AGENDA
OURAY COUNTY PLANNING COMMISSION
REGULAR MEETING & WORKSHOP

January 5, 2016, 4:45 – 8:00 p.m.
Meeting to be held at the Ouray County Land Use Office
111 Mall Road, Ridgway, Colorado

If all agenda items are not covered in this time frame they may be continued until the next regular meeting. ****Times are approximate and subject to change*.*** *If an item is finished early the Planning Commission will move directly to the next agenda item. If not a Public Hearing, public comment may or may not be taken during the meeting. Action may be taken at the conclusion of public hearings.*

I. The Staff will be providing snacks for the Planning Commission members and they may arrive early in order to be prepared for the following item. (4:45 PM)

II. Call to Order – Workshop of the Ouray County Planning Commission (5:00 PM)

1. Chris Hawkins, a local Planner, will be giving a presentation about how an outside consultant can assist the County in the development of a new Master Plan.
2. As directed by the BOCC, the Planning Commission will conduct an initial review of the Ouray County Master Plan. The purpose of the review is to identify potential issues or short-comings in the plan and to estimate the amount of work involved with making revisions. The planning commission will then provide this information back to the BOCC to help them plan future work efforts.

III. Call to Order – Regular Meeting of the Ouray County Planning Commission (7:45 PM)

1. Request for approval of minutes; 11/17/2015
2. New business
3. Adjourn Regular Meeting

Copies of land use applications or workshop materials can be obtained at the Land Use Office at 111 Mall Road, Ridgway, CO; by calling 970.626.9775 or e-mailing mcastrodale@ouraycountyco.gov. Comments on the agenda items may be sent to Mark Castrodale, County Planner, P.O. Box 28, Ridgway, CO 81432

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CURRENT MASTER PLAN (1999 ADOPTION)

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OURAY COUNTY
MASTER PLAN

Prepared by:

Ouray County Planning Commission:

Jim Irvine, Chairperson

Barbara Vanhoutte, Vice-Chairperson
Linda Ingo
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Ouray County Land Use and Planning Department

Gary Laura, Administrator
Greg Moberg, Planner
Carol Dunn, Planning Technician
Jane Bennett, Secretary to the Commission

Adopted by the Ouray County Planning Commission

December 1, 1999

Endorsed by:

The Ouray County Planning Commission would like to express its sincere appreciation to the citizens of Ouray County who devoted their time and effort to giving the Planning Commission insight and direction during the preparation of this Master Plan.

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1 Goals and Policies

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Introduction

As Ouray County citizens enter a new millennium, words that introduced the original Ouray County Zoning Regulations in 1971 are still applicable today. "The area encompassed by Ouray County is a quiet land of awesome beauty, even today nearly untouched and unspoiled . . . It ranges from the magnificent San Juan Mountains on the south across the Uncompahgre Valley, and on in to the rolling foothills and mesas covering the northern parts of the county. Ouray County, then, possesses a rare combination of assets; a priceless and varied natural environment, ranging from unique wilderness to more hospitable areas, and a population which is aware of the value and delicacy of the physical setting surrounding it."

"Ouray County is now becoming known to people from all areas as a winter and summer recreation area . . . In the face of such potential popularity, how can the unique environment for living, including the delicate natural environment, be protected? How can the County accommodate the inevitable development pressures, without letting these pressures negate or even destroy the unique and irreplaceable qualities that attracted them in the first place?" The questions being asked then are still relevant to this day. Building on our history and incorporating results of a recent survey of the people of Ouray County, this update of the Master Plan for Ouray County seeks to encompass and expand upon these original precepts.

Purpose of the Plan

The Master Plan is a comprehensive, long-range guide, prepared by the Ouray County Planning Commission, to be used in making decisions that affect the physical, cultural and socioeconomic development of Ouray County. The Master Plan provides a realistic and achievable image of the County, both present and future, through a framework of goals and policies. The goals provide general statements reflecting the desires of county residents regarding the use of land and lay the groundwork for zoning and the land use decision-making process. The policies provide the County's positions relating to the identified goals and establish guidelines for direction or action.

The physical development of the County has direct and indirect effects on property rights, natural resources and property values. This Master Plan seeks a balance that respects these concerns in an effort to maintain the County residents' quality of life. Therefore, it is the intent to allow only that development which is responsible and consistent with the goals and policies set out in this plan.

An additional purpose of this plan is to facilitate cooperation between the municipalities and the County on matters of mutual concern.

The Planning Process

In 1994, the County declared a one-year moratorium on new planned unit developments due to an increase in proposed residential development and circumvention of the Master Plan goals. After three years of collecting information, a geographic information system (GIS) was developed, a county planner was hired, and a Demographic and Economic Trend Line Report was completed.

In December of 1997, joint Planning Commission and Board of County Commissioners meetings were held to define the planning process. The Planning Commission held open workshops twice a month to obtain community comments and concerns. Joint planning commission workshops were held with the two municipalities.

The Master Plan is the end result of analysis of all pertinent data collected as well as community input. After a formal public hearing, this Master Plan was adopted by resolution of the Ouray County Planning Commission. These goals and policies are a reflection of this community's values and desires for Ouray County.

Goal of the Ouray County Master Plan:

The overall goal of the Ouray County Master Plan is to allow gradual, long-term population and economic growth in Ouray County in a manner that does not harm the County's irreplaceable scenic beauty, wildlife, air and water resources, and other environmental qualities and that does not unduly burden the County's residents or its governments. To better define and implement this overall goal of the County Master Plan, the following goals and policies are set forth.

For organizational purposes, the order of the goals are listed alphabetically with no weight or priority implied.

A. Agricultural Lands

Agricultural uses within Ouray County are important physical, environmental, cultural, aesthetic, and economic asset to both urban and rural residents. In addition, preservation of these lands in large tracts is desirable to maintain the agricultural economy of the County. Development of these agricultural properties is a matter of public concern in both the agricultural community and the residential community because of the interface between agriculture and development activities.

Goal:

To encourage the continued use of lands for agricultural productivity and the right to farm and ranch.

Policies:

1. Ranching and farming shall remain a use-by-right within specific land use zones except as restricted or modified when a change in land use is granted by the County.
2. Develop and implement right to farm/ranch regulations that protect the agricultural community by ensuring the right to continue agricultural activities.
3. Develop and implement regulations and a process that give incentive to an owner to develop the land in a manner that conserves productive agricultural lands.
4. Consider intergovernmental agreements with the Town of Ridgway, the City of Ouray and areas of future incorporation that would maintain irrigated fields and low-density development surrounding each municipality

in exchange for establishing and maintaining urban growth boundaries.

5. Evaluate and consider for adoption programs and incentives that encourage the placement of land into conservation easements and other protective status.
6. Develop and implement a regional agricultural economic development plan in conjunction with the surrounding counties to promote agricultural activities.
7. Obtain, maintain and update a map of ditches and irrigated lands provided by the Colorado Division of Water Resources, supplemented or amended, as required, using other sources. Require developers to designate all irrigation ditches, return flow ditches and drainage ditches located within the boundaries of any development plan and designate access to such ditches and surrounding irrigated fields.
8. Evaluate and consider for adoption incentives and amendments to the Land Use Code that keep or augment existing water rights within the County.

B. County/Municipal Relationships

Municipalities located within Ouray County today are the Town of Ridgway and the City of Ouray. In addition, the unincorporated town site of Colona is also located within Ouray County. Each municipality has developed and adopted a master plan or comprehensive plan to guide their growth. Of importance to all residents are the land use decisions that may be made by the municipalities and the County. These decisions can impact development patterns and the natural environment.

Goal:

To preserve the community character of the City of Ouray and the Town of Ridgway.

Policies:

1. The County and Municipalities (future and present) in cooperation should come to an agreement regarding the location of urban growth boundaries and urban influence zones. Having created and agreed to these boundaries, the County should recognize them in the following manner:
   a. The County should not rezone or allow the development of any property, other than agreed upon uses, within the urban growth boundaries.
   b. The County should support municipal annexations when the subject properties are located within the urban growth boundaries provided all conditions of the intergovernmental agreements are met.
   c. The County and municipalities should enter into intergovernmental agreements to jointly review any development proposals within established urban growth boundaries and other areas of mutual

concern

2. Encourage and foster intergovernmental agreements that uphold the intent of this master plan with any areas of concentrated residential development that undertake a process of incorporation.

C. Economic Development

Ouray County's economy has changed significantly in recent decades. Historically, the economy relied upon underground metal mining, agriculture and tourism. In recent years, mining and agriculture have declined while the economic activities of people with income derived outside the County have increased and service and retail businesses now play a more important role in the County's economy. In addition, the purchase of goods and services has shifted from within Ouray County to nearby Montrose County. A more sustainable and diversified economy is desirable in order to ensure that Ouray County will not be as susceptible to seasonal cycles of a boom and bust economy and that traditional interests and values do not become totally displaced.

Goal:

To promote a diverse and balanced economy that is less susceptible to the economic swings of any one industry.

Policies:

1. Develop and implement standards that allow home based occupations that are appropriate for the property on which they are located.
2. Encourage high quality telecommunications infrastructure in the high-density areas of Ouray County.
3. Encourage commercial and/or industrial uses to locate within the municipal boundaries.
4. Define acceptable commercial and/or industrial uses in the unincorporated areas and develop and implement standards that allow the specific uses to be approved through the special use permit process.

D. Housing

The residents of Ouray County desire attainable and varied housing options for all segments of the population. Attainable housing units are becoming more scarce as population growth continues. Only by ensuring the availability of housing for a diverse and varied population will Ouray County be able to maintain a socially and economically balanced community.

Goal:

To assure the continuing availability of diverse housing to meet the needs of the County's growing population.

Policies:

1. Develop and implement definitions of attainable housing, for both owner-

occupied and rental units, using standard methodologies.

2. Periodically evaluate the housing situation within Ouray County and consider for adoption appropriate changes to the Land Use Code to address the need for attainable housing.
3. Evaluate and consider for adoption regulations concerning the long-term rental of accessory apartments and dwelling units.
4. Evaluate and consider for adoption incentives that assist in development of attainable housing within proposed Planned Unit Developments.

E. Natural Resources

Ouray County residents have always been aware of the abundant natural resources that surround them, including water, timber, minerals, clean air, wildlife, and scenery. In the past, these resources have been utilized to support mining, ranching, tourism, and the associated businesses that make up our communities. A balance between the protection of natural resources and the protection of individual property rights must be considered. The utilization of natural resources may have an impact on the environment; however, if properly planned, such utilization need not result in degradation of those attributes that attract people to Ouray County.

Goal:

To manage our natural resources in a manner that is both environmentally sound and protects private property rights.

Policies:

1. Continue to allow underground mining as a use-by-right in the Alpine Zone. It is recognized that this activity is highly regulated by both state and federal agencies. However, the County reserves the right to review all permits to determine whether the operation is in compliance.
2. Continue to regulate, by special use permit, open pit mining, milling, heap leach operations and other mineral and non-mineral, fuel and extractive operations within Ouray County.
3. Continue to allow property owners, through the special use permit process, the ability to harvest timber on their land.
4. Continue to ensure that all commercial and industrial activities occurring in the County are in compliance with local, state and federal regulations for air and water quality.
5. Evaluate and consider for adoption incentives and technologies that encourage energy and water conservation.
6. Evaluate and consider for adoption "1041" regulations (C.R.S. §24-65.1-101 et seq.).
7. Continue to maintain wildfire mitigation regulations and encourage fire protection and water supply entities to work proactively to make further

improvements in fire safety.

F. Rural Character

Ouray County is made up of diverse landscape and topography. Privately owned land varies widely in terms of the suitability for development. Many of these parcels are not in close proximity to existing planned unit developments or attendant infrastructure. As a matter of public concern, expansion of urban development into rural areas is an issue because of the increased costs of County services (e.g. emergency medical services, fire protection, sheriff services and road and bridge maintenance).

Goal:

To maintain the rural character of Ouray County.

Policies:

1. Develop and implement zoning and incentives to maintain low density or large tracts of land. Where appropriate, direct growth toward areas that are already developed or that otherwise clearly support the goals of this plan.
2. Encourage build out in existing planned unit developments.
3. Create open space or low-density development areas around the town, city and future unincorporated areas by intergovernmental agreements that further the objectives of this master plan.
4. Continue to encourage clustering of residential units within all planned unit developments and those areas of Ouray County where it supports the goals of this plan.

G. Tourism

Ouray County has many natural and scenic resources that appeal to both residents and tourists alike. The City of Ouray's history as a tourist destination began at the turn of the century. Historically, the impact of the tourist industry on the County's economy has been significant; however, this impact is primarily experienced during the summer months. Though winter recreational activities have begun to increase year round tourism, many restaurants and hotels still close down for the winter season.

Goal:

To allow a diverse and balanced tourist economy that minimizes environmental and infrastructure impacts and is less susceptible to seasonal fluctuations.

Policies:

1. Allow the development of the services and facilities necessary to adequately support year-round tourism in a manner that minimizes impacts on the environment, infrastructure and county residents' lifestyles.

2. Develop and implement special use permit regulations that allow tourist based businesses that are appropriately located within the unincorporated areas of the County and that minimize impacts on the environment, infrastructure and county residents' lifestyles.
3. Encourage the location of commercial, lodging, restaurant and other tourism-based activities in the municipalities and those planned unit developments that allow for commercial uses.
4. Allow special events within the County in a manner that minimizes impacts on the environment, infrastructure and county residents' lifestyles.
5. Encourage cooperation with the Town of Ridgway, the City of Ouray, the Ridgway Chamber of Commerce and the Ouray Chamber Resort Association.

H. Transportation

The primary purpose of a transportation network is to move people and goods within and through the County. As the amount of development and population increases, additional demand will be placed on the transportation infrastructure. It must be recognized that the transportation network strongly influences the specific uses of land and the overall pattern of development; because of this interrelationship land use and transportation planning must be coordinated.

Goal:

To promote a transportation network that allows for the orderly flow of traffic on roads in Ouray County.

Policies:

1. Developments creating the need for road improvements are expected to bear the proportional cost of such improvements.
2. If a development creates off-site roadway impacts, the mitigation of such impacts should be required. Such improvements should be considered in addition to any required on-site improvements.
3. Development that causes significant traffic impacts to overburdened roads will be discouraged unless provisions are made for necessary improvements.
4. Coordinate planning and development review efforts with the two municipalities, future incorporated areas and adjoining counties to ensure integration and continuity of the road system and adequacy of roads in Ouray County over time.
5. Roads within new developments should be designed to facilitate safe and logical flow of traffic on, off and, where appropriate, through the site.
6. Evaluate and consider implementation of mass transit and the effect it may have on intra and inter-county transportation.

7. Evaluate and consider for adoption a transportation plan for roads in the County, considering citizen input.
8. Continue to maintain a strong road standard section in the Land Use Code.
9. Evaluate the feasibility of accommodating non-motorized modes of transportation, including horse, pedestrian and bicycle, in order to provide multiple modes of mobility to all segments of the population.
10. Evaluate and consider for adoption policies that direct inter-county traffic to state and federal highways where feasible.

I. Utilities

A number of entities provide utilities in Ouray County. Utility services that are currently available in various areas of the County, include electricity, telephone, sewer, cable, transmitting towers and water. A variety of federal and state commissions, departments, and agencies regulate utilities in Ouray County. However, land use activities, such as the location of transmission lines and the upgrading of existing facilities and the construction of new facilities, are subject to the County's jurisdiction and approval.

Goal:

To recognize the necessity for the timely development of utility facilities and the need for careful planning to minimize the impacts associated with utility facility siting and design. In addition, due to the economic and environmental impacts created by the increased need for energy, the County will continue to encourage the use and exploration of alternative energy sources including, but not limited to, natural gas, solar and wind.

Policies:

1. Utilities may be considered appropriate when sited so that they are as compatible as possible with surrounding land uses and the natural environment.
2. Visual impacts should be identified and effective mitigation measures employed.
3. Access, when required for utility service facilities, should provide minimal impacts to adjoining residents and the environment and should not be used for access to new development.
4. Utility facilities siting should consider joint tower use, multi-utility corridors, and clustering where possible and deemed appropriate.
5. In addition to environmental and land use compatibility issues, the land use review process should also consider the economic, technological, operational, maintenance, and safety implications of future utility facilities.

J. Visually Significant Areas

Ouray County contains some of the most unique and beautiful scenery in Colorado. The diversity of the landscape ranges from jagged high mountain peaks and mesas to river valleys and irrigated fields. Preservation of this visual beauty is of utmost importance to the citizens of the County. The citizens want to be assured that future development will not hinder, impair or destroy Ouray County's scenic beauty.

Goal:

To protect and preserve visually significant and sensitive areas of Ouray County that provide the scenic backdrops and vistas that all residents and visitors of Ouray County enjoy.

Policies:

1. Maintain strong visual impact regulations.
2. Develop and implement strategies for the protection and preservation of critical scenic vistas.
3. Evaluate and consider for adoption programs and incentives that encourage the placement of land into conservation easements and other protective status.
4. Evaluate and consider for adoption programs for the protection of open space by Ouray County.
5. Evaluate and consider for adoption incentives for Planned Unit Developments to surpass the minimum open space requirement as set forth in the Land Use Code

K. Wildlife and Plant Habitats

Ouray County is fortunate to have rich and varied flora and fauna. This Master Plan recognizes the value residents place upon wildlife and plant resources for enjoyment and the economic impact that is generated by activities such as sightseeing, hunting and photography. The degradation of wildlife and plant habitats leads to the inevitable disappearance of wildlife and plant species. This resultant loss of environmental diversity weakens the ecosystem as a whole and may displace wildlife or remove certain species entirely.

Goal:

To recognize the importance of protecting all species and habitat types currently found in Ouray County and maintain healthy and diverse wildlife and plant habitats.

Policies:

1. Identify and strive to protect high-quality and significant wildlife and plant habitat areas. These areas shall include habitats of endangered species, species of special concern, migration corridors, breeding and spawning and birthing areas, wetland and riparian areas, important seasonal

habitats, and habitats supporting a high diversity of wildlife species.

2. Develop and maintain maps and information resources of significant wildlife and plant habitat areas. Each new development shall be evaluated as to the effect the development will have on wildlife and plant habitat areas. If significant habitat loss could occur, mitigation will be required or the proposed development may be denied.
3. Develop and implement zoning and incentives that protect and preserve significant wildlife and plant habitats.
4. Evaluate and consider for adoption programs and incentives that encourage the placement of land into conservation easements and other protective status.
5. Continue to reduce the proliferation of noxious weeds utilizing methods that are in compliance with federal and state laws and local regulations.
6. Evaluate and consider for adoption stronger regulations that would limit, to the extent of the law, the impact that domestic animals within planned unit developments have on wildlife. This program would integrate and support efforts of the Colorado Division of Wildlife.

1985 MASTER PLAN

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OURAY COUNTY MASTER PLAN

INTRODUCTION

"The area encompassed by Ouray County is a quiet land of awesome beauty, even today nearly untouched and unspoiled by a man's hand. It ranges from the magnificent San Juan Mountains on the south across the Uncompahgre Valley, and on into the rolling foothills and mesas covering the northern parts of the County. . . .The population is at a low density, with most of the County economy based on mining, ranching or other agrarian pursuits. Ouray County today, then, possesses a rare combination of assets; a priceless and varied natural environment, ranging from unique wilderness to more hospitable areas, and a population which is aware of the value and delicacy of the physical setting surrounding it."

"Ouray County is now becoming known to people from all areas as a winter and summer recreation area. . . .In the face of such potential popularity, how can the unique environment for living, including the delicate natural environment, be protected? How can the County accommodate the inevitable development pressures, without letting these pressures negate or even destroy the unique and irreplaceable qualities that attracted them in the first place?"

These paragraphs, written in 1971, introduced the Ouray County Zoning Regulations--a document which acted as both a zoning regulation and master plan for the county until the present (1985). Now the County Commissioners and the Planning Commission recognize that while agriculture and mining continue to be the two most important economic activities in Ouray County, recreation and tourism activities have increased over the past 10 years, and so also have development pressures both from within and outside the county. The questions raised in the 1971 document must now be addressed more thoroughly and carefully in 1985. County citizens now believe that the 1971 Master Plan (along with its Zoning Regulations) must be revised and updated so as to better address these same questions.

To assess public opinion with regard to these questions and other land-use matters, a survey was sent out in the summer of 1985 to all county residents and taxpayers. The responses were tabulated and studied by the County Commissioners and Planning Commission, and a series of public meetings were held to further clarify public opinion. The following pages present a brief discussion of the fundamental land-use planning issues in Ouray County in 1985 as reflected in the survey data and from testimony and comments presented at public meetings in both Ouray and Ridgway. Following the discussion of the goals and objectives of the Master Plan are the specific planning policies which serve as guidelines by which development proposals will be judged and which describe, in general terms, the kinds of development which will be allowed by the County Land Use Regulations.

The purpose of this Plan is to provide a framework within which county officials can review and consider land-use proposals as they relate to the county's long-term development goals and objectives.

COUNTY DEVELOPMENT GOAL

The overall development goal of Ouray County is to allow gradual, long-term population and economic growth of Ouray County in a manner that does not harm the county's irreplaceable scenic beauty, wildlife, air and water resources, and other environmental qualities and in a way that will not burden the county's citizens or its government.

COUNTY DEVELOPMENT OBJECTIVES

This Ouray County Plan is based upon the existence of two fundamental objectives commonly shared by the citizens of Ouray County.

1. The preservation of the unique physical environment which has traditionally characterized and defined the county.

   There is a commonly shared recognition among the citizens of Ouray County that the quality of the surrounding physical environment contributes significantly to the quality life for citizens residing within the county. Citizens have remained here or were attracted to Ouray County because of the physical qualities and characteristics of the county--a low-density, agricultural/mining, rural county (both in its history and present condition) which places a high premium upon the maintenance of its natural resources and the preservation of its open space vistas, abundant wildlife, and overall aesthetic beauty. This recognition, that there is a vital interdependence between the county citizens and the land upon which they reside and derive their livelihood, is of foremost concern to all citizens of the county.

   Consistent with these commonly shared goals, as reflected in the survey data, the county wishes to protect and preserve large tracts of undeveloped land so as to further encourage agricultural and natural resource production, while at the same time preserving the county's natural environment for the growing recreation and tourist trade. These latter activities are dependent upon the county maintaining and preserving the unique environmental qualities for which the county is world-famous.

   The special visual qualities found in the upper portion of the Uncompahgre River valley are a particular combination of desirable visual sensations in which the hand of man is seen in irrigated hay lands in the foreground while in the background are forests and high, craggy mountains where the natural environment appears pristine. The hay fields, forested slopes and jagged peaks are the quintessential example of a type of landscape very highly valued by American culture. Ouray County is recognized world-wide as a beautiful place , and it is the aim of this Plan to provide a framework within which Ouray County can constructively respond to development proposals without harming the very qualities that attract people here in the first place. The county's uncluttered landscape, together with other factors such as its high air and water quality, scenic vistas and natural resources including minerals, productive soils, timber lands, and abundant and varied wildlife, are some of the important factors that draw people to Ouray County.

2. Consistent with and coordinate with the first goal, to accommodate population growth and economic development in a controlled and orderly manner to secure for the county and its citizens a broader and more stable economic base.

A more stable and diversified local economy is desired by county citizens in order to free them from the economic cycles of the mining and agricultural industries. Attracting industrial or commercial employers is an important objective to many citizens of the county, particularly to those in the incorporated towns of Ridgway and Ouray. Pending success in this area, and a strengthening of the mining and agricultural sectors, what remains as additional sources of improved economic conditions are recreational, resort and tourist uses--uses that rely upon the county remaining an attractive place to reside and visit.

The county, through this Plan, wishes to encourage quality development(s) which are planned in a rational and systematic manner and which contribute to the long-term economic and social benefit of the county and its citizens. This Plan, therefore, places ultimate responsibility upon developers to demonstrate how their plans will benefit the county, that such developments will, at a minimum, strengthen the local economy while not adversely impacting upon the surroundings. This Plan specifically discourages land speculation and development which may harm individual property values and the physical landscape of the entire county.

Finally, the county recognizes that over time, circumstances change and that situations may arise in the future which are not adequately considered in this Plan. Therefore, provision is made to allow for the revision of the zoning regulations as new or special circumstances arise in the future.

COUNTY DEVELOPMENT POLICIES

In order to progress toward this goal, Ouray County adopts the following policies to be used in framing and implementing its Land Use Regulations. These policies are based on the historic division of the county into three zones: Alpine (lands over approximately 7800 feet elevation), Foothills (land below 7800 feet and not irrigated), and Valley (all historically irrigated lands regardless of location). This division is particularly suited to the county because of the diversity of terrain and the fundamental influence of terrain on the activities of man. In addition, it is an approach now familiar to county residents and landowners and its use is continued here.

PLANNING ZONES (as defined by altitude and vegetation)

Alpine Zone:

This high-altitude zone serves as (1) the scenic backdrop for the county; (2) the primary summer range for wildlife and livestock: (3) the traditional area for mining activity; and (4) a major recreational area for residents and visitors. Because of these uses, the planning goal in this environmentally fragile zone is to preserve its natural beauty and its low density.

Hence the planning policy is to continue to allow agricultural and mining activities, which are low-density, traditional uses-by-right, and low-density residential development. Certain new commercial uses (under a PUD) are now allowed but may not significantly interfere with uses-by-right in this zone.

Foothills Zone:

Of all the three zones, this mid-altitude, dry-land zone has traditionally and best accommodated residential and commercial development. It is in this zone where the land has also been the least productive in terms of crops and pasture. The Foothills provide the best visual and natural protection for medium and high-density development. The goal in the Foothills is to preserve the visual landscape while directing the major residential and commercial growth, which may occur outside the incorporated towns and villages, to this zone. The policy, therefore, is to allow, under a PUD, commercial and residential medium and high-density development (in conjunction with recreational facilities) in the Foothills. Also allowed are traditional uses-by-right: agricultural and mining activities; and low-density, single family residential units. All medium and high-density developments must adhere to certain visual considerations (see below), public health and safety standards, and be sensitive to the impact these developments may have upon the winter range and breeding grounds utilized by the county's abundant wildlife population. Certain new commercial uses (under a PUD) are now allowed but may not significantly interfere with uses-by-right in this zone.

Valley Zone:

This irrigated area provides the basic winter ground for livestock and therefore is vital to the maintenance of the county's agricultural industry. These open meadows also serve to enhance the visual attractiveness of the county for residents and tourists alike. The county therefore wishes to encourage the further preservation of these irrigated lands and thereby allows only low-density residential use, and (by special permit) specific and limited mining activity. Commercial and industrial uses in the Valley Zone should not be allowed.

CITIES AND TOWNS

The county recognizes the social and economic importance of Ridgway and Ouray, and through this Plan wishes to encourage their future growth. Therefore, the county Land Use Regulations should direct all new industrial, commercial, and high-density residential developments to the incorporated cities and towns when appropriate.

Based on the prior existence of high density residential and commercial uses in Colona, the county considers Blocks 1 through 6 of Colona Townsite appropriate locations for special consideration.

As a further policy, the county encourages Ridgway and Ouray to work in conjunction with the county to coordinate county-wide land-use.

LOW DENSITY RESIDENTIAL DEVELOPMENT

Consistent with past practice, it is the policy of the county to allow low-density, single family residences throughout the county.

DEVELOPMENT OTHER THAN LOW DENSITY RESIDENTIAL UNITS

Since it is the stated goal of the county to preserve the scenic quality of Ouray County in its present state, it is county policy to direct all industrial, commercial, and medium and high-density residential development away from irrigated lands and alpine areas first to the municipalities and then to the Foothills Zone.

- The Land Use Regulations should direct all medium and high-density residential development to the incorporated communities of Ridgway and Ouray, the unincorporated community of Colona, and to the Foothills Zone. All such development outside the incorporated areas should be approved under the PUD process (see below).

- The Land Use Regulations should direct all permitted commercial and industrial development, other than uses-by-right, first to the incorporated communities and secondly to the Foothills Zone except where they are necessary to the operation and support of a limited commercial activity in the Alpine Zone. All non-residential development, except uses-by-right, should only be allowed by a PUD.

- All commercial, industrial, and high-density residential developments must clearly demonstrate to county officials that if approved, these developments will significantly contribute to the long and short-term well-being of county residents and county government. Developments should be approved if they are judged to add significantly to the property tax base, result in long-term, year-round jobs, meet other criteria set forth in the Land Use Code, and where actual construction of the development is to be undertaken upon an agreed schedule by the developer with the county.

CLUSTERING

The county wishes to encourage the preservation of large areas of open space in all zones for purposes of: (1) recreational activities, (2) agricultural and mining activities, (3) preserving critical scenic vistas throughout the county, (4) wildlife habitat, (5) maintaining individual property values for all county residents, and (6) encouraging year-round tourism.

The county, as a policy, therefore allows for the clustering of residential units in all developments and in all zones under PUD procedures. Further, the county allows PUDs that include contiguous (common boundary) lands in more than one zone under terms spelled out in the county Land Use Regulations when they further the objectives of this Plan.

PUBLIC HEALTH AND SAFETY

It is the stated policy of Ouray County that all future construction in the county should be sensitive to both the fragile environment of the county and the public health and safety of its individual citizens.

Therefore all proposals to the Planning Commission should demonstrate to the county that the health and safety of current residents, future residents, and visitors to the county will be protected by:

- o availability of adequate potable water
- o availability of adequate sewage disposal
- o availability of adequate access for emergency services as well as residents and visitors
- o adequate mitigation of risks resulting from flooding, natural erosion, avalanche, geologic hazards, unstable soils and other hazards
- o adequate mitigation of any effects the proposed construction may have on county assets such as high quality air, water, wildlife, and historic sites
- o avoidance of excessive noise which might cause a public nuisance.

Thorough consideration must specifically be given to the codes, regulations, requirements, standards, studies and maps, available at the County Courthouse dealing with these topics (See Appendix A). These codes, regulations, requirements, standards, studies, and maps are incorporated into this document by this reference.

VISUAL IMPACT CONSIDERATIONS

County residents in their collective response to the land-use questionnaire very clearly want to preserve the visual beauty of the county landscape. Citizens want to be assured that any future development which occurs will not hinder, impair or destroy many of the scenic vistas throughout the county. It is a specific goal of this Plan to preserve these vistas.

To further preserve the natural beauty of the area, the Ouray County Building Codes and Regulations should require that all PUD and special use construction visually relate to the surrounding physical environment with regard to siting, erosion control, and landscaping.

Also, the county should therefore require that all PUD and special use construction proposals be reviewed for their visual impact, particularly from Highways 550 and 62 and from adjoining public roads. The purpose of such a review is to minimize the visual impact of both individual structures and the development as a whole so that developments do not compete with the existing physical environment for the viewer's attention. Items to be taken into account, in addition to the function of the structure and the total development, include:

- exterior building materials
- exterior colors
- structure bulk and height
- structure set back
- site suitability
- placement of structures on the site
- grading
- effect on existing vegetation
- proposed landscaping and exterior lighting.

DEVELOPER RESPONSIBILITY

The county recognizes the economic and social long-term benefits which any new, quality development can bring to the county. However, county officials also recognize that there are often some short-term costs which a specific development may incur upon the county.

To this end, where the county reasonably determines that a proposed development will have an identifiable impact on publicly-provided services or facilities, such as schools or roads, impact fees should be assessed prior to, and as a condition of, final county approvals.

The county should also require documentation and guarantees of the proposer's financial ability to carry out the proposal prior to final approvals of PUDs by the county.

Finally, the county (through the PUD process) expects that when developers enter into a mutually agreeable contract with county officials as to specific conditions, including a reasonable construction schedule, the approved development should be completed according to these stated conditions. If the conditions are not met to the satisfaction of the county, it will cause the PUD approval to become null and void and will further result in the forfeiture of bonds and other performance guarantees.

MOBILE HOMES

The county recognizes that expensive acreage and custom-built homes are not always affordable for many Ouray County residents, and therefore also recognizes the need for medium and low-priced housing.

While it is not the purpose of the county to further encourage the dispersion of mobile homes over the landscape, it is the county's policy to allow the placement and use of mobile homes under the following conditions.

- Mobile homes may be sited other than in mobile home parks only where resident(s) of the mobile home is the owner of the parcel on which the mobile home is sited or where the mobile home is a use accessory to an agricultural or mining activity on lands taxed for those purposes.

- Mobile home parks should be allowed only as commercial uses under a PUD in the Foothills Zone.

CONSERVATION EASEMENTS

Consistent with its goal to further preserve open space, particularly large tracts of undeveloped land, the County Land Regulations should encourage agreements or covenants which will limit future development of the affected land and thus insure that the land will be preserved in its present state of use or non-use.

To this end, it is the policy of the county to serve as the recipient of donated property rights to the maximum extent allowed by law.

ZONING AMENDMENTS

The county recognizes that as circumstances change, the need may arise to amend the present Land Use Regulations so as to meet future land use needs within the county.

PLAN AND POLICY IMPLEMENTATION

Implementation of the Plan and Policies described here will occur through administration of the county Land Use Regulations. If, at any point, the intent of a regulation is unclear, the reader is referred to the county's development goal and other material in the Plan and Policies for clarification. This Plan and Policies document is to be taken as part of an integrated Ouray County Land Use Regulation.

Successful implementation of the county Land Use Regulations will ultimately depend on a shared willingness on the part of both Ouray County and developers to make effective the intent of the Plan and Policies. Ouray County supports development on the terms and conditions of the Land Use Regulations. However, the county does not encourage development proposals which may appear to have been prepared with disregard for the Land Use Regulations. The Plan and Policies are published so that all interested persons can know ahead of time how development proposals will be judged in Ouray County. Ouray County will enforce the Plan and Policies as they are written, and anticipates that those coming before it will take into account this fact in preparing their proposals. The Land Use Regulations allows substantial latitude for creative, attractive developments in those parts of the county where development is desired. The county encourages projects which are sensitive to the Land Use Regulations as well as the physical, social and economic conditions of the county.

In order to maximize the probability of mutual understanding and to minimize unnecessary expenditure by developers, all persons requesting action under the County Land Use Regulations are urged to come before county planning staff and/or the county Planning Commission at an early date to informally review the concepts of their proposal prior to major investments in detailed planning.

In administering PUD agreements, Ouray County does not intend to be insensitive to changing financial or market conditions. However, the county does expect that the financial and market potential of a proposal will have been thoroughly researched prior to any request for final PUD approval. Once final approvals are granted, the county expects construction to begin promptly. Generally, if it is not an appropriate time to construct a project, Ouray County feels that it is not an appropriate time to request county approvals.

Ouray County hopes, through judicious implementation of its Plan and policies, to move toward realization of its development goal: the gradual, long-term population and economic growth of the county in a manner that does not harm the irreplaceable scenic qualities that are the county's primary asset, and in a way that will not bring economic burdens to the county's people or government. All persons requesting approvals under the Ouray County Land Use Regulations are invited and expected to assist the county in this effort.

APPENDIX A

OURAY COUNTY MASTER PLAN

The following Codes, Regulations, Requirements, Standards, Studies, and Maps are available at the Ouray County Courthouse, Ouray, Colorado:

Land Development Code

Individual Sewage Disposal System Regulations

Mobile Home, Mobile Home Park, and Campground Regulations

Encroachment Permit Requirements

County Road Standards

Flood Plain Study

Flood Insurance Study

Flood Insurance Rate Maps

Avalanche Atlas

Wildlife Habitat Evaluation

Wildlife Habitat Map

Geological Hazards Maps

Mineral Resource Map

1976 MASTER PLAN

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REVISED OURAY COUNTY MASTER PLAN

November 12, 1976

With the timing of the starting date of preparation for the Ridgway Dam (Dallas Project) construction being set by the Bureau of Reclamation for January 1977, comes an accepted need by the County to take a more serious look at a new Comprehensive Plan. The original plan for Ouray County was prepared with the assistance of the State Planning Office; and though it was adequate for the time, it in reality is no more than a loosely done zoning map of the county inclusive of the incorporated areas.

Some progress has been made with the planning commissions and city councils of both the Town of Ridgway and the City of Ouray; however, without financial assistance the progress has been slow.

Scope

The intent is to develop a county-wide comprehensive plan that will include and be adopted by all jurisdictions within the county. The plan should include a land use element, revised streets and highways plan, population projections and preservation of natural resource areas.

Much of the preliminary work and research has been completed or is in progress for the above; however, due to the anticipated impact from the Dallas Project, some of the land use and development policies will have to be reanalyzed in terms of a much faster growth and greater population base.

Work Elements

A. Base Mapping:

A usable and accurate base map must be developed. A portion of this project was accomplished with the mapping for the Flood Plain Study. The County has also developed a coordinate system tying all known section corners, etc. to the National Geodetic Survey System. It is hoped with the 1976-77 1041 funding the project can be completed in the high development areas.

B. Streets and Highways Plan:

This plan was adopted in 1974, however, the Dallas Project will require rerouting of some ten miles of the major highway transgressing the County and will create pressure on other county systems not only by the rerouting, but also due to increased recreation traffic.

C. Land Use Element:

Ouray County, as well as the towns within the County, have Land Use Plans by way of zoning regulations; however, none of these contain future growth policies. It has been the County's unwritten policy that all commercial and industrial uses other than mining activities should be contained within the incorporated areas; however, none of the plans indicate this policy. Population policies have been set in the unincorporated areas at a very low density and,

like the above uses, high density residential is proposed to be within the incorporated limits.

With the coming of the Dallas Project and tremendous increase in tourism to Colorado, a new industry needs to be considered. The major industry for Ouray County may well be tourism in the future.

D. Population Projections:

Year around population has been on a slow but steady increase in Ouray County for the past few years. Since no new job opportunities have been created and since land, rent and housing costs have actually caused a decrease in the number of blue collar workers living within the County, it is apparent that tourism and retirees are the predominant factors in continued population increase. It is now apparent that population projections should be given additional consideration for the future.

E. Preservation of Natural Resource Areas:

Considerable work has been accomplished in this area with the adoption of the Minerals and Wildlife Maps and Regulations. It is apparent that if tourism is to become an important factor in the economic development of Ouray County, scenic beauty, wildlife, fishing and open space must be preserved. At the same time, since mining and agriculture are also important economic basis for the County, they must also be preserved and protected.

Timing

The timing is dependent almost completely in this County upon how important a new Comprehensive Plan is considered to be by the political powers. Small communities traditionally move very slow into anything that changes traditional policies. It is anticipated it will take two years even with known pressures to accomplish the adoption of a county-wide comprehensive plan.

Much discussion has taken place and in general all jurisdictions are agreeable to such a plan; however, the physical development of a plan, which sets county-wide policies for the future will be slow in coming.

The anticipated timing is as follows:

	Began	In Progress	Anticipated Completion
A. Base Mapping	1974	X	1977
B. Streets & Highway Plan	1974	X	1977
C. Land Use Element	1975	X	1978
D. Population Projections		X	1978
E. Natural Resource Plan	1975	X	1977

Final adoption of a County-wide Comprehensive Plan (Master Plan) in anticipated to be Spring of 1979. This plan will anticipate a twenty-year growth plan and will set policies toward the accomplishment of that goal.

The period leading up to such a plan will of course entail the formulation, amendment and adoption of regulations to enforce such a plan. Some of these regulations are complete; some are presently being studied and revised; and others have been discussed as a necessary element to the final goal.

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1985 QUESTIONAIRE

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— IMPORTANT —

OURAY COUNTY PLANNING COMMISSION

— PLANNING QUESTIONNAIRE —

ADDITIONAL COMMENTS:

Dear Questionnaire Recipient:

Your immediate response is important to insure that your input is included in our planning process. Please complete and return as soon as possible.

Ouray County Planning Commission

Ouray County is in the process of developing a master plan to assist county officials in responding to development proposals. In order to insure that as many County citizens as possible are heard from, and that the plan will represent a broad consensus of County opinion, you are asked to answer each of the following questions and return the questionnaire in the envelope provided. Your time and willingness to participate in this effort are appreciated.

In Ouray County, we presently have four zones.

In the ALPINE ZONE (located basically above 7,800 feet), we allow mining, agriculture, forestry, some related activities and one residence for every 35 acres.

In the VALLEY ZONE (basically the irrigated portion of the County), we allow agriculture, some related activities and one residence for every 35 acres.

In the FOOTHILLS ZONE (almost everything between the Valley and the Alpine), we allow some commercial and industrial activities, agriculture, and, if the property is properly subdivided, one residence for every five acres.

The fourth zone (the "RESIDENTIAL ZONE"), which has never been used, can include property next to Ridgway and Ouray if that property is served by central water and sewer systems, and the Town Board or City Council approves of it. This zone allows anything that can be done in the Foothills Zone and, in addition, allows one residence or every 10,000 square feet if properly subdivided.

Recently two requests for high density development, each with a golf course, have been received by the County. One, in the Foothills Zone, includes 500 units of cluster housing plus an 80 - room lodge and restaurant on 327 acres. The second, which has been granted a variance by the Board of Zoning Adjustment, falls in a combination of Valley and Foothills zoning. It includes 445 unit residential development plus a 250 - room hotel and conference center on 535 acres. Both requests were for higher density than allowed under current zoning regulations. Also, an informal request has been made for a winter recreation development in the Alpine and Foothills zones.

An important part of our planning program is to re-examine the restrictions and allowed uses in all four zones and determine whether, in view of present circumstances, the people of Ouray County feel that major changes should be made. The questions which follow are intended to help us measure public opinion.

With the above in mind, and with the knowledge of widespread desire for a stronger year around economy in Ouray County, please respond to the following questions.

(1) A. Should high density (average lot size less than 5 acres) residential development (single family or multi-family) be allowed in the:

Foothills Zone:	Yes ____	No ____	Valley:	Yes ____	No ____
Alpine Zone:	Yes ____	No ____	Towns (Next to):	Yes ____	No ____

B. If yes, but only under certain conditions, what conditions in which zone?

C. If no, why, in which zone?

(2) A. Should commercial development (such as gas stations, resorts, restaurants, motels and hotels, stores and shops, ski areas) be allowed in the

Foothills Zone:	Yes ____	No ____	Valley:	Yes ____	No ____
Alpine Zone:	Yes ____	No ____	Towns (Next to):	Yes ____	No ____

B. If yes, but only under certain conditions, what conditions:

C. If no, why, in which zone?

(3) If the County were to have a system to measure the visual impact (degree of visibility) of proposed developments, should that visual impact be an important consideration in the approval or disapproval by the County of development proposals?

Yes ____ No ____ Comment: _____

_____

(4) Should Ouray County institute controls that would limit the use of colors and building materials not harmonious with the surrounding area (such as very bright colors or highly reflective surfaces on exterior walls and roofs)?
Yes ____ No ____

(5) Should the County seek to increase the availability of lower-cost housing by permitting the establishment of additional mobile home parks in the County in areas that are not visible from major roads? Yes ____ No ____

If yes, in which Zone: Valley ____ Foothill ____ Alpine ____ Town (Next to) ____

If yes, under what conditions?

(6) A. Should mobile homes be allowed outside mobile home parks? Yes ____ No ____

B. If yes, under what conditions?

(7) A. Should Ouray County regulate the operation of non-agricultural home businesses or cottage industries? Yes ____ No ____

B. If yes, but only under certain conditions, what conditions?

(8) Ouray County could assess developers an impact fee. This would be a one-time fee paid by the developer to the County and school district to offset the demands of their development on County-provided public services. Do you think Ouray County should assess developers an impact fee? Yes ____ No ____

(9) How long have you lived or owned property in Ouray County? _____ Years

(10) In which of the following areas do you:

	Live	Own Property
Ouray, City of	_____	_____
Ridgway, Town of	_____	_____
Colona	_____	_____
Log Hill Mesa	_____	_____
Cow Creek/Dry Creek drainages	_____	_____
Dallas Creek drainages including Pleasant Valley	_____	_____
Uncompahgre River valley and tributaries above Ridgway Dam	_____	_____
Uncompahgre River valley and tributaries below Ridgway Dam	_____	_____
Other: _____		_____

(11) If you own land in Ouray County, what is the primary use of that land:

_____ Agriculture (currently used for livestock or crops)
_____ Residential
_____ Vacant (including rural land not currently used for livestock or crops)
_____ Other _____

_____ Mining
_____ Commercial
_____ N/A

ADDITIONAL COMMENTS ON BACK

OTHER MASTER PLAN INFORMATION

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DEPARTMENT OF LOCAL AFFAIRS
COMMUNITY DEVELOPMENT OFFICE

Master Plan Primer

MASTER PLAN - GENERAL DESCRIPTION:
The master plan, sometimes referred to as a comprehensive plan, is a framework and guide for accomplishing community aspirations and intentions. It states goals and objectives and recommends courses of action for future growth and development of land, public facilities and services and environmental protection.

PLAN ELEMENTS THAT MAY BE INCLUDED:

- Statement of Objectives, Policies and Programs
- Relationship of Plan to the Trends/Plans of the Region
- Land Use
- Transportation
- Utility and Facility Plan
- Urban Influence Area
- Housing
- Cultural/Historical/Social Setting
- Educational Facilities
- Energy
- Environment
- Recreation and Tourism*

*the only plan element required by statutes (see C.R.S. 30-28-106 and 31-23-206)

BASIS/ BACKGROUND FOR PLAN INFORMATION:
The plan is based on inventories, studies, surveys, analysis of current trends and must consider social and economic consequences of the plan, existing and projected population.

GOALS AND OBJECTIVES OF THE PLAN:
The principal purpose for a master plan is to be a guide for the achievement of community goals. A plan will also:

1. State and promote broad community values in its goals, objectives, policies and programs.
2. Establish a planning process for orderly growth and development, and economic health.
3. Balance competing interests and demands.
4. Provide for coordination and coherence in the pattern of development.
5. Provide for a balance between the natural and built environment.
6. Reflect regional conditions and consider regional impacts.
7. Address both current and long-term needs.

USING THE PLAN:
The adopted plan has the potential for many uses and will define the way it is to be used in its implementation section. Among the uses of the plan are the following:

1. A basis for regulatory actions: The plan serves as a foundation and guide for the provisions of the zoning regulations, subdivision regulations, the official map, flood hazard regulations, annexation decisions and other decisions made under these regulations.
2. A basis for community programs and decision making: The plan is a guide and resource for the recommendations contained in a capital budget and program, for a community development program, and for direction and content of other local initiatives, such as for water protection, recreation or open space land acquisition and housing.
3. A source for planning studies: Few plans can address every issue in sufficient detail. Therefore, many plans will recommend further studies to develop courses of action on a specific need.
4. A standard for review at the County and State level: Other regulatory processes identify the municipal plan as a standard for review of applications. Master plans are important to the development of regional plans or inter-municipal programs, i.e., a regional trail network or valley-wide transit program.
5. A source of information: The plan is a valuable source of information for local boards, commissions, organizations, citizens and business.
6. A long-term guide: The plan is a long-term guide by which to measure and evaluate public and private proposals that affect the physical, social and economic environment of the community.

RESPONSIBILITY FOR PREPARATION AND ADOPTION OF THE PLAN:
The planning commission is responsible for preparing the plan, distributing the plan, holding public hearings on the plan, and adopting the plan.

PUBLIC INVOLVEMENT:
Citizen participation helps to guide the planning commission in making decisions and in promoting community understanding of planning needs and issues. At least one public hearing will be held by the planning commission and by the legislative body before the plan is adopted. To generate support, understanding, and active participation in planning, however, more community involvement is usually needed. Citizens who are not well informed can present obstacles to the implementation of the plan by rejecting bylaws and by not supporting or participating in local programs.

Ten Questions to Ask when Adopting or Revising a Master Plan

Carolynne C. White, Staff Attorney, Colorado Municipal League
Prepared for
December, 14, 2001, Land Use Workshop for Municipal Officials

1. **What is the current state of our community?** Before you can begin to plan for the future you must accurately assess the present. What are the characteristics of your community as it stands today? How many residents do we have? What is our current economic base? What is the state of our housing stock? How much property is already zoned for development currently? The Department of Local Affairs can help fill in the blanks with information related to population, census data, demographic data, and economic data. Contact: Cindy deGroen – 303-866-3004. Or check out the Demography section's web site: www.dola.state.co.us/demog/index.htm.

2. **How will these things change over time?** The Department of Local Affairs can also use this data to show and analyze current trends, and help you estimate future trends. Contact: Susanna Lienhard -- 303-866-2354.

3. **What do the members of our community want?** If you already have a plan, how were the members of the community involved in shaping it? Are their desires still the same, or have things changed? If you are starting a new plan, think about how you will find out what the community wants. Community meetings are one method, but there are numerous others, including surveys. The Department of Local Affairs has sample community surveys you can use. Contact: Charles T. Unseld, Office of Smart Growth, 303-866-2353.

4. **Do your zoning and development regulations "implement" your plan, or do they hinder implementation of your plan?** The General Assembly has recently failed to enact legislation on this topic, but may be reconsidering it during the January 2002 legislative session. Even if they don't, however, it is still a very important consideration. For example, if your plan envisions a walkable downtown with living areas above retail shops, but your zoning doesn't allow for mixed use, your community's vision, as embodied in the plan, will be difficult to realize.

5. **How much will it cost to implement the plan?** One often forgotten aspect of comprehensive planning is accounting for its cost. One means of dealing with this issue is to adopt a separate, but complementary, Capital Improvement Plan. But cost considerations can be incorporated into your plan as well. A good plan can help you determine how growth will "pay its own way," and what priorities your communities chooses to spend its revenue on.

6. **How will you implement the plan?** Your plan should contain specific action items for each visionary statement or goal outlined in the plan. For example, if it is your community's goal to be a "shady, tree-filled community," an action item could be to "Plant two trees for every new building constructed." Even more specifically, you could add "Amend development regulations to require developers to plant two trees for every new building constructed." Consider making it a requirement that each decision of the city council be checked to see if it helps implement the plan. The Department of Local Affairs provides a plan workbook that can be adapted for local use.

7. **How will you know if you have succeeded in implementing the plan?** The plan should contain specific measurements and time frames for determining whether progress is being made towards the goals outlined in the plan.

8. **Does the plan include provisions for the plans of neighboring jurisdictions?** You should try to work with neighboring jurisdictions to ensure that your well-laid plans won't be thwarted by another's actions. While a formal IGA is one way to approach this, it is not the only way. Your plan could provide for consultation with other jurisdictions, review by other jurisdictions, or cross-reference to other jurisdictions' plans. HB 01S2-1020 requires notification of neighboring jurisdictions, and mediation when it is requested.

9. **Is your plan "smart growth" friendly?** Do you have items in your plan that encourage or allow mixed use development? What are your home-based business regulations? Do you encourage or allow infill development? Does your plan encourage pedestrian pathways, or other types of alternative transportation options? Do you require a minimum lot size that is so large it creates unfriendly neighborhoods? Is the area designated for development adjoining already developed lands? Do you have areas designated for preservation from development?

10. **Can you live with your plan?** Remember, a comprehensive plan is a living breathing document. It is a plan, not an ordinance. Take a step back and look at the plan as just that, a "plan" to guide the future of your community. Remember that it needs to be flexible, but not too flexible. It needs to provide guidance to future councils and boards, but not bind them irrevocably to specific actions.

Part 1. Deciding to Hire a Consultant

Why hire a consultant? There are many reasons.

1. **To supplement staff time.**
Hiring a consultant is particularly appropriate when the project is a nonrecurring one (e.g., a new comp plan or zoning ordinance). If the project will carry over many years or is a continuous one, expanding staff is a better option.

2. **To supplement staff expertise.**
Some tasks, because they occur so infrequently, call for special skills that cannot be learned quickly or easily by staff (e.g., rewriting a zoning ordinance, preparing site studies for waste disposal sites).

3. **To ensure objectivity.**
Projects like department reorganizations or complex redevelopment plans that will displace residents can be very controversial, emotional, and political. A consultant may be able to find a "win-win" solution and can often be accepted by various parties as an objective mediator in any local disputes.

4. **To ensure credibility.**
The local planning director or staff may know the solution to a local problem but selling that solution to the public, council, or planning commission may be difficult without the blessing of an "expert" to verify that solution.

5. **To obtain a variety of skills.**
A small community with limited budget and planning staff (or, for that matter, no planning staff) can hire a consulting firm with access to a number of people with different skills. It would be difficult or impossible to hire enough part-time staff to find that variety of skills or find one individual who was that multitalented.

6. **To deal with legal requirements.**
If a local government puts a freeze on hiring or is unwilling to commit to any long-term employment, an agency may only be able to hire a consultant to deal with an impossible work load or project.

If, after reviewing this list, the agency or government decides to hire a consultant, it must answer some key questions:

- What do we want the consultant to do?
- What skills, expertise, and experience must the consultant have to carry out the project?
- How will we relate to the consultant? That is, will we simply given the problem to the consultant and expect a completed report? Or will we provide staff support, citizen participation, review, or other input to the project?

- What working style, organizational, and locational considerations will affect the ability of the consultant to facilitate the relationship with us?

How to Find Consultants

If an agency decides to hire a consultant, it must develop a list of consultants from which to choose one. This list can result from searching a number of sources: personal referrals; professional directories; award winners identified through professional organizations; news items in newsletters, newspapers, and magazines; consultant calling cards; brochures mailed by the consulting firms; and, as a last resort, the telephone directory.

Some agencies use a more formal procedure for establishing the list of available consultants. These agencies maintain and periodically update a list of consultants developed from procedures involving responses to requests for qualifications (RFQs). Consultants who want to be placed on the list may apply for consideration. If there are special projects that must be done for which only a few qualified consultants are listed, the agency can add to the list by using the techniques outlined below. Maintaining a formal pool is particularly useful for a large community or for any other agency that may use consultants relatively frequently. In order to make this preselected list of consultants most useful, it can be divided into specialty groups. Many consulting firms have expertise in a number of fields. Consequently, an agency that lists consultants under functional categories should cross-tabulate these consultants in all the categories in which they have expertise, a process easily accomplished with a database program. The following type of information could be solicited and kept for each firm:

1. Name, address, and telephone number of the firm
2. Types of services for which the firm is qualified
3. Year the firm was established, as well as former firm names
4. Names of principals and key personnel of the firm and their experience and qualifications
5. Size of staff
6. An illustrative list of recent projects completed for purposes of referral

Organizing for Selection

Defining the Task
Perhaps the most important step an agency must take before initiating the consultant selection process is defining the problem, task, or project requiring consulting services. There are, of course, circumstances in which the agency has difficulty in defining the problem, in which case it should consider retaining a consultant for that purpose. In defining the task, factors to be considered include:

- The precise goals of the project
- Its technical, political, and administrative parameters

- The division of labor between agency personnel and consultant
- The product desired
- The timetable for completion
- The total project budget
- Expected problems and constraints

  Developing a good definition of the task is difficult. If the task definition is too specific, it may limit the creativity of the consultant. If the definition is too general, it may result in the consultant producing something that constitutes satisfactory professional work but that does not resolve the problem. If the hiring agency is uncertain how to define the task, it can provide a background description of the problem or issue as a context for the RFQ or Request for Proposal (RFP) process. That can help make clear why the community is hiring a consultant.

  Defining the respective roles of consultants and staff is also important. In many cases, the community already has much of the data that will be necessary to complete a project. In other cases, little or no reliable data exists. Gathering data is expensive. Thus, a clear definition of what data the planning agency can provide from its own files or from other local departments and entities is very important in helping the consultant define the tasks. It is also important to define the level of support and review that local staff will provide for the project.

  Budgeting for Consultants

  If an agency intends to hire a consultant, it should have an established budget for the project and a source of funds from which to pay for the contract. If an agency is only "window-shopping" to see how much money it might cost to carry out a project, it should be very honest about that fact in any solicitation of proposals. Unfortunately for such a planning agency, an unfunded project is unlikely to attract many reliable proposals. Thus, if a planning agency really has no idea how much a proposed project might cost, it should consider hiring a consultant for a short and (usually) inexpensive "feasibility study."

  It is also possible to determine the probable cost of proposed services by some careful investigation. The agency itself may have used consulting services recently enough to have a general idea of the probable cost. Phone calls to other planning agencies to identify qualified consultants should also be used to obtain data on the costs of similar projects in those communities. Consulting firms are sometimes willing to tell prospective clients what similar communities have spent on similar projects. Asking a consulting firm to develop a detailed cost estimate before the proposal stage is unreasonable, but asking what it has charged on other, similar work, is not — particularly because contracts with local governments are almost always public information and thus available to anyone who knows where to look.

  It is difficult for a public agency to develop a component cost schedule by projecting the probable services needed and the costs of each item of service. However, it is important for a public agency that is budgeting to hire consultants to understand something about the economics of a consulting firm. Consulting firms are

businesses offering professional services. As such, they must cover such expenses as office space, salaries, equipment, and supplies; like other businesses, they try to make a profit, which represents the ability of the firm to continue to exist.

The daily salary of a public planner cannot reasonably be compared to the daily billing rate of a consultant because it does not include overhead, fringe benefits, taxes, support staff, and, in general, the total cost of government. As a general rule, the billing rate of consultants will be between two and three times the salary that such an individual might earn in a salaried job. That multiple accounts not only for fringe benefits and overhead costs, but also for the fact that no one does "productive" work 100 percent of the time — consulting firms that compete for an agency's project will have nonbillable time preparing the proposal, attending interviews, and negotiating a contract. If a firm succeeds in obtaining a contract, there will undoubtedly be nonbillable time spent on travel or administration of the project.

Choosing the Selection Team

Who should select the consultant? The people who will work with and depend on the consultant should select the consultant (e.g., a zoning ordinance update would involve the municipal attorney). The head of the agency that will pay the consultant should be involved in selecting the consultant. If the consultant will work with community groups, it will be useful to have those groups represented in the selection process.

Broad representation in the selection process is important for several reasons. First, a variety of perspectives should be represented in the selection process. If a major constituency group thinks that greenbelts represent an important solution to the community's problems and the selection team hires a consultant who knows nothing about greenbelts, the project will not go well. Furthermore, if the selection team represents the diversity that the consultant will encounter in the course of the project, the team members can observe how the consultant's representatives interact with each of them. It is also important to give the consultant a chance to get a sense of the community. Sometimes a consulting firm may decide that it is not well suited to a particular project. Such a decision helps the community as well as the consultant, but a consultant can reach such a conclusion only after reasonable exposure to diverse elements of the community.

Who participates in the selection process and who makes the final selection are somewhat separate issues. The recommendations in this section address primarily the issue of participation. The issue of final selection is one that will depend on local politics and practice. Final selection may rest with the selection committee, with the head of the budgeting department, with the city manager or other CEO of the local government, or with the governing body.

The selection process is the first step in the partnership that the community should form with a consultant. It is an opportunity to evaluate consultants but also to recruit them to the community's project. As the first stage in the relationship, it is in the best interest of both parties for it to go well, but it is also in the best interest of both

parties that the interaction be representative of future interaction. The agency can help to make that happen by ensuring that the selection team fairly represents the team of public officials, staff, and interested citizens who will work with the consultant in the implementation of the project.

Some Component Costs of a Consultant's Billing Rate

1. Salaries of professional staff, secretaries, drafters, and technical aids
2. Sick leave, vacation, and holiday pay
3. Office and drafting supplies
4. Printing and copying
5. Travel (auto and other)
6. Postage, freight, overnight delivery services
7. Telephone
8. Equipment purchase and/or rental
9. Office rent
10. Building and property maintenance
11. Utilities
12. Legal services
13. Accounting services
14. Technical publications
15. Newspaper and magazine subscriptions
16. Professional dues
17. Attendance at seminars and conferences
18. Group insurance
19. Insurance (unemployment, workmen's compensation, liability, fire, theft, etc.)
20. Pension expenses
21. Taxes and licenses
22. Business promotion
23. Subcontractors

Part 2. Consultant Selection Procedures

To select a consultant for a particular job, an agency must decide how broad it wants its list of consultants to be for initial consideration, how many proposals it will consider, and how formal these proposals must be. The decision ultimately depends on how extensive the project is, although the time available for the selection process will also enter into the decision about how to proceed. The five types of selection procedures are described in the following sections.

Sole-Source Procurement

Using this approach, an agency selects a single consultant either for a particular task or for a continuing relationship. Not all local governments have the flexibility to use this selection process, and an agency considering this option should consult with its legal adviser. For both legal and political reasons, an agency using sole-source procurement should document its reasons for doing so. Where a local government has the flexibility to use such a selection process, it may be appropriate to do so under the following circumstances:

1. When a consultant, due to prior work with the local government, has significant background in a matter requiring resolution in a short period of time or on a very limited budget
2. When it is politically or practically necessary to retain a local consultant, and there is only one who is qualified
3. When the community requires the services of a consultant with a unique specialty
4. If there is not sufficient time to go through a formal search procedure
5. When significant cost savings can be achieved by using a consultant who is familiar with the community and the agency and its procedures

There is an alternative form of single-source procurement. If the consultant is familiar with a project from work done under a previous contract that was awarded after a competitive process, it may be possible to use an amendment to that contract to retain the consultant's services for later stages of the project or a related project. When that is possible, it is probably preferable to sole-source procurement because it builds on the legal and political strength of a competitive process.

Selection from a List of Prequalified Candidates

This process is particularly appropriate for small projects. It also works well when an agency anticipates a series of similar tasks but intends to award separate contracts for them, possibly to separate entities. This process works best when the agency continuously maintains an up-to-date list of consultants and their credentials. This procedure typically involves the following steps:

1. *Identification of consultants.* The agency identifies a small group of qualified consultants (three to five) from an agency pool.
2. *Contact with identified consultants.* The agency contacts those consultants to ascertain their availability and interest in the proposed project.
3. *Submission of qualifications and statements of approach.* Each of those identified consultants interested in the project is then invited either to come for an interview or to submit an initial statement describing how that consultant would approach the project or problem.
4. *Selection.* The planning agency then selects one of the consultants, based on the proposal, interview, or both. Selection criteria may include: overall experience, time available, understanding of project objectives, relevance of education and experience of probable staff, creativity exhibited by the consultant for the proposed project, clarity and usefulness of the proposed methods and techniques, appropriateness of this proposed

project management structure, and the consultant's familiarity with the community. Some agencies skip the reference-checking step in this abbreviated format because the agency has identified consultants that it believes to be qualified. If the consultant is one that has not previously worked for the agency, however, agency officials would be wise to check references.

5. *Work program/Cost submission.* After selecting a consultant, the agency asks for a detailed work program and cost information. This should be done only after selecting a consultant.
6. *Negotiations.* Those submissions then provide the basis for negotiating a contract between the planning agency and the consultant.
7. *Alternatives.* As with more complex selection processes, the agency can move down the list to a second or third consultant if it is unable to reach agreement with its first choice on the scope of services or the cost.

Selection from a list of prequalified candidates is also appropriate when one candidate on the agency's list is clearly and uniquely qualified to perform the task. A good example of such a situation would be one in which the final contracting authority wants to hire a local consultant. If only local consultants will receive serious consideration, there is no point in sending RFPs or RFQs to others. Submitting proposals costs money, as does reviewing them.

This procedure of selection from a list of prequalified candidates, like the sole-source procurement procedure, has the advantage of simplicity, brevity, and flexibility. In addition, the interview process allows staff to interact with the consultant at an early stage and may be useful when agencies want to encourage highly creative approaches. Its disadvantages are also those of the sole-source procurement procedure — there may be occasional charges of favoritism, and the field of consultants may be unnecessarily limited.

Selection Based on Responses to RFQs

An agency that does not maintain a list of potential firms or one that wants to consider a broader pool of candidates beyond any list may use a selection process based on RFQs. The typical steps in an RFQ process are similar to those used to select a consultant from a list of prequalified candidates. However, a general announcement is added to the process. A more rigorous set of selection procedures will also need to be employed because the local government will not be familiar with some of the firms submitting RFQs. The typical steps in the process are:

1. Announcement/distribution. The agency publishes advertisements in newspapers and professional journals that it intends to hire a consultant for a specific project. Typically, the advertisement announces the availability of a formal Request for Qualifications that includes a project description. The agency then mails the actual RFQ to firms responding to the ad. Sometimes, an agency decides to eliminate a step in the process and uses a simplified RFQ that can be published in place of the announcement. If an agency has a pool of consulting firms or knows of firms that have successfully completed similar work or that work regularly in the geographic area, it may mail copies of the advertisement directly to those firms. The

RFP-RFQ listings on the APA website provides a convenient location for town, city, and county planning or community development departments in the U.S. and Canada to post RFQ announcements. The types of information that a community typically includes in an RFQ include:

- *Contact information*. Name, address, and phone number of the consulting firm.
- *Form of organization*. Whether firm is a partnership, corporation, or sole proprietorship, where it is organized, and the names of principals, officers, and directors of the firm
- *Key personnel*. Names of key personnel, their respective titles, experience, and periods of service with the firm
- *Statement of qualifications*. A narrative or other statement by the firm of its qualifications for the proposed project
- *Availability*. A brief statement of the availability of key personnel of the firm to undertake the proposed project
- *Project list*. List of projects completed by the firm
- *References*. Names and telephone numbers of persons whom the agency can call for references regarding the firm's past performance, preferably on similar projects.

2. Ranking. The agency then ranks the consultants responding to the RFQ on the basis of the information they submit.

3. Selection. Using the responses to the RFQ and supplementing those responses with the results of reference checks and, in some cases, interviews, the agency then selects one of the top-ranked consultants to undertake the proposed project.

4. Other steps. This process then follows the same steps as the process outlined previously: a request for a proposed work program and cost statement, negotiation of a contract, and, if those negotiations fail, consideration of other alternatives.

The RFQ selection procedure is particularly useful in cases in which the agency does not have an adequate pool of consultants that allows it to choose among prequalified firms. This is most likely to happen when the agency does not maintain a pool of consultants, its pool is outdated, or the information in its pool is not relevant to the proposed project. The RFQ process may also be in the choice in cases in which the agency wants to broaden its pool for political or professional reasons. Because this process is more open than either of the previous two, it is less subject to legal or political attack. This process may not, however, be adequate to meet state or local requirements for competitive selection processes.

Selection Based on Responses to an RFP

Many agencies select consultants primarily through the RFP process. In this process, a consultant must submit a full project proposal in order to be considered. (The contents of the RFP are described in Part 3, "An RFP for Consulting Services." This section describes the RFP process only.) The RFP itself may be widely advertised, mailed to a large pool of consultants, or distributed to a very limited number of consultants. Although some agencies believe that it is desirable to obtain

as many proposals as possible, there are many reasons not to do so. Preparing proposals is expensive for consultants. It is unfortunate to require consulting firms that may not be seriously considered to go to that expense. Reviewing proposals takes staff time. Although sending out the initial mailing of 50 RFPs may not take a great deal of time, reviewing the 15 or 20 proposals that may result from that mailing will take lots of time. There is another factor for a community to consider. The planning consulting business is a relatively small and close-knit professional community. If a community distributes an RFP to dozens of prospective consultants, the smart and experienced consultants will learn of that. Some may decide not to submit proposals because of the apparent volume of competition and/or lack of focus by the agency. Consultants are particularly likely to resist entering competitions when it appears that the agency is encouraging submissions from unqualified firms (e.g., by sending an RFP for a zoning code update to a firm that primarily does site planning). Alternatively, a community can submit an RFP to a list of consultants that either have a track record with the agency or that regularly perform the kinds of services that the community needs. (For suggestions on how to identify such consultants, see Part 1.) The steps in the RFP process typically include:

1. *Announcement/distribution.* The only significant difference from the RFQ process described above is that a full RFP is almost never published in advertisements. Consultants responding to ads must call or write to obtain the actual RFP.
2. *Review.* The review of proposals is typically a more complex process than the review of statements of qualifications. Some of the criteria to be used in the review process are suggested below.
3. *Preliminary ranking.* The purpose of this step is to identify candidates for interviews.
4. *Interview.* Interviews are included in most formal RFP processes. A later section of this chapter discusses the interview in more depth.
5. *Other steps.* The other steps are identical to those in the RFQ process (see above).

Combining the RFQ/RFP in a Two-Part Selection Process

An agency can make the selection process more efficient and effective both for itself and for interested consultants by using a two-part, RFQ/RFP process. An agency following this process uses an RFQ process without interviews to identify a "short list" of consultants to be invited to submit full project proposals.

This process builds on the strengths of both the RFQ and the RFP. The agency can use this process to broaden its pool. It should make RFQs available to every consulting firm that might reasonably be interested in the project. Submitting a statement of qualifications does not involve significant expense for a consulting firm. Thus, a consulting firm will almost always respond to an RFQ if it is at all interested in the project and if it has the time and the expertise to undertake the work. Reviewing statements of qualifications imposes a far smaller burden on the agency than reviewing proposals. The agency, therefore, can reasonably review in depth more statements of qualifications than proposals.

The agency can then in good conscience request relatively detailed proposals from a small number of firms that it selects for that purpose. A consulting firm that knows that it has "made the short list" will almost always prepare a full project proposal. In turn, the agency can be certain of a high rate of return on its RFPs. The agency following this two-step process can choose to conduct interviews at one of two stages of the process. In making that decision, it must consider the burden that the interview process places on its own staff and commissioners, and the very significant cost to a consultant to prepare for and attend an interview. If the agency is willing to narrow the field to four or five firms that will submit proposals, it is reasonable to conduct interviews at the RFQ stage. However, if the agency prefers to review more proposals, it should defer the interviews to the last part of the proposal review. The principal advantage of conducting the interview later in the process is that the interviewers can then focus on questions about the proposed scope of work and on apparent differences among competing proposals.

If the agency does not conduct interviews in the RFQ process, it may want to hold a pre-proposal conference at which agency representatives can brief prospective consultants on the project and answer questions.

The RFP portion of this two-part process follows exactly the same steps as the RFP process outlined above, except that it is not announced. Rather, it is distributed only to the consultants identified as "most qualified" through the RFQ process.

The Final Step: Negotiations

Negotiating a contract is the final step in the selection process, regardless of which process has been followed. The aim of negotiation is to review and agree upon the various items that will appear in greater detail in the contract or agreement. Usually included are such items as scope of work and contract, work plan and schedule of activities, personnel assignments by agency and consultant, and method and schedule of payment. The negotiation process is relatively simple when the proposal stage has included a detailed scope of services and cost proposal. If the scope of services and cost proposal are a perfect fit, the local government can simply adapt the proposal to its own contract form (or ask the consultant to do so) and sign the contract.

The process, however, is not always so simple. There may be discrepancies between what the agency wants and what the consultant has proposed. It is important that the final agreement regarding all details should be reached at this point, including the scope and schedule for various work items, and deadlines for review and completion. The schedule is something that often requires adjustment after the proposal stage. Many selection processes are not completed on schedule, thus making any schedules outlined in the agency's RFP irrelevant.

The basis and schedule for interim fee payments are other important aspects of the negotiation process that are often not adequately covered by the proposal. Many firms that provide planning consulting services are small firms that cannot possibly conduct work on a multi-month project without receiving interim payments. To the extent that tasks are budgeted separately, the agency can agree to pay the

consultant upon completion of each task. In many cases, however, it is appropriate to authorize partial periodic payments. The negotiations should establish how and when such payments will be computed and what documentation will be necessary. Where the agency will reimburse some or all costs, the negotiations should establish how and when such costs can be billed and what documentation is necessary.

Project personnel should also be committed at this stage. At a minimum, both the consultant and the agency should designate project managers who cannot be replaced without the reasonable consent of the other party. The agency may want to require by contract that certain other personnel also participate in the project. All of these personnel issues should be resolved in the negotiation stage. If it is important to the selection committee that particular people who participated in the interview also participate in the project, the contract should spell that out.

Before negotiating with the top-ranked firm, these questions should be settled by the agency team: What compromise between quality and scope of work is possible if the budgeted funds are not sufficient to accomplish everything that was originally contemplated? and What are the desirable, essential, and minimum objectives of the project?

Both parties are likely to be eager to get the project moving at this stage, and both are likely to cooperate in expediting the negotiation process. However, neither party should put artificial time pressure on the negotiation process. The contract negotiated at this stage will guide the rest of the project. It is important that it be a good contract that is workable for and fair to both parties. If negotiations fail with the selected consultant, the agency should formally end the process and begin negotiating with the next firm on the list.

Issues Affecting the Selection Process

Several issues affect the types of processes outlined above. This section provides a discussion of those issues.

Schedule

Establish a reasonable schedule at every stage of the selection process. Allow consultants a reasonable period of time to respond to an RFQ or RFP. Although most consultants can provide a good statement of qualifications within a few days, allow them at least two weeks even for that. For a full proposal, an agency should generally allow consultants at least a month.

Answering a Consultant's Questions about the RFP

Consultants often have questions during the process. Some are simply administrative, like Did my proposal arrive? or What time on Monday are these due? An agency secretary can usually answer those questions with little difficulty and with no prejudice to the process.

How an agency answers more substantive questions raises other issues.
Providing consultants with more information may help them to submit better proposals, which is certainly in the agency's interest. The RFP should directly

address the issue of how the agency will respond to questions during the process to avoid charges of favoritism when it gives answers only to consultants who ask questions.

Some local governments use a *pre-proposal conference* to handle questions. At that conference, which is usually optional, prospective consultants can obtain answers to their questions in the presence of other interested parties. Such a conference imposes some extra burden on consultants from other communities. However, if the pre-proposal conference is clearly informal, consultants can send junior personnel or even ask nearby professional associates to attend for them, thus reducing the cost of attending the conference.

Other local governments use *written answers to written questions*, either in addition to a pre-proposal conference or separately.

In such a system, the local government provides copies of all questions and all answers to all consultants receiving the RFP or to all who submit a letter requesting such information. This process is a very fair one that provides identical additional information to all prospective consultants, eliminating the possibility of perceived favoritism.

Still other agencies identify a *contact person* who is specifically designated to answer questions.
By routing all questions through a single person, the agency limits the risk of different consultants receiving different answers or wildly different sets of information.

Finally, some agencies offer *additional documents on request*, with the request sometimes requiring payment of a fee.

For example, in accepting proposals to update a zoning code, an agency may offer to sell copies of its existing zoning code to consultants who want to review it. Where there are relevant documents available, the agency should note that fact in the RFP.

Conducting Interviews

Interviews are a valuable element of the process both for the agency selecting a consultant and for the consultant. Through the interview, the project teams for the agency and for the consultant can evaluate their ability to work together. There are intangible factors in any working relationship. If they are positive, the relationship is likely to be a good one. If they are not, the relationship may turn sour. The interview offers the opportunity for both parties to evaluate these intangible factors.

The consultant interview is very much like a job interview, and the interview team should explore exactly the same kinds of intangible factors that they would explore in hiring a person to perform the same job as a member of the staff. If the project is one that will require several formal presentations, the ability of the consultant to make such presentations is important. If, on the other hand, the principal task is to develop an economic model or to draft a document, the ability of the consultant to make public presentations may be unimportant.

In one respect, however, the consultant interview is very different from a job interview. For a job interview, the prospective employer typically covers at least travel expenses. For a consultant interview, the consultant is faced with absorbing the entire cost. On a large project, it is not unusual for a consultant to feel the need to bring several members of the proposed project team. Consultants expect to absorb those costs, within reason. An agency interviewing consultants can help to keep those costs "within reason" by doing several things:

Interviewing only a very small number of firms. Three firms is typically a large enough number to interview; five should be an absolute maximum, even on a large project. If the agency is unable to narrow the selection to three or four, it should request additional information in writing or do some reference checking to narrow the choice. An agency should interview only those firms in which it has a serious interest.

Providing interview guidelines that are consistent with the scope of the project. On a large project, it is reasonable to expect to meet several project team members at the interview. That is not reasonable on a small project, and the agency should acknowledge that in issuing invitations for interviews.

Scheduling interviews in advance. The best-qualified consultants may be busy, and it is not reasonable to expect them to send their top people to an interview at a specified time just a few days from the date of the call. When it is necessary to schedule interviews on short notice, give the consultants some choices about specific dates and times.

Scheduling interviews to reduce travel costs. Scheduling interviews a couple of weeks in advance will also allow consultants to take advantage of special air fares. Scheduling interviews on a Friday or Monday may allow a consultant the option of staying over Saturday night and qualifying for additional discounts. Some consultants prefer not to travel on weekends and would rather pay higher prices to travel during the week. Offer consultants traveling a long distance some flexibility in time of day in order to allow them to minimize the number of nights of hotel bills that they need to pay.

Checking References

Check references. The best indication of consultant performance on a project will be performance on similar projects for other clients. Check some references that the consultant did not list but that are identifiable from the consultant's project list. In checking references, look for patterns. Few complex projects run smoothly at every stage. Do not hold a single negative comment or negative experience against a consultant. Everyone (including planning agencies and their managers) has had projects that have worked out less well than others.

One of the most important questions to identify from reference checking is whether the consultant was cooperative *when things did not go well*. A good consultant will work hard to fix mistakes and to overcome any problems in communication. Another question to ask in checking references is which personnel from the firm actually performed the work. In some firms, principals perform the jobs that they "sell." In

others, principals primarily sell; a community that hires such a firm may not see a firm principal or officer after the interview.

Here are two good questions with which to close an interview with a reference: Would you hire this firm again? and Is there anything that I should have asked you that I did not ask?

Follow-Up

Remember that the selection process is also a recruitment process. Keep consultants informed, "in the loop." Send each a short form letter acknowledging receipt of a submission and giving an approximate schedule for the next steps in the selection process. If delays develop, send a mailing to inform them of the reasons for the delay and its probable length. Finally, when the process is complete, write to each consultant, informing them of the agency's decision and thanking all of them for taking time to participate in the process. Losing is not a happy experience for a consultant, as it is not for a job-seeker, but feeling ignored is worse than losing and being treated with some respect.

Making the Selection

An agency that follows the suggestions above may find that the choice among consultants is obvious by the end of the process. Where it is not, the agency must rely on evaluation criteria to make the selection. Those criteria absolutely must be established before the first interview. Otherwise, the selection team may define the selection process in terms established by the first consultant interviewed. Such a result is not fair for the agency or for the other competing consultants. An agency should include the selection criteria in the RFP. If there are such criteria in the RFP, the selection team should follow them; surprisingly, some do not. Otherwise, the team must develop those criteria. A suggested list of criteria and a form incorporating those criteria that can be used as a tool for selecting a consultant are contained in Chapter 2 and Appendix C of *Selecting and Retaining a Planning Consultant* by Eric Kelly, Planning Advisory Service Report No. 443 (Chicago: American Planning Association, 1993).

Part 3. An RFP for Consulting Services

An agency seeking consulting services should prepare the RFP with great care. The RFP is at once the calling card, the resume, the annual report, and the marketing brochure of the agency. Consultants will decide whether to draft a proposal for a particular project based in significant part on the RFP. That RFP should present the community, the agency, and the proposed project accurately and well. Consultants pay a great deal of attention to the way their proposals are written because they have a lot on the line; agencies should pay equal attention to the writing of RFPs. Books and seminars on proposal writing are widely available. In comparison, the RFP is a neglected literary form.

The Purpose of an RFP

Among the purposes of an RFP are eliciting proposals from suitable candidates and, when the RFP is not preceded by a review of qualifications, discouraging responses from those who lack the necessary qualifications. To that extent, the RFP resembles an ordinary help-wanted ad. However, since the audience for an RFP should be well screened in advance, these are not major concerns. A good RFP is, above all, one that engages the interest of the consultant and elicits creative approaches to the problem. Once the RFP has stimulated the consultant's interest, the firm is a lot more likely to risk investing in a proposal.

A well-written RFP accurately conveys the full scope of the work desired, thereby enabling the consultant to address the project precisely and to make realistic cost estimates. In addition, the wording of an RFP should enable principals of a consulting firm to recognize whether the firm will be a serious contender for the job, thereby sparing the firm the expense of a useless proposal and sparing the agency the trouble of reading and responding to that proposal.

What the RFP Should Include

An RFP may be accompanied by appendices, maps, drawings, and other backup material. However, the RFP itself should be a relatively brief document. Even on a rather large or complex project, the various elements can generally be covered in 10 to 25 single-spaced pages.

Cover Sheet

A lengthy RFP should have a cover sheet giving the RFP title, the project or program title, the name of the issuing entity, and the date the proposal is due.

Introduction

The introduction should identify and describe, in no more than a paragraph, the project or program for which the consultant is required and its current status. It should then state briefly the nature of the consulting assistance being sought. This should be carefully worded. If the job requires an interdisciplinary team, it is best to talk about the end product or type of activity (e.g., an environmental impact assessment or a development plan), rather than a specific type of firm. Your preferences about the type of firm can be better explained later, in the qualifications section. The introduction should also state the amount budgeted for the proposed work. Finally, the due date for the proposal should also be included in the introduction, with a reference to the directions for submission that will be described later in the RFP.

Describe the issuing agency and its relationship to other entities if that is not obvious. This suggestion is not necessary for a planning department that is clearly a line agency within a municipal government. However, it can be very important for intergovernmental agencies and other entities. Names of public authorities and special districts, such as sewer districts, can be particularly misleading. Such an entity is often named after a city, town, or county with which the agency may or may not be coterminous. The difference should be pointed out, though it need not be explained in detail in the introduction.

Description of the Project or Program
This section should establish the context for the work to be performed and help the consultant to judge the level of effort required for various tasks. If the project or program is very complex, the details can be relegated to an appendix or other attachments. The important points to cover here are:

1. the purpose of the project or program (what it is supposed to accomplish and for whom);
2. its basic components — management, structure, processes, and personnel;
3. any innovative or unusual aspects;
4. the site(s) or geographic area(s) involved; and
5. a proposed schedule and present status of the project or program.

Description of Services Required
This is the heart of the RFP. Take great care with it because this is the section the consultants will read again and again, weighing its every nuance. If carelessly written, this section can defeat the purpose of the RFP by misstating the agency's needs or by conveying inaccurate signals about how the proposals will be evaluated.

Write clearly. Avoid jargon. Use commonly understood terms, rather than acronyms or abbreviations. Do not use general terms like "facilities" if you mean "roads."

Emphasize what the agency needs from the consultant. Although the RFP should certainly identify any critical or mandatory steps in the process, such as public meetings, the proposal process often works best if it leaves the work program open to suggestions from proposing consultants. Unless the purpose for hiring the consultant is simply to augment staff on a project, the same expertise that the consultant brings to the substantive aspects of the project should enable the consultant to develop a responsive work program. There are two reasons for encouraging consultants to do so. First, if the consultant has significant experience with the type of work involved, the consultant's personnel should know more about what should be in such a work program than the agency staff. Second, evaluating independently developed work programs is an excellent way to evaluate a consultant's understanding of the project and approach to the project, as well as the quality of the consultant's work.

This section should also provide a schedule for the completion of the project and identification of major project milestones. If there are a particular number of public meetings involved in the project or if the goal is to have a report or plan ready for a meeting that has already been scheduled, that information should be included in this section of the RFP.

Amount Budgeted
Most agencies do not include budget information in an RFP. The theory of agencies in withholding budget information is that consultants who know what the budget is will automatically submit proposals that "spend the budget." That may be a legitimate concern. On the other hand, a consultant with no idea of the budget for a proposed project may have great difficulty in submitting a responsive proposal. Where an agency fails to specify a budget, cost proposals may range up to a high of

four or five times the lowest-cost proposal. In those circumstances, there may be only one or two proposals that are within the project budget of the local government and thus only one or two proposals from which to make a choice. A proposal that falls far below the anticipated budget will probably include far less in the way of services than the agency wants or needs. It is very difficult to compare proposals with extreme variations in budget, because there are too many variables. If two qualified firms offer exactly the same range of services at significantly different prices, the agency has something to compare. If two qualified firms offer vastly different scopes of services at the same price, the agency can select the scope of services that best suits its needs. However, when there is little in common among proposals from qualified firms, comparison is difficult indeed.

There are few disadvantages to sharing budget information. The agency that publishes the budget can still rank proposals competitively based on which qualified consultant will provide the best value — the most appropriate package of services within the agency's budget. If an agency's expectations of services far exceed its proposed budget, it is easier on all parties if consultants are aware of that discrepancy initially and can inform the agency of that fact without putting the consultants or the agency through the demanding process of preparing and reviewing proposals. If an agency's budget exceeds its expectations (a very rare circumstance indeed), one or more reputable firms will bid less than the budget or offer a range of additional and perhaps unneeded services. The agency can then select one of the lower-priced proposals or negotiate a reduced contract for less than the full scope of services proposed by the selected firm.

An agency can maintain some price competition in the process and still provide guidance to consultants by publishing a budget range. However, the real issue in selecting a consultant is not price but value. If every consultant competing for a proposed project submits a budget for exactly the same amount, the agency can easily compare the proposals to determine which offers the best value. That is a far more practical exercise than attempting to compare diverse proposals with vastly different budgets, hoping to renegotiate one of the proposals to the appropriate level of services for the budget.

Type of Contract
Indicate what type of contractual arrangement the agency will use. Professional services contracts generally fall into one of two categories: fixed-price (also called lump sum), in which the agency receives a defined scope of services for a fixed price; and time-and-expense (also called cost-plus), in which the agency reimburses a consultant on a fixed formula for professional time and expenses. The advantages and disadvantages of the two types of contracts are discussed in more depth in the section on "Legal Considerations and Insurance" at this site.

Qualifications
An agency that uses the two-part, RFQ/RFP process will have most of the information about qualifications that it needs from the RFQs. At the RFP stage, it should ask for an update to the RFQ if there has been a significant lapse of time between the two. The agency will also want one additional set of information. The

proposal should specify what personnel will work on the project. It should also include short resumes on those specific individuals, if those resumes were not included in the RFQ.

An agency that goes directly to the RFP stage should include a full request for qualifications as part of the proposal. That should include the same information suggested in Chapter 2 for a statement of qualifications, plus the specific qualifications of any personnel to be assigned to the project.

The RFP need not be very specific when requesting information on consultant qualifications. A firm that submits a standard brochure unrelated to the proposed project without other information probably will not give the project the attention that it needs and does not deserve serious consideration.

Evaluation Criteria
Explain how the proposals will be evaluated and, in general terms, by whom. It is helpful to both parties if the consultants know how much weight will be given to specific aspects of their proposals, such as cost, technical approach, relevant experience, qualifications of the project team, familiarity with the geographic area, and logistical capabilities. It is also useful to let the consultants know what type of group will review the proposals. A consultant may prepare a proposal in one way if the planning commission is to make the selection and in a very different way if technical experts from the staff will make the selection. Some consultants will probably learn who is on the selection team. Disclosing that information in the RFP keeps the process fair to all. If state law or local rule prohibits the consultants from contacting selection team members directly, the RFP should say so and selection team members should be clearly instructed to turn away (and probably report) any attempted contacts from consultants. Planning consultants typically do not attempt to lobby selection committee members, but some do. If there are rules on the subject, they should be stated clearly.

Directions for Submission
The RFP should include a simple statement of the time (date and hour) and place for submission of the proposal and the number of copies required. Since proposals are often delivered by messenger or overnight delivery service, give a street address (with office number) as well as the agency's mailing address. If there are sealed-bid requirements or if cost proposals should be submitted separately, those directions should be contained in this section.

Part 4. Legal Considerations and Insurance

A good selection process should lead to a consultant who can meet the local government's substantive needs and mesh with its style of doing business. However, the relationship between the planning agency and the consultant has legal implications for both parties. Thus, the relationship should be made formal through a contract.

Formal Agreements

Many local governments have their standard agreements for contracting for services. However, it is particularly important for local governments to understand that a consulting relationship is quite different from most matters for which a local government contracts. The contract forms that a local government uses to hire contractors to install sewer lines or to hire the engineers to supervise such work are simply not suitable for the somewhat fluid professional relationship between a planning agency and a consultant. For local governments that use outside counsel, the consulting agreement should be more like that agreement than any other. Both relationships involve professional services and a degree of professional trust. More important, in both cases, the primary "product" under the contract is professional advice that becomes one piece of a complex equation through which the local government sets public policy. The relationship involves a great deal more interaction between the parties. It also involves far less predictability than typical local government contracts, a fact which makes it somewhat difficult to define the "work" with great precision. Appendices A and B of*Selecting and Retaining a Planning Consultant* by Eric Damian Kelly, Planning Advisory Service Report No. 443 (Chicago: American Planning Association, 1993) contain sample formal agreement forms with commentary that are useful for contracting with a consultant.

Consultants sometimes use a simple letter agreement for small projects with a short schedule and a single payment. Although there are certainly times when it is most expedient for both sides to use a simple letter agreement, it is not an advisable approach. If anything goes wrong, each side will wish that it had a more formal agreement to help in addressing the problem. If a consultant is simply flying into town for a day to conduct a workshop, the chances of something going wrong are not great; in those cases, a short-form or letter of agreement will generally be adequate. A simple letter of agreement is also sufficient in cases where the consultant and the agency have worked together before and each knows that there are unlikely to be any surprises. However, even on a short visit or a simple project with a well-known client, a consultant may be involved in an automobile accident that raises questions of liability for her or his own injuries as well as for injuries to local residents, or a consultant may encounter unanticipated difficulties in completing the project. Some consultants have successfully conducted business for many years using primarily letters of agreement. Nevertheless, a reasonably complete and formal agreement is always desirable, if not always expedient.

Types of Agreements

Time-and-expense (or cost-plus) contracts provide maximum flexibility. They are particularly appropriate where the scope of services is impossible to determine in advance. Litigation services, both from attorneys and expert witnesses, are a typical example. In the design fields, the professional services for supervising building or facility repairs are typically provided on a time-and-expense basis, because there are many unpredictable factors in the proposed work. A continuing contract for a variety of services may also be based on time and expenses rather than a fixed-price, again because there are too many unknown factors to allow either side to develop a reasonable cost estimate. An agency can build controls into such a

contract, requiring advance approval for certain types of work or for work beyond a certain level of effort.

There are two different forms of time-and-expense contracts. Some firms build their overhead and profit into billing rates. For such firms, a time-and-expense contract is exactly that — a bill for professional time at stipulated rates plus a direct pass-through of expenses. The other form of contract, which is more properly called "cost-plus," uses a billing rate that does not include profit and that, in some cases, does not include overhead. Under such a contract, the consultant bills the client the actual cost of personnel and expenses and then adds a profit factor (sometimes called an "administrative fee" or something besides "profit") and, in some cases, an overhead factor on top of the basic rate. Federal agencies often require billing for actual costs but then allow billing of both overhead and profit factors.

There is not a significant difference between the two types of contracts other than custom and practice. Clearly the gross billing rates of firms that simply bill time and expenses include both overhead and profit figures, regardless of whether that is itemized. The more detail that the agency seeks, the more accounting work will be involved for both parties.

Public agencies typically prefer fixed-price contracts. The advantage of the fixed-price contract is that the agency knows exactly what the project will cost in advance. Some consultants also consider that an advantage, although others prefer the time-and-expense approach. A public agency may experience problems with a fixed-price contract under two different circumstances. If there are unexpected developments in the project, beyond the control of either the agency or the consultant, the consultant may be willing to adjust the scope of work to address those developments only with a significant cost increase. The second type of problem occurs when the scope of services does not adequately represent what the agency expected from the consultant. Although many consultants go to a good deal of trouble to ensure that all clients are happy clients, and thus will occasionally provide a moderate amount of work beyond what is absolutely required by the contract, few are willing to provide substantially more services than the contract calls for without some additional compensation. If the consultant finishes the work required by the contract and the agency still needs help, the agency will have to find a way to pay for it.

Some contract forms include the strengths of both approaches. Time-and-expense contracts often include a "not-to-exceed" figure, or "upset price," guaranteeing the public agency that the total project will be completed for an amount that does not exceed the specified figure. Although that might sound exactly like a fixed-price contract, it is not. The "not-to-exceed" figure is usually set somewhat above the total amount that the agency expects to spend on the project, whereas, in the fixed-price contract, the price represents the agency's assessment of the value of the work. The "not-to-exceed" approach is appropriate where the agency anticipates that through effective project management or through offering the assistance of agency staff to the consultant, it can reduce project time or costs.

Another type of contract that includes some of the strengths of both types of contracts is one that establishes a fixed price for the professional services but allows the consultant to bill the agency for specified out-of-pocket expenses. Such expenses always include travel costs and outside printing costs. Whether they also include routine photocopies, postage, and long-distance telephone charges is generally subject to negotiation between the parties. This type of contract is appropriate when the parties know basically what services will be required but for some reason are unable to predict the exact level of expenses. Consultants asked to travel outside the 48 contiguous states often ask for such contracts, because of the lack of predictability of airfare on such routes.

Some fixed-price contracts include additional, extra-cost options. Those may be priced either on a unit-cost basis or on a time-and-expenses basis. For example, the basic scope of services may include six trips to the community by consultant personnel with the option for the agency to require extra trips either for a specific price per trip or on a time-and-expense basis at specified billing rates. Many fixed-price contracts include the option for the agency to purchase extra copies of reports or maps on this basis. An agency should always consider including such additional-cost options in a fixed-price contract, because it offers the agency a way to deal with contingencies at a predictable price and it also avoids the need of going back through a fully competitive process in order to obtain supplemental services on the same project.

Doing Business with Teams

Some RFPs expressly seek response from multidisciplinary teams. Others, while not explicitly suggesting submissions from teams, define project goals or work programs that clearly require planners, designers, attorneys and experts in economics, finance, and traffic. Although a few large firms attempt to provide all of those services, a planning agency seeking such multidisciplinary services is likely to receive some responses from "teams," each team consisting of several separate firms.

There are two possible ways for an agency to do business with a team. It can hire each firm in the team separately, or it can contract with one entity for the services of the whole team.

Where licensure is involved, it will often make sense and will sometimes be essential for the agency to contract with the firms separately. Licensing laws and the structure of malpractice insurance both make it difficult for an agency to contract with one type of firm for professional services that the firm does not offer but which it will obtain from another firm. Even where it is legally possible to structure such an agreement, the firms involved may resist it, in significant part because of the malpractice liability issue. The planning agency should also be concerned with the malpractice issue. If an agency contracts with a planning firm for the services of a professional engineer employed by another firm and the engineer makes a design error, the agency may find that it will encounter significant legal difficulties in recovering damages from the

engineer due to a lack of "privity of contract"; a direct contract with the engineering firm avoids that issue.

When there is no licensure involved and all of the firms are simply contributing to the development of public policy, it may make sense for the agency to contract with the team. There are some advantages to the agency in doing so. If an agency contracts separately with a planning firm, a law firm, and an environmental firm to work on the same project, there is a substantial opportunity for some work item to be omitted. An agency can minimize that risk through careful preparation of each of the contracts and complete coordination of the respective scope of services, but it is difficult to do that. For example, if a planning agency contracts with an architecture firm to do an urban design study, and with a landscape architecture firm to prepare an open space plan, and with a planning firm to prepare economic development and housing plans, it may be quite satisfied with the contracts. However, that list has a serious omission. Who, under that arrangement, will prepare the summary and synthesis? Who will resolve conflicting recommendations? If the local government simply contracts with one firm to prepare a "comprehensive plan including urban design, open space, housing, economic development, and land use components," the responsibility for preparing the summary and synthesis is clear, even without identifying those specific work items. Although it may be unlikely that a planning agency would forget that particular work item, the point is that making a group of integrated lists is much more difficult and much more susceptible to error than writing a description of one end product that will require a number of interim products.

Even if the agency's contracts are clear, in case of any dispute in an arrangement involving separate contracts with multiple firms, it will only be natural for one firm to blame another. The agency may be left trying to sort out the mess. If the agency has a contract with only one firm, the responsibility is clear — that firm is accountable to the city for all of the work included in the scope of services. If a subcontractor fails to do its part, the lead contractor--not the agency --must solve the problem. When the agency plays a role in designating individual team members, it may not be reasonable to require that they contract with each other. On the other hand, where a group of firms bid as a team, it is entirely reasonable to expect them to be willing to do business with each other.

The contract with the team should not be with the team at all. It should be an agreement with a strong lead firm that has both the ability to manage the project and reasonable financial stability. Other team members should be subcontractors under that firm. Any other arrangement creates problems for both sides. The firms involved are also better served by doing business through subcontracts. For instance, if they form a "joint venture" or seek to perform the contract "in association with" one another, they are likely to fall under statutory or common-law partnership laws in most states. In other words, by joining together for a project, they create a new legal entity. If there is a new legal entity, it needs its own taxpayer ID and it must file its own tax returns. Thus, it needs its own set of books. It needs insurance. One of the firms may be able to add the new entity as an additional insured on existing policies, but there may be a surcharge for doing so.

However, the biggest risk for the firms that become involved in such a venture is the unlimited legal liability of a partner for the acts of the partnership. Thus, if an employee of one of the firms runs a school bus off the road, leading to claims that exceed the available insurance, not only that employee and the firm that hired him or her will be liable--so will all of the other firms and, possibly, their principals. The "partners" in such a venture are similarly liable for financial misconduct or irresponsibility carried out by anyone in the course of the partnership's business.

A partnership is, at best, a risky form in which to do business. Although there are reasons for using partnerships for certain undertakings, one should never stumble accidentally into a partnership. A partnership should be used only with the thoughtful advice of an attorney and a tax accountant, and then only for a good reason. The desire to "work together" or to "associate" for a particular project is not a good reason to enter into a partnership. The subcontracting alternative is much more attractive for all parties involved.

In short, a subcontract arrangement will be less risky, less expensive, and simpler for the team members than any sort of joint contract or joint-venture arrangement. The only two arrangements that either a planning agency or proposing team members should consider on a multifirm contract is a contract with a lead firm and subcontracts under it, or a series of separate contracts.

Insurance and Bonds

Many local governments require that their contractors, including consultants, have certain forms of insurance coverage. When the contract is handled through an office that normally administers construction contracts, the insurance requirements are often extensive. Insurance is less of a problem with a contract administered by a planning department. Nevertheless, the issue arises. Planning agency officials seeking consulting services need to understand the basics of insurance as they affect the consulting business. Consulting firms also need to understand these basic principles, so that they know what requests are reasonable.

Workers Compensation

Every employer should have workers compensation insurance. State laws require it of almost everyone.

The only exception to the need for workers compensation coverage is for a sole proprietor with absolutely no employees; with such an individual, a simple indemnification or "hold harmless" clause will generally offer the local government adequate protection. Even with a sole proprietor, there is the risk that the sole proprietor may hire employees to help with the work specified in the contract with the local government. Thus, a sole proprietor who does not furnish evidence of workers compensation insurance should sign an express representation that he or she will not hire any employee for any purpose for the duration of the contract.

Workers compensation coverage is extremely important. A local government might be held liable for an accident or injury to a consultant's employees if the consultant does not have workers compensation coverage. Although the protection of the

workers compensation system is not always complete for a third party that contracts with the insured employer, it helps.

A planning agency should require that the consultant provide a certificate of workers compensation insurance from its insurer, which in many cases may be a state agency. Such certificates are readily available, generally without charge. The local government should ask for the certificate at the time of executing the contract. If a firm does not have workers compensation coverage, it may be an indication that the firm is in poor financial condition or has inept or inexperienced management--problems that ultimately may affect the firm's ability to perform the work.

General Liability

Every business should have a comprehensive general liability insurance policy. Unlike workers compensation insurance, however, such a policy is not required by state law. And, unlike workers compensation coverage, even a sole proprietor should have liability insurance. In today's litigious society, a business cannot function without it.

A planning agency may reasonably seek indemnification from a consultant for acts of its agents and employees resulting in bodily injury or property damage, but the indemnification will not be very meaningful if not backed by a comprehensive liability insurance policy. However, governmental immunity laws in many states provide sufficient protection to local governments that they do not need the indemnification. Further, they may not want to weaken their governmental immunity defenses by suggesting the potential for liability in a contract, as they would do by asking for indemnification against it. Thus, many local governments will not require such indemnification or evidence of supporting insurance. Further, some consulting firms may be unwilling to grant broad indemnification to any local government agency or other client.

If a planning agency is concerned about indemnification from a consultant for risks that may arise in the course of the contract, the local government should also verify that the consultant has insurance covering both owned and "non-owned autos." Most automobile owners carry basic insurance coverage, and many state laws require it. Although not all businesses have non-owned auto coverage, all consultants should have it. That coverage, usually an endorsement to the comprehensive general liability policy or one part of a small business package, covers liability of the business for accidents of its employees while driving rental cars, personal cars, or any other vehicles that do not belong to the business. If there is any risk of liability on a planning consulting job, it is more likely to arise from an automobile accident than from anything else.

Malpractice Insurance

Called "Errors and Omissions" coverage within the insurance industry, professional liability ("malpractice") insurance provides coverage in case of an error or omission by the business in carrying out its normal work. Such insurance is essential to architects, who design buildings, to engineers, who design bridges and highways, and even to landscape architects, who sometimes face claims based on traffic

accidents allegedly caused by errors in site planning. Lawyers, doctors, and dentists all typically carry errors and omissions insurance to protect them against claims for errors in their own work.

The work of planners, however, is quite different. Planners are basically policy advisors. There are few wrong answers and even fewer right ones in the business of planning. Thus, proving that a planner was somehow wrong in his or her advice would be difficult at best. Planning agencies generally should not require professional liability insurance from a planning consultant unless the work to be undertaken by such planners requires signed or sealed drawings or other specifications of a design, engineering, or scientific nature. It is noteworthy, however, that, in most states, planners who lack other credentials cannot legally perform such technical work, anyway. Planners who are also architects or landscape architects will generally have errors and omissions coverage in that licensed profession. Although it is likely that most errors and omissions coverage for architects and landscape architects will be broad enough to include planning services, a firm should ask its insurer that specific question.

Defamation

A comprehensive general liability policy may or may not include coverage for libel, slander, or other forms of defamation. Some small business packages do include such coverage. This is a matter of concern only to the consultant. The laws of governmental immunity should clearly protect a planning agency from libel or slander claims arising from the development of plans, as will the basic principles of free speech and open debate on public issues. However, while reviewing its insurance coverage, a consulting firm may want to review the desirability of including such coverage in its total package.

Property Coverage

Every business needs some sort of insurance on its business property. A planning agency has little stake in that and should not ask for evidence of it. It is discussed here because a review of insurance and the consulting business would be incomplete without it and because there is one area of risk that does affect the agency client of a consulting firm. As suggested above, the consulting firm may purchase property coverage as part of a small business package. The form, amount, and exact provisions of such a policy should be reviewed with a commercial insurance agent.

Both planning agencies and consultants should be aware of one important exclusion from virtually all property insurance--"work product." A consulting firm's fire insurance policy will replace desks, chairs, and equipment, but it will not pay to recreate a plan that was 98 percent complete but was destroyed in a fire. Lost work product will affect the agency as well as the consultant through inconvenience, delay, and, in the worst-case scenario, a loss so catastrophic that the consultant cannot afford to recreate the work. Although it is possible to obtain coverage of valuable papers, including some work product, under a special "inland marine policy," such coverage is not included in standard business packages and can be very expensive.

The best insurance for a work product, whether on paper or electronic media, is an extra copy. That extra copy is of little value if it remains in the same building (or vehicle) with the original. Every business should have a system for periodically removing copies of important work in its current state from the business premises.

Bonds

When a contract administration office handles a consulting contract, the issue of bonding sometimes arises. Bonds are not pertinent to planning contracts. It may be helpful for consultants and public planners to understand the basics of bonds so that they can explain to a contract administrator why bonds are not necessary for consulting services.

The most common type of bond used in public contracts is a performance bond that essentially guarantees that the contractor will finish the specified work for the specified price. Such bonds are common on construction projects, in which a community cannot risk having a contractor fail to complete a job (e.g., by digging up the street but then not refilling the hole and patching the pavement). On a planning contract, a planning agency should rarely if ever advance money to the consultant; few agencies do so. Thus, the agency always maintains a degree of control because it can refuse to pay. If the scope of services is carefully drawn, the agency should receive value for its payment at each stage. In the unlikely event that a planning firm did not finish particular work, it should have been paid only for the work that it did. A carefully prepared scope of services will allow for the fact that part of the task of completing the job is putting all of the pieces together. Thus, if a consultant leaves the planning agency with only some pieces of the work completed and another consultant has to prepare other pieces and assemble the final project, there should be a remaining budget available to pay for that.

Conclusion

A planning agency and a consultant should enter into a contract only with the advice of their respective attorneys. It may not be necessary to consult an attorney on every contract if the firm's or agency's attorney reviews and approves a standard contract form. However, both the firm and the agency should have available the general advice of an attorney familiar with its respective needs and operations. A consultant should also review its insurance package with an insurance agent capable of handling business insurance, and the consultant should check with the agent whenever an unusual insurance question comes up in a proposed contract. A planning agency should review the insurance aspects of proposed contracts with its local government risk manager.

PUBLIC COMMENT

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DATE: 11/17/15

SUBJECT: Ouray County Master Plan

TO: Planning Commission and Board of County Commissioners

When I saw that the Ouray County Master Plan was on your agenda to be reviewed for its relevance to the present, I was concerned because I do not think the current Master Plan needs revising, and any process of revision risks giving the County a worse document.

I assume everyone is aware of the conceptual difference between a Master Plan and a Land Use Code, which may be uppermost in our consciousness since the latter has just gone through exhaustive revisions.

A Master Plan and a Land Use Code are complementary documents, but a Master Plan is a statement of principles defining what the County agrees are its goals and general policies—to support tourism, preserve wildlife, preserve visually significant areas, etc. It needs to be, and is, general. It is likely to remain relevant over long periods of time unless your principles change. For instance, if the County decides not to support tourism, then that principle in the Master Plan needs to be removed or downgraded. In contrast, a Land Use Code describes the legal requirements and limitations on land use. It is and needs to be very specific. It is likely to undergo revision at predictable intervals, hopefully not too frequently, as experience indicates a need for adjustment. The Land Use Code ideally tries to align itself with the goals in the Master Plan and, in that sense, helps to fulfill or complement the Master Plan.

I have belabored this distinction because it is an important conceptual difference that can be easily lost in the tug and pull of competing interests and the usual arguments that dominate public discussion. The Master Plan is too important as a definition of our values to be weakened by confusion over its nature and purpose.

On a number of occasions, as I have been preparing comments on County activities, I have reviewed the Master Plan to clarify what we value as a County and evaluate current proposals by that standard. I have always been reassured by the clarity, balance, and common sense in our Master Plan. Although we have had the benefit of elaborate studies in the interim, I do not see anything in these studies or subsequent events that would suggest the need for revision of the Master Plan.

I hope you will respect the excellence of our current plan and realize it does not need a process for revising its goals and general policies.

Thank you for your time and attention,

Sara Coulter
Log Hill Village
Ouray County

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Bryan Sampson

From: Tom McKenney [mckenney@independence.net]
Sent: Friday, November 20, 2015 9:25 AM
To: Bryan Sampson
Subject: Fwd: Master Plan / Ouray County Planning Commission

>
> I am thrilled that we are going to look at the Master Plan. It is about time; being 16 yrs old makes checking this guiding document for authenticity warranted.
> In spite of needing minor changes to make it current, I believe that it still, amazingly, reflects what drew us to this path of ground, our feelings about this place and the vision we are interested in for the people who call this home. It accurately reflects the desires of its residents.
> A series of outreach gatherings to garner community input and support might be a large part of the process. If these meetings confirm my contention that this document is still valid and in need of not much more than a tune up, I would also suggest that this process be an "in house" affair with a zero budget cost (for outside consultants).
> Key to this working is that the planning commission, at minimum, be totally familiar with the Theobold Study and the Harvard Report before starting this endeavor.
>
> Thank you for the time and energy you commit to the community.
>
> Tom McKenney

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MINUTES FOR REVIEW

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MINUTES

OURAY COUNTY PLANNING COMMISSION

REGULAR MEETING

November 17, 2015 6:00 – 8:00 p.m. (appx)

Meeting held at the Land Use/Road & Bridge Offices, Conference Room

111 Mall Road, Ridgway, Colorado

Attending:

PC:	Carr, Currin, Peters, Parker, Jackman, Miller
Staff:	Castrodale, Sampson
Absent:	Baskfield, Williams

Note: These minutes are not intended to be a *transcription* of the hearing. Comments are abbreviated and paraphrased. Every intention is made to capture the intent and meaning of the comments made during the hearing.

I. Call to Order – Workshop of the Ouray County Planning Commission (6:03 pm)

1. The Planning Commission conducted a work session to discuss the Land Use Code priority resolution approved by the BOCC.

II. Call to Order – Regular Meeting of the Ouray County Planning Commission (7:52pm)

1. **Public Hearing - The Planning Commission held a public hearing to review a Land Use Code Section pertaining to boundary adjustments. (Note: The BOCC recently adopted this code section but requested that all use of the term "Lot" be changed to "Parcel". This change required that the Planning Commission hold this additional public hearing.)**

   i. Public Comment

      1. Parker opened public comment at 7:06
      2. Tom McKenney; noted that he had not done his homework, but that if these were the only changes proposed, he would support them
      3. Parker closed public comment at 7:09

   ii. Planning Commission Deliberation

      1. Parker; noted that the definitions are not included in this code section, but rather in Section 22.
      2. Parker; requested that the BOCC consider revising definitions be modified to make clear that a lot is within a subdivision and a parcel is not within a subdivision.

3. Jackman noted that the lots within the Colona Zone are not within a subdivision or PUD.
    a. A discussion followed, and it was decided to notify that the BOCC that the definitions are not clear that a lot is within a PUD or subdivision, and a parcel is outside a subdivision.
4. The Planning Commission members noted several instances of the term "lot" that should be changed to "parcel". Castrodale did a search and replace to fix all instance of the term "lot".
5. Currin asked about the definitions in the memo and noted that they don't read well, and could be problematic. Perhaps the term "lot" should be omitted within the definition of "Lot".
    a. **MOTION:** Peters moved to accept the section 32 parcel line boundary adjustments and elimination of parcel as revised with the recommendation that the BOCC review the definitions of "Lot" and "Parcel" set forth in sec 22 as to the relevancy of what they're trying to state and possible removing them from 22 in the future. Planning commission is forwarding with a recommendation of approval subject to staff formatting, so that the formatting is consistent with the Land Use Clean-up.
    b. **SECOND:** Currin seconded the motion
    c. **DISCUSSION:** None
    d. **VOTE:** The motion passed unanimously

2. Approval of Minutes

i. **Approval of minutes for 11/3/2015**

1. **MOTION:** Carr moved to approve the minutes of 11/3/2015
2. **SECOND:** Miller seconded motion
3. **DISCUSSION:** No discussion was had
4. **VOTE:** A vote was taken and the motion passed unanimously.

3. New business

i. Next meeting will be January 5th, to review the work potentially involved with amending the Master Plan.

4. Adjourn Regular Meeting

i. **MOTION:** Currin moved to adjourn the regular meeting

ii. **SECOND:** Carr seconded the motion

iii. **DISCUSSION:** None

iv. **VOTE:** The motion passed unanimously

III. Call to Order – Workshop

1. The Planning Commission continued their work session to discuss the Land Use Code priority resolution approved by the BOCC.

Submitted By:

_____

Bryan Sampson
Associate Planner

Approved By:

_____

Randy Parker
Chair