

**RESOLUTION
OF
THE BOARD OF COUNTY COMMISSIONERS
Ouray County, Colorado**

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

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

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

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

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

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

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

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

Resolution #2016-018

APPROVED AND ADOPTED THIS 26 DAY OF April, 2016.

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

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

Attest:



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

Lynn M. Padgett
Lynn M. Padgett, Chair

Ben Tisdell
Ben Tisdell, Vice-Chair

Don Batchelder
Don Batchelder, Commissioner

Exhibit A

Planning Commission Recommendations on High Country Development

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

Goals of Seeking PC Recommendation on High Country Development Regulations:

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

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

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

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

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

Exhibit A

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

Exhibit A

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