



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

November 16, 2007

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Deschutes County Plan Amendment
DLCD File Number 005-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: November 29, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

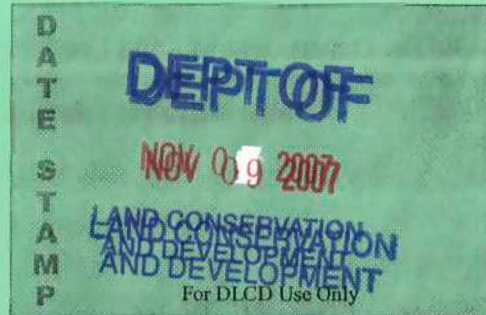
Cc: Doug White, DLCD Community Services Specialist
Christine Shirley, FEMA Specialist
Kristen Maze, Deschutes County

<paa> ya/email

NR0F

2 Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: Deschutes County Local file number: TA-07-2
Date of Adoption: 8-6-07 Date Mailed: 11-8-07
Date original Notice of Proposed Amendment was mailed to DLCD: 5-21-07

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Text amendment to the Deschutes County Code Title 18 Flood Plain zone as required by the United States Federal Emergency Management Agency

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

SAME

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: Deschutes Co. Floodplain Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: 1, 2, 5

Was and Exception Adopted? YES NO

DLCD File No.: 005-07 (16023)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

FEMA

Local Contact: Kristen Maze Phone: (541) 388-6701 Extension: _____

Address: 117 NW Lafayette Ave City: Bend

Zip Code + 4: 97701 - _____ Email Address: Kristenm@co.deschutes.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.



3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.

6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

REVIEWED  LEGAL COUNSEL
REVIEWED  CODE REVIEW COMMITTEE

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, of the
Deschutes County Code Amending the Flood
Plain Zone, and declaring an Emergency and
Prescribing an Effective Date of September 28,
2007. *
*
*
*
*

ORDINANCE NO. 2007-019

WHEREAS, Deschutes County Community Development staff initiated a text amendment to the County's flood plain zone code text as required by the United States Federal Emergency Management Agency; and

WHEREAS, the Planning Commission considered this matter after a public hearing on June 14, 2007 and forwarded changes to the zoning regulations for the flood plain to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners considered this matter after a public hearing on July 23, 2007, and concluded that the public will benefit from changes to the land use regulations for the flood plain; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 18.04, Definitions is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 2. AMENDMENT. DCC 18.96, Flood Plain Zone is amended to read as described in Exhibit "B," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 3. AMENDMENT. DCC 18.108, Flood Plain Combining District- Sunriver is amended to read as described in Exhibit "C," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 4. AMENDMENT. DCC 18.116.095, Supplementary Provisions, is amended to read as described in Exhibit "D," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 5. FINDINGS. The Board of Commissioners adopts as its findings identified in the Staff Report in support of this amendment, attached as Exhibit "E" and incorporated by reference herein.

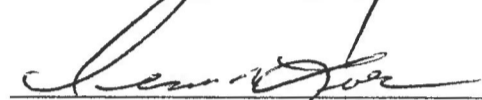
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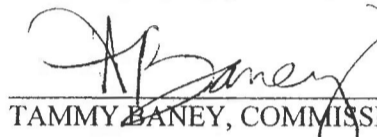
Section 6. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on September 28, 2007.

Dated this 6th of August, 2007

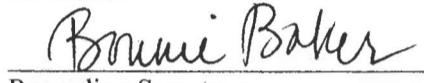
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


MICHAEL M. DALY, CHAIR


DENNIS R. LUKE, VICE CHAIR


TAMMY BANEY, COMMISSIONER

ATTEST:


Recording Secretary

Date of 1st Reading: 23rd day of July, 2007.

Date of 2nd Reading: 6th day of August, 2007.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Michael M. Daly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dennis R. Luke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 28th day of Sept., 2007.

ATTEST:

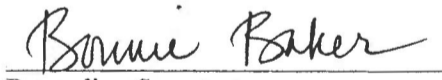

Recording Secretary

EXHIBIT "A"

NOTE: * denotes code provision not amended by this ordinance.**

Chapter 18.04. TITLE, PURPOSE AND DEFINITIONS

18.04.010. Title.

18.04.020. Purpose.

18.04.030. Definitions.

18.04.010. Title.

DCC Title 18 shall be known as the Deschutes County Zoning Ordinance of 1979.
(Ord. 91-020 § 1, 1991)

18.04.020. Purpose.

- A. The intent or purpose of DCC Title 18 is to promote the public health, safety and general welfare and to carry out the Deschutes County Comprehensive Plan, the provisions of ORS 215 and the Statewide Planning Goals adopted pursuant to ORS 197. DCC Title 18 is to establish zoning districts and regulations governing the development and use of land within portions of Deschutes County, Oregon;
- B. To provide regulations governing nonconforming uses and structures; to establish and provide for the collection of fees; to provide for the administration of DCC Title 18 and for the officials whose duty it shall be to enforce the provisions thereof; to provide penalties for the violations of DCC Title 18; and to provide for resolution of conflicts;
- C. To regulate the placement, height and bulk of buildings; and the placement and growth of vegetation within the County to ensure access to solar energy by reasonably regulating interests in property within the County, as authorized under ORS 215.044 and ORS 105.880 through 105.890, to promote and maximize the conservation of energy by preserving the option to utilize solar energy and to implement the Comprehensive Plan polices relating to solar energy; and
- D. To encourage the design of new buildings, structures and developments which use solar

energy and protect future options to use solar energy by protecting solar access.
(Ord. 91-020 § 1, 1991; Ord. 83-037 § 1, 1983)

18.04.030. Definitions.

As used in DCC Title 18, the following words and phrases shall mean as set forth in DCC 18.04.030.

"Flood plain development" means any man made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials, located within the area of special flood hazard

"Recreational vehicle" means a mobile unit which is designed for temporary human occupancy and licensed as a motor home, recreational trailer or camper by the Oregon Motor Vehicles Division or similar units licensed by another state. This mobile unit is designed to be:

- a. self-propelled or permanently towable by a light duty truck;
- b. built on a single chassis; and
- c. 400 square feet or less when measured at the largest horizontal projection.

(Ord. 07-019 § 1, 2007; Ord. 2006-008 § 1, 2006; Ord. 2005-041 § 1, 2005; Ord. 2004-024 § 1, 2004; Ord. 2004-001 § 1, 2004; Ord. 2003-028 § 1, 2003; Ord. 2001-048 § 1, 2001; Ord. 2001-044 § 2, 2001; Ord. 2001-037 § 1, 2001; Ord. 2001-033 § 2, 2001; Ord. 97-078 § 5, 1997; Ord. 97-017 § 1, 1997; Ord. 97-003 § 1, 1997; Ord. 96-082 § 1, 1996; Ord. 96-003 § 2, 1996; Ord. 95-077 § 2, 1995; Ord. 95-075 § 1, 1975; Ord. 95-007 § 1, 1995; Ord. 95-001 § 1, 1995; Ord. 94-053 § 1, 1994; Ord. 94-041 §§ 2 and 3, 1994; Ord. 94-038 § 3, 1994; Ord. 94-008 §§ 1, 2, 3, 4, 5, 6, 7 and 8, 1994; Ord. 94-001 §§ 1, 2, and 3, 1994; Ord. 93-043 §§ 1, 1A and 1B, 1993; Ord. 93-038 § 1, 1993; Ord. 93-005 §§ 1 and 2, 1993; Ord. 93-002 §§ 1, 2 and 3, 1993; Ord. 92-066 § 1, 1992; Ord. 92-065 §§ 1 and 2, 1992; Ord. 92-034 § 1, 1992; Ord. 92-025 § 1, 1992; Ord. 92-004 §§

EXHIBIT "A"

1 and 2, 1992; Ord. 91-038 §§ 3 and 4, 1991;
Ord. 91-020 § 1, 1991; Ord. 91-005 § 1, 1991;
Ord. 91-002 § 11, 1991; Ord. 90-014 § 2, 1990;
Ord. 89-009 § 2, 1989; Ord. 89-004 § 1, 1989;
Ord. 88-050 § 3, 1988; Ord. 88-030 § 3, 1988;
Ord. 88-009 § 1, 1988; Ord. 87-015 § 1, 1987;
Ord. 86-056 § 2, 1986; Ord. 86-054 § 1, 1986;
Ord. 86-032 § 1, 1986; Ord. 86-018 § 1, 1986;
Ord. 85-002 § 2, 1985; Ord. 84-023 § 1, 1984;
Ord. 83-037 § 2, 1983; Ord. 83-033 § 1, 1983;
Ord. 82-013 § 1, 1982)

EXHIBIT "B"

**+Chapter 18.96. FLOOD PLAIN
ZONE - FP**

- 18.96.010. Purposes.
- 18.96.020. Designated areas.
- 18.96.030. Uses permitted outright.
- 18.96.040. Conditional uses permitted.
- 18.96.050. Prohibited uses.
- 18.96.060. Limitations on conditional uses.
- 18.96.070. Application for conditional use.
- 18.96.080. Criteria to evaluate conditional uses.
- 18.96.085. Elevation certification.
- 18.96.090. Yard and setback requirements.
- 18.96.100. Stream setback.
- 18.96.110. Dimensional standards.
- 18.96.120. Warning and disclaimer of liability.
- 18.96.130. Interpretation of FIRM boundaries
- 18.96.140. Use variances.

18.96.010. Purposes.

The purposes of the Flood Plain Zone are: To implement the Comprehensive Plan Flooding Section; to protect the public from the hazards associated with flood plains; to conserve important riparian areas along rivers and streams for the maintenance of the fish and wildlife resources; and to preserve significant scenic and natural resources while balancing the public interests with those of individual property owners in the designated areas.
(Ord. 88-030 § 4, 1988)

18.96.20. Designated areas.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for Deschutes County, Oregon and Incorporated Areas" revised ~~June 8, 1998~~ September 28, 2007, with accompanying Flood Insurance Rate Maps is hereby adopted by reference and incorporated herein by this reference. The Flood Insurance Study is on file at the Deschutes County Community Development Department.

The Flood Plain Zone shall include all areas designated as "Special Flood Hazard Areas" by the Flood Insurance Study for Deschutes County. When base flood elevation data has not been provided in the Flood Insurance Study, the Planning ~~Division~~ Director will obtain, review and reasonably utilize any base flood elevation or floodway data available from federal, state or other sources, in determining the location of a flood plain or floodway.
(Ord 2007-019 § 2, 2007; Ord. 2000-033 § 5, 2000; Ord. 88-030 § 4, 1988)

18.96.030. Uses permitted outright.

The following uses and their accessory uses are permitted outright

- A. Agricultural use conducted without establishing or utilizing a structure. For purposes of DCC 18.96.030(A), a "structure" does not include a boundary fence as long as such fence is designed to impede as little as possible the movement of floodwaters and flood-carried material.
- B. Management, propagation and harvesting of a forest product.
- C. Open space.
- D. Portions of a residential use that do not contain structures, such as lawn, garden or play areas.
- E. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230 that do not involve Floodplain development.
- F. Class III road or street project that does not constitute Floodplain development as defined in DCC 18.04.030.
- G. Excavation, grading and fill for the routine maintenance and repair of existing roads and roadway drainage within the road right-of-way that will have not adverse effect on flood waters.
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.

EXHIBIT "B"

I. Recreational vehicles provided they meet the standards and criteria established by DCC 18.116.095.

(Ord. 2007-019 § 2, 2007; Ord. 93-043 § 15, 1993; Ord. 91-020 § 1, 1991; Ord. 88-030 § 4, 1988)

18.96.040. Conditional uses permitted.

The following uses and their accessory uses may be allowed subject to applicable sections of this title:

A. A roadway, bridge or utility structure, except a landfill, that will not impede the waters of a base flood subject to DCC 18.128.

B. Incidental storage of material or equipment that is either not subject to damage by flood, or is mobile and readily removable from the area within time available after flood warning. If such material is not readily removable, it shall be anchored to prevent flotation and shall not obstruct water flow. Material or equipment stored shall include only items which will not create a hazard to the health or safety of persons, property, animals or plant life should the storage area be inundated.

C. Single-family dwelling, or a manufactured home subject to DCC 18.116.070, on an individual lot. In addition to the other requirements of DCC 18.96, single-family dwellings proposed to be sited in areas of the Flood Plain Zone designated "Agriculture" on the Comprehensive Plan Map may be approved only as uses identified by DCC 18.16.030(A), (B), (D) or (E) and subject to the applicable provisions of DCC 18.16 governing those uses. In addition to the other requirements of DCC 18.96, single-family dwellings proposed to be sited in areas of the Flood Plain Zone designated "Forest" on the Comprehensive Plan Map may be approved only as uses identified by DCC 18.36.030(Y), 18.40.030(X) or 18.40.030(Y) and subject to the applicable provision of DCC 18.36 and 18.40 governing those uses.

D. Agricultural accessory buildings.

E. Hydroelectric facilities subject to DCC 18.116.130 and 18.128.260.

F. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland, subject to DCC 18.120.050 and 18.128.270. Excavation, grading and fill within any area of special flood hazard identified in DCC 18.96.020.

G. Recreational uses requiring only structures having an insignificant effect on flood waters outside the Floodway, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, wildlife or nature preserves, game farms, fish hatcheries, shooting preserves and hunting or fishing areas subject to DCC 18.128, except in areas designated "Forest" or "Agriculture" on the Comprehensive Plan Map.

H. Subdividing or partitioning of land, any portion of which is located in a flood plain, subject to the provisions of DCC Title 18 and DCC Title 17, the Subdivision/Partition Ordinance.

I. All new construction, expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building.

J. A boat dock or pier, either individual or community, on private property which lies in the following areas:

1. On the Deschutes River between river miles 226.4 and 224.5. This area is identified in the Scenic Waterway Management Plan as the Wickiup River Community Area;

2. On the Deschutes River between river miles 217.5 and 216.5. This area is identified in the Scenic Waterway Management Plan as the Pringle Falls River Community Area; and

3. On the Deschutes River between river miles 207 and 192. This area is identified in the Scenic Waterway Management Plan as River Community Areas and Recreational River Area respectively.

EXHIBIT "B"

K. Those recreational uses described in DCC 18.36.030, "F-1 - Conditional Uses," having an insignificant effect on flood waters where the subject Flood Plain-zoned site is designated by the Comprehensive Plan Map as "Forest" and is adjacent to land zoned F-1.

L. Those recreational uses described in DCC 18.40.030, "F-2 - Conditional Uses," having an insignificant effect on flood waters where the subject Flood Plain-zoned site is designated by the Comprehensive Plan Map as "Forest" and is adjacent to land zoned F-2.

M. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

N. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.

(Ord. 2007-019 § 2, 2007; Ord. 2001-039 § 11, 2001; Ord. 2001-016 § 2, 2001; Ord. 97-063 § 3, 1997; Ord. 96-032 § 1, 1996; Ord. 95-075 § 1, 1995; Ord. 95-022 § 1, 1995; Ord. 93-045 § 1, 1993; Ord. 93-002 § 4, 1993; Ord. 91-038 § 1, 1991; Ord. 91-005 § 37, 1991; Ord. 89-009 § 4, 1989; Ord. 88-030 § 4, 1988)

18.96.050. Prohibited uses.

Marinas, boat slips and boat houses on private property.
(Ord. 89-009 § 5, 1989)

18.96.060. Limitations on conditional uses.

The following limitations shall apply to all uses allowed by DCC 18.96.040:

A. No new construction of a dwelling (including manufactured housing), accessory structure or farm use structure shall be allowed in the floodway of any river or stream except for replacement in conformance with the applicable provisions of DCC 18.96 of a dwelling lawfully in existence as of the effective date of Ordinance 88-030.

B. No new construction of a dwelling (including manufactured housing), accessory structure or farm use structure shall be located in the flood plain unless it can be demonstrated by the applicant that no alternative exists on the subject property which would allow the structure to be placed outside of the flood plain.

C. No subdivision or partition shall be allowed which creates the potential for additional residential dwellings in the flood plain.

D. All necessary federal, state and local government agency permits shall be obtained.
(Ord. 2007-091 § 2, 2007; Ord. 95-022 § 1, 1995; Ord. 93-002 § 5, 1993; Ord. 91-020 § 1, 1991; Ord. 88-030 § 4, 1988)

18.96.070. Application for conditional use.

All records of any application for a conditional use permit and all certification of elevations shall be maintained in the records of the Community Development Department for public inspection. An application for a conditional use permit in the Flood Plain Zone shall, at a minimum, contain the following information:

A. A detailed explanation of why it is necessary to conduct the proposed use in the Flood Plain Zone. Where base flood elevation data is not available from the Flood Insurance Study or from another authoritative source, it shall be generated and submitted with the application for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

B. A site plan, drawn to scale and accompanied by drawings, sketches and descriptions which describe and illustrate the proposed use. This site plan shall include, at a minimum, existing and proposed site contours in relation to the base flood elevation, existing and proposed structures, drainage facilities, and an explanation of how erosion will be dealt with during and after construction of the use.

C. The location of the property relative to the channel of the river or stream.

D. The location of existing and proposed diking or abutments, if any.

EXHIBIT "B"

- E. The elevation of the lowest habitable floor and of any basement floor for any dwelling unit or structure.
- F. The elevation to which the structure is to be floodproofed, if applicable.
- G. Elevations on the site plan shall be established by a licensed surveyor or engineer, and shall be in relation to mean sea level.
- H. Certification by a registered professional engineer or architect that the floodproofing methods for any structure meet the floodproofing criteria established by the Federal Emergency Management Agency and the applicable standards in DCC 18.96.
- I. All other elements or information which will assist in the evaluation of the proposed development and conformance with the applicable criteria.

(Ord. 95-022 § 1, 1995; Ord. 93-043 § 15A, 1993; Ord. 91-020 § 1, 1991; Ord. 88-030 § 4, 1988)

18.96.080. Criteria to evaluate conditional uses.

- A. A conditional use permit in a Flood Plain Zone shall not be approved unless all standards established by the Federal Emergency Management Agency and DCC Title 18 are addressed and findings are made by the Hearings Body or Planning Director that each of the standards and criteria are satisfied.
- B. Approval to alter or relocate a water course shall require notification to adjacent communities, the Department of Land Conservation and Development and Department of State Lands, prior to any such alteration or relocation and submit evidence to the Federal Insurance Administration. Maintenance shall be provided within the altered and relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- C. A conditional use permit shall be based upon findings which relate to the property and existing and proposed structure(s). They

shall not pertain to the property owner, inhabitants, economic or financial circumstances.

- D. All structures in the flood plain shall meet the following standards.
 - 1. Anchoring.
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - b. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
 - 2. Construction Materials and Methods.
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 3. Utilities.
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - b. New and replacement sanitary systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into flood waters.
 - c. On-site waste disposal systems shall be located to avoid impairment to

EXHIBIT "B"

- them or contamination from them during flooding.
4. Below-grade crawlspace is allowed subject to the standards in FEMA Technical Bulletin 11-01.
- E. Subdivision and Partition Proposals.
1. All subdivision and partition proposals shall be consistent with the need to minimize flood damage.
 2. All subdivision and partition proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 3. All subdivision and partition proposals shall have adequate drainage provided to reduce exposure to flood damage.
- F. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. (Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.)
- G. Specific Standards. In the Flood Plain Zone, the following requirements must be met:
1. Residential Construction.
 - a. New construction, including replacement, and substantial improvement of any residential structure shall have the lowest floor of the entire structure, including basement, elevated at least one foot above base flood elevation.
 - b. Fully enclosed areas below the lower floor that are subject to flooding are prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must satisfy the standards in FEMA Technical Bulletin 11-01 and must either be certified by a registered professional engineer or architect and ~~or~~ must meet or exceed the following criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:
 - a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are subject to accepted standards of practice for meeting provisions of DCC 18.96.080, based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the County as set forth in DCC 18.96.070(H).
 - d. Nonresidential structures that are elevated, but not ~~flood proofed~~ flood-proofed, must meet the same

EXHIBIT "B"

- standards for space below the lowest floor as described in DCC 18.96.080(F).
- e. Applicants for flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the flood level will be rated as one foot below that level).
3. **Manufactured Homes.** All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation. Such manufactured homes shall be securely anchored to an adequately anchored foundation system subject to the provisions of DCC 18.96.080(C)(1).
4. **Docks, Piers and Walkways.**
- a. No individual boat dock or pier shall be allowed on any lot with less than 200 feet of river frontage.
- b. No community boat dock or pier shall be allowed on any lot with less than 100 feet of river frontage.
- c. No individual boat dock or pier shall be more than 20 feet in length or more than eight feet in width. The total surface area shall not exceed 160 square feet.
- d. No community boat dock or pier shall be more than 20 feet in length. The total surface area shall not exceed 320 square feet.
- e. A boat dock or pier shall not extend into or over the water more than 20 feet as measured from the ordinary high water mark (OHM), or five percent of the distance between the ordinary low water mark (OLM) on each river or stream bank measured at right angles to the shoreline, whichever is less, unless it can be shown that a greater extension.
- i. Is necessary to allow access to the OHM;
- ii. Will not increase flood hazard; and
- iii. Will not cause the deterioration or destruction of marine life or wildlife habitat. When the lines of ordinary high or low water cannot be determined by survey or inspection, then such lines shall be determined by a registered professional engineer using the annual mean high or low water for the preceding year, using data from the State of Oregon Watermaster.
- f. Individual boat docks and piers shall have a minimum five foot setback from adjoining property boundaries projected over the water surface.
- g. Dock, pier and walkway structures shall not be covered or enclosed.
- h. All materials used in dock, pier or walkway construction must be in compliance with all DEQ and EPA regulations.
- i. Docks, piers and walkways shall use either pilings or Styrofoam floats if such floats are fully enclosed and sealed.
- j. Docks, piers and walkways shall not impede water movement or cause deposition on waterway beds.
- k. Docks, piers and walkways containing concrete or wood preservatives shall be fully cured or dried prior to placement in the water.
- l. No walkway shall be more than four feet in width. The length of the walkway shall be no more than the minimum required to allow access to a dock.
- m. Walkways shall include at least one handrail if the structure is elevated 30 inches or more from ground level.
- n. All docks, piers and walkways shall meet the test of noninterference with navigation.
5. **Parking Facilities.** No parking facility shall be located within 20 feet (measured at right angles) of the ordinary high water mark (OHM).

EXHIBIT "B"

H. Floodways. In floodways the following provisions shall apply:

1. Encroachments, including fill and removal, replacement of a dwelling lawfully in existence on the effective date of Ordinance 88-030 and other development are prohibited unless certification by a registered professional engineer is provided demonstrating that the proposed encroachments will not result in any increase in flood levels during a base flood discharge.
2. The applicant must demonstrate that all necessary federal, state and local government agency permits have been or can be obtained and that all other applicable sections of DCC Title 18 have been satisfied.
3. Replacement of a dwelling shall not increase the square footage or footprint of the structure by more than 20 percent of the square footage or footprint of such dwelling as of the effective date of Ordinance 88-030.
4. No replacement of a dwelling shall be allowed if the use of the preexisting dwelling has been abandoned or otherwise terminated for a period of over one year.

(Ord. 2007-019 § 2, 2007; Ord. 2000-033 § 6, 2000; Ord. 95-075 § 1, 1995; Ord. 95-022 §1, 1995; Ord. 93-043 § 15B, 1993; Ord. 93-002 §§ 6-8, and 9, 1993; Ord. 91-020 § 1, 1991; Ord. 89-009 § 7, 1989; Ord. 88-030 § 4, 1988)

18.96.085. Elevation certification.

Elevation of all new construction, including replacement and substantial improvements, relative to mean sea level of the lowest floor shall be documented before the framing inspection with a survey certified by a State of Oregon registered professional engineer or land surveyor. (Ord. 95-022 § 1, 1995; Ord. 93-002 § 10, 1993)

18.96.090. Yard and setback requirements.

In an FP Zone, the following yard and setback requirements shall be maintained:

- A. The front setback shall be a minimum of 20 feet from a property line fronting on a local

street, 30 feet from a property line fronting on a collector and 50 feet from an arterial.

- B. There shall be a minimum side yard of 10 feet for all uses.
- C. The minimum rear yard shall be 20 feet.
- D. The setback from a north lot line shall meet the solar setback requirements in DCC 18.116.180.
- E. The minimum yard setback for a nonfarm use from the property line adjacent to a farm use not owned by the applicant shall be 100 feet.
- F. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
(Ord. 95-075 § 1, 1995; Ord. 94-008 § 25, 1994; Ord. 88-030 § 4, 1988)

18.96.100. Stream setback.

To permit better light, air, vision, stream and pollution control, to protect fish and wildlife areas and to preserve the natural scenic amenities along streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations such as septic tanks or septic drain fields shall be setback from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet, and the County Sanitarian finds that a closer location will not endanger public health or safety, a setback exception may be permitted to locate these facilities closer to the stream or lake, but in no case closer than 25 feet.
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles from the ordinary high water mark.
(Ord. 91-020 § 1, 1991, Ord. 88-030 § 4, 1988)

EXHIBIT "B"

18.96.110. Dimensional standards.

In an FP Zone, the following dimensional standards shall apply:

- A. Lot Coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of 30 percent of the total lot area.
- B. Building Height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.
- C. Minimum lot size shall be 10 acres for all areas which have received an exception to the Statewide Planning Goals for resource uses. Areas which have not received an exception to the Statewide Planning Goals shall have a minimum lot size of 80 acres.

(Ord. 92-055 § 8, 1992)

18.96.120. Warning and disclaimer of liability.

The degree of flood protection required by DCC Title 18 is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. DCC Title 18 shall not create liability on the part of Deschutes County, any officer, agent or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on DCC Title 18 or any decision lawfully made hereunder.

(Ord. 88-030 § 4, 1988)

18.96.130 Interpretation of FIRM boundaries

A. The Planning Director shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

B. Such interpretations shall be processed as a development action pursuant to Chapter 22.16.

(Ord. 2007-019 § 2, 2007)

18.96.130140. Use variances.

Use variances or variances to the standards established by DCC 18.96.060 and 18.96.080 shall not be allowed.

(Ord. 2007-019 § 2, 2007; Ord. 88-030 § 4, 1988)

EXHIBIT "C"

NOTE: *** denotes code provision not amended by this ordinance.

Chapter 18.108. URBAN
UNINCORPORATED
COMMUNITY ZONE -
SUNRIVER

18.108.010. Purpose.

18.108.020 Standards for all districts.

18.108.030. Single Family Residential – RS
District.

18.108.040. Multiple Family Residential – RM
District.

18.108.050. Commercial – C District.

18.108.060. Resort – R District.

18.108.070. Resort Marina – RA District.

18.108.080. Resort Golf Course – RG District.

18.108.090. Resort Equestrian – RE District.

18.108.100. Resort Nature Center – RN
District.

18.108.110. Business Park – BP District.

18.108.120. Community General – CG
District.

18.108.130. Community Recreation – DR
District.

18.108.140 Community Limited – CL
District.

18.108.150 Community Neighborhood – CN
District.

18.108.160. Airport – A District.

18.108.170 Utility – U District.

18.108.180. Forest – F District.

18.108.190. Flood Plain – FP Combining
District.

18.108.010. Purpose.

The purpose of the Urban Unincorporated Community (UUC) Zone - Sunriver is to provide standards and review procedures for the future development of the urban unincorporated community of Sunriver. The UUC Zone - Sunriver is composed of 16 separate zoning districts and one combining zone district, each with its own set of allowed uses and distinct regulations, as further set forth in DCC 18.108.

(Ord. 97-078 § 2, 1997)

18.108.020. Standards in all Districts.

A. Approval Required. Any use in an RM, C, R, RA, RG, RE, RN, BP, CG, CR, CL, CN, A, U or F District shall be subject to DCC 18.124. All uses listed as conditional uses within the RS District are also subject to the requirements of DCC 18.124.

B. Solar Setbacks. The setback from the north lot line shall meet the solar setback requirements of DCC 18.116.180.

C. Building Code Setbacks. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or Deschutes County under DCC 15.04 shall be met.

D. Off-Street Parking and Loading. Off-street parking and loading shall be provided subject to the parking provisions of DCC 18.116.

E. Outdoor Lighting. All outdoor lighting shall be installed in conformance with DCC 15.10.

F. Excavation, Grading and Fill and Removal. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland shall be subject to DCC 18.120.050 and/or DCC 18.128.270.

G. Signs. All signs shall be constructed in accordance with the provisions of DCC 15.08.

(Ord. 97-078 § 2, 1997)

18.108.190. Flood Plain - FP Combining
District.

A. Designated Areas. The Flood Plain Combining District includes all areas within the Sunriver UUC designated as "Special Flood Hazard Areas" in the report entitled "The Flood Insurance Study for Deschutes County, Oregon and Incorporated Areas," dated ~~August 16, 1988~~ September 28, 2007, with accompanying flood insurance rate maps.

B. Conditional Uses. Uses permitted either outright or conditionally in the underlying

EXHIBIT "C"

district with which the FP Combining District is combined shall be allowed as conditional uses in the FP Combining District, subject to the provisions of DCC 18.108.190(C) and DCC 18.128 and other applicable sections of this title.

C. Use Limits. All uses proposed within the FP Combining District shall be subject to DCC 18.96.060 through 18.96.085 and DCC 18.96.100, 18.96.120 and ~~through~~ 18.96.14030.

D. Height Regulations. The height regulations for the FP Combining District shall be those which are established in the underlying district with which the FP Combining District is combined.

E. Lot Requirements. The lot dimension and yard requirements for the FP Combining District shall be those which are established in the underlying district with which the FP Combining District is combined.

(Ord 2007-019 § 3, 2007; Ord. 97-078 § 2, 1997)

EXHIBIT "D"

NOTE: *** denotes code provision not amended by this ordinance.

Chapter 18.116. SUPPLEMENTARY PROVISIONS

- 18.116.010. Authorization of similar uses.
- 18.116.020. Clear vision areas.
- 18.116.030. Off-street parking and loading.
- 18.116.031. Bicycle parking.
- 18.116.035. Bicycle commuter facilities.
- 18.116.040. Accessory uses.
- 18.116.050. Manufactured homes.
- 18.116.070. Placement standards for manufactured homes.
- 18.116.080. Manufactured home or RV as a temporary residence on an individual lot.
- 18.116.090. A manufactured home as a temporary residence for medical condition.
- 18.116.095. Recreational vehicle as a temporary residence on an individual lot.
- 18.116.100. Building projections.
- 18.116.200. Repealed.
- 18.116.120. Fences.
- 18.116.130. Hydroelectric facilities.
- 18.116.140. Electrical substations.
- 18.116.150. Endangered species.
- 18.116.160. Rimrock setbacks outside of LM combining zone.
- 18.116.170. Solar height restrictions.
- 18.116.180. Building setbacks for the protection of solar access.
- 18.116.190. Solar access permit.
- 18.116.200. Repealed.
- 18.116.210. Residential homes and residential facilities.
- 18.116.215. Family childcare provider.
- 18.116.220. Conservation easements on property adjacent to rivers and streams-Prohibitions.
- 18.116.230. Standards for class I and II road projects.
- 18.116.240. Protection of historic sites.
- 18.116.250. Wireless telecommunications facilities.
- 18.116.260. Rock crushing outside the SM zone.

18.116.270. Conducting filming activities in all zones.

18.116.280. Home Occupations.

18.116.095. Recreational vehicle as a temporary residence on an individual lot.

- A. A single recreational vehicle, as defined in DCC Title 18, may be located on a lot or parcel not containing a dwelling and used as a temporary dwelling unit:
 - 1. For a period totaling not more than 30 days in any consecutive 60-day period without obtaining a land use permit from the Deschutes County Planning Division; or
 - 2. For a total period not to exceed six months in a calendar year by obtaining a temporary use permit under the terms of DCC 18.116.095 from the Deschutes County Planning Division. A temporary use permit may be renewed annually for use of a recreational vehicle under the terms of DCC 18.116.095 on the same lot or parcel.
- B. All necessary permits shall be obtained from the Deschutes County Building Safety Division before connecting a recreational vehicle to sewer, water and/or electric utility services.
- C. A permit shall be obtained from the Deschutes County Environmental Health Division before disposing any wastewater or sewage on-site.
- D. A recreational vehicle used as a temporary dwelling unit shall meet the same setbacks required of a permanent dwelling on the subject lot.
- E. A recreational vehicle shall be fully licensed and ready for highway use, on its wheels or jacking system, shall be attached to the site only by quick disconnect type utilities and security devices, and shall have no permanently attached additions.
(Ord.07-019 § 4, 2007; Ord. 98-062 §1, 1998; Ord. 95-075 § 1, 1995; Ord. 91-038 § 3, 1991)



Community Development Department

Planning Division Building Safety Division Environmental Health Division

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STAFF REPORT

TO: Deschutes County Board of County Commissioners
FROM: Kristen Maze, Assistant Planner
DATE: July 11, 2007
SUBJECT: Work session for Flood Plain Zone Text Amendment, TA-07-02

Purpose

The Deschutes County Board of County Commissioners (Board) will hold a work session prior to a public hearing to consider text for the Flood Plain Zone. The Commissioners will consider a text amendment for Deschutes County Code Section 18.04.030, Definitions, specifically "Flood plain development" and "Recreational vehicle" and modify Deschutes County Code Chapter 18.96 Flood Plain Zone, Section 18.116.095 Recreational vehicle as a temporary residence on an individual lot and Section 18.108.190 Sunriver- Flood Plain Combining District.

Background

Recently, the Federal Emergency Management Agency (FEMA) completed a re-evaluation of flood hazards in Deschutes County. As a result FEMA has sent the County preliminary copies of the Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) that has identified flood hazards. This report identifies minor changes that must be made to our Flood Plain Ordinance under Section 1361 of the National Flood Insurance Act of 1968. FEMA is requiring that Deschutes County add language that satisfies the FEMA Model Flood Plain Ordinance standards. Deschutes County must adopt these changes by the effective date of **September 28, 2007** as a condition of continued eligibility in the National Flood Insurance Program (NFIP). The County is required to adopt and show evidence of adoption of the floodplain management regulations outlined by FEMA that meet the standards of the NFIP regulations (44 CRF 59, etc.) The proposed text change standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature

A Planning Commission public hearing was held on June 14, 2007 to hear public testimony and consider the proposed Flood Plain zone amendment for recommendation of approval to the Board (Attachment 1, PC Minutes)

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Proposed Text Amendment

The proposed text amendment outlined in the attached Flood Plain Ordinance are underlined for new language and shown as ~~strikethrough~~ for deleted language (Attachment 2). These proposed text changes are required by FEMA to meet their model Flood Damage Prevention standards. In addition to the Flood Plain Ordinance amendment, the definition for "Flood plain development" in Chapter 18.04 Title, Purpose and Definitions, shall be amended to expand the current definition to add "storage of equipment or materials". The definition for Recreational vehicles is proposed to include the sentence, "This mobile unit is designed to be self propelled or permanently towable by a light duty truck, is built on a single chassis and is 400 square feet or less when measured at the largest horizontal projection". FEMA is also requiring that Deschutes County clarify Section 18.116.095 Recreational vehicle as a temporary residence on an individual lot by adding (E) "A recreational vehicle shall be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions" (Attachment 3).

Previously, staff overlooked the zone amendment to DCC 18.108.190 Sunriver Flood Plain Combing District (Attachment 4). Although, the residence of this area have been notified of the Flood Plain zone amendment this minor change to the text was not included in the text amendments that the Planning Commission considered. This Sunriver text amendment is necessary for consistency through out the County code.

Review Criteria

Deschutes County lacks specific criteria in DCC Titles 18, 22, or 23 for reviewing a legislative zoning text amendment. Staff shall determine that the proposed Title 18 text amendments are consistent with state statute, the Statewide Planning Goals and the County's Comprehensive Plan. The parameters for evaluating these text amendments are based on whether there are adequate factual findings that demonstrate consistency with Statewide Goal 1, Citizen Involvement, Goal 2 Land Use Planning, Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources, Goal 6 Air, Water and Land Resource Quality, Goal 7, Areas subject to Natural Disasters and Hazards and the County's own zoning and land use goals and policies.

Findings

The proposed amendment would revise Deschutes County Code Chapter 18.96, Flood Plain Zone to satisfy FEMA Flood Damage Prevention standards.

For purposes of this discussion, the proposed amendments would satisfy Statewide Goal 1, Citizen Involvement, and Goal 2 Land Use Planning. Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources, Goal 6 Air, Water and Land Resource Quality and Goal 7, Areas subject to Natural Disasters and Hazards.

- Goal 1 would be satisfied through our County text amendment process that includes a Planning Commission work session, followed by a Planning Commission public hearing, completed with County Board of Commissioners work session and public hearing.
- Goal 2 was reviewed by staff for compliance and determined to meet the intent of the goal to be suitable and factual information and in accordance with the County's Comprehensive Plan Natural Hazards Chapter.
- Goal 5 Open Spaces, Scenic and Historic Areas and Natural Resources,

- Goal 6 Air, Water and Land Resource Quality, and
- Goal 7 Areas subject to Natural Disasters and Hazards would be satisfied by revising current flood plain standards to meet the regulations established by FEMA.
- The other Statewide Goals 3, 4 and 8 through 14 were reviewed and are not applicable to this proposal.

The proposed amendment would have no effect on Deschutes County Comprehensive Plan goals and policies. The Deschutes County Code Chapter 18.96 Flood Plain Zone, Section 18.04.030 Definitions, Section 16.116.095 Recreational vehicle as a temporary residence on an individual lot, and Section 18.108.190 Sunriver – Flood Plain Combining District would be the regulations that require amending at this time.

Planning Commission Recommendation and Vote

The Planning Commission listen to public testimony, considered the proposed Flood Plain changes and voted unanimously to recommend approval to the Board for the proposed text amendments.

Conclusion

Following the work session a Public Hearing has been scheduled for July 23, 2007.

Attachments:

1. Planning Commission Minutes
2. Flood Plain Zone and Definitions Text Amendment
3. Recreational vehicle as a temporary residence on an individual lot Text Amendment
4. Sunriver Flood Plain Combining District Text Amendment