



AGENDA
TOWN OF PARACHUTE
PLANNING AND ZONING COMMISSION
REGULAR MEETING
TOWN OF PARACHUTE TOWN HALL
222 GRAND VALLEY WAY
AUGUST 11, 2016
6:30 PM

(A) ROLL CALL

(B) PLEDGE OF ALLEGIANCE

(C) APPROVAL OF AGENDA

(D) CONSIDERATION OF MINUTES OF REGULAR MEETING OF JULY 14, 2016

(E) PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

The Planning and Zoning Commission welcomes you and thanks you for your time and concerns.

If you wish to address the Planning and Zoning Commission, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address the Commission. Your comments will be limited to **three (3) minutes**. The Commission may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and provide direction to the appropriate member of Town Staff for follow-up. Thank you.

PLEASE SILENCE ALL CELL PHONES, PAGERS, AND HAND HELD DEVICES. THANK YOU.
PLEASE NOTE THIS MEETING IS BEING AUDIO AND VIDEO RECORDED

(F) PUBLIC MEETING BEFORE THE PLANNING AND ZONING COMMISSION TO CONSIDER A DEVELOPMENT REVIEW APPLICATION FROM ZONED PROPERTIES, INC. (ON BEHALF OF PARACHUTE DEVELOPMENT CORPORATION & ZONED COLORADO PROPERTIES, LLC) FOR A SPECIAL USE REVIEW FOR A VESTED PROPERTY RIGHTS AGREEMENT (VPRA), INCLUDING A SITE SPECIFIC DEVELOPMENT PLAN IN A LIGHT INDUSTRIAL ZONED AREA.

APPLICANT/OWNER:	Zoned Properties, Inc 14300 N Northsight Blvd. Suite 208 Scottsdale, AZ 85260
PROJECT NAME:	Public meeting for a Special Review Use for a Vested Property Rights Agreement, including a Site Specific Development Plan.
PROJECT LOCATION:	110 Diamond Loop Parachute, CO 81635
LEGAL DESCRIPTION(S):	Section: 12 Township: 7 Range: 96 Lot: 7 Amended Lots 1-3, 6-10, Block 2 & Lots 1-18 Block 3 REC #784960 County of Garfield

STAFF: STUART McARTHUR, TOWN MANAGER
JEFFREY J. CONKLIN, TOWN ATTORNEY

(G) PRESENTATION OF STATUS OF REVISION OF THE DEVELOPMENT REVIEW PROCESS (TITLE 15 OF THE MUNICIPAL CODE) OF THE TOWN OF PARACHUTE.

PRESENTER: MARTIN LANDERS, PLAN TOOLS, LLC

(H) MOTION TO ADJOURN



MINUTES
TOWN OF PARACHUTE
PLANNING AND ZONING COMMISSION
REGULAR MEETING
JULY 14, 2016

MEETING CALLED TO ORDER AT 6:30 P.M. BY CHAIR OLK

(A) ROLL CALL

COMMISSION MEMBERS PRESENT:

ROY McCLUNG
TIM OLK
KELLI STANTON
JUANITA WILLIAMS

COMMISSION MEMBERS ABSENT:

CANDY ALLBEE
SHERRY LOSCHKE

STAFF PRESENT:

TOWN MANAGER STUART MCARTHUR
DEPUTY TOWN CLERK LUCY CORDOVA
ADMIN ASSISTANT LAURALEE PATTON

(B) PLEDGE OF ALLEGIANCE

(C) APPROVAL OF AGENDA

MOTION NO. 1:

Moved and Seconded by Commissioners Stanton / McClung to approve Agenda.
Vocal vote passed unanimously.

(D) CONSIDERATION OF MINUTES OF REGULAR MEETING ON JUNE 9, 2016

MOTION NO. 2:

Moved and Seconded by Commissioners McClung / Stanton to approve the Minutes from the June 9, 2016 Regular Meeting.
Motion passed unanimously.

(E) PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

NO PUBLIC COMMENTS NOT ON THE AGENDA.

(F) SWEARING IN OF JUANITA WILLIAMS AS COMMISSIONER OF THE PLANNING AND ZONING COMMISSION PURSUANT TO THE PARACHUTE MUNICIPAL CODE SECTION 3.24.020 A.

3.24.020 A. THE TOWN OF PARACHUTE PLANNING COMMISSION SHALL CONSIST OF SEVEN (7) MEMBERS. THREE (3) OF THOSE MEMBERS SHALL BE EX OFFICIO MEMBERS CONSISTING OF THE MAYOR, A MEMBER OF THE BOARD OF TRUSTEES SELECTED BY THE MAYOR, AND A MEMBER OF THE BOARD OF TRUSTEES SELECTED BY A MAJORITY VOTE OF THE BOARD OF

TRUSTEES.

STAFF: LUCY CORDOVA, TOWN CLERK

(G) APPOINTMENT OF VICE CHAIR TO THE PLANNING AND ZONING COMMISSION AS PURSUANT TO THE TOWN OF PARACHUTE MUNICIPAL CODE SECTION 3.24.040 A.

3.24.040 A. THE COMMISSION SHALL ELECT ITS CHAIR FROM AMONG ITS MEMBERS AND **SHALL CREATE AND FILL OTHER OF ITS OFFICERS AS IT MAY DETERMINE.** THE MAYOR MAY BE APPOINTED AS THE CHAIR, AND SHALL BE ENTITLED TO VOTE ON ALL ISSUES BEFORE THE COMMISSION. THE TERM OF THE CHAIR SHALL BE ONE (1) YEAR.

STAFF: STUART McARTHUR, TOWN MANAGER

MOTION NO. 3:

Moved and Seconded by Commissioners Stanton / McClung to appoint Juanita Williams as Vice Chair of the planning and Zoning Commission.

Motion passed unanimously with a 4-0 vote in favor.

(H) PUBLIC MEETING BEFORE THE PLANNING AND ZONING COMMISSION TO CONSIDER A DEVELOPMENT REVIEW APPLICATION FROM RACHEL BALERIO FOR A SPECIAL USE REVIEW TO SEEK AUTHORIZATION FROM THE TOWN OF PARACHUTE TO ESTABLISH A LICENSED HOME DAYCARE FACILITY IN A RESIDENTIALLY ZONED AREA.

APPLICANT/OWNER:

Rachel Balerio
003 Aspen Ct
Parachute, CO 81635

PROJECT NAME:

Public meeting for a Special Review Use to seek authorization from the Town of Parachute to establish a Licensed Home Daycare Facility.

PROJECT LOCATION:

003 Aspen Ct
Parachute, CO 81635

LEGAL DESCRIPTION(S):

Section: 12
Township: 7
Range: 96
Lot: 3
County of Garfield
State of Colorado

STAFF: DAVIS FARRAR, TOWN PLANNER

Public Hearing opened at 6:39 PM

Rachel Balerio, 003 Aspen Ct, Parachute CO

Mrs. Balerio gave her presentation on her Daycare proposal.

Commission discussion ensued.

Public Hearing closed at 6:47 PM.

MOTION NO. 4:

Moved and Seconded by Commissioners Stanton / McClung to recommend Balerio Daycare to the Board of Trustees with recommended conditions 2-5. (Condition 1 not recommended)

Motion passed unanimously with a 4-0 vote.

(I) **PRESENTATION OF STATUS OF REVISION OF THE DEVELOPMENT REVIEW PROCESS (TITLE 15 OF THE MUNICIPAL CODE) OF THE TOWN OF PARACHUTE.**

PRESENTERS: MARTIN LANDERS, PLAN TOOLS, LLC
MELISSA KENDRICK, KENDRICK CONSULTING, LLC

(J) ~~**PUBLIC MEETING BEFORE THE PLANNING AND ZONING COMMISSION TO CONSIDER A DEVELOPMENT REVIEW APPLICATION FROM ZONED PROPERTIES, INC. (ON BEHALF OF PARACHUTE DEVELOPMENT CORPORATION & ZONED COLORADO PROPERTIES, LLC) FOR A SPECIAL USE REVIEW FOR A VESTED PROPERTY RIGHTS AGREEMENT (VPRA), INCLUDING A SITE SPECIFIC DEVELOPMENT PLAN IN A LIGHT INDUSTRIAL ZONED AREA. (CANCELLED)**~~

APPLICANT/OWNER: Zoned Properties, Inc
14300 N Northsight Blvd. Suite 208
Scottsdale, AZ 85260

PROJECT NAME: Public meeting for a Special Review Use for a Vested Property Rights Agreement, including a Site Specific Development Plan.

PROJECT LOCATION: 110 Diamond Loop
Parachute, CO 81635

LEGAL DESCRIPTION(S): Section: 12
Township: 7
Range: 96
Lot: 7 Amended Lots 1 3, 6 10, Block 2 & Lots 1 18 Block-3 REC #784960
County of Garfield
State of Colorado

STAFF: DAVIS FARRAR, TOWN PLANNER
JEFFREY CONKLIN, TOWN ATTORNEY

(K) **PLANNING AND ZONING COMMISSION CONSIDERATION OF ADOPTING TECHNICAL CORRECTIONS TO THE TOWN OF PARACHUTE MUNICIPAL CODE.**

STAFF: STUART McARTHUR, TOWN MANAGER
JEFFREY CONKLIN, TOWN ATTORNEY

MOTION NO. 5:

Moved and Seconded by Commissioners McClung / Williams to recommend adopting technical corrections to the Town of Parachute Municipal Code to the Board of Trustees.
Motion passed unanimously with a 4-0 vote.

(L) **MOTION TO ADJOURN**

MOTION NO. 6:

Moved by Commissioner McClung to adjourn
Vocal vote passed unanimously.
Meeting adjourned at 7:33 PM



TOWN OF PARACHUTE
PO BOX 100
222 GRAND VALLEY WAY
PARACHUTE, CO 81635

LAND USE APPLICATION

Name of Applicant: Zoned Properties, Inc. (on behalf of Parachute Development Corporation & Zoned Colorado Properties, LLC)
(INCLUDE ADDRESS AND TELEPHONE NO.)

Project Name: Zoned Colorado Marijuana Facility

Project Location: See Exhibit B attached to this Application

LEGAL DESCRIPTION: See Exhibit A attached to this Application

Existing Zoning: Light Industrial

Proposed Zoning: Light Industrial

Type of Application (check all that apply):

SUBDIVISION:

- | | | | | |
|-------------------------------------|--------------------------|----------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | MINOR SUBDIVISION | | |
| <input type="checkbox"/> | <input type="checkbox"/> | MAJOR SUBDIVISION | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | RE-SUBDIVISION | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | P. U. D. | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | BUILDING DIVISIONS | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | AMENDED PLAT | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | REZONING | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | ZONING VARIANCES | <input type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SPECIAL REVIEW USE | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | GEOLOGIC DEVELOPMENT | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | LOT CONSOLIDATION | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |

PROPERTY OWNER: Parachute Development Corporation
(INCLUDE NAME, ADDRESS, AND TELEPHONE NO.)

PROJECT ENGINEER/SURVEYOR:
N/A
(INCLUDE NAME, ADDRESS, AND TELEPHONE NO.)

N/A
(INCLUDE NAME, ADDRESS, AND TELEPHONE NO.)

ADJACENT PROPERTY OWNERS: (attach separate sheet if needed)

Name	Address
Please See Attachments	
_____	_____
_____	_____
_____	_____
_____	_____

MINERAL RIGHTS OWNERS & LESSEES OF SUBJECT PROPERTY (attach separate sheet if needed) *PLEASE NOTE ALL MINERAL RIGHTS OWNERS AND LESSEES MUST BE NOTIFIED 30 DAYS IN ADVANCE TO APPLICATION REVIEW. PLEASE INDICATE ALL MINERAL RIGHTS OWNERS, & LESSEES AS (MR), OR (L)

Name	Address
Please see Attachments	PARACHUTE DEVELOPMENT CORPORATION
_____	PO BOX 686
_____	Glenwood Springs, CO 81602
_____	_____

DESCRIPTION OF PROPOSAL: (INCLUDE PROPOSED USE, ACREAGE, ETC.)

Please see attached Introduction Letter, Project Narrative, and Exhibits

Describe how this Proposed Land Use Application Complies with the Town of Parachute Land Use Regulations and the Town of Parachute Master Plan 2002.

Please see attached Introduction Letter, Project Narrative, and Exhibits

Describe any possible Flood Plain issues:

Describe Traffic Impact Fees Proposal: (Standard Calculation or Individual Traffic Study)

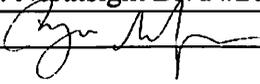
Describe Land Dedication Proposal:

Describe Water Rights Dedication Proposal:

I Certify that the information and exhibits herewith are true and correct to the best of my knowledge, and that in filing this application, I am acting with knowledge and consent of those persons listed above without whose consent the requested action cannot lawfully be accomplished.

Name:(print) Bryan McLaren

Address: 14300 N. Northsight Blvd #208 Scottsdale, AZ 85260

Signature:  Date: 06/01/16

INSTRUCTIONS:

1. **Read both sides of application thoroughly.**
2. **Complete all of the requested information.**
3. Descriptions of property and dedication proposals on this form should be general and brief.
4. All applications must include a **CURRENT TITLE POLICY**, indicating ownership and encumbrances.
5. All applications must include **PROOF OF TAXES PAID**.
6. Applicants should review the Town of Parachute Land Use Regulations 15.01, 15.03, 15.04, 15.05, 15.06, and any other sections specified for the proposed request.
7. **All applicants who are not property owners must present a Letter of Representation, signed and notarized by the property owners.**
8. **Applications not signed and lacking any of the requested information will be deemed incomplete and will not be scheduled for a Planning and Zoning Commission review.**

ADMINISTRATIVE PERSONNEL:

APPLICATION FEE: _____

APPLICATION RECEIVED DATE: _____

COMPLETE DATE: _____

PLANNING & ZONING HEARING: _____

BOT HEARING: _____

MAILINGS DATE: _____

PUBLICATION DATE: _____

P&Z APPROVAL DATE: _____

BOT APPROVAL DATE: _____

April 15, 2016

Mr. Bryan McLaren
Chief Executive Officer
Zoned Properties, Inc.
Zoned Colorado Properties, LLC
14300 N. Northsight Blvd #208
Scottsdale, Az 85260

LETTER OF AUTHORIZATION

Dear Mr. McLaren:

Parachute Development Corporation (the "Company") is the owner of the land and properties located at Diamond Loop Parachute, CO 81635 United States (the "Parachute Property"). The Company would like to extend this Authorization Letter in support of the proposed Licensed Marijuana Facilities to be located at the Parachute Property.

We have reviewed the Town of Parachute's application process and understand that this Letter of Authorization is required in order to submit the comprehensive application materials.

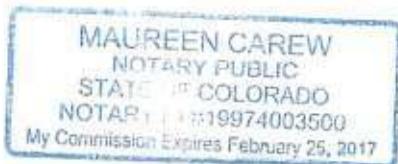
Please contact me if you have any questions or comments. We look forward to working collaboratively with your organization on the prospective facility to be developed at our Parachute Property. Please let us know how we can help to work with Town of Parachute Staff, Planning & Zoning Commission and the Board of Trustees to create development strategies, which will serve the interests of the local community and the proposed Marijuana Facilities.

Sincerely,



Hayden Rader
Parachute Development Corporation

Gasfield } STATE OF COLORADO
County of Colorado } ss.
The foregoing instrument was acknowledged before me this 18th day of April, 2016,
by Hayden C. Rader
My commission expires: 2-25-2017
Witness my hand and official seal. Maureen Carew
Notary Public



www.zonedproperties.com

ADJACENT PROPERTY OWNERS

Account Number	ParcelNo	OwnerName	Address 2	City	State	ZipCode	Situs House Number	Street Name	Designation	City	Zip Code
R370524	240912302011	PARACHUTE DEVELOPMENT CORPORATION	PO BOX 686	GLENWOOD SPRINGS	CO	81602	211 DIAMOND		LOOP	PARACHUTE	81635
R370520	240912302007	PARACHUTE DEVELOPMENT CORPORATION	PO BOX 686	GLENWOOD SPRINGS	CO	81602	110 DIAMOND		LOOP	PARACHUTE	81635
R370522	240912302009	C & B LAND HOLDINGS LLC	PO BOX 3045	GRAND JUNCTION	CO	81502	109 DIAMOND		LOOP	PARACHUTE	81635
R370517	240912302004	PARACHUTE DEVELOPMENT CORPORATION	PO BOX 686	GLENWOOD SPRINGS	CO	81602	212 DIAMOND		LOOP	PARACHUTE	81635
R370525	240912302012	TLC PIPELINE CONSTRUCTION INC	213 DIAMOND LOOP	PARACHUTE	CO	81635	213 DIAMOND		LOOP	PARACHUTE	81635
R370521	240912302008	PARACHUTE DEVELOPMENT CORPORATION	PO BOX 686	GLENWOOD SPRINGS	CO	81602	107 DIAMOND		LOOP	PARACHUTE	81635
R370518	240912302005	PARACHUTE DEVELOPMENT CORPORATION	PO BOX 686	GLENWOOD SPRINGS	CO	81602	210 PARACHUTE PARK		BLVD	PARACHUTE	81635
R370523	240912302010	PARACHUTE DEVELOPMENT CORPORATION	PO BOX 686	GLENWOOD SPRINGS	CO	81602	111 DIAMOND		LOOP	PARACHUTE	81635
R370519	240912302006	C & B LAND HOLDINGS LLC	PO BOX 3045	GRAND JUNCTION	CO	81502	100 DIAMOND		LOOP	PARACHUTE	81635

GARFIELD COUNTY TREASURER

Certificate of Taxes Due

Account Number R370520
Parcel 240912302007

Certificate Number 2016-00674
Acres 1.50
Order Number
Vendor ID 1
Compass Mountain Land Use
PO Box 86
Glenwood Springs, CO 81602

Assessed To
PARACHUTE DEVELOPMENT CORPORATION
PO BOX 686
GLENWOOD SPRINGS, CO 81602

Legal Description

Situs Address

Section: 12 Township: 7 Range: 96 Subdivision: PARACHUTE PARK P.U.D. Block: 3 Lot: 7
AMENDED LOTS 1-3, 6-10, BLOCK 2 & LOTS 1-18, BLOCK 3 REC #784960

Year	Tax	Interest	Fees	Payments	Balance
Tax Charge					
2015	\$1,096.08	\$0.00	\$0.00	\$0.00	\$1,096.08
Total Tax Charge					\$1,096.08
Lien					
2014 Lien: 2014-024	\$2,566.77	\$171.12	\$0.00	\$0.00	\$2,737.89
2013 Lien: 2014-024	\$2,514.31	\$336.19	\$0.00	\$0.00	\$2,870.50
2013	\$0.00	\$0.00	\$7.00	\$0.00	\$7.00
Total Lien					\$5,615.39
GRAND TOTAL					\$6,711.47
Grand Total Due as of 03/28/2016					\$6,711.47

Tax Billed at 2015 Rates for Tax Area 048 - 16-6(T) - 048

Authority	Mill Levy	Amount	Values	Actual	Assessed
GARFIELD COUNTY	10.9050000	\$221.84	VACANT	\$70,150	\$20,340
GARFIELD COUNTY - R & B	1.5000000	\$30.50	COMMERCIAL LOTS		
GARFIELD COUNTY - DHS FUND	1.2500000	\$25.42	Total	\$70,150	\$20,340
TOWN OF PARACHUTE - GENERAL	13.5620000	\$275.85			
GRAND VALLEY AND RURAL FIRE	3.2670000	\$66.45			
BLUESTONE WATER CONS	0.0050000*	\$0.10			
COLO RIVER WATER CONS	0.2430000*	\$4.94			
GRAND RIVER HOSPITAL	5.5970000*	\$113.84			
GRAND VALLEY CEMETERY	0.0070000*	\$0.14			
SCHOOL DIST 16	8.5550000	\$174.00			
COLORADO MTN COLLEGE	3.9970000	\$81.30			
PARA/BATLEMENT PARK & REC	4.0000000	\$81.36			
GARFIELD COUNTY PUBLIC LIBR	1.0000000	\$20.34			
Taxes Billed 2015	\$3.8880000	\$1,096.08			

* Credit Levy

All Tax Lien Sale amounts are subject to change due to endorsement of current taxes by the lienholder or to advertising and distraint warrant fees. Changes may occur and the Treasurer's Office will need to be contacted prior to remittance after the following dates:

Personal Property and Mobile Homes - September 1, 2016, Real Property - September 1, 2016. **TAX LIEN SALE REDEMPTION AMOUNTS MUST BE PAID BY CASH OR CASHIERS CHECK.**

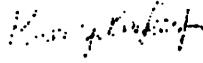
Special taxing districts and the boundaries of such districts may be on file with the Board of County Commissioners, the County Clerk, or the County Assessor.

This certificate does not include land or improvements assessed under a separate account number, personal property taxes, transfer tax or misc. tax collected on behalf of other entities, special or local improvement district assessments or mobile homes, unless specifically mentioned.

I, the undersigned, do hereby certify that the entire amount of taxes due upon the above described parcels of real property and all outstanding sales for unpaid taxes as shown by the records in my office from which the same may still be redeemed with the amount required for redemption are as noted herein. In witness whereof, I have hereunto set my hand and seal.

GARFIELD COUNTY TREASURER
Certificate of Taxes Due

19-40-07-000-00000000
GARFIELD COUNTY



19-40-07-000-00000000
GARFIELD COUNTY

RECEIVED
Reception #: 833888
04/17/2013 12:09:11 PM Jean Alberige
1 of 1 Res Fee:\$11.00 Doc Fee:\$0.00 GARFIELD COUNTY CO

RECORDING REQUESTED BY:
WHEN RECORDED RETURN TO:
Garfield & Hecht, P.C.
420 Seventh Street, Suite 100
Glenwood Springs, CO 81601

QUIT CLAIM DEED

This Quit Claim Deed is made this 14th day of March, 2013 between, Parachute Investment Holdings, LLC, a Colorado limited liability company ("Grantor"), and HMC, Ltd., a Colorado limited partnership whose address is P.O. Box 366, Glenwood Springs, CO 81602, of the County of Garfield, State of Colorado ("Grantee").

The Grantor, for ten dollars (\$10.00) and other good and valuable consideration, in hand paid, has sold and quitclaimed, and by these presents does hereby sell and quitclaim unto the Grantee, its successors and assigns forever, any and all right, title, interest, claim and demand which the Grantor has in and to the following described property, situate, lying and being in the County of Garfield and State of Colorado, described as follows:

All oil, gas, hydrocarbons, and other minerals and mineral rights, including without limitation the right to lease and develop the same, in and to the premises described as follows:

Lots 1, 2, 3, 8, 9, and 10

Block 2

Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, and 18

Block 3

Parachute Park P.U.D.

According to the Amended Final Plat of Lots 1-3, 6-10, Block 2 and Lots 1-18, Block 3, Parachute Park Planned Unit Development

County of Garfield
State of Colorado

Signed this 14th day of March, 2013.

PARACHUTE INVESTMENT HOLDINGS, LLC,
a Colorado limited liability company

By: [Signature]
Hayden Reder, manager

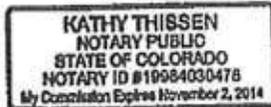
STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing Quit Claim Deed was acknowledged before me this 14th day of March, 2013 by Hayden Reder as manager of Parachute Investment Holdings, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires:

[Signature]
Notary Public



889935 88/38/2282 84:28P B1332 P785 H 82500RF
 1 of 3 R 10.08 D 0.00 GARFIELD COUNTY CO

ROYALTY DEED

KNOW ALL MEN BY THESE PRESENTS that HMC, Ltd., a Colorado Limited Partnership (hereinafter "Grantor"), for and in consideration of the sum of Ten Dollars, cash in hand paid by each of those parties whose names and addresses are listed below (hereinafter collectively referred to as "Grantees" or individually as a "Grantee"), the receipt of which is hereby acknowledged, has granted, sold, conveyed, assigned, and delivered, and by these presents does grant, sell, convey, assign, set over, and deliver unto each Grantee an undivided interest, the amount of which is indicated beside their respective names as follows:

Grantees:			
Hayden C. Rader P.O. Box 686 Glenwood Springs, CO 81602	41.50%	Michael Stascavage 617 Night Shade Court New Castle, CO 81647	20.75%
Chalmers L. Morse 307 Sable Oak Drive Vero Beach, FL 32963-3821	20.75%	Bryan Barries 2245 Blake Street Denver, CO 80205	3.00%
Greya Rader P.O. Box 307 Glenwood Springs, CO 81602	2.00%	Treacy Welner 4 Bear Hill Lane Windham, NH 03087	1.00%
Charlotte M. Thomas 10091 East Powder Horn Place Tucson, AZ 85749	1.00%	E.A. Schumacher Cedar Crest Ranch 0473 County Road 112 Carbondale, CO 81623	1.00%
Morgan Haynes, Jr. c/o Mr. R. Anderson P.O. Box 100 Tryon, NC 28782	1.00%	Judith Day 335116 County Road 43A Steamboat Springs, CO 80487	1.00%
Larry Green c/o Delaney & Balcomb, P.C. P.O. Drawer 790 Glenwood Springs, CO 81602	1.00%	Raul Gawtya 100 Elk Run Drive, Suite 222 Basalt, CO 81621	1.00%
Walter Brown 1120 Grand Avenue Glenwood Springs, CO 81601	1.00%	Dieter Centrup 0745 Heather Lane Glenwood Springs, CO 81601	1.00%
David A. Dee 61 Timber Lane Avon, CT 06001	1.00%	Katherine Birchell 4333 Cattle Creek Road Carbondale, CO 81623	.50%
Mark Simon 4333 Cattle Creek Road Carbondale, CO 81623	.50%	Ken Durbam 51241 Hwys 6 & 24, Suite 2 Glenwood Springs, CO 81601	.34%
Patricia Sell P.O. Box 557 New Castle, CO 81647	.33%	Linda Hodges 1124 Westmoor Drive Colorado Springs, CO 80904	.33%

In and to all of the royalty paid on oil, gas, and casinghead gas, casinghead gasoline, and any other minerals of whatsoever kind or nature that may be produced and saved from or attributed to those lands situated in the County of Garfield, State of Colorado which are described on the attached Exhibit "A" (hereinafter the "Property"):

The Property or portions thereof, is now under and subject to an oil and gas lease from HMC, Ltd. to Barrett Resources Corporation, as the same may be amended from time to time, and it is understood and agreed that this conveyance is made subject to the terms of said lease but covers and includes the same interests as first hereinabove named, of all the royalty from oil, gas, casinghead gas, casinghead gasoline, and any other minerals or products, due and to be paid under the terms of said lease, only insofar as it covers the Property.

Return
to

Hayden Rader
PO Box 686
Glenwood Springs, CO 81602

AR
B

688838 08/25/2002 04:22P B1382 P787 H 4300P
2 of 3 R 16.00 D 0.00 GARFIELD COUNTY CO

And It is further understood and agreed that Grantor reserves solely unto itself all rights to execute any and all future leases of any kind or nature covering the Property and the rights to receive in its own name and stand all bonuses and rentals payable thereon, and the Grantee does not by these presents acquire any right to participate in the making of future oil and gas or other mineral leases on the Property or on any portion thereof not at this date under lease, nor of participating in the making of future leases, should any existing or future lease for any reason become cancelled or forfeited, nor of participating in any bonus or bonuses which Grantor may receive for any future lease, nor of participating in any rental to be paid for the privilege of deferring the commencement of a well under any lease, now or hereafter. Provided, however, that Grantor shall not execute any future oil and gas lease covering the Property or any portion thereof which provides for a royalty of less than one-eighth (1/8) of the production attributed to the Property or any portion thereof.

TO HAVE AND TO HOLD the above described royalty interest, together with all and singular the rights and appurtenances thereto belonging, unto the said Grantees and each Grantee's heirs, administrators, executors, successors, and assigns forever.

WITNESS 30th hand this Aug day of _____, 2002.

HMC, Ltd., a Colorado Limited Partnership

By: Hayden Rader
Hayden Rader, General Partner

STATE OF Colorado)
COUNTY OF Garfield) ss . ACKNOWLEDGMENT - INDIVIDUAL

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this 30th day of August, 2002, personally appeared Hayden Rader, General Partner of HMC Ltd., a Colorado Limited Partnership, to me known to be the identical person described in and who executed the within and foregoing instrument of writing and acknowledged to me that he duly executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

My Commission Expires: 11-11-05

Kristy M. Springer
Notary Public



Via Email

June 01, 2016

Mr. Stuart S. McArthur
Town Manager
Town of Parachute
222 Grand Valley Way
Parachute, CO 81635

Dear Mr. McArthur:

Zoned Properties, Inc. on behalf of Parachute Development Corporation & Zoned Colorado Properties, LLC ("Property Owners") is pleased to submit to you the attached Project Narrative and Vested Property Rights Agreement ("VPRA"). The submittal includes a Site Plan Rendering that represents the Site Specific Development Plan ("SSDP") in support of our request to the Town of Parachute ("Town") for a Five (05) year Vested Property Rights Agreement with the Town of Parachute Board of Trustees. Material documents are attached herein.

We have reviewed the Town's Fees and understand that the established fee for this type of application may be equated with a standard Land Use Application. Please confirm the application fee amount for this proposal, and we will be happy to submit a check to the Town of Parachute.

It is our understanding that at the February 18th, 2016 Board of Trustees Meeting, the Board discussed and approved a number of proposed changes to the Parachute Ordinance (692.2016) regarding Retail ("RMJ") and Medical Marijuana ("MMJ"). As you are aware, over the past few months our development team has been meeting with town representatives regarding these changes and, more specifically, how a VPRA including an SSDP in the form of a Site Plan can be used to preserve the development and expansion rights of our proposed Licensed Marijuana Facility development in the Town of Parachute. It might be appropriate to include discussion and action of the attached VPRA on the agenda for the upcoming Planning and Zoning meeting on July 14th, 2016 and use the included Land Use Application for a VPRA as an example for analysis and conversation to be formally approved by the Board of Trustees at their meeting on July 21st, 2016. In our opinion, approval of this VPRA by the Board of Trustees will "provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, which Article establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a Site Specific Development Plan" (15.01.107(A)).

Thank you for your review of the enclosed materials. Please contact me at (480) 351-8193 or Del Dawson at (970) 250-8400 if you have any questions or comments. We look forward to working collaboratively with Town Staff, the Planning & Zoning Board and the Board of Trustees to create development strategies, which will serve the interests of the local community and the Property Owners.

Sincerely,

Bryan McLaren
Zoned Properties, Inc.

www.zonedproperties.com

**VESTED PROPERTY RIGHTS AGREEMENT
PROJECT NARRATIVE
For Approximately 1.5 ACRES**

Parachute Park P.U.D. LOT 7 of BLOCK 3

**Submitted on behalf of:
Parachute Development Corporation
&
Zoned Colorado Properties, LLC**

**Submitted by:
Bryan McLaren
Zoned Properties, Inc.,
14300 N. Northsight Blvd., Suite 208
Scottsdale, AZ 85260
480 351 8193
Bryan@zonedproperties.com**

**Submitted to:
The Town of Parachute ("Town")
Community Development Department
Planning and Development Division
222 Grand Valley Way
Parachute, CO 81635**

Submitted: June 01, 2016

www.zonedproperties.com

Purpose of Request

Zoned Properties, Inc. on behalf of Parachute Development Corporation and Zoned Colorado Properties, LLC ("Property Owners"), is pleased to submit this Project Narrative to the Town of Parachute in support of an application for a Vested Property Rights Agreement ("VPRA") based upon the attached Site Specific Development Plan ("SSDP") shown in **Exhibit B**, which has been submitted in the form of a Special Review Land Use Application. The VPRA includes this Project Narrative and all exhibits described herein. The SSDP includes the property formally known as Lot 7, Block 3 of the Parachute Park P.U.D. ("the Property"). A legal description for the Property is attached as **Exhibit A**.

The Property Owners are submitting this application for a VPRA based upon the attached SSDP consistent with the enabling authority available to the Town as per Title 15 Land Use Regulations 15.01.107 and Colorado Revised Statute CRS 24.68.101 which reads, "It is necessary and desirable, as a matter of public policy, to provide for the establishment of vested property rights in order to ensure reasonable certainty, stability, and fairness in the land use planning process and in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning."

Description of Proposal

As shown on the Site Specific Development Plan as part of the Vested Property Rights Agreement herein, **Exhibit B** of this narrative, the Property Owners are proposing to develop the existing Property as a single building site including multiple uses within the Property as described below. The SSDP is represented as a general site plan. At a future time, the Property Owners will submit a more detailed site plan in the form of an application for building permits pursuant to municipal code requirements. The detailed site plan will include details as required by municipal code for lighting and landscaping. It is anticipated that the project will be completed by January of 2017. There are currently no proposed open space or recreation spaces on the property. The proposed development uses, described below, may be selected individually or as co-located uses.

The following proposed development uses are included within the SSDP and deemed vested rights within this VPRA: first, the proposed development use of a medical marijuana cultivation facility; second, the proposed development use of a recreational marijuana cultivation facility; third, the proposed development use of a medical marijuana production facility; fourth, the proposed development use of a recreational marijuana production facility; fifth, the proposed development use of a recreational marijuana retail store; and sixth, the proposed development use of a marijuana testing facility. Ancillary commercial development uses traditionally permitted within the Light Industrial and Service Commercial zoning designation may also be proposed.

Each proposed development use included within this VPRA will not be required to be completed prior to an additionally proposed development use commencing. A detailed plan for each proposed development use shall be submitted by the Property Owners for approval by the Town Manager or by Special Use Review prior to the development use commencing in order to obtain construction and development permits; of which such approval shall not be unreasonably withheld.

Relationship to Surrounding Properties and Existing Zoning

The primary project site, Lot 7, is located on the northwest side of Interstate Highway 70, in the center portion of the previously subdivided property between Diamond Loop Road and Parachute Park Blvd. As depicted by the SSDP included in **Exhibit B**, the project site is bound by roadways on four sides, and is surrounded by Light Industrial or Service Commercial properties. There are no residentially zoned properties surrounding the primary project site at Lot 7. The mineral rights associated with Lot 7 are owned by HMC, Ltd.

	Zoning Classification	Use
Project Site	Light Industrial	Licensed Marijuana Facilities
North	Light Industrial	Vacant Development
South	Service Commercial	Commercial Development
East	Service Commercial	Commercial Development
West	Light Industrial	Vacant Development

Development Schedule

The development schedule for the attached SSDP could be materially affected by changes to the rules and regulation under Colorado State Statute. Per CRS 24-68-104 (1)&(2) "A property right which has been vested as provided for in this article shall remain vested for a period of three years;" however, "local governments are hereby authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions." The Property Owners propose the adoption of the vested rights to be granted over a period of five (05) years given relevant circumstances and risks inherent to the industry.

Public Utilities and Services

Utilities and services to the development will be provided as follows:

Utility	Provider
Water	Town of Parachute
Wastewater	Town of Parachute
Electricity	EXCL
Gas	EXCL
Trash	Town of Parachute
Police	Parachute Police Department
Fire	Grand Valley Fire Protection District

Development Team

Applicant: Zoned Properties, Inc.
14300 N. Northsight Blvd., Suite 208
Scottsdale, AZ 85260
Bryan McLaren
(480) 351-8193
Bryan@zonedproperties.com

Property Owners: Parachute Development Corporation
Zoned Colorado Properties, LLC
c/o Zoned Properties, Inc.
14300 N. Northsight Blvd., Suite 208
Scottsdale, AZ 85260
Bryan McLaren

Real Estate Broker: Del Dawson
RE/MAX Country
175 Columbine Court
Parachute, CO. 81635
(970) 250-8400
Deldawson@remax.net

Effective Date

Pursuant to CRS 24-68-103, this Vested Property Rights Agreement will be deemed established and effective upon approval of the attached SSDP "following notice and public hearing, by the local government in which the property is situated." Approval of the attached SSDP by the Town of Parachute Board of Trustees will have taken place as per Board vote at the Board meeting having taken place on July 21, 2016.

Conclusion

Approval of this VPRA based upon the attached SSDP will allow for the continued development of a well-designed commercial enterprise, which includes renewable energy sources, Licensed Medical Marijuana Facilities and Licensed Retail Marijuana Facilities. The Property Owners look forward to working with the Town of Parachute to develop the planning and legal framework, which will implement this economic development vision.

EXHIBIT A

LEGAL DESCRIPTION

LOT 7, of BLOCK 3 AMENDED FINAL PLAT Lots 1-3 AND 6-10, BLOCK 2 AND LOTS 1-18, BLOCK 3, PARACHUTE PARK P.U.D. County of Garfield, State of Colorado.

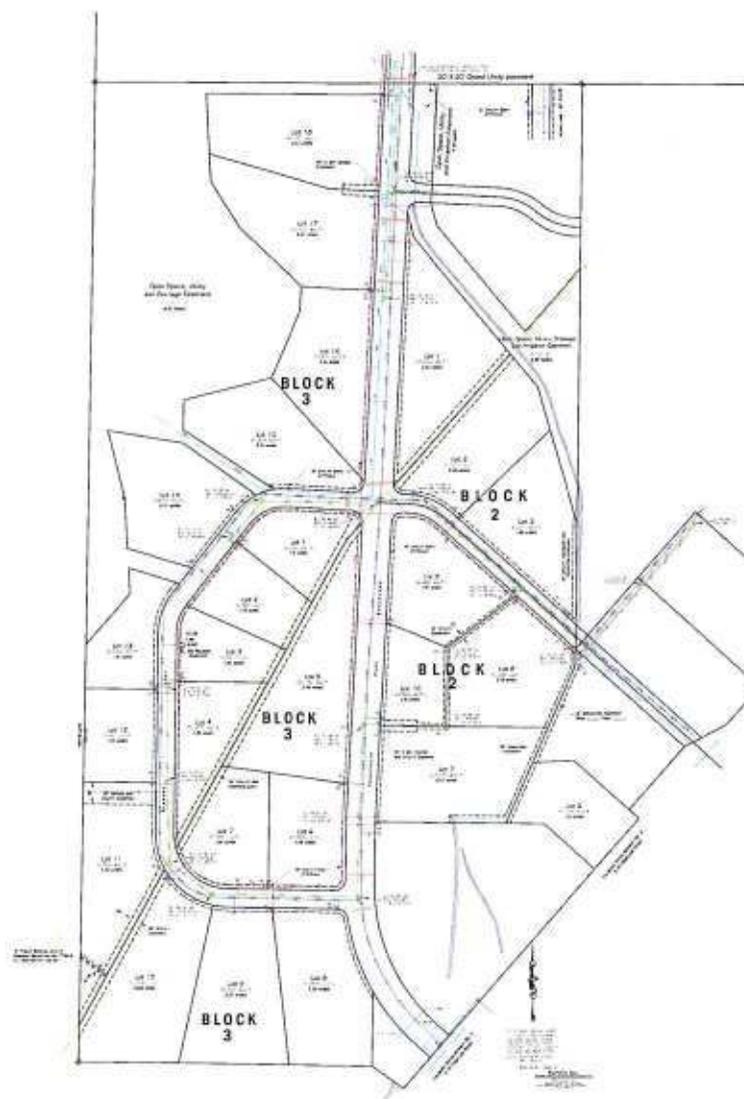


EXHIBIT B

SITE SPECIFIC DEVELOPMENT PLAN

"Site Specific Development Plan means a plan that has been submitted to a local government by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but need not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a specially planned area, a planned building group, a general submission plan, a preliminary or general development plan, a conditional or special use plan, a development agreement, or any other land use approval designation as may be utilized by a local government" (CRS 24-68-102 (4)(a)).

MEMORANDUM

TO: BRYAN MCLAREN
FROM: DAVIS FARRAR - PARACHUTE PLANNER
SUBJECT: ZONED PROPERTIES SPECIAL REVIEW USE AND VESTED RIGHTS APPLICATION COMPLETENESS REVIEW
DATE: 6/6/2015
CC: STUART MCARTHUR - TOWN MANAGER

The Zoned Colorado Marijuana Facility application for Zoned Properties, Inc. on behalf of Parachute Development Corporation Special Review Use and Vested Property Rights was received on June 1, 2016 and additional submittals were made June 3, 2016. The application consisted of the following items:

- ✓ Application form.
- ✓ Application fee.
- ✓ Letter of authorization.
- ✓ Names and addresses of owners of the property within 200 ft.
- ✓ Names and addresses owners or lessees of mineral rights for the property.
- ✓ Statement of Taxes Due.
- ✓ Project narrative.
- ✓ Vested property rights agreement project narrative.
- ✓ Legal description of the property.
- ✓ Proof of Ownership.
- ✓ Owner Authorization for Zoned Properties, Inc. to Process the Application.
- ✓ Vicinity map.
- ✓ Site Plan dated 6/1/16

It is understood that s detailed site plan will be submitted at the time of building permit and will be subject to staff/consultant review and approval prior to issuance of building permit in conformance with the following requirements. "15.07.112 Site Plan Review". Prior to the issuance of a building permit for all uses except single-family residences, a site plan must be submitted as required by Section 15.01.114. In addition to the building permit requirements, the following information shall be submitted for a parking lot or parking area:

- A. Delineation of individual parking and loading spaces;
- B. Circulation area necessary to serve spaces;
- C. Access to streets and property to be served;
- D. Curb cuts;
- E. Dimensions, continuity, and substance of screening;
- F. Grading, drainage, surfacing and subgrade details;
- G. Delineation of obstacles to parking and circulation in finished parking area;
- H. Specifications as to signs and bumper guards;
- I. Location and specifications of shielded lighting for parking areas to be used at night;
- J. Location and specifications (e.g., plants and materials) for landscaping of the parking area;
- K. Irrigation plan for the landscaped areas; and
- L. Other pertinent data.

The Town Administrator shall make the initial determination of whether or not the plans and specifications comply with the provisions of this Chapter. Appeals from the Town Administrator's decision may be taken by any aggrieved party to the Board of Adjustment within fourteen (14) days after such decision.”

The application has been deemed **complete** for purposes of processing and hearing notice. The application will be submitted to review agencies for comments. A comprehensive review of the application will be conducted which will include a Planning Commission staff report which will be available to the applicant from the town on or before the Friday the week prior to the Planning Commission meeting date.

I am available to answer questions. I can be reached by e-mail wsconsulting@sopris.net or by telephone 970-963-7172.

Staff Report
Town of Parachute Planning Commission Meeting
Thursday, July 14, 2016
Zoned Properties, Inc. Request for Special Review Use and Vested
Property Rights

Report Date - 6/25/2016

PROJECT INFORMATION	
Name of Project:	Zoned Colorado Marijuana Facility
Type of Request:	Special Review Use for Retail Marijuana Cultivation Facility and Vested Property Rights
Name of Applicant:	Zoned Properties Inc. c/o Bryan McLaren
Address:	14300 N. Northside Blvd., #208, Scottsdale, AZ 85260
Phone:	c/o 480-351-8193, Email - Bryan@zonedproperties.com
Applicant Representative:	Bryan McLaren - Zoned Properties Inc.
Representative Address:	Same as above
Property Owner:	Parachute Development Corporation c/o Hayden Rader
Property Owner Address/Phone:	PO Box 686, Glenwood Springs, CO 81602, Telephone 970-948-0699, E-mail - hreader@rof.net
Lien Holder:	None Identified
Mineral Owners:	Lot #7 Parachute Park PUD - HNC, Ltd
Site Address & Parcel Number	110 Diamond Loop, Parachute, Colorado, 81635 - LOT 7 of BLOCK 3 PARACHUTE PARK P.U.D, Parcel #2409-123-02-007
Project Engineer	None Identified
Project Surveyor	None Identified
Site Planner	DAC Studios, Ltd., c/o David a Cintron, Jr.
Address	PO Box 0685, Chicago, IL 60690-0685, Telephone: 312-491-9069, E-mail: dac@dacstudios.com
Existing Zoning	PUD Light Industrial
Surrounding Zoning:	<i>North</i> - Light Industrial, <i>East</i> - Service Commercial, <i>South</i> - Service Commercial, <i>West</i> - Light Industrial
Proposed Zoning	No Change
Existing Land Use:	Vacant Land
Surrounding Land Uses:	<i>North</i> - Vacant, <i>East</i> - Vacant, <i>South</i> - Vacant & Commercial, <i>West</i> - Light Industrial & Vacant
Proposed Special Review Use:	Retail Marijuana Cultivation Facility

Existing Lot Size	65,168 ft. ² (1.5 acres)
Minimum Lot Size	6,000 square feet
Property Legal Description	LOT 7 of BLOCK 3 AMENDED FINAL PLAT Lots 1-3 AND 6-10, BLOCK 2 AND LOTS 1-18, BLOCK 3, PARACHUTE PARK P.U.D. County of Garfield, State of Colorado

Project Location: North and East of Diamond Loop, East of Parachute Park Boulevard.



I. Description of Application:

The applicant is requesting approval of a special review use application for Retail Marijuana Cultivation Facility on a 65,168-ft.² property described as Lot 7 Block 3 of the Parachute Park PUD. The site is located north and east of Diamond Loop as shown in the image above. In association with the Special Review Use, the applicant is requesting Vested Property Rights (Code Section 15.01.107 - Vested Property Rights) on a Site-Specific Development Plan for a period of five years to preserve the development and expansion rights of their proposed marijuana facility. The applicants are proposing to develop the property with a single building that will include a variety of marijuana related uses. These uses include marijuana cultivation facilities, retail marijuana product manufacturing facility, retail marijuana store and a retail marijuana testing facility. The application description of these uses does not mirror the designations in the Parachute Zoning Use Table, but staff understands that their intent is to pursue the above listed uses. The following language comes directly from their submittal. "First, the proposed development use of a medical marijuana cultivation facility; second, the proposed development use of a recreational marijuana cultivation facility; third, the proposed development use of a medical marijuana production facility; fourth, the proposed development use of a recreational marijuana production facility; fifth, the proposed development use of a recreational marijuana retail store; and sixth, the proposed development use of a marijuana testing facility." The applicant notes that they may also pursue other uses in the Parachute Park PUD in the Service Commercial PUD Zone District. The only identified use that requires a special review use approval is the marijuana cultivation facility. The applicant intends to request approval of separate marijuana licenses, for the marijuana grow facility and the other uses as required by the Parachute Municipal Code. Municipal water and sewer utilities are in place and adjacent to the site.

A general site plan was submitted which shows parking, access, proposed building footprint, parking spaces, landscape, lighting, signage (not specific) and other information. The applicant proposes to submit detailed engineering for drainage, grading and detailed site plan information as part of the site plan review process detailed in Section 15.07.112. This information will be considered in conjunction with a building permit application. The following information is required as part of the Site Plan Review:

- A. Delineation of individual parking and loading spaces;
- B. Circulation area necessary to serve spaces;
- C. Access to streets and property to be served;
- D. Curb cuts;
- E. Dimensions, continuity, and substance of screening;
- F. Grading, drainage, surfacing and subgrade details;
- G. Delineation of obstacles to parking and circulation in finished parking areas;
- H. Specifications as to signs and bumper guards;
- I. Location and specifications of shielded lighting for parking areas to be used at night;
- J. Location and specifications (e.g., plants and materials) for landscaping of the parking areas;
- K. Irrigation plan for the landscaped areas; and
- L. Other pertinent data.

The subject property is in the Parachute Park PUD, which allows light industrial uses and service commercial uses, so compatibility with surrounding properties is not an issue with proper mitigation of odor, lighting impacts etc. Most of the property around Lot 7 remains undeveloped. Future development adjacent to or near the subject property and should not be adversely impacted by the grow facility as long as odor, noise and excessive lighting are mitigated. Development of the property with a the proposed marijuana uses will increase traffic on Diamond Loop and

Parachute Park Boulevard, but these roads are designed to handle industrial and commercial traffic. The applicant did not submit a traffic generation report for the proposed use or a calculation of the proposed number of employees. This information is necessary to assess the traffic generation for the grow facility.

The Commission should be aware that a major concern of Retail Marijuana Cultivation Facility facilities is smell and mitigation thereof. Carbon filtration has been shown to be the most effective method of odor mitigation at other grow operations. The applicant must address environmental impacts, landscaping details, lighting, drainage and other requirements as part of the Site Plan Review process specified in Section 15.07.112 of the land use regulations. The Planning Commission should ask about the applicant's proposal for odor mitigation, lighting and other impacts.

The applicant proposes a single sign on the property to identify the Retail Marijuana Cultivation Facility. Typically, operators of grow facilities do not advertise their facilities for security reasons. A separate sign permit application will be required for site signage.

The applicant does not propose any open space or recreation areas on the property. However, the Municipal Code requires land dedication for commercial development as noted in the following section.

"15.01.111 Land Dedication Requirements.

A. Land Dedication -- General Requirements. *For every annexation, subdivision or residential or **commercial development**, the Board of Trustees shall require the dedication of certain sites for parks and recreation use or fee in lieu of dedication, and may require reservation of sites for school and other public purposes. Land dedicated may include the one-hundred-year floodplain, national and state historical or natural features, and proposed public areas set aside in state, regional, county or city comprehensive plans. Land dedicated shall not include sites for technical, private or public schools, or public agencies, sites for service organizations which are not open to the general public, and sites unsuitable for public use due to steep slopes, rock formations, adverse topography, utility easements, or other features which may be harmful to the health and safety of the citizens."*

"2. *In the case of commercial or industrial development, the subdivider or developer shall dedicate and convey to the Town by means of final plat dedication or deed, eight percent (8%) of the total gross lot area to be used as public recreation at locations designated by the Town."*

However, the Board of Trustees in their sole discretion may accept cash in lieu of land dedication pursuant to the following section of the regulations.

"E. Cash Payment in Lieu of Dedication.

1. *At the option of the Board of Trustees, the subdivider or developer may be required, on or before final passage of the ordinance approving the subdivision, to pay to the Town payment in cash or to transfer other property in lieu of land dedication. The amount of cash payment shall be as determined by this Section for the land fee. If the Board determines to accept other property instead of, or as a partial payment toward the cash payment required hereunder, the Board shall determine the value of the other property."*

Project lighting should include full cutoff fixtures in the parking lot lights and on the building. A specific lighting plan must be submitted during the building permit/site plan process.

The applicant must submit a detailed landscaping plan in conjunction with the building permit process that will be subject to review and approval by the town staff. At this time, there is no estimated date for completion of the site improvements.

As noted previously, the site plan review process will occur at a staff level will address all required engineering, site improvements, drainage and other requirements.

Sewer Service – Municipal sewer is located adjacent to the property.

Water - Municipal water is located adjacent to the property.

Electric - No information provided.

Gas - No information provided.

Telephone - No information provided.

II. Applicable Regulations:

A) Relationship to the Comprehensive Plan

The application should be in general compliance with the Parachute Comprehensive Plan. This topic is discussed later in this report.

B) Special Review Uses

15.05.206 Review Criteria and Planning Commission Recommendation (to Trustees).

A. Review Criteria. The Planning Commission shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the Town Administrator, and comments from the public. At a minimum, the Planning Commission shall also consider the following criteria:

1. Conformance of the proposal with the Town of Parachute Municipal Code;
2. The compatibility of the proposal with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;
3. The desirability for the proposed use in the specific area of the Town;
4. The potential for adverse environmental effects that might result from the proposed use;
5. Compatibility of the proposed use and the site (or subdivision) plan with the Parachute Plan; and
6. Conformance of any plan with the requirements of the Town of Parachute Public Works Improvements Manual.

C) Vested Property Rights

15.01.107 Vested Property Rights.

A. Purpose. The purpose of this Section is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, which Article establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site-specific development plan.

B. Definitions. Unless modified in this subsection, the terms used in this Section shall have the same meaning as set forth in Section 24-68-102, C.R.S. As used in this Section, unless the context otherwise requires:

1. "Site specific development plan" means a plan that has been submitted to the Town by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right. The following shall be considered site-specific development plans:

DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
a. Special Use Review pursuant to Section 15.03.165	Special Review Use approval by the Town Board
b. Subdivision Review pursuant to Articles 15.04 and 15.05, including major subdivisions, minor subdivisions, resubdivisions, and division of property into condominium or townhouse units.	Final Plat, as approved by the Town Board

If not indicated above, a site-specific development plan shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to building permit application.

Provided, however, the Town Board may by agreement with the applicant designate an approval step other than those indicated above, or the final approval step, to serve as the site specific development plan approval for a specific project.

The following are specifically excluded from, and shall not constitute, a site specific development plan: variances issued by the Board of Adjustment, sketch plans, preliminary plans, business licenses, floodway or flood plain permits, franchises, temporary use permits, any comprehensive master plan element, creation of improvement districts, zoning or rezoning, final architectural plans, or final construction drawings and related documents specifying materials and methods for construction of improvements.

2. "Vested property right" means the right to undertake and complete development and use of property under the terms and conditions of a site-specific development plan.

III. Requested Actions:

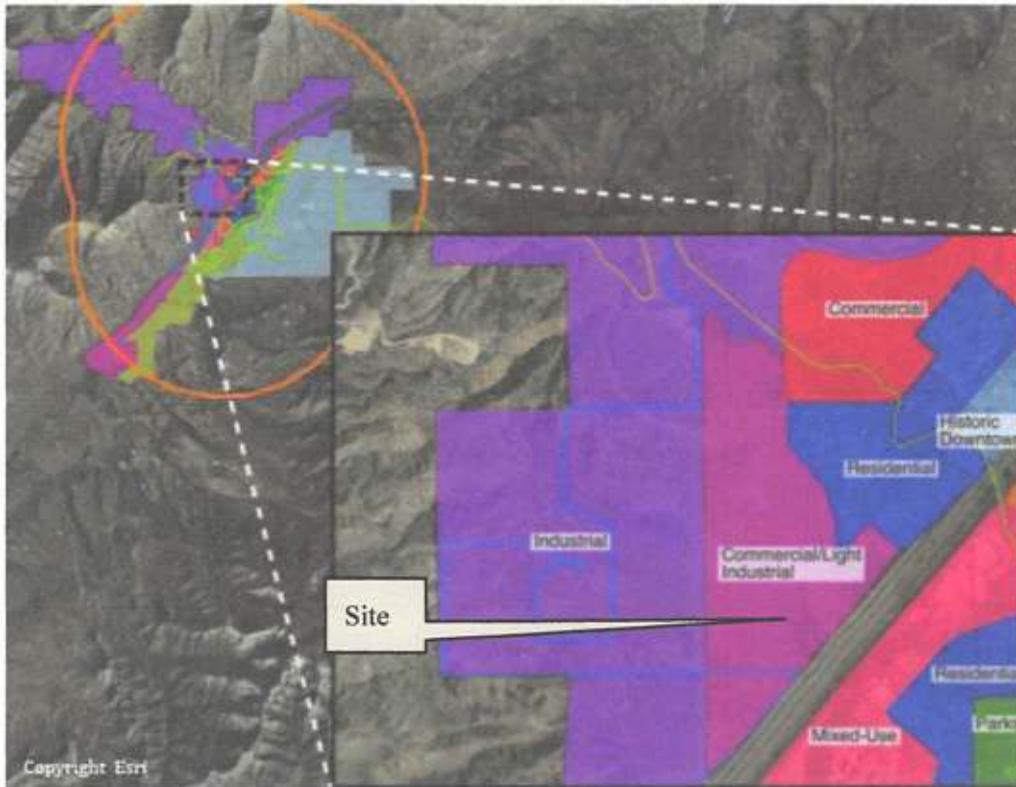
The applicant is requesting approval of a Special Review Use for a Retail Marijuana Cultivation Facility and Vested Property Rights on the Special Review Use.

IV. Special Review Use Staff Comments:

Conformance with the Town of Parachute Comprehensive Plan.

The following statements relevant to this application come from the recently adopted 2015 Parachute Comprehensive Plan completed by the Better City consultants.

Better City 2016 Parachute Comprehensive Plan - Land-Use Category - Commercial/Light Industrial



The recently adopted 2016 Parachute Comprehensive Plan states, "**Land Use Designations**

The land use zones designated herein are done in accordance with the economic diversification strategy outlined in Chapter 1 of the Comprehensive Plan and is designed to generate the greatest amount of future economic development opportunities. Where possible, the proposed land use designations follow existing property lines so as to avoid the conflict of having a single parcel with dual designations. In some instances, land use designations cross current parcels, and in such cases, it is recommended that the Town begin working with landowners to contemplate lot-line adjustments to prevent dual designation. The proposed designations also take into consideration current land use, and in some cases discusses a transition from the current use into the most appropriate use for future generations. The following land use designations are utilized and anticipated permitted uses for each zone are briefly described.

Commercial/Light Industrial – The Commercial/Light Industrial is anticipated to allow the same uses permitted within the Commercial category, along with the addition of light industrial uses such as light manufacturing, production, assembly, indoor farms, etc. The Town may consider adding language to the zoning code that permits and further defines light industrial uses based on the anticipated noise and pollution that may be created by a business or entity within the area.

Industrial – The Industrial designation is anticipated to allow both light and heavy manufacturing, natural resource collection and refining, and other similarly focused entities. The industrial designation may also be overlaid with an agricultural designation to allow current agricultural activities to continue within the zone.”

West Central

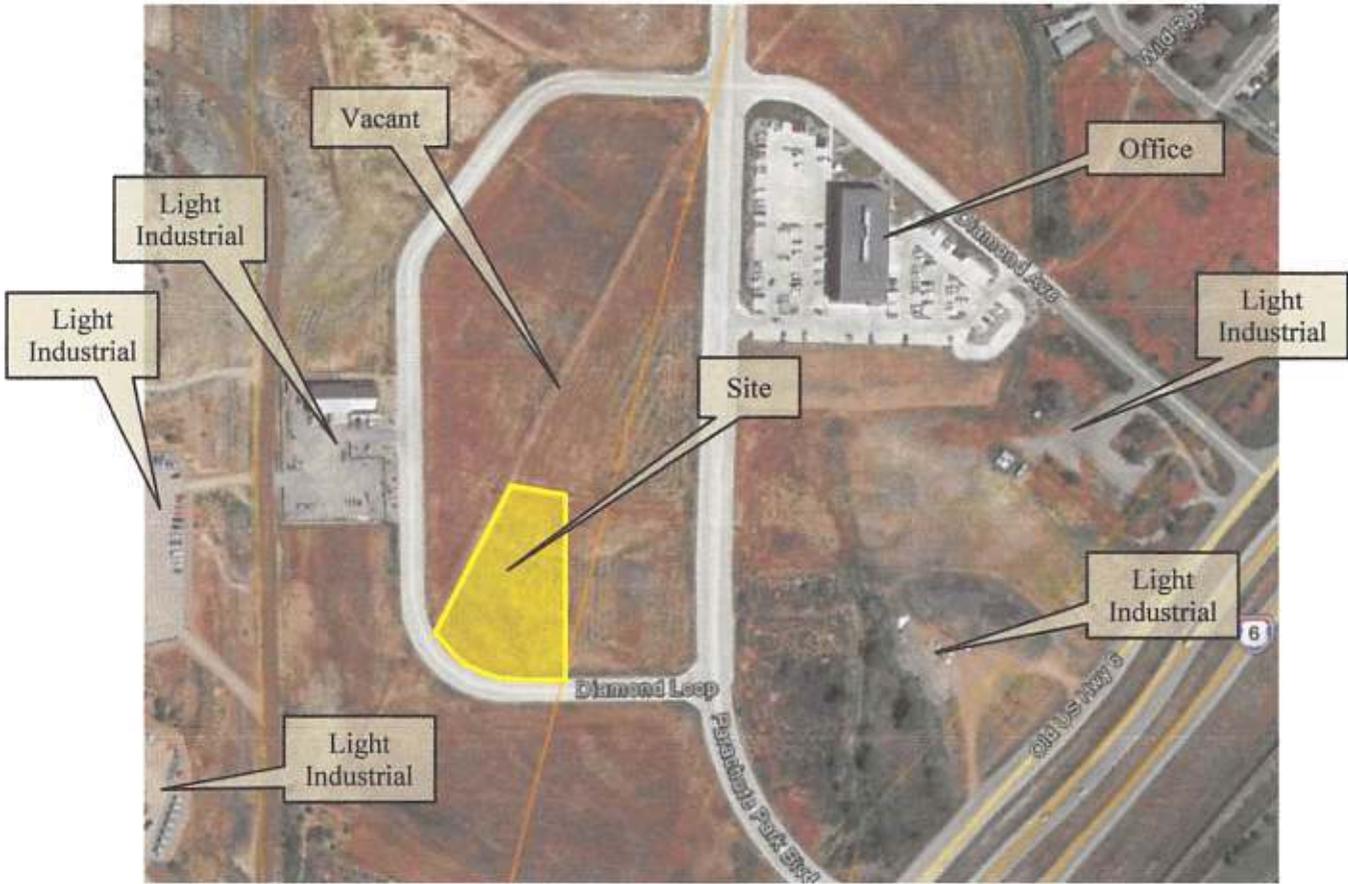
The west central section of Town will serve as the site for future Industrial, Light Industrial, and Commercial development. Convenient access along Parachute Park Blvd. will be a major benefit to new businesses in this region of Town. The Commercial/Light Industrial zone will be most appropriate for light manufacturing, business parks, light industrial parks, and agribusiness related industries. Development of new businesses in the Industrial zone to the west will be difficult due to unfavorable slope.

The Commercial zone located to the north of the Residential zone may take some time before it is fully utilized, but it is anticipated to become a commercial corridor that connects the Historic Downtown with the major businesses up the canyon toward the north.

Part of the land within the proposed Industrial and Commercial/Light Industrial zones are currently located outside Town limits. These sections should be considered for future annexation.

Staff Comment. This property is shown in the adopted 2016 Parachute Comprehensive Plan as Commercial Light Industrial and is intended to offer a variety of uses as noted above. The site is located within an existing Planned Unit Development (PUD) that allows the proposed Retail Marijuana Cultivation Facility. The proposed use will be compatible with the PUD Zone District as long as the impacts of size, odor, lighting and traffic are adequately addressed.

The following map shows the existing uses on and around the subject property.



Parachute Zoning Around Proposed Site



Special Review Use Review Requirements:

As noted previously, the town regulations state, “The Planning Commission shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the Town Clerk, the Town’s consultants and comments from the public. At a minimum, the Planning Commission shall also consider the following criteria (listed below).” The land-use regulations state, *“It is the intent of these Regulations to provide a review of special review uses so that the community is assured that any proposed special review uses are suitable for the proposed location and are compatible with the surrounding land uses.”*

1. Conformance of the proposal with the Town of Parachute Municipal Code;

Staff Comment. The proposed use will be required to conform to all applicable provisions in the Parachute Municipal Code. This includes conformance to all of the requirements of the Municipal Code, building/fire codes, electric codes and other applicable regulations. In addition to the issues identified previously in this memorandum, the applicant must address all of the applicable Code sections in more detail in their site plan submittal. The applicant requests that the details of these requirements be addressed during the site plan review process, which takes place at a staff level in conjunction with a request for a building permit. The following items are excerpts from the land-use code that are applicable to the subject property and must be complied with as part of the site plan review process.

Landscaping - 15.03.197 General Requirements for all Business, Commercial and Industrial Uses.

- B. All outdoor storage, trash receptacles and activities associated with permitted uses shall be entirely enclosed by building walls or by a solid masonry wall not less than seven feet (7') in height located at the front setback line. On all other property lines said uses shall be enclosed by buildings, solid masonry walls, vine covered chain-link fences, or uniformly compact evergreen hedges, continuously maintained and not less than seven feet (7') in height. Items stored within one hundred feet (100') of a dedicated street or residential zone shall not be stacked higher than six feet (6').
- D. All business, commercial and industrial facilities adjacent to residential uses shall be screened from the residential use with landscaping and fencing of a minimum height of six feet (6') subject to review and approval of the Town Administrator. No side or rear yards are required except where adjoining a residential zone, the side and rear yard(s) shall be a minimum of one hundred feet (100'). Said yards may be used for parking, loading, and accessways. A solid masonry wall not less than seven feet (7') in height shall be installed along the property line abutting the residential zone. (Amended Ord. 580 §9, 2008)
- G. In all front yards, the equivalent of one (1) tree per thirty (30) lineal feet of interior property line shall be provided; in all rear and side yards, visible from adjacent streets or residential neighborhoods, one (1) tree for each thirty (30) lineal feet of combined rear and side interior property lines shall be planted in either a lineal or grouped manner. In addition, a five-foot (5'), net (clear of curb), interior property line landscaped strip shall be provided. This landscaping shall be continuous along all interior property lines. Landscaping shall be held back from the property line or intersection with driveways or streets so as not to hinder traffic visibility.
- H. All yards between the public street curbing and the property line are to be professionally landscaped and maintained with drought tolerant landscaping, incorporating native shrubs and trees.

- I. All unpaved or undeveloped areas of a site for which a development application has not been submitted, shall be planted with a ground cover and/or shrub material as a condition of project approval. Undeveloped areas, which are proposed for future expansion, shall be kept in a weed free condition.
- K. Parking lot lighting fixtures are to have an overall maximum height that is consistent with the height of the buildings themselves. Walkway lighting fixtures are to have an overall maximum height of fourteen feet (14').
- L. Cut-off exterior light fixtures and their location shall be submitted on a plan for review.
- M. Security lighting fixtures are not to project above the fascia or parapet of the building and are to be shielded or recessed in the building walls to provide cut-off at the property line.
- N. The storage of combustible materials shall be not less than twenty feet (20') from any interior lot line, and a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the property to permit free access of fire trucks at any time.
- O. No materials or wastes shall be deposited upon a subject lot in such form or manner that they may be transferred off the lot by natural causes or forces. All waste materials shall be stored in an enclosed area and shall be accessible to service vehicles.
- P. Wastes, which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored only in closed containers in required enclosures.
- Q. Trash enclosure location shall be subject to the approval of the Building and Planning Department. Trash enclosure shall be of masonry construction or approved alternate material.

(Ord. 351, 1994; Amended Ord. 439 §1, 2001; Amended Ord. 501 §1, 2004; Amended Ord. 580 §10, 2008)

15.03.199 Building Exterior Design Standards.

- A. **Purposes and Intent.** The purposes and intent of this Section are to:
 - 1. Provide for the minimum protection and enhancement of the historic character of the Old Town Area of the Town of Parachute as expressed in the external appearance and siting of buildings both present and as previously existed in the community; and
 - 2. Enhance and maintain the appearance and quality of the various newer neighborhoods throughout the Town by limiting the use of certain building materials and designs.
- B. **Application.** In order to comply with the purposes and intent of this Section, the following subsections specify minimum design standards for all buildings constructed in the Town.
- C. **Standards for Exterior Building Design and Construction Applicable in All Areas of the Town of Parachute.** Except as otherwise provided herein, any land surface and any work or improvements upon any real property within the Town of Parachute shall be erected, removed, restored, altered or demolished in such a manner so as to maintain, protect and compliment the historic character and qualities of buildings, structures and properties.

All construction is subject to the requirements of any building code adopted by the Town, the Town of Parachute Land Use Regulations and any other applicable ordinances or provisions of the Town of Parachute Municipal Code.

- 3. New construction within the Town shall be designed in relation to the historical characteristics of the Town of Parachute, so that the exterior features of such

construction shall blend with the characteristics established herein.

7. Commercial and industrial buildings and associated accessory buildings must have siding material that is made of non-glare and non-reflective material or finish. All exterior siding shall be certified by the manufacturer to withstand deterioration from any atmospheric elements for a minimum of ten (10) years.
8. All roof mounted mechanical equipment and/or ductwork, which projects vertically more than one and one-half feet (1.5') above the roof or roof parapet and is visible from an adjoining street is to be screened by an enclosure, which is detailed consistently with the building.
 - a. All roof mounted mechanical equipment and/or ductwork, which projects one and one-half feet (1.5') or more above the roof or roof parapet is to be painted in its entirety consistent with the color scheme of the building in all cases.
 - b. No mechanical equipment except for emergency equipment is to be exposed on the wall surface of a building.
 - c. Plans for cyclone blowers, bag houses, tanks, etc., shall be reviewed at the time of preliminary plan check to determine design integration with buildings and adjacent area. Furthermore, they shall be painted to match the surface to which attached.
 - d. Incinerator vents are to be located on the rear or "hidden" side of the building whenever possible. (Amended Ord. 580 §11, 2008)

As noted previously in this report and as requested in the application submittal, the town requires a site plan review process prior to issuance of a building permit. The following excerpt from the Parachute land-use regulations outlines the information that must be submitted for the site plan review process.

"15.07.112 Site Plan Review. Prior to the issuance of a building permit for all uses except single-family residences, a site plan must be submitted as required by Section 15.01.114. In addition to the building permit requirements, the following information shall be submitted for a parking lot or parking area:

- A. Delineation of individual parking and loading spaces;
- B. Circulation area necessary to serve spaces;
- C. Access to streets and property to be served;
- D. Curb cuts;
- E. Dimensions, continuity, and substance of screening;
- F. Grading, drainage, surfacing and subgrade details;
- G. Delineation of obstacles to parking and circulation in finished parking area;
- H. Specifications as to signs and bumper guards;
- I. Location and specifications of shielded lighting for parking areas to be used at night;
- J. Location and specifications (e.g., plants and materials) for landscaping of the parking area;
- K. Irrigation plan for the landscaped areas; and
- L. Other pertinent data.

The Town Administrator shall make the initial determination of whether or not the plans and specifications comply with the provisions of this Chapter. Appeals from the Town Administrator's decision may be taken by any aggrieved party to the Board of Adjustment within fourteen (14) days after such decision."

Other applicable code sections that apply to this submittal are listed below.

J. Parking Lot Landscaping.

5. Interior Landscaping Requirement. Landscaping is required in the interior of parking lots to direct traffic, to reduce heat and glare and to screen cars from adjacent properties. The interior of all parking lots shall be landscaped as follows:
 2. Dual texturing of building facades or a five-foot (5') strip of building perimeter landscaping shall be required, with the exception of rear or side walls abutting other existing buildings.
 4. Parking lots shall be landscaped as required by this Section. In cases of hardship or to increase safety, the Board of Trustees may permit a portion of the required landscaping to be relocated or allowed other deviation from the parking landscaping to be relocated or allow other deviation from the parking landscaping requirements.
 5. Interior Landscaping Requirement. Landscaping is required in the interior of parking lots to direct traffic, to reduce heat and glare and to screen cars from adjacent properties. The interior of all parking lots shall be landscaped as follows:
 7. Parking Lot Perimeter. Landscaping is required around the entire perimeter of a parking lot to assist in the shading of cars, to assist in the abatement of heat and to reduce the amount of glare from glass and metal, and to assist in the screening of cars from adjacent properties.
- k. Screening from Residential Lots. All off-street parking areas with six (6) or more spaces shall be adequately screened from any adjoining residential lot by landscaping and opaque six foot (6') fencing. The landscaping and fencing shall be maintained in good condition at all times. (Amended Ord. 580 §§18, 19, 2008)

Staff Comment. The applicants is required to address all of these items as part of the site plan review process unless they request and are approved for a variance to one or more of these items.

Lighting - 15.03.197 General Requirements for all Business, Commercial and Industrial Uses.

- K. Parking lot lighting fixtures are to have an overall maximum height that is consistent with the height of the buildings themselves. Walkway lighting fixtures are to have an overall maximum height of fourteen feet (14').
- M. Security lighting fixtures are not to project above the fascia or parapet of the building and are to be shielded or recessed in the building walls to provide cut-off at the property line.

15.06.104 Site Plan Requirements. In addition to the requirements of Sections 15.06.102 and 15.06.103, any site plan required in these Regulations shall include:

- G. *The location and type of outdoor lighting;*

Staff Comment. The included site plan generally addresses some but not all of these points. The applicant is required to meet all requirements of the Town of Parachute lighting standards identified above. A complete lighting plan should be submitted for staff review and approval prior to issuance of a building permit.

Parking - ARTICLE 7: STREET PARKING REGULATIONS details the requirements for parking in Parachute.

15.07.106 Parking Requirements for Uses not Listed. For specific uses not listed in Section 15.07.102 above, the Town Administrator shall determine the appropriate number of parking spaces required based upon the type of activity, intensity, number of employees and similarity to listed uses.

Staff Comment. The parking requirements for wholesale commercial uses and warehouses are “One (1) space for every one thousand square feet (1,000 sq. ft.) of floor area or one and one-half (1.5) spaces per employee whichever results in more parking spaces.” The parking regulations do not list Retail Marijuana Cultivation Facility as a use. Parking should be based on the maximum number of anticipated employees, a loading area with parking for deliveries/pickups and space for facility visitors (inspectors, law enforcement, town personnel or others). The applicant should submit an accurate estimate of maximum employees anticipated at peak employment/operations. The applicant must comply with all parking requirements. This information should be provided to the town staff for review and approval prior to issuance of a building permit.

In addition to the required parking, “A minimum loading area of three hundred square feet (300 sq. ft.) shall be provided for all commercial or industrial uses that have a building area in excess of two thousand square feet (2,000 sq. ft.), with the exception of office and similar uses.” Again, the applicant shall be required to demonstrate compliance with this code provision.

Parking and loading areas shall be designed in accordance with all requirements and the requirements of the Town of Parachute Manual of Public Works Improvements. All parking spaces must be surfaced with asphalt or concrete; including the loading area.

Access - Access to the property is Diamond Loop off Parachute Parkway.

Staff Comment. All access to the site shall conform to all Town of Parachute requirements. Compliance with access requirements shall be demonstrated prior to initiation of the business operation or issuance of a certificate of occupancy.

Storm Drainage Facilities - Storm drainage should be addressed for the site to ensure proper function. An engineered drainage plan should be submitted to the town engineer for review and approval.

Staff Comment. The application did not include any storm drainage calculations. The town engineer will need the engineered details of site drainage prior to issuance of the building permit.

The compatibility of the proposal with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;

Staff Comment. The property is bordered on the west by light industrial and vacant lots. Existing and future uses could be impacted by odor, light, noise or other activities unless these impacts are properly buffered mitigated in the project design. Properly mitigated, the proposed grow facility will be compatible nearby uses. Because of the undeveloped nature of much of the land surrounding lot 7, the architectural character the neighborhood has not been established. The Encana office building to the northwest sets a standard for an office building. The applicant should present building elevation drawings in conjunction with the site plan review process at the time of building permit application. The Planning Commission may have feedback they wish to offer the applicant before they initiate their building design process.

The desirability of the proposed use in the specific area of the Town;

Staff Comment. The proposed grow operation is compatible with surrounding uses provided adequate mitigation is implemented for the adjacent and future uses. The applicant is processing this request as a Special Review Use consistent with the zoning requirements and the public will have notice of and an opportunity to comment on the proposed request. The proposed use with proper mitigation is in staff’s opinion, desirable in this specific area of town.

The potential for adverse environmental effects that might result from the proposed use;

Staff Comment. The applicant is required to effectively mitigate impacts in regards to storm water management, noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences as

required by the Town of Parachute Land Use Regulations Section 15.03.212.” The application does not provide any detailed descriptions of environmental mitigation and does not include any specifics on chemicals used, chemical storage, protections to the water/sewer utilities, odor removal, details on lighting fixtures/levels or other potential environmental impactors. Compliance with the applicable Parachute and other regulations to avoid adverse environmental effects will require submittal of more detailed materials addressing each of these topics. Adequate environmental mitigation must be addressed by the applicant at the time of site plan review and subject to review and approval by the staff prior to issuance of a building permit.

Conformance of any plan with appropriate engineering and design standards

Staff Comment. The site is an undeveloped property in Parachute. Site engineering and design work is necessary in order for the staff/consultants to determine if the project conforms to all applicable engineering design standards in the Municipal Code. The Town Engineer and Public Works Department should comment on compliance with applicable town engineering, utility and street access standards.

Additional criteria set forth for rezoning applications in Section 15.03.185.

Staff Comment. This is not a rezoning application and the section is not applicable.

Parkland Dedication

The municipal code requires that “For every annexation, subdivision or residential or **commercial development**, the Board of Trustees shall require the dedication of certain sites for parks and recreation use or fee in lieu of dedication, and may require reservation of sites for school and other public purposes.”

Staff Comment. The applicant will have to address this requirement. Eight percent of 1.5 acres is 0.12 acres (5,227.2 ft.²) of parkland dedication. The Trustees in their sole discretion may accept cash in lieu of land based upon the average value of undeveloped residential land in the town limits. "A minimum of 80% of land dedicated shall lend itself to utilization for public recreation purposes which includes, but is not limited to, the following: play fields, tennis courts, picnic sites and boating areas." Staff recommends that the applicant provide cash in lieu of land because of the location and proposed use of this site. The location and use on the property is not compatible with municipal recreation.

VI. Vested Property Rights Review Criteria

When vested property rights are requested, they must be considered in conjunction with a “Site Specific Development Plan”. As noted previously in this report, Trustee approval of a special review use qualifies as a site-specific development plan. State statute and the Parachute land-use regulations allow a minimum of three (3) years vested property rights which upon and applicant’s request and approval by the Town may be extended for a longer timeframe. Vested property rights afford protection to a developer as a “property right to undertake and complete development and use of real property under the terms and conditions of a site-specific development plan.” In other words, a developer would be protected from any changes imposed by the Town to their land-use approval specific to their “development plan” for the timeframe approved by the Town. In this specific case, if the Town of Parachute acts on a land-use application to approve a special review use for a retail marijuana cultivation facility and grants a vested property right for five years, then the applicant would be protected from any land-use action by the Town to eliminate or modify the approval for the five-year timeframe. An exception to this limitation would be an action by the Town of Parachute to approve an ordinance of uniform applicability to the entire community or an ordinance that is necessary to protect public health and safety. An ordinance of that nature would also apply to this application because that action falls outside of the protections afforded under

vested property rights. The Town Attorney should expand upon this explanation if requested by the Planning Commission or the Parachute Trustees.

A vested property right approval is independent from and does not change or restrict the required licensing procedure for marijuana uses. In other words, a developer may be protected from any changes in the land-use regulations specific to their property for a period of five years, but Parachute would retain the right to approve or deny an annual marijuana license for a facility without adversely affecting vested property rights granted through the land-use process.

This applicant is requesting a vested property right for five (5) years from the date of approval (if granted) by the Board of Trustees.

Staff Comment. Staff supports the request for a five-year vested property right because it provides the applicant protection for a reasonable timeframe during which they will develop their property. In addition, the Town is afforded additional protections through the marijuana licensing process.

VI. Review Agency Comments

Public Works - No comments received.

Town Engineer - No comments received.

Fire Department - No comments received.

Police Department - No comments received.

Utilities Department - No comments received.

VII. Staff Recommendations:

A) - Special Review Use Recommendation

Staff recommends **APPROVAL** of the Zoned Properties Inc. **Retail Marijuana Cultivation Facility Special Review Use** application with the following conditions.

1. The applicant shall conform to the land dedication requirements specified in Section 15.01.111.
2. The applicant shall conform to the landscaping requirements applicable for all businesses, commercial and industrial uses specified in Section 15.03.197, and a detailed plan addressing the items in this section shall be submitted for review and approval by the town prior to issuance of a building permit.
3. The applicant shall conform to Section 15.03.199 - Building Exterior Design Standards and shall submit detailed plans subject to staff review and approval prior to issuance of a building permit.
4. The applicant shall conform to the applicable lighting requirements in Parachute Land Use Code Design Standards in Section 15.06.104 and other applicable sections and shall submit a lighting plan for all exterior lighting, which shall be subject to staff review and approval prior to issuance of a building permit.
5. All parking spaces (including loading areas) shall conform to the Town of Parachute parking requirements and shall be surfaced with asphalt or concrete.
6. As required by the Parachute Municipal Code, the applicant shall submit a detailed site plan subject to review and conformance with Section 15.07.112 Site Plan Review.
7. All access to the site shall conform to all Town of Parachute requirements. Compliance with access requirements shall be demonstrated prior to issuance of a building permit.

8. Applicant shall utilize odor control technology to mitigate marijuana odors to Town staff's satisfaction the odors associated with the Retail Marijuana Cultivation Facility use when smelled at the property line of the parcel.
9. The applicant shall conform to the requirements of the Parachute Sign Code for which, a separate sign permit application is required.
10. Applicant shall submit reports prepared by a qualified Colorado-licensed engineer on water demands, wastewater generation, site drainage, traffic generation, and other related site impacts for review and approval by staff prior to issuance of a building permit.
11. All development on the site shall comply with the adopted fire codes applicable to the Town of Parachute.
12. The Record of Decision by the Parachute Board of Trustees for the Zoned Properties, Inc. Retail Marijuana Cultivation Facility Special Review Use shall be recorded in the real estate records of the Garfield County Clerk and Recorder.
13. All representations made in the Applicant's written materials or verbally as reflected in the minutes of the public meetings or hearings where the Application was presented to or considered by the Commission and/or Board of Trustees are considered part of the Application and binding on the Applicant.
14. Applicant shall reimburse the Town for any and all fees, including consulting costs, incurred in the review of the Application.

B) - Five-year Vested Property Right Recommendation

Staff recommends **APPROVAL** of the Zoned Properties Inc. five-year **Vested Property Right** application based upon the **Special Review Use** for a **Marijuana Cultivation Facility Site-Specific Development Plan**.

VIII. Recommended Planning Commission Motions:

The recommended motion on the **Special Review Use Application**.

FIRST MOTION

*The Planning Commission recommends **APPROVAL** of the Zoned Properties, Inc. application for a Retail Marijuana Cultivation Facility Special Review Use with the staff recommended conditions. (Any modifications or additional conditions made by the Planning Commission should be added to this motion).*

The recommended motion on the **Five-Year Vested Property Rights Application**.

SECOND MOTION

*The Planning Commission recommends **APPROVAL** of the Zoned Properties, Inc. application for a five-year vested property right based upon the Site-Specific Development Plan Special Review Use Application for a Retail Marijuana Cultivation Facility.*

(Any modifications or additional conditions made by the Planning Commission should be added to these motions).

**SITE-SPECIFIC DEVELOPMENT PLAN AND
VESTED PROPERTY RIGHTS AGREEMENT**

THIS SITE-SPECIFIC DEVELOPMENT PLAN AND VESTED PROPERTY RIGHTS AGREEMENT (“Agreement”) is made and entered into by and between the Town of Parachute, Colorado, a home rule municipality whose address is 222 Grand Valley Way, P.O. Box 100, Parachute, Colorado 81635 (the “Town”) and Parachute Development Corporation, a Colorado corporation whose address is P.O. Box 686, Glenwood Springs, CO 81602 (“Developer”) (individually, a “Party”; collectively, the “Parties”).

WITNESSETH:

WHEREAS, Section 15.01.107 of the Parachute Municipal Code (the “Code”) provides the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., which article establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site specific development plan;

WHEREAS, Section 15.01.107.B.1 of the Code defines a “site specific development plan” as “a plan that has been submitted to the Town by a landowner or such landowner’s representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right,” which includes including applications for “special review use approval by the Town Board”;

WHEREAS, Sections 15.01.107.B.1 and 15.01.107.G.1 of the Code establish special review use approvals as a site-specific development plans establishing vested property rights for a period of three years, which may be extended by agreement where warranted in the light of all relevant circumstances;

WHEREAS, Chapter 6.11 of the Code regulates the licensing of “Retail Marijuana Establishments” (Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Testing Facility, and Retail Marijuana Product Manufacturing Facility) and “Medical Marijuana Establishments” (Medical Marijuana-Infused Products Manufacturer, Optional Premises Cultivation Operation, and Medical Marijuana Testing Facility) in the Town;

WHEREAS, Section 15.03.215 of the Code contains the Schedule of Uses for Zone Districts within the Town, including Retail and Medical Marijuana Establishment uses;

WHEREAS, Developer owns certain real property located in the Town of Parachute, Colorado identified as Lot 7, Block 3 of the Parachute Park P.U.D., according to the Amended Plat thereof, recorded in the public records of Garfield County, Colorado at Reception No. 784960 (the “Property”);

WHEREAS, Developer and Zoned Colorado Properties, LLC, a Colorado company whose primary address is located 14300 N. Northsight Blvd., Suite 208, Scottsdale, AZ 85260 filed a Land Use Application for Special Review Use and Vested Property Rights as well as a Vested

Property Rights Agreement Project Narrative (collectively, the "Application") with the Town on June 1, 2016, Exhibit A, attached and incorporated by this reference, seeking to develop the Property with a single building site, as depicted on Exhibit B, for multiple potential marijuana uses, including a Medical Marijuana-Infused Products Manufacturer, an Optional Premises Cultivation Operation, a Medical Marijuana Testing Facility, a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, Retail Marijuana Testing Facility, and/or Retail Marijuana Product Manufacturing Facility (collectively, "Marijuana Uses"), subject to necessary and appropriate licensure and approvals;

WHEREAS, the Planning Commission for the Town of Parachute (the "Planning Commission") reviewed the Application at a public meeting held on August 11, 2016 and the Board of Trustees of the Town of Parachute (the "Board of Trustees") reviewed the Application at a duly-noticed public hearing on August 18, 2016, at which the Board of Trustees approved the Application subject to certain terms and conditions, including entering this Agreement; and

WHEREAS, pursuant to such approval, the Board of Trustees desires to grant to the Developer a vested property right for a site-specific development plan for development of a single building site on the Property, as depicted on Exhibit B, for Marijuana Uses for a period of five years, which property right shall terminate if the Developer fails to obtain any necessary licensure or approval by such time, and subject to the terms and conditions contained herein,

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are incorporated herein as material representations and acknowledgments of the Parties.

2. **Purposes and Intent.** The Parties desire, by this Agreement, to balance the Town's obligation to protect and promote the public health, safety, welfare, and vitality of the Town of Parachute, its citizens, and visitors, with its desire to facilitate the highest and best use of property in the Town. The purpose of this Agreement is to set forth the terms and conditions to be met by the Developer and approvals granted by the Town. All terms and conditions contained herein are in addition to all requirements of the Parachute Municipal Code, and state statutes, and are not intended to supersede any requirements contained therein, except where specifically provided in this Agreement.

3. **Vested Rights.** Pursuant to Section 15.01.107 of the Parachute Municipal Code, the Town and the Developer agree that the Board of Trustees' special review use approval to develop a single building site on the Property, as depicted on Exhibit B, for Marijuana Uses constitutes the approval of a "Site Specific Development Plan," subject to the conditions of development set forth herein. Pursuant to the special review use approval for the Property by the Board of Trustees, the Town grants vested property rights for the Property for a period of five (5) years from the effective date of the Town's approval of this Agreement and the special review use for the Property upon the condition that Developer comply with all of the terms and conditions of this Agreement, the special review use approval the Property, and the Application. Such rights shall also be subject to the provisions of Parachute Municipal Code § 15-1-101, *et. seq.* The

Developer shall at its expense publish the vested rights notice required by C.R.S. § 24-68-103(1) and Parachute Municipal Code § 15.01.107.E.

4. **Property.** The Parties agree that the rights granted through this Agreement extend only to the Property, and to no other real property in the Town.

5. **Specific Conditions.** The Developer agrees to the following conditions:

- a. All representations of the Developer made in the Application and in statements during the public meeting before the Planning Commission and public hearing before Board of Trustees shall be considered conditions of approval with which the Developer shall comply.
- b. In addition to all requirements of the Parachute Municipal Code and any requirements imposed by operation of state or local law, no building permits shall be issued for the Property until Developer submits and the Town approves a more detailed site plan in conformance with Sections 15.06.104, 15.06.112, and 15.01.114 of the Code.
- c. Prior to placing the Property to any Marijuana Uses, Developer or Developer's operating tenant shall be required to obtain the necessary license for a Retail Marijuana Establishment or Medical Marijuana Establishment, as applicable, under Chapter. 6.11 of the Code.
- d. Prior to the commencement of any construction activities or subsequent uses, Developer shall obtain all necessary and required permits and approvals.
- e. In addition, any and all conditions of approval of the Application imposed by the Board of Trustees.

6. **Cost Reimbursement.** In addition to any fees enacted by any ordinance of general applicability in the Town, the Developer hereby agrees to pay the Town the actual costs to the Town for legal, planning, engineering, surveying and other services rendered in connection with the Application, this Agreement, and any future exercise of the rights granted hereunder. Interest shall be imposed at rate of 1.5% per month on all balances not paid within thirty (30) days of the date of the statement provided to the Developer. The Town estimates costs not to exceed \$10,000 and shall notify Developer in advance for written approval if costs are expected to exceed \$10,000.

7. **No Obligation to Use.** Notwithstanding anything to the contrary, the Developer is under no obligation to exercise the rights granted by this Agreement.

8. **Voluntary Action of Developer.** The Developer agrees that all terms and conditions of this Agreement, including specifically the payment of fees, are agreed to and constitute the voluntary actions of the Developer.

9. **Breach by Developer; Town's Remedies.** In the event of any default or breach by the Developer of any term, condition, covenant, or obligation under this Agreement, the Town Board shall be notified immediately. The Town may take such action as it deems necessary to protect the public health, safety, and welfare; and to protect the citizens of the Town from hardship. The Town's remedies include the Town's refusal to issue to the Developer any special use permit, site-specific development plan approval, or license necessary to the Developer's planned use.

10. **Assignment.** This Agreement may be assigned to Zoned Properties, Inc., an Arizona corporation whose address is 14300 N. Northsight Blvd., Suite 208, Scottsdale, AZ 85260 or Zoned Colorado Properties, LLC, a Colorado limited liability company, whose address is 14300 N. Northsight Blvd., Suite 208, Scottsdale, AZ 85260 without the prior written consent of the Town. Otherwise, this Agreement may not be assigned by the Developer without the prior written consent of the Town, which consent shall not be unreasonably withheld. In the event the Developer desires to assign its rights and obligations herein, it shall so notify the Town in writing together with the proposed assignee's written agreement to be bound by the terms and conditions contained herein.

11. **Indemnification.** The Developer agrees to indemnify and hold the Town harmless from any and all claims against or losses of any nature whatsoever incurred by the Town arising under or resulting from development of the Property and this Agreement. This indemnification shall include actual attorneys' fees incurred in the event that any party brings an action against the Town for any of the approvals described herein. The Parties intend not to duplicate any legal services or other costs associated with the defense of any claims against either Party described in this section. Therefore, the Parties agree to cooperate in full to prevent duplicative expenses incurred as a result of the indemnification herein described.

12. **Waiver of Defects.** In executing this Agreement, the Developer waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of the Town to impose conditions on the Developer as set forth herein, and concerning the procedure, substance, and form of the ordinances or resolutions adopting this Agreement.

13. **Final Agreement.** This Agreement supersedes and controls all prior written and oral agreements and representations of the Parties and is the total integrated agreement between the parties.

14. **Modifications.** This Agreement shall not be amended, except by subsequent written agreement of the Parties.

15. **Release of Liability.** It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Town of Parachute Municipal Code and Ordinances and the laws of the State of Colorado, and that the Developer, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town officers or agents or their designees which is subsequently held unlawful by a court of law.

16. **Captions.** The captions in this Agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

17. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors, and assigns.

18. **Invalid Provision.** If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect. It is the intention of the parties hereto that, if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

19. **Governing Law.** The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either Party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Garfield County, Colorado.

20. **Attorneys' Fees; Survival.** Should this Agreement become the subject of litigation, the substantially prevailing Party shall be entitled to, and the failing Party shall pay, all reasonable attorneys' fees, expenses, and court costs. All rights concerning remedies and/or attorneys shall survive any termination of this Agreement.

21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

22. **No Agency, Joint Venture, or Partnership.** It is specifically understood and agreed to that the Parties that this Agreement does not create any agency, joint venture, or partnership relationship between the Parties. The Town has no interest in responsibility for, or duty to, third parties concerning any provision of this Agreement.

23. **Notice.** All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either Party by notice so given may change the address to which future notices shall be sent.

Notice to Town:

Town of Parachute
222 Grand Valley Way
P.O. Box 100
Parachute, CO 81635

With copy to:

Karp Neu Hanlon, P.C.

P. O. Drawer 2030
Glenwood Springs, CO 81602

Notice to Developer:

Zoned Properties, Inc.
Attn.: Bryan McLaren
14300 N. Northsight Blvd, Suite 208
Scottsdale, AZ 85260

WHEREFORE, the Parties hereto have executed duplicate originals of this Agreement on the day and year of the final signature hereto.

TOWN OF PARACHUTE, COLORADO

By: _____
Roy B. McClung, Mayor

ATTEST:

Town Clerk

PARACHUTE DEVELOPMENT CORPORATION

By: _____
Name: _____
As: _____

STATE OF COLORADO)
) ss.
COUNTY OF)

Acknowledged, subscribed, and sworn to before me this _____ day of _____, 20____,
by _____ as _____ of Parachute Development
Corporation.

WITNESS my hand and official seal.

My Commission expires: _____.

Notary Public

PUBLIC NOTICE

TAKE NOTICE that Zoned Properties, Inc., on behalf of Parachute Development Corporation & Zoned Colorado Properties, LLC, has filed a land use application with the Town of Parachute, State of Colorado, for approval of a Special Review Use, Vested Property Rights and Vested Property Rights Agreement to develop a single building site for a Retail Marijuana Cultivation Facility and other potential marijuana uses, including a Medical Marijuana-Infused Products Manufacturer, an Optional Premises Cultivation Operation, a Medical Marijuana Testing Facility, a Retail Marijuana Store, Retail Marijuana Testing Facility, and/or Retail Marijuana Product Manufacturing Facility to be located on property situated in the Town of Parachute, State of Colorado described as:

Lot 7, Block 3 of the Parachute Park P.U.D., according to the Amended Plat thereof, recorded in the public records of Garfield County, Colorado at Reception No. _____.

Property address: 110 Diamond Loop, Parachute, Colorado 81635.

All persons affected by the proposed land use application are invited to appear and state their views, protests, or support. If you cannot appear personally at such hearing, then you are urged to state your views by letter as the Planning Commission and the Board of Trustees will give consideration to the comments of property owners and the others affected in deciding whether to grant or deny the request.

The proposed development project may be reviewed at the Town of Parachute offices located at 222 Grand Valley Way, Parachute, CO, between the hours of 7:30 a.m. and 5:30 p.m., Monday through Thursday. You may call 970 285 7630, x 106 with questions or concerns.

Public meetings on the proposed land use application have been scheduled for:

Planning Commission (Public Meeting)August 11, 2016 at 6:30 PM

Board of Trustees (Public Hearing)August 18, 2016 at 6:30 PM

Both hearings will be held in the Town of Parachute Town Hall in the Board of Trustees Room, 222 Grand Valley Way, Parachute, CO.

Zoned Properties, Inc.
Published on _____, in the Post Independent.

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MEMORANDUM

DATE: August 11, 2016

TO: Parachute Planning and Zoning Commission

FROM: Martin Landers
mlanders@plan-tools.com
(970) 622-9811

CC: Stuart McArthur, Town Manager

SUBJECT: Parachute Development Review Update Project

Background

The first of the seven proposed chapters for the new Parachute Land Development Regulations (Title 15 of the Parachute Municipal Code) has been drafted. Chapter 15.05 Flood Damage Prevention reorganizes and updates the current Chapter 15.10 of the PCM.

The draft Flood Damage Prevention regulations are formatted as recommended in the annotated outline summarized at the July 14th 2016 Planning and Zoning Commission meeting. Several refinements have been made to make the land use regulations “user-friendly”:

- Establishment of a protocol for separating content into distinct articles. Four articles are created: Purpose and Applicability, Administration and Procedures, Standards, and Definitions. Future chapters will have a similar protocol as appropriate, e.g., most chapters will have definitions which will be compiled “glossary-style” at the end of each chapter.
- Breakout of subsections into stand-alone sections. With a complete listing of section titles on the first page, individual chapter provisions can be quickly located and reviewed.
- Chapter page numbering. Page numbering is customized by chapter, i.e., page 11 of 26.
- Indentation of paragraphs and subparagraphs, and highlighting definitions in ***bold italic***. Graphics are included to clarify several definitions.

The original and updated Flood Damage Prevention regulations are based on the model Colorado Water Conservation Board ordinance. The primary substantive change is the addition of the basis for establishing the Special Flood Hazard Area: the *Flood Insurance Study Garfield County, Colorado and Incorporated Areas*, dated October 15, 2015. No FIS is cited in the current regulations.

The consultant team is concurrently working on Chapter 15.01 General Provisions, submittal applications, and individual chapter definitions. The project website has also been updated with the results of the July 14th 2016 public workshop, with a survey uploaded for those that couldn’t attend the workshop. Additional progress on the project will be reported at the August 11th 2016 meeting.

Attachments

- Chapter 15.05 Flood Damage Prevention, August 2016 Draft

CHAPTER 15.05: FLOOD DAMAGE PREVENTION

<i>Article 1</i>	<i>Purpose and Applicability</i>
Sec. 15.05.110	Title
Sec. 15.05.120	Authority
Sec. 15.05.130	Purpose
Sec. 15.05.140	Methods of reducing flood losses
Sec. 15.05.150	Application
Sec. 15.05.160	Compliance
Sec. 15.05.170	Abrogation and greater restrictions
Sec. 15.05.180	Interpretation
Sec. 15.05.190	Warning and disclaimer of liability
<i>Article 2</i>	<i>Administration and Procedures</i>
Sec. 15.05.210	Designation of the Floodplain Administrator
Sec. 15.05.220	Duties and responsibilities of the Floodplain Administrator
Sec. 15.05.230	Establishment of the Floodplain Development Permit
Sec. 15.05.240	Floodplain Development Permit procedures
Sec. 15.05.250	Variance procedures
<i>Article 3</i>	<i>Standards</i>
Sec. 15.05.310	Basis for establishing the Special Flood Hazard Area
Sec. 15.05.320	General standards
Sec. 15.05.330	Specific standards
Sec. 15.05.340	Standards for areas of shallow flooding (AO/AH Zones)
Sec. 15.05.350	Floodways
Sec. 15.05.360	Alteration of a watercourse
Sec. 15.05.370	Properties removed from the floodplain by fill
Sec. 15.05.380	Standards for Critical Facilities
<i>Article 4</i>	<i>Definitions</i>
Sec. 15.05.410	Words and terms

Chapter 15.05

FLOOD DAMAGE PREVENTION REGULATIONS

Article 1

Purpose and Applicability

Sec. 15.05.110 Title.

This Chapter shall be known as the *Flood Damage Prevention Regulations of the Town of Parachute*, and may be so cited and pleaded.

Sec. 15.05.120 Authority.

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town adopts this Chapter based on the following findings of fact:

(1) The flood hazard areas of Parachute are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Sec. 15.05.130 Purpose.

It is the purpose of this Chapter to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- (6) Maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is located in a flood hazard area.

Sec. 15.05.140 Methods of reducing flood losses.

In order to accomplish its purposes, this Chapter uses the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Sec. 15.05.150 Application.

This Chapter shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the Town.

Sec. 15.05.160 Compliance.

No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Chapter and other applicable regulations. Nothing herein shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

Sec. 15.05.170 Abrogation and greater restrictions.

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another Chapter, Article, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 15.05.180 Interpretation.

In the interpretation and application of this Chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the Town; and

(3) Deemed neither to limit nor repeal any other powers granted under State law.

Sec. 15.05.190 Warning and disclaimer of liability.

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Town or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision made there under.

Article 2

Administration and Procedures

Sec. 15.05.210 Designation of the Floodplain Administrator.

The Town Manager is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Sec. 15.05.220 Duties and responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any flood proofing certificate required by Section 15.05.240 (a) (3).

(2) Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this Chapter.

(3) Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Chapter, including proper elevation of the structure.

(6) Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(7) When Base Flood Elevation data has not been provided in accordance with Section 15.05.310, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 3 of this Chapter.

(8) For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is

demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the Town.

(9) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the Town may approve certain development in Zones A1-30, AE, AH, on the Flood Insurance Rate Map which increases the water surface elevation of the base flood by more than one-half foot, provided that the Town first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

(10) Notify adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

(11) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

Sec. 15.05.230 Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Chapter.

Sec. 15.05.240 Floodplain Development Permit procedures.

(a) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures.

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.

(3) A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 15.05.330.

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(b) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(10) The relationship of the proposed use to the comprehensive plan for that area.

Sec. 15.05.250 Variance procedures.

The Floodplain Administrator shall hear and render judgment on requests for variances from the requirements of this Chapter as follows:

(1) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in Section 15.05.340 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Upon consideration of the factors noted above and the intent of this Chapter, the Floodplain Administrator may attach such conditions to the granting of variances as deemed necessary to further the purpose and objectives of this Chapter as stated in Section 15.05.130.

(3) Variances shall not be issued within any designated floodway, if any increase in flood levels during the base flood discharge would result.

(4) Prerequisites for granting variances:

a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Variances shall only be issued upon:

1. Showing a good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing Town ordinances.

c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(5) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

- a. The criteria outlined in Section 15.05.250, (1) – (5) are met, and
- b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(6) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

Article 3

Standards

Sec. 15.05.310 Basis for establishing the Special Flood Hazard Area.

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “Flood Insurance Study Garfield County, Colorado and Incorporated Areas”, dated October 15, 2015, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Chapter and may be supplemented by studies designated by the Town. These supplemental studies may include Flood Hazard Area Delineation (FHAD) studies, or other 100-year floodplain studies approved by the Town, Garfield County, or other local, regional, state or federal agencies.

Sec. 15.05.320 General standards.

In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 15.05.330 Specific standards.

In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in Section 15.05.210 or Section 15.05.220, the following provisions are required:

(1) Residential Construction. New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(2) Nonresidential Construction. With the exception of Critical Facilities, outlined in Section 15.05.380, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as stated in Section 15.05.240.

(3) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

a. 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.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(4) **Manufactured Homes.** All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the Flood Insurance Rate Map on sites (i) outside of a manufactured home park, (ii) in a new manufactured home park, (iii) in an expansion to an existing manufactured home park, or (iv) in an existing manufactured home park on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. All manufactured homes, placed or substantially improved on sites in an existing manufactured home park within Zones A1-30, AH and AE on the FIRM that are not subject to provisions (i), (ii), (iii) or (iv) above, shall be elevated so that either:

a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles.** All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the FIRM either:

a. Be on the site for fewer than 180 consecutive days,

b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is 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), or

c. Meet the permit requirements of Section 15.05.240, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

(6) **Prior Approved Activities.** Any activity for which a Floodplain Development Permit was issued by the Town or a CLOMR was issued by FEMA prior to February 11, 2014 may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Chapter if it meets such standards.

Sec. 15.05.340 Standards for areas of shallow flooding (AO/AH Zones).

Located within the Special Flood Hazard Area established in Section 15.05.310 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths

of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) Residential Construction. All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the Flood Insurance Rate Map (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(2) Nonresidential Construction. With the exception of Critical Facilities, outlined in Section 15.5.380, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as stated in Section 15.05.240, are satisfied.

Sec. 15.05.350 Floodways.

Located within Special Flood Hazard Area established in Section 15.05.310, are areas designated as Floodways. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing Floodway delineations may continue to use the Floodway criteria in place at the time of the existing floodway delineation. Since the Floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following additional provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the Town during the occurrence of the base flood discharge.

(2) If Section 15.05.350 (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, the Town may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the Town first applies for a CLOMR and floodway revision through FEMA.

Sec. 15.05.360 Alteration of a watercourse.

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

(1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

(2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

(3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable floodplain management regulations.

(4) Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.

(5) All activities within the regulatory floodplain shall meet all applicable floodplain management regulations.

(6) Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions in the Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the Town first applies for a CLOMR and Floodway revision in accordance with Section 15.05.350.

(7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

Sec. 15.05.370 Properties removed from the floodplain by fill.

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

(1) Residential Construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

(2) Nonresidential Construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Sec. 15.05.380 Standards for Critical Facilities.

(a) Critical Facilities are classified under the following categories: Essential Services; Hazardous Materials; At-risk Populations; and Vital to Restoring Normal Services. It is the responsibility of the Floodplain Administrator to identify and confirm that specific structures in the Town meet the following criteria:

(1) Essential services facilities, unless exempted per paragraphs g and h below, include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines, as follows:

a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);

b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);

c. Designated emergency shelters;

d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);

e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

f. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

g. Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

h. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Chapter, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.

(2) Hazardous materials facilities, unless exempted per paragraphs f and g below, include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the workplace, and the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Chapter, but exclude later amendments to or editions of the regulations. These facilities may include:

a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);

b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;

c. Refineries;

d. Hazardous waste storage and disposal sites; and

e. Above ground gasoline or propane storage or sales centers.

f. Specific exemptions to this category include finished consumer products within retail centers and households containing hazardous materials intended for household use;

pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products; and agricultural products intended for agricultural use.

g. Specific exemptions to this category also include buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public. These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Chapter.

(3) At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:

- a. Elder care (nursing homes);
- b. Congregate care serving 12 or more individuals (day care and assisted living);
- c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

(4) Facilities vital to restoring normal services including government operations, unless exempted per paragraph c below. These facilities consist of:

a. Essential government operations (public records, courts, jails, building permitting and inspection services, Town administration and management, maintenance and equipment centers);

b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

c. These facilities may be exempted if it is demonstrated to the Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Chapter, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Floodplain Administrator on an as-needed basis upon request.

(b) Protection for Critical Facilities. All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Chapter, protection shall include one of the following:

- (1) Location outside the Special Flood Hazard Area; or

(2) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

(c) Ingress and Egress for New Critical Facilities. New Critical Facilities shall, when practicable as determined by the Floodplain Administrator, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

Article 4

Definitions

Sec. 15.05.410 Word and terms.

The words and phrases used in this Chapter shall have the meanings defined below:

Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

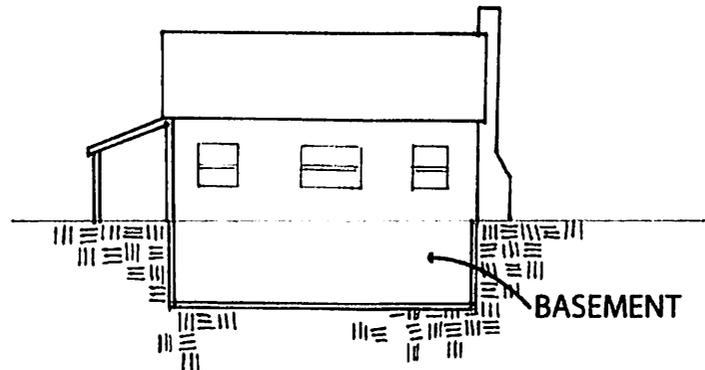
Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on the Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood Elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides. See Figure 5.1.

Figure 5.1



Channel means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries. See Figure 5.2.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the Town at any time before, during and after a flood.

Development means any man-made change in improved and 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.

DFIRM database means data and analyses that accompany DFIRMs. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital Flood Insurance Rate Map (DFIRM) means a FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

Elevated building means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters (See FEMA Lowest Floor Guide).

Federal register means the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of water from channels and reservoir spillways;
- b. The unusual and rapid accumulation or runoff of surface waters from any source; or

c. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood, 100-year means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-chance-annual flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

Flood, 500-year means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual flood). The term does not imply that the flood will necessarily happen once every five hundred years.

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Insurance Rate Map (FIRM) means an official map on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the Town.

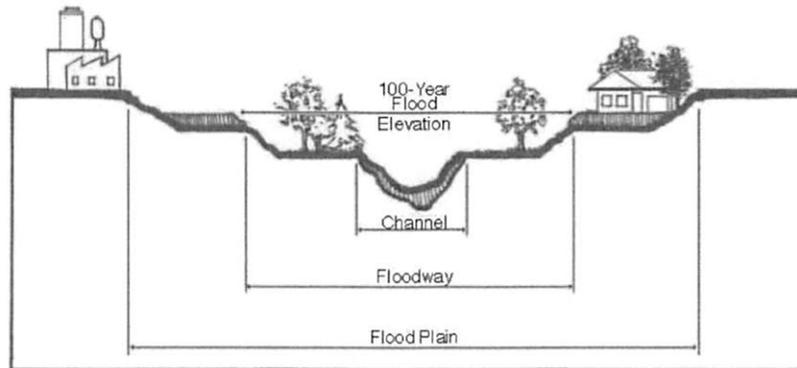
Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

Floodplain or flood-prone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir. See Figure 5.2.

Floodplain, 100-year means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

Floodplain, 500-year means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Figure 5.2



Floodplain Administrator means the Town official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within the Town, the Town shall require permits for all proposed construction or other development in the Town including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this Chapter.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations (including this Chapter), in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. See Figure 5.2.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior;or
 2. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Revision (LOMR) means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

Letter of Map Revision Based on Fill (LOMR-F) means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Letter of Map Revision, Conditional (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map that would, upon construction, affect

the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Levee means a man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

Levee system means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured home park, existing means a manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Chapter.

Manufactured home park, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Manufactured home park, new means a manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Chapter.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a Flood Insurance Rate Map are referenced.

Material Safety Data Sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Physical Map Revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or plan features.

Recreational vehicle means a vehicle which is:

- a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projections;
 - c. Designed to be self-propelled or permanently towable by a light duty truck;
- and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area (SFHA) means the land in the floodplain within the Town subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction means the date the initial building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or

footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- b. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Threshold Planning Quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Variance means a grant of relief to a person from one or more requirements of this Chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations).

Violation means the failure of a structure or other development to be fully compliant with this Chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in floodplains.