

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
DIRECTING THE OURAY COUNTY PLANNING COMMISSION TO REVIEW THE PROPOSED
REVISIONS TO SECTION 6.12 OF THE OURAY COUNTY LAND USE CODE**

WHEREAS, on December 22, 2008 the Board of County Commissioners of Ouray County, Colorado ("Board") approved changes and amendments to Section 6 of the Ouray County Land Use Code ("Code"); and

WHEREAS, as part of such process, the Board requested that the Ouray County Planning Commission review changes to Section 6.12 (amendments or alterations to final plats) to include a process for accepting applications for amendments to final plats as well as corrections for minor defects or technical errors and boundary line adjustments; and

WHEREAS, the Board also requested that the Planning Commission consider possible revisions to the requirement in Section 6.12 (formerly 6.13) for two-thirds approval of adjacent property owners for a plat amendment; and

WHEREAS, the Planning Commission reviewed Section 6.12 at a work session on January 20, 2009 and at a regular meeting on February 17, 2009; and

WHEREAS, the Planning Commission conducted a public hearing on May 12, 2009 to take public comments on Section 6.12 and at that time the Planning Commission approved revisions to Section 6.12 and recommended to the Board that the Planning Commission continue to work on exceptions to the two-thirds approval requirements; and

WHEREAS, based upon the recommendation of the Planning Commission, the Board reviewed the proposed changes to Section 6.12 at its regular meeting on June 1, 2009 and has conducted work sessions on June 23, 2009 and July 14, 2009 to discuss Section 6.12 and took public comment during said work sessions; and

WHEREAS, as a result of the above-referenced work sessions, the Board has made certain changes to Section 6.12 to remove the boundary adjustment provisions and to modify the requirements for two-thirds approval of property owners for a plat amendment; and

WHEREAS, C.R.S. § 30-28-116, entitled "Regulations may be amended" provides that: ". . . the board of county commissioners may amend the number, shape, boundaries, or area of any district, or any regulation of or within such district, or any other provisions of the zoning resolution. Any such amendment shall not be made or become effective unless the same has been proposed by or is first submitted for the approval, disapproval or suggestions of the county planning commission."; and

WHEREAS, the Board is hereby submitting the proposed amendment to Section 6.12 (as attached) to the Planning Commission for its recommendation of approval, disapproval or suggestions; and

WHEREAS, the Board understands that there may be issues included in 6.12 that the Planning Commission may not reach consensus on; therefore, it is incumbent upon the Planning Commission to point out the pros and cons of such issues to the Board or make a recommendation for the Board's consideration; and

WHEREAS, the Board requests that the Planning Commission complete its work and advise the Board of its approval, disapproval or suggestions to the proposed changes to 6.12 on or before October 1, 2009;

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

1. That the Planning Commission review the proposed Section 6.12 at such meetings as the Planning Commission deems appropriate and that the Planning Commission forward to the Board its approval, disapproval or suggestions on Section 6.12 on or before October 1, 2009.

APPROVED AND ADOPTED THIS ____ DAY OF _____, 2009.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Heidi M. Albritton, Chair

K. Keith Meinert, Vice Chair

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

Lynn M. Padgett, Commissioner Member

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6.12 AMENDMENT OR ALTERATION OF PLANNED UNIT DEVELOPMENT OR SUBDIVISION

After a Preliminary Development Plan, Final Development Plan or Final Plat has been approved by the County Commissioners, it may be amended or altered only in accordance with this Section.

A. General Process and Submittal Requirements for All Amendments or Amendments to Correct a Technical Error/Defect

1. The Applicant shall submit the required number of copies of a completed application for an amendment or an amendment to correct a technical error/defect on a final plat; the non-refundable application fee and any required supplemental data for the proposed amendment. The application shall include:

a. A written statement giving the details of the proposed amendment and the reason(s) why the amendments are necessary.

b. An original tax certificate for all lots, parcels or tracts involved, showing that no taxes are currently due or delinquent against the property.

c. An original title commitment or title policy issued by a licensed Colorado title company, completed within sixty (60) days of submission, showing the names of all persons or entities having any right, title or interest in the land included in the application.

d. A plat showing the proposed amendments and including all of the information and detail as required by Section 6.8 C (3).

e. Any supplemental data deemed necessary by the Land Use Staff to adequately review the request.

B. Amendments (Other than Technical Errors/Defects.

1. Other requirements for an amendment to a Planned Unit Development (“PUD”) or subdivision:

a. Map(s) showing all properties within the Planned Unit Development or subdivision, including all phases or filings; properties abutting upon or directly across a street from the PUD or subdivision proposed to be amended; adjoining properties (collectively “Affected Properties”), including names and mailing addresses of the owners (collectively “Affected Property Owners”) for notification as required below.

b. Proposed notices to be sent to Affected Property Owners.

c. Notice to Affected Property Owners:

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i. After the Applicant has submitted an application for an amendment, the Applicant shall send a notice, in a form approved by Land Use Staff, to the Affected Property Owners advising of the nature of the proposed amendment and the Affected Property Owners' right to vote and comment in favor of, or oppose, the proposed amendment. Such notice shall request a response from the Affected Property Owners within thirty days from the date of mailing the notice. This notice may be combined with the notice of public hearing required by Section 6.12 B.2.b below and proof of the notice shall be shown by certificates of mailing from the U.S. Postal Service submitted to the Land Use Staff to complete the application prior to the public hearing before the Planning Commission of the Joint Area Planning Board.

ii. The Land Use Department shall incorporate the responses from the Affected Property Owners in any Staff Report submitted to the Planning Commission and the County Commissioners.

2. Public hearing and notice:

a. The Land Use Department shall review the application for amendment for conformance with the provisions of this Code and shall determine if the application is complete. Upon a determination of application completeness, the Land Use Staff shall schedule a public hearing for the amendment on the next available agenda for the Planning Commission or the Joint Area Planning Board.

b. Notice of such public hearing shall be published at the expense of the Applicant, in the legal newspaper of record for Ouray County at least fourteen (14) days prior to the public hearing date. Written notice of the public hearing shall also be delivered or mailed, first class postage, prepaid, at least thirty (30) days prior to the public hearing to all Affected Property Owners, to any Homeowner's Association for the PUD or subdivision proposed to be amended and to any special districts that serve the PUD or subdivision. The Applicant shall submit to Land Use Staff, prior to the Planning Commission or the Joint Area Planning Board public hearing on the amendment, certificates of mailing from the U.S. Postal Service showing that notice has been sent to all Affected Property Owners at least 30 calendar days prior to the date of such hearing. The notices shall be given in a form approved by the Land Use Staff.

c. At the public hearing, the Planning Commission or the Joint Area Planning Board shall review and consider the application for amendment, the comments and recommendations from any agency referrals, the expressed desires of the Affected Property Owners, testimony from the public and the requirements of this Section. The Planning Commission or the Joint Area Board shall recommend approval, approval with conditions or modifications, or disapproval of the amendment in accordance with the criteria set forth in Section 3 below. Planning Commission or the Joint Area Planning Board action shall be in the form of a motion as noted in the minutes and, if the amendment is formally recommended for disapproval or approval with conditions or modifications, the conditions or modifications shall be stated in clear and concise terms

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in the motion. The Planning Commission or the Joint Area Planning Board minutes, together with copies of all submissions by the Applicant and other information developed by the Planning Commission or the Joint Area Planning Board shall be forwarded to the County Commissioners.

d. Upon receipt of the Planning Commission or the Joint Area Planning Board recommendation and accompanying materials, the County Commissioners shall at a legally noticed public hearing review the application for amendment. Notice of such public hearing shall be published at the expense of the Applicant, in a newspaper of general circulation within Ouray County at least fourteen (14) days prior to the hearing date. At such public hearing, the County Commissioners shall consider the application, the recommendation of the Planning Commission or the Joint Area Planning Board, the comments and recommendations from any agency referrals, the comments and recommendations of the Affected Property Owners, testimony from the public and the requirements of this Section. The County Commissioners shall, by resolution, approve, approve with conditions or modifications, or disapprove the amendment in accordance with the criteria set forth in Section 3 below. The County Commissioners shall state clearly, in writing, the grounds for approval or disapproval and any required conditions or modifications. No amendment shall be effective until a Mylar of the amended plat has been signed by all required parties, including the Chair of the County Commissioners, all fees have been paid and the amended plat recorded in the Office of the Ouray County Clerk and Recorder, at the expense of the Applicant.

3. a. County Approval. Any amendment or alteration of a PUD or subdivision shall require a recommendation from the Planning Commission or Joint Area Planning Board and the approval of the County Commissioners, which approval shall be given only if the proposed alteration or amendment (1) is consistent with all requirements of this Section 6 and the underlying zoning standards set forth in Section 3 of this Code; and (2) includes improvements which are consistent with the provisions of Section 7 (Improvements Standards) and as may be required by the County Commissioners. If, in the opinion of the County Commissioners, the proposed amendment is not consistent with the previously approved development plan, the application shall be considered a new application and the process begins again.

b. In making a decision on any proposed amendment to a PUD or subdivision, the County Commissioners shall make the following findings, consistent with the provisions of C.R.S. §24-67-106:

- i. that the modification, amendment or change is consistent with the efficient development and preservation of the entire planned unit development or subdivision; and
- ii. that the modification, amendment or change does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the planned unit development or subdivision or the public interest; and

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- iii. is not granted solely to confer a special benefit upon any person; and
- iv. that the results of the votes of the Affected Property Owners have been duly considered and addressed or mitigated.

c. The unanimous vote of the County Commissioners shall be necessary for an approval of an amendment to a PUD or subdivision.

C. Technical Errors Or Defects In A Final Plat.

The requirements of Section 6.12. B shall not apply to amendments to correct a technical error or defect in a final plat. Once a complete application has been submitted to the Land Use Staff requesting a correction of a technical error or defect on a final plat, such application shall be placed on an agenda for a regular County Commissioner meeting, for consideration at such meeting. The County Commissioners may approve the application if it is consistent with an approved preliminary development plan.