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**RECORDED DOCUMENT**

STATE OF OREGON  
COUNTY OF DESCHUTES



\*CJ1999-1121 \* Vol-Page

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I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Dec. 20, 1999; 2:58 p.m.

DOCUMENT TYPE: Ordinance (CJ)

NUMBER OF PAGES: 10

*Mary Sue Penhollow*

MARY SUE PENHOLLOW  
DESCHUTES COUNTY CLERK

KEYPUNCHED  
DEC 23 1999

REVIEWED AS TO FORM  
*[Signature]*  
CODE REVIEW COMM.

REVIEWED  
*[Signature]*  
LEGAL CO.

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Chapter 18.108, \*  
Urban Unincorporated Community Zone - \*  
Sunriver, of the Deschutes County Code \*  
And Declaring an Emergency. \*

99 DEC 20 PM 2:58

MARY SUE PENHOLLOW  
COUNTY CLERK

*CJ1999-1121*

ORDINANCE NO. 99-036

WHEREAS, Deschutes County adopted amendments to Title 18, the Deschutes County Zoning Ordinance, for the Sunriver Urban Unincorporated Community (UUC), File No. TA-97-11, to comply with OAR Chapter 660, Division 22; and

WHEREAS, the Sunriver Owners Association, to correct an inadvertent error, applied for a text amendment, File No. TA-99-6, to reduce the maximum allowed density of the Sunriver Multiple Family Residential – RM District to be as consistent as possible with the repealed Sunriver Master Plan; and

WHEREAS, after notice and hearing as required by law, the Deschutes County Planning Commission has held an initial hearing on this application and has found this application satisfied all applicable criteria for approval of the text amendment; now, therefore,

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

Section 1. AMENDMENT. Section 18.108.040, Multiple Family Residential – RM District, of the Deschutes County Code 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 ~~striketrough~~.

Section 2. FINDINGS. Findings to support this ordinance are set forth in the Staff Report attached as Exhibit “B,” and by this reference incorporated herein.

Section 3. 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 its passage.

DATED this 15<sup>th</sup> day of December, 1999.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

*excused*

\_\_\_\_\_  
LINDA L. SWEARINGEN, Chair

*Tom DeWolf*

\_\_\_\_\_  
T. N. DeWOLF, Commissioner

ATTEST:

*Bonnie Baker*  
\_\_\_\_\_  
Recording Secretary

*Dennis R. Luke*

\_\_\_\_\_  
DENNIS R. LUKE, Commissioner

**EXHIBIT "A"**

**18.108.040. Multiple Family Residential - RM District.**

A. Uses Permitted Outright. The following uses and their accessory uses are permitted outright:

1. Two-family dwelling or duplex.
2. Multiple-family dwellings, apartment houses and dwelling groups including townhouses and condominiums.
3. Uses permitted outright in the RS District.
4. Planned unit developments and redevelopment.
5. Recreational path.
6. Residential home.
7. Residential facility.

B. Conditional Uses Permitted. The following conditional uses may be permitted subject to chapter 18.128 of this title and a conditional use permit.

1. Park, playground and picnic and barbecue area.
2. Fire station.
3. Library.
4. Museum.
5. Utility substations or pumping stations with no equipment storage or sewage treatment facilities.
6. Off-street parking lots when contiguous to a less restrictive zoning district.
7. Community center.
8. Church.
9. Temporary sales office for on-site dwelling units.
10. Interval ownership and/or time-share unit or the creation thereof.
11. Health and fitness facility.

C. Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height.

D. Lot Requirements. The following lot requirements shall be observed:

1. Duplexes, threeplexes and fourplexes:
  - a. Lot Area. Every lot shall have a minimum area of 5,000 square feet

for the first dwelling unit, plus the following minimum land area based upon the number of bedrooms per additional dwelling unit in the following table:

Studio or Efficiency	750 sq. ft.
1 Bedroom	1,000 sq. ft.
2 Bedrooms	1,500 sq. ft.
3 Bedrooms	2,250 sq. ft.
4 Bedrooms	2,500 sq. ft.

The overall density shall not exceed ~~one eight~~ eight dwelling units per ~~2,000 square feet of lot area~~ acre.

- b. Lot Width. Every lot shall have a minimum average width of 50 feet.
  - c. Frontage. Every lot shall have a minimum width at the street of 50 feet, except that on an approved cul-de-sac this may be reduced to 30 feet.
  - d. Front Yard. The front yard shall be a minimum of 10 feet.
  - e. Side Yard. There shall be a minimum side yard of five feet and the sum of the side yards shall be a minimum of 15 feet. The side yards shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.
  - f. Rear Yard. There shall be a rear yard having a depth of not less than five feet. The rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.
  - g. Lot Coverage. Maximum lot coverage by buildings and structures shall be 40 percent of the total lot area.
2. Townhouses, condominiums, zero lot line dwellings and apartments:
- a. There shall be no minimum lot area for apartments, townhouses, condominium developments or planned unit developments provided, however, that the overall density shall not exceed ~~one eight~~ eight dwelling units per ~~2,000 square feet of land area~~ acre.

## EXHIBIT "A"

- b. Setbacks. Yard setbacks, lot widths and lot coverage shall be determined at the time of site plan approval.
- 3. Single Family Residences.
  - a. Lot widths, yard setbacks and lot coverage shall be the same as provided in the RS District, provided that the overall density shall not exceed eight dwelling units per acre.
- E. Off-Street Parking. Off-street parking shall be provided for a minimum of two cars per dwelling unit.  
(Ord. 99-036 § 1, 1999; Ord. 97-078 § 2, 1997)

**EXHIBIT "B"**

**DESCHUTES COUNTY BOARD OF COUNTY COMMISSIONERS**

**STAFF REPORT**

**FILE NUMBER:** TA-99-6

**ORDINANCE NUMBER:** Ordinance No. 99-036

**BOARD OF COUNTY COMMISSIONERS HEARING DATE:** December 15, 1999

**LOCATION:** Hearing Room "A" Deschutes County Commissioners Hearing Room 1130 NW Harriman Street, Bend, Oregon 97701

**APPLICANT:** Sunriver Owners Association

**APPLICANT'S ATTORNEY:** Tia M. Lewis  
Karnopp, Petersen, Notebom  
Hansen, Arnett & Sayeg LLP  
1201 NW Wall Street, STE 300  
Bend OR 97701

**PROPOSAL:** A text amendment to DCC 18.108.040, Sunriver Multiple Family Residential (RM) District, to reduce the overall maximum allowed density from one dwelling per 2,000 square feet of lot area to no more than 8 dwelling units per acre.

**STAFF CONTACT:** Tracy White, Associate Planner

**I. APPLICABLE CRITERIA**

Title 18 of the Deschutes County Code, County Zoning:

- A. Chapter 18.108, Urban Unincorporated Community – Sunriver.
- B. Chapter 18.136, Amendments, sections 18.136.010.

Title 22, Deschutes County Procedures Ordinance:  
Chapter 22.12, Legislative Procedures.

OAR 660-22, Unincorporated Communities.

Deschutes County Year 2000 Comprehensive Plan, Sunriver Urban Unincorporated Community.

**II. BASIC FINDINGS**

- A. **PUBLIC AGENCY COMMENTS:** The Planning Division sent notice of the proposal to public agencies and received the following responses:

## EXHIBIT "B"

1. The following agencies either did not submit comments or had no comments: Assessor, Sunriver Fire Department, Sunriver Owners Association, Sunriver Resort LP, Sunriver Utilities, Watermaster District 11, Oregon Department of Land Conservation and Development.

B. **PUBLIC NOTICE AND COMMENTS:** The Planning Division direct mailed notice of the October 28, 1999, public hearing before the Deschutes County Planning Commission to 981 owners of record of RM zoned property in the Sunriver UUC on September 1, 1999. Notice of the hearing was published in The Bulletin on October 3, 1999. In response to the notice the Planning Division received the following comments:

1. Ken and Pat Arnold, 6424 SW Alfred, Portland, OR 97219, submitted a letter dated Sept. 12, 1999 that reads as follows:

*We agree with the Sunriver Owners Association with reducing the overall maximum allowed density for the Sunriver Multiple Family Residential District for the following reasons:*

1. *Sunriver is starting to look too crowded as more of the empty lots are being developed and as more multiple family units are being constructed.*
  2. *In the summer months, there is not enough parking at the grocery store, mail etc.*
2. Diane and Roger Chamusco, 10906 Meadow RD SW, Lakewood, WA, submitted comments dated October 28, 1999 that read as follows:

*As owners of a condominium unit in Sunriver, Roger and I both feel that a high density living space would hinder the Sunriver open feeling. Quelah is already crowded. The bike trails in that area are crowded and any future building that is done should be within current ordinances which are appropriate for the Sunriver community. No changes of this nature are needed. It makes the quality go down everywhere else.*

3. Dave Gambee, address unknown, submitted a letter dated September 13, 1999, that states the following:

*I don't know if I'm going about this correctly but I simply want to pass along my feelings that Sunriver, at many times of the year, is overpopulated. Anything that can be done to decrease home and population density has my support.*

4. Rob Phillips, editor of *Sunriver Scene*, submitted two documents received on September 16, 1999. One document reiterated the main points of a telephone conversation with staff on File No. TA-99-6. The other document is a copy of an article published by the *Sunriver Scene* covering a condominium project in Sunriver.

## EXHIBIT "B"

### III. CONCLUSIONARY FINDINGS

#### TITLE 18, THE DESCHUTES COUNTY ZONING ORDINANCE

##### A. Chapter 18.108, Urban Unincorporated Community – Sunriver.

###### 1. Section 18.108.040, Multiple Family Residential District.

The proposed amendments were reviewed against the approval criteria contained in DCC 18.136.010 in the body of this report.

##### B. Chapter 18.136, Amendments, sections 18.136.010 and 18.136.020.

###### 2. Section 18.136.010, Amendments.

***This title may be amended as set forth in this chapter. The procedures for the text or legislative map changes shall be set forth in Chapter 22.12 of this code. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of Title 22 of this title.***

**FINDING:** The proposed amendment would change the text of DCC 18.108.040. to reduce the overall density to no more than 8 dwelling units per acre. A text amendment is subject to the procedures set out in Chapter 22.12. These criteria are addressed below.

#### TITLE 22, THE DESCHUTES COUNTY PROCEDURES ORDINANCE

##### A. Chapter 22.12, Legislative Procedures.

###### 1. Section 22.12.010, Hearing required.

***No legislative change shall be adopted without review by the planning commission and a public hearing before the Board of County Commissioners. Public hearings before the planning commission shall be set at the discretion of the planning director, unless otherwise required by state law.***

**FINDING:** The proposal is to amend the text of DCC 18.108.040 to reduce the overall density to allow no more than eight dwelling units per acre. This application is being processed in accordance with DCC 22.12, Legislative procedures. The Deschutes County Planning Commission reviewed the proposed amendments at a work session on September 23, 1999. The DCPC held a public hearing on this proposal on October 28, 1999. The DCPC unanimously voted to forward a recommendation to approve amendment as proposed to the Board of County Commissioners. The Board of County Commissioners will conduct a public hearing for the adoption of the proposed amendments on December 15, 1999.

## EXHIBIT "B"

2. Section 22.12.020, Notice.

**FINDING:** Notice of the public hearing held before the Deschutes County Planning Commission on October 28, 1999 was direct mailed to 981 owners of RM zoned property in Sunriver, to the media and public agencies including the Department of Land Conservation and Development on September 1, 1999. The Bulletin published the notice on Sunday October 3, 1999. Notice of the public hearing before the Deschutes County Board of County Commissioners on December 15, 1999 was mailed to all parties and to the media on November 23, 1999. The Bulletin published the notice on Sunday, November 28, 1999. This notice fulfills the requirements of DCC 22.12.020.

3. Section 22.12.030, Initiation of Change.

***A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of Commissioners or the Planning Commission.***

**FINDING:** This text amendment application is made by the Sunriver Owners Association, whose members include all property owners in Sunriver. The applicant submitted the required fees with the application.

### OAR 660-22, UNINCORPORATED COMMUNITIES

**FINDING:** OAR 660-22-030, Planning and Zoning of Unincorporated Communities, directs counties to adopt individual plan and zone designations reflecting the projected use for each property for all land in the community. County plans and land use regulations may authorize any residential use and density in unincorporated communities subject to the availability of public facilities and services.

The proposed amendment is consistent with OAR 660-22 because it reflects the desire of the community residents to allow development to continue in the manner prescribed in the original Sunriver Master Plan. The applicant proposes to maintain a consistent overall density in the RM District of eight units per acre, which is in keeping with the Sunriver Master Plan and the capacity of public services and facilities in the Sunriver UUC.

### SUMMARY

The proposed text amendment would reduce the maximum allowed density in the Sunriver RM District from one unit per 2,000 square feet to eight units per acre to correct what the applicant believes to be an error. The purpose of the proposed amendment is to maintain the original density limitations for the RM District found in the Sunriver Master Plan, which was repealed during the Urban Unincorporated Communities planning process. The consensus among the stakeholder during the UUC planning process was to keep the Sunriver UUC provisions as consistent as possible with the Sunriver Master Plan provisions.

## EXHIBIT "B"

### BACKGROUND AND ANALYSIS

Development of Sunriver began in 1967. The first subdivision plat was filed in 1968 before Deschutes County had land use or land division laws. In 1972, the County adopted its first zoning ordinance. In 1973, in a related plan and zone amendment, the Sunriver Master Plan was developed, Sunriver was designated a 'planned development' on the Comprehensive Plan and the Planned Development (PD) zone was established. In 1977-1978, several controversies involving the planning documents for Sunriver resulted in the county adopted a revised Sunriver Master Plan. In the early 1980s the developer of Sunriver prepared a Planned Community (PC) zoning ordinance based on the text of the Sunriver Master Plan. The county adopted this ordinance in 1982. Since 1982, the Sunriver Master Plan and the PC zone have guided the majority of development in Sunriver.

In the fall of 1994, the Oregon Land Conservation and Development Commission adopted an administrative rule, OAR 660-22, Unincorporated Communities, which required counties to update land use plans and regulations for unincorporated communities. Sunriver is an unincorporated community that was defined as an 'urban unincorporated community' under the rule. Deschutes County processed a legislative plan amendment and zone change to update the Comprehensive Plan and zoning ordinance to comply with the rule. File No. TA-97-11, documents the Sunriver UUC plan amendment and zone change process. The TA-97-11 staff report and background information indicate the consensus among the stakeholders and participants during the Sunriver community planning process was to keep the plan amendments and zoning code provisions consistent with the Sunriver Master plan as much as possible.

As part of the Sunriver UUC planning process, Deschutes County developed a list of community stakeholders and held a series of meetings to draft clear policies to direct future development in Sunriver. After the stakeholder meetings, the county held several community workshops to provide the broader community an opportunity to comment on the draft proposals. The county distributed a community survey designed to gather additional input from the community. Finally, public hearings were held before the Deschutes County Planning Commission and the Board of County Commissioners. The citizen involvement process revealed that the community was generally satisfied with past development in Sunriver and wished for future development to be guided by the provisions of the Sunriver Master Plan. In response to the community, the county adopted Comprehensive Plan policies for Sunriver based on the original Master Plan and a new Urban Unincorporated Community – Sunriver zoning district based on the original regulatory documents. The original Sunriver Master Plan and the PC Zone were repealed.

The record for TA-97-11 is unclear on the subject of increased RM density. The file does not contain correspondence or survey responses pertaining to increasing the RM density. The staff report and background information indicate the consensus among the stakeholders during the Sunriver community planning process was to keep the plan amendments and zoning code provisions consistent with the Sunriver Master Plan as much as possible. Perhaps the one unit per 2,000 sq. ft. density was cut and pasted from DCC 19.32, Urban Medium Density Residential (RM) Zone in the Bend Urban Area zoning ordinance. One unit per 2,000-sq. ft. is the standard in the Bend Urban Area RM Zone. At a work session held on September 23 1999, the Deschutes County Planning

## EXHIBIT "B"

Commission agreed with the applicant that the increased RM District density was a mistake.

The proposed text amendment conforms to the purpose and goals of the Deschutes County Comprehensive Plan for Sunriver for the following reasons. There are 154.51 acres zoned RM in Sunriver of which 141.41 acres (91%) are already developed. There are 13.1 acres of undeveloped land zoned RM affected by the proposed text amendment, some of which has poor access and other development constraints. The applicant requests the text amendment for all RM zoned land to protect and maintain the development pattern in Sunriver and the integrity of the original Sunriver Master Plan.

A full range of public services and facilities are available to all RM zoned land in the Sunriver UUC. However, the record is not clear on the capacity of these facilities to serve one dwelling per 2,000 square feet (about 21 units per acre) in the RM District, the density adopted with the package of amendments in File No. TA-97-11. In the burden of proof the applicant stated the proposed density reduction is appropriate for the level of fire protection service and transportation system design capacity in Sunriver. The applicant stated that Sunriver public facilities were not designed for 21 units per acre in the RM District. For example, if the vacant RM zoned land were developed at 21 units per acre or developed RM land were redeveloped at higher density, it is uncertain whether fire code requirements could be met or the transportation system could accommodate the additional burden.

The proposed amendment is consistent with the Deschutes County Comprehensive Plan for Sunriver UUC because it reflects the desire of the community residents to allow development to continue in the manner prescribed in the original Sunriver Master Plan. The applicant proposes to maintain a consistent overall density in the RM District of eight units per acre, in keeping with the Sunriver Master Plan and the capacity of public services and facilities in the Sunriver UUC.

#### IV. CONCLUSION:

The proposed text amendment is consistent with the criteria for approval.

#### V. RECOMMENDATION:

Approval.

Respectfully submitted,



Tracy White, Associate Planner

TKW:slr