

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

RESOLUTION NO. 97-05

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

FILE COPY

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

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

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

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

WHEREAS, the Board of Adjustment finds as follows:

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

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Doris L. Brill - Summit County Recorder

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

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

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

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

ADOPTED this 21st day of May, 1997.

BOARD OF ADJUSTMENT  
OF SUMMIT COUNTY, COLORADO

BY: Bob Flint  
Bob Flint, Chairman

ATTEST:

Alan Hanson  
Alan Hanson, AICP  
Senior Planner