s) is 70%. All conservation areas shall be contained within tracts and clearly delineated on the Cluster Subdivision Plat. The area, intended use, and final ownership of all conservation area tracts shall be shown on the plat.
- B. The county may reduce the amount of conservation area preserved to no less than 60% when the applicant submits an exceptional subdivision design that meets all the design and siting criteria required by this Section 14-1003, and complies with the following criteria:
  1. The Cluster Subdivision Plat delineates individual building envelopes within each cluster lot;
  2. To the maximum extent possible, the lots and building envelopes are arranged within each individual cluster so that open, unfenced, private yards on each lot are adjacent and contiguous to each other; and
  3. The county finds that the exceptional site design and use of private yards as a surrogate for set-aside conservation area furthers the open space and rural preservation goals and intent stated in Section 14-304, and mitigates the reduction in the amount of conservation area.

#### **14-1003.04.02 CREDIT FOR PUBLIC PARK LAND DEDICATION**

Lands set aside and permanently preserved as conservation area(s) under this Section 14-1003.04 shall be credited 100% toward the dedication requirement for public parks required in Section 14-111, "Dedication Standards," of these Subdivision Regulations.

#### **14-1003.04.03 DELINEATION OF CONSERVATION AREA(S)**

- A. The required percentage of conservation area on the site shall consist of, in order of priority:
  1. Sensitive Development Areas, in order of priority:
    - a) Riparian areas, as identified on the Arapahoe County Resource Composite Map, which is incorporated by reference herein.
    - b) 100-year floodplains, as identified on the Arapahoe County Resource Composite Map, or as mapped by Federal Emergency Management Agency (FEMA), or other public or private entity and accepted by the County, or as identified by the applicant if prepared by a qualified professional and approved by the County. If the 100-year floodplain is not mapped, the applicant shall retain a qualified

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professional to delineate the 100-year floodplain on the property prior to formal submittal of the cluster subdivision application.

- c) Other water bodies, rivers and streams, and wetlands, as identified on the Arapahoe County Resource Composite Map or through other County mapping, or as identified by the applicant's site analysis and approved by the County. Applicants should contact the U.S. Army Corp of Engineers regarding delineation of regulated wetlands.
  - d) Prime Farm Land, as identified on the Arapahoe County Resource Composite Map, or mapped by the Natural Resources Conservation Service.
  - e) Steep slopes and other geologically sensitive areas, as identified on the Arapahoe County Resource Composite Map, or as identified by the applicant's site analysis if prepared by a qualified professional and approved by the County.
  - f) Other Sensitive Development Areas, as identified on the Arapahoe County Resource Composite.
2. Other environmental areas or features not identified on County maps or other specified maps, but identified by the applicant on the site analysis map or by the County at the site visit, including but not limited to:
    - a) Ridgelines, as viewed from adjacent county roads;
    - b) Significant views of the rural, open character of the district, as viewed from adjacent county roads;
    - c) Historic structures greater than 50-years in age,
    - d) Archeological sites, or
    - e) Mature trees or stands of mature trees and indigenous significant vegetation.
  3. Other lands required to be dedicated to the public under Section 14-111 of these Subdivision Regulations or otherwise dedicated, as applicable, including:
    - a) Land for public schools;
    - b) Land for public parks or trails; and
    - c) Land for other public purposes.

### **14-1003.04.04 CONSERVATION AREA(S) CONFIGURATION CRITERIA**

- A. The applicant shall configure the conservation areas in a manner to:
  1. Conform with any adopted County open space and trail plans, as amended;
  2. Provide contiguity with adjacent open space, conservation areas, and agricultural lands;
  3. Protect unique natural, historic, or cultural site features and resources;
  4. Provide minimum buffer widths between any residential dwelling and adjacent agricultural activities, as required by Section 7-203 of this Code;
  5. Provide a minimum buffer of 50 feet along all perimeter public roads; and
  6. Avoid fragmentation of conservation areas within the site.

### **14-1003.04.05 ALLOWED USES AND ACTIVITIES IN CONSERVATION AREA(S)**

Please refer to Chapter 13, "Rural Cluster Option," in the Zoning Regulations for applicable standards addressing principal and accessory uses allowed in the conservation areas.

## **14-1004 UTILITY AND INFRASTRUCTURE REQUIREMENTS**

### **14-1004.01 WATER**

- A. Residential cluster lots may be served with either individual wells or by a community or central water supply system.

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1. An individual well shall be located on the residential lot that the well serves, and shall comply with the applicable requirements of the Office of the State Engineer. All well requirements shall be verified prior to the issuance of a Certificate of Occupancy by the Building Division.
2. A community or central water supply system may be located within the residential cluster(s) it serves, or may be located within a conservation area tract provided the County finds:
  - a) The system cannot reasonably be contained within the residential cluster(s) or other nearby developed areas;
  - b) Construction, installation, and maintenance of the system shall comply with all applicable federal and state standards and specifications, including but not limited to regulations promulgated by the Colorado Department of Public Health and Environment and the Office of the State Engineer;
  - c) Construction, installation, and maintenance of the system shall comply with all terms and conditions in any applicable Intergovernmental Agreement; and
  - d) Construction of the system shall not disturb a Sensitive Development Area, or other significant natural area or feature, unless substantially mitigated by the applicant.

### **14-1004.02 WASTEWATER**

- A. Residential cluster lots may be served by on-site wastewater systems or by central (community) sewer systems.
  1. An onsite wastewater system (“OWS”) shall be located on the residential lot that the system serves and shall comply with all applicable Tri-County Health Department regulations.
  2. Residential clusters shall establish an OWS management program approved by Tri-County Health Department. For subdivisions containing 50 or more residential cluster lots, the management program shall designate a management entity and address: OWS maintenance, inspection and pumping; program financing; enforcement; homeowner education; and annual reporting to Tri-County Health Department. For subdivisions with less than 50 lots, or if a property owners association does not exist, or if it is not feasible for the property owners association to serve as the management entity, an alternate management arrangement may be proposed.
  3. A central or community sewer system and its components may be located within a residential cluster(s), or may be located within a conservation area tract provided the County finds:
    - a) The central sewer system cannot reasonably be contained within the rural cluster(s) or other nearby developed areas;
    - b) Construction, installation, and maintenance of the system shall comply with all applicable federal, state (including the Colorado Department of Public Health and Environment), DRCOG, and Tri-County Health Department standards and specifications; and
    - c) Construction of the system shall not disturb a Sensitive Development Area or other significant natural area or feature, unless substantially mitigated by the applicant.

### **14-1004.03 FIRE PROTECTION**

Applicants should confer with the appropriate fire district regarding current levels of fire protection service and, based on such information, provide an adequate level of fire protection for residents. The

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County strongly encourages applicants to provide a coordinated fire protection approach with the district that may include, but is not limited to, a designated community water supply, tank, or well of sufficient capacity for fire protection demands; an adequate number and spacing of fire hydrants; or the provision of sprinkler systems within individual dwellings.

### 14-1004.04 ROADS

#### 14-1004.04.01 INTERNAL CLUSTER SUBDIVISION ROADS

- A. **Private Internal Roads:** All private internal roads connecting with the county access road and located within the boundaries of the cluster subdivision shall be constructed according to adopted county “rural private roadway” standards, with the approval of the applicable fire district and provided adequate roadside drainage is assured. The applicant shall include all private roads within tracts dedicated to that purpose on the subdivision plat, and include adequate easements for access, utilities, and drainage. Property owners within the cluster subdivision shall own and maintain all private internal roads under common ownership.
- B. **Public Internal Roads:** All public (dedicated) roads connecting with the county access road and located within the boundaries of the cluster subdivision shall be constructed to the specifications of the adopted county “rural roadway” standard, which requires a 60-foot right-of-way section. However, the County may approve a 24-foot paved surface width plus two (2) six-foot (6’) gravel shoulders within a sixty (60) foot right-of-way section for such public roadways in rural cluster subdivisions with the approval of the applicable fire district and provided adequate roadside drainage is assured.

#### 14-1004.04.02 ACCESS TO COUNTY ROADS

All roads necessary to provide access to the cluster subdivision from a county road, but not located within the boundaries of the subdivision, shall be constructed to the specifications of the county’s standards for either rural private roadways or rural (public) roadways described in Section 14-1004.04.01 above. For example, in order to connect internal cluster subdivision roads to a county section line road, the applicant needs to construct a new road through an adjacent property. That new road must be built as either a private or public rural roadway meeting all county roadway standards and specifications.

#### 14-1004.05 PEDESTRIAN AND MAINTENANCE ACCESS

- A. The applicant shall provide pedestrian and maintenance access to the conservation area(s) in accordance with the following requirements:
  1. **General Rule.** For each 20 lots in a cluster development, the applicant shall provide at least one centrally located access easement for pedestrian and equestrian use of the conservation area(s), as well as for maintenance access. The access easement shall be a minimum of 30 feet wide.
  2. **Exceptions.** The applicant may restrict pedestrian or equestrian access in any of the following circumstances:
    - a) Access may be restricted to agricultural lands for public safety reasons and to prevent interference with agricultural operations.
    - b) Access may be restricted to portions of conservation areas that contain Sensitive Development Areas, including but not limited to areas of steep slopes, wetlands, critical wildlife habitat, or other significant natural feature that the County determines could be harmed if unrestricted pedestrian access were allowed.

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### **14-1004.06            STORMWATER MANAGEMENT AND DRAINAGE FACILITIES**

- A. All stormwater management and drainage facilities and their components, such as detention and water quality ponds, shall be contained within tracts and clearly delineated on the Cluster Subdivision Plat. The applicant shall show the area, intended use, and final ownership of all stormwater management and drainage facilities on the plat. Stormwater management and drainage facilities shall be sited within the residential cluster component of the subdivision to better ensure ongoing and regular maintenance of the facilities. However, the County may approve an alternate location within a conservation area tract provided the County finds:
1. The facilities cannot reasonably be contained within the rural cluster(s) or other nearby developed areas;
  2. Construction of the facilities shall not disturb a Sensitive Development Area or other significant natural area or feature, unless substantially mitigated by the applicant; and
  3. The Engineering Division Manager or designee recommends approval of the alternative siting in the conservation area, with or without conditions.

### **14-1005            OWNERSHIP AND MAINTENANCE OF CONSERVATION AREA(S)**

#### **14-1005.01            CONSERVATION AREA(S)—LENGTH OF TERM**

Future development within the conservation area shall be prohibited in perpetuity.

#### **14-1005.02            OWNERSHIP OPTIONS**

The applicant shall propose measures or methods for long-term ownership of the conservation area(s). The following methods may be used, either individually or in combination, for long-term ownership of the conservation area with the approval of the County:

##### **14-1005.02.01            FEE SIMPLE DEDICATION TO ARAPAHOE COUNTY**

- A. The County may, but shall not be required to, accept any portion of the conservation area as a fee simple dedication, provided:
1. The County shall have no acquisition costs, unless the County agrees to purchase the property; and
  2. The County agrees to and has access to maintain such land.

##### **14-1005.02.02            FEE SIMPLE DEDICATION TO OTHER GOVERNMENTAL ENTITY**

The County may approve dedication of the conservation area to another governmental entity—federal, state, or local—under terms that ensure permanent protection and maintenance of the conservation area.

##### **14-1005.02.03            DEDICATION OF EASEMENTS TO ARAPAHOE COUNTY**

- A. The County may, but shall not be required to, accept conservation easements on any portion of the conservation area. In such cases, the land remains in the ownership of the property owners association, private conservation organization, or other acceptable entity, while the County holds the easement (which may allow for public access or other public benefit). In addition, the following regulations shall apply:
1. The County shall have no acquisition costs; and
  2. A satisfactory maintenance agreement shall be reached between the owner and the County.

##### **14-1005.02.04            PROPERTY OWNERS ASSOCIATION**

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- A. Conservation areas may be held in common ownership by a property owners association, subject to all of the provisions for such associations set forth by the State of Colorado. In addition, the applicant shall meet the following regulations:
1. The applicant shall provide the County for review and approval a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for the conservation area, including a legal description of the land and any restrictions placed upon its future use and enjoyment.
  2. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the approval of any final plat within the cluster development.
  3. Membership in the association shall be automatic (mandatory) for all purchasers of lots therein and their successors in title. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
  4. The association shall be responsible for maintenance and insurance of the conservation area(s).
  5. The association shall provide written notice of any proposed transfer of, or the assumption of, maintenance for the conservation area to all association members and to the County no less than 60 days prior to such event.
  6. The association by-laws shall give the County authority (but no obligation or duty) to assume responsibility to enforce these restrictions if the association fails to maintain the conservation area, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.

### **14-1005.02.05                    RETENTION OF INTEREST BY OWNER OR DEVELOPER**

- A. The owner or developer of the rural cluster development property may retain title to the conservation area, provided:
1. A deed restriction is placed on the conservation area, which is acceptable to the County, and
  2. As applicable, the applicant submits a Management Plan acceptable to the County pursuant to Section 14-1005.03.02, "Management Plan," below, that ensures perpetual maintenance.

### **14-1005.02.06                    PRIVATE CONSERVATION ORGANIZATION (WITH APPROVAL OF COUNTY)**

- A. With approval of the County, an owner may transfer either a conservation easement or fee simple title for the conservation area to a private non-profit organization, provided:
1. The conservation organization is acceptable to the County and is a qualified conservation organization intended to exist indefinitely;
  2. The conveyance contains appropriate provisions for proper reverter or transfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;
  3. The conservation area shall be permanently restricted from future development through a conservation easement, and the County is given the authority (but no obligation or duty) to enforce these restrictions; and

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4. A maintenance agreement acceptable to the County is established between the owner and the conservation organization.
- B. With the approval of the County, land within a proposed conservation area encumbered by a conservation easement that exists before submittal or approval of a rural cluster subdivision application may satisfy the requirement for permanent conservation stated in Section 14-1005.01 above if the County finds the following conditions are met:
- C. The terms of the existing conservation easement are consistent with the purpose of the Rural Cluster Option established in this section;
- D. The preserved land has natural, scenic, open space, wildlife habitat, agricultural, recreational or other value that justifies the applicant receiving the Rural Cluster Option benefits;
- E. Significant public benefit has derived from the applicant's preservation of the land subject to the existing conservation easement;
- F. The amount, location, and design of the preserved land meets the standards and criteria stated in this Section 14-1000; and
- G. Preservation of the land qualifies as a conservation contribution under Section 170(h), as amended, of the *Internal Revenue Code*.
- H. The previous donation of a conservation easement does not create a right to apply the preserved land toward meeting the preserved land requirements of this Chapter. The County will consider all such cases on an individualized basis to determine if it satisfies the criteria and standards stated above.

### **4-1005.02.07 NON-COMMON PRIVATE OWNERSHIP— CONSERVANCY LOTS**

- A. As approved in a Cluster Subdivision Plat, a portion of the required conservation area may be included within one or more large "conservancy lots," provided:
  1. The conservancy lot(s) meet the minimum conservancy lot size requirements set forth in Section 13-1104 of the Zoning Regulations.
  2. The conservation area within the conservancy lot is permanently restricted from future development and activities through a conservation easement or other deed restriction acceptable to the County, except for uses allowed in Section 13-1104.01 of the Zoning Regulations, "Allowed Uses and Activities in Conservation Areas," and the County is given the express authority (but no obligation or duty) to enforce these restrictions.

### **14-1005.03 MANAGEMENT OF CONSERVATION AREA(S)**

#### **14-1005.03.01 MANAGEMENT COST AND RESPONSIBILITY**

Unless otherwise agreed to by the county or unless the land is dedicated to the county, the cost and responsibility of maintaining and managing the conservation area shall be borne by the property owner, property owners association, conservation organization, or other owner entity as identified pursuant to section 14-1005.02, "ownership options," above.

#### **14-1005.03.02 MANAGEMENT PLAN—WHEN REQUIRED**

- A. A *Plan for Management of the Conservation Area(s)* ("Management Plan"), prepared according to Section 14-1005.03's requirements below, will be required for all cluster subdivisions in which the cumulative acreage of the conservation area(s) totals 160 acres or more, unless the original owner of the total conservation area retains ownership and will continue its use for permitted agricultural purposes.



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shall become a lien on said properties. Notice of such lien shall be filed by the County.

### **14-1006      RECOGNIZING PROTECTION BY COLORADO “RIGHT TO FARM” ACT**

Final Cluster Subdivision Plats and deeds authorized and recorded pursuant to this Section 15-100 shall include a statement that agriculture uses operating on the conservation area tracts enjoy the protection of the Colorado “Right to Farm” Act (C.R.S. Section 35-3.5-101, *et seq.*).