

**A RESOLUTION OF THE
OURAY COUNTY BOARD OF ZONING ADJUSTMENT
DENYING AN APPEAL BY STEVE JORDAN OF AN ADMINISTRATIVE DECISION**

WHEREAS, the Board of Zoning Adjustment (“BOZA”) received an appeal from Robert Savath, as agent for Steve Jordan (“Petitioner”) of an administrative decision made by Doug Canright, County Planner, as set forth in a letter to Mr. Savath dated June 18, 2008 (“Decision Letter”) regarding the possibility of subdividing Lot 5, Neff Subdivision, a 21.823-acre parcel in the Valley Zone (“Property”); and

WHEREAS, the Decision Letter provides that the Property is not subdividable as the Ouray County Land Use Code (“LUC”) requires that the density in the Valley Zone is 1 residential unit per 35 acres; and

WHEREAS, the Decision Letter further provides that the Property does not appear to meet the criteria for an exemption pursuant to Section 17 of the LUC; and

WHEREAS, the Decision Letter concludes that Land Use Staff would not accept an application for any subdivision of the Property under either Section 6 or Section 17 of the LUC; and

WHEREAS, based upon the statements made in the Decision Letter, Steve Jordan, the owner of the Property, timely filed his appeal to the BOZA; and

WHEREAS, notice of a Public Hearing on such appeal was published on September 5 and 12, 2008 in the Ouray Plaindealer and on September 10 and 17, 2008 in the Ridgway Sun and the Board of County Commissioners of Ouray County, Colorado, sitting as the BOZA held a public hearing on the Application on September 22, 2008 at 2:00 p.m.; and

WHEREAS, the BOZA bifurcated the issues and first addressed the appeal as it related to Section 6 of the LUC; and

WHEREAS, specific to the provisions of Section 6 of the LUC, the Board was advised that the Property is located within the Valley Zone in Ouray County and that pursuant to the provisions of the Land Use Code, the residential density for the Valley Zone is one residential unit per 35 acres, therefore the Property (21.83 acres) could not be further subdivided and Mr. Savath stated that he did not disagree with such analysis; and

WHEREAS, specific to the provisions of Section 17 of the LUC, the Board was advised that no application for an exemption had actually been filed by the Petitioner; however, Section 17.3.B.5 provides that the density allowable in the underlying zone may be increased if the Board receives satisfactory proof that the granting of the request will provide substantial benefits to the general public; however, in such case, the density may only be increased by one additional unit of density; and

WHEREAS, the Board determined, based upon statements from Mr. Savath, that the Petitioner was requesting that the Property be subdivided into a total of three parcels, therefore such an application would not comply with the requirements of Section 17.3.B.5 of the LUC and the Land Use Staff had acted appropriately; and

WHEREAS, based upon the information provided in the Application, the supporting materials and Staff Report and information and testimony provided from the Petitioner and the members of the public, the Board enters the following decisions on the appeal;

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

1. Based upon the provisions of Section 6 of the LUC, the Board unanimously denies the appeal and upholds that portion of the Land Use Staff's decision that no further subdivision of the Property is permissible as the Property is smaller than the minimum parcel size required in the Valley Zone.
2. Based upon the provisions of Section 17 of the LUC and the request of the Petitioner for a density of three lots on the Property, the Board unanimously denies the appeal and upholds the Land Use Staff decision in accordance with the provisions of Section 17.3.B.5 of the LUC. The Board's decision is based upon the proposed three-lot density and not on any determination of substantial benefits to the general public. The Board believes that it would be appropriate for Land Use Staff to accept an application that meets all of the requirements of Section 17.3.B, understanding that the determination of "substantial public benefits to the general public" is an issue that must be determined by the Board.

APPROVED AND ADOPTED THIS ____ DAY OF OCTOBER, 2008 ratifying action taken by the Board on September 22, 2008.

BOARD OF COUNTY COMMISSIONERS OF
OURAY COUNTY, COLORADO SITTING AS
THE BOARD OF ZONING ADJUSTMENT

Attest:

K. Keith Meinert, Chair

Don Batchelder, Vice Chair

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

Heidi M. Albritton, Member