



PLANNING COMMISSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
June 04, 2026 at 6:00 PM

AGENDA

Google Meet – Joining Information

Video: <https://meet.google.com/ust-hood-zzu>

Phone: (US) +1 661-552-0879 | PIN: 960 575 714#

WELCOME

ROLL CALL

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT - *Time reserved for public comment on items or issues not listed on the agenda.*

GENERAL BUSINESS

1. Approval of Planning Commission Meeting Minutes from April 9, 2026 (Corey Coleman, Planning)

ADMINISTRATIVE ITEMS

2. Discussion and possible direction regarding consolidation and reorganization of Land Use Development and Management Ordinance (LUDMO) administrative provisions into a proposed Chapter 1 – Administration. **Estimated Time:** 20 minutes
3. Discussion regarding proposed Variance and Appeals provisions within the San Juan County Land Use Development and Management Ordinance (LUDMO). **Estimated Time:** 15 minutes
4. Discussion regarding review of historical Spanish Valley zoning maps, correction of zoning record discrepancies, and acknowledgment or adoption of an updated official zoning map. **Estimated Time:** 10 minutes
5. Discussion and direction regarding recreational vehicle (RV) occupancy on private property within San Juan County. **Estimated Time:** 20 minutes

there may be additional information posted

BUILDING PERMIT(S) REVIEW

6. February Building Permit and Inspection Report - **Estimated Time:** 5 minutes

ADJOURNMENT

****In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice****



PLANNING COMMISSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
May 14, 2026

Minutes

CALL TO ORDER AND ADMINISTRATIVE ITEMS

WELCOME (0:00) Trent Schafer

COMMISSION MEMBERS PRESENT

Ann Austin, TC Garcia (online), Melissa Riggs (online), Lloyd Wilson (online), Trent Schafer.

STAFF IN ATTENDANCE

Corey Coleman, Tamra Lewis, Jens Nilsson.

PLEDGE OF ALLEGIANCE

Jens Nilson led the Pledge of Allegiance.

GENERAL BUSINESS

1. A motion to approve the April 9, 2026, meeting minutes with a correction passed unanimously. The correction will add the reasoning for Ann Austin's prior dissenting vote, and staff will circulate the amended minutes for review.
2. The next Planning Commission meeting was rescheduled to June 4, 2026, due to staff unavailability on the original date.

PUBLIC COMMENT (0:10)

Entrada Estates CC&Rs: Residents Craig and Mary Nelson reported violations of their subdivision's Covenants, Conditions, and Restrictions (CC&Rs), including lot splitting and multiple RVs being rented out. The commission clarified that it does not enforce private CC&Rs but noted that overnight rentals require permits. Staff will follow up with the Nelsons.

Lot Vacation: Resident Hillary Anadiadis (H. Beth Jones) requested the commission review the convoluted language in regulations for vacating a lot from an HOA plat, as she intends to combine her lot with an adjacent property. She argued her interpretation only requires notification, not signatures from other owners at this stage.

RV Living: Joy Howell from Mexican Hat spoke in strong opposition to any proposed ban on living in RVs on private property, citing the area's history of diverse dwelling types and viewing RVs as an affordable housing option. She warned against "overbearing" county overreach and compared potential regulations to a "countywide HOA."

ADMINISTRATIVE ITEMS (0:30)

Staff is seeking direction on regulating temporary and long-term RV occupancy on private property due to receiving 7 to 10 calls per week on the matter. The issue has two sides: opposition concerned with property values and sanitation, and support from those facing housing affordability challenges.

- Current county interpretation only allows RVs in approved parks, during home construction, or via a conditional use permit, but not as a long-term primary residence.
- Commission opinions were divided:
 - Some expressed concern over RVs not being built for full-time living, citing poor septic/water conditions and potential for squatters.
 - Others suggested that long-term RV use could be appropriate in some parts of the county but not in dense residential areas like Spanish Valley, emphasizing the need for minimum quality and sanitation standards.
 - A contrasting view supported property rights, suggesting people should live as they see fit as long as safety standards for water and septic are met.
- A potential solution discussed was requiring a building permit for RVs used as residences to mandate proper utility connections and skirting. However, the high cost of permits and connections (estimated at \$32,000) was raised as a significant barrier.
- Staff will take the feedback to draft a clearer ordinance focused on health and safety and will review the 2011 RV ordinance for context.

Policy on Short-Term and Overnight Rentals (STRs) (1:15)

- The commission debated where to allow STRs, with some viewing them as a commercial operation unsuited for residential zones due to impacts on housing availability, noise, and neighborhood character. Others noted their prevalence and the need to consider homeowner rights.
- Staff will move forward with a new ordinance that:
 - Permits STRs in commercial zones with basic requirements (fire safety, licensing).
 - Allows STRs in rural residential zones under strict development standards (e.g., quiet hours, lighting rules), replacing the conditional use permit system.
 - Prohibits STRs in standard residential zones.

Discussion on Subdivision and Lot Line Adjustments (1:50)

- Staff identified concerns with past lot line adjustments that may have created non-compliant lots, increasing density without proper approval. Staff is now requiring written consent from all property owners in a subdivision for any amendment that increases density.
- The state statute governing lot line adjustments was reviewed, outlining scenarios for simple adjustments, minor plat adjustments, and boundary agreements. However, the legal requirements for signatures remain unclear.
- The county's historical approach has varied, and the current process is a "moving target." Staff is researching how other counties handle this, consulting legal counsel, and preparing an RFP to hire a planning consultant for a professional interpretation of subdivision laws.

Zoning Maps and Code Ordinances Review (2:20)

- **Zoning Map Discrepancy:** A discrepancy was found between the 2011 map in use and the officially adopted October 2023 map. The 2023 map will now be used, and staff will update it to correct missing overlay information. Residents who believe their property is incorrectly represented are asked to contact staff.
- **Variance and Appeal Ordinances:** A 2011 ordinance in the meeting packet was identified as obsolete and superseded by a 2024 ordinance. The commission will discuss at the next meeting whether the new rules for variances and appeals should be in the administrative chapter or in separate chapters of the new code.
- **Subdivision Ordinance Oversight:** The 2024 subdivision ordinance inadvertently omitted design standards (e.g., lot width, size) from the 2016 standards. Staff will use the 2024 ordinance for procedures and the 2016 standards for design until the code is fully updated.
- The staff committed to a more agile process of fixing code issues monthly as they are identified.

LEGISLATIVE

Permit Reviews and Staff Reports (2:50)

- **Sally Jones's Conditional Use Permit:** A motion passed to approve a 365-day conditional use permit for Sally Jones to temporarily occupy a self-contained van on her property while she plans for a future tiny home.

Conditions of this Approval are:

1. Approval shall be limited to temporary occupancy of one self-contained van by the applicant/property owner only, shall remain accessory to preparation of a future building permit application for a permanent residence, and shall not exceed one (1) year (365 days) from the date of issuance unless otherwise extended or modified by the County.
2. No permanent residential occupancy, structure, utility installation, septic system, or dwelling construction is authorized under this approval. Separate permits and approvals shall be required.
3. The applicant shall maintain all wastewater, greywater, and refuse in fully self-contained systems and dispose of all waste at approved facilities in compliance with Health Department requirements. No wastewater discharge, dumping, or disposal shall occur on the property.
4. Defensible space shall be maintained around the occupancy area in accordance with applicable fire code requirements and any direction provided by the local fire authority.
5. All generators, propane systems, fuel containers, and heating equipment shall be operated and stored in compliance with applicable fire safety standards.
6. Any future dwelling, cabin, tiny home, septic system, driveway improvements, or utility systems shall require separate review, permits, and inspections as applicable.
7. Any modifications to access or ingress/egress may require a road encroachment permit and approval from the San Juan County Road Department.
8. The applicant shall comply with all County, State, and Federal regulations. Failure to comply may result in revocation of the Conditional Use Permit.

Approval of CUP for Sally Jones

Motion: Lloyd Wilson

Second: TC Garcia

Vote: Unanimous approval

BUILDING PERMITS (2:50)

- **Building & Inspection Report:** Staff is updating the report format to include more detail, such as project photos, better location descriptions, and town names, to improve public information.

Specific Properties:

- **Permit 26060:** Work is nearly complete on a property required to install separate utility connections for two houses. Requirements were made by Administrative Law Judge and we required a building permit.
- **Grant Sturkol Properties:** These properties have conditional approval for residential use. If they are operated as STRs, legal action will be considered. The Special Service District requested notification before any business license for overnight accommodation is issued for these properties.

Public Information(3:05)

- A public service announcement was made reminding citizens they can sign up for meeting notifications on the Utah Public Notice website, accessible via the county's planning department page.

ADJOURNMENT

Motion: Lloyd Wilson

Second: Melissa Rigg

Vote: Unanimous approval



STAFF REPORT

MEETING DATE: June 4, 2026

ITEM TITLE, PRESENTER: Chapter 1 - Administration

RECOMMENDATION: Staff recommends the Planning Commission review the proposed organizational approaches and provide direction regarding preferred codification structure, administrative organization, and whether additional alternatives should be explored

SUMMARY

Staff is presenting the first reading of proposed Chapter 1 – Administration for the San Juan County Land Use Development and Management Ordinance (LUDMO). The purpose of this discussion is to review organizational structure, codification approach, and administrative provisions associated with the ongoing land use code update process.

This effort is more complex than a standard ordinance amendment because the current administrative provisions are dispersed throughout multiple sections of the existing 2011 San Juan County Zoning Ordinance, including portions of both Chapter 1 and Chapter 2, while additional administrative language has also been proposed within the draft 2025 code update.

ORGANIZATIONAL OPTIONS

Option 1 would create a hybrid Chapter 1 – Administration utilizing:

Option 1 would create a hybrid Chapter 1 – Administration utilizing existing administrative provisions from Chapter 1 and Chapter 2 of the 2011 Zoning Ordinance, and selected language, formatting, and organizational concepts from the proposed 2025 draft land use code

Under this option, staff would continue marking up, consolidating, reorganizing, and modernizing the various provisions to the best extent reasonably possible while attempting to maintain consistency with the currently adopted code structure and existing administrative practices.

Staff notes this option may provide greater continuity with the existing adopted ordinance while allowing incremental modernization and codification improvements.

Option 2 would involve preparation of a substantially rewritten Chapter 1 – Administration utilizing a more modernized code structure and organizational format largely independent from the existing 2011 code organization.

Under this option, staff would prepare a more comprehensive rewrite intended to establish a fully updated administrative chapter with reorganized procedures, modernized terminology, and revised administrative structure.

Staff notes this option would likely require additional review, policy discussion, legal analysis, and longer-term codification efforts.

STAFF RECOMMENDATION

Staff notes there may be additional organizational approaches beyond Options 1 and 2, including adoption of substantial portions of the proposed 2025 Chapter 1 language. However, regardless of the approach selected, staff believes portions of the existing 2011 Chapters 1 and 2 will need to be incorporated, relocated, clarified, or otherwise reconciled to ensure a complete administrative framework.

Due to the evolving structure of the ordinance and the multiple source documents involved, staff anticipates additional review and future discussion will be necessary before a final codified administrative structure is completed.

REQUEST FOR PLANNING COMMISSION DIRECTION

Staff requests Planning Commission direction on the following items:

Question 1 – Administrative Chapter Framework

Which approach should staff use as the basis for continued development of Chapter 1?

1. Utilize the existing 2011 San Juan County Code administrative provisions as the primary framework, with updates as necessary.
2. Utilize the proposed 2025 Chapter 1 language as the primary framework.
3. Prepare a complete rewrite of Chapter 1 incorporating selected provisions from both the 2011 and 2025 versions.

Question 2 – Variance and Appeal Procedures

Should variance and appeal procedures remain within Chapter 1 (Administration), or should they be relocated to a standalone chapter?

Question 3 – Planning Commission Bylaws

Should Planning Commission bylaws remain within Chapter 1 (Administration), or should they be relocated to a standalone chapter?

CHAPT ER 1

GENERAL PROVISIONS

1-1 Short Title

This Ordinance shall be known and may be so cited and pleaded as the "ZONING ORDINANCE OF SAN JUAN COUNTY, UTAH"

1-2 Purpose

This Ordinance is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of SAN JUAN COUNTY, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing access to adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering agricultural and other industries, and the protection of both urban and non-urban development.

1-3 Interpretation

In interpreting and applying the provisions of this Ordinance, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

1-4 Conflict

This Ordinance shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

~~1-5 Definitions~~ (relocated to chapter 2)

~~For the purpose of this Ordinance certain words and terms are defined as follows: (Words used in the present tense include the future; words in the singular number include the plural and the plural the singular; words not included herein but defined in the Uniform Building Code shall be construed as defined therein).~~

2011 ORDINANCE FROM CHAPTER 1 and CHAPTER 2

1-5—Planning Commission

(1) Organization

- (a) The Planning Commission shall consist of seven (7) members who shall be appointed by the Board of County Commissioners. In addition to the regular seven (7) members, the Board of County Commissioners may appoint, one (1) non-voting, ex-officio staff member to serve as liaison between the Board of County Commissioners and the Planning Commission and provide administrative support to the Planning Commission. Board of County Commission members may not serve as regular members of the Planning Commission.

(2) Term of Office

- (a) The term of office for regular Planning Commission members shall be staggered so that the terms of at least one (1) member and no more than three (3) members expire each year. As the term of each regular member expires, the vacancy thus created shall be filled by a majority vote of the Board of County Commissioners for a term of four (4) years, so as to maintain the succession of staggered terms of service.
- (b) Terms of all regular members begin on January 1st and expire on December 31st of the 4th year following the year of appointment. If the Board of County Commissioners has not appointed a new member(s) to the Planning Commission at the expiration of term, the current Planning Commission member(s) will remain on the Planning Commission until replaced by appointment of the Board of County Commissioners.
- (c) The ex-officio member shall be appointed by the Board of County Commissioners and shall continue to serve until replaced by appointment of the Board of County Commissioners.
- (d) If a vacancy occurs other than by expiration of term, the Board of County Commissioners by majority vote shall appoint a new member to fill the unexpired term.
- (e) Planning Commission members may be removed for cause from office by 2/3 vote of the Board of County Commissioners prior to the expiration of the appointed term.

(3) Method of Appointment

In early November of each year, the County Administrator shall cause notice of

~~appointment(s) to be published in a newspaper of general circulation in San Juan County. The Building and Zoning Department shall be responsible for the costs of such advertisement. Such notice shall state the nature and term of the appointment(s), the qualification for such appointment, request written statements of interest and qualifications, and establish a deadline for submittal of such statements, which time shall not be earlier than fifteen (15) days from the date of publication.~~

~~(4) — Qualifications~~

~~Each Planning Commission member shall be a legal San Juan County resident for at least two (2) years prior to appointment.~~

~~(5) — Powers and Duties~~

~~The Planning Commission shall have the following powers and duties pursuant to Section 17-27a-302, Utah Code Annotated (1953, as amended):~~

- ~~(a) — Each countywide planning commission shall, with respect to the unincorporated area of the county, make a recommendation to the county legislative body for:

 - ~~(i) — a general plan and amendments to the general plan;~~
 - ~~(ii) — land use ordinances, zoning maps, official maps, and amendments;~~
 - ~~(iii) — an appropriate delegation of power to at least one land use authority to hear and act on a the land use application;~~
 - ~~(iv) — an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority;~~
 - ~~(v) — application processes that may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and shall protect the rights of each applicant and third party to require formal consideration of any application by a land use authority; applicant, adversely affected party, or county officer or employee to appeal a land use authority’s decision to a separate appeal authority; and participant to to be heard in each public hearing on a contested application.~~~~

~~1-6 — Appeals~~

- ~~(1) — Appeal Authority. The authority to hear request for variances from the terms of the land use ordinance and appeals from decisions applying the land use ordinances shall be vested in the Board of County Commissioners.~~
- ~~(2) — Appealing Land Use Authority’s Decision. An applicant, board, or officer of the County, or any person affected by the land use authority’s decision applying a land~~

use ordinance may, within the time period provided in 2-2(3)(a) below, appeal that decision to the Appeal Authority by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the land use ordinance.

- (a) ~~Time to Appeal. Any appeal, pursuant to 2-2(3) above, must be filed in writing to the County Administrator within ten (10) calendar days of the issuance of the written decision applying the land use ordinance.~~
- (b) ~~Time for Hearing Appeal. The Appeal Authority should hear the appeal within thirty (30) days of the date the appeal was filed.~~
- (c) ~~Written Statement Setting Forth Theories of Relief Required. The appellant shall deliver to the Appeal Authority and all other participants, five (5) business days prior to the hearing, a written statement setting forth each and every theory of relief she intends to raise at the hearing, along with a brief statement of facts in support thereof.~~
- (d) ~~Condition Precedent to Judicial Review. No person, board or officer of the County may seek judicial review of any decision applying to the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the District Court unless it was timely and specifically presented to the Appeals Authority.~~
- (e) ~~Standard of Review and Burden of Proof on Appeal. The Appeal Authority shall upon appeal, presume that the decision applying the land use ordinance is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.~~
- (f) ~~Due Process Rights. The Appeal Authority shall respect the due process rights of all participants.~~

~~1-7—Variances:~~

- (1) ~~Any person or entity desiring a waiver or modifications of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance.~~
- (2) ~~Pursuant to Utah State law, the Appeal Authority may grant a variance only if:~~
 - (a) ~~Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;~~

- ~~(b) — There are special circumstances attached to the property that do not generally apply to other properties in the same zone;~~
- ~~(c) — Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;~~
- ~~(d) — The variance will not substantially affect the general plan and will not be contrary to the public interest; and~~
- ~~(e) — The spirit of the land use ordinance is observed and substantial justice done.~~
- ~~(3) — In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under 2-3(a)(i), the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:~~
 - ~~(a) — is located on or associated with the property for which the variance is sought; and~~
 - ~~(b) — comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.~~
- ~~(4) — In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection 2-3(2)(a), the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.~~
- ~~(5) — In determining whether or not there are special circumstances attached to the property under Subsection 2-3(2)(b), the Appeal Authority may find that special circumstances exist only if the special circumstances:~~
 - ~~(a) — relate to the hardship complained of; and~~
 - ~~(b) — deprive the property of privileges granted to other properties in the same zone.~~
- ~~(6) — The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.~~
- ~~(7) — Variances run with the land.~~
- ~~(8) — The Appeal Authority may not grant a use variance.~~
- ~~(9) — In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:~~
 - ~~(a) — mitigate any harmful affects of the variance; or~~
serve the purpose of the standard or requirement

CHAPTER 1 DEFINITIONS RELOCATED TO CHAPTER 2. OTHER PORTIONS OF CHAPTER 1 MERGED WITH CHAPTER 2 IN IT ENTIRELY RELOCATED TO CHAPTER 1 (ADMINISTRATION)

Building Permit Required

The use of land or the construction or alteration, of any building or structure or any part thereof, as provided or as restricted in this Ordinance shall not be commenced, or proceeded with, except after the issuance of a written permit for the same by the Building Inspector. Farm buildings shall be exempt, except when either electric or plumbing will be installed in the buildings, from the requirements of a building permit except where such structures are intended as dwellings or for human habitation. All dwellings shall require State Board of Health approval prior to issuance of a building permit (emphasis added).

Application and Review

- (1) All applications for building permits, except-for single family dwellings and their accessory buildings shall:
 - (a) be submitted to the Building and Zoning Department. The design submissions shall include architectural and site development plans to scale, which shall show building locations, landscaping, prominent existing trees, ground treatment, fences, off-street parking and circulation, location and size of the adjacent streets, north arrow an property lines, existing grades and proposed new grades. All such drawings and sketches shall be reviewed with the Planning Commission upon notification and request of the Planning Commission to assure conformity with the intent of the Master Plan and compliance with all applicable ordinances and regulations.
 - (b) then follow the usual process for obtaining a building permit as required by the County.
- (2) Design review for buildings and uses covered by conditional use permits or planned unit development approval shall be incorporated within such conditional use permit or planned unit development approval and need not be a separate application, provided the requirements of this Ordinance are met.
- (3) Agricultural buildings are exempt from design-review.

1-6 Planning Commission Review

When a question arises whether proposed architectural and site development plans submitted are consistent with the general objectives of this Ordinance, the Planning Commission shall make a determination. A negative or unfavorable determination by the Planning Commission may be appealed to the Board of County Commissioners, as provided for in this Ordinance.

1-7 Zoning Administrator to Enforce

The Zoning Administrator is designated and authorized by the Board of County Commissioners as the officer charged with the enforcement of this Ordinance, but from time to time, by resolution or ordinance, the Board of County Commissioners may entrust such administration in whole or in part, to any other officer without amendment to this Ordinance.

1-8 Permits to Comply with Ordinance

From the time of the effective date of this Ordinance, the Zoning Administrator shall not grant a permit for the construction, or alteration of any building or structure or the moving of a structure onto a lot if such building or structure will be in violation of any of the provisions of this Ordinance, nor shall any local officer grant any permit or license for the use of any building or land if such use would be in violation of this Ordinance.

1-9 Powers and Duties of Building Inspector

It shall be the duty of the Building Inspector to inspect or cause to be inspected all buildings in course of construction or repair.

1-10 Powers and Duties of Zoning Administrator

The Zoning Administrator shall enforce all of the provisions of this Ordinance, entering actions in the courts when necessary and his failure to do so shall not legalize any violations of such provisions. The Zoning Administrator shall not issue any permit unless the plans of the proposed erection, construction, reconstruction, alteration and use fully conform to all zoning regulations then in effect.

1-11 Nuisance and Abatement

Any building or structure erected constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Ordinance, and any use of land, building or premise established, conducted or maintained contrary to provisions in this Ordinance shall be, and the same hereby is, declared to be unlawful and a public nuisance; and the County

Attorney shall, upon request of the governing body, at once commence action or proceeding for abatement and removal of enjoinder thereof in a manner provided by law, and take other steps as will abate and remove such building or structure, and restrain or enjoin any person, firm, or corporation from erecting, building, maintaining, or using said building or structure or property contrary to the provisions of this Ordinance. The remedies provided for herein shall be cumulative and not exclusive.

1-12 Amendments

The number, shape, boundary, area or zone, or any regulation or any other provision of the Zoning Ordinance may be amended by the Board of County Commissioners from time to time, but any such amendment shall not be made or become effective until after thirty days notice and public hearing and unless the same shall have been proposed by or be first submitted to the Planning Commission, for its recommendation which shall be returned within thirty (30) days to the Board of County Commissioners.

1-13 Hearing and Publication of Notice

Before finally adopting any such amendment, the Board of County Commissioners shall hold a public hearing thereon. Notice of such a hearing shall be disseminated to the public, in accordance with state law, at least ten (10) days before the scheduled hearing.

1-14 Licensing

All departments, officials and public employees of the County which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue no permit or license for uses, building or purposes where the same would be in conflict with the provisions of this Ordinance and any such permit or license, if issued in conflict with the provisions of this Ordinance shall be null and void.

1-15 Penalties

Any person, firm or corporation whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of the provisions of this Ordinance shall be charged, for each separate, identifiable violation, with a Class C Misdemeanor and punishable upon conviction as a class C misdemeanor or by imposing the appropriate civil penalty adopted under the authority of Section 17-27a-101 *et seq.*, Utah Code Annotated (1953, as amended).

CHAPTER 2 GENERAL PROVISIONS

Section 1: PURPOSE

This LUDMO and the regulations and restrictions contained herein are adopted and enacted for the purposes enumerated in CLUDMA, including:

- i) providing for health, safety, and welfare;
- ii) promoting prosperity;
- iii) improving morals, peace, good order, comfort, convenience, and aesthetics;
- iv) protecting tax base;
- v) securing economy in governmental expenditures;
- vi) fostering agricultural and other industries;
- vii) protecting both urban and nonurban development;
- viii) protecting and ensuring access to sunlight for solar energy devices;
- ix) providing fundamental fairness in land use regulation;
- x) facilitating orderly growth and allowing growth in a variety of housing types; and
- xi) protecting property values.

This LUDMO shall be construed to further its purposes and to promote the objectives and characteristics of the respective zones.

Section 2: SHORT TITLE

These ordinances shall be known as the Land Use Development and Management Ordinance (LUDMO) and may be so cited and pleaded. Whenever a reference is made to this code as the San Juan County land use or development code, or to any portion hereof, or to any ordinance of San Juan County, Utah, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

Section 3: AUTHORITY PROVISIONS

It is hereby recognized to be within the authority delegated to San Juan County to approve the subdivision and development of land, amendment of plats or adjustment of lot lines, rezoning of property, amendments to the San Juan County General Plan, and approval of site plans pursuant to the guidance of the San Juan County General Plan and CLUDMA, for the orderly, planned, efficient, and economic development of San Juan County. Unless otherwise designated, the San Juan County legislative body shall be the Land Use Authority for all applications requiring legislative action. Non-legislative actions are delegated as follows:

- A. The Planning Commission shall be the Land Use Authority for:
 1. Conditional Use Permits

2. Minor Plat Amendments (MATCH TO STATE LAW DEFINITION)

- a) Combining two or more lots, all of which are owned by the same owner, and none of which have been dedicated for public use, common use, or a similar designation;
- b) Modification of plat title, notes, or labels so long as they were not placed on the plat due to findings or conditions adopted by the San Juan County legislative body;
- c) Amendments applied for and signed by all affected property owners in the original subdivision and that do not increase density or significantly affect the layout of infrastructure, open space, or common areas; or
- d) Changes to a building envelope consistent with San Juan County Code.

3. Final Subdivision Plats

B. The San Juan County Planning Administrator shall be the Land Use Authority for the following applications unless a public hearing is required:

1. Non-Conforming Use Determinations;
2. Temporary Uses;
3. Home Occupation Certificates;
4. Commercial Site Plans;
5. Commercial Off-Street Parking Reductions;
6. Building Relocations;
7. Building Permits;
8. Boundary Line Adjustments; and
9. Minor Subdivisions.

Section 4: LICENSES TO CONFORM

All departments, officials, and employees of San Juan County authorized to issue land use permits and licenses shall do so in conformance with the provisions of this LUDMO. No land use permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this LUDMO. A land use permit or license, if issued in conflict with the provisions of this LUDMO shall be null and void.

Section 5: BUILDING PERMITS REQUIRED

No building or structure shall be constructed, reconstructed, altered, or moved unless either the issuance of a building permit by the San Juan County Planning & Building Department or specifically exempted by Utah Code as acknowledged in writing by the Department. No provision of this LUDMO is intended to exempt a building permit requirement.

Section 6: BUILDING PERMIT APPLICATIONS; LOT PLAN REQUIRED

All applications for building permits for new construction (and not interior remodels) shall be accompanied by:

- A. A lot plan drawn to scale showing the actual dimensions of the lot to be built upon, the size and location of existing buildings, buildings to be erected and existing buildings on adjacent property, and such other information as may be deemed necessary by the San Juan County Planning Administrator or the San Juan County Building Inspector for the enforcement of this LUDMO;
- B. When property boundaries are unclear or undetermined, a complete and accurate legal description of the property that is the subject of the application, together with a certified survey of the property showing any conflict with adjoining property, overlaps, or discrepancies between the legal description and any existing fence lines; and
- C. When the road upon which the lot has frontage is unimproved, the boundaries of said road are not clearly ascertainable, or there is any question by the San Juan County Planning Administrator, San Juan County Building Inspector, or the San Juan County Surveyor whether the physical road is within the platted right of way, a certified survey of the road showing any conflict between the physical and platted right of way is required.

Section 7: PERMITS TO COMPLY WITH LAND USE REGULATIONS

- A. Permits shall not be granted for the construction, reconstruction, or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use of any land, building, or structure if such construction, alteration, moving, or change in use violates any of the provisions of any San Juan County ordinance.
- B. No sewer service line and/or wastewater treatment facility, no water service line and/or water facility, or electrical utilities shall be installed if the use served violates this LUDMO.
- C. No electrical utility line shall be installed to serve any parcel or lot without the San Juan County Planning & Building Department's approval of a site plan.

Section 8: PARCELS WITH MULTIPLE ZONES

Parcels with multiple land-use designations may request a zone change of the parcel to the preferred land-use zone designated for the parcel. The applicant's zone change request shall be favored if it is consistent with the current General Plan's intent. An application for a zone change for a parcel with multiple land-use zoning designations is exempt from the map requirements set forth in this LUDMO.

Section 9: CERTIFICATE OF OCCUPANCY AND LAND USE COMPLIANCE

- A. **Unlawful To Occupy** – It shall be unlawful to use or occupy, or to permit the use or occupancy of, any building or premises until a Certificate of Occupancy and land use

compliance shall have been issued for the premises and/or building by San Juan County. It shall also be unlawful to occupy any building which has different use or different occupancy than provided for specifically in the certificate of occupancy and land use compliance.

- B. Issuance of Certificates** – Unless withheld under this LUDMO or other law, a certificate of occupancy and land use compliance will be issued by the San Juan County Planning & Building Department when a building is completed and has passed final inspection. A new certificate shall be required any time the number of dwelling units increases.
- C. Information Required on Certificates** – The following information shall be made a part of any certificate of occupancy and land use compliance issued by the San Juan County Planning & Building Department:
1. Residential Certificates
 - a) The number of residential units in the building or buildings. (If there is more than one building, the number of dwelling units should be listed separately for each building.)
 - b) Number of families residing or anticipated to live in the building.
 - c) The number of legal off-street parking spaces, sized to conform to this LUDMO and being provided on the premises.
 - d) A notice directed to the owner of the building or premises that any change in use of the building or premises will require the issuance of a new certificate.
 2. Commercial, Industrial, and Institutional Certificates:
 - a) The proposed maximum number of employees on the premises.
 - b) The number of off-street parking spaces sized to conform to this LUDMO and provided for employees on the site.
 - c) The number of off-street parking spaces sized to conform to this title and provided for customers or visitors.
 - d) The number and type of restroom facilities provided.
 - e) The square foot area within the building used for each separate use.
 - f) A signed certificate by the owner of the building or premises, or his authorized agent, stating that the information and conditions set forth in the application are true and will be maintained upon the site in this condition.
 - g) A notice directed to the owner of the premises stating that a change in use in the intended occupancy of the building will require the issuance of a new certificate.

Section 10: CONSTRUCTION AND USE TO CONFORM TO PLANS

Building permits or certificates of occupancy and land use compliance issued on the basis of plans and specifications approved by the Planning Administrator or Building Inspector authorize only the use, arrangement, and construction set forth in the approved application, plans, and

specifications. The use, arrangement, or construction at variance with that authorized in said plans and specifications shall be deemed a violation of this LUDMO.

Section 11: ENFORCEMENT ACTIONS

The provisions of this LUDMO shall be administered by the San Juan County Planning & Zoning and Building Department under the supervision of the county legislative body. An Enforcement Officer may investigate alleged violations of this LUDMO or conditions or terms of permits and licenses and may initiate enforcement actions if violations are found to exist. An enforcement officer is authorized to make examinations and investigation of all real property in the County, as allowed by law, to determine whether the responsible person is complying with the provisions of this LUDMO. By accepting a land use permit or license from the County, the permittee or licensee agrees to cooperate in compliance examinations and investigations. Such agreement shall be stated in all land use application forms prepared by the County. Upon discovering a violation, the County Attorney's office shall, at its discretion, file enforcement actions in court as necessary. The County's non-enforcement of any of the requirements of this LUDMO or conditions or terms imposed through land use permits or licenses issued by the County shall not operate to waive or estop the County from pursuing later enforcement actions. A permit or license issued in violation of this LUDMO has no force or effect.

- A. **Responsibility for Land Use Violation** – Anyone found to have committed a violation of this LUDMO or any condition or term imposed through this LUDMO is responsible for correcting the violation. In the event the person responsible for a violation cannot be ascertained after the exercise of due diligence, the County may also institute proceedings as allowed by this section or controlling law against the property on which the violation is found.
- B. **Finding of Land Use Violation** – If, after investigating, an enforcement officer has determined that a land use violation exists, the enforcement officer may attempt to have the responsible person correct the violation in accordance with this section. The officer may pursue any remedy or combination of remedies available under this LUDMO, state, or federal. Nothing in this section shall be interpreted to prohibit the County from engaging in its standard prosecution practices without first having to comply with the provisions of this section. In the event a responsible person cannot be ascertained, the County shall post notice on the property on which a land use violation has occurred and may institute proceedings against the property itself as allowed by law.
- C. **Notice of Violation** – Except as otherwise provided by this LUDMO, whenever a land use violation is found to exist and an Enforcement Officer determines action should be taken, the Enforcement Officer shall first serve written notice to the responsible person before other remedies in this section are taken.
 - 1. The notice of violation shall contain:
 - a) The location of the land use violation, if the same is stationary;

- b) A description of what constitutes the violation;
 - c) A list of the acts necessary to correct the violation ("corrective action");
 - d) A warning period, including a completion date in which the responsible person may cure the violation before civil fines are assessed ;
 - e) A statement of the actions the County may take if the violation is not corrected within the warning period; and
 - f) A statement that the responsible person may enter into a voluntary correction agreement during the warning period to prevent further action by the County.
2. The written notice shall be delivered personally or sent via registered mail to the responsible person's address as shown on the records of the San Juan County Recorder and to any other person who may be responsible for the violation.
 3. The written notice shall serve to start any warning periods provided in this section, commencing upon delivery of notice. If the violation remains uncured once the warning period expires, the civil penalties shall begin to accrue in accordance with this section.
 4. In cases where an Enforcement Officer determines that a delay of enforcement would pose a danger to the public health, safety, or welfare or would otherwise compromise the effective enforcement of this LUDMO, the Enforcement Officer may seek immediate enforcement under **Subsection (F)(2)** without prior written notice.

D. Civil Fines

1. Civil fines shall be assessed against the responsible person for uncorrected land use violations beginning on the day following the completion date (as stated in either the notice of violation or the voluntary corrective action agreement). The amount of such fine shall be at least \$50.00 for each day the violation continues after the completion date.
2. Daily Violation: Each day a violation is continued or maintained after the completion date shall give rise to a separate civil fine. All applicable fines shall cease the day following receipt by the enforcement officer of written notice from the responsible person that the corrective action is complete. The County may waive any fees accrued if corrective action is completed. Within five business days following written notice, the enforcement officer shall inspect and, if compliant, pass off the corrective action as completed or, if not completed, shall apply fines retroactively to the date notification was received and fines shall continue to accrue in accordance with this section.
3. Civil fines assessed under this Section are cumulative. Payment of a civil fine assessed under this section does not relieve the responsible person from the duty to correct the land use violation. The civil fine constitutes a personal obligation of the responsible person or a lien against the subject property, as the case requires.

Any civil fine assessed must be paid to the County within 30 calendar days of notice of its imposition.

4. The San Juan County Attorney is authorized to take appropriate action to negotiate the amount of the civil fine, collect the fine, determine the time period in which the fine shall be paid, and take any other action necessary to resolve the fine.
 5. As directed by the San Juan County Attorney, the County may exercise all lawful means to collect the civil fine, whether in person or in rem. The County may also collect reasonable attorney fees and costs incurred in collecting the civil fine where allowed by law. The County may also collect pre- and post-judgment interest on such civil fines as allowed by law.
 6. The incurrance of civil fines under this section shall not limit the available remedies available to an enforcement officer or the San Juan County Attorney under this Section.
- E. **Voluntary Corrective Action** – An enforcement officer may allow a violator to take voluntary corrective action. Voluntary corrective action allows a violator to correct the land use violation within a specified time and according to specified conditions set by the County in a voluntary corrective action agreement. If the violator completes the voluntary corrective action within the time and according to the terms set by the County, the County will take no further action against the violator for that violation. This enforcement method is discretionary.
1. Contents of a written voluntary corrective action agreement shall include the following:
 - a) The name and address of the violator;
 - b) The street address of the land use violation or a description sufficient to identify the building, structure, premises, or land upon or within which the land use violation exists;
 - c) A description of the land use violation;
 - d) The necessary corrective action to be taken, and a date or time by which correction or abatement must be completed ("completion date"), which period shall not be longer than six months from the date the agreement is entered into;
 - e) An agreement by the violator that the County may inspect the premises as reasonable and as the County deems necessary to determine compliance with the voluntary corrective action;
 - f) An agreement by the violator that, if the terms of the agreement are not met, the County may:
 - i) Issue a civil fine or criminal citation;

- ii) Correct the violation itself and recover its costs and expenses from the violator, including by placing a lien on the involved property; and
 - iii) Pursue any other legal remedy available;
- g. An agreement by the violator waiving any right to appeal the enforcement officer's finding of a land use violation and the specific corrective action required by the voluntary corrective action agreement; and

h. An acknowledgement by the person responsible that failure to comply with the voluntary corrective action agreement may be grounds for criminal prosecution.

2. The enforcement officer may grant an extension of time for correcting the land use violation set by the voluntary corrective action agreement if the violator has shown due diligence and/or substantial progress in abating the land use violation but unforeseen circumstances render correction or abatement under the original conditions unattainable.
3. The enforcement officer will suspend further enforcement action and monetary fines for the violation once a voluntary corrective action agreement has been executed. However, the violator shall may be liable for any fines that accrued before the voluntary corrective action agreement was executed.
4. Failure to complete the corrective action by the completion date shall constitute an additional violation and shall be handled in accordance with this section, except that no further notice need be given before enforcement proceedings are initiated. The County may proceed on the violation pertaining to failure to comply with the voluntary corrective action and/or the original land use violation. Monetary fines shall be imposed from either the date of the initial violation or the day following the failure to comply with the voluntary corrective action and shall continue to accrue thereafter as set forth in this Section.

F. Abatement by County

1. Failing to correct a violation constitutes a Class B misdemeanor. Upon conviction of the violating party, a court may authorize the County to enter upon the subject property and remove, correct, or abate the condition that is subject to the violation. The County shall provide the court an itemized statement of all expenses incurred in the abatement reduced for and request payment within 60 days as restitution. The court may authorize seizure of personal property as restitution.
2. Whenever a land use violation constitutes an immediate and emergent threat to the public health, safety, or welfare or to the environment, the County, when feasible and allowed by law, may summarily and without prior notice correct or abate the condition. Notice of such abatement, including the reason for it, shall be

given to the violator as soon as reasonably possible after the correction or abatement.

3. During an abatement proceeding, any personal property constituting a LUDMO violation may be confiscated as part of the abatement process. Any personal property that has been confiscated will be held pending order of restitution. The owner may recover the property upon showing that the LUDMO violation has been corrected or that substantial efforts, as determined by the enforcement officer, have been made to correct the land use violation; provided, however, that the property owner pay the cost of storage of the personal property. If, after 90 days of the property being confiscated, the property owner fails to claim the confiscated property, and after the County complies with the requirements of Utah Code, as currently amended, the County may dispose of the property, including sale at auction, disposal, etc., and seek to collect the cost of storage from the property owner. The County may also pursue any other remedy as allowed by law.
4. Any and all costs incurred by the County in the abatement of a land use violation under the provisions of this LUDMO or other county ordinance shall constitute a lien against the property upon which such land use violation existed, which lien shall be filed, proven, and collected as provided for by law. Such lien shall be noticed to all persons from the time of its recording and shall bear interest at the legal rate thereafter until satisfied.

G. **Civil Enforcement** – Appropriate actions and proceedings may be taken by the County in law or in equity to prevent any violation of this LUDMO, to prevent unlawful construction, to recover damages, including the cost, if any, of correcting the land use violation, to restrain, correct, or abate a violation, and to prevent illegal occupancy of a building, structure, or premises.

Nonexclusive Remedies, Building Permits, Certificates of Occupancy and Land Use Compliance, Etc. – The County may take any or all of the actions listed in this LUDMO to abate, enjoin, or correct a land use violation, including against any person or entity that creates, causes, or allows a land use violation to exist, and to recover damages for such violation. The County may withhold, suspend, or revoke building permits, certificates of occupancy and land use compliance, and other permits and licenses to enforce this LUDMO and the conditions and terms of permits and licenses issued hereunder. The abatement of a land use violation does not prejudice the right of the County or any person to recover damages or penalties for its past existence. Notwithstanding the procedures outlined in this section, the County may also enforce this LUDMO and the conditions and terms of permits and licenses issued hereunder as provided under State law.

Section 12: EXPIRATION OF APPLICATIONS AND APPROVALS

- A. Except as provided in **Subsection (F and C)**, if an applicant has not taken any action on an application for 12 months, the application shall be deemed abandoned and denied and any vested right to proceed with the application expired.
- B. Building Permits
1. A building permit shall expire if:
 - a) Construction requiring inspection is not begun within 180 days from the date the building permit was issued; or
 - b) If work authorized by such permit is suspended or abandoned for a period of 180 days after the commencement.
 2. The Building Inspector may grant, in writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
 3. Regardless of the number of extensions granted, a building permit shall expire if construction is not completed, and a certificate of occupancy and land use compliance is not obtained, within five years from the date the building permit was issued. The San Juan County Planning & Building Department may, upon written request and for good cause shown, extend the time to complete construction and obtain a certificate of occupancy and land use compliance for a period of time not to exceed one additional year. Such extensions shall be in writing and shall state the date the extension expires.
- C. Except as provided in **Subsection (F)**, approval of developments shall expire if application for preliminary or phased preliminary plan application has not been submitted for decision and diligently advanced by the applicant within five years from the date of receiving master plan, physical constraints, density determination, and/or concept plan approval. Projects that have already been approved prior to the effective date of this LUDMO shall have six months to file a preliminary application or a phased preliminary plan application and advance applications and approvals as required to avoid the expiration of the approvals.
1. Phased preliminary applications must be advanced within the timelines of the phased preliminary plan approval, which shall not be for more than five years between each preliminary application, and cumulatively? may not be for more than 20 years from the preliminary plan approval, or the approvals will expire.
 2. Projects that have had Master Plan, Physical Constraints, and Density Determinations granted, have maintained these approvals, and so long as they have entered into an agreement with a Special Service District to reserve water, have paid all fees to maintain the water reservation, and the water reservation remains in effect through the Special Service District, that project shall have six months to file a preliminary application or a phased preliminary application, and advance applications and approvals as required to avoid the expiration of the

approvals. The burden shall be on the applicant to prove they qualify for this exception as part of their application for Preliminary Application.

- D. Except as provided in Subsection (F), preliminary approvals of developments shall expire if an application for final approval has not been submitted for decision within one year from the date of receiving preliminary approval.
- E. Except as provided in Subsection (F), final approval of a subdivision development shall expire if the plat is not recorded within one year from the date of receipt of final approval by the Planning Commission.
- F. Upon written request of an applicant, permittee, or licensee, the expiration date of an application or approval, as the case may be, may be extended for 90 days, provided that:
 - 1. An application for an extension of time is submitted prior to the expiration date; and
 - 2. The Planning Commission or its designee finds, based on substantial evidence placed in the record:
 - a) Substantial progress is being made toward obtaining approval of the application, or in the exercise of the development rights authorized by an approval, as the case may be;
 - b) In the case of an application, no changes to this LUDMO have occurred or are being considered that may affect the application; and
 - c) In the case of an issued permit, license, or other approval, any conditions or terms of the permit, license, or other approval are still viable based on currently applicable requirements of this LUDMO.
 - 3. In no case shall an extension be granted for more than 12 months from the original expiration date.
- G. Unless otherwise provided or noted thereon, final subdivision plats, once recorded, do not expire except as provided in CLUDMA.

Section 13: PAYMENT OF FEES

Any application shall not be considered complete until the applicant has submitted a complete application, including payment of all fees as required by this LUDMO. Unless otherwise provided, fees are nonrefundable. Payment of the appropriate fee is no guarantee that an application will be approved.

Section 14: SEVERABILITY

Should any section, paragraph, sentence, clause, or phrase of this LUDMO be declared unconstitutional or invalid for any reason, the remainder of this LUDMO shall not, to the extent possible, be affected thereby.

Section 15: CONFLICTING PROVISIONS

The provisions of this LUDMO are in addition to all other County ordinances (unless otherwise stated), the laws of the State of Utah, and the laws of the United States. This LUDMO shall not supersede any development or other agreements entered into by the County where private land use regulations in deeds or covenants are more restrictive than this title. Whenever a conflict exists between this LUDMO and state or federal laws, or private land use regulations in deeds or covenants, the more restrictive provision shall apply to the extent allowed by law. The more specific provisions of this LUDMO dealing with specific zones, subdivision types, and types of uses, shall prevail over general provisions.

Section 16: CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS

It is the intent of the San Juan County legislative body that the provisions of this LUDMO are part of the San Juan County Code as adopted; and that the provisions of this LUDMO may be renumbered, re-lettered, and the organizational nomenclature changed in order to accomplish such intentions. Regardless of whether such inclusion in the San Juan County Code is accomplished, the County may renumber, re-letter the LUDMO and correct typographical and clerical errors that do not affect the LUDMO's intent without holding a public hearing by filing a corrected or recodified copy of the same with the San Juan County Clerk/Auditor's office.

GENERAL PROVISIONS – CHAPTER 1 Administrative

1-1 Short Title

~~This Ordinance shall be known and may be so cited and pleaded as the "ZONING ORDINANCE OF SAN JUAN COUNTY, UTAH"~~

These ordinances shall be known as the Land Use Development and Management Ordinance (LUDMO) and may be so cited and pleaded. Whenever a reference is made to this code as the San Juan County land use or development code, or to any portion hereof, or to any ordinance of San Juan County, Utah, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

1-2 Purpose and intent

~~This Ordinance is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of SAN JUAN COUNTY, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing access to adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering agricultural and other industries, and the protection of both urban and non-urban development.~~

This LUDMO and the regulations and restrictions contained herein are adopted and enacted for the purposes enumerated in CLUDMA, including:

- I. ~~providing~~ providing for health, safety, and welfare;
- II. promoting prosperity;
- III. improving morals, peace, good order, comfort, convenience, and aesthetics;
- IV. protecting tax base;
- V. securing economy in governmental expenditures;
- VI. fostering agricultural and other industries;
- VII. protecting both urban and nonurban development;
- VIII. protecting and ensuring access to sunlight for solar energy devices;
- IX. providing fundamental fairness in land use regulation;

- X. facilitating orderly growth and allowing growth in a variety of housing types; and
- XI. protecting property values.

This LUDMO shall be construed to further its purposes and to promote the objectives and characteristics of the respective zones.

1-3 Interpretation Authority

~~In interpreting and applying the provisions of this Ordinance, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.~~

It is hereby recognized to be within the authority delegated to San Juan County to approve the subdivision and development of land, amendment of plats or adjustment of lot lines, rezoning of property, amendments to the San Juan County General Plan, and approval of site plans pursuant to the guidance of the San Juan County General Plan and CLUDMA, for the orderly, planned, efficient, and economic development of San Juan County. Unless otherwise designated, the San Juan County legislative body shall be the Land Use Authority for all applications requiring legislative action. Non-legislative actions are delegated as follows:

- A. The Planning Commission shall be the Land Use Authority for:
 - 1. Conditional Use Permits
 - 2. Recommendation to San Juan County Commission
 - 3. X
 - 4. X
 - 5. X
 - 6.
- B. The San Juan County Planning Administrator shall be the Land Use Authority for the following applications unless a public hearing is required:
 - 1. Non-Conforming Use Determinations;
 - 2. Temporary Uses;
 - 3. Home Occupation Certificates;
 - 4. Commercial Site Plans;
 - 5. Commercial Off-Street Parking Reductions;
 - 6. Building Relocations;
 - 7. Building Permits;
 - 8. Boundary Line Adjustments; and
 - 9. Minor Subdivisions.

1-4 Interpretation and Applicability

This Ordinance shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

1-5 Conflict of Laws

All departments, officials, and employees of San Juan County authorized to issue land use permits and licenses shall do so in conformance with the provisions of this LUDMO. No land use permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this LUDMO. A land use permit or license, if issued in conflict with the provisions of this LUDMO shall be null and void.

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~~2-2~~ ~~1.3~~ 1.6 Planning Commission

(1) Organization

- (a) The Planning Commission shall consist of seven (7) members who shall be appointed by the Board of County Commissioners. In addition to the regular seven (7) members, the Board of County Commissioners may appoint, one (1) non-voting, ex-officio staff member to serve as liaison between the Board of County Commissioners and the Planning Commission and provide administrative support to the Planning Commission. Board of County Commission members may not serve as regular members of the Planning Commission.

(2) Term of Office

- (a) The term of office for regular Planning Commission members shall be staggered so that the terms of at least one (1) member and no more than three (3) members expire each year. As the term of each regular member expires, the vacancy thus created shall be filled by a majority vote of the Board of County Commissioners for a term of four (4) years, so as to maintain the succession of staggered terms of service.
- (b) Terms of all regular members begin on January 1st and expire on December 31st of the 4th year following the year of appointment. If the Board of County Commissioners has not appointed a new member(s) to the Planning Commission at the expiration of term, the current Planning Commission member(s) will remain on the Planning Commission until replaced by appointment of the Board of County Commissioners.

- (c) The ex-officio member shall be appointed by the Board of County Commissioners and shall continue to serve until replaced by appointment of the Board of County Commissioners.
- (d) If a vacancy occurs other than by expiration of term, the Board of County Commissioners by majority vote shall appoint a new member to fill the unexpired term.
- (e) Planning Commission members may be removed for cause from office by 2/3 vote of the Board of County Commissioners prior to the expiration of the appointed term.

(3) Method of Appointment

In early November of each year, the County Administrator shall cause notice of appointment(s) to be published in a newspaper of general circulation in San Juan County. The Building and Zoning Department shall be responsible for the costs of such advertisement. Such notice shall state the nature and term of the appointment(s), the qualification for such appointment, request written statements of interest and qualifications, and establish a deadline for submittal of such statements, which time shall not be earlier than fifteen (15) days from the date of publication.

(4) Qualifications

Each Planning Commission member shall be a legal San Juan County resident for at least two (2) years prior to appointment.

(5) Powers and Duties

The Planning Commission shall have the following powers and duties pursuant to Section 17-27a-302, Utah Code Annotated (1953, as amended):

- (a) Each countywide planning commission shall, with respect to the unincorporated area of the county, make a recommendation to the county legislative body for:
 - (i) a general plan and amendments to the general plan;
 - (ii) land use ordinances, zoning maps, official maps, and amendments;
 - (iii) an appropriate delegation of power to at least one land use authority to hear and act on a the land use application;
 - (iv) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority;
 - (v) application processes that may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and shall protect the rights of each applicant and third

party to require formal consideration of any application by a land use authority; applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and participant to to be heard in each public hearing on a contested application.

1.7 Land Use Authority / Administrative authority

1.8 Appeal Authority

2-3 Appeals Authority

- (1) Appeal Authority. The authority to hear request for variances from the terms of the land use ordinance and appeals from decisions applying the land use ordinances shall be vested in the Board of County Commissioners.
- (2) Appealing Land Use Authority's Decision. An applicant, board, or officer of the County, or any person affected by the land use authority's decision applying a land use ordinance may, within the time period provided in 2-2(3)(a) below, appeal that decision to the Appeal Authority by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the land use ordinance.
 - (a) Time to Appeal. Any appeal, pursuant to 2-2(3) above, must be filed in writing to the County Administrator within ten (10) calendar days of the issuance of the written decision applying the land use ordinance.
 - (b) Time for Hearing Appeal. The Appeal Authority should hear the appeal within thirty (30) days of the date the appeal was filed.
 - (c) Written Statement Setting Forth Theories of Relief Required. The appellant shall deliver to the Appeal Authority and all other participants, five (5) business days prior to the hearing, a written statement setting forth each and every theory of relief she intends to raise at the hearing, along with a brief statement of facts in support thereof.
 - (d) Condition Precedent to Judicial Review. No person, board or officer of the County may seek judicial review of any decision applying to the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the District Court unless it was timely and specifically presented to the Appeals Authority.
 - (e) Standard of Review and Burden of Proof on Appeal. The Appeal Authority shall upon appeal, presume that the decision applying the land use ordinance

is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.

- (f) Due Process Rights. The Appeal Authority shall respect the due process rights of all participants.

2-4 1.9 Variances.

- (1) Any person or entity desiring a waiver or modifications of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance.
- (2) Pursuant to Utah State law, the Appeal Authority may grant a variance only if:
 - (a) Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (b) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (c) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (d) The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (e) The spirit of the land use ordinance is observed and substantial justice done.
- (3) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under 2-3(a)(i), the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:
 - (a) is located on or associated with the property for which the variance is sought; and
 - (b) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (4) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection 2-3(2)(a), the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (5) In determining whether or not there are special circumstances attached to the property under Subsection 2-3(2)(b), the Appeal Authority may find that special

circumstances exist only if the special circumstances:

- (a) relate to the hardship complained of; and
 - (b) deprive the property of privileges granted to other properties in the same zone.
- (6) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (7) Variances run with the land.
- (8) The Appeal Authority may not grant a use variance.
- (9) In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:
- (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified

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CHAPTER 1 ADMINISTRATION

1.1 Short Title

These ordinances shall be known as the San Juan County Land Use Development and Management Ordinance (“LUDMO”) and may be so cited and pleaded.

1.2 Purpose and Intent

This LUDMO is adopted and enacted for the purposes authorized by Utah law, including promoting the public health, safety, and welfare; facilitating orderly growth and development; protecting property rights; preserving agricultural and rural character; protecting property values; ensuring adequate public facilities and infrastructure; and providing for the fair and consistent administration of land use regulations.

1.3 Authority

This LUDMO is adopted pursuant to the authority granted to counties under the Utah Municipal Land Use, Development, and Management Act (“CLUDMA”), Utah Code Title 17, Chapter 27a, as amended.

1.4 Interpretation and Applicability

A. Minimum Requirements

In interpreting and applying the provisions of this LUDMO, the requirements contained herein are declared to be the minimum requirements necessary to promote the public health, safety, and welfare.

B. Applicability

The provisions of this LUDMO shall apply to all land, buildings, structures, uses, development activity, permits, and land use applications within the unincorporated areas of San Juan County unless otherwise specifically exempted by federal law, state law, or this LUDMO.

C. Rules of Interpretation

Words used in the present tense include the future; words in the singular include the plural; and words in the plural include the singular. The word “shall” is mandatory and the word “may” is permissive.

D. Conflicts

Where a provision of this LUDMO imposes greater restrictions or higher standards than are required by other applicable ordinances, regulations, easements, covenants, or laws, the provisions of this LUDMO shall control to the extent allowed by law.

E. Construction

The provisions of this LUDMO shall be construed to:

1. Further the purposes of this LUDMO and applicable Utah law;
2. Promote orderly growth and development;
3. Protect property rights while preserving the public health, safety, and welfare; and
4. Ensure fair and consistent administration and enforcement of land use regulations.

1.5 Planning Commission

A. Establishment

The Planning Commission is established pursuant to Utah law and shall consist of members appointed by the County Commission.

B. Powers and Duties

The Planning Commission shall perform the duties assigned by Utah law and this LUDMO, including review of land use applications, recommendations regarding ordinances and amendments, and other duties delegated by the County Commission.

C. Terms and Appointments

Planning Commission appointments, qualifications, terms, vacancies, and removal procedures shall be governed by County policy and applicable state law.

1.6 Land Use Authority

A. Legislative Authority

The County Commission shall serve as the legislative land use authority for matters requiring legislative action unless otherwise delegated by ordinance.

B. Administrative Authority

The Planning Administrator, Building Official, Zoning Administrator, Planning Commission, Hearing Officer, or other designated official or body may serve as the land use authority for non-legislative actions as delegated by this LUDMO or County policy.

C. Delegation

Administrative duties and application review authority may be delegated as authorized by Utah law.

1.7 Appeals Authority

A. Establishment

The County Commission, Hearing Officer, or other designated body shall serve as the Appeal Authority as provided by this LUDMO.

B. Appeals

Any person adversely affected by a land use decision may appeal such decision in accordance with the procedures and timelines established by this LUDMO and Utah law.

C. Standard of Review

The Appeal Authority shall review decisions for compliance with applicable ordinances, adopted standards, and applicable law.

1.8 Variances

A. Authority

The Appeal Authority may grant variances only in accordance with Utah law and the standards established in this LUDMO.

B. Standards

Variances may only be granted upon findings that:

1. Literal enforcement would cause unreasonable hardship;
2. Special circumstances apply to the property;
3. The variance is necessary for the enjoyment of substantial property rights;
4. The variance will not substantially affect the General Plan or public interest; and
5. The spirit and intent of this LUDMO are preserved.

C. Use Variances Prohibited

The Appeal Authority may not grant use variances.

1.9 Building Permits Required

No building or structure shall be constructed, reconstructed, altered, enlarged, moved, or occupied unless all required permits and approvals have been obtained as required by this LUDMO, the adopted construction codes, and applicable law.

1.10 Permit Applications and Site Plans

A. Complete Applications Required

Applications shall be submitted in a form approved by the County and shall include all information necessary for review.

B. Site Plans

Applications for development may require site plans, surveys, legal descriptions, utility information, drainage information, roadway access information, and other materials necessary to evaluate compliance with this LUDMO.

C. Additional Information

The County may require additional information reasonably necessary to determine compliance with applicable regulations.

1.11 Certificates of Occupancy and Land Use Compliance

A. Occupancy Prohibited Without Approval

No building, structure, or use shall be occupied until a Certificate of Occupancy or Land Use Compliance has been issued where required.

B. Compliance Required

Certificates shall only be issued upon determination that the development complies with applicable permits, approvals, and adopted codes.

C. Change of Use

A new certificate may be required upon change in use, occupancy, intensity, or number of dwelling units.

1.12 Enforcement

A. Enforcement Authority

The County may investigate violations and enforce the provisions of this LUDMO through administrative, civil, criminal, or other lawful remedies.

B. Violations

Any use, structure, subdivision, development activity, or occupancy established contrary to this LUDMO shall constitute a violation.

C. Notices of Violation

The County may issue written notices requiring corrective action within specified timeframes.

D. Civil and Criminal Remedies

Violations may be subject to civil penalties, misdemeanor prosecution, permit revocation, abatement, injunctions, liens, or other remedies authorized by law.

E. Continuing Violations

Each day a violation continues may constitute a separate offense.

1.13 Expiration of Applications and Approvals

Applications, permits, approvals, and development authorizations shall expire in accordance with timelines established by this LUDMO unless extended pursuant to approved procedures.

1.14 Fees

The County may establish fees for applications, permits, inspections, appeals, enforcement actions, and related administrative processes. Applications shall not be considered complete until required fees have been paid.

1.15 Amendments

This LUDMO, zoning maps, and related land use regulations may be amended in accordance with Utah law and the procedures established by this LUDMO.

1.16 Public Hearings and Notice

Public hearings and notice requirements shall be conducted in accordance with applicable Utah law and County procedures.

1.17 Licenses and Permits to Conform

No County permit, license, approval, or authorization shall be issued in conflict with this LUDMO or other applicable law. Any permit issued in error or in conflict with this LUDMO may be revoked or declared void.

1.18 Severability

If any section, subsection, sentence, clause, or phrase of this LUDMO is held invalid, such decision shall not affect the validity of the remaining portions of this LUDMO.



STAFF REPORT

MEETING DATE: June 4, 2026

ITEM TITLE, PRESENTER: Variance

RECOMMENDATION: Staff recommends the Planning Commission review the proposed organizational approaches related to variances and provide direction

SUMMARY

Staff has identified that variance procedures were updated through Ordinance 2024-02 and currently represent the County's most recently adopted variance language. As part of the ongoing ordinance reorganization effort, staff is requesting Planning Commission direction regarding both the location and content of the variance provisions within the Land Use Development Management Ordinance.

Questions for Planning Commission:

1. Should the variance procedures adopted through Ordinance 2024-02 be incorporated into Chapter 1 (Administration), or should they be relocated to a standalone chapter dedicated to variances and appeals?
2. Are there any provisions from the existing 2011 Code, proposed 2025 Code, or other adopted ordinances that should be incorporated, reviewed, clarified, or reconciled with the variance procedures adopted through Ordinance 2024-02?

SAN JUAN COUNTY

ORDINANCE NO. 2024-02

AN ORDINANCE REPLACING AND AMENDING THE PROCESS FOR APPEALS OF LAND USE DECISIONS

WHEREAS San Juan County ordinances governing land use appeals under Utah Code Title 17, Chapter 27a, Part 7 have undergone several amendments in recent years;

WHEREAS it is in the best interests of San Juan County to ensure that a final land use decision on appeal is accomplished in a just, expeditious, and inexpensive process;

WHEREAS achieving finality in a land use dispute while observing San Juan County’s best interests requires certain procedures be followed;

WHEREAS San Juan County recognizes that most land use decisions provide sufficient grounds to allow review on the record without requiring the parties to incur the additional cost of creating a record for review;

WHEREAS detailed procedures to be followed by the San Juan County Appeal Authority, the County, the applicant, and, if applicable, adversely affected parties will promote the just, expeditious, inexpensive resolution of land use appeals;

WHEREAS the Board of San Juan County Commissioners is the legislative body of San Juan County, Utah and is therefore authorized by the laws of the State of Utah to enact ordinances and rules and make regulations, not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by state law, and as are necessary and proper to provide for the safety, and preserve the health, promote the prosperity, improve the morals, peace, and good order, comfort, and convenience of the County and its inhabitants, and the protection of property in the County; and

WHEREAS the State of Utah requires San Juan County to establish a land use appeal authority and authorizes the County to enact procedures for pursuing such appeals:

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF SAN JUAN COUNTY ORDAINS AS FOLLOWS:

The following Chapter of the San Juan County, Utah Code of Ordinances is adopted. This ordinance shall be published on the San Juan County website’s Planning and Zoning page until publication by the County’s code service provider.

CHAPTER 12: LAND USE APPEALS

12.000 PURPOSE.

This Chapter addresses administrative appeals of land use decisions affecting property within the jurisdiction of San Juan County, Utah. This Chapter repeals, replaces, and supersedes all other and previous ordinances enacted by San Juan County regarding the administrative appeal of land use decisions. If there is a discrepancy between a provision of this Chapter and that of another ordinance regarding the administrative appeal of a land use ordinance, this Chapter controls.

12.001 DEFINITIONS.

The definitions used in the County Land Use, Development, and Management Act (CLUDMA), Utah Code sections 17-27a-101 *et seq.*, are hereby adopted and incorporated into this Chapter addressing land use appeals.

12.002 LAND USE APPEAL AUTHORITY.

The San Juan County Land Use Appeal Authority shall hear and decide appeals of the County’s land use decisions made by its land use authorities, proceeding according to the requirements of state law and this ordinance.

12.003 PARTIES.

Only the land use applicant, San Juan County, or an adversely affected party may appeal a land use decision to the Appeal Authority.

12.004 INITIATING AN APPEAL.

(A) Time. A land use appeal must be filed within 10 business days of receiving actual or constructive notice of the land use decision being appealed.

(B) Form. The land use appeal shall be filed either using the County’s form or a document clearly and prominently labeled a “Notice of Appeal.”

- (C) Content. The Notice of Appeal shall clearly set forth:
 - (1) The appellant’s identity and contact information (including an email address);
 - (2) The land use decision being appealed, including the date thereof and, if applicable, the date the appellant discovered the decision;
 - (3) If available, a copy of the land use decision being appealed;
 - (4) If the land use applicant is not the appellant, the identity and contact information for the applicant;
 - (5) The basis for the appellant’s standing to bring the appeal; and
 - (6) Every theory of relief the appellant intends to raise on appeal. The appellant must raise every theory of relief it can raise in district court.

(D) Fee. Contemporaneous with the Notice of Appeal, the appellant shall tender to San Juan County the relevant fee per the County’s schedule of fees.

(E) Filing. The Notice of Appeal shall be filed with the San Juan County Chief Administrative Officer. It may be filed by: (1) email (preferred), (2) hand-delivery; or (3) by first class U.S. Mail. The date of delivery shall be considered the date of filing using the first two methods, the postmarked date if using the third method. If delivery is by email, the subject line must clearly identify the message as a "Notice of Appeal."

//

12.005 APPEAL PROCESS.

(A) Intake. Upon receiving a Notice of Appeal, the Chief Administrative Officer shall inspect it for compliance with the foregoing Section 12.004's requirements. If the Notice of Appeal is compliant, it shall be transferred immediately to the Appeal Authority and the San Juan County Attorney's Office. If the Notice of Appeal is not compliant, the Chief Administrative Officer shall inform the appellant of the deficiencies. If the deficiencies are timely cured, the Notice of Appeal shall be considered to have been filed when the initial notice was filed.

(B) Notice to Parties. Upon receiving the Notice of Appeal from the Chief Administrative Officer, the Appeal Authority shall immediately determine whether it is brought by the applicant. If not, the Appeal Authority shall immediately inform the applicant of the appeal, invite the applicant to participate as a party to the appeal, and the Appeal Authority and all other parties shall treat the applicant as a party to the appeal.

(C) Record. Immediately upon receiving the Notice of Appeal, the County Attorney shall assemble and serve on the Appeal Authority and the other parties the record of the land use decision on appeal. The record shall include relevant minutes, complete applications at issue, relevant communications with the applicant, relevant communications with the appellant where applicable, and any written record of the decision. The County shall Bates-stamp these documents, which shall become the record on appeal. Absent extraordinary circumstances, the County Attorney shall serve the record on the parties before the scheduling conference is held.

(D) Scheduling Conference. Upon receiving the Notice of Appeal, the Appeal Authority shall in timely fashion hold a scheduling conference to include:

- (1) Deciding whether the grounds for the land use decision appear in the record provided by the County Attorney;
- (2) Scheduling the hearing;
- (3) Setting a submission date for briefing; and
- (4) Confirming the theories of relief to be addressed on appeal.

(Excluding jurisdictional issues, theories of relief and issues not confirmed at the scheduling conference, including regarding the completeness and adequacy of the record, will not be considered by the Appeal Authority. The appellant must raise every theory of relief it can raise in district court.)

Unless extraordinary circumstances prohibit it, the scheduling conference shall be held within 14 days after the Appeal Authority receives the Notice of Appeal. The scheduling conference need not be held in person but shall include all parties.

(E) Briefing.

(1) Prior to the hearing, the parties (the appellant, the County, and, if applicable, the applicant) shall file simultaneous briefs on the theories of relief and issues confirmed at the scheduling conference. The briefs shall not exceed fifteen double-spaced pages, excluding the caption, signature block, certificate of service, and exhibits. The briefs shall follow the formatting required by Utah Rule of Civil Procedure 10(d) and be filed and served on the Appeal Authority and all parties via email. Except as provided in Subparagraph (H) below, no affidavits or declarations or other evidentiary documents beyond those contained in the record may be attached to the briefing.

(2) All theories of relief and issues, including jurisdiction, the completeness of the record, or a party's standing, shall be reserved for the briefing and hearing, not presented through separate filings.

(3) No other briefing shall be filed or considered unless the Appeal Authority orders supplemental briefing as described below. The date set for the filing and service of briefs shall not be less than 7 days before scheduled hearing.

(F) Hearing.

(1) At the hearing, the parties shall present argument to the Appeal Authority.

(2) Except as provided in Subparagraph (H) below, the hearing need not be held in person.

(G) Supplemental Briefing. If at the end of the hearing the Appeal Authority determines that supplemental briefing is necessary in order to render an informed decision, the Appeal Authority may order supplemental briefing to be filed on a specifically identified and narrow question. The Appeal Authority shall set a date for the supplemental briefing to be filed, the briefing length, and whatever else it deems appropriate. Unless extraordinary circumstances require otherwise, the supplemental briefing shall be filed within 14 days of the hearing. Supplemental briefing should be rare and permitted only in extraordinary circumstances.

(H) Inadequate Record. If at the scheduling conference the Appeal Authority determines that the grounds for the land use decision do not appear in the record provided by the County Attorney, then the foregoing process is altered in the following ways:

(1) Each party may attach to its brief affidavits or declarations and all documentary evidence related to the land use decision beyond the record provided by the County Attorney that the party wishes the Appeal Authority to consider. Absent good cause, documents not attached to a party's brief will not be considered. The Appeal Authority generally will follow the Utah Rules of Evidence when considering the submitted affidavits or declarations and documentary evidence.

- (2) The parties may examine and cross-examine witnesses during the hearing. Such testimony shall be guided generally by the Utah Rules of Evidence.
- (3) The hearing shall be held in person at the County’s administrative offices.
- (4) If at the end of the hearing the Appeal Authority determines that supplemental evidence is necessary in order to render an informed decision, the Appeal Authority may order specific supplemental evidence to be filed following Subsection (G)’s procedure and direction.

12.006 DECISION.

(A) Issuance. Absent extraordinary circumstances, the Appeal Authority shall serve on all parties a concise written decision within 28 days of the hearing or of any ordered supplemental submissions, whichever is later. If the Appeal Authority can do so, it is encouraged to issue its decision sooner.

(B) Standard of Review. Except as provided in Subsection (C), the Appeal Authority shall review the land use decision and determine only whether it is supported by substantial evidence or illegal. A land use decision is illegal if it is based on an incorrect interpretation of a land use regulation, conflicts with the authority granted by CLUDMA, or is contrary to law.

(C) Inadequate Record. If at the scheduling conference the Appeal Authority determines that the grounds for the land use decision do not appear in the record provided by the County Attorney, then the Appeal Authority shall determine whether the land use decision was correct.

(D) Content. The Appeal Authority’s written decision shall set forth factual findings and legal conclusions sufficient for review. The Appeal Authority may only affirm or reverse, in whole or in part, the land use decision. If reversed entirely or in any part, the Appeal Authority shall provide the County instructions to issue a land use decision consistent with the Appeal Authority’s decision.

(E) Notification. The Appeal Authority’s decision shall set forth in bold typeface the parties’ rights to petition for judicial review, citing the appropriate statute and providing a non-binding calculation of the filing deadline.




PASSED AND ADOPTED by action of the Board of San Juan County Commissioners for San Juan County in an open meeting this 16th day of January 2024.


Voting Aye: _____

Voting Nay: _____

ATTEST:

SAN JUAN COUNTY BOARD OF
COMMISSIONERS:


Lyman Duncan, Clerk/Auditor


Jamie Harvey, Chair

CHAPTER 3 APPEALS

This Chapter addresses administrative appeals of Land Use Decisions affecting property within the jurisdiction of San Juan County, Utah. This Chapter repeals, replaces, and supersedes all other and previous ordinances enacted by San Juan County regarding the administrative appeal of land use decisions. This administrative appeal process is independent of Title I, Chapter 11 of the San Juan County Code and none of those provisions apply to administrative appeals of Land Use Decisions. If there is a discrepancy between a provision of this Chapter and that of another ordinance regarding an administrative appeal, this Chapter controls.

The definitions used in CLUDMA are hereby adopted and incorporated into this Chapter addressing land use appeals.

Section 1: LAND USE APPEAL AUTHORITY

The San Juan County Land Use Appeal Authority shall hear and decide appeals of the County's land use decisions made by its Land Use Authorities, proceeding according to the requirements of state law and this LUDMO.

Section 2: PARTIES

Only the land use applicant or an Adversely Affected Party may appeal a Land Use Decision to the Appeal Authority.

Section 3: INITIATING AN APPEAL

1. Time. A land use appeal must be filed within 10 business days of actual or constructive notice of the issuance of the written Land Use Decision being appealed.
2. Form. The land use appeal shall be filed either using the County's form or a document clearly and prominently labeled a "Notice of Appeal."
3. Content. The Notice of Appeal shall clearly set forth:
 - A. The appellant's identity and contact information (including an email address);
 - B. The Land Use Decision being appealed, including the date thereof and, if different, the date the appellant discovered the decision;
 - C. If available, a copy of the land use decision being appealed;
 - D. If the land use applicant is not the appellant, the identity and contact information for the applicant;
 - E. The basis for the appellant's standing to bring the appeal; and
 - F. Every theory of relief the appellant intends to raise on appeal. The appellant must raise every theory of relief it can raise in district court.

CHAPTER 5 VARIANCES

Section 1: VARIANCE PROCEDURE

1. Any person or entity desiring a variance from the requirements of the LUDMO as applied to real property that he or she owns, leases, or in which he or she holds some other beneficial interest may apply for a variance from the terms of the ordinance.
2. Applications: Applications for variance shall be filed with the San Juan County Planning & Zoning and Building Department. Applications shall contain the following information:
 - A. A description of the requested variance, together with a designation of that section of this LUDMO from which relief is being requested;
 - B. An accurate site plan, if appropriate, indicating the manner in which the variance will be applied and its effect upon adjacent properties; and
 - C. The required filing fee as established by the County.
3. A complete application shall be forwarded to the San Juan County Administrative Law Judge (ALJ) for consideration. The ALJ shall follow CLUDMA in determining whether to grant the variance. The ALJ may proceed as it sees fit in considering the application, including requesting additional information, seeking comment and information from county personnel, and holding meetings with the applicant.4. The ALJ shall decide the application in a timely manner and shall issue a written decision with findings and conclusions of law capable of review and include a notation in bold typeface informing the applicant of its right to petition for judicial review, citing the appropriate statute and providing a non-binding calculation of the filing deadline.
4. The ALJ shall serve the applicant, the County Attorney, the Planning Administrator and the Planning Commission with its decision upon issuance. Such service may be accomplished by email.
5. After rendering its decision, the ALJ shall provide the County Attorney a digital copy of the record of the decision, which the County shall maintain for a period of five years after the ALJ's decision.

4. Fee. Contemporaneous with the Notice of Appeal, the appellant shall tender to San Juan County the relevant fee per the County's schedule of fees. The appeal is not complete until the fee has been paid.
5. Filing. The Notice of Appeal shall be filed with the San Juan County Chief Administrative Officer. It may be filed by: (1) email (preferred), (2) hand-delivery; or (3) first class U.S. Mail. The date of delivery shall be considered the date of filing using the first two methods, the postmarked date if using the third method. If delivery is by email, the subject line must clearly identify the message as a "Notice of Appeal."

Section 4: APPEAL PROCESS

1. Intake. Upon receiving a Notice of Appeal, the Chief Administrative Officer shall inspect it for completeness under the foregoing Section 3 requirements. If the Notice of Appeal is complete, it shall be transferred immediately to the Appeal Authority and the San Juan County Attorney's Office. If the Notice of Appeal is not complete, the Chief Administrative Officer shall reject the appeal and immediately inform the appellant.
2. Notice to Parties. Upon receiving the Notice of Appeal from the Chief Administrative Officer, the Appeal Authority shall immediately determine whether it is brought by the applicant. If not, the Appeal Authority shall immediately inform the applicant of the appeal, invite the applicant to participate as a party to the appeal, and the Appeal Authority and all other parties shall treat the applicant as a party to the appeal.
3. Record. Immediately upon receiving the Notice of Appeal, the County Attorney shall assemble and serve on the Appeal Authority and the other parties the record of the Land Use Decision on appeal. The record shall include relevant minutes if applicable, a transcript of the proceeding if available, the complete applications and related submissions at issue, relevant communications with the applicant, relevant communications with the appellant where applicable, relevant LUDMO provisions, and the written record of the decision. The County shall Bates-stamp these documents, which shall become the record on appeal. Absent extraordinary circumstances, the record should be served before the scheduling conference is held.
4. Scheduling Conference. Upon receiving the Notice of Appeal, the Appeal Authority shall in timely fashion hold a scheduling conference to:
 - a. Confirm that the Land Use Authority made findings of fact and conclusions of law that appear in the record in support of the Land Use Decision under review;
 - b. Schedule a hearing;
 - c. Set submission dates for briefing; and
 - d. Confirm the theories of relief to be addressed on appeal. (Excluding jurisdictional issues, theories of relief and issues not confirmed at the scheduling conference, including regarding the completeness and adequacy of the record, will not be considered by the Appeal Authority. The appellant must raise every theory of relief it can raise in district court.)

5. Unless extraordinary circumstances prohibit it, the scheduling conference shall be held within 28 days after the Appeal Authority receives the Notice of Appeal. The scheduling conference need not be held in person but shall include all parties and be public.
6. Briefing.
 - A. Prior to the hearing, the parties (the appellant, the County, and, if applicable, the applicant) shall file briefs on the theories of relief and issues confirmed at the scheduling conference. The appellant shall file a principal brief, the appellee(s) a brief in opposition, and the appellant a reply brief. The principal and opposition briefs shall not exceed fifteen, and the reply brief shall not exceed ten, double-spaced pages, excluding the caption, signature block, certificate of service, and exhibits. The briefs shall follow the formatting required by Utah Rule of Civil Procedure 10(d) and be filed and served on the Appeal Authority and all parties via email. No affidavits or declarations or other evidentiary documents beyond those contained in the record may be attached to the briefing.
 - B. All theories of relief and issues, including jurisdiction, the completeness of the record, or a party's standing, shall be reserved for the briefing and hearing, not presented through separate filings.
 - C. No other briefing shall be filed or considered. The date set for the filing and service of the reply brief shall not be less than 7 days before scheduled hearing.
7. Hearing.
 - A. At the hearing, the parties shall present argument to, and answer questions of, the Appeal Authority.
 - B. The hearing need not be held in person, but shall be public.
8. Inadequate Record. If the Appeal Authority determines that the Land Use Authority did not make findings of fact and conclusions of law that appear in the record in support of the Land Use Decision under review, then the Appeal Authority shall remand the matter to the Land Use Authority to do so immediately. In that case, the County shall refund the fee paid by the appellant. Any appeal from the revised decision must be taken using the procedure set forth in this Chapter.
9. Incomplete Record. If the Appeal Authority determines that the record provided by the County Attorney is materially incomplete, it shall order that the County supplement the record and determine whether supplemental briefing and argument is warranted.

Section 5: DECISION

1. Issuance. Absent extraordinary circumstances, the Appeal Authority shall serve on all parties a concise written decision within 28 days of the hearing. If the Appeal Authority can do so, it is encouraged to issue its decision sooner.

2. **Standard of Review.** The Appeal Authority shall review the land use decision and determine only whether the record includes substantial evidence for each essential finding of fact and the correctness of the Land Use Authority's interpretation and application of the plain meaning of county Land Use Regulations. The Appeal Authority shall interpret and apply a Land Use Regulation to favor a land use application unless the Land Use Regulation plainly restricts the land use application.
3. **Content.** The Appeal Authority's written decision shall set forth factual findings and legal conclusions sufficient for judicial review. The Appeal Authority may only affirm or reverse, in whole or in part, the Land Use Decision. If reversed entirely or in any part, the Appeal Authority shall instruct the Land Use Authority to issue a Land Use Decision consistent with the Appeal Authority's written decision. The Appeal Authority is not authorized to dictate or manage the County's personnel or internal policies or processes.
4. **Notification.** On the date of its issuance, the Appeal Authority's written decision shall be sent via email to the parties. It shall set forth in bold typeface the parties' rights to petition for judicial review, citing the appropriate statute and providing a non-binding calculation of the filing deadline.
5. **Record.** After rendering its decision, the Appeal Authority shall provide the County Attorney a digital copy of the appeal record, which the County shall maintain for a period of five years after the Appeal Authority's decision.

notice of appointment(s) to be published in a newspaper of general circulation in San Juan County. The Building and Zoning Department shall be responsible for the costs of such advertisement. Such notice shall state the nature and term of the appointment(s), the qualification for such appointment, request written statements of interest and qualifications, and establish a deadline for submittal of such statements, which time shall not be earlier than fifteen (15) days from the date of publication.

(4) Qualifications

Each Planning Commission member shall be a legal San Juan County resident for at least two (2) years prior to appointment.

(5) Powers and Duties

The Planning Commission shall have the following powers and duties pursuant to Section 17-27a-302, Utah Code Annotated (1953, as amended):

- (a) Each countywide planning commission shall, with respect to the unincorporated area of the county, make a recommendation to the county legislative body for:
 - (i) a general plan and amendments to the general plan;
 - (ii) land use ordinances, zoning maps, official maps, and amendments;
 - (iii) an appropriate delegation of power to at least one land use authority to hear and act on a the land use application;
 - (iv) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority;
 - (v) application processes that may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and shall protect the rights of each applicant and third party to require formal consideration of any application by a land use authority; applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and participant to be heard in each public hearing on a contested application.

NOT USED

2-2 Appeals

- (1) **Appeal Authority.** The authority to hear request for variances from the terms of the land use ordinance and appeals from decisions applying the land use ordinances shall be vested in the Board of County Commissioners.
- (2) **Appealing Land Use Authority's Decision.** An applicant, board, or officer of the County, or any person affected by the land use authority's decision applying a land use ordinance may, within the time period provided in 2-2(3)(a) below, appeal that decision to the Appeal

Authority by alleging there is error in any order, requirement, decision, or determination made by the land use authority in the decision applying the land use ordinance.

- (a) Time to Appeal. Any appeal, pursuant to 2-2(3) above, must be filed in writing to the County Administrator within ten (10) calendar days of the issuance of the written decision applying the land use ordinance.
- (b) Time for Hearing Appeal. The Appeal Authority should hear the appeal within thirty (30) days of the date the appeal was filed.
- (c) Written Statement Setting Forth Theories of Relief Required. The appellant shall deliver to the Appeal Authority and all other participants, five (5) business days prior to the hearing, a written statement setting forth each and every theory of relief she intends to raise at the hearing, along with a brief statement of facts in support thereof.
- (d) Condition Precedent to Judicial Review. No person, board or officer of the County may seek judicial review of any decision applying to the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the District Court unless it was timely and specifically presented to the Appeals Authority.
- (e) Standard of Review and Burden of Proof on Appeal. The Appeal Authority shall upon appeal, presume that the decision applying the land use ordinance is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.
- (f) Due Process Rights. The Appeal Authority shall respect the due process rights of all participants.

2-3 Variances.

- (1) Any person or entity desiring a waiver or modifications of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance.
- (2) Pursuant to Utah State law, the Appeal Authority may grant a variance only if:
 - (a) Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (b) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;

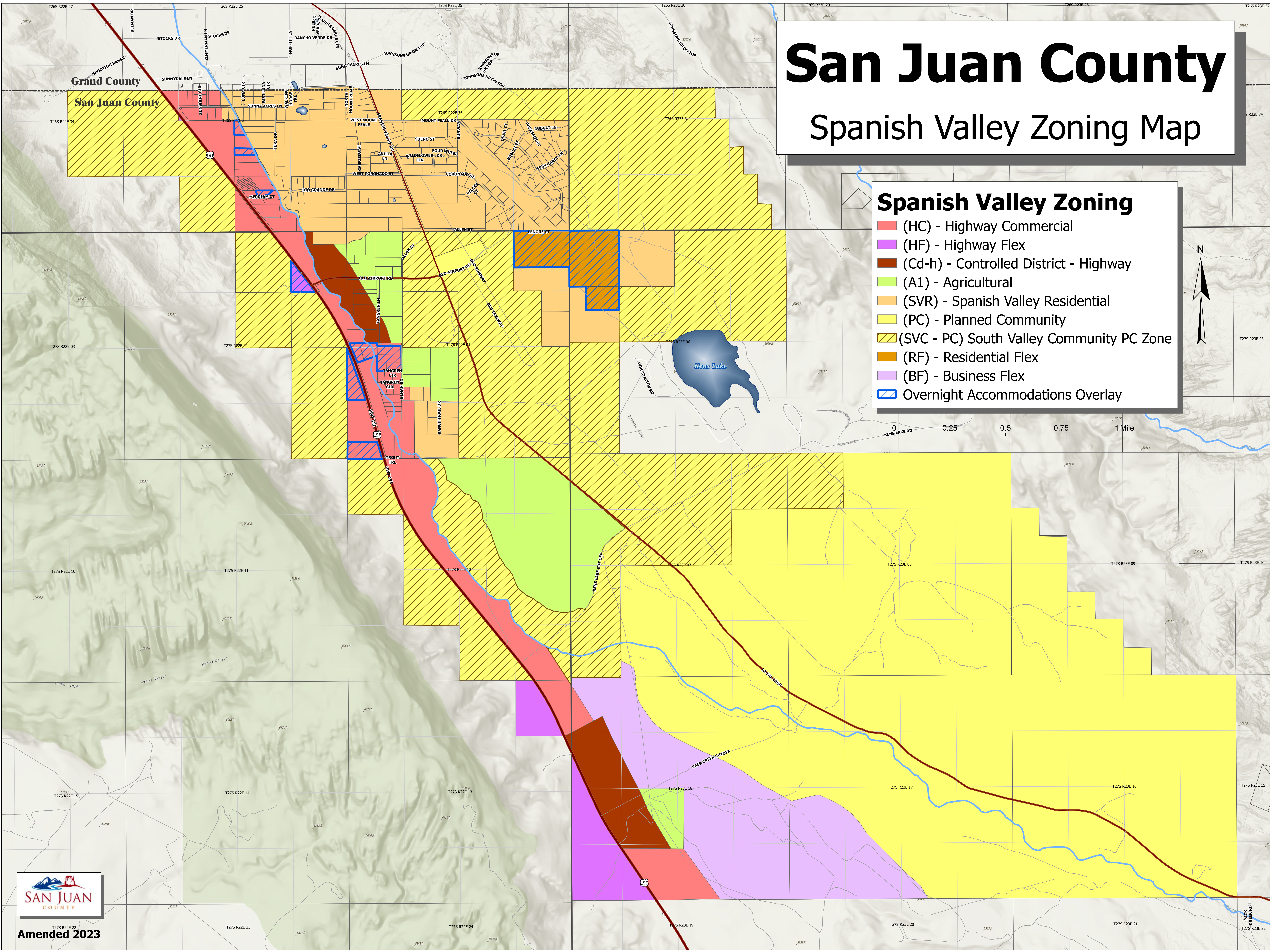
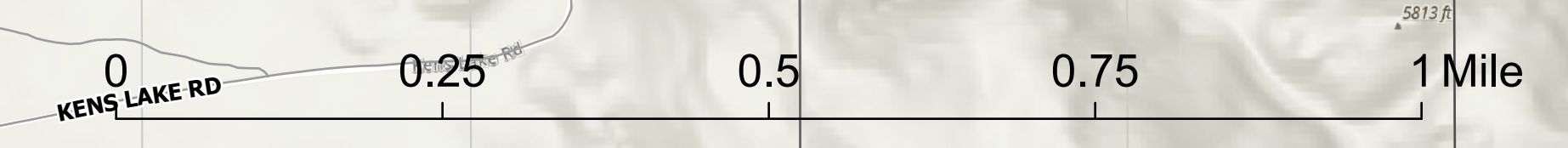
- (c) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (d) The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (e) The spirit of the land use ordinance is observed and substantial justice done.
- (3) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under 2-3(a)(i), the Appeal Authority may not find an unreasonable hardship unless the alleged hardship:
- (a) is located on or associated with the property for which the variance is sought; and
 - (b) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (4) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection 2-3(2)(a), the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (5) In determining whether or not there are special circumstances attached to the property under Subsection 2-3(2)(b), the Appeal Authority may find that special circumstances exist only if the special circumstances:
- (a) relate to the hardship complained of; and
 - (b) deprive the property of privileges granted to other properties in the same zone.
- (6) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (7) Variances run with the land.
- (8) The Appeal Authority may not grant a use variance.
- (9) In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:
- (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

San Juan County

Spanish Valley Zoning Map

Spanish Valley Zoning

- (HC) - Highway Commercial
- (HF) - Highway Flex
- (Cd-h) - Controlled District - Highway
- (A1) - Agricultural
- (SVR) - Spanish Valley Residential
- (PC) - Planned Community
- (SVC - PC) South Valley Community PC Zone
- (RF) - Residential Flex
- (BF) - Business Flex
- Overnight Accommodations Overlay



Amended 2023



STAFF REPORT

MEETING DATE: May 14, 2026

ITEM TITLE, PRESENTER: Staff Report – Spanish Valley Zoning Map Discrepancies

RECOMMENDATION: No formal action

SUMMARY

Staff has identified potential discrepancies between current and historical Spanish Valley zoning maps and will continue using the current map while researching the discrepancies, reviewing historical adoption records, and evaluating whether any corrective action may be necessary.



STAFF REPORT

MEETING DATE: June 4, 2026

ITEM TITLE, PRESENTER: Building Permit and Inspection Report

RECOMMENDATION: No formal action

SUMMARY

Attached is the Building and Inspection Report for your review.



Permit Report

05/01/2026 - 05/31/2026

Permit #	Permit Date	Residential or Commercial	Building Address	Building CityStateZip	Description	Type of Permit	Applicant Name	Status
26094	5/27/2026	Residential	164 West Rio Grande Drive	Moab, UT 84532			Stephen Thurlo	In Review
26093	5/27/2026	Residential	70 A South Pine Ridge Road.	La Sal, Utah, 84530	Shop	New Construction/ADU	Virgle Ellis	In Review
26092	5/26/2026		1478 UT-162	Montezuma Creek, UT 84534	100.00kw AC solar/ 250kva/626kwh BESS system	Solar	Richard Sanchez	In Review
26091	5/26/2026		152 Tera Dr.	Moab, UT 84532	New Water Line for existing home to new meter	Plumbing	Karson Geissing	In Review
26090	5/23/2026	Residential	32 n io lane	la sal utah 84530	residence	Permit Renewal	Shane Jarrett	In Review
26089	5/22/2026		646 E Browns Canyon Rd.	Blanding,Ut,84511	Temp meter hookup	Electrical	Mckay Lee	In Review
26088	5/21/2026	Commercial	180 Terra Drive	Moab, UT 84530	Variance Request	Miscellaneous	Cheryl & Sharee Carlson	In Review
26087	5/21/2026	Residential					Doug McLaughlin	In Review
26086	5/21/2026	Residential	16 N Porcupine Lane	La Sal UT 84530	Barn to stable personnel horses	New Construction	Kenneth Zicker	In Review
26085	5/20/2026		Parcel 32s24e312401	Monticello ,Ut..84535	Pole for wind generator...25 ft high	Utilities	Carroll Aamold	In Review

26084	5/20/2026	Residential	Parcel# 32s24e312400	Monticello,ut...84535	Pole for electric generator windmill(25 ft)	Utilities	Carroll Aamold	In Review
26083	5/20/2026		48 E. Mt. Peale	Moab, UT 84532	Demolish old metal building	Demo	Black Sheep Development Co./Terill Johnston	Open
26082	5/19/2026	Residential	278 bobbie ln	La sal utah 84530	Construction meter install	Electrical	Justin Losee	In Review
26081	5/18/2026		390 East 500 South	Blanding, UT 84511		Cell Tower	Smartlink Group on Behalf of AT&T	In Review
26080	5/18/2026		1000 MAIN STREET	MONUMENT VALLEY, UT 84536		Cell Tower	Smartlink Group on Behalf of AT&T	In Review
26079	5/18/2026	Residential	17 Millcreek Gorge Rd	Moab UT 84532	Installation of fiberglass pool with integrated spa and related mechanical equipment. Project value is \$125,000	Miscellaneous	Eric W Plourde	Open
26078	5/15/2026	Residential	Lot 14 rattlesnake subdivision	La Sal, Utah 84530	Living	Manufactured Home-Private Property	Jim Blankenagel	In Review
26077	5/15/2026	Residential	Lot 15 Rattlesnake Subdivision	La Sal Utah 84530	Living	Manufactured Home-Private Property	Jim Blankenagel	In Review
26076	5/15/2026	Residential	Lot 15 Rattlesnake Subdivision	La Sal, Utah 84530	Farm equipment storage	Agricultural Exempt	Jim Blankenagel	In Review
26075	5/12/2026		11860 S. Highway 191 #2	Moab, UT 84532	Outdoor RV Storage	New Construction	Cathy Cerdhe	In Review
26074	5/12/2026	Residential	256 E North Old Hwy	Monticello UT 84535	single family home	New Construction	Patrick Adams	Open

26073	5/8/2026	Commercial	11860 S. Hwy 191 #2	Moab, UT 84532	New PEMB warehouse	New Construction	Cathy Cerdhe	In Review
26072	5/8/2026	Residential				Agricultural Exempt	Francisco Nave	In Review
26071	5/7/2026		85 Wray Mesa Rd	Lasal Utah 84530	Recreational	New Construction	Doyle Lish	In Review
26070	5/6/2026						ACE DevCo NC, LLC	In Review
26069	5/5/2026	Residential	148 Rio Grande Drive	Moab Utah 84532	ADU	Manufactured Home-Private Property	Dewayne Frandson	Open
26068	5/4/2026	Residential	321 Bobbie Lane	Lasal UT, 84530	Home	Manufactured Home-Private Property	Mickelle Lindsay	Open

Total Records: 27

6/4/2026