

Planning Division Staff Report

SECTION 1: Project Summary

PROJECT INFORMATION

Project Number	PL20230206
Project Name	Leaf Properties CR 233 Retail Store Preliminary Plan
Project Type	Major Land Use Permit
Hearing Body	Joint Planning Commission
Hearing Date	April 3, 2025
Staff	David Barnett

Project description: This is a development application for an approximately 9,250 sq. ft. retail store.

APPLICANT AND PROPERTY INFORMATION

Property Owner / Applicant	Leaf Properties Exchange Xi LLC
Agent	Tiffany Rhodes APC
Project Location	920 CR 233, Durango, CO 81301
Parcel Number(s)	566912201027, 566912201026
Parcel Size(s)	0.421 acres and 0.621 acres
Planning District	Durango District

Recommendation: Approve with Conditions

SECTION 2: LOCATION AND LAND USE

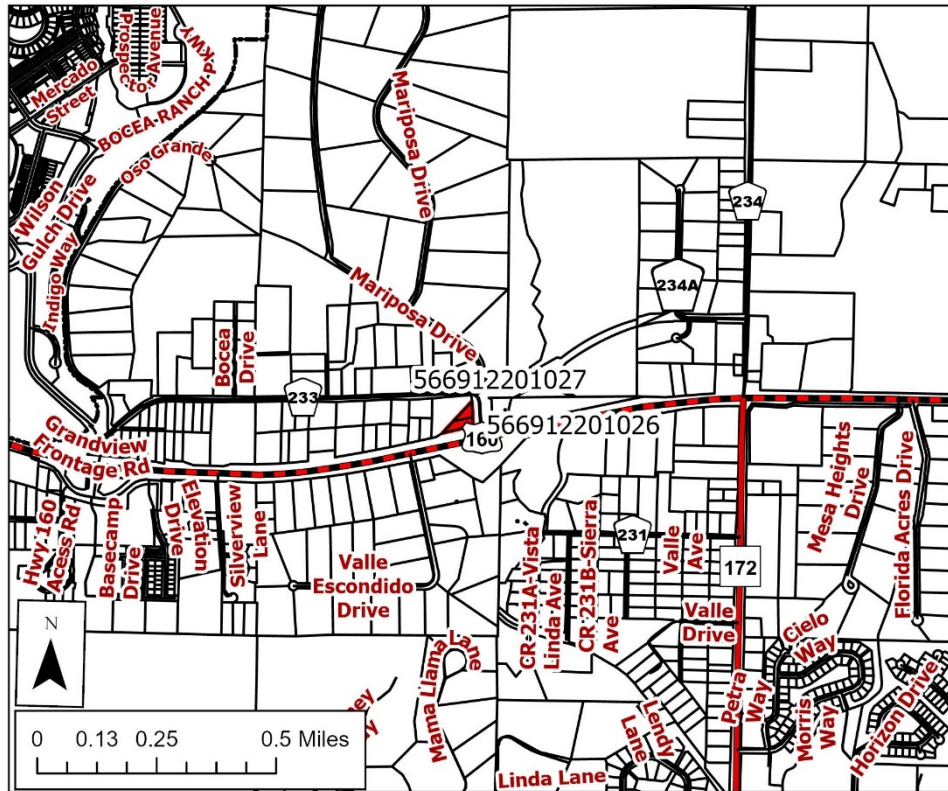


Figure 1: Vicinity Map

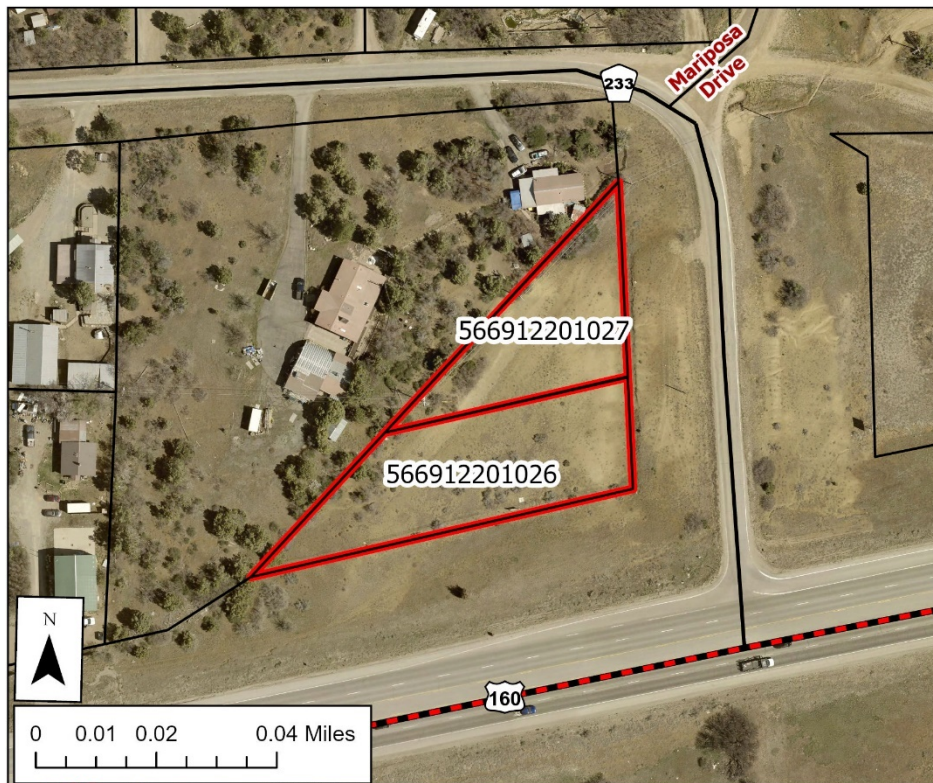


Figure 2: Location Map

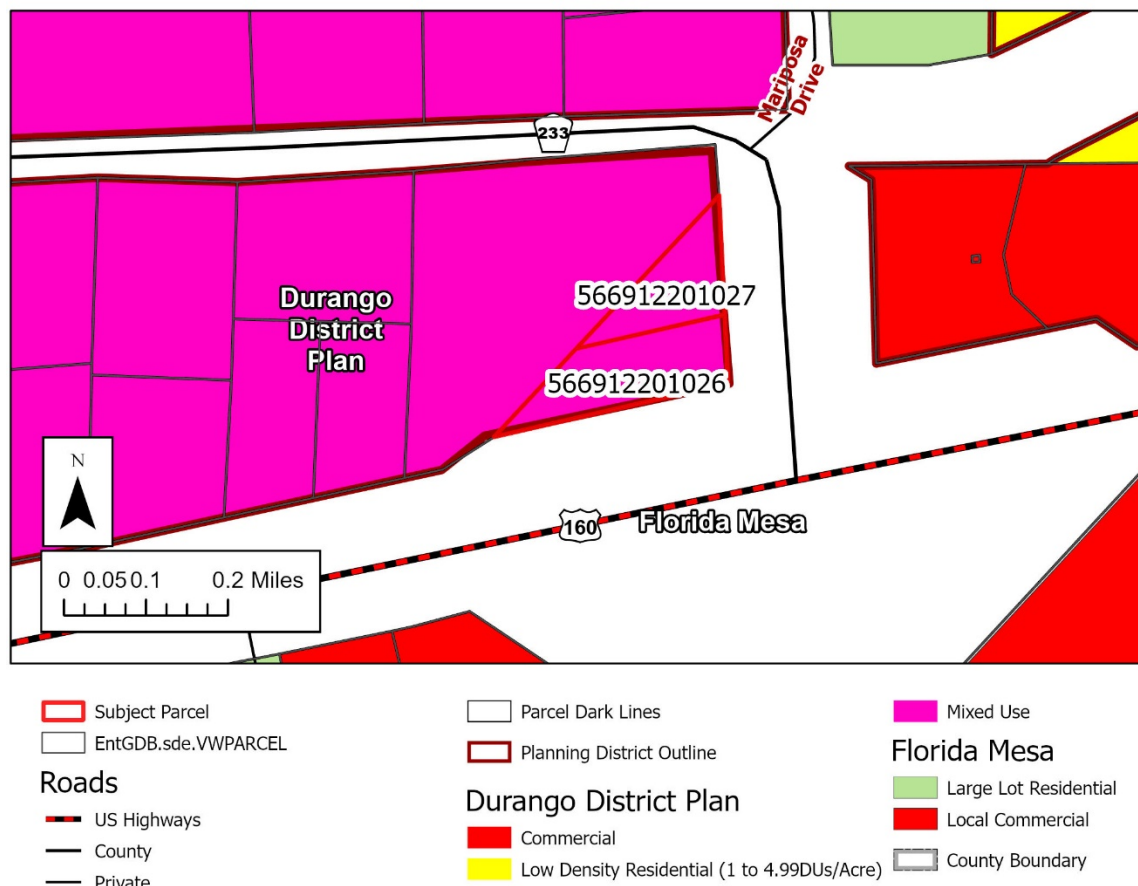


Figure 3: Land Use Map
Subject Land Use Classifications

DURANGO DISTRICT PLAN	Mixed Use	5-24 DU/A	<p>Allows for commercial, residential or mixed-use development at appropriate scales for the setting based on proximity to existing single-family neighborhoods and the size of the site. Uses may be mixed vertically (e.g., upper floor residences) or horizontally (e.g., commercial frontage with residences located beside or behind the commercial development).</p> <p>Appropriate uses include one or more of the following uses incorporating pedestrian-oriented design: attached residences (generally located above or behind non-residential uses), live-work spaces, retail, services, restaurants, offices and compatible public facilities.</p>
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ADJACENT LAND USE CLASSIFICATIONS

NORTH: Mixed Use
EAST: Commercial
SOUTH: US HWY 160
WEST: Mixed Use

SECTION 3: PROJECT DESCRIPTION

Proposal:

The proposal is to build an approximately 9,250 sq. ft. retail store located at 920 CR 233 along the Grandview corridor. The subject property is in the Durango District Plan (DDP) and is currently vacant. The store plans to operate seven (7) days per week, with hours of operation from 9:00 am to 9:00 pm. No tenant has been identified at this time.

Background:

The subject property consists of two parcels with the following approximate acreages: 0.421 ac., and 0.621 ac. The property is former highway right-of-way that must be consolidated and legalized into a single parcel to be eligible for development. Project #PL20240118 is being considered concurrently with this project to legalize the property.

The Leaf Properties CR 233 Retail Store Sketch Plan, project #PL20230136 was approved by the Joint Planning Commission on February 15, 2024. This application is generally consistent with the approved sketch plan.

Process: Major Land Use Permit Procedures (Land Use Code Section (LUC Sec.) 66-21.I)

Major land use permit projects require consideration by the county of a sketch plan, preliminary plan, and final plan, in that order. Unless a phasing plan was approved as part of a sketch plan, a conceptual development plan as provided in section 66-29 is required when development is proposed in phases and may be processed concurrently with the first phase of the preliminary plan. Each step is a distinct process involving the submittal of an application, an application fee, required plans and reports, referrals of the proposal to other agencies, staff analysis, work sessions and public meetings. At each step of the process, the design and engineering detail increases in order to relieve the applicant from major and potentially unnecessary expenses in situations that may require a redesign and a revision of expensive engineering or planning reports. Approval of any application in the process does not ensure approval of the next application.

Based upon the submitted documentation, the proposed new development requires a major land use permit pursuant to LUC Sec. 66-7.I.A.4. The Joint Planning Commission approved the Leaf Properties CR 233 Retail Store Sketch Plan, project #PL20230136, on February 15, 2024. Therefore, pursuant to the processing standards set forth in LUC Sec. 66-21, an approved preliminary plan is required prior to the submittal of the final plan application.

SECTION 4: AGENCY COMMENTS

Staff notified applicable agencies of the proposed development. Relevant comments received are summarized below unless included as attachments in this report.

No Comments Provided:

1. La Plata County Building Department – None
2. La Plata County Weed Management – None
3. Durango School District 9-R – None
4. Southwestern Water Conservation District – None

5. La Plata Electric Association – “no comments or concerns”
6. Black Hills Energy – None
7. Century Link – None
8. Charter Spectrum – None
9. FastTrack Communications – None
10. Atmos Energy – None
11. Tri-State – None
12. Ting Internet – None

Comments Provided:

13. Colorado Division of Water Resources (DWR) – *“DWR has no objection to the development of vacant land at CR 233 into Commercial/Retail Use. The Active Well Permit (84848-F) covers those new uses.”*
14. Colorado Department of Transportation (CDOT) – *“This project did require a new access permit (523090). The project has the access permit and CDOT doesn't have other comments.”*
15. Colorado Department of Public Health and Environment (CDPHE) – Air Pollution Control Division commented on the fugitive dust control measures that must be followed at the site. Hazardous Materials and Waste Management Division commented that if regulated solid wastes are encountered during the disturbance of soils, the applicant must contact CDPHE prior to their disposition. All waste generated must be disposed of appropriately. Full comments are attached.
16. City of Durango Community Development – Planning Division – *“Since City water is not being used, the following are not official requirements, but rather, strong recommendations. The applicant is encouraged to seriously consider City standards as it may be easiest to comply now and avoid modifications potentially being required in the future due to nonconformities.”* The comments include building materials, colors, façade, lack of windows, vehicle and bicycle parking, signs, and water tank screening. Full comments are attached.
17. City of Durango Community Development – Engineering Division – Commented on the revised submittal. Further corrections and clarification are needed on the drainage report and civil plans. Corrections are discussed in the analysis of this report and in the attached full comments dated 2/7/2025.
18. La Plata County Engineer – Commented on the revised submittal. Further corrections are needed on the construction plans, drainage report, Traffic Impact Study/pavement capacity evaluation, and Road Improvements Agreement (RIA). Corrections are discussed in the analysis of this report and in the attached full comments dated 3/14/2025.
19. La Plata County GIS/Rural Addressing – *“Project location has been assigned the situs 920 CR 233 DURANGO CO 81301 and there is only one building proposed so current addressing schema is acceptable. Applicant can contact La Plata County GIS Dept...if official address notification is needed or if individual units within the building are created and need unique designations.”*
20. Durango Fire Protection District (DFPD) – Commented on the revised submittal. Comments describe requirements for access, water storage for fire flow, fire suppression system design, gas and electric service disconnects, and the need for further review and acceptance. Full comments are attached.

21. Florida Water Conservancy District – *“Parcel 566912201012 has no classified irrigable acreage which receives Florida Project water. This project requires no action by the Florida Water Conservancy District.”*
22. South Durango Sanitation District – Commented that the property currently has one tap. Once additional information on the occupant is available a final determination will be made on additional service tap fees. Full comments are attached.

SECTION 5: PUBLIC NOTIFICATION

Staff followed the La Plata County Land Use Code (LUC) noticing procedures and standards, found in LUC Sec. 66-14.

No public comments were received as of the writing of this staff report.

SECTION 6: ANALYSIS

SEWER

Proposed Source: Connection to central sewer system.

Compliance Summary: The property is serviced by a central sewer system. Per agency comments provided by South Durango Sanitation District, the district has wastewater treatment service available for the proposed use, the property has one tap, and a final determination on additional taps will be made when additional information on the occupant is available. The applicant has demonstrated compliance with LUC Sec. 70-3.II for wastewater treatment.

WATER

Proposed Supply Source: Existing individual well permit.

Compliance Summary: The proposed water for the store is an existing individual well on the property. Durango Fire Protection District reviewed plans for the proposed water storage tank for fire protection and stated that a full analysis of the stored water supply must be provided for further review and acceptance.

Per comments provided by the La Plata County Engineer, documentation from CDPHE of approval of the public water system will be required. For complete Planning Engineering Compliance Review see attachment.

The applicant will be required to demonstrate compliance with LUC Sec. 70-4 for water supply in subsequent land use permit(s).

ACCESS

Proposed Access: Relocated access off CR 233.

Compliance Summary: The property has an existing access to CR 233 which will be realigned. The applicant submitted access permits, and civil plans for the proposed realignment and required road improvements to CR 233. Per agency comments provided by Colorado Department of Transportation, the project required and received a new access permit.

Per comments provided by the La Plata County Engineer, there are compliance items that can be addressed after hearing at final plan, including required revisions to the construction plans, drainage report, Traffic Impact Study/pavement capacity evaluation, a revised driveway permit from County Public Works, and Road Improvement Agreement (RIA). Improvements to CR 233 are required, and a draft RIA is included in the Planning Engineering Compliance Review which is attached.

Durango Fire Protection District (DFPD) commented that a secondary access road is not required.

After recommendations from the Public Works Director and DFPD, an emergency access was determined to be not necessary, and that requirement was waived. See the attached waiver (Project #PL20240206).

The applicant will be required to demonstrate compliance with LUC Chapter 74 for road and bridge standards in subsequent land use permit(s).

COMPATIBILITY ASSESSMENT (LUC SEC. 70-5)

All applications for minor and major land use permits shall demonstrate compatibility through compliance with the standards set forth in this code and fulfilling the criteria in this section. The standards in this code are those considered to be the minimum necessary to achieve compatibility and shall not be lessened except where a variance is obtained. Fulfillment of the criteria may be achieved through the implementation of mitigation measures for all potential adverse impacts. A compatible development is one which will achieve each of the following:

A. Appropriate densities and uses for the parcel, compatible with natural topography and location relative to available infrastructure and community services.

The proposed retail store is located in the Grandview corridor, which has existing commercial, mixed use, and residential land uses. There is currently no central water in this area, but there is central sewer service. The densities and uses proposed by this development are consistent with the relatively flat natural topography of the subject property and neighboring lands.

After reviewing the application materials, staff finds that the proposed retail store is an adequate use for the subject parcel.

B. Avoidance of unmitigated nuisance conditions (noise, odor, vibration, dust, glare, and hours of operation).

During application review, noise, glare, and hours of operation were identified as potential nuisance conditions. The applicant has proposed a berm along the northwestern property line, new landscaping throughout the property, and screening for the dumpsters and water storage tank. The proposed hours of operation are from 9 am to 9 pm, seven days per week. Mixed use development is consistent with surrounding land uses, thereby minimizing the potential for unmitigated impacts on adjacent properties in accordance with LUC Sec. 70-5.III.B.

C. Pollution control practices and permits.

After reviewing the submitted documentation and comments obtained from referral agencies, no pollution issues that would negatively impact ground or surface water, air, and soils have been

identified during the project review. The proposed drainage plan and erosion control will mitigate stormwater runoff.

D. Maintenance of existing character (orderly land use pattern, adequate buffering, minimal increase in density, similarity of structures and development, and no increase in hazards).

Consideration of the characteristics of the surrounding area encompassed a ¼ mile from the subject property (LUC Sec. 70-5.III.D). The proposed retail store results in a logical land use pattern since the neighborhood is mixed use, and there are other retail stores and commercial properties in the area. Adequate buffering is proposed to screen from the residential property to the northwest, CR 233 to the east, and Hwy 160 to the south. The proposed structure is similar in scale, mass, height, and configuration of the surrounding land uses. The use proposed by this development is consistent with neighboring properties.

E. Adequate provision of services.

The subject parcel will be served by an individual water well and central sewer system. The applicant has provided adequate documentation regarding access and proposed improvements to CR 233. Based on this information, it is not anticipated that the development will generate any adverse impacts to local and/or quasi-governmental agencies.

F. Natural environment and resources.

No adverse impacts to the natural environment, critical lands, and/or resources within the surrounding area have been identified.

GENERAL APPROVAL CRITERIA (LUC Sec. 66-16)

Unless otherwise specified, county review bodies and decision-making bodies shall review all land use permit and development applications, including without limitation requests for director determinations, submitted pursuant to this code for compliance with the general approval criteria stated in this section. The application may also be subject to additional approval criteria and standards specific to the type of application. In case of conflict between a specific approval criterion stated and the general approval criteria stated in this section, the specific approval criterion shall apply.

A. Compliance with this code's purposes and use and development standards. The proposed development shall comply with this code's purposes provision in section 62-3 and with all applicable standards of this code.

As evident in the staff report as a whole, and upon compliance with the recommended conditions, the proposal has been found to comply with the code's purposes found in LUC Sec. 62-3.II A through F. More specifically, the application is generally consistent with the code's purposes of:

1. Implementing the land use preferences expressed in the district plan.
2. Ensuring that development provides or is served by adequate transportation, water supply, and wastewater treatment.

3. Enhance the economic well-being of the community and its residents through innovative land use areas as well as an efficient, timely, and cost-effective process for development when that use is deemed appropriate for the proposed location.

With respect to applicable standards, the preceding parts of this Section 6 identify compliance with water, sewer, and access (LUC Secs. 70-4, 70-3, Ch. 74). Additionally, standards such as compatibility and site design have been addressed with consideration of the appropriateness of the land use (LUC Sec. 70-5).

The applicant has proposed an alternative setback from Hwy 160, and staff has found that the proposed setback meets the criteria of LUC Sec. 70-6.I.E and maintains the minimum of 20 feet from public roads.

B. Consistency with review agency comments.

There are several items identified during compliance review by the County Engineer, City Engineering, and Staff that must be addressed at final plan. These items include drainage, the Traffic Impact Study/pavement capacity evaluation, the Road Improvements Agreement, outdoor lighting, signs, and screening. Conditions of approval are recommended to ensure these requirements are met.

The applicant will need to meet all standards required by Durango Fire Protection District as applicable during improvements installation and at building permit.

With the conditions of approval outlined in Section 7 of this staff report, the proposal is consistent with review agency comments noted in Section 4.

C. Consistent with prior approvals.

As noted in Section 3, the Joint Planning Commission approved the Leaf Properties CR 233 Retail Store Sketch Plan, project #PL20230136, on February 15, 2024. Staff found the proposed development to be generally consistent with this prior project approval.

D. No significant unmitigated adverse impacts on surrounding property or the natural environment.

Located along the Grandview corridor, there is a residential property directly to the northwest, and numerous mixed use, residential, and commercial properties in the area. The proposed development may impact the neighboring residents due to increased noise, lighting, and traffic; however, the applicant has demonstrated the ability to adequately mitigate adverse impacts and buffer from adjacent residential properties in accordance with the requirements outlined in LUC Secs. 70-5, 70-17, and 70-19. Specifically, the applicant has proposed a landscaped berm along the northwestern boundary, installing new landscaping throughout the property, and screening the dumpsters and water tank from view. Lighting and signage will comply with LUC Secs. 72-2.V and 70-7 to minimize light impacts from the proposed store. Mitigation of impacts on the natural environment includes erosion and sediment control, and revegetating exposed soil where applicable.

E. Conformance with adopted plans.

The proposed development is in general conformance with the County's 2017 Comprehensive Plan including, but not limited to the following:

Land Use Element

Policy 1.1.A1: The County should promote the use of a refined and considerate land use planning system (land use classification) in areas of the County, which are developed, or anticipated future developing areas. The existing District Plans should be reviewed and evaluated regularly in order to ensure that they address the County's goals, and correlated with fiscal responsibilities.

Policy 1.1.A2: The County should review, consider and evaluate various service areas for accommodating general population needs. Such areas should address both opportunities and needs of the County, relative to residents, business climate, the natural environment and general open areas for recreation. Activity/growth hubs will need to be reviewed and refined on a regular basis to ensure service needs and fiscal responsibilities of the County are balanced considerations.

Policy 1.1.C2: The County should consider physical characteristics of the land, such as geo-hazard areas, soil conditions, topography and the availability of public facilities and services during considerations for land use application.

Policy 1.1.C3: The County should consider economic development and the County's fiscal responsibilities, as well as cost-benefit to the County, during considerations for land use application.

F. Uses and density in general conformance with district plan.

The subject property is located in the Durango District Plan (DDP), which includes the Grandview Area Plan and is designated with a "Mixed Use" land use classification. The Grandview Area Plan provides the following description:

Mixed Use has a density restriction of 5 – 24 dwelling units per acre and allows for commercial, residential, or mixed-use development as appropriate scales for the setting based on proximity to existing single-family neighborhoods and the size of the site. Uses may be mixed vertically (e.g., upper floor residences) or horizontally (e.g., commercial frontage with residences located beside or behind the commercial development) (pg. 40 of the Durango District Plan).

The applicant proposes to build an approximately 9,250 sq. ft. retail store. No tenant has been identified at this time.

Similar to the Comprehensive Plan, the DDP provides guidance considerations with corresponding goals, objectives and policies that can be weighed and considered relative to an application. Policy considerations as stated in the DDP that generally align with this proposal include but are not limited to the following:

5.4 Community Development Goals, Objectives and Policies

Goal 4: Foster sustainable and resilient development that is compatible with established neighborhoods and contributes to reductions in resource consumption, greenhouse gas emissions and improves quality of life.

Policy 4.1.5: Encourage growth in areas that do not require the extension of water, sewer, and road infrastructure or facilitate sprawl.

Policy 6.1.3: Coordinate with La Plata County to ensure that:

- *City and county decisions about the type and intensity of land uses in the Planning Area are consistent with the Future Land Use Map; and*
- *The city and county will review development proposals for consistency with the Future Land Use Map and compatibility with site-specific conditions. Site specific review is needed to ensure that development proposals are consistent with other city policies, including but not limited to policies addressing natural hazards, environmental protection, neighborhood compatibility/stability, design, and the adequacy of public facilities and services.*

Chapter 7: Area Plans & Character Districts

7.1.1 Grandview Area Plan: (excerpt) "...Grandview neighborhoods should provide opportunities for residents to shop, work and play, thereby reducing the need to contribute to peak hour traffic congestion on Highways 160 East and 160/550."

Based upon weighing these considerations, the project as proposed is in general conformance with the Durango District Plan.

G. Rational phasing plan.

The project is not phased.

H. Consistent with intergovernmental agreements.

The Board of County Commissioners adopted an intergovernmental agreement (IGA) between La Plata County and the City of Durango regarding joint land use planning on April 1, 2014. The subject parcel is located in the joint planning area and subject to the IGA. The development application was subject to a detailed compliance review of applicable code standards that include but are not limited to those standards set forth in LUC Sec. 72-2. Based upon the comments provided by the City of Durango (see Section 4) and the development being in general conformance with the applicable district plan, the development is consistent with the adopted IGA.

I. Compliance with applicable state and federal laws and regulations.

The proposal is compliant with state and federal laws and regulations as evident in agency comments from CDOT, DWR, CDPHE, and consistency with existing permits. At this time, there are no particular issues of concern. It is the applicant's responsibility to comply with applicable state and federal laws and regulations.

SECTION 7: DEPARTMENT RECOMMENDATION

Based on specific findings, the Joint Planning Commission may vote to continue the project, approve the project with or without conditions, or deny the project.

Staff recommends the following:

Approve Project #PL20230206, Leaf Properties CR 233 Retail Store Preliminary Plan with the following findings and conditions:

Findings:

- A. Requirements for adequate sewage disposal have been met with submitted documentation. (LUC Sec. 70-3).
- B. Requirements for adequate water have been met with submitted documentation. (LUC Sec. 70-4).
- C. Requirements for proof of adequate access have been met with submitted documentation. (LUC Chapter 74).
- D. The project is compatible with the surrounding area (LUC Sec. 70-5).
- E. The development application complies with the procedures for a major land use permit (LUC Sec. 66-21).
- F. The application demonstrates general compliance with land use code requirements. (LUC Sec. 66-11.II.C.2).
- G. The development meets the general approval criteria for land use permits. (LUC Sec. 66-16.II).
- H. Upon compliance with the conditions below, the applicant has demonstrated compliance with the applicable major land use permit standards. (LUC Sec. 72-2, Chapter 70, and Chapter 74).

Conditions

1. Prior to final plan approval, all remaining outstanding items, including those listed on Compliance Notice #3 dated March 17, 2025, Engineering Compliance Review #3 dated March 14, 2025, and the City of Durango Engineering comments dated February 7, 2025, shall be resolved.
2. Prior to building permit issuance, one electronic complete set of the signed and stamped engineered construction drawings and drainage report shall be submitted. (LUC Sec. 70-4.VII, LUC Sec. 70-9.III, LUC Sec. 74-3.III).
3. Prior to building permit issuance, the Road Improvement Agreement must be signed by La Plata County and shall be recorded.
4. Prior to building permit issuance, a driveway permit from La Plata County Public Works must be obtained.
5. Prior to building permit issuance, the applicant shall provide a binding commitment for sewer service signed by the service provider (such as a perpetual, non-revocable tap reservation) or evidence of tap purchases from the sewer service provider.
6. Prior to building permit issuance, the final plat for Project #PL20240118 must be recorded to legalize the parcel for development.

7. Prior to Certificate of Occupancy issuance, improvements shall be installed per the construction, drainage, and erosion control plans as verified by (1) documentation from the applicant's engineer and developer that the improvements have been completed per plans, (2) County inspection, (3) City inspection, (4) South Durango Sanitation District inspection, and (5) Durango Fire Protection District inspection (LUC Secs. 66-2, 70-2.IV, 70-4.VII.D.7, 70-9.III.E, and 74-3.III.D).
8. Prior to Certificate of Occupancy issuance, certification by an engineer of the volume of the detention pond based on an as-built survey shall be submitted (LUC Sec. 70-9.III.E).
9. Prior to Certificate of Occupancy issuance, the site shall be reclaimed and revegetated adequately to stabilize exposed soil (LUC Sec. 70-9.III.E).
10. Prior to Certificate of Occupancy issuance, provide documentation from CDPHE of approval of Public Water System.
11. Prior to Certificate of Occupancy issuance, the road improvements on CR 233 must be completed.
12. When the central water supply is within 400 feet of the property, all development shall be connected to the infrastructure, and any fire suppression system design shall be verified for compliance with any future water flow data.
13. All outdoor lighting shall be reviewed prior to building permit issuance and shall be shielded, shall not be the cause of light trespass onto public rights-of-way or adjacent property, and shall comply with the La Plata County Land Use Code (LUC Sec. 72-2.V).
14. Business signs shall comply with the La Plata County Land Use Code (LUC Sec. 70-20.III). All illuminated signs shall comply with the standards set forth in section 70-7 (LUC Sec. 70-20.III.H.1).
15. Hours of operation shall be limited to 9 am to 9 pm, seven days a week (LUC Sec. 70-5.III.B.6).
16. Ongoing maintenance shall occur for all required landscaping, including the replacement of dead or unhealthy plants. Landscaping shall be maintained by the property owner or other legal entity responsible for such plant materials as required or approved (LUC Sec. 72-2.VI.G).