



Melody Lodge Cabins Planned Unit Development Designation

This Melody Lodge Cabins Planned Unit Development Designation ("Designation") originally approved on May 23, 2006 is hereby revised on this 24th day of October 2006 by the Board of County Commissioners ("County Commissioners") of Summit County, Colorado ("County"). This PUD designation is for certain real property located in the County as described in attached Exhibit A, hereinafter referred to as the "Property."

This PUD Designation establishes permitted land uses and restrictions permitted on the Property, its development plan, and sets forth specific development regulations which must be adhered to by Dale Mitchener and Debra Gregory-Mitchener ("Mitcheners") and their successors, heirs, agents and assigns, as owners of the Property in whole or in part, as collectively referred to herein as the "Owner/Developer(s)". This designation also specifies obligations which must be fulfilled in a timely manner in accordance and conjunction with this Designation by the Owner/Developer.

Where this Designation does not address a specific development standard or requirement of the Summit County Land Use and Development Code ("Development Code"), the provisions of the Development Code shall apply. Where the Designation addresses a specific development standard or requirement, the provisions of this PUD Designation shall supersede only such specific provisions of the Development Code.

A. PERMITTED USES AND DEVELOPMENT PLAN

Use and existing development on the property shall be in accordance with the specific requirements set forth in this PUD designation and in substantial compliance with the PUD Plan attached hereto as Exhibit B, as well as the applicable provisions of the Development Code.

1. Land Use and Permitted Uses

Use and development of the property shall be in accordance with the PUD Designation's Development Plan attached hereto as Exhibit B, and pursuant to the following specific requirements:

The Land Use and Permitted Uses within the Melody Lodge PUD are as follows:

a. East Side of Heeney Road (County Road 30):

- Lodge Building – first floor** – Fee-simple market-rate single family residence to be occupied by Property Manager or Owner/Developer and their successors and assignees with occupancy permitted year-round.
- Lodge Building - second floor** – Deed-restricted affordable rental unit per the applicable Summit Housing Authority standards with occupancy permitted year-round;
- Cabin A** – Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- Cabin B** – Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant; and

- **Cabin C** –Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- **The existing detached garage** located on the east side of Heeney Road (County Road 30) shall be limited to the use by the Mitcheners, or other duly designated Property Manager and/or Owner/Developer/occupant of the first floor of the lodge building for the storage of vehicles, and such other miscellaneous articles necessary for the maintenance and upkeep of the vehicles stored therein, as well as items typically found stored in such structures.
- **The existing detached storage shed** located on the east side of Heeney Road (County Road 30) that is limited to use by the Mitcheners, or other duly designated Property Manager and/or Owner/Developer/occupant of the first floor of the lodge building for the storage of miscellaneous articles necessary for the maintenance and upkeep of the physical improvements, structures and common open space associated with the Melody Lodge Planned Unit Development.

b. West Side of Heeney Road (County Road 30):

- **Cabin #1** – (eastern ½ of duplex cabin) Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- **Cabin #2** - (western ½ of duplex cabin) Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- **Cabin #3** – Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- **Cabin #4** – Fee-simple deed-restricted affordable for-sale housing unit per applicable Summit Housing Authority standards with occupancy permitted year-round;
- **Cabin #5** – Fee-simple market-rate vacation cabin with restricted continuous occupancy limited to six (6) consecutive months or less, and eight (8) cumulative months in any one calendar year for any particular occupant;
- **A stables area** on the west side of Heeney Road (County Road 30) limited to private use solely for the Mitcheners, or other duly designated Property Manager and/or Owner/Developer/occupant of the first floor of the lodge building subject to the limitations as listed below in the Animal Keeping subsection and the Development Code regulations; and
- **Outdoor storage** on the west side of Heeney Road (County Road 30) subject to the limitations as listed below in the Outdoor Storage sub-section and the Development Code regulations.

c. Accessory Uses

Animal keeping –

Animal keeping shall be restricted as follows:

- i) For all units and commercial use, the keeping of domestic pets as defined in the Development Code shall be permitted with restrictions developed and approved by the governing homeowners' association documents and the Development Code. Where the two sets of regulations conflict, the stricter of the two shall prevail.
- ii) The keeping of all other animals, including, but not limited to horses, shall be prohibited for all owners except lodge building owner. The lodge building owner shall be restricted as to the number and types of animals as allowed by the Development Code.

d. Recreational Vehicles, Snowmobiles, All Terrain Vehicles, Boats, Ancillary Trailers and Utility Trailers –

- i) Parking of recreational vehicles (RVs), snowmobiles, All Terrain Vehicles (ATVs), boats, ancillary trailers and utility trailers owned by the Owners/Developers within the PUD is limited to a period to run parallel with the time frame of their occupancy with a maximum total time limit of eight (8) months.
- ii) RVs, utility trailers, boats and boat trailers owned by the Property Manager or Owner/Developer shall comply with the regulations of the Development Code for parking and the outdoor storage requirements of such items.
- iii) All such aforementioned RV parking areas shall be specifically designated in the governing homeowner association documents.
- iv) All other types of outdoor storage of any motor vehicle, RVs, snowmobiles, ATVs, boats, ancillary trailers, and utility trailers are prohibited within the PUD.

e. Outdoor Storage:

- i) All outdoor storage shall comply with the regulations of the Development Code.

2. Development Plan

The approximate square footages of the living space in the existing buildings on the property are as follows:

West - 3 one bedroom cabins =	576 x 3 =	1728 sq ft
2 two bedroom units in duplex =	920 x 2 =	1840 sq ft
East - 1 one bedroom cabin =		331 sq ft
1 one bedroom cabin =		645 sq ft
1 one bedroom cabin =		825 sq ft
1 lodge building duplex main level =		1447 sq ft
1 lodge building duplex upstairs level =		714 sq ft
Total =		7530 sq ft total living space

No new structures or additional dwelling units are permitted other than those currently existing on-site and listed under Permitted Uses. The occupancy of the cabins except the residences in the lodge building and one other designated deed-restricted affordable full-time County employee cabin, will be restricted to no more than six (6) consecutive months and eight (8) months in any calendar year for any particular occupant. All uses permitted herein, including accessory, temporary and conditional uses, shall be restricted to those uses allowed when the property was utilized as short term rental unit lodging use, and further in accordance with the use restrictions set forth herein, and with the associated accessory uses as listed below as permitted by the current minimum lot size variance amendment. Said current minimum lot size variance amendment is attached as Exhibit C and incorporated herein as if referenced in full.

B. DEVELOPMENT STANDARDS

1. **Building height** - All of the buildings currently exist and are restricted from any future exterior alterations, including changing the existing buildings' heights.
2. **Setbacks** – All of the buildings currently exist and are restricted from any exterior additions or remodeling that would expand or contract from the current existing building bulk and mass. All buildings built in 2000 are per approved Summit County setback. All “original” buildings are per “grandfathered” setbacks. No further setback encroachments or extensions of such grandfathered encroachments are permitted without specific variance allowing the same.
3. **Parking** – Per the minimum lot size variance amendment from 1997, the parking requirement has been established at 1.5 spaces per bedroom, requiring a maximum of 21 parking spaces on the property.
4. **Designated open space area/public use area** –
 - a. **Open space areas:** The remainder of the property on both sides of Heeney Road (CR 30), not currently occupied either by structures or used for the Owner/Developer's RV parking area and private stable area, shall be hereby designated as privately owned open space. The open space areas shall remain open and free from all new improvements. The Owner/Developer shall establish a Homeowners Association (“HOA”) and establish governing documents for the same to adequately address the ownership and maintenance of such open space areas associated with the Melody Lodge PUD.
 - b. **Public Use areas:** Pursuant to Section 8601 of the Summit County Land Use & Development Code, the Owner/Developer will be required to provide public use areas upon subdivision or subdivision exemption. The requirement for public use areas may be met by either payment of fees, land dedication, or obtaining credits for construction of recreational facilities. Dedication of an easement or a bond for the fees will be required prior to recordation of any final plat for the project.
5. **Signs and lighting** - All signs shall comply with the Summit County Sign Regulations as now in effect or hereafter amended. No signage, other than public safety signs fully consistent with the *Manual for Uniform Traffic Control Devices* shall be erected within the PUD until approved by the applicable Review Authority. All lighting shall comply with the requirements of the Development Code.
6. **Architectural design requirements** – All future upgrades or improvements to the current structures within the Melody Lodge Cabins PUD shall continue to reflect the present character of the existing cabins. The existing cabins' height, bulk and mass, and footprint shall not be altered from its existing form and location. Any maintenance of the exterior of any of the cabins or exterior remodeling of the exterior of the existing cabins shall not change the buildings' height, bulk, mass or general appearance.
7. **Employee housing and Summit County Housing Authority support** -
 - A. The owner/developer shall participate in an affordable housing program with the Summit County Housing Authority for the two affordable units

described in this document. Evidence of the participation shall be provided to the Summit County Planning Department prior to approval of the subdivision or subdivision exemption of the property.

8. **Air quality** – No new solid fuel burning devices may be installed in any of the structures other than those that comply with current Environmental Protection Agency standards.
9. **Water quality** - All water systems have been completed within the Melody Lodge Cabins PUD and comply with the water quality mitigation requirements established in the Development Code.
10. **Site plan review** – A site plan was completed and approved in 1998 prior to construction of the newer cabins were built. Said site plan is attached to this PUD as Exhibit C and shall be incorporated herein as if referenced in full. Site Plan Reviews shall be conducted in accordance with the requirements of the Development Code.
11. **Homeowner's Association/Governing Documents** – Prior to subdivision or subdivision exemption approval, Owner/Developer shall provide for the establishment of a homeowner's association on the property, and prepare governing documents for such association that adequately address the relevant requirements set forth herein.

C. REQUIRED IMPROVEMENTS –

Required improvements currently exist and the PUD land use section restricts any new development. Access, water systems, sewer systems, fire protection, vegetation management, utilities and easements and landscaping have all been addressed in the 2000 variance amendment and site plan. Any new construction is limited to minimal upgrades, improvements and maintenance of the existing structures and site subject to the restrictions and limitations as listed in this document.

D. IMPEMENTATION

1. Platting requirements -

A preliminary and final subdivision plat or a subdivision exemption plat, whichever is deemed appropriate under the Summit County Subdivision Regulations, shall be submitted for review and approval by the County prior to any subdivision of the property.

E. GENERAL PROVISIONS

1. Enforcement –

The provisions of the Melody Lodge Cabins planned unit designation and the development plan relating to the use of land and the location of common open space shall run in favor of Summit County and shall be enforceable at law or in equity by the County without limitation on any power or regulation otherwise granted by law. Other provisions of the Melody Lodge Cabins planned unit development designation and the development plan shall run in favor of the residents, occupants and owners of the planned unit development, but only to the extent expressly provided in, and in accordance with the terms of, the Melody Lodge Cabins planned unit development designation and the development plan. Provisions not expressly stated as running in favor of the residents, occupants or owners of the planned unit development shall run in favor of the County.

2. Breach of provisions of PUD designation -

If at any time any provision or requirements stated in the Melody Lodge Cabins planned unit development designation has been breached by the Owner/Developer, the County may withhold review and approval of any permits, applications or other matters pertaining to the Property, until such breach has been remedied; provided, however, that the County shall not take affirmative action on account of such breach until it shall have first notified the Owner/Developer in writing and afforded the Owner/Developer a reasonable opportunity to remedy the same.

3. Binding Effect -

The Melody Lodge Cabins planned unit development designation shall run with the land and be binding upon the Owner/Developer, their respective successors, heirs, agents, representatives and assigns, and any and all persons who may hereafter acquire an interest in the Property or any part thereof, with the exception that provisions of this designation may be modified through an amendment in accordance with the procedure stated in the County Development Review Procedures. This designation shall be recorded in order to put prospective purchasers or other interested persons on notice as to the terms contained herein.

4. Amendments -

A. Amendments to the provisions of this PUD Designation shall be received and acted upon as a rezoning application, subject to the County's procedures for zoning amendments and to the requirement for findings under the Planned Unit Development Act of 1972 at C.R.S. 24-67-106(3)(b), unless such amendment is determined to be minor in nature.

B. Amendments to the provisions of this PUD Designation may be initiated by, and the applicant on any application for such amendment may be, any of the following persons or entities (each, a "Permitted Applicant") acting alone or together:

- (i) The County Commissioners,
- (ii) The Planning Commission,
- (iii) The Planning Director of the Planning Department,
- (iv) Any owner of fee title to any real property within the Property on the condition that the owner's real property would directly be affected by such amendment (an "Affected Property Owner"),
- (v) Anyone having written permission from an Affected Property Owner, or
- (vi) A public entity having the power to obtain title to the property through condemnation.

C. Notwithstanding Subsection E.4. (B) above, if the effect of any amendment to this PUD Designation would be to subject any property to this Designation that was not previously subject to this PUD Designation (any "Additional Property"), the owner of such Additional Property must be an applicant on the application for such amendment or otherwise provide its written consent to its Additional Property to this PUD Designation.

D. Amendments to this PUD Designation initiated by one or more Permitted Applicants that are approved in accordance with the Code shall be binding upon all owners of property subject to such amended PUD Designation.

5. Notices -

Notice to County:
Board of County Commissioners
PO Box 68

Notice to Owner/Developer
Dale Mitchener
Debra Gregory-Mitchener

Breckenridge CO 80424

1534 County Rd 30
Heeney CO 80498

All notices so given shall be considered delivered three days after the mailing thereof, excluding weekends or official holidays. Either party, by notice so given, may change the address to which future notices shall be sent.

6. Entire Designation -

This Designation contains all provisions and requirements incumbent upon the Owner/Developer relative to the Melody Lodge Cabins planned unit development, except as modified by subsequent action of the Board of County Commissioners in accordance with procedures set forth in the Summit County Land Use & Development Code and the Colorado Planned Unit Development Act (CRS 24-67-106) for amending planned unit developments, and except that nothing contained herein shall be construed as waiving any requirements of the Summit County Land Use & Development Code or other regulations otherwise applicable to the development of the Property.

7. Effective Date -

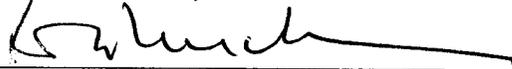
This Designation must be signed by both the Summit County Board of County Commissioners and the Owner/Developer and must be recorded by the Summit County Clerk and Recorder in order to become effective. The effective date shall be the date of recordation.

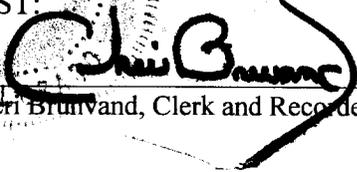
8. PUD Review Requirements -

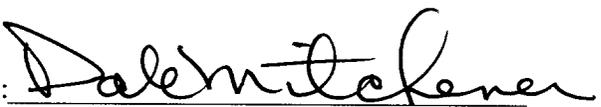
The Summit County Land Use & Development Code, Chapter 12, includes procedures and requirements for review of all planned unit developments. The Owner/Developer shall be on notice of these requirements and shall insure that information necessary for the periodic review is made available to the County within the time frames as may be established in Chapter 12. The Owner/Developer further understands that failure to provide the necessary information or to proceed with the review process may result in development approvals within the PUD being withheld.

IN WITNESS WHEREOF, the County and the Owner/Developer have executed this Designation as of the date first written above.

BOARD OF COUNTY COMMISSIONERS
OF SUMMIT COUNTY, COLORADO

BY: 
Robert H.S. French, Chairman

SUMMIT COUNTY
SEAL
ATTEST:

Sheri Brunvand, Clerk and Recorder

BY: 
Dale Mitchener

BY: 
Debra Gregory-Mitchener

Exhibit A
Legal Description

Exhibit A

Legal description - Melody Lodge property

Part of Lot 2 of Section 33 and part of Lot 5 of Section 34,
Twp 2 S, R. 79 W. of the 6th P.M., more particularly described as follows:

Beginning at a point on the section line common to said Sections :
33 and 34, at the Southeast corner of Lot 2 of said Section 33, which is
also the Southwest corner of Lot 5 of said Section 34;
thence, with the South line of said Lot 2 North $89^{\circ} 53'$ West, 300.0 feet;
thence due North 681.02 feet; thence South $47^{\circ} 26'$ East, 407.34 feet to a
point on said section line; thence continuing South $47^{\circ} 26'$ East, 192.9
feet; thence South $63^{\circ} 41'$ East 226.0 feet; thence South $49^{\circ} 29'$ East
269.0 feet to the South line of said Lot 5; thence with said South line,
North $89^{\circ} 47'$ West, 548.3 feet to the point of beginning and containing
5.79 acres, more or less, together with improvements thereon.

Exhibit B
Site Plan

EAST SIDE

Lodge Building (2 story duplex) with attached store and detached garage - Deeded as one parcel with 2 living units:

Main level - residence occupied by Property Manager or the Owner/Developer and their successors and assignees.

Upstairs level - a deed-restricted, affordable housing rental unit, per Summit County Housing Authority.

- Cabin A
- Cabin B
- Cabin C

WEST SIDE

- Cabin #1 (1/2 of duplex)
- Cabin #2 (1/2 of duplex)
- Cabin #3
- Cabin #4
- Cabin #5

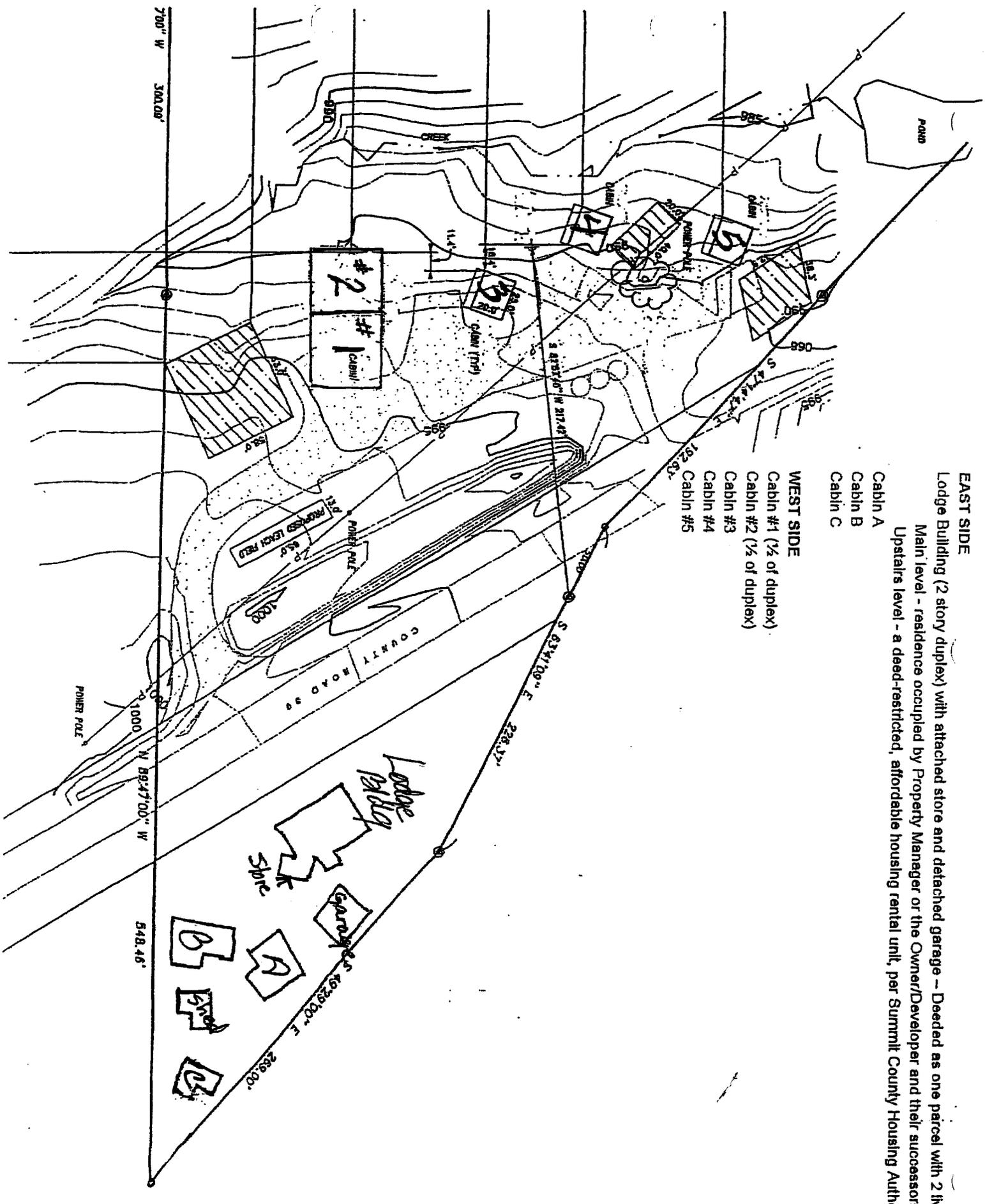


Exhibit C
BOA97-02
Resolution
(Resolution #97-05)

RESOLUTION NO. 97-05

Before the Board of Adjustment
of the County of Summit
State of Colorado

FILE COPY

APPROVING AN AMENDMENT TO THE 1984 VARIANCE FOR THE MELODY LODGE THAT ALLOWS FOR THE CONSTRUCTION OF UP TO A MAXIMUM OF THREE (3) NEW ONE BEDROOM COMMERCIAL LODGING CABINS NOT EXCEEDING 700 SQ.FT. AND ONE (1) NEW DUPLEX UNIT, EACH HALF OF WHICH MAY HAVE UP TO ONE TWO BEDROOM COMMERCIAL LODGING UNIT WITH THE ENTIRE DUPLEX NOT EXCEEDING 2,200 SQ.FT. ALONG WITH THE ELIMINATION OF THE BAR/RESTAURANT ALLOWED UNDER THE 1984 VARIANCE ON A 5.79 ACRE PARCEL, A PORTION OF SECTIONS 33 & 34, T2S, R79W (Applicants: Dale & Debra Mitchener)

WHEREAS, Dale & Debra Mitchener have applied to the Board of Adjustment to amend the existing Melody Lodge variance, approved by the County in 1984, to allow the construction of up to a maximum of three (3) new one bedroom commercial lodging cabins not exceeding 700 sq.ft. and one (1) new duplex, each half of which may have up to a two bedroom commercial lodging unit with the entire duplex not exceeding 2,200 sq.ft. along with the elimination of the bar/restaurant allowed under the 1984 variance on a 5.79 acre parcel, a portion of Sections 33 & 34, T2S, R79W; and,

WHEREAS, the Community Development Division has reviewed the application and recommended that it be approved; and,

WHEREAS, the Board of Adjustment has reviewed the application at public hearings held on April 16, 1997 and May 21, 1997 with public notice as required by law and considered the evidence and testimony presented at those hearings; and,

WHEREAS, the Board of Adjustment finds as follows:

1. Due to the unique nature of this application to amend a grandfathered variance granted in 1984, the question of whether or not the strict application of the County's Zoning Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner in the development of the property because of special circumstances applicable to the property such as size, shape, topography or other extraordinary or exceptional physical conditions is not applicable in this case.
2. With compliance with the conditions set forth in this resolution the proposed amendment to the existing Melody Lodge variance granted in 1984 should pose no significant threat to the public health, safety, or welfare due to the fact that adequate access is available and adequate water and sewage disposal will be provided.

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Doris L. Brill - Summit County Recorder

3. The requested variance amendment is consistent with the purpose and intent of the County's Zoning Regulations due to the fact that additional lodging cabins not exceeding four in number and/or 4,300 sq.ft. of development will not constitute an incompatible use with the neighboring Forest Service or agricultural lands, represents a better designed, more efficient and economical use of land and its resources because it will redistribute the allowed uses on the property, minimize visual impacts along the CR #30 view corridor, and facilitate proper sewage disposal in an effort to protect the water quality of Green Mountain Reservoir.
4. While the 1984 approvals probably constitute an grant of special privilege, the proposed amendment does not increase the disparity between what is normally approved for property owners of such non-conforming parcels and as such is not inconsistent with the criteria established under Section 12505.04(A)(4) of the Summit County Land Use & Development Code.
5. The proposed amendment constitutes a more reasonable use of the property than do some of the uses currently allowed under the variance granted in 1984.
6. This parcel was created in 1939 and as such constitutes a legal parcel for the purposes of Section 12505.04(A)(6) of the Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF SUMMIT COUNTY, COLORADO, THAT an amendment to the Melody Lodge variance that allows up to a maximum of three (3) new one bedroom commercial lodging cabins not exceeding 700 sq.ft. each and a new duplex, each half consisting of up to a maximum of a two bedroom commercial lodging cabin with a maximum of 2,200 sq.ft. for the entire duplex along with the elimination of the bar/restaurant allowed under the '84 variance on a 5.79 acre parcel, a portion of Section 33 & 34, T2S, R79W, is hereby approved subject to the following conditions:

1. Under no circumstances shall there be any new additions, expansions, or implementation of new uses for the 1½ acre portion of the subject property on the east side of CR #30. The property owners may apply for the necessary permits to conduct remodeling of any existing structures on the east side of CR #30 for the purposes of bringing said structures up to current building codes or to address legitimate concerns for the safety of the owners, guests, and/or general public. Specifically, the existing uses on the 1½ acre portion of the property on the east side of CR #30 are as follows:
 - The existing lodge of 2,620 sq.ft. which includes the owners residence, two lodging bedrooms, a 364 sq.ft. retail area, and assorted support uses
 - Three one bedroom cabins
 - Three small support structures (garage, pump house, & workshop)
 - Ten (10) parking spaces
2. This variance establishes the maximum number of units, structures, and allowable uses for the subject property. It does not guarantee the property owner that such units, structures, or uses can actually be implemented on the property. No new units, structures or uses of any kind shall be constructed until the property owners have obtained site plan approval for such units, structures, or uses from the Lower Blue Planning Commission in compliance with Section 12600 et.seq. of the Summit County Land Use & Development Code. All applicable requirements for sewage disposal and water supply for all uses and structures on the subject property shall be met as part of any future site plan approvals.
3. All rentals of the lodging cabins shall be short term as defined in Section 15100(313) of the Summit County Land Use & Development Code.
4. The number of parking spaces allowed on the west side of CR #30 is limited to 1.5 spaces/lodging bedroom. No additional parking on the west side of CR #30 is allowed.

5. Storage of any RVs, boats, or utility trailers owned by the owner(s) of the Melody Lodge shall be regulated as per the requirements of Section 3815.05 et.seq. of the Summit County Land Use & Development Code.
6. Parking of RVs, boats, or utility trailers owned by guests of the Melody Lodge on the property shall be limited to a period not to exceed seven (7) continuous days.
7. Storage of RVs, boats, or utility trailers not owned by guests of the Melody Lodge and/or for periods exceeding seven (7) continuous days is prohibited.
8. Due to the limited area available and lack of access to adjoining open areas suitable for a commercial horseback riding operation, the keeping of horses is hereby limited to those animals owned by the owner of the Melody Lodge as per the requirements of Section 3802 et.seq. of the Summit County Land Use & Development Code.

ADOPTED this 21st day of May, 1997.

BOARD OF ADJUSTMENT
OF SUMMIT COUNTY, COLORADO

BY: Bob Flint
Bob Flint, Chairman

ATTEST:

Alan Hanson
Alan Hanson, AICP
Senior Planner