


TO: Interested Parties

FROM: Cameron Gloss 
Current Planning Director

DATE: March 21, 2005

SUBJECT: Administrative Interpretation #4-05 of the Land Use Code regarding the building height standards found within Section 4.16 of the Land Use Code regarding maximum building height within the Community Commercial – Poudre River (C-C-R) District.

BACKGROUND

The CCR zone district is subject to a maximum building height of 3 stories per Section 4.16 (D)(3)(a)(1).

Section 3.8.17(A)(2) of the Land Use Code, *Building Height Measured in Stories*, also sets a rule for measuring the height of a building in stories based on the following: "No story of a commercial or residential building shall have more than twenty five (25) feet from floor to floor". This code section goes on to say that "a balcony or mezzanine shall be counted as a full story when its floor area is in excess of one-third (1/3) of the total area of the nearest full floor directly below it".

A request has been received to interpret how a building story is defined within the CCR zone district. Note: Land Use Code Interpretation #1-05 concluded that a maximum of a twelve (12) foot- eight (8) inches of vertical height shall be permitted for each residential story for development within a Neighborhood Conservation zone district.

The applicant's request for interpretation specifically pertains to a pending mixed use development application proposed at 100 Cherry Street and includes the following factual information:

"The first floor will have a twenty foot ceiling height with mezzanines above a portion of the floor. The mezzanine as proposed will have a finished floor at ten feet above the main floor, and is approximately 40% of the square footage of the floor below.

The second floor of the building would have an eighteen foot ceiling height and would also have mezzanines over a portion of this floor. These mezzanines would have a finished floor of ten feet above the second floor, and would also be about 40% of the square footage of the floor below.

Lastly, a third floor of the proposed building would have upper levels that would also have finished floor levels ten feet above this floor. This upper level is not technically a mezzanine because it would allow users to walk out to the flat roof of the floor below and, therefore, provide rooftop patio areas. The building parapet would serve as a natural rail for these penthouse spaces.

Note: The applicant's request for a mezzanine space covering 40% of the total area of the floor below it would be non-compliant with Section 3.8.17(A)(2)(a) that limits mezzanines to one-third (1/3) coverage of the floor below.

The applicant has also submitted a written statement of justification for a building height exceeding 40 feet above grade based on the criteria found in Section 3.5.1(G)(1)(c) of the Land Use Code.

INTERPRETATION:

At the time the Land Use Code was initially drafted, there was considerable staff deliberation on which unit of measurement was most appropriate to use. Staff chose to use a height limit of "stories" principally to address the needs of buildings within a non-residential context, i.e.-in an industrial or commercial area.

Conclusion:

Within the Industrial-I, Employment-E, Harmony Corridor- HC, Limited Commercial (CL), Commercial (C), Community Commercial (CC), Community Commercial-Poudre River (C-C-R), Downtown (D) zone districts, a "story" shall be no more than *25 feet in height consistent with the text found in Section 3.8.17(2)(b).

*Although staff considers a "story" as much as 25 feet in height within non-residential districts as described above, the burden is on the applicant to show how the proposed design meets the Building and Project Compatibility standards of Section 3.5.1, including subsection 3.5.1(G)(1)(c) since the proposed building at 100 Cherry Street exceeds 40 feet in height.

cc: Ted Shepard
Gregory Byrne
Paul Eckman