

AGENDA
OURAY COUNTY PLANNING COMMISSION
REGULAR MEETING / WORKSESSION

July 21, 2020 4:00 – 6:00 pm
Meeting to be held at the Ouray County Land Use Office
111 Mall Road, Ridgway, Colorado

Due to COVID-19, and pursuant to Resolution 2020-007 participants, including applicants as well as the public, are encouraged to attend via Virtual Meeting. Be aware that if an agenda item finishes early, the Planning Commission may continue on to the next scheduled item.

On the web: <https://zoom.us/j/91529579975>

Via telephone: **(669) 900-6833**

Meeting ID: **915 2957 9975**

1. 4:00 Regular Meeting

The Planning Commission will convene a regular meeting to:

- A.** Approve minutes from July 7, 2020 Regular Meeting/Public Hearing
- B.** Old Business
- C.** New Business
- D.** Adjourn

2. 5:00 Work Session on General Training

The Planning Commission will convene in a Work Session to:

- A.** Receive general training from the County Attorney

OURAY COUNTY PLANNING COMMISSION REGULAR MEETING/PUBLIC HEARING MINUTES

July 7, 2020 4:00 – 6:00 pm
Meeting/Hearing held at the Ouray County Land Use Office
111 Mall Road Ridgway, Colorado

Note: Both in-person and 'Zoom' attendance was allowed

PC In-person: None
PC Via Zoom: Boehnke, Iuppenlatz, Miller, Parker, Williams, Wilson
PC Absent: Snowbarger
Attending Staff: Castrodale, Henderson,
Via Zoom: None
Attending Public: Brown, Van Alsburg, Van Alsburg
Public via Zoom: Ishikawa, Niece

Note: Minutes are "action only" format and are not intended to be a transcription of the hearing. Comments referenced may be abbreviated and/or paraphrased. All meetings are recorded for future reference.

1. **Regular Meeting: Ouray County Planning Commission 4:00 pm** (approximate)
 - A. Chair asks to approve minutes from June 2 2020 Regular Meeting
 1. Changes and corrections: None
 2. Motion to approve minutes by: Williams
 - 3: Motion seconded by: Parker
 4. Vote to approve minutes: 6-0
 - B. Chair inquired about any Old Business (No discussion)
 - C. Chair inquired about any New Business. Castrodale said the County Attorney will attend the July 21, 2020 Planning Commission (PC) Meeting to discuss issues associated with "ex parte" communication
 - D. Chair asked for a motion to adjourn
 1. Motion to adjourn by: Boehnke
 2. Motion seconded by: Parker
 3. Vote: 6-0
2. **Public Hearing: Ouray County Planning Commission 4:30 pm** (approximate)
 - A. The Planning Commission convened a Public Hearing to review and make a recommendation to the Board of County Commissioners (BOCC) on an application for a Special Use Permit to operate a convenience store/liquor store in the existing commercial building located at: 36926 Highway 550, Colona
 1. Cartrodale presented the application
 2. PC asked clarification questions of Staff

3. Applicant made a brief presentation
 4. PC asked clarification questions of the Applicant
 5. Chair opened the meeting for public comment: No public comment
 6. Public Comment portion of hearing was closed by Chair at 4:40 pm
 7. Planning Commission deliberated the subject application: (See the attached conditions (Exhibit A).
 8. Parker made the following resolution: "I move that the Planning Commission recommend the Special Use Permit to operate a commercial use and specifically, a Convenience Store/Liquor Store be approved by the Board of County Commissioners (BOCC) with the following conditions"...
 - i. The Special Use Permit issued shall be valid for a period of five (5) years.
 - ii. The Applicant shall provide a minimum of eleven (11) parking spaces per the 2018 International Business Code (IBC), two (2) of which shall be "van accessible".
 - iii. The Applicant shall maintain the existing structures on the lot properly including but not limited to the roof, siding, upkeep, painting, staining, sealing, vegetation mitigation, maintenance and upkeep of the parking areas, and maintenance of proposed signage.
 - iv. The Applicant must, at all times, remain in compliance with all provisions found in the Ouray County Land Use Code and Ouray County Ordinance No's.: 1992-01 (Noise), 1995-01 (Rubbish), 2002-01 (Open Fires), and 2007-01 (OHV's).
 - v. All trash and bear attractants shall be kept in bear-proof containers or in a locked building or structure.
 - vi. The Special Use Permit (SUP) will not be issued as active by the Land Use Department until the Applicant closes/removes the north-most access point as required by the Colorado Department of Transportation (CDOT), through the installation of a landscaped area and drainage and such area has been inspected and approved by Staff.
 9. Motion seconded by: Wilson
 10. Vote to approve: 6-0
 11. Motion to adjourn by: Parker
 12. Motion seconded by: Williams
 13. Vote: 6-0
- B. Motion made to adjourn the Public Hearing at 5:00 pm

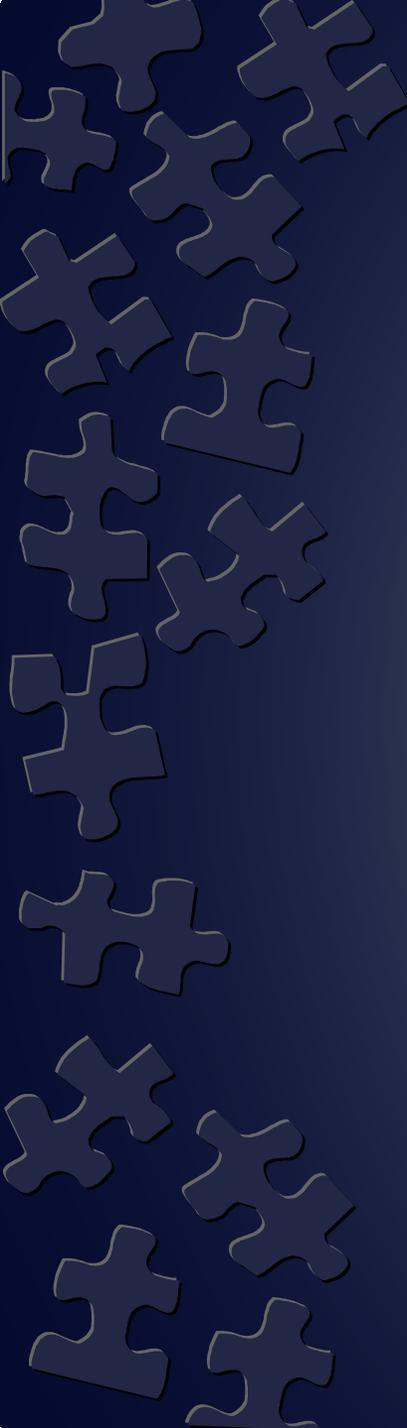
Submitted By: _____ Approved By: _____

Colleen Henderson
Land Use Planner

Mark Iuppenlatz
Planning Commission Chair

Exhibit A: Proposed PC Conditions for the Colona Convenience Store/Liquor Store

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GOVERNMENT ETHICS

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Viner Law

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Montrose, CO

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LOCAL GOVERNMENT ETHICS LAW

- Colorado Constitution
- Colorado Statutes
- Local Ordinances
- Common Law



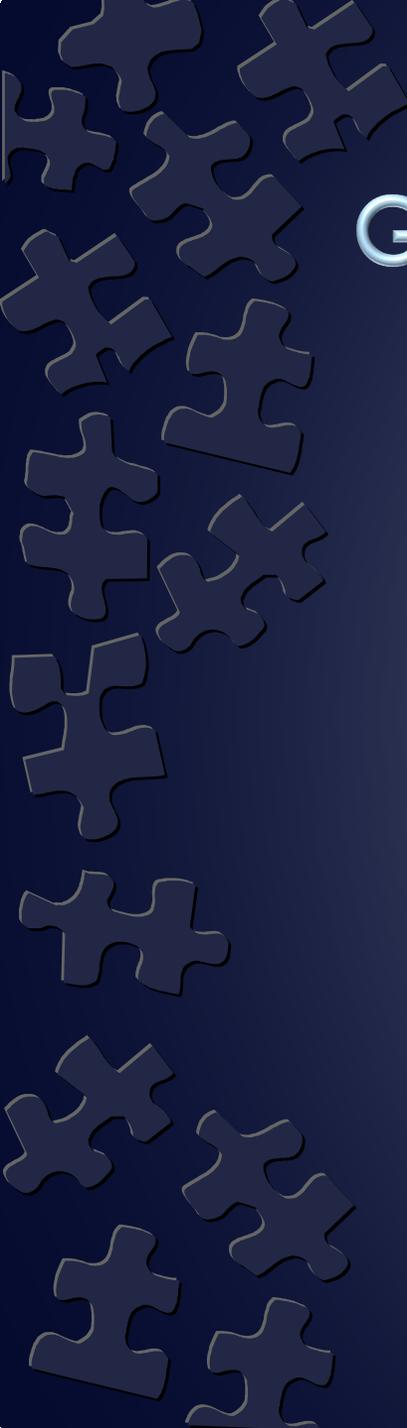
PURPOSES

- Provide Responsible Governing Body
- Preserve the Institution not Personal Integrity
- Avoid Charges of Violation of the Public Trust
- No Personal Gain in Public Office



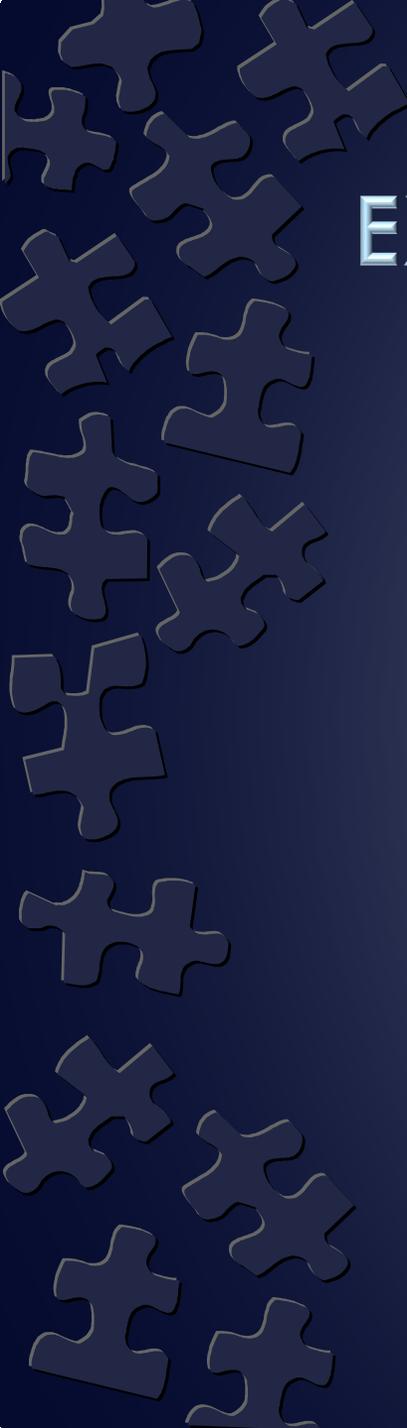
Local Government Official

- › Defined as an elected or appointed official of a local government



GIFTS AND OTHER ITEMS OF VALUE

- Co Const. Article 39 § 3 and C.R.S. 24-18-104
- Bans acceptance of gifts by local government officials and government employees
- Money, forbearance or forgiveness of debt
- Gifts, direct or indirect, including to spouse/dependent child
- E.g. gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts



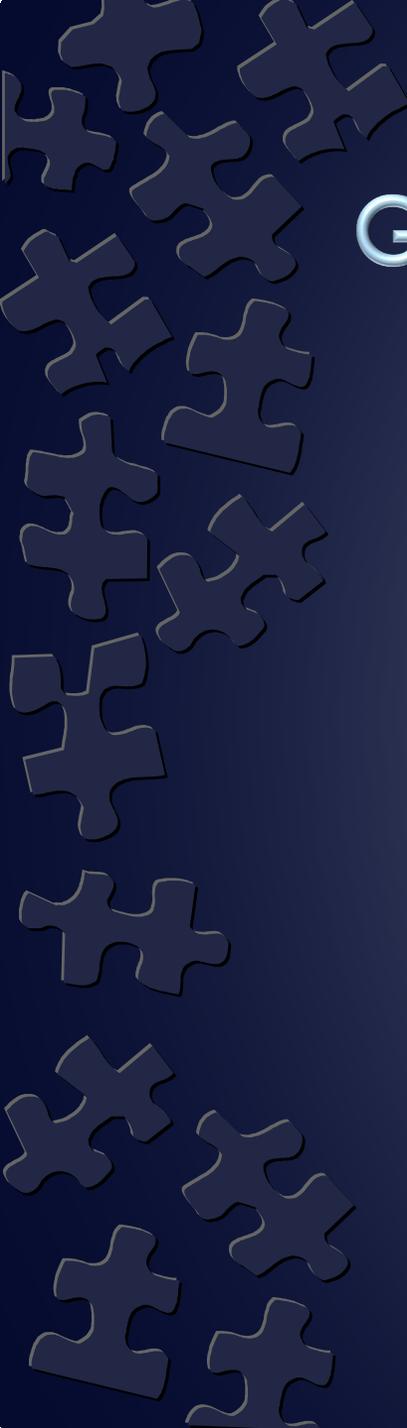
EXCEPTIONS TO GIFT BAN

- Campaign Contributions
- Trivial Items Worth \$65.00 or Less, Per Donor (Feb 11, 2019)
- Tokens of Award
- Unsolicited Informational Materials
- Admission, Food or Beverages Costs at, a Reception, Meal or Meeting By an Organization Where You Will Speak or Answer Questions as Part of a Scheduled Program



EXCEPTIONS TO GIFT BAN CONT'D

- Reasonable Expenses for Attendance at a Convention, Fact-Finding Mission or Trip
- Gift From a Relative or Personal Friend for a Special Occasion
- Compensation Paid in the Normal Course of Employment
- Quid Pro Quo or Fair Market Value of Services



GIFT BAN ENFORCEMENT

- Independent Ethics Commission
- Complaints and Hearings
- Advisory Opinions and Letter Requests
- www.Colorado.gov/iec



CODE OF ETHICS - C.R.S. § 24-18-101 et. Seq.

- Importance of Citizen Participation in Government
- Avoid Conflicts Between Public and Private Interests
- Prevent Breach of Fiduciary Duty and the Public Trust



CONFLICTS

- Disclosure or Use of Confidential Information to Further Personal Interests
- Acquire Or Hold An Interest In Any Business Or Undertaking Which He Has Reason To Believe May Be Directly And Substantially Affected To Its Economic Benefit By Official Action To Be Taken By An Agency Over Which He Has Substantive Authority
- Perform An Official Act Directly And Substantially Affecting A Business Or Other Undertaking To Its Economic Detriment When He Has A Substantial Financial Interest In A Competing Firm Or Undertaking



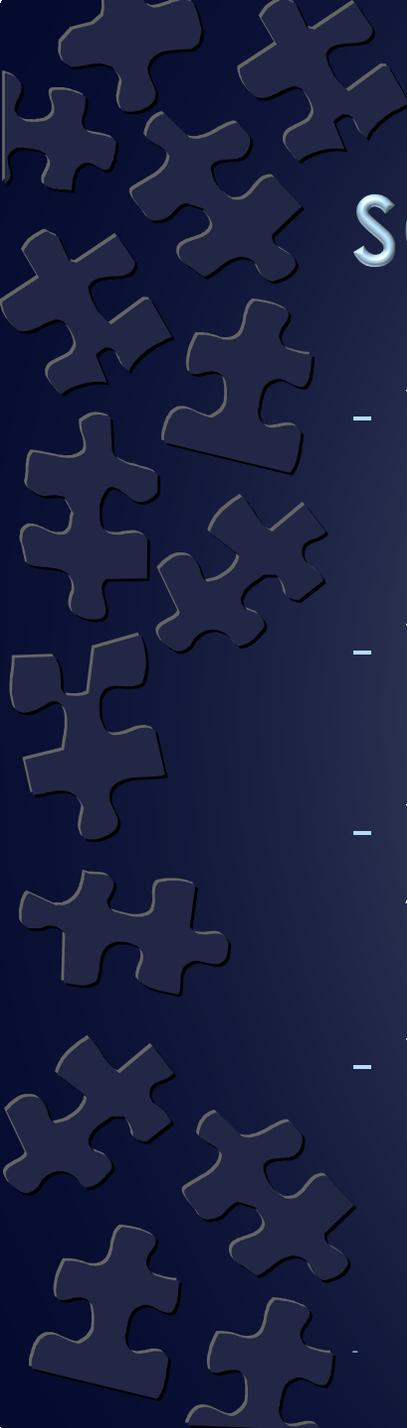
VOLUNTARY DISCLOSURES

- You May Disclose a Private Interest
- Facts and Summary of Nature of Interest on the Record
- Disclosure Constitutes an Affirmative Defense to any Civil or Criminal Action



MANDATORY DISCLOSURE AND RECUSAL

- Personal or Private Interest in Matters Before You
- Recusal Unless Participation Necessary for Quorum
- If You Recuse Leave the Room



SCENARIOS

- Your Spouse is the Hotel Manager and the Owner Seeks to Expand
- Your Spouse is a Part-Time Housekeeper for the Same Hotel
- You Own An Interest In a Business That is a Competitor with an Applicant Before You
- You Own Real Property Next to a Proposed High Density, Low Income Housing Development



EX-PARTE COMMUNICATIONS

- Review of Memo



TAKE WAYS CON'T

- Conflicts are serious so if any doubt call the County Attorney
- Recusal Means to Leave the Room
- Absent Recusal You Must Vote
- Most Conflicts Do Not Require Recusal

MEMORANDUM

TO: Ouray County Planning Commission

FROM: Viner Law

DATE: July 14, 2020

RE: Ex-Parte Communications for Quasi-Judicial Determinations

Quasi-judicial actions apply general rules to a specific request. They require notice, a hearing, and action after applying prescribed criteria, usually defined in the code, to the individual facts of a request.

Ex-parte communications are discussions between local government officials and members of the public that take place outside of the noticed public hearing. These contacts deny due process to both the applicants and opponents of the application because neither is present to hear and rebut statements made to the governing body.

Ex-parte communications may not necessarily result in invalidation of the ultimate decision. Nevertheless, the appearance of impropriety can undermine the integrity of the governing body. All ex-parte contacts in all quasi judicial matters should be avoided/

If any ex-parte communications occur, local government officials should disclose the communication at the beginning of the hearing and describe the communication as completely as possible.