



**TOWN OF PAONIA**  
**WEDNESDAY, JULY 31, 2019**  
**PLANNING COMMISSION MEETING AGENDA**  
**6:00 PM**

**Call to Order**

**Roll Call**

1. Roll Call

**Approval of Agenda**


2. Approval of Agenda

**New Business**

3. Minutes – June 26, 2019
4. Ordinance 2019-TBD – Creation of the Highway 133 Corridor Overlay District & Highway 133 Corridor Development Submittal Requirements & Design Standards
5. Ordinance 2019-TBD – Formula Businesses
6. Ordinance 2019-TBD – Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months
7. Paonia Comprehensive Master Plan Preliminary Update

**Adjournment**

8. Adjournment

<p>Agenda Item</p> 	<p>Roll Call</p>
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Summary:  
Meeting opening -

*(This area is intentionally left blank for the meeting summary.)*

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

*(This area is intentionally left blank for additional notes.)*

<p>Agenda Item</p> 	<p>Approval of Agenda</p>
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Summary:

*(This area is intentionally left blank for the summary of the agenda item.)*

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

*(This area is intentionally left blank for additional notes or comments.)*



**Minutes**  
**Planning Commission Regular Meeting**  
**Town of Paonia, Colorado**  
**June 26, 2019**

**RECORD OF PROCEEDINGS**

The Regular Meeting of the Planning Commission held Wednesday, June 26, 2019, was called to order at 6:00 PM by Chairperson Barbara Heck, followed by the Pledge of Allegiance.

**Roll Call:**

Commission members present were as follows:

- Chairperson Barbara Heck
- Commissioner Lucy Hunter
- Commissioner Monica Foguth
- Mayor Charles Stewart
- Trustee William Bear

Town Staff present were as follows:

- Administrator Ken Knight
- Deputy Clerk Amanda Mojarro

A quorum was present, and Chairperson Barb Heck proceeded with the meeting.

**Approval of Agenda**

Motion made by Trustee Bear, Supported by Commissioner Hunter to approve the agenda.  
Motion carried unanimously

**Unfinished Business**

Minutes – May 30, 2019

Motion made by Mayor Stewart, Seconded by Trustee Bear to approve minutes as presented.  
Motion carried unanimously.

**Public Hearing: 215 Delta Ave. Variance – Shane Smith**

The purpose of the Public Hearing is to hear the applicants 20ft garage Variance request and to hear public comments.

Chairperson Barbara Heck opened the meeting to discuss, Mr. Smith’s variance request for a garage roof height of 20ft.

Administrator Knight read staff notes to the planning commission.

Discussion ensued by Mr. Smith stating his reasons for a request for having a 20ft height roof, are the addition of solar panels and more storage area.

Mr. Smith’s contractor communicated to the planning committee the mechanics behind having a 20 ft height roof.

Discussion ensued by Mayor Stewart the option of a wider roof.

Mr. Smith expressed that he would like to stay within the character and aesthetics of the house and not loose off-street parking, for this to happen the roof would need to be higher and not wider.

Discussion points:

- Loss of off-street parking
- House would lose the character
- Roof height explanation
- A taller garage door needs a higher ceiling
- A wider roof

Discussion ensued by Trustee Bear regarding the contentious of the past request of variances for having a higher roof.

Discussion points:

- Possible denial from the board of trustees
- contentious matter among the board of trustees and the community

Mayor Stewart read the ordinance of Sec. 16-11-60. - Requirements for accessory buildings and uses, (e) Accessory buildings shall not exceed fifteen (15) feet in height.

Administrator Knight stated that the ordinance has been in place since 1983 and was amended in 2000 and 2015, has not changed and has been the standard since 1983.

Motion by Trustee Bear Supported by Mayor Stewart to recommend to the Board of Trustees denial of Mr. Smith's 20 ft height garage roof variance. Motion carried unanimously.

### **Public Hearing: 419 Stahl Rd – Greenbelt Addition Annexation**

The purpose of the Public Hearing is to hear the applicant's Annexation request and to hear public comments.

Administrator Knight read staff comments regarding the Greenbelt Addition Annexation. Stating that the property is within the Delta County / Town of Paonia Highway 133 planning area.

Charris Ford, owner of 419 Stahl Rd communicated to the planning committee currently, he does not have a water or sewer tap and is requesting to be annexed into to the Town of Paonia to be able to have water and sewer tap and to be a part of the community. Mr. Ford disclosed the preference of the zoning to be zoned to have the ability of future commercial use.

Discussion points:

- Vegetable stand
- Small future retail business
- Zoning category
- Farming Avocation

Discussion ensued by Trustee Bear regarding the developing resources for Mr. Ford's property.

Administrator Knight read Sec. 16-2-110. - DR, Developing Resource District along with Sec. 16-2-20. - E-1, Estate Residential District.

Discussion ensued by planning committee members to take into consideration the zoning for the surrounding properties, to refrain from spot zoning. Planning Committee members in favor of the annexation with appropriate zoning for Mr. Ford's property according to the use.

Discussion point:

- DR, Developing Resource District.
- E-1, Estate Residential District.
- Future annexation

- Spot Zoning

Administrator Knight along with Commissioner Hunter recommended (2) two motion be made (1) one for the annexation (2) second for the zoning.

Motion by Commissioner Hunter Supported by Trustee Bear to recommend to the Board of Trustees approval Mr. Charris Ford's annexation. Motion carries unanimously.

Commissioner Hunter called a (5) five-minute recess at 7:05 pm. The meeting resumed at 7:10 pm

Discussion by Commissioner Foguth regarding Mr. Ford's concern with the type of the property will be zoned as.

Motion by Commissioner Foguth to recommend to the Board of Trustees approval to discuss with owner and research the zone for his property with the planning committee. Motion failed for lack of a Second.

Motion by Commissioner Hunter to recommend to the Board of Trustees approval to zoning Mr. Charris Ford's property - 419 Stahl rd. as E-1, Estate Residential District. Motion carried unanimously.

Chairperson called for a (1) one-minute recess at 7:17. The meeting resumed at 7:18 pm.

### **Public Hearing: Lynn Mattingly Major Subdivision - South Clark**

The purpose of the Public Hearing is to hear the applicant's Annexation request and to hear public comments.

Commissioner Hunter recused her self due to personal conflict.

Administrator Knight read staff comments regarding the South Clark subdivision. The Development Review Committee and Staff reviewed Ms. Lynn Mattingly's major subdivision on South Clark application. Recommends the approval of South Clark major subdivision with condition requested and be incorporated into the approval that the Paonia Volunteer Fire Department has set, a letter is included in the packet. The rights and uses of the irrigation water supply are incorporated into the covenants and conditions of the homeowners association.

Ms. Mattingly briefly explained to the planning committee, the property originally is zoned as R-2 it accommodates (8) eight residences currently. Requesting to build (7) seven townhomes with a cul-de-sac at the end of the street and to be re-zoned as R-1 PUD, to provide affordable housing for the community. Parcels will be sold in pairs each one will have its own deed.

Discussion ensued regarding the traffic, parking issues and access from Colorado Avenue with South Clark subdivision development.

Discussion points:

- Parking for family visiting
- Possible access through Colorado Avenue
- A concern with the back of the Properties facing Colorado Avenue is sloped.
- Colorado is part town and county
- Authorization of Colorado Avenue
- Parking along Colorado avenue

Discussion ensued regarding the request for (4) four variances. The preliminary plat submission - variance request are included in the packet.

Discussion ensued by Mayor Stewart addressed deems the (4) variances are permissible under zone R-1 PUD.

Administrator Knight communicated the (4) four variances are permissible under the R-1 PUD zone. Variances were furnished as (1) one in lieu of applying for (4) separate variance request.

Public comments regarding the South Clark subdivision:

- Fill Colorado Ave to be usable as access for traffic
- Square feet for developing in an R-2 zone
- Traffic density
- Parking
- Construction
- A (50%) fifty percent increase in street traffic

Discussion ensued issues to be analyzed by the board, traffic, parking and water pressure.

Discussion ensued by Trustee Bear what requirements will the applicant endure.

Administrator Knight communicated the requirement is to build to the town standards and there are no bond requirements on taps.

Motion by Mayor Stewart to recommend to the Board of Trustees approval of Lynn Mattingly Major Subdivision - South Clark with the condition by staff with some proposal of mitigation on traffic and parking issues Second by Commissioners Foguth. Motion carried unanimously.

**Adjournment**

Motion by Chairperson Heck supported by Trustee Bear to adjourn the meeting. Motion carried unanimously.

The meeting was adjourned by Ms. Heck at 8:33 pm

\_\_\_\_\_  
Amanda Mojarro, Deputy Clerk

\_\_\_\_\_  
Barbara Heck, Chairperson



Agenda Item # CALL



Ordinance 2019-TBD – Creation of the Highway 133 Corridor Overlay District & Highway 133 Corridor Development Submittal Requirements & Design Standards

Summary:  
Meeting opening -

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Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

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**TOWN OF PAONIA  
ORDINANCE NO. 2019- \_\_\_\_**

**AN EMERGENCY ORDINANCE OF THE TOWN OF PAONIA,  
COLORADO, AMENDING THE TOWN CODE AND THE  
OFFICIAL ZONING MAP TO PROVIDE FOR THE CREATION  
OF THE HIGHWAY 133 CORRIDOR OVERLAY DISTRICT AND  
CREATING HIGHWAY 133 CORRIDOR DEVELOPMENT  
SUBMITTAL REQUIREMENTS AND DESIGN STANDARDS.**

**RECITALS:**

**WHEREAS**, the Town of Paonia (the “Town”) is a statutory Town and municipal corporation in Delta County, Colorado, governed by and through its Board of Trustees (the “Board”); and

**WHEREAS**, the Board is conferred with the specific enumerated authority to exercise all power conferred upon or possessed by the Town and has the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper; and

**WHEREAS**, Chapter 16 of the Town Municipal Code regulates zoning within the Town’s municipal boundaries (the “Paonia Zoning Code”) with the stated purposes of the Paonia Zoning Code to, among other concerns:

“alleviate congestion in the streets...to promote health and general welfare...to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public requirements”; and

**WHEREAS**, the Paonia Zoning Code is “drawn with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout the Town”; and

**WHEREAS**, The Board has the specific authority as set forth under C.R.S. 31-4-101 et. seq.; and

**WHEREAS**, the authority to zone has long been recognized as an aspect of a local government’s police powers to regulate activities in order to protect the public health, safety, morality and general welfare of its citizens; and

**WHEREAS**, the Town and Delta County entered into a January 24, 2011 Growth Management Agreement for the unincorporated area surrounding the Town of Paonia providing for the efficient management and administration of growth in the developing area around the Town of Paonia, including areas commonly referred to as the Highway 133 Corridor; and

**WHEREAS**, in 2008, the Town, in conjunction with residents of Delta County, initiated a project to gather information about business activities in and outside the municipal limits of the Town, focusing on both downtown Paonia and the Highway 133 Corridor. Thereafter, the Board appointed a 10-member Highway 133 Advisory Committee tasked with formulating a Highway 133 Corridor Master Plan; and

**WHEREAS**, the Highway 133 Advisory Committee, after holding 14 Advisory Committee meetings and meeting with area stakeholders, including the Paonia Chamber of Commerce, the Area Planning Commission, the Paonia Planning Commission and the Paonia Board of Trustees, completed its Highway 133 Corridor Master Plan; and

**WHEREAS**, the Highway 133 Corridor Master Plan has subsequently been adopted by both the Town and the Delta County Board of County Commissioners; and

**WHEREAS**, the Highway 133 Corridor Master Plan is consistent with both the Town of Paonia 1996 Comprehensive Plan (hereinafter the “Comprehensive Plan”), which remains the most recent master plan adopted by the Board, and the Delta County 1996 Master Plan, which was in place at the time the Highway 133 Corridor Master Plan was adopted; and

**WHEREAS**, the Town’s Comprehensive Plan includes the following goals:

- Maintain rural and agricultural settings of the community.
- Maintain small community closeness.
- Preservation of the character of downtown.
- Monitor growth and encourage controls on quality and character.
- Provide diversity of employment opportunities.
- Expand and diversify the tax base; and

**WHEREAS**, the Board hereby affirms its commitment to the Highway 133 Corridor Master Plan, committing to the community goals and vision as outlined therein; and

**WHEREAS**, ensuring development along the Highway 133 Corridor in accordance with the Highway 133 Corridor Master Plan is a legitimate interest of the Town of Paonia as it fosters a sense of community, furthers preservation and zoning goals and provides for long term economic sustainability for the residents of the community; and

**WHEREAS**, the Board wishes to amend the Official Zoning Map of the Town of Paonia to create a Highway 133 Corridor Overlay District; and

**WHEREAS**, amendments to the Official Zoning Map of the Town of Paonia are allowed so long as the amendments are not averse to the public health, safety and welfare, and the amendments are in substantial conformity with the Master Plan; and

**WHEREAS**, the Highway 133 Corridor Overlay District shall apply to those areas as designated in the Highway 133 Corridor Master Plan within the municipal boundaries of the Town; and

**WHEREAS**, to the extent areas designated in the Highway 133 Corridor Master Plan are outside the municipal boundaries of the Town, in the event such areas are subsequently annexed into the Town, the Highway 133 Corridor Overlay District shall be applied to those areas within the county that become annexed into the Town at a later date; and

**WHEREAS**, pursuant to Sec. 1-3-60 of the Town Municipal Code, the Town may adopt ordinances on an emergency basis for the immediate preservation of public peace, health and safety.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, AS FOLLOWS:

**Section 1. Legislative Findings.**

The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Board of Trustees.

**Section 2. Creation of the Highway 133 Corridor Overlay District.**

The 2010 Highway 133 Corridor Master Plan specifically outlines a vision for the Town and Delta County in evaluating land development away from the Town’s historic core to ensure protection of the Highway 133 West Elk Scenic Byway values. To incorporate the vision and the extensive planning of the Highway 133 Advisory Committee in developing the Highway 133 Corridor Master Plan, it is necessary to create the Highway 133 Corridor Overlay District applying to those areas within the municipal boundary of the Town, or which may be annexed into the municipal boundaries of the Town, as further detailed and defined as Areas A and B on the Town of Paonia Highway 133 Planning Areas Map, attached hereto and incorporated herein as Exhibit A.

**Section 3. Amendment to the Official Zoning Map of the Town of Paonia.**

The Town Board of Trustees, in accordance with Sec. 16-1-50, hereby designates the tracts of land identified in the attached Highway 133 Corridor Overlay District map, attached hereto and incorporated herein as Exhibit B, as tracts that are within the Highway 133 Corridor Overlay District, and the Board of Trustees hereby finds that the creation of the Highway 133 Corridor Overlay District and inclusion of these parcels within the Highway 133 Corridor Overlay District advances the public health, safety and welfare of the Town and its citizens, and is in substantial conformity with the Town’s Comprehensive Plan and the Highway 133 Corridor Master Plan. To the extent the tracts of land identified in the Highway 133 Corridor Overlay District map exist outside the municipal boundary of the Town, they shall only be subject to the Highway 133 Corridor Overlay District upon annexation into the Town of Paonia.

The Highway 133 Corridor Overlay District is hereby incorporated in the Official Zoning Map and shall be maintained by the Town of Paonia. Further, this Ordinance shall create an amendment to the Official Zoning Map of the Town of Paonia, designating those parcels as

identified in the attached Highway 133 Corridor Overlay District map as included in the Highway 133 Corridor Overlay District.

**Section 4. Amendment to the Town Code.**

Sec. 16-1-110 of the Town of Paonia Municipal Code is amended to add a definition for the Highway 133 Corridor Overlay District:

The Highway 133 Corridor Overlay District is defined as those areas within the Highway 133 Corridor Overlay District Map, and development within the Highway 133 Corridor Overlay District shall be in substantial conformity with the Highway 133 Corridor Master Plan and the review criteria set forth in accordance with Section 16-1-130 (7).

**Section 5. Additions to the Town Code.**

Sec. 16-2-130 Highway 133 Corridor Overlay District is added to the Town of Paonia Municipal Code as follows:

**Sec. 16-2-130 Highway 133 Corridor Overlay District.**

It is the purpose and intent of the Highway 133 Corridor Overlay District is to promote the public health, safety and welfare of the citizens of the Town of Paonia. The Town shall use the Highway 133 Corridor Overlay District to: implement goals, policies and action items in the Town’s Comprehensive Plan and Highway 133 Corridor Master Plan; preserve, improve and protect the Highway 133 Corridor as a Town amenity; regulate buildings and structures to protect and support existing agricultural uses, to support the sustainability of those activities and to protect the open scenic character of the West Elk Scenic Byway; utilize design and development techniques that avoid, minimize and mitigate impacts to the natural environment; and ensure aesthetic and ecological qualities of the Highway 133 Corridor continue to be a community asset.

**Sec. 16-3-130**

**(1) Applicability.** The provisions and regulations of this Sec. 16-3-130 shall apply to all land within the Town of Paonia Official Zoning Map included as part of the Highway 133 Corridor and as defined within these regulations. In addition, the provisions of this Sec 16-3-130 shall apply to the applicable requirements of the underlying zoning district and other regulations of the Town. When the standards of this Highway 133 Corridor Overlay District conflict with any other provision of the Paonia Municipal Code, the more stringent limitation or requirement shall apply.

**(2) Adoption of the Highway 133 Corridor Master Plan.** Within the Highway 133 Corridor Overlay District, all land use activity, development, redevelopment, renovation, and/or change in use requiring a building, development, or other land use permit shall be undertaken

and reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(3) **Uses by Right.** Within the Highway 133 Corridor Overlay District, uses permitted by the underlying zoning district are allowed unless specifically prohibited, provided that the use generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(4) **Development.** Development within the Highway 133 Corridor Overlay District shall be permitted, provided that the development generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(5) **Special Review.** All Special Reviews may be permitted upon approval in accordance with Sec. 16-4-10 of the Code, and provided that said Special Review generally complies with and is reviewed in accordance with the Goals and Policies of the Highway 133 Corridor Master Plan.

(6) **Submittal Requirements.** For development with the Highway 133 Corridor Overlay District, the following information must be completed and included in all applications for development or land use activity:

(a) A development plan showing compliance with the Goals and Policies as further enumerated in the Highway 133 Corridor Master Plan.

(b) For those areas within Area A of the Highway 133 Corridor Master Plan Map, an applicant shall meet the design standards as detailed in the Highway 133 Corridor Master Plan.

(7) **Review Criteria.** The criteria for review and performance standards are as follows:

(a) Compliance of the application with this Code in general.

(b) The compatibility of the proposed use and the site plan with the character of the surrounding area.

(c) The desirability and need for the proposed use.

(d) Consideration and mitigation of the potential for adverse environmental influences that might result from the proposed use.

(e) Compatibility of the proposed use and site plan with the policies and guidelines of the Comprehensive Plan.

(f) Compatibility of the proposed use and site plan with the Goals and Policies of the Highway 133 Corridor Master Plan.

**(8) Exempt Uses and Activities.** The following uses and activities are exempt from these regulations, including the Highway 133 Corridor Master Plan, provided plans and specifications are approved by the Town, and all local, state and federal permitting is approved:

(a) Public improvements essential for public health and safety, installed by and/or approved by the Town, including but not limited to public utility buildings, facilities, systems and accessory structures; and

(b) Public improvements such as pedestrian and automobile bridges, trails and recreational amenities installed by and/or approved by the Town; and

(c) Irrigation, drainage, flood control or water diversion structures installed by and/or approved by the Town; and

(d) Bank stabilization, river restoration and planting of native vegetation installed by and/or approved by the Town.

**Section 6. Severability.**

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

**Section 7. Repeal of Prior Ordinances.**

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 8. Ordinance Effect.**

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded, and further provided that this repeal shall not

affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

**Section 9. Effective Date.**

This Ordinance shall take effect thirty days after passage.

**Section 10. Public Notice, Hearing and Review by the Planning Commission.**

A public hearing on this Ordinance was held on the \_\_\_\_ day of \_\_\_\_\_, 2019, in the Town Hall of the Town of Paonia \_\_\_\_\_, with the provisions of Sec. 16-6-10 of the Town Code being met. As required by the Code, this matter was referred to the Planning Commission on July 31, 2019.

**INTRODUCED, READ AND REFERRED to public hearing before the Board of Trustees for the Town of Paonia, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, 2019.**

**TOWN OF PAONIA**

By: \_\_\_\_\_  
CHARLES STEWART, Mayor

ATTEST:

\_\_\_\_\_  
J. CORINNE FERGUSON, Town Clerk

**HEARD AND FINALLY ADOPTED by the Town of Paonia Board of Trustees for the Town of Paonia, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, 2019.**

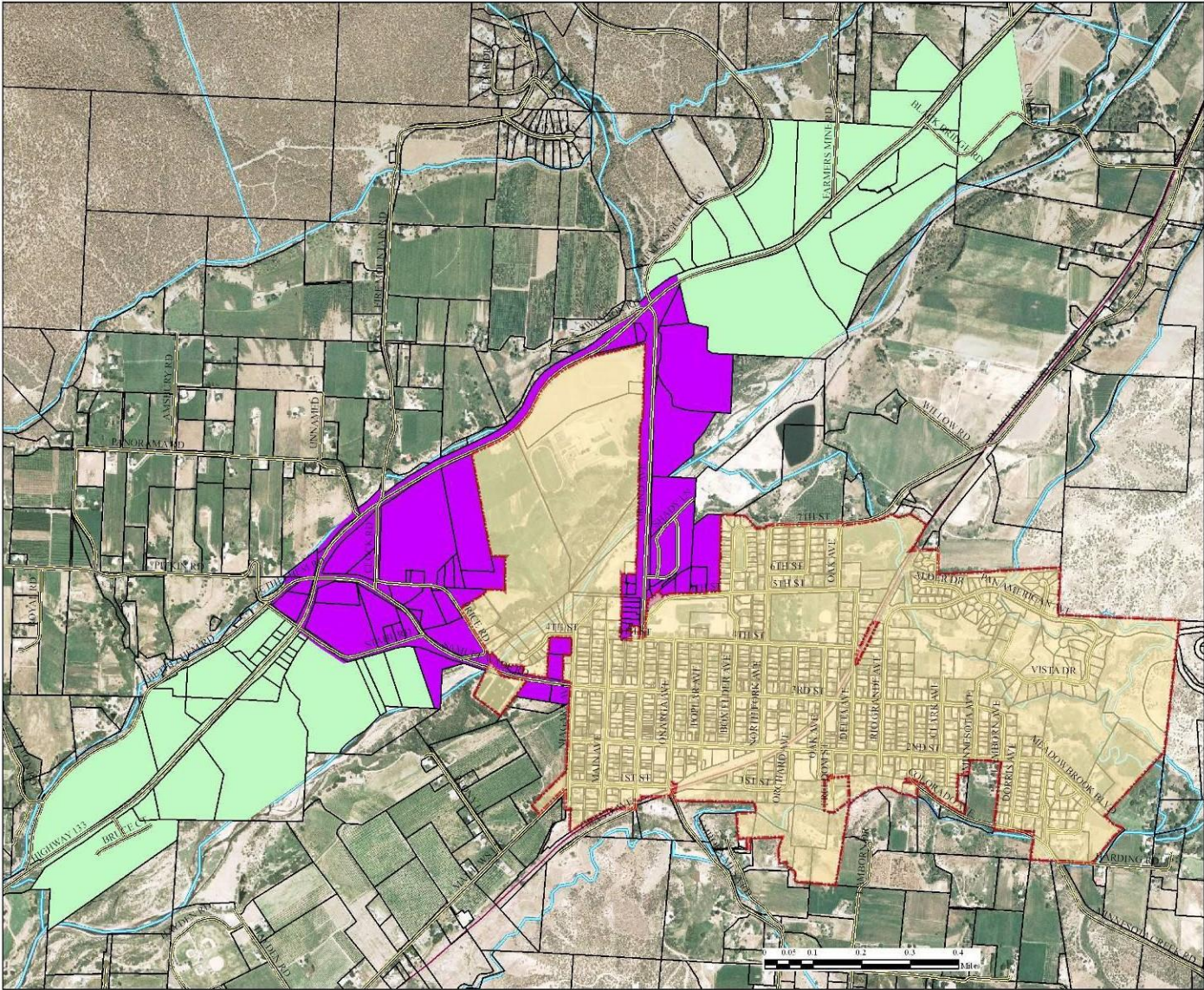
**TOWN OF PAONIA**

By: \_\_\_\_\_  
CHARLES STEWART, Mayor

ATTEST:

\_\_\_\_\_  
J. CORINNE FERGUSON, Town Clerk





# Town of Paonia Highway 133 Planning Areas A & B

**Legend**

- Paonia Municipal Boundary
- Delta\_roads
- Area A
- Area B
- Delta\_RR



Warren Group Consulting LLC  
One South 133 St  
Cortez, CO 81321  
970-263-7172  
September 16, 2018

Agenda Item # CALL

Ordinance 2019-TBD – Formula Businesses



Summary:  
Meeting opening -

A large empty rectangular box intended for the main summary of the meeting item.

Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

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**TOWN OF PAONIA  
ORDINANCE NO. 2019- \_\_\_\_**

**AN EMERGENCY ORDINANCE OF THE TOWN OF  
PAONIA, COLORADO, AMENDING AND  
SUPPLEMENTING CHAPTER 16 OF THE TOWN OF  
PAONIA MUNICIPAL CODE REGARDING FORMULA  
BUSINESSES.**

**RECITALS**

**WHEREAS**, the Town of Paonia (the “Town”) is a statutory Town and municipal corporation in Delta County, Colorado, governed by and through its Board of Trustees (the “Board”); and

**WHEREAS**, the Board is conferred with the specific enumerated authority to exercise all power conferred upon or possessed by the Town and has the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper; and

**WHEREAS**, the Paonia Zoning Code is “drawn with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout the Town”; and

**WHEREAS**, The Board has the specific authority as set forth under C.R.S. 31-4-101 et. seq.; and

**WHEREAS**, the authority to zone has long been recognized as an aspect of a local government’s police powers to regulate activities in order to protect the public health, safety, morality and general welfare of its citizens; and

**WHEREAS**, pursuant to C.R.S. § 31-23-301, the Town has the power to regulate buildings and other structures for the purposes of promoting health, safety and the general welfare of the community; and

**WHEREAS**, pursuant to C.R.S. § 29-20-104(1)(g), the Town has the power to regulate the use of land on the basis of the impact thereof on the community or surrounding areas; and

**WHEREAS**, the Board of Trustees determines that it is in the best interest of the community and the public health, safety and welfare of the citizens of the Town to amend the Town Code to add this provision to the Municipal Code; and

**WHEREAS**, in an effort to ensure the Highway 133 Corridor Master Plan is consistent and complies with the Town of Paonia’s 1996 Comprehensive Plan, the Board believes it is necessary to protect the Town’s historic downtown core, viewed as the civic, social and business of the community; and

WHEREAS, pursuant to Sec. 1-3-60 of the Town Municipal Code, the Town may adopt ordinances on an emergency basis for the immediate preservation of public peace, health and safety.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, as follows:

**Section 1. Legislative Findings.**

The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Board of Trustees.

**Section 2. Amendment to the Town Code.**

Sec. 16-1-100 of the Town of Paonia Municipal Code is amended to add a definition for formula businesses:

*Formula business* means a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademarks, logos, servicemarks, symbols, decor, architecture, layout, uniforms, or similar standardized features and which causes it to be substantially identical to more than five other businesses regardless of ownership or location. Formula businesses can include, but are not limited to restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B.

Sec. 16-3-70 of the Town of Paonia Municipal Code is amended to reflect the zone districts where formula businesses are permitted by right, permitted by special review or prohibited:

USE	C-1	C-2	I-1	I-2
Formula Businesses	X	S	S	S

P = Permitted by Right  
S = Permitted by Special Review  
X = Prohibited

**Section 3. Additions to the Town Code.**

Sec. 16-3-140 Formula Business is added to the Town of Paonia Municipal Code as follows:

**Sec. 16-3-140 Formula Business**

(1) **Intent.** The purpose of these formula business requirements is to maintain and protect Paonia’s historic downtown core as the civic, social and business hub of the



community, ensure the vitality and diversity of the Town's commercial districts and enhance the quality of life of residents and visitors.

(2) **Applicability.** These regulations shall apply to formula businesses as defined in Sec. 16-3-100 of the Code.

(3) **Related Definitions.** For purposes of this section, the following definitions apply:

(a) *Color scheme* means the selection of colors used throughout the business, such as on the walls, furnishings, permanent fixtures or on the building façade.

(b) *Décor* means the interior design and furnishings that may include style of furnishings, shelving, display shelving/racks, wall coverings or other permanent fixtures.

(c) *Façade* means the principal exterior face or front of a building, including awnings, overhangs, and porte-cocheres that are oriented towards a street, alley or open space.

(d) *Servicemark* means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service of one party from those of others.

■ (e) *Signage* means a sign as detailed Sec. 18-6-10.

(f) *Standardized array of merchandize* means fifty percent (50%) or more of the in-stock merchandise is from a single manufacturer or distributor bearing uniform markings.

(g) *Standardized array of services* means a substantially similar set of services or food and beverage menus that are priced, prepared and performed in a consistent manner.

(h) *Trademark* means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs legally registered or established by use that distinguishes the source of the product of one party from those of others.

(i) *Uniform apparel* means standardized items of clothing, including but not limited to standardized aprons, pants, shirts, vests, smocks or dresses, and hat and pins (other than name tags) with standardized colors and fabrics.

(4) **Exemptions.** The following formula businesses are exempt from these formula business requirements:

(a) Formula businesses in operation prior to the effective date of these regulations.

(b) Construction work on a pre-existing, approved or exempt formula business that is required to comply with fire and/or life safety standards.

(c) Disability access improvements to a pre-existing, approved or exempt formula business.

**(5) Formula Business Location Requirements.** Formula retail businesses may be permitted as a Special Review in in the C-2, I-1 or I-2 zone district.

Formula businesses that are legally in existence as of the effective date of this Ordinance may remain in their current location as a non-conforming use. The same or substantially similar type of use may be transferrable upon sale or transfer of the commercial space or ownership of the business and/or building.

Formula businesses that are legally in existence as of the effective date of this Ordinance may be renovated and/or expanded up to fifteen percent (15%) of the existing gross floor area or a maximum of one thousand five hundred (1,500) square feet, whichever is less.

**(6) Compliance with the Code.** Formula business shall comply with all applicable standards of the underlying zone district and the applicable regulations of the Town Code.

**(7) Formula Business Additional Criteria.** No conditional use permit for a formula business shall be approved unless the following criteria are met:

(a) The formula business complements existing businesses and promotes quality, diversity and variety to assure a balanced mix of commercial uses and range of local, regional and national goods and services for residents and visitors.

(b) The formula business has submitted plans, drawings, renderings, visual simulations or other examples that illustrate how it will be consistent with the historic nature of the Town of Paonia.

(c) The formula business does not include any drive-through facilities.

**Section 4. Severability.**

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

**Section 5. Repeal of Prior Ordinances.**

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6. Ordinance Effect.**

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded, and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

**Section 7. Effective Date.**

This Ordinance shall take effect thirty days after passage.

**Section 8. Public Notice, Hearing and Review by the Planning Commission.**

A public hearing on this Ordinance was held on the \_\_\_\_ day of \_\_\_\_\_, 2019, in the Town Hall of the Town of Paonia \_\_\_\_\_, with the provisions of Sec. 16-6-10 of the Town Code being met. As required by the Code, this matter was referred to the Planning Commission on July 31, 2019.

**INTRODUCED, READ AND REFERRED to public hearing before the Board of Trustees for the Town of Paonia, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, 2019.**

**TOWN OF PAONIA**

By: \_\_\_\_\_  
CHARLES STEWART, Mayor

ATTEST:

\_\_\_\_\_  
J. CORINNE FERGUSON, Town Clerk

**HEARD AND FINALLY ADOPTED by the Town of Paonia Board of Trustees for the Town of Paonia, Colorado, on the \_\_\_\_ day of \_\_\_\_\_, 2019.**

**TOWN OF PAONIA**

By: \_\_\_\_\_  
CHARLES STEWART, Mayor

ATTEST:

\_\_\_\_\_  
J. CORINNE FERGUSON, Town Clerk

Agenda Item # CALL



Ordinance 2019-TBD – Establishing Temporary Suspension of Processing Applications for Retail Superstores for A Period of Six Months

Summary:  
Meeting opening -

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Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

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**TOWN OF PAONIA  
ORDINANCE NO. 2019- \_\_\_\_**

**ESTABLISHING A TEMPORARY SUSPENSION OF THE PROCESSING OF  
APPLICATIONS FOR RETAIL “SUPERSTORES” WITHIN THE TOWN  
FOR A PERIOD OF SIX MONTHS**

**RECITALS**

**WHEREAS**, the Town of Paonia (the “Town”), is a statutory town and municipal corporation in Delta County, Colorado, governed by and through its Board of Trustees (the “Board”); and

**WHEREAS**, the Town, pursuant to its enumerated authority, has adopted certain policies, plans, ordinances and resolutions pertaining to the development of property within the Town, including the Town of Paonia 1996 Comprehensive Plan, the Highway 133 Corridor Master Plan, and the Town’s 2011 Growth Management Agreement with Delta County; and

**WHEREAS**, the Town’s Comprehensive Plan includes the following goals:

- Maintain rural and agricultural settings of the community.
- Maintain small community closeness.
- Preservation of the character of downtown.
- Monitor growth and encourage controls on quality and character.
- Provide diversity of employment opportunities.
- Expand and diversify the tax base; and

**WHEREAS**, the Town has recently received applications and/or informal proposals from various large scale retail stores to be located within the Town, which stores present unique land use planning concerns by reason of the bulk, size and scale of such stores, especially with regard to the aesthetic and transportation impacts of the same; and

**WHEREAS**, the Town adopted a Highway 133 Corridor Master Plan in 2010 to address large scale development along Highway 133, for certain areas that may become annexed into the County; and

**WHEREAS**, the Town has never codified the Highway 133 Corridor Master Plan or incorporated its findings into its zoning code; and

**WHEREAS**, considerable study is needed to determine the appropriate location for large scale retail stores, such uses and the kinds of criteria that should be adopted to regulate the design of same, as well as the kind of infrastructure requirements that may be necessary to accommodate such uses; and

**WHEREAS**, pursuant to C.R.S. § 31-23-301, the Town has the power to regulate buildings and other structures for the purposes of promoting the health, safety and the general welfare of the community; and

**WHEREAS**, the Board of Trustees determines that it is in the best interest of the community and the public health, safety and welfare of the citizens of the Town to amend the Town Code to add this provision to the Municipal Code; and

**WHEREAS**, pursuant to Sec. 1-3-60 of the Town Municipal Code, the Town may adopt ordinances on an emergency basis for the immediate preservation of public peace, health and safety.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA as follows:**

**Section 1.** The foregoing Recitals are hereby affirmed and incorporated herein by this reference as findings of the Town Board of Trustees.

(a) That the Town has recently undertaken the development of a Highway 133 Corridor Overlay District; and

(b) That the Town has recently undertaken the implementation of an Ordinance for the regulation of formula businesses; and

(c) The Town wishes to conduct the appropriate public process for review, comment and public hearing on its Highway 133 Corridor Overlay District and Ordinance regarding the regulation of formula businesses; and

(d) To allow for the Town to conduct a thoughtful review of development within the Highway 133 Corridor, the Town wishes to place a ninety-day moratorium on commercial development along Highway 133 in those areas within the Town, or which may become incorporated into the Town through annexation, as further depicted on Exhibit A, attached hereto and incorporated herein; and

(e) This moratorium shall not apply to residential development within the area depicted on Exhibit A; and

(f) That study is needed in order to determine the appropriate location for commercial buildings in excess of 10,000 square feet, the kind of design criteria which should be used to mitigate the visual impacts of the same, and the kind of infrastructure requirements which should be imposed to offset the parking and traffic impacts of such developments; and

(g) That the development of large-scale commercial buildings in the absence of appropriate regulatory guidelines, along Highway 133, may have an irreversible negative impact upon the Town; and

(h) That it is necessary in the public interest to delay, for a reasonable period of time, the processing of any applications for commercial development along the Highway 133

Corridor, as further depicted on Exhibit A, to ensure that the design, development and location of the same are consistent with the long-term planning objectives of the Town.

**Section 2.** That, as of the effective date of this Ordinance, no commercial development plans, preliminary planned unit development applications, applications for site plan review or building permits for commercial buildings in excess of 10,000 square feet, within the Highway 133 Corridor will be processed by Town staff or reviewed by the Town’s Planning Commission.

**Section 3.** That staff, in conjunction with the Town’s Planning Commission shall study the location for commercial buildings in excess of 10,000 square feet, the kind of design criteria which should be used to mitigate the visual impacts of the same, and the kind of infrastructure requirements which should be imposed to offset the parking and traffic impacts of such developments within the Highway 133 Corridor area.

**Section 4.** That the provisions of the Ordinance shall not affect the processing of applications or the issuance of building permits for uses permitted under planned unit developments or site plan reviews that have received preliminary or final approval by the Town on or before the effective date of this Ordinance.

**Section 5.** That the provisions of this Ordinance are temporary in nature and are intended to be replaced by subsequent legislative enactment. The temporary suspension of the processing of applications for large retail and merchandising establishments within the Town as specified in this Ordinance shall terminate as of October 30, 2019.

A public hearing on this Ordinance was held on the 1<sup>st</sup> day of August 2019, in the Town Hall of the Town of Paonia, with the provisions of Sec. 16-6-10 of the Town Code being met. As required by the Code, this matter was reviewed by the Planning Commission on July 31, 2019.

**INTRODUCED, READ AND FINALLY ADOPTED by the Board of Trustees of the Town of Paonia, Colorado, on the 1<sup>st</sup> day of August 2019.**

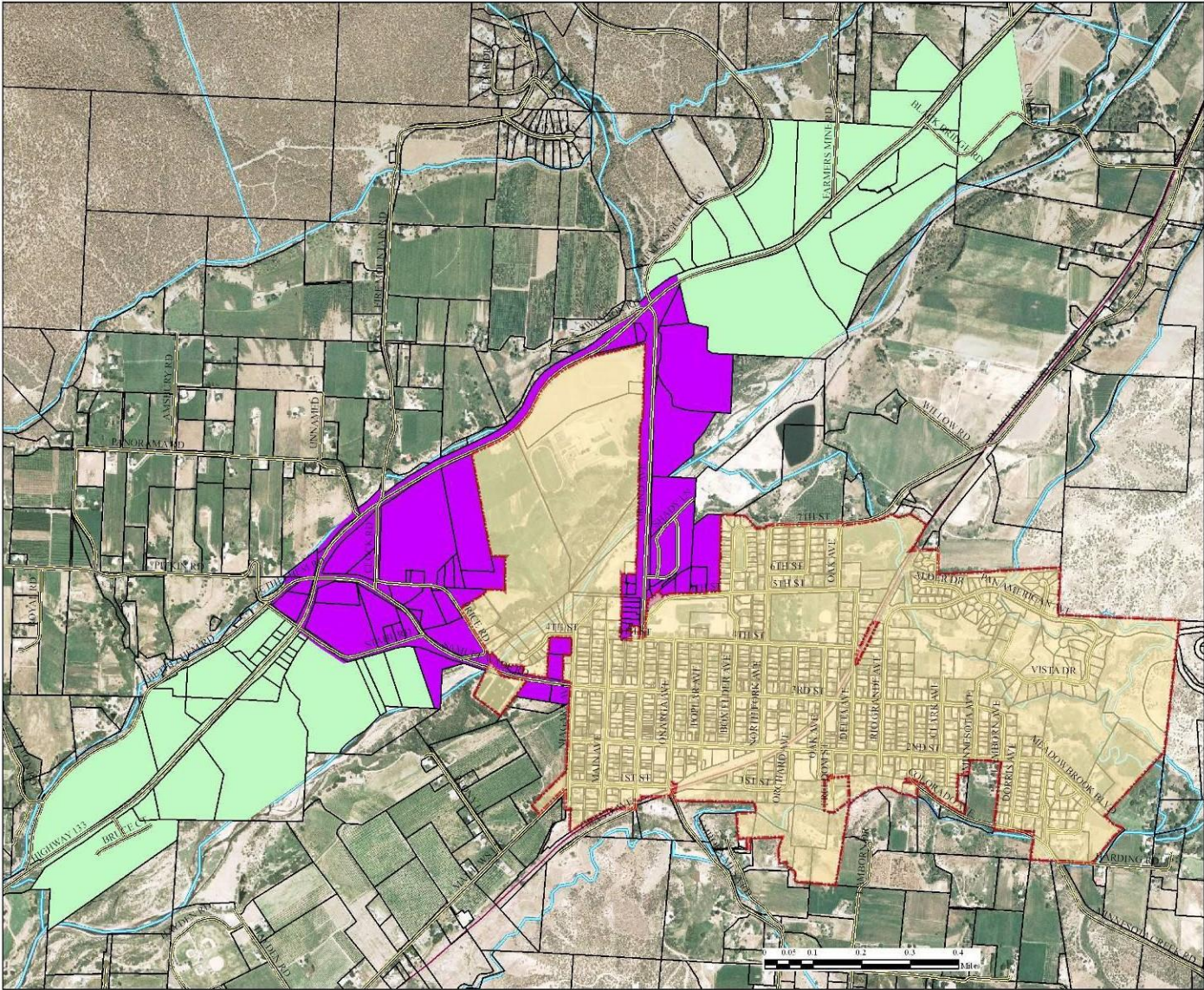
**TOWN OF PAONIA, COLORADO, A MUNICIPAL CORPORATION**

By: \_\_\_\_\_  
CHARLES STEWART, Mayor

ATTEST:

\_\_\_\_\_  
J. CORINNE FERGUSON, Town Clerk





# Town of Paonia Highway 133 Planning Areas A & B

**Legend**

- Paonia Municipal Boundary
- Delta\_roads
- Area A
- Area B
- Delta\_RR



Warren Group Consulting LLC  
0101 South 152 St  
Garden City, CO 81629  
781-263-7172  
September 14, 2018

Agenda Item # CALL

Paonia Comprehensive Master Plan Preliminary Update



Summary:  
Meeting opening -

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Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

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Agenda Item # CALL

Adjournment



Summary:

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Vote:	Barb Heck:	Bill Bear:	Monica Foguth:
Lucy Hunter:	Charles Stewart:		

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