



**BRECKENRIDGE TOWN COUNCIL WORK SESSION**

Tuesday, December 08, 2015; 3:00 PM

Town Hall Auditorium

**ESTIMATED TIMES:** *The times indicated are intended only as a guide. They are at the discretion of the Mayor, depending on the length of the discussion, and are subject to change.*

<b>3:00-3:15pm</b>	<b>I</b>	<b><u>PLANNING COMMISSION DECISIONS</u></b>	<b>2</b>
<b>3:15-3:45pm</b>	<b>II</b>	<b><u>LEGISLATIVE REVIEW*</u></b>	
		Marijuana Ordinance Amendments	<b>15</b>
		Resolution to Appoint Town Attorney	<b>34</b>
		Resolution to Appoint Town Prosecuting Attorney	<b>41</b>
		Resolution to Engage Denison Placer Legal Counsel	<b>47</b>
		Resolution for CMC Facility Use Agreement	<b>50</b>
		Resolution to Hold the April 5, 2016 Election as a Mail Ballot Election	<b>66</b>
<b>3:45-4:00pm</b>	<b>III</b>	<b><u>MANAGERS REPORT</u></b>	
		Public Projects Update	<b>69</b>
		Housing/Childcare Update	
		Committee Reports	<b>71</b>
<b>4:00-4:30pm</b>	<b>IV</b>	<b><u>OTHER</u></b>	
		Contract for Services with the Breckenridge Tourism Office	<b>74</b>
		Liquor Licensing Authority Interviews	<b>88</b>
<b>4:30-6:00pm</b>	<b>V</b>	<b><u>PLANNING MATTERS</u></b>	
		Planning Commission Interviews	<b>92</b>
		Town Project: McCain Master Plan Modification (Public Hearing will take place during the evening meeting)	<b>109</b>
		Denison Placer Project Review	<b>139</b>
<b>6:00-7:15pm</b>	<b>VI</b>	<b><u>JOINT MEETING - BRECKENRIDGE TOURISM OFFICE BOARD OF DIRECTORS</u></b>	<b>150</b>

Note: Public hearings are not held during Town Council Work Sessions. The public is invited to attend the Work Session and listen to the Council's discussion. However, the Council is not required to take public comments during Work Sessions. At the discretion of the Council, public comment may be allowed if time permits and, if allowed, public comment may be limited. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item. The public will be excluded from any portion of the Work Session during which an Executive Session is held. Report of the Town Manager; Report of Mayor and Council members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items.

**MEMORANDUM**

**To:** Town Council

**From:** Mark Truckey, Assistant Director of Community Development

**Date:** December 2, 2015

**Re:** Planning Commission Decisions of the December 1, 2015, Meeting.

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***DECISIONS FROM THE PLANNING COMMISSION AGENDA OF December 1, 2015:***

CLASS C APPLICATIONS: None.

CLASS B APPLICATIONS:

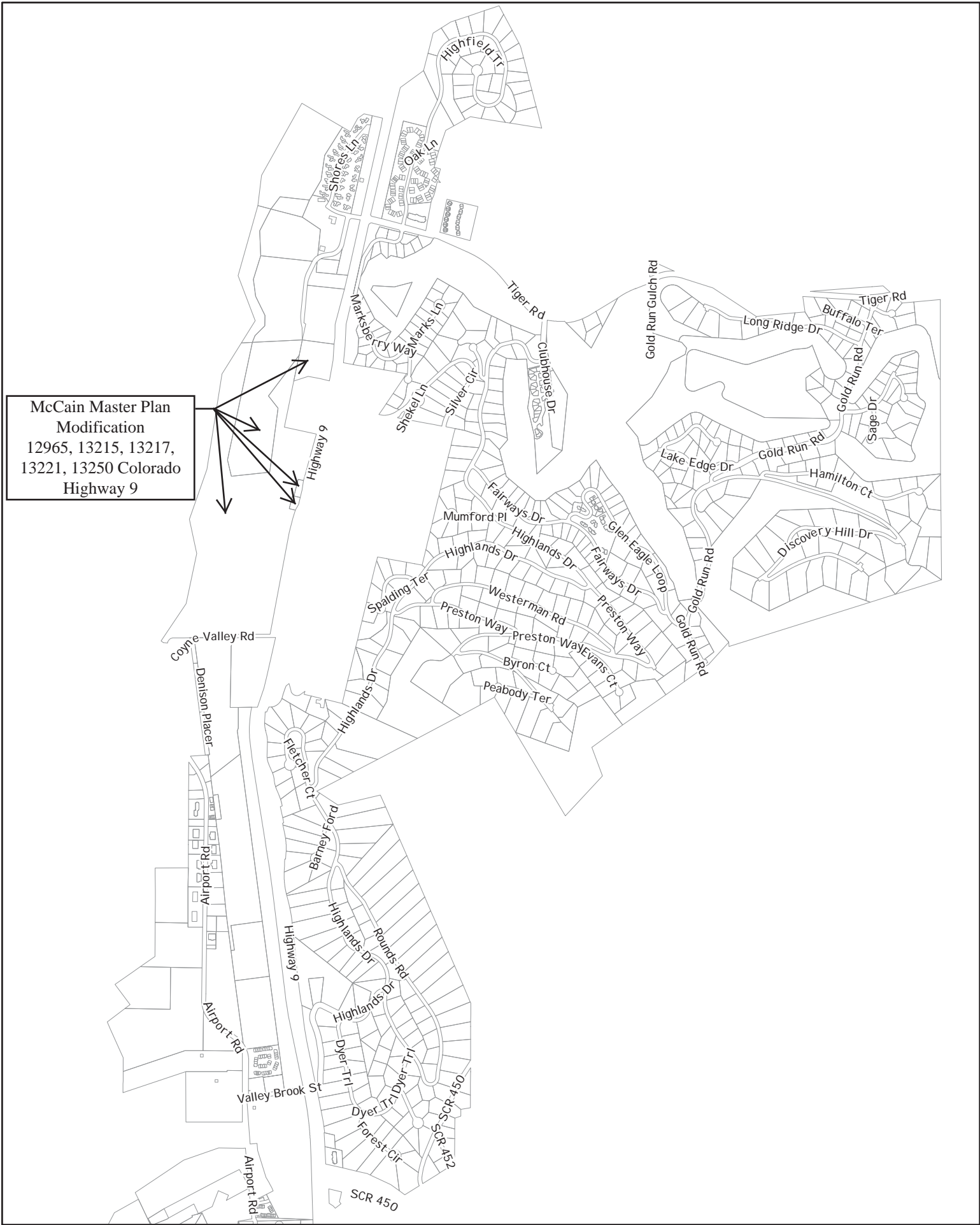
- 1) Gallagher Residence Renovation and Landmarking (MM) PL-2015-0362, 114 South Harris Street  
Renovate, restore and remodel the historic house, add a full basement beneath the historic portion of the house, remodel the non-historic portions of the house and locally landmark the historic house. *Approved with recommendation the Town Council adopt an ordinance to locally landmark the historic house.*
- 2) The Old Enyeart Place Renovation, Addition and Landmarking (MM) PL-2015-0361, 112 South Harris Street  
Renovate, restore and remodel the historic house, add a full basement beneath the historic portion of the house, build a new connector and addition to the back of the lot and locally landmark the historic house. *Approved with recommendation the Town Council adopt an ordinance to landmark the historic house.*

CLASS A APPLICATIONS: None.

TOWN PROJECT HEARINGS:

- 1) McCain Master Plan Modification (MT) PL-2015-0501; 12965, 13215, 13217, 13221, 13250 Colorado Highway 9  
Modify the existing master plan to more specifically identify the location of governmental and other uses proposed on the property. *Recommendation that the Town Council approve.*

OTHER: None.

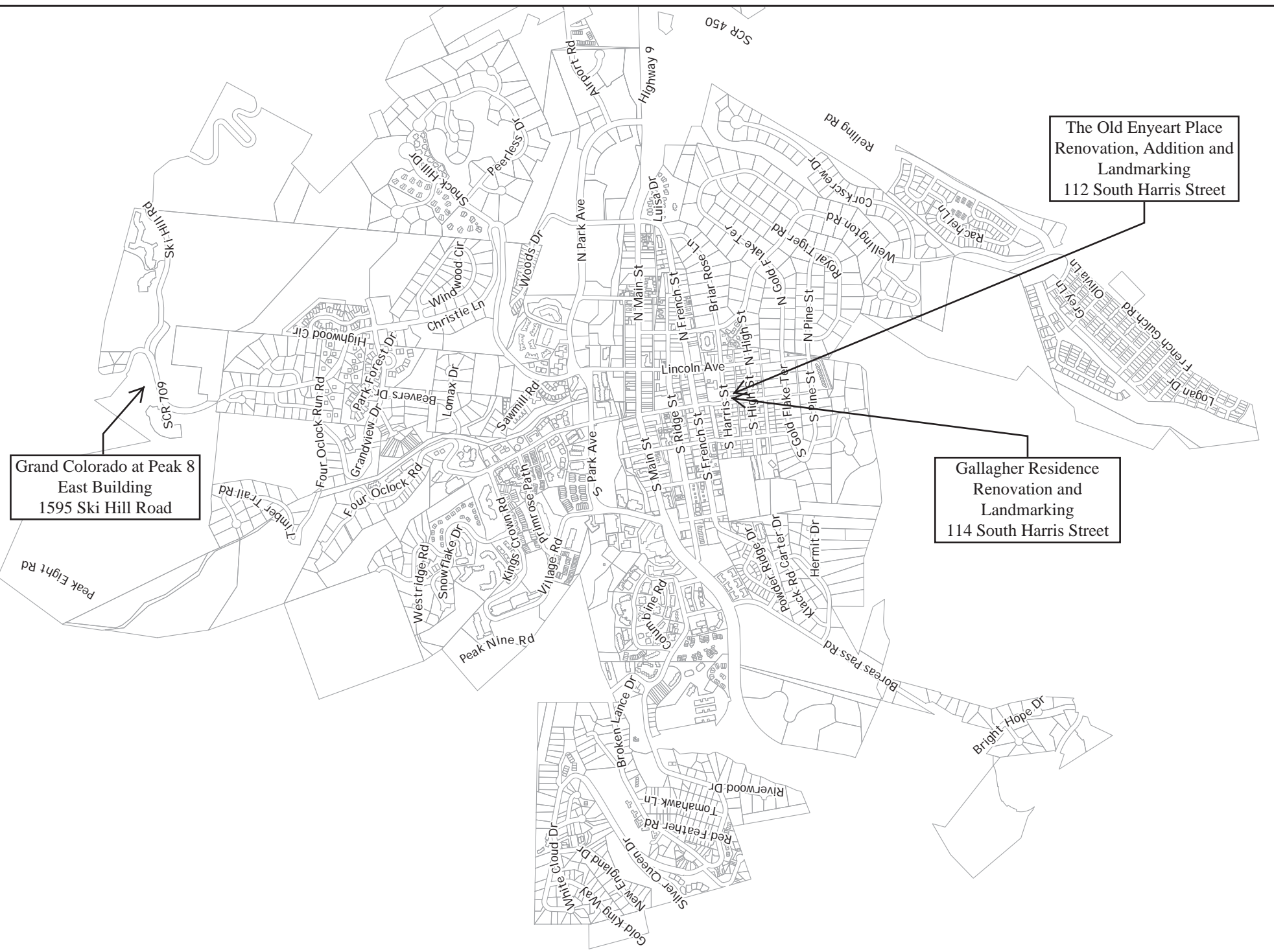


McCain Master Plan  
Modification  
12965, 13215, 13217,  
13221, 13250 Colorado  
Highway 9



Town of Breckenridge and Summit County governments  
assume no responsibility for the accuracy of the data, and  
use of the product for any purpose is at user's sole risk.

**Breckenridge North**



Grand Colorado at Peak 8  
East Building  
1595 Ski Hill Road

Gallagher Residence  
Renovation and  
Landmarking  
114 South Harris Street

The Old Enyeart Place  
Renovation, Addition and  
Landmarking  
112 South Harris Street



## PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

### ROLL CALL

Kate Christopher            Ron Schuman            Dan Schroder  
Eric Mamula                Jim Lamb                Gretchen Dudney  
Dave Pringle arrived at 7:04pm  
Wendy Wolfe, Town Council Liaison

### APPROVAL OF MINUTES

With no changes, the November 17, 2015, Planning Commission Minutes were approved as presented.

### APPROVAL OF AGENDA

Mr. Truckey announced that the Grand Colorado at Peak 8 East Building, PL-2015-0215, 1595 Ski Hill Road, had been withdrawn from this evening's agenda at the request of the Applicants earlier today. With no other changes, the December 1, 2015, Planning Commission Agenda was approved as presented.

### TOWN COUNCIL REPORT:

Ms. Wolfe:

- Last meeting was Tim Gagen's last Town Council meeting to run, so the meeting was quite short so that there was time to celebrate Tim's work.
- We passed the water rates and mill levy ordinances and also passed the 2016 Town Budget.
- We gave the report that we hired the team of experts who will help with the parking and transit issue which is the DTJ group out of Boulder. They have teamed up with a firm out of California, Nelson Niegard, who are highly regarded in the parking and transit arena. We feel this team is the right dynamic for where we want to go. We wanted them to be in place to experience the parking and transit issues between Christmas and New Year's. (Mr. Schroder: How will this team go about knowing what the parking is like?) The plan is to take a holistic approach with an analysis of everything, looking at existing parking today, where people are coming and going, pedestrians, summer, winter, roundabouts, and way-finding technology just to name a few. The experts employ a lot of data collection methods including computer modeling, traffic counts, past data collected, and they will do observations and interviews. The process will take a while. We hope to see preliminary thoughts around the end of January and then expect that it will be some months later before we have a clear direction. Reconfiguring F lot is not a foregone conclusion. It is exciting to have found people who know what is going on and who have had success with other communities around the country. The Council hopes that there is some low hanging fruit that can be done sooner, like with transit, or utilizing existing parking differently. There has been some feedback regarding the changes to employee parking around town. We hope that the experts will give us some early help with some low hanging fruit solutions. Nelson Niegard worked with Santa Monica and their results were amazing. They will leave no stone unturned in how to make parking and transit better. There are no two places that are anything alike, however, and they understand this. The hope is that there will be solutions to put in place soon. It is hard to say when we might build a structure; we want the expert feedback first. This is the team that we will be finding the solutions not just study the problem.
- There will be a call up of Breckenridge Grand Peak 8 and that will be at the first meeting in January.
- (Mr. Pringle: Regarding the employee parking situation in particular, is there a need to do a better job with talking points on why we are doing this?) There have been notices and articles in the paper, but until people started skiing they didn't tune into this topic. It is hard in this Town to get the word out. We've sold more employee passes than ever this year which is based on the new arrangements with employee parking. But that has rearranged the favorite places for the locals to park. The ice rink parking has been contentious. It will be interesting to see how full the lot will be with a fee of \$3 an

hour, but how this lot gets used will be interesting to see over the holidays. I think the ice rink will need a lot more study, if it doesn't fill up then we might drop pay parking. If this lot wasn't a pay lot then the employees wouldn't get a parking permit.

**FINAL HEARINGS:**

1) Gallagher Residence Renovation, Addition and Landmarking (MM) PL-2015-0362, 114 South Harris Street

Mr. Mosher presented a proposal to renovate, restore and remodel the historic house, add a full basement beneath the historic portion of the house, and locally landmark the historic house.

Changes Since the October 6, 2015, Preliminary Planning Commission Meeting:

1. The front porch has been reduced in size to a form fitting to the Historic District.
2. The window wells are no longer heated.

Point Analysis: All absolute policies have been met. Staff recommended positive three (+3) points under 9-1-19-24R, The Social Community, for the restoration efforts to the historic house. The application has not incurred any negative points.

The proposed modifications to the house are modest but will strengthen the historic integrity. Staff is pleased to see the parking on the property too.

Staff recommended the Planning Commission endorse the presented Point Analysis for The Gallagher Residence Renovation, Addition and Landmarking, PL-2015-0362, 114 South Harris Street, showing a passing score of positive three (+3) points.

Staff recommended the Planning Commission approve The Gallagher Residence Renovation, Addition and Landmarking, PL-2015-0362, 114 South Harris Street, with the presented Findings and Conditions.

Staff suggested the Planning Commission recommend that the Town Council adopt an ordinance to Landmark the Gallagher Residence based on proposed restoration efforts and the fulfillment of criteria for Architectural and Physical Integrity significance as stated in Section 9-11-4 of the Landmarking Ordinance.

Ms. Christopher opened the hearing to public comment. There was no public comment and the hearing was closed.

*Commissioner Questions / Comments:*

Mr. Schroder: I support the motions and the work that has been done without any reservation.

Mr. Schuman: I agree.

Mr. Lamb: Me too.

Mr. Pringle: I appreciate what the applicant has done with restoring the historic nature of this house and I agree.

Ms. Dudney: I also agree.

Mr. Mamula: Great job and I also agree.

Ms. Christopher: I also agree with staff.

Mr. Lamb made a motion to approve the point analysis for the Gallagher Residence Renovation, Addition and Landmarking, PL-2015-0362, 114 South Harris Street, showing a score of positive three (+3) points. Mr. Schuman seconded, and the motion was carried unanimously (7-0).

Mr. Lamb made a motion to approve the Gallagher Residence Renovation, Addition and Landmarking, PL-2015-0362, 114 South Harris Street, with the presented findings and conditions. Mr. Mamula seconded, and

the motion was carried unanimously (7-0).

Mr. Lamb made a motion to recommend the Town Council adopt an ordinance to landmark the Gallagher Residence based on proposed restoration efforts and the fulfillment of criteria for Architectural and Physical Integrity significance as stated in Section 9-11-4 of the Landmarking Ordinance. Mr. Schuman seconded, and the motion was carried unanimously (7-0).

2) The Old Enyeart Place Renovation, Addition and Landmarking (MM) PL-2015-0361, 112 South Harris Street

Mr. Mosher presented a proposal to renovate, restore and remodel the historic house, add a full basement beneath the historic portion of the house, build a new connector and addition to the back of the lot and locally landmark the historic house.

Changes since the October 6, 2015, Preliminary Planning Commission Meeting:

1. The original log siding on the historic house will be restored and repaired. Chinking will be added to weatherproof the siding.
2. The replacement windows will closely match the style and size of the original windows.
3. Instead of moving the house 5'-0", the plans now show the house being moved 4'-11".
4. The window wells are no longer heated.

Point Analysis: Staff is showing all absolute policies have been met and the final point analysis as:

- Relative Policy 9 / Placement of Structures: Negative three (-3) points for the rear setback
- Relative Policy 24 / The Social Community:
  - Negative three (-3) points for moving the historic structure less than 5-feet
  - Negative three (-3) points for exceeding the 9 UPA above ground density
  - Positive six (+6) points for historic preservation
- Relative Policy 18 / Parking: Positive two (+2) points for placement and screening of all off street parking areas from public view
- Relative Policy 33 / Energy: Positive one (+1) point for obtaining a HERS Rating index

The result is a passing score of zero (0) points.

Overall, the proposed plans show a sensitive restoration of the Enyeart House with a compatible addition that should be buffered from the major views from Harris Street and the alley. Staff had the following questions for the Commissioners:

1. Did the Commission support the length of the connector?
2. Did the Commission support the massing of the addition?
3. Did the Commission support the recommended point analysis?

Staff recommended the Planning Commission endorse the presented Point Analysis for The Old Enyeart Place Renovation, Addition and Landmarking, PL-2015-0361, 112 South Harris Street, showing a passing score of zero (0) points.

Staff recommended the Planning Commission approve The Old Enyeart Place Renovation, Addition and Landmarking, PL-2015-0361, 112 South Harris Street, with the presented Findings and Conditions.

Staff suggested the Planning Commission recommend that the Town Council adopt an ordinance to Landmark The Old Enyeart Place based on proposed restoration efforts and the fulfillment of criteria for Architectural and Physical Integrity significance as stated in Section 9-11-4 of the Landmarking Ordinance.

*Commissioner Questions / Comments:*

- Mr. Schuman: Will this unit get a fence? (Mr. Mosher: No.)
- Mr. Pringle: Is the length of the connector of 17-feet meeting a strict formula? (Mr. Mosher: Based on past review with the Commission, there is some built-in flexibilities in this Policy. The “shalls” and “shoulds” in the policy define some minimums. Now the Commission has some latitude on how they interpret this as long as it adequately separates the historic house with the addition.) It appears that the connectors are getting longer. It seems, since you aren’t going to see it from the North or South, if this was shorter then you wouldn’t have to move the house. (Mr. Mosher: The applicant took this into consideration but this is now a kitchen here. There are examples of longer connectors screening new additions. If this connector was shorter it may have a greater impact on how it appears from the street.) I understand this but, you could shorten it up a little to give relief off the alley. (Mr. Mosher: The function of the house as presented really works well now. Plus, we don’t want to see cars parking on extra space along the alley in front of the garage doors. Many of the historic sheds along this alley about the alley too)
- Mr. Mamula: I have a question about the negative points for moving the structure which isn’t truly historic by the Code as it is outside of the Town’s Period of Significance. I think the negative points run contrary to the fact that, if the applicant chose to, he could demolish the building. (Mr. Mosher: The applicant is seeking a final approval this evening. Because this is a final hearing, it might not be appropriate for this discussion if there are significant changes proposed. I don’t know where we go with this right now. Let’s discuss.) I would like to have a discussion on this because this will set new precedence.
- Ms. Dudney: So, (to Mr. Mamula) you are saying that, because this is not historic, the negative points shouldn’t be given for moving it even though it might be landmarked?
- Mr. Mamula: The Town’s Period of Significance ends at 1942. If you can tear this house down, moving it shouldn’t incur negative points.
- Mr. Pringle: I don’t think people should be penalized for doing the right thing. We want to encourage people to fix up and preserve a historic home, like when a historic home is not in the proper setback.
- Ms. Dudney: Have we had other examples of homes outside of the period of significance that been in this situation? (Mr. Mosher: None that I can recall.)
- Mr. Mamula: There is Code that needs to be clarified or changed. The way that he is refinishing the home is different from the Historic Standards so that the home will be restored to when it was built in the 50’s not to falsely replicate the 1800’s.
- Mr. Lamb: At my own house, the initial survey was off five feet. There were some survey problems in the 1880’s and they put the house in the wrong place. (Mr. Mosher: We may want to have a conversation with the applicant to see what direction he would like to go.)
- Ms. Dudney: I agree that it shouldn’t take the negative points, but the Code should be rewritten for moving a structure that is landmarked. (Mr. Mosher: But we are allowing him to landmark it even though he is moving it.) I hear what Mr. Mosher is saying that the code is vague on this issue. (Mr. Truckey: We normally treat moving historic primary structures with negative three (-3) points, but this does not meet the Town’s period of significance for qualifying as a historic structure.) (Mr. Mosher: We will need to modify the findings and the conditions on the floor tonight to address this.) He may not want to take off the other positive points.
- Mr. Pringle: Mr. Gallagher should have an opportunity to address this. (Mr. Mosher: I think he would like to see this have closure tonight. If you want to establish precedence then the Commission needs to agree with this interpretation and then vote change the attached Point Analysis.)

Applicant Presentation: Mr. Michael Gallagher, Owner / Architect:  
First I’d like to say is what is important is how we treat the cabin, I think restoring the log siding is the right way to do it if I’m getting the landmarking then we’ve landed on the right treatment. We’ve come to the right

conclusion. I don't want to see any precedent set that shouldn't be set so, I would support not being assigned the negative points for moving the building. With the newfound positive points, I wouldn't mind removing requirement for the HERS rating. (Mr. Mosher: If we strike the negative points from moving the structure and the positive points from the HERS, we will have two changes to the Point Analysis and then remove Condition number 23 "Prior to Issuance of Certificate of Occupancy. There needs to be a motion to adjust the Points and a separate motion to strike condition Number 23.) (Ms. Dudney: What if he wanted to move it more than 4'-11", will he have to come back to the Planning Commission?) (Mr. Mosher: It wouldn't impact the Landmarking to move it a few feet; moving it more would possibly lose the landmarking.)

Ms. Christopher opened the hearing to public comment. There was no public comment and the hearing was closed.

*Commissioner Questions / Comments:*

Mr. Mamula: I think this is great; I'm glad where we ended up with its appearance being in its own time and the decisions this evening are good for setting precedence. I think it is important that we interpret buildings for the period of time and not just the 1800's. I think this is the correct solution to the property.

Mr. Schroder: I do support the connector, I think the massing does work, and I do support the conversation about changing the point analysis.

Mr. Schuman: I do support the connector, I support the massing and I support the changed point analysis.

Mr. Lamb: I support the length of the connector and the massing of the addition. I also agree with not assessing negative three (-3) points and thanks for cleaning up our neighborhood.

Mr. Pringle: I do support the connector but I do think it could be shorter if that is what the applicant would like, I support the massing, and I support the new point analysis.

Ms. Dudney: I agree with the commissioners and I want to recognize and commend Mr. Mamula for bringing up this nuanced point regarding the points that shouldn't be given.

Ms. Christopher: I also agree and support the connector.

Mr. Pringle made a motion to remove the negative three (-3) points assessed under policy 24/R, Moving Historic Structures. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to remove the positive one (+1) point assessed under Policy 33/R for the HERS rating. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the amended point analysis, showing a passing score of positive two (+2) points. Mr. Lamb seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve The Old Enyeart Place Renovation, Addition and Landmarking, PL-2015-0361, 112 South Harris Street, with the amended Findings and Conditions (showing the removal of Condition 23). Mr. Lamb seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to recommend the Town Council adopt an ordinance to landmark The Old Enyeart Place based on proposed restoration efforts and the fulfillment of criteria for Architectural and Physical Integrity significance as stated in Section 9-11-4 of the Landmarking Ordinance. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

**PRELIMINARY HEARINGS:**

1) Grand Colorado at Peak 8 East Building (MM) PL-2015-0215, 1595 Ski Hill Road  
(Withdrawn at the request of the Applicants.)

**TOWN PROJECT HEARINGS:**

1) McCain Master Plan Modification (MT) PL-2015-0501, 12965, 13215, 13217, 13221, 13250 Colorado Highway 9

Mr. Truckey presented a proposal to modify the Master Plan for the property known as the McCain property (owned by the Town of Breckenridge), identifying and distributing density and uses on a series of 13 tracts for the following uses: water treatment plant, residential affordable housing, Public Works storage, solar gardens, service commercial, snow storage, public open space and trails, overflow parking, recycling center, and existing gravel mining and processing operations.

*Commissioner Questions / Comments:*

Mr. Pringle: I think there is a need for the commercial / service area, so I thought maybe there could be some adjusting to the acreage to allow for some more service commercial space, which I think there is a crying need for. You have 60,000 square feet designated which would only allow for a 2,600 square foot building based on the 1:25 FAR. (Mr. Truckey: It is pretty close to what exists today. There are 1.2 acres leased to 4 different contractors right now. The Plan designates 1.5 acres.)

Ms. Dudney: Are you questioning / thinking, Mr. Pringle, that there needs to be space for more industrial or uses with a yard?

Mr. Pringle: I was thinking more a place for more service commercial because this has dwindled on Airport Road when it went to residential needs.

Ms. Dudney: Do you want to replace businesses for outside storage yards or warehousing?

Mr. Pringle: I think either/or. I fought for the possibility for this on Airport Road. (Mr. Truckey: You are right; the SustainableBreck Plan supported finding more space for service commercial uses. Regarding McCain, we identified the 1.5 acre site but ran out of space here to allow any more. We had a desire to preserve at least 30% of the parcel for open space (that's how much the open space fund paid into the McCain purchase) and when you factor the Council's desire to provide for employee housing on the site, coupled with the other uses, there really isn't any more room for service commercial.) Could snow storage dovetail as open space? (Ms. Elena Scott, Norris Design: We are going to use snow storage as parking but the value of snow storage as open space is not great for open space because it has a lot of sediment. It won't work for landscaping, things won't grow on it.)

Ms. Christopher: If it is parking in the summer then it doesn't meet my interpretation of open space.

Mr. Pringle: I understand that, but could you dedicate that to open space?

Mr. Mamula: I would not trade you open space for service commercial.

Ms. Dudney: Then you could ask would you trade housing for service commercial? As a Realtor, I get calls every week for people looking for warehouse space for people to start businesses because the supply is so low in the County. I agree that there is a shortage, but there is also a shortage for housing. I think the Town Council should remain flexible so that when it is time to develop this they could assess where the greatest need is between service commercial versus housing.

Mr. Truckey continued with the proposal presentation.

Staff has found that the application passes all Absolute Policies in the Development Code. No positive or negative points have been recommended at this time. Individual points analyses will be undertaken as site specific developments are proposed on the property in the future.

Staff welcomed any further comments from the Commission. Staff suggested the Planning Commission make a recommendation that the Town Council approve the McCain Master Plan Modification, PL-2015-0501, with the presented findings and conditions.

*Commissioner Questions / Comments:*



- Mr. Schroder: I think I read that people wanted a rec path on the east side of the stream but it is already on the east side of the stream. I'm confused. (Ms. Scott: The rec path is proposed to have a safer crossing away from the roundabout and it will continue with its current location. There is another loop path that will go through open space that is asphalted and goes near the river.) Would we keep this concept on the east side? (Ms. Scott: So the problem right now is that people think they want to go to Frisco but then when they get to McCain they could just loop and go back to town. The loop would give people an option to do a short loop and still maintain a commuter path. We also want to recreate the river habitat and have it be more natural.) (Ms. Scott: Showed some photographs with existing and the simulated proposed conditions to show how much the site will change with the grading.)
- Ms. Dudney: Will the new solar fields be visible from Highway 9? (Ms. Scott: No, they shouldn't be. From the interior road, Stan Miller Drive, the solar fields will be visible. But from the highway and Coyne Valley road it shouldn't be very visible.)
- Mr. Schuman: The 1.2 acre service / commercial acreage, will this go away when the water treatment plant comes in? (Ms. Scott: No, this will remain and be increased by a 1/3 acre. The existing users of this space may not get automatic use of this space as they are town monthly leases. The Breck Bears store will be replaced by the water treatment plant.)

Ms. Christopher opened the hearing to public comment.

Mr. Eric Degerberg, 428 Silver Circle: I support this plan as it is a huge improvement to what we see now. I do worry about the roundabout as the yield sign and the pedestrian signs have been taken out in recent snowstorms. Crossing there as a pedestrian is very scary, and something that needs to be considered. I think a traffic light would be better than that. I don't think CDOT will go for this, but it is very scary especially with the additional housing. I really support the proposed bike loop.

Mr. Arthur Albin, 512 Shekel Lane and President of the Silver Shekel HOA: I'm here to echo the comments of Mr. Degerberg. We have 190 members of the Home Owners Association and a number have indicated interest in the McCain Plan. We've heard nine overwhelming positive comments from homeowners. Two other comments were negative and they focused on the traffic issues that Mr. Degerberg brought up. The concern is that there may not be enough entrance and exit space if there is additional housing here.

Mr. John Brownson, 265 Southside Drive, President of the Breckenridge Building Center (BBC) and former Director of Planning and Development for Breckenridge Lands: Wouldn't it be a nicer bike trail to follow the river and not be by the highway? I understand the use for commuters, but we only have 5 months of use of this trail, and I think 95% of the riders on this trail are recreational, but I think it is much nicer to be by the stream and not be right by the highway. I think it solves some of the bicycle/car conflicts near the roundabout. I think it would be a lovely trail. (Ms. Christopher: There is a loop by the stream.) I think this should be more incorporated into the existing bike path. I think this is a great opportunity to make it more natural. I do have concerns with the realignment with Stan Miller Drive to make it a T intersection. The primary users will be the proposed residences and the customers of the BBC with their trucks. By realigning it as proposed it adds an additional two turns for those user groups. Mr. Brownson showed a new drawing that depicted a change to the road that showed the service commercial users not having to stop but requiring traffic coming from the south on access road to stop. The movement of the bigger truck traffic would flow to the north and the residential from the south would have a stop sign. (Ms. Dudney: In approving the master plan, this is just schematic right?) (Mr. Mosher: Yes, but Mr. Brownson can voice his concerns now.) I would like to suggest you move the water treatment plant to the service commercial area so that we have compatible uses adjacent to each other (service commercial next to BBC) and so you can screen the water treatment plant away from the roundabout. This is a more desirable gateway to Breckenridge statement. This is a piece of land that the town and community have put a lot of resources and it is one of the few that remains undeveloped and I urge the Commission to consider the impacts carefully. I think the plan in general speaks well to the issues and

provides open space at the same time. (Ms. Dudney: Do you have opinion on residential versus industrial on the 10.2 acres?) Good question, but I don't think I am qualified to answer that right now. I do think that we need more opportunities for our trades, but that is self serving to me. We have done a good job providing a bed base but we need the trades too.

Mr. Jeff Zimmerman, 459 Lakeview Drive: I'm a resident of the community and it seems that this is about adjacencies and exclusions. It seems to be that the adjacencies aren't quite right. The relationship of the residential to the open space should be switched and I also think the commercial and the water treatment and solar be switched. I know you have spent a lot of time looking at grades, but I really wonder about the adjacencies and how they function together. I think if commercial, water treatment and solar panels were more consolidated it would be better. Knowing that this is a final hearing, I don't know if this comment is too late. I also think that the proposed service commercial is not enough. We are starting to push trades further out and rents are going up. Speaking for Vail Resorts, it is hard to find service commercial areas. It would be nice to see Tatro subdivision and what they can accommodate. I would like to see residential in the middle by open space. I'm also the Planning Director for Vail Resorts, regarding the overflow parking, what is the purpose is it for the Community, bus transfer station or is it for parking only? (Ms. Christopher: We discussed that Block 11 on Airport Road will someday be developed.) (Mr. Truckey: There are a number of moving pieces regarding parking, such as discussion of parking garages. We sized this area based on 500 spaces that the Town committed to providing at Block 11.) Is this possible to make this parking larger or to at least not exclude skier and guest parking as one of the functions of this space? Also, I would like to see a transportation system from the College area that is not bus oriented, perhaps like a gondola solution. I just don't want it to exclude other possibilities.

There was no further comment and the hearing was closed.

*Commissioner Questions / Comments:*

Ms. Dudney: Is it possible to put on this master plan a little more flexibility like residential or industrial and we talked about the overflow parking as being flexible based on future determinations? (Mr. Truckey: You could make some of the spaces more flexible. That is essentially what the original master plan back in 2013 included. If you had suggestions you could make this proposal to the Council. We are going to pass along all the comments we have here. The other issue is the point analysis. The Council makes the business decision and will listen to comments they receive.)

Mr. Pringle: We are devoting a lot of space here for Open Space because Open Space dollars were used, could that be refinanced if necessary so that Town dollars could pay back the open space fund?? (Mr. Truckey: The river corridor is a pretty large area and the Department of Wildlife has recommended we limit all development west of the river. The other main open space tract is serving as a placeholder for a future reservoir, if that is needed.) I don't want to impact the river corridor, but I talked to others who say the reservoir will be the world's most expensive reservoir. (Mr. Truckey: The river corridor really satisfies the 30% so I don't think it would have to be a payback to the open space fund; it would really be up to Council to give up space on the reservoir.)

Ms. Dudney: What if we said in lieu of the words of residential we could say residential and/or industrial commercial and where it says open space we say open space/ and /or overflow parking? I like the water treatment plant where it is and the service commercial where it is and the bike path. I just don't want to have the Council limited.

Mr. Mamula: This is still just a master plan and the uses may not really end up being located where they are shown. It will change over time. All we are doing is approving these uses on this property. This is only a conversation for Council and they will see the comments.

Ms. Christopher: I like the uses, but I don't like how they are arranged, I have concerns for the adjacencies. I think the whole thing could be massaged more.

- Mr. Lamb: Master plans change all the time, I don't think our job is to change it tonight, but I agree with some of the comments. Our job is to run the point analysis.
- Mr. Mamula: The important thing will be to ask if the roads are in the right position. The real issue is that there are trucks going the other way to, to snow storage, the water treatment, etc. The road system will be the big deal, especially with the potential of residential use.
- Mr. Lamb: That intersection is just a disaster waiting to happen when you go to the BBC. My comment is that we need to take a look at that roundabout and decide to do something different.
- Mr. Mamula: There is a potential issue with traffic; there will be further issues when you dump trucks from Town that are bringing snow and into public works storage. These trucks will be using this roundabout during the busiest time of the year with snow. I don't know if the way that it is laid out that this traffic plan is feasible with all of this increased truck traffic. Then there are conflicts with overflow parking with a thousand people looking to get onto a bus. That is the part that concerns me the most.
- Ms. Christopher: Should we move forward with the point analysis and then it is very clear in the minutes that we have issues?
- Mr. Schuman: I think that this is a good master plan and the fits are reasonable. I think that the service commercial is light. I think affordable housing is dictating that we are going to push all service and trades outside of Breckenridge. Otherwise, I think it is a good master plan.
- Mr. Schroder: I like that we are actively planning this last piece of accessible land. By 2030, there are potentially 9 million people in the state and I'm glad we are planning now. I think the building height as an absolute within 200 feet of the highway is the right thing to do. I think it is a great plan to have an idea and vision. I recommend that Council approves this modification.
- Ms. Dudney: I can support this point analysis with the caveat that you may be sending a message by leaving things out and I do think that service commercial/industrial is too light.
- Mr. Pringle: I support the point analysis and I support the uses; I'm not sure if I support them as they are shown and at the amounts of them. I think we will see snow storage, water treatment and Town shop storage here relatively quickly. There may be enough uses in this that in a short time the parcel will be set in stone. I want to make sure that we get this right and the need to support service commercial will not be a problem in the future. How many tax dollars have been sent down valley because we don't provide the products and services that people are looking for and we might want to distribute the uses. I think that the water plant is set in stone. (Mr. Truckey: Yes, it is fairly set in stone in terms of that location.) I appreciate that we've seen a lot of master plans, but we are close.
- Mr. Lamb: As Planning Commissioners, our plan is not to redesign the plan and it is close to the original plan. I like the bike path. Yes, it does pass the point analysis.
- Ms. Christopher: I agree with the acreage and uses, but I don't think the adjacencies are correct and I don't think that there is not enough service commercial and too much residential and I'm worried about traffic by the Fairview corridor.
- Mr. Mamula: See my earlier comments.

Mr. Lamb made a motion to recommend the Town Council approve the point analysis for the McCain Master Plan Modification, PL-2015-0501, 12965, 13215, 13217, 13221, 13250 Colorado Highway 9, showing a passing point analysis of no (0) points. Mr. Schuman seconded, and the motion was carried unanimously (7-0).

Mr. Lamb made a motion to approve the McCain Master Plan Modification, PL-2015-0501, 12965, 13215, 13217, 13221, 13250 Colorado Highway 9, as presented with the presented findings and conditions. Mr. Schuman seconded, and the motion was carried unanimously.

**OTHER:**

Mr. Mamula: Thank you to everyone for being on the Planning Commission as this is my second time around.

Ms. Christopher: Thank you, Mr. Mamula.

Mr. Truckey: Friday is Bright Friday and the Breckenridge Green Team is selling LED bulbs for a \$1 a bulb from 9am-3pm at the Breckenridge Police Station, 150 Valley Brook Road.

**ADJOURNMENT:**

The meeting was adjourned at 9:24pm.

---

Kate Christopher, Chair

**MEMO**

TO: Town Council  
FROM: Town Attorney  
RE: Council Bill No. 38 (Marijuana Amendments Ordinance)  
DATE: December 1, 2015 (for December 8<sup>th</sup> meeting)

---

The second reading of the ordinance making miscellaneous amendments to the Town Code concerning marijuana is scheduled for your meeting on December 8<sup>th</sup>.

One change to the ordinance is proposed on line 11 of page 13 of the ordinance. The change is marked in yellow highlighting, and is requested to correct a minor grammatical problem with the version of the ordinance that was approved on first reading.

I will be happy to discuss this matter with you on Tuesday.

1 **FOR WORKSESSION/SECOND READING – DEC. 8**

2  
3 **CHANGES FROM FIRST READING ARE MARKED WITH YELLOW HIGHLIGHT**

4  
5 Additions To The Current Breckenridge Town Code Are  
6 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

7  
8 COUNCIL BILL NO. 38

9  
10 Series 2015

11  
12 AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO THE  
13 BRECKENRIDGE TOWN CODE CONCERNING MARIJUANA

14  
15 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,  
16 COLORADO:

17  
18 Section 1. The definition of “In Home Occupation” in Section 4-1-2 of the Breckenridge  
19 Town Code is amended to read as follows:  
20

IN HOME OCCUPATION:

- 1. Any business legally operated from a residential structure in a residential district within the Town; ~~or~~
- 2. A primary caregiver who cultivates marijuana within the Town for a patient in the primary residence of either the patient or primary caregiver.

21  
22 Section 2. Section 4-1-2 of the Breckenridge Town Code is amended by the addition of  
23 the following definition:  
24

**PRIMARY CAREGIVER:**

**Has the meaning provided in Section 4-14-5 of this Code.**

25  
26 Section 3. Section 4-1-4(B) of the Breckenridge Town Code is amended to read as  
27 follows:  
28

29 B. In Home Business Occupation: ~~The owner of~~ **The owner of** Each in home business  
30 occupation as defined **in this Chapter** and ~~approved as necessary by the town~~  
31 ~~pursuant to the development code~~ shall pay **an annual fee of** fifty dollars (\$50.00)



1 per annum; provided, however, that no annual fee shall be required to be paid  
2 by a primary caregiver.

3  
4 Section 4. Section 4-14-5 of the Breckenridge Town Code is amended by the addition of  
5 the following definitions:  
6

**PRIMARY CAREGIVER:** Has the meaning provided in Section 25-1.5-  
106(2)(d.5), C.R.S.

**PRIMARY CAREGIVER PERMIT:** A permit issued to a primary caregiver by  
the local licensing authority pursuant to  
Section 4-14-17-1 of this Chapter.

7  
8 Section 5. Chapter 14 of Title 4 of the Breckenridge Town Code, entitled “Marijuana  
9 Licenses and Regulations,” is amended by the addition of a new Section 4-14-27-1, which shall  
10 read in its entirety as follows:  
11

12 **4-14-27-1: DUTIES OF PRIMARY CAREGIVERS:**

13  
14 A. Commencing January 1, 2017 any primary caregiver cultivating marijuana in a  
15 residential structure within the Town shall provide to the local licensing authority a  
16 copy of such primary caregiver’s registration with the State Licensing Authority  
17 filed pursuant to pursuant to Section 25-1.5-106(7)(e)(I)(A), C.R.S.

18 B. If not contained in the primary caregiver’s registration with the State Licensing  
19 Authority filed pursuant to pursuant to Section 25-1.5-106(7)(e)(I)(A), C.R.S., the  
20 primary caregiver shall provide the following information to the local licensing  
21 authority:

- 22 1. Location of any medical marijuana cultivation;  
23 2. The Registry identification number for each patient; and  
24 3. The number of plants authorized to cultivate for each patient.

25 The caregiver must update the registry within ten (10) days of any changes.

26  
27 C. A primary caregiver shall maintain a list of his or her patients including the  
28 registry identification card number of each patient at all times.

29 D. Upon receipt of a copy of the primary caregiver’s state registration, the local  
30 licensing authority shall issue a Town of Breckenridge Primary Caregiver Permit  
31 to such primary caregiver. Primary Caregiver Permits shall be for a term of one

1 (1) calendar year, and shall be renewable upon compliance with all the provisions  
2 of this Section. There shall be no fee for the issuance or renewal of a Primary  
3 Caregiver Permit.

4 E. Two or more primary caregivers shall not join together for the purpose of  
5 cultivating medical marijuana.

6 F. A person may not register as a primary caregiver if he or she is licensed as a  
7 medical marijuana business or retail marijuana business.

8 G. A primary caregiver who fails to register with the local licensing authority shall do  
9 so within ten (10) days of being informed of the duty to register by law enforcement  
10 or any Town official.

11 H. If any person fails to register pursuant to notification, such person shall be  
12 prohibited from ever registering and acting as a primary caregiver within the  
13 Town.

14 I. If a primary caregiver is charged with failing to register, a law enforcement agency  
15 shall not be civilly liable for the loss or destruction of the primary caregiver's  
16 medical marijuana plants.

17 J. The Town shall share with other law enforcement agencies the minimum necessary  
18 information as allowed by the Federal Health Insurance Portability and  
19 Accountability Act of 1996, PL 104-191, and the implementing administrative  
20 regulations, such as patient and caregiver identification numbers, to ensure that a  
21 patient does not have more than one primary caregiver, or have both a caregiver  
22 and a medical marijuana center cultivating medical marijuana on his or her behalf  
23 at any given time.

24 K. The information provided to the local licensing authority pursuant to this Section  
25 shall not be provided to the public and is confidential. However, upon receiving an  
26 address-specific request for verification, the local licensing authority or Town  
27 police department shall verify the location of a primary caregiver cultivation  
28 operation and share the information with another law enforcement or regulatory  
29 agency. The location of the cultivation operation must comply with all applicable  
30 local laws, rules, and regulations.

31 L. A primary caregiver for no more than five (5) patients on the medical marijuana  
32 program registry at any time.

33 Section 6. Section 4-14-18 of the Breckenridge Town Code is amended to read as  
34 follows:  
35

1 4-14-18: SUSPENSION OR REVOCATION OF LICENSE:  
2

3 A. A license issued by the local licensing authority may be suspended or revoked by the  
4 local licensing authority ~~in accordance with the standards and procedures set forth in the~~  
5 ~~applicable code, the applicable administrative regulations, and this chapter.~~ **for of any of**  
6 **the following reasons:**

- 7 1. **Violation of any Applicable Code;**
- 8 2. **Violation of any Applicable Administrative Regulation;**
- 9 3. **Violation of the Licensing Ordinance;**
- 10 4. **Violation of the terms and conditions of a license;**
- 11 5. **Misrepresentation or omission of any material fact, or false or misleading**  
12 **information, on the license application or any amendment thereto, or any other**  
13 **information provided by the licensee to the local licensing authority related to**  
14 **the licensee's business;**
- 15 6. **Violation of any law which, if it occurred prior to the submittal of the license**  
16 **application could have been cause for denial of the license application;**
- 17 7. **Failure to maintain or to provide to the local licensing authority upon request**  
18 **any books, recordings, reports, or other records as required by applicable law;**
- 19 8. **Failure to timely notify the local licensing authority and to complete any**  
20 **necessary forms for changes in financial interest, business manager, financier, or**  
21 **agent.**
- 22 9. **Temporary or permanent closure or other sanction of the licensee by the local**  
23 **licensing authority, the Colorado Department of Public Health and**  
24 **Environment, or other governmental entity with jurisdiction, for failure of the**  
25 **licensee to comply with applicable health and safety provisions of any applicable**  
26 **code;**
- 27 10. **Revocation or suspension of the state or local license of another medical**  
28 **marijuana business or retail marijuana establishment owned or controlled by**  
29 **the holder of Town medical marijuana business or retail marijuana**  
30 **establishment license; or**
- 31 11. **The failure of a licensee to timely correct any violation of any applicable code,**  
32 **any applicable administrative regulation, the licensing ordinance, or the terms**

1 and conditions of the license's license within the time stated in a notice or order  
2 issued by local licensing authority.

3 B. In addition to the standards set forth in the applicable code and the applicable  
4 administrative regulations, a violation of this Chapter, or of the terms and conditions of a  
5 license issued by the local licensing authority pursuant to this Chapter, may be grounds  
6 for the suspension or revocation of a license issued by the local licensing authority. The  
7 procedure to suspend or revoke a local license shall be as procedures set forth in  
8 the applicable code, the applicable administrative regulations, and this chapter.

9 C. In connection with the suspension of a license, the local licensing authority may impose  
10 reasonable conditions.

11 D. In deciding whether a license should be suspended or revoked, and in deciding what  
12 conditions to impose in the event of a suspension, if any, the local licensing authority  
13 shall consider mitigating and aggravating factors when considering the imposition  
14 of a penalty. These factors may include, but are not limited to:

15 1. ~~The nature and seriousness of the violation;~~

16 2. ~~Corrective action, if any, taken by the licensee;~~

17 3. ~~Prior violation(s), if any, by the licensee;~~

18 4. ~~The likelihood of recurrence;~~

19 5. ~~All circumstances surrounding the violation;~~

20 6. ~~Whether the violation was willful or deliberate;~~

21 7. ~~The number of previous violations by the licensee;~~

22 8. ~~Previous sanctions, if any, imposed against the licensee; and~~

23 9. ~~Whether the owner or manager is the violator or has directed an employee or other~~  
24 ~~individual to violate the law.~~

25 1. Any prior violations that the Licensee has admitted to or was found to have  
26 engaged in.

27 2. Action taken by the Licensee to prevent the violation (e.g., training provided to  
28 employees).

29 3. Licensee's past history of success or failure with compliance checks.

- 1           4. **Corrective action(s) taken by the Licensee related to the current violation or**  
2           **prior violations.**
- 3           5. **Willfulness and deliberateness of the violation.**
- 4           6. **Likelihood of reoccurrence of the violation.**
- 5           7. **Circumstances surrounding the violation, which may include, but are not limited**  
6           **to:**
  - 7           A. **Prior notification letter to the Licensee that an underage compliance**  
8           **check would be forthcoming.**
  - 9           B. **The dress or appearance of an underage operative used during an**  
10           **underage compliance check (e.g., the operative was wearing a high**  
11           **school letter jacket).**
- 12          8. **The Owner or a manager is the violator or has directed an employee or other**  
13          **individual to violate the law.**

- 14          E. Participation in State-approved educational programs related to the operation of a Retail  
15          Marijuana Establishment, if applicable.
- 16          F. If an offense is described in the applicable administrative regulations, the licensing  
17          authority shall follow the provisions of such regulation in deciding the appropriate  
18          sanction to be imposed upon the licensee.
- 19          G. A license issued by the local licensing authority may be revoked if the local licensing  
20          authority determines that the licensed premises have been inactive, without good cause,  
21          for at least one (1) year.
- 22          H. If the local licensing authority suspends or revokes a license the licensee may appeal the  
23          suspension or revocation to the district court pursuant to rule 106(a)(4) of the Colorado  
24          rules of civil procedure. The licensee's failure to timely appeal the decision is a waiver  
25          of the licensee's right to contest the denial or conditional approval of the application.
- 26          I. No fee previously paid by a licensee in connection with the application shall be refunded  
27          if the licensee's license is suspended or revoked.
- 28          J. **If the local licensing authority revokes or suspends a license, the licensee may not**  
29          **remove any marijuana from the licensed premises except under the supervision of**  
30          **the Town's police department.**

31          Section 7. Section 4-14-29 of the Breckenridge Town Code is amended by the addition

1 of a new Section B.5, which shall read in its entirety as follows:  
2

3 **B.5 It is unlawful and a misdemeanor offense for any person to violate the following**  
4 **provisions of the state administrative regulations. Any person convicted of having**  
5 **violated any of the following provisions of the state administrative regulations shall**  
6 **be punished as provided in Section 1-4-1 of this code:**  
7

8 **Medical Marijuana Administrative Regulations**  
9

- 10 A. **Regulation M 305 – Security Alarm and Lock Standards;**  
11 B. **Regulation M 306 – Video Surveillance;**  
12 C. **Regulation M 307 – Waste Disposal;**  
13 D. **Regulation M 309 – Medical Marijuana Business: Marijuana Inventory**  
14 **Tracking System (MITS);**  
15 E. **Regulation M 503 – Medical Marijuana Optional Premises Cultivation**  
16 **Operation: Inventory Tracking System**  
17 F. **Regulation M 901 – Business Records Required; and**  
18 G. **Regulation M 1202 – Requirement for Inspections and Investigations, Searches,**  
19 **Administrative Holds, and Such Additional Activities as May Become Necessary**  
20 **From Time to Time**

21 **Retail Marijuana Administrative Regulations**  
22

- 23 A. **Regulation R 305 – Security Alarm and Lock Standards;**  
24 B. **Regulation R 306 – Video Surveillance;**  
25 C. **Regulation R 307 – Waste Disposal;**  
26 D. **Regulation R 309 –Retail Marijuana Establishments: Marijuana Inventory**  
27 **Tracking System;**  
28 E. **Regulation R 503 –Retail Marijuana Cultivation Facility: Inventory Tracking**  
29 **System**  
30 F. **Regulation R 901 – Business Records Required; and**



1 **G. Regulation R 1202 – Requirement for Inspections and Investigations, Searches,**  
2 **Administrative Holds, and Such Additional Activities as May Become Necessary**  
3 **From Time to Time**

4 Section 8. Section 6-3I-1 of the Breckenridge Town Code is amended to include the  
5 following definitions:  
6

**MARIJUANA PRODUCT**

**Concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.**

**SINGLE-FAMILY RESIDENTIAL UNIT:**

**Has the meaning provided in Section 9-1-5 of this Code.**

7  
8 Section 9. Section 6-3I-3 of the Breckenridge Town Code is amended to read as follows:

9 6-3I-3: UNLAWFUL POSSESSION OF MARIJUANA:

- 10 A. Except as described in Section 6-3I-10 of this article, it is unlawful for any person  
11 twenty-one (21) years of age or older to possess more than one ounce but no more than  
12 two (2) ounces of marijuana. Any person convicted of having violated this Section A  
13 shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100 or less
Second Offense	\$250 or less
Third Offense and Each Subsequent Offense	\$500

- 14  
15 B. **Except as described in Section 6-3I-10 of this article, it is unlawful for any person**  
16 **twenty-one (21) years of age or older to possess:**

- 17 1. **More than eight (8) ounces of usable marijuana in a single-family residential**  
18 **unit;**  
19 2. **More than sixteen (16) ounces of a marijuana product in a solid form; or**  
20 3. **More than seventy two (72) ounces of a marijuana product in a liquid form.**

1 C. Pursuant to Rule 210(b)(5) of the Colorado Municipal Court Rules of Procedure the  
2 Municipal Judge shall specify by suitable schedules the amount of the fines to be  
3 imposed for a First Offense or a Second Offense violation of Section A of this Section.  
4

5 D. Except as described in Section 6-3I-10 of this article, it is unlawful for any person  
6 twenty-one (21) years of age or older to possess more than two (2) ounces of marijuana  
7 but no more than twelve (12) ounces of marijuana, or ~~not~~ more than ~~three~~ one ounces of  
8 marijuana concentrate. Any person convicted of having violated this Section C shall be  
9 punished as provided in Section 1-4-1 of this Code.

10 E. The procedure described in Section 6-3I-9 shall apply to persons charged with a violation  
11 of either Section A or Section ~~C~~ B of this Section.

12 Section 10. Section 6-3I-8-1 of the Breckenridge Town Code, entitled “Unlawful Acts  
13 Concerning the Extraction of Marijuana Concentrate,” is repealed.  
14

15 Section 11. Chapter 13 of Title 9 of the Breckenridge Town Code is repealed and  
16 readopted with changes to read as follows:  
17

18 CHAPTER 13

19  
20 ~~RESIDENTIAL~~ GROWING OF MARIJUANA IN A REGULATED STRUCTURE  
21

22 SECTION:

23  
24 9-13-1: SHORT TITLE

25 9-13-2: FINDINGS

26 9-13-3: PURPOSE

27 9-13-4: AUTHORITY

28 9-13-5: DEFINITIONS

29 9-13-6: REGULATIONS FOR THE GROWING OF MARIJUANA IN A  
30 ~~RESIDENTIAL~~ REGULATED STRUCTURE

31 9-13-7: INSPECTION; INSPECTION WARRANT

32 9-13-8: APPLICABILITY OF NUISANCE ORDINANCE

33 9-13-9: CONDITION PRECEDENT TO CHALLENGE  
34

35 9-13-1: SHORT TITLE: This Chapter is to be known and may be cited as the “2013~~5~~5 Town Of  
36 Breckenridge ~~Residential~~ Marijuana Grow Ordinance.”  
37

38 9-13-2: FINDINGS: The Town Council adopts this Chapter based upon the following findings  
39 of fact:  
40

- 1 A. On November 7, 2000 the voters of the State of Colorado approved Amendment  
2 20. Amendment 20 added Section 14 of Article XVIII to the Colorado  
3 Constitution, and created a limited exception from criminal liability under  
4 Colorado law (as opposed to federal law) for seriously ill persons who are in need  
5 of marijuana for specified medical purposes and who obtain and use medical  
6 marijuana under the limited circumstances described in Section 14 of Article  
7 XVIII of the Colorado Constitution.
- 8 B. The Colorado legislature passed and the governor signed into law HB10-1284,  
9 entitled “An Act Concerning Regulation of Medical Marijuana, and Making an  
10 Appropriation Therefor.” HB10-1284 adopted the “Colorado Medical Marijuana  
11 Code.” HB10-1284 became effective July 1, 2010.
- 12 C. On November 6, 2012 the voters of the State of Colorado approved Amendment  
13 64. Amendment 64 added Section 16 of Article XVIII to the Colorado  
14 Constitution.
- 15 D. Section 16(3)(b) of Article XVIII of the Colorado Constitution provides that it is  
16 not unlawful under Colorado law for a person twenty-one (21) years of age or  
17 older to possess, grow, process, or transport not more than six (6) marijuana  
18 plants, with three or fewer being mature, flowering plants, and to possess the  
19 marijuana produced by the plants on the premises where the plants were grown,  
20 provided that the growing takes place in an enclosed, locked space, is not  
21 conducted open or publicly, and is not made available for sale.
- 22 E. The ~~growing or processing~~ **possession, growing, processing, or transporting** of  
23 marijuana plants in an ~~an residential~~ **unregulated** setting can affect the health,  
24 safety, and welfare of both the occupants of the ~~residential~~ **structure** within  
25 which the marijuana is ~~grown~~ **possessed, grown, processed, or transported**, and  
26 persons occupying nearby structures.
- 27 F. The Town’s experience is that the unregulated ~~residential growing or processing~~  
28 **possession, growing, processing, or transporting** of marijuana results in a  
29 significant number of instances of non-compliance with the Town’s building and  
30 other technical codes. In addition to other potentially serious problems, non-  
31 compliance with the Town’s building and other technical codes has the potential  
32 to result in a fire emanating from the ~~residential~~ structure within which the  
33 marijuana is ~~grown or processed~~ **possessed, grown, processed, or transported**.  
34 Such a fire would affect the health, safety, and welfare of both the occupants of  
35 the ~~residential~~ structure within which the marijuana is ~~grown or processed~~  
36 **possessed, grown, processed, or transported**, and persons occupying nearby  
37 structures.

- 1 G. Nothing in Section 14 or Section 16 of Article XVIII of the Colorado  
2 Constitution, or any other applicable law, immunizes persons who ~~grow or~~  
3 ~~process~~ **possess, grow, process, or transport** marijuana in a ~~residential setting~~  
4 **regulated structure as hereafter defined** from local regulation.
- 5 H. The Town is a home rule municipal corporation organized and existing under its  
6 Charter and Article XX, Section 6 of the Colorado Constitution. As such, the  
7 Town possesses all powers granted to home rule municipalities by Colorado law.  
8
- 9 I. This Chapter is necessary and proper to provide for the safety, preserve the health,  
10 promote the prosperity, and improve the order, comfort, and convenience of the  
11 Town and the inhabitants thereof, and to reduce the number of public nuisances  
12 that exist within the Town.  
13

14 9-13-3: PURPOSE: It is the purpose of this Chapter to require that persons ~~growing or~~  
15 ~~processing~~ **possessing, growing, processing, or transporting** marijuana in a ~~residential setting~~  
16 **regulated structure** within the Town pursuant to Sections 14 or 16 of Article XVIII of the  
17 Colorado Constitution do so in a safe manner that does not endanger the public health, safety,  
18 and welfare, or create a public nuisance.  
19

20 9-13-4: AUTHORITY: The Town Council finds, determines, and declares that it has the power  
21 to adopt this Chapter pursuant to:  
22

- 23 A. The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.;
- 24 B. Section 16 of Article XVIII to the Colorado Constitution;
- 25 C. The Local Government Land Use Control Enabling Act, Article 20 of Title 29,  
26 C.R.S.;
- 27 D. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- 28 E. Section 31-15-103, C.R.S. (concerning municipal police powers);
- 29 F. Section 31-15-401, C.R.S. (concerning municipal police powers, including, but  
30 not limited to, the power to declare what is a nuisance and to abate the same);
- 31 G. The authority granted to home rule municipalities by Article XX, Section 6 of the  
32 Colorado Constitution; and
- 33 H. The powers contained in the Breckenridge Town Charter.

34 9-13-5: DEFINITIONS:  
35

- 1 A. The definitions contained in Sections 14 and 16 of Article XVIII of the Colorado  
2 Constitution are incorporated into this Chapter by reference.
- 3 B. As used in this Chapter the following words have the following meanings, unless  
4 the context clearly requires otherwise:

**COMMERCIAL USE:**

**Has the meaning provided in Section 9-1-5 of this Code.**

ENCLOSED AND LOCKED SPACE:

The area within the ~~residential~~ **regulated** structure where marijuana is ~~cultivated~~ **possessed, grown, processed, or transported** pursuant to Sections 14 and 16 of Article XVIII of the Colorado Constitution, and that is secured at all points of ingress or egress with a locking mechanism such as a key or combination lock designed to limit access.

MARIJUANA:

Has the same meaning as in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

**MIXED USE:**

**Has the meaning provided in Section 9-1-5 of this Code.**

~~MULTI-UNIT RESIDENTIAL USE:~~

~~Has the meaning provided in Section 9-1-5 of this Code.~~

OPENLY:

The area within the ~~residential~~ **regulated** structure where marijuana is ~~grown~~ **possessed, grown, processed, or transported** is not protected from unaided observation lawfully made from outside the perimeter of the regulated structure not involving physical intrusion.

PERSON:

Has the meaning provided in Section 1-3-2 of this Code.

POLICE CHIEF:

The Police Chief of the Town, or the Police Chief's designee.

PUBLICLY:

The area within the ~~residential~~ **regulated** structure where the ~~residential~~ marijuana is ~~grown~~ **possessed, grown, processed, or transported** is open to general access without restriction.

**REGULATED STRUCTURE:**

**Any structure located within the Town where marijuana is possessed, grown, processed or transported that is not licensed by the Town for such activity pursuant to Chapter 14 of Title 4 of this Code.**

**RESIDENTIAL STRUCTURE:**

Means a structure devoted to a residential use.

**RESIDENTIAL USE:**

Has the meaning provided in Section 9-1-5 of this Code.

**SINGLE-FAMILY RESIDENTIAL UNIT:**

Has the meaning provided in Section 9-1-5 of this Code.

**STRUCTURE:**

Has the meaning provided in Section 9-1-5 of this Code.

**THC:**

Means tetrahydrocannabinol.

**TOWN:**

Has the meaning provided in Section 1-3-2 of this Code.

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9-13-6: REGULATIONS FOR THE GROWING OF MARIJUANA IN A ~~RESIDENTIAL~~ **REGULATED** STRUCTURE: Marijuana plants shall not be possessed, grown, processed, or transported in or around any ~~residential~~ **regulated** structure within the Town except in compliance with the following regulations. It is unlawful and a misdemeanor offense for a person to violate any provision of this Section. In accordance with Section 1-4-1(B) of this Code, a person shall be guilty of a separate offense for each and every day during any portion of which any violation of the requirements of this section is committed, continued, or permitted by such person.

- A. The possession, growing, **and processing,** ~~and~~ of marijuana plants within a ~~residential~~ **regulated** structure shall be done in full compliance with all applicable provisions of Section 14 and Section 16 of Article XVIII of the Colorado Constitution.
- B. Marijuana may be possessed, grown, ~~or~~ processed, **or transported** within a ~~residential~~ **regulated** structure only by a person twenty-one (21) years of age or older.
- C. One person twenty-one years of age or older may not possess, grow, process, or transport more than six (6) marijuana plants within a ~~residential~~ **regulated**



- 1 structure at any one time. Not more than three of the plants may be mature  
2 flowering plants.
- 3 D. The owner of the marijuana plants described in Section C may lawfully possess  
4 the marijuana produced by the six (6) marijuana plants described in Section C on  
5 the premises where the plants were grown.
- 6 E. None of the marijuana plants or the marijuana described in Section C or D may be  
7 sold or offered for sale.
- 8 F. Marijuana may not be grown openly or publicly, or in any area that is located  
9 outside of the exterior walls of a ~~residential~~ **regulated** structure.
- 10 G. If a person under twenty-one (21) years of age lives at the ~~residential~~ **regulated**  
11 structure, the cultivation area for the marijuana plants must be enclosed and  
12 locked.
- 13 H. If no person under twenty-one (21) years of age lives at the ~~residential~~ **regulated**  
14 structure, the external locks of the ~~residential~~ **regulated** structure constitute an  
15 enclosed and locked space but if a person under twenty-one (21) years of age  
16 enters the ~~residential~~ **regulated** structure, the person must ensure that access to  
17 the marijuana cultivation site is reasonably restricted for the duration of that  
18 person's presence in the ~~residential~~ **regulated** structure.
- 19 I. The possession, growing, processing, or transportation of marijuana plants shall  
20 be limited to the following areas within a ~~residential~~ **regulated** structure:
- 21 1. Within a detached single-family residential unit, marijuana may be  
22 **possessed**, grown, ~~cultivated~~, or processed **or transported** only within a  
23 defined and contiguous 150 square foot area;
- 24 2. Within any ~~residential~~ **regulated** structure other than a detached single-  
25 family residential unit, marijuana may be **possessed**, grown, ~~cultivated~~, or  
26 processed **or transported** only within a defined and contiguous 100  
27 square feet area;
- 28 3. Marijuana shall not be **possessed**, grown, ~~cultivated~~, or processed **or**  
29 **transported** within the common area of any real property that is devoted  
30 to a residential **use, commercial use, or a mixed** use; and
- 31 4. Not more than twelve (12) marijuana plants may be ~~growing~~ **possessed**,  
32 **grown, processed or transported** within a ~~residential~~ **regulated** structure  
33 at any one time, regardless of the number of persons twenty-one (21) years  
34 of age or older who then occupy the ~~residential~~ **regulated** structure.

- 1 J. The ~~growing, cultivation, and processing~~ **possession, growing, processing, or**  
2 **transporting** of marijuana shall not be perceptible from the exterior of the  
3 ~~residential~~ **regulated** structure where the plants are grown, including, but not  
4 limited to:
- 5 1. Common visual observation;
  - 6 2. Light pollution, glare, or brightness that disturbs the repose of another;
  - 7 3. Undue vehicular or foot traffic, including unusually heavy parking in front  
8 of the ~~residential~~ **regulated** structure; and
  - 9 4. Noise from an exhaust fan in excess of the maximum permissible noise  
10 level described in Section 5-8-5 of this Code.
- 11 K. The smell or odor of marijuana growing **or being processed** within a ~~residential~~  
12 **regulated** structure shall not be capable of being detected by a person with a  
13 normal sense of smell from any adjoining lot, parcel, or tract of land not owned  
14 by the owner of the ~~residential~~ **regulated** structure, or from any adjoining public  
15 right of way.
- 16 L. The space within the ~~residential~~ **regulated** structure where marijuana is ~~grown,~~  
17 ~~cultivated, or processed~~ **possessed, grown, processed or transported** shall meet  
18 all applicable requirements of the Town's building and technical codes adopted in  
19 Chapter 1 of Title 8 of this Code.
- 20 M. If a person ~~grows, cultivates, or processes~~ **possesses, grows, processes, or**  
21 **transports** marijuana within a ~~residential~~ **regulated** structure that he or she does  
22 not own, he or she shall obtain the written consent of the property owner before  
23 commencing to ~~grow, cultivate or process~~ **possess, grow, process or transport**  
24 marijuana on the property.
- 25 N. No chemical shall be used to enhance or extract THC from marijuana that is  
26 grown **or processed** in a ~~residential~~ **regulated** structure.
- 27 O. Compressed, flammable gas shall not be used in a ~~residential~~ **regulated** structure  
28 as a solvent for the extraction of THC or other cannabinoids.

29 9-13-7: INSPECTION; INSPECTION WARRANT:  
30

- 31 A. Subject to the requirements and limitations of this section, the Police Chief shall  
32 have the right to enter upon any ~~residential~~ **regulated** structure within the Town  
33 where marijuana is being ~~grown, cultivated, or processed~~ **possessed, grown,**  
34 **processed, or transported** during reasonable hours for the purpose of conducting

1 a physical inspection of the premises to determine if the premises comply with the  
2 requirements of this Chapter. However, no agent or employee of the Town shall  
3 enter upon any property to conduct such an inspection without either the  
4 permission of the landowner or occupant, or without an inspection warrant issued  
5 pursuant to this section.

6 B. If verbal permission to inspect the ~~residential~~ **regulated** structure from the  
7 affected landowner or occupant is not obtained, or if the ~~residential~~ **regulated**  
8 structure is locked and the Police Chief has been unable to obtain permission of  
9 the landowners or occupant, the Police Chief may request that an inspection  
10 warrant be issued by the municipal court judge pursuant to Rule 241 of the  
11 Colorado Municipal Court Rules of Procedure.

12 C. In case of an emergency involving imminent danger to public health, safety, or  
13 welfare, the Police Chief may enter any ~~residential~~ **regulated** structure within the  
14 Town to conduct an emergency inspection for the ~~growing, cultivation, or~~  
15 ~~processing~~ **possession, growing, processing, or transporting** of marijuana  
16 without a warrant and without complying with the requirements of section.

17 D. The Town Council declares that this Chapter is an ordinance involving a serious  
18 threat to the public safety or order within the meaning of Rule 241(a)(1) of the  
19 Colorado Municipal Court Rules of Procedure.

20 E. The municipal court judge may issue an inspection warrant authorizing the  
21 inspection of a ~~residential~~ **regulated** structure for the ~~growing, cultivation, or~~  
22 ~~processing~~ **possession, growing, processing, or transporting** of marijuana in  
23 accordance with Rule 241(b) of the Colorado Municipal Court Rules of  
24 Procedure. Any inspection warrant issued pursuant to this section shall fully  
25 comply with the applicable provisions of Rule 241 of the Colorado Municipal  
26 Court Rules of Procedure.

27 F. The municipal judge may impose such conditions on an inspection warrant as  
28 may be necessary in the judge's opinion to protect the private property rights of  
29 the landowner of the property to be inspected, or to otherwise make the warrant  
30 comply with applicable law.

31 G. It shall be unlawful and a misdemeanor offense for any landowner or occupant to  
32 deny the Police Chief or other authorized person access to the property owned or  
33 occupied by such landowner or occupant if the Police Chief or other authorized  
34 person presents an inspection warrant issued pursuant to this Section.

35 9-13-8: APPLICABILITY OF NUISANCE ORDINANCE: The ~~growing or processing~~  
36 **possession, growing, processing, or transportation** of marijuana within a ~~residential~~ **regulated**

1 structure in the Town in any manner that is not in compliance with the requirements of Section  
2 9-13-6 is declared to be a public nuisance, and may be abated in the manner provided in Chapter  
3 1 of Title 5 of this Code. Section 5-1-12 of this Code concerning the non-exclusivity of the  
4 nuisance abatement procedure described in Chapter 1 of Title 5 of this code applies with respect  
5 to the enforcement of this Chapter as well.

6  
7 9-13-9: **CONDITION PRECEDENT TO CHALLENGE:** It is a condition precedent to any legal  
8 challenge to any portion of this chapter, or the application of any portion of this chapter to any  
9 specific property, that the person initiating such challenge shall have first given the Town written  
10 notice of intent to bring such challenge not less than ninety (90) days before filing any legal  
11 proceeding. Such notice shall be sent to the Town Council of the Town of Breckenridge by  
12 certified mail, return receipt requested, at P.O. Box 168, Breckenridge, Colorado 80424, and  
13 shall set forth: (i) the name and address of the claimant and the claimant's attorney, if any; and  
14 (ii) a concise statement of the factual and legal basis for the claimant's challenge to the this  
15 chapter, or the application of this chapter to the claimant's property. To the extent that the  
16 provisions of this section conflict with the notification requirements of section 24-10-109,  
17 C.R.S., or any other applicable law, the provisions of such statute or other applicable law shall  
18 control.

19  
20 Section 12. Except as specifically amended by this ordinance, the Breckenridge Town  
21 Code, and the various secondary codes adopted by reference therein, shall continue in full force  
22 and effect.

23  
24 Section 13. The adoption of this ordinance does not result in a new tax, a tax rate  
25 increase, or a tax policy change directly causing a net tax revenue gain to the Town within the  
26 meaning of Article X, Section 20 of the Colorado Constitution.

27  
28 Section 14. The Town Council finds, determines and declares that it has the power to  
29 adopt this ordinance pursuant to: (i) the Colorado Medical Marijuana Code, Article 43.3 of Title  
30 12, C.R.S.; (ii) Section 16 of Article XVIII to the Colorado Constitution; (iii) the Colorado Retail  
31 Marijuana Code, Article 43.4 of Title 12, C.R.S.; (iv) the applicable administrative regulations;  
32 (v) The Local Government Land Use Control Enabling Act, Part 1 of Article 20 of Title 29,  
33 C.R.S.; (vi) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (vii)  
34 Section 31-15-103, C.R.S. (concerning municipal police powers); (viii) Section 31-15-401,  
35 C.R.S. (concerning municipal police powers); (ix) Section 31-15-501, C.R.S. (concerning  
36 municipal authority to regulate businesses); (x) the authority granted to home rule municipalities  
37 by Article XX of the Colorado Constitution; and (xi) the powers contained in the Breckenridge  
38 Town Charter.

39  
40 Section 15. The Town Council further finds, determines, and declares that this ordinance  
41 is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
42 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants

1 thereof.

2  
3 Section 16. This ordinance shall be published and become effective as provided by  
4 Section 5.9 of the Breckenridge Town Charter.

5  
6 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
7 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2015. A Public Hearing shall be held at the  
8 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
9 \_\_\_\_\_, 2015, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
10 Town.

11  
12 TOWN OF BRECKENRIDGE, a Colorado  
13 municipal corporation

14  
15  
16  
17 By: \_\_\_\_\_  
18 John G. Warner, Mayor

19  
20 ATTEST:

21  
22  
23  
24 \_\_\_\_\_  
25 Helen Cospolich  
26 Town Clerk

**TIMOTHY H. BERRY, P.C.**

A Professional Corporation  
Attorney At Law

P.O. Box 2  
Leadville, CO 80461

Telephone (719) 486-1889  
Facsimile (719) 486-3039

Timothy H. Berry

November 23, 2015

Town Council  
Town of Breckenridge  
P.O. Box 168  
Breckenridge, Colorado 80424

**RE: Proposed 2016 Legal Services Agreements**

Dear Mayor Warner and Councilmembers:

It is time for the Council to consider my agreement for 2016.

Enclosed is a proposed agreement. It is identical in substance to the contract that you approved last year.

I look forward to continuing my relationship with the Town. I will be happy to discuss these proposed agreement with you on Tuesday.

Very truly yours,



Timothy H. Berry

THB

1 **FOR WORKSESSION/ADOPTION – December 8**

2  
3 RESOLUTION NO. \_\_

4  
5 SERIES 2015

6  
7 A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ATTORNEY  
8 SERVICES WITH TIMOTHY H. BERRY, P.C. FOR 2016

9  
10 WHEREAS, the Town of Breckenridge desires to enter into a Town Attorney Agreement  
11 with Timothy H. Berry, P.C. for 2016;

12  
13 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
14 BRECKENRIDGE, COLORADO:

15  
16 Section 1. The Town Attorney Agreement with Timothy H. Berry, P.C. for 2016,  
17 a copy of which is attached hereto as Exhibit "A" and by this reference made a  
18 part hereof, is hereby approved by the Town Council.

19  
20 Section 2. The Mayor of the Town of Breckenridge be and hereby is authorized,  
21 empowered and directed in the name of the Town of Breckenridge and on behalf  
22 of its Town Council to make, execute and deliver the Town Attorney Agreement  
23 attached hereto as Exhibit "A".

24  
25 RESOLUTION ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2015.

26  
27  
28 ATTEST:

TOWN OF BRECKENRIDGE

29  
30  
31  
32 \_\_\_\_\_  
33 Helen J. Cospolich, Town Clerk

\_\_\_\_\_

34  
35  
36 APPROVED IN FORM

37  
38  
39  
40 \_\_\_\_\_  
41 Town Attorney

Date

## TOWN ATTORNEY AGREEMENT

This Agreement (“**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Town**”) and TIMOTHY H. BERRY, P.C., a Colorado corporation (“**Attorneys**”).

### WITNESSETH:

1. The Town does hereby employ and retain the Attorneys as Town Attorney for the period commencing January 1, 2016 and ending December 31, 2016. The Attorneys shall perform the services as more fully described in Paragraph 3 of this Agreement.
2. The Attorneys accept such employment and agree to perform the duties required of it as Town Attorney in a competent and professional manner.
3. The Attorneys are hired to, and shall perform, the following duties:
  - A. Act as legal advisor to, and be the attorney and counsel for, the Town Council.
  - B. Advise any Town officer, department head or staff member in matters relating to his or her duties. To facilitate the performance of this duty, Timothy H. Berry, President of Attorneys, shall be available in the Town Hall offices from 9:00 a.m. to 4:30 p.m. each Tuesday, except on those Tuesdays when Timothy H. Berry is to attend a Town Council or Planning Commission meeting, in which event he shall be available until the conclusion of such meeting.
  - C. Prepare and review ordinances, contracts and other written instruments when requested by the Town Council, municipal officials or staff members and promptly give its opinion as to the legal consequences thereof.
  - D. Call to the attention of the Town Council, municipal officials and staff members all matters of law, and changes and developments therein, which affect the Town.
  - E. Have Timothy H. Berry attend all regular and special meetings of the Town Council.
  - F. Have Timothy H. Berry attend regular and special Town Planning Commission meetings when requested to do so by the Town staff or the Planning Commission.
  - G. Have Timothy H. Berry attend meetings of the Breckenridge Open Space Advisory Commission when requested to do so by the Town staff or the Open Space Advisory Commission.
  - H. Have Timothy H. Berry attend meetings of the Town’s Liquor Licensing Authority when requested to do so by the Town staff or the Liquor Licensing Authority.

2016 TOWN ATTORNEY AGREEMENT



- I. Unless otherwise directed by the Town Council, the Attorneys shall represent the Town in any litigation in state or federal courts or before administrative agencies.
4. As compensation for the services to be provided by the Attorneys as set forth in Paragraph 3, the Town shall pay the Attorneys the sum of \$160.00 per hour for each hour of time, whether litigation or non-litigation, expended by Timothy H. Berry (whether in the Town's offices or the Attorneys' offices). Attorneys shall also be reimbursed for all reasonable and necessary expenses which it may pay or incur on behalf of the Town in connection with litigation matters including, but not limited to, the cost of subpoenas, witness fees and photocopying costs incurred outside of Attorneys' office. Computerized legal research services performed for the Town shall be billed to the Town at the same rate paid by the Attorney for such services. The Attorneys shall submit to the Town on a monthly basis an itemized billing detailing all services performed for the Town during the preceding month. The Attorneys' monthly statement for services rendered shall be mailed to the Town on or before the first day of each month and shall be paid by the Town not later than the 15th day of each month.
5. Notwithstanding the provisions of Paragraph 4 of this Agreement, legal services performed by the Attorneys for the Town which are to be reimbursed by third parties (such as real estate developers or property owners) shall be billed at the rate of \$220.00 per hour. Such services shall be separately billed and accounted for as directed by the Financial Services Manager of the Town.
6. The Attorneys shall not bill the Town for travel time to and from Attorneys' Leadville office and Breckenridge. In lieu thereof, the Town shall pay to the Attorneys a mileage allowance of \$0.25 per mile round trip for each regularly scheduled trip made on Town business by Attorneys.
7. The Attorneys shall at all times maintain professional liability insurance in an amount of not less than \$1,000,000.00 per claim/\$1,000,000.00 yearly aggregate.
8. The Attorneys shall not be entitled to paid vacation, health benefits, sick leave or any other benefit paid, given or provided to Town employees.
9. The Attorneys understands that (i) Town will not pay or withhold any sum for income tax, unemployment insurance, Social Security or any other withholding pursuant to any law or requirement of any governmental body; (ii) Attorneys are obligated to pay federal and state tax on any moneys earned pursuant to this Agreement; (iii) Attorneys are not entitled to workers' compensation benefits from the Town or the Town's workers' compensation insurance carrier; and (iv) Attorneys are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Attorneys or some other entity. Attorneys agree to indemnify and hold Town harmless from any liability resulting from Attorneys' failure to pay or withhold state or federal taxes on the compensation paid hereunder

2016 TOWN ATTORNEY AGREEMENT

10. The Attorneys shall devote so much of the firm's time to the business of the Town as may be required to assure proper representation of the Town, but the Attorneys shall not be prevented from taking other employment by reason of this Agreement; provided, however, that the Attorneys shall not enter into other contractual or business relationships, nor undertake to represent a client, when such contract, business relationship or representation would create a conflict of interest as to Attorneys' continued representation of Town.
11. The Attorneys understand and acknowledge that the firm serves at the pleasure of the Town Council, and that this Agreement may be terminated at any time by the Town Council, without liability to the Attorneys for breach, and without the need for either cause for the termination or a hearing.
12. Throughout the extended term of this Agreement, Attorneys shall not:
  - A. knowingly employ or contract with an illegal alien who will perform work under this Agreement; or
  - B. enter into a contract with a subcontractor that fails to certify to Attorneys that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

Attorneys have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Colorado Department of Labor and Employment employment verification program. As used in this provision: (i) the term "E-Verify Program" means the electronic employment verification program created in Public Law 104-208, as amended and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program; and (ii) the term "Colorado Department of Labor and Employment employment verification program" means the program established by Section 8-17.5-102(5)(c), C.R.S.

Attorneys are prohibited from using E-Verify Program or the Department Program procedures to undertake preemployment screening of job applicants while this Agreement is being performed.

If Attorneys obtain actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Attorneys shall:

- A. notify such subcontractor and the Town within three days that Attorneys has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

- B. terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not stop employing or contracting with the illegal alien; except that Attorneys shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Attorneys shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Colorado Department of Labor and Employment undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

If Attorneys violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. or this Section 12, the Town may terminate this Agreement for a breach of the contract. If this Agreement is so terminated, Attorneys shall be liable for actual and consequential damages to the Town.

13. The Town shall contract with another attorney or law firm to handle the prosecution of municipal ordinance violations in the Town's Municipal Court, and appeals from the judgments of such court. Such services are excluded from this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

TOWN OF BRECKENRIDGE, a Colorado  
municipal corporation

By: \_\_\_\_\_  
John G. Warner, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich  
Town Clerk

TIMOTHY H. BERRY, P.C., a Colorado  
corporation

By: \_\_\_\_\_  
Timothy H. Berry, President

100-2-0\2016 Retainer Agreement (11-23-15)

2016 TOWN ATTORNEY AGREEMENT

Page 5 of 5

LAW OFFICES  
**WEST BROWN HUNTLEY PC**  
100 SOUTH RIDGE STREET, SUITE 204  
POST OFFICE BOX 588  
BRECKENRIDGE, COLORADO 80424  
TELEPHONE (970) 453-2901  
FAX (970) 453-0192  
WWW.WESTBROWN.COM

STEPHEN C. WEST  
FELICE F. HUNTLEY  
ROBERT N. GREGORY

---

JILL D. BLOCK  
Paralegal

PETER F. MICHAELSON  
OF COUNSEL

D. WAYNE BROWN  
RETIRED

November 19, 2015

Mayor John Warner  
Breckenridge Town Council  
150 Ski Hill Rd.  
Breckenridge, CO 80424

Re: Breckenridge Municipal Court Prosecutor

Mayor Warner:

I am writing to express my interest in continuing to serve the Town of Breckenridge as the prosecutor for Breckenridge Municipal Court. My current annual contract with the Town expires on December 31, 2015. I have submitted a proposed contract for year 2016 with this letter. Under the proposed contract, my hourly rate of \$110 remains the same from year 2015, and the remaining terms contain no material changes.

The role of prosecutor is one that I take great pride in, as I believe it is critical to upholding the integrity of the justice system in our community. It takes a unique set of skills to effectively represent the law enforcement goals of the community and protect the victims of crime, while respecting the rights of criminal defendants. I hope you and Town Council have the opinion that I have served the Town well in this capacity.

I plan on attending the work session and/or meeting where my re-appointment is considered, and I welcome any feedback you are willing and able to provide.

Sincerely,



Robert N. Gregory

1 **FOR WORKSESSION/ADOPTION – December 8**

2  
3  
4 RESOLUTION NO. XX

5  
6 SERIES 2015

7  
8  
9 A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ATTORNEY  
10 SERVICES WITH ROBERT GREGORY OF WEST BROWN HUNTLEY PC FOR 2016

11  
12  
13 WHEREAS, the Town of Breckenridge desires to enter into a Municipal Court Prosecutor  
14 agreement with WEST BROWN HUNTLEY PC for 2016;

15  
16 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
17 BRECKENRIDGE, COLORADO:

18  
19 Section 1. The Municipal Court Prosecutor agreement for 2016, a copy of which  
20 is attached hereto as Exhibit "A" and by this reference made a part hereof, is  
21 hereby approved in substantially the form attached as Exhibit "A" by the Town  
22 Council.

23  
24 Section 2. The Mayor of the Town of Breckenridge is authorized, empowered  
25 and directed in the name of the Town of Breckenridge and on behalf of its Town  
26 Council to make, execute and deliver the Municipal Court Prosecutor Agreement  
27 in substantially the form attached hereto as Exhibit "A".

28  
29 Section 3. Minor changes to or amendments of the approved agreement may be made  
30 by the Town Manager if the Town Attorney certifies in writing that the proposed changes  
31 or amendments do not substantially affect the fee to paid by the Town pursuant to the  
32 approved agreement, or the essential elements of the approved agreement.

33  
34  
35 RESOLUTION ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2015.

36  
37  
38 ATTEST:

TOWN OF BRECKENRIDGE

39  
40  
41 \_\_\_\_\_  
42 Helen J. Cospolich, Town Clerk

\_\_\_\_\_   
John G. Warner, Mayor

43  
44  
45 APPROVED IN FORM

46  
47  
48 \_\_\_\_\_  
49 Town Attorney

\_\_\_\_\_   
Date

MUNICIPAL COURT PROSECUTOR AGREEMENT

This Agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of December, 2015, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation ("Town") and WEST, BROWN, HUNTLEY, P.C., a Colorado professional corporation ("Attorneys").

WITNESSETH:

1. The Town does hereby employ and retain the Attorneys to act as the prosecutor in the Town's Municipal Court ("Prosecutor") for the period commencing January 1, 2016 and ending December 31, 2016. The Attorneys shall perform the services as more fully described in Paragraph 3 of this Agreement.

2. The Attorneys accept such employment and agree to perform the duties required of it as Prosecutor in a competent and professional manner.

3. The Attorneys are hired to, and shall perform, the following duties:

A. Prosecute all matters brought in the Town's Municipal Court ("Municipal Court"), including having Robert Gregory, or another competent prosecuting attorney, appear on behalf of the Town in each session of the Municipal Court, which sessions are generally scheduled on the second and fourth Wednesday of each month, with additional sessions scheduled as required by the Municipal Court's schedule.

B. Unless otherwise requested by the Town, represent the Town in any appeals of Municipal Court matters.

C. Advise any Town officer, department head or staff member in matters relating to Municipal Court.

D. Have Robert Gregory attend Town Council or other Town meetings when requested to do so by the Town Council or Town staff.

E. Prosecute disciplinary actions against liquor licensees before the Town of Breckenridge Liquor Licensing Authority.

F. Prosecute disciplinary actions against marijuana licensees before the Town of Breckenridge Marijuana Licensing Authority.

4. As compensation for the services to be provided by the Attorneys as set forth in Paragraph 3, the Town shall pay the Attorneys the sum of \$110.00 per hour for each hour expended by Robert Gregory on matters related to the Municipal Court. Attorneys shall also be reimbursed for all reasonable and necessary expenses which it may pay or incur on behalf of the Town in connection with Municipal Court matters including, but not limited to, the cost of subpoenas, witness fees and photocopying costs incurred outside of Attorneys' office, and in the

event any of those expense are chargeable to any defendant, defense attorney, or other third party under the Colorado Municipal Court Rules of Procedure or through common custom, the Attorneys agree to charge such amount to such third party, rather than seeking reimbursement for such items from the Town. It will occasionally be necessary and appropriate for the Attorneys' paralegals or support staff to perform services on certain matters related to the Municipal Court rather than the Attorneys, which shall be billed at a rate of \$80 per hour. Computerized legal research services performed for the Town shall be billed to the Town at the same rate paid by the Attorneys for such services, and the Town shall provide the Attorneys with a portable laptop computer and remote access to court software (Justware). The Attorneys shall submit to the Town on a monthly basis an itemized billing detailing all services performed for the Town during the preceding month. The Attorneys' monthly statement for services rendered shall be mailed to the Town on or before the fifth day of each month and shall be paid by the Town not later than the 15th day of each month.

5. The Attorneys shall not bill the Town for travel time to and from the Municipal Court. In the event that any other travel is required as part of Attorneys' duties, such travel shall be billed at the hourly rate set forth above.

6. The Attorneys shall at all times maintain professional liability insurance in an amount of not less than \$1,000,000.00 per claim/\$1,000,000.00 yearly aggregate.

7. The Attorneys shall not be entitled to paid vacation, health benefits, sick leave or any other benefit paid, given or provided to Town employees.

8. The Attorneys understand that (i) Town will not pay or withhold any sum for income tax, unemployment insurance, Social Security or any other withholding pursuant to any law or requirement of any governmental body; (ii) Attorneys are obligated to pay federal and state tax on any moneys earned pursuant to this Agreement; (iii) Attorneys are not entitled to workers' compensation benefits from the Town or the Town's workers' compensation insurance carrier; and (iv) Attorneys are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Attorneys or some other entity. Attorneys agree to indemnify and hold Town harmless from any liability resulting from Attorneys' failure to pay or withhold state or federal taxes on the compensation paid hereunder.

9. The Attorneys shall devote so much of the firm's time to the business of the Town as may be required to assure proper representation of the Town, but the Attorneys shall not be prevented from taking other employment by reason of this Agreement. The Town understands that the Attorneys represent clients, in the past, present and future, which have business with and against other Departments within the Town government, including, but not limited to, the Department of Community Development, the Planning Commission and the Town Council. Pursuant to Rule 1.7 of the Colorado Rules of Professional Conduct, the Town hereby waives any conflict presented by the Attorneys' representation of clients where a Department within the Town government is an adverse party, so long as (i) there is no direct conflict with Breckenridge Municipal Court; (ii) the Attorneys reasonably believe they will be able to provide competent and diligent representation to each affected client; and (iii) the representation is not prohibited by law.



10. The Attorneys understand and acknowledge that the firm serves at the pleasure of the Town Council, and that this Agreement may be terminated at any time by the Town Council, without liability to the Attorneys for breach, except liability for compensation due the Attorneys for services performed prior to the termination, and without the need for either cause for the termination or a hearing.

11. Throughout the extended term of this Agreement, Attorneys shall not:

A. knowingly employ or contract with an illegal alien to perform work under this Agreement; or

B. enter into a contract with a subcontractor that fails to certify to Attorneys that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

Attorneys have verified or have attempted to verify through participation in the Federal Basic Pilot Program that Attorneys do not employ any illegal aliens; and if Attorneys are not accepted into the Federal Basic Pilot Program prior to the extension of the term of this Agreement, Attorneys shall apply to participate in the Federal Basic Pilot Program every three months thereafter, until Attorneys are accepted or this Agreement has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Federal Basic Pilot Program is discontinued.

Attorneys are prohibited from using Federal Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

12. If Attorneys obtain actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Attorneys shall:

A. notify such subcontractor and the Town within three days that Attorneys have actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

B. terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not stop employing or contracting with the illegal alien; except that Attorneys shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Attorneys shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Colorado Department of Labor and Employment undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

If Attorneys violate any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. or this Section 13, the Town may terminate this Agreement for a

2016 MUNICIPAL COURT PROSECUTOR

FEE AGREEMENT

Page 3 of 4

breach of the contract. If this Agreement is so terminated, Attorneys shall be liable for actual and consequential damages to the Town.

13. Attorneys may contract with another qualified attorney to act as a substitute prosecutor in the event that Robert Gregory is unavailable to attend any Municipal Court session. The Attorneys shall pay such substitute prosecutor directly at the hourly rate set forth in this Agreement, and the Town shall reimburse Attorneys for such costs.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

ATTEST:

TOWN OF BRECKENRIDGE

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
John Warner, Mayor

WEST, BROWN, HUNTLEY, P.C.

\_\_\_\_\_  
By: Robert Gregory, Attorney

**MEMO**

**TO: Town Council**  
**FROM: Laurie Best-Community Development Department**  
**RE: Denison Placer LIHTC Special Counsel**  
**DATE: December 2, 2015 (for December 8<sup>th</sup>)**

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The Town Charter authorizes the Council to employ special counsel when services are required. A resolution has been drafted for your meeting on December 8<sup>th</sup> which would authorize the Town Manager to engage the law firm of Winthrop & Weinstine, P.A.

Staff recommends this firm be engaged to provide legal services related to the Denison Placer Low Income Housing Tax Credit process and recommends approval of the resolution as presented.

Staff will be available if there are any questions in regard to this matter.

1 ***FOR WORKSESSION/ADOPTION – DEC. 8***

2  
3 RESOLUTION NO. \_\_\_\_

4  
5 Series 2015

6  
7 A RESOLUTION CONCERNING THE EMPLOYMENT OF SPECIAL COUNSEL IN  
8 CONNECTION WITH THE DENISON PLACER HOUSING PROJECT  
9

10 WHEREAS, Section 8.1 of the Breckenridge Town Charter authorizes the Town Council  
11 to employ special counsel to serve under the direction of the Town Council; and  
12

13 WHEREAS, the Town requires the services of special counsel in connection with the  
14 Denison Placer Housing Project; and  
15

16 WHEREAS, the Town Manager has recommended to the Town Council that the law firm  
17 of Winthrop & Weinstine, P.A. be employed as special counsel in connection with the Denison  
18 Placer Housing Project; and  
19

20 WHEREAS, the Town Council finds and determines that the law firm of Winthrop &  
21 Weinstine, P.A. should be engaged by the Town as special counsel in connection with the  
22 upcoming Denison Placer Housing Project.  
23

24 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
25 BRECKENRIDGE, COLORADO:  
26

27 Section 1. The Town Manager is authorized, empowered, and directed to engage the law  
28 firm of Winthrop & Weinstine, P.A. as special counsel for the Town in connection with the  
29 Denison Placer Housing Project. In connection therewith, the Town Manager is authorized to  
30 execute a formal engagement letter with Winthrop & Weinstine, P.A. on behalf of the Town, and  
31 the Town Council ratifies and confirms in advance the signing of such engagement letter.  
32

33 Section 2. The Town Manager is further authorized, empowered, and directed to employ  
34 such additional special counsel as he determines to be necessary in connection with the Denison  
35 Placer Housing Project. In connection therewith, the Town Manager is authorized to execute  
36 such engagement letters as may be necessary in connection with the hiring of such special  
37 counsel, and the Town Council ratifies and confirms in advance the signing of such engagement  
38 letters.  
39

40 Section 3. This resolution is effective upon adoption.

41  
42 RESOLUTION APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_, 2015  
43  
44  
45

TOWN OF BRECKENRIDGE

By: \_\_\_\_\_  
John G. Warner, Mayor

ATTEST:

\_\_\_\_\_  
Helen Cospolich  
Town Clerk

APPROVED IN FORM

\_\_\_\_\_  
Town Attorney                      Date

## MEMORANDUM

**To:** Mayor and Town Council  
**From:** Rick Holman, Assistant Town Manager  
**Date:** December 2, 2015  
**Subject:** Resolution to Approve Facilities Use Agreement with Colorado Mountain College

---

In 2009 the Town purchased the old Colorado Mountain College (CMC) building located at 103 South Harris Street. As part of that purchase, the Town agreed to provide space to house the ceramics studio, photography lab, and dance studio operated by CMC for a period of ten years. In 2011 the Town and CMC executed a lease agreement that described CMC's use and responsibilities and the Town's responsibility to relocate those services should the Harris Street location be re-purposed.

With all the change that has occurred over the past couple of years and the final move of the ceramics studio the arts district campus, we believe it is necessary to enter into a new agreement with CMC. Attached for your review is a resolution that if approved by the Council will allow the Town Manager to execute this new agreement with CMC. We have met and reviewed this agreement with CMC and they approve of the language as presented. The new agreement is also attached for your review. Highlights to the agreement include:

- CMC ceramics studio will be co-located at the ceramics studio located in the arts district. The agreement dictates that CMC will coordinate with the Breck Creative Arts (BCA) who manages the arts district.
- The dance studio will be located in the upper floor meeting room at the Ice Rink. CMC has been operating their dance class out of this location for the past couple of years and it works well.
- CMC will pay \$3,500 for utilities at ceramics studio in 2015 and adjusted based on expenses in future years. CMC will share in cost for cleaning. CMC will pay \$1500 annually for utilities and maintenance for dance studio at ice rink and coordinate with the recreation facilities manager on their class schedule.
- CMC no longer has a use for a photography lab so that has been removed from the agreement.
- The agreement describes other miscellaneous responsibilities of each party with regards to hours of usage, access, parking, etc.

I will be available at the Council work session on December 8<sup>th</sup> to discuss this with you.

1 ***FOR WORKSESSION/ADOPTION – DEC. 8***

2  
3 RESOLUTION NO. \_\_\_\_

4  
5 Series 2015

6  
7 A RESOLUTION APPROVING A FACILITIES USE AGREEMENT WITH  
8 COLORADO MOUNTAIN JUNIOR COLLEGE DISTRICT  
9

10 WHEREAS, on November 3, 2009 Colorado Mountain Junior College District, a  
11 Colorado statutory junior college district (“CMC”) sold to the Town the real property and  
12 improvements located at 103 South Harris Street in Breckenridge, Colorado (“**South Harris**  
13 **Street Property**”); and  
14

15 WHEREAS, as part of the consideration received by CMC for the sale of the Harris  
16 Street Property, for a period of ten years after the closing of the sale the Town agreed to allow  
17 CMC to continue to use the existing Ceramics Studio, Photography Lab, and Dance Studio  
18 located in the South Harris Street property to conduct classes and provide instruction for CMC’s  
19 students; and  
20

21 WHEREAS, on January 1, 2011 the parties executed the “103 South Harris Building  
22 Lease – Ceramics Studio, Photography Lab, and Dance Studio,” to set forth the terms and  
23 conditions under which the Town would permit CMC to occupy the South Harris Street Property  
24 for the ten year period described in the parties’ agreement for the sale of the South Harris Street  
25 Property to the Town; and  
26

27 WHEREAS, subsequent to January 1, 2011 the Town completely renovated the South  
28 Harris Street property, and it became necessary for the parties to relocate CMC’s Ceramics Lab  
29 and Dance Studio (CMC had ceased using the subject property as its Photography Lab); and  
30

31 WHEREAS, the parties mutually agreed to move the Dance Studio to the Town’s  
32 Stephen C. West Ice Arena, and the Ceramics Studio to the Town’s Public Works Facility; and  
33

34 WHEREAS, the Town has recently completed its “Arts District,” and has made provision  
35 for a suitable facility to house CMC’s Ceramics Studio within such area, and the parties agree  
36 that locating the Ceramics Studio in the new facility within the Arts District is a satisfactory  
37 space for the Ceramics Studio; and  
38

39 WHEREAS, the location of CMC’s Dance Studio at the Stephen C. Ice Arena has proved  
40 to be satisfactory to both parties; and  
41

42 WHEREAS, the parties have negotiated a new “Facilities Use Agreement” to replace the  
43 “103 South Harris Building Lease – Ceramics Studio, Photography Lab, and Dance Studio,” and  
44 to set forth the agreements and understandings of the parties with respect to CMC’s use of the  
45 Town’s facilities for its Ceramics Studio and Dance Studio for the remainder of the ten year

1 period as described in the original 2009 contract for the sale of the 103 South Harris Street  
2 property; and  
3

4 WHEREAS, a copy of the proposed Facilities Use Agreement with CMC is marked  
5 **Exhibit “A”**, attached hereto and incorporated herein by reference (“**Agreement**”); and  
6

7 WHEREAS, the Town Council of the Town of Breckenridge has reviewed the proposed  
8 Agreement, and finds and determines that it would be in the best interests of the Town and its  
9 residents for the Town to enter into the proposed Agreement; and  
10

11 WHEREAS, Rule 6.1(b) of the Council Procedures and Rules of Order provides that a  
12 resolution may be used to approve a contract.  
13

14 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
15 BRECKENRIDGE, COLORADO, as follows:  
16

17 Section 1. The Facilities Use Agreement with Colorado Mountain Junior College District,  
18 a Colorado statutory junior college district (**Exhibit “A”** hereto) is approved; and the Town  
19 Manager is hereby authorized, empowered and directed to execute such Agreement for and on  
20 behalf of the Town of Breckenridge.  
21

22 Section 2. This resolution is effective upon adoption.  
23

24 Section 3. Minor changes to or amendments of the approved agreement may be made by  
25 the Town Manager if the Town Attorney certifies in writing that the proposed changes or  
26 amendments do not substantially affect the consideration to be received or paid by the Town  
27 pursuant to the approved agreement, or the essential elements of the approved agreement.  
28

29 RESOLUTION APPROVED AND ADOPTED this \_\_\_ day of \_\_\_, 2015  
30

31 TOWN OF BRECKENRIDGE  
32  
33  
34

35 By: \_\_\_\_\_  
36 John G. Warner, Mayor  
37

38 ATTEST:  
39  
40  
41

42 \_\_\_\_\_  
43 Helen Cospolich  
44 Town Clerk  
45  
46





## FACILITIES USE AGREEMENT

THIS FACILITIES USE AGREEMENT (“**Agreement**”) is dated and is effective as of January 1, 2015 and is between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Town**”) and COLORADO MOUNTAIN JUNIOR COLLEGE DISTRICT, a Colorado statutory junior college district (“**CMC**”). Town and CMC are sometimes collectively referred to in this Agreement as the “**Parties,**” and individually as a “**Party.**”

### Background

On November 3, 2009 CMC sold to the Town the real property and improvements located at 103 South Harris Street in Breckenridge, Colorado (“**South Harris Street Property**”). As part of the consideration received by CMC for the sale of the Harris Street Property, for a period of ten years after the closing of the sale the Town agreed to allow CMC to continue to use the existing Ceramics Studio, Photography Lab, and Dance Studio located in the South Harris Street property to conduct classes and provide instruction for CMC’s students.

On January 1, 2011 the Parties executed the “103 South Harris Building Lease – Ceramics Studio, Photography Lab, and Dance Studio,” to set forth the terms and conditions under which the Town would permit CMC to occupy the South Harris Street Property for the ten year period described in the Parties’ agreement for the sale of the South Harris Street Property to the Town.

Subsequent to January 1, 2011 the Town completely renovated the South Harris Street property, and it became necessary for the Parties to relocate CMC’s Ceramics Lab and Dance Studio (CMC had ceased using the subject property as its Photography Lab). The Parties mutually agreed to move the Dance Studio to the Town’s Stephen C. West Ice Arena, and the Ceramics Studio to the Town’s Public Works Facility.

The Town has recently completed its “Arts District,” and has made provision for a suitable facility to house CMC’s Ceramics Studio within such area. The Parties agree that locating the Ceramics Studio in the new facility within the Arts District is a satisfactory space for the Ceramics Studio.

In addition, the location of CMC’s Dance Studio at the Stephen C. Ice Arena has proved to be satisfactory to both Parties.

This Agreement is executed to replace the “103 South Harris Building Lease – Ceramics Studio, Photography Lab, and Dance Studio,” and to set forth the agreements and understandings of the Parties with respect to CMC’s use of the Town’s facilities for its Ceramics Studio and Dance Studio for the remainder of the ten year period as described in the original 2009 contract for the sale of the 103 South Harris Street property.

## Agreement

Now, therefore, the Town and CMC agree as follows:

1. **Definitions.** As used in this Agreement, the following terms have the following meanings:

BCA:	Means the Breckenridge Creative Arts, a Colorado nonprofit corporation, or any successor or entity.
Ceramics Studio:	Means the Ceramics Studio space located within the Town's Arts District at 125 S. Ridge Street in Breckenridge, Colorado.
Dance Studio:	Means the Dance Studio space currently used by CMC at the Town's Stephen C. West Ice Arena, located at 0189 Boreas Pass Road, Breckenridge, Colorado, as of the date of this Agreement.
Town's Facilities:	Means both the Ceramics Studio and the Dance Studio.
Town Manager	Means the Town Manager of the Town of Breckenridge, or his or her designee.

2. **Term.** Subject to earlier termination as hereafter provided, the initial term of this Agreement commenced on January 1, 2015 and ends on November 3, 2019.

3. **No Usage Fee; Reimbursement For Costs and Other Expenses.** CMC may use the Town's Facilities pursuant to this Agreement without payment of a usage fee. However, CMC will reimburse Town for certain costs and expenses associated with its use of the Town's Facilities as provided in this Agreement.

4. **CMC's Use of Town Facilities Managed By BCA.** The Town has appointed BCA as its agent to manage and coordinate CMC's use of the Town's Facilities pursuant to this Agreement. Unless otherwise instructed by the Town Manager of the Town, all communications to the Town relating to CMC's use of the Ceramics Studio pursuant to this Agreement will be handled by the President/CEO of BCA, or such other representative of BCA as the President/CEO designates. Further, unless otherwise instructed by the Town Manager, BCA is given the express authority to act for the Town with respect to the performance of this Agreement, which authority may be relied upon by CMC unless otherwise advised by the Town Manager, except that CMC may directly notify the Town, with copies to BCA, of any breach of this Agreement.

5. **Use Of Ceramics Studio.** CMC's use of the Ceramics Studio is subject to the following terms and conditions:

A. CMC will use the Ceramics Studio only for uses associated with its published ceramics program curriculum. CMC will provide BCA with a copy of the proposed ceramics curriculum for each semester that CMC uses the Ceramics Studio pursuant to this Agreement.

B. CMC's use of the Ceramics Studio pursuant to this Agreement is limited to persons enrolled in CMC's ceramics classes and CMC's employees.

C. CMC's will be permitted to use the Ceramics Studio pursuant to this Agreement for not more than 23 hours per week during CMC's school year, which includes up to 11 hours per week during the summer term. The specific schedule for CMC's use of the Ceramics Studio for the spring 2015 semester has already been agreed upon by the Parties. The specific schedule for CMC's future use of the Ceramics Studio will be reviewed and updated at least once each calendar year by CMC and BCA. BCA will have full use of the Ceramics Studio at all times when CMC is not scheduled to use the Ceramics Studio.

D. An instructor or studio technician employed by CMC must be present at all times when the Ceramics Studio is being used by CMC's students.

E. CMC and BCA will leave the Ceramics Studio clean and in good working condition after each use. The cleanliness of the Ceramics Studio will be monitored by BCA's staff. Fines approved by both Parties may be imposed if the Ceramics Studio is not kept clean on a consistent basis. CMC will pay the Town for any damage (not to include normal wear and tear) to the Ceramics Studio or any Town property occurring during CMC's use of the Ceramics Studio.

F. The upper level of the Ceramics Studio is a community space that is to be shared equally by CMC and other users of the Arts District/BCA. The lower level of the Ceramics Studio, including a clay recycling room, storage area, and work sink, may be used by CMC. All other areas of the Ceramics Studio are for use by the Arts District/BCA, and may not be used by CMC without BCA's prior approval.

G. CMC will comply with all policies and procedures for the use of the Ceramics Studio, and other areas of the Arts District Campus, that are not inconsistent with this Agreement and are adopted by BCA or the Town and agreed to by CMC from time to time throughout the term of this Agreement.

H. CMC and BCA agree to co-promote classes and workshops as appropriate.

I. CMC will allow the public to enter the Ceramics Studio to observe and experience what a working ceramic studio is like; provided, however, public usage may not disturb or interfere with CMC's ceramics classes.

J. CMC will pay BCA \$3,500.00 for the utility expenses to be incurred by BCA in 2015 at the Ceramics Studio. In September, 2016, and periodically throughout the remainder of the term of this Agreement, the Parties will meet, confer, and agree upon another acceptable pro rata share of the utility expenses for the Ceramics Studio to be paid by CMC based on documented

## FACILITIES USE AGREEMENT

and actual utility expenses attributable to CMC. CMC shall continue to pay the same amount if the parties are unable to agree on such share.

K. CMC will share equally in normal costs of cleaning the Ceramics Studio. The costs and responsibilities associated with the maintenance of all equipment (regardless of ownership) will be equally shared by CMC and the Town/BCA. This includes, without limitation, the sinks and drain systems, as well as periodic mechanical and HVAC systems. CMC will not be responsible for replacement of equipment (except for equipment owned by CMC, which it will maintain or replace as needed for its purposes), mechanical or HVAC systems, structural repairs or other capital costs associated with the Ceramics Studio.

L. Each Party will provide to the other Party a current inventory of equipment, tools, and materials that such Party is contributing for the mutual use of the Parties at the Ceramics Studio, as well as an inventory of what is specific to each program. This inventory will be updated as needed so that it will be kept current and accurate at all times. All equipment, tools, and similar items will be clearly marked to show their owner (CMC or BCA, as appropriate). Upon expiration or early termination of this Agreement CMC shall have the unconditional right to remove all property owned by it, regardless of whether such property may be characterized as a fixture.

M. CMC will provide BCA with copies of all material data safety sheets (MSDS) for materials proposed for storage by CMC at the Ceramics Studio.

**6. Dance Studio.** CMC's use of the Dance Studio is subject to the following terms and conditions:

A. CMC will use the Dance Studio only for uses associated with its published dance or yoga program curriculum. CMC will provide the Town of Breckenridge Recreation Facilities Manager with a copy of the proposed dance curriculum for each semester that CMC uses the Dance Studio pursuant to this Agreement.

B. CMC's use of the Dance Studio pursuant to this Agreement is limited to persons enrolled in CMC's dance and yoga classes and CMC's instructors.

C. CMC's will be permitted to use the Dance Studio pursuant to this Agreement for no more than 30 hours per week. The specific schedule for CMC's use of the Dance Studio will be reviewed and updated at least once each calendar year by CMC and BCA. The Town of Breckenridge Recreation Department will have full use of the Dance Studio during all other times when CMC is not scheduled to use the Dance Studio.

D. An instructor employed by CMC must be present at all times while the Dance Studio is being used by CMC's students.

E. CMC will leave the Dance Studio clean and in good working condition after each use. Studio cleanliness will be monitored by BCA's staff. Fines approved by both Parties may be imposed if the Dance Studio is not kept clean on a consistent basis. CMC will pay the Town for

any damage to the Dance Studio or any Town property occurring during CMC's use of the Dance Studio.

F. CMC will pay the Town \$1,500.00 for the utility and maintenance expenses to be incurred by the Town in 2015 at the Dance Studio. In September, 2015, and periodically throughout the remainder of the term of this Agreement, the Parties will meet, confer, and agree upon another acceptable pro rata share of the utility and maintenance expenses for the Dance Studio to be paid by CMC based on documented and actual utility or maintenance expenses attributable to CMC usage. CMC shall continue to pay the same amount if the parties are unable to agree on a new shared amount.

#### **7. Snow Plowing and Snow Removal.**

A. Town will provide or arrange for the plowing and removal of snow from the public streets in front of the Ceramics Studio and from the public parking lot at the Stephen C. West Ice Arena.

B. The Town will provide, either through a contractor or by use of Town's own employees, at Town's option, once daily snowplowing and/or snow shoveling of the walkways and entrance way(s) into the Ceramics Studio. If CMC requires additional snowplowing and/or snow shoveling from the walkways and entrance way(s) into the Ceramics Studio, such additional services must be provided and paid for by CMC.

#### **8. Parking.**

A. As part of this Agreement, CMC's students and faculty at the Dance Studio may use the paved parking lots of the Stephen C. West Ice Arena. Such parking use is subject to any reasonable regulations promulgated by Town to regulate the use of such area.

B. There is no designated parking for the Ceramics Studio, and all parking in the vicinity of the Ceramics Studio has a three hour time limit. CMC will communicate this information to its Ceramics Studio students and faculty.

9. **CMC's Payments.** CMC will make all payments due to the Town under this Agreement within 30 days of the date of Town's invoice; provided, however, that if CMC disputes any portion of Town's invoice CMC will pay the undisputed portion of the invoice within such 30 days period and the Parties will then meet and confer for the purpose of attempting to resolve CMC's concerns with the Town's invoice. CMC will pay a late charge of 5% on any undisputed amount not received by Town within 30 days of the date of the Town's invoice.

10. **Alterations and Improvements.** CMC may not make any improvement to or change of any portion of the Town's Facilities without Town's prior written consent.

11. **Signs.** CMC may not post, place, affix, erect, or display any sign within or outside of the Town's Facilities without Town's prior approval. In considering CMC's request to place a sign within or outside of the Town's Facilities, Town acts in its capacity as owner of the Town's

Facilities, and not in its governmental capacity. Town may remove any sign placed within or outside of the Town's Facilities in violation of the portions of this subsection. CMC will maintain all signs located within or outside of the Town's Facilities in good, clean, and attractive condition. CMC will remove all signs placed by CMC within or outside of the Town's Facilities at the expiration or earlier termination of this Agreement, and repair any damage or injury caused thereby. If not so removed by CMC, the Town may remove such sign(s) at CMC's expense.

12. **Taxes.** Because both the Town and CMC are tax-exempt entities under Colorado law, the Parties anticipate that CMC's use of the Town's Facilities pursuant to this Agreement will be tax-exempt throughout the term of this Agreement. However, if taxes are lawfully assessed against the Town's Facilities as a result of CMC's use of the Town's Facilities CMC will pay such taxes before they become delinquent.

13. **Inspection of Town's Facilities.** CMC acknowledges that it is familiar with the condition of the Town's Facilities. CMC accepts the Town's Facilities in "AS IS" condition, without recourse to Town for any dangerous conditions, known or unknown.

14. **Access To Town's Facilities.** The Town and its agents and representatives have the right to enter the Town's Facilities at any time for any purpose, provided that reasonable notice shall be provided to CMC in all non-emergency situations.

15. **Hazardous Materials.** Except with respect to materials that are customarily used in connection with the activities intended by this Agreement, CMC will not store or permit the storage on the Town's Facilities of any type of hazardous or similar material that is regulated by federal, state or local regulation without prior written consent of the Town.

16. **Assignment.** CMC will not assign this Agreement, or any part hereof, without the prior written consent of the Town.

17. **Surrender of Town's Facilities; Removal of CMC's Property.** At the end of the term of this Agreement CMC will surrender the Town's Facilities to the Town in as good a condition as existed at the time of the commencement of this Agreement, normal wear and tear excepted. At the end of the term of this Agreement CMC will remove its property from the Town's Facilities. Any of CMC's property not removed from the Town's Facilities within 30 days after the expiration or earlier termination of this Agreement will be considered abandoned and Town will have the right (but not the duty), without any notice to CMC, to sell or otherwise dispose of the same at the expense of CMC, and Town will not be accountable to CMC for any part of the proceeds of such sale, if any.

18. **Insurance.**

A. CMC will procure and maintain the minimum insurance coverages listed below. Such coverages will be procured and maintained with forms and insurers acceptable to the Town. All coverages will be continuously maintained to cover all liability, claims, demands, and other obligations assumed by CMC pursuant to Section 19. In the case of any claims-made policy, the

necessary retroactive dates and extended reporting periods will be procured to maintain such continuous coverages.

CMC's required insurance coverages under this Agreement will be as follows:

- i. worker's compensation insurance to cover obligations imposed by applicable laws for any employee of CMC who works at the Town's Facilities. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this subsection.
- ii. commercial general liability insurance with limits of liability of not less than the limits of liability established from time to time under the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as amended from time to time ("**Act**").

B. CMC's commercial general liability insurance policy required by Subsection 18(A)(ii) must be endorsed to include the Town as an additional insured.

C. Every policy required of CMC by this Section will be primary insurance, and any insurance carried by the Town, its officers, or its employees, or carried by or provided through any insurance pool of the Town, will be excess and not contributory insurance to that provided by CMC.

D. CMC will be solely responsible for any deductible losses under any policy required by this Section.

E. Within 30 days of the execution of this Agreement, and upon each renewal or replacement of CMC's required insurance policies throughout the term of this Agreement, a certificate of insurance will be completed by CMC's insurance agent and provided to the Town as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. Town has the right to review and approve such certificate. The certificate must identify this Agreement and provide that the coverages afforded under the policies will not be canceled or terminated until at least 30 days' prior written notice has been given to Town. The completed certificate of insurance must be sent to:

Town Clerk  
P.O. Box 168  
Breckenridge, CO 80424

F. Both the Town and CMC are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Act, as from time to time amended, or any other limitation or defense otherwise available to the Town or CMC, or their respective officers or employees.

#### **19. Default; Resolution Of Disputes.**

FACILITIES USE AGREEMENT



A. A default exists under this Agreement if either Party violates any covenant, condition, or obligation required to be performed by it under this Agreement.

B. If a Party (“**Defaulting Party**”) fails to cure such default within 20 days after the other Party (“**Non-Defaulting Party**”) gives written notice of the default to the Defaulting Party (or, in the event of a default not capable of being corrected within 20 days, if the Defaulting Party fails to commence correcting the default within 20 days of the Non-Defaulting Party’s notice and thereafter fails to correct the default with due diligence), then, at the Non-Defaulting Party’s option, the Non-Defaulting Party may terminate this Agreement effective upon such date as the Non-Defaulting Party specifies. Notwithstanding either Party’s right to terminate this Agreement for an uncured default, this Agreement is subject to the rights of either Party to invoke the remaining provisions of this Section, and to seek any legal or equitable remedy available to such Party.

C. The Parties will attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between persons who have authority to settle the controversy (“**Executives**”). Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Within 30 days after receipt of said notice, Executives of the Parties to the dispute will meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within 30 days of the notice of dispute, or if the Parties fail to meet within 30 days, either Party may initiate mediation of the controversy as provided below.

D. If the dispute has not been resolved by negotiation as provided above, the Parties will endeavor to settle the dispute by mediation with a neutral third Party. If the Parties encounter difficulty in agreeing on a neutral third Party, they may each appoint a neutral third Party, such third Parties to appoint a neutral third Party to mediate. Each Party will pay their own attorneys’ fees incurred in connection with negotiation and mediation.

E. Any dispute arising out of or relating to this Agreement, or the breach, termination, or validity of this Agreement, which has not been resolved by the methods set forth above within 45 days of the initiation of mediation, may be finally resolved by appropriate judicial action commenced in a court of competent jurisdiction. The Parties agree to venue in the courts of Summit County, Colorado with respect to any dispute arising out of or relating to this Agreement. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL WITH RESPECT TO ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

F. This Agreement is to be interpreted in all respects in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws that might require this Agreement to be governed by the laws of any state other than the State of Colorado.

G. If any action is brought in a court of law by either Party concerning the enforcement, interpretation, or construction of this Agreement, the prevailing Party, either at trial or upon appeal, will be entitled to reasonable attorneys’ fees, as well as costs, including expert witness’ fees, incurred in the prosecution or defense of such action.

## FACILITIES USE AGREEMENT

H. As used in this Section, the term “**days**” will refer to calendar days, not to business or working days.

I. Any deadline or time frame established by this Section may be modified by mutual agreement of the Parties.

**20. Compliance with Applicable Laws.** In its use of the Town’s Facilities CMC will comply with all applicable federal, state, and local laws, rules and regulations. The termination provisions of this Agreement will apply with respect to CMC’s failure to comply with any applicable law or regulation.

**21. Notice.** All notices required or permitted under this Agreement must be given by registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial carrier delivery, or fax copy directed as follows:

If intended for Town to:

Town of Breckenridge  
P.O. Box 168  
150 Ski Hill Road  
Breckenridge, Colorado 80424  
Attn: Town Manager  
Fax number: (970) 547-3104  
Telephone number: (970) 453-2251

with a copy in each case (which will not constitute notice) to:

Timothy H. Berry, Esq.  
Timothy H. Berry, P.C.  
131 West 5th Street  
P. O. Box 2  
Leadville, Colorado 80461  
Fax number: (719) 486-3039  
Telephone number: (719) 486-1889

If intended for CMC, to:

Colorado Mountain College  
PO Box 2208  
Breckenridge, CO 80424  
Fax number: (970) 453-2209  
Telephone number: (970) 453-6757

with a copy in each case (which will not constitute notice) to:

Richard Gonzales, Esq.

General Counsel  
Colorado Mountain College  
802 Grand Avenue  
Glenwood Springs, CO 81601

Any notice delivered by mail in accordance with this Section will be effective on the third business day after the notice is deposited in any post office or postal box regularly maintained by the United States Postal Service, postage prepaid. Any notice delivered by fax in accordance with this Section will be effective upon receipt if concurrently with sending by fax receipt is confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt requested, on the same day to that intended recipient. Any notice delivered by hand or commercial carrier will be effective upon actual receipt. Either Party, by notice given as above, may change the address to which future notices may be sent. E-mail is not a valid method for giving notice under this Agreement.

## **22. Annual Appropriation.**

A. Notwithstanding anything contained in this Agreement to the contrary, the Town's obligations under this Agreement are expressly subject to an annual appropriation being made by Town Council of Town of Breckenridge, Colorado in an amount sufficient to allow Town to perform its obligations under this Agreement. If sufficient funds are not so appropriated this Agreement may be terminated by either Party without penalty. The Town's obligations under this Agreement do not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

B. Notwithstanding anything contained in this Agreement to the contrary, CMC's obligations under this Agreement are expressly subject to an annual appropriation being made by CMC's elected governing board in an amount sufficient to allow CMC to perform its obligations under this Agreement. If sufficient funds are not so appropriated this Agreement may be terminated by either Party without penalty. CMC's obligations under this Agreement do not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

**23. Termination of Prior Lease.** The "103 South Harris Building Lease – Ceramics Studio, Photography Lab, and Dance Studio," between the Parties dated January 1, 2011 is terminated, and each Party is released from any further obligation to the other Party pursuant to such Lease.

## **24. Miscellaneous.**

A. The terms "will" and "will not" indicate a mandatory obligation to act or to refrain from acting as indicated in context in which such terms are used.

B. Time is of the essence of this Agreement.

C. Any consent, permission or approval required to be given by Town under this Agreement will not be unreasonably withheld or conditionally approved by the Town.

D. Town is not a partner, associate, or joint venturer of CMC in the conduct of its business at the Town's Facilities. CMC will at all times have the status of an independent contractor without the right or authority to impose tort or contractual liability upon the Town.

E. There are no third party beneficiaries of this Agreement.

F. This Agreement contains the complete and final expression of the agreement between the Parties as to the subject matter of this Agreement. There are no promises, representations, or inducements except as provided in this Agreement.

G. This Agreement may be modified or amended only by a duly authorized written instrument executed by the Parties. Oral amendments to this Agreement are not permitted.

H. This Agreement may be executed simultaneously in two or more counterparts, each of which will be considered an original for all purposes and all of which together will constitute but one and the same instrument.

I. For all purposes contemplated in this Agreement, including execution of this Agreement, facsimile or scanned signatures will be as valid as the original. Both Parties waive any claim or defense that a facsimile or scanned signature is not valid, or is not the best evidence of signature.

J. Section headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

K. The failure of either Party to exercise any of its rights under this Agreement will not be a waiver of those rights. A Party waives only those rights specified in writing and signed by the Party waiving its rights.

L. This Agreement will NOT be recorded in the real property records of the Clerk and Recorder of Summit County, Colorado. CMC shall be entitled to quiet enjoyment with respect to its usage rights under this Agreement.

M. Both Parties acknowledge having had the opportunity to participate in the drafting of this Agreement. This Agreement will not be construed against either Party based upon authorship.

N. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective successor governing bodies.

O. Both Parties acknowledge receipt of a complete and signed copy of this Agreement.

## FACILITIES USE AGREEMENT

TOWN OF BRECKENRIDGE

By: \_\_\_\_\_  
Timothy J. Gagen, Town Manager

ATTEST:

\_\_\_\_\_  
Helen Cospolich, Town Clerk

COLORADO MOUNTAIN JUNIOR COLLEGE  
DISTRICT, a Colorado statutory junior college  
district

By \_\_\_\_\_

Title: \_\_\_\_\_

# Memo



**To:** Breckenridge Town Council  
**From:** Helen Cospolich, Municipal Services Manager  
**CC:** Rick Holman, Assistant Town Manager  
**Date:** 12/3/2015  
**Subject:** Mail Ballot Election Resolution

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This resolution, if approved, would set the April 5, 2016 Town of Breckenridge Municipal Election to be conducted by mail ballot. Section 1-12-8 of Breckenridge Town Code states that Council may choose to hold a municipal election as mail ballot by resolution. Since our last municipal election (2014) was conducted by mail ballot, and all subsequent coordinated elections have also been mail ballot, staff believes conducting the April 5, 2016 Town of Breckenridge municipal election by mail ballot is consistent with the expectations of our electorate.

Staff will be present at the meeting to answer any questions you may have.

1 ***FOR WORKSESSION/ADOPTION – DEC. 8***

2  
3 RESOLUTION NO. \_\_\_\_\_

4  
5 SERIES 2015

6  
7 A RESOLUTION DETERMINING THAT THE APRIL 5, 2016 REGULAR TOWN  
8 ELECTION SHALL BE A MAIL BALLOT ELECTION

9  
10 WHEREAS, Section 1-7.5-104(1), C.R.S., and Section 1-12-8 of the Breckenridge Town  
11 Code authorize the Town Council, by resolution, to determine that any municipal election shall  
12 be conducted as a mail ballot election; and

13  
14 WHEREAS, the Town Council determines that the regular Town election to be held on  
15 Tuesday, April 5, 2016 shall be conducted as a mail ballot election.

16  
17 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
18 BRECKENRIDGE, COLORADO, as follows:

19  
20 Section 1. The regular Town election to be held on Tuesday, April 5, 2016 shall be  
21 conducted as a mail ballot election.

22  
23 Section 2. The mail ballot election to be held on Tuesday, April 5, 2016, shall be  
24 conducted under the supervision of the Colorado Secretary of State and pursuant to the rules for  
25 mail ballot elections promulgated by the Colorado Secretary of State.

26  
27 Section 3. The mail ballot election to be held on Tuesday, April 5, 2016, shall be held in  
28 accordance with the Colorado Municipal Election Code of 1965 and the Uniform Election Code  
29 of 1992.

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31 Section 4. This resolution is effective upon adoption.

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33 RESOLUTION APPROVED AND ADOPTED this \_\_\_ day of \_\_\_, 2015

34  
35 TOWN OF BRECKENRIDGE

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38 By: \_\_\_\_\_  
39 John G. Warner, Mayor

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41 ATTEST:

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43  
44 \_\_\_\_\_  
45 Helen Cospolich  
46 Town Clerk

1 APPROVED IN FORM

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Town Attorney                      Date



## Memorandum

**TO:** TOWN COUNCIL  
**FROM:** Dale Stein P.E., Assistant Town Engineer  
**DATE:** December 2, 2015  
**RE:** Public Projects Update

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### **Breckenridge Theater**

The theater expansion project continues to progress on schedule and on budget. The HVAC subcontractor has started installing the mechanical systems for the building. Improving the heating and cooling of the building was one of the top items requested for enhancing the patron experience at the theater.



Ducting for the new HVAC system is being installed.

### **Adams & Jefferson Heated Sidewalks**

The contractor encountered delays in finishing the installation of the mechanical equipment for the heated sidewalks, but it is now nearing completion. Both the Adams & Jefferson sidewalks are scheduled to be fully operational by December 11<sup>th</sup>. The remainder of the construction should not cause any vehicular detours or delays.

### **Airport Road Pedestrian Lighting**

The solar powered lighting equipment for the the new southbound bus stop and at the Block 11 employee parking has arrived and is now being installed by Town staff. The new solar type lighting is scheduled to be functional by December 11<sup>th</sup>.

### **Blue River Restoration- Temporary Channel**

The earthwork contractor, Tezak Heavy Equipment recently mobilized on to the Blue River site north of Coyne Valley Road and has begun work on the construction of a temporary Blue River channel. The temporary channel will be used in the Spring and Summer of 2016 to divert water during river the restoration work planned for the ½ mile of river north of Coyne Valley Road.



Tezak crew beginning to process on site dredge materials for use in the temporary channel.



Rough grading of the temporary channel on the McCain site.

**MEMO**

**TO:** Mayor & Town Council  
**FROM:** Tim Gagen, Town Manager  
**DATE:** December 3, 2015  
**SUBJECT:** Committee Reports for 12-08-2015 Council Packet

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**Breckenridge Events Committee** **October 14 and November 4, 2015** **Kim Dykstra**

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**Breckenridge Events Committee** (*Right Event, Right Time, Right Results*)  
October 14, 2016 Kim Dykstra

**BCA Update:**

Robb Wolfe presented the 2016 Creative Arts Program. Discussion regarding Town Party, which is a community goodwill event & date can be flexible in regards to other event happenings; currently set for June 17. BCA final schedule is contingent upon final funding approval for 2016. Discussion that events should target off-peak times, especially Prez Day Weekend, etc. Discussed new night – Wednesday - for Late Night at the District, possibly only one band and a movie. Meet the Artists set for June 25-26, 2016, BCA agrees to the dates and is aware of the event.

**Oktoberfest:**

Most profitable event to date; Summit and Breckenridge Rotaries did a great job with volunteering; poured less kegs and increased profit; added large screen to show football games was a success as it added to traffic on the 400 block and spread the event out. Discussion on possibly different pricing on Saturday vs. Friday and Sunday.

**Spartan Race Update:**

Town's Finance Department's survey results: 31 respondents, most of the feedback received was very positive. USFS has approved proposed trails for the 2016 event; two-day event changed to August 27-28, 2016; Beaver Run is aware of the proposed dates.

**USA Pro Challenge:**

Town's Finance Department's survey results: 95 respondents (Council has received this report); social media impact was discussed; LOC to present recap to TC in Nov. with suggestion of communicating why we do the event, positive overall impacts and what roads are open (vs. what is closed).

USAPC working on securing multiple, multi-year investors and sponsors; slated to announce host cities in mid-December; funds are in the proposed Town's 2016 Marketing Fund. Social Impact was discussed –

**International Snow Sculpture Championships:**

Invitation sent in July; only 15 applications have been received; reminder emails sent out twice and deadline was extended to Oct. 18; discussion ensued regarding why low applications.

**2016 Fall Line Up:**

Oktoberfest, Camp 9600, Governors Conference, Film Fest + Food and Wine all slated for September; events are BTO driven along with BSR and BFF partnerships; Food & Wine event is in negotiations; discussion ensued about Food & Wine later due to possible conflicts, however, after discussing with BFF they feel it will help elevate as they are complimentary.

**Committee Composition:**

Discussion ensued, including how to structure going forward, process for chair appointment. All agreed to contemplate and to think of event producers and various entities (i.e. ToB Public Works) that could attend perhaps 1 – 3 times per year. Decided that key stakeholders (BCA, BSR, BTO, ToB, SEPA Administrator) are vital.

**Adhoc Lodging Committee:**

Not been very active this past month due to the various lodging requests for Oktoberfest, Camp 9600, etc. so Bill to get the group to refocus. BTO compiling a list of lodging needs for the year and to brainstorm on what can be offered in return on a non-financial basis (i.e. educate event producers to find meaningful ways to say thank you); also need education on the importance of the participation of all lodging entities

**SEPA Consent Items:**

All were approved. After discussion, BEC decided Ice Diving School does not fit the definition of a Special Event and will be handled through the Town Managers Office. New events added: Winter 5K Series – Resolution Run, Valentine's Day, St. Patrick's Day and Easter; produced by Vertical Runner.

**Breckenridge Events Committee** (*Right Event, Right Time, Right Results*)  
November 4, 2015 Kim Dykstra (via Deb Neyland, BTO)

**Breckenridge Ski Resort Update**

- BSR presents the “Wake up Breck” coffee mug promotion, Thursday, Nov 12<sup>th</sup>. BSR Opens Friday, November 13<sup>th</sup>. Other highlighted dates listed below:
  - The Hartford Ski Spectacular, November 30<sup>th</sup> – December 6<sup>th</sup>.
  - Dew Tour is December 10<sup>th</sup> – 15<sup>th</sup>, located at Peak 8.
  - USAA giant slalom race is January 8<sup>th</sup> and 9<sup>th</sup>.
- Spring Fever runs March 18<sup>th</sup> – April 17<sup>th</sup>. GoPro Challenge kicks it off on March 18<sup>th</sup>, a 3 day event this year (18<sup>th</sup> – 20<sup>th</sup>)
- The “throwback throwdown” will be going back to more of a local’s competition in park area, which will incorporate activations around event.
- Imperial Challenge is scheduled for the last weekend of Spring Fever, April 23<sup>rd</sup>.
- The “Dew Tour” as an entity may discontinue, alternate event may be offered.

**Events and Activities**

- 16 Teams have been confirmed for ISSC in January 2016.
- Oktoberfest will kick off the “2016 Fall Events Showcase week” (name not officially determined) followed by Camp 9600, Governors Conference and Film, Food, and Wine Fest to follow.

**General Updates and Discussions**

- The BEC composition and terms were discussed, agreeing representatives from the ToB, BSR, BTO, BCA and other potential leaders would be appropriate.
- An Ad Hoc Lodging Committee update reported this committee will be looking at all community lodging needs, incorporating media and events. More meetings and discussions to follow.
- **Oktoberfest was a great success this year**, with approximately \$40,000 net income increase from last year. Rotary worked well with less beer poured. A volunteer program initiated around Oktoberfest is getting great reviews and will be carried over to other events.

**SEPA Consent Items**

- New SEPA applications were reviewed by BEC with various comments on applicants.
- BTO is teaming up with Rocky Mtn Events to compliment Ullr Fest, noting there is much opportunity for growth.
  - BEC was updated on the new “Polar Bear Plunge” which will add to the animation of Ullr Fest.
  - Rocky Mtn Events will be hosting a “Hang over breakfast “on Friday January 15<sup>th</sup>, at Main St. Stn.
- BEC spoke to Halloween and the various opportunities it allowed for growth within the community.
- There was a lengthy discussion around the “We Heard You” issue which will be addressed at the “2016 Preview” meeting (Tuesday, November 10<sup>th</sup>). Stated goals would ultimately aim for Breckenridge to have a year round split of economy within 3 – 5 years. Respecting the workforce, character of Breckenridge and value of life were topics addressed as well.

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**Child Care Advisory Committee                      November 4, 2015-3pm                      Laurie Best/Emily Oberheide**

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The Child Care Advisory Committee held their monthly meeting on November 4, 2015. Committee members present included Jennifer McAtamney, Lucinda Burns, Mike Connelly, Laurie Blackwell, Greta Shackelford, and Elisabeth Lawrence. Carla Koch was absent. Laurie Best, Mike Barney, Jenise Jensen, Sole Drumwright, and Emily Oberheide also attended. The following agenda items were covered:

**Upcoming Vacancies of Child Care Advisory Committee**

Two Advisory Committee members’ terms will be up on January 14, 2016. Mike Barney updated the Committee about the advertisement for the positions detailing a deadline of November 23 at 5:00 pm to submit their letter of interest. Interviews are scheduled for the December 8<sup>th</sup> Town Council meeting. The announcements are on the main Town website as well as the Community Development page. Those members with their term expiring are welcome to submit a letter of interest for another term. There are currently 7 committee members and up to 9 are allowed, so it is possible Council could appoint more than the two vacancies.

The Committee discussed an interest in finding someone from the school district (Emily will contact Julie McCluskie), business, finance, and someone representing the “no” vote. Emily will contact Mark Martin

Williams with Alpine Bank and Nell Bailey with Climax to let them know about the advertisement since they were identified from a previous list of contacts interested in child care.

### Internal Policies

Committee reviewed our Internal Policies, which will be an internal document for staff to administer the Tuition Assistance Program. It will be a fluid document, updated as needed with new/revised policies. Committee asked to clarify the language in the “Work Schedule” section to reflect that the program is watching whether families are receiving tuition assistance for an overall number of hours of childcare per week that is similar to the overall number of work hours per week of the family. It was decided to offer tuition assistance only for full days (no half days) of childcare in keeping with the intent to support working families. Committee discussed eligibility letters to families and how to communicate on a denial letter that some changes in circumstances could allow a family to become eligible during an assistance cycle.

### Long Term Funding

Emily and Jenise created an infographic page as our first public outreach and education piece. Committee discussed how to make it public, get it to families participating in the program, local employers, etc. Jenise offered to help Emily when the program is ready to expand outreach through social media.

The PBS program titled “The Raising of America” is a tool for public outreach with a clear message about the economics tied to supporting early childcare programs in a community. We will continue to think through a strategic plan to reach various segments of the community (similar to Dialogue Over Dinner, look at the SpeakEasy or Breck Theater as locations). Lucinda mentioned that Detroit is one place to look at how they developed public forums with community leaders centered around “The Raising of America”.

Mike Barney shared that additional funds were added to the child care fund by Town Council at the budget retreat which should carry the tuition assistance program through the 2018/19 school year.

Next meeting: Wednesday, December 2<sup>th</sup> at 3:00

<b>Committees</b>	<b>Representative</b>	<b>Report Status</b>
CAST	Mayor Warner	No Meeting/Report
CDOT	Tim Gagen	No Meeting/Report
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	No Meeting/Report
Mayors, Managers & Commissioners Meeting	Mayor Warner	Verbal Report
Liquor Licensing Authority*	Helen Cospolich	No Meeting/Report
Wildfire Council	TBD	No Meeting/Report
Breckenridge Creative Arts	Robb Woulfe	No Meeting/Report
Summit Stage Advisory Board*	James Phelps	No Meeting/Report
Police Advisory Committee	Chief Haynes	No Meeting/Report
CMC Advisory Committee	Tim Gagen	No Meeting/Report
Recreation Advisory Committee	Mike Barney	No Meeting/Report
Housing and Childcare Committee	Laurie Best	No Meeting/Report
Childcare Advisory Committee	Laurie Best/Emily Oberheide	Included
Breckenridge Events Committee	Kim Dykstra	Included
Sustainability Task Force	Mark Truckey	No Meeting/Report
Parking and Transit Committee	Chief Haynes	No Meeting/Report

*Note: Reports provided by the Mayor and Council Members are listed in the council agenda.*

*\*Minutes to some meetings are provided in the Manager’s Newsletter.*



## MEMO

*TO:* Town Council  
*FROM:* Director of Communications  
*CC:* Assistant Town Manager, Town Attorney, BTO CEO  
*DATE:* December 2 (for December 8, 2015 work session)  
*RE:* Contract for Services with Breckenridge Tourism Office

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### **Background:**

The Town has contracted for marketing services with the Breckenridge Tourism Office (BTO) since at least 2000 annually. Beginning in 2013 the Town entered into a three year agreement in order to allow the BTO to develop a more long-term marketing strategy.

### **Current situation:**

This agreement expires at the end of 2015, and staff is proposing another three year agreement with the BTO. Tim Berry has reviewed and the proposed agreement is attached for Council's review and possible discussion.

Highlights of changes in the 2016 – 2018 agreement from the 2013 – 2015 agreement include:

- Addition of events to the list of Marketing Services that the BTO will provide for the benefit of the community.
- Deletion of reference to Breckenridge Marketing Advisory Committee (BMAC).
- Update to 'Marketing and Sales Channels' vs. publications, etc. to better reflect current marketing practices.
- Addition of 'significant strategic deviation' to better define current practices as to what level of change to the approved Marketing Plan that would be brought to the Council so the BTO can remain nimble and reactive to the tourism market.
- Deletion of reference to Central Reservations.
- The issue of a multi-year agreement (TABOR) is handled in the annual appropriation clause in Section 17, which allows the Town to get out of the contract each year if the Council doesn't appropriate monies for the Town's financial obligations under the contract.

### **Council Action:**

In the past, we have not approved this agreement through any formal action of the Town Council, although prior to execution by the Town Manager, we do want to make sure the Town Council is supportive. I will be available for questions or clarifications on Tuesday. *Thank you.*

## 2016 - 2018 CONTRACT FOR SERVICES

This Agreement (“*Agreement*”) is made and entered into effective the 1st day of January 2016, by the between the Town of Breckenridge, a Colorado municipal corporation (“*Town*”) and the Breckenridge Tourism Office, Inc., a Colorado non-profit corporation (“*BTO*”).

WHEREAS, the Town has made funds available in the Town’s annual 2016 budget for the purpose of marketing and promoting the Town as a year-round resort community, and to promote and market activities and events beneficial to the economic vitality of the community; and

WHEREAS, the Town anticipates making additional funds available for such purposes in its 2017 and 2018 annual budgets; and

WHEREAS, the Town and BTO desire to establish the terms and conditions under which BTO will provide marketing, promotional, advertising, events and other related services as are hereafter described for the benefit of the entire community of Breckenridge; and

WHEREAS, on November 2, 2010, the voters of the Town approved a 1% increase to the Town’s Accommodations Tax beginning January 1, 2011 to provide sustainable marketing funds; and

WHEREAS, the intention of the dedicated marketing stream is for the betterment of the entire Breckenridge community; and

NOW, THEREFORE, the parties hereby agree that the BTO shall perform the services set forth in this Agreement and Town shall compensate BTO for those services all according to the following terms and conditions:

### **1. Scope of Services**

BTO agrees to provide marketing services for the Town which promote and market the Town as a year-round resort community. BTO’s marketing program and services shall be designed and implemented to benefit the entire Breckenridge community. Attached hereto as **Exhibit “A”** is the approved Marketing Plan for 2016. In addition, BTO agrees to provide space of a size and quantity reasonably acceptable to Town in the various BTO marketing and sales channels for the promotion of Town services and facilities as they relate to the year-round visitor to the Town. BTO shall also provide the Town the opportunity to include information promoting Town services and facilities in BTO marketing and sales channels at no additional charge. The Town shall be responsible for providing the BTO with materials and/or information at the Town’s expense. Unless this Agreement is sooner terminated, Exhibit “A” will be updated in 2017 and 2018 to reflect the approved Marketing Plans for the years 2017 and 2018.

### **2. Contractual Relationship**

The BTO is a non-exclusive independent contractor to the Town under the terms of this Agreement. It is not the intent of this Agreement to form any other legal relationship beyond this Agreement, and, specifically, it is expressly understood and agreed that Town and BTO are not engaged in a partnership



or joint venture and that the BTO is at all times acting and performing hereunder as an independent contractor and not an employee of the Town.

### **3. Term**

The term of this Agreement shall commence on January 1, 2016 and shall expire on December 31, 2018, unless sooner terminated as hereafter provided.

### **4. Budget Approval**

As a condition of payment to the BTO, BTO agrees to expend monies strictly in accordance with its approved marketing budget, which is included in the 2016 Marketing Plan (**Exhibit "A"**); and will be provided subsequently no later than November 15, 2016 for 2017's Marketing Plan and no later than November 15, 2017 for 2018's Marketing Plan. Prior to any significant strategic deviation from its marketing budget as set forth in the Marketing Plan, BTO shall notify the Town in writing of the proposed deviation. Proposed deviations shall be presumed approved unless the Town files written objection with BTO within fifteen (15) days of receipt of the BTO's written notice of its proposed marketing budget deviation. If the Town files written objection with the BTO, the parties shall meet for the purpose of attempting to resolve the Town's objection. It is specifically understood and agreed the monies paid by the Town shall be utilized solely in accordance with BTO's marketing budget and shall not be expended for other BTO activities or Central Reservations. Unauthorized deviations in the expenditure of budgeted marketing amounts by BTO shall be grounds for immediate termination of this Agreement without compliance with the notice and cure provisions of Section 9. All decisions made by BTO concerning the adoption, implementation or modification of the BTO Marketing Plan or budget shall be made at meetings open to the general public.

### **5. Accounting Records**

The BTO agrees to keep current, accurate books of account in accordance with generally accepted accounting principles. Said books of account shall be kept at the BTO's principal place of business and shall be open for inspection and copying by the Town during regular business hours. Such books shall be closed and balanced at the end of the fiscal year, and an audit shall be made as of the closing date by an independent auditing firm, with a copy thereof to be supplied to the Town no later than September 1 of each year of this Agreement detailing expenditure of all marketing funds by BTO of the previous year during the term of this Agreement. The cost of the audit shall be paid by BTO out of its general budget.

### **6. Consideration**

6.1 Subject to those deductions and offsets as hereinafter set forth, Town agrees to pay to BTO for its services under this Agreement the sum of \$3,836,300 for 2016, and amounts to be determined by the Breckenridge Town Council for 2017 and 2018. Such sum shall be paid from the Town's Marketing Fund, and used only to implement the BTO's marketing program as described in this Agreement.

6.2 Payment to BTO as described in Section 6.1 shall be made in 2016 in accordance with the payment schedule described in the attached **Exhibit "B"**, or as otherwise mutually agreed to in writing



by the parties. Payment to BTO for 2017 and 2018 shall be mutually agreed upon by December 15, 2016 for 2017 and by December 15, 2017 for 2018.

6.3 So long as the Town is not in default under the terms of Agreement, it shall be a regular voting member of the BTO Board of Directors without further payments or assessments.

## **7. Additional Funding**

As conditions precedent to payment by the Town under this Agreement, BTO shall:

7.1 Obtain additional funding from the Breckenridge Ski Resort in an amount of not less than \$150,000 annually for the term of this Agreement as set forth in **Exhibit "C"**, which funds shall be used exclusively for BTO marketing services.

7.2 Contract with a third party reservations vendor to perform the Central Reservations function. Any funds received from this arrangement shall be used solely for the approved Marketing Plan described in this Agreement.

**8. Exclusive Option to Purchase BTO's Intellectual Property.** BTO acknowledges that the Town's past funding (with tax dollars) has substantially assisted BTO in developing certain intellectual property rights relating to the marketing of the Town, its businesses, attractions, and vacation opportunities. BTO and Town agree that upon the occurrence of the limited circumstances described in this Section the Town should have the opportunity to acquire BTO's intellectual property rights as described in this Section for the Town's future use in its marketing activities. Accordingly, for and in consideration of the past funding provided to the BTO by the Town and the money to be paid to the BTO by the Town under this Agreement, the receipt and sufficiency of which is hereby confessed and acknowledged by BTO, BTO hereby grants to Town the exclusive and irrevocable option ("***Option***") to purchase BTO's Intellectual Property as defined below upon the following terms and conditions:

- A. **"BTO's Intellectual Property" Defined.** As used in this Section, the term "BTO's Intellectual Property" means: all of BTO's domain name(s) used in marketing the Town, including, but not limited to "gobreck.com"; photographs; videos; copyrights; patents; trademarks; trade names; and other intangible property and intangible property rights used by BTO in the performance of its marketing activities for the Town under this Agreement, but does not mean or include the names, photographs, videos, copyrights, patents, trademarks, trade names or other intangible property or intangible property rights.
- B. **Term of Option.** The term of this Option commences as of the date of this Agreement and ends, unless the Option is sooner exercised by the Town, one (1) year after the first to occur of: (i) the expiration of the term of this Agreement as described in Section 3, or (ii) the termination of this Agreement for any reason prior to the expiration of the term of this Agreement.
- C. **Exercise of The Option.** The Option may be exercised by Town only if: (i) BTO is dissolved, either voluntarily or involuntarily, through the office of the Colorado

Secretary of State and not reinstated within 30 days after dissolution; (ii) BTO ceases for any reason providing those marketing services for the Town described in Section 1; or (iii) BTO ceases operations for a period of thirty (30) consecutive days.

- D. Manner of Exercising The Option. If the Town elects to exercise the Option, it must give written notice of the exercise of the Option to BTO in accordance with the provisions of Section 16.
- E. Date of Closing. Closing of the sale and purchase of BTO's Intellectual Property will be held at a date, time, and location mutually agreeable to Town and BTO; but in the absence of an agreement the date, time and location shall be determined by Town. The date for such closing shall be not less than fifteen (15) nor more than thirty (30) days following the giving of Town's notice of exercise of the Option as described in Subsection C, above.
- F. Closing. At closing the Town shall deliver to BTO the purchase price (as hereafter defined) in good funds which comply with Colorado law. BTO shall execute and deliver to Town a bill of sale and other assignment documents sufficient to convey BTO's Intellectual Property to Town free and clear of all liens and encumbrances. The form and substance of the bill of sale and other assignment documents shall be subject to the reasonable approval of the Town's attorney.
- G. Purchase Price. In recognition of the significant financial role played by the Town in the development of BTO's Intellectual Property, the purchase price to be paid by Town to BTO for the Intellectual Property is One Hundred Dollars (\$100).
- H. No Other Offer To Sell or Mortgage By BTO. The Option is exclusive to the Town. BTO will not sell, mortgage, encumber, grant a security interest in, pledge, offer to sell or otherwise take any action to defeat the Town's exclusive rights under this Section.
- I. Specific Performance. The obligations of the BTO under this Section are specifically enforceable. In connection therewith, the prevailing party shall be entitled to recover its reasonable attorneys fees, court costs and expert witness fees from the other party.
- J. Notice of Town's Rights. BTO will execute such documents as the Town may reasonably request giving public notice of the Town's rights under this Section 8. Such documents may be recorded with the Clerk and Recorder of Summit County, Colorado, or other appropriate governmental agency.

## 9. Default; Resolution Of Disputes

9.1 Default. A default shall exist under this Agreement if any party violates any covenant, condition, obligation required to be performed hereunder. If any party ("**Defaulting Party**") fails to cure

such default within twenty (20) days after another party (“*Non-Defaulting Party*”) gives written notice of the default to the Defaulting Party, then, at the Non-Defaulting Party’s option, the Non-Defaulting Party may terminate this Agreement. Notwithstanding any party’s right to terminate this Agreement for an uncured default, this Agreement is subject to the rights of any party to invoke the remaining provisions of this Section 9.

9.2 Negotiation. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between persons who have authority to settle the controversy (“*Executives*”). Any party may give another party written notice of any dispute not resolved in the normal course of business. Within twenty (20) days after receipt of said notice, Executives of the parties to the dispute shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) days of the notice of dispute, or if the parties fail to meet within twenty (20) days, any party to the dispute may initiate mediation of the controversy as provided below.

9.3 Litigation. Any dispute arising out of or relating to this Agreement or the breach, termination or validity hereof, which has not been resolved by the methods set forth above within sixty (60) days of the initiation of mediation, may be finally settled by judicial action. Venue for any such action shall lie solely in the courts of Summit County, Colorado. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL TO ENFORCE OR INTERPRET THIS AGREEMENT.**

9.4 Extension Of Deadlines. All deadlines specified in this Section may be extended by mutual agreement.

9.5 Costs. Each party shall pay its own costs with respect to negotiation. The prevailing party in any judicial action shall be entitled to reimbursement from the other party for all reasonable costs and expenses, including attorney fees in connection with such judicial action.

## **10. Termination**

This Agreement may be terminated for cause as provided in Sections 4 and 9, for a violation of Section 11, and for non-appropriation as provided in Section 17. Either party, upon thirty (30) days’ prior written notice, may also terminate this Agreement without cause. In the event of termination, the parties shall promptly determine, or cause to be determined, the actual expenditures made by BTO under this Agreement to date of termination. In the event BTO’s actual expenditures for services to be performed under this Agreement to date of termination are greater than the amount paid by the Town hereunder, the difference shall be paid to BTO by the Town within thirty (30) days of such determination. In the event BTO’s actual expenditures for services to be performed under this Agreement to date of termination are less than the amount paid by the Town hereunder, the overpayment shall be repaid to Town by BTO within thirty (30) days of such determination.

## **11. Mandatory Immigration Provisions**

11.1 Throughout the extended term of this Agreement, BTO shall not:

- A. knowingly employ or contract with an illegal alien to perform work under this Agreement; or
- B. enter into a contract with a subcontractor that fails to certify to BTO that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

11.2 BTO has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Colorado Department of Labor and Employment employment verification program. As used in this provision: (i) the term “E-Verify Program” means the electronic employment verification program created in Public Law 104-208, as amended and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program; and (ii) the term “Colorado Department of Labor and Employment’s employment verification program” means the program established by Section 8-17.5-102(5)(c), C.R.S.

11.3 BTO is prohibited from using E-Verify Program or the Department Program procedures to undertake preemployment screening of job applicants while this Agreement is being performed.

11.4 If BTO obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, BTO shall:

- A. notify such subcontractor and the Town within three days that BTO has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- B. terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this Section the subcontractor does not stop employing or contracting with the illegal alien; except that BTO shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

11.5 BTO shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Colorado Department of Labor and Employment undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

11.6 If BTO violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. or this Section 11, the Town may terminate this Agreement for a breach of the contract. If this Agreement is so terminated, BTO shall be liable for actual and consequential damages to the Town.

## **12. Non-Assignability**

It is understood that the Town enters into this Agreement based on the special abilities of BTO, and accordingly, BTO shall not assign this Agreement without the prior written consent of the Town, which consent may be granted, withheld or conditionally approved in the discretion of the Town.

### **13. Reports**

13.1 Not less than monthly during the term of this Agreement, BTO shall submit to the Town a written report comparing actual marketing expenditures and income against budgeted marketing expenditures and income both for the month of the report and on a year-to-date basis, , plus such additional information as the Town may request.

13.2 Not less than bi-annually during the term of this Agreement, once following the summer season and once following the winter season, BTO shall submit to the Town a written report containing the following information:

- A. An outline of marketing services performed to date;
- B. The status of future marketing services to be performed by BTO during the remainder of the term of this Agreement;
- C. Comparisons of actual marketing expenditures and income against budgeted marketing expenditures and income for both the current quarter and on a year-to-date basis;
- D. Such additional information as the Town may request.

13.3 Not less than annually, BTO shall submit to the Town, a written report analyzing and demonstrating the effectiveness of its various marketing activities for the preceding year and its success in attaining the evaluation criteria set forth in the approved marketing plan.

### **14. Sustainability**

BTO shall affirmatively promote activities within the Town and marketing practices that are “environmentally friendly” and that reduce, insofar and is practical, the negative impacts of such activities on the environment. By way of example, and without limiting the generality of the preceding sentence, any special event produced by BTO involving the expenditure of funds received from Town pursuant to this Agreement shall be conducted by BTO in a manner that reduces, insofar as is practical, the negative impacts of the event on the environment. BTO shall consult with Town prior to holding any such event to obtain the Town’s suggestions as to ways to hold the event that complies with this Section.

### **15. Entire Agreement; Amendment**

This written Agreement contains the entire understanding of the parties and no oral statements or representations not herein contained shall be of any force and effect between said parties. This Agreement shall not be modified or amended in any manner except by written instrument executed by the parties. Oral amendments to this Agreement are not permitted.

### **16. Notice and Communications**

All notices required or permitted under this Agreement shall be given by registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial carrier delivery, or by telecopies, directed as follows:

If intended for Town, to:

Town of Breckenridge  
P.O. Box 168  
150 Ski Hill Road  
Breckenridge, Colorado 80424  
Attn: Town Manager  
Telecopier number: (970)547-3104  
Telephone number: (970)453-2251

with a copy in each case (which shall not constitute notice) to:

Timothy H. Berry, Esq.  
Timothy H. Berry, P.C.  
131 West 5th Street  
P. O. Box 2  
Leadville, Colorado 80461  
Telecopier number: (719)486-3039  
Telephone number: (719)486-1889

If intended for BTO, to:

President/CEO  
Breckenridge Resort Chamber, Inc.  
P.O. Box 1909  
Breckenridge, Colorado 80424  
Telecopier number: (970)453-7238  
Telephone number: (970)453-5054

Any notice delivered by mail in accordance with this Section shall be effective on the third business day after the same is deposited in any post office or postal box regularly maintained by the United States postal service. Any notice delivered by telecopier in accordance with this Section shall be effective upon receipt if concurrently with sending by telecopier receipt is confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt requested, on the same day to the intended recipient. Any notice delivered by hand or commercial carrier shall be effective upon actual receipt. Either party, by notice given as provided above, may change the address to which future notices may be sent. E-mail is not a valid method of giving notice under this Agreement.

### **17. Annual Appropriation**

Notwithstanding anything herein contained to the contrary, the Town's obligations under this Agreement are expressly subject to an annual appropriation being made by the Town Council of the Town of Breckenridge in an amount sufficient to allow Town to perform its obligations hereunder. In the event sufficient funds shall not be appropriated for the payment of sums due to BTO hereunder, this Agreement may be terminated by either party without penalty. The Town's obligations hereunder shall

not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

**18. Waiver**

The failure of either party to exercise any of their rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by the party waiving such rights.

**19. Applicable Law**

This Agreement shall be interpreted in all respects in accordance with the laws of the State of Colorado.

**20. Section Headings**

Section headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

**21. Third Parties**

This Agreement does not, and shall not be deemed or construed to, confer upon or grant to any third party (except a party to whom BTO may assign this Agreement in accordance with the terms hereof) any right to claim damages or to bring suit, action or other proceeding against the Town or BTO because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein.

**22. No Adverse Construction**

Both parties acknowledge having had the opportunity to participate in the drafting of this Agreement. This Agreement shall not be construed against either party based upon authorship.

**23. Survival.**

All unperformed obligations of this Agreement shall survive the termination or expiration of this Agreement.

**24. Incorporation of Exhibits**

All exhibits described in this Agreement are incorporated into and made a part of this Agreement by reference.

IN WITNESS WHEREOF, the parties have executed this Agreement.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

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Rick G. Holman, Town Manager

ATTEST:

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Helen Cospolich, Town Clerk

BRECKENRIDGE TOURISM OFFICE, INC., a Colorado non-profit corporation

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Richard Sosville, Chairman of the Board of Directors

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Rob Neyland, Vice-Chair of the Board of Directors



**EXHIBIT A**

**2016 MARKETING PLAN**

**(ON FILE)**

## **EXHIBIT B**

### **2016 MARKETING CONTRACT PAYMENT SCHEDULE**

January	TBD
February	TBD
March	TBD
April	TBD
May	TBD
June	TBD
July	TBD
August	TBD
September	TBD
October	TBD
November	TBD
December	TBD
Total	\$3,836,300

**EXHIBIT C**

**2016 LETTER FROM BRECKENRIDGE SKI RESORT**

**(On File)**

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**M E M O R A N D U M**

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**TO:** Mayor & Town Council  
**FROM:** Town Clerk  
**DATE:** December 8, 2015  
**SUBJECT:** Liquor Licensing Authority Appointments

The Liquor Licensing Authority consists of five members who are appointed by the Town Council. Current members include:

J.B. Katz, Chair  
Dave Garrett  
Dave Blank  
Turk Montepare  
Bill Tatro

The terms of the Authority members are four years. Terms are staggered and expire at the end of December in alternating, odd-numbered years. The two members whose terms expire this year are Dave Garrett and Dave Blank.

Ads seeking applicants recently ran in the local newspaper and three letters of interest were received from Dave Blank, Dave Garrett and Leigh Girvin. Copies of their letters are attached for your review.

Appointment may be made by motion and a sample motion follows.

**Sample Motion:**

"I move that we appoint XXX and XXX to four-year terms on the Breckenridge Liquor Licensing Authority."

**From:** [Power, Taryn](#)  
**To:** [Cospolich, Helen](#)  
**Subject:** FW: LLA  
**Date:** Monday, November 23, 2015 11:32:15 AM

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**From:** db [mailto:dblank1133@aol.com]  
**Sent:** Monday, November 23, 2015 11:16 AM  
**To:** Power, Taryn  
**Subject:** LLA

Breckenridge Town Council;

I am applying for appointment to the Liquor Licensing Authority for the Town of Breckenridge.

Having served for the last 8 years as a member of the LLA I would like to continue to serve the Town for another 4 year term.

With the preparation and consultation of Town Staff including Taryn Power and Town Attorney Tim Berry I believe the Authority has been able to accomplish its responsibility in a professional and unbiased manner. I would also like to thank the Breckenridge Police Department and Red, White, and Blue Fire Department for their assistance.

Thank you for your consideration,

Dave Blank

David Garrett  
P.O. Box 3851  
140 Windwood Circle  
Breckenridge, CO 80424

November 25, 2015

Taryn Power  
Deputy Town Clerk  
P.O. Box 168  
Breckenridge, CO 80424

Re: Breckenridge Liquor Licensing Authority

Mayor Warner and Town Council:

Please accept this letter as my desire to continue to serve as a member to the Breckenridge Liquor Licensing Authority.

I have served since the Licensing Authority's conception 12 years ago, 8 years as Chair and the past 4 years as a member at large.

I believe the Authority has been instrumental in developing excellent relationships between the Liquor License holders, The Town of Breckenridge and the State of Colorado while meeting the needs of our citizens and visitors to Breckenridge.

I look forward to serving another term.

Thank you for your consideration.



David Garrett

November 25, 2015

Town Clerk  
Town of Breckenridge  
PO Box 168  
Breckenridge, CO 80424

Dear Helen:

I am interested in serving on the Town of Breckenridge's Liquor License Advisory Commission.

I enjoyed my service on the Town of Breckenridge Planning Commission (2008-2010) and am interested in serving the community again.

No member of my family, nor do I, have any interest in a liquor-serving establishment in Town.

Please let me know if there is additional information I can provide.

Thank you,



Leigh Girvin

13 Meadow Lark Green  
PO Box 7462  
Breckenridge, CO 80424  
Phone: 970-453-8319  
Mobile: 970-389-6163  
Email: leighgirvin@hotmail.com



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**MEMORANDUM**

**TO:** Town Council  
**FROM:** Julia Puester, Senior Planner  
**DATE:** December 1, 2015 for Meeting of December 8, 2015  
**SUBJECT:** Planning Commission Vacancy

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Attached please find eight letters of interest for the Planning Commission. There is one seat available on the Commission for Mr. Mamula's position that is vacating early. The completion of this term will run from January 1, 2016 to October 31, 2018.

Please note Ms. Mathews-Leidal has a commitment and is not available until after 5:30pm on the 8<sup>th</sup>. We have thus placed her last on the interview schedule, to hopefully work around that commitment.



Honorable Mayor John Warner and the Breckenridge Town Council,

My Name is Patrick McFarlane. I am applying for the vacated position on the Breckenridge Planning Commission.

I served on the Blue River Planning and Zoning Commission from 2010-2012. I resigned my position when I moved to Breckenridge. I enjoyed my term on the Blue River P+Z for many reasons, most of all the feeling of fulfillment of serving my community.

I have been a mechanical contractor in Breckenridge and Summit County for fifteen years. I possess extensive working knowledge of construction, codes and their processes. I have also been involved in numerous historic restorations throughout my career.

Thank you for your consideration,  
Patrick J McFarlane



RECEIVED  
NOV 24 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

To whom it may concern,

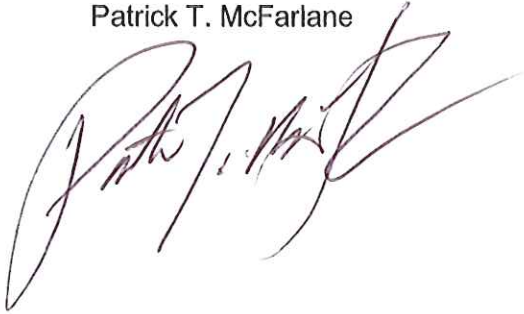
I will be out of the country from November 25, 2015 through December 4, 2015.

I can be contacted via e-mail at anytime during those dates.

[rossewage111@gmail.com](mailto:rossewage111@gmail.com)

Thank you,

Patrick T. McFarlane

A handwritten signature in dark ink, appearing to read "Patrick T. McFarlane", written in a cursive style.

RECEIVED  
NOV 24 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.



November 27, 2015

RECEIVED  
NOV 30 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

Mayor John Warner  
Town of Breckenridge  
PO Box 168  
Breckenridge, Colorado 804224

Dear Mayor Warner:

I would to apply for the upcoming opening on the Breckenridge Planning Commission.

Having been actively involved in the growth of Breckenridge for the past three decades, my professional roles have ping ponged from land use planning to design/build to development; with a personal emphasis on raising a family and living life large in our little community.

Love the description of the position in the newspaper ad; I might be a little weak on "cultural anthropology" (although the evolution of a late 1800's mining camp into a world-renowned ski resort might hold a possibility for a doctoral thesis). As to the rest of the list, I pretty much have a finger in all those pies and can bring real world knowledge and expertise to the Commission's conversations and deliberations.

I look forward to an informative, enlightening and probing interview.

Sincerely,

A handwritten signature in black ink, appearing to read 'LEE EDWARDS'.

Lee Edwards  
drc company, inc

american institute of certified planners  
american institute of architects (associate)  
licensed class a contractor, license 1596

the breckenridge design/build firm since 1982

Bob Christie  
9 Midnight Sun Road  
P.O. Box 6215  
Breckenridge, CO 80424

RECEIVED  
NOV 30 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

November 30, 2015

Town of Breckenridge  
Community Development Department  
P.O. Box 168  
150 Ski Hill Road – 2<sup>nd</sup> Floor  
Breckenridge, CO 80424

TO WHOM IT MAY CONCERN:

I would like to be considered for the open position on The Town of Breckenridge Planning Commission. Some of my prior experiences include:

Full time resident of the Wellington Neighborhood for almost the last 7 years.

Registered Town of Breckenridge voter

Prior Chairman of the Wellington Neighborhood Design Review Committee

Realtor for the past 21 years.

Prior background in property management. Involved with the planning process to gain approvals for additions/changes in hotels and condominium complexes. Involvement with the construction and cost management of these projects.

Realtor working in historic Denver neighborhoods for almost 15 years. Remodeling of historic properties in these neighborhoods.

Thank you for your consideration. Please contact me with any questions.

Sincerely,



Bob Christie  
303-520-0745

**From:** Dylan O'Connell [doconnell82@gmail.com]  
**Sent:** Monday, November 30, 2015 12:05 PM  
**To:** WebsiteCommDev  
**Subject:** Planning Commission Vacancy

R E C E I V E D  
NOV 30 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

Hello:

I would like to submit my letter of interest for one term on the T.O.B Planning Commission.

With 4 years experience living in the Town of Breckenridge, I feel confident in my ability, approach, and understanding of the vision and goals of the town: its brand, its residents, and its local governance.

As a Main Street small business owner, I feel especially poised to showcase my vested interest in preserving and growing what has made Breckenridge one of the premier Mountain destinations in all of Colorado and the United States.

Finally, as one of the younger members to this Commission (29 years of age), I feel it prudent to have a wide breadth of age, style, and approach in such a position, and board, that in its core requires varying view points.

I Look forward to providing my unique skill set to the position and making 2016-2018 a proud time for Breckenridge's planning history.

Sincerely,

Dylan P. O'Connell  
214B Royal Tiger Rd.  
Breckenridge, CO  
80424

612-850-1805

PO Box #409

**From:** mike\_giller@comcast.net  
**Sent:** Monday, November 30, 2015 12:37 PM  
**To:** WebsiteCommDev  
**Subject:** Letter of Interest for Planning Commission Vacancy  
**Attachments:** ToB - Planning Commission Letter of Interest.pdf

RECEIVED  
NOV 30 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

Hi,  
Please accept my attached letter of interest for the Planning Commission vacancy as posted on the Town's webpage.

Also, please let me know that you've received this by replying to the e-mail.

Thanks,  
Mike Giller  
303.503.5762



RECEIVED  
NOV 30 2015

November 29, 2015

Community Development Department  
Town of Breckenridge, Colorado  
[websitecommdev@townofbreckenridge.com](mailto:websitecommdev@townofbreckenridge.com)

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

Mike Giller  
306 South Ridge Street  
Breckenridge, Colorado 80424  
303.503.5762  
[Mike\\_Giller@comcast.net](mailto:Mike_Giller@comcast.net)

Dear Reader,

The Town of Breckenridge Planning Commission vacancy is of great interest to me and I am submitting this letter of interest for consideration. My positive experience with the Commission in the historic preservation of 306 S Ridge Street, and the significance of the past and the future of Breckenridge are the heart of my interest.

In my 28 years of public service for the National Park Service [NPS] and four years private sector consulting engineering experience I have been fortunate to serve on many projects where the public trust and stewardship guide the work. I work for the NPS's Denver office for planning, design, and construction, whose duties are similar to that of a planning commission and town engineering, plus the management and procurement of design and construction. [www.nps.gov/dsc](http://www.nps.gov/dsc)

### Interest and Experience

#### Historic preservation and History

I have served as a project manager on many historic preservation projects. In this role responsibilities include compliance coordination with SHPO, partnerships, and other stakeholders. The *Secretary of the Interior's Standards for the Treatment of Historic Properties* is the foundation for project compliance. The Town's *Handbook of Design Standards for the Historic and Conservation Districts* is based upon the *Secretary's Standards*. Through this work I am skilled in the four approaches for treatment of historic properties; preservation, restoration, rehabilitation, and reconstruction. Projects include:

- Old Faithful Lodge rehabilitation, Yellowstone National Park
- William Howard Taft Home restoration
- Gifford Pinchot Home rehabilitation [Founder of the US Forest Service]
- National Mall in Washington DC; Lincoln Memorial restoration, Jefferson Memorial restoration, Ford's Theatre rehabilitation, DC War Memorial restoration

#### Architecture

My experience in architecture starts with my BS in Architectural Engineering, a five year degree combining architecture and civil engineering. Professional practice includes the full range of managing architectural planning, programming, design, and design review. Projects include:

- The Benjamin Franklin Museum, a rehabilitation of the Bicentennial era Robert Venturi museum
- Lincoln Memorial Visitor Services
- Padre Island Visitor Center
- Old Faithful Emergency Services Building

#### Landscape Architecture

Landscape architecture and cultural landscape management are core responsibilities for NPS, and I have worked closely with and learned from landscape architects throughout. Projects include:

- Jefferson National Expansion Memorial Gateway Arch grounds rehabilitation
- Sequoia NP; General Sherman Tree sitework, General's Highway rehabilitation
- Washington Monument grounds rehabilitation and security improvements
- Lincoln Memorial grounds, roads, and security improvements
- Gettysburg NMP park roads rehabilitation
- Presidio of San Francisco Crissy Field wetlands restoration

### **Architectural History**

The history and context of architecture are important to the suitability of the project and the broader heritage stewardship. I have been fortunate to work on National Historic Landmarks, in National Historic Districts, and on new structures in the districts. I enjoy learning about architectural history as it is a living record of the culture.

### **Archeology**

I have coordinated and managed archeological review and monitoring on projects such as a waterline system at the Grand Canyon Village to roads and utilities in Gettysburg. At the Benjamin Franklin Museum project the scope both protected and interpreted the archeology of Franklin's long gone home. Archeological resources are a definitive link to the past, particularly where other information is incomplete.

### **Planning**

NPS projects build upon park planning documents including General Management Plans and Cultural Landscape Plans. Through this experience I understand the application of planning documents.

I served as architectural project manager for the Presidio of San Francisco General Management Plan. This comprehensive plan guided the transition of the US Army Post to a 21<sup>st</sup> Century urban park that preserved and repurposed 1400 buildings. Projects include:

- Preservation; NCO Club, Montgomery Street Barracks, Public Safety Building, design guidelines
- Landscape Architecture and Civil Engineering; Crissy Field Wetlands Restoration Study, Presidio Storm Water Management Plan

Through the rehabilitation of 306 S Ridge Street in Breckenridge I gained a working knowledge of the Town of Breckenridge's master plan, code, design standards and review process.

### **Building Trades**

Building trades experience includes five years as a construction manager on preservation and visitor facility projects. I worked in college as a construction laborer, including one summer working in Breckenridge.

### **Cultural or Urban Geography, Cultural Anthropology**

My awareness of cultural geography has grown particularly as the NPS seeks to be more inclusive in cultural history sites. Currently I'm working at Martin Luther King NHS on the rehab of 12 historic structures. Projects at Grand Canyon Village, Yellowstone's Old Faithful area, and the Presidio of San Francisco required a larger understanding of the systems from visitor use and interpretation, visitor concessions (shopping, dining, and lodging), to transportation, and facilities maintenance. In National Parks the natural resources also factor into the understanding.

### **Real Estate and Law**

Real estate experience includes rehabbing and operating two residential rentals. Through my work as a project manager I have proficiency in building codes, preservation law, and construction and contract law.

Thanks for the opportunity to express my interest in the position. I trust that my interest and experience could benefit the Town of Breckenridge Planning Commission. I appreciate your consideration.

Mike Giller



**JUDGE STEPHEN C. GERARD II (Retired)**  
66 Long Ridge Drive  
P.O. Box 6734  
Breckenridge, Colorado 80424  
(319) 430-1479  
[judgeg75@gmail.com](mailto:judgeg75@gmail.com)

Town of Breckenridge  
Community Development Department  
P.O. Box 168  
150 Ski Hill Road 2<sup>nd</sup> Floor  
Breckenridge, CO 80424

RECEIVED  
NOV 30 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

In re: Planning Commission Vacancy

Mayor and members of the Breckenridge Town Council:

I am interested in being considered for appointment to the Town of Breckenridge Planning Commission to complete the term which will vacate early pursuant to the published Notice of Vacancy.

I have been a property owner in the Town of Breckenridge for over ten years. After retiring from a 32 year judicial career, this summer I became a full-time resident of the Town along with my wife and daughter. I am a registered voter.

As an attorney I assisted many clients in subdividing real estate parcels including negotiating and drafting the subdivider's agreements with the appropriate governmental entities.

After being appointed to the bench I served on many commissions related to my work, including the preservation of and designation of the Johnson County Courthouse to the National Register of Historical places. We lived in a home built in 1900, one of the oldest remaining homes in the town where we resided.

I am strongly committed to historical preservation, yet, I clearly recognize the need for future development in a carefully planned manner which allows for the growth of our community and the benefits to our residents and visitors while maintaining the history, character and culture of our unique mountain town. I believe I can bring a valuable perspective to the Commission.

Thank you for considering my interest in this appointment.

Sincerely,



Stephen C. Gerard II

## STEPHEN C. GERARD II

66 Long Ridge Drive, P.O. Box 6734, Breckenridge, CO 80424  
(319) 430-1479  
[Judgeg75@gmail.com](mailto:Judgeg75@gmail.com)  
LinkedIn URL: <https://www.linkedin.com/pub/steve-gerard/50/47a/b46>

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TOWN OF BRECKENRIDGE  
PLANNING DEPT.

### SUMMARY

Recently retired from 32 year judicial career and relocated to Summit County, Colorado. Seeking people oriented, rewarding position which takes advantage of my interpersonal skills and background.

### EXPERIENCE

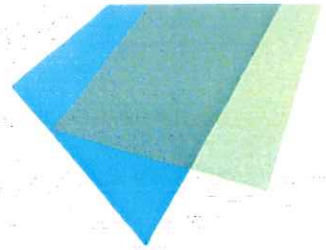
- July 1995 - August 2015    **District Associate Judge**, Iowa Judicial Branch, Sixth Judicial District, Johnson County, Iowa.
- Presided over high-volume criminal docket and Juvenile Court delinquency and children in need of assistance cases.
- January 1983 - July 1995    **Judicial Magistrate**, Iowa Judicial Branch, Sixth Judicial District, Johnson County, Iowa.
- Part-time judicial officer responsible for high-volume traffic court and misdemeanor dockets for county and city courts as well as active small claims and landlord/tenant civil dockets.
- January 1980 - July 1995    **Attorney**, Johnson County, Iowa.
- Engaged in private practice of law with emphasis on business, real estate and litigation.
- January 1976 - January 1980    **Judge Advocate, United States Air Force**
- Criminal defense and prosecution as Area Defense Counsel, Sheppard AFB, Texas, and Chief Circuit Trial Counsel, Boling AFB, DC.

### EDUCATION

- August 1972 – May 1975    **Juris Doctor**, with Distinction: *University of Iowa College of Law, Iowa City, Iowa*
- August 1968 – May 1972    **Bachelor of Business Administration, Accounting**: *Drake University, Des Moines, Iowa*

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NOV 30 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.



*The Creative Edge*

Donald Leland Craig AICP

benaddie1@gmail.com

305 924 0249

Skype: DLelandC

PO Box 7215

110 North French Street

Breckenridge Colorado 80424

November 30, 2015

Mr. Tim Gagen, Town Manager  
Mr. Peter Grosshuesch, Director of Community Development  
Town of Breckenridge  
150 Ski Hill Road  
Breckenridge, Colorado 80424

Subject: Planning Commission Vacancy

Expert Witness  
Comprehensive Planning  
Land Use Codes  
Development Feasibility and  
Permitting  
Resort and Tourism Planning  
Planning Management

Dear Tim and Peter:

I have enclosed my resume in application for the current vacancy on the Town Planning Commission.

As you both know, I have many years' experience in the field of City and County Planning as a consultant and Planning Director. I wish to bring those skills to the position of Planning Commissioner to assist the Town.

I am anxious to support both the economic growth of the Town and the application of the Town Development Code fairly and effectively. Having been a property owner for many years and recently returned to the Town as a full time resident, I am committed to serve my community in any way that I can and believe the best way is to serve as a Planning Commissioner.

Thank you for the opportunity to apply for this important position.

Sincerely and Respectfully,

Donald Leland Craig, AICP



# Donald Leland Craig, AICP

RECEIVED  
NOV 30 2015

P.O. Box 7215 110 North French St.  
Breckenridge, Colorado 80424

Work: 305-924-0249 Home: 970-453-1546  
Email: [benaddie1@gmail.com](mailto:benaddie1@gmail.com) Skype: DLelandC

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

## Executive Profile

A senior management executive who has demonstrated a successful history as a planning consultant, business owner, planning director and critical projects manager. Disciplined leader of teams of architects, planners, engineers and environmental professionals that have planned and built parks, municipal buildings, resorts, hotels, transportation infrastructure and residential complexes.

## Skill Highlights

Project Management  
GIS Infrastructure  
Skilled Negotiator  
Featured Speaker

Expert Witness in Land Use Litigation  
Excellent Trainer  
Adaptable Learner  
Seasoned Traveller

## Core Accomplishments

Created a consulting business that eclipsed the competition and captured 90% of the market share in the entire Florida Keys for 20 years. Created an entirely new Division of Community Development Services providing Planning, Building, Code Compliance, Sustainability, Urban Forestry, Historic Preservation, Arts in Public Places and GIS services.

## Professional Experience

### President

December 2014 to Present

#### The Creative Edge LLC - Breckenridge, Colorado

Principal Consultant of a Land Planning and Development company with services provided to the Rocky Mountain West and South Florida. The firm specializes in Development Feasibility and Entitlement approvals; Expert Witness in land use litigation and public agency approvals; Zoning studies and land use codes; Comprehensive Planning and Historic Preservation. Current assignments include City of Key West Planning Director "Emeritus", with on-going special projects responsibilities; Real Estate Development Advisor - private sector clients in South Florida; and Advisor for Assisted Living Development in Key West, Florida.

### Director of Community Development Services and City Planner

January 2011 to December 2014

#### City of Key West - Key West, Florida

Served the City of Key West to manage three key departments: Planning, Building and Code Compliance. This responsibility also included the City's Urban Forestry, Historic Preservation and Sustainability programs.

Responsible for the management of 34 persons and serves seven boards as well as the City Commission: the Historic Architectural Review Commission, the Planning Board, the Tree Commission, the Sustainability Board, the Bahama Village Redevelopment Area Advisory Committee, the Truman Waterfront Advisory Board and the Arts in Public Places Board.

Led teams for many special projects, which crossed department boundaries reporting directly to the City Manager.

Rewrote the City Comprehensive Plan for the first time in 20 years, and secured from the state of Florida the right to new building permits for the first time in 15 years.

Wrote the new Building Permit Allocation Ordinance based on sustainability principles and response to sea level rise.

Created and managed the multi disciplinary team for the design and implementation of the Master Development Plan for Truman Waterfront Park, a 28 acre \$24 million multi use facility on Key West harbor requiring close coordination with the US Navy and the state of Florida parks system.

Designed and created the City's first GIS operational system.

Rewrote the landscape and impact fee ordinances.

Re-established the City as a member in good standing in the FEMA Community Rating System.



**President and Founder**

February 1990 to May 2011

**The Craig Company of the Florida Keys, Inc.** - Key West, FL and Breckenridge, Colorado

Responsible for marketing, project development and management of a regional land use planning and landscape architecture firm.

Projects included: rewriting Monroe County's Affordable Housing Ordinance; a redevelopment plan for Bahama Village Redevelopment Area, Key West, Florida; resort development plans and approvals involving major hotels in Key West, Marathon, Islamorada and Monroe County; a marina master plan for the City of Marathon; private marina and development projects in multiple Monroe County and South Florida locations; affordable housing projects totaling over 500 units in various Keys locations; and rezoning dozens of parcels in all Keys communities.

Expertise includes tourism planning, growth management, community planning and management of a 9 person multi-disciplinary firm with gross revenues exceeding \$1.75 million per year.

Expert witness appearances in dozens of land development and takings litigation cases at the circuit, appeal and federal court levels.

**Assistant County Administrator and Director of Growth Management**

September 1987 to February 1990

**Monroe County** - Key West, FL

Managed a staff of 68 persons in three sub-regional offices with an annual budget of \$4 million

Provided planning, building, parks and recreation, and environmental resources services for a county comprised of the subtropical Florida Keys stretching from mainland Florida to Key West over 118 miles of islands connected by the Overseas Highway with a permanent population of 85,000 and a peak season population of 160,000.

Rewrote the Land Development Regulations with over 500 individually processed amendments requiring state approval.

Created a new model for assessing highway level of service using travel speed by sector, and avoided a countywide development moratorium

Recruited and trained three new Department Directors and a land use attorney in statewide search.

**Vice President, Senior Associate and Partner**

January 1981 to September 1987

**BRW Inc.** - Breckenridge and Denver, Colorado; Minneapolis Minnesota and Phoenix, Arizona

As a Director and one of 12 partners of a 225-person firm, developed and led multidisciplinary design teams offering professional planning, transportation, architectural, landscape architecture, urban design and engineering services from four regional offices in Denver, Colorado; Phoenix, Arizona, Minneapolis, Minnesota and Breckenridge, Colorado.

Projects included ski area design for Breckenridge and Aspen Ski Resorts; hotel and resort condominium design and development of 510 units in multiple Colorado (Breckenridge, Keystone and Steamboat Springs), Arizona and Wyoming resort locations; Urban Design for highways and freeways in Phoenix, Arizona and Colorado; and resort subdivision design of 35, 100 and 1500 units in Colorado.

**Director of Planning**

October 1980 to January 1981

**Robert Borg Associates** - Denver, Colorado

Directed planning services in the United States and Mexico.

Projects included the 78-acre Breckenridge Nordic Village residential/recreational community, the Breckenridge Summit Ridge Shopping Center, and the Angel Fire Ski Resort condominiums in Taos, New Mexico.

### **Project Manager/Planner III**

November 1973 to May 1978

San Mateo County, Redwood City, California

Principal legislative analyst providing overview and analysis of state legislation affecting the County. Created the County's system for compliance with the California Environmental Quality Act (CEQA). Supervised the creation of the state mandated Local Coastal Program including all public outreach, programming and budget.

Revised the Land Use and Circulation elements of the Comprehensive Plan.

Awarded the Northern California Chapter American Institute of Planners 1976 Merit Award for the agricultural land use and preservation ordinance.

Principal Environmental Review Planner for the 500-acre San Bruno Mountain Regional Development. Project Manager for the Golden Gate National Recreation Area Extension Study. Rewrote the Timberland Preservation, Oil and Gas Extraction and Agricultural Preservation ordinances.

### **Housing Development Officer**

January 1971 to September 1973

Michigan Housing Development Authority, Lansing, Michigan

Provided technical planning and design assistance to builders, contractors, local government housing authorities, and nonprofit housing development corporations for moderate and low-income housing.

### **Education**

#### **Graduate Certificate in Housing, 1978**

University of California - Berkeley, California

**Fellow, Institute for Local Self Government** 1978 - Berkeley, California

#### **Graduate Studies and Lecturer**

Stanford University 1977 - Palo Alto, California

#### **Master of Urban and Regional Planning, 1973**

Michigan State University - East Lansing, Michigan, Thesis – Technology Assessment A Method for Regional Planning

#### **Bachelor of Arts History, 1970**

University of California (UCLA) - Los Angeles, California

Alumni Scholar and Fellow

### **Additional Information**

Charter Member American Institute of Certified Planners 1978

Founding Charter Member Association of Environmental Professionals 1975

Vice-President of the Key West Art Historical Society 1998-2003

Member and Co-Chair Monroe County Affordable Housing Task Force 1998

Founding Member and Board Vice-Chair Key West "Pebbles" Artist Colony 2004

Member of Key West Historic Architectural Review Commission 2002-2006

Volunteer Planner for the Crane Point Museum of Natural History, Marathon 2008

President Summit County Library Board 1984-86

Volunteers for Literacy, Key West 2003-2006

Blue water sailor - part owner of the "Phoenix" - Miami to Azores, Ireland, England, Spain, and Portugal

April to November 1979

Independent Travel and Study May 1978 to May 1979

Successfully raised and educated two sons, one is an artist and contractor in Paris, France and one is a ski area operations manager





**From:** Christie Mathews-Leidal [christie@mathewsleidal.com]  
**Sent:** Monday, November 30, 2015 2:41 PM  
**To:** WebsiteCommDev  
**Cc:** Truckey, Mark  
**Subject:** planning commission letter of interest  
**Attachments:** Planning Commission.pdf

Hi,

Please find attached my letter of interest to serve on the planning commission.

I'm really excited to be involved again, and look forward to the interviews next Tuesday.

Please let me know what time they will be. I am unavailable from 4:30-5:30 (teaching class), so if there is any way to work around that hour, I would greatly appreciate it.

Thanks and take care,

Christie

Christie Mathews-Leidal, AICP  
Mathews Leidal, LLC  
Post Office Box 4678  
Breckenridge, CO 80424-4678

970-453-4664  
970-389-1086 (cell)

[christie@mathewsleidal.com](mailto:christie@mathewsleidal.com)

November 30, 2015

RECEIVED  
NOV 30 2015

TOWN OF BRECKENRIDGE  
PLANNING DEPT.

Peter Grosshuesch, AICP  
Director of Community Development  
Town of Breckenridge  
Post Office Box 168  
Breckenridge, Colorado 80424

Via email

Peter,

I am interested in serving on the Town of Breckenridge Planning Commission for the term that is vacating early. This term runs from January 1, 2015 through October 31, 2018.

I have over 18 years of planning experience working in both the public sector and in the private sector. I have worked on all types of land use requests—from annexations, master plans, rezoning, subdivisions and site plans to United States Forest Service special use authorizations. I also have experience reviewing historic preservation requests while working in the public sector. I understand the Town's Development Code and Handbook of Design Standards for the Historic and Conservation Districts well, having worked for the Town as a planner from 1995 to 2006.

I have a master of arts in Urban Planning from the University of Michigan, am a member of the American Institute of Certified Planners (AICP), and a member of the American Planning Association (APA). I have lived in Summit County for over 20 years and am a town resident and registered voter. I believe that my education and experience would be an asset to the Planning Commission, and I am excited for the opportunity to be involved in the planning and development of the Town again.

Thank you for your consideration.

Regards,

Christie Mathews-Leidal, AICP

63 Buffalo Terrace  
Post Office Box 4678  
Breckenridge, Colorado 80424  
970-453-4664/970-389-1086  
christie@mathewsleidal.com



## Town Council Staff Report

Project Manager: Mark Truckey, Assistant Director of Community Development

Date: December 2, 2015 (For meeting of December 8, 2015)

Subject: McCain Master Plan Modification  
(Class A, Town Project Public Hearing, PL# 2015-0501)

Applicant: Town of Breckenridge

Proposal: The applicant is proposing to modify the Master Plan for the property known as the McCain property (owned by the Town of Breckenridge), identifying and distributing density and uses on a series of 13 tracts for the following uses: water treatment plant, residential affordable housing, Public Works storage, solar gardens, service commercial, snow storage, public open space and trails, overflow parking, and recycling center, and existing gravel mining and processing operations.

Address: 12965, 13215, 13217, 13221, 13250 Colorado State Highway 9

Legal Description: The following real property in the Town of Breckenridge, Summit County, Colorado: (i) Tract "B" (67.6099 acres) as shown on the Annexation Map McCain Annexation Phase I, recorded under Reception No. 714272; (ii) the 35.2412 acre tract as shown on the Annexation Map McCain Annexation Phase II, recorded under Reception No. 714274; (iii) Parcel "A" and Parcel "B" as described in special warranty deed recorded June 18, 2013 at Reception No. 1029052. (full legal description attached to application)

Site Area: 128 acres

Land Use District: LUD 43: Existing residential and Service Commercial; Recreational, Open Space, and Governmental Land Uses; Mining. Residential: 1 unit per 20 acres (unless workforce housing).

Site Conditions: The property was dredge-mined in the early 1900's, and has been impacted by historic mining activities that included extensive dredging along the Blue River. Most of the dredged rock piles have been removed leaving significant portions of the sites barren. Alpine Rock mining and processing operations have occupied the property for years. Currently, the Blue River bisects this property from south to north along the westerly edge of the mined area. A major restoration and realignment of the river is being undertaken by the Town in 2016 and 2017. The property to the east of the current river has been used for Alpine Rock operations including mining, gravel storage, and material processing and storage. The town leases portions of the property to several service commercial uses and to a retail use (Breck Bears) near the Fairview roundabout. An existing 2.7 acre solar garden is located on the central portion of the property. Summit County's new recycling center is being completed currently at the very southwest portion of the property. There are portions at the eastern property border with mature trees along the bike path and CDOT right of way.

Adjacent Uses: North: Stan Miller Residential Master Planned residential area, Breckenridge Building Center commercial retail site  
 East: Highway 9, Silver Shekel Subdivision, Highlands at Breckenridge  
 South: Coyne Valley Road, Continental Court, Colorado Mountain College  
 West: Red Tail Ranch Subdivision, Blue River

Density Allowed: LUD 43-127.8 Acres @ 1:20 UPA 6.39 SFEs\*  
 An additional 3.71 SFEs are allocated to the LUD 43 district for the purpose of affordable housing. In addition, density to accommodate affordable housing may be transferred to this site and is not subject to the point deductions in the Town Land Use Guidelines Density Policy.

\*The 6.39 SFEs were transferred off the site in 2013 to provide density for the Pinewood II housing project.

**Proposed:**

Tract	Area	Density	Tract Uses
Tract 1	3.8 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Water treatment plant and uses accessory to the plant (e.g., settling pond)
Tract 2	10.2 acres	3.71 SFEs for the purpose of affordable housing have been previously allocated to the site. In addition, additional density (up to a maximum of 20 UPA) to accommodate affordable housing may be transferred to this tract and is not subject to the point deductions in the Town Land Use Guidelines Density Policy 3/R.	Residential deed restricted affordable employee housing of an approved mix of housing types (single family, duplexes, and multi-family units) with a maximum density of 20 UPA  Industrial (existing) <ul style="list-style-type: none"> <li>• Mining, material processing, batch plant operations</li> </ul>
Tract 3	4.7 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Public Works Storage
Tract 4	2.7 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Solar panel garden and uses accessory to the solar garden (e.g., fencing, electric inverter)
Tract 5	2.7 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Solar panel garden and uses accessory to the solar garden (e.g., fencing, electric inverter)
Tract 6	1.5 acres	1:25 FAR Any permanent structures built shall require a density transfer	Service commercial uses (e.g., landscaping business, contractors yard, other similar uses that are not retail)
Tract 7	2.1 acres	0 SFEs (Governmental Uses are	Snow storage

		exempt from density requirements.)	
Tract 8	10.5 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Snow storage
Tract 9	23.6 acres	0 SFEs	Open space and trails and uses accessory to open space (e.g., bike repair station, picnic shelter)
Tract 10	5.6 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Overflow parking and accessory uses (e.g., bus stop and shelter)
Tract 11	1.4 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Recycling Center
Tract 12	36.4 acres	0 SFEs	300' River Corridor, wildlife habitat west of the Blue River, open space and trails and uses accessory to open space (e.g., bike repair station, picnic shelter)
Tract 13	16.4 acres	0 SFEs	150' Highway 9 Setback, landscape buffers, open space and trails and uses accessory to open space (e.g., bike repair station, picnic shelter)

Height: Recommended per LUD 43- Generally, building heights in excess of 2 stories are discouraged. Exceptions may include related mining operation facilities.

Proposed: Where buildings are proposed within 200 feet of the Highway 9 right-of-way, building heights in excess of two (2) stories are prohibited. For buildings beyond 200 feet of the Highway 9 right-of-way, building heights in excess of two (2) stories are discouraged. Existing mining operation facilities are exempt from height requirements.

Parking: Required: Per the Town's Development Code

#### Item History

With the Town's annexation of this parcel, the property was incorporated into Land Use District 43 in 2003 which allows for existing residential and service commercial, recreational, open space, governmental land uses, affordable housing, and mining.

In 2013 the McCain Master Plan was adopted by the Town Council through the Town Project Process. The Plan provided general guidance regarding the types of uses that would be allowed within the 128 acre McCain site. The McCain Master Plan identified two tracts for the property. A number of governmental uses were allowed on the larger 90 acre tract and the smaller 38 acre tract was limited to open space and trail uses. McCain was seen as the future location for a number of governmental uses that now are located closer to the Town core, many on Block 11 (e.g., overflow skier parking, snow storage). As the plan for Block 11 is implemented, affordable housing units will displace these uses. In

addition, it was recognized that McCain provided the best location for other uses such as a second water treatment plant and solar gardens.

The Town is now actively pursuing locating several of the uses outlined in the 2013 Master Plan on the McCain site. In particular, the Town is moving forward with plans for a water treatment plant and a second solar garden on the McCain site. In addition, the Town Council has subsequently identified a couple uses (affordable housing and service commercial) for the property that were not identified in the 2013 Master Plan. As such, it was felt that a more detailed master plan to identify the specific locations of these and other uses was warranted.

Staff has worked with a consultant, Norris Design, to develop the master plan that is now before the Town Council. Staff met most recently with the Town Council on August 25 to discuss the McCain Plan. At that meeting, staff discussed the different land uses proposed and the rationale for their proposed locations. At that time, the Council indicated general agreement with the proposed plan and directed staff to take the plan forward through the formal Town project review process.

Subsequent to that meeting, the BOSAC reviewed the McCain Master Plan Modifications at two meetings in September and October. The BOSAC's primary comments were related to the illustrative Open Space Plan and the location of soft surface trails and the Rec Path. These comments were incorporated into the Plan. On November 3, staff and Norris Design held a Public Open House on the McCain Master Plan modifications in the Council Chambers. The open house was well attended, with over 50 people participating. Many were from the Silver Shekel neighborhood, which lies just east of Highway 9 from the McCain property. A number of comments were made verbally and in writing at the open house. A summary of comments from the open house are attached. In addition, staff has attached all other recent correspondence we have received regarding the Master Plan Modifications.

The Planning Commission held a work session on the Master Plan Modifications on the evening of November 3 and then held a Town Project hearing on December 1. At the December 1 hearing, the Planning Commission voted unanimously to recommend that the Town Council approve the point analysis for the project (attached) which showed a passing score of zero points and that the Town Council approve the McCain Master Plan Modifications. The Planning Commission agreed that the Master Plan Modifications were consistent with the Town Code and were in support of the land uses being proposed in the Master Plan. However, the commission did have some suggestions that they wanted to forward to the Town Council. Those suggestions are outlined below.

#### Planning Commission Comments

The following comments, expressed at the December 1 hearing, do not necessarily reflect unanimous points of agreement from the commission. However, each of the comments was voiced by several commission members.

- There is a general lack of areas to locate service commercial uses (e.g., contractor's yards, landscaping businesses) in the Town. Previous service commercial areas, such as along Airport Road, have been converted to retail or residential space. The 1.5 acre area designated in the McCain Master Plan Modification should be increased in size to accommodate additional service commercial uses.
- The master plan could be a little more flexible regarding the uses allowed in certain areas. In particular, perhaps the designated 10.2 acre Residential area could be redesignated for

Residential/Service Commercial, allowing future Councils to decide how much of each use is needed, based on demands at that time.

- Concerns about traffic (e.g. Public Works vehicles, future residents of affordable housing neighborhood) and vehicular traffic in general using the Fairview roundabout.

### Staff Review

The attached Master Plan Notes and the Master Plan Tract Map identify the land uses and locations proposed with this master plan modification, along with some criteria related to building setbacks, building height, architecture, and landscaping. Staff has also included a points analysis and Findings. Finally, Norris Design has provided visual simulations (see attached) of before and after views from three viewpoints near the McCain property: from Silver Shekel, from Hwy 9, and from Coyne Valley Road.

The Planning Commission has reviewed this Master Plan proposal against the Development Code for a final point analysis. The following portion of this report covers only those policies relevant to this application and the proposed scope of development. Those policies not included with this review will be reviewed as appropriate with the separate development permits for each of the developable parcels at a future date.

### **Land Uses and Density (Policies 2/A & 2/R, 3/A & 3R, 4/R)**

Land Use District (LUD) 43 applies to all of the McCain property. According to the Land Use Guidelines, LUD 43 allows for the following:

*“Existing residential, and service commercial uses. Recreational, Open Space, and Governmental Uses.”*

LUD 43 allows a maximum density of one unit per 20 acres (equaling 6.39 units). However, this density was transferred off of the property after the approval of the 2013 existing McCain Master Plan. When density on the property is proposed, TDRs will be required.

LUD 43 also allows for Mining and Processing (to allow the existing activities by Alpine Rock).

Finally LUD 43 states the following:

*“An additional 3.71 SFEs are allocated to this district for the purpose of affordable housing. In addition, density to accommodate affordable housing may be transferred to this site and is not subject to the point deductions in the Town Land Use Guidelines Density Policy.” (Emphasis added.)*

All the uses proposed in the McCain Master Plan Modification are consistent with the uses identified in LUD 43. For the affordable housing project, the Town intends to utilize the existing 3.71 SFEs recognized and will transfer any other affordable housing density created per the TDR guidelines of the Joint Upper Blue Master Plan.

A density allocation has been assigned to the designated Residential area, allowing up to a maximum of 20 units per acre. The Town would like to keep its options open for now regarding the type of affordable housing that is placed on the site to accommodate future housing type needs—given the

limited areas of land that are available to accommodate affordable housing. Thus, the language included under McCain Master Plan Tract 2 is the same that applies to LUD 31 for the Block 11 property:

*“Residential deed restricted affordable employee housing of an approved mix of housing types (single family, duplexes, and multi-family units) with a maximum density of 20 UPA”*

The existing service commercial uses on site do not include any structures and thus require no density at this time. In the future, should service commercial uses require density, density would be required to be transferred to the site. The Land Use Guidelines (LUD 33S) for the adjacent Tatro property in the County, which is also used for service commercial uses, allow a maximum FAR of 1:25. Staff has included the 1:25 FAR for Tract 6, the tract that allows for service commercial uses. Staff heard general support for this FAR from the Planning Commission at the November 3 work session.

All other uses proposed on the site are government related (e.g., treatment plant, recycling facility). Per the policies of the Joint Upper Blue Master Plan, governmental uses are exempt from density requirements.

**Architectural Compatibility (5/A & 5/R):** The following language is included in the attached McCain Master Plan Notes and is partially taken from the Land Use Guidelines for District 43:

***Architecture:***

- 1. This Master Plan is not within the Breckenridge Conservation District boundary and does not seek to replicate Breckenridge’s historic architecture. Architecture should be sensitive to the McCain property’s scenic function. Due to high visibility of the property, architectural design is of great importance and should incorporate low profile designs and non-contrasting colors.*
- 2. The color of exterior structure materials must generally be subdued. Earth tones are encouraged although accent colors which are used judiciously and with restraint may be permitted.*
- 3. Architectural detail and design will meet all applicable Town Codes.*

Since the proposed architectural guidelines closely follow the applicable policies and must meet the Development Code, Staff has no concerns. These guidelines will be added on the final mylar Master Plan.

**Building Height (6/A and 6/R):** LUD 43 notes “Building heights will be determined through the development review process, but generally buildings in excess of two stories are discouraged”. Under the Master Plan Notes, staff has proposed that a maximum building height of two stories be allowed within 200 feet of the Highway 9 right-of-way. Beyond the 200 foot setback, building heights greater than two stories are “discouraged”, similar to the LUD 43 wording. Thus, beyond the 200 foot setback area, any proposal for buildings higher than two stories would incur negative points.

**Site and Environmental Design (7/R):** All of the proposed developed uses on the site are to occur on the portions of the site previously disturbed by dredging and mining activities. Except for the reclamation of the Blue River, those portions that are in a natural state shall remain.

The existing river channel does not support year round flows and supports little vegetation due to the historic dredge mining operations up-stream. Areas surrounding the channel often experience shallow flooding during spring run-off and the channel is not capable of handling a 100-year flood.

The proposed river restoration plan will introduce a new channel that contains the 100 year flood, and is capable of supporting year round flows. The project will re-introduce to this stretch of the Blue River,

riparian vegetation and aquatic habitats that have been lost since the early 1900's. All development is restricted to an area east of the new river alignment (with the exception of the recycling center). The Town will be required to obtain a 404 Permit from the Army Corps of Engineers prior to any river restoration work. The existing pond at the northeast portion of the site will be filled—it does not qualify as a wetlands area and is fed by groundwater that is likely connected to river flows. When the river restoration and lining of the river has been completed, it is expected that this water source will dry up.

**Placement Of Structures (9/A & 9/R):** Per LUD 43, setbacks from Highway 9 shall be 150 feet. The McCain Master Plan Modification proposes to maintain this 150 foot setback from the highway along the entire length of the property.

**Internal Circulation (16/A) and External Circulation (17/A):** Internal circulation is provided by one main internal road that splits south from a realigned Stan Miller Drive and serves as a collector to secondary roads that access the individual land use pods. The road intersects with Coyne Valley Road at the southern end of the property in a location that is set far back from the Highway 9 light intersection with good sight distances. A network of soft surface trails and a realigned Rec Path with an additional loop are also proposed. Where these trails intersect the internal road system, they have been designed in a manner to enhance safety. For example, the northern portion of the Rec Path has been relocated to move away from the existing crossing point near the Fairview roundabout (which is a major conflict point) and then does not cross Stan Miller Drive until it reaches a t-intersection (or smaller roundabout area), where traffic will have to slow down or stop, thus providing a safe crossing for bikes and pedestrians. Similarly, where the Rec Path crosses access roads to snow storage and service commercial areas, it does so adjacent to an intersection where vehicles will be forced to slow down. The BOSAC has reviewed this plan and is supportive of the concepts shown. A below grade crossing is proposed for the Rec Path when it meets Coyne Valley Road at the southern end of the property.

**Parking (18/A & 18/R):** Parking required for any uses will be reviewed with site specific development applications. Overflow parking has been identified at the southern portion of the site.

**Landscaping (22/A and 22/R):** There are very few existing trees on the development site except for sections along the Blue River and sections along the bike path/CDOT right way. These trees will be preserved and expanded to assist in providing an effective buffer from Highway 9 to the site. Additional landscaping is proposed throughout the site, particularly to screen between uses (e.g., residential and Public Works storage) and along the roadway and Rec Path. The attached illustrative Open Space Plan depicts proposed landscaping locations. Language added in the McCain Master Plan Notes encourages landscaping in the above-described areas.

**Social Community (24/R):** This Master Plan Modification is planned to fulfill numerous community needs identified by the Town Council including provision of affordable housing, open space along the river corridor, a water treatment facility, and the County recycling facility. Positive points may be awarded under this policy at a site plan level as future projects are submitted.

**Utilities (28/A):** The Town plans to bury the existing overhead utility line along the highway at a future date. This is consistent with the Stan Miller master plan to the north. All new power/utility lines will be buried underground.

**Point Analysis (Section: 9-1-17-3):** Staff has found that the application passes all Absolute Policies in the Development Code. No positive or negative points have been recommended at this time. The

attached points analysis provides a passing score of zero (0) points. Individual points analyses will be undertaken as site specific developments are proposed on the property in the future.

**Staff Recommendation**

We welcome any further comments from the Council. If the Council has further suggestions regarding changes to the Master Plan, staff seeks that input so we can incorporate into the Plan. The Planning Commission has recommended the following:

That the Town Council approve the McCain Master Plan Modifications, PL#2015-0501, with the attached Findings.



<b>Final Hearing Impact Analysis</b>				
Project:	McCain Master Plan Modification Town Project	<b>Positive</b>	<b>Points</b>	<b>0</b>
PC#:	2015-0501			
Date:	11/23/2015	<b>Negative</b>	<b>Points</b>	<b>0</b>
Staff:	Mark Truckey, Assistant Director Community Development			
			<b>Total Allocation:</b>	<b>0</b>
Items left blank are either not applicable or have no comment				
<b>Sect.</b>	<b>Policy</b>	<b>Range</b>	<b>Points</b>	<b>Comments</b>
1/A	<b>Codes, Correlative Documents &amp; Plat Notes</b>	Complies		
2/A	<b>Land Use Guidelines</b>	Complies		
2/R	Land Use Guidelines - Uses	4x(-3/+2)	0	Meets LUGs suggested uses
2/R	Land Use Guidelines - Relationship To Other Districts	2x(-2/0)		
2/R	Land Use Guidelines - Nuisances	3x(-2/0)		
3/A	<b>Density/Intensity</b>	Complies		
3/R	Density/ Intensity Guidelines	5x (-2>-20)	0	Proposed density is within that allowed for the uses on LUD 43. Governmental uses are exempt from density requirements.
4/R	Mass	5x (-2>-20)		
5/A	<b>Architectural Compatibility / Historic Priority Policies</b>	Complies		
5/R	Architectural Compatibility - Aesthetics	3x(-2/+2)	0	Master Plan notes meet this policy
5/R	Architectural Compatibility / Conservation District	5x(-5/0)		
5/R	Architectural Compatibility H.D. / Above Ground Density 12 UPA	(-3>-18)		
5/R	Architectural Compatibility H.D. / Above Ground Density 10 UPA	(-3>-6)		
6/A	<b>Building Height</b>	Complies		Master Plan notes identify a two story maximum building height within 200 feet of the Hwy 9 ROW, and discourage heights greater than two stories on the rest of the property, consistent with the LUGs.
6/R	Relative Building Height - General Provisions	1X(-2,+2)		
	For all structures except Single Family and Duplex Units outside the Historic District			
6/R	Building Height Inside H.D. - 23 feet	(-1>-3)		
6/R	Building Height Inside H.D. - 25 feet	(-1>-5)		
6/R	Building Height Outside H.D. / Stories	(-5>-20)		
6/R	Density in roof structure	1x(+1/-1)		
6/R	Broken, interesting roof forms that step down at the edges	1x(+1/-1)		
	For all Single Family and Duplex Units outside the Conservation District			
6/R	Density in roof structure	1x(+1/-1)		
6/R	Broken, interesting roof forms that step down at the edges	1x(+1/-1)		
6/R	Minimum pitch of eight in twelve (8:12)	1x(0/+1)		
7/R	<b>Site and Environmental Design - General Provisions</b>	2X(-2/+2)		
7/R	Site and Environmental Design / Site Design and Grading	2X(-2/+2)	0	To be reviewed with future Town Projects or Development Permit applications.
7/R	Site and Environmental Design / Site Buffering	4X(-2/+2)	0	To be reviewed with future Town Projects or Development Permit applications.
7/R	Site and Environmental Design / Retaining Walls	2X(-2/+2)		
7/R	Site and Environmental Design / Driveways and Site Circulation Systems	4X(-2/+2)		To be reviewed with future Town Projects or Development Permit applications.
7/R	Site and Environmental Design / Site Privacy	2X(-1/+1)	0	To be reviewed with future Town Projects or Development Permit applications.
7/R	Site and Environmental Design / Wetlands	2X(0/+2)		
7/R	Site and Environmental Design / Significant Natural Features	2X(-2/+2)		
8/A	<b>Ridgeline and Hillside Development</b>	Complies		
9/A	<b>Placement of Structures</b>	Complies		
9/R	Placement of Structures - Public Safety	2x(-2/+2)		
9/R	Placement of Structures - Adverse Effects	3x(-2/0)		
9/R	Placement of Structures - Public Snow Storage	4x(-2/0)		
9/R	Placement of Structures - Setbacks	3x(0/-3)	0	To be reviewed with Town Projects or Development Permit applications.
12/A	Signs	Complies		
13/A	<b>Snow Removal/Storage</b>	Complies		
13/R	Snow Removal/Storage - Snow Storage Area	4x(-2/+2)		To be reviewed with Development Permit applications.
14/A	<b>Storage</b>	Complies		
14/R	Storage	2x(-2/0)	0	To be reviewed with Development Permit applications.

15/A	<b>Refuse</b>	Complies		
15/R	Refuse - Dumpster enclosure incorporated in principal structure	1x(+1)		
15/R	Refuse - Rehabilitated historic shed as trash enclosure	1x(+2)		
15/R	Refuse - Dumpster sharing with neighboring property (on site)	1x(+2)		
16/A	<b>Internal Circulation</b>	Complies		
16/R	Internal Circulation / Accessibility	3x(-2/+2)		
16/R	Internal Circulation - Drive Through Operations	3x(-2/0)		
17/A	<b>External Circulation</b>	Complies		Engineering Department support.
18/A	<b>Parking</b>	Complies		
18/R	Parking - General Requirements	1x(-2/+2)		To be reviewed with future Town Project applications.
18/R	Parking-Public View/Usage	2x(-2/+2)		
18/R	Parking - Joint Parking Facilities	1x(+1)		
18/R	Parking - Common Driveways	1x(+1)		
18/R	Parking - Downtown Service Area	2x(-2/+2)		
19/A	<b>Loading</b>	Complies		
20/R	Recreation Facilities	3x(-2/+2)		
21/R	Open Space - Private Open Space	3x(-2/+2)		
21/R	Open Space - Public Open Space	3x(0/+2)		
22/A	<b>Landscaping</b>	Complies		
22/R	Landscaping	4x(-2/+2)		With future applications.
24/A	<b>Social Community</b>	Complies		
24/R	Social Community - Employee Housing	1x(-10/+10)		
24/R	Social Community - Community Need	3x(0/+2)		
24/R	Social Community - Social Services	4x(-2/+2)		
24/R	Social Community - Meeting and Conference Rooms	3x(0/+2)		
24/R	Social Community - Historic Preservation	3x(0/+5)		
24/R	Social Community - Historic Preservation/Restoration - Benefit	+3/6/9/12/15		
25/R	<b>Transit</b>	4x(-2/+2)		
26/A	<b>Infrastructure</b>	Complies		
26/R	Infrastructure - Capital Improvements	4x(-2/+2)		
27/A	<b>Drainage</b>	Complies		
27/R	Drainage - Municipal Drainage System	3x(0/+2)		
28/A	<b>Utilities - Power lines</b>	Complies		
29/A	<b>Construction Activities</b>	Complies		
30/A	<b>Air Quality</b>	Complies		
30/R	Air Quality - wood-burning appliance in restaurant/bar	-2		
30/R	Beyond the provisions of Policy 30/A	2x(0/+2)		
31/A	<b>Water Quality</b>	Complies		
31/R	Water Quality - Water Criteria	3x(0/+2)		
32/A	<b>Water Conservation</b>	Complies		
33/R	Energy Conservation - Renewable Energy Sources	3x(0/+2)		
33/R	Energy Conservation - Energy Conservation	3x(-2/+2)		
34/A	<b>Hazardous Conditions</b>	Complies		
34/R	Hazardous Conditions - Floodway Improvements	3x(0/+2)		
35/A	<b>Subdivision</b>	Complies		
36/A	<b>Temporary Structures</b>	Complies		
37/A	<b>Special Areas</b>	Complies		
37/R	Community Entrance	4x(-2/0)		
37/R	Individual Sites	3x(-2/+2)		
37/R	Blue River	2x(0/+2)		
37R	Cucumber Gulch/Setbacks	2x(0/+2)		
37R	Cucumber Gulch/Impervious Surfaces	1x(0/-2)		
38/A	<b>Home Occupation</b>	Complies		
39/A	<b>Master Plan</b>	Complies		
40/A	<b>Chalet House</b>	Complies		
41/A	<b>Satellite Earth Station Antennas</b>	Complies		
42/A	<b>Exterior Loudspeakers</b>	Complies		
43/A	<b>Public Art</b>	Complies		
43/R	Public Art	1x(0/+1)		
44/A	<b>Radio Broadcasts</b>	Complies		
45/A	<b>Special Commercial Events</b>	Complies		
46/A	<b>Exterior Lighting</b>	Complies		
47/A	<b>Fences, Gates And Gateway Entrance Monuments</b>	Complies		

## TOWN OF BRECKENRIDGE

McCain Master Plan Modification  
Tract "B" (67.6099 acres) as shown on the Annexation Map McCain Annexation Phase I,  
recorded under Reception No. 714272  
The 35.2412 acre tract as shown on the Annexation Map McCain Annexation Phase II, recorded  
under Reception No. 714274  
Parcel "A" and Parcel "B" as described in special warranty deed recorded June 18, 2013 at  
Reception No. 1029052  
12965, 13215, 13217, 13221, 13250 Colorado State Highway 9  
PERMIT #20150501

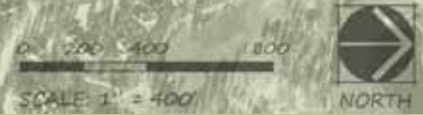
### FINDINGS

1. This project is a "Town Project" as defined in Section 9-4-1 of the Breckenridge Town Code because it involves the planning and design of a public project.
2. The process for the review and approval of a Town Project as described in Section 9-14-4 of the Breckenridge Town Code was followed in connection with the approval of this Town Project.
3. The Planning Commission reviewed and considered this Town Project on December 1, 2015. In connection with its review of this Town Project, the Planning Commission scheduled and held a public hearing on December 1, 2015 notice of which was published on the Town's website for at least five (5) days prior to the hearing as required by Section 9-14-4(2) of the Breckenridge Town Code. At the conclusion of its public hearing, the Planning Commission recommended approval of this Town Project to the Town Council.
4. The Town Council's final decision with respect to this Town Project was made at the regular meeting of the Town Council that was held on December 8, 2015. This Town Project was listed on the Town Council's agenda for the December 8, 2015 agenda that was posted in advance of the meeting on the Town's website. Before making its final decision with respect to this Town Project, the Town Council accepted and considered any public comment that was offered.
5. Before approving this Town Project the Town Council received from the Director of the Department of Community Development, and gave due consideration to, a point analysis for the Town Project in the same manner as a point analysis is prepared for a final hearing on a Class A development permit application under the Town's Development Code (Chapter 1 of Title 9 of the Breckenridge Town Code).
6. The Town Council finds and determines that the Town Project is necessary or advisable for the public good, and that the Town Project shall be undertaken by the Town.



Tract Legend*		
	Tract	Acres
	Tract 1: Water Treatment Plant	3.8 AC
	Tract 2: Residential (50-200 units)	10.2 AC
	Tract 3: Public Works Storage	4.7 AC
	Tract 4: Existing Solar Field	2.7 AC
	Tract 5: Proposed Solar Field Expansion	2.7 AC
	Tract 6: Service Commercial	1.5 AC
	Tract 7: Snow Storage	2.1 AC
	Tract 8: Snow Storage	10.5 AC
	Tract 9: Open Space and Trails	23.6 AC
	Tract 10: Overflow Parking	5.6 AC
	Tract 11: Recycling Center	1.4 AC
	Tract 12: 300' River Corridor, Open Space	36.4 AC
	Tract 13: 150' Highway Setback, Open Space	16.4 AC
	Road Right of Way	7.0 AC
	<b>Site Total</b>	<b>128.6 AC</b>

\* See Master Plan Notes for Density and Tract Uses







# OPEN SPACE PLAN

November 25, 2015

McCain  
PROPERTY

212 West Street, Suite 4  
P.O. Box 2250  
Pike County, MO 64661  
P 816.882.7399  
www.norris-design.com



## McCain Master Plan Notes

December 1, 2015

### Density and Uses:

Tract	Area	Density	Tract Uses
Tract 1	3.8 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Water treatment plant and uses accessory to the plant (e.g., settling pond)
Tract 2	10.2 acres	3.71 SFEs for the purpose of affordable housing have been previously allocated to the site. In addition, additional density (up to a maximum of 20 UPA) to accommodate affordable housing may be transferred to this tract and is not subject to the point deductions in the Town Land Use Guidelines Density Policy 3/R.	Residential deed restricted affordable employee housing of an approved mix of housing types (single family, duplexes, and multi-family units) with a maximum density of 20 UPA  Industrial (existing) <ul style="list-style-type: none"> <li>• Mining, material processing, batch plant operations</li> </ul>
Tract 3	4.7 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Public Works Storage
Tract 4	2.7 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Solar panel garden and uses accessory to the solar garden (e.g., fencing, electric inverter)
Tract 5	2.7 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Solar panel garden and uses accessory to the solar garden (e.g., fencing, electric inverter)
Tract 6	1.5 acres	1:25 FAR Any permanent structures built shall require a density transfer	Service commercial uses (e.g., landscaping business, contractors yard, other similar uses that are not retail)
Tract 7	2.1 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Snow storage
Tract 8	10.5 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Snow storage
Tract 9	23.6 acres	0 SFEs	Open space and trails and uses accessory to open space (e.g., bike

			repair station, picnic shelter)
Tract 10	5.6 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Overflow parking and accessory uses (e.g., bus stop and shelter)
Tract 11	1.4 acres	0 SFEs (Governmental Uses are exempt from density requirements.)	Recycling Center
Tract 12	36.4 acres	0 SFEs	300' River Corridor, wildlife habitat west of the Blue River, open space and trails and uses accessory to open space (e.g., bike repair station, picnic shelter)
Tract 13	16.4 acres	0 SFEs	150' Highway 9 Setback, landscape buffers, open space and trails and uses accessory to open space (e.g., bike repair station, picnic shelter)

**Setbacks:**

No buildings shall be located within a 150 foot setback from the east property boundary bordering the Highway 9 right-of-way. Internal setbacks shall be per the Development Code.

**Building Height:**

Tall buildings can impact the views of the property from Colorado Highway 9 and therefore building height restrictions are proposed beyond the above-described 150 foot setback area from Highway 9:

Where buildings are proposed within 200 feet of the Highway 9 right-of-way, building heights in excess of two (2) stories are prohibited. For buildings beyond 200 feet of the Highway 9 right-of-way, building heights in excess of two (2) stories are discouraged.

Existing mining operation facilities are exempt from height requirements.

**Architecture:**

1. This Master Plan is not within the Breckenridge Conservation District boundary and does not seek to replicate Breckenridge’s historic architecture. Architecture should be sensitive to the McCain property’s scenic function. Due to high visibility of the property, architectural design is of great importance and should incorporate low profile designs and non-contrasting colors.
2. The color of exterior structure materials must generally be subdued. Earth tones are encouraged although accent colors which are used judiciously and with restraint may be permitted.
3. Architectural detail and design will meet all applicable Town Codes.

**Landscaping:**

All plantings shall comply with the Town of Breckenridge's Development Code. Existing trees along the Blue River and along sections of the recreation path/CDOT right of way will be preserved to the greatest effort possible.

Landscaping along the eastern property boundary adjacent to the Highway 9 right of way should be enhanced as reasonably possible to assist in providing an effective buffer from Highway 9 to the site. Landscaping is also encouraged to be provided in areas where landscaping is shown on the illustrative McCain Open Space Plan.





VIEW 1 - EXISTING CONDITION



VIEW 1 - SIMULATED PROPOSED CONDITION



VIEW LOCATION







VIEW 2 - EXISTING CONDITION



VIEW 2 - SIMULATED PROPOSED CONDITION



VIEW LOCATION







VIEW 3 - EXISTING CONDITION



VIEW 3 - SIMULATED PROPOSED CONDITION



VIEW LOCATION



## Truckey, Mark

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**From:** Jen Cawley [JCawley@StormRestaurants.com]  
**Sent:** Saturday, November 21, 2015 3:19 PM  
**To:** Truckey, Mark  
**Subject:** FW: Town of Breckenridge: McCain Master Plan Open House

Hi Mark

Thanks for sending me the plans and staff reports. Consider this email my input on the plan. Sorry for the delay.

Input on Proposed concept layout:

Overall I think the layout is fine. However I have concerns with the residential area. I feel it will increase traffic to an intersection that can't handle the volume, even if it is only 50 units. Traffic will be increased already with the other elements planned for this property. I am also concerned with the light pollution. I understand that the dark sky requirements decrease the amount of light that shines upwards but when viewed from above it will be quit noticeable.

Without knowing what is going to happen to the Stan Miller area, I think adding residential to this area is jumping the gun.

As I expressed at the Open House the other night, I would be unhappy to hear that the overflow parking area was lit. On that same train of thought, I'm wondering if the road that runs through the property will be lit?

I'm in full support of the added solar fields and hope that the water treatment center will be designed so that it too can accommodate panels on its roofs.

I was also wondering if there would be a possibility of a small parking area by the Summit Stage bus stop. There used to be a place to park there and it was quite handy especially for the Silver Shekel residents.

Thanks Mark for adding my input to the other feedback you've received.

Jen

Jen Cawley  
970.453.1023

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**From:** Truckey, Mark [<mailto:markt@townofbreckenridge.com>]  
**Sent:** Monday, November 02, 2015 9:00 AM  
**To:** Jen Cawley  
**Subject:** RE: Town of Breckenridge: McCain Master Plan Open House

Hi Jen. Here is the staff report and site plans. The report gives all the details on changes. Mainly just more specific, with housing and service commercial as new uses not identified in the 2013 Plan. Call me if you have any more questions.

Thanks. Mark

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**From:** Jen Cawley [<mailto:JCawley@StormRestaurants.com>]  
**Sent:** Saturday, October 31, 2015 3:28 PM  
**To:** Truckey, Mark  
**Subject:** FW: Town of Breckenridge: McCain Master Plan Open House

Hi Mark

Happy Halloween! Hope you had enough candy for all those trick or treaters we get – kidding.

Can you tell me what changes are being proposed to the McCain property since the last time this plan was reviewed? When was that, 2 years ago???

Thanks Mark

Jen

Jen Cawley

970.453.1023

**From:** Breckenridge@visioninternet.com [mailto:Breckenridge@visioninternet.com]

**Sent:** Saturday, October 31, 2015 2:53 PM

**To:** jcawley@stormrestaurants.com

**Subject:** Town of Breckenridge: McCain Master Plan Open House

**McCain Master Plan Open House**

Posted Date: 10/31/2015

The Town of Breckenridge is hosting a public open house on the McCain Master Plan Modification on Tuesday, November 3 from 5:30 to 6:30 p.m. in the Town Council Chambers, Breckenridge Town Hall, 150 Ski Hill Road. Members of the public are invited to attend the open house to get more information about the detailed plan that has been developed for the McCain property.

The 128-acre McCain property, owned by the Town of Breckenridge, is located at the northern end of town to the north of Coyne Valley Road and to the west of Colorado Highway 9. The proposed McCain Master Plan Modification amends the 2013 McCain Master Plan and provides more specific direction regarding land uses on the site, as well as locations for open space and trails.

"The McCain property is the largest undeveloped property on the valley floor in Breckenridge," notes Peter Grosshuesch, Town of Breckenridge Community Development Director. "As such, it provides opportunities to locate certain public facilities that are needed in the community. The Master Plan Modification identifies the appropriate location for the Town's new water treatment plant, overflow parking, solar gardens, some Public Works facilities, and an area for work force housing. Just as importantly, the Plan identifies large areas of open space with new hiking and biking trails and preserves a large habitat corridor along the Blue River. We encourage the public to stop by at the open house to get more information on the Plan."

After the open house, the Breckenridge Planning Commission will be holding a work session starting shortly after 7:00 p.m. to discuss the McCain Master Plan Modification. Members of the public are invited to attend.

For more information on the McCain Master Plan Modification, contact Mark Truckey, Breckenridge Community Development Department at (970) 453-3184 or [markt@townofbreckenridge.com](mailto:markt@townofbreckenridge.com)

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## Truckey, Mark

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**From:** Del Anderson [dea\_1\_2\_bbq@hotmail.com]  
**Sent:** Wednesday, November 11, 2015 4:09 PM  
**To:** Truckey, Mark  
**Subject:** McCain Property Master Plan

Dear Town of Breckenridge Council and Planning Dept.

I am writing in regards to the McCain Master Plan. The first and foremost thing that disappoints me is that the Town of Breckenridge has lost all of the plans that were started in early 2000's. This plan made most of the McCain property into open space and restored river. Many of that town council did not want to develop all the valley floor all the way to Frisco. The most disappointing parts of the new plan are parking lot, more solar panels, road through property and attainable housing.

The parking lots should be keep in Breckenridge. You just received 3.5 Million taxes from Vail Resorts please build parking in town or closer. Everyone complains that skiers do not come into town after skiing especially when they are parked 3 miles from town.

I am all for solar panels I wish I could afford to put them on my house. To use this much land next to the river for a for profit company to put panels up seems such a waste. You would think that Breck could come up with a better way. Breckenridge always talks about trying to help keep locals and help them out. Why not offer to put panels on people's houses with south facing roofs for a percentage of the panels. If you can fit 25 panels on my roof owner gets 4 or 5 panels to off set there electrical bill. Between the Highlands and Silver Shekel there should be plenty of roofs. I live directly across from the current solar panels on Fairview Blvd, I need to point solar panels at your farm from the glair in the fall and spring in the evening sun.

I do not believe there is a need for a road through the McCain. The residents of Silver Shekel have been putting up with the noise from Highway 9 since 4 lane expansion, increase speed of highway to 55, and noise from Alpine Rock and other business that start their heavy equipment early in the morning and reverse alarms sound off. The noise has increased ten fold since the round about was completed. The high speed and jake braking of trucks trying to slow down and not crash in round about. The round about has made a dangerous intersection into an even more dangerous intersection adding more traffic will only increase the number of accidents. I'm pretty sure there has been more accidents in one year of round about than there were in previous 10 years. Please help get cdot to slow down highway 9 before there is death and destruction at the round about.

In all the open house planning meeting I attended back in early 2000's we were told that the McCain property had no residential development rights on it. I understand your need for attainable housing issue but where are these units of density coming from? I believe there are 300-500 units still to be developed on Stan Miller property, The Shores property and Highlands property north of McCain. Require all the Mc mansion builders to have rental apartment developed into future plans. Please do not ruin the dark sky's across from the Shekel with houses and more car lights across from us. A large chunk of the real affordable rentals come from locals in county around Breckenridge with rentals units, basements and rooms for rent.

I would like to thank you for allowing me to voice my concerns. I feel sad that the town lost previous start to McCain property master plan from back in early 2000's. I felt like I had input and was listen to by the Town of Breckenridge back then, now I feel like I am being told what is going to be put on the property and you will like it. I would like to see a lot more open space and a lot less commercial, solar panels, parking lot and more roads and houses. Wouldn't large open space be a better entrance to town than a water plant, parking lot, commercial/industrial, and recycling center.

Thank you

Del Anderson  
731 Fairview Blvd  
P.O.Box 797  
Dea 1 2 bbq@hotmail.com

Sent from Mail for Windows 10

## Truckey, Mark

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**From:** McMillan, Braden [Braden.McMillan@efirstbank.com]  
**Sent:** Friday, November 06, 2015 4:25 PM  
**To:** Truckey, Mark  
**Cc:** 'Art.Albin55@me.com'; Alexia Jennings (alexiajennings@gmail.com)  
**Subject:** FW: McCain Property Master Plan

Hi Mark,

I was in attendance at the open house and do want to say I think these are positive changes for the corridor. While those types of events tend to turn into gripe(insert bad word) fests, a lot of the neighborhood looks at a gravel pit that will one day become open space and nicely developed land. I think some of the positives are being over looked and so I wanted to make sure you received some positive feedback as well.

I do have a suggestion that may or may not be in the scope of the current or future planning, but it would be nice if it could be considered when appropriate. Pedestrian crossing on Highway 9 is dangerous and once the residential component of the plan is implemented the volume will only increase as mote people utilize the bus system.

If feasible, a pedestrian tunnel would be a great additional to the plan (I assume a bridge is out of the question based on the amount of heavy machinery and large trucks that use the route, plus it would be ugly).

I think this is an exciting opportunity for Breckenridge and I look forward to seeing how the plans develop.

Your Silver Shekel Neighbor,



**Braden McMillan**  
Vice President – Summit County

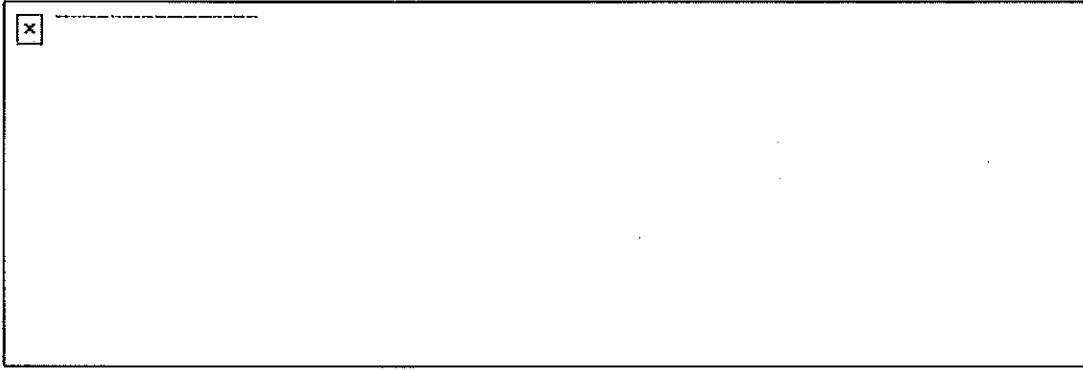
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**From:** noreply@silver-shekel.net [mailto:noreply@silver-shekel.net]  
**Sent:** Friday, November 06, 2015 2:58 PM  
**To:** McMillan, Braden  
**Subject:** McCain Property Master Plan

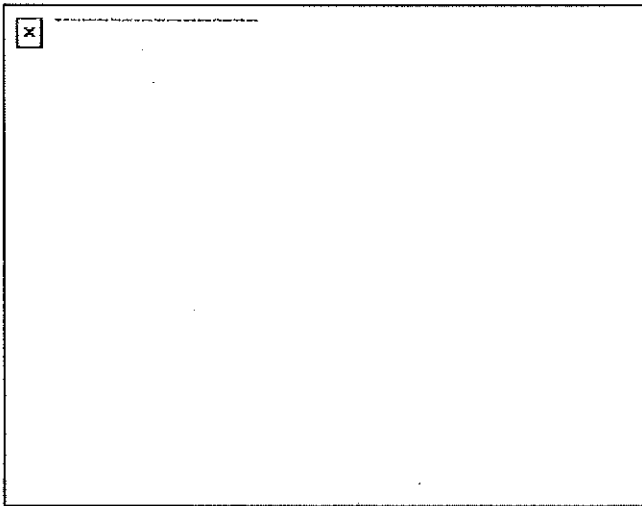




Silver Shekel Owners Association Members,

Tuesday, November 3, the Town of Breckenridge held an open house to share information regarding the McCain Property Master Plan. The McCain property parallels the west side of Colorado Highway 9 between Coyne Valley Road and Fairview Boulevard. Most of Silver Shekel looking west to the Blue River Valley floor, has a view of the McCain property. Traffic, noise and lights from the McCain property may impact our neighborhood. The open space and related recreation opportunities will benefit Silver Shekel. Accordingly, the future development of the McCain property should be of interest to our members.

One of our members, Mark Truckey is Assistant Director of Community Development for Town of Breckenridge and was one of the spokespersons at the Town of Breckenridge, open house regarding the McCain property. He shares the following [link](#) to the Town's information on the McCain property.



On Wednesday November 4, the Summit Daily News ran a story on the [McCain Master Plan Open House](#).

Members of the Silver Shekel Owners' Association Board and more than a dozen of your neighbors attended the Town of Breckenridge Open house. The board will continue to follow the Town of Breckenridge plans for this property.

If you have comments on the McCain property master plan, please email [Mark Truckey](#) and copy me, [Art Albin](#).

Sincerely,

Arthur E. Albin, President  
Silver Shekel Owners Association

11/20/15

Mark Truckey, Assistant Director  
Department of Community Development  
Town of Breckenridge

Dear Mark:

Thank you for choreographing the Open House presentation of the McCain Property Draft Master Plan Tuesday evening (11/3/15). It was my first opportunity to review that proposal. As with any plan of this scope, with the multitude of stakeholders and interested parties with needs that they wish be addressed here, it is certainly a challenging, and as a gateway to our community, important site to master plan, and I believe your team has made a good preliminary plan.

I do have some concerns and suggestions that I would like to share with you, from the perspective of our adjacent BBC business and undeveloped area south of the BBC and from a land planning standpoint, so as to provide input, hopefully, towards fine tuning some elements of this master plan.

#### Concerns & Suggestions:

- Effects of Proposed Realignment of Stan Miller Drive: The proposed realignment of Stan Miller Drive would result in moving Stan Miller Drive out of the existing right of way and effectively detouring the BBC traffic through an additional stop sign and turn movement, through what appears to be a number of curves back to the BBC. Perhaps the roadway coming through the McCain property from the south could T into the existing Stan Miller Drive, giving those drivers coming from the south to north the option of making a right turn to the round-about, or a left to the Tiger Road stoplight, for improved traffic dispersion. The potential for traffic backing up from the currently proposed T intersection out near the roundabout, which could occur with a couple of tractor-trailer rigs and a few cars, would add to the already challenging situation coming around the roundabout from the south to get to Stan Miller Drive. The proposed addition of 50 to 100 residential units is sure to further affect the traffic in this area, which a traffic study could help assess.
- Bike Path Realignment: I would suggest putting the paved bike path on the east side of the Blue River setback area. It will be a more aesthetic and enjoyable bike path, with fewer roadway conflicts. It is so enjoyable to ride down the bike path as it currently exists south of this site, a bit away from the road traffic, with the stream by your side (uphill, it's more like a workout). It would be good to continue that unique experience through the McCain property and it is critical to avoid having the bike path cross Stan Miller Drive anywhere near where cars exit the roundabout.
- Location of the Water Treatment Plant: From the standpoint of clustering compatible uses and efficient access, not to mention aesthetics, I think it would be desirable to make the northeast corner of the McCain property (currently the proposed location for the water treatment plant) low density service commercial, with the requisite 150' setback. These uses would be a much lower density than the water plant or even large lot residential uses, in a location that would be easily and efficiently accessed. Surely this could be architecturally controlled so as to be an entry statement to our town that is more in keeping with Breckenridge than something like the facilities for a 20,000 sq. ft. water treatment plant and pipe storage area. Perhaps the water treatment plant could be moved to the south side of the Tatro Subdivision, effectively flip-flopping it with the currently proposed Service Commercial and Snow Storage areas. In addition, a large water plant seems to be inconsistent with the entry to the Town's proposed 10+ acres of residential development and the even larger potential residential development on the adjacent Miller property; if this is where it ends up being constructed, the architectural guidelines for this structure should be rigorous in terms of height and design. We believe the construction of a water treatment plant here, and the proposed changes to the established traffic patterns to the Breckenridge Building Center will have a negative impact on our sales there and our collection of Town tax revenues, as we have done now for 45 years of business in the Town of Breckenridge; but to place compatible Service/Commercial uses on this corner could have a synergistic effect for all the businesses locating there.
- Service Commercial Needs: With only about 2,780 sq. ft. of Service/Commercial structures being proposed for less than 2 acres of this 128 ac. site, I believe it would be good, from the standpoint of the Town's commitment

to providing for the needs of its residents, to provide more opportunity on this site to serve the ever dwindling options for our community's trades, contractors, and professionals with an increased amount of and acreage for low density service commercial property in this Master Plan.

- Snow Storage and Solar: The prospect of the truly ugly snow storage piles adjacent to Highway 9 seems completely out of character with everything the Town has done to beautify the arrival to Breckenridge on Highway 9 from the north. And although solar is a wonderful environmental undertaking, solar panels and the structures that support them do not present the most pleasing aesthetic and locating them adjacent to Highway 9 also seems inconsistent with the appearance the Town has been working so hard to achieve.

Thank you for considering my comments and sharing them with the Planning Commission for its December 1 hearing and the Town Council for its December 8 consideration of this plan. Please forward this letter (also attached as a PDF) to the Planning Commissioners and the members of our Town Council, and please don't hesitate to contact me if there is opportunity to further discuss or better understand the plan and the issues I have raised.

Best Regards,  
Jon Brownson

## MEMORANDUM

TO: Town Council

FROM: Mark Truckey, Assistant Director Community Development

SUBJECT: McCain Master Plan 11/3/15 Open House Summary

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There was a good turnout for the open house. 50 people signed in. Based on the sign-in sheet, we estimate about half of the attendees were Silver Shekel residents. After a presentation from staff and Norris Design consultants, staff fielded questions and comments for about 30 minutes. A questionnaire was also available and seven people filled the questionnaire out and returned it to staff. The following summarizes a few of the comments we heard multiple times between open house and questionnaire comments:

- Concern about the proposed residential uses and resulting increased traffic at the Fairview roundabout.
- Suggestions about considering connecting Stan Miller Road through to Tiger Road and have traffic for residential, etc. use the Tiger Road light for access instead of the roundabout.
- Concern about the view and appearance of water treatment plan next to the highway. Some preferred not to see the water treatment plant next to Hwy 9.
- Concerns about snow storage activities occurring 24/7 and noise impacts.
- General support for open space and trails concepts.
- Suggestions to create an Airport Road/West Valley arterial that connects Airport/Coyne Valley Roads directly to Fairview roundabout through the McCain property.

A more detailed listing of open house comments and questionnaire comments is attached.

## McCain Open House Comments

11/3/15

### Open House Comments/Questions below with staff responses in parenthesis

- Will overflow parking area have lighting? (not anticipated)
- Too much lighting already at Fairview Roundabout (CDOT issue)
- Has traffic study been done for project? (not master plan but would likely be required for specific uses, such as residential)
- Why not extend Airport Road through this site? (looked at previously but determined not preferable)
- Will housing be deed restricted? (yes)
- Why not connect Stan Miller Road to Tiger Road?
- Any impacts to CMC (mainly positive with river restoration and trails, etc.)
- Is water treatment plant necessary next to Hwy 9? (for several reasons it is, in particular because it is best proximity to water mains from pumpback and to Highlands water tank)
- Will there be height restrictions? (yes two stories)
- Where would reservoir water come from (river)
- What uses in open space bubble? (trails)
- Location of future service commercial (behind highway buffer next to Tatro)
- Grading plan for the site (yes being finalized)
- What is timing on implementation? (some uses such as water treatment plant and solar garden expansion will be underway in 2016, most other uses will take some time to implement, with no definite timetable.)
- Where is access for earth moving equipment? (Coyne Valley Road)
- Will plan be posted on web site (yes in next couple days)
- Will snow storage activities be going 24/7? Concerned about noise issues (yes during certain times of winter)

### Submitted Comments (Questionnaire)

- Second solar garden seems pretty close to Hwy 9—must have good screening
- Housing will generate more traffic than the roundabout can handle—maybe moving that to the Tiger Road light would make more sense
- Don't like water treatment plant right next to highway
- Please include Silver Shekel neighborhood in discussions on this master plan
- Please slow the traffic down on Hwy 9. The noise is unbearable.
- I share concern about increased traffic especially at the roundabout which I think is dangerous
- I am concerned about the look of the water treatment plant. This is part of our gateway and needs to look good and would prefer it is more hidden.
- Continued traffic and increasing traffic with residential development needs more study

- Appreciate retaining open space and flexibility to add reservoir
- There continues to be concerns about what a water treatment plant looks like
- I like the concepts. We need to do something to clean up the area.
- Open space much needed
- Traffic backup at Coyne Valley as people enter the overflow parking areas is a concern
- Please reconsider a west valley arterial to connect the roundabout with Coyne Valley Road and Airport Road. Roundabout will need to be widened and re-engineered. Put residential closer to highway and move water treatment plant back.
- Open space looks good. Move paved path to very north edge of property to avoid so many driveway crossings at residential area. Open view corridor very important. River restoration is wonderful.
- Keep the long term future in mind. What will we need in 50 years?
- Move the bike path to the east side of Blue River.
- Connect Airport Road to the Tiger Road intersection stoplight.
- Move the water treatment plant south to solar field expansion
- Make proposed water treatment plant location service commercial/retail
- Reconfigure proposed road through water treatment plant to existing right-of-way
- Move the bike path to the east side of the Blue River
- Delete Public Works Storage from this Master Plan
- Reduce footprint of water treatment plant (3.8 acres as proposed!)

TO: Breckenridge Town Council  
FROM: Laurie Best-Community Development  
RE: Denison Placer LIHTC Project Update/Next Steps  
Date: December 1, 2015 (for worksession Dec 8<sup>th</sup>)

Since the last review with Council in July, staff has been working with the design team and our owner's representative to refine the plan for the Low Income Housing Tax Credit (LIHTC) project known as Denison Placer. We intend to submit the development permit application within two weeks (December 15<sup>th</sup> deadline). In order to insure that Council as the owner, has an opportunity to review the plan before it is officially a pending project, we have scheduled a project update at your December 8<sup>th</sup> worksession.

Project Background:

As you may recall, Council directed staff to configure a housing parcel and design a rental project for lower AMI households, and to submit the project to CHFA for 9% tax credits in spring of 2016. The design team includes Coburn Architecture, Norris Design, Mike Houx of Baker Hogan Houx, and Tetra Tech. Corum Real Estate and Mountain Marketing Associates are acting as our Owners Representative, and the LIHTC team includes Sarah Batt, our LIHTC consultant, and Jon Peterson as legal counsel. Melanie Rees has provided market input and will prepare the final market study for the LIHTC application in the spring. Our goal is to obtain a development permit in April as it is important that the entitlements are in place when the LIHTC application is submitted to CHFA in May of 2016. The final tax credit allocation/decision by CHFA will be in July of 2016, and if approved the credits could cover approximately 2/3 of the project cost. The LIHTC closing will take 5 to 6 months after the decision, so Denison Placer is scheduled for construction start in 2017.

The Denison Placer housing site that we have configured is 4.6 acres owned by the Town, just south of the CMC Campus towards the north end of Block 11. The site is adjacent to the Blue River Corridor and to the future Oxbow Park. The site is bisected by Upper Blue Sanitation District (UBSD) easements that run east west thru the property. It is our understanding that the UBSD has reduced the width of these easements to a total of 50' but there are some plat corrections/clarifications necessary. The housing design accommodates the 50' easement.

Denison Placer will serve as an entry gateway to the Block 11 Neighborhood and the project is subject to the Block 11 Vision Plan and Design Standards which were endorsed by the Council in 2006. The Block 11 Plan allows for up to 350 units on 34.4 acres (which includes the school district parcel at the south end of Block 11). The Block 11 Plan allows a variety and mix of housing types including two-story single family, duplexes, triplexes, townhomes, and larger three-story residential structures containing 6-10 units. The Block 11 plan anticipated an overall density of 9-12.5 UPA with some areas being higher (up to 20 UPA per the LUGs).

Proposed Denison Placer Plan:

Our Denison Placer plan is attached for your review and comment. It has been refined since your last review in July, but the overall program and AMI targets are consistent with what was previously presented. The plan now includes 66 apartments on a 4.6 acre parcel. The majority of the units (50) are townhome style, two story, 2 and 3 bedroom apartments, and the balance of the units (16) are stacked flats in 2 three story buildings. In addition, there is a 2,400 square foot community/multi-purpose

building with a leasing office, maintenance garage, storage area, tot lot, and community meeting space. The total density as designed is approximately 10.9 UPA. The program, which includes sixty 2 bedroom units and six 3 bedroom units, was developed based on input from Melanie Rees and Sarah Batt to address housing needs in Breckenridge, to compliment the other rental developments that are underway, and to align with CHFA guidelines. The AMI targets will need to be established prior to the LIHTC application in May, but at least 50% of the units will need to be restricted to households earning less than 40% AMI with the balance of the units capping out at 60% AMI households. We will have updated pricing information in mid-January and can then review the proforma and project budget with the Council prior to setting our proposed AMI targets for the CHFA application.

The 9% credits are very competitive so we have prepared a project that meets all of CHFAs requirements, complies with the Block 11 Plan and Town Development Code, addresses a significant need in the community, and will hopefully compete well with the other tax credit projects on other more subjective criteria. The design packet is attached for your review and many of the elements are summarized below. We are continuing to finalize details of the plan, but welcome your comments.

	Description/Notes:	Required	Proposed
Project Size/Description	A re-subdivision of Tract A-1, Tract E, Dennison Placer ROW, and Lot 2C Block 10		4.6 acres gross
Residential Parking	on street and surface lots	1.5 per unit=99	2 per unit=122
Density		9-12.5 UPA	estimate 10.9 UPA
Storage	3 x 6 storage cages for townhomes	5% of residential square footage	TBD >5%
Unit Type			50 two story townhomes and 16 flats in three story building
Unit Size			16 two bed/one bath @850sf 44 two bed/1.5 bath @900sf 6 three bed/2.5 bath @1,200sf
Open Space Snow Storage		30% 25%	65% 25%+
Transit	Design assumes transit with turnouts and temporary turn-around shown on the plan		Yes
Washer/ Dryers included			Yes
Decks/Patios	Patios/Deck		Yes
Parks/Trails	Tot Lot Included Also adjacent to River Corridor and Oxbow		Yes



### Phase 2 Update:

It should also be noted that in addition to the Denison Placer LIHTC parcel the attached plan also includes a Phase 2 project which is adjacent and just north of the LIHTC parcel. This is the 1.05 acre triangular shaped parcel that we expect to receive from Colorado Mountain College as a result of the land exchange which the Council approved in September. This parcel is labeled as Phase 2 on the attached plan and it was initially planned as a 2018 project, following Pinewood 2 in 2015, Huron Landing in 2016, and Denison Placer in 2017. However, based on direction from the Council we have moved forward to accelerate this Phase 2 project such that it could be shovel ready in 2016 and could be constructed concurrently with Huron Landing. Our goal is to work on design development and entitlements for approximately 30+/- units, most likely studios and one bedroom units that would not compete with the 2 and 3 bedroom units at Denison Placer or the 2 bedroom units at Huron Landing. Since this phase, like Huron Landing, would not be encumbered or limited by the tax credit financing we have opportunities to seek partners who may be interested in rental housing. We are still working on the design and intend to explore partnership with CMC or other parties interested in collaborating. There is also a small remnant parcel (17,175 square feet) at the corner of Airport Road and Flora Dora Drive that is currently designated as overflow parking, but could be combined with the Phase 2 parcel, or continue to serve as overflow parking, or some future use.

### Summary:

We are looking forward to your review and comments on the Denison Placer LIHTC Project as well as the acceleration of the Phase 2 project. We are also asking for your approval to continue with the next steps that include:

- 1) Entitlements: Class A Development Permit for Denison Placer LIHTC project- April 2016
- 2) Re-subdivision: Configure LIHTC parcel, vacate portions of Denison Placer Right of Way, identify final Denison Placer and Flora Dora alignments, and formalize the 50' UBSD easement (this will likely require an Ordinance as well as plat)
- 3) Complete the civil plan for Denison Placer, as well as Block 11 to the south (to include ROW locations, utilities, grading, rock removal plan and sequence). Identify subsequent building pads throughout Block 11
- 4) Continue conversation with School District in regard to their property on Block 11
- 5) Explore opportunities for partnership on Phase 2 and if possible accelerate the development of 30+/- units in 2016
- 6) Bring on general contractor for Denison Placer pre-construction/pricing services
- 7) Prepare updated Denison Placer project budget and proforma based on 50% design development drawings. Because cost per unit is a consideration in the allocation of tax credits, staff proposes to create two distinct budgets, one for the LIHTC housing project (for CHFA) and one for Block 11 site work, right of way, and utilities expenses to be covered under the our Block 11 infrastructure line item
- 8) Prepare LIHTC application for 5/22/2016 deadline-will require review of AMI targets w Council
- 9) Site work-Fall of 2016
- 10) Construction Start on LIHTC parcel-May 2017

Staff will be available to discuss this project and answer questions at your worksession on December 8<sup>th</sup>.





LEASING/MAINTENANCE/  
COMMUNITY BUILDING

TOT PLAY & COMMUNITY  
GATHERING AREA

CREATE SAFE CROSSINGS  
AT ALL INTERSECTIONS

PRIVATE PATIO SPACE  
TO BE LANDSCAPED

SCREENING

INTERNAL  
TRAILS

SEATING AREA

LANDSCAPED BERM

COLORADO MOUNTAIN  
COLLEGE

PHASE 2

SEATING AREA

FUTURE  
OXBOW  
PARK

BLUE RIVER

TEMPORARY BUS  
TURN AROUND





Site Plan  
scale: 1" = 50'-0"

**LIHTC PHASE PROJECT DATA:**

GROSS PARCEL AREA: 202,062 SF (~4.6 ACRES)

NET PARCEL AREA: 207,697 SF (4.37 ACRES)

- PARCEL 2: 138,546 SF
- PARCEL 3: 51,976 SF

COMMUNITY BUILDING: 2,400 SF

TOWNHOMES: (6) 3BR & (44) 2BR

- 3 BR, 2.5 BA, 2 STORIES, 1,200 SF EA.
- 2 BR, 1.5 BA, 2 STORIES, 900 SF EA.

APARTMENTS: (16) 2BR

- 2 BR, 1 BA, 1 STORY, 850 SF EA.

PHASE 1 DENSITY: TBD

- PHASE 1 TOTAL TOWNHOME RESIDENTIAL SQUARE FOOTAGE: 58,200 SF
- 58,200 / 1,600 DENSITY MULTIPLIER = 36 UNITS
- PHASE 1 TOTAL APARTMENT RESIDENTIAL SQUARE FOOTAGE: 14,500 SF
- 14,500 / 1,200 DENSITY MULTIPLIER = 12 UNITS
- 48 / 4.6 = **10.4 UNITS PER ACRE GROSS (10 UPA NET)**

PARKING:

- MIN. PARKING: (66 X 1.5) + (2,400/400) = 105 SPACES
- PROVIDED OFF STREET PARKING: 122 SPACES
- ON-STREET PARKING: 11 SPACES (EXCLUDING 6 FOR OXBOW, & 9 TO SOUTH)
- OVERFLOW LOT TO NORTH NOT INCLUDED: 34 SPACES

PHASE 1 OPEN SPACE: 132,055 SF (65%)

**CMC PARCEK PROJECT DATA:**

PHASE 2 GROSS PARCEL AREA: 45,738 SF (~1.05 ACRES)

3 APARTMENT COMPLEXES: (30) 1BR

PHASE 2 DENSITY:

- PHASE 2 RESIDENTIAL SQUARE FOOTAGE :25,000 / 1,200 MULTIPLIER = 21 UNITS
- 21 / 1.05 = **20 UNITS PER ACRE**

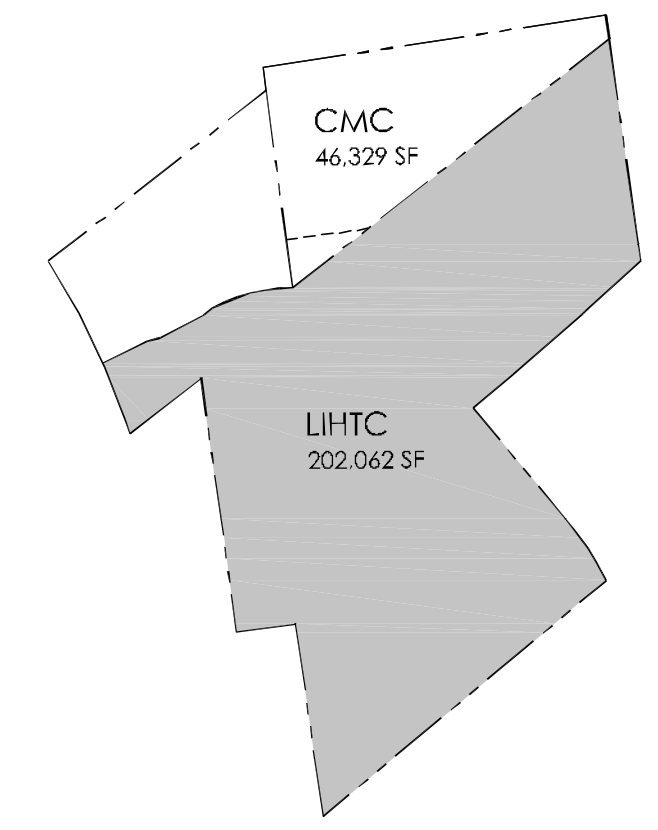
PHASE 2 PARKING:

- 30 MINIMUM
- 36 PROVIDED

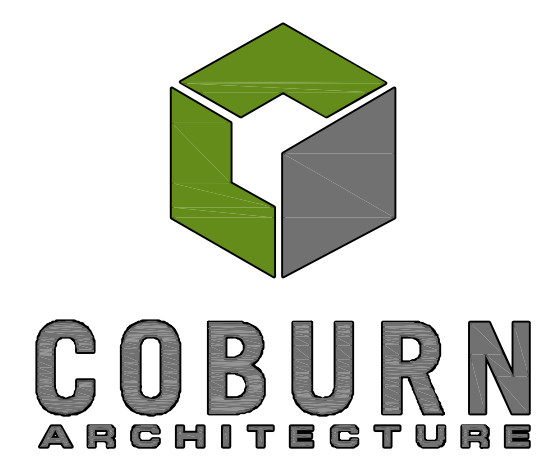
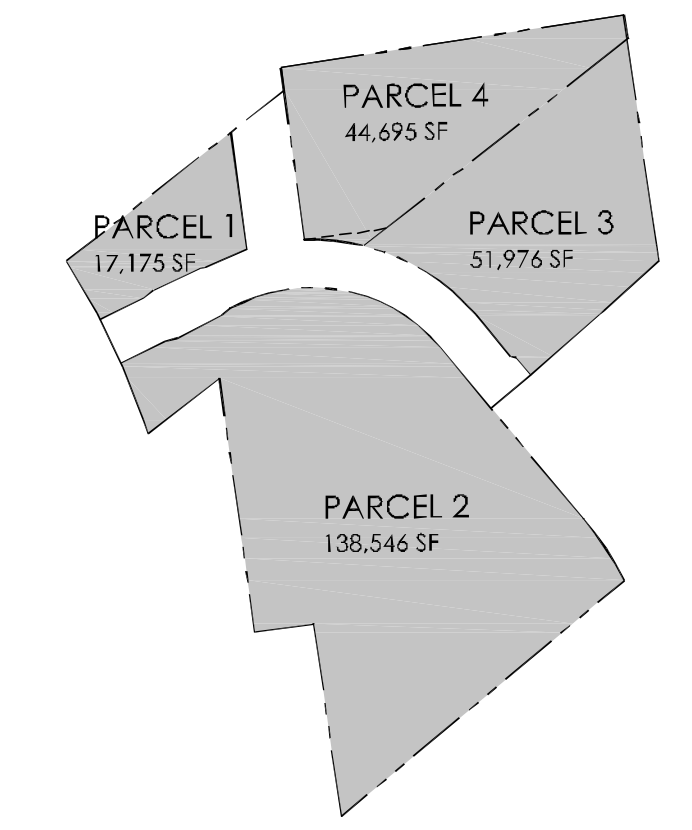
PHASE 2 OPEN SPACE: 24,559 SF (53%)

 HATCH INDICATES 3 BR UNITS

**GROSS PARCEL AREA:**



**NET PARCEL AREA:**



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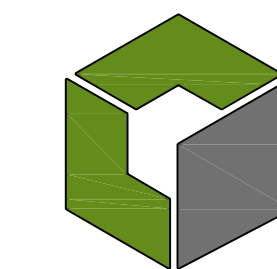
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REVISIONS	
ISSUE	DATE
--	00.00.10

WORK SESSION

**A1**  
11.30.15  
SITE PLAN





**COBURN**  
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ordinances. The contractor shall  
review and understand all  
documents and shall notify the  
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discrepancies in the drawings, field  
conditions or dimensions.

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REVISIONS	
ISSUE	DATE
--	00.00.10

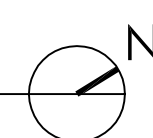
WORK SESSION

**A2**

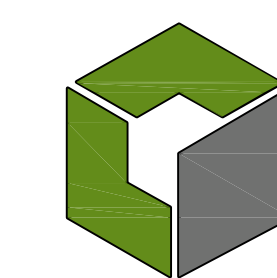
11.30.15

MASSING

Site Massing  
scale: Not To Scale







**COBURN**  
ARCHITECTURE

Creating Great Places™

3020 CARBON PLACE #203  
BOULDER CO 80301  
T: 303 442 3351  
F: 303 447 3933  
www.coburndev.com

DENISON  
AFFORDABLE  
HOUSING

Disclaimer:  
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AUTHORSHIP		
DRAWN BY	CHECKED	DATE
--		00.00.10

REVISIONS		
ISSUE		DATE
--		00.00.10

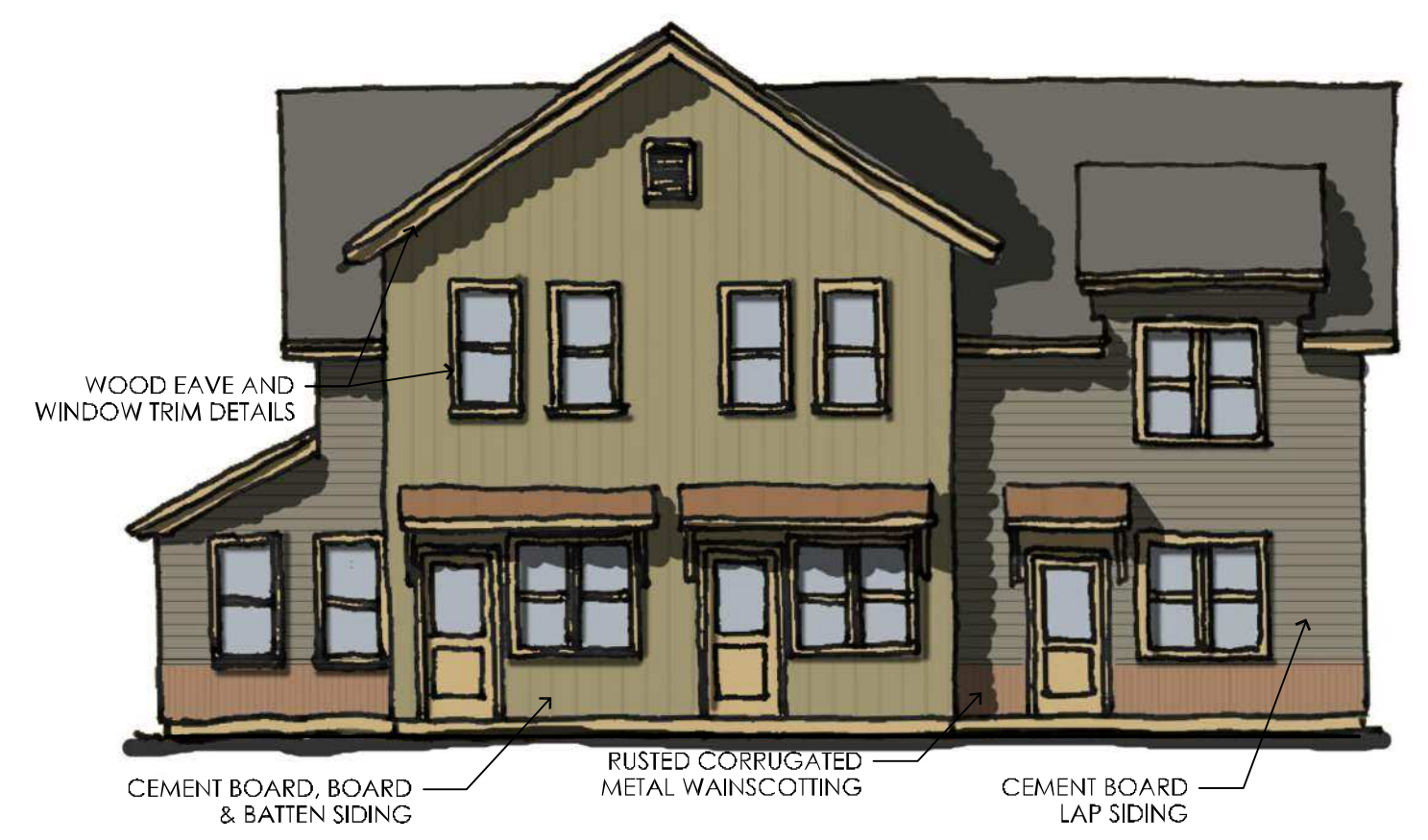
WORK SESSION

A3

11.30.15  
ELEVATIONS



**BUILDING A**  
(3) 2 BEDROOM TOWN HOMES  
scale: 1/8" = 1'-0"



**BUILDING B1**  
(1) 3 BEDROOM - (2) 2 BEDROOM TOWN HOMES  
scale: 1/8" = 1'-0"



**BUILDING B2**  
(1) 3 BEDROOM - (3) 2 BEDROOM TOWN HOMES  
scale: 1/8" = 1'-0"



**BUILDING C**  
(4) 2 BEDROOM TOWN HOMES  
scale: 1/8" = 1'-0"

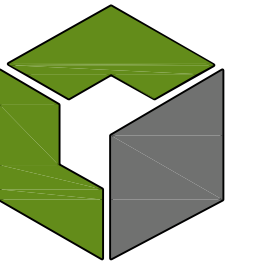


**BUILDING D**  
(5) 2 BEDROOM TOWN HOMES  
scale: 1/8" = 1'-0"



**BUILDING F**  
(8) 1 BEDROOM APART. - (2) STUDIO APART.  
scale: 1/8" = 1'-0"





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AUTHORSHIP		
DRAWN BY	CHECKED	DATE
--		00.00.10

REVISIONS	
ISSUE	DATE
--	00.00.10

WORK SESSION

A4

11.30.15  
ELEVATIONS



**BUILDING E**

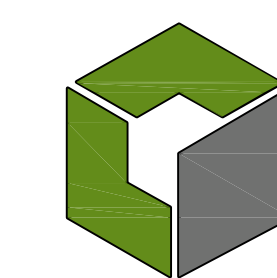
(8) - 2 BD APART.  
scale: 1/8" = 1'-0"



**COMMUNITY BUILDING**

scale: 1/8" = 1'-0"





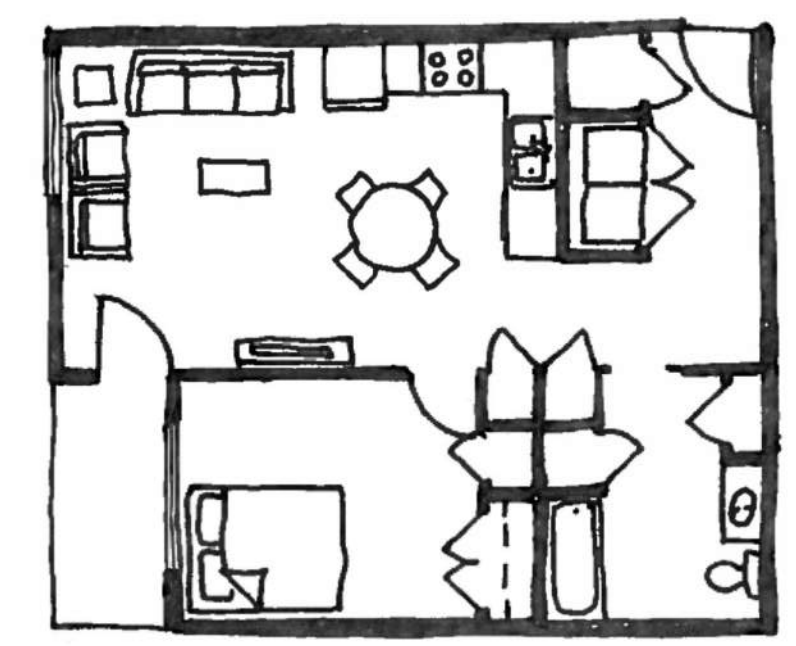
**COBURN**  
ARCHITECTURE

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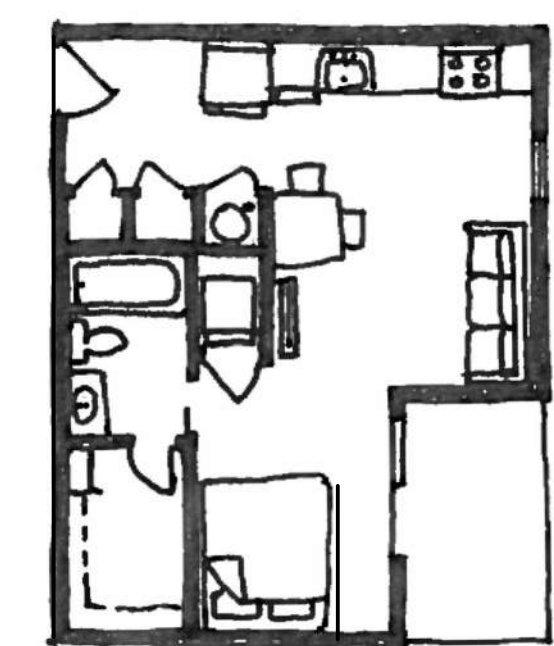
3020 CARBON PLACE #203  
BOULDER CO 80301  
T: 303 442 3351  
F: 303 447 3933  
www.coburndev.com



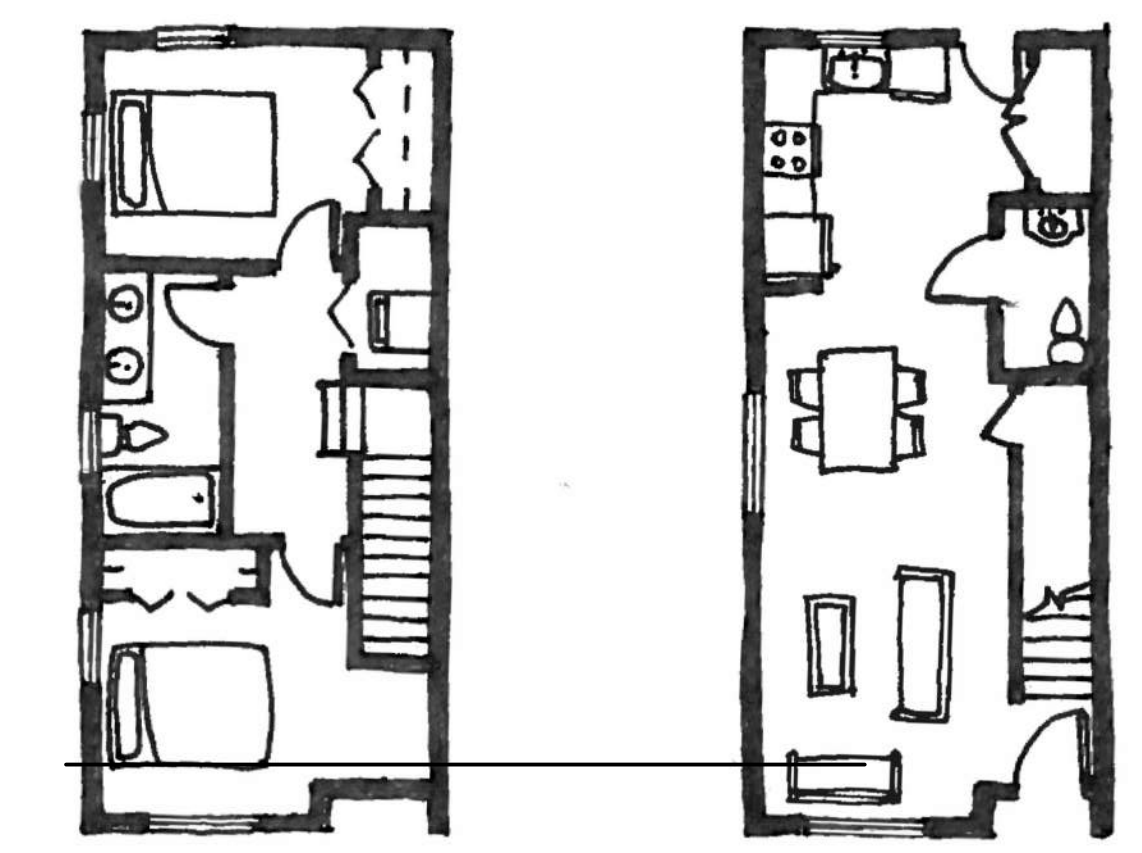
1 BD APART. V1  
612 SQ. FT.  
scale: 1/8" = 1'-0"



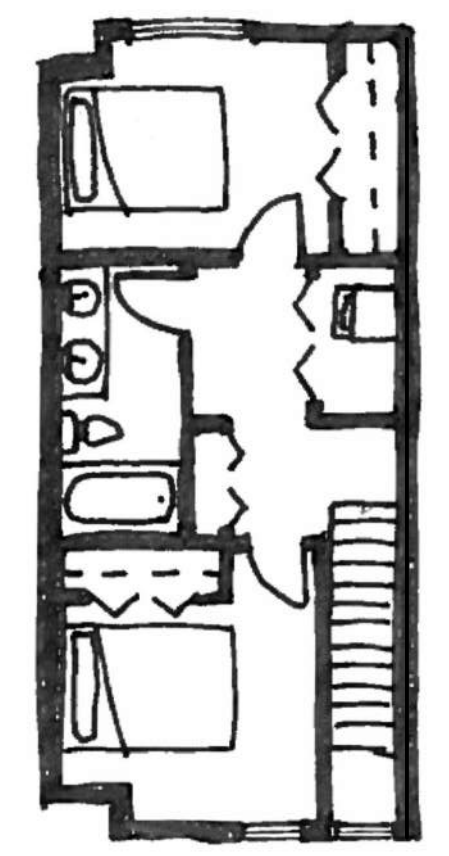
1 BD APART. V2  
685 SQ. FT.  
scale: 1/8" = 1'-0"



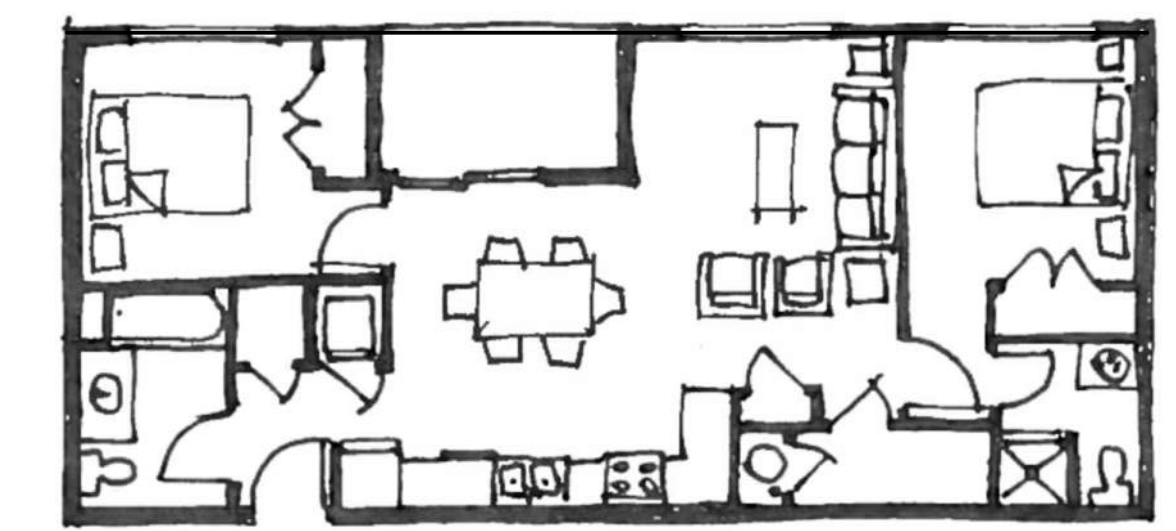
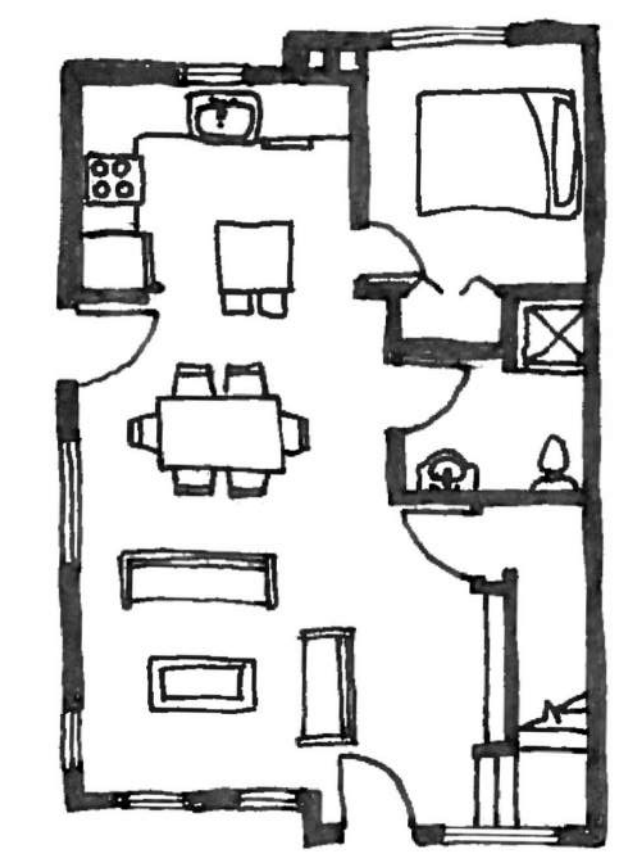
STUDIO APARTMENT  
440 SQ. FT.  
scale: 1/8" = 1'-0"



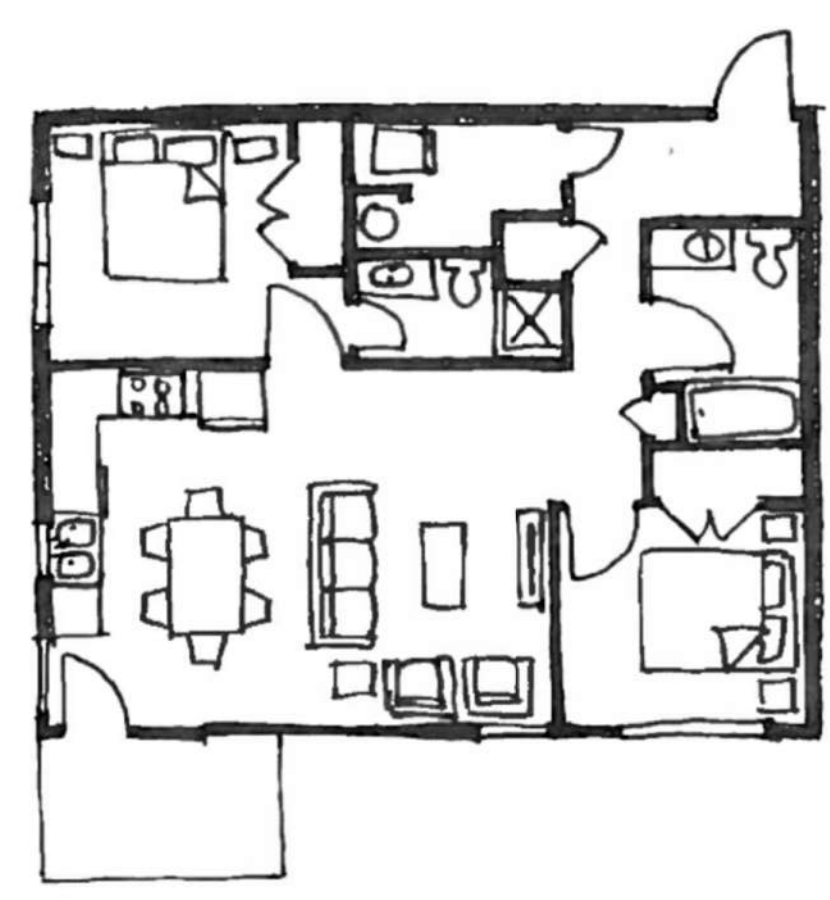
2 BD TOWNHOME  
1025 SQ. FT.  
scale: 1/8" = 1'-0"



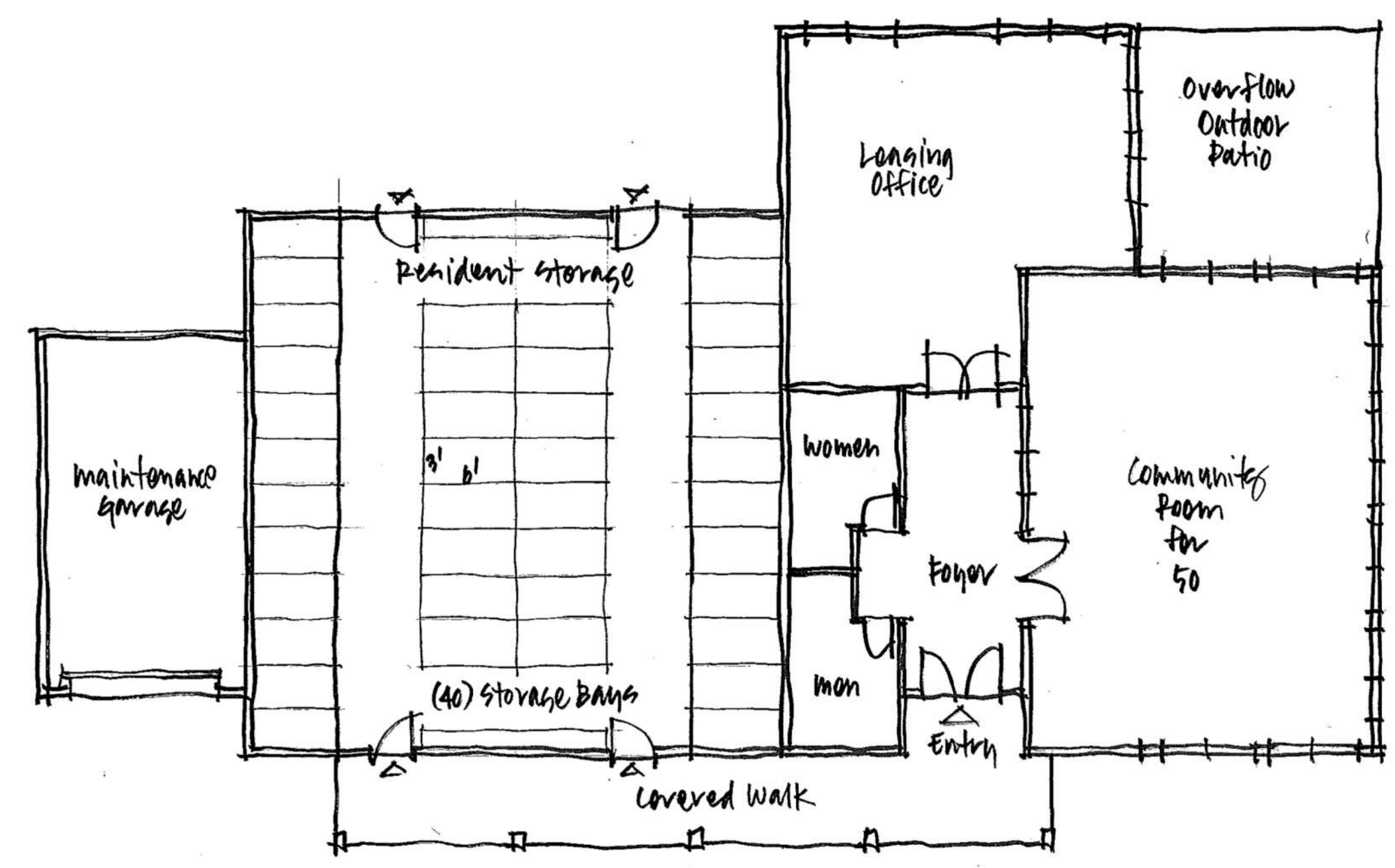
3 BD TOWNHOME  
1200 SQ. FT.  
scale: 1/8" = 1'-0"



2 BD APART. V1  
840 SQ. FT.  
scale: 1/8" = 1'-0"



2 BD APART. V2  
820 SQ. FT.  
scale: 1/8" = 1'-0"



COMMUNITY BUILDING  
2900 SQ. FT.  
scale: 1/8" = 1'-0"

DENISON AFFORDABLE HOUSING

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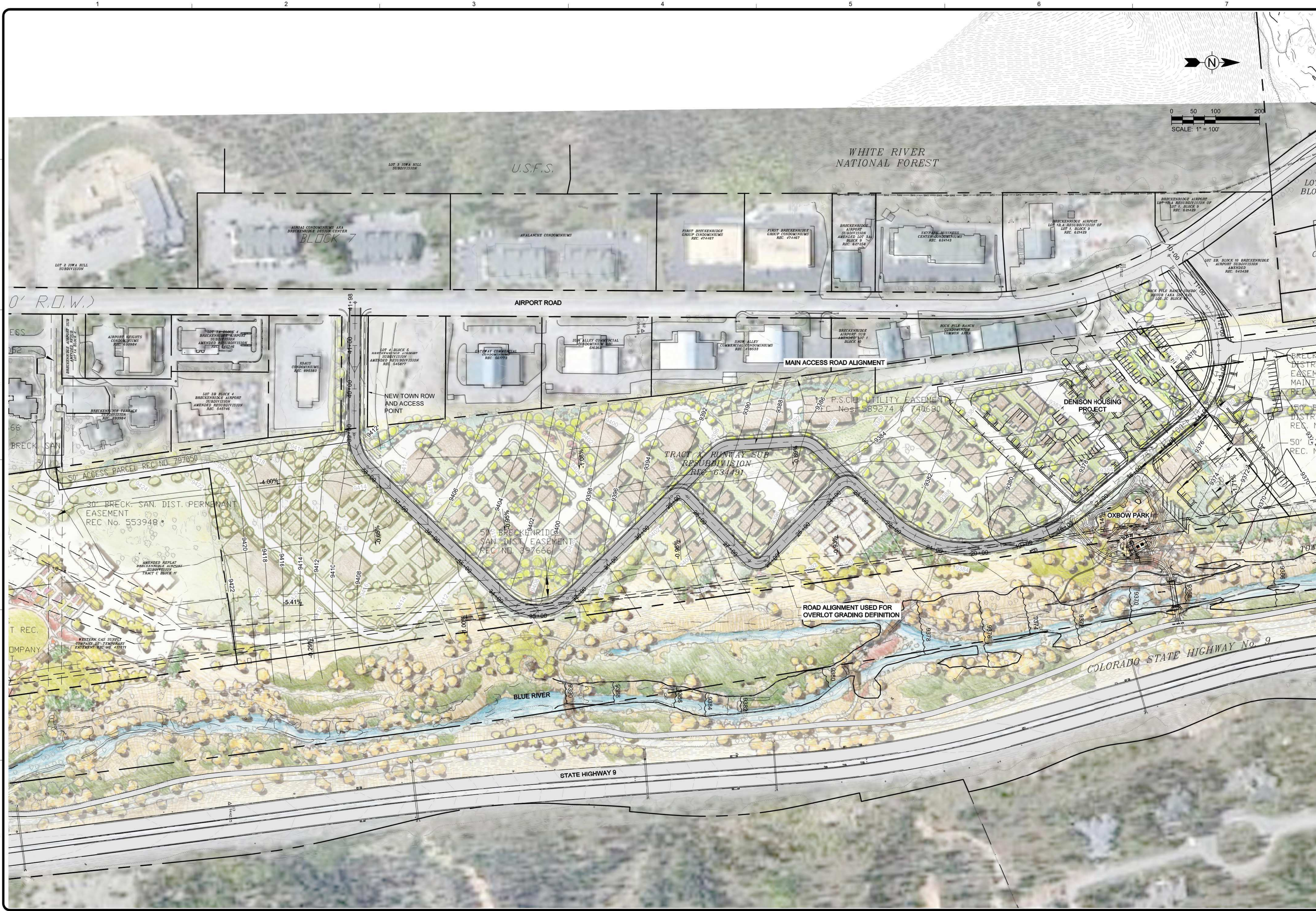
AUTHORSHIP		
DRAWN BY	CHECKED	DATE
--	--	00.00.10

REVISIONS	
ISSUE	DATE
--	00.00.10

WORK SESSION

**A5**  
11.30.15  
FLOOR PLANS





TETRA TECH  
www.tetratech.com  
130 Ski Hill Road, Suite 140  
Breckenridge, Colorado 80424  
Phone: 970-453-6394, Fax: 970-453-4579

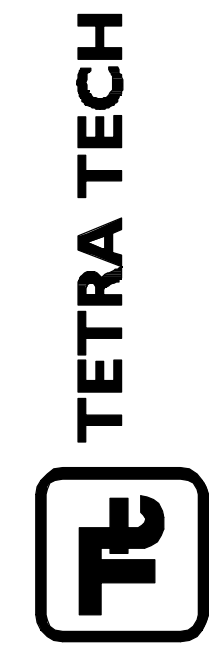
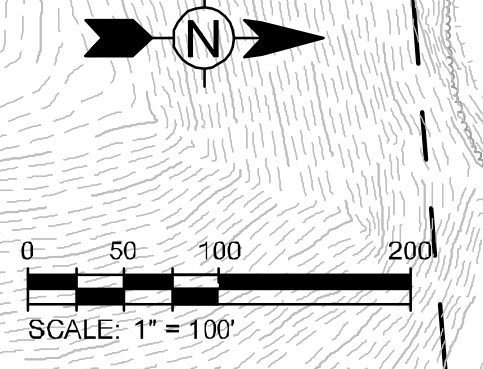
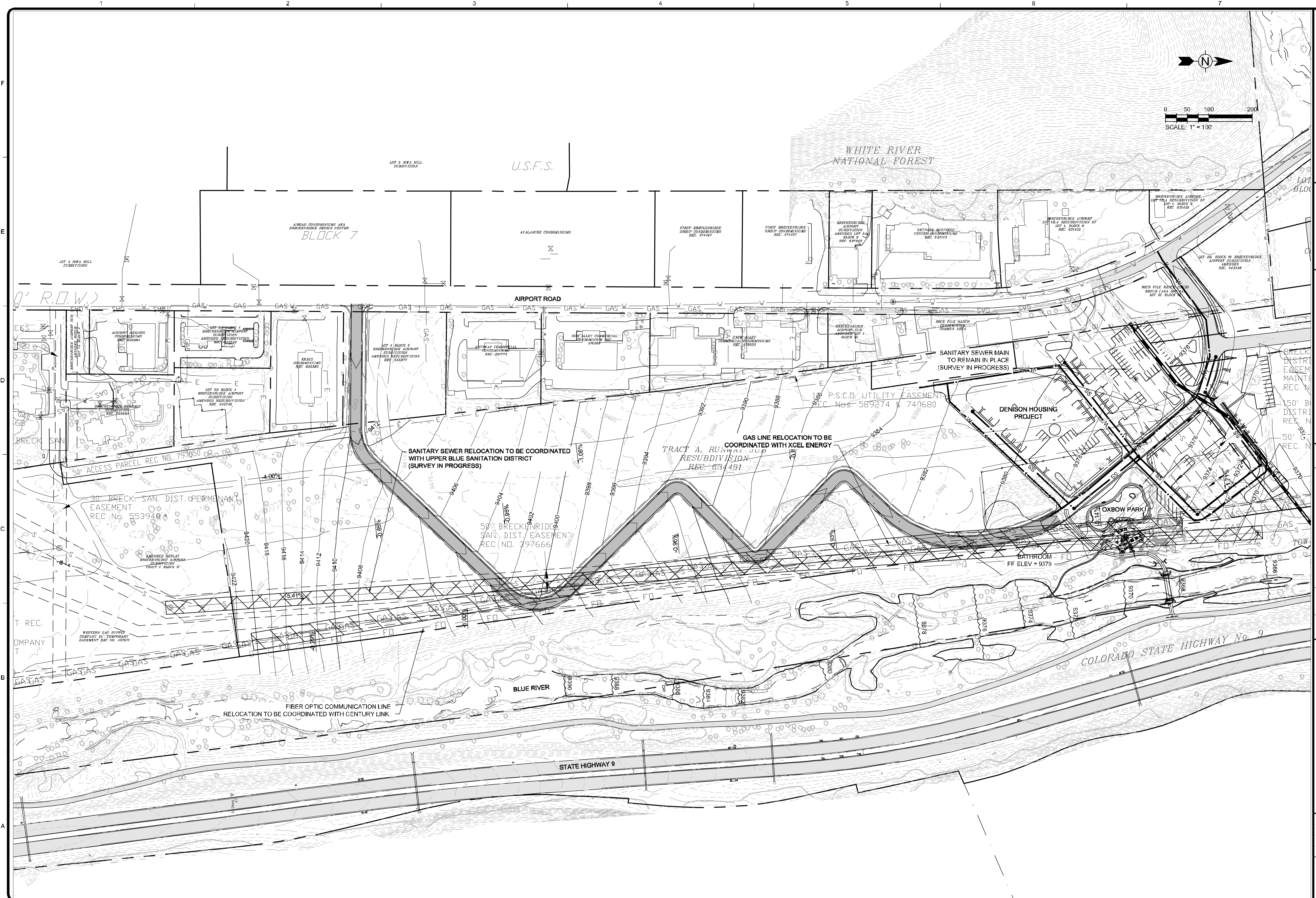
MARK	DATE	DESCRIPTION

**TOWN OF BRECKENRIDGE**  
BLOCK 11 OVERLOT GRADING  
**GRADING & DRAINAGE**  
PLAN OPTION # 2  
MASTER PLAN OVERLAY

Project No.: 133-09598-15001  
Designed By: CAM  
Drawn By: CAM  
Checked By: CDD

C121





www.tetrattech.com  
 130 Six Hill Road, Suite 140  
 Breckenridge, Colorado 80424  
 Phone: 970-453-6391 Fax: 970-453-4579

MARK	DATE	DESCRIPTION

TOWN OF BRECKENRIDGE  
 BLOCK 11 OVERLOT GRADING  
 COMPOSITE UTILITY  
 PLAN

Project No.: 133-095988-15001  
 Designed By: CAM  
 Drawn By: CAM  
 Checked By: COD

C125



Town Council and Breckenridge Tourism Office Board of Directors  
Joint meeting agenda

December 8, 2015 6 p.m. Dinner meeting  
Council Chambers, Town Hall

- 1. BTO Board Nominating Committee/Process**  
*(5-10 min)*
- 2. BTO Role moving forward - How can BTO better assist TC** *(30-40 min)*

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**Town of Breckenridge Executive Summary**  
**Economic Indicators**  
(Published November 24, 2015)

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**Indicator Monitoring System**

Up and down arrow symbols are used to show whether the indicator appears to be getting better, appears stable, or is getting worse. We have also designated the color green, yellow or red to display if the indicator is currently good, fair or poor. Please note months of data will vary with indicator, based on the most recent information available.



---

**Unemployment: Local (September 2015)**

Summit County's unemployment rate decreased to 2.2% in September. This rate is lower than the September 2014 rate of 3.2% and the September 2013 rate of 5.9%. Summit's September rate is lower than that of Pitkin County (2.4%) and Eagle County (2.7%).

(Source: BLS)



---

**Unemployment: State (September 2015)**

The Colorado State unemployment rate decreased to 4% in September. This rate is lower than the September 2014 rate of 4.7 %.(Source: State of Colorado)



---

**Unemployment: National (September 2015)**

The national unemployment rate remained steady at 5.1% in September. Since 2011, we have seen the national rate continue a general incremental downward trend. September 2015 has seen a drop from last September's rate of 5.9% and the September 2013 rate of 7.2%. (Source: BLS)



---

**Destination Lodging Reservations Activity (October 2015)**

Occupancy rates increased 20.2 % for the month of October compared to October 2014, with an increase of 8.5 % in the Average Daily Rate (ADR) for the month. On average, the occupancy rates for all Colorado mountain resort destinations increased by 17.0 % for the month. (Source: DestiMetrics)



---

**6 Month Projected YTD Occupancy (November 2015 – April 2016)**

Future bookings for the upcoming November 2015-April 2016 period show an increase of 11.9 % in projected occupancy rate over the corresponding period last year. The Average Daily Rate for the same time period is up 5.8 %. (Source: DestiMetrics)





---

**Traffic Count at Eisenhower Tunnel (October 2015)**

During the month of October, the traffic count at the Eisenhower tunnel (westbound) totaled 450,009 vehicles compared to October 2014 traffic counts (418,122 vehicles), representing a 7.6 % increase and a 16.1 increase compared to October 2013 traffic counts (387,367 vehicles). Daily traffic count data in town on Highway 9 at Tiger Road is currently unavailable. (Source: CDOT)



---

**Consumer Confidence Index-CCI (October 2015)**

The Consumer Confidence Index (CCI) decreased in October to 97.6, a decrease of 5.0 points from September. Overall the CCI has maintained a generally positive upward trend since spring of 2013. (Source: CCB)



---

**Mountain Communities Sales Tax Comparisons (September 2015)**

The amount of taxable sales in Town for September 2015 was up 16.4 % from September 2014 levels. Of the mountain towns monitored, all ten experienced an increase in sales as compared to September 2014. In addition, all ten also have had increases in the year to date sales tax collected, ranging from 5.51%-14.49% with Breckenridge experiencing the fourth highest growth of those monitored. (Source: Steamboat Springs Finance Dept. and Town Finance)



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**Standard & Poor's 500 Index (October 2015)**

The S&P 500 average monthly adjusted closing price increased to 2,079 in October, up 149 points from September. (Source: S&P 500 and Town Finance)



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**Town of Breckenridge RETT Collection (October 2015)**

October 2015 RETT collection (\$1,018,439) was at an all-time high, which was 205 % higher than October 2014 (\$495,973) collections and above October 2013 collections (\$506,434). 2015 RETT collections to date (\$4,625,204) are 22.4 % higher than 2014 collections year-to-date (\$3,778,474) and higher than 2013 collections (\$3,726,616). (Source: Town Finance)



---

**Real Estate Sales for Summit County/Breckenridge (September 2015)**

September Summit County real estate sales increased by 13 % in \$ volume and 5 % in the number of transactions compared to September 2014. Of that, Breckenridge took in 49% of the \$ volume and 40% of the transactions countywide for the month. (Source: Land Title)



---

**Foreclosure Stressed Properties (September 2015)**

One property in Breckenridge (excluding timeshares) entered the foreclosure process in September. (One timeshare unit entered the foreclosure process in September.) (Source: Land Title)

