

RESOLUTION NO. 2010-001

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO ADOPTING REVISIONS TO SECTION 6.12 OF THE OURAY COUNTY LAND USE CODE ENTITLED "AMENDMENT OF PLANNED UNIT DEVELOPMENT OR SUBDIVISION"**

**WHEREAS**, after public notice and a hearing held on September 22, 2009, the Ouray County Planning Commission returned its recommendation to the Board of County Commissioners of Ouray County, Colorado ("Board") for approval of certain revisions to Section 6.12 of the Ouray County Land Use Code ("Code") entitled "Amendment or Alteration of Planned Unit Development"; and

**WHEREAS**, the Board held a public hearing on November 2, 2009 which hearing was continued to December 14, 2009 for the purpose of reviewing and obtaining public comment on certain revisions to Section 6.12 of the Code and notice of such public hearing was published on October 16, 2009 and November 13, 2009 in the Ouray County Plaindealer, and on November 18, 2009 in the Ridgway Sun; and

**WHEREAS**, on November 2, 2009 and December 14, 2009 the Board considered the recommendation of the Planning Commission, reviewed written comments and heard public comments regarding the proposed revisions to Section 6.12 and has considered such recommendation and comments; and


**WHEREAS**, the Board is now authorized by the provisions of C.R.S. §§ 24-67-101, *et seq.*, 29-20-101, *et seq.* and 30-28-101, *et seq.* to adopt the proposed revisions to Section 6; and

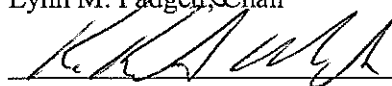
**WHEREAS**, the Board finds that the proposed revisions to Section 6.12 of the Code are consistent with the stated purposes and objectives of the Code and the Ouray County Master Plan;

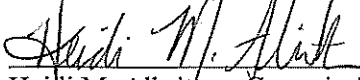
**NOW, THEREFORE, BE IT RESOLVED**, that the revised Section 6.12 of the Ouray County Land Use Code, which is attached hereto and incorporated herein by this reference, is adopted as proposed and shall be incorporated as a part of the Code, and shall become effective as of December 14, 2009 and shall apply to all applications for plat amendments that have been received and/or were being processed by the Ouray County Land Use Department as of December 14, 2009.

**APPROVED AND ADOPTED THIS 4th DAY OF JANUARY, 2010, RATIFYING ACTION TAKEN ON DECEMBER 14, 2009.**

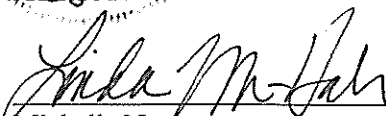
Board of County Commissioners of  
Ouray County, Colorado

  
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Lynn M. Padgett, Chair

  
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K. Keith Meinert, Vice-Chair

  
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Heidi M. Albritton, Commissioner Member



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

6.12 AMENDMENT 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 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 amendment(s) is 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 amendment(s) 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 submittal requirements for an amendment to a Planned Unit Development (“PUD”) or subdivision:
  - a. Map(s) showing: i) all properties within the Planned Unit Development or subdivision, including all phases or filings; ii) properties abutting upon or directly across a street from the PUD or subdivision proposed to be amended; and iii) adjoining properties. These properties are collectively referred to as “Affected Properties”.
  - b. A list of names and mailing addresses of the owners of Affected Properties who shall be referred to as “Affected Property Owners” for

notification as required below. This information can be obtained from the County Assessor's Office.

- c. A copy of the proposed notices to be sent to Affected Property Owners.
2. Notice to Affected Property Owners:
    - a. 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. The Affected Property Owners responses shall be returned to the Land Use Department. This notice may be combined with the notice of public hearing required by Section 6.12 B.3.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 or the Joint Area Planning Board.
    - b. 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.
  3. 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 a newspaper of general circulation within 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 Paragraph 4 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 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 Paragraph 4 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.

## 4. County Approval:

- a. Any amendment 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 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.
- b. In making a decision on any proposed amendment to a PUD or subdivision, the County Commissioners shall make the following findings:
  - (1) that the results of the votes of the Affected Property Owners have been duly considered and their issues addressed or mitigated;
  - (2) that the amendment is not contrary to the provisions of valid covenants, plats, or declaration of a PUD or subdivision based upon information supplied by the applicable Homeowner's Association;
  - (3) and shall make additional findings consistent with the provisions of C.R.S. §24-67-106, as amended from time to time:
    - (a) that the modification, amendment or change is consistent with the efficient development and preservation of the entire planned unit development or subdivision; and
    - (b) 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
    - (c) is not granted solely to confer a special benefit upon any person.
- c. The unanimous vote of all of the County Commissioners eligible to vote 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.