

**Section 30**

**SOUTH ALPINE ZONE REGULATIONS**

**30.1 ENABLING AUTHORITY**

The provisions of this Section are enacted under the authority of C.R.S. § 29-20-101, *et seq.*, the “Local Government Land Use Control Enabling Act of 1974”, C.R.S. § 30-28-113 and C.R.S. § 30-28-116.

**30.2 PURPOSE AND INTENT**

The purpose of the South Alpine Zone (“Zone”) is to:

- A. maintain the recognized use by right of underground mining in the Zone;
- B. conserve and protect the natural environment and its resources while also recognizing the private property rights associated with parcels in the Zone;
- C. maintain the area’s historic character and preserve historic access methods;
- D. maintain a small scale, low density backcountry character and lifestyle in keeping with the historic mining nature of the area;
- E. recognize the technical challenges associated with residential construction in the Zone due to extreme geohazards and climate;
- F. recognize that there will be limited public services and facilities available to properties within the Zone due to limited access to parcels, extreme geohazards and climate in the Zone.

Property owners should understand that most of the properties in the Zone were created in accordance with the General Mining Law of 1872 for the purpose of exploring for, discovering and removing certain mineral deposits and were not intended to be used for residential purposes. Property owners in the Zone must recognize that access to their property may be restricted in the winter and that allowed improvements to roads may be limited. Because of these limitations, emergency vehicle access to properties within the Zone may not be possible. Persons interested in owning land with more available access to public services and facilities are advised to seek property in more developed areas of Ouray County.

**30.3 APPLICATION OF REGULATIONS**

The regulations set forth in this Section shall apply to all properties located within the South Alpine Zone as shown on the South Alpine Zone map, with the exception of lots or parcels located within an Ouray County approved subdivision or planned unit development. These regulations shall not apply to Underground Mining within the Zone or to any residential structures associated with a State-permitted mine operation.

**30.4 ROAD AND DRIVEWAY IMPROVEMENT AND MAINTENANCE LIMITATIONS**

The intention of these Road and Driveway Improvement and Maintenance Limitations is to retain the primitive character of Ouray County Roads in the Zone. Property owners should understand that Ouray County will not provide increased winter maintenance on Ouray County Roads within the Zone except in accordance with recognized Ouray County Road and Bridge policies. Property owners should not expect an expansion of services in the Zone as a result of residential development. In many cases, “over-the-snow” means of transportation may be the only means of accessing properties in the Zone in the winter months. Notwithstanding any other provisions contained in Section 23 of the Ouray County Land Use Code (“Code”) pertaining to Road Standards, the following regulations and restrictions shall apply in the Zone:

- A. Maintenance of Existing Roads: Maintenance of existing roads and driveways may be allowed, provided such maintenance activity occurs within the existing road alignment. Road realignments may be allowed in certain cases if the County Engineer determines that the realignment would more effectively mitigate potential impacts (e.g. erosion, wetland protection). Access easements or evidence of the right to cross private property and/or National Forest System lands must be provided for any road realignments. An Applicant shall provide information with the Site Development Permit application detailing the proposed maintenance on an existing road or driveway and approval of such maintenance will be required as part of the Site Development Permit process.
- B. Winter Maintenance: Except as otherwise provided herein, all winter plowing of roads and driveways in the Zone (between approximately November 1 and April 30), shall be prohibited. In those instances where a Ouray County Road is plowed to a point that intersects with a private driveway (used exclusively to provide access to a single residence), such driveway may be plowed by the property owner, provided that such plowing shall not interfere with access or drainage on the County Road and plowing across a County Road shall be prohibited. A request for an exception to these Winter Maintenance restrictions may be made by an Applicant making such request through the Variance process described below.
- C. Construction of New Road and Driveway Improvements:
  - 1. Construction of new roads and improvements to existing roads, within the Zone shall be prohibited.
  - 2. Construction of new driveways and bridge/stream crossings may be allowed, provided there is no existing access to the property that has been determined to be adequate by the County Engineer and provided that the

new driveway or bridge/stream crossing complies with the standards and site disturbance/design standards set out in this Section. The following standards shall apply to the construction of any new driveway in the Zone:

- a. Driveways in the Zone will be permitted on an owner's property to access a building site only in those instances where a property abuts an Ouray County Road, U.S. Forest Service Road (if all required permits have been obtained) or other established road. An Applicant shall be required to submit information to Ouray County as part of the Site Development Plan approval process, including drawings, specifications and proposed construction methods. Permission to construct a new driveway may be denied or modified where drainage, erosion, topographic or other issues that cannot be safely mitigated exist. Appeals from an administrative decision to deny a new driveway may be made according to the provisions of Section 19.7 of this Code.
- b. If an owner has multiple properties or mining claims, a driveway across multiple mining claims will be allowed only if the property owner agrees that title to such affected properties will merge to create a single parcel and records an appropriate document or documents to reflect such merger. Thereafter, no further development shall be allowed on the affected parcels and such parcels may no longer be transferred or conveyed separately.
- c. Generally, grades shall not exceed twelve (12) percent. Driveways that will exceed a twelve (12) percent grade may be allowed through the Variance process described below and provided that all other standards set forth in the Code are met. As part of the Variance process, the Applicant shall be required to provide Ouray County with designs, drawings and specifications stamped by a Colorado registered Professional Engineer for such driveway. The County Engineer shall review such designs, drawings and specifications and approve the design or make other recommendations. The cost of such review shall be borne by the Applicant. Any driveway that exceeds a twelve (12) percent grade shall minimize environmental impacts and shall not create a hazardous and unsafe condition for vehicles or other persons. In no event may any grade exceed fifteen (15) percent.
- d. Driveways shall be no more than twelve feet in width; however, vehicle pullouts may be required where it is deemed necessary for the safety of vehicles on the driveway.

- e. Switchbacks and cuts and fills shall be minimized.
- f. Driveways may not be paved or improved with any other impervious, non-native materials. Driveway surfaces shall be constructed utilizing local, native materials.
- g. Provided that the criteria set forth in paragraph 30.4.C.2.a are met, driveways to serve multiple parcels are encouraged where it is shown that doing so will reduce the potential number of driveways and minimize the overall aesthetic and environmental impacts in the Zone.
- h. Construction of parking areas may be required in order to accommodate the anticipated traffic on a driveway and to ensure that no vehicles use an Ouray County Road, U.S. Forest Service Road or other established road for parking.
- i. Appropriate drainage will be required in the construction of the driveway to ensure that existing drainage patterns are maintained and that excess runoff does not affect Ouray County Roads, U.S. Forest Service Roads or other established roads adjacent to the new driveway.

D. Driveways should be located and constructed in a manner that reduces site disturbance and visibility of the road or driveway from neighboring properties or roadways.

E. Improvements to existing roads and driveways or new driveways that do not meet the standards and conditions set forth herein shall be prohibited.

F. Property owners are advised that emergency vehicle access to properties within the Zone may be limited or impossible.

### **30.5 DEVELOPMENT STANDARDS**

A. Structure/Dwelling size:

1. Base Allowance: A total base allowance of 750 square feet of "footprint" shall be allowed for a dwelling unit and accessory structures within the Zone on parcels of two acres or less. No accessory dwelling units shall be permitted.
2. Additional Allowance: For each additional acre of land included within the proposed parcel, in excess of two (2) acres, the total footprint may be increased by an additional 100 square feet, up to a maximum of 2500 square feet of footprint for the total acreage. In no event may the total square footage on any parcel exceed 7500 square feet for all uses, dwelling units or accessory structures. The Applicant will be required to supply documentation of ownership and a vicinity map at the time of application in order to obtain additional square

footage. Contiguous parcels that are utilized by an Applicant to obtain additional square footage must be restricted from further development by the recording of an appropriate restriction, at the Applicant's expense, at the time that a Certificate of Occupancy is issued.

3. Remodels: Exterior remodels of dwelling units, reconstruction or expansion of dwelling units within the Zone shall be required to comply with the provisions of these regulations.

**B. Height:**

1. The maximum height of buildings or structures within the Zone shall be twenty-five (25) feet for single-family residential dwellings and twenty (20) feet for a detached accessory structure.
2. The height of principal and accessory structures shall be measured to the top of ridge or to the top of the parapet surface of a flat roof, as measured from the existing or finished grade, whichever is lower.

**30.6 ACCESS**

**A.** When an existing road or driveway crosses private property, an Applicant shall obtain all necessary easements, licenses or approvals related to such access, and, if deemed necessary by the County, the Applicant may be required to dedicate necessary rights-of-way related to such access to the County.

**B.** Notwithstanding the foregoing, if an Applicant is unable to secure such rights of access despite appropriate, diligent efforts to accomplish the same, the County may, in the exercise of its sole discretion, recognize claimed, established historic access and allow the development in the Zone. In such instance, the Applicant shall provide an appropriate combination of the following: 1) bona fide affidavits describing prescriptive use of the road or driveway that crosses private lands and/or other forms of tangible, demonstrative evidence regarding the claimed historic use; 2) where an existing road is used to access a property and such road crosses National Forest System lands, evidence of a special use permit, an express acknowledgement or allowance of access from the United States Forest Service ("USFS") or other appropriate demonstration of a legal right to cross such National Forest System lands shall be required. Applicants should recognize that roads on which a prescriptive right is claimed may be closed to use by other property owners and Ouray County is under no obligation to defend such access.

**C.** Public access to existing trails and roads shall be preserved. Owners shall not interfere with public access on existing historic roads and trails and such access should be preserved to the maximum extent possible for both summer and winter use. Historic trails and roads shall be kept in their existing alignments

whenever possible and road and driveway crossings of existing trails and roads should be avoided whenever possible. An Applicant may make a proposal to provide a substitute or alternate trail or road access using the Variance process described below.

**30.7 ACTIVITY ENVELOPE**

A. Activities on a parcel in the Zone shall be constrained to a designated "Activity Envelope", to be identified during the Site Development Permit process by the Applicant and Ouray County Land Use Staff. In general, the defined Activity Envelope for development of primary uses shall be large enough to accommodate the proposed principal use of the property and traditional permitted accessory structures and infrastructure (septic and other utility systems as allowed) but should not be significantly larger than the area needed for such development and in no case shall the Activity Envelope exceed one-half acre in size. Driveways may be excluded from the area of the Activity Envelope

B. Location of the Activity Envelope shall take into account 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. To the extent possible, the Activity Envelope shall be located outside of the aforementioned areas. Once the Activity Envelope has been defined, the Applicant shall stake the area in a manner to allow identification of the Activity Envelope throughout the building process. Applicants should be aware that the identification of an Activity Envelope does not ensure that activities within the Activity Envelope are safe and without hazard.

C. Wildlife Habitat Areas.

1. Care shall be taken to locate the Activity Envelope to avoid wildlife habitat areas such as wetlands, riparian areas, wildlife migration corridors or habitat and wildlife birthing or calving areas. In delineating an Activity Envelope, consideration of connectivity between other parcels and the cumulative effect of the proposed activity or development in light of other activity in the area shall be considered. The following guidelines shall control the identification of Activity Envelopes:

- a. Maintain large, intact areas of native vegetation and habitat area by preventing fragmentation by development;
- b. Protect rare landscape elements such as locally rare vegetation, unique rock formations, sheltered draws or drainage ways, or other similar features and guide development towards areas of landscape containing more common elements;

- c. Maintain connections among wildlife habitats by identifying and protecting corridors for movement;
- d. Minimize the combined and cumulative effects of activities and development on wildlife species, wildlife movement and unique landscape elements.

**D. Steep and Potentially Unstable Slopes.**

1. The following provisions shall apply whenever steep slopes or potentially unstable slopes occur within the Activity Envelope.

a. The Site Development Permit application shall delineate slopes within the Activity Envelope with two (2) foot contour intervals. Slopes between each two foot contour in each of the following categories shall be designated by a distinct graphic pattern:

- (i) Slopes that are fifteen (15) percent or greater but less than thirty (30) percent;
- (ii) Slopes that are thirty (30) percent or greater but less than forty-five (45) percent;
- (iii) Slopes that are forty-five (45) percent or greater.

b. Development is prohibited on slopes with a slope gradient of forty-five (45) percent or more. On thirty (30) percent or greater slopes, but less than forty-five (45) percent, Applicant shall be required to submit reports and certifications from an engineer and/or geologist licensed in the State of Colorado to demonstrate that there is no hazard posed by the location of development on such slopes. Applicant shall be required to comply with the recommendations or mitigation measures that may be described in such reports.

E. Once an Activity Envelope has been defined, the natural grade, topography, vegetation and drainage of areas outside the Activity Envelope shall not be disturbed. Prior to any development activity on the parcel, the boundaries of the Activity Envelope shall be identified with construction fencing and such fencing shall remain in place until all development has been completed.

F. An Applicant may request approval for a larger Activity Envelope or approval to conduct activities outside of the Activity Envelope in accordance with the Variance procedures set forth below.

**30.8 SITE DISTURBANCE**

**A. Site Disturbance and Vegetation Removal:**

- 1. Clearing, grading or grubbing that exceeds twenty-five (25) cubic yards, exceeds 500 square feet of surface area or changes the natural drainage of

the site shall occur only after an Activity Envelope has been defined and a Site Development Permit 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.

2. Development, including structures, roads or driveways, leach fields and other utilities, shall minimize the need for earth-moving and site disturbance to the maximum extent possible.
3. Within a reasonable period of time, all areas of surface disturbance, excluding the travel surface of driveways, shall be re-vegetated with species native to the site and/or the surrounding area. The property owner shall be responsible for controlling and removal of all noxious or invasive plant species on the property in accordance with the Colorado Noxious Weed Management Act and Ouray County regulations. The Applicant may be required to coordinate with the Ouray County Weed Manager to develop an acceptable revegetation/weed mitigation plan.

**B. Utilities:** Utilities shall be installed underground (below access roads or driveways) unless the Applicant can demonstrate to the satisfaction of the Land Use Department that other alternatives for placement of utilities would have less impact. Provided, however, that if primary utility service lines already exist within two hundred (200) feet of the Applicant's property boundary, an extension of such line(s) may be overhead. Property owners in the Zone should realize that solar, wind or other alternatives to the extension of utility lines may be the only viable utility service available. Such alternative utility sources should be described in the Site Development Permit application. Applicant shall be required to satisfactorily revegetate and remediate all ground disturbances, both on-site and off-site, that occur as a result of such utility installation and failure to do so may result in revocation of permits or withholding of permits by the Land Use Department.

**C. Streams/Water Bodies/Wetlands:** All soil disturbance and buildings and structures shall be set back a minimum of one hundred (100) feet from any stream, water body or wetland and shall meet all other federal, state or local requirements.

**D. Tree Removal:** It is recognized that it is often necessary and appropriate for property owners to conduct selective felling and/or thinning of trees for forest health or wildfire mitigation. It will be important for an Applicant to assess and balance the relationship between the natural vegetation on a property and its potential geohazards, other unique

characteristics and the location of the property in considering tree removal within the Zone. No tree removal shall be allowed outside of the Activity Envelope except for necessary fire mitigation or forest management.

### 30.9 DESIGN STANDARDS

- A. **Building Materials/Colors:** Primary building materials and colors, including materials used for accessory structures 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 is encouraged to 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 (with the exception of solar energy systems) and instead the use of non-reflective glass or metal surfaces is encouraged. 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.
- B. **Fencing:** Permanent fencing is strongly discouraged; however, any fence is encouraged to comply with the Colorado Division of Wildlife standards for wildlife friendly fencing. Fences outside of the Activity Envelope shall be prohibited. If fences are constructed on properties within the Zone, such fences must be well maintained and not allowed to create a nuisance for the public or wildlife. No fence shall be permitted to impede passage on public trails or roads, however, in some instances the utilization of unlocked gates and/or fence crossings may be allowed.
- C. **Lighting:** In keeping with the purpose and intent of this Section, outside lighting shall be minimized and all outside lighting shall comply with the provisions of Section 27 of this Code, "Outdoor Lighting Regulations".
- D. **Fire Mitigation:** All development shall comply with the requirements of Section 24 of this Code, "Wildfire Mitigation".
- E. **Geologic, Mining and Environmental Hazards:** Parcels or areas that are subject to geologic hazards shall not be developed for any use that might endanger life, safety or property unless such hazards can be mitigated in a manner acceptable to Ouray County. Geologic hazards include, but are not limited to: avalanches, landslides, rock fall, mud flow, unstable slopes or soils, ground subsidence, radioactivity or other environmental hazards such as adits or mine shafts due to historic mining activity on such parcel.

If there is evidence that geologic hazards exist on the site, a geotechnical report prepared by an engineer or geologist licensed in the State of Colorado shall be submitted by the Applicant with the Site Development Permit application. Such report shall detail the hazards on the site and the proposed mitigation techniques that will alleviate the dangers or hazards of building on such parcel. Such report shall include all mitigation measures relative to the perceived hazards or dangers, including both the proposed structure(s) as well as the site itself (e.g. engineered foundation and stabilization measures on the property itself). No construction on such site will be allowed except in compliance with such mitigation measures. If it is not possible to mitigate the hazards or dangers on a particular parcel, the proposed development may be prohibited.

- F. **Historic Structures:** Historic properties are irreplaceable assets of a community. Once demolished they are forever gone and cannot be replaced. It is the intent of this section to encourage the preservation and protection of historic and architectural resources in Ouray County that have a demonstrated significance to Ouray County. A demolition permit issued by Ouray County is required prior to the demolition of any structure designated as a historic landmark or that is greater than 50 years of age.
- G. **Visual Impact:** The requirements of Section 9 of the Code, "Visual Impact Regulations" shall apply in the Zone for all structures proposed that are visible from or within 2 miles of the centerline of any Ouray County Road, U. S. Forest Service Road or from U.S. Highway 550. All new structures within the Zone shall be setback a minimum of at least one hundred (100) feet from any Ouray County Road, U.S. Forest Service Road or from the centerline of U.S. Highway 550.
- I. **Water Supply:** An adequate potable water supply shall be provided.
- J. **Sewage Disposal:** A means of sewage disposal that minimizes site disturbance and complies with all Colorado Department of Public Health and Environment regulations for individual sewage disposal systems as well as any local requirements shall be required. Alternative systems such as composting toilets, incinerator toilets, grey water systems, etc. may be utilized. Depending on site conditions, an engineered system may be required.
- K. **Small Scale Renewable Energy Systems:**
1. As a means of providing renewable energy, the installation of small scale renewable energy systems for residential use is encouraged in the Zone. "Small scale renewable energy systems" are those intended to be installed on an individual property and used to provide energy for the

principal use established on the property. Small scale renewable energy systems include small windmills or turbines not over twenty-five (25) feet in height and private solar energy systems. Small scale renewable energy systems that are incidental and subordinate to a principal use and located on a property shall be permitted as a use by right in the Zone. Other types of renewable energy systems may be permitted through the Special Use Permit process.

**2. Installation.** When small scale renewable energy systems are installed on private properties within the Zone, the systems shall be designed and placed in a manner that a) exhibits environmental sensitivity and b) satisfactorily minimizes impacts to the backcountry character and resources in the Zone. Significant site grading shall be avoided in the installation and location of such renewable energy systems. The design of such renewable energy systems shall be described in the Site Development permit application and shall be reviewed on a case-by case basis. All such renewable energy systems shall be located within the Activity Envelope. No small scale renewable energy systems may be installed on any property until all necessary permits have been obtained from Ouray County.

**3. Solar Energy Systems.** In addition to the guidelines set forth above, the following considerations shall guide the installation of solar energy systems on properties within the Zone. The installation of solar energy systems for uses other than residential and accessory uses on site shall be considered a utility and shall require a Special Use Permit. While recognizing solar strategies to optimize placement and performance of solar panels and associated equipment, the following standards shall be addressed in the design and installation of solar energy systems:

**a. Integrated Installations.** It is preferred that solar be integrated into the design and construction of a new building, to the extent feasible.

**b. Location of Separate Structures/Ground Mounting.** When solar is not integrated into the design of a building and is separate from the primary structure, issues such as location of the equipment, visual continuity and screening shall be properly addressed.

**c. Height:** Solar panels placed on roofs may not exceed the maximum permitted building height of twenty-five (25) percent and shall not be visible above the peak of the roof. Ground mounted solar panels shall not exceed twenty-five feet in height.

**d. Generators.** Sound emissions from the use of generators shall be minimized to the extent possible and shall not exceed the maximum permissible noise levels set forth at C.R.S. §25-12-103, as the same may be amended from time to time. Sound mitigation

measures may include acoustically insulated housing or cover enclosing the motor or engine; vegetative screening; acoustically insulated building enclosing the generator or other such measures.

**4. Variance.** A request for an exception to the height restrictions may be considered pursuant to the provisions for a variance set forth below. Relief may be granted if a property owner demonstrates that a functional solar energy system or wind turbine or windmill is not suitable if installed in accordance with the height limits set forth. The property owner shall demonstrate that a variance is necessary as a result of special circumstances applicable to the property such as topography, limited solar or wind access or other unique physical conditions.

### **30.10 SITE DEVELOPMENT PLAN APPROVAL**

**A. Application.** All residential development in the Zone that requires a building permit, driveway permit or a septic permit or clearing, grading or grubbing in excess of the limits set forth at Section 30.8.A.1 above, "Site Disturbance and Vegetation Removal", shall require prior approval of a Site Development Permit. The application for a Site Development Permit shall comply with all of the requirements of Section 19.2 of the Code, in addition to the requirements contained in this Section. As part of the Site Development Permit application submittal, a vicinity map of the area, a boundary survey of the parcel (including any overlapping mining claims) and a topographic survey of the area proposed to be disturbed shall be included, along with all required fees. The boundary survey shall include all existing structures, trails, pipelines, ditches and other existing improvements on the property. All proposed improvements, development, grading, vegetation removal or other changes to the site shall be shown, including the proposed Activity Envelope. Any mine shafts, adits or other potential hazards shall be shown on the site plan. All Site Development Permit Applications shall require a site visit by a Land Use Department staff person. When snow or other climactic or road conditions preclude the ability to perform a site visit, the Land Use Department may extend the review period until such time that the site can be reasonably accessed and evaluated. The application for Site Development Permit approval may be referred to an outside agency or professional for review when particular, special circumstances are present that require more detailed analysis. The costs associated with any such referral shall be borne by the Applicant.

**B. Approval.** After a complete Site Development Permit application has been submitted to the Land Use Department, including any required engineering or geotechnical reports, and a site visit has been completed, Land Use Department Staff shall review all such material and either approve the application, approve with conditions or deny the application if all requirements set forth herein and in Section 19.2 cannot be met. Any decision of the Land Use Staff may be appealable by the Applicant according to the provisions of Section 19.7 of the Code.

C. **Amendment of an Approved Site Development Permit.** After a Site Development Permit has been approved, if the Applicant wishes to make changes or modifications to the location of the Activity Envelope or development to occur within the Activity Envelope or to any other approved uses as part of the approved Site Development Permit, the Applicant shall submit an application for an amendment to the Site Development Permit along with an explanation of the requested changes and any information required by the Land Use Department, along with any required fee. An additional site visit may be required depending upon the scope of the requested amendment. Once the application for amendment is complete, Land Use Department Staff shall review the application and approve, approve with conditions or deny the application if all of the requirements set forth herein and in Section 19.2 of the Code cannot be met. Any decision of the Land Use Staff may be appealable by the Applicant according to the provisions of Section 19.7 of the Code.

### **30.11 VARIANCES**

- A. Under certain circumstances, relief from certain provisions of these Zone regulations may be allowed by the Board of Zoning Adjustment. Such relief may be allowed only for those standards that expressly allow for such a review.
- B. Requests for variances to certain provisions of the Zone regulations must be made within thirty (30) days of the occurrence of the grievance or decision that is the subject to the request for review. Applicant must submit a written request, along with the appropriate fee, to the County Planner explaining the reasons for the request, the specific provisions of these regulations that are involved, the specific relief being sought and a site plan illustrating the manner in which the variance, if granted, would affect the subject property and adjacent uses. The County Planner may request additional information if it will assist the Board of Zoning Adjustment in making a decision on the matter.
- C. Requests for review shall be scheduled before the Board of Zoning Adjustment in accordance with the provisions of Section 19.7. The following criteria and findings shall generally govern the review by the Board of Zoning Adjustment:
1. That the variance, if granted, will not diminish the value, use or enjoyment of adjacent properties.
  2. The variance, if granted, will not be directly contrary to the intent and purpose of these regulations, other provisions of the Code or the Master Plan.
  3. That special circumstances exist that make the strict application of the standards contained in these regulations inappropriate.

4. The granting of the variance is not based on the personal convenience, profit or special privilege of the Applicant.
- D. Any variance granted in accordance with this provision shall expire two years from the date on which the variance is granted unless a Site Development Permit and a Building Permit have issued to the Applicant for the construction for which the variance was requested.
  - E. In order to ensure that the protection of the public good and the intent and purpose of these regulations is preserved, the Board of Zoning Adjustment may impose any other condition when approving a variance.

**REJECTED-2009**