

**A RESOLUTION OF THE  
OURAY COUNTY BOARD OF ZONING ADJUSTMENT  
DENYING THE APPEAL FOR THE COW CAMP PLANNED UNIT DEVELOPMENT FILED BY  
JOHN PETERS ON BEHALF OF DONALD A. KELLOGG AND KATHARINE B. KELLOGG**

**WHEREAS**, John Peters, authorized agent for Donald A. Kellogg and Katharine B. Kellogg (“Applicant”), filed an appeal of an administrative decision of the Ouray County Planner related to the Cow Camp Planned Unit Development (“PUD”) and the requirements for open space according to the provisions of the Ouray County Land Use Code (“LUC”) for the property known as Lot 2, Kirby Exemption, Ridgway, Colorado (“Application”); and

**WHEREAS**, the Application was submitted to the Ouray County Land Use Department on or about December 19, 2008 and the Ouray County Planner sent a letter to the Applicant dated December 31, 2008 advising that the Application was complete; and

**WHEREAS**, the Applicant asserted that the LUC in effect until January 1, 2009 did not require dedicated open space for a three-lot regular PUD and that to require open space placed “undue and excessive burdens” on the PUD; and

**WHEREAS**, the Applicant asserted that the Application should be reviewed and processed under the LUC that was in effect prior to January 1, 2009 rather than the newly adopted LUC made effective as of January 1, 2009; and

**WHEREAS**, notice of a Public Hearing on such Application was published on June 19<sup>th</sup> and June 26<sup>th</sup>, 2009 in the Ouray County Plaindealer and on June 24<sup>th</sup>, 2009 in the Ridgway Sun and the Board of County Commissioners of Ouray County, Colorado, sitting as the Board of Zoning Adjustment (“Board”), held a public hearing on the Application on July 6, 2009 at 10:15 a.m.; and

**WHEREAS**, the Board reviewed the Application and supporting materials, the Staff Report and heard statements from the John Peters, Donald A. Kellogg and the Ouray County Planner; and

**WHEREAS**, the Board determined that there were two topics at issue in the appeal, one being a determination of whether the 2003 or 2009 LUC was applicable to the Application and the second being an interpretation of the requirements for open space in a PUD containing three lots or less; and

**WHEREAS**, based upon the statements in the record, the Application, supporting materials and Staff Report, the Board has determined that the Application should be reviewed and processed under the 2003 LUC given the timing of the submittal of the Application; and

**WHEREAS**, based upon the statements in the record, the Application, supporting materials and Staff Report, the Board has concluded that the proposed interpretation by the Applicant that no open space is required for a PUD that includes three lots or less is not correct when all of the provisions of the 2003 LUC regarding open space are taken into account;

**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. The Board upholds the interpretation by the Ouray County Planner that the 2003 LUC required open space for any Regular PUD and the decision to deny the Cow

Camp PUD application based upon a lack of open space included in such PUD is affirmed. The appeal filed by the Applicant is denied.

APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF JULY, 2009 RATIFYING THE ACTION TAKEN BY THE BOARD ON JULY 6, 2009.

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

Attest:

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Heidi M. Albritton, Member

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K. Keith Meinert, Member

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

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Lynn M. Padgett, Member