



PLANNING COMMISSION AGENDA

Tuesday, November 01, 2016
Breckenridge Council Chambers
150 Ski Hill Road

7:00pm	<i>Call To Order Of The November 1 Planning Commission Meeting; 7:00 P.M. Roll Call</i>	
	<i>Approval Of Minutes</i>	2
	<i>Approval Of Agenda</i>	
7:05pm	<i>Worksessions</i>	5
	1. Sign Code Part I - Town Signage	
8:05pm	<i>Town Council Report</i>	
8:15pm	<i>Other Matters</i>	
	1. Meeting Scheduling Discussion (JP)	
	2. Chair and Vice Chair Elections for 2016-2017	
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.**

PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm by Chair Schuman.

ROLL CALL

Mike Giller	Christie Leidal	Ron Schuman
Dan Schroder	Gretchen Dudney	Jim Lamb
Dave Pringle		

Mr. Schuman: Today is Mr. Pringle's final meeting. Thank you for all your years of service, 40 years, we will miss you here. You helped build this community. It has been great having you on the Commission.

Mr. Giller: Dave, thank you so much for your wisdom; you have been a great steward of the Town over the many years. Planning Commissioners echoed that sentiment.

APPROVAL OF MINUTES

With no changes, the October 4, 2016, Planning Commission Minutes were approved as presented.

APPROVAL OF AGENDA

Ms. Puester announced that there would be some items under other matters at the end of the meeting. With no other changes, the October 18, 2016, Planning Commission Agenda was approved.

CONSENT CALENDAR:

1) Continental Divide Winery Change of Use (CK) PL-2016-0495, 505 South Main Street

Commissioner Questions / Comments:

Ms Dudney: Where exactly is it located? (Mr. Kulick: In Main Street Station, in the same building as Christy Sports on the west side of the plaza.)

With no requests for call up, the consent calendar was approved as presented.

COMBINED HEARINGS:

1) 882 Shekel Lane Disturbance Envelope Re-Plat (MM) PL-2016-0429, 882 Shekel Lane

Mr. Mosher presented a request to modify the existing disturbance envelope to accommodate non-conforming additions to the property by a previous owner. The existing envelope and the proposed envelope will have the same square footage (no change in area). The current owner (there have been two previous owners) approached the Community Development Department with regard to a potential addition to the house. It was at that time it came to Staff's attention that there were improvements located outside the disturbance envelope. In order to bring these improvements (none of which were approved by the Town through a development permit) into compliance. The applicant is seeking to adjust the disturbance envelope to encapsulate the non-permitted improvements. A condition of approval is being added (new #8), which Mr. Mosher passed out for adjusting the existing trail easement on the property to match the existing flume trail. The owner is ok with the addition of the condition. The Town will pay for the survey and addition.

This subdivision proposal is in general compliance with the Subdivision Standards. Staff recommends approval of 882 Shekel Lane Building Envelope Re-Plat, PL-2016-0429, 882 Shekel Lane, with the presented findings and conditions.

Commissioner Questions / Comments:

Mr. Pringle: On condition number ten in the packet, shouldn't it read the "disturbance envelope" and not the "building envelope"? (Mr. Mosher: I will check the wording to confirm it is correct before this goes forward to Town Council.)

Ms. Dudney: Did this property recently change ownership? (Mr. Mosher: No, it has been about 12 years.)

There had been two previous owners.) So when they purchased the property, does the title report not show a difference between as built and purchased? (Mr. Mosher: Not necessarily. This has happened a few times with other sales. Staff sometimes has received calls from realtors that do their homework before the sale, but not always.) So, what can a purchaser do to protect themselves? (Mr. Mosher: They need to do their due diligence.) So, the precedent for the town when this happens is to redraw the disturbance envelope? (Mr. Mosher: Possibly, but it depends. I currently have one on my desk where a deck was built over a property line. If the owner comes in for any permit related to the deck, it must be changed to conform to the Code. But the specifics can vary from property to property.)

Mr. Lamb: Aren't you required by code to get a permit for a hot tub? (Mr. Mosher: Yes.)

The hearing was opened for public comment. There was no public comment and the hearing was closed.

Mr. Lamb: This looks good to me.

Mr. Pringle: I would just like to caution everyone that we do not get into a grant forgiveness mindset instead of grant permission.

Mr. Pringle made a motion to approve the 882 Shekel Lane Building Envelope Re-Plat, PL-2016-0429, with the presented findings and conditions as handed out this evening, adding new condition #8. Ms. Leidal seconded, and the motion was carried unanimously (7-0).

TOWN COUNCIL REPORT:

Ms. Puester presented. Last we week we toured around Lincoln Park with Town Council. Council also had a joint meeting with Breckenridge Creative Arts as well as a meeting between Council and Breckenridge Tourism Office, discussing budget. Under Planning Matters, we discussed the Entrada water agreement. Mr. Truckey?

Mr. Truckey: In the Entrada, there is a lot under review for a potential development proposal under county jurisdiction. The owner is looking to get water service despite the property being out of town. In the past, annexation would be required, but the Council is now willing to consider providing water out of the town, partially perhaps due to the new water treatment plant being planned. The owner is going through the county development process but has indicated a willingness to annex down the road (not now because he is hoping to break ground next year) and he is willing to construct within the majority of the town code. Engineering is currently looking at road issues there. One of the things they are proposing to do in return for water service is put a curb cut at the north end of the property which could help some of the traffic issues that have been there. Potentially having a curb cut on Highway 9, which CDOT has approved, would help that project. The town is undertaking a study of potential roundabouts of all key intersections starting there down to the intersection of Park and Main. We have spoken with the owner about leaving some space in case a roundabout is found to be advantageous there. The proposed use would be commercial retail, 21,000 square feet, retail on the bottom floor and potentially climate control storage and office space on the top. Council indicated that they would like there to be a covenant on it that precludes a marijuana dispensary there as well.

Ms. Puester: Lastly, we had Planning Commission interviews. Thank you so much, again Dave, for all your years of service. You have helped shape this town and we appreciate everything you have done. We also have a new Planning Commissioner, as well, Mr. Steve Gerard, who is here today. (Mr. Gerard: I am surprised to be appointed, I hate to take the spot of someone with the history and knowledge of Mr. Pringle, but I am excited to take on the work and I will work hard.) Ms. Puester: Thank you Steve, happy to have you on board.

OTHER MATTERS:

1) Class C Subdivisions Approved Q3, 2016 (JP)

Ms. Puester: There were 3 new applications this 3rd quarter.

2) Class D Majors Approved Q3, 2016 (JP)

Ms. Puester: 18 Class D majors processed this 3rd quarter; a 26% increase over the same quarter last year. 8 of those are Lincoln Park. Mr. LaChance has a visual of the Lincoln Park status he will walk you through.

Mr. LaChance: In Lincoln Park, as of this week, we have 13 deed restricted units that are CO'd and one market rate (there are 4 triplexes included in that). 17 units are under construction right now and 17 units are in the permitting phase. This is all of the units in phase one and phase two.

3) Other:

Ms. Puester: On November 8th at Town Council, there will be a proclamation for Dave's years of service, if anyone would like to attend, I think that would be great. Probably shortly after 7 pm. Our next meeting is November 1st and the Planning Commission retreat is November 3rd.

Mr. Schroder: I tried to register for the Saving Places conference, and missed the early registration deadline, so I called them to request an extension, and have yet to receive a call back, so I wanted to share that information with everyone. (Ms. Puester: That is okay, just let me know if you have problems registering. The CLG code will still get a big discount.)

ADJOURNMENT:

The meeting was adjourned at 7:28 pm.

Ron Schuman, Chair



MEMORANDUM

TO: Planning Commission

FROM: Julia Puester, Planning Manager

SUBJECT: Sign Code- Governmental Uses/Location

DATE: October 25 for meeting of November 1, 2016

Staff has been working with the Town Attorney on a Sign Code modification in response to a recent Supreme Court decision. This case decision, Reed v. Town of Gilbert is requiring most municipalities across the country to rewrite their sign code to eliminate content related references. The Town Attorney's interpretation of the decision is that signs can still be regulated regarding size, materials, etc., but cannot be regulated differently based on the sign's written content or the type of sign it is (e.g, political vs. commercial). This is particularly true for signs on private properties. The Town does have some additional discretion when regulating signage that occurs on Town property, as this is considered the Town's speech and the Town can control their own messaging or that of others that are given permission to use our property.

The approach that staff has been working with on the Sign Code modifications is to keep the key concepts of the Sign Code similar to what exists today rather than changing what staff believes is working.

Because additional discretion can be used when regulating signage on Town property, the Sign Code has been separated into two chapters. The attached draft code is the Governmental chapter only. Staff will present the Private/Commercial chapter at a later work session.

The primary topics in the Governmental chapter include:

- Traffic and street related signage
- Civic event banners
- Violations to removed and penalties

We would like to hear any issues that the Planning Commission may have on the governmental chapter attached.

1 ***DRAFT October 27, 2016 DRAFT***

2
3 COUNCIL BILL NO. ____

4
5 Series 2016

6
7 AN ORDINANCE ADOPTING CHAPTER 8 OF TITLE 11 OF THE BRECKENRIDGE
8 TOWN CODE CONCERNING THE PLACEMENT OF SIGNS ON
9 TOWN-OWNED PROPERTY

10
11 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
12 COLORADO:

13
14 Section 1. Title 11 of the Breckenridge Town Code is amended by the addition of a new
15 Chapter 8, to be entitled “Signs On Town-owned Property,” which shall read as follows:

16
17 CHAPTER 8

18
19 SIGNS ON TOWN-OWNED PROPERTY

20 SECTIONS:

- 21
- 22 11-8-1: Authority
- 23 11-8-2: Legislative Findings and Purpose
- 24 11-8-3: Regulatory Scope
- 25 11-8-4: Definitions
- 26 11-8-5: Private Signs Prohibited on Town-owned property; Exceptions
- 27 11-8-6: Governmental Signs Allowed on Town-owned property
- 28 11-8-7: Town’s Street Banner Program
- 29 11-8-8: Authority to Remove Signs From Town-owned Property
- 30 11-8-9: Penalties and Remedies
- 31 11-8-10: Rules and Regulations
- 32

33 **11-8-1: AUTHORITY:**

- 34
- 35 A. In adopting this Chapter the Town Council acts in its proprietary capacity as to
- 36 Town-owned property. This Chapter is adopted pursuant to the Town’s general
- 37 powers and its right and power to control its own property.
- 38 B. In adopting this Chapter the Town Council also acts as a proprietor managing its
- 39 own internal operations.
- 40 C. It is not the intent of this Chapter to make any Town-owned real property subject
- 41 to the requirements of the Town’s Development Code (Chapter 1 of Title 9 of the

1 Code).

2 **11-8-2: LEGISLATIVE FINDINGS AND PURPOSE:** The Town Council finds and
3 determines as follows:

- 4
- 5 A. The Town is widely known for its high mountain setting, its natural beauty, and
6 its aesthetic charm.
- 7 B. The Town’s economy is tourist-based, and it is essential to the continued
8 economic vitality of the Town that the aesthetic appeal of the Town be preserved
9 and enhanced.
- 10 C. The purpose of this Chapter is to establish a process for to the Town to engage in
11 its own expressive conduct with respect to the placement of signage evidencing
12 the Town’s own speech, and signage evidencing the speech of other governmental
13 entities of which the Town approves, on Town-owned property. Such signage is
14 meant to convey and have the effect of conveying a government message.
- 15 D. Government speech has not been held to the same standards as normally apply to
16 the regulation of speech under the First Amendment to the United States
17 Constitution.
- 18 E. All speech permitted under this Chapter shall be deemed to be the speech of the
19 Town, or speech of which the Town approves.

20 **11-8-3: REGULATORY SCOPE:** This Chapter primarily regulates signs and other forms of
21 government speech conveyed by the Town and other governmental entities. Signs that may
22 lawfully be placed on Town-owned property by the Town or other governmental entities
23 pursuant to this Chapter do not require a sign permit issued pursuant to Chapter 2 of Title 8 of
24 this Code, or other formal approval by the Town. Signage on property other than Town-owned
25 property is regulated by Chapter 2 of Title 8 of this Code.

26
27 **11-8-4: DEFINITIONS:**

- 28
- 29 A. As used in this Chapter, the following words have the following meanings:

BANNER SIGN:	A strip of cloth or other flexible material on which a sign or message is painted calling attention to the Town, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community.
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DIRECTOR:	The Town’s Director of Community Development, or such person’s designee.
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PLACE (A SIGN):	To install, place, display, locate, erect, or maintain a sign. The term also includes changing the copy or message on a sign.
PRIVATE SIGN:	Any sign placed on Town-owned property that is not owned by the Town or another governmental entity.
SPECIAL EVENT:	An event and/or activity: (i) sponsored entirely by the Town or co-sponsored (either financially or otherwise) by the Town, or which the Town determines to be beneficial to the Town, either financially or otherwise; (ii) generally of limited duration; (iii) that may or may not involve an assembly of persons; and (iv) that calls attention to the Town, its natural advantages, resources, enterprises, attractions, climate, facilities, businesses, and community. A special event under this Chapter may, but need not be, a special event for which a permit is issued by the Town pursuant to Chapter 13 of Title 4 of this Code.
SUBDIVISION ENTRANCE SIGN:	A sign used to identify the name and entryway to a subdivision.
TOWN-OWNED PROPERTY:	(i) Land or other property owned by the Town; (ii) land or other property that the Town holds a present right of possession and control; and (iii) all public rights-of-way owned or controlled by the Town, including, without limitation, the airspace above a public right-of-way to the height permitted by law.
TRAFFIC CONTROL DEVICE:	A sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or shared-use path by authority of a public agency having jurisdiction.

1 B. Where terms are not defined, they shall have their ordinary accepted meanings

1 within the context that they are used.

2 **11-8-5 PRIVATE SIGNS PROHIBITED ON TOWN-OWNED PROPERTY;**
3 **EXCEPTIONS:**

- 4
- 5 A. Except as specifically authorized in this Section, it is unlawful for any person to
- 6 place a private sign on any Town-owned property.
- 7 B. The following private signs may lawfully be placed on Town-owned property:
 - 8 1. Private signs when authorized by a special events permit issued by the
 - 9 Town pursuant to Chapter 13 of Title 4 of this Code.
 - 10 2. Private subdivision entrance signs when authorized by the Director under
 - 11 the following conditions:
 - 12 (a) The sign owner shall demonstrate that it is not feasible to place the
 - 13 sign on private property due to site constraints, poor topography, or
 - 14 other similar conditions.
 - 15 (b) The sign owner shall enter into an encroachment license
 - 16 agreement, or similar contractual agreement, with the Town, which
 - 17 agreement shall contain provisions concerning insurance and
 - 18 indemnification so as to adequately protect the Town from liability
 - 19 in the event of a claim or loss arising from the placement of the
 - 20 sign on such Town-owned property.
 - 21 (c) The sign shall be maintained as required by the terms of the
 - 22 encroachment license agreement and this Chapter. If the sign is not
 - 23 so maintained the Town may order the sign removed from the
 - 24 Town-owned property, and if the sign owner refuses to remove the
 - 25 sign, the Town may remove the sign and may recover the costs
 - 26 thereof from the sign owner.
 - 27 (d) The sign shall not be placed so as to substantially interfere with the
 - 28 Town’s use of the Town-owned property, or create an unsafe or
 - 29 hazardous condition. Without limiting the generality of the
 - 30 foregoing, the sign shall not obstruct the sight triangle, impede
 - 31 drainage or interfere with utilities, pedestrian ways, snow stack
 - 32 areas, or snowplowing.
 - 33 (e) The Director shall review and approve as to form and content any
 - 34 request to place a private subdivision entrance sign on Town-
 - 35 owned property pursuant to this Section before the sign is placed.
 - 36 The Director may impose any reasonable conditions of approval on

1 the placement of any private subdivision entrance sign on Town-
2 owned property .

- 3 3. Private signs placed by a real estate agent on Town-owned property as
4 authorized by Chapter 2 of Title 8 of this Code.

5 **11-8-6: GOVERNMENTAL SIGNS ALLOWED ON TOWN-OWNED PROPERTY:** The
6 following signs may be placed on Town-owned property by the Town and other governmental
7 entities:
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- 9 A. Traffic control devices signs placed by the Town or other governmental entity.
10 B. Official notices required or authorized by law.
11 C. Other signs placed by the Town in furtherance of its governmental functions.
12 D. Other signage that conveys the government speech of the Town in such form and
13 content as may be determined solely by the Town.
14 E. Public art placed by the Town.
15 F. Any official advertising device placed by the Town pursuant to the “Colorado
16 Outdoor Advertising Act,” Part 4 of Article 1 of Title 43, C.R.S., and the
17 regulations of the Colorado Transportation Commission duly enacted thereunder.
18 G. Signs placed by federal, state, or other local governments in furtherance of their
19 governmental functions, subject to the review and approval of the Director.

20 **11-8-7: TOWN’S STREET BANNER PROGRAM:**
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- 22 A. The street banner program involves the temporary placement of banner signs at
23 the Town’s designated aerial location above the Town’s right of way on South
24 Main Street. The Town’s street banner program is reserved for the Town’s use to
25 promote its own messages and those special events that are sponsored, co-
26 sponsored, or approved by the Town. Because they are to be located in the
27 airspace that is above a Town right-of-way, banner signs placed at the designated
28 location pursuant to this Section shall be deemed to be the speech of the Town.
29 B. The Town Manager shall devise and implement a method of authorizing the
30 placement of banner signs at the Town’s designated location.
31 C. The decision whether to allow the placement of a banner sign pursuant to this
32 Section shall be made by the Town Manager or his or her designee in the decision
33 maker’s considered discretion. There is no entitlement to place a banner sign
34 pursuant to this Section. The decision of the Town Manager or his or her designee

1 with respect to a request to allow the placement of a banner sign pursuant to this
2 Section shall be final.

- 3 D. No person shall place a banner sign on Town-owned property except when
4 authorized to do so by the Town Manager or his or her designee.

5 **11-8-8: AUTHORITY TO REMOVE SIGNS FROM TOWN-OWNED PROPERTY:** Any
6 employee of the Department, the Police Department, or the Public Works Department may
7 remove and destroy any sign that is illegally placed on Town-owned property in violation of the
8 provisions of this Chapter.
9

10 **11-8-9: PENALTIES AND REMEDIES:**

- 11
12 A. **General:** It is an infraction as defined in Section 1-3-2 of this Code for any
13 person to violate any of the provisions of this Chapter. Each such person shall be
14 liable for a separate offense for each and every day during any portion of which
15 any violation of any of the provisions of this Chapter is committed, continued, or
16 permitted, and shall be punished accordingly.
- 17 B. **Fine Schedule:** Any person found to have violated any provision of this Chapter,
18 or against whom a default judgment has been entered for any violation of this
19 Chapter shall be punished by a fine as follows:

Offense No.	Fine Amount
First Offense	\$100
Second Offense	\$250
Third Offense and Each Subsequent Offense	As Determined By the Municipal Judge

- 20
21 C. **When Penalty Assessment Procedure May Be Used:** A defendant's first two
22 alleged violations of this Chapter may be written as penalty assessments. A
23 defendant's third and each subsequent alleged violation of this Chapter shall
24 require a mandatory court appearance.
- 25 D. **Injunctive Relief:** In addition to other remedies available to the Town, the Town
26 may commence an action pursuant to Section 1-8-10 of this Code to enjoin the
27 alleged violation of any provision of this Chapter, or to authorize and compel the
28 removal, termination, or abatement of such violation.
- 29 E. **Additional Remedies:** Any remedies provided for in this Chapter shall be
30 cumulative and not exclusive, and shall be in addition to any other remedies
31 provided by law.

1 **11-8-10: RULES AND REGULATIONS:** The Town Manager may from time to time adopt,
2 amend, alter, and repeal administrative rules and regulations as may be necessary for the proper
3 administration of this Chapter. Such regulations shall be adopted in accordance with the
4 procedures established by Title 1, Chapter 18 of this Code.

5 Section 2. Except as specifically amended by this ordinance, the Breckenridge Town
6 Code, and the various secondary codes adopted by reference therein, shall continue in full force
7 and effect.
8

9 Section 3. Resolution No. 14, Series 2016, adopted by the Town Council of the Town of
10 Breckenridge on October 11, 2016, is repealed.
11

12 Section 4. The Town Council finds, determines, and declares that it has the power to
13 adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
14 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
15 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
16 Section 31-15-401, C.R.S. (concerning municipal police powers); (v) the authority granted to
17 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
18 contained in the Breckenridge Town Charter.
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20 Section 5. The Town Council finds, determines, and declares that it has the power to
21 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
22 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.
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24 Section 6. This ordinance shall be published and become effective as provided by Section
25 5.9 of the Breckenridge Town Charter.
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27 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
28 PUBLISHED IN FULL this ____ day of _____, 2016. A Public Hearing shall be held at the
29 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
30 _____, 2016, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
31 Town.
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33 TOWN OF BRECKENRIDGE, a Colorado
34 municipal corporation
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38 By: _____
39 Eric S. Mamula, Mayor
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ATTEST:

Helen Cospolich
Town Clerk