

**AGENDA**  
**OURAY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**

July 27, 2016, 10:00 AM  
Meeting to be held at the Ouray County Land Use Office  
111 Mall Road, Ridgway, Colorado

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

- I. Call to Order – Regular Meeting of the Ouray County Planning Commission (10:00 AM)**
- 1. Request for approval of minutes; 7/6/2016**
  - 2. Request for approval of minutes; 7/19/2016**
  - 3. Adjourn Regular Meeting**

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

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**MINUTES**  
**OURAY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING & WORKSHOP**

July 7, 2016 6:00 – 8:00 p.m. (appx)

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

**Attending:**

**PC:** Jackman, Parker, Williams, Orgren, Carr, Miller, Baskfield, Peters  
**Staff:** Castrodale, Sampson, Whitmore  
**Absent:**

**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 (6:04 PM)**

1. The Planning Commission held a workshop to continue their review of a potentially new land use code section pertaining to high country development regulations.

**II. Call to Order – Regular Meeting of the Ridgway Area Joint Planning Board (5:00 P.M.)**

**1. Request for approval of minutes; 6/7/2016**

- i. **MOTION:** Williams moved to approve the minutes as amended
- ii. **SECOND:** Carr seconded the motion
- iii. **DISCUSSION:** Carr noted that he was present on the 25<sup>th</sup>. Change was made.
- iv. **VOTE:** A vote was taken and the motion passed unanimously.

**2. Request for approval of minutes; 6/15/2016**

- i. **MOTION:** Carr moved to approve the minutes as submitted
- ii. **SECOND:** Williams seconded the motion
- iii. **DISCUSSION:**
- iv. **VOTE:** A vote was taken and the motion passed unanimously.

**3. Request for approval of minutes; 6/21/2016**

- i. **MOTION:** Carr moved to approve the minutes as amended
- ii. **SECOND:** Williams seconded the motion
- iii. **DISCUSSION:** Need to add attending members from the Ridgway Area Joint Planning Board. Change was made.
- iv. **VOTE:** A vote was taken and the motion passed unanimously.

**4. New Business**

- i. The Planning Commission discussed the upcoming hearing
- ii. Approval of 7/19 minutes will be on 7/27 at 10:00 AM
- iii. Williams noted that Parker did an excellent job as chair through this process, and stated that she would still be willing to take over the chair position after Randy is done, but is traveling in August and September.
- iv. Parker noted that we would address election of officers after the high country regulation process was finished.

**Submitted By:**

**Approved By:**

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**Bryan Sampson**  
Associate Planner

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**Randy Parker**  
Chair

**MINUTES**  
**OURAY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**

July 19, 2016 7:00 – 9:00 p.m. (appx)

Meeting held at the 4-H Event Center, Ridgway CO

**Attending:**

**PC:** Jackman, Parker, Williams, Orgren, Carr, Miller, Peters  
**Staff:** Castrodale, Sampson, Mayfield, Bockes  
**Absent:** Baskfield

**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 – Regular Meeting of the Ridgway Area Joint Planning Board (7:00 P.M.)**

- 1. Public Hearing (7:02 PM):** The purpose of the hearing is to review and make a recommendation to the Board of County Commissioners on possible revisions to the Ouray County Land Use Code regarding high alpine residential development on patented mining claims and mill sites in the high country. In conjunction with those recommendations, the Planning Commission will also review possible related changes to Sections 2, 3, and 13 of the Land Use Code.
  - Parker called the meeting to order and introduced the topic. He then read the following written public comments into the record:
    - July 18, email from Dale Stanislowski
    - July 18, email from Heather Yeowell
    - July 18, email from Andrew Yeowell
    - July 19, email from Dave Valentich
    - July 19, email from Mark Iuppenlatz
    - July 19, email from Matt Wade (Peak Mountain Guides)
    - July 19, email from Josh Kling (Kling Mountain Guides, LLC)
    - July 19, email from Don Rodgers
  - Parker reviewed the public hearing process
  - Staff Presentation
    - Castrodale gave a brief presentation:
      - Reviewed the process
        - i. Set schedule
        - ii. Staff responded to questions from BOCC
        - iii. Planning Commission held two work sessions to respond to the questions, and then two workshops to review the draft.

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- iv. Staff was developing the draft prior to the planning commission workshops. 1<sup>st</sup> draft had open ended questions for the Planning Commission to fill in the blanks.
- v. Planning Commission report has additional information.
- Parker noted that Sheelagh Williams had acted as scribe during the process and developed the extensive planning commission report.
- **Public Comment**
  - Open at 7:14 PM
    - Roze Evans; thanked planning commission. Smart and restrictive regulations essential to protect Alpine zone. Alpine is special place and is the heart and soul of the county. Visitors from all around the world spend time in our alpine area, and it's a fragile environment. Thinks there should not be any residential development in the ecosystem. From tundra to 9480, development should be very limited. Should be a minimum 35 acre parcel to build. Mining claim owners bought as a speculative real estate investment. County has a right to enact regulations, perhaps stricter than proposed.
    - Jen Parker; thanked planning commission. BOCC asked you to keep it simple. Simple to me would be no development above 9500'. Good regulations, but disagrees with 5 acre minimum. Should be 10 acre minimum. 1000 sf limitation is acceptable, but 2500 is not.
    - Mark Iuppenlatz; owns 15 claims, all above 11k feet. Skied in the area for a decade and knows the area well. Beautiful area, but is not wilderness; covered with roads, logging trails, ATV's, jeeps. A lot of activity. Not a pristine untouched area. Many living above 11k in the past. 49% of county is public land that is already protected. Spent 8 years, looking for a place to build a mountain chalet. After research, I bought claims on Red Mountain. Many claims around me were going to be sold. Bought additional claims to prevent others from building on every claim around me. Regulations promote building on every claim, instead of my plan to combine multiple claims. Will force people to build on every claim. If I lose the right to build on all of my claims, I've lost my life savings and investment.
    - Rein Van West; Thanked planning commission. Agree and support regulations proposed with the exception of two. First, the intent section. Not assured that limited development is supported when there is a 5 acre minimum. Will lead to higher density and sprawl. Asked planning commission to reconsider. 10 acres would be better. The second; if the intent and purpose is as stated, than a 2500 sf footprint is too large. Ask that the Planning Commission to reduce maximum size allowed. Makes sense to limit

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exterior foot print to 1000' sf, any bonus density should be on a second level, up to 2,000 sf total. Any single floor structures could be limited to 20'. How are yurts treated? Planning Commission should review the status of these structures.

- Jan Van West; Agreed with Jenn Parker and Jan's husband. Wants to plant a seed; we need an environmental impact study. There may be an endangered butter-fly up there. Has talked to researchers, but they haven't been up there. Also thinking about lynx.
- Olaf Rasmussen; Does not think there should be development above 9500'. New development in high country is visually disturbing. Wildlife may disappear with increased development pressures.
- Kelly Ryan; representing San Juan Hut Systems. Interested in maintaining character of the high country. Thinks that mining claims are purchased as mining claims, and if not being mined, other development should maintain the 35 acre density. Tree line elevation may make more sense than a specific elevation measured in feet.
- Andy Mueller; on behalf of the Uncompahgre Mining Company. Orvis Family is the owner, and they are against the regulations. Fee simple property, just as all other private property. Patented by the federal government under mining act and the act did not limit the use to mining. Many mining related commercial business existed above 9500' in this area before. The county has only seen 4 or 5 building permits in the last 4 years. This is not a crisis; it's slow evolutionary growth and isn't going to change the face of the county. Building is not feasible on many of these properties to begin with, without enacting these regulations. There are not houses that you can see, for the most part, because people don't choose to build up there.
- Arlen Huggins; Supports development of the regulations set forth by the Planning Commission. The acreage and building size restrictions don't necessarily address visual impact. Proximity to road and vegetation play into visual impact. Many 5 acre sites above tree line; will look like a poorly designed subdivision. The expansion of adjoining contiguous site is a bad idea. Doesn't think it's going to happen; will end up with 5 acre subdivision affect. Supports building limitation, but no exceptions. Building in tundra zone should not be allowed.
- Austin Ray; should not be development above 9500'. Tundra definition is vague. Proposed limiting structure height to surrounding vegetation. When properties don't adjoin a public road, the driveway improvements may be more detrimental.
- Peter Rowland; want to talk about change. If we're going to look into the past, let's look at the Bruno treaty. Don't

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ignore changes of the past. Speaking for the plants and the wildlife in the tundra zone. Development in tundra zone is not appropriate. I do understand ecology. Own 3 mining claims. I don't feel like I lost my property rights. If claims are to be building lots, they should be taxed as vacant land.

- Ken Lipton; congratulated the Planning Commission and Staff for their work. 24.2 of the draft could result with a mining operation that has a 7,000 sf home on the property. Section 24.3D3b & Section 24.3H1, seems to be a contradiction. Section 24J; there should be a period after 11,000 feet. Section 13.8, failure to enforce. Does not agree with that; if county doesn't enforce, they should be held liable.
- Scott Williams; thanked the planning commission and staff. The essence of planning is balancing private property rights with the public interests. Tough to get it done in the time frame allotted. Doesn't agree with everything in the draft, but thinks that the draft and report does a good job outlining the issues. Provides alternatives and recommendations to the BOCC. Time to turn it over to the BOCC with your recommendations and report.
- Mike Nadiak; Represents Yankee Boy Conservation. Agrees with 10 acre minimum. Would like to see regulations that are on par with adjacent counties. If not, development pressure will come to Ouray County. Considers our scenic values as a renewable resource. Many come from around the world to see our scenic alpine area. If we protect it now, it will pay off for future generations.
- Chuck Wrye; Very impressive work. Have spent much time in the back country. The forest service is becoming stricter and stricter on the hard rock running event. Only one vehicle per runner. Should be no building above 9000'. Agrees with Rein Van West. Not pleased with ATV use on Red Mountain. Disturbed with the 10 acre minimum. Enforcement is the key. Concerned that wealthy people will be the only ones that can build trophy homes in the high country unless regulations are passed.
- Nathan Disser; representing self and San Juan Mountain. Guides. Have permits to access the back country to take guests skiing. Almost always required to cross private land. Generally have good relationships with property owners that let us through their property. If you look at the claim map, you can't access public land without crossing private. If property owners feel that a taking has taken place, they may no longer allow access across their property. That scenario has just happened in San Juan County as a result of this type of action. Could occur in Ouray County. Would be a negative and poor outcome for all of us. Not against thoughtful regulations, but these could produce a takings issue.

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- Barry Doyle; in support of strict regulations. Some may have the “not in my backyard” mentality. Our views and vistas are an economic boom for our county. We welcome visitors from around the world. It’s more than money; it’s about beauty. Hopi term for life out of balance; a term when development is running wild. People from all sides respect the alpine beauty. Theodore Roosevelt most proud of his conservation efforts. Should continue that vision and protect it for the future.
- Anthony Gegauff; Here to consider regulations of mining claims for the unintended purposes of residential and commercial development. Regulation does have a place. Consider operating a motor vehicle; there are two essential regulators; the accelerator and the brake. The accelerator is frequently over used sometimes resulting in catastrophe. More experienced drivers are more familiar with the benefits of the brake pedal. Preserving beauty of high country is of monumental importance to those on both sides of this discussion. Property rights become secondary when the value of that property is severely degraded. Common sense regulations will benefit everyone.
- Eve Becker Doyle; supports regulations for reasons already said.
- Daniel Zekidas; commercial guide. Takes many guests skiing in the Red Mountain area, and they’re not here to ski through a development. Do believe that there is good ways to access the properties without crossing private. Supports 35 acre limitation, and 1,000 – 1,500 sf size max. Proposed a minimum distance between houses. Supports limiting roads. Something should be in the code that states that no winter road maintenance is allowed.
- Al Lowande; thanked planning commission for their work. Have to agree with most that have already spoken. People come here for the beauty of the high country, and to put at risk is stupid. Government function to protect public’s interest, and in this case it conflicts with private property interests. The 5 acre minimum is too small. Log Hill village has an average 5 acre parcel size. Can visualize high country looking like Loghill village. 10 acres or more would be appropriate. Disagreed with Mr. Mueller about it not being a problem. The incredibly wealthy are looking for status symbols, and they will build there. Yurts should be forest green if they are allowed.
- Heidi Nadiak; agreed with Jan Van West, and the comments about habitat fragmentation. Many people go up there to enjoy the high country. Incredible experience to see the wildlife in the area. Agrees with no building above tree line. Had recently been hiking, and there’s much more ATV’s and jeeps, and even hikers. Should keep impacts to a minimum. Driveways can’t be tucked

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away, home owners will expect road improvements, and would be detrimental to the economic.

- Tom McKenney; Agreed with comments by many previous speakers. Has been to all meetings except the last workshop. Have we lost our minds? How can we protect anything with a density of 1DU/5AC? This is a treasure. Doesn't agree with the comments about it not being a big deal. 18 questions were all answered without development of a purpose or intent. 5 acre density does not support the purpose/intent now shown in the draft. 1<sup>st</sup> question should have been whether residential development appropriate for the area? My answer is no.
- Andrew Klotz; It would be madness to have heart surgery after eating a cheese burger. That would be fear and speculation driving me into making decisions that could have grave consequences. This is similar to what I see unfolding here. I think we have a lot of well-intentioned people, but I think the policy reaction is misguided. How many have been permitted in the last 10 years? 7 or 8? We may be over reacting. Has been a planner for 15 years. Has often been working to cleaning up the mess of unintended consequences that these types of regulations create. It never turns out quite like you intend. Appealing to you to be very careful with your decision here. Are you fully apprised of the consequences that could result?
- Ken Orvis; against these regulations. Most mining claims already have regulations on them. Instead of regulating above 9,000 feet, how about regulating above 4,000 feet. No one here would like it if they couldn't live here and enjoy it. If you want a limit let's limit it to keeping the entire western Colorado beautiful. Can't hike through the mountains without trespassing; and I don't think anyone here would like it if I trespassed through their back yard or living room. That's basically what you're doing when you go into the high country.
- Fred Boyle; Be specific. Generally, when a big mistake is made, it falls generally on all of us. Go talk to the National Park Service; go talk to them. Nothing here deserves less stringent protection than our national parks. Hopes to hear that you've engaged an interspecies mediator. Speaks for residents that can't speak for them selves (plant's, animals, etc.). Sees young people on ATV's assaulting the wild places. There's more ATV's and always less wild places. It would be regrettable for adopt anything than the most stringent regulations.
- Jeff Bockes; would like to provide a counter argument to the position stated earlier, which seemed to be a reframe of the sentiments expressed during the Section 30 hearing. That argument is that the current and longtime property owners have been good stewards of the land, a fact that I generally agree with, and that the pace of building has generally been slow and therefore, no new regulation is

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needed. Reality is that there are only so many buildable parcels in this area, but there are many dozens or possibly hundreds of buildable parcels. Over time, many of these can and likely will be developed. Entire towns, such as Red Mountain Town and Ironton, were developed in a single season. Current regulations would allow development to mountain village proportions. If we saw that everyone would be up in arms, except for the one that built the house. Building well blended structures is entirely possible. Can build and maintain the quality of the area. Several cabins in the Red Mountain area that many don't even know are there. Recommends adopting these regulations. Also recommended, as the GIS coordinator, to lessen the requirements for topographic survey information.

- Howard Greene; fully supports this effort. Current lack of control clearly needs to change. How far does the county's authority extend? Is there a takings issue at all? We should do whatever the law allows to protect the area. Mining claims were developed for the sake of mining. Buying a mining claim to build a house, when there is no mining does not reflect the original intent. Residential and mining uses will conflict. Agrees with Al Lowande about definition of use by right. Max structure should be 1,500 SF, and 1000 SF without incentives. Minimum lot size should be 35 acres. Limit commercial uses to winter summer outdoor sports. Should have a clear red line to prevent any structures in the tundra, accompanied with a GPS delineation of tundra areas. Doesn't agree with statement about allowing larger homes will encourage people to protect more land. You've done excellent work on trail issues, access, etc. Send forward to BOCC.
- Averil Doering; Sounds like there are about 20 people in support and 4 opposed based on the comments tonight. Personally agree that we should be looking at 35 acre density and 1,000 sf maximum. Thinks that visual impact regulations that promote blending should be used. That is a compromise; would like to see no development in this area. Would like to see a hut system that is owned by the community, and would be a huge benefit. Can develop this in a smart way, and allow the community to benefit.
- Andy Help; liked a lot of what Al Lowande said. Doesn't want to see development above 9500'. Many people will be coming here, and it will change things. It's worth doing these zoning regulations right.
- John Hollrah; would like to see a show a hands of how many would like to see regulations (a show of hands was given).
- Mike Kemmet; Referred to the planner that spoke; we have to ask if we want to become that type of community. If we don't have regulations, it could quickly become a Telluride or Mountain Village. Someone is going to get hurt, on one

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side or the other. Quoted Spock “The needs of the many override the needs or desires of a few”.

- Jim Stephenson; 30 speakers tonight. I agree with 27 of them. Noted that the access issue brought up by Nathan. It’s a serious issue that needs to be considered.
- Jessie Orvis; asked for a show of hands of people that own the property that these regulations affect. A show of hands was given. Quite a few less than the earlier show of hands. My suggestion is that if you want to control the property that you’re talking about, then buy it and pay the taxes on it.
- Andy Yeowell; owns land up there, wants the planning commission to keep in mind that EMS services will be taxed with increased development. Future residents in that area will expect emergency services.
- Thomas Simulson; on behalf of him and his wife. Impressed with comments tonight. Size of lots needs to be as large as possible, and size of structures should be as small as possible. Preservation of tundra is paramount at all costs. Driveways and access is a major issue with erosion. Agreed with Nathan about access, we all love to have the close access to the mountains, and to have that threatened is concerning to me. Loves the sensation of openness and open space. It’s getting rare to find peace and serenity. Thankfully many historical structures are there to enjoy, some are remnants that we have to look at.
- Craig Fetterolf; packet states 795 buildable claims. Let’s say that individual site constraints results in 50% reduction. Left with 400 buildable sites. Estimated total land area affected by regulations to be 5 square miles or less, and stated that it would be 130 homes/square mile. That doesn’t sound like you’re keeping it rural, scenic and private. Suggests using a 35 acre minimum with 1,000 SF max building size.
- Public comment closed at 8:40 PM
- Parker called a 5 minute recess
- **Planning Commission Deliberation & Recommendation**
  - Yurt question about how they are classified.
    - Castrodale; not residential dwellings but do require building permits. Site Development review of Yurts has not yet been determined.
    - Williams; asked if people could live in them
    - Castrodale; they can camp in them with a long-term camping permit.
  - Conflict between Section 24.3D3b & Section 24.3H1.

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- Parker clarified the conflict & responded as to why the apparent conflict exists.
- Lipton noted that he was referring to roads, not trails.
- Parker; some roads are disputed. Some may claim private roads. Just because they're on the map doesn't mean there isn't conflicts. Trying to eliminate potential legal conflicts.
- Lipton; Isn't clear.
- Question from public; How does the draft language about trails relate to skiing?
  - Parker noted that he was not aware of any rights-of-way over the snow. Question is whether the county be looking at developing a method to create a right-of-way to allow people to ski.
- Williams; question about winter maintenance. There is a note at the end of the section about winter maintenance.
- Williams; next question was about how far the county can go with the regulations.
  - Parker; legal opinion provided at the beginning of process. Issue of taking is not before the planning commission, but a policy decision that will be dealt with by the BOCC.
- Williams; next question was about emergency services.
  - Parker noted that 24.5 states that anyone that builds up there is aware that there are limited EMS services. Doesn't mean that EMS can't go, but rather that the home owner can't rely on EMS to respond. Building at their own risk.
- Parker asked each planning commission member what issues that they may have with the draft.
  - Carr; still concerned about the allowed size of structures. Below 2,000 sf would be better and 1,500 sf would be preferred.
  - Parker asked if the cap should be reduced to 2,000 square feet?
  - Miller; thinks 2,000 sf is too much. Listed of several room sizes and said you can build all of the rooms within 1,000 square feet. Proposing no bonus square foot allowance, and limit up to 1,400 sf.
  - Jackman; nothing to add to that issue.
  - Williams; issue of density. If we allow a bonus for giving up development rights, I think it's a good trade-off.
  - Orgren; decided that the opportunities to get to 2,500 is very difficult, so is inclined to keep it as is.
  - Peters; agreed with Williams. Density is a big issue.
  - Parker; retiring development rights is important. They must be adjacent. Not in favor of changing. The 1,000 sf base line is quite generous. Many existing structures are below that limit. Noted the trail allowance might be able to be reduced.

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- Williams; testimony about why the property owner would be willing to give up development right for 500 square feet. Would be willing to raise that to 1,000 sf.
- Jackman; would be better to do away with the adjacent requirement.
- Parker; not many in favor of the 5 acre minimum from the public. Minimum to build is 5 acres, and if claim is 7 acres in size; you could not split the additional 2 acres off. Asked each planning commission member about how they felt about raising the minimum acreage required.
- Miller; researched the list of claims. 64% owned by a company and not individuals. Difficult to come up with.
- Orgren; number doesn't matter as much as where they're located.
- Miller; no way to tell from list if they're contiguous.
- Mayfield (county assessor), some folks may have a 1/3 interest in each claim.
- Peters; compressed in timing to gather information. There will be unintentional consequences. I believe that what is proposed is reasonable and we should stick with it.
- Orgren; agreed with Peters. Personally has an issue with what is more visible; several cabins on 5 acres vs one mansion on 35 acres.
- Williams; agreed.
- Jackman; this is tough. If we were talking about creating new lots, the answer is easy. No. Struggles with affecting lots that have been in existence. What lots exist that are not patented mining claims?
- Miller; would still like to see a change to either the size of the lot or the size of the house. Asked for clarification about above 11,000'.
- Parker noted that no development can occur on the tundra, regardless of elevation.
- Miller discussed the spreadsheet and recommended that the BOCC gather that info.
- Planning Commission agreed to that recommendation.
- Carr noted again that he felt the 5 acre minimum is too small.
- Parker asked if the Planning Commission would agree to a note to the BOCC that there was substantial agreement to raise the minimum lot size, but also note that many of the public comments came from folks that did not own mining claims.
- No consensus was reached regarding changing the maximum structure size.
- Parker noted that the GIS department submitted a letter about the survey requirement. Should the Planning Commission add a recommendation to consider revising the draft to lessen the

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requirement for topographic surveys to pertain only to  
development area, and then also request a corner survey?

- Parker; asked if there were any other questions about section 24.
- Peters; concerned that we have people here making a living. Are we restricting those people by alluding to commercial? Should note to BOCC that we were tasked to deal with residential but the regulations also include commercial uses.
- Parker noted that one of the reasons this moratorium is in place is because of a proposed commercial use in the high country. Parker noted that it was his impression that the size limitations would apply to bed and breakfast operations.
- Williams noted that she could add to the report that they don't want to adversely affect the guides.
- Peters agreed to that.
- Parker; discussed over the snow easements.
- Peters; page 1 of 6, talks about maintaining existing character. Concerned about not allowing public improvements to public roads.
- Parker; tied to winter maintenance agreement.
- Peters; this may not allow any improvements to the county roads, and you need to be careful with that.
- Parker proposed adding a recommendation to the report that Staff and BOCC review Sections 24.1D1 and 24.3H1 and 24.3H2 to make sure that they're consistent and consistent with the road maintenance of the county.
- Peters; page 8 of 14 in Section 13, last paragraph of G6, could be open the county to legal issues.
- Parker; County Attorney has reviewed that language.
- Orgren; definition of Tundra might be too broad definition. Public noted that buildings could be limited to height of trees.
- Parker; Danika Gilbert provided an alternative definition for Tundra. Recommended using it and having the BOCC review the definitions.
- The planning commission discussed several ways to define tundra. Came to consensus to leave definition in draft, but also include Danika Gilbert's definition too.
- Williams; J1A, page 5 of 6, should be changed to not be allowed in the tundra. Castrodale made the change to the draft.
- Peters asked if they should clarify with J1 by adding "new" driveways...
- Planning Commission agreed and Castrodale made the change.
- Miller; concerned about auxiliary structures, shouldn't have them when 2,500 sf home is allowed.
- Jackman; what if the primary structure is only 1,000 square feet?

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- Miller; two buildings are worse than one, and would like to see it removed.
- The planning commission discussed Miller's proposal, and it was decided that no change would be made to the report or draft, but to note in the minutes that the planning commission did discuss.
- Miller; opposed to using vegetative screening because it may die and not be productive.
- Parker; not saying that they must use vegetative screening. It is mentioned in section 9, but not in this draft. Wanted to include in the report that Staff should look at SDP so that it covers yurts. It was decided to add a note to the report that the PC believes that yurts and temporary structures with visual impacts (like wall tents) should be covered under the SDP review.
  - **MOTION:** Williams moved that the planning commission recommend that the BOCC approve the new section 24 and the changes to 2, 3 and 13 after consideration of the issues raised in the planning commission report.
  - **SECOND:** Carr seconded the motion.
  - **DISCUSSION:**
    - No further discussion was had
  - **VOTE:** A roll call vote was taken and the motion passed unanimously
  - The Planning Commission noted that minutes would be approved at 10:00AM on July 27.

**2. Adjourn (9:58 PM):**

- **MOTION:** Carr moved to adjourn
- **SECOND:** Miller seconded motion
- **DISCUSSION:** No further discussion was had
- **VOTE:** A vote was taken and the motion passed unanimously

**Submitted By:**

**Approved By:**

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**Bryan Sampson**  
Associate Planner

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**Randy Parker**  
Chair

**DRAFT – CLEAN VERSION**

**SECTION 24**

**HIGH ALPINE DEVELOPMENT REGULATIONS**

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**24.1 PURPOSE & INTENT:**

The purpose and intent of these regulations is:

- A.** To protect and preserve:
  - (1) The alpine, sub-alpine and scenic hillsides in the upper Uncompahgre River watershed for their historic and natural landscapes.
  - (2) The area needed for the protection and production of a safe public water supply
  - (3) The relatively undeveloped character of these backcountry areas.
  - (4) The historical structures and the native flora and fauna.
  - (5) The public lands from the impacts of incompatible development.
- B.** To protect mineral resources, and access to those resources, by regulating non-mineral development within the High Country Area. This area is comprised of public lands managed by the United States Forest Service (USFS) and patented mining claims. Much of the High Country Area was once mined and may again be mined.
- C.** To limit development activities in the High Alpine Area due to risks associated with:
  - (1) Natural conditions of the area, including high elevation, environmentally sensitive and geologically hazardous areas, including areas at risk for avalanche and rock slides, steep terrain, and other site constraints.
  - (2) Limited access for potential residents as well as emergency responders.
  - (3) Increased demand for public services beyond what is currently provided.
  - (4) Potential conflicts with past and or future mining activities
- D.** To maintain the existing characteristics found in the High Alpine Area (such as the lack of improved or maintained roads, little or no utility or infrastructure improvements, and very limited or sparse development other than historic mining remnants from past mining activities) by:
  - (1) Prohibiting both public and private improvements to existing public roads and to limit the construction of new roads within the High Alpine Area, while also preserving historic access methods.

- (2) Limiting residential development to cabins and small scale residential development consistent with the type of development that historically occurred in the High Alpine Area.

#### 24.2 **APPLICABILITY:**

- A. These regulations **shall not** apply to Underground Mining within the High Country Area or to any residential structures associated with a State-permitted mine operation.
- B. These regulations **shall apply** to all residential, non-mining, and commercial development occurring on patented mining claims and mill sites at, or above, 9,480’.

**Note:** All references to building permits, site development permits, or other requirements are intended to mean, and only apply to, residential, non-mining, and commercial development occurring on patented mining claims.

**Note:** Elevation shall be determined by referencing the latest published ‘USGS 7.5 MINUTE QUADRANGLE (1:24,000 SCALE)’

#### 24.3 **HIGH COUNTRY DEVELOPMENT CRITERIA AND STANDARDS:**

- A. **Development Prohibitions:** Residential, Non-Mining and Commercial development is prohibited when:

- (1) Parcel is less than 5 acres in size.
- (2) Proposed development is located within the alpine tundra ecosystem.

**Note:** Any commercial use is prohibited unless specifically allowed under the Zoning Section of this Code. Board of County Commissioner approval through issuance of a Special Use Permit is required.

- B. **High Alpine Site Development Permits:**

Prior to application for a building permit(s) for any residential, non-mining, or commercial structures, on mining claims and mill sites above 9480’, applicants shall be required to apply for, and receive approval of a High Alpine Site Development Permit. See Section 13.11 for submittal requirements.

- C. **Maximum Density:**

Residential density shall not exceed 1 dwelling unit per parcel (ie. no accessory dwelling units allowed).

- D. **Structure Size:**

- (1) The maximum accessory structure size shall be: 200 SF.

(2) The maximum dwelling structure size shall be: 1,000 SF, but may be increased pursuant to the allowances below (excludes porches, decks, patios and terraces that do not have roofs or floors above and are open to the sky, if such improvement is equal to or less than thirty (30) inches above grade and is two hundred fifty (250) square feet or less. 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.)

(3) Additional Dwelling Structure Size Allowances:

(a) An additional 500 square feet of Floor Area may be allowed for each Development Right retired in perpetuity on a contiguous developable parcel(s) in the High Alpine Area. A developable parcel is a property capable of meeting all applicable provisions of this Code necessary to obtain a High Alpine Development Permit.

(b) An additional 500 square feet of Floor Area may be allowed where the owner proposes measures that preserve or enhance public trails or roads designated as such on the County Road Map adopted under Resolution 2014-014, or any subsequent amendments.

(c) 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.

(d) In no circumstance shall a single-family residential dwelling with a Floor Area larger than 2500 square feet be allowed.

**E. Structure Height:**

The maximum structure height shall be twenty-five feet (25') for dwellings and twenty feet (20') for accessory structures.

**Note:** Height measurement is calculated pursuant to the definition of “Building Height” in Section 2 of this Code.

**F. Setbacks:**

All development shall comply with the setback requirements listed in the Zoning section of this Code.

**G. Visual Impact:**

- (1) All structures within the High Alpine Area shall mimic and blend with those found in the surrounding natural landscape. Use of wood, stone and other natural looking materials is encouraged. Colors shall be earth-tone, dark and/or subdued. The Applicant shall provide a color board to the Land Use Department showing proposed colors as part of the Site Development Permit application. At the time that a building permit application is submitted, the Applicant shall confirm the colors to be used and such colors shall be approved by the Land Use Department/Building Official prior to approval of a building permit. Highly reflective glass or metal surfaces are prohibited and instead the use of non-reflective glass or metal surfaces is required. Fire retardant materials will be allowed provided that the materials have a natural appearance and are approved by the Land Use Department during the Site Development Permit review process.
- (2) If the proposed construction is within, and visible from, a view corridor (see Section 9), the construction must also comply with all standards of the Visual Impact Regulations.

**Note:** Mid-summer foliage and terrain conditions shall be used when determining blending requirements.

**H. Access:**

- (1) Public or private improvements on existing county roads and the construction of new roads within the High Alpine Area are prohibited as a means of maintaining the areas existing character and as a means of preserving historic access methods.
- (2) Existing private roads within the high country area are considered to be pre-existing driveways. Driveways may be constructed or improved to access property within the High Alpine Area. However, property owners are not required to improve driveways accessing their property in this area to the driveway standards that are required throughout the remainder of the County. Rather, the intent of this regulation is to minimize the number of driveways and the impacts driveways may have on the scenic and environmental character of the area.
- (3) No driveway in the High Alpine Area may be paved or otherwise improved with an impermeable surface.
- (4) Public and private access, including access for emergency response, to parcels in the High Alpine Area may be limited or non-existent.
- (5) Property owners are encouraged to review the County Winter Road Policy.

**I. Parking:**

- (1) If accessing the property by motor vehicle, adequate parking shall be provided.
- (2) At no time shall parking be allowed within the County rights-of-way without approval of the Board of County Commissioners.

**J. Driveways & Private Roads:**

- (1) New driveways and new private roads shall:
  - (a) Not be allowed in the tundra unless the applicant can demonstrate, through studies prepared by qualified professionals approved by the County and paid for by the Applicant, that the development will not be located within and will not negatively impact the tundra ecosystem; and
  - (b) Be designed in a fashion that minimizes impacts to environmental and scenic qualities; and
  - (c) Be aligned to minimize the amount of cut/fill necessary to install the proposed driveway; and
  - (d) Be reviewed and approved by either the County Road and Bridge Department, or a consultant chosen by the County, prior to construction/installation.
- (2) If required by the County, the applicant shall be responsible for payment of any consultant review of a driveway or private road design/installation.
- (3) Applications for driveways and/or private roads may be referred to any other applicable agencies (such as neighboring counties, Forest Service, BLM) for review and comment.

**K. Utilities:**

- (1) All utility installations shall be installed in a fashion that minimizes impacts to the environment and scenic quality of the site. Staff shall make the final determination regarding proposed utilities and any potential impact.
- (2) Fuel tanks, water storage, water delivery systems, and gasoline/diesel powered electric generators shall be placed in a permitted garage, accessory structure, underground, or otherwise entirely screened from view and noise levels shall not exceed the limits defined within ordinance 1992-01 and any subsequent amendments.

**24.4 VARIANCE AND APPEALS:**

- A. Variances to the standards of this section may be applied for, pursuant to the standards of the Exceptions, Special Exceptions, Exemptions, and Variance Section and the Administration and Enforcement Section of this Code.
- B. Any Decision or denial of any Staff member may be appealed pursuant to the standards of the Exceptions, Special Exceptions, Exemptions, and Variance Section of this Code.

## **24.5 LIABILITY AND DISCLOSURE**

Prior to issuance of a site development permit, the property owner(s) shall sign an acknowledgement regarding the limitations of resources and services in Ouray County, including limitations of roads, access, water, utilities, and emergency responses, as well as the risks associated with building on a patented mining claim or mill site, including natural hazards such as avalanches and rock slides.

### **GENERAL NOTE:**

In addition to the requirements of this section, applicants must also comply with all applicable sections of this Code and any relevant County Resolution or Ordinances, including, but not limited to:

- Short-term rental ordinance
- Ouray County Road Map
- Ouray County Winter Maintenance Agreement
- Visual Impact Regulations
- Wildfire Mitigation Regulations
- High Alpine Site Development Permit Standards

**DRAFT**

**SECTION 2  
DEFINITIONS**

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Proposed additions resulting from Section 24 – High Country Development Regulations:

**TUNDRA.** Alpine tundra ecosystems are typically found above tree line and are characterized generally by the absence of extensive tree coverage. Several distinct plant communities are found in the alpine tundra ecosystem, including low shrubs, cushion plants, small forbs, lichens and lush meadows of sedges and grasses.

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**SECTION 3 – REDLINE VERSION**

**ZONING**

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**3.1 PURPOSE AND INTENT:**

- A. The zoning provisions that follow have been adopted to achieve the purposes set forth in Section 1.
- B. To allow gradual, long-term population and economic growth in Ouray County in a manner that does not harm the County’s irreplaceable scenic beauty, wildlife, air and water resources, and other environmental qualities and that does not unduly burden the County’s residents or its governments.
- C. The intent of the County zones is to achieve across the zones, the overall goal of the Master Plan. This goal includes, in alphabetical order, specific goals for agricultural lands, county/municipal relationships, economic development, housing, natural resources, rural character, tourism, transportation, utilities, visually significant areas, and wildlife and plant habitats.
- D. The specific intent of each of the zones that follow shall be read in conjunction with the combination of the Master Plan’s overall and specific goals, and provide general guidance with regard to specific uses within each zone.

**3.2 ZONING DISTRICTS, MAPS AND BOUNDARIES:**

- A. The zones established by the Code are identified on the basis of the physical character of the County combined with the pertinent information about existing land use and ownership patterns and the needs of a stable and growing economy.
- B. All Zones shall be designated on the “Official Zoning Map of Ouray County” which is on file in the records of the County Clerk and Recorder. A copy of the map is attached to this Code and, in the event of any conflict between the copy and the map on file in the County records, the latter shall be conclusively deemed to prevail.

**3.3 USES BY RIGHT AND SPECIAL USES:**

- A. In each zone there are uses permitted by right and special uses which may be allowed on a site specific basis through a permitting process. These uses have been determined in each zone according to the unique characteristics of the zone.
- B. Uses allowed by right are allowed automatically, although construction of new structures may require a Site Development Permit and a building permit pursuant to Section 13 of this Code.
- C. Permits for special uses may be requested according to the procedures in Section 5. The criteria for approval of a special use are more specifically explained in Section 5.2.

**3.4 USES NOT LISTED:**

- A. Upon application, or by its own initiative, the BOCC may, in accordance with Section 14.5, by resolution add to either the uses by right or by special permit listed for a zoning district based on these criteria:
  - (1) Such use is appropriate to the physiographic and general environmental character of the zone to which the use is added.
  - (2) Such use is compatible with other permitted uses in the zone and does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences, or more traffic, hazards, or alterations to the zone than the minimum amount normally resulting from the other uses permitted in the zone.

**3.5 ESTABLISHMENT OF ZONES:**

- A. The County is hereby divided into eight (8) zones, as follows:
  - (1) Alpine
  - (2) Colona
  - (3) High Mesa
  - (4) North Mesa
  - (5) Public Lands
  - (6) South Mesa
  - (7) South Slope
  - (8) Valley

**3.6 RESIDENTIAL DENSITY:**

- A. Maximum residential densities for each Zone shall be as follows:
  - (1) Alpine Zone 1 Dwelling Unit per 35 Acres\*
  - (2) Colona Zone 7 Dwelling Units per Acre
  - (3) High Mesa Zone 1 Dwelling Unit per 35 Acres
  - (4) North Mesa Zone 1 Dwelling Unit per 6 Acres
  - (5) South Mesa Zone 1 Dwelling Unit per 6 Acres
  - (6) South Slope Zone 1 Dwelling Unit per 6 Acres
  - (7) Valley Zone 1 Dwelling Unit per 35 Acres

\* Subject to additional restrictions of Section 24 – High Alpine Development Regulations

**3.7 CONSTRUCTION, MAXIMUM BUILDING AND STRUCTURE HEIGHT:**

In all zones, the maximum height of a building or other structure shall not exceed thirty-five (35) feet, unless a height of less than thirty-five (35) feet is required within [the High Alpine Development Regulations \(See Section 24 of this Code\)](#), an approved PUD, or as otherwise provided in a special use permit. (See Definitions – Section 2 for more information)

Construction of structures in all zones may have additional requirements, including setbacks, as provided elsewhere in this Code. Property owners should consult with Land Use staff concerning applicability of other requirements before commencing design or construction.

**3.8 ZONES:**

**A. Alpine Zone:**

The intent of the Alpine Zone is to preserve the natural beauty, wildlife habitat, and recreational, historic and archeological values of high altitude areas and manage the County’s natural resources in a manner that is both environmentally sound and protects private property rights, while allowing mining, agriculture, forestry, recreation, and limited low density residential and resort/conference center development.

**(1) Uses Allowed by Right:**

- (a) Underground mining subject to state and federal permitting
- (b) Accessory uses and structures to any other use by right and any permitted use
- (c) Farming/Ranching
- (d) Home occupation
- (e) Non-commercial camping
- (f) Non-commercial logging
- (g) Single-family dwelling unit (maximum density of one unit per 35 acres) on parcels not previously approved by the County as part of a Planned Unit Development (PUD))

**NOTE:** [\(Further restrictions are located in Section 24 of this Code for patented mining claims and mill sites at or above 9,480’ in elevation\)](#)

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PATENTED MINING CLAIMS...

**(2) Uses Allowed by Special Use Permit**

- (a) Bed and breakfast
- (b) Cemetery

(3.8A2)

- (c) Church
- (d) Commercial camping
- (e) Commercial equestrian activity
- (f) Commercial logging
- (g) Commercial outdoor recreation use – day use
- (h) Governmental facility
- (i) Guest ranch
- (j) Home business
- (k) Livery or horse rental operation
- (l) All mineral extraction and processing operations except those allowed by right
- (m) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (n) Public park or wildlife preserve
- (o) Public utility
- (p) Public service facility
- (q) Sand and gravel operation
- (r) School
- (s) Temporary use
- (t) Wildlife Rehabilitation Facility

**NOTE: (Further restrictions are located in Section 24 of this Code for patented mining claims and mill sites at or above 9,480' in elevation).**

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**(3) Planned Unit Development:**

- (a) Resort/Conference Center PUD
- (b) Regular PUD – as established by Section 6 of this Code

**(4) Minimum Lot Size:**

- (a) All uses, except as otherwise provided for in this Code - thirty-five (35) acres
- (b) Special uses – as established by Section 5 of this Code

**(c) See Section 24 of this Code for further restrictions pertaining to development in the High Alpine Area.**

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**(5) Required Setbacks:**

- (a) All structures shall be located at least twenty-five (25) feet from any property lines unless approved otherwise in a PUD
- (b) For lots and parcels that have an area of two (2) acres or less, the minimum setback for structures shall be ten (10) feet from the side and back property lines and twenty-five (25) feet from the front property line

(3.8A5)

- (c) No structure may be closer than one hundred (100) feet from the centerline of U.S. Highway 550 or Colorado Highway 62, if visible from such highways

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**B. Colona Zone:**

The intent of the Colona Zone is to maintain an area of high-density residential development (one unit per 6,000 square feet) and commercial activity.

**(1) Uses Allowed by Right:**

- (a) Single-family dwelling units
- (b) Accessory uses and structures to any other use by right and any permitted use
- (c) Home Occupation

**(2) Uses Allowed by Special Use Permit:**

- (a) Church
- (b) Commercial use
- (c) Government facility
- (d) Home Business
- (e) Multi-family dwelling
- (f) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (g) Public service facility
- (h) Public utility
- (i) School

(3) **Planned Unit Development:** Regular PUD (maximum density of 7 units per acre).

(4) **Minimum Lot Size:** Lot size shall not be less than fifty (50) feet by one hundred twenty (120) feet. Larger lot sizes may be required to meet requirements for adequate sewage disposal.

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(5) **Floor-to-Lot Ratio:** For all uses, maximum floor-to-lot ratio shall not exceed 1:1.

(3.8B)

(6) **Required Setbacks:** All structures shall be at least twenty (20) feet from any street or highway right-of-way (except alleys) and at least ten (10) feet from all other property lines.

**C. High Mesa Zone:**

The intent of the High Mesa Zone is to encourage agricultural production, preserve areas for wildlife migration and habitat, and scenic, historical and archeological values, and to allow low density residential development that does not adversely impact the significant vegetative, wildlife, historic, archeological and scenic values of the Zone.

**(1) Uses Allowed By Right:**

- (a) Farming/ranching
- (b) Single family dwelling unit (maximum density of one unit per 35 acres) on parcels not previously approved by the County as part of a PUD
- (c) Non-commercial logging
- (d) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (e) Home occupation
- (f) Non-commercial camping

**(2) Uses Allowed by Special Use Permit:**

- (a) Bed and breakfast
- (b) Cemetery
- (c) Church
- (d) Commercial camping

- (e) Governmental facility
- (f) Guest ranch
- (g) Home Business
- (h) Mineral Operation
- (i) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (j) Public park or wildlife preserve
- (k) Public service facility
- (l) Public utility

(3.8C2)

- (m) Sand and gravel operation
- (n) School
- (o) Temporary use
- (p) Wildlife rehabilitation facility

**(3) Minimum Lot Size:**

- (a) Single family dwellings – thirty-five (35) acres
- (b) Special uses – as established by Section 5 of this Code
- (c) Regular PUD – as established by Section 6 of this Code

**(4) Required Setbacks:** All structures shall be located at least twenty-five (25) feet from any property lines, unless a greater setback is required within an approved PUD.

**D. North Mesa Zone:**

The intent of the North Mesa Zone is to preserve areas for wildlife mitigation and habitat and allow up to six acre residential density (medium density) that is not impacted by geological hazards.

**(1) Uses Allowed by Right:**

- (a) Single family dwelling units (maximum density of 1 unit per 35 acres)
- (b) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (c) Home occupations
- (d) Farming/ranching

- (e) Non-commercial camping

**(2) Uses Allowed by Special Use Permit:**

- (a) Bed and breakfast
- (b) Cemetery
- (c) Church
- (d) Governmental facility
- (e) Guest ranch

(3.8D2)

- (f) Home business
- (g) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (h) Public park or wildlife preserve
- (i) Public service facility
- (j) Public utility
- (k) Sand and gravel operation
- (l) School
- (m) Temporary use
- (n) Wildlife rehabilitation facility

**(3) Planned Unit Development:**

- (a) Limited PUD (maximum - one unit per 13 acres)
- (b) Regular PUD (maximum - one unit per 6 acres)

**(4) Minimum Lot Size:**

- (a) Single family dwelling (outside of a PUD) thirty-five (35) acres
- (b) Planned unit developments – as established by Section 6 of this Code
- (c) Special uses – as established by Section 5 of this Code

- (5) Required Setbacks:** All structures shall be located at least twenty-five (25) feet from any property lines unless a greater setback is required within an approved PUD.

**E. Public Lands Zone:**

Only lands that are NOT owned by Federal or State entities are subject to this Zone and regulations. The intent of the Public Lands Zone is to preserve and protect private lands that are not publicly owned and managed by Federal or State entities in the Zone from future development, thereby providing visual and recreational enjoyment for the County's present and future residents as well as for visitors.

**(1) Uses Allowed by Right:**

- (a) Farming/ranching
- (b) Non-commercial camping
- (c) Underground mining

(3.8E1)

**(2) Uses Allowed by Special Use Permit:**

- (a) Commercial camping
- (b) Commercial logging
- (c) Governmental facility.
- (d) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (e) Public park and wildlife preserve
- (f) Public service facility
- (g) Public utility
- (h) Wildlife rehabilitation facility

**(3) Minimum Lot Size:** Thirty-five (35) acres

**(4) Required Setbacks:** All structures shall be located at least twenty-five (25) feet from any property lines

**F. South Mesa Zone:**

The intent of the South Mesa Zone is to allow medium density and, where appropriate, high density (including commercial) development if all appropriate infrastructure is available. The purpose is to meet the overall Master Plan goal of allowing gradual, long-term population and economic growth without harming the County's irreplaceable environmental qualities and unduly burdening the County residents or governments.

**(1) Uses Allowed by Right:**

- (a) Single-family dwelling units (maximum density of one unit per thirty-five (35) acres)
- (b) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (c) Home occupations
- (d) Non-commercial camping

(3.8F)

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**(2) Uses Allowed by Special Use Permit:**

- (a) Bed and breakfast
- (b) Church
- (c) Commercial uses (as allowed in approved planned unit developments)
- (d) Governmental facility
- (e) Home business
- (f) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (g) Public park
- (h) Public service facility
- (i) Public utility
- (j) Sand and gravel operation
- (k) School
- (l) Temporary use

**(3) Planned Unit Development:**

- (a) Limited PUD (maximum - one unit per 13 acres)
- (b) Regular PUD (maximum - one unit per six acres)

**(4) Minimum Lot Size:**

- (a) Single-family Dwellings (outside a PUD) – thirty-five (35) acres
- (b) Planned unit developments – as established by Section 6 of this Code
- (c) Special uses – as established by Section 5 of this Code

**(5) Required Setbacks:** All structures shall be located at least twenty-five (25) feet from any property line unless otherwise approved in a PUD or subdivision. For lots and parcels that have an area of two (2) acres or less, the minimum setback

for structures shall be ten (10) feet from the side and back property lines and twenty-five (25) feet from the front property line.

**G. South Slope Zone:**

The intent of the South Slope Zone is to preserve areas for wildlife migration and allow up to six acre residential development (medium density) that is not impacted by geologic hazards.

(3.8G)

**(1) Uses Allowed by Right:**

- (a) Single-family dwelling units (maximum density one unit per thirty-five (35) acres (Unless otherwise approved in a County PUD process)
- (b) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (c) Farming/ranching
- (d) Home occupation
- (e) Non-commercial camping

**(2) Uses Allowed by Special Use Permit:**

- (a) Bed and breakfast
- (b) Governmental facility
- (c) Home business
- (d) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (e) Public park and wildlife preserve
- (f) Public service facility
- (g) Public utility
- (h) Temporary use

**(3) Planned Unit Development:**

- (a) Limited PUD (maximum - one unit per 13 acres)
- (b) Regular PUD (maximum - one unit per 6 acres)

**(4) Minimum Lot Size:**

- (a) Single-family dwellings (outside a PUD) thirty-five (35) acres
- (b) Planned unit developments – as established by Section 6 of this Code

- (c) Special uses – as established by Section 5 of this Code

**(5) Required Setbacks:**

All structures shall be located at least twenty-five (25) feet from any property lines unless a greater setback is required within an approved PUD.

(3.8)

**H. Valley Zone:**

The intent of the Valley Zone is to protect and preserve visually significant and sensitive areas of the County, maintain its overall rural character, and/or encourage the continued use of the lands for agricultural productivity.

**(1) Uses Allowed by Right:**

- (a) Farming/ranching
- (b) Single-family dwelling units (maximum density of one unit per 35 acres)
- (c) Accessory uses and structures that are accessory to any other use by right and permitted use
- (d) Home Occupation
- (e) Non-commercial camping

**(2) Uses Allowed by Special Use Permit:**

- (a) Bed and breakfast
- (b) Cemetery
- (c) Church
- (d) Commercial equestrian activity
- (e) Commercial outdoor recreation – day use
- (f) Governmental facility
- (g) Guest ranch
- (h) Home business
- (i) Livery or horse rental operation
- (j) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (k) Public service facility
- (l) Public utility
- (m) Sand and gravel operation

- (n) School
- (o) Temporary use
- (p) Wildlife rehabilitation facility
- (q) Historical museum

(3.8H)

**(3) Minimum Lot Size:**

- (a) Regular PUD – as established by Section 6 of this Code
- (b) All uses except as otherwise provided for in this Code – thirty-five (35 acres)
- (c) Special uses – as established by Section 5 of this Code

**(4) Required Setbacks:** All structures shall be located at least fifty (50) feet from any property lines unless otherwise approved in a PUD. For lots and parcels that have an area of two (2) acres or less, the minimum setbacks for structures shall be ten (10) feet from the side and back property lines and twenty-five (25) feet from the front property line. No structure may be closer than one hundred (100) feet from the centerline of U.S. Highway 550 or Colorado Highway 62.

**3.9 MUNICIPAL OVERLAY DISTRICTS:**

**A. Intent and purpose:** Due to continued growth pressures, there is an increased desire for coordination between the Municipalities and the County to promote the efficient use of services and protection of open lands, agricultural lands, alpine lands and community identities. It is therefore the intent and purpose of the Overlay Districts to establish districts and create a process to jointly review development on unincorporated property surrounding the Town of Ridgway and the City of Ouray.

**B. Definitions:**

- (1) Area of Influence (“AOI”).** An area of unincorporated land wherein development or use of land has an impact upon the adjoining municipality.
- (2) Urban Development.** Development that conforms to the standards of moderate and high density residential, commercial/industrial or tourist land use categories, which is typical to urbanized areas. Urban development also includes the types of services that are generally required to support that development such as central potable water, storm water systems, central sanitary sewer systems, quick-response fire and police protection, urban level street design and maintenance, parks and recreation programs, open space and undeveloped parks, urban level retail and commercial development and other similar services that are typically provided by cities and towns.

(3) **Urban Growth Management Area (“UGMA”).** An area of unincorporated land adjacent to a municipality in which urban development may be allowed when annexed by the municipality. The Urban Growth Management Area includes an area sufficient to provide for ten to twenty-five years of anticipated and desirable urban growth and development for the adjacent municipality.

(3.9)

C. **Establishment of Municipal Overlay Districts.** The following Municipal Overlay Districts are hereby established:

- (1) The Ridgway UGMA
- (2) The Ridgway AOI
- (3) The Ouray UGMA
- (4) The Ouray AOI

D. **Municipal Overlay Districts:** All Municipal Overlay Districts shall be designated on the “Official Zoning Map of Ouray County” which is on file in the records of the County Clerk and Recorder. A copy of the map is attached to this Code and in the event of any conflict between the copy and the map on file in the County records, the latter shall be conclusively deemed to prevail.

E. **District Uses and Requirements.**

(1) Within the Ridgway AOI and the Ouray AOI, the following uses are allowed:

- (a) All uses allowed by right shall be permitted within the underlying Zone(s), as stated under Section 3 of this Code.
- (b) Uses allowed by special use permit and PUD’s within the underlying Zone, as stated under Section 3 of this Code, may be permitted, upon review and approval of the BOCC. Said uses shall follow the process as contained herein.

(2) Within the Ridgway UGMA and the Ouray UGMA, the following uses are allowed:

- (a) All uses allowed by right shall be permitted within the underlying Zone(s), as stated under Section 3 of this Code.
- (b) Uses allowed by special use permit within the underlying Zone, as stated under Section 3 of this Code, except Home Businesses, may be permitted, upon review and approval of the BOCC. Said uses shall follow the process as contained herein.

F. **Development Review – Urban Growth Management Area.**

Applications for planned unit developments, special use permits, exemptions from the definition of subdivision, variances and rezoning shall first be considered for annexation by the adjoining municipality prior to submittal of an application to the County Land Use Office.

(1) The municipalities will consider all petitions for annexation of lands within the adjoining UGMA and will not decline to annex such property except for good cause. For the purposes of this Section, good cause includes, without limitation, the following:

(3.9F1)

- (a) Extension of one or more municipal services to the area would place an unreasonable economic burden on the existing users of such service or upon the future residents or owners of property in the area itself.
  - (b) The area is not contiguous to the municipality's existing boundaries.
  - (c) The development proposal fails to meet the criteria for inclusion and annexation in the initial growth boundary outlined within the municipality's master or comprehensive plan.
- (2) If the municipality declines an annexation proposal within the UGMA, the Applicant/Developer may then submit a completed application to the County Land Use Office. Depending upon the request, the application shall include all information and documentation as set forth and outlined under the various sections of this Code. In addition, the application shall also include a written denial of annexation from the respective municipality.

**G. Development Review – Area of Influence.**

Applications for planned unit developments, special use permits, exemptions from the definition of subdivision, variances and rezoning shall be submitted to the County Land Use Office and shall follow the requirements, standards and processes as set forth and outlined under the various sections of this Code.

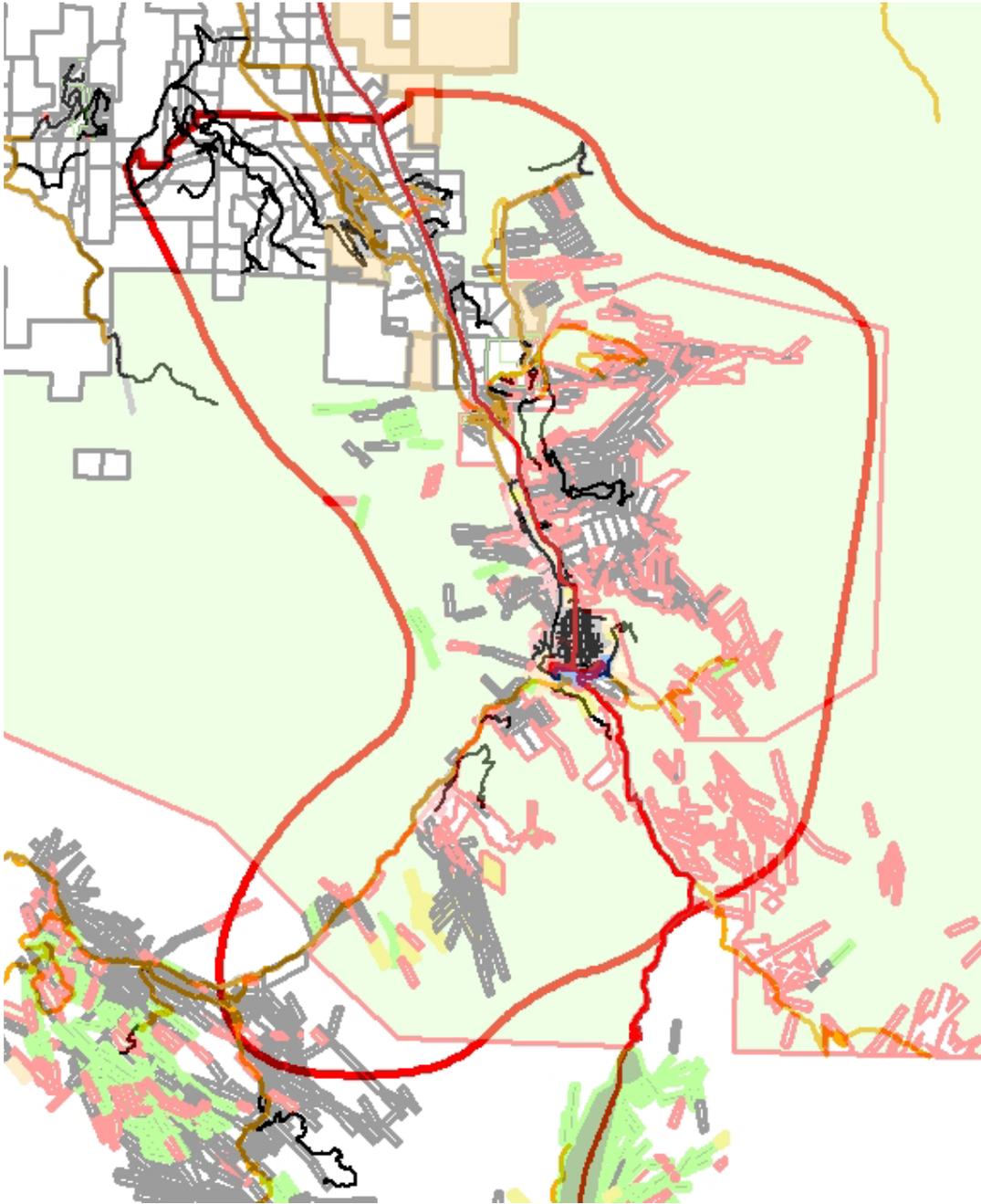
**H. Joint Planning Boards.**

Applications for planned unit developments, special use permits, exemptions from the definition of subdivision, variances and rezoning located within an UGMA or an AOI shall be reviewed by a Joint Planning Board, rather than the Ouray County Planning Commission, and the Joint Planning Board shall make a recommendation to the BOCC.

- (1) When a request is located within the Ridgway UGMA or the Ridgway AOI, the Ridgway Area Joint Planning Board shall review the application.
- (2) When a request is located within the Ouray UGMA or the Ouray AOI, the Ouray Area Joint Planning Board shall review the application.



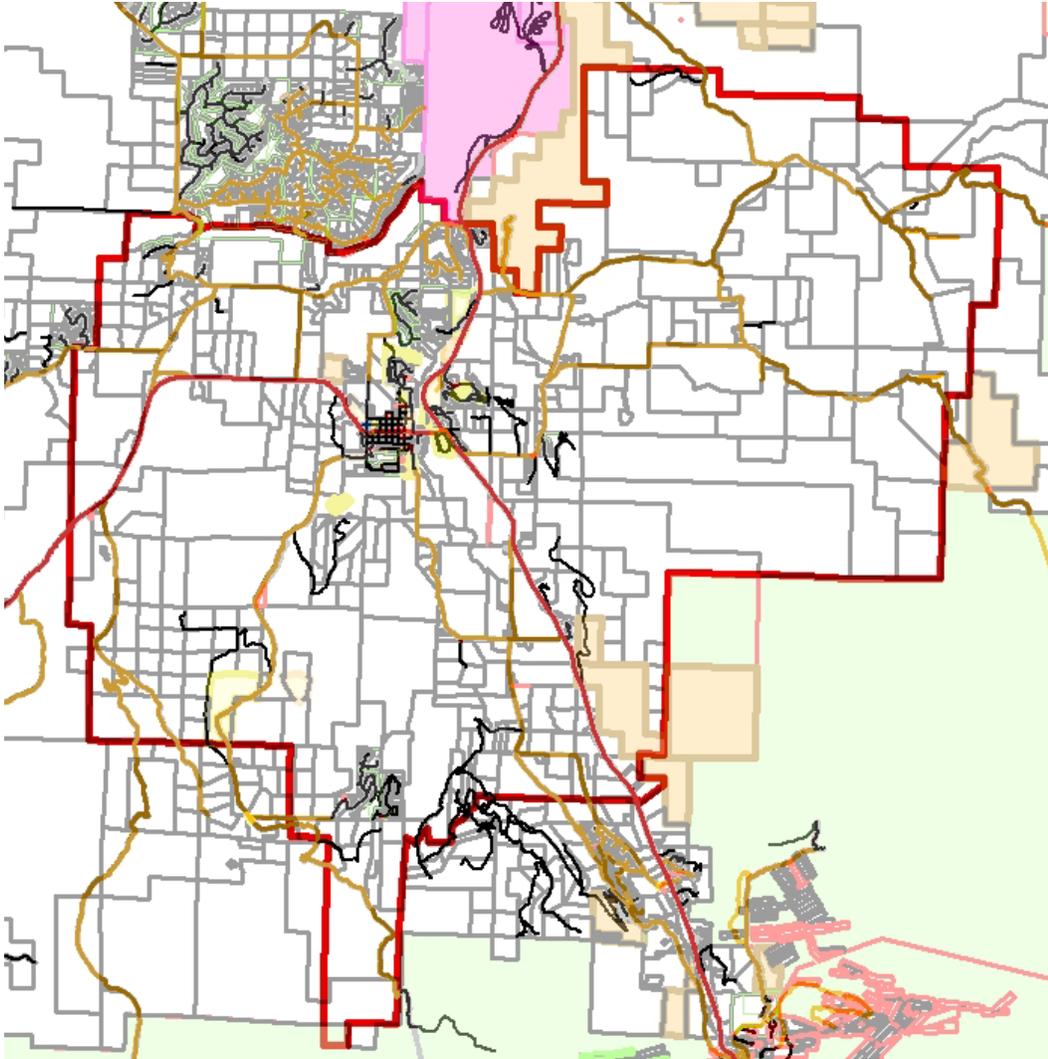
**Ouray Area of Influence:**



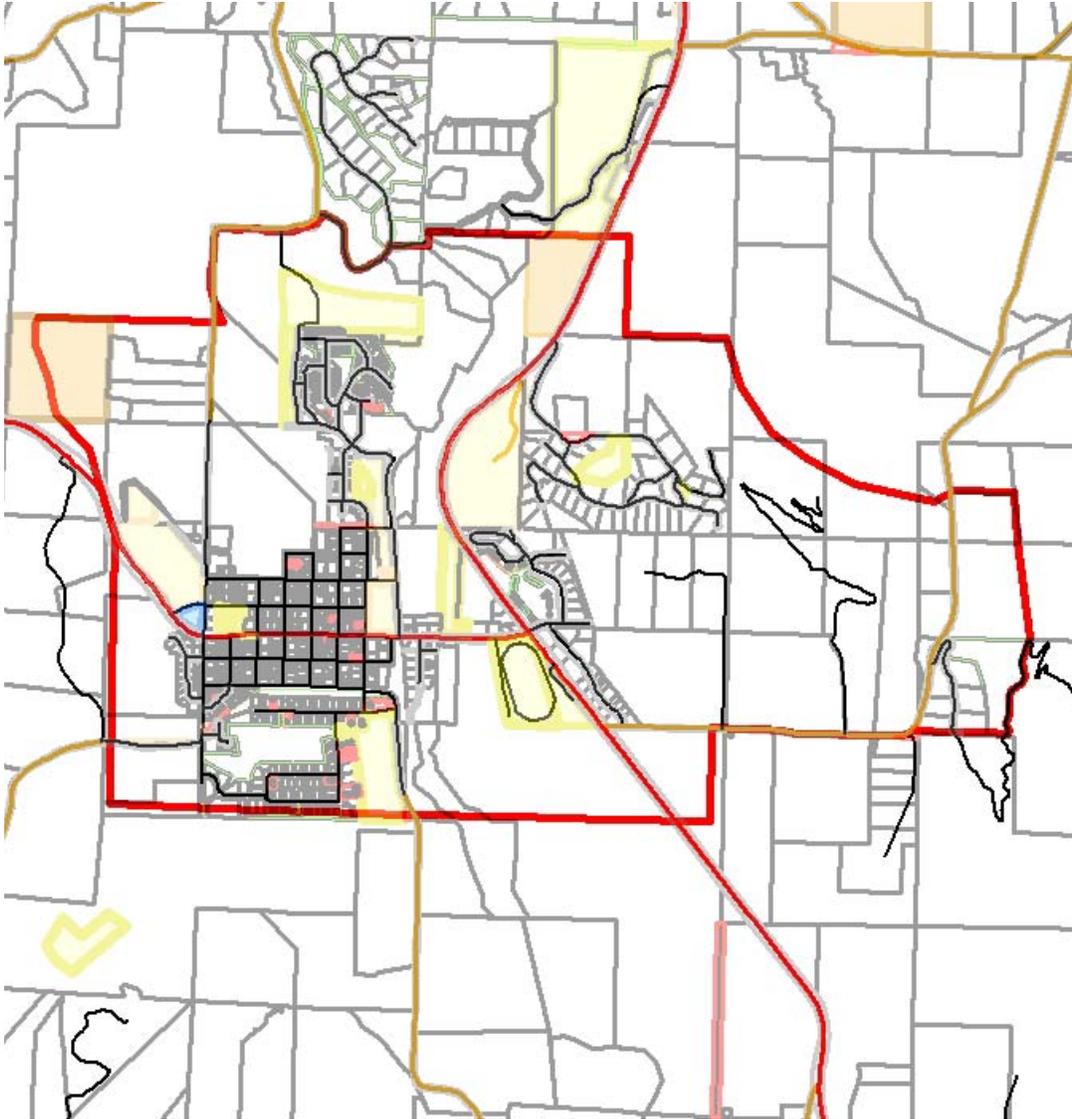
**Ouray Urban Growth Management Area:**



**Ridgway Area of Influence:**



**Ridgway Urban Growth Management Area:**



**SECTION 13 – REDLINE VERSION**

**ADMINISTRATION AND ENFORCEMENT**

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**13.1 ENFORCEMENT:**

- A. The Land Use Department shall be responsible for administration and enforcement unless otherwise designated by the BOCC.

**13.2 CONSTRUCTION, ALTERATION, OR DEMOLITION OF BUILDINGS:**

- A. It is unlawful to erect, construct, reconstruct, demolish, or alter any building or structure in violation of this Code, or any amendment hereto adopted or enacted by the BOCC.
- B. Any person, firm or corporation violating this Code or any amendment hereto is subject to the penalties of CRS § 30-28-124 and CRS § 30-28-124.5 as may be amended.
- C. Each day during which such illegal erection, construction, reconstruction or alteration continues shall be deemed a separate offense.

**13.3 USE OF BUILDINGS, STRUCTURES OR LAND:**

- A. It is unlawful to use any building, structure or land in violation of this Code, or any amendment hereto adopted or enacted by the BOCC.
  - (1) Any person, firm or corporation violating this Code or any amendment hereof is subject to the penalties of CRS § 30-28-124 and CRS § 30-28-124.5 as may be amended.
  - (2) Each day during which such illegal use of any building, structure or land continues shall be deemed a separate offense.
- B. Whenever Staff (including, but not limited to, the County Planner, Building Inspector, Zoning Enforcement Officer or County Attorney) has personal knowledge (it shall be the practice of Ouray County that “personal knowledge” shall mean formal notification) of any violation of this Section, shall give written notice to the violator to correct such violation within thirty (10) days after the date of such notice.
  - (1) If the violator fails to correct the violation within such 10 day period, the zoning official may request that the sheriff of the County issue a summons and complaint to the violator, stating the nature of the violation with sufficient

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particularity to give notice of such charge to the violator.

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- (2) The summons and complaint shall require that the violator appear in County Court at a definite time and place stated therein to answer and defend the charge.
- (3) One copy of the summons and complaint shall be served upon the violator by the sheriff in the manner provided by law for the service of a criminal summons.
- (4) One copy each shall be retained by the sheriff and the County zoning official, and one copy shall be transmitted by the sheriff to the Clerk of the County Court.

**13.4 TRANSFER OF INTERESTS:**

Any person who transfers legal or equitable title or sells any subdivided land before a final plat for such subdivided land has been approved by the BOCC and recorded or filed in the office of the County Clerk and Recorder, is subject to the penalties of CRS § 30-28-124 and CRS § 30-28-124.5 as may be amended.

- A. All fines collected shall be credited to the general fund of the County.
- B. No person shall be prosecuted, tried or punished under this Section unless the indictment, information, complaint or action for the same is instituted prior to the expiration of eighteen (18) months after the recordation or filing in the office of the County Clerk and Recorder of the instrument transferring or selling such subdivided land.
- C. In addition to any other penalty specified herein, the County may bring an action to enjoin any person, firm, or corporation from selling developed land before a final plat for such developed land has been approved by the BOCC and may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove any unlawful erection, construction, reconstruction, alteration of use of any parcel of land.

**13.5 WITHHOLDING OF PERMIT:**

In addition to all other penalties specified for violation of this Code, the County shall withhold building permits, mobile home permits, on-site wastewater treatment system permits and any other permits which may be necessary for the habitation or development of any parcel of land which has been transferred in violation of this Code.

**13.6 PRIVATE ACTION:**

All provisions of the approved and recorded final development plan for a PUD shall run in favor of the residents, occupants and owners of the PUD but only to the extent expressly provided in the plan and in accordance with the terms of the plan and, to that extent, said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization dedicated in the plan to act on their behalf.

**13.7 NOTICE OF VIOLATION:**

- A.** In addition to all other penalties specified for violation of this Code, the County may record in the office of the County Clerk & Recorder, a Notice of Violation, which shall constitute constructive notice to the general public that no permit which may be necessary for habitation or development shall issue from the County on any parcel of land which has been transferred in violation of this Code.
- B.** Prior to recordation of the Notice of Violation, the affected landowner(s) shall be entitled to a thirty (30) day notice of intent to record Notice of Violation sent certified mail, return receipt requested to said landowner(s)' last known address as shown by County records.
  - (1)** Upon written objection by the Landowner(s) filed with the County Land Use Department, within the aforementioned thirty day period, Notice of Violation shall not be recorded pending administrative review by the Land Use Department, which review shall take place within ten days of receipt of the written Objection.
  - (2)** Following administrative review of the written objection and all other circumstances surrounding the alleged violation of this Code, if the Land Use Staff finds that there has been a violation of the Code, the Notice of Violation shall be recorded forthwith as provided herein.
  - (3)** The affected landowner(s) may appeal the Land Use Staff's finding of violation to the BOA. Should the BOA reverse the finding of the Land Use Staff, the County shall forthwith record a revocation or withdrawal of the Notice of Violation, which was previously recorded.
- C.** Compliance with the notice provisions of this Section shall not be a condition precedent to the County's enforcement of the provisions of this Code.
- D.** Failure of the County to comply with the notice provisions of this Section shall not be deemed to constitute a waiver by the County of any violation of this Code.

**13.8 FAILURE TO ENFORCE:**

- A. Any failure by the County to enforce any provision of this Code shall not subject the County to any direct or indirect civil liability.
- B. Any failure by the County to enforce any provision of this Code shall not be construed as a waiver or forfeiture of its right to enforce.

**13.9 FEES:**

- A. Fees relating to this Code shall be assessed in accordance with a uniform schedule which is set by resolution of the BOCC and which shall be passed at any regular meeting of the BOCC or special meeting which is called for the specific purpose of adopting such fees.
- B. Notice that a fee schedule or amendment thereof is to be considered by the BOCC shall be published in the legal County newspaper at least fourteen (14) days prior to such consideration.
- C. The fee schedule shall be designed to fully compensate the County for all costs incurred or anticipated to be incurred in connection with the matter for which the fee is to be assessed. A current fee schedule may be requested from the Land Use Staff.

**13.10 SITE DEVELOPMENT PERMITS:**

**Note: Construction on mining claims and mill sites at or above 9,480' in elevation shall be subject to the "High Alpine Site Development Permit(s) Standards found in Section 13.11**

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A. The provisions of this Section shall apply to the construction of single-family dwelling units on parcels located within the County, except construction proposed on lots previously approved by the County as part of a PUD, Final Development Plan or combined Preliminary/Final Development Plan approved by the BOCC in accordance with Section 6 of this Code, or a Final Subdivision Plat approved as part of a Development Agreement approved pursuant to Section 17 of this Code.

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- (1) In conjunction with and prior to approval and issuance of a building permit, a landowner wishing to construct a single-family dwelling unit must obtain a Site Development Permit from the County.
- (2) The BOCC hereby delegates to the Land Use Staff the authority to review and approve or approve with conditions or deny all applications for Site Development Permits in the County.
- (3) All decisions of the Land Use Staff shall be based upon the requirements set

Section 13 – Administration and Enforcement

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forth in the Land Use Code, or according to law. Any decision of the Land Use Staff pursuant to the authority delegated herein may be appealed as provided in Section 12.5 of the Code.

**B.** Applications for Site Development Permits shall be submitted in writing to the Land Use Office Staff, together with the applicant's acknowledgment of assessment of all processing, impact and other fees that are or may be required to be assessed by this or other Sections of this Code, as the Code may be amended from time to time. The County shall collect and the applicant shall pay all such applicable fees and assessments, at the time and in the manner that payment of those fees and assessments is required by this Code. The applicant shall use an application form approved by and provided by the County. The County shall approve, approve with conditions, or deny the application.

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**C.** The County shall approve and issue a Site Development Permit upon the Applicant demonstrating to the satisfaction of the County that all of the following criteria have been met:

- (1) Road access, potable water and sewage disposal will be available and will meet all applicable provisions of this Code.
- (2) The proposed site development will not unreasonably impact significant wildlife habitat, tundra, wetlands and riparian areas.
- (3) If the site development is proposed to be located within areas subject to the effects of any hazard, including but not necessarily limited to the following: chemical, geological, wildfire, flood, avalanche/snow slide, rockfall, landslide, potentially unstable slopes, slopes greater than 30 percent, alluvial fans, colluvial slopes, talus slopes, Mancos shale, faults, expansive soils or ground subsidence the applicant shall provide evidence demonstrating that such hazards have been avoided or otherwise mitigated. The County, where reasonably necessary, may require that recognized experts be employed and special studies be done and submitted before a site development permit can be issued affecting lands which may contain the hazards listed above, and which may affect persons using the land in question, or otherwise affected lands. The cost of employing such experts and drafting such special reports shall be paid by the applicant. The County is not required to accept the findings or conclusions of any experts or special reports.
- (4) All applicable impact and other fees and assessments have been assessed and paid as required by this Code.
- (5) If the proposed site development is located within areas where irrigation occurs

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or may impact any irrigation structures, including but not limited to ditches and head gates, the applicant shall demonstrate that any potential impacts have been adequately mitigated to allow historic water flow to continue.

- D. All applicants for a site development permit shall be required to sign a statement acknowledging that the County is overall a rural county located in rough and difficult terrain with a limited transportation network and County services may be unavailable or service may be untimely in some or all areas of the County. Approval of a site development permit or any other permit or approval does not constitute and shall not be considered as conferring any guarantee or expectation of the provision of any County service.
- E. Upon issuance of a site development permit the Land Use Staff shall submit the permit and County service statement to the Office of the County Clerk and Recorder for recordation. Any amendment to the approved site development permit shall require additional County approval.
- F. Upon demonstration that the permit is in compliance with all conditions and criteria, as set forth above, the Site Development Permit shall be approved for a period of three (3) years. Renewal of the permit may be granted for additional successive three (3) year terms providing that the permit is in compliance with all conditions and criteria, as set forth above.

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**13.11 HIGH ALPINE SITE DEVELOPMENT PERMITS**

- A. The provisions of this Section shall apply to any non-mining construction on mining claims and mill sites located within the Alpine Zone and above 9,480', except construction proposed on lots previously approved by the County as part of a PUD, Final Development Plan or combined Preliminary/Final Development Plan approved by the BOCC in accordance with Section 6 of this Code, or a Final Subdivision Plat approved as part of a Development Agreement approved pursuant to Section 17 of this Code.
  - (1) In conjunction with and prior to approval and issuance of a building permit, a landowner wishing to construct any structure must obtain a Site Development Permit from the County.
  - (2) The BOCC hereby delegates to the Land Use Staff the authority to review and approve or approve with conditions or deny all applications for High Alpine Site Development Permits in the County.
  - (3) All decisions of the Land Use Staff shall be based upon the requirements set forth in the Land Use Code, or according to law. Any decision of the Land Use

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Staff pursuant to the authority delegated herein may be appealed as provided in Section 12.5 of the Code.

B. Applications for High Alpine Site Development Permits shall be submitted in writing to the Land Use Office Staff, together with the applicant's acknowledgment of assessment of all processing, impact and other fees that are or may be required to be assessed by this or other Sections of this Code, as the Code may be amended from time to time. The County shall collect and the applicant shall pay all such applicable fees and assessments, at the time and in the manner that payment of those fees and assessments is required by this Code. The applicant shall use an application form approved by and provided by the County. The County shall approve, approve with conditions, or deny the application.

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C. Clearing, grading, grubbing, or other site disturbance shall occur only after a High Alpine Site Development Permit has been issued by the Land Use Department. Applicant shall provide evidence that all applicable local, state and federal permits have been obtained prior to any such work commencing. All proposed earth-disturbing work or vegetation removal shall be detailed in the Site Development Permit application and shall be completed in accordance with such plans.

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D. To the maximum extent possible, development shall not be located within areas that have steep and potentially unstable slopes and avalanche areas; water courses, drainage channels and areas prone to erosion; floodplain hazard areas, geological hazard areas; moderate to severe wildfire hazard areas; wildlife habitat areas; river and stream corridors and wetlands; historic preservation areas or archeological resource areas and areas of public access.

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E. Applications for High Alpine Site Development Permits shall also include a survey, prepared by a licensed surveyor in the State of Colorado. Such survey shall include:

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- (1) Existing and proposed structures
- (2) Existing and proposed trails as shown on the County Road Map (See resolution 2014-014, or any subsequent amendments)
- (3) Existing and proposed roads and/or driveways
- (4) Any other existing and proposed site improvements
- (5) Topographic data for the entire parcel with no less than 5-foot contour intervals
- (6) Topographic data for the entire length of the driveway (if any) with no less than 5-foot contour intervals.

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F. The County may refer the site development and/or building permit to any local, state, or federal agency for the opportunity to review and comment. If there is no response from the agency within 60-days, Staff shall assume approval from that agency and proceed with processing of the High Alpine Site Development Permit.

G. The County shall approve and issue a High Alpine Site Development Permit upon the Applicant demonstrating to the satisfaction of the County that all of the following criteria have been met:

- (1) The proposed construction will comply with Section 24 of this code
- (2) Potable water and sewage disposal will be available and will meet all applicable provisions of this Code, and applicable federal and state laws and regulations.
- (3) The proposed site development will not unreasonably impact significant wildlife habitat, wetlands and riparian areas.
- (4) The proposed site development will protect and minimize impacts to important historic or environmental features of the site, such as historic buildings, town sites, mining districts, cultural features (may require opinion from the Ouray County Historical Society), timber, plants, wildlife, drainages, wetlands, geologic features, trails, etc.
- (5) County designated trails will be kept in their historic alignments to the greatest extent possible. Road and driveway crossings of trails shall be avoided wherever possible. (Note: For trail and/or road information, see Resolution 2014-014, Exhibit A, or any subsequent amendments)
- (6) If the site development is proposed to be located within areas subject to the effects of any hazard, including but not necessarily limited to the following: chemical, geological, wildfire, flood, avalanche/snow slide, rockfall, landslide, potentially unstable slopes, slopes greater than 30 percent, alluvial fans, colluvial slopes, talus slopes, Mancos shale, faults, expansive soils or ground subsidence the applicant shall provide evidence demonstrating that such hazards have been avoided or otherwise mitigated. The County, where reasonably necessary, may require that recognized experts be employed and special studies be done and submitted before a site development permit can be issued affecting lands which may contain the hazards listed above, and which may affect persons using the land in question, or otherwise affected lands. The cost of employing such experts and drafting such special reports shall be paid by the applicant. The County is not required to accept the findings or conclusions of any experts or special reports.

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- (7) All applicable impact and other fees and assessments have been assessed and paid as required by this Code.
- (8) If the proposed site development is located within areas where irrigation occurs or may impact any irrigation structures, including but not limited to ditches and head gates, the applicant shall demonstrate that any potential impacts have been adequately mitigated to allow historic water flow to continue.

H. All applicants for a site development permit shall be required to sign a statement acknowledging that the County is overall a rural county located in rough and difficult terrain with a limited transportation network and County services may be unavailable or service may be untimely in some or all areas of the County. Approval of a site development permit or any other permit or approval does not constitute and shall not be considered as conferring any guarantee or expectation of the provision of any County service. **REWORD WITH CURRENT LANGUAGE - GET FROM MARTI**

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I. Upon issuance of a site development permit the Land Use Staff shall submit the permit and County service statement to the Office of the County Clerk and Recorder for recordation. Any amendment to the approved site development permit shall require additional County approval.

J. Upon demonstration that the permit is in compliance with all conditions and criteria, as set forth above, the Site Development Permit shall be approved for a period of three (3) years. Renewal of the permit may be granted for additional successive three (3) year terms providing that the permit is in compliance with all conditions and criteria, as set forth above.

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**13.12 BUILDING PERMITS:**

- A. Building permits shall be issued in accordance with procedures set forth in the Uniform Building Code, as adopted by the County.
  - (1) No building shall be erected, occupied, moved or structurally altered until a permit therefor has been issued by the County Building Inspector and no permit shall be issued unless the proposal is in full accordance with this Code, except in those instances where a lawful variance has been granted by the BOA.
  - (2) All applications for permits shall be accompanied by a drawing showing the location of all existing and proposed improvements, overhead and underground utilities, irrigation and drainage ditches, and all easements in

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relation to the lot and indicating the height of all structures. No building permit shall be issued within a PUD approved after the date of adoption of this Code without prior notification to the architectural control committee or other internal enforcement body approved under Section 6 of this Code.

- B. The Land Use Staff, where reasonably necessary, may require that recognized experts be employed and special studies be done and submitted before a building permit is issued affecting lands which may contain a geological, wildfire, flood or other hazard, and which may affect persons using the land in question or abutting or otherwise affected lands. The cost of employing such experts and drafting such special reports shall be paid by the applicant. The Land Use Staff is not required to accept the findings or conclusions of any experts or special reports.

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**13.13 CERTIFICATE OF OCCUPANCY / COMPLETION:**

No new building, requiring a building permit, shall hereinafter be occupied or used without a Certificate of Occupancy or Certificate of Completion, which has been issued by the County Building Inspector. Such certificate shall be issued within five (5) days after the Inspector has been notified of the building's completion and after a final inspection has been made to determine conformance with the provisions of this Code.

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**13.14 RECORDS:**

All building permits, application records, records of inspection and certificate of occupancy records shall be kept on file in the office of the County Building Inspector and shall be available for inspection by the public.

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**13.15 PLANNING COMMISSION:**

- A. Establishment: There is hereby established a planning commission which shall be known as the Ouray County Planning Commission. All further references to the Planning Commission in this Section shall be to the Commission.
- B. Appointment of Members: In accordance with the bylaws of the County, the membership of the Commission shall be seven persons, appointed by the BOCC for staggered three-year terms. The members of the Commission shall be full-time residents of the County. The BOCC may also, at its discretion, appoint any associate members to the Commission to serve in place of any member of the Commission who may be absent, or, who may have any financial or personal interest in any matter brought before the Commission or who may be otherwise unable to function or serve in his appointed capacity as a member of the Commission. Any member may resign from the Commission upon sending written notice of such resignation to the Chair of the BOCC.

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- C. Powers and Duties: The Planning Commission shall have such powers and duties as prescribed by law. The Ouray County Planning Commission is an advisory body to the Board of County Commissioners.

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**13.16 BOARD OF ADJUSTMENT:**

- A. Establishment: The Board of Adjustment consists of three members, plus two alternate members, appointed by the BOCC. All further references to the Board of Adjustment in this Section shall be to the Board.
- B. Members: Not more than one of the members and one of the associate members may also be members of the Planning Commission. The members shall serve without compensation for service on the Board. Each member shall serve for three (3) years, but may be reappointed for multiple terms. The terms of the members shall be staggered so that the term of one member will expire each year. Any member of the Board may be replaced or removed for cause by the BOCC upon written charges and after a public hearing. Vacancies shall be filled for any vacancy whether due to removal, resignation, death, or unexcused absence from three consecutive meeting by the BOCC for the remainder of the term. An alternate member may take the place of a member on a temporary basis in the event that a regular member is temporarily unable to act due to absence from the county, illness, interest in a case before the Board, or for any other cause.
- C. Meetings: The Board shall be held at the call of the Chair as necessary to review and hear appeals and matters in its jurisdiction. The Chair, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses at hearings by application to the district court. At each meeting, the Board shall keep minutes, showing the votes of each member or the absence of a member from voting, and all other official actions taken.
- D. Officers: The Board shall select, at the beginning of each calendar year, a Chair who shall preside at all meetings, a Vice-Chair, who shall preside at meetings in the absence of the Chair, and a Secretary, who shall be responsible for the minutes of the meetings and completeness of the hearings records. The Secretary's duties may be delegated to a county employee.

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**13.17 VISUAL IMPACT REVIEW COMMITTEE:**

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- A. Establishment: The advisory visual impact review committee consists of five (5) members who shall be appointed by the BOCC. All further references in this Section to the Visual Impact Review Committee shall be to the Committee.
- B. Membership: Members of the Committee shall serve, without compensation, and

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shall be appointed for three (3) year terms, provided that the terms shall be staggered to ensure continuity on the Committee. The BOCC may adjust the term of any member when appointed for the purpose of ensuring continuity. At least three (3) of the members shall be design professionals, either actively practicing or retired. One member shall also be a member of the Planning Commission. The Planning Commission shall recommend one of its members to the BOCC for such appointment. Members serve at the pleasure of the BOCC. Vacancies may be filled as necessary and for such terms as provided above.

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- C. Officers: The Committee shall, at its first regular meeting of each calendar year, elect a Chair, a Vice-Chair, and a Secretary to serve for the calendar year. The Chair shall preside at meetings, and the Vice-Chair shall perform the duties of the Chair in the absence of the Chair. The Secretary shall keep minutes of the meetings of the Committee.

D. Appeals to the Visual Impact Review Committee:

Appeals to the VIRC may be taken by any person aggrieved by the inability to obtain a permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of Section 9 of this Code. Appeals to the Board may also be taken by any officer, department, board or bureau of the County affected by the grant or refusal of a permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of Section 9. Such appeal must be made within thirty (30) days after the occurrence of such grievance or decision, which is the subject of the appeal. Upon appeals, the Board shall have the following powers:

- 1) Interpretation: To hear and decide requests for interpretation of Ouray County Visual Impact Regulations.
- 2) Variances: Where, by reason of exceptional narrowness, shallowness, shape, or other characteristic of a specific piece of property or by reason of exceptional topographic conditions or by reason of exceptional wildlife and or wildfire impact or other extraordinary and exceptional situation or condition impacting such piece of property, the strict application of Section 9 of this Code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, the VIRC shall recommend to the Board of County Commissioners the disposition of an appeal, so as to relieve such difficulties or hardship, based on criteria such as:
  - (a) Reflecting immediate natural forms in building mass.

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- (b) Use of natural materials to imitate the immediate surrounding area.
- (c) Minimize long frontages on visible sides.
- (d) Recessing and/or shading windows.
- (e) Multiple roof lines.

Provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of Section 9 of this Code.

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- E. Procedure:** A meeting for the purpose of reviewing a request for interpretation of Section 9 shall be held within thirty (30) days of receipt of such request. The meetings of the Committee shall be published or publicly noticed at least two (2) days in advance of the meeting. Members of the public may be heard at any meeting at the discretion of the Chair. All comments or interpretations of the Committee shall be provided in writing to the person requesting such interpretation, as well as to the Board of Adjustment and shall be provided within ten (10) days of conclusion of the meeting to review the request for interpretation.

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**13.18 JOINT PLANNING BOARDS:**

- A. Establishment:** There are hereby established a Ridgway Area Joint Planning Board and a Ouray Area Joint Planning Board to act as recommending bodies to the BOCC. The Joint Planning Boards will review specific development applications for properties located within the Ridgway Area of Influence, Ridgway Urban Growth Management Area, the Ouray Area of Influence and the Ouray Urban Growth Management Area.
- B. Appointment of Members:** The Ridgway Area Joint Planning Board and the Ouray Area Joint Planning Board shall consist of a total of eight (8) members each. Membership shall be as follows:
- (1) The eight (8) members of the Ridgway Area Joint Planning Board shall consist of five (5) of the seven (7) members of the Ouray County Planning Commission and three (3) members selected by the Ridgway Town Council from the Ridgway Town Planning Commission or if no Planning Commissioners are available shall select three (3) persons who reside within the limits of the Town of Ridgway. The BOCC shall approve or reject any or all of the names submitted by the Ridgway Town Council.
  - (2) The eight (8) members of the Ouray Area Joint Planning Board shall consist of five (5) of the seven (7) members of the Ouray County Planning Commission

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and three (3) members selected by the Ouray City Council from the City of Ouray Planning Commission or if no Planning Commissioners are available shall select three (3) persons who reside within the limits of the City of Ouray. The BOCC shall approve or reject any or all of the names submitted by the Ouray City Council.

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- (3) The terms of the Joint Planning Boards' members shall be as follows:
    - (a) From the Ouray County Planning Commission, membership shall coincide with their appointed terms.
    - (b) The members appointed from each municipality shall serve for staggered three-year terms.
  - (4) The BOCC, at the request of the Ouray County Planning Commission or the Town of Ridgway or City of Ouray, may also, at its discretion, appoint any associate members to each of the Planning Boards to serve in place of any member of the Board who may be absent from the County, who is ill, who may have any financial or personal interest in any matter brought before the Commission or who may be otherwise unable to function or serve in his appointed capacity as a member of the Planning Commission.
  - (5) Any member may resign from the Planning Boards upon sending written notice of such resignation to the Chairman of the BOCC.
- C. Powers and Duties:** The Ridgway Area Joint Planning Board and the Ouray Area Joint Planning Board will be considered County advisory boards. The Joint Planning Boards shall review those applications for development as outlined under Section 3.9 of this Code. The Joint Planning Boards will not have the authority to adopt a master plan pursuant to Section 30-28-106(1) of the Colorado Revised Statutes.

**Ouray County Planning Commission**  
**Report to the Ouray County Board of County Commissioners**  
**July 19, 2016**

This report includes Planning Commissioner responses to all BOCC questions itemized in BOCC Resolution 2016-018 plus all public comment at the June 7, 15 and 21, and July 6, 2016 planning commission workshops. Public comment during the public hearing is documented by Staff. It also includes Planning Commission discussion on issues that arose during discussion of the 18 BOCC questions and review of the draft Section 24.

Due to the challenging schedule, the Planning Commission did not have sufficient time to resolve all issues. Therefore, this report also includes recommendations for topics for further consideration by the BOCC during their workshops and public hearing.

The Planning Commission voted unanimously to forward the draft Section 24 to the BOCC for approval AFTER consideration of the recommendations, considerations and notes listed below.

**USEFUL PRESENTATIONS:**

- **RECOMMEND** presentation by County Attorney (already given to PC and public during our workshops) on patented mining claim formation, surface rights versus mineral rights, senior versus junior rights. Graphics would be helpful.
- **RECOMMEND** presentation by County Attorney regarding "takings" and remaining viable use on all patented mining claims.

**PLANNING COMMISSION RECOMMENDATIONS TO BOCC**

1. **STRONGLY RECOMMEND** adding use of a science-based tundra boundary map as a tool for determining if a proposed building site is in or out of the tundra.
2. PC was unanimous in need for thorough analysis of avalanche hazard as in San Juan's code. **RECOMMEND** adding to Site Development Permit process rather than putting in land use code as San Juan County has done.
3. **RECOMMEND** review of uses allowed by special use permit in the Alpine Zone for possible elimination of uses in the High Alpine overlay which are not consistent with small seasonal cabins and recreational uses and are consistent with the purpose. There may be uses which may be appropriate below the tundra but are not appropriate in the tundra. The PC does not want to exclude commercial "ski chalets", mountain hut systems or small B&Bs catering to backcountry skiers at or above 11,000' so long as they are not in the tundra. Further, the PC does not want to preclude guide companies' activities.
4. **RECOMMEND** review of retirement of development rights in exchange for additional square footage for residential dwelling unit. Should the retired development right be contiguous to the parcel on which the residential structure is proposed? Or could parcels in different areas, e.g.,

Yankee Boy Basin versus Red Mountain, be used? We assumed that a "developable parcel" would be at least 5 acres and meet all the other requirements. Given a 5 acre minimum, all parcels less than 5 acres would not have a development right. Consider whether consolidation of small parcels into a developable parcel would be considered retirement of development rights and allow additional square footage. Consider whether non-contiguous parcels <5 acres but originally part of the same mining claim could be "consolidated" for purposes of reaching a 5 acre minimum lot size with a building site on only one of the parcels.

5. **RECOMMEND** addition of tree height to definition of tundra in Section 2. Cover by trees typical of tundra can be extensive but these trees are low growing, generally not over 6', and do not provide screening. With the maximum structure height of 25', consider adding 20' trees as necessary to not be defined as tundra. The tundra definition originally came from the San Juan County land use code and was edited during workshops.
6. **RECOMMEND** fixing "mobile home" in Section 13.5 as part of other required changes.
7. **RECOMMEND** adding San Miguel Section 5-321 C I a which requires notification to mineral right holders for split estates. The County Attorney recommended AGAINST adding 5-321 C VII which requires merger of split estates.
8. **RECOMMEND** adding Section 30.8 A 1 regarding no building on very steep slopes.
9. **RECOMMEND** parcel data sorted by ownership and size to better understand impacts of prohibitions and limitations. Data on location, i.e., contiguousness, would be helpful if available.
10. **RECOMMEND** Staff provide language to the BOCC to incorporate the recommendations by Jeff Bockes in his July 07, 2016 email.
11. **RECOMMEND** review of possible conflicts between 24.1 D (1) and 24.3 H (1) and (2) and County policy for road maintenance. The intent is NOT to prevent County authorized road maintenance.
12. **RECOMMEND** ensuring that temporary structures such as yurts are reviewed for blending requirement. Possibly add temporary structures to new Section 13 on Site Development Permit for alpine area.
13. **CONSIDER** whether Section 30.5 A 2. would be a better option than the bonus points as done by San Miguel County.
14. **CONSIDER** Section 30.7 activity envelope concept.
15. **CONSIDER** whether size limits apply to all structures, not just residential structures, in the high alpine area.
16. **CONSIDER** how to retain value of parcels smaller than the 5 acre minimum. There was some discussion of Transfer Development Rights (TDRs) as a solution. Staff has done considerable research on this. Per Staff, most TDR programs fail. There is currently no big demand as Loghill is only about 20% built out. Consolidation of non-conforming parcels is a better option. How might that be achieved? What incentives could be developed? PC supported allowing consolidation of parcels less than 5 acres into parcels of 5 acres or more. For example, consolidation of parcels of 1 acre, 1.5 acres and 2.5 acres would create a single 5 acre parcel. This new 5 acre parcel would meet the 5 acre minimum and could be used for residential development, assuming that it meet all the other criteria. It could also be used to consolidate

with another parcel to get bonus points for structure size. Sections 4 and 22 may need adjustments to accomplish this.

17. **CONSIDER** whether additional square footage should be allowed for retirement of development right on only contiguous parcels or on parcels in another area. The PC consensus was in favor of contiguous only to reduce density in the location when the residential structure is proposed.
18. **CONSIDER** where parking could/should occur when no motorized access is permitted and is prohibited on County ROW.
19. **CONSIDER** whether private non-mining claim parcels should also be regulated.
20. **CONSIDER** whether the blending requirement allows for glare from windows.
21. **CONSIDER** how/if to regulate alternative energy sources with regard to visual impacts.
22. **CONSIDER** how to preserve "over the snow" access. Perhaps give bonus square footage for an "over the snow" easement.
23. **CONSIDER** if maximum building height should be tied to maximum tree height to support blending.
24. **NOTE** that the PC lowered the starting elevation from 9500' to 9480' based on the recommendation of the County's GIS expert based on his knowledge of the reference map.
25. **NOTE** that the PC recommends using "tundra" as the determination for where building is prohibited rather than 11,000'. Initially, the PC used 11,000' as a placeholder. However, there was consensus that the goal is to protect tundra wherever it occurs and not protect land above 11,000' that is not tundra. This ties into the strong recommendation to get and approve a map of tundra as it actually occurs in Ouray County. This map should be updated as needed.
26. **NOTE** that there was considerable support during public comment for a larger minimum parcel size, from 10 acres to 35 acres. Most of those present did not own any mining claims.

#### **PUBLIC COMMENT July 6, 2016**

- Remove "enhancing public recreation" from bonus square footage. Too general and could include adding a new sign for an existing trail.
- Prohibit deceptive "no trespassing signs" which are on private property but placed so as to imply that a public trail or road is private.
- Section 13.5 C - add "including driveways and private roads" to make it clear that no disturbance is allowed prior to approval of the site development permit.
- Recommends allowing 1000 sq ft for retirement of development right on another parcel. Why would someone give up right to 1000 sq ft structure for 500 sq feet? Value of the land is too high. Have 3000 sq ft maximum which could be achieved only by retirement of two development rights OR one development right and a new recorded easement which relieves County of future legal costs.
- Winter backcountry skiing is not a use by right. Would like easements allowing backcountry skiing.
- A 30" deck would be buried under at least two feet of snow. So should allow higher decks without penalty.

- Why is PC including commercial structures and uses? BOCC direction was for residential use only.
- Would prefer one larger house to several smaller ones to preserve "wilderness quality".
- One of the stated purposes of the regulations is to minimize conflict between mining and residential use. But nothing in draft regulations directly does this. Suggests adding "doesn't reasonably conflict with mining" to Section 13.11.

## **DISCUSSION OF DRAFT June 21, 2016**

### 24.1 PURPOSE:

Consensus to:

- add San Juan 1-116.2
- strike San Juan 1-106.4
- keep San Juan 1-106.6
- bulletize purpose to make it easier to read and eliminate repetition

We also agreed that "High Alpine overlay" is the appropriate term for the area covered by the moratorium and these draft regulations.

### 24.2 APPLICABILITY:

Consensus to:

- replace "These regulations shall not apply to mining structures or other mining activity." with the last sentence of Section 30.3 as it is more specific and clear.

### 24.3 HIGH COUNTRY DEVELOPMENT CRITERIA AND STANDARDS:

Consensus to:

- where appropriate, treat residential and commercial the same, e.g., same 5 acre minimum parcel size.

Development Prohibitions:

Consensus to:

- Add "and commercial non-mining" to "Residential development is prohibited when"
- Have a 5 acre minimum parcel size to balance the low density character of the Alpine Zone and future mining activities with minimizing impacts to legal non-conforming parcels. Confirmed that County Attorney is comfortable with this limitation. We noted that a 5 acre minimum parcel size would impact 148 legal non-conforming mining claim parcels. A 10 acre minimum parcel size would impact 606 legal non-conforming mining claim parcels.
- Replace "qualified professionals" with "a qualified professional approved by the County and paid for by the applicant"
- **RECOMMEND** adding use of a science-based tundra boundary map as a tool for determining if a proposed building site is in or out of the tundra. Member of the public, Danika Gilbert, has contacted UC Boulder for possible low cost/no cost generation of such a map.
- Add last sentence from (proposed deleted) Commercial Use of Residential Structures as a bullet

Site Development Permits:

Consensus to:

- Disallow any site disturbance activities such as grading, grubbing, clearing prior to application for and review by Land Use Staff as is prohibited by Section 30.8 A.
- Require a survey including location proposed structure, elevation, trails as identified by Ouray County map identifying public roads and trails dated 2014, historic access to property, historic sites and structures and any proposed driveway
- Add referral to the Ouray County Historical Society for further information about historical structures such as buildings, town sites, mining districts or cultural features
- Add reference to the Ouray County map identifying public roads and trails dated 2014
- Add "local" to reference agencies and add a 60 day time limit for responses.
- Replace trail impact paragraph with San Miguel 5-321 N III b.

Maximum Density:

Consensus to:

- Add "No accessory dwelling unit is permitted."

Structure size:

Consensus to:

- Use the San Juan and San Miguel 200 square foot maximum for an accessory structure.
- Add San Juan 8-107.20 a i and ii limitations on excluded decks, patios and porches.
- Use the San Miguel square footage maximum base, bonus amounts and total maximum.

Discussion of retirement of development rights and what kinds of parcels might be included in "developable parcel". No consensus in favor of requirement for the developable parcel to be contiguous to the parcel to be developed.

- Remove Note
- **CONSIDER** whether Section 30.5 A 2 may be simpler if contiguity is deemed most important.
- **CONSIDER** possible impacts of LUC section 22 Parcel Line/Boundary Adjustment and Parcel Elimination

Structure Height: no change

Setbacks: no change, noting that discussion concluded that setbacks of <2 acres in Section 3 would not apply in the High Alpine overlay.

Access and Parking:

Consensus to:

- Separate into Access section and Parking section
- For both sections add "no paving"

In Access Section:

- Discussion of historical access and need for Applicant to establish facts
- Add "emergency" to Note to emphasize the potential lack of public services.

- Add motorized access is not required and may not be permitted
- Move "Driveways and Private Roads" section up here

In Parking Section:

- Add no adequate parking requirement if no motorized access
- Agree with prohibition against parking in County ROW

Visual Impact:

Consensus to:

- Change section title to "Building materials/color" and replace first sentence with Section 30.9 A as it is much more detailed, specific and clear BUT replace "encourage" with "shall"
- Add language to address possible future conflict with wildfire regulations

Driveways and Private Roads:

Consensus to move up under Access section. Otherwise, no changes.

Utilities:

Consensus to:

- Modify so propane tanks are NOT required to be in an enclosed space and are allowed to be screened by a modest fence or wall

Commercial Use of Residential Structures:

Consensus to:

- Remove this section
- Move last paragraph to Development Prohibitions

24.4 VARIANCE AND APPEALS: no change.

#### **REQUESTS FOR ADDITIONS TO THE DRAFT**

- San Miguel Section 5-321 C I a which requires notification to mineral right holders for split estates. The County Attorney recommended AGAINST adding 5-321 C VII which requires merger of split estates.
- Section 30.8 A 1 regarding no building on very steep slopes.
- There should be a note at the end of the section referring to County ordinances regarding winter maintenance and short term rentals and LUC Section 9 Visual Impacts and Section 16 Wildfire Mitigation. There may be additional requirements that the Applicant will need to consider.

#### **REQUESTS FOR ADDITIONS TO THE SITE DEVELOPMENT PERMIT PROCESS**

- A very stringent avalanche hazard evaluation similar to that in the San Juan land use code
- Permit needs to be revised to be consistent with all changes to the draft

## **RESPONSES TO BOCC QUESTIONS:**

### **A. Definition of High Country and applicability:**

Considering public comment, there was general agreement on a base (9500' or 9200' with Mineral Farms and Avalanche Acres excluded with preference for 9500') to 11,000' and more stringent restrictions above 11,000' to protect the tundra. 11,000' is used as a "rebuttable presumption" with the more stringent restrictions NOT applicable if the applicant can show the building site is not in the tundra. The key is the definition of tundra and protecting it wherever it occurs. So the PC strongly **RECOMMENDS** acquisition of a science-based map showing the boundary of tundra within this area.

### **B. Restrictions on residential structures and uses in the High County:**

1. 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?

John B - No

April - 5 acres or more

John P - No, the specifics of the site are more important in determining whether or not a residential structure is appropriate than parcel size alone

Chris - Yes, 5 to 10 acres

Sheelagh - Yes, 2 to 5 acres so long as our County Attorney thinks this is legally defensible

Craig - Needs more information. How many of the 842 parcels are less than 5 acres (Staff: 150). What is the range of parcel sizes, the median. (Staff will distribute the parcel size data to all.)

Patsy - Yes

Randy - How many of the <5 acre parcels are adjacent to a parcel owned by the same owner? Alpine zone should have low density (1 per 35 acres). Will not be low density if all 842 parcels are built on.

Summary: Yes on some limit, use 5 acres as a place holder.

Public Comment at workshop:

- Even if 5 acre minimum, that's the density of Loghill. Do we want that high density in the Alpine Zone where 35 acres is the minimum lot size?
- Parcels were not designed for access or residential use, so discretionary review essential.
- Focus on potential conflicts with mining.

2. 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 9500'? Should this limit apply county-wide? Note: PC was unanimous in thinking all questions regarding county-wide were inconsistent with BOCC direction.

John B - No, the specifics of the site are more important than parcel size alone

April - Yes

John P - No, the specifics of the site are more important than parcel size alone

Chris - Yes and no

Sheelagh - Yes and no

Craig - We need more info on parcel size (Staff: three largest lots are 65 acres, 35 acres and 21 acres; there are 22 parcels greater than 10 acres). If it's a larger parcel, >1 dwelling unit OK. Not sure what "larger parcel" would be. 10 acres? No on county wide.

Patsy - We need more info on number and size of parcels. Could lead to different restrictions at different locations depending on vegetation. Above timberline 1 dwelling unit only. Same limitations across the county.

Randy - Nothing changes for parcels  $\geq 35$  acres. For smaller parcels, yes, only 1 dwelling unit. No on county wide

Note: County Attorney noted that regulations must be specific enough for citizens to have predictable outcomes.

Summary: Majority yes but possibility for site specific considerations.

Public Comment:

- Density is a huge issue, will be way more than 1 dwelling per 35 acres, consider incentivizing reduction, i.e., bigger house for retired development rights on another parcel.
- What would the density be if all legal non-conforming parcels were allowed to build?
- Rentals are huge risk for bad behavior and destruction.

3. 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?

John B - keep setbacks as currently in code with smaller setbacks for parcels  $\geq 2$  acres

April - agrees with John B

John P - agrees with John B

Chris - agrees with John B

Patsy - standard 25' setbacks

Sheelagh - standard 25' setbacks, variance if lesser setbacks needed

Craig - agrees with John B. Would like to know what percentage of land above 9500' is public versus private.

Randy - San Juan and San Miguel county regs and Section 30 all have larger setbacks (25'-30'). The activity area in Section 30 might be more flexible and a better solution. Not regulating subsurface rights. Might consider requiring merger of surface and subsurface rights to avoid future conflicts.

Consensus: Keep setbacks as in current code.

4. 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?

John B - likes Section 30 so would like special treatment of high country. Drive-to access difficult. San Miguel and San Juan counties not clear enough on purpose.

April - generally supports but some mining leftovers are just a mess. How to distinguish historic from a mess? Would it be appropriate to do an inventory now? (Randy, inventory now wouldn't capture deterioration over time, maybe Historic Society would be interested in doing?)

John P - yes, but "important" is arbitrary, need carefully wording to avoid arbitrary and capricious, some stuff is just falling apart

Chris - yes

Patsy - yes

Sheelagh - yes, if consultants needed, should be hired by County so fully independent but paid for by applicant.

Craig - yes

Randy - yes

Consensus: Yes.

Public comment:

- Environmental impacts are much greater in this fragile environment. Need experts to help Staff with site analysis.
- County should hire independent experts to get unbiased evaluation.

5. 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)?

John B - yes, absolutely

April - yes, variance if necessary

John P - does public trail mean officially a public trail or just one that is used by public? Would parcel owners be able to use existing old roads? (Marti - the county has an officially adopted map of designated county roads and public trails. Many of the trails were established in the late 1800s. Determination of public access is fact based. There are statutes, common law, prescriptive easement considerations. Some public roads are not county roads. Private litigation instead of County litigation. Randy - suggests using the 2012 County map as a reference.) Yes, would want to protect.

Chris - yes, with the flexibility of the variance process if protecting would result in more driveway impacts

Patsy - yes

Sheelagh - supports new requirement of a general site plan, yes, protect trails

Craig - yes, no fences, use of existing old historic roads is OK

Randy - yes with 2014 official County map as reference, yes on new requirement of a general site plan, would like a survey of parcels at time of application, likes variance process as in Section 30.

Consensus: yes, public trails should be protected, need to make sure that protection doesn't result in worse impacts from driveway.

6. 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?

John B - agrees with Staff that access should not be limited to county or state highway, would like consideration of not requiring vehicular access, even prohibiting vehicular access. (Staff - legal access is required, no cases where vehicular access hasn't been feasible)

April - agrees with Staff

John P - agrees with Staff

Chris - agrees with Staff

Patsy - access should be from existing county road or state highway, no off-road access, helicopter assisted development should be discouraged

Sheelagh - need better inter-county coordination if access is not via county where structure is built, what are options? (Marti - an IGA)

Craig - agrees with Staff, OK with non-vehicular access only

Randy - agrees with Staff but need inter-county, regional approach. Maybe a joint planning board for counties as we have with our town and city. Agrees that vehicular access should not be a requirement.

Note: County Attorney noted that legal access is required but not vehicular access.

Note: Should be consistent with County's winter maintenance resolution.

Consensus: access does not need to be from a county road or state highway. Consider not requiring vehicular access and prohibiting vehicular access. Consider joint planning board or IGA or other method to accomplish regional approach.

7. Should required 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? Note: PC was unanimous in thinking all questions regarding county-wide were inconsistent with BOCC direction.

John B - agrees with Staff, OK with parking in ROW if it avoids an impactful driveway

April - if vehicular access, then provide parking on property

John B - if vehicular access, then provide parking on property

Chris - if vehicular access, then provide parking on property

Patsy - if vehicular access, then provide parking on property

Sheelagh - if vehicular access, then provide parking on property, parking in ROW is a potential hazard

Craig - on site parking is reasonable but if can show parking on adjacent or nearby parcel, OK

Randy - if vehicular access, then provide parking on property

Consensus: if vehicular access, then provide parking on property. Might be OK to allow parking on another parcel with sufficient assurances that it would continue in the future. There was considerable discussion of the problems of parking in the ROW, particularly in winter.

Public comment:

- Winter parking at the end of the maintained roads is a problem. If no vehicular access at all, will be a summer problem too.

8. 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?

John B - utilities generally have a small impact but yes. Underground not necessarily the best answer

April - yes, how will residences be prepared for wildfire?

John P - undergrounding can be really impactful so yes but should be site specific and not dictated

Chris - yes but undergrounding not the best answer. Water for fire should be underground.

Patsy - yes

Sheelagh - yes

Craig - yes but should be site specific and best determined by Staff

Randy - yes

Consensus: yes, utilities should be installed to minimize impacts. Undergrounding can be very impactful. Solution should be site specific. Propane tanks should NOT be enclosed but should required permanent screening such as a fence or wall.

Public comment:

- What about alternative energy like wind towers and solar panels? Might have visual impacts.

9. Should Ouray County require High Country residential buildings to blend with the natural surroundings?

John B - yes, need a good definition of blending

April - yes

John P - yes, need a good definition of blending

Chris - yes, nothing reflective

Patsy - materials and color must blend

Sheelagh - yes, color is more important than materials, roof is important but whole structure should blend

Craig - yes, roof is important, what about ridgeline? Screening should not be considered.

Randy - yes, reflectivity and roof color are very important. Nothing in San Juan, San Miguel or Section 30 about ridgelines and was a very contentious issue during Section 9. OK with not addressing ridgeline.

Consensus: yes, structures should blend. Reflectivity and roofs are important.

Public comment:

- Is blending in winter or summer conditions? PC says summer.

10. Should Ouray County restrict square footage of High Country residential dwelling units to 1000 square feet? Should Ouray County restrict square footage of High Country residential dwelling units to 1000 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 2500 square feet.

John P - If we have adequate blending and site development requirements, building size restrictions are not essential.

John B - Consider a size limit to go with KISS, however sq footage is likely not the concern here, visual mass is likely the concern?

Chris - Yes, OK with 1000 sqft but not hung up on it. Height might be more important than square footage. OK with Section 30 language.

Craig - size of parcel should also be considered. Visibility is more important and materials. Does not want screening. Not clear why size should be restricted. Thinks small is good but...

Randy -Yes, 1000 sq ft. Smaller means less visual impact. Likes Section 30's 750 sqft. Blending is key but 3000 sqft will be more impactful than 1000 sqft. Particularly important where mining claims are clustered and there would be very high density. Incentives for more square footage are good but would like graduated set of rules, i.e., lower could be bigger, higher elevation should be smaller.

April - Yes, 1000 sqft. Would like to see "small, primitive, seasonal cabins" in the Intent and Purpose.

Patsy - Yes. Agrees with summer use. Tundra is super fragile and does not recover from disturbances. The smaller the better.

Sheelagh - Section 30 has some good language and 750 sqft is good. Upper limit of 7500 sqft is way too big. Using adjacent parcels to add square footage and retiring those development rights is a good idea. Also likes San Miguel's approach of allowing additional square footage under some conditions, especially the retirement of development rights on another parcel.

Summary: Most are in favor of a limit.

Public Comment:

- Pitkin County has a process for retiring development rights on small parcels. Danika Gilbert will research and provide info.
- Several supported concept of merging parcels to get more square footage.

11. 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?

John P - Need more information. How many claims are located in the tundra and how accessible are they? When does eliminating the right to build a residence become a taking? Since development in this area is above treeline, structures may be very visible and therefore the need for blending and strong site development requirements.

John B - No, however new development should be sensitive to sensitive ecosystems.

Chris - Yes, eliminate development. Too fragile to fool with above tree line.

Craig - Yes, no building in the tundra.

Randy - Yes, too fragile. San Juan definition needs work. Need input from experts. Use 11,000 feet as boundary with "rebuttable presumption" that building is allowed if the applicant can show that the building site is not in the tundra with scientific data provided by an independent consultant paid by applicant.

April - Yes, maps would be good.

Patsy - Yes, did seven years of research in Alaskan tundra so has first hand knowledge of fragility of tundra. San Juan's definition is actually pretty good. Think about scree slopes which would be below 11,000'.

Sheelagh - Yes, supports a ban.

Summary: Most in favor of eliminating all residential buildings within the tundra ecosystem.

Public Comment:

- UC Boulder is willing to provide GIS maps of tundra based on a definition provided by County. Danika will confirm cost (may be free work by grad students) and timeframe for availability.
- Several comments that 11,000' as defining tundra is not appropriate.
- General concern with how defined. Six foot willows do not constitute trees. Suggestion that definition include minimum tree height.
- Support for banning residential buildings in tundra.

12. Should Ouray County require a Special Use Permit 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?

John P - Any code developed for short term rental should be applied uniformly.

John B - No on vacation rentals, which is a part-time use for primary owners. If it is a full-time vaca rental it is commercial. Yes on commercial uses.

Chris - No commercial use.

Craig - Nothing special for high alpine.

Randy - Would like graduated approach based on elevation. Above 11,000', nothing. B&Bs <10,500'. SUP for other commercial uses at all other elevations. Regarding short term rentals, should be county-wide.

April - Not enough info. B&Bs would likely be limited by a structure size limit.

Patsy - No on commercial use in the tundra. B&Bs OK in less fragile, less visible areas. Are there camping restrictions used by USFS or state which might be useful?

Sheelagh - Likes San Juan's restriction to private use only with SUP required for everything else.

Consensus: Short term rental regulations should be county wide with no special restrictions for high alpine. Commercial use should be subject to SUP process.

Note: Marti clarified that per state court of appeals rentals are considered residential, not commercial, as it is no greater burden than any residential use.

Public Comment:

- Several comments that there are B&B style "ski lodges" in San Juan and San Miguel counties that are above 11,000' but all in trees. Back country skiers don't want these prohibited in Ouray County. Users of ski lodges buy gear in Ouray. Really important for year round economy. 10th Mountain Division huts are a good example of what's OK.

13. 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?

John P - The County should not be burdened with increased demands resulting from residential development in the high country. Applicants should be given proper notice and sign a waiver as part of the building permit.

John B - No. the County needs to draw the line where it best serves the County. Emergency response and road maintenance do not belong everywhere in the County.

Chris - Restrict services but do not ban further development.

Craig - No, give notice and get acknowledgement recorded. Zoning by lack of services not OK.

Randy - There are existing limitations, may be more. Yes unless owner consents to no new services. County is addressing. Make sure that limitations are on deeds for mining claims so notification to buyers of mining claims.

April - No, no new services. Intent should address "small, primitive cabins".

Patsy - No, no new services.

Sheelagh - Problem is that regardless of waivers and "you don't get service", our emergency responders will respond. Only plowing and road maintenance are planned activities that could be and will be curtailed. Must be sure that it is safe for our emergency responders.

Consensus: No ban but applicants must be notified that services will not be provided, must sign an acknowledgement that would be recorded. Consider how to notify potential mining claim buyers that no services will be provided.

Public Comment:

- Agreement with PC. Don't allow private plowing and maintenance, only County.

14. Should Ouray County restrict 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?

John P - Additional information is needed regarding access easements. I assume present access to mining claims are generally taken from an existing traveled way through a deeded easement. If so, the traveled way may or may not meet existing code. All driveways should be required to meet the standards set forth in the code. Any driveway that cannot meet the code requires a variance and would then be subject to review and possible additional conditions and restrictions. This keeps the process simple by requiring case by case review, based upon specific circumstance.

John B - Consider this. Roads and driveways in steep terrain often have greater impact than buildings. Low-grade roads across steep terrain cover more area than steep roads.

Chris - Yes, individual review.

Craig - Agrees with John P and Chris.

Randy - Yes, driveway access should not be required. High country driveways may need different rules than county wide.

April - yes, don't need a fancy driveway, "good enough" is OK since no emergency services.

Patsy - Yes, cuts are worse than fills because vegetation doesn't recover.

Sheelagh - Yes, if staffing is an issue, contract out the work with the applicant covering the cost.

Consensus: Driveways should not be required, should not be held to current County standards, should be reviewed on a case by case basis.

Public Comment:

- Suggests that "access" be used instead of "driveway" so that all methods are reviewed.
- Suggests that blasting could result in a less conspicuous driveway. Length and visibility more important than blasting.
- Support for San Miguel language, avoiding proliferation, no need to meet current driveway standards.

15. 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?

John P - See answer above.

John B - No. Narrower roads have less impact. Emergency access is not an option for steep/narrow roads.

Chris - Redundant with previous question. Driveways shouldn't be required. No opinion on blasting.

Craig - Review. 10' is not magic. Footpath would be great. Don't require driveway. Wide enough to work but no larger. Against blasting.

Randy - Don't hold to current standard. Review for minimal impact. Blasting might have impacts.

April - Should be unpaved and not held to current standards. Minimal blasting OK.

Patsy - Don't hold to current standards. No blasting.

Sheelagh - Section 30 suggests 12'. Restrict blasting. Don't require driveway or onsite parking. Non-mechanized access might be best.

Consensus: Driveways should not be required nor held to current standard.

Public Comment:

- No paving of driveways or parking areas.

16. Should Ouray County consider have more restrictive building height requirements for residential development in the High Country?

John P - No, blending and strong site development requirements will go a long way in reducing visual impacts.

John B - No. Height is likely not the concern, visual impact likely is.

Chris - Section 30 is good but likes 20' height limit except if hidden in trees, taller OK.

Craig - Visual blending more important than height. 35' seems high but might not have an impact in some locations. OK with one story limit.

Randy - Lower structures will have less impact. Need predictable outcome for applicants. KISS. So specific lower height does that. Not arbitrary and capricious. Likes Section 30 restrictions.

April - Agrees with Randy.

Patsy - Yes, restrictions.

Sheelagh - Prefers San Miguel's 20' restriction but Section 30 is acceptable.

Summary: Most agree that a height restriction is a good idea.

Public Comment:

- Support for 25' and no accessory structure.

17. Should there be referrals to any County or State/Federal agencies that are specific to High Country residential development?

John P - Any improvements that located on (or go through, ie. driveways) governmental lands must require notification. Residential development contained with a specific claim should be regulated solely through the building permit process.

John B -Need to learn more about this.

Chris - Need more info.

Craig - Need more info.

Randy - If obligated, do it. More concerned that County restrictions are noticed and published in code.

April - Yes, USFS

Patsy - Yes, as needed

Sheelagh - Yes, for example, referral to State of Colorado's Division of Minerals and Geology and the State Water Quality Control Division as San Miguel does in light of possible mining related issues.

Summary: Need more info but do as needed.

Public Comment: None.

18. Should there be any reference exhibits to any potential new code or permit applications?

John P - Yes, the GIS exhibit provided in the packet, graphic exemplified of blending and site development standards. These materials could be a sub-section of the building code and placed in the "Before You Build" handout. I agree with staff regarding the General Note.

John B - Need to learn why/when necessary. Rough topography is widely available.

Chris - Yes, overlaps, keep it simple

Craig - Yes

Randy -Yes

April - Yes

Patsy - Yes

Sheelagh - Yes, specifics should arise from the draft code.

Public Comment: None.