CITY OF IDAHO SPRINGS
1711 Miner Street
P.O. Box 907
Idaho Springs, CO 80452-0907
Telephone (303) 567-4421
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NOTICE AND AGENDA
Regular Meeting
Idaho Springs Planning Commission
1711 Miner Street, City Hall
Wednesday, December 7, 2022 – 6:00 p.m.

PLANNING COMMISSION
Regular Meeting
Wednesday December 7, 2022
6:00 PM

- **Roll Call**
- **Approval of Minutes from November 2nd, 2022.**
- **Conflict of Interest**
- **Public Comment Period**
- **New Business**
  - Presentation of the Draft Idaho Springs Sports and Recreation Complex Master Plan
  - Discussion Related to Parking Requirements in the Downtown Historic District
  - Monthly Staff Report
- **Adjournment**

IN-PERSON AND REMOTE MEETING PUBLIC ATTENDANCE AND PARTICIPATION INSTRUCTIONS

The Public is able to view and hear this meeting remotely at the following address on the City's website:
https://www.colorado.gov/pacific/idahosprings/city-council-live

To provide public comment remotely please use the link below
https://us02web.zoom.us/j/82820085718?pwd=QWs0RnN6NW1EZjBCSitJZzhET3VtUT09

Passcode: 287976

For in-person Unscheduled Public Comment, please sign-in at the entrance to the Council Chambers.

Each individual that is providing public comment is limited to three (3) minutes.

PLANNING COMMISSION
MINUTES
November 02, 2022

ROLL CALL

Chairman Cindy Olson called the meeting to order at 6:12 p.m. Commissioners present were Cindy Olson, Don Reimer, Kent Slaymaker, Lisa Manifold, and Ursula Cruzalegui. Commissioner Chuck Howard was absent. Staff present are City Planner Jerad Chipman, Deputy City Clerk Wonder Martell, and assistant city attorney Nick Klein.

APPROVAL OF MINUTES

Commissioner Ursula Cruzalegui moved to approve the minutes from September 22, 2022. Commissioner Kent Slaymaker seconded the motion, and the motion carried by unanimous voice vote.

PUBLIC COMMENT

Community Development Planner Jerad Chipman advised Chair Olsen that there were no virtual public comments signed up and Deputy City Clerk Wonder Martell advised that there had been no sign up in person for public comment.

PUBLIC HEARING AND CONSIDERATION

Text Amendment to Chapter 21 of the Idaho Springs Municipal Code. Chair Olson opened the public meeting at 6:04 pm.

APPLICANT TESTIMONY

City of Idaho Springs Community Development Planner Jerad Chipman advised the board that the changes to the code are in sections 21-33(E)(8) Insurance requirements for STR licenses, 21-50 To allow ADU use in zoning R2 and R3, and 21-104 To increase the validity of COA's from 6 months to 1 year. Staff is preparing short term rental (STR) renewal notices for the forthcoming renewal cycle. The renewal cycle has prompted staff to seek the following text amendments to Chapter 21 of the Municipal Code regarding insurance requirements for STRs and allowing for Accessory Dwelling Units (ADU) in the R-2 and R-3 Residential Districts as discussed at previous Planning Commission Meetings. Staff understands that the Planning Commission previously wanted to explore requiring STR licensees to acquire something akin to general commercial liability insurance. Instead, and for the time being, the Code has remained silent on that topic on the belief that responsible homeowners would ensure their coverage is adequate under their homeowner's insurance policy.

PUBLIC COMMENT ON PUBLIC HEARING

There was no public comment in person or virtually for this public hearing subject.

BOARD DISCUSSION

Commissioner Slaymaker asked staff how many ADU's are already in town, city planner Chipman advised the board that he was not sure on that number. Commissioner Manifold asked staff how many properties could place an ADU with this recommended code change? City Planner Chipman advised possibly 20. Chair Olson advised she was surprised that there would be that many. City Planner Mr. Chipman advised the board that the city is trying to allow more housing as it is in need. Chair Olson stated that if the commission allowed this, would there be more parking requirements? City Planner Mr. Chipman advised the board that yes, there would be parking requirements, but the current code allows for a bit of wiggle room in regard to ADU's and parking requirements. Chair Olson asked the board if they should address the parking.

Commissioner Slaymaker stated that the requirements should be the same as in zone R1. City Planner Mr. Chipman stated that the goal is for this to be long term housing and not ADU's for Short Term Rentals. Chair Olson stated that the board needs to look at the whole picture, because in fact the ADU's may be turned into STR's later and parking would become an issue. Chair Olson said that the commission needs to take that into account with allowing more ADU's to be built.

Commissioner Manifold asked how the board could make parking exceptions with these smaller lots in R2 and R3 zones. Commissioner Slaymaker replied with they would be looked at on a case-by-case basis and hopefully the parking would be worked through during the building permit process. City Planner Mr. Chipman advised the board that they could potentially do a code modification to make it work, and ADU's have smaller set back requirements, and the minimum allowable living space for an ADU in the current code is 200 square feet. City

Attorney Mr. Klein advised the board that in the code as it is currently written, the ADU cannot be larger than 50% of the primary residence.
Commissioner Cruzalegui asked staff about additional information on the STR insurance. Commissioner Cruzalegui asked staff why the requirement was worded so vaguely? Why not straight out require the insurance? And she asked if the liability insurance would be tied to the STR insurance? Mr. Chipman advised the commission that hosting sites (like AIRBNB) offer some kind of coverage that their users can opt in for. Commissioner Cruzalegui responded to Mr. Chopman and advised that AIRBNB only has partial coverage, they offer what is kind of like a "pool", a bunch of people must apply for the coverage and once the coverage is used up, there is no more offered. Only a % of the users get to have the provided coverage. Ms. Cruzalegui doesn't think that the insurance will cover the STR's.

Commissioner Cruzalegui suggested just asking for STR license holders to get and provide proof of STR coverage. Chair Olson asked staff if there would be potential of homeowners insurance limits being doubled to cover the STR. Commissioner Cruzalegui advised the board that then she herself had an STR license, she had asked multiple insurance companies for coverage for her STR and she was unable to find a company that would cover an STR and her homeowners insurance told her that they would not cover a STR. Commissioner Slaymaker agreed and stated that homeowners insurance does not cover the operation of a home business. Commissioner Manifold asked if an STR license holder could not get STR coverage could they just get liability insurance to cover the STR.

Commissioner Slaymaker asked if other rental properties in the city are required to provide proof of insurance? Staff advised that the answer to that question is no. Commissioner Manifold stated that the city is allowing business's (STR's) to operate in residential zones. City Planner Mr. Chipman advised the board that the code amendments were written like this to try not to be so burdensome to STR property holders. Commissioner Cruzalegui asked that if a STR license holder does not maintain the insurance policy, as required in these code amendments, would those STR license be put back in the lottery? City Planner stated yes, and that the motion could be amended to give a particular time frame of reinstating insurance coverage, 30 days to provide proof of reinstatement of insurance coverage of the STR.

Commissioner Manifold asked staff where the responsibility of checking the insurance coverage dates falls onto the city or the STR holder. City Planner Mr. Chipman advised that the STR renewals are annual, and it would be the STR license holder to maintain continuous coverage and renewing once the policy had expired. Chair Olson closed the public hearing at 6:46 pm.

Commissioner Slaymaker motioned to approve the ordinance to go to council but to have amended language in the ordinance under

Section 1. (8) (a) A licensee shall inform ~~his or her~~ **the licensee's** insurance company that the property covered by the insurance company will be used as a short term rental before any short term rental transaction is processed, regardless of whether the licensee obtains liability insurance for the short term rental through that insurance company. The licensee shall verify compliance with this notification requirement by executing and submitting a form affidavit provided by the City during the application process.

Commissioner Manifold seconded followed by an all-in favor roll call vote. The commission did ask staff to gather more information on STR insurance coverage.

NEW BUSINESS

Discussion related to parking requirements in the Downtown Historic District. City Planner Mr. Chipman presented his staff report to the commission. In July of 2022, the Planning Commission discussed the potential for a text amendment to the parking requirements found within Chapter 21 of the Municipal Code pertaining to the Historic District. Currently, if a property owner is interested in altering the use of a space within a building, that space is assessed to determine what the existing parking requirement is and what the proposed future parking requirement would be. If the change in use would require more than 125% of the current parking requirement, the location would not be able to change the use without a variance. At that meeting staff indicated a number of potential options to address the challenges that altering the use of a space or constructing an addition onto the rear of a building would create for a site that has almost no opportunity to meet the additional onsite parking requirements.

The Planning Commission indicated their interest in moving forward with a text amendment that would charge a fee-in-lieu of a required parking space for a non-residential use and allowing a residential use to be developed without requiring parking due to the housing challenges that the City faces. Staff has conducted further research into this issue and have found that it is an increasingly popular means of addressing the parking challenges within constrained urban areas, a fee-in-lieu of parking ordinance. Examples of Colorado municipalities that have adopted similar codes include the City of Golden, the City of Glenwood Springs, and the City of Durango. Staff is proposing a similar program to that of the Town of Eagle, however, with tiers to differentiate the varying uses that could be developed.

The Planning Commission indicated their preference for the development of workforce housing to not be required to pay a fee. Staff is proposing a reduced fee for residential developments rather than no fee as these units would still generate the necessity for parking spaces and greater utilization of the parking stock. The City currently does not have a differentiation for market rate housing versus workforce housing, however, the City will be participating in a study in conjunction with Clear Creek County, Georgetown, Silver Plume, and Empire to study the housing crisis and provide recommendations pertaining to code updates tailored to each community.

This effort may result in a multi-jurisdictional housing authority that would allow the City to conduct additional workforce housing efforts and definitions. Once workforce housing is better defined, staff would recommend revisiting this ordinance to separate market rate housing and workforce housing and the corresponding parking fee-in-lieu amount.
Commissioner Slaymaker asked Mr. Chipman, if the boarders go beyond the Historic District, how would that be defined. Mr. Chipman replied and stated that the city would define a project area. Commissioner Slaymaker stated that there would probably need to be a rental cap, because property owners will just push the fee for parking onto their tenants.

Chair Olson advised the bard that the parking would come up only when there was a change of use. Mr. Chipman agreed that yes, a change of use would initiate the parking and not for currently operating business's. Commissioner Slaymaker asked who owes the fee? The business or the property owner? City Planner Mr. Chipman replied and stated that part had not been ironed out yet, but the funds would go to parking improvements. Chair Olson asked staff how far out the multijurisdictional housing authority is, about 2 years. Mr. Chipman advised the board that there has been a grant issued to assist in the survey and this is currently being worked on, but right now the only option to the parking issues in HD is to go to the variance board.

Commissioner Slaymaker stated that this could be a cost-of-living issue, that there may be a bad side effect to this, and maybe there could be an option to waive or reduce these fees is the property owner agrees to a rental cap. Chair Olson advised Mr. Slaymaker that they would have to do a study on rental cap, and that they could make the fees modifiable. Commissioner Slaymaker stated that the proposed fees are not that high, and could be higher, or could be waived or lowered if offering a lower rental cost. Commissioner Reimer agreed with all the boards suggestions, but he thinks that with everything going up in cost, that these fees will cause the public opinion to go down and that is not a good idea. Commissioner Slaymaker stated that this seems to be geared to activating unused real estate and not specifically parking.

Chair Olson asked city planner Mr. Chipman if a public hearing would be required to make these changes, and Mr. Chipman advised that it require a public hearing. Commissioner Cruzalegui stated that this is a good strategy to activate housing, and that it would be beneficial to have a formula to allow for a lower charge if housing is truly affordable for Idaho Springs. City Planner Mr. Chipman advised the board that this would need to be tracked long term. Commissioner Manifold stated she liked the way the Town of Eagle has their ordinance for this parking fee-in-lieu laid out. Very easy to read and it touched on every point.

City Attorney Mr. Klein advised the board that affordability rates were usually derived from HUD, and in response commissioner Manifold and commissioner Cruzalegui stated they would like the affordable rate to be more geared towards Idaho Springs specifically as when its expanded into other municipalities (Evergreen for example) the affordability rates change drastically and does not represent what is affordable to Idaho Springs.

City Attorney Klein advised the board that there are a few more restrictions because the city is not a Home Rule, but a statutory city. The commission agreed to take this subject to a work session after the regular meeting on December 7th after staff has gathered more information.

City Planner Mr. Chipman went thru his monthly report and advised planning commission that at the next meeting the Conditional Use permit for Mile Hi Rafting is up for review. The commission asked staff if the ordinance granting the CUP that city council approved could be provided at that meeting. City Planner Mr. Chipman advised the commission that he would get them all a copy of that ordinance and there would be a staff report provided for that review.

ADJOURMENT
Chair Olson adjourned the meeting at 7:36 pm

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Date: December 1, 2022

To: Idaho Springs Planning Commission

CC: Andrew Marsh, City Administrator, Carmen Beery, City Attorney

From: Jerad Chipman, AICP, Community Development Planner

Re: Idaho Springs Sports and Recreation Complex Master Plan Public Engagement Presentation

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The City of Idaho Springs has engaged THK Associates, Inc. to draft a Master Plan (Plan) for the Idaho Springs Sports and Recreation Complex, also known as the Shelly/Quinn Fields. The Plan has been commissioned for the purpose of envisioning a complex that serves more user groups. Several key components of the plan are a skate park and a tennis/pickleball court. These two amenities were lost with the construction of the Greenway and the modifications to Colorado Boulevard respectively. Other key components of the Plan are the relocation of the stage, a concessions and restroom building, a fire pit, a playground, an overlook accessed by a short trail, and possibly a half-court basketball facility. The Plan formalizes the parking area and expands the parking through the incorporation of the City's Public Work storage area.

An Open House will proceed the Planning Commission at 5:00 P.M. with a presentation to take place during the Planning Commission meeting at 6:00 P.M. The purpose of the Open House and the presentation are to gain public input regarding the draft plan. Attached is a draft of the plan for the Planning Commission's review. The City and THK received comments from the Skate Board during the week of Thanksgiving that will prompt a few updates to the plan that is currently attached to the packet. Those updates will be discussed on Wednesday.

WELCOME!

Draft Date November 21, 2022

Idaho Springs Sports and Recreation Complex

Existing Conditions

November 21, 2022

Idaho Springs Sports and Recreation Complex

Preliminary Concept Review

November 21, 2022

Idaho Springs Sports and Recreation Complex

Conceptual Renderings

November 21, 2022

Idaho Springs Sports and Recreation Complex

Conceptual Renderings

November 21, 2022

Idaho Springs Sports and Recreation Complex

Conceptual Renderings

November 21, 2022

HK associates, inc.

Idaho Springs Sports and Recreation Complex

Conceptual Renderings

November 21, 2022

Arvada Skatepark
Arvada, CO (~40,000 SF)

Arvada Skatepark
Arvada, CO (~40,000 SF)

Arvada Skatepark
Arvada, CO (~40,000 SF)

Ulysses Skate Park
Golden, CO (~27,000 SF)

Ulysses Skate Park
Golden, CO (~27,000 SF)

Ulysses Skate Park
Golden, CO (~27,000 SF)

associates, inc.

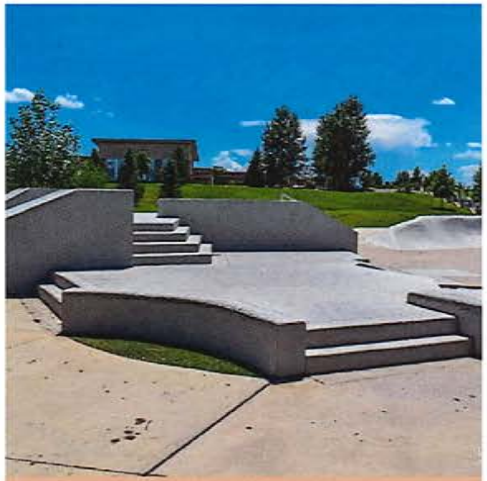
Idaho Springs Sports and Recreation Complex
Skatepark Precedent Imagery
November 21, 2022

Silverthorne Skateboard Park
Silverthorne, CO (~16,000 SF)

Silverthorne Skateboard Park
Silverthorne, CO (~16,000 SF)

Silverthorne Skateboard Park
Silverthorne, CO (~16,000 SF)

Green Valley Ranch Skatepark
Denver, CO (~8,000 SF)



Green Valley Ranch Skatepark
Denver, CO (~8,000 SF)

Milliken Skatepark
Milliken, CO (~14,000 SF)

Pioneer Park Skatepark
Commerce City, CO (~20,000 SF)

HK associates, inc.

Idaho Springs Sports and Recreation Complex

Skatepark Precedent Imagery
November 21, 2022

High Plains Park Pump Track
Denver, CO (~40,000 SF)

High Plains Park Pump Track
Denver, CO (~40,000 SF)

High Plains Park Pump Track
Denver, CO (~40,000 SF)

Montbello Pump Track
Denver, CO (~14,000 SF)

Montbello Pump Track
Denver, CO (~14,000 SF)

Montbello Pump Track
Denver, CO (~14,000 SF)

HK associates, inc.

Idaho Springs Sports and Recreation Complex

Pump Track Precedent Imagery
November 21, 2022

Medium Covered Restroom/Concession
(~600 SF)

Medium Covered Restroom/Concession
(~700 SF)

Medium Covered Restroom/Concession
(~815 SF)

Small Restroom/Concession
(~300 SF)

Small Restroom/Concession
(~320 SF)

Small Covered Restroom/Concession
(~360 SF)

HK associates, inc.

Idaho Springs Sports and Recreation Complex

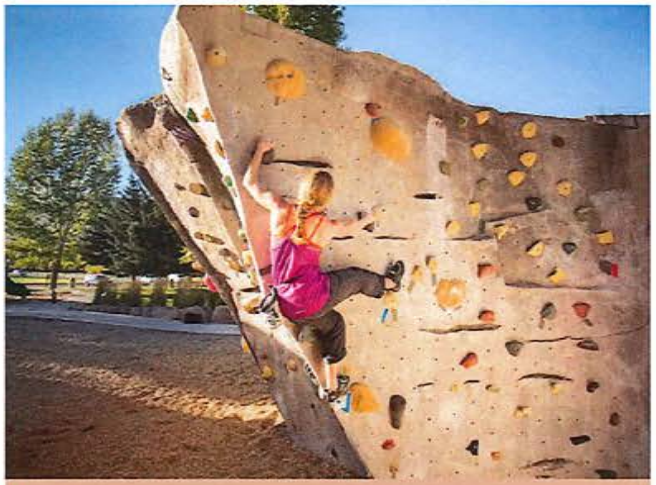
Concession/Restroom Precedent Imagery
November 21, 2022

Sensory Play Equipment

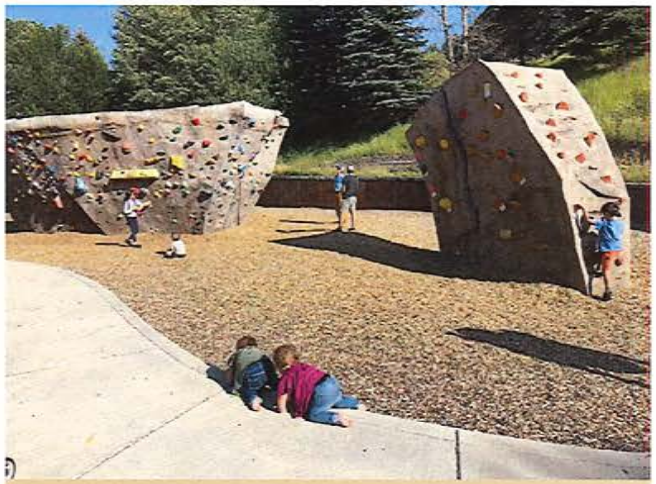
Sensory Chimes

Accessible Talk Tubes

Bouldering Amenity



Bouldering Amenity



Bouldering Activity Area

Idaho Springs Sports and Recreation Complex

Playground Equipment Precedent Imagery

November 21, 2022

HK associates, inc.

Idaho Springs Sports and Recreation Complex

Preliminary Concept Review

November 21, 2022

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Date: December 1, 2022

To: Idaho Springs Planning Commission

CC: Andrew Marsh, City Administrator, Carmen Beery, City Attorney

From: Jerad Chipman, AICP, Community Development Planner

Re: Discussion Related to Parking Requirements in the downtown Historic District

At the November Planning Commission Meeting there was a spirited discussion regarding the possibility of implementing a parking fee-in-lieu program to allow for property owners in a particular area to expand their building square footage or proceed with a change of use and still address parking requirements that are currently hindering development. As a summary of the challenge that is being faced by the Historic District, if a property owner is interested in altering the use of a space within a building, that space is assessed to determine what the existing parking requirement is and what the proposed future parking requirement would be. If the change in use would require more than 125% of the current parking requirement, the location would not be able to change the use without a variance. There were several main topics that came out of the meeting. This report and the attached report from the City Attorney attempt to address those comments. Staff is requesting additional feedback with the intent to bring back an ordinance for Planning Commission review in the first quarter of 2023. The topics of discussion were:

- How will this effect parking prior to the parking structure being built?
- Has the City received requests for additions and use changes that were limited by the current parking ordinance?
- What is a fair fee-in-lieu price for a parking space, and what price are other communities charging?
- Is Idaho Springs able to define affordable housing and charge less of a fee for newly created affordable units?
- What boundaries are appropriate for the district?

How will this effect parking prior to the parking structure being built?

The city currently faces challenges with providing adequate parking for the amount of residents and visitors that frequent the City. In the short term allowing additions and use changes that draw more people to the downtown area will affect the amount of parking that is available. There are several

developments planned that will also affect the parking status near the Historic District. The Jacobs House is planned to be moved in December. This will open up additional spaces in the short term that could assist in offsetting the increased demand. Construction of the parking structure and mobility hub will remove spaces until the parking structure is complete. This construction disruption to the parking areas south of the Historic District will have to be mitigated through planning for employee parking in other locations until the benefits of the parking structure can be realized.

Has the City received requests for additions and use changes that were limited by the current parking ordinance?

Yes. The city has received a few requests for additions and use changes that have limited their ability to develop/redevelop properties. Two were requests for additions and two were use changes.

What is a fair fee-in-lieu price for a parking space, and what price are other communities charging?

The City originally proposed the below schedule for the Planning Commission to review. The top line amount was calculated based on the estimated amount of creating a parking space within the proposed parking structure, and the other figures are derived from that top line figure.

Use	Fee-in-lieu amount.
Restaurant/Retail	$30,000 per space. Prorated for fractional requirements.
Office/Personal Service	$15,000 per space. Prorated for fractional requirements.
Residential	$5,000 per space. Prorated for fractional requirements.

The Planning Commission was split on the top line amount proposed, as well as the residential amount due to the desire to prioritize affordable residential units. The below table includes several examples from other communities that have a fee-in-lieu program. Many additional examples can be found in the attached report from the City Attorney. I have included the monetary amounts from the City Attorney's report in the below table.

Municipality	Fee per Parking Space	Option for reduced payment.	Option to pay over time.	Annual price adjustment.
Eagle, CO	$23,100	Reduced to $16,100 if public parking is constructed on adjacent public property.	No	Yes
Golden, CO	Approximately $12,000	No. The fee is based on half of the current replacement cost of structural parking spaces for new construction and 25% for tenant change	Yes, 20-30 years	Yes, inflation index
Glenwood Springs, CO	$8,000	No	No	Yes, by resolution

Durango, CO	$13,550	No	No	Yes, by resolution
Louisville, CO	$22,000	See City Attorney's Report (CAR)	CAR	CAR
Dillon, CO	1-4 spaces $2,000 and 4-6 spaces $5,000	CAR	CAR	CAR
Mountain Village, CO	$25,000 for a full parking space	CAR	CAR	CAR
Telluride, CO	Unknown	CAR	CAR	CAR
Buena Vista, CO	$1,200	CAR	CAR	CAR
Central City, CO	$30,000	CAR	CAR	CAR
Winter Park, CO	Case-by-case	CAR	CAR	CAR

The examples provided above range from $1,200 to $30,000. Most are tied to a calculation of an average parking space, either ground or structured parking. Golden's fee is based on half of the estimated amount of a parking space. Staff is requesting the Planning Commission's thoughts regarding the fee amount.

Staff is proposing an updated fee schedule for the purpose of generating discussion with the Planning Commission. Staff is proposing that the fee-in-lieu be based on two-thirds (2/3) of the amount of the estimated construction cost of a parking space within the proposed parking structure.

Use	Fee-in-lieu amount.
Restaurant/Retail	$20,000 per space. Prorated for fractional requirements.
Office/Personal Service	$10,000 per space. Prorated for fractional requirements.
Residential	$0 - $2,500 per space. Prorated for fractional requirements.

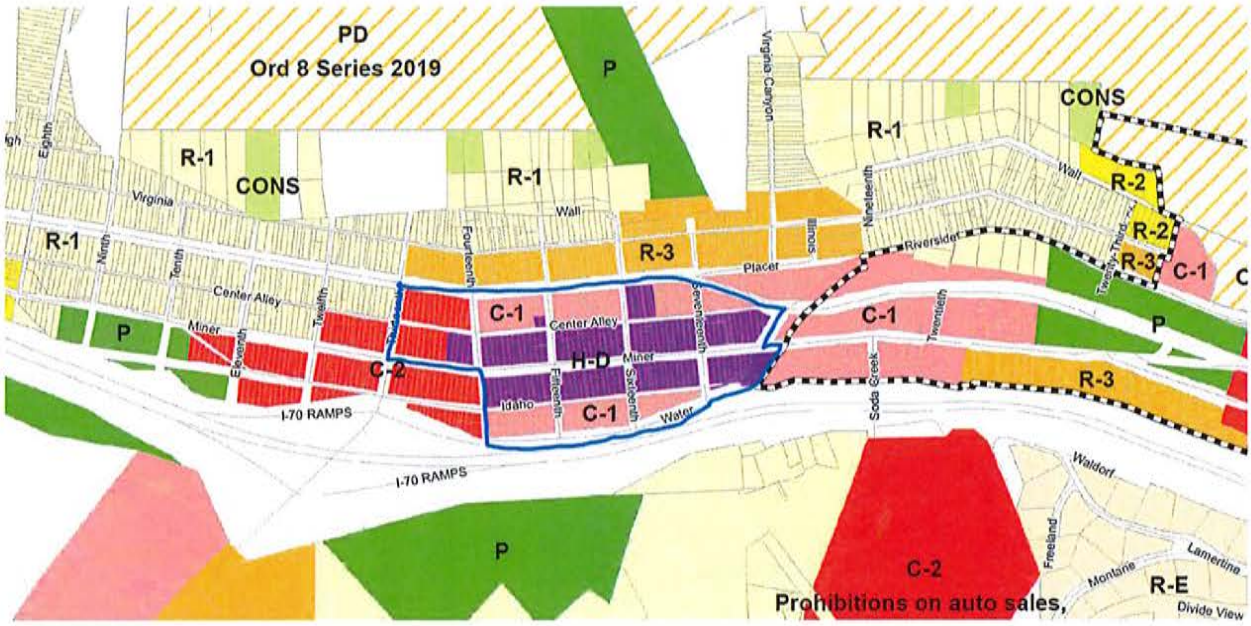
Is Idaho Springs able to define affordable housing and charge less of a fee for newly created affordable units?

Yes. The City of Idaho Springs is able to define affordable housing. Staff is hesitant to expand the potential parking fee-in-lieu program to include affordable housing. It is staff's opinion that a truly effective housing program will need to be much more comprehensive to make an impact, and a comprehensive approach is going to be studied through a grant focusing on Innovative Affordable Housing Strategies (IHOP). Staff's research has found examples of municipalities that exempt residential developments from the fee-in-lieu requirements. Rather than broadening the fee-in-lieu program to include affordability, the Planning Commission may choose a small fee or a fee of zero for residential and amend the ordinance based on the findings of the study. One of the primary reasons that staff is hesitant to include affordable housing in this program is the necessity to outline deed-restricted regulations. Protections would be required to ensure affordable housing and staff would prefer not to duplicate the efforts of the consultants in the forthcoming study.

There are several contributing factors for why residential development could be exempt from the fee-in-lieu program. Parking spaces that are utilized by residents of the district are often in use during non-peak times such as overnight. Residents in downtown settings tend to have fewer vehicles as they live close to transit and daily amenities are within walking distance.

What boundaries are appropriate for the district?

Staff has included a draft exhibit for discussion purposes outlining the Historic District and several other sites that may see commercial development near the Historic District.



In the event that the fee-in-lieu program is adopted, staff is proposing to leave the 125% change of use parking allowance at its current level. The Planning Commission discussed raising this percentage, however, it is staff's opinion that the proposed fee-in-lieu structure would allow for a range of means to address the current parking provisions that limit the use of Historic District building square footage.

Staff is requesting the Planning Commission's opinion on the potential fee-in-lieu program with the intent of bring a text amendment ordinance to the Planning Commission in the first quarter of 2023.

MURRAY
DAHL
BEERY
RENAUD LLP
ATTORNEYS AT LAW

To: City of Idaho Springs Planning Commission

From: Jerad Chipman, City Planner; Carmen Beery, City Attorney

Date: December 7, 2022

Re: Fee in Lieu of Providing Parking Memo

Background

At the November 2, 2022 meeting, the City of Idaho Springs Planning Commission directed staff to be prepared to continue discussions regarding a fee in lieu of providing the required parking spaces associated with a change in development use. This memo offers a discussion of:

- The ethos behind fee in lieu parking schemes; and
- The types of fee in lieu parking schemes; and
- A brief discussion of relevant case law; and
- Examples of fee in lieu parking schemes present in Colorado.

In Lieu Fees

In-lieu fees in the United States are legally justified by the nexus between the fees and the cost of providing public parking spaces. American cities therefore offer the in-lieu option only when they are prepared to spend the fee revenue to provide new public parking facilities. In a paper examining in lieu fees across the country and in other countries, noted planning scholar Donald C. Shoup identified the following advantages of an in lieu parking fee:

- In lieu fees provide developers an alternative to meeting parking requirements; and
- Shared parking is more efficient than single use private parking because fewer spaces are needed to meet the total peak parking demand; and
- Municipalities can choose where to locate the lots or parking structures to the location with the lowest impact on vehicle and pedestrian circulation; and
- In lieu fees lead to fewer variances that provide unearned economic windfalls to some that are denied to others; and
- In lieu fees assist with the adaptive reuse of historic buildings and allows for the rehabilitation of historic areas. Donald S. Shoup, *In Lieu of Required Parking*, JOURNAL OF PLANNING EDUCATION AND RESEARCH (1999).

Shoup also noted several disadvantages to the imposition of such a scheme including:

- A lack of onsite parking, which can be countered by developers simply opting to provide parking rather than paying the feel; and
- The high fees charged by municipalities reflect the inefficiency on municipal led construction compared to the private sector; and
- There is no guarantee of when or how the promised parking to be constructed with the collection of the fees will be constructed; some municipalities begin building before they receive the fee revenue, and then use that revenue to retire the debt incurred to finance these structures; and
- In-lieu fees may reduce the parking supply if cities provide fewer than one public parking space for each in-lieu fee paid. However, Shoup noted that while in some cases cities may not provide one public parking space for each in-lieu fee paid, if a city uses in-lieu fees to build public parking spaces rather than grant variances to reduce parking requirements, the in-lieu policy will generally increase rather than decrease the parking supply.

Overall, officials in most of the municipalities surveyed by Shoup said that the fees had become a form of administrative relief for developers who do not want to provide the required parking spaces.

Imposition of In Lieu Fee Schemes

Typically, there are two ways to approach the creation of a parking in lieu fee:

- *Case by case*: this method requires a land value appraisal to estimate the cost of public parking, then after being notified of the fees, applicants generally are able to appeal to the City Council for a fee reduction.
- *Uniform fee per space*: this approach creates a fee schedule that is available to developers before they submit a development application.

Municipalities and developers generally prefer the uniform fee approach because a case by case approach can create uncertainty in project planning. There is a balance to be reached between setting fees high enough to pay for public parking yet low enough to attract development to the area. The uniform fee per space scheme is that which is being proposed by City staff.

Uniform Fees

Uniform fees per space can be assessed in numerous ways:

- The City can opt to have fees get higher as the development approaches the City center; or

- The City can have a fee schedule defined by the type of development (residential, commercial, office space, restaurant, etc.)—categories can be as specific as the City would like; or
- The City can have the fees increase on a sliding scale by the number of parking spots required.

In what fashion would the Planning Commission like to see these fees implemented?

Case Law

Case law on the topic is sparse, as these schemes are so widespread they are a widely accepted legal exercise of a municipality's planning power. One case the City should be aware of is *Snake River Brewing. Snake River Brewing Co., Inc. v. Town of Jackson*, 39 P.3d 397 (Wyo. 2002). There, the Town of Jackson initially granted a building permit for the construction of a brewery. *Id. at 401.* At the time of issuance, the brewery had the option for on-site, off-site, or fee-in lieu parking. *Id.* The brewery chose a combination of on site and off site. *Id.* Two years later, the Town amended its zoning ordinance which left the brewery outside of the fee in the area approved for in lieu parking. *Id.* Three years later, the brewery tried to enter into a fee in lieu agreement, due to the unanticipated high costs of providing parking. *Id.* Ultimately, the court held that the parking options remained available to the brewery as part of its non-conforming use even after the zoning amendments. *Id.* at 408–9. Additionally, under a theory of estoppel, the brewery preserved the right to opt for the fee in lieu system. *Id.* In reaching this conclusion, the court noted the brewery never showed an interest to abandon this use, which also carried with it some persuasive element. *Id.*

How Municipalities Approach Fee in Lieu Schemes

The memo now presents various examples of how municipalities in Colorado (and one business district outside of the state) approach fee in lieu of parking systems.

City of Louisville, Colorado

The City of Louisville established a parking fee in lieu scheme for developers in their downtown. According to a City commissioned study, the average cost of constructing and maintaining a parking spot in Downtown Louisville is equal to approximately twenty two thousand ($22,000) over a twenty (20) year period. Over the years, the fee amount has been adjusted via resolution by City Council.

The revenues generated by the fee in lieu program are deposited in the "Downtown Parking Improvement Fund," an interest bearing account intended for the acquisition, improvement, and provision of additional public parking and all other necessary installations associated with such a project. Louisville Code Section 3.16.020. The "Downtown Parking Improvement Fund" has led

to the expansion of a public parking lot by twenty eight (28) parking spaces, the lease of forty five (45) evening spaces at a privately owned plaza, the purchase of .638 acres meant to accommodate sixty eight (68) new parking spaces, and most recently the purchase of a twenty five (25) space parking lot.

Town of Dillon

Dillon has established a graduated fee scale based on the number of spaces the developer is required to provide. For example, if one to four (1–4) spaces are required, then each space incurs a fee in lieu of two thousand dollars ($2,000). However, if the developer were required to provide four to six (4–6) spaces, then each space would incur a fee in lieu of five thousand dollars ($5,000).

The Town provides a twenty-five (25) year refund period for those that pay a fee in lieu, meaning that if the fee proceeds are not expended within that twenty-five (25) year period, the fee balance is returned to the property owner as well as any interest accumulated. Additionally, the Town, in its discretion, may deny a developer the chance to pay a fee in lieu and instead require the construction of the required number of spaces. These provisions only apply to an area the town has dubbed the "core area," and all public parking construction performed by the Town using the fee in lieu proceeds must occur within this "core area." Lastly, the Town does not allow the payment of a fee in lieu for residential uses, developers must provide parking spots for tenants.

Town of Mountain Village

The Town of Mountain Village, a municipality with fewer than thirteen hundred (1,300) residents, sets their fee in lieu via resolution by the Town Council on a case by case basis. For a recent development, the Town charged twelve thousand five hundred dollars ($12,500) per half (½) parking space required and twenty five thousand dollars ($25,000) per full parking space, along with a five hundred dollar ($500) operations and maintenance fee for each half (½) unit of parking required.

Coconut Grove, Florida Business Improvement District

In Coconut Grove, a business license may be revoked after ninety (90) days of nonpayment of in lieu payments. This policy has been in effect since the 1970s. This is the most unique aspect of their fee in lieu scheme, outside of this provision it is similar to other municipalities identified in this memo.

Town of Telluride

Planning and zoning commission permits a fee in lieu if:

- The applicant demonstrates that all required parking cannot be located on-site due to site-specific physical constraints or site design requirements (such as high water table or access limitations); or
- The historic significance of existing buildings or other site features would be adversely affected to meet the parking requirement on site; or
- The property is located in close proximity to permanent public parking or public transportation routes; or
- The characteristics of the proposed land use reduce the need for on-site parking; or
- The public health, safety or welfare would be adversely affected by locating the required parking on the property. Telluride Code Section 6-114.B.

If approved, fifty percent (50%) of payment is due up front, prior to the issuance of the building permit. The rest is due when the certificate of occupancy is due, if left unpaid, interest accrues at no less than a ten percent (10%) interest rate set by Town Council resolution.

Fees are returned, including any interest earned, if the fees have not been spent within seven years from payment; unless the funds have been earmarked in which case the expenditure period is extended by three (3) more years.

Town of Buena Vista

The Town of Buena Vista charges a fee in lieu of twelve hundred dollars ($1,200) per space in the MU-MS zone district, based upon the number of required spaces calculated before any parking reductions. Town of Buena Vista 2022 Fee Schedule. The fee is reviewed annually by the Board of Trustees and is updated accordingly. Town Code 5.3.5.

Central City

Following a 2017 study to determine the estimate of probable cost for parking, the City has estimated approximately thirty thousand dollars ($30,000) per spot to construct a parking garage. Developers pay a fraction of this cost based off of the required spots they are required to provide. This scheme is displayed by the following graphic:

Required Parking Space Fee In-Lieu Table	
1-25 spaces	0% of EOPC or amount established in Alternate EOPC
26-75 spaces	2% of EOPC or amount established in Alternate EOPC
76-150 spaces	10% of EOPC or amount established in Alternate EOPC
151-225 spaces	25% of EOPC or amount established in Alternate EOPC
226-300 spaces	50% of EOPC or amount established in Alternate EOPC
301-372 spaces	75% of EOPC or amount established in Alternate EOPC
373+ spaces	100% of EOPC or amount established in Alternate EOPC
Space calculation will be cumulative reflecting the total required parking spaces utilizing this program.	

Winter Park

In the D-C and R-C district, a payment in lieu may be accepted by the Town Council. Unified Development Ordinance Section 3-H-4(D). This system operates on a case by case basis; payment structures are decided during the contract formation phase. [Jerad, I couldn't find much on Winter Park's system, I think it only merits inclusion, if at all, because of its proximity to the City.

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Community Development Planner Communication

Document Date: December 1, 2022
Meeting Date: December 7, 2022
To: Planning Commission Members
From: Jerad Chipman, AICP, Community Development Planner

RE: **Community Development Monthly Report**

The Community Development Planner has been working on the following recent, current, and upcoming projects.

Development applications and pre-applications:

- **Redevelopment of Block 57/Golddigger Field and the School Bus Maintenance Facility.** The Developer is in the process of finalizing plans and applying for building permits.
- **Habitat for Humanity.** Habitat is finalizing their building plans.
- **1501 Colorado Boulevard.** Staff is working with the property owner regarding a FDP submittal. A Community Meeting will be held in December.

Other Activities:

- **Mobility Hub.** The Jacobs House is scheduled to be moved the second week of December. Moving the Jacobs House will provide short term parking and progress the site readiness of the proposed mobility hub development.
- **Conditional Use Permit Review for Mile Hi Rafting.** Staff has had challenges scheduling a meeting with the applicant, and will conduct the annual review of the Conditional Use Permit in the first quarter of 2023. The review will occur no later than the February meeting as rafting season will be soon to follow, and staff intends to leave time for any potential alterations to the permit.
- **Historic Preservation Review Commission.** The HPRC reviewed a draft of the Historic Resources Survey Plan.
- **Variance Board.** There are currently no active variance cases at this time.
- **Inquiries.** Staff continues to respond to a variety of planning and zoning inquiries from the public.