

REVISED AGENDA
OURAY COUNTY PLANNING COMMISSION
REGULAR MEETING & WORKSHOP

May 3, 2016, 6 – 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.*

Note: 2 or more County Commissioners may be present for all or a portion of this meeting.

- I. Call to Order – Joint Workshop of the Ouray County Planning Commission & Board of County Commissioners**
 1. Discussion and direction regarding high alpine development regulations.
 2. Discussion regarding the Land Use Code priority resolution.

- II. Call to Order - Regular Meeting of the Ouray County Planning Commission**
 1. Request for approval of minutes; 4/19/2016
 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 mcastrsdale@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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**RESOLUTION
OF
THE BOARD OF COUNTY COMMISSIONERS
Ouray County, Colorado**

Directing the Planning Commission to Recommend Revisions to the Ouray County Land Use Code Regarding High Alpine Residential Development on Patented Mining Claims and Mill Sites in the High Country

WHEREAS, the Board of County Commissioners from time to time updates the priorities of the Planning Commission and requests the Planning Commission to provide recommendations to the Board regarding specific topics in the Ouray County Land Use Code; and

WHEREAS, the Board of County Commissioners discussed concerns regarding residential development of mining claims in high alpine areas of the County during a work session on April 12, 2016; and

WHEREAS, the concerns of the Board include: 1) development pressure on patented mining claims and mill sites in the high country of Ouray County at or above an elevation of 9,500' resulting from more stringent land use code restrictions for such development in adjacent counties; 2) impacts of residential development of mining claims on current and future mineral exploration and extraction activities important to the County's economy; 3) problems of providing basic water, waste, access and similar services and utilities generally expected by landowners in high alpine areas of the County; 4) visual impacts resulting from residential development in alpine areas with little vegetation or other concealing features; 5) impacts to tourism and recreation from increased densities in areas with limited parking at trailheads and scenic overlooks; 6) public safety in areas prone to avalanches, rock slides and other geo-hazards; and impacts of residential development on the fragile high alpine area environment, including tundra environment; and

WHEREAS, the Board has adopted a temporary moratorium through October 19, 2016, Resolution 2016-017 on all residential building permits on mining claims and mill sites in the high alpine zone, defined as 9,500' above sea level, in order to allow the Planning Commission, with the assistance of staff, to consider possible revisions to the Ouray County Land Use Code addressing these concerns, and to make recommendations regarding such;

WHEREAS, Ouray County has a long history of mineral exploration, development and commercial mineral extraction and processing, which led to the patenting of numerous mining claims in Ouray County, and inherent in the patenting process under the Mining Law of 1872 is a determination that a patented mining claim contains commercially viable mineral deposits and were intended to be used primarily for mining rather than residential purposes; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Ouray County, Colorado, that the Planning Commission, with the assistance of County staff, is requested to review and provide comments and recommendations on the list of questions attached hereto as Exhibit A.

1. The Planning Commission may consider and recommend specific revisions drafted by staff for consideration, or may simply provide the Board with general responses to the posed questions.
2. In order to address these concerns with the promptness required by the terms of Resolution 2016-017, the Planning Commission is requested to provide its recommendations or responses to the Board of County Commissioners on or before August 1, 2016.

Resolution #2016-018

APPROVED AND ADOPTED THIS 26 DAY OF April, 2016.

Voting for: COMMISSIONERS PADGETT, TISDEL & BATCHELDER
Voting against: NONE

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:



Michelle Näuer
Michelle Näuer, Clerk and Recorder
By: Hannah Hollenbeck, Deputy Clerk of the Board

Lynn M. Padgett

Lynn M. Padgett, Chair

Ben Tisdell

Ben Tisdell, Vice-Chair

Don Batchelder

Don Batchelder, Commissioner

Exhibit A

Planning Commission Recommendations on High Country Development

- Reference materials for PC will be the 4/12 memo and packet that was provided to the BOCC from the County Attorney which includes attachments of certain state statutes and copies of relevant San Miguel and San Juan County high country regulations. The restrictions on high country residential development being implemented by counties adjacent to Ouray County may be placing development pressures on Ouray County which does not have similar restrictions.
- In anticipating a meeting between BOCC and PC for discussion, any additional or amended items for the PC to consider will be by agreement of the BOCC and subsequently put in writing to the PC.

Goals of Seeking PC Recommendation on High Country Development Regulations:

- Recommendation on regulations on high country residential development located on patented mining claims and mill sites in the high country of Ouray County at or above an elevation of 9,500' such as typical of patented mining claims.
- Recommendation desired will first consider if PC recommends including regulations or restrictions, in concept, that will be either located in code and/or site development permits that are simple, predictable for staff and the applicant, efficient and relatively easy to administrate.
- Commissioner Batchelder would like the recommendation to adhere to the KISS principle (Keep It Simple Stupid).

Process for Planning Commission with support of Land Use Staff and County Attorney:

1. Make recommendations on concepts/elements of regulations or restrictions with respect to High Country residential development.
2. Staff will put the conceptual recommendations into draft code and/or changes to a site development permit.
3. Planning Commission will hold a Public Hearing on potential code or policy changes and issue a formal recommendation to the BOCC at the conclusion of the Public Hearing.

Specific concepts/elements the BOCC desires a recommendation on --

- A. Definition of High Country and applicability:
 - E.g. -- recommendation on if the definition of High Country and any specific residential development restrictions should apply to residential development on patented mining claims and mill sites in the high country of Ouray County at or above an elevation of 9,500' within Ouray County or if Planning Commission (PC) recommends a different definition or applicability.

Exhibit A

- B. Should Ouray County have any restrictions or limitations on residential use and residential structures in the High Country? The elements the BOCC is interested in getting a recommendation on from the Planning Commission, identified in one or both of adjacent counties' codes are:
- Should Ouray County have a minimum parcel size of 5 acres to qualify for a site development/building permit for a residential structure in the High Country?
 - Should Ouray County require a maximum density of 1 unit (no Accessory Dwelling Unit) on patented mining claims and mill sites in the high country of Ouray County at or above an elevation of 9,500'? Should this limitation exist county-wide?
 - Should Ouray County require additional minimum setbacks in the High Country so that they are the same as 35-acre conforming parcels throughout the county? [reference - Ouray County Land Use Code Section 3.85b]
 - Should Ouray County require residential development to demonstrate that the project has been designed in a manner that will protect and minimize impacts to important historic (historic building, town site, mining district, cultural) or environmental features of the site (such as timber, plants, wildlife, drainages, wetlands, geologic features)? If so, can it be accomplished with the KISS principle in mind?
 - Should site development protect existing public trails (i.e. prevent obstructions such as driveways crossing the trails, fencing obstructing the trails, or structures being located so as to maximize a buffer to trails)?
 - Should Ouray County require primary access to residential development be through an Ouray County Road or State Highway vs. access having no nexus to public roads within Ouray County?
 - Should require adequate parking for the proposed residential use on-site in the High Country? Should this requirement exist county-wide, so that any Ouray County development will not rely on property users to park on County Roads?
 - Should Ouray County require utilities for High Country residential development to be installed in ways that minimize impacts to environment and scenery? [One adjacent county requires features to be installed underground or placed within structures]. Should Ouray County restrict placement of fuel, water tanks, generators, etc. to be located within a structure or be put underground?
 - Should Ouray County require High Country residential buildings to blend with the natural surroundings?
 - Should Ouray County restrict square footage of High Country residential dwelling units to 1,000 square feet? Should Ouray County restrict square footage of High Country residential dwelling units to 1,000 square feet, with the ability to earn potential bonus 500 square feet if certain incentive conditions are met, such as in San Miguel County, up to 2,500 square feet? [For reference, examine San Miguel County code, San Juan County code and previous Ouray County proposed Section 30 draft.]

Exhibit A

- Should Ouray County eliminate all residential buildings within the tundra ecosystem? Or are existing code and site development permit considerations adequate for protection of tundra and watershed health?
- Should Ouray County require a Special Use Permit (SUP) if building is a vacation rental or commercial use to require as conditions of use adequate parking (off county roads), trash, water, sanitation, cell/satellite service, and emergency access? [For reference, see Ouray County notes on a potential county-wide ordinance on regulations for short-term/vacation rentals]. Are there regulations for short-term rentals that should be different for High Country development than county-wide?
- Should Ouray County restrict or ban residential development in the High Country that results in an increased demand for public services (plowing/county road maintenance, emergency response, etc) beyond what is currently provided by the County?
- Should Ouray County restrict High Country driveway or private road cuts in a manner to make them subject to review to ensure they are designed to minimize impacts to environmental and scenic values? If so, can it be accomplished with the KISS principle in mind?
- Should Ouray County restrict High Country residential driveway widths to 10 feet? Should Ouray County restrict blasting to create residential driveways in the High Country?
- Should Ouray County consider have more restrictive building height requirements for residential development within the High Country? [currently buildings county-wide can be up to 35 feet high; for reference see adjacent San Miguel County code that limits High Country buildings to 12 to 20 feet high]
- Should there be referrals to any County or State/Federal agencies that are specific to High Country residential development?
- Should there be any reference exhibits to any potential new code or permit applications?
 - The BOCC is in consensus that 9,500' elevation should be as referenced in the latest published 24,000 USGS quadrangle

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MEMORANDUM

To: Board of County Commissioners
Cc: Connie Hunt, Mark Castrodale,
From: Marti Whitmore, County Attorney
Date: March 30, 2016
Re: High Alpine Development Regulation and Restrictions

SUMMARY: The BOCC asked me to research the current land use regulations of other counties and provide legal perspective on a potential moratorium on building permits or other permissions in the high alpine areas of the county pending possible adoption of land use code provisions addressing such building or development. The BOCC does have the authority to adopt a six-month moratorium without a public hearing, or a longer moratorium if a public hearing is held. Any moratorium must be reasonably related to the specific contemplated regulations or land use provisions.

Other counties adjacent to Ouray County do have limitations not currently in the OCLUC affecting building and development in high alpine areas. Adoption of additional building and development restrictions in high alpine areas would also be consistent with proposed winter road maintenance policy.

DISCUSSION:

The BOCC may impose a temporary moratorium on building, construction, reconstruction, or alterations, or may impose temporary regulations on such activities. A moratorium or temporary regulations adopted *without a public hearing* may not exceed six months. C.R.S. 30-28-121. The Colorado Supreme Court has recognized broader authority to impose a longer moratorium, as necessary, under the Land Use Enabling Act to "...provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights." C.R.S. 29-20-102. *Droste v. Board of County Commissioners (Pitkin County)*, 159 P.3d 601 (Colo. 2007). The Court upheld a ten month moratorium as reasonable under the broader authority where Pitkin County had held a public hearing prior to imposing the moratorium.

The County's authority over land use is contained in Title 29, Article 20 and Title 30, Article 28. *Wilkinson v. Board of County Commissioners*, 872 P.2d 1269 (Colo. App. 1993). Generally, the broader authority is contained in Title 29. This authority does not require adoption of "HB 1041" regulations; that authority is contained in another section of statute (Title 24, Article 65.1), and is limited to specific matters of state interest. However, some counties combine the various authorities in promulgating their land use codes and permitting regulations.

The authority granted to the Board of County Commissioners by the Land Use Enabling Act, in C.R.S. 29-20-104, and which authority "...shall not limit any power or

authority presently exercised or previously granted,” includes “...the authority to plan for and regulate the use of land by:

- (a) Regulating development and activities in hazardous areas;
- (b) Protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species;
- (c) Preserving areas of historical and archeological importance;
- (d) Regulating, with respect to the establishment of roads on public lands administered by the federal government...(omitting interesting language re R.S. 2477)
- (e) Regulating the location of activities and developments which may result in significant changes in population density;
- (f) Providing for phased development of services and facilities;
- (g) Regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and
- (h) Otherwise planning for and regulating the use of land so as to provide a planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.”

Adjoining counties do have more stringent regulations governing development and building in high alpine areas than Ouray County. This discrepancy could result in more development interest in Ouray County, particularly in high mountain areas near common boundaries with other counties.

San Juan: The Land Use Code includes a Mountain Zoning District, as well as a Mining Overlay District. The stated intent of the Mountain Zoning District is “..to preserve the natural and scenic environment of the mountains in San Juan County while allowing activities and uses that normally occur with *seasonal access* in the backcountry of San Juan County. Sections of the County which are unique because of location, physical and scenic characteristics, historic resources and natural hazards or that have economic potential are designated within certain Overlay Zoning District and may be subject to additional requirements.” (emphasis added to highlight the connection between winter road maintenance/access and land use regulations)

The Mineral Resources Overlay District intent is stated to be “...to protect access to the mineral deposits which are known to be, or expected to be, within the district. Commercial and industrial uses, except for those related to mineral exploration and extraction, are not permitted within the Overlay District. Residential development shall be kept at a low density to avoid conflict between mining and residential uses.”

There is also a Scenic Preservation Overlay District “to prevent development from adversely affecting the scenic and historic assets of the County to the greatest degree possible...”

The Mountain Zoning District limits the uses by right to mining and milling and “...activities which do not involve any construction or development of any sort (such as

grazing, camping, picnicking, hiking and outdoor recreation)...” All other uses, including residential use, are subject to review. “Residential development of any sort within the alpine tundra ecosystem is strictly prohibited. All other development, including temporary and permanent structures, within the alpine tundra ecosystem is strongly discouraged and may be permitted only under limited circumstances when no reasonable or feasible alternative to such development is available. Ancillary uses associated with approved development at lower elevations (such as ski lift towers and other structures), necessary communication towers, and mining structures which cannot realistically be located underground are among the types of development which may be approved for location in the alpine tundra ecosystem....”

Construction is also prohibited in the Scenic Preservation Overlay District: “Within the Scenic Preservation Overlay District, only activities which do not involve any construction or development of any sort, including disturbing or soil or trees (such as grazing, camping, picnicking, hiking and outdoor recreation) shall be permitted as uses by right. All other uses within this zone shall be uses subject to review.”

The County has identified some of the overlay zoning by Township, Section and Range; reference materials include avalanche maps and other hazard maps. Interestingly, even in the two residential zoning district – urban and rural – only activities not requiring construction are uses by right. Other uses, including residential, require special review and permit.

San Juan County limits the size of residences at or above 11,000, but below the tundra zone to 1,000 square feet, with a referenced resource to determine elevation of a property. Generally speaking, porches and decks are excluded from the calculation of square footage. A single accessory building up to 200 square feet is also permitted. Mining structures are not subject to the square footage limitations.

San Miguel: The County has a High Country Area (HCA) zoning district. Section 5-321 of the SMLUC is attached for reference. The zone is “intended to protect and preserve the alpine, sub-alpine and scenic hillsides in the upper San Miguel watershed for their historic and natural landscapes and retain the relatively undeveloped character of these backcountry areas....This Zone District is comprised of public lands managed by the United States Forest Service (USFS) and patented mining claims. Much of this Zone District was once mined and may again be mined.....The size, scale, and location of Single-family Dwellings and Accessory Structures are limited to avoid conflict with past and/or future mining....”

Single-family dwellings are limited to 1,000 square feet of Floor Area, with some ability to increase the square footage based on certain design criteria, but in no case can the total square footage exceed 2,500 square feet. There can also be one detached accessory structure of 200 square feet or less.

The HCA is further described as: “(t)hese areas are typified by a lack of improved or maintained roads, little or no utilities or infrastructure and very limited or

sparse development other than historic mining remnants from past mining activities. Development activities in these areas should be limited due to high elevation, environmentally sensitive and geologically hazardous areas, steep terrain, limited access, mining remnants and other site constraints. If residential development occurs it should be limited to cabins and small scale residential development consistent with the type of development that historically occurred in the area. Development that results in a demand for public services beyond what is currently provided should be prohibited...”

Applications for development on a patented mining claim must include information addressing applicable state and federal requirements for reclamation, stabilization bonding, storm water drainage, and other matters to protect the public health, safety and welfare of the owners, occupants and neighbors. A report by a Colorado P.E. identifying all surface or subsurface mining related hazards and recommended mitigation measures is also required.

Hinsdale: The County does not appear to have any special regulations for high mountain areas adjoining Ouray County. There are provisions for the Piedra Zone, adjoining Mineral County, that provide limitations on development.

ADDENDUM TO MEMORANDUM

To: Board of County Commissioners
Cc: Connie Hunt, Mark Castrodale,
From: Marti Whitmore, County Attorney
Date: April 6, 2016
Re: High Alpine Development Regulation and Restrictions

NOTE: I found another statute that is pertinent to your consideration of high alpine regulations. C.R.S. 34-1-305 is attached for your information. In part, it provides:

“After July 1, 1973, no board of county commissioners.....shall, by zoning, rezoning, granting a variance, or other official action or inaction, permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor...”

This statute is applicable only to “populous counties,” defined in C.R.S. 34-1-302 as those counties having a population of sixty-five thousand (65,000) inhabitants. Therefore it is not applicable to Ouray County. However, the authority of a county to adopt land use regulations is sufficiently broad (see prior memorandum) that a non-populous county could use the criteria of this statute in adopting regulations to ensure that future extraction of mineral deposits is not inhibited.

A patented mining claim is one for which the federal government has passed title to the owner of both mineral interest and surface interest, making it totally private land. In order to patent a mining claim under the Mining Law of 1872, which has not been substantially amended, one must demonstrate that there are commercially available mineral deposits, and that the claimant has taken certain actions to produce commercial minerals. Thus, by definition, a patented mining claim contains a commercial mineral deposit. Prohibiting construction of a non-mining structure on the property would seem to be consistent with the intent of the state statute.

Unpatented mining claims include only the right to explore for minerals deposits and to extract a mineral deposit. Until the claim is patented, under the Mining Law of 1872, the federal government continues to hold title to the land, and construction of non-mining related structures is prohibited under the federal law. So, no building permit should issue in any event on these properties.

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§ 34-1-305. Preservation of commercial mineral deposits for extraction.

Colorado Statutes

Title 34. MINERAL RESOURCES

GEOLOGICAL SURVEY

Article 1. Geological Survey

Part 3. PRESERVATION OF COMMERCIAL MINERAL DEPOSITS

Current through Chapter 54 of the 2016 Legislative Session

§ 34-1-305. Preservation of commercial mineral deposits for extraction

- (1) After July 1, 1973, no board of county commissioners, governing body of any city and county, city, or town, or other governmental authority which has control over zoning shall, by zoning, rezoning, granting a variance, or other official action or inaction, permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
- (2) After adoption of a master plan for extraction for an area under its jurisdiction, no board of county commissioners, governing body of any city and county, city, or town, or other governmental authority which has control over zoning shall, by zoning, rezoning, granting a variance, or other official action or inaction, permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
- (3) Nothing in this section shall be construed to prohibit a board of county commissioners, a governing body of any city and county, city, or town, or any other governmental authority which has control over zoning from zoning or rezoning land to permit a certain use, if said use does not permit erection of permanent structures upon, or otherwise permanently preclude the extraction of commercial mineral deposits by an extractor from, land subject to said use.
- (4) Nothing in this section shall be construed to prohibit a board of county commissioners, a governing body of any city and county, city, or town, or other governmental authority which has control over zoning from zoning for agricultural use, only, land not otherwise zoned on July 1, 1973.
- (5) Nothing in this section shall be construed to prohibit a use of zoned land permissible under the zoning governing such land on July 1, 1973.
- (6) Nothing in this section shall be construed to prohibit a board of county commissioners, a governing body of any city and county, city, or town, or any other governmental authority from acquiring property known to contain a commercial mineral deposit and using said property for a public purpose; except that such use shall not permit erection of permanent structures which would preclude permanently the extraction of commercial mineral deposits.

Cite as C.R.S. § 34-1-305

History. L. 73: p. 1048, § 1. C.R.S. 1963: § 92-36-5 . L. 75: (6) added, p. 1336, § 2, effective June 29.

Case Notes:

ANNOTATION

Law reviews. For article, "Severed Minerals as a Deterrent to Land Development", see 51 Den. L. J. 1 (1974).

This section does not deprive landowners of reasonable use of their property, and thus does not constitute a governmental taking. *Cottonwood Farms v. Bd. of County Comm'rs*, 725 P.2d 57 (Colo. App. 1986), *aff'd*, 763 P.2d 551 (Colo. 1988).

Local governments can permit uses compatible with mining. By zoning, rezoning, granting a variance, or other action or inaction, local governments can permit any use of land known to contain a commercial mineral deposit so long as the permitted use is not incompatible with mining, such as erecting permanent structures on this land; the preservation act does not require local governments to allow mining in any area where it is commercially practicable, but only to preserve access to the mineral deposits. *C & M Sand & Gravel v. Bd. of County Comm'rs*, 673 P.2d 1013 (Colo. App. 1983).

San Juan County Regulations

- .1 Boundaries shown as following or approximately following the limits of any municipality are construed as following such limits.
- .2 Boundaries shown as following or approximately following streets and roads are construed to follow the centerline of such streets and roads.
- .3 Boundary lines which follow or approximately follow platted lot lines, mining claim lines or other property lines as shown on tax maps are construed as following such lines.
- .4 Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines are construed as following such lines.
- .5 Boundaries shown as following or approximately following railroad lines are construed to lie midway between the main tracks of such railroad lines.
- .6 Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing water courses are construed as following the channel centerline of such water courses taken at mean low water, and in the event of a natural change in the location of such streams, rivers, or other water courses, the boundaries are construed as moving with the channel centerline.
- .7 Boundaries shown as following or approximately following ridgelines are construed as following the highest points of the ridgelines.
- .8 Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs .1 through .7 above are construed to be parallel to such features and at such distances therefrom as are shown on the map.
- .9 If the zoning or overlay districts which apply to a specific property cannot be determined by an applicant, the Land Use Administrator will make the determination on a case by case basis. The applicant must provide all information needed to make the determination, such as a property survey and proof of ownership. If the Land Use Administrator is unable to make such determination or has a conflict of interest, the Planning Commission will make the determination.

1 – 106 STATEMENT OF INTENT AND PURPOSE FOR EACH ZONING AND OVERLAY DISTRICT

The following section specifies the purpose and intent of each Zoning and Overlay District established by this Resolution. In determining the boundaries of the Zoning Districts set forth hereunder, consideration has been given to the physiographic, scenic, historical, geological and other natural characteristics of the various areas of the County and the individual suitability of those areas for particular activities, uses, potential development and preservation.

.1 MOUNTAIN ZONING DISTRICT INTENT

The intent of the Mountain Zoning District is to preserve the natural and scenic environment of the mountains in San Juan County while allowing activities and uses that normally occur with seasonal access in the backcountry of San Juan County. Sections of the County which are unique because of location, physical and scenic characteristics, historic resources and natural hazards or that have economic potential are designated within certain Overlay Zoning Districts and may be subject to additional requirements.

.2 RURAL RESIDENTIAL ZONING DISTRICT INTENT

The intent of the Rural Residential Zoning District is to allow single-family residential use on larger tracts of rural land with individual on-site sewer and water services and good roadway access.

.3 URBAN RESIDENTIAL ZONING DISTRICT INTENT

The intent of the Urban Residential Zoning District is to permit smaller-lot subdivisions, lower density multi-family units and limited commercial businesses with approved sewer and water systems where appropriate near an existing town, resort or similar development.

.4 SCENIC PRESERVATION OVERLAY DISTRICT

The intent of the Scenic Preservation Overlay District is to prevent development from adversely affecting the scenic and historic assets of the County to the greatest degree possible. Recognizing that the unsurpassed natural beauty and historic remnants found in San Juan County are some of the County's most valuable assets and further realizing that the County and its people and economy are dependent upon visitors and their ability to enjoy such assets. To that end, the District seeks to preserve the County's natural, pristine appearance and historic sites visible from Highway 550, the Durango and Silverton Narrow Gauge Railroad, the Animas River above the Eureka townsite, the Silverton Historic District, and any other historic districts or sites in the County.

.5 MINERAL RESOURCE OVERLAY DISTRICT INTENT

The intent of this Resource Overlay District is to protect access to the mineral deposits which are known to be, or expected to be, within the district. Commercial and industrial uses, except for those related to mineral exploration and extraction, are not permitted within the Overlay District. Residential development shall be kept at a low density to avoid conflict between mining and residential uses.

.6 WATERSHED PROTECTION OVERLAY DISTRICT INTENT

The intent of this Overlay District is to protect the area needed for the protection and production of a safe public water supply. Activities and uses which create a hazard to health or a danger of pollution to the water supply of the community served by the watershed areas are prohibited.

.7 TOWN/COUNTY ZONE OF MUTUAL INTEREST OVERLAY DISTRICT INTENT

The intent of this Mutual Interest Overlay is to provide a cooperative review process for proposed development and uses in the County which are adjacent to the Town of Silverton where it is anticipated that Town streets, water, sewer, and other public services might be extended; and/or may be subject to annexation by the Town at some point in the future. Any proposed development or use within this Overlay District shall be reviewed by both the Town of Silverton and San Juan County.

1 – 107 USES BY RIGHT AND USES SUBJECT TO REVIEW

The uses permitted in each Zoning District correspond to the unique characteristics of that district. Some uses by right which are permitted in a Zoning District may be restricted because of the existence of an Overlay District. Some uses by right may require an Improvement or Use Permit, pursuant to Section 2 – 102 of this Code. The review and appeal process procedures are outlined in Chapter 4 of this Code.

.1 MOUNTAIN ZONING DISTRICT USES

Within the Mountain Zone, only mining and milling, and activities which do not involve any construction or development of any sort (such as grazing, camping, picnicking, hiking, and outdoor recreation) are uses by right. All other uses and activities within the Mountain Zone are uses subject to review. Residential development of any sort within the alpine tundra ecosystem is strictly prohibited. All other development, including temporary and permanent structures, within the alpine tundra ecosystem is strongly discouraged and may be permitted only under limited circumstances when no reasonable or feasible alternative to such development is available. Ancillary uses associated with approved development at lower elevations (such as ski lift towers and other structures), necessary communication towers, and mining structures which cannot realistically be located underground are among the limited types of development which may be approved for location in the alpine tundra ecosystem. Special activities and uses as defined in Chapter 5 of this Code are subject to the review process and additional regulations described therein.

.2 RURAL RESIDENTIAL ZONING DISTRICT USES

Within the Rural Residential Zone, only activities which do not involve any construction or development of any sort (such as camping, picnicking, hiking, and outdoor recreation) are uses by right. Other uses and activities including single-family dwellings, multiple family dwellings, and commercial businesses are uses subject to review and may be permitted within this zone. Industrial uses, including mining, milling and manufacturing are not allowed in this zone unless approved as a conditional use pursuant to Section 1-108. Special activities and uses as defined in Chapter 5 of this Code are subject to the review process and additional regulations described therein.

.3 THE URBAN RESIDENTIAL ZONING DISTRICT USES

Within the Urban Residential Zone, only activities which do not involve any construction or development of any sort (such as camping, picnicking, hiking, and

outdoor recreation) are permitted as uses by right. Other activities including single-family dwellings, multiple-family dwellings, and limited commercial businesses are uses subject to review and may be permitted within this zone. Industrial uses, including mining, milling and manufacturing, are not be permitted in this zone unless approved as a conditional use as set forth in Section 1-108. Special activities and uses as defined in Chapter 5 of this Code are subject to the review process and additional regulations described therein.

4 THE SCENIC PRESERVATION OVERLAY DISTRICT

Within the Scenic Preservation Overlay District, only activities which do not involve any construction or development of any sort, including disturbing of soil or trees (such as grazing, camping, picnicking, hiking, and outdoor recreation) shall be permitted as uses by right. All other uses within this zone shall be uses subject to review.

5 PLANNED UNIT DEVELOPMENT USES

A Planned Unit Development (PUD) designation and review process may be required for any use or activity within any zoning district if the proposed activity or use is located on more than thirty-five (35) acres; or if two or more activities or uses are proposed for the same property; or if the County determines that other unique characteristics of the proposed location, activity or use require submittal and review of a PUD application.

1 – 108 CONDITIONAL USE

Certain uses which are not generally allowed within a zone may be allowed in unique circumstances, provided that under special conditions and in specific locations the use is compatible with the zoning district.

- 1 All conditional-use permit applications shall be submitted to the Land Use Administrator. All applications shall be accompanied by maps, drawings, or other documentation as needed in support of the request. The granting of a conditional-use permit shall not exempt the applicant from compliance with other relevant provisions of this code.
- 2 Upon determination of a completed application, the Land Use Administrator shall assist the applicant in scheduling an appearance with the Planning Commission. Such appearance shall occur no later than 40 days from the submission of the completed application.
- 3 The Planning Commission shall review the application to determine if the proposed use is compatible and harmonious with neighboring uses within the zoning district. Within 5 days of the completion of the review, the Planning Commission will submit their recommendation to the Board of County Commissioners.

- .4 Upon receipt of a recommendation of the Planning Commission, The Board of County Commissioners shall schedule a public hearing to be held no sooner than 7 days after notice of the hearing has been properly posted and published. Within 45 days of the receipt of the recommendation of the Planning Commission, the Board of County Commissioners shall make a decision regarding the conditional-use permit application.**
- .5 Any granted conditional-use permit shall expire one year after the date of approval if not exercised. A conditional-use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. If such permit once exercised, is abandoned or discontinued for a period of one year, it will become null and void. A conditional-use permit may be revoked at any time if the applicant fails to comply with the conditions imposed by the Board of County Commissioners.**
- .6 GENERAL CONDITIONS: A request for a conditional use shall be permitted to be approved, approved with conditions or denied. Each request for a conditional use approval shall be consistent with the criteria listed below:**

 - (a) The request is consistent with all applicable provisions of the master plan.**
 - (b) The request shall not be unduly detrimental to surrounding properties nor infringe upon the right of residents to enjoy a peaceful occupancy of their home.**
 - (c) The request is compatible with the existing or allowable uses of adjacent properties.**
 - (d) The request demonstrates adequate public facilities, including roads, drainage, potable water, sanitary sewer, and fire protection exist or will exist to serve the requested use.**
 - (e) The request demonstrates adequate provision for maintenance of the use and associated structures.**
 - (f) The request has minimized all adverse affects on the natural environment.**
 - (g) The request will not adversely affect the public health, safety or welfare.**
 - (h) All processing and storage shall be conducted wholly within a building or shall be screened from view from surrounding properties.**
 - (i) Noise, vibration, dust, odor, or other objectionable factors involved in any activity shall be confined or reduced so as to not be unduly detrimental to surrounding properties.**
 - (j) Additional setback distances from adjoining properties may be required to mitigate any potential adverse impacts.**

.1 MOUNTAIN ZONING DISTRICT STANDARDS.

- (a) **Size.** Minimum parcel or lot area: five (5) acres.
- (b) **Density.** 1 unit/parcel.
- (c) **Setbacks.** Minimum setbacks: twenty (20) feet from property lines adjacent to public lands; and thirty (30) feet from property lines adjacent to private lands.

.2 RURAL RESIDENTIAL ZONING DISTRICT STANDARDS

- (a) **Size.** Minimum parcel or lot area: five (5) acres.
- (b) **Density.** 1 unit/parcel.
- (c) **Setbacks.** Minimum setbacks: twenty (20) feet from property lines adjacent to public lands; and thirty (30) feet from property lines adjacent to private lands.

.3 URBAN RESIDENTIAL ZONING DISTRICT STANDARDS

- (a) **Size.** Minimum parcel or lot area: 6,000 square feet.
- (b) **Setbacks.** Minimum setback: ten (10) feet from the property lines. The County reserves the authority to modify these standards for those proposals where the impact of development or land use under less restrictive minimums is deemed inconsequential, or where the minimums are deemed inappropriate for the proposed use.

1-114 SCENIC PRESERVATION OVERLAY DISTRICT STANDARDS

The following general standards must be observed in planning, design and construction within the Scenic Preservation Overlay District.

- .1 The District includes all sites located within 1,500 feet of the centerline of U.S. Highway 550 and/or within 1,500 feet of the centerline of the track of the Durango and Silverton Narrow Gauge Railroad and within 1,500 feet of the Alpine Loop from the Eureka townsite north to the County boundary.
- .2 The site must be designed in a manner that protects the environmental assets of the area including timber, plants and wildlife, streams and drainage courses and geologic features. All site design and development must be done in a manner which minimizes impacts upon scenic views or vistas.
- .3 All site design and development must be done in a manner that protects the historical assets of the area including historic structures, sites, and other cultural assets located within San Juan County.

- .4 Design plans must take into account characteristics of soils, slopes and geological hazards, in a manner intended to protect the health, safety, and welfare of users of the site, and the scenic value of the site.
- .5 Design of the site must include safe, convenient, and adequate arrangements for pedestrian circulation, roadways, driveways, off-road parking and loading space.
- .6 Additional setbacks, landscaping, screening, or design requirements may be required by the County in order to preserve the natural, pristine appearance of the area and to minimize the visual impact to view sheds and view corridors.

1-115 WATERSHED PROTECTION OVERLAY DISTRICT STANDARDS

The following general standards shall be followed for the planning, design and construction of activities and uses within the Watershed Protection Overlay District:

- .1 The facility must be designed in a manner that protects the purity of the water located in the watershed and preserves the area's environmental assets including soils, ground cover, plants, trees, etc..
- .2 Plans shall be designed taking into account characteristics of soils, slopes and potential geological hazards, and in a manner intended to protect the health, safety, and welfare of the community.
- .3 No development, use or activity will be permitted which may adversely affect the water source and the water quality for human consumption.

1-116 MINERAL RESOURCE OVERLAY DISTRICT STANDARDS

The following general standards shall be followed for the planning, design, and construction of activities or uses within the Mineral Resource Overlay District:

- .1 This District identifies areas that contribute to the unique mineral resources of San Juan County, according to Township, Range and Section as projected on the Official Zoning and Land Use Maps, as follows:

T41N-R7W-S10	T41N-R7W-S22	T41N-R7W-S25
T41N-R7W-S14	T41N-R7W-S13	T41N-R7W-S16
T41N-R7W-S15	T41N-R7W-S14	T41N-R7W-S17
- .2 The protection of mineral resources requires special attention when any non-mineral development or structure is proposed for activity or use within a designated area.
- .3 Plans submitted for any Improvement Permit or Use Permit that includes any portion of a designated area shall demonstrate how access to minerals will be preserved.

- .4 The activity or use shall be developed in a manner that protects the environmental assets of the area including soils, plants and wildlife, streams and drainage courses, and scenic vistas and preserves historical resources. Compliance with the State of Colorado Mined Land Reclamation Board (MLRB) reclamation requirements by a mining operator shall be deemed to indicate compliance with this section.
- .5 Plans shall be designed taking into account characteristics of soils, slopes and potential geological hazards and in a manner intended to protect the health, safety, and welfare of users of the area.
- .6 Design of the area shall include safe, convenient, and adequate arrangements for pedestrian circulation, roadways, driveways, off-road parking and loading space.

1-117 TOWN/COUNTY ZONE OF MUTUAL INTEREST OVERLAY DISTRICT STANDARDS

The Town/County Zone of Mutual Interest identifies areas which, because of their proximity to the Town of Silverton, are deemed to be a commonality of interest by both the Town and County in regards to future development.

- .1 Any application for an Improvement or Use Permit within the Town/County Zone, shall be subject to the Review Process as defined in Chapter 4 of this Code.
- .2 Applicants for a permit shall submit two (2) copies of the information and materials required in Section 3 – 102 of this Code, as well as any other materials specified in this Code, and any materials which the applicant feels may support the application, to the Land Use Administrator.
- .3 Upon receipt of the above described submission, the Land Use Administrator shall, within fifteen (15) days, determine whether the submission is complete.
- .4 Upon making the determination that the submission is complete, the Land Use Administrator shall, within three (3) days, deliver a copy of said materials to the Town of Silverton.
- .5 Upon receipt of the above described submission, the Town of Silverton shall respond, within fifteen (15) days, with written comments and recommendations regarding the submission.
- .6 Upon receipt of written comments and recommendations from the Town, the Land Use Administrator shall assist the applicant in scheduling their first appearance with the Planning Commission. Such appearance shall occur no later than thirty-five (35) days from the date the Land Use Administrator received written response from the Town.

76 on June 2, 1976, copies of which are filed with the Land Use Administrator.

- (b) A document entitled "Avalanche Atlas, San Juan County, Colorado", prepared by Len Miller, Betsy R. Armstrong and Richard L. Armstrong, Institute of Arctic and Alpine Research, for San Juan County in 1976, published as Occasional Paper No. 17 by INSTAAR, University of Colorado, Boulder, Colorado, and approved as part of the identification of said hazards by the County Commissioners by Resolution 16-76 on June 2, 1976, copies of which are filed with the Land Use Administrator and the County Clerk and Recorder.
- (c) A document entitled "Century of Struggle Against Snow: A History of Avalanche Hazard in San Juan County, Colorado", prepared by Betsy R. Armstrong, Institute of Arctic and Alpine Research, for San Juan County in 1976, published as Occasional Paper No. 18 by INSTAAR, University of Colorado, and approved as part of the identification of said hazards by the County Commissioners by Resolution 16-76 on June 2, 1976, copies of which are filed with the Land Use Administrator.
- (d) A series of maps entitled "Overall Hazard Map", prepared by INSTAAR for San Juan County in 1976, involving and including all, or part, of eleven USGS 1:24,000 topographic quadrangle maps within San Juan County, copies of which are filed with the Land Use Administrator.

8 – 104 PROCEDURES

Applicants for an Improvement Permit are required to obtain clearance from the Land Use Administrator regarding avalanche hazards prior to the issuance of an Improvement Permit. The procedures to be used in the granting, or denial, of this clearance shall be as follows:

- .1 Upon receipt of the information required by Section 3-102, the Land Use Administrator shall determine the avalanche hazard relative to the property in question by consultation of the maps specified in 8-103.1. The Land Use Administrator may, at his discretion, conduct an on-site inspection of the property.
- .2 At the completion of the consultation, the Land Use Administrator may do one of the following:
 - (a) Find that the property in question is not adversely affected by any avalanche hazard, and that special impact analysis for avalanche hazards does not apply.
 - (b) Find that avalanche hazards may affect the property or the improvement in question, but that plans of the applicant include sufficient mitigating techniques or elements to allow the use or improvement to proceed.
 - (i) In such a case, clearance shall be subject to conditions specified, in writing, to the applicant by the Land Use Administrator.

(ii) In such a case, clearance can be given by the Land Use Administrator only after approval has been given by the Building Inspector, based upon the provisions of the Uniform Building Code as amended, to the plans submitted in accordance with Section 3-102 of this Code.

(c) Find that impact cannot be sufficiently determined without further study of the property, or the avalanche hazard involved, by the Planning Commission, with final decision to be made by the County Commissioners.

(i) In such a case, the Land Use Administrator shall require the applicant to utilize the Review and Appeal Process detailed in Chapter 4 of this Code, as specifically authorized in 4-102.1 (b).

(ii) In such a case, the Planning Commission shall be required to consult and seek the written recommendation of the San Juan Avalanche Board. The Planning Commission shall supply the Avalanche Board with copies of material presented by the applicant and the County Commissioners, and the Avalanche Board shall respond to the Planning Commission with recommendations and findings, in writing, prior to the public hearing called for in 4-106.4 of this Code. The Avalanche Board shall be empowered to make recommendations regarding avalanche hazard and/or the need for, or adequacy of, avalanche defenses or other mitigating techniques.

(iii) In such a case, the Land Use Administrator shall require the applicant to meet additional submission requirements as listed in 8-105 below.

(d) Deny avalanche hazard impact clearance based upon the provisions of this chapter.

.3 If the San Juan Avalanche Board is convened, the Land Use Administrator shall require the applicant to pay a fee to cover the administrative costs of conducting the study and evaluation, the amount of such fee to be determined by resolution of the Board of County Commissioners.

8 – 105 ADDITIONAL SUBMISSION REQUIREMENTS

Applicants for an Improvement Permit shall be required to submit additional materials beyond those specified in 3-102 of this Code under certain circumstances.

.1 Additional materials shall be submitted to the Board of County Commissioners by applicants who:

(a) Are required by the Land Use Administrator to utilize the Review and Appeal Process under 8-104.2 (c).

(b) Seek a variance to any provision of this chapter.

- (c) **Wish to appeal an administrative decision made under the provisions of this chapter.**
- .2 The additional materials for any of the cases above shall consist of at least four (4) copies of:**
 - (a) **A vicinity map, showing the location of the property in question, portrayed on the appropriate USGS 1:24,000 quadrangle map.**
 - (b) **A topographic map, or maps, at a scale no less detailed than 1"=500' and with contour intervals of 10' or smaller, showing the location, nature, and density of the proposed improvement.**
 - (c) **A narrative or graphic report detailing the following information or data:**
 - (i) **Location of existing and proposed structures.**
 - (ii) **Location of proposed areas of concentrated activity, including roads, parking areas, storage areas, and recreation sites.**
 - (iii) **Avalanche frequency.**
 - (iv) **Avalanche flow depth.**
 - (v) **The areal extent of the runout zone.**
 - (vi) **Location and description of any, and all, proposed avalanche defense structures, or other mitigating devices or techniques.**
 - (vii) **Design stress loads of any structure, as certified by a registered professional engineer.**
 - (viii) **Statement explaining why the avalanche hazard area could not be avoided completely in the improvement plans.**
- .3 Unless otherwise specified, the following map standards shall be adhered to in this chapter.**
 - (a) **Maps will be in compliance with national map accuracy standards as promulgated by the US Bureau of Budget.**
 - (b) **All maps shall show a true north arrow and shall show the monumented corners of the property in question as required by 3-102.6(a) of this Code.**
 - (c) **One of the four copies of each map shall be in reproducible form, ie: mylar, sepia, or clear film positive.**
- .4 All engineering work prepared under this chapter shall be prepared by, or under the direction of, and signed by, a registered professional engineer.**

- .5 The County Commissioners may waive any part, but not all, of the submission requirements imposed by this chapter upon the written petition of the applicant that full compliance with the submission requirements would be an unreasonable burden for the applicant and that the proposed improvement will have an insubstantial impact on the surrounding area.

8 – 106 CRITERIA FOR CLEARANCE

An applicant for an Improvement Permit shall be given avalanche hazard clearance only if all of the following are met:

- .1 The requirements of Chapter 8 have been complied with.
- .2 Provision has been made for the long-term protection of the public from avalanche hazards.
- .3 The proposed improvement will not impose a financial burden upon residents of the area or upon the County.
- .4 The proposed improvement will not intensify the hazard for avalanche.
- .5 The improvement is engineered and will be constructed in a manner that will minimize hazards to public health and safety, or to property, due to avalanche.
- .6 Structures designed for human habitation or occupancy will not be located in any established avalanche area.
- .7 Areas of concentrated human winter activity will be protected by properly designed arresting or diverting structures, or other effective mitigating techniques.
- .8 Provision is made for disclosure, prior to sales, of all avalanche hazards and mitigation procedures undertaken, and for attaching a delineation and description of the avalanche hazard and mitigation measures to all deeds, titles and recorded documents involving a transfer of ownership of the property, or any part of said property.
- .9 Open space uses are incorporated into the improvement plan to the greatest practicable extent, in addition to, rather than in place of, other mitigation procedures.

8 – 107 LIMITATIONS OF AVALANCHE MAPS

- .1 Maps and documents referred to in this chapter are not intended to serve as a forecast of all possible avalanche activity within the areas depicted, and should not be relied upon as such by the public. Neither San Juan County, nor any of its agents, employees, or appointed boards, can assume responsibility for unforeseen effects of extraordinary winter storms, changes in climate, destruction or alteration

does not detract from the scenic quality of adjacent public lands, existing trails or historic resources.

- (c) Include evidence to demonstrate that the site improvements are designed and/or oriented in ways that allow them to blend in with and utilize the natural topography and vegetation. The report shall include, but not limited to, site photos, perspective sketches, photo-simulations and/or three-dimensional models at an appropriate scale.**
- (d) Provide written descriptions and photos of the proposed building materials, colors and textures. Utilizing and integrating elements, colors and textures found naturally in the landscape are strongly encouraged while use of reflective materials, such as highly reflective glass or metals is prohibited.**
- (e) Describe any plans to remove and store topsoil on-site, prior to any grading or excavation, and how it will be replaced and reused for re-grading and re-vegetation purposes.**
- (f) Provide a written description and plans that illustrate how the proposed development has been integrated into the landscape and that site disturbance and grading have been minimized. Roads, structures and other improvements shall bear a logical relationship to existing topography, vegetation and other site features.**
- (g) Show how utilities will be located and installed in ways that will minimize impacts to the view shed and natural environment.**

.20 Square Footage Limitations

- (a) All residential development located at or above 11,000 feet and below the alpine/tundra zone shall be limited to a maximum floor area of up to one thousand (1,000) square feet. Residential development of any sort within the alpine tundra ecosystem is strictly prohibited. All other development, including temporary and permanent structures, within the alpine tundra ecosystem is strongly discouraged and may be permitted only under limited circumstances when no reasonable or feasible alternative to such development is available. Ancillary uses associated with approved development at lower elevations (such as ski lift towers and other structures), necessary communication towers, and mining structures which cannot realistically be located underground are among the limited types of development which may be approved for location in the alpine tundra ecosystem. The source of elevation**

shall be based on the 1927 North American Vertical Datum 10,000-foot grid based on Colorado coordinate system, south zone.

The following elements are excluded from the Floor Area calculation:

- (1) Porches, decks, and terraces that do not have roofs or floors above and are open to the sky:
 - i. If such improvement is equal to or less thirty (30) inches above grade and is two hundred fifty (250) square feet or less;
 - ii. If such improvement is more than thirty (30) inches above grade or greater than two hundred fifty (250) square feet, then it is calculated as Floor Area at fifty percent (50%) of the actual area.
- (2) A single-story, detached accessory building, no greater than 200 square feet.
- (3) Structures associated with mining activities are exempt from Square Footage Limitations (Section 4-110.20).

.21 Density and Use Limitations

- (1) All Improvement Permits for single-family residential development, if approved, shall allow a maximum of one (1) unit/parcel.
- (2) All Improvement Permits for single-family residential buildings, if approved, shall be limited to private, personal, residential use.
- (3) Use of single-family residential buildings for Vacation Rental/commercial use shall require approval of a separate Use Permit and require that all services and capacities be evaluated at the maximum possible occupancy, intensity and duration of use to ensure there are adequate services and capacities to accommodate the increased demand for potable water, wastewater facilities, trash, satellite or cell phone service, emergency access and parking.

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San Miguel County Regulations

5-321 High Country Area (HCA)

5-321 A. Purpose

- I. The High County Area (HCA) Zone District is intended to protect and preserve the alpine, sub-alpine and scenic hillsides in the upper San Miguel watershed for their historic and natural landscapes and retain the relatively undeveloped character of these backcountry areas. It is the intent of this Zone district to preserve historical structures and to protect the native flora and fauna. This Zone District is comprised of public lands managed by the United States Forest Service (USFS) and patented mining claims. Much of this Zone District was once mined and may again be mined. It is the intent of this Zone District to preserve and protect public lands from the impacts of incompatible development and to protect access to the minerals that are known to be or expected to be within this Zone District. Commercial and industrial uses are not permitted within the Zone District. The size, scale, and location of Single-family Dwellings and Accessory Structures are limited to avoid conflict with past and/or future mining. The County favors preservation and protection for open space, public recreation and watershed and source water protection over the use of these properties for any development purpose.
- II. These areas are typified by a lack of improved or maintained roads, little or no utilities or infrastructure and very limited or sparse development other than historic mining remnants from past mining activities. Development activities in these areas should be limited due to high elevation, environmentally sensitive and geologically hazardous areas, steep terrain, limited access, mining remnants, and other site constraints. If residential development occurs it should be limited to cabins and small scale residential development consistent with the type of development that historically occurred in the area. Development that results in a demand for public services beyond what is currently provided should be prohibited.
- III. It is the intent of this Zone District to prohibit both public or private improvements on existing public roads and to prohibit the construction of new roads within the HCA Zone District as a means of maintaining the areas existing character and as a means of preserving historic access methods. Existing private roads within the HCA Zone District are considered to be pre-existing driveways. Driveways may be constructed or improved to access property within this Zone District. However, property owners are not required to improve driveways accessing their property in this Zone District to the driveway standards that are required throughout the remainder of the County. Rather, the intent of this Zone District is to minimize the number of driveways and the impacts driveways may have on the scenic and environmental character of the HCA Zone District.

5-321 B. Review of Allowed Uses

At a minimum, any Allowed Use is subject to an Administrative Review. The purpose of the County Planning Department Administrative Review is to provide staff an opportunity to work with the owner or developer to consolidate and minimize the impacts associated with the development of dwellings, driveways or improvements, to ensure that the proposed development is consistent with the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan and to avoid hazards from past mining or conflicts with potential future mining. As a part of an Administrative Review the Planning Director shall consider all relevant information and /or analysis provided by Referral Agencies concerning the potential impacts of the development proposal and may require the applicant to comply with any and all review comments deemed necessary to mitigate impacts and secure the objectives of the HCA Zone District.

5-321 C. Administrative and Land Use Approvals

I. All applications for Administrative Review or land use approvals shall include, at a minimum, the information and materials specified in Land Use Code Section 4-2 and/or as follows:

- a. If the certificate of title indicates that the mineral estate and surface estate have been severed; the applicant shall, as a part of the applicant's submittal for Administrative Review, send written notice of an application for approval of a development proposal to the owners of record of the severed mineral estate consistent with LUC Section 3-903.
- b. Written notice of an application for Administrative Review shall be sent to the owners of properties located adjacent to the property subject to the application and notice of the application shall be posted in a conspicuous place on the subject property.
- c. The mailing of the written notice and posting of the property shall be made by the applicant, within five (5) days of submitting the application. The notice shall inform the owners of severed mineral estates and/or adjacent property owners that they have thirty (30) days from the time the notice is postmarked to notify the Planning Director in writing of any issue or objection to the proposed development.

II. Referral Agencies

The application shall be referred to the State of Colorado's Division of Minerals and Geology and the State Water Quality Control Division and will be referred to the Towns of Telluride, Mountain Village or Ophir or

the County Historical Commission, the Telluride Fire District, or other referral agencies, as deemed appropriate by the Planning Department staff to determine compliance with the Land Use Code.

III. The following must be addressed as part of any application:

A site plan including:

- a. The location of all existing and proposed improvements on the property including the access to the property and driveway, if any;
- b. The size, height, number of stories and basic design of the structure(s) and including the type of materials to be used in construction;
- c. Information regarding all existing or proposed utilities or services that may or will serve the property, including the type and layout of the water supply and sewage treatment system;
- d. The location of any and all existing mines, mine remnants, mine adits or mine waste located on the property to be developed;
- e. The location of any and all historic buildings or structures or cultural resources located on the property to be developed.
- f. Identification of Areas of State and Local Interest (1041 Environmental Hazard) as set forth in Section 5-4 and Wetland Areas as set forth in Section 5-22 and Watershed Protection Areas as set forth in Section 5-25, for all areas where development activity is proposed;
- g. The location of existing roads and Trails on the property to be developed.

IV. Scenic Quality Report

An applicant shall submit a site plan and Scenic Quality Report showing how the siting, design, materials and construction of any and all structures including the driveway will minimize the visual impact of the development on the scenic quality of the HCA Zone District, the Towns of Telluride, Mountain Village and Ophir, the Ski Area, mountain passes, major historic roads, public use areas and neighboring properties.

V. The owner of a patented mining claim must submit a Mining Resource Report that addresses the following:

- a. Demonstrate compliance with all applicable state and federal requirements, if any, for reclamation, stabilization, bonding, storm water drainage and any other requirements that are deemed necessary by the State of Colorado's Division of Minerals and Geology and/or Water Quality Control Division to protect the public health, safety and welfare of the owner, occupants and neighbors of the property where the development is to occur.
- b. Provide a written report, stamped and sealed by a qualified Colorado registered professional engineer, knowledgeable of mining and mining hazards, identifying any and all surface or sub-surface mining related hazards on the entire claim where the development is proposed. If mining related hazards are identified, the engineer's report shall include recommended measures to adequately mitigate such surface or sub-surface mining related hazards.

VI. Liability and Disclosure

The owner shall execute a release of liability prepared by the County waiving any and all claims against the County for issuing a building permit on a mining claim that has been mined in the past and may be mined in the future. The release of liability and disclosure, to be executed by the owner, shall also acknowledge that there is no guarantee of fire response or emergency services to properties in the High Country Zone District.

VII. Merger of Surface and Mineral Estates

Where the applicant is the owner of both the surface and mineral estate on the property on which the development is proposed, as a condition of Administrative Review and a Development Permit, the owner shall execute a "merger covenant," or deed restriction prepared by the County to be recorded in the chain of title for the property, that provides for the merger of the surface and mineral estate in perpetuity so these estates cannot be severed into separate estates by the current owner, and/or his heirs, successors or assigns.

5-321 D. Standards for all Administrative Reviews and All Special Uses Requiring One-Step and Two-step Review

I. All uses shall be:

- a. Consistent with the Goals and Objectives of the Telluride/Ophir High County Area Sections of the Master Plan.

- b. Consistent with the County Land Use Policies in Article 2.
- c. Consistent with the purpose of the HCA Zone District.
- d. Located, designed and operated to minimize visual impacts so as not to detract from the scenic quality of the HCA Zone District, the Towns of Telluride, Mountain Village and Ophir, the Ski Area and public use areas.
- e. In compliance with Section 5-4 Areas and Activities of Local and State Interest/'1041'' Environmental Hazard Review including the Section 5-407A. General Standards for Wildlife Habitat Areas, Section 5-2203 Development in Wetland Areas, and Section 5-25 Watershed Protection Areas. If a conflict exists between the requirements of the above referenced Land Use Code provisions and the standards of the HCA Zone District, the most restrictive provisions shall apply.
- f. Located and proposed to avoid hazards from past mining or conflicts with potential future mining and include those measures recommended in the Mining Resources Report necessary to adequately mitigate surface or sub-surface mining related hazards.
- g. Compatible with and minimize adverse impacts on the surrounding area.
- h. Designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

II. All Uses are subject to the following Standards:

- a. Outdoor lighting shall be limited to the minimum required to comply with the applicable provisions of the Uniform Building Code and National Electric Code. All required exterior lighting shall be fully shielded and directed toward either the ground or the surface of the building to prevent direct visibility off-site. High intensity sodium vapor, mercury vapor, and similar lighting is prohibited.
- b. All areas of surface disturbance, excluding the travel surface of driveways, shall be re-vegetated with species native to the site and/or surrounding area. Removed topsoil shall be replaced and only species native to the site and/or surrounding area may be planted. The property owner shall control and remove all noxious and invasive plant species on the property or introduced as a result of development in accordance with the Colorado Noxious Weed

Management Act. The property owner shall also control and remove all plant species on the site that are not native to the HCA.

- c. Fuel tanks, water storage units and generators shall be located within a permitted structure or placed underground. If generators or similar devices are to be used sound levels of generator noise radiating from a property line at a distance of twenty-five feet or more shall not exceed 50 dba.
- d. Demolition of national, state or locally certified County Historic Landmarks is prohibited.

5-321 E. Uses Allowed Subject to Administrative Review

- I. Single-family residential dwellings with less than 1,000 square feet of Floor Area.
 - a. An additional 500 square feet of Floor Area may be allowed for each Development Right retired in perpetuity on a developable parcel(s) within the HCA Zone District. A developable parcel is a property capable of meeting all applicable provisions of the Land Use Code necessary to obtain a Development Permit for a Single-family dwelling.
 - b. An additional 500 square feet of Floor Area may be allowed where the owner is proposing measures that preserve or enhance public recreation opportunities and/or provides an easement for public non-motorized access through their property consistent with the County Trails Master Plan.
 - c. An additional 500 square feet of Floor Area may be allowed where the owner does not construct a driveway to serve the property. This provision does not prohibit use of a temporary driveway during construction, if the use is discontinued, the driveway is restored to its natural condition, and the property is restricted in perpetuity against construction of any future driveway.
 - d. An additional 300 square feet may be allowed for an attached garage within or as a part of the single-family residential dwelling if there is no detached accessory structure. A garage as defined in Article 6, and as limited herein, is not included in the calculation of Floor Area
 - e. An additional 500 square feet may be allowed for a Basement within or as a part of the single-family residential dwelling, if the development is located and designed so that the residence would

not be visible, during summer months, from the towns of Telluride, Ophir and Mountain Village, or public roads, public trails and public use areas within the High Country Master Plan Area. If a Basement is proposed as a part of the development it is incumbent on the applicant to demonstrate this improvement can be made in a manner consistent with the HCA Master Plan and the land use standards for the HCA Zone District and Watershed Protection Areas. (such as, limiting site disturbance, avoiding or minimizing blasting, handling of excavated materials, surface drainage, etc.)

- f. In no circumstance shall a single-family residential dwelling, with a Floor Area larger than 2,500 square feet be allowed by Administrative Review.
- II. One detached Accessory Structure (shed) with 200 square feet of Floor Area or less if there is no attached garage. Where gasoline/diesel powered/electric generators are used they shall be placed in the garage, accessory shed or underground to minimize noise impacts.
- III. Electric Distribution Lines & Electric Service Lines.
Electric Distribution Lines are prohibited except under the following limited and specific circumstances:
- a. There is an existing Electric Distribution line located on the parcel or mining claim where a Single-family residence is proposed to be developed and the applicant has obtained Administrative or Special Use Approval for a specific Single-family residential development; and
 - b. The proposed Single-family residence is to be served by an alternative energy source(s), including but not limited to solar, photovoltaic, wind, hydropower or other alternatives, that provides a substantial amount, at least 50%, of the projected power usage for the single-family residence, the alternative energy source is tied to the electrical grid system by an Electric Distribution Line or Electric Service Line and there is an approved net-metering agreement with the providing utility company; and
 - c. The Electric Distribution Line or Electric Service Line shall be placed underground where it has been determined that such undergrounding would not have significant adverse environmental impacts. Above-ground Electric Distribution Lines are prohibited; and
 - d. The maximum allowed length of the proposed extension of the Electric Distribution Line shall not be greater than one-quarter mile in length from the existing utility service line to the proposed Single-family residence. If possible the buried Electric Distribution Line or Electric Service Line should be placed within or alongside an existing access

road or the proposed driveway unless there is a more practical route that would result in less environmental impact to the property.

- e. Underground Electric Service Lines are allowed in the HCA Zone District subject to Administrative Review pursuant to LUC Section 5-321 B.
- f. Property Owners should realize that for most High Country Area properties solar, wind, hydropower, or other alternatives to the extension of an Electric Distribution Line or Electric Service Line might be the only electric service available.

IV. Development or improvement of driveways and recreational Trails.

- a. Driveways do not have to comply with the driveway standards contained in Land Use Code Section 5-502 DD. because these private driveways are not intended to provide emergency vehicle access to single-family residential dwellings. The standards for driveways in the HCA Zone District are identified in Land Use Code Section 5-321 N. II. Driveways.
- b. Trails do not have to comply with the standards contained in Land Use Code Section 5-506 Trails. The design standards for Trails in the HCA Zone District are to be determined by the Planning Department in consultation with the San Miguel Trail Council and shall be consistent with the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan.
- c. Helicopter Access may be allowed by Administrative Review for limited construction activities where it has been determined by clear and convincing evidence that the benefits of such access outweigh the detriments. Helicopter Access is not allowed under any other circumstances except for bona fide emergencies.

5-321 F. Uses Allowed Subject to One-step Planning Commission Review subject to Section 5-10

Public recreational structures and outdoor recreational areas, such as backcountry/ski shelters, picnic areas, educational centers, limited to 500 square feet. Such uses shall be consistent with the purpose and definition of Active Open Space in Article 6.

5-321 G. Uses Allowed Subject to One-step Board of County Commissioner Review subject to Section 5-10.

- I. Open Land Protection, subject to the standards in Section 5-1207 and the standards of the HCA Zone District.

- II. Driveways greater than one-quarter (1/4) mile and/or driveways with vehicle pullouts. A distance of one-quarter (1/4) mile was established based on a finding that the extension of further development decreases the integrity of the environment, and diminishes the historic and rural landscape.

In approving driveways greater than one-quarter (1/4) mile and/or driveways with pullouts, the Board of Commissioners shall consider visibility of the roads/driveways from all public roads in the High Country Master Plan Area, to include Tomboy Road, Imogene Pass, Black Bear Pass, Bear Creek Road, Liberty Bell Road, Boomerang Road, Gold King Basin Road, upper and lower Bridal Veil Roads, Blue Lake Road, Marshall Basin, Blix Road, Waterfall Canyon Road, Alta Lakes (east) and Ophir Pass, Lewis Mill, the Towns of Telluride, Mountain Village and Ophir, impact on recreational activities, and environmental impacts, including soil disturbance and erosion. Where access requires a driveway greater than one-quarter (1/4) mile in length alternative access should be considered (including, but not limited to, skiing, hiking, snowmobiling).

- III. Automobile parking areas that centralize parking adjacent to existing roadways in order to allow alternative access beyond that point.
- IV. Repair or restoration of damage to existing public roads, as a result of natural catastrophes or "acts of God", that exceed routine Road Maintenance but do not constitute Road Improvements. In approving repair or restoration of existing public roads the Board of Commissioners shall consider if the proposed road repair adequately addresses public safety in a manner that does not change or alter the rough condition or historic character of the road. Board of County Commissioner review is not required for expedient repairs to provide for public safety in bona fide emergencies (such as the removal of material from rock slides) as determined by the San Miguel County Road Superintendent.
- V. Logging activities resulting in cutting down trees for use on-site and /or the hauling of up to 5,000 board feet of timber in any 12 month period beginning with the commencement of tree cutting. In approving logging activities the Board of Commissioners shall consider the availability of access from existing roads, the method of access, the potential impacts to public roads and any required mitigation thereto, and the visual impacts of such activities on the scenic quality of the property and the surrounding area. The BOCC may also consider whether the proposed activities are consistent with a forest management plan that is intended to promote forest health and reduce the risk of wildfire. It is not the intent of this section to allow commercial logging operations, or activities that encourage the construction of new roads or involve the use of heavy construction equipment in the HCA.

5-321 H. Uses Allowed Subject to Two-step Special Use Permit Review Subject to Section 5-10.

- I. Single-family residential dwellings with greater than 2,500 square feet of Floor Area or single-family residential dwellings and Accessory Structures that exceed the square footages that may be authorized by Administrative Review pursuant to Land Use Code Section 5-321 E. To authorize a larger Floor Area for a Single-family Dwelling or Accessory Structure, there must be a finding that the proposed development furthers the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan, shall include the retirement of additional Development Rights in a manner that results in less developed square footage than what may be authorized through an Administrative Review, is located so it does not create a visual impact or detract from the scenic quality of the basin or area in which it is located, and is in the public interest.
- II. Commencement and/or expansion of mining and mineral processing operation, or development of mining related structures or buildings, in accordance with all provisions of Section 5-10 and 5-16. This does not include sand and gravel mining or processing.
- III. Radio, microwave transmitting stations and other antennae subject to Section 5-307 K. and wind turbines for residential use over 25 feet in height.
- IV. Public utility structures, including dams, reservoirs and municipal water distribution systems (refer to Section 5-709.).

5-321 I. Area Bulk Requirements

- I. The minimum lot size for each principal use is 35 acres except for single-family residential dwellings approved pursuant to the subdivision exemption standards for Open Land Protection (see Section 5-1207).
- II. Any legally created parcel less than 35 acres in the HCA Zone District may qualify for a Building Permit for one single-family residential dwelling Unit, provided the parcel satisfies the criteria set forth in Section 5-1908 Sub-standard size parcels, except for the standards for driveways in Section 5-502 DD.

5-321 J. Minimum Setbacks

The preferred setbacks for all yards adjacent to Public Lands are 30 foot front and 20 foot side and rear. The minimum setback for all yards is 10 feet, except the 10 foot minimum setback may be further reduced by Administrative Review where the applicant has demonstrated there would be no negative impact to the adjoining

property. The intent of allowing a reduced setback is to provide maximum flexibility in siting the single-family residential dwelling and accessory structure to reduce visibility and impacts on scenic quality. The location of structures, setbacks and separation requirements for residences, mines, mine tailings, wells and septic systems, if any, will be determined during the site-specific review of the proposed development.

5-321 K. Maximum Height of Buildings

The maximum height of buildings is 20 feet for single-family residential dwelling and 16 feet for an attached Garage or 12 feet for a detached Accessory Structure: The ridge of a gable, hip, gambrel or similar pitched roof may extend up to five feet above the specified maximum height limitation. (see Height as defined in Article 6 of the LUC.)

5-321 L. Minimum Off-street Parking

All parking shall be provided on-site where vehicle access is available.

5-321 M. Water and Sewage Disposal

An adequate water supply (which may include a cistern or storage tank) and a sewage disposal system that minimizes site disturbance and complies with the State and County Sewage Disposal System requirements must be demonstrated. Depending on site conditions, the County Environmental Health Department may require an engineered system. Applicants are encouraged to meet with the Environmental Health Department to identify the type of sewage disposal system that may be best suited for the Development proposed and that minimizes site disturbance.

5-321 N. Development or Improvement of Roads, Driveways, and Recreational Trails

I. New Public Roads, Existing Private Roads, and Road Improvements

New public roads and Road Improvements to existing public roads are prohibited. This provision is not intended to prohibit Road Maintenance as defined in Article 6 of the Land Use Code. Existing private roads within the HCA Zone District are considered to be pre-existing driveways and may be improved and maintained in the same manner as driveways.

II. Driveways

New driveways shall have minimal visibility as may be viewed from the Towns of Telluride, Mountain Village or Ophir, the Ski Area and all public roads in the High Country Master Plan Area. Construction of new driveways shall be allowed only if there is no existing access determined

to be adequate by the County Road and Bridge Department or County Engineer. Landowners are required to obtain a County access permit to construct driveways off of County roads, however landowners are not required to construct driveways to County standards as required in Section 5-502 DD., except that:

- a. Driveways shall be no wider than 10 feet; but vehicle pullouts may be allowed where deemed necessary for public safety.
- b. Switchbacks and cuts and fills are minimized for roads and driveways to the fullest extent possible;
- c. Blasting shall be limited to the least extent reasonably necessary in the development of a driveway;
- d. Driveways are not limited to a specified grade. Owners are solely responsible for creating safe vehicular access to their property;
- e. Driveways may not be paved or improved with an impervious surface;
- f. Driveways greater than one-quarter (1/4) mile or driveways with vehicle pullouts must be approved subject to One-step Board of Commissioners Review; and
- g. Driveways may serve multiple Single-family Residences, if and where it has been determined by clear and convincing evidence that doing so would reduce the potential number of driveways and would minimize the overall aesthetic and environmental impacts consistent with goals and objectives of the Telluride/Ophir High Country Area Sections of Master Plan.

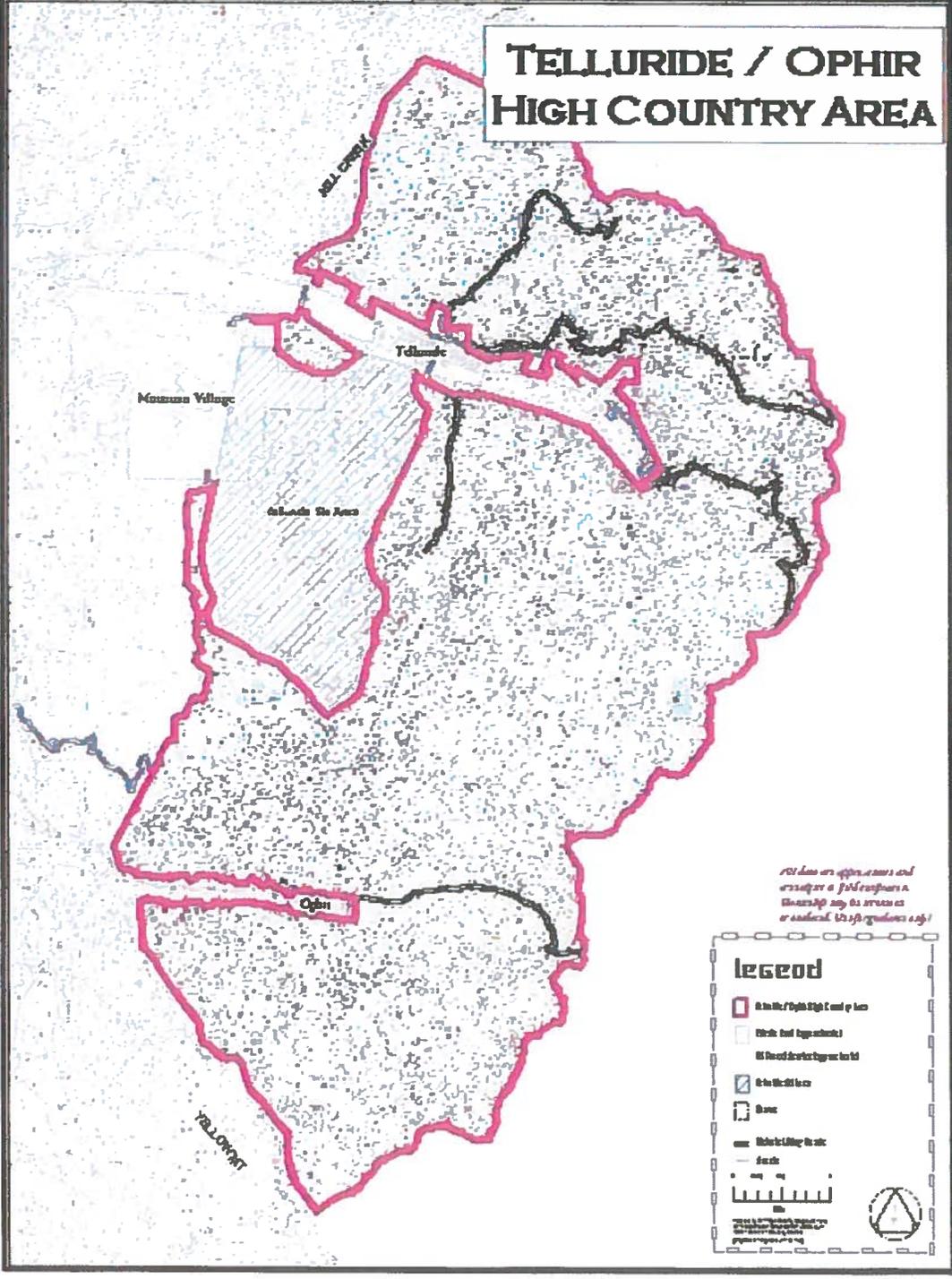
III. Public Trails/Recreational Access

- a. Public access to Trails from existing public roads, as identified in the adopted County Trails Master Plan or as identified during the administrative review process, should be maintained or enhanced to the maximum extent possible for both summer and winter use. The County shall work cooperatively with landowners in the HCA Zone District to ensure that through-access on such roads is maintained.
- b. Trails shall be kept in their historic alignments to the greatest extent possible. Road and driveway crossings of Trails shall be avoided wherever possible.

High Country Area Roads

Road	Status	Description	Comments
Alta Lakes	County Maintained	Boomerang Road east to Alta Lakes	Public
Bear Creek	Non-County Maintained	Telluride City Limits south 2.14 miles	Public
Blix Road	Non-County Maintained	Ophir Pass Road north to NE1/4, NW1/4, Section 18, 42N, 8W (La Junta Basin)	Probably public – needs research
Bridal Veil (lower)	County Maintained	Beginning .22 miles east of the Valley View Parking Area on CR K69 heading east to the intersection of Upper Bridal Veil Road & Black Bear Pass Road at Bridal Veil Falls	Public
Bridal Veil (upper)	Non-County Maintained	Black Bear Pass Rd. south to Blix Road	Probably public – needs research
Black Bear Pass	County Maintained	Bridal Veil Intersection to County line	Public
Blue Lake Road	Non-County Maintained	Upper Bridal veil Road southeast to Blue Lake	Probably public-needs research
Boomerang	County Maintained	Alta mine site north to Prospect Intersection	Public
Gold King Basin	Non-County Maintained	Alta Road southeast to NW1/4, NE ¼, Sec. 27, 42N, 9W	Public
Lewis Mill	Non-County Maintained	Upper Liberty Bell Road to Lewis Mill Site	Probably public -needs research
Liberty Bell	Non-County Maintained May be maintained by Town of Telluride to Water Plant	Tomboy Road north to SW1/4, NE1/4, Sec. 30, 43N, 8W	Probably public – needs research
Marshall Basin	Non-County Maintained	Tomboy Road northwest to NW1/4, SE1/4 Section 29, 43N, 8W	Probably public – needs research
Ophir Pass Road	County Maintained	Ophir City Limits east to County Line	Public
Tomboy Road	County Maintained	Telluride city limit east to County Line	Public
Waterfall Canyon	Non-County Maintained	Ophir City Limits south through National Forest land to private property	National Forest-Public

TELLURIDE / OPHIR HIGH COUNTRY AREA



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MEMO

TO: Board of County Commissioners/Planning Commission
FROM: Mark Castrodale – Planning Director
DATE: April 25, 2016
SUBJ: Land Use Priority Resolution

Attached is a copy of the latest resolution (2015-042) addressing Land Use Code Issues and Land Use Code. It has been customary for the Board and Staff to review the status of this memo every six months or so.

The anticipated Staff/Planning Commission schedule is as follows:

- Complete Telecomm regulations public hearing by 5/17 (*hearing noticed*)
- High Alpine Development – Address questions, Staff to develop code lang.
- Wildfire Mitigation Regulations – Review and revise
- Sign Regulations – Review and revise per federal regulations

Please contact me with any questions or need for clarification.

Thank you.

att.

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**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
TO PLAN FOR LAND USE ISSUES AND LAND USE CODE REVISIONS**

WHEREAS, on September 25, 2012 the Board of County Commissioners of Ouray County, Colorado ("Board") adopted Resolution No. 2012-028 containing its list of priorities for modifications and amendments to the Ouray County Land Use Code ("Code"); and

WHEREAS, Resolution 2012-028 specifically provided that the priorities set forth in such Resolution would be revisited in six months to "assess progress and reevaluate priorities"; and

WHEREAS, the Planning Commission completed a report to the BOCC dated January 25, 2016, addressing the possible process to be used in a future review and update of the County Master Plan; and

WHEREAS, the Planning Commission has been working with Land Use Staff to develop a new code section to address Communications Facilities; and

WHEREAS, the Planning Commission has scheduled a public hearing to review the draft of the Communications Facilities regulations on May 17, 2016 and subsequent to the hearing will forward this matter on to the BOCC with a formal recommendation; and

WHEREAS, the Planning Commission has done some preliminary work on reviewing and considering possible updates to the County's Wildfire Mitigation regulations; and

WHEREAS, on April 19, 2016 the BOCC adopted a moratorium on residential development on patented mining claims and mill sites at or higher than 9500'; and

WHEREAS, the BOCC directed the Planning Commission to work with Staff to address specific questions regarding potential development regulations in the high alpine areas of the County; and

WHEREAS, considering the adoption of the moratorium on development in the high alpine areas of the County and the BOCC direction to Planning Commission and Staff to address specific questions regarding this matter, the Board finds it necessary to modify the priorities of Planning Commission and Staff.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The Board directs Planning Commission and Land Use Staff to begin reviewing the following topics or Code sections in priority order:
 - a. **High Alpine Development – Address questions from BOCC**
 - b. **Section 16 – Wildfire Mitigation**
 - c. **Section 8 - Signs**
 - d. **Employee Housing**
 - e. **Colona Zone – Review Zoning and Allowed Uses**
 - f. **School – Definition (only)**
 - g. **Historic Structures – Possible new Land Use Code section**
 - h. **Section 20 – Home Business/Occupation**
2. The Board directs Land Use Staff to revise existing code sections or develop new proposed code sections based upon input from Planning Commission and Staff.
3. The Board directs the Planning Commission and Staff to conduct public hearing(s) on the proposed sections or revisions and make a formal recommendation to the Board of County Commissioners regarding changes or updates to the Land Use Code.
4. Provisions of C.R.S. § 24-65.1-101, et seq, "Areas and Activities of State Interest" will continue to be examined and evaluated by the Board

APPROVED AND ADOPTED THIS ____ DAY OF _____, 2016.

Voting for:
Voting against:

**BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO**

Attest:

Lynn M. Padgett , Chair

Ben Tisdell, Vice-Chair

Michelle Nauer, Clerk and Recorder
By: Hannah Hollenbeck, Deputy Clerk of the
Board

Don Batchelder, Commissioner

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
TO PLAN FOR LAND USE ISSUES AND LAND USE CODE REVISIONS**

WHEREAS, on September 25, 2012 the Board of County Commissioners of Ouray County, Colorado ("Board") adopted Resolution No. 2012-028 containing its list of priorities for modifications and amendments to the Ouray County Land Use Code ("Code"); and

WHEREAS, Resolution 2012-028 specifically provided that the priorities set forth in such Resolution would be revisited in six months to "assess progress and reevaluate priorities"; and

WHEREAS, following adoption of Resolution 2012-028, some of the priority issues have been completed; and

WHEREAS, as directed in Resolution No. 2014-021, the Planning Commission has completed its review, conducted public hearings, and made formal recommendations to the BOCC on the following code sections: 1, 2, 3, 4, 5, 6, 7, 8, 15,16, 17, 18, 19, 20,21, 26, 27, 28, and a proposed draft for a new code section titled *Historic Structures*; and

WHEREAS, the Planning Commission is currently working on drafting a new Land Use Code section to specifically address Telecommunications Facilities; and

WHEREAS, the Board of County Commissioners has completed its review and conducted public hearings on the draft Code revisions as forwarded from the Planning Commission; and

WHEREAS, Land Use Staff will perform conduct a final organization and formatting of the draft Code sections approved by the Board of County Commissioners, to become effective on A FUTURE DATE.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The Board directs Planning Commission and Land Use Staff to begin reviewing the following topics or Code sections in priority order:
 - Section 24 – Wildfire Mitigation
 - Section 8 - Signs
 - Colona Zone – Review Zoning and Allowed Uses
 - School – Definition (only)
 - Historic Structures – Possible new Land Use Code section
 - Section 28 – Home Business/Occupation
 - Assessment of County Master Plan – Propose *update or revision*/process scope
2. The Board directs Land Use Staff to revise existing code sections or develop new proposed code sections based upon input from Planning Commission and Staff.
3. The Board directs the Planning Commission and Staff to conduct public hearing(s) on the proposed sections or revisions and make a formal recommendation to the Board of County Commissioners regarding changes or updates to the Land Use Code.
4. Provisions of C.R.S. § 24-65.1-101, et seq, "Areas and Activities of State Interest" will continue to be examined and evaluated by the Board

APPROVED AND ADOPTED THIS 27 DAY OF OCTOBER, 2015.

Voting for: COMMISSIONERS BATCHELDER, PADGETT + TISDEL
Voting against: NONE

**BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO**

Attest:



Michelle Nauert
Michelle Nauert, Clerk and Recorder
By: Hannah Hollenbeck, Deputy Clerk of the Board

Don Batchelder
Don Batchelder, Chair

Lynn M. Padgett
Lynn M. Padgett, Vice-Chair

Ben Tisdell
Ben Tisdell, Commissioner

MINUTES
OURAY COUNTY PLANNING COMMISSION
REGULAR MEETING

April 19, 2016 7:00 – 9:00 p.m. (appx)

Meeting held at the Land Use/Road & Bridge Offices, Conference Room
111 Mall Road, Ridgway, Colorado

Attending:

PC: Miller, Jackman, Carr, Currin, Peters, Parker
Staff: Castrodale, Sampson, Whitmore
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 (6:05 P.M.)

1. The Planning Commission completed the development of a new land use code section pertaining to communication facilities and scheduled the item for public hearing on May 17.

II. Call to Order – Regular Meeting of the Ouray County Planning Commission (6:34 P.M.)

1. **Election of Officers** – The Board of County Commissioners had not yet held interviews, so this item was postponed until May 17.
2. **Request for Approval of Minutes; 3/15/2016**
 - **MOTION:** Currin moved to approve the minutes of 3/15/2016
 - **SECOND:** Carr seconded motion
 - **DISCUSSION:** No discussion was had
 - **VOTE:** A vote was taken and the motion passed unanimously
 - Parker abstained from the vote because he was not present.
3. **New Business**
 - BOCC has enacted a moratorium on building in the high country.
 - LUC priority list to be revised, but only after the joint workshop with the BOCC on 5/3.
 - Castrodale noted that the time-frame for the development of high country regulations would be on a tight time line.

DRAFT; SCHEDULED TO BE APPROVED ON 5/17/2015

- Staff will provide comments on the elements set forth by the BOCC for review by the Planning Commission.
 - May need to do an additional afternoon meeting.
 - Planning Commission continued to discuss the process of how to handle the review of high country development.
 - Planning Commission discussed the upcoming workshop with the BOCC.
- 4. Motion to take Communication Facilities land use code section to public hearing.**
- **MOTION:** Currin moved to recommend the communication facility section to a public hearing with the changes we made tonight, and also the proposed changes to sections 2 & 3.
 - **SECOND:** Miller seconded motion
 - **DISCUSSION:** No discussion was had
 - **VOTE:** A vote was taken and the motion passed unanimously
 - Castrodale noted that they would have their wrap-up of the wildfire discussions held so far.
- 5. New Business (Continued)**
- The Planning Commission continued their discussion on how they would review the upcoming high country regulations.
 - Parker discussed their upcoming discussion regarding the wildfire regulations.
- 6. Public Hearing (7:00 PM):** The purpose of the hearing is to review and make a recommendation to the Board of County Commissioners on an application by Hockersmith Law P.C., authorized agent for Porter & Chessie, LLC, for approval of an amendment to an existing Special Use Permit. The purpose of the amendment is to allow the use of a drive-thru window at the coffee shop located at 12 Hotchkiss Ave. (corner of Highway 550 and County Road 1) in Colona, CO.

Note: Craig Jackman recused himself from this review

A. Staff Presentation (Castrodale)

- Amendment to an existing SUP for a coffee shop.
- 12 Hotchkiss Ave in Colona.
- 2015 initial review and approval by the BOCC.
 - Drive-thru window taken out at BOCC hearing.
- Request is to now add the drive-thru back into the application and move the ingress/egress.
 - New easement for this access if approved.
- Castrodale displayed an overhead with a site-plan.
 - One-way traffic on easement.
- Miller asked where they would be parking.

DRAFT; SCHEDULED TO BE APPROVED ON 5/17/2015

- Castrodale showed where the parking would be located on the over-head.
- Castrodale concluded with his presentation with Staff's recommendation:

It is Staff's opinion that the proposed amendment of a special use permit complies with all regulations and requirements found in Section 5 of the Land Use Code. Further, it is Staff's opinion that the relocated *one-way* access is a safer and more practical design to handle traffic flow, parking, and use of the drive-thru window. Therefore, Staff is recommending the Planning Commission forward the application to the Board of County Commissioners with a recommendation of approval with the following conditions:

The following conditions are in addition to, and/or reaffirming, the conditions set forth in Resolution No. 2015-019, which remain intact and in-force.

1. The driveway easement proposed by the Applicant shall be in full force and effect as long as the Special Use Permit is in effect.
2. The Applicant shall be required to install and maintain gravel in the driveway and parking areas.
3. The Applicant shall erect proper signage to clearly delineate traffic flow and direction for ingress/egress, parking, and use of the drive-thru window.

B. Planning Commission Questions for Staff & Applicant

- Carr asked if the driveway would be graveled for the entire portion of the drive.
 - Castrodale and Hockersmith affirmed that entire driveway would have gravel.
- Parker asked if the parking from the initial application would carry forward.
 - Castrodale; yes.
- Parker asked if the other lots are a part of this application.
 - Castrodale; the original application only included lots 1 & 2. This application continues to use lot 1&2, but only an easement across the other lots.
- Carr asked if backing out would be a problem with a parking?
 - Castrodale; the original SUP approved the parking, and this doesn't get us a second bite of the apple. Castrodale noted the McDonalds layout in Montrose, so it does exist.
 - Hockersmith noted that people parking may go out the same way they came in.
- Gravel parking lot?
 - Hockersmith; yes, and clearly delineated. Drive will also be graveled, and it should be fairly obvious.
 - Road and Bridge has signed off on the application.

DRAFT; SCHEDULED TO BE APPROVED ON 5/17/2015

- Miller asked if the edge of the drive will be defined.
 - Hockersmith noted that the drive would be graveled and defined.
 - Hockersmith clarified where the parking spaces would be.
- Hockersmith clarified that the application only pertains to the easement across the other lots. The other lots are not technically part of the application.
- Peters asked if they need to allow for turning radius, or is 15' adequate.
 - Hockersmith noted that 15' should be sufficient if travel is one-way.
 - Have addressed the plan for exit from the property.

C. Public Comment (open at 7:18)

- Nancy Johnston; the coffee is excellent.
- Gary Johnston; no issues that we can see.
- Public Comment closed at 7:20.

D. Planning Commission Deliberation

- No further deliberation was had by the Planning Commission.
- **MOTION:** Currin moved that the Planning Commission forward this application for an amendment of an existing Special Use Permit to the Board of County Commissioners with a recommendation of approval with the following conditions:
 1. The driveway easement proposed by the Applicant shall be in full force and effect as long as the Special Use Permit is in effect.
 2. The Applicant shall be required to install and maintain gravel in the driveway and parking areas.
 3. The Applicant shall erect proper signage to clearly delineate traffic flow and direction for ingress/egress, parking, and use of the drive-thru window.
- **SECOND:** Carr seconded motion.
- **DISCUSSION:** No discussion was had.
- **VOTE:** A vote was taken and the motion passed unanimously.
- Parker noted that the county attorney gave an opinion that no resolution is required, but approval of the minutes will need to be accomplished on 5/3.

7. Adjourn Regular Meeting

- **MOTION:** Currin moved to adjourn
- **SECOND:** Peters seconded motion
- **DISCUSSION:** None

DRAFT; SCHEDULED TO BE APPROVED ON 5/17/2015

- **VOTE:** A vote was taken and the motion passed unanimously

Submitted By:

Approved By:

Bryan Sampson
Associate Planner

Randy Parker
Chair