

**EXHIBIT A1 – BOCC RESOLUTION AND DRAFT SENT TO PLANNING
COMMISSION FOR REVIEW**

RESOLUTION NO. 2010-045

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
DIRECTING THE OURAY COUNTY PLANNING COMMISSION TO REVIEW
SECTION 9, "VISUAL IMPACT REGULATIONS" AND PROPOSED REVISIONS TO SECTION 9
OF THE OURAY COUNTY LAND USE CODE**

WHEREAS, Section 9, "Visual Impact Regulations" as contained in the Ouray County Land Use Code ("Code") was originally adopted in 1986; and

WHEREAS, on February 16, 1993, the Ouray County Planning Commission, at the direction of the Board of County Commissioners of Ouray County ("Board") initiated a review of issues related to interpretation of certain provisions of Section 9, a process that culminated in significant changes being adopted to Section 9 in 1997, including the addition of the point system and expansion of the effect of visual impact requirements; and

WHEREAS, during the last ten years, revisions to Section 9 have been requested by Ouray County citizens, four current and prior Ouray County Planners/Administrators and the Ouray County Building inspector; and

WHEREAS, amendments or changes to Section 9 have been on the Board's list of Code changes since at least 2007 (see Resolution No. 2007-041); and

WHEREAS, on October 6, 2009 the Board of County Commissioners of Ouray County, Colorado ("Board") began a process to review the provisions of Section 9, "Visual Impact Regulations," of the Ouray County Land Use Code ("Code"); and

WHEREAS, the Board has held at least thirty-six properly noticed public work sessions and meetings since October 6, 2009 to discuss possible changes to Section 9, including two field trips, a meeting with representatives of the local design/construction community and a meeting with representatives of the local real estate community, concluding with a final "wrap-up" session on September 21, 2010; and

WHEREAS, the work sessions and meetings have been well attended by members of the public as well as members of the Ouray County Planning Commission and the Board has encouraged comments and suggestions regarding the current Section 9 and necessary changes or modifications to Section 9; and

WHEREAS, as a result of almost a year of meetings to discuss amendments or modifications to the Visual Impact Regulations and the concomitant "pro and con" public input regarding possible amendments or modifications, the Board has reached consensus on certain topics and portions of the Visual Impact Regulations that the Board believes should be further vetted by the Ouray County Planning Commission and such consensus topics or items for further deliberation are detailed on the attached Exhibit "A"; and

WHEREAS, the Board is also submitting to the Planning Commission for its review and recommendations the current Section 9 of the Code as well as draft language for possible modifications to Section 9 ("Section 9 Draft") and the Board requests that the Planning Commission review the same and deliberate on the topics and items described on the attached Exhibit "A" and prepare a report and recommendation to the Board; and

WHEREAS, the Board understands that there may be issues associated with the provisions of Section 9 that the Planning Commission may not reach consensus on; therefore, it is incumbent upon the Planning Commission to point out the pros and cons of such issues to the Board or make a recommendation for the Board's consideration; and

WHEREAS, C.R.S. § 30-28-116, entitled "Regulations may be amended" provides that: "...the board of county commissioners may amend the number, shape, boundaries, or area of any district, or any

regulation of or within such district, or any other provisions of the zoning resolution. Any such amendment shall not be made or become effective unless the same has been proposed by or is first submitted for the approval, disapproval or suggestions of the county planning commission.”; and

WHEREAS, the Board requests that the Planning Commission complete its work and advise the Board of its recommendations relative to possible amendments or modifications to Section 9 as expeditiously as feasible and that the Planning Commission advise the Board of its proposed recommendations or progress on amendments or modifications to Section 9 on or before July 1, 2011;

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

1. That the Planning Commission review Section 9 of the Code, including the current Section 9, the Section 9 Draft dated May 18, 2010 and the items as set forth on the attached Exhibit "A" at such meetings as the Planning Commission deems appropriate and that the Planning Commission advise the Board of its progress on or before July 1, 2011.

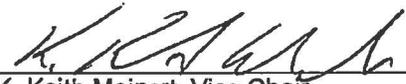
APPROVED AND ADOPTED THIS 1st DAY OF November, 2010.



BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO



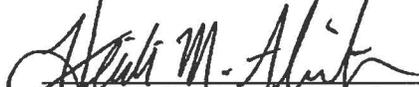
Lynn M. Padgett, Chair



K. Keith Meinert, Vice Chair



Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board



Heidi M. Albritton, Commissioner Member

EXHIBIT "A"

1. Expansion to additional roads within Ouray County.

Possible criteria to review in order to determine whether expansion of the Visual Impact regulations to other visual impact corridors is appropriate/necessary:

- a. Amount of private land and potential for future development.
- b. Direct access routes to public lands.
- c. Economic benefits; important for recreational tourism and regional/local economy.
- d. Visually significant areas – classic Ouray County vistas including agricultural vistas essential to Ouray County's character.

2. Point system.

The point system as a whole should be analyzed to determine if it achieves the overall goal of "blending".

Is there a way to make blending less subjective and quantifiable, allowing flexibility and predictability, without the point system?

Is there a way to simplify screening and/or make more optional?

Planning Commission should review the recommendations from the "ad hoc" committee of builders and contractors regarding possible modifications to the point system as well as the presentation from the Building Official regarding utilization of the point system.

3. Setback from roads.

Might there be instances in which exemptions from the mandatory setback would be beneficial and less intrusive?

4. Skyline breakage.

Favor the current policy of allowing "peek-a-boo" skyline breakage rather than an absolute prohibition. The words and the visual in Section 9.3 C need to be modified to be clear on the extent of a "peek-a-boo" breakage allowed.

Should skyline breakage apply only to ridgelines, escarpment or benches? Definitions of ridgeline and escarpment must be examined and a new definition for "bench" added.

5. Setback from a ridgeline or escarpment.

Fifty-foot setback appears to be working for visual impact purposes.

Building Official recommendation of seventy-five feet setback to address issues of wildfire mitigation.

6. Submittal requirements.

Currently Section 9 does not have a specific set of submittal requirements or a process for review and approval of applications. Including an itemization of submittal requirements and review and approval of applications in Section 9 should be considered such as that included in the Section 9 Draft.

7. Appeal process.



Currently the appeal process on visual impact regulations is contained in Section 19 of the Code. The appeal provisions set out in Section 19 are vague and unclear and a review of such provisions should be considered such as that included in the Section 9 Draft.

8. Structures v. buildings.

A review of how the current Code applies to structures v. buildings should be considered including possible separate standards, submittal requirements and slightly altered process for structures v. buildings as well as alternative energy components.

9. Historically accurate buildings.

An enabling mechanism to allow historically accurate buildings, compatible with a surrounding neighborhood or area, should be considered.

10. Definitions.

In addition to the definitions for ridgeline, escarpment and bench, all definitions included in the current Section 9 and the Section 9 Draft should be reviewed and considered.

11. Remodels, additions and reconstruction.

Consideration should be given to how or if the visual impact regulations should apply to remodels, additions or repairs/reconstruction after significant damage. Reference should also be made to language contained in Section 4 of the Code regarding non-conforming structures and how such language should coordinate with Section 9.



12. Companion Guide to Visual Impact Regulations.

Consider and provide input and recommendations regarding the scope of the applicability of a "Companion Guide to Visual Impact Regulations".

Section 9

VISUAL IMPACT REGULATIONS

9.1 PURPOSE

In order to preserve the scenic beauty, rural setting and character and the dominating influence of the natural environment of Ouray County, there are hereby established Visual Impact Regulations. The intent of these regulations is to minimize the visual impact of both individual structures and development as a whole so that development blends with the natural surroundings and does not compete with the existing physical environment for the viewer's attention, thereby preserving the unique physical environment and scenic values that have traditionally characterized and defined Ouray County.

9.2 COMPLIANCE

- A. All land use approvals, new construction of structures **NOTE: For further discussion by Planning commission regarding significant remodels and additions**, buildings or alternative energy systems and all new development including public or private road and driveway cuts and fills must meet the requirements of this Section 9 except the following:
- (1) Accessory structures, accessory buildings, private roads or driveways which are used exclusively for agricultural or mining purposes, provided that they are not located on any escarpment or ridgeline.
 - (2) Structures, buildings, driveways or roads when it can be clearly demonstrated that they will not be visible from the highways and roads listed in Section 9.3.2.
- B. Existing structures, buildings, public or private roads and/or driveway cuts and fills shall be allowed to remain in their present state subject to the provisions of Section 4 of this Code.
- C. In those instances that a visual impact mitigation plan is required pursuant to the terms of this Section, an Applicant shall be required to demonstrate compliance with the plan prior to receiving any final approval for any project or development.
- D. Continued compliance with these regulations shall be required in the future, notwithstanding an initial determination by the County that development meets the requirements of this Section 9.

9.3 CRITERIA AND STANDARDS FOR CONSTRUCTION OF BUILDINGS LOCATED WITHIN VIEW CORRIDORS

9.3.1 OBJECTIVE

The objective for buildings to be constructed within the view corridors is to blend with and retain the existing character of the natural landscape. The level of change to the landscape should be very low. Development may be seen but should not dominate the view of the casual observer.

To achieve this objective, Ouray County has adopted a tiered opportunity for property owners seeking to develop property within Ouray County. The Tier 1 process provides to owners a simple, objective set of criteria which, if met, will allow for a simpler approval process. Those owners who are unable to meet the criteria for Tier 1, or who wish to pursue alternatives to the Tier 1 process, may apply under the Tier 2 process which requires a more detailed Land Use Staff review as well as additional submittal requirements. Finally, for those applications that fail to meet the requirements of Tier 1 or Tier 2, Applicants may seek to submit their application for review by the Board of Visual Appeals and the County Commissioners. The criteria, requirements and standards for Tier 1 and Tier 2 are set out below in Section 9.4 and 9.5.

9.3.2 APPLICABILITY

Unless otherwise excepted from the application of these regulations, all buildings at or within 1.5 miles of the centerline of U.S. Highway 550, Colorado State Highway 62, all numbered Ouray County Roads, United States Forest Service numbered roads and Bureau of Land Management roads (“view corridor(s)”) shall be subject to compliance with the requirements of this Section 9.

9.3.3 REQUIREMENTS AND STANDARDS FOR BUILDINGS LOCATED WITHIN THE VIEW CORRIDORS

Unless otherwise excepted from the application of these regulations, the following criteria and standards shall apply to all applications for a building permit and/or site development permit for buildings located within the view corridors as identified in Section 9.3.2. Sufficient information or documentation shall be included with the building permit application or site development permit application to illustrate compliance with the following criteria and standards:

- A. All public or private road and driveway cuts and fills shall be revegetated and/or reforested utilizing materials native to the disturbed area.
- B. Roofing, siding and windows shall not be constructed of highly reflective materials, such as, but not limited to, stainless steel, polished metal, bright metal, galvanized metal and glass coated with reflective material.

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- C. All development is required to comply with the provisions of Section 27 of the Code, "Outdoor Lighting Regulations".
- D. Building materials and exterior colors, including trim, roofs and garage doors, shall blend with the immediate natural landscape. Materials, including paints used, shall be low luster and shall not contrast with the adjacent natural landscape.
- E. Buildings shall be designed and located on site in order to blend with the natural character of the surrounding landscape and terrain.
- F. Buildings shall be located on the site in order to maximize the benefits of natural screening provided by existing vegetation, terrain, or other natural features on the site, provided, however, that defensible space for fire protection shall not be compromised. In addition, the following landscape practices may be utilized to provide additional screening where necessary:
 - (1) Establishment of berms and xeriscaping using native ground covers, shrubs and trees.
 - (2) Shaping cuts and fills to appear as natural forms.

9.4 TIER 1. Tier 1 is intended to provide property owners in Ouray County with a predictable, known outcome if they meet certain simple, objective criteria set forth below.

9.4.1 TIER 1 REQUIREMENTS AND STANDARDS. In addition to meeting the Requirements and Standards for Buildings Located Within the View Corridors as set forth in Section 9.3.3 above, a Tier 1 building permit/site development permit application shall comply with the following requirements or standards:

- A. Total square footage for all living, storage and garage space shall not exceed 2350 square feet. **NOTE:** The average of the median of single family residences constructed in Ouray County in 2006 in all zones was 2217 square feet.
- B. Maximum building height shall be twenty (20) feet. **NOTE:** The average of the median height of single family residences constructed in Ouray County in 2006 in all zones was 18.9 feet.

NOTE: Still to be determined is whether smaller, non-conforming buildable parcels should have a pro-rata adjustment for square footage, height or other standards.

- C. Minimum setback from a ridgeline or escarpment shall be 200 feet.
- D. Buildings shall be located on a site to minimize any silhouette against the skyline. No skyline breakage shall be permitted on a ridgeline or escarpment.
- E. Minimum setback from the centerline of those roads identified in Section 9.3.2 shall be one hundred (100) feet.
- F. Examples of mitigation techniques for further minimizing the visual impact of a building are contained in the "Companion Guide to Visual Impact Regulations" and Applicants are encouraged to utilize appropriate mitigation techniques when designing their project.

9.4.2 TIER 1 SUBMITTAL REQUIREMENTS

The following information and materials must be submitted for review and approval by the Building Official and Land Use Department staff. Applicant shall submit such additional information as Applicant deems necessary and appropriate for the process.

- A. Photographs of the site from the roads as identified in Section 9.3.2.
- B. A site plan for the immediate area where development is proposed, including existing and proposed buildings, approved building envelopes and distances from roads and any ridgeline or escarpment.
- C. Colored architectural renderings (digital or hand drawn) showing the proposed building from all elevations, including information to illustrate that the proposed building complies with the Requirements and Standards for size and height as set forth in Section 9.4.1 above.
- D. Aerial photo including parcel boundary and a topographic map of the site (These items are commonly available on the internet).
- E. Vicinity map at 1" = 1000' or other scale as determined to be appropriate by Land Use Staff, showing the location of the proposed building in relation to the surrounding area and adjoining properties.
- F. Samples of all exterior colors, finishes and materials to be used on the building.
- G. Other supplemental information or documentation necessary for Land Use Staff to ensure that the building will comply with Tier 1 requirements.

9.4.3 TIER 1 REVIEW AND APPROVAL.

- A. Upon receipt of a completed Tier 1 application for a building permit and/or site development permit, including the information and materials described

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above, a site visit shall be scheduled by the Building Official and a Land Use Department staff person. When snow or other climatic or road conditions preclude the ability to perform a site visit, review of the application may be extended until such time that the site can be reasonably accessed and evaluated. Upon completion of the site visit, the project shall be reviewed by the Ouray County Building Official and Land Use Staff to determine whether it meets the requirements for a Tier 1 building. If the Building Official and Land Use Staff find the project in compliance, the Building Official may issue a building permit and/or site development permit for the project. If it is determined that the project is not in compliance with the requirements and standards for a Tier 1 building, the Building Official or Land Use Staff shall notify the Applicant in writing of the areas of non-compliance and include suggested corrections, if any, that would bring the building into compliance.

B. An Applicant may appeal the decision of the Building Official or Land Use Staff to the Board of Visual Appeals in accordance with Section 9.8.

9.5 TIER 2. As an alternative to the Tier 1 process, an owner who cannot meet the Tier 1 requirements or desires more flexibility in the design of a building may seek to process their building permit/site development permit application through the Tier 2 process.

9.5.1 TIER 2 REQUIREMENTS AND STANDARDS. In addition to meeting the Requirements and Standards for Buildings Located Within the View Corridors as set forth in Section 9.3.3 above and submitting all of the information required for a Tier 1 application, a Tier 2 building permit or site development permit application shall comply with the Requirements and Standards set forth in this Section 9.5. **NOTE: Change/modify this Section as appropriate to ensure a method for review for historically accurate buildings that may not otherwise comply with Visual Impact requirements.**

9.5.1.1 MANDATORY TIER 2 STANDARDS. All buildings processed under the Tier 2 process shall comply with the following minimum standards:

- A. Minimum setback from a ridgeline or escarpment shall be 200 feet.
- B. Buildings shall be located on a site to minimize any silhouette against the skyline. No skyline breakage shall be permitted on a ridgeline or escarpment.
- C. Minimum setback from the centerline of those roads identified in Section 9.3.2 shall be one hundred (100) feet.

9.5.1.2 TECHNIQUES FOR MITIGATING VISUAL IMPACT FOR TIER 2 BUILDINGS. Applicants applying under Tier 2 shall utilize appropriate techniques in order to develop a visual impact mitigation plan. Examples of possible mitigation techniques include, but are not limited to:

- A. Utilizing existing and additional native vegetation or natural landforms to screen and soften the visual impact of the building;
- B. Reducing building height or “stepping” the building height or moving the building to another location on the site to minimize visual impact;
- C. Locating the building on site to complement and integrate with the surrounding natural environment so that the building does not dominate or overwhelm the site;
- D. Utilizing natural materials such as stone, wood or other raw materials to allow the building to blend with the natural landscape;
- E. Locating the building on the site to allow for the least amount of soil/surface disturbance possible;
- F. Repeating natural elements found in the surrounding landscape, i.e. form, line, color, texture and scale;
- G. Minimizing long frontages as seen from view corridors defined in 9.3.2.
- H. For additional examples of mitigation techniques, reference should be made to the “Companion Guide to Visual Impact Regulations”.

9.5.2 TIER 2 SUBMITTAL REQUIREMENTS

In addition to the information required for a Tier 1 application the following information shall be provided with the building permit/site development permit application:

- A. A visual impact mitigation plan including graphics and a narrative to illustrate how visual impacts will be effectively mitigated.
- B. Topographic map showing existing and any proposed changes to contours of the property at a maximum of ten (10) foot contours.
- C. Photographs of the site from the roads as identified in Section 9.3.2 together with a map to indicate the location of such photo points.
- D. Detailed site plan to include existing and proposed buildings; existing vegetation or other screening and identifying the proposed removal or alteration of such vegetation or screening; areas characterized by steep slopes;

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existing and proposed drainage patterns; forested and open areas; proposed road access and driveway location and any other information relevant to the proposed site development.

- E. Architectural renderings clearly depicting the proposed building to scale and the location on the site in relation to the physical and natural features of the parcel. Drawings should clearly display building elevations and design, including building materials and exterior colors. Computer simulated photographs of the site showing the proposed building in its proximate location and including its proposed exterior colors shall also be included.
- F. Other supplemental information or documentation necessary for Land Use Staff to ensure that the building will comply with Tier 2 requirements.

9.5.3 TIER 2 REVIEW AND APPROVAL

- A. As part of the review and approval process, the Applicant shall coordinate with the Land Use Staff for necessary site visits in order for Land Use Staff to appropriately assess and determine visual impact and mitigation that may be required. The Applicant may be required to erect story poles of sufficient height and detail in order for Land Use Staff to identify the impact of a proposed building in relation to a ridgeline or escarpment and assess the total visual impact of the proposed building. When snow or other climatic or road conditions preclude the ability to perform a site visit, review of the application may be extended until such time that the site can be reasonably accessed and evaluated.
- B. Upon receipt of a completed Tier 2 application for a building permit and/or site development permit, including the information and materials described in 9.5.2 and completion of necessary site visits, the project shall be reviewed by the Ouray County Building Official and Land Use Staff. If the Building Official and the Land Use Staff find that sufficient mitigation measures have been employed by the Applicant to demonstrate that the building has been designed and located on the site to unobtrusively integrate with the natural terrain and vegetation and that it does not dominate the site or the view as observed from the view corridors identified in Section 9.3.2 above, the application and the visual impact mitigation plan may be approved. Approval requires that the Applicant construct the building in accordance with the approved plans and visual impact mitigation plan and any variances from such approved plans will require further approvals. If Land Use Staff determines that the building will have a visual impact that cannot be mitigated, the Building Official or Land Use Staff shall notify the Applicant in writing of the areas of non-compliance and suggested corrections that may bring the building into compliance with this Section 9.

C. An Applicant may appeal the decision of the Building Official or Land Use Staff to the Board of Visual Appeals in accordance with Section 9.8.

9.6.1 CRITERIA AND STANDARDS FOR CONSTRUCTION OF STRUCTURES OTHER THAN BUILDINGS

NOTE: For further review and discussion.

9.6.2 SUBMITTAL AND REVIEW REQUIREMENTS FOR STRUCTURES OTHER THAN BUILDINGS

NOTE: For further review and discussion.

9.7.1 CRITERIA AND STANDARDS FOR CONSTRUCTION OF ALTERNATIVE ENERGY SYSTEMS

NOTE: For further review and discussion.

9.7.2 SUBMITTAL AND REVIEW REQUIREMENTS FOR ALTERNATIVE ENERGY SYSTEMS

NOTE: For further review and discussion.

9.8 APPEALS TO THE BOARD OF VISUAL APPEALS

- A. Establishment. A Board of Visual Appeals is hereby established as a recommending body to the County Commissioners. It shall consist of five members who shall be appointed by the County Commissioners. All further reference to the Board of Visual Appeals in this Section shall hereafter be made to “the BVA”.
- B. Membership. The membership of the BVA shall be five persons, appointed by the County Commissioners for three (3) year terms, provided however, that of the first appointed Board, two members shall serve for one year. Of the five members, the County Commissioners shall endeavor to appoint at least three who are design professionals. Members shall serve at the pleasure of the County Commissioners. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. Until otherwise provided, the members shall serve without compensation.
- C. Officers. The members of the BVA shall select a Chair, a Vice Chair and a Secretary. The Secretary may or may not be a member of the BVA. The Chair shall preside at meetings and shall perform all duties as usual and ordinary for the presiding officer of any board or group. The Vice Chair shall perform the duties of the Chair in the absence of the Chair. The Secretary shall keep full and complete minutes and records of all meetings and shall have custody of all of the records and shall generally perform all of the duties usually performed by the Secretary of any board or group.

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D. Appeals to the Board of Visual Appeals. Appeals to the BVA may be taken by an Applicant 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. Appeals to the BVA 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. All appeals to the BVA shall be in writing and submitted to the Land Use Staff. Every appeal shall indicate what provisions of this Code are involved, what relief is being sought and the grounds upon which such an appeal is being sought, and include a visual impact mitigation plan to show the Applicant's plan to mitigate visual impact. Once a proper and timely appeal has been received by the Land Use Staff, the Chair of the BVA shall be advised and a hearing on such appeal shall be scheduled within forty-five (45) days.

E. General Duties of the BVA.

- (1) The BVA shall act in strict accordance with all of the other applicable laws of the State of Colorado and applicable land use regulations of the County of Ouray.
- (2) To meet at the call of the Chair.
- (3) To adopt any rules necessary to transact the BVA's business or to expedite its functions or powers so long as they are not inconsistent with the provisions of this Code.
- (4) To keep minutes of the proceedings of each meeting, which shall be filed in the Land Use Office and which shall be of public record.
- (5) To permit the public to attend and to be heard at all of its meetings.
- (6) To notify in writing the owner involved and the County Commissioners of all decisions made, resolutions passed, hearings scheduled or permits authorized.
- (7) To hold a public hearing and publish a notice of such hearing at the expense of the applicant, in a newspaper of general circulation within Ouray County at least fourteen (14) days prior to the hearing date.

F. Appeals.

The BVA and the County Commissioners shall have the following powers to

hear and decide appeals under this Section 9:

- (1) Interpretation: To hear and decide requests for interpretation of Section 9 of this Code.
- (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 Applicant, the BVA shall recommend to the County Commissioners the disposition of an appeal, so as to relieve such difficulties, impacts or hardship, based on the following:

(a) BUILDINGS

- (i) That the proposed building, if constructed in accordance with the plans and drawings and any required conditions, complies with the spirit and intent of the Purpose set out in this Section and that the building is in keeping with the scenic beauty, rural setting and character of Ouray County and the building will not dominate its natural surroundings;
- (ii) That comments of the public have been duly considered and addressed to the extent reasonable,
- (iii) To the extent practical, visual impact mitigation measures have been utilized and incorporated into the overall design of the building;
- (iv) That the anticipated visual impact has been appropriately mitigated and that measures described in the “Companion Guide to Visual Impact Regulations” have been substantially employed;
- (v) That because of topographic, technical or other constraints, strict compliance with the provisions of Section 9 will increase visual impact and the Applicant has demonstrated that the building will incorporate the best mitigation measures and practices in order to reduce the building’s visual impact; and
- (vi) 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.

(b) STRUCTURES OTHER THAN BUILDINGS

- (i) NOTE: To be developed**

(c) ALTERNATIVE ENERGY SYSTEMS

(i) NOTE: To be developed

- G. Board of Visual Appeals Action. At the public hearing, the BVA shall review and consider the appeal and any documentation submitted by the Applicant, comments from the Applicant and Land Use Staff, testimony from the public, and the requirements of this Section, and shall make a recommendation to grant or deny the appeal based upon the criteria set forth in Section 9.8 F. BVA action shall be in the form of a motion as noted in its minutes and shall state clearly, in writing, that the criteria set forth in Section 9.8 F have been met or the reasons for denial. If the recommendation is to grant the appeal with conditions or modifications, the conditions or modifications shall be stated in clear and concise terms in the motion. The motion may also state what specific changes in the visual impact mitigation plan, if made by the Applicant, could render the plan acceptable to the BVA. The BVA minutes, together with copies of all submissions by the Applicant and other information developed by the BVA shall be forwarded to the County Commissioners.
- H. County Commissioners' Action. Upon receipt of the BVA recommendation and accompanying materials, the County Commissioners shall, at a legally noticed public hearing, consider the appeal. Notice of such public hearing shall be published at the expense of the Applicant, in a newspaper of general circulation within Ouray County, at least fourteen (14) days prior to the hearing date. At such public hearing, the County Commissioners shall consider the appeal, the recommendation of the BVA, comments from Land Use Staff and the Applicant, testimony from the public and the requirements of this Section, and shall, by resolution, grant or deny the appeal. The County Commissioners shall state clearly, in writing, that the criteria set forth in Section 9.8 F have been met or the reasons for denial. If the decision is to grant the appeal with conditions or modifications, the conditions or modifications shall be stated in clear and concise terms in the motion and resolution. The County Commissioners may also state what specific changes in the visual impact mitigation plan, if made by the Applicant, could render the plan acceptable under this Section.

9.9 DEFINITIONS

- A. **BLEND or BLENDING.** To produce a harmonious effect. Blending may be accomplished by insuring that the materials, finishes and colors for buildings and structures integrate with the surrounding natural environment. Buildings or structures should not dominate or overwhelm the site. Blending should achieve minimal visual contrast to the surrounding natural landscape or vegetation as viewed from the distance of a designated corridor. Screening, size, shape, color, hue, saturation, texture, tone and shade or light reflection

(glare) should all be components of blending. Reference should be made to the "Companion Guide to Visual Impact Regulations" for further details and guidance on blending and screening.

- B. EDGE OF ESCARPMENT. The line of intersection whereby a cliff or steep slope (50% or greater) separates two comparatively level or gently sloping surfaces.
- C. ESCARPMENT. A long steep slope or cliff at the edge of a plateau or that separates two relatively level areas of differing elevations.
- D. RIDGELINE. The line of intersection at the high point between opposing slopes. **NOTE: Current definition to be further discussed by Planning Commission.**
- E. SCREENING. A natural or artificial means of hiding all or a portion of a structure from public view.
- F. SILHOUETTE. An outline that appears to be dark against a lighter background.
- G. SKYLINE. The line where the earth or vegetation and the sky seem to meet.
- H. VISUAL IMPACT. Development that does not blend with its natural surroundings, dominates the landscape or competes with the existing physical environment for the viewer's attention.
- I. VISUAL IMPACT MITIGATION PLAN. A map or maps and other supporting documentation detailing the visual impact mitigation measures to be taken to assure compliance with Section 9 of the Ouray County Land Use Code.

9.10 COVENANTS RELATING TO VISUAL IMPACT

The covenants of any Planned Unit Development, as required by Section 6.8 B(4)(i), shall contain at least the following provisions as well as any other provisions required by this Code:

- A. All development within the PUD shall comply with the visual impact criteria of the requirements of this Section 9.
- B. An internal mechanism (such as an architectural control committee) shall be created through which any construction must have prior approval and through which the covenants may be enforced.
- C. The visual impact provisions of the covenants may not be amended or altered without prior approval of the County.

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Changes from May 14, 2010 BOCC work session

Other Land Use Code changes:

Through the course of the work sessions on visual impact, it became apparent that changes to other Land Use Code sections may be required. Such as:

▶ To be included in Section 22 – Definitions. The following definitions were developed for placement in Section 22 based upon much discussion and input from the public, design professionals and Land Use Staff.

BUILDING HEIGHT. The vertical distance measured from the grade adjacent to the foundation to the highest point of a gable, pitched or hipped roof or to the highest point of the coping of a flat roof or to the deck line of a mansard roof. Buildings with multiple roofs will be measured to the highest roof. In those instances in which a building is proposed with a pitch of more than _____, “building height” shall then be measured from the grade adjacent to the foundation to the mean of the highest roof ridge and the lowest associated eave. **NOTE:** To be discussed further by Planning Commission.

On sloped grades or for stepped or terraced sites, building height shall be measured as set forth above from the average of the highest and lowest grade adjacent to the foundation.

GRADE. The lowest finished ground level or pre-construction ground level, whichever is lower, adjoining the building or structure.

ORNAMENTAL. Elements or embellishments added to a building or structure for decoration or artistic style only and which do not have a structural or other function of the building or structure shall not be included in the measurement of a building or structure height.

▶ Amend Section 5 (Uses Allowed by Special Use Permit) and Section 6 (Planned Unit Developments) to add specific Visual Impact requirements currently included in Section 9.

▶ Appeals process has been moved to Section 9, therefore, delete current Section 19.8 (Board of Visual Appeals) .