



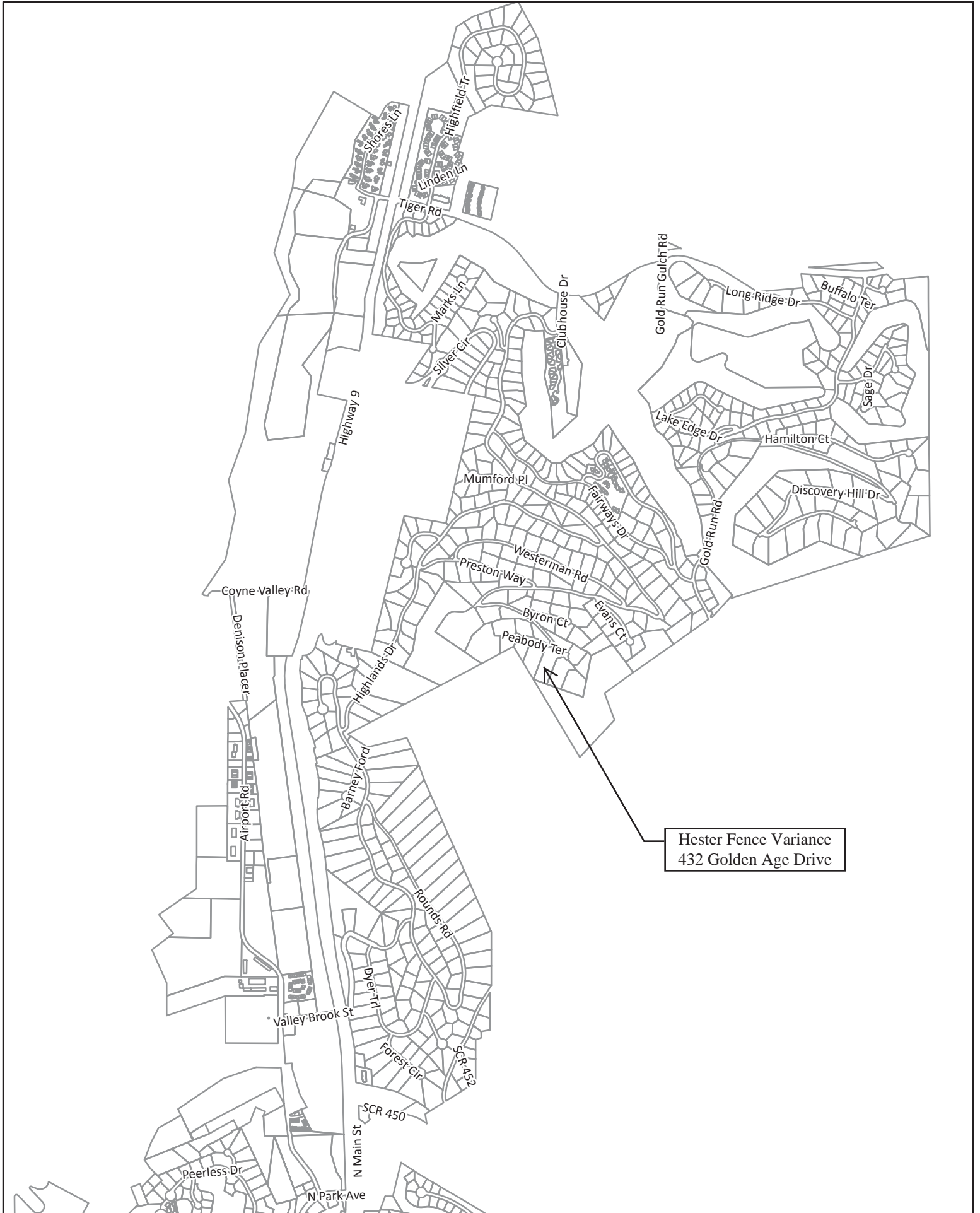
PLANNING COMMISSION AGENDA

Tuesday, February 16, 2016
Breckenridge Council Chambers
150 Ski Hill Road

7:00pm	<i>Call To Order Of The February 16 Planning Commission Meeting; 7:00 P.M. Roll Call</i>	
	<i>Location Map</i>	2
	<i>Approval Of Minutes</i>	4
	<i>Approval Of Agenda</i>	
7:05pm	<i>Consent Calendar</i>	14
	1. Village at Breckenridge Plaza Renovation (CL) PL-2016-0007; 655 South Park Avenue	
7:15pm	<i>Town Council Report</i>	
7:30pm	<i>Combined Hearings</i>	29
	1. Hester Fence Variance (CK) PL-2016-0014; 432 Golden Age Drive	
8:15pm	<i>Other Matters</i>	54
	1. Election of Chair and Vice Chair for 2016	
8:30pm	<i>Adjournment</i>	

For further information, please contact the Planning Department at 970/453-3160.

***The indicated times are intended only to be used as guides. The order of projects, as well as the length of the discussion for each project, is at the discretion of the Commission. We advise you to be present at the beginning of the meeting regardless of the estimated times.**

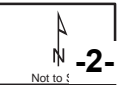


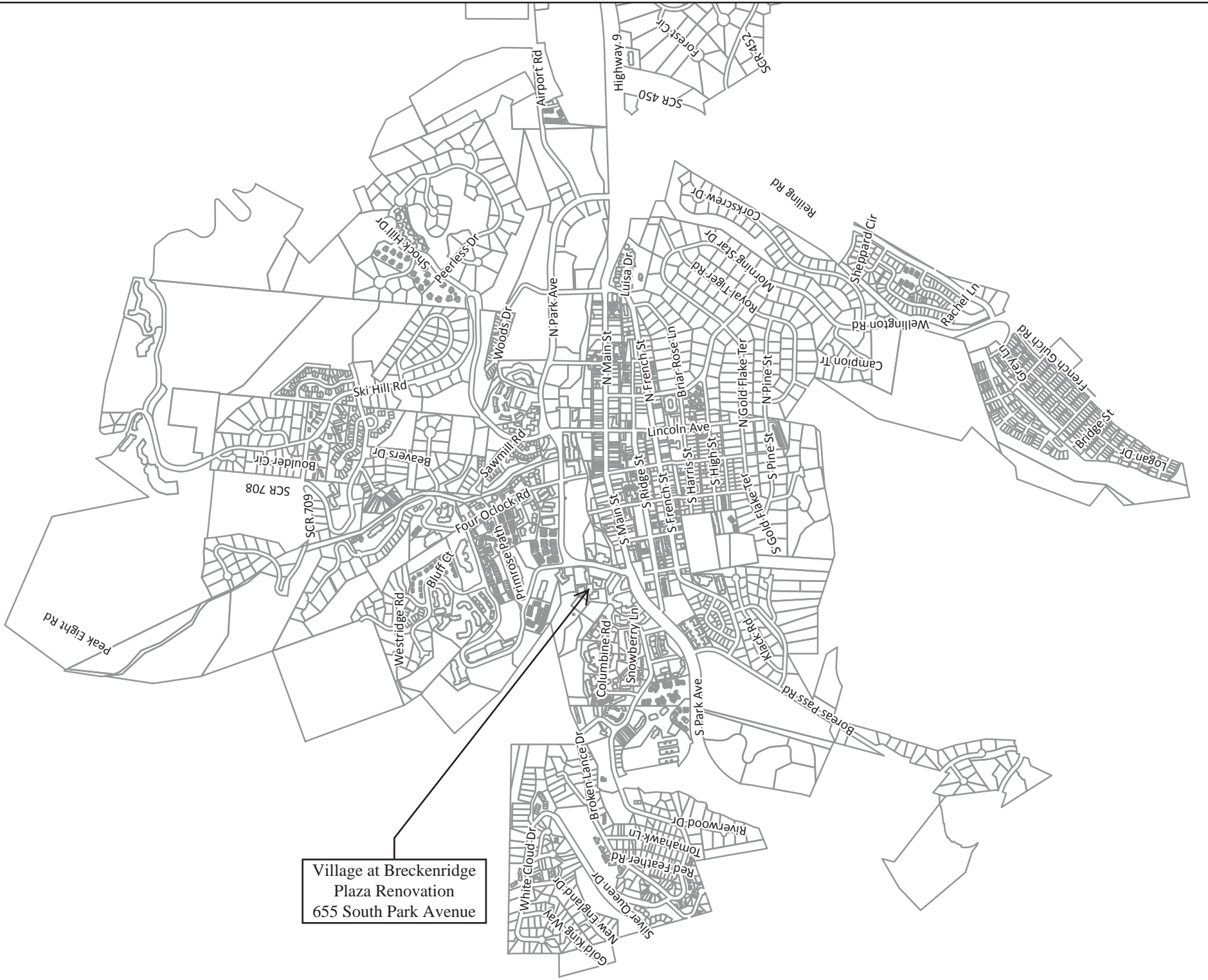
Hester Fence Variance
432 Golden Age Drive



printed 1/13/2016
Town of Breckenridge and Summit County governments
assume no responsibility for the accuracy of the data, and
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Breckenridge North





Village at Breckenridge
Plaza Renovation
655 South Park Avenue



Breckenridge South



Not to Scale

PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

ROLL CALL

Kate Christopher Ron Schuman Dan Schroder
Jim Lamb Gretchen Dudney Christie Mathews-Leidal
Dave Pringle
Wendy Wolfe, Town Council Liaison

APPROVAL OF MINUTES

With no changes, the January 19, 2016, Planning Commission Minutes were approved as presented.

APPROVAL OF AGENDA

Mr. Kulick announced that the Hester Fence Variance, PL-2016-0014, 432 Golden Age Drive, had been continued to the February 16, 2016, Planning Commission Meeting.

With no other changes, the February 2, 2016, Planning Commission Agenda was approved as presented.

TOWN COUNCIL REPORT:

Ms. Wolfe:

- Important upcoming meetings: Town is having a Housing Summit, February 11, with a gathering of business leaders. Workforce housing has been crunched especially this season so the purpose is to meet with business leaders to better understand the characteristics of the crunch and brainstorm ideas. We've invited business leaders to come and participate. This meeting is open to everybody; there will be participants (business leaders) and then it's open to observation by the public.
- On February 18 will be the first opportunity for DTJ Design and Nelson Niegard to report their observations on parking and transit over the holidays, between Christmas and New Years. They had boots on the ground during this time and it will be really interesting to have them engage the Council and task force. There will be two meetings at the Community Center; one at 7:30-9:30am and another around 5-7pm.
- We solidified our Town Council 2016 Goals and Objectives: 1. Parking and transit comprehensive development plan; 2. Workforce housing; 3. Expansion of recreation facilities and amenities (roof over second sheet of ice at Ice Rink); 4. Childcare and early learning centers; 5. Riverwalk guest experience (improving the lobby); 6. Water sustainability and treatment plant, 7. Ongoing sustainability and environment; 8. Public engagement (recent Town Hall meeting at which the hottest topic was transit); 9. Redevelopment of City Market (talking to City Market expansion and Parkway Center); 10. Human Resources and talent management of staff (continue to recognize and reward employees).
- (Mr. Schroder: There was a conversation overheard at the ice rink in which the plan to put the roof on the ice rink was perhaps something more like a second story with workout room?) During public comment there was some banter back and forth but it was all just ideas. There was a roomful of young folks during public comment regarding covering at the ice rink, covering the outdoor tennis courts and repurposing the current covered tennis courts, possibly covering the outdoor courts and connect it to the Rec Center to use for sports training. Those items are not in the plans right now and I'm sure you may hear some additional public comment. We plan on installing the roof over the outdoor rink and having this constructed this summer. We plan for this to be simple roofing so that this rink is a lot more dependable. (Mr. Schuman: Will the potential dryland training compete with private enterprise facilities like Woodward?) The community was asking for this, but we are not planning on this now. This is still way too early to make any decisions, this will be discussed a lot more at future Town Council meetings. (Mr. Pringle: I suggest initiating conversations with other

Town Councils and County entities to become part of the conversation and brainstorm how to address these types of facilities.) Mayor Warner has addressed with the Mayors and Commissioners meeting. Also, a field house has been discussed but we decided it wasn't time to do this yet. Breckenridge does have a fabulous Rec Center and we know we can do some fabulous things to improve it.

OTHER ITEM:

Ms. Christopher announced that she has put in her two week notice as she has accepted a position in Kansas and that she will be resigning from the Planning Commission. The February 16 meeting will be her last meeting.

FINAL HEARINGS:

1) Marvel House Restoration, Addition and Landmarking (MM) PL-2015-0328, 318 North Main Street
Mr. Mosher presented the final hearing proposal to restore portions of the historic Marvel House (renovate some non-compliant additions and restore the remaining portions), add a full basement with separate living unit, connect a new residence to the back of the historic house and build a new separate garage (with an accessory apartment above along the alley and to seek local landmark designation from the Town Council. The property will be re-subdivided under a separate application.

Changes since the November 17, 2015 Planning Commission Meeting

1. The Engineering Department has included a waiver allowing more than one driveway cut for this property.
2. A color material board was included in the report for this meeting.

The parking strip off the alley exceeds the number of driveways cuts that are allowed per the Section of the Code above. Staff has consulted the Streets and Engineering Department and they have no concerns with the additional curb cut. A waiver from this provision has been granted by the Engineering Department and is included with this report.

Staff found that:

1. The granting of the variance, exception or waiver of condition will not be detrimental to the public health, safety, or welfare or injurious to other property as the property is accessed from two rights of way, Main Street and the Main Street Alley.
2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property as the property will have both commercial uses accessed from Main Street and residential use accessed from the alley. The Town supports keeping traffic of the two uses separated.
3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, distinguished from a mere inconvenience, if the strict letter of these regulations is carried out as the multiple driveway cuts help facilitate the restoration of a historic structure.
4. The relief sought will not in any manner vary the provisions of the development code, town master plan or other town law, except that those documents may be amended in the manner prescribed by law the second driveway cut does not create an additional burden for current snow removal operations.

A special finding has been added. Staff asked for Commission support for this waiver.

Point Analysis (Section: 9-1-17-3): Staff showed that all absolute policies have been met and the final point analysis as:

Relative Policy 24, The Social Community: Negative ten (-10) points for moving the Marvel House 10 feet west and 3 feet south; Positive six (+6) points for the restoration plans.

Relative Policy 22, Landscaping: Positive two (+2) points for the proposed landscaping.
Relative Policy 33, Energy Conservation: Positive two (+2) points for the two HERS index scores.

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

The applicant and agent have worked closely with Staff and responded well to Commission direction to bring this final review to you. Staff had only one question for the Commission:

1. Did the Commission support granting a waiver under Section 9-3-16: Relief Procedures of the Town Code for this application to allow 2 driveway cuts for the property located at 218 North Main Street, Lot 16 Snider Addition?

Staff recommended the Planning Commission endorse the attached Point Analysis for the Marvel House Addition, Restoration, and Landmarking, PL-2015-0328, 318 North Main Street, showing a passing score of zero (0) points.

Staff recommended the Planning Commission approve the Marvel House Addition, Restoration, and Landmarking, PL-2015-0328, 318 North Main Street with the attached Findings and Conditions.

Staff suggested the Planning Commission recommend that the Town Council adopt an ordinance to Landmark the Marvel House 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. Pringle: With respect to the waiver, it is really two accesses off Main Street and the alley? (Mr. Mosher: It is identifying the two access points off the alley. The Code limits properties to one access per lot. There is an existing access on to Main Street. The waiver is for the two driveway cuts and that they are less than 30-feet apart on the alley.)

Applicant Presentation: Ms. Janet Sutterley, Architect:
I just want to clarify the paint colors are less pink and more “tan-ish”. Nothing more to add further.

Ms. Christopher opened the hearing to public comment.

Mr. Sam Riggs, 320 North Main:

I live on the lot to the north. I have concerns about the historic shed that is up front and the only access we have to that is through a gate facing south to the applicant’s property. Someone repaired the gate and screwed it shut. Also, there is playground material with gravel that blocks the door and it is hard to get to this storage. Also, drainage is an issue here. In addition, Comcast will need to relocate a buried cable. Then the water line goes around the south side of our cabin as well as this property and I just want to make sure they are aware of this as they proceed with construction.

There was no further public comment and the hearing was closed.

Commissioner Questions / Comments:

Mr. Schuman: Has the owner agreed to allow access to the shed? (Mr. Mosher: The shed covers both property lines and town right of way. So maybe we can clean this up separately.)

Mr. Schroder: I think we should allow the neighbors to have access to this. (Mr. Mosher: This would be a whole separate application.)

Mr. Lamb: I agree that moving the building for negative ten (-10) points is punitive, but I support this.

Mr. Pringle: I concur; I appreciate all the work with staff and this is a good project. Please work with Mr. Riggs to address his concerns. I don’t think the waiver is necessary, but it is what it is.

- Ms. Dudney: I support the waiver and I support the project.
Ms. Leidal: I reviewed the two previous hearings and reviewed the project notes. I support the project and the waiver.
Mr. Schuman: I also support the waiver and the project and I thank the applicant for your patience with this process.
Mr. Schroder: I support what is presented to us with all the findings and conditions.
Ms. Christopher: I concur with all of the other Commissioners and approve this project.

Mr. Pringle made a motion to approve the point analysis for the Marvel House Addition, Restoration and Landmarking, PL-2015-0328, 318 North Main Street, showing a passing point analysis of zero (0) points. Mr. Schroder seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Marvel House Addition, Restoration and Landmarking, PL-2015-0328, 318 North Main Street, with the presented findings and conditions. Mr. Schroder 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 Marvel House 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. Schroder seconded, and the motion was carried unanimously (7-0).

PRELIMINARY HEARINGS:

1) Denison Placer Housing Phase 1 (JP) PL-2016-0011, 107 Denison Placer Road/TBD Floradora Drive
Ms. Puester presented a Class A preliminary hearing proposal to construct 66 workforce rental townhome and apartment units (43 single family equivalents) in fifteen buildings, a neighborhood community center, including lease office and associated parking, on approximately 4.5 acres of the northernmost section of the Block 11 parcel with access from Denison Placer Road and Floradora Drive. In addition, Floradora Drive is proposed to be extended through the development from Airport Road. A material and color sample board was also presented.

Point Analysis (Section: 9-1-17-3): Staff has prepared a preliminary point analysis with a recommended passing score of positive fifteen (+15) points.

Negative Points recommended:

- Policy 6/R, Building Height: (-1) for an unbroken roof ridge exceeding 50' in length on Building C.
- Policy 9/R, Placement of Structures: (-6) for the front and rear relative setbacks not being met.

Positive Points recommended:

- Policy 16/R, Internal Circulation: (+6) for providing sidewalks which connect to the existing sidewalk along Airport Road, sidewalk and Rec path which connects the residential to the proposed bus stops and future development on Block 11.
- Policy 24/R, Social Community: (+10) for 100% workforce housing.
- Policy 24/R, Social Community: (+6) for meeting a Council goal of providing workforce housing.

Preliminary Point Analysis recommended:

- Total (+15)

Staff Recommendation

1. Did the Planning Commission agree with Staff's preliminary point analysis?
2. Did the Planning Commission have any concerns regarding the function of the snow storage?
3. Did the Commission like the landscape plan proposed?
4. Were there any Commissioner comments regarding the architecture?

5. Did the Commission support the positive six (+6) points for the sidewalks and recreational path under Internal Circulation, Policy 16/R?
6. Did the Planning Commission have other concerns or comments on the proposal?

The Planning Department believes that Denison Placer Phase 1, PL-2016-0011, located at 107 Denison Placer Road, Lot A-1, Runway Subdivision, with a preliminary passing point analysis of positive fifteen (+15) points and addressing remaining staff and any Planning Commission concerns, is ready to be scheduled for a Final Hearing.

Commissioner Questions / Comments:

- Ms. Dudney: How many apartment units are in the apartment building? Is there one storage unit per apartment? (Ms. Puester: There is one storage unit for all 66 units.)
- Mr. Schuman: Is the community room open to public? (Ms. Puester: I'll let the applicants address this.)
- Ms. Dudney: The unbroken roof line is where? (Ms. Puester: There is not a 50' roof line in this phase; correction, Building C which there are three of has a 52-foot long ridge.) On page 50 of staff report, correction under one of the precedent cases for Huron that had positive three (+3) points not positive six (+6), on page 24 of the Huron report. You didn't explain why the design changed so much from the last time we saw it at work session in October. (Ms. Puester: The first design had tuck under parking and created some awkward surface parking and flow through the site.) (Mr. Grosshuesch: The design was also too expensive and would not be competitive for the LIHTC application, which could be up to \$9 million for the project). Did you want the townhomes to have a frontage on Flora Dora? (Ms. Puester: That was still the concept; a row home look similar to one of the developments we saw on the Planning Commission field trip.) Where is the rec path? Where are the fences for the townhouses? (Ms. Puester: Rec path runs along the west side of Flora Dora. The fences are on the back of the houses along Flora Dora and on the front side if the homes are internal facing (west sides of homes). There is the paved road section, then the 10' rec path in the right of way, and then private property with a 5' for snow storage in the front yard of the townhomes.) Does this work? Won't the snow be pushed right up into the houses with 5' spacing?
- Mr. Schuman: Landscape will help buffer. (Ms. Puester: There is 10' from the steps to the Rec Path. This has been reviewed by public works regarding snow removal, rec path, sidewalk and proposed road and they were comfortable with this proposal.)
- Ms. Dudney: You are asking for positive six (+6) points for the sidewalk and the rec path? (Ms. Puester: The positive six (+6) points are recommended for the 5' sidewalk on the east of Flora Dora and the connection to the existing Airport Road sidewalk which ends before this project. The 10' asphalt rec path and the meandering sidewalks that are running throughout the project between buildings and connecting the parking lots and the residences. Also, the sidewalk will be connected to Airport Road. There will be sidewalks connecting this neighborhood to CMC on the north and Upper Blue Elementary to the south as well as along Airport.) What about Wellington for precedence for positive six (+6) points? (Mr. Mosher: There aren't any sidewalks in Wellington. The master plan from Lincoln Park got 3 points for sidewalk along the ROW.)
- Ms. Leidal: Which is rec path versus sidewalk? (Ms. Puester: The rec path runs on the western side of Flora Dora and the sidewalk is on the eastern side of Flora Dora. We think the rec path will continue all the way down in Block 11 to connect all the neighborhoods within Block 11. This will be an important connection for kids to the elementary school. This is a project that many kids will live here as well as people attending CMC.)
- Mr. Pringle: I thought we would have a few more hearings rather than to go straight to final. This seems a little overwhelming for a one hearing project. (Ms. Puester: This is a preliminary hearing and this is not final; you will see it at another hearing for final. Also, this is not being taken as a Town project since it is so large. We also took it as a work session in October, so three

times.) I am not sold on the architecture. It's too similar. I'm concerned we will see this all down Block 11 when it was supposed to be more split. It was a completely different design in October and now we have a point analysis already. (Ms. Puester: We wanted to get your opinion on the point analysis and any other concerns that the project team can address before going to a final. This is a class A and it has still a final hearing to go.)

Applicant Presentation: Mr. Pete Weber, Coburn Architects, Project Architect:

As we got into the process, it became clear that this was the beginning of Block 11 and not a stand alone project and also it is more dense. We want to maintain variety but also have some repetition in models to keep costs down. The floor plans have a huge amount of repetition in the interior but the buildings look different on the exterior and different colors. With setbacks and fences we wanted to include some private space for everyone and this is further defined by the fences. In some cases this is front yards and sometimes back yards for the townhome units. The setbacks were closer to Flora Dora so that they could have more space to the back as well as street presence. The big changes from last October's worksession are the tuck under parking was not affordable and caused an issue for the grant application. We have one storage space per unit that is not within your unit plus there is a good amount of internal storage in each person's unit. The Community Building has storage units for all the townhome projects. One building of the apartments has the storage for all both of the two apartment buildings. (Mr. Pringle: Have you tried this before for other projects (storage outside of building)?) Yes, we have done this and find that people are using this storage for their seasonal storage and their internal unit spaces such as closets etc for your typical storage that you use often. (Mr. Pringle: Community Room Use?) I don't know if we know how this will be used, primarily for the residents I expect. But it is possible that it could be used for the outside community. (Mr. Schuman: I think good meeting room space being available to the community as a whole is helpful.)

Eric Komppa, Corum Real Estate:

Parcel 1 and Parcel 2 will be managed out of the Community Building. That way both projects could use the Community Room. We have seen this space as being good to use for the residents for birthday parties, etc at no fee except for a deposit, meetings, classes. (Ms. Dudney: I need a little more rationale for positive six (+6) points for the sidewalks and the rec path. It seems like a lot. This is a big project so it should be a lot of sidewalks and Rec paths. Why is this different from other projects that received positive three (+3) points?)

Elena Scott, Norris Design:

One of the main drivers is to set up Flora Dora Drive to be set up as a great pedestrian area that would take residents from park, rec centers, community room. We wanted to look at the width of the sidewalks; a lot of people have strollers and more than one dog. In the Town of Breckenridge, Wellington Road has a 10' sidewalk up from Town, which is great for people. So we wanted the same here but we wanted circulation on both sides of the road. We also wanted to think about the internal walkways and connections for the residents. We wanted it to be a great walkable area that connects to the other parks and river system nearby. We wanted a solid pedestrian area in Block 11. (Ms. Dudney: You think it is more circulation that Wellington and Lincoln Park?) (Ms. Puester: I think it will keep kids on the rec paths riding bikes whereas we've heard many Wellington have to bike on the streets; their sidewalks are only in the greens internal to the site, not on the road. Two major pedestrian connections on both sides of the road; one is a 10' rec path. Flora Dora will be a really important connection to get kids to the elementary school and the park.) (Ms. Dudney: I don't want to give people points for something they have to do anyway.) (Ms. Puester: Paths are not a code requirement. You don't have to agree with the positive six (+6) points, they have plenty of points here to pass, but precedent-wise, when I looked at Huron Landing and other precedents this seems so much more of an extensive system. To me this was such a more massive effort compared to Huron and Pinewood projects that received positive three (+3) points.) (Mr. Schuman: There are a lot of operational costs of this building, will it run as a profit? This is a question for Mr. Komppa.)

Mr. Komppa: Our initial financial analysis based on what we have at Pinewood Village now; there are two

aspects: rent and operational and the rents will be based on rent tax credits. We are fully intending on making this project be cash flow positive and not just break even. (Mr. Schuman: There is a lot more going on here for plowing and management.) You are correct; the internal lots will have plowing expense. (Mr. Pringle: It seems that the architecture, it looks rather stark on the doorways to the entrances for example. These aren't formalized entryways. Are we cutting corners so much to cut costs that we are sacrificing architecture? It reminds me when you drive into Alma or Fairplay and I thought we work very hard with our affordable housing projects so that there won't be a stark change between them and the other projects we see. Is there something more we can do?) (Ms. Dudney: Page 69-70 of the project, I agree that it does seem so minimalist. Maybe it is the doors.) (Mr. Pringle: The windows on the side elevations, don't seem appropriate.)

Mr. Weber: On the side windows, these buildings are close together so for privacy we are trying to keep the windows small and just provide light. (Mr. Pringle: We would require a lot more from other applicants than we are now.)

Ms. Christopher opened the hearing to public comment.

Mr. David Axelrod, 52 Snowstorm Circle, owner of the Broken Compass Brewery: We are interested in parcel right next to parcel 3. I have a question, are you going to move Flora Dora and will that take away access to the lot we are looking into? We believe that there is an easement that CMC owns that runs parallel to the lot that blocks access to this parcel. (Mr. Grossheusch: The parcel has frontage on Airport Road for access.)

There was no further public comment and the hearing was closed.

Commissioner Questions / Comments:

Mr. Schuman: I agree with point analysis right now. I like the idea of snow storage, I think it will work. There is an awful lot here to absorb. The architecture, I like this a lot better this time than we saw the first time. I think it looks much better now. I'm ok with positive three (+3) points with the sidewalks/rec path, but down the road I might be open to more. I think the storage for every unit will work. I think this a huge improvement from the work session.

Mr. Schroder: I think it is very pleasing and is obviously a multifamily project. I support the preliminary point analysis and I support the positive six (+6) points for the circulation. I support the positive six (+6) points because they are completing all the sidewalks and not waiting for the next guy to finish the sidewalks. I do wonder if we are going to be asked to approve positive six (+6) points again and again. Is this the new standard now? Especially with high density and cars and bikes and people is why I would support positive six (+6) points. Snow storage does seem a bit tight, even though I don't know a lot about snow storage. I like the architecture and the number of different looks. This makes it look like it has vitality. I don't have any concerns.

Ms. Leidal: Snow storage, it looks tight and labor intensive but as long as management company can make it work I'm fine with it. Positive six (+6) points for sidewalks and rec paths, I'm struggling with this. If we award positive six (+6) points, I want to make sure it is for both the rec path and the internal circulation, I don't want to double dip for internal circulation, maybe we separate it out like positive three (+3) for circulation and positive three (+3) for recreation so not to set precedent. Architecture, I like the variety of buildings. I hear the other Commissioner concerns with the architecture; it might be the size of the overhangs and the trim relative to the building size.

Ms. Dudney: I like the design and I like Ms. Leidal's idea of splitting it out for circulation and recreation. I'm ok with the snow storage. The Huron precedent needs to be fixed unless I'm missing something. I like the plan, the change in architecture, varying building types but like B1 and B2 more than C and D, parking, the change to Flora Dora. The less expansive roof forms are

more appealing to me (not C and D). I think it is much better than the one we saw in October.

Mr. Pringle: I'm not sure if I agree with the point analysis. I think the positive six (+6) points for circulation are too much; I think positive three (+3) points is the precedent. I don't want to give positive six (+6) points for internal circulation. The snow storage is a formula, if it doesn't snow it works, if it does snow you have to deal with that. I think the architecture looks a little stark. Beef up the entries. I don't want one of the primary developments that people see when they come to town to be disappointing. There is a whole lot of density here. I don't want to sacrifice project architecture and density to satisfy AMI need. The idea of the community center sounds good, but is every one of the parcels going to have its own. It is pretty much half storage, half management company; could this be incorporated more in a whole Block 11 Community Center? I'm not persuaded that having a storage unit on the other side of the development is something that people want. I think the storage should be within the unit only.

Mr. Lamb: I like the fact that it is under density, adequate parking and over landscaped. I am worried about positive six (+6) points for the circulation; I'm more in favor of positive three (+3) right now. I think the architecture is well broken up and looks more like Valley Brook. I think it is going in a good direction.

Ms. Christopher: I too support this project. I am concerned with the positive six (+6) points; I support just positive three (+3) or could have them split up. I am ok with snow storage. The architecture could use some massaging, but generally really like it.

Ms. Leidal: I wanted to note for the record that I did review the October 20th work session before this meeting so that's why I'm able to comment on this.

Ms. Dudney: To the community center, I am assuming that there is some market study that you need this, but if there is some way to have storage in the units; that is far better. But if the community center is not really used, they take money to keep it up and looking good.

2) Denison Placer Housing Phase 2 (JP) PL-2016-0012, 107 Denison Placer Road

Ms. Puester presented a proposal to construct 30 workforce rental apartments (13 Single Family Equivalents) in three buildings on approximately 1.05 acres in the southern section of Tract D with access from Denison Placer Road. A material and color sample board was also presented.

The 1.05 acres which is the subject of this report is a portion of the 16 acres of the Colorado Mountain College (CMC) property known as Tract D. The Town is currently working with CMC on a land trade, which would allocated this 1.05 acre piece of property to the south of Tract D to the Town. The town-owned 1.05 acre (Tract C, to the northeast of Tract D) would be conveyed to CMC.

Point Analysis (Section 9-1-17-3): Staff has prepared a preliminary point analysis with a recommended positive fifteen (+15) points.

Negative Points recommended:

- Policy 9/R, Placement of Structures: (-3) for the front relative setback not being met.
- Policy 6/R, Building Height: (-1) for the roofline of both buildings exceeding fifty feet (50').

Positive Points recommended:

- Policy 16/R, Internal Circulation: (+3) for providing sidewalk which connect to the Phase 1 sidewalk.
- Policy 24/R, Social Community: (+10) for 100% workforce housing.
- Policy 24/R, Social Community: (+6) for meeting a Council goal of providing workforce housing.

Preliminary Point Analysis recommended:

- Total (+15)

Staff Recommendation

1. Did the Planning Commission agree with Staff's preliminary point analysis?
2. Did the Commission have concerns with the first floor storage area on the left elevation of Building F2 not being broken up?
3. Did the Planning Commission have other concerns or comments on the proposal?

The Planning Department believes that Denison Placer Phase 2, PL-2016-0012, located at 107 Denison Placer Road, Tract D, Runway Subdivision, with a preliminary passing point analysis of positive fifteen (+15) points and addressing remaining staff concerns, is ready to be scheduled for a Final Hearing.

Commissioner Questions / Comments:

- Mr. Lamb: The landscaping seems pretty generous why no positive points? (Ms. Puester: The landscaping code says to get positive points; the sizes need to be increased.)
- Ms. Dudney: What is the unit breakdown? (Ms. Puester: There are 20 studios and 10 one bedrooms in three buildings. Also, this is not part of the LIHTC application which phase 1 is part of the LIHTC application and hence the community room with that application.) (Mr. Eric Weber, Coburn Architects, Applicant: We designed and thought about this as a single project with Phase 1 and reads as one continuous project when you are on the ground even though there are different parcels. We want to make sure people still can get to Oxbow Park for example.)
- Ms. Leidal: Is this trash enclosure to the east? (Mr. Komppa: Yes.)
- Mr. Schuman: Will the path be soft path? (Ms. Elena Scott: We think it will be soft.) Again, if this is subject to snow removal this will be a maintenance issue. (Ms. Puester: The sidewalk along Denison and Flora Dora is concrete.)

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

Commissioner Questions / Comments:

- Ms. Dudney: Because of the unit mix, the parking seems to work. I think you succeeded in integrating it with Phase I. I am supportive.
- Mr. Pringle: It seems that building 3 is very vertical; I'm wondering if that is ok. I have the same concerns with the architecture that I had with phase I. I thought that the Block 11 master plan was to build in a lot of diversity, but now it seems that both of these parcels will be matching. I didn't think the monolithic look was the game plan. I thought it would be more organic. The overflow parking lot, we building these things in satisfying the parking requirement; however, there isn't enough parking. If it is a studio unit, there is likely to have 2 people and not enough parking. Maybe we aren't really satisfying the parking requirement. I think this dribbles out throughout all of these projects in town that we do. I'm happy to have the storage in the F2 building and I'm not sure if this is helpful to all not being integrated into their unit.
- Mr. Lamb: I agree with the staff's preliminary point analysis. I agree with Mr. Pringle's comments about not having enough parking even though it meets code. I'd like to see more parking. I'm ok with the architecture.
- Mr. Schroder: I agree with the point analysis. I don't have any problem with the pedestrian arcade and the look.
- Mr. Schuman: I don't know if I agree with the point analysis with the internal circulation, I'm not sure if the soft path internally meets with the sidewalks. I don't know if that warrants positive three (+3) points.
- Ms. Dudney: There are more paths than just internal there are sidewalks too.
- Mr. Schuman: I don't know if I agree with it right now on getting the positive points. I like the idea of the first floor storage area. I like the west elevation with the arcade. I want to echo the

comments on the diversity in the look on Block 11. I would assume that we will see some diversity down the road. I think the parking works here, but with Wellington Neighborhood being the big example of a project that wasn't built with enough parking. I think you have enough parking here, but as we continue to build this out, I think there might be creative ways for people parking here and getting on a bus to go skiing. We need to look at it as we continue to build out.

Ms. Leidal: I agree with preliminary point analysis. In regard with the first floor storage area, I think that the roof breaks it up. I echo the concerns with the parking, we have technically met code but I don't think there is enough. I reviewed the October 20th work session, minutes, etc.

Ms. Christopher: The Phase I had a lot more internal circulation. If we were leaning on positive three (+3) on that one, then maybe this one doesn't get any points. I am fine with the first floor storage area. I also echo concerns with not enough parking.

COMBINED HEARINGS:

1) Hester Fence Variance (CK) PL-2016-0014, 432 Golden Age Drive (*Continued to the February 16, 2016, Planning Commission Meeting.*)

OTHER BUSINESS:

Ms. Puester: The Saving Places Conference starts tomorrow. I think most everyone is coming for at least a day. I emailed out dinner reservations and my cell phone. Mr. Lamb is coming down on Thursday, staff presents on Wednesday, but if anyone else is coming Thursday he can carpool.

Mr. Pringle: We looked at two projects that had 18 buildings and felt we didn't spend enough time reviewing these and the plans for each building. (Mr. Grossheuch: The camera is broken so they didn't roll out physical plans but had the overhead presentation.) I think we need to spend a little bit more time on this big project. (Mr. Grossheusch: We are trying to work with a tight deadline on this LIHTC project. We are giving you three looks, but we are trying to stay competitive and we have to get this project with the CHAFA deadlines, we got an estimate for \$19 million with a \$13 million tax credit opportunity.)

ADJOURNMENT:

The meeting was adjourned at 9:37pm.

Kate Christopher, Chair

Planning Commission Staff Report

- Subject:** The Village at Breckenridge Plaza Renovation
(Class C, PL-2016-0007)
- Proposal:** The applicant proposes to modify the existing pedestrian plaza to correct water leakage issues, create gathering spaces, and a more pedestrian-friendly space. The following improvements are proposed:
1. Remove the existing concrete plaza surface and replace with a concrete paver system;
 2. Remove the existing concrete planters;
 3. Remove the existing gazebo and fire pit and replace with 3 smaller fire pits and seating areas placed throughout the plaza;
 4. Remove 13 existing lampposts, relocate six (6) others, and install six (6) new lampposts for a total net loss of seven (7) lampposts.
 5. Install new metal railings at stair locations and at appropriate edges of plaza.
 6. Replace the waterproofing and snowmelt system with new waterproofing and a new snowmelt system that is more energy efficient than the existing; A material and color sample board will be available for review at the meeting.
- Date:** February 10, 2016 for meeting of February 16, 2016
- Project Manager:** Chapin LaChance, Planner II
- Applicant/Owner:** The Village at Breckenridge Homeowner's Association and Village at Breckenridge Acquisition Corp.
- Agent:** Nathan Nosari, The Village at Breckenridge HOA General Manager
- Address:** 535 South Park Avenue, (Liftside Condos, Peak Nine Inn)
555 South Park Avenue, (Plaza II, Shavano, Lot 3)
575 South Park Avenue, (Maggie Building, Lot 1)
645 South Park Avenue, (Plaza III, Wetterhorn Building, Lot 6)
655 South Park Avenue, (Plaza I, Antero Building, Lot 5)
405 Village Road, (Chateaux Condominium Hotel, Lot 12)
- Legal Description:** Common Area Village at Breckenridge; Lot 1 Village at Breckenridge Sub #1
- Site Conditions:** The site is currently a large open plaza with a gazebo and firepit in the center of the gazebo. There are approximately 13 planters arranged in various configurations throughout the plaza, with 12 trees in total. The ground surface consists of poured concrete that is noticeably deteriorating. Most of the space exists above a sub-surface parking structure. The buildings that surround the plaza contain primary storefronts that open to the plaza. The site experiences a considerable amount of shade in winter due to the height of the buildings on the southern side of the plaza.



Site Area: 41,830 sq. ft. (0.96 Acres) of plaza area on 193,497 sq. ft (4.44 Acres) of property.

Land Use District: 23: The function of district 23 is to support ski base facilities, as well as commercial, lodging, and multi-family residential uses of a contemporary architectural character. These uses are allotted intensity appropriate to their proximity to the ski area base. Residential and commercial uses are acceptable.

Site Conditions: The pedestrian plaza is located between existing lodging properties as well as the Maggie Building at the base of Peak 9. There is 20' wide Utility and Access Easement that runs through the Plaza as well as a 55.5' radius Utility and Access Easement in the middle of the Plaza. The existing concrete is noticeably deteriorating throughout the plaza and the applicant is experiencing water leaks in to the parking structure below.

Adjacent Uses:
North: Retail Commercial, Condominiums
South: Condominiums
East: Retail Commercial, Service Commercial, Condominiums
West: Public Lands and Open Space

Lot Coverage of Plaza:

Building / non-Permeable:	0 sq. ft. (0% of area)
Hard Surface / non-Permeable:	41, 830 sq. ft. (100% of area)
Open Space / Permeable Area:	0 sq. ft. (0% of area)

Snowstack: 100% of the site area is snowmelted.

Item History

In 1978, 575 S. Park Avenue was constructed. In the year following, 1979, 555 S. Park Avenue and 655 S. Park Avenue were constructed. 645 S. Park Avenue was constructed in 1983, and 535 S. Park Avenue was constructed in 1984. In 2010, 555, 645, and 655 S. Park Avenue underwent an exterior building envelope renovation.

Staff Comments

Energy Conservation (33R): The applicant proposes to install three outdoor fire pits. One of the fire pits will replace an existing fire pit located in the gazebo. With two new fire pits proposed, negative two (-2) points are warranted.

There is an existing snowmelt system covering the entire plaza area. The existing snowmelt system serving the Plaza consists of three different older model boiler plants. The applicant proposes to replace them with 4 new energy efficient boilers for the new replacement snowmelt system. The applicant has provided a registered engineer's study which shows the new snowmelt system will have an increased efficiency with an estimated energy savings of 23% - 26%, which staff believes warrants positive two (+2) points under Policy 33/R(D) *Other Design Features*. Staff has reviewed and confirmed this energy savings with the Building Official.

Access / Circulation (16/A & 16/R; 17/A & 17/R): A 20' wide utility and access easement exists in the middle of the site, which serves as a primary access for skiers traveling to and from the downtown area as well as from the F Lot parking lot, and the Peak 9 Quicksilver lift. This ground surface in this easement will be resurfaced for improved pedestrian use. Some of the existing planters encroach upon this easement. The proposed removal of the existing planters and the existing gazebo will likely improve pedestrian circulation, however staff does not believe the conditions are changing enough to warrant positive points.

Landscaping (22/A & 22/R): Currently the Plaza contains approximately 3,500 sq. ft. of planter area internal to the site including 12 trees. The applicant proposes to remove all of the planters and trees. Some of the existing trees were transplanted from the Plaza planters to locations throughout the property in October 2015, including 6 Aspen and 1 Chokecherry trees to the field between the Chateaux and Jones Gulch. The plaza is on top of a parking deck, and there have been numerous water leaks in recent years providing issues with the underground parking area directly beneath the plaza causing potential structural problems. No negative points are recommended for the removal of the trees and planters in this internal plaza area of the property.

Architectural Compatibility (5/A & 5/R): Proposed plaza materials and colors do not unduly contrast with the site's background. There are natural brown and tan brick pavers proposed, metal railings with stone bases, stone firepits, and stone light pole bases. No stucco is proposed, and all metal railings are proposed to be a black matte finished. Staff does not have any concerns.

Site and Environmental Design (7/R):

Staff finds that the proposed renovation will be visually harmonious as perceived from both the interior and exterior of the project, will blend into the character of the site, and produce a visually cohesive space. No negative or positive points are recommended.

Exterior Lighting (Chapter 12): The plaza contains outdoor lighting fixtures installed prior to the implementation of the new policy on July 1, 2007, which requires downcast fully shielded light fixtures. The existing lights do not comply with the requirements of Chapter 12 and are legal nonconforming fixtures. Per Code, all legal nonconforming fixtures may continue to be used and maintained, but shall be brought into compliance with the requirements of this chapter upon the first to occur of:

1. A determination by the director that the legal nonconforming fixture constitutes a public hazard or nuisance;
2. The replacement of the legal nonconforming fixture;
- or
3. July 1, 2022.

Staff notes that this code section exempting replacement until 2022 will apply to the existing fixtures, however with the conversion requires in 6 years, staff highly recommends the applicant replace the fixtures while the plaza is under construction.



Five (5) of the new light fixtures are proposed in the Southwest and center area of the plaza, and one (1) at the stairs to the east of the plaza. The applicant proposes that the new light fixtures will be LED and dimmable. Six (6) of the existing light fixtures near the building entries will be relocated to the center of the plaza. A cut sheet has been provided for the new fixtures which are similar in design to the existing fixtures; however, they will contain LED light bulbs and are downcast and fully shielded to meet code. Staff does not have any concerns.

Utilities Infrastructure (26/A & 26/R; 28/A): All utilities are underground. Staff does not have any concerns.

Drainage (27/A & 27/R): The plaza currently is drained by an eastward sheet flow and a series of floor area drains and pipes in the plaza. One of the design intents of the new plaza is to compartmentalize the plaza drainage, which will allow for much more efficient identification in the event there is a leak. The applicant proposes install new larger drains and piping than will tie into the garage drainage system below intended to better mitigate current water leakage issues with the plaza and underground garage. Staff does not have any concerns.

Point Analysis (Section: 9-1-17-3): The proposal warrants negative two (-2) points under Policy 33R Energy Conservation for two new fire pits, and positive two (+2) points under the same Policy for the energy efficient boiler system. Staff recommends a passing project with point analysis of zero (0) points. All Absolute Policies are being met.

Staff Decision

Staff has approved The Village at Breckenridge Plaza Renovation, located at 535, 555, 575, 645, 655 South Park Avenue; 405 Village Road, PL-2016-007, with a passing point analysis of zero (0) points and the attached findings and conditions.

Final Hearing Impact Analysis				
Project:	Village at Breckenridge HOA Plaza Renovation	Positive Points	+2	
PC#:	2016-0007			
Date:	2/10/2016	Negative Points	- 2	
Staff:	Chapin LaChance, Planner II			
		Total Allocation:	0	
Items left blank are either not applicable or have no comment				
Sect.	Policy	Range	Points	Comments
1/A	Codes, Correlative Documents & Plat Notes	Complies		
2/A	Land Use Guidelines	Complies		
2/R	Land Use Guidelines - Uses	4x(-3/+2)		
2/R	Land Use Guidelines - Relationship To Other Districts	2x(-2/0)		
2/R	Land Use Guidelines - Nuisances	3x(-2/0)		
3/A	Density/Intensity	Complies		
3/R	Density/ Intensity Guidelines	5x (-2>-20)		
4/R	Mass	5x (-2>-20)		
5/A	Architectural Compatibility	Complies		
5/R	Architectural Compatibility - Aesthetics	3x(-2/+2)		
6/A	Building Height	Complies		
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/Multi-family 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	Site and Environmental Design - General Provisions	2X(-2/+2)		
7/R	Site and Environmental Design / Site Design and Grading	2X(-2/+2)		
7/R	Site and Environmental Design / Site Buffering	4X(-2/+2)		
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)		
7/R	Site and Environmental Design / Site Privacy	2X(-1/+1)		
7/R	Site and Environmental Design / Wetlands	2X(0/+2)		
7/R	Site and Environmental Design / Significant Natural Features	2X(-2/+2)		
8/A	Ridgeline and Hillside Development	Complies		
9/A	Placement of Structures	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)		
12/A	Signs	Complies		
13/A	Snow Removal/Storage	Complies		
13/R	Snow Removal/Storage - Snow Storage Area	4x(-2/+2)		
14/A	Storage	Complies		
14/R	Storage	2x(-2/0)		
15/A	Refuse	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	Internal Circulation	Complies		
16/R	Internal Circulation / Accessibility	3x(-2/+2)	0	
16/R	Internal Circulation - Drive Through Operations	3x(-2/0)		
17/A	External Circulation	Complies		
18/A	Parking	Complies		
18/R	Parking - General Requirements	1x(-2/+2)		
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	Loading	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	Landscaping	Complies		
22/R	Landscaping	2x(-1/+3)	0	
24/A	Social Community	Complies		
24/A	Social Community / Above Ground Density 12 UPA	(-3>-18)		
24/A	Social Community / Above Ground Density 10 UPA	(-3>-6)		
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)		
5/R	Social Community - Conservation District	3x(-5/0)		
24/R	Social Community - Historic Preservation	3x(0/+5)		
24/R	Social Community - Primary Structures - Historic Preservation/Restoration - Benefit	+1/3/6/9/12		
24/R	Social Community - Secondary Structures - Historic Preservation/Restoration - Benefit	+1/2/3		
24/R	Social Community - Moving Primary Structures	-3/10/15		
24/R	Social Community - Moving Secondary Structures	-3/10/15		
24/R	Social Community - Changing Orientation Primary Structures	-10		
24/R	Social Community - Changing Orientation Secondary Structures	-2		
24/R	Social Community - Returning Structures To Their Historic Location	+2 or +5		
25/R	Transit	4x(-2/+2)		
26/A	Infrastructure	Complies		
26/R	Infrastructure - Capital Improvements	4x(-2/+2)		
27/A	Drainage	Complies		
27/R	Drainage - Municipal Drainage System	3x(0/+2)		
28/A	Utilities - Power lines	Complies		
29/A	Construction Activities	Complies		
30/A	Air Quality	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	Water Quality	Complies		
31/R	Water Quality - Water Criteria	3x(0/+2)		
32/A	Water Conservation	Complies		
33/R	Energy Conservation - Renewable Energy Sources	3x(0/+2)		
33/R	Energy Conservation - Energy Conservation	3x(-2/+2)		
	HERS index for Residential Buildings			
33/R	Obtaining a HERS index	+1		
33/R	HERS rating = 61-80	+2		
33/R	HERS rating = 41-60	+3		
33/R	HERS rating = 19-40	+4		
33/R	HERS rating = 1-20	+5		
33/R	HERS rating = 0	+6		
	Commercial Buildings - % energy saved beyond the IECC minimum standards			
33/R	Savings of 10%-19%	+1		
33/R	Savings of 20%-29%	+3		
33/R	Savings of 30%-39%	+4		
33/R	Savings of 40%-49%	+5		
33/R	Savings of 50%-59%	+6		
33/R	Savings of 60%-69%	+7		
33/R	Savings of 70%-79%	+8		
33/R	Savings of 80% +	+9		
33/R	Heated driveway, sidewalk, plaza, etc.	1X(-3/0)		
33/R	Outdoor commercial or common space residential gas fireplace (per fireplace)	1X(-1/0)	- 2	The applicant proposes to install two new outdoor firepits.
33/R	Large Outdoor Water Feature	1X(-1/0)		
	Other Design Feature	1X(-2/+2)	+2	The increased efficiency of the snowmelt system results in an estimated energy savings of 23% - 26%.
34/A	Hazardous Conditions	Complies		
34/R	Hazardous Conditions - Floodway Improvements	3x(0/+2)		
35/A	Subdivision	Complies		
36/A	Temporary Structures	Complies		
37/A	Special Areas	Complies		

37/R	Special Areas - Community Entrance	4x(-2/0)		
37/R	Special Areas - Individual Sites	3x(-2/+2)		
37/R	Special Areas - Blue River	2x(0/+2)		
37R	Special Areas - Cucumber Gulch/Setbacks	2x(0/+2)		
37R	Special Areas - Cucumber Gulch/Impervious Surfaces	1x(0/-2)		
38/A	Home Occupation	Complies		
38.5/A	Home Childcare Businesses	Complies		
39/A	Master Plan	Complies		
40/A	Chalet House	Complies		
41/A	Satellite Earth Station Antennas	Complies		
42/A	Exterior Loudspeakers	Complies		
43/A	Public Art	Complies		
43/R	Public Art	1x(0/+1)		
44/A	Radio Broadcasts	Complies		
45/A	Special Commercial Events	Complies		
46/A	Exterior Lighting	Complies		
47/A	Fences, Gates And Gateway Entrance Monuments	Complies		
48/A	Voluntary Defensible Space	Complies		
49/A	Vendor Carts	Complies		

TOWN OF BRECKENRIDGE

**Village at Breckenridge HOA Plaza Renovation
Common Area Village at Breckenridge; Lot 1 Village at Breckenridge Subdivision #1
535, 555, 575, 645, 655 South Park Avenue; 405 Village Road
PC# 2016-0007**

STAFF RECOMMENDATION: Staff has approved this application with the following Findings and Conditions and recommends the Planning Commission uphold this decision.

FINDINGS

1. The project is in accord with the Development Code and does not propose a prohibited use.
2. The project will not have significant adverse environmental impact or demonstrative negative aesthetic effect.
3. All feasible measures mitigating adverse environmental impacts have been included, and there are no economically feasible alternatives, which would have less adverse environmental impact.
4. This approval is based on the staff report dated **February 10, 2016**, and findings made by the Planning Commission with respect to the project. Your project was approved based on the proposed design of the project and your acceptance of these terms and conditions imposed.
5. The terms of approval include any representations made by you or your representatives in any writing or plans submitted to the Town of Breckenridge, and at the meeting on the project held on **February 16, 2016**, as to the nature of the project. In addition to Commission minutes, the audio of the meetings of the Commission are recorded.

CONDITIONS

1. This permit does not become effective, and the project may not be commenced, unless and until the applicant accepts the preceding findings and following conditions in writing and transmits the acceptance to the Town of Breckenridge.
2. If the terms and conditions of the approval are violated, the Town, in addition to criminal and civil judicial proceedings, may, if appropriate, issue a stop order requiring the cessation of work, revoke this permit, require removal of any improvements made in reliance upon this permit with costs to constitute a lien on the property and/or restoration of the property.
3. This permit expires eighteen (18) months from date of issuance, on **August 16, 2017**, unless a building permit has been issued and substantial construction pursuant thereto has taken place. In addition, if this permit is not signed and returned to the Town within 30 days from the permit mailing date, the duration of the permit shall be 18 months, but without the benefit of any vested property right.
4. The terms and conditions of this permit are in compliance with the statements of the staff and applicant made on the evidentiary forms and policy analysis forms.
5. Nothing in this permit shall constitute an agreement by the Town of Breckenridge to issue a certificate of occupancy for the project covered by this permit. The determination of whether a certificate of occupancy should be issued for such project shall be made by the Town in accordance with the applicable provisions of the Town Code, including, but not limited to the building code.
6. Applicant shall field locate utility service lines to avoid existing trees.

7. All hazardous materials used in construction of the improvements authorized by this permit shall be disposed of properly off site.
8. In order for the vested property rights associated with this permit to be extended pursuant to Section 9-1-17-11(D) of the Breckenridge Development Code, substantial construction must be achieved for each structure within the vested right period of this permit.

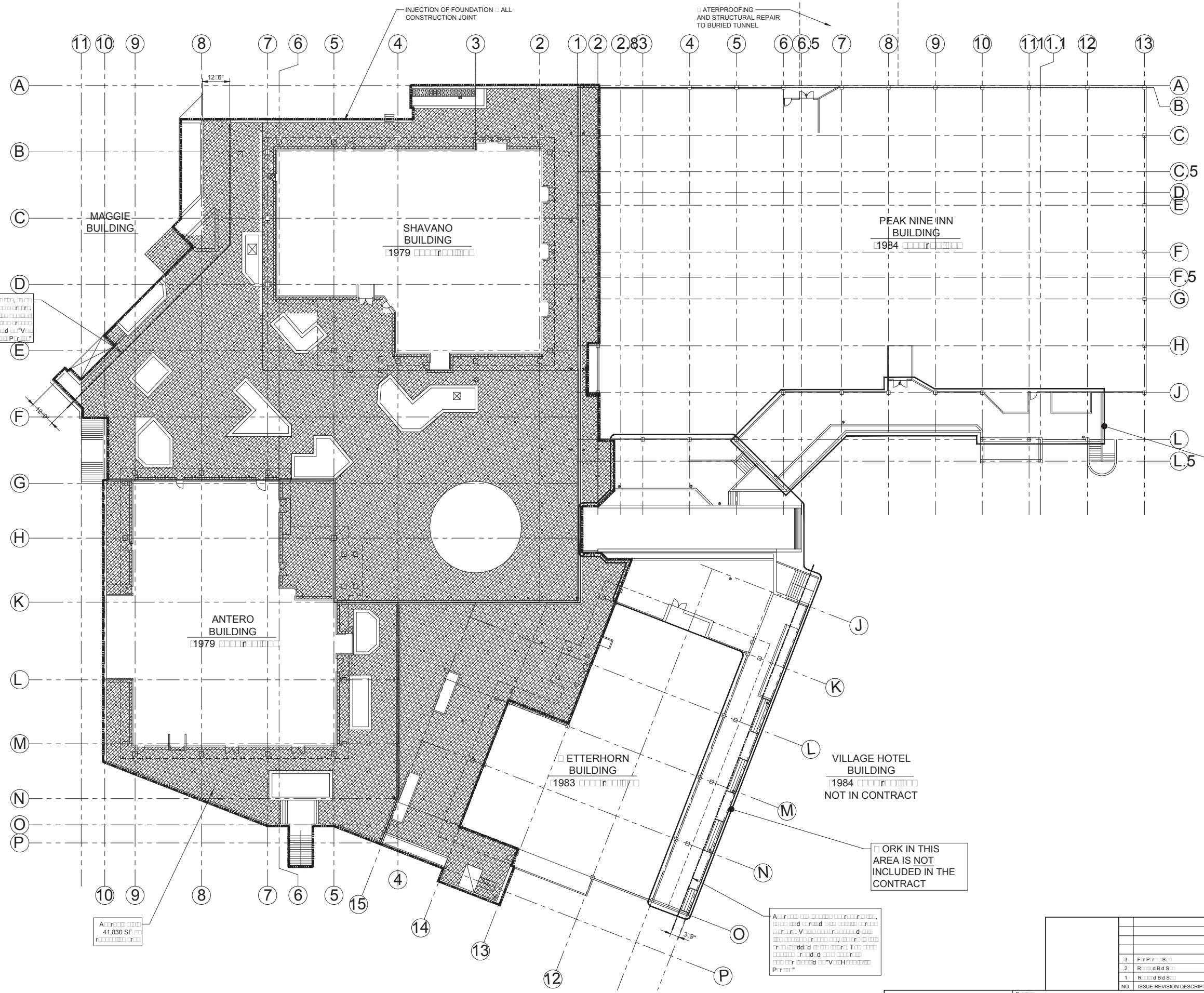
PRIOR TO ISSUANCE OF BUILDING PERMIT

9. Applicant shall submit proof of ownership of the project site.
10. Applicant shall submit and obtain approval from the Town Engineer of final drainage, grading, utility, and erosion control plans.
11. Applicant shall provide plans stamped by a registered professional engineer licensed in Colorado, to the Town Engineer for all retaining walls over four feet in height.
12. Any exposed foundation wall in excess of 12 inches shall be finished (i.e. textured or painted) in accordance with the Breckenridge Development Code Section 9-1-19-5R.
13. Applicant shall identify all existing trees, which are specified on the site plan to be retained, by erecting temporary fence barriers around the trees to prevent unnecessary root compaction during construction. Construction disturbance shall not occur beyond the fence barriers, and dirt and construction materials or debris shall not be placed on the fencing. The temporary fence barriers are to remain in place until issuance of the Certificate of Occupancy.
14. Existing trees designated on the site plan for preservation which die due to site disturbance and/or construction activities will be required to be replaced at staff discretion with equivalent new trees, i.e. loss of a 12 inch diameter tree flagged for retention will be offset with the addition of four 3-inch diameter new trees.
15. Applicant shall submit and obtain approval from the Town of a construction staging plan indicating the location of all construction material storage, fill and excavation material storage areas, portolet and dumpster locations, and employee vehicle parking areas. No staging is permitted within public right of way without Town permission. Any dirt tracked upon the public road shall be the applicant's responsibility to remove. Contractor parking within the public right of way is not permitted without the express permission of the Town, and cars must be moved for snow removal. A project contact person is to be selected and the name provided to the Public Works Department prior to issuance of the building permit.
16. Applicant shall install construction fencing and erosion control measures at the 25-foot no-disturbance setback to streams and wetlands in a manner acceptable to the Town Engineer.
17. Applicant shall submit and obtain approval from Town staff of a cut sheet detail for all exterior lighting on the site. All exterior lighting on the site or buildings shall be fully shielded to hide the light source and shall cast light downward. Exterior residential lighting shall not exceed 15' in height from finished grade or 7' above upper decks.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

18. Applicant shall revegetate all disturbed areas with a minimum of 2 inches topsoil, seed and mulch.
19. Applicant shall remove leaf clutter, dead branches and dead standing trees from the property, dead branches on living trees shall be trimmed to a minimum height of six (6) feet and a maximum height of ten (10) feet above the ground.
20. Applicant shall remove all vegetation and combustible material from under all eaves and decks.

21. **Applicant shall provide a stamped Colorado Registered Engineer's certification stating that an energy savings of 23% - 26% has been achieved with the snowmelt boiler system.**
22. Applicant shall paint all garage doors, metal flashing, vents, flues, rooftop mechanical equipment, meters, and utility boxes on the building a flat, dark color or to match the building color.
23. Applicant shall screen all utilities.
24. All exterior lighting on the site or buildings shall be fully shielded to hide the light source and shall cast light downward. Exterior residential lighting shall not exceed 15 feet in height from finished grade or 7 feet above upper decks.
25. At all times during the course of the work on the development authorized by this permit, the permittee shall refrain from depositing any dirt, mud, sand, gravel, rubbish, trash, wastepaper, garbage, construction material, or any other waste material of any kind upon the public street(s) adjacent to the construction site. Town shall provide oral notification to permittee if Town believes that permittee has violated this condition. If permittee fails to clean up any material deposited on the street(s) in violation of this condition within 24 hours of oral notice from Town, permittee agrees that the Town may clean up such material without further notice and permittee agrees to reimburse the Town for the costs incurred by the Town in cleaning the streets. Town shall be required to give notice to permittee of a violation of this condition only once during the term of this permit.
26. The development project approved by this Permit must be constructed in accordance with the plans and specifications, which were approved by the Town in connection with the Development Permit application. Any material deviation from the approved plans and specifications without Town approval as a modification may result in the Town issuing a Stop Work Order and/or not issuing a Certificate of Occupancy or Compliance for the project, and/or other appropriate legal action under the Town's development regulations. A Stop Work Order may not be released until a modification to the permit is reviewed and approved by the Town. Based upon the magnitude of the modification, another hearing before the Planning Commission may be required.
27. No Certificate of Occupancy or Certificate of Compliance will be issued by the Town until: (i) all work done pursuant to this permit is determined by the Town to be in compliance with the approved plans and specifications for the project, and all applicable Town codes, ordinances and standards, and (ii) all conditions of approval set forth in the Development Permit for this project have been properly satisfied. If either of these requirements cannot be met due to prevailing weather conditions, the Town may issue a Certificate of Occupancy or Certificate of Compliance if the permittee enters into a Cash Deposit Agreement providing that the permittee will deposit with the Town a cash bond, or other acceptable surety, equal to at least 125% of the estimated cost of completing any required work or any applicable condition of approval, and establishing the deadline for the completion of such work or the satisfaction of the condition of approval. The form of the Cash Deposit Agreement shall be subject to approval of the Town Attorney. "Prevailing weather conditions" generally means that work can not be done due to excessive snow and/or frozen ground. **As a general rule, a cash bond or other acceptable surety will only be accepted by the Town between November 1 and May 31 of the following year. The final decision to accept a bond as a guarantee will be made by the Town of Breckenridge.**
28. Applicant shall submit the written statement concerning contractors, subcontractors and material suppliers required in accordance with Ordinance No. 1, Series 2004.



Air Conditioning
 Vents
 Mechanical
 Electrical

Air Conditioning
 Vents
 Mechanical
 Electrical

WORK IN THIS AREA IS NOT INCLUDED IN THE CONTRACT

WORK IN THIS AREA IS NOT INCLUDED IN THE CONTRACT

41,830 SF

SITE PLAN
SCALE: 1/8" = 1'-0"

A SHEET R1

BC&E LLC
 1520 West Canal Court, Suite 240
 Littleton, Colorado 80120
 303.350.1000 tel | 303.350.1004 fax

NO.	ISSUE/REVISION DESCRIPTION	DATE
3	Final Proposed	2/10/16
2	Revised	11/23/15
1	Revised	7/7/15

PROJECT	P... V... Br... rd... P... R... ..	BC# EN#	13014
DATE		D#	8/8/14
STATUS	S...	S#	AS NOTED
			R1

FOR PERMIT

O'BRYAN PARTNERSHIP, INC.
ARCHITECTS - A.I.A.

ARCHITECTURE,
PLANNING, INTERIORS

P. O. Box 2773
620 Main Street, Suite 8
Frisco, CO 80443
Tel: 970.668.1133
Fax: 970.668.2316
www.oparch.com

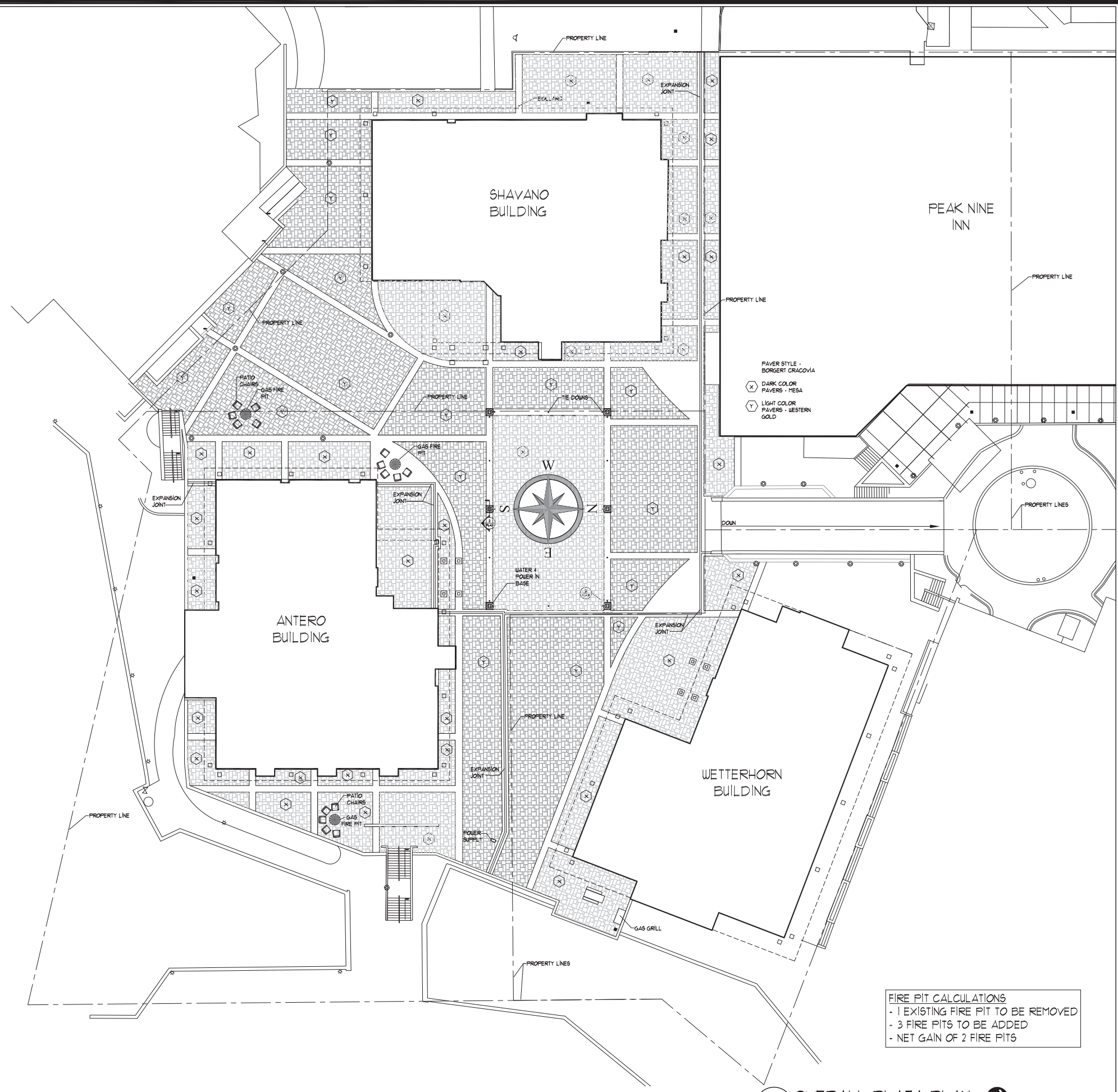
VILLAGE AT BRECKENRIDGE PLAZA

535 SOUTH PARK AVENUE
BRECKENRIDGE, CO 80424

Revisions:
1.11.14 PRICING PACKAGE
8.8.14 BID PACKAGE
1-1-15 UPDATED BID PACKAGE
11-5-15 UPDATED BID PACKAGE
2-2-16 PERMIT UPDATES
2-10-16 FOR PERMIT DRAWINGS

Date: 1.1.15
Project No: 2528
Drawn by: SCG
Checked by: KAO

Sheet Of
PL1.0
OVERALL PLAZA PLAN



FIRE PIT CALCULATIONS
- 1 EXISTING FIRE PIT TO BE REMOVED
- 3 FIRE PITs TO BE ADDED
- NET GAIN OF 2 FIRE PITs

1 OVERALL PLAZA PLAN
PL1.0 1/16" = 1'-0"

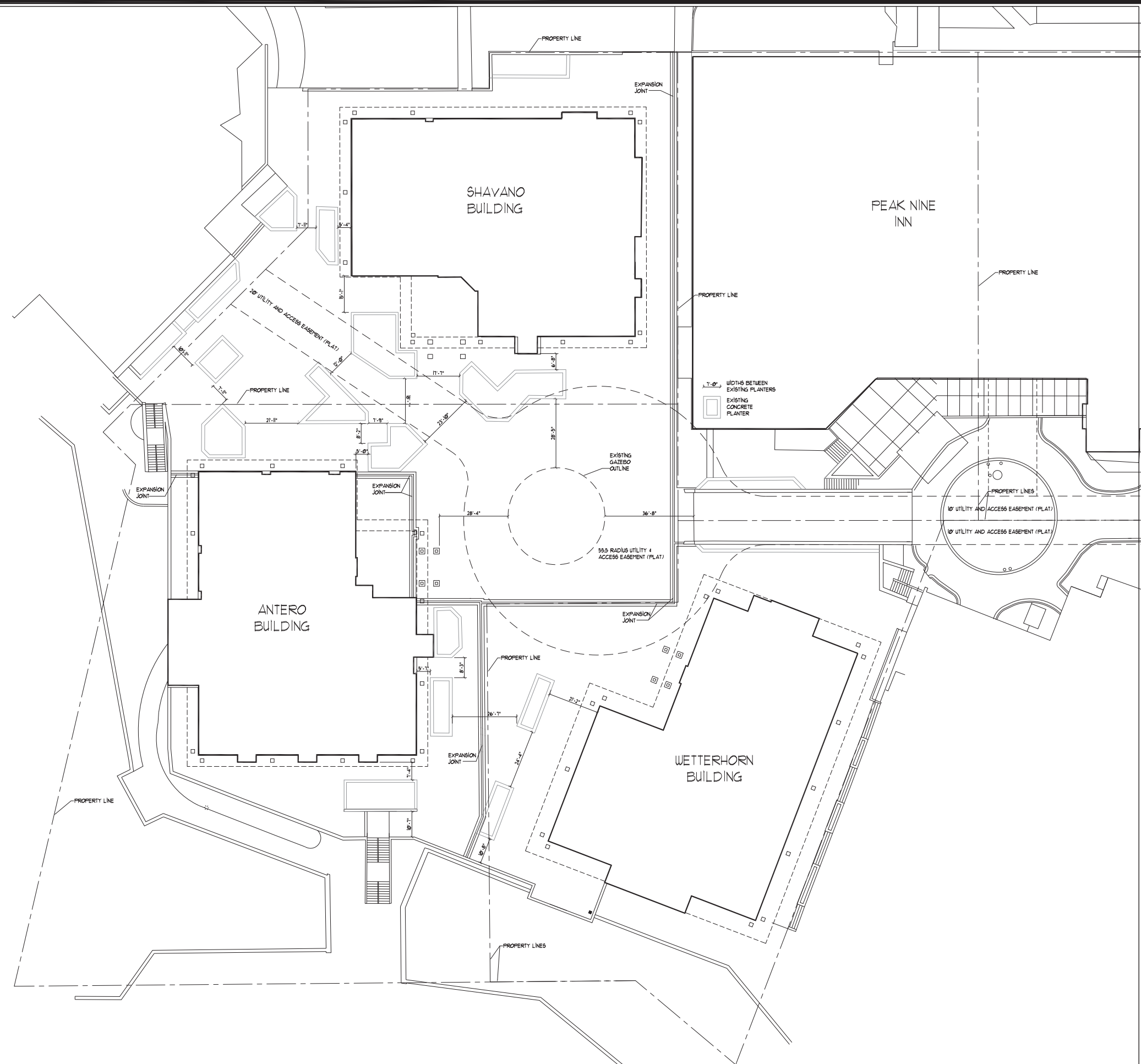

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 Fax: 970.668.2316
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VILLAGE AT BRECKENRIDGE PLAZA
 535 SOUTH PARK AVENUE
 BRECKENRIDGE, CO 80424

Revisions:
 2-10-16 FOR PERMIT DRAWINGS

Date: 1-5-16
 Project No: 2528
 Drawn by: SC6
 Checked by: KAO

Sheet Of
PL3.3
 EXISTING WALKWAYS PLAN



1 EXISTING WALKWAYS PLAN
 PL3.3 1/16" = 1'-0"

VILLAGE AT BRECKENRIDGE PLAZA

535 SOUTH PARK AVENUE
BRECKENRIDGE, CO 80424



5 EXISTING EXTERIOR STONE
PL4.3 MATCH



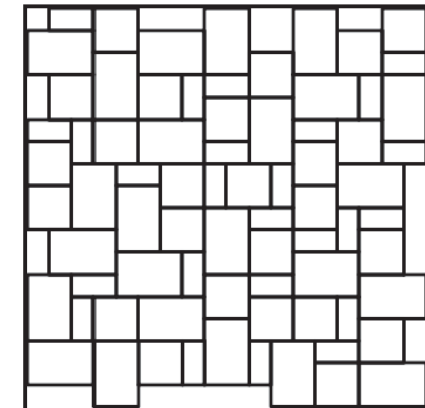
4 CONCRETE BANDING
PL4.3



3 BORGERT WESTERN GOLD
PL4.3



2 BORGERT MESA PAVER
PL4.3



(A) 3 piece Random
3x6 - 16%
6x6 - 34%
6x9 - 50%
Laying Ratio: 1:1:1

1 BORGERT CRACOVIA PAVER PATTERN
PL4.3



8 FIRE PIT CONCEPT 2
PL4.3



7 FIRE PIT CONCEPT 1
PL4.3



6 PAVER COMPASS ROSE CONCEPT
PL4.3



13 FIRE PIT INSERT AT NIGHT
PL4.3



12 FIRE PIT INSERT CONCEPT
PL4.3



11 EXISTING LAMP
PL4.3 MATCH



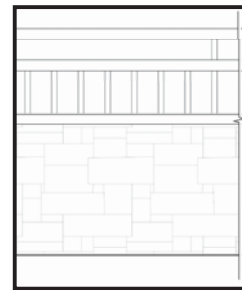
10 LAMP POST
PL4.3 MATCH



9 EXISTING LAMP & POST
PL4.3 MATCH



17 EXISTING RAILING COLOR
PL4.3 MATCH



17 RAILING CONCEPT
RE: PL4.0 & PL4.1
PL4.3



15 EXISTING STONE BASE
PL4.3 MATCH



14 EXISTING POST BASE
PL4.3 MATCH

Revisions:
2-10-16 FOR PERMIT
DRAWINGS

Date: 1-6-16

Project No: 2528

Drawn by: SC6

Checked by: KAO

Sheet Of

PL4.3

PLAZA MATERIAL BOARD

Planning Commission Staff Report

- Subject:** Hester Fence Variance
(Class C Minor*, Combined Hearing; PL-2016-0014)
- Proposal:** The applicants seeks a variance to obtain approval for a 100 foot long fence to prevent snowdrift onto property
- Applicant/Owners:** Jim and Vanessa Hester, Property Owners
- Project Manager:** Chris Kulick, AICP, Planner II
Julia Puester, AICP, Senior Planner
- Date:** February 12, 2016 (for meeting of February 16, 2016)
- Address:** 432 Golden Age Drive
- Legal Description:** Lot 57, Highlands at Breckenridge, Filing 10
- Lot Size:** 127,195 sq. ft. (2.92 acres)
- Land Use District:** 1 – Residential, Subject to the Delaware Flats Master Plan
- Site Conditions:** This lot slopes uphill from the north towards the south at 16%. It is heavily wooded with lodge pole pine trees.
- Adjacent Uses:**
- North: Single family residential
 - South: Parcel C public open space, White River National Forest
 - East: Single family residential
 - West: Single Family residential

Item History

In the Summer of 2013, the USFS cut a section of trees to the south of the property. It also appears that the adjacent lot to the west has done wildfire mitigation, removing trees adjacent to the property. The Hester Residence was approved in 2011 and completed in March 2014. The rear outdoor living area in the southwest corner of the disturbance envelope includes a sitting area, recessed hot tub and gas fireplace.

*Staff notes that the application has been noticed per the Class A requirements per Section 9-1-11 (C) however, reduced the fee to a Class C minor application fee based on past precedent of fence variance applications (which met Section 9-1-19-47 Absolute (K)).

Further detailed in Exhibit C submitted by the applicants attached, upon the completion of the residence, the owners began having issues with snow accumulation at the outdoor space. The applicants constructed a 100 foot long fence between their property and Lot 58 (47 Peabody Terrace) to the west. The fence is 80 feet from the Peabody Right of Way and approximately 7 feet from the west side property line between the two homes (shown with the green arrow). The applicants constructed the fence without a development permit. They have stated that this is not a privacy fence and its intent is to avoid snow accumulation, large snow drifts and over hanging cornices that could result in a safety hazard to people using the outdoor space.



On September 29, 2015, the owners were contacted by the Highlands of Breckenridge Design Review Committee who informed them the fence did not meet Town or HOA regulations (Exhibit D). Subsequent to receiving this notice the owners met with Town staff November 13, 2015 seeking approval for the fence. Town staff informed the applicants the fence as constructed is not allowed per Policy 47 (absolute).

Not finding a hardship, staff reviewed alternatives with the applicant that would meet code such as adding landscaping, erecting a 15 foot long hot tub privacy fence, relocation of the hot tub, and regularly maintaining the area by clearing the snow by shovel and/or combination of the above.

As the applicants have relayed to staff that they believe “*additional landscaping would not definitively address the problem, a 15 foot privacy fence will protect less than one half of the entire affected area, relocation of the existing hot tub is not economically feasible, and shoveling is impractical and potentially would fail to protect unattended guests*”, the applicants have requested the Planning Commission consider a variance request.

Staff Comments

Per Section 9-1-19-47 Absolute Fences, Gates and Gateway Entrance Monuments:
The welfare of the town is based to a great extent on the character of the community, which includes natural terrain, open spaces, wildlife corridors and wooded hillsides. The installation of fences and privacy gates in residential areas can erode this character by impeding views, hindering wildlife movement and creating the image of a closed, unwelcoming community. It is the intent of the town to prohibit fences in most situations in areas outside of the conservation district in order to: maintain the open, natural and wooded alpine character of the community; establish mandatory requirements for the erection of allowed fences in other parts of the town; allow for fences on small lots in master planned

communities; regulate the design of gateway entrance monuments; and prohibit privacy gates anywhere within the town.

*C. Outside the Conservation District: Fences and landscape walls are **prohibited** outside the conservation district, except the following: fences are **permitted when constructed in accordance with the design standards described in subsection D of this section:***

(1) Pet fences;

(2) Fences around children's play areas;

(3) Fences around ball fields, tennis courts, swimming pools, ski lifts or other outdoor recreation areas;

(4) Construction fences;

(5) Temporary fences used for crowd control or to limit access or egress to or from a short term special event;

(6) Fencing required by law;

*(7) **Privacy fencing to screen hot tubs;***

(8) Fencing around cemeteries;

(9) Fences specifically authorized in a vested master plan containing specific fence design standards;

(10) Town fences to delineate public trails or protect open space values;

(11) Fencing at public improvement projects proposed by the town;

(12) Private fences to delineate the boundary between private land and a public trail or public open space, but only if authorized by a variance granted pursuant to subsection K of this section;

(13) Fencing at parking lots to protect pedestrians and designate crosswalks;

(14) Fencing at self-storage warehouses; and

(15) Fences installed by utility companies around utility equipment.

D. Design Standards For Fences: *All fencing outside the conservation district shall comply with the following design standards:*

*(1) Fences in residential areas shall be constructed of natural materials, and may be either a split rail, buck and rail, or log fence design because such designs have a natural appearance, blend well into the natural terrain, and **have an open character**. Fences of other materials or designs are prohibited. (Exception: Where an applicant can demonstrate to the satisfaction of the town that an alternative material would be architecturally compatible with the surrounding neighborhood, the director may authorize such materials.) **Fences in residential areas shall have a maximum solid to void ratio of one***

to three (1:3) (example: 1 inch of solid material for every 3 inches of opening). Solid privacy fences are prohibited, except for short lengths of fencing used to screen hot tubs, if they comply with subsection D(9) of this section.

(9) Privacy fences around hot tubs and spas shall not exceed six feet (6') in height and shall not exceed fifteen feet (15') in total length. Such fences shall be architecturally compatible with the adjacent buildings. Where a fence around a hot tub or spa is highly visible, landscaping may be required to soften the visual impact of the fence. (Emphasis added)

Staff believes that per Section 9-1-19-47 Absolute, the existing and proposed fence does not meet the intent of this policy as fences to prevent snow drifts are not listed in the permitted fence list in subsection (C) above. Further, should this be classified as a hot tub fence, it does not meet the length limitations and solid to void ratio. Staff also believes that the fence is not within the character of the neighborhood as there are no other fences such as this and it may be an impediment to wildlife movement.

Staff has processed this as a variance per Section 9-1-11 as the criteria of Section 9-1-19-47A below does not apply as the fence is not between private property and open space rather, the fence lies between two residential properties.

Section 9-1-19-47A (K):Variance: The planning commission or town council may authorize the erection of a private fence to delineate the boundary between private land and a public trail or public open space by granting a variance from the limitations of this policy. A variance shall be granted under this subsection only upon the written request of the applicant, and a finding that the applicant has satisfactorily demonstrated that: 1) the fence is needed in order to reduce public confusion as to the location of the boundary between the applicant's land and the public trail or public open space; 2) the applicant's inability to erect the fence would present a hardship; and 3) the purposes of this policy will be adequately served by the granting of the variance. No variance shall have the effect of nullifying the intent and purpose of this policy. Subsection [9-1-11D](#) of this chapter is not applicable to the granting of a variance to erect a private fence to delineate the boundary between private land and a public trail under this section.

Per Section 9-1-11 (D): Variances, D: Criteria for Approval: *Before the commission can grant a variance application, the applicant must prove physical hardship and the commission must find **all of the following:***

1. There are special circumstances or conditions applying to the land, buildings, topography, vegetation or other matters on the subject lot which would substantially restrict the effectiveness of the development in question; provided, however, that such special circumstances or conditions are unique to the particular use of which the applicant desires a variance and do not apply generally to all uses.

Accumulation and drifting of snow is not unique to this Property. Many properties in Town are subject to this condition, but the construction of snow fences (even if allowed under Policy 47/A) are not typical in the Town. All properties within the Town are situated in a high alpine environment where extreme snow and wind are common for more than half of the year. Regular snow removal and maintenance is required at 10,000 feet and can be more difficult and time consuming with larger amounts of hard surfaces. The Applicants have stated their situation is more extreme due to recent clear-cutting on an adjacent United States Forest Service property. However, the fence is situated between two residential properties, not the Forest Service or open space parcel. The adjacent property

owners of Lot 58 appear to have done wildfire mitigation on their property prior to the Applicants' residence being constructed per the aerial. Staff does not find this is a unique circumstance as all new major construction is required to do wildfire mitigation per Section C of Section 9-1-19-22 (Absolute) of the Development Code which was adopted in 2011, and the Town has otherwise encouraged wildfire mitigation on properties in Town.

2. That such special circumstances were not created by the applicant.

The Applicants' home was recently constructed in 2014. The outdoor space that is of concern was designed by the Applicants. The issue with snow accumulation may be exacerbated by locating a sunken hot tub at the base of a north-facing slope. The issues associated with snow loading and drift would likely be significantly reduced or eliminated if the Applicants' hot tub was re-located to a different area of the Property, a landscape buffer installed, or a hot tub privacy fence allowed per code were installed.

3. That the granting of the variance will be in general harmony with the purposes of this chapter, and will not be materially detrimental to the persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general.

Although the Applicants submitted a recent letter from the Design Review Committee of the governing homeowner's association stating that the Applicants' fence as installed is permissible under the homeowner's association rules and regulations, such private covenants and rules are not binding upon the Town. An application for a variance under the Development Code must be evaluated under the Town's rules as set forth in the Development Code. Staff believes that because of the extreme length of the Applicants' fence the granting of the variance will not be in general harmony with the purposes of the Development Code.

4. The variance applied for does not depart from the provisions of this chapter any more than is required.

A 100 foot long fence is substantially longer than the 15 foot maximum length of a hot tub privacy fence.

Staff does not support the variance request based on Section 9-1-11 (D) not being met.

Point Analysis (Section: 9-1-17-3): Staff finds no reason to assign positive or negative points under any Relative policies of the Development. The application fails Policy 47 (Absolute) Fences, Gates and Gateway Entrance Monuments and does not meet the Criteria for Approval for a Variance under 9-1-11 of the Town Code.

Staff Decision

The Planning Department recommends denial of the Hester Fence Variance (PL-2016-0014) at Lot 57, Highlands at Breckenridge, Filing 10, 432 Golden Age Drive, with the attached Findings.

ATTACHMENTS:

EXHIBIT A- Site Plan

EXHIBIT B- Photos Submitted by Applicant of fence and snow conditions

EXHIBIT C- Property Owner letter to Highlands Design Review Committee (Sept. 29, 2015)

EXHIBIT D- Highlands Design Review Committee Letter (August 24, 2015)

EXHIBIT E- Letter from Town of Breckenridge to Jim and Vanessa Hester (October 14, 2015)

EXHIBIT F- HOA Approval letter

TOWN OF BRECKENRIDGE

Hester Fence Variance
Lot 57, Highlands at Breckenridge, Filing 10
432 Golden Age Drive
PL-2016-0014

DECISION

1. This application (“**Application**”) was submitted by Jim Hester and Vanessa Hester (“**Applicants**”). The Applicants seek a variance to retroactively approve a fence that was installed by the Applicants without a development permit, all as more specifically described in the Application and supporting documentation. The real property upon which the fence has been constructed is located at 432 Golden Age Drive in Breckenridge, Colorado and is hereafter referred to as the “**Property**.”
2. The Planning Commission has jurisdiction over the Application pursuant to the Town of Breckenridge Development Code¹ and the power and authority granted to the Planning Commission by the Town of Breckenridge Charter and the Breckenridge Town Code.
3. The final hearing on the Application (“**Hearing**”) was held on February 16, 2016.
4. All required notice with respect to the hearing on the Applicants’ request for a variance has been given as required by the Development Code.
5. At the Hearing the Applicants, appeared and gave testimony and presented evidence in support of the Application. At the Hearing other interested parties were given the opportunity to appear and gave testimony concerning the Application. Such testimony and evidence is contained in the record of the proceedings pertaining to the Application.
6. All members of the Planning Commission have carefully considered all of the evidence submitted pertaining to the Application, both oral and written, and the applicable requirements of the Development Code.
7. The Property is located outside of the Town’s Conservation District.
8. The Applicants position is that the fence that has been constructed on the Property is a “snow fence” that is needed because too much snow drifts onto the Property from the clear cutting that occurred on nearby USFS property, and that the drifted snow cornices around and onto the Applicants’ hot tub that is located on the Property.
9. The construction of a fence is governed by Section 9-1-19-47 (Absolute) *Fences, Gates, and Gateway Monuments* of the Town’s Development Code (“Policy 47/A”).

¹ Chapter 1 of Title 9 of the Breckenridge Town Code

10. An “**absolute policy**” is defined in Section 9-1-5 of the Development Code as “a policy which, unless irrelevant to the development, must be implemented for a (development) permit to be issued. The policies are described in Section 9-1-19 of this Chapter. ” More simply stated, in order to be approved an application for a development permit must either comply with all applicable absolute policies set forth in the Development Code, or a variance from the requirements of such absolute policy must be granted by the Planning Commission.

11. Section C of Policy 47/A generally provides that “(f)ences and landscape walls are prohibited outside the Conservation District,” with fifteen enumerated exceptions. None of the enumerated exceptions specifically authorize the construction of a “snow fence” on property located outside of the Conservation District, and a strict reading of Policy 47/A would lead to the conclusion that snow fences are simply not allowed on property outside of the Conservation District. This interpretation of Policy 47/A would require the Application to be denied because a snow fence is simply not permitted on property outside of the Conservation District, and no variance from Policy 47/A can be granted to authorize such type of fence.

12. The one exception to the general prohibition against the construction of fences outside the Conservation District that might apply to the Application is Exception No. 7, which allows (subject to certain restrictions) “privacy fencing to screen hot tubs.”

13. The applicable limitation on the length of a fence for privacy fencing that screens a hot tub is fifteen feet as set forth in subsection (D)(9) of Policy 47/A. The Commission determines that this limitation can properly be applied to the Application.

14. On its face the Application fails to meet Policy 47/A because the length of the fence as constructed (100 feet) exceeds the applicable fifteen foot maximum length for a privacy fence screening a hot tub as allowed by Policy 47/A. Therefore, unless a variance is granted with respect to the requirements of Policy 47/A, the Application will have to be denied because it will not be in compliance with a relevant absolute policy of the Development Code.

15. A variance is defined in Section 9-1-5 of the Development Code as follows:

VARIANCE: A finding by the approving agency that, although a proposed development is not in strict compliance with an absolute policy, to deny the development permit would result in "undue hardship" as defined by law. No relief from compliance with an absolute policy shall be granted except upon findings that:

- A. the failure to implement the absolute policy is of insignificant proportions; and
- B. the failure to implement the absolute policy will not result in substantial detriment to the public good or substantially impair the intent and purposes of the absolute policy; and

- C. there are exceptional circumstances applicable to the specific development which do not apply generally to other properties in the same district or neighborhood.

16. The Applicants have requested a variance to Policy 47/A; have filed the required application for a variance; and have paid the applicable fee.

17. The Applicants have the burden to prove by a preponderance of the evidence that the Application satisfies all applicable requirements for a variance. A failure to meet this burden of proof requires the Planning Commission to deny the requested variance.

18. In addition to the requirements contained within the definition of variance in Section 9-1-5 of the Development Code, Section 9-1-11 of the Development Code sets forth the Town's other rules for the granting of a variance from the provisions of the Development Code.

19. Paragraph (A)(2) of Section 9-1-11 of the Development Code provides that "(a) variance may be granted with respect to any absolute policy contained in this chapter." Thus, in the proper case a variance could be granted from the requirements of Policy 47/A.

20. Paragraph (A)(1) of Section 9-1-11 of the Development Code provides as follows:

A. Purpose/Limitations:

1. In order to prevent or to reduce such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this chapter, variances from the regulations may be granted. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.

This subsection establishes one requirement for the granting of a variance.

17. Section D of Section 9-1-11 of the Development Code set forth additional criteria which must be established by an applicant in order for a variance to be granted. Such section provides as follows:

D. Criteria For Approval: Before the commission can grant a variance application, the applicant must prove physical hardship and the commission must find all of the following:

1. There are special circumstances or conditions applying to the land, buildings, topography, vegetation or other matters on the subject lot which would substantially restrict the effectiveness of the development in question; provided, however, that such special circumstances or conditions are unique to the particular use of which the applicant desires a variance and do not apply generally to all uses.
2. That such special circumstances were not created by the applicant.

3. That the granting of the variance will be in general harmony with the purposes of this chapter, and will not be materially detrimental to the persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general.
4. The variance applied for does not depart from the provisions of this chapter any more than is required.

18. The Planning Commission has received and considered the evidence submitted in connection with the Applicants' request for a variance and, based upon such evidence, makes the following findings as required by the definition of a "variance" in Section 9-1-5 of the Development Code:

- A. To deny the development permit would not result in "undue hardship" as defined by law.

Reason/Factual Basis for Finding: The Applicants have failed to demonstrate to the satisfaction of the Planning Commission that the denial of the requested variance would constitute an undue hardship as defined by applicable law. As noted in Section 9-1-11(A), "cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting of a variance."

- B. The failure to implement the requirements of Policy 47/A is not of insignificant proportions.

Reason/Factual Basis for Finding: A 100 foot long fence is substantially longer than the 15 foot maximum length of a privacy fence that screens a hot tub that is allowed under Policy 47/A, or any similar fence located in the Town. The failure to implement the requirement of Policy 47/A with respect to the length of the Applicants' fence is not of insignificant proportions.

- C. The failure to implement the requirements of Policy 47/A will result in substantial detriment to the public good or substantially impair the intent and purposes of the absolute policy.

Reason/Factual Basis for Finding: Because of the extreme length of the Applicants' fence the granting of the variance would result in substantial detriment to the public good or substantially impair the intent and purposes of Policy 47/A.

- D. There are no exceptional circumstances applicable to the Application which do not apply generally to other properties in the same district or neighborhood.

Reason/Factual Basis for Finding: See Finding No. 19(B), below.

19. The Planning Commission makes the following additional findings as required by Section 9-1-11 of the Development Code:

- A. There are no practical difficulties or unnecessary physical hardships associated with the Application.

Reason/Factual Basis for Finding: The Applicants' fence can be removed without practical difficulties or unnecessary physical hardships.

- B. There are no special circumstances or conditions applying to the land, buildings, topography, vegetation or other matters on the subject lot which would substantially restrict the effectiveness of the development in question. Such special circumstances or conditions are not unique to the particular use of which the applicant desires a variance.

Reason/Factual Basis for Finding: Accumulation and drifting of snow is not unique to this Property. Many properties in Town are subject to this condition, but the construction of snow fences (even if allowed under Policy 47/A) are not typical in the Town. All properties within the Town are situated in a high alpine environment where extreme snow and wind are common for more than half of the year. Regular snow removal and maintenance is required at 10,000 feet and can be more difficult and time consuming with larger amounts of hard surfaces. The Applicants have stated their situation is more extreme due to recent clear-cutting on an adjacent United States Forest Service property. However, the fence is situated between two residential properties, not the Forest Service or open space parcel. The adjacent property owners of Lot 58 appear to have done wildfire mitigation on their property prior to the Applicants' residence being constructed per the aerial. The Planning Commission also does not find this is a unique circumstance as all new construction is required to do wildfire mitigation per Section C of Section 9-1-19-22 (Absolute) of the Development Code which was adopted in 2011, and the Town has otherwise encouraged wildfire mitigation on all properties in Town.

- C. That such special circumstances were created by the applicant.

Reason/Factual Basis for Finding: The Applicants' home was recently constructed in 2014. The outdoor space that is of concern was designed by the Applicants. The issue with snow accumulation may be exacerbated by locating a sunken hot tub at the base of a north-facing slope. The issues associated with snow loading and drift would likely be significantly reduced or eliminated if the Applicants' hot tub was re-located to a different area of the Property, a landscape buffer installed, or a hot tub privacy fence allowed per code were installed.

- D. That the granting of the variance will not be in general harmony with the purposes of this chapter, and will be materially detrimental to the persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general.

Reason/Factual Basis for Finding: Although the Applicants submitted a recent letter from the Design Review Committee of the governing homeowner’s association stating that the Applicants’ fence as installed is permissible under the homeowner’s association rules and regulations, such private covenants and rules are not binding upon the Town. An application for a variance under the Development Code must be evaluated under the Town’s rules as set forth in the Development Code. The Commission finds and concludes that because of the extreme length of the Applicants’ fence the granting of the variance will not be in general harmony with the purposes of the Development Code, and will be materially detrimental to the persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general.

- E. The variance applied for departs from the provisions of the Development Code more than is required.

Reason/Factual Basis for Finding: A 100 foot long fence is substantially longer than the 15 foot maximum length of a hot tub privacy fence.

20. The Applicants have failed to meet their burden of proving an entitlement to a variance under the Town’s variance rules as set forth above. A “snow fence” is not a type of fence that may be allowed by Policy 47/A. Even if we interpret Policy 47/A to allow a snow fence, the Applicants’ failures of proof on the variance request are multiple as set forth in this Decision; however, any one of the enumerated failures would require the Planning Commission to deny the Application.

Accordingly, the Applicants’ request for a variance from the requirements of Section 9-1-19-47 (Absolute) *Fences, Gates, and Gateway Monuments* of the Town’s Development Code as described in Application and supporting documentation is DENIED.

ADOPTED: February 16, 2016.

TOWN OF BRECKENRIDGE PLANNING
COMMISSION

By: _____
Chair

ATTEST:

Secretary



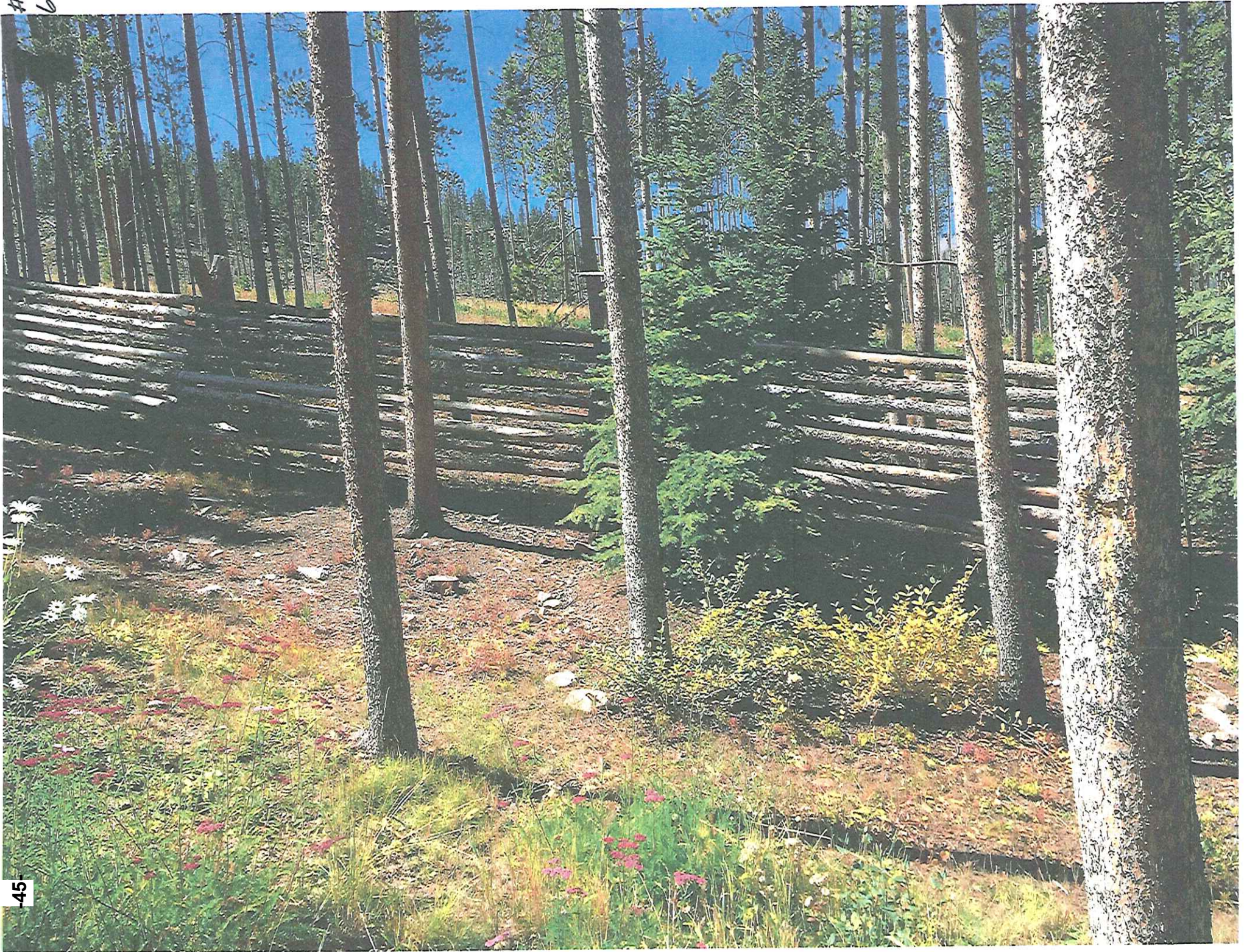
#3

EXHIBIT B

#4



#6



#7



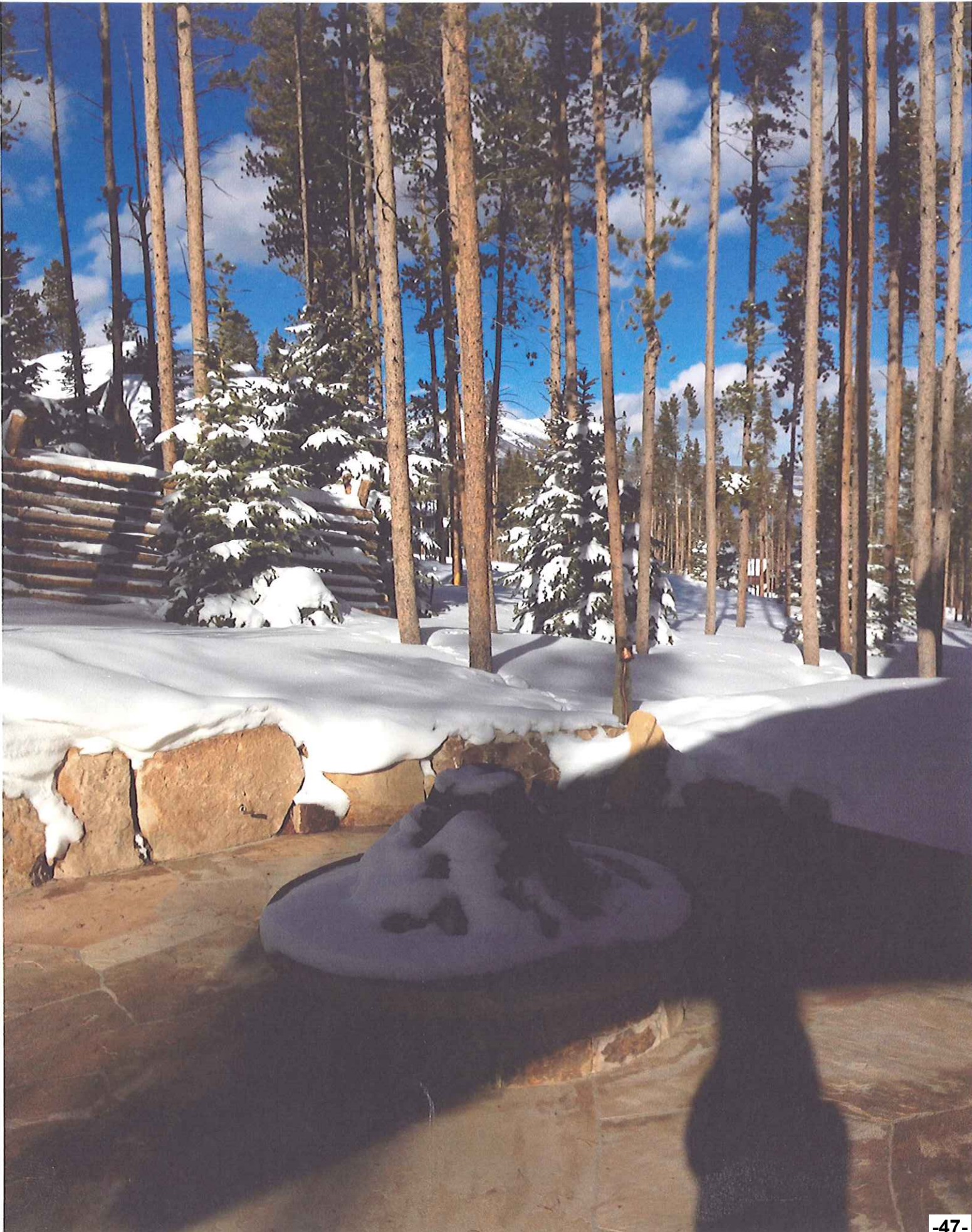




EXHIBIT C

September 29, 2015

The Highlands at Breckenridge
 Design Review Committee
 0069 Marksberry Way
 Drawer 8029
 Breckenridge, CO 80424



RE: Hester Residence, Lot 58, Filing 10, The Highlands at Breckenridge
 Notice of Non-Compliance Dated August 24, 2015

Dear Committee,

As you know, the U.S. Forest Service clear cut a large area of Pine Beetle infested forest immediately uphill of the lots located on the south side of Golden Age Drive and Peabody Terrace in the summer of 2013. Consequently, due to the lack forest protection from wind-blown snow drifting, we experienced significant snow accumulation on and around our outdoor living spaces and spa during the winter of 2013-2014. The depth of the accumulation was in excess of 8 feet with a cornice overhanging our spa and firepit. See attached photos 1 and 2. This situation represented a serious risk of injury to any person occupying said living spaces in the event of a collapse. Further, the depth and weight of accumulation resulted in significant damage to the spa and existing and approved landscape plantings.

We consulted with snow fence builders seeking a visually appealing solution to prevent unsafe and damaging snow drifting. Among the potential solutions were various types of constructed fences and tree barriers. Our clear preference would have been to plant a series of strategically located trees which would form a barrier preventing the snow drifting. However in no case were we given comfort such tree barrier would in all cases prevent any future drifting. On the other hand, we were advised a properly designed fence would be the only sure solution. Accordingly, we settled on a fence design that (i) utilized native, unrefined materials (ii) incorporated newly planted spruce trees and (iii) minimized length and obtrusiveness.

With respect to the above reference Notice, please review the following in consideration of the points raised by the DRC in conjunction with the Design Guidelines:

1. The fence installed in the fall of 2014 was for the purpose of mitigating expected snow accumulation and dangerous drifting on and around the outdoor living spaces. Materials consist exclusively of unrefined pine timbers measuring 4-6 inches in diameter. The height of the fence is approximately 6 feet. The overall length is approximately 100 feet. Please refer to Exhibit A (landscaping plot plan) for location and design. See attached photos 3, 4 and 5 for additional design and appearance considerations.
2. In order for the fence to perform its intended purpose, it must reside outside of the building envelope and will not be attached to the residence. The fence is not intended for privacy or delineation of the building envelope.
3. The materials utilized were intended to be as natural as reasonably possible, and to fit with the general feel and visual appeal of the development.

4. We will copy the Town of Breckenridge all materials and correspondence with The Highlands.

Please advise any fees or additional submittals.

Thank you for your time and consideration.

Very Truly Yours,



Jim and Vanessa Hester
432 Golden Age Dr.
(970)453-3994

Mailing Address:
400 N. Park Ave #10B
PMB 567
Breckenridge, Co 80424

CC: The Town of Breckenridge

August 24, 2015

EXHIBIT D

Vanessa and Jim Hester
 5802 Blackstone Creek Lane
 Kingwood, TX 77345

RE: Hester Residence, Lot 58, Filing 10, The Highlands at Breckenridge
 Notice of Non-Compliance

Dear Vanessa and Jim:

The Highlands Design Review Committee (DRC) has noticed that you have installed a fence in an area that appears to be on the north side of the rear patio and hot tub, perhaps to provide protection from snow drifting. The DRC has the following concerns with this installation:

1. All exterior modifications, including of this type, need to be submitted through the modification process for approval by the DRC. Please provide a submittal with pictures or drawings to indicate where the fencing is located on the site, and what the materials and height of the fencing are to be assessed against the requirements of the Design Guidelines.
2. The Design Guidelines, Section 2.8 – Walls and Fencing states the following: “Site walls or fences must appear as a visual extension of the residence, using similar materials and finishes. In no case will site walls or fences be permitted to arbitrarily delineate the building envelope, although it is understood that such walls and fences may define pet runs or small yards, courtyards or terraces, in close proximity to the residence for the purpose of privacy. Privacy or screened walls must not exceed 6’ in height, measured from existing natural grade, and they may not encroach in to any required setback. The use of ornamental iron or other metal fencing is subject to review by the Review Board. Chain link or wire fencing is prohibited”.
3. There may be some concerns with the material utilized as being appropriate to the design of the home and with the height of the fencing and it’s positioning outside of the building envelope. Please address these issues in your modification request.
4. Please note that these items may also require approval from the Town of Breckenridge.

Please contact the Design Review Administrator to discuss this situation. A modification submittal with the appropriate fees and materials outlining the changes must be submitted or fines will be assessed.

We look forward to receiving a submittal and resolving this issue in the very near future.

Yours truly,

The Highlands at Breckenridge
 Design Review Committee

cc: Chris Lange, Alpine Edge, The Highlands at Breckenridge
 Michael R. Houx, Design Review Administrator
 File

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EXHIBIT E

October 14, 2015

Jim and Vanessa Hester

400 N. Park Ave. #10B

PMB 567

Breckenridge, CO 80424

Re: Hester Residence, Lot 57, Filing 10, The Highlands at Breckenridge

Notice of Non-Compliance Dated August 24, 2016

Dear Jim and Vanessa,

The Town of Breckenridge was copied on a letter you sent to The Highlands at Breckenridge Design Review Committee on September 29, 2015. The letter is concerning a fence, built without a permit, on your property to try to address wind-blown snow drifting onto your hot tub and outdoor patio.

The Town of Breckenridge requires a permit to be approved prior to building fences on private property. I have included a copy of the Town's fence ordinance for your review. Your existing fence is out of conformance with several requirements of the Town's fence Policy 47: Fences, Gates and Gateway Entrance Monuments (47/A). Please remove the fence within 30-days, which will be November 20, 2015, or come into the Town of Breckenridge Community Development Department prior to that date to have a meeting with a Planner to discuss the specifics of the fence policy and the permitting requirements.

My last day with the Town of Breckenridge will be October 16, 2015. In my absence, please contact my supervisor, Julia Puester, at 970-547-3174, or juliap@townofbreckenridge.com, for assistance with this matter.

Thank you,

Matt Thompson, AICP

Town of Breckenridge

Community Development Dept.

Cc: The Highlands at Breckenridge Design Review Committee

THE HIGHLANDS
AT BRECKENRIDGE

October 8, 2015

Vanessa and Jim Hester
400 North Park Avenue, #10B
PMB 567
Breckenridge, CO 80424

RE: Hester Residence, Lot 56, Filing 10, The Highlands at Breckenridge
Request for Exterior Modifications

Dear Vanessa and Jim:

The Highlands at Breckenridge Design Review Committee (DRC) has received your modification request materials dated September 29, 2015 in response to our Notice of Non-Compliance letter dated August 24, 2015. The DRC has approved your modification request as follows:

1. The DRC appreciates your response and the submittal materials provided to help them understand the reason for the installation for the fence and its location, height and appearance.
2. The DRC has contacted your neighbor on lot 58, Mr. Dietz, to ascertain whether he has any objections to the fence being located outside of the building envelope close to his property line or with its appearance. Mr. Dietz has indicated that he has no concerns with the appearance or the location and does not object to its approval.
3. The DRC has agreed to not issue any fine related to installing exterior work without an approval.
4. The DRC hereby grants a variance for the fence to be located outside of the building envelope as located and as designed due to the mitigating reasons you have outlined in your submittal letter.
5. Please note that this item may require approval from the Town of Breckenridge, if you have not already received it.

Under Section 5.12 regarding Changes, Subsequent Remodels and Additions, a Design Review Fee of \$250.00 has been assessed for the time involved by the Design Review Administrator relative to the notice of non-compliance and this modification review and approval. Please make payment of this fee made out to The Highlands at Breckenridge and submit it to the Design Review Administrator.

Please don't hesitate to call the Design Review Administrator if you should have any questions regarding this approval.

Yours truly,

The Highlands at Breckenridge
Design Review Committee

cc: Chris Lange, Alpine Edge, The Highlands at Breckenridge
Michael R. Houx, Design Review Administrator
File

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MEMORANDUM

TO: Planning Commission
FROM: Julia Puester, Senior Planner
DATE: February 9, 2016, for meeting on February 16, 2016
SUBJECT: Chair and Vice Chair Elections

Planning Commissioners:

You elected Kate Christopher as the Chair and Ron Schuman as the Vice Chair of the Planning Commission on November 17, 2015 to serve through October 31, 2016.

With the departure of Kate Christopher after the February 16, 2016 meeting, you will need to nominate and elect a new Chair and Vice Chair at the February 16, 2016 meeting to serve through October 31, 2016.

Nominations from the floor will be taken under Other Matters at the end of the February 16, 2016 meeting.