

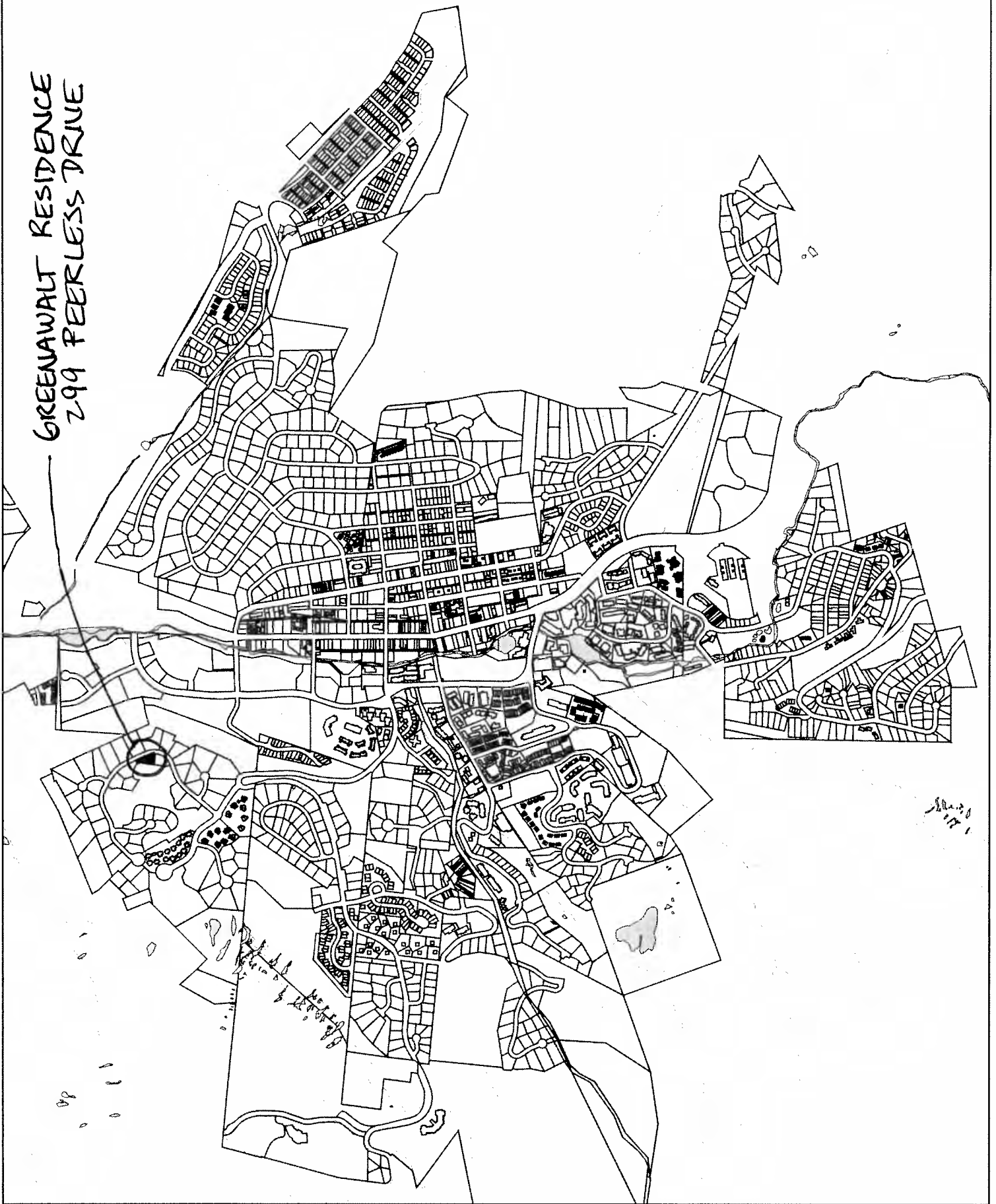
Town of Breckenridge
Planning Commission Agenda
Tuesday, March 3, 2009
Breckenridge Council Chambers
150 Ski Hill Road

7:00	<i>Call to Order of the March 3, 2009 Planning Commission Meeting; 7:00 p.m. Roll Call</i>	
	<i>Approval of Minutes February 3, 2009 Regular Meeting</i>	3
	<i>Approval of Minutes February 17, 2009 Regular Meeting</i>	8
	<i>Approval of Agenda</i>	
7:05	<i>Consent Calendar</i>	
	1. Greenawalt Residence (CK) PC#2009002 299 Peerless Drive	16
7:15	<i>Worksessions</i>	
	1. Defensible Space and Mountain Pine Beetle Ordinance (JC)	29
	2. Free Basement Density Under Commercial Buildings (MM)	31
	3. Solar Panel Policy Modifications (JP)	33
9:45	<i>Town Council Report</i>	
9:55	<i>Other Matters</i>	
10:00	<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.*

GREENAWALT RESIDENCE
299 PEERLESS DRIVE



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Breckenridge South

printed 2007



PLANNING COMMISSION MEETING

THE MEETING WAS CALLED TO ORDER AT 7:03 P.M.

ROLL CALL

Dan Schroder	Rodney Allen	Michael Bertaux
Jim Lamb	JB Katz	Leigh Girvin

Dave Pringle arrived at 7:11 p.m.
Eric Mamula left at 8:20 p.m.

APPROVAL OF MINUTES

With no changes, the minutes of the January 20, 2009 Planning Commission minutes were approved unanimously (5-0). Ms. Girvin abstained since she was not present at the meeting of January 20.

APPROVAL OF AGENDA

Mr. Mosher requested to change the “Historic Structure Setbacks” from second on the agenda to first, with “2030 Plan” then moving to second on the agenda.

With the one change, the Agenda for the February 3, 2009 Planning Commission agenda was approved unanimously (6-0).

WORKSESSION:

1. Historic Structure Setbacks (MGT)

Mr. Thompson presented. As part of the recent list of tasks the Planning Commission has generated for possible code changes, staff has been considering a modification to Policy (9/A) and (9/R) “Placement of Structures.” The discussion revolves around waiving negative points to proposals to move a historic structure onto the property, but not meeting the required setbacks. The Code currently discourages placing structures within the recommended setbacks on site. The importance is such that a 3 times multiplier is associated with the negative point assignment, which indicates a policy of average importance. Mr. Thompson presented the suggested language changes to Policy 9/A.

Questions for the Planning Commissioners:

1. Should Staff add the new language to (Absolute) Placement of Structures Policy 9/A, Section c to allow historic structures along alleys and right of ways to be placed not closer than one (1) foot to the alley or right of way? Or, should the policy remain unchanged, which would still require a variance for such request?
2. Do you support a change to the Relative policy, to not allocate negative points for relocating and restoring secondary historic structures that do not meet the recommended setbacks?
3. Staff welcomed any comments regarding this draft. Specifically, they sought input on the assignment of negative points for placing historic secondary structures between three (3) feet and five (5) from a side property line.

Commissioner Questions/Comments:

Mr. Pringle: Let’s not punish an applicant for trying to do the right thing. Was OK with the 1 foot off the property line for an existing structure but not for a structure that someone adopts and moves to the property. When a setback violation already exists but the applicant is improving the situation should the applicant be penalized at all? Reduced setbacks should be allowed on side yards too. Staff suggested honoring the building code requirements (3-5 feet) which essentially acts like an absolute policy. Therefore, on a side setback the building code must apply.

Mr. Schroder: Why 1 foot from 5 foot? (Staff explained.) Maybe add language that reads putting the structure as close to the property line as possible. Supported 1-foot alley setback and no negative points for alley setback.

Ms. Katz: It should be as easy as possible to restore a historic structure and incur no excessive negative points. When an applicant wants to remove historic structure from someone’s hands let’s make it easy not difficult, which would be hypocritical.

- Mr. Bertaux: Struggled with an adopted barn conversation. If someone adopts a barn they should meet the setbacks. Supported existing shed issues as presented.
- Mr. Lamb: Was ok with one foot off the right of way. Harris Street alley would be an example of where this policy would apply and do some good.
- Ms. Girvin: Asked staff why they were looking at this. (Staff explained using the “Christmas House” as an example.) Buildings coming on to the property as a new location should be looked at on a case by case situation. If putting a foundation under a historic structure, did this balance out the negative points? Part of the town’s character is having structures on rights of way as with Harris Street Alley. Does the town really want to change this character? Liked the one foot back from the alley with no negative points and three feet from side yards which the town is stuck with. Given three to five foot, the applicant would choose the three foot option.
- Mr. Allen: Liked the idea of doing this but criteria must be established to facilitate the policy.
- Mr. Mamula: What about moving structures onto the property that currently exist on another property. (Staff agreed this should be looked at and possibly added to the policy.) It makes sense to not assign negative points for removing a structure from the town’s property. The three foot side setback needs to be an absolute due to the building code.

2. 2030 Plan (MT)

Mr. Truckey presented. Staff provided an overview of the Town’s Capacity Analysis to the Planning Commission several months ago and now is providing a similar overview of the 2030 project. The Town Council has already reviewed the information in the 2030 report and has received numerous reports on the Capacity Analysis. The next steps will be to embark on a public process that will lead to a Sustainability Action Plan for the Town. A committee of the Town Council will be reviewing some of the key findings in 2030 and the Capacity Analysis and identifying potential action steps to address issues of concern. For example, the transportation assessment prepared by FHU consultants (as part of the Capacity Analysis) indicated that further traffic congestion impacts could be mitigated by road widening/improvements or increases in transit service. The Council committee may identify a list of approaches that would address the congestion issue, and those issues would then be taken to a series of public forums for further discussion and public input as to the most appropriate approach.

The Sustainability Action Plan will be initiated shortly and staff wanted to make the Planning Commission aware of this project, which is expected to be one of the Town’s largest efforts in the coming year. Staff also requested to hear any comments the Planning Commission had regarding the conclusions in the 2030 report.

Commissioner Questions/Comments:

- Mr. Pringle: Build out conclusion is based upon current land available. Keep in mind the US Forest Service could sell some of its land which would alter these figures. (Staff agreed and brought up other situations which could alter these figures as well.) Keep in mind something on the Denver side of the hill could be developed which would negatively impact these numbers. Seasonal worker housing should be addressed. Look for ways to store all the water the town has rights too.
- Ms. Katz: Pointed out Highway 9 congestion has gotten worse with back up to Tiger Road. Start serving seniors and determine what they think and what their friends have chosen to do.
- Mr. Bertaux: Fire danger might force tree removal which leads to roads which leads to development. May want to consider if current work force housing is sufficient? Add plans for Highway 6 into the document which seem to be missing. Senior housing should be addressed as well.
- Ms. Girvin: Are there other communities that have reached build out which the town could look at and compare? Professionalism of document could be improved if the little joking bits are removed. Also this document would be taken more seriously if these bits are removed. Think past the baby boomer since most baby boomers will not be around in 2030. Drop references to Silverthorne and etc. throughout the document. It would be short sided to think all seniors will eventually leave. Consider adding decrease use of motorized vehicles due to environmental conservation, fuel conservation and capacity. Climate change should be first and foremost in this document. Further suggested obtaining additional information from Park City regarding climate change. Water should be addressed as to its limitation of growth. The landfill and waste stream needs to be discussed.

3. Sunsetting Density Policy (MM)

Mr. Mosher presented. As part of the recent list of tasks the Planning Commission has generated for possible code

changes, staff has been exploring a modification to Policy 3/R “(Relative) Compliance with Density/Intensity Guidelines” to include awarding positive points for extinguishing portions of available density in conjunction with a development permit review. The current code strongly discourages any application exceeding the suggested density associated with a development. The importance is such that a 5 times multiplier is associated with the negative point assignment, which indicates a policy of significant community importance.

It has been suggested that a voluntary reduction of available density might be rewarded with the assignment of positive points. Since the basis for assigning negative points is based on the percentage a project goes over the suggested density, we suggest that positive points also be based on a percentage of the available density.

Mr. Mosher presented the suggested language changes to Policy 3/R. Staff welcomed any comments regarding this draft. Specifically, staff sought input on the assignment of positive points and multiplier.

Commissioner Questions/Comments:

- Mr. Pringle: What is the town really sunsetting when a large single family home is built? (Staff responded.)
When someone comes in and builds a project not envisioned in the Master Plan, why should they be allowed to sunset?
- Mr. Schroder: Appears that this doesn't happen too often. Is it a high priority?
- Ms. Katz: Thought this was important at first but after further review, was in favor of throwing it out. Seemed to be a false argument. Site impacts could still occur with less SFEs.
- Mr. Bertaux: Too complex to track impacts.
- Ms. Girvin: Sought examples from staff. Is it likely we would see any offers similar to those of the past?
- Mr. Allen: Are there a bunch of sites out there that this language change would affect? (Staff explained no there aren't many properties left.)
- Mr. Mamula: Sometimes reduction in SFEs does not mean less square footage and reduced site impacts. Change in use of the SFEs can have negative site impacts. Not supportive of this change.

Mr. Grosshuesch commented that applicants could sell the extra density as incentive.

All the Commissioners supported abandoning this possible change to Policy 3/A and 3/R. Staff need not take any further action.

4. Footprint Lots (CN/PG)

Mr. Grosshuesch presented. Over the past several years there have been a few cases where footprint lots have been approved where the result may have compromised site functions and the historic character of the property by allowing primary looking structures to be built in back yards.

Staff would like to discuss the footprint lot and Condominiumization issues with the Commission. We look forward to hearing your perspective on the issue and whether or not and how you think this policy needs to be changed. Some issues for the Commission to consider include:

1. Should we repeal the ability to use footprint lots or condominium plats in the Conservation District on historic single family lots (outside of the Downtown Overlay District)?
2. Within the Downtown Overlay District, are we still supportive of allowing owners to further subdivide ownerships from and possibly within the primary structure?
3. Should we develop a methodology to discourage primary looking structures in the rear yards within the Downtown Overlay District?

A site visit may be scheduled for a later date to view some of the built projects that led to this concern. You could visit the following sites in advance of the worksession on your own to see examples of the issue. The alley behind the Fire Station on Main St., and the two blocks on the west side of North Main, north of Ski Hill Rd.

Commissioner Questions/Comments:

- Mr. Pringle: What we don't want is footprint lots that allow for multi family dwellings on single family lots. Footprint lots might be more appropriate in the core, but only in rare circumstances. Didn't want

footprint lots outside of the core. Sometimes a footprint lot would be the most desirable way. Suggested a master plan process for footprint lots.

Mr. Schroder: Outside of the conservation district are there other properties where a footprint lot would be beneficial? (Staff addressed lots which could be affected.) Thought footprint lots would be a bad idea since the districts standard encourage avoiding such circumstances.

Ms. Katz: The easy way would be to prohibit footprints lots.

Mr. Lamb: Struggled with accommodating footprint lots when so much damage has been done already. Within either district footprint lots don't serve the town well.

Ms. Girvin: Suggested a field trip would be helpful in determining where footprint lots work and where they wouldn't work.

Mr. Allen: No issue with the ownership in the end as long as all the criteria is followed in the process. Footprints could be allowed but only at the beginning of the project meeting all criteria.

5. Free Basement Density (CN/MM)

Mr. Mosher presented. As an incentive to encourage the installation of foundations under historic structures, the Town developed a policy to waive the density in the basement of such buildings. The current policy waives the basement density under a historic residential structure. It also allows for storage under historic commercial buildings, but does not allow the free basement density to be used for leasable space. The intent of this memo is to discuss changing the policy, to allow leasable space in the basement of historic commercial buildings, as an additional incentive for restoration/preservation. Mr. Mosher presented the proposed language for Policy 3/A.

One of the main reasons that this policy did not allow for leasable space in the basements of historic commercial structures was that commercial uses would tend to create more intensity and site impacts (e.g. parking). However, at this point, staff feels that these concerns need to be balanced with the desire to create incentives for the restoration of historic commercial buildings.

Mr. Mosher suggested restricting the basement space for support functions for the space above. This might mean office, storage, restrooms, etc.

Staff requested comments on the proposed code amendment.

Commissioner Questions/Comments:

Mr. Pringle: Who would police the tenants to make sure the basement is only being used as storage? Not sure about writing something that would require the town to monitor. Anticipated lots of bandit uses.

Mr. Schroder: Would support the density being used only for office/storage/restrooms/etc. for the commercial/office space above.

Ms. Katz: Remove the restriction so long as it is in support of the tenant of the building. This policy isn't to encourage basement density. Was fine with support function basement use at this time.

Mr. Bertaux: Was ok with the step suggested above but did agree with Mr. Pringle that there could be unintended consequences.

Mr. Lamb: Leaning towards supporting basements to support only the functions of the main level tenant.

Ms. Girvin: Why is the basement density use currently restricted it is presently? (Mr. Mamula explained because of the added retail/commercial density impacts to parking/water/etc.) Would need to be reviewed on a case-by-case basis.

Mr. Allen: Was not opposed to allowing a retail use to sell items downstairs. Suggested staff researches the inventory of the buildings along the core commercial area which this policy would affect. Agreed with Ms. Girvin that each situation would need to be reviewed on a case-by-case basis.

Mr. Mamula: Keeping paid parking off of Main Street is a goal of his and therefore was in support of not adversely impacting parking on Main Street with addition retail in basements on Main Street.

Mr. Allen opened the hearing to Public Comment.

John Cooney (Owner of 136 S Main Street): There's isn't much of an incentive to put in below grade density if it can only be used for storage. Furthermore, he doesn't see much of an incentive to not be allowed to separately lease basement space. Would like to have a total of three floors for Abby Hall with three separate uses and tenants. The below grade density for his building could possibly be a yoga studio. His main point was to make the incentives

strong enough to encourage property owners to install foundations. He pointed out a building currently for sale that would sell easier if a developer could have commercial space in the basement.

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

All the Commissioners agreed that staff would survey historic buildings along the core of town and return with examples and possible impacts. Further discussion needed.

TOWN COUNCIL REPORT:

None.

OTHER MATTERS:

None

ADJOURNMENT:

The meeting was adjourned at 10:32 p.m.

Rodney Allen, Chair

PLANNING COMMISSION MEETING

THE MEETING WAS CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Dan Schroder
Jim Lamb
Dave Pringle

Rodney Allen
JB Katz

Michael Bertaux
Leigh Girvin

APPROVAL OF MINUTES

Ms. Girvin noted the January 20th minutes were included in the packet instead of February 3rd. Ms. Brewster apologized and stated she had made the error due to processing the packet late at night. Ms. Brewster will include the February 3 minutes as well as the February 17 minutes in the next packet for the March 3 meeting.

APPROVAL OF AGENDA

Mr. Neubecker stated that, if there was time at the end of the meeting, staff would like to review the Top Ten List with the Planning Commission. With no other changes, the February 17, 2009 Planning Commission agenda was approved unanimously (7-0).

CONSENT CALENDAR:

1. Miner's Candle Dormer Addition (CK) PC#2008119; 106 Broken Lance Drive

These minutes are not intended to be a verbatim transcript of the meeting discussion. In the event of a discrepancy between the audio tape recording of these proceedings and these minutes, the audio tape recording shall be considered the official record.

Mr. Pringle made a motion to call-up PC#2008119 off the consent calendar. Mr. Bertaux seconded. The motion was approved unanimously (7-0).

Mr. Kulick presented an application to request approval of a dormer window for Unit 6 of the Miner's Candle Condominiums. In the eyes of staff, the proposed dormer window for Unit 6 of Miner's Candle Condominiums would not be architecturally compatible with the existing building, land use district and surrounding residential. The proposed addition of one single dormer to the primary façade of a multi-family building, with no other dormers, would create an unbalanced, piece-meal appearance that is in conflict with policy 5R. Staff conducted a formal point analysis for the Unit 6, Miner's Candle Condominium Dormer Addition and found it to incur negative three (-3) points under Policy 5R: Architectural Compatibility. The project fails the point analysis with a score of negative three (-3) points. Staff recommended a denial of the Unit 6, Miner's Candle Condominium Dormer Addition, PC#2008119, located at 106 Broken Lance Drive, Miner's Candle Condominiums, with the presented findings and conditions. Staff requested time for a rebuttal upon the conclusion of the applicant's presentation.

Mr. Allen opened the hearing to public comment.

David Cohn, Owner, Miner's Candle #6: Small matter for PC to review, but would like to present a brief background. Apologized for computer problems and things getting scrambled in the packet. Handed out new packets for the Commission to review. First page was photos of window in question before and after recent exterior renovation. Window wall created on purpose to open wall up. Most of window was removed with renovation; therefore, when door is open it obscures most of light from the window. Large impact on the unit. Darkest picture is optimistic; it was taken before the porticos were added on the renovation. Believed it created a serious impact on the unit and the bedroom in particular, now it looks like dark closet instead of a room. We have suffered serious financial impact as a result of this. Paid tens of thousands of dollars for the renovation and legal fees. When the Planning Commission reviewed the original building renovation, you did not have the information on the true scope of the work either.

Marianne Cohn, Owner, Miner's Candle #6: I have had ongoing interaction with the Town since April 2008. We arrived at a mediation agreement with the homeowners association to make this application. Town would require signature of all the homeowners as well as attorneys etc. on the application. We went and got all board members signatures on the application, as well as the attorneys involved. When the architectural statement of compliance was

signed, with at least ten items on it, there was no mention made on that list of any windows being removed. Mr. Kulick called me, and we discussed this issue. Unit 2 lost a window, but was allowed to add a new window at the end of the building, due to being an end unit. The HOA board knew about the issues, and got errors and omissions insurance as a result. Straightforward solution for us would have been to add a window to the upper level. The Town had multiple legal conversations relevant to Policy 5/R. We met with Mr. Neubecker and Mr. Kulick. Town said they did not recommend approval because of dissimilar design, architectural incompatibility. Design would be willing to be supported if it was on two units instead of just one. Unit 10 threatened the HOA if they could not also add an upper unit dormer window. We approached Unit 10 and asked them if they would be interested, telling them we will pay for the engineering for the design. Unit 10 had initially said it was a good design and they would like the right to do it. Official written answer was that they “sharply opposed” the changes. I sent communication from Unit 10 to the HOA board that they wanted the same consideration as Unit 6 in adding a dormer. The Town, in allowing us to submit this, is saying that all issues with compatibility would be taken care of with second dormer. Second statement Town made was that “none of the other multi family units have been considered on this”. Disagreed. This solution is agreeable to the board. Board voted on what the settlement agreement would constitute and have therefore communicated with all the other owners. If you just would look at the justice and equity aspect of this: There were five attorneys involved on behalf of the HOA, \$25,000 of our legal fees were compensated by the HOA. This was not to compensate us; the application was our legal compensation. We are asking you to consider this application as part of the original building renovation application. If you had known that all of the windows were going to be taken out, would you have approved this remodel with the dormer? We lose \$50,000 in value on this change. If this had gone in front of you with the architectural compliance, would you then have approved the design including our dormer window?

David Cohn: You reviewed the building renovation in January of 2008 with no discussion of the windows. Information was not presented at the HOA meeting in April of 2008. We mediated an agreement with the board president about how to address this issue. The judge in this agreement made a settlement for us to get the windows. Town understood that this was an application for a single window. We spent tens of thousands of dollars to have the first agreement with HOA mediated. The second agreement was to go forward with window. When Town came back with rejection, we were surprised. We sent our designer and our engineer to work it out. How can we work this out? No single design was acceptable to the town. Multiple windows in other units would be acceptable. The exterior remodel is what this application is about. The process should normally have worked. This application should be looked at as part of the building renovation. Our belief is that it looks vastly better with the renovation. We have worked very hard to work this out behind the scenes, but are finally in front of you here. Thank you for your time and consideration.

Mr. Kulick: The real question is the application you have in hand and how it applies to the development code. We never had any kind of agreement; we have never bowed to the pressure from other homeowners. We have consistently told everyone that Policy 5/R applies. We did not have an actual application until November. We directed Mrs. Cohn to produce a sketch that shows the entire façade, to see how this window would fit in. Other discussions on windows are not relevant to this application. Exterior building renovation had a vote with the homeowners, and then application to the Planning Commission. We are talking about limited common elements, not the Cohn’s personal property. When there is miscommunication behind closed doors; that is the responsibility of the owners, it’s not relevant to the current application before you.

Commissioner Questions:

Mr. Pringle: Is this an amendment to the original application (Mr. Kulick: No, this is a separate application, the HOA already has a Certificate of Compliance on the prior application for the exterior remodel.) We can’t look at it as if would we have approved it? (Mr. Kulick: If this had come in on the exterior remodel, there still would have been negative points recommended.) Is there any other pending application on this project? (Mr. Kulick: No. We mentioned to the applicants that this needed to be a united application with all the owners instead of separate application for parts of changes to different units.) No positive or negative points were assessed to the original renovation. Does your agreement say you can apply for anything other than that exterior modification? In the application that was approved and was built, were there changes? (Ms. Cohn: The agreement says we can only make this application for this change.)

Ms. Katz: Do you know whether the \$450 per unit is accurate? What is a faux window? Would that work? (Mr. Kulick: That would be substantial change to the application you have in front of you.) (Mr.

Cohn explained how a faux window would be applied to the exterior to look like a window from the outside.) Did you get plans, as members of the HOA, via email or some other source? (Mr. Cohn: Yes. We did get drawings, presented at the HOA meeting. When asked the HOA if there were any changes, we were told, “No, no changes.”)

Mr. Lamb: Is this building over density? (Mr. Kulick: No.) Could they do improvements on site to make up the points? (Mr. Kulick: Yes, but not sure how that would happen.)

Ms. Girvin: Does the window that is there suffice for building code as it relates to egress? (Mr. Kulick: I would assume yes because the building official issued the Certificate of Compliance and it would have not been approved unless it passed according to code.) How is “bedroom” defined? (Mr. Neubecker: Town codes do not require a closet to be called a bedroom, but Sanitation District does.) (Ms. Cohn: looked into closet question, and the Sanitation District requires a closet, while the Town does not. We are talking about average customer looking at it, when it would not be considered bedroom.)

David Cohn: No understanding with single window, Mr. Kulick said Town does not require us to apply. Town was subpoenaed by the HOA attorneys on the window; they clearly understood it was about a single issue. We met with them and it was clear the board members were complaining about the window, the Town was informed. Town could have said back then that no single window was acceptable. Why should we pursue legal action if single window was unacceptable? This application is from the HOA in middle of August while renovation was still happening. The Planning Commission didn’t know about this, we did not know until this was underway. How appropriate and fair is this when no one knew? We could have explored many options, but our rights were bypassed through this process. We don’t know what else to do but pursue it with the Town. We explored every possibility with the Town, we will explore everything. Looked at tinted skylights (in the Mansard roof) to match the building. We have tried in good faith and we appreciate your time. We got steered to one window, then the Town steered us to skylight (in the flat roof), which when covered by snow would not be effective. Next we learned that one window is asymmetrical.

Mr. Allen: If faux window was there, what impact would it have? Have you explored it? (Mr. Cohn: Mediation allowed us to apply for one window, with no return to the board. Can’t on our own require other owners to apply. Unit 10, with “sharp objection” clearly don’t want window. Board would have right to do faux window in unit 10, but does not believe that would happen.)

Marianne Cohn: We get to process one PC number (one application), which can be kicked back for 30 days (modified within 30 days if denied), as long as it can stay under one PC number we can keep going. We think positive points under original renovation should apply to the negative points under this application. We are open to any type of window application, we will do anything to offset the points. If there are positive points we can earn, through landscaping, any donation to Miners Candle to get positive points, we are open to that.

David Cohn: You as the Planning Commission weren’t informed about the window change, and we as the owners weren’t informed, I do ask you to consider the process.

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

Mr. Pringle requested a 5 minute break.

Ms. Katz made a motion that the Planning Commission go into executive session pursuant to Paragraph 4(b) of Section 24-6-402, C.R.S., relating to conferences with the Town Attorney for purposes of receiving legal advice on specific legal questions.

Mr. Allen stated that a motion has been made for the Planning Commission to go into an executive session pursuant to Paragraph 4(b) of Section 24-6-402, C.R.S., relating to conferences with the Town Attorney for purposes of receiving legal advice on specific legal questions.

Mr. Bertaux seconded. The motion was approved unanimously (7-0). The Planning Commission went into executive session at approximately 8:05pm.

Ms. Katz made a motion to end the executive session. The motion was approved unanimously (7-0), and Mr. Allen resumed the meeting at approximately 8:35pm.

Commissioner Questions/Comments:

- Mr. Pringle: I wish there was easy solution. We are only allowed to act on this application. I agree with the staff's recommendation. We have to agree with staff analysis.
- Mr. Schroder: Agreed with Ms. Girvin. Hard for me to hear. I feel equally for the hardship, but I have to look at the code. We cannot pass an application that does not have 0 or positive points.
- Ms. Katz: This entity, our mission is very narrow, it is to approve or deny the applications on a point analysis. We cannot consider these two applications as one. It would never have been presented with the one dormer. We are limited by code as to what we can do, we must approve or deny based on point analysis and recommendation of staff.
- Mr. Bertaux: Agreed with Mr. Pringle.
- Mr. Lamb: While sympathetic to the application, we have to apply the code.
- Ms. Girvin: This is not an unsympathetic Commission, but I do have to agree with the staff. Single dormer lends to asymmetry; agreed with staff on negative three (-3) points. Comparing on basis of 5/R.
- Mr. Allen: Is it excessively dissimilar? Yes. Is it disproportionate? Yes. Therefore I cannot support it, with having negative points. Look hard and see if there is some way to not get negative points. Record will reflect staff report as well as additional items presented to the Commission by Mr. & Ms. Cohn.

Mr. Pringle moved to approve the presented point analysis for PC#2008119, Miner's Candle Dormer Addition, 106 Broken Lance Drive, showing negative three (-3) points. Mr. Bertaux seconded. The motion was carried unanimously (7-0).

Ms. Katz moved to adopt the draft denial findings for PC#2008119, Miner's Candle Dormer Addition, 106 Broken Lance Drive. Ms. Girvin seconded, and the motion was carried unanimously (7-0).

Staff and Ms. Katz explained the next steps in the process to the Cohn's, that the memo listing the denial as well as the draft minutes from the meeting would go to the Town Council next Tuesday, February 24, and that Town Council then would have the opportunity to uphold the Planning Commission decision or call-up the application. If the application were called up by Town Council, it would be presented at the following Town Council meeting of March 10.

ACTION ITEM - BRECKENRIDGE TRANSIT PLAN:

James Phelps, Assistant Public Works Director, presented the draft copy of the Breckenridge Transit Plan. At the conclusion of the Commission's review of the new Transit Plan, the Master Plan Procedures Ordinance would require the Commission to submit its written recommendation to the Town Council concerning the proposal to incorporate the Transit Plan into the Town's Master Plan (Comprehensive Plan). To summarize the brief background, this plan began in spring of 2008 when the Town contracted to create a comprehensive transit plan to assess current and future service, and make recommendations for future changes. Maribeth Lewis, Transit Manager, also attended to answer questions.

Commissioner Questions/Comments:

- Mr. Pringle: Suggested signs like in Vail that say "next bus comes in x number of minutes"; sometimes that is all you need. (Mr. Phelps: yes, council is looking at that, it is definitely a budget issue.) We often over think all this and go into circuit overload, just need to know when the next bus is coming. From initial days of trolley to where we are today is incredible, great work.
- Mr. Schroder: Whole line is really well laid out, you get on, and it takes you where you want to go.
- Ms. Katz: Really liked eliminating the looping around City Market. Really thanks you for that. Blue route intersection of French and Wellington, there is not an even time between ski area and town buses. Need to work on that. Need to add transit information to the website, perhaps on the front page. Needs to be more interactive, where am I and which route do I need to take? You could see all overlays, pick out the one you need.
- Mr. Bertaux: Would it be the intention of transit department to go to peak 7 base developments in the future? (Mr. Phelps: Yes.) Not convinced you need to go over there because of the gondola. (Ms. Lewis: Currently the Town is running the black route at night to get people from into town to spend money). The ski area needs to talk about opening the gondola in the summer and later in the evenings. Ditto to what Mr. Pringle stated.

- Mr. Lamb: Alternative 1 or 2, Chapter 8-17, do you or the Council have a preference? (Ms. Lewis: Yes, Alternative 2.) There is some bias on this Commission as four of us live along the blue route.
- Ms. Girvin: There was some talk about duplication of routes, integration. This report talks about integrating town and ski area busses; want to encourage that in the future. Get rid of ski area buses except for satellite route, avoid duplication. Maybe charge a sales tax on lift tickets for the Town to take over those routes. Ski area signs still say, and have for years, that “ski area buses are done for the summer season”; those signs need to come down! Preferred alternative one, more understandable. Also, Main Street loop should go to the ice rink instead of blue route, which takes longer to get to the ski area by going to the ice rink first. Consider allowing dogs on busses the way Aspen is talking about. We need better maps on the website. The little purple map is great, but I can only get that on the bus itself. (Ms. Lewis: Did you see the Town’s new website? Transit information is now much better) Reviewed website in early ski season, will check the new site. Will you get your own website like the Summit Stage has? Easy to find. Recommended it. (Mr. Phelps: we are looking into it.)
- Mr. Allen: Page 3-13, Chapter 3, talks about costs. Is there any cost of vehicle maintenance and depreciation of vehicles included in this cost? (Ms. Lewis: No, it is not factored in. Costs will change in the future. We would put together more accurate snapshot for council during budget process when expansion happens.)

Mr. Phelps: Appreciated Commission’s comments, will take a look at what Aspen is doing on dog issue.

Mr. Pringle made a motion to recommend to the Town Council that the “Breckenridge 2009 Transit Operations Plan” be adopted and incorporated into the Town of Breckenridge Master Plan by signing and therefore adopting the presented resolution. Mr. Bertaux seconded, and the motion was carried unanimously (7-0).

WORKSESSIONS:

1. Valley Brook Housing (JP), 1100 Airport Road

Ms. Puester presented updated landscape plans and elevations for the Valley Brook Housing project. The Planning Commission reviewed the Valley Brook Housing site plan and elevations at the January 6th meeting. The developer, Mercy Housing, has been working on further refining the plans based on input from the Commission, Staff and the Housing Committee. Also present to answer questions was Jane Harrington, Mercy Housing, and Bill Campie, DTJ Design.

The formal submittal and combined hearing is scheduled for the March 17th Planning Commission meeting.

Changes from the last submission:

- More detailed elevations of all building types.
- The Dutch hip roof design has been eliminated.
- Small park area would be utilized as a public tot lot (public aspect of tot lot was kept as a request of the Housing Committee although it was reduced in size and made into a tot lot).
- Conceptual landscape plan provided.
- Open space added on east side of site to the river corridor.
- 4-Plex (on east side of open space) would be two duplexes.
- Guest parking locations would have to be relocated and one guest parking space was lost (13 spaces total).

Staff Concerns:

Staff’s primary concern was that the elevations shown for Building B would need to be more broken up through use of different materials and relief.

Staff requested the Planning Commission share any comments on the Valley Brook Housing site plan and elevations including two questions:

1. Did the Commission have any concerns on the conceptual landscape plan?
2. Did the Commission have any concerns with the elevations?

Commissioner Questions/Comments:

- Mr. Pringle: HOA could handle the snow removal to avoid issue of one neighbor doing a better job than another. Agreed with what everyone else said. Tot lot will be wonderful. Is being next to Timberline day care suggestive of one less teeter totter? I don't know. (Mr. Campie: Daycare playground not accessible at all by outside parties; neither is school.)
- Mr. Schroder: Very pleased to see the park was kept. Really designed for families, great element to keep.
- Ms. Katz: Agreed about Elevation B. Was ok with conceptual landscape plan. Understood reasons for sharing the park with Timberline Learning Center. Understood decision to keep park outside instead of in the middle. Project heading in the right direction.
- Mr. Bertaux: Would some of vegetation existing along Airport Road stay? (Mr. Campie: grading plan will factor on this. Our goal is to preserve that existing as much as possible. What is presented is very conceptual.) Really want to see more trees! Glad to see fewer parking spaces by park and more green there. Any thought to having resident barbeque area in open space? (Ms. Harrington: All the town homes will have a patio off the back for barbeques.) Plus we have that fire issue. Trash is a very big issue.
- Mr. Lamb: Agreed.
- Ms. Girvin: Trying to preserve a view corridor from river to west, can you add a view corridor on Airport Road side to east? (Ms. Harrington: It would push the building too close to the entry street, wanted to keep some separation there.) There needs to be a strong HOA, first item on the agenda tonight proves that; really important. (Ms. Harrington: We were just reviewing HOA rules and regulations today. We will do a lot of work, the more work you do at training and closing are a vital part of what Mercy Housing does. We are starting RFP for HOA applications in the next week.)
- Mr. Allen: Question on sidewalks, both internal circulation and along Airport Road. Notice frequently parents with strollers going along the edge of County Road 450 where there is no sidewalk, very dangerous situation. (Mr. Campie: There is a sidewalk on Airport Road; that has not changed.) How about internally? (Ms. Puester: Conceptual landscape plan speaks to pedestrian internal circulation.) On north side, how do they get to Airport Road without walking in the street? (Mr. Campie: remember road is one way, which will help as well.)

Mr. Allen opened the hearing to public comment.

John Wood, resident and local business owner: Who is Mercy Housing? (Ms. Harrington explained Mercy Housing. We are a 501c3 selected by the Town through an RFP process. We are not the builder; we now have a short list of builders from an RFQ process and will be getting bids from that short list, which includes local builders.) Wanted to inquire to be sure we select local builders, keep the project in the county. Agreed with the comment on the strollers on County Road 450, I am one of those walking along the road. Just wanted to come out to find out more about the project. First time attending a planning commission meeting.

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

Ms. Katz: Ms. Harrington is a long time housing professional and consultant to the Town. This project is most likely occurring due to her long tenure in town and her hard work on behalf of attainable housing.

TOWN COUNCIL REPORT:

None.

OTHER MATTERS:

Mr. Neubecker noted there was additional time available. Mr. Allen requested a discussion on the Top Ten list.

Mr. Neubecker: The staff continues to focus on the top ten list. Staff is committed to finishing what we have started prior to starting new items to the list. Current top ten is:

- Home size
- Landscaping / weeds / wildfire
- Solar Panels
- Land Use District 31 update
- Energy conservation policy

Accessory dwelling units
Affordable housing policy modification
Ground floor offices
Footprints lots
Free basement density for commercial
Restoring historic sheds without negative points
Adopt transition area standards

Other potential items include: code tweaks that may come up, small issues in the code that continually get pushed off and need to be addressed. Staff could bring list of suggestions to next meeting for Planning Commission review.

Mr. Pringle asked about incentives for smaller homes. (Julia Puester is working on home size policy.) (Ms. Puester: Going to become task force first, getting that together.) (Mr. Neubecker: Sustainable Building Code may start to impact home size. If talking about incentives, then we would almost be talking about a relative policy.)

Julia Puester will bring solar panels to council at their next meeting and return to Planning Commission on March 3.

Jennifer Cram is working on the landscape, pine beetle, defensible space issues. Defensible space is scheduled to go to Town Council at their next meeting, then come to Planning Commission March 3.

Mark Truckey is continuing to review ground floor retail issues.

Commissioner Questions/Comments:

Mr. Pringle: Present economic situation, unknowns now, for example employee housing, people who are upside down in their loans, what happens to those employee housing covenants when the person that owns the unit can't sell it and then the bank owns it? (Mr. Grosshuesch: There are varying covenants that protect from foreclosure, but now no one will take those covenants.) Maybe we need to think about that, will the Town be in a bad position? (Mr. Grosshuesch: This is discussed a great deal.) Instead of solar panels on historic homes, why not a solar farm out of the area that can benefit the town? Might make sense to look more out of the box. Also some way to incentivize people to build smaller homes, 2,500 / 3,500 / 4,000 square feet versus 10,000 square feet. How can we lead people to that instead of forcing them? Need to lead someone to the "aha" discovery that they can go smaller? Require them to use renewable energy to build it, for example. (Mr. Neubecker the sustainable code helps start those conversations.)

Ms. Katz: Council should discuss the covenants around foreclosure during the Mercy project. (Mr. Grosshuesch: That discussion is definitely already happening.)

Mr. Bertaux: On loans on attainable housing and foreclosure, the Town is in first or second position. Tax credits are significant for alternative energy. (Ms. Puester: Wind anemometer is up at new Colorado Mountain College site; one year project to measure wind potential. Collaboration among Colorado Mountain College, Governor's Energy Office and Colorado State University.

Mr. Lamb: What about the parking issue, requirements for paved spaces at single family homes? Two per single family not enough, but don't want to pave the entire lot. Base on number of bedrooms. Needs to be discussed.

Ms. Girvin: It would be helpful for us to get follow up on, for example, neighborhood preservation policy. We are asked many questions from the public, and I feel like the least informed. A quick memo or email with copy of what is going to council would be great. On parking, absolutely we need to discuss. The code only requires two surface spaces for a ten bedroom home. (Mr. Neubecker: We can certainly discuss about requiring the homeowners to pave more of their lot.) On deed restricted housing, will lenders not take a deed with those covenants? (Mr. Grosshuesch: FHA won't take them, town needs to buy them to be in first position and then resell the unit.) Encourage people to build smaller homes.

Ms. Katz: Never thought the list would be this small, especially after experience as a Town Council member.

Mr. Allen: On home size, "NPP" was advertised in the paper. We need to forego the internal lingo and explain topics more fully for the public to understand better. Any ideas that are not even on the list? Steamboat just passed a historic period of significance this past week, staff might want to check that out. Anything we wish the market would do on its own?

ADJOURNMENT

The meeting was adjourned at 9:37 p.m.

Rodney Allen, Chair



Class C Development Review Check List

Project Name/PC#: Greenawalt Residence PC#2009002
Project Manager: Chris Kulick, Planner I
Date of Report: February 19, 2009 For the March 3, 2009 Planning Commission Meeting
Applicant/Owner: Andy Greenawalt
Agent: Jon Gunson, Custom Mountain Architects
Proposed Use: Single-Family Residence
Address: 299 Peerless Drive
Legal Description: Lot 48, Shock Hill
Site Area: 20,017 sq. ft. 0.46 acres
Land Use District (2A/2R):

Existing Site Conditions: 10: 2 UPA, Residential
 The lot slopes downhill from north to south at an average of 8%. The site is moderately covered in lodgepole pine trees. A 10' trail, drainage, and tunnel easment runs along the south side of the lot. A 30' utility, access & drainage easment runs along the north edge of the lot.

Density (3A/3R): Allowed: Unlimited Proposed: 5,455 sq. ft.
Mass (4R): Allowed: Unlimited Proposed: 6,041 sq. ft.
F.A.R.: 1:3.31 FAR
Areas:
Lower Level: 3,002 sq. ft.
Main Level: 2,453 sq. ft.
Upper Level:
Accessory Apartment: None
Garage: 586 sq. ft.
Total: 6,041 sq. ft.

Bedrooms: 5
Bathrooms: 6
Height (6A/6R): 33 feet overall
 (Max 35' for single family outside Historic District)

Lot Coverage/Open Space (21R):
 Building / non-Permeable: 3,178 sq. ft. 15.88%
 Hard Surface / non-Permeable: 880 sq. ft. 4.40%
 Open Space / Permeable: 15,959 sq. ft. 79.73%

Parking (18A/18/R):
 Required: 2 spaces
 Proposed: 4 spaces

Snowstack (13A/13R):
 Required: 220 sq. ft. (25% of paved surfaces)
 Proposed: 510 sq. ft. (57.95% of paved surfaces)

Fireplaces (30A/30R): Three - gas fired

Accessory Apartment: None

Building/Disturbance Envelope? Disturbance Envelope

Setbacks (9A/9R):
 Front: Disturbance Envelope
 Side: Disturbance Envelope
 Side: Disturbance Envelope
 Rear: Disturbance Envelope

Architectural Compatibility (5/A & 5/R):
Exterior Materials:

The residence will be compatible with the land use district and surrounding residences.

Roof:
Garage Doors:

Half log siding, vertical board siding, cedar trim and natural moss stone accents
Cedar shake shingles & non-reflective metal roofing
Wood clad

External Circulation (17/A)

The Applicants propose to take access from a point in front of the property which has a platted access restriction. This point of access is requested in order to preserve the buffer between the residence and the adjacent nordic trail. The request is supported by the Streets, Planning and the Open Space departments and the Shock Hill HOA. This request will cause no adverse effects to the neighborhood and is not a health or safety concern. Staff believes siting the driveway in this location is an overall benefit to the community as opposed to locating it closer to the nordic trail. An added condition of approval will require the applicant to sign an Agreement For Partial Termination of Access Restriction, in a form acceptable to the Town Attorney, and record it with the Summit County Clerk and Recorder prior to the issuance of a building permit.

Landscaping (22A/22R):

Planting Type	Quantity	Size
Engelmann Spruce	5	4 @ 6 feet tall and 1 @ 10 feet tall
Aspen	41	1-2.5 inch caliper - 50% of each and 50% multi-stem
Shrubs and perenials	16	5 Gal.

Drainage (27A/27R):

Positive away from structure

Driveway Slope:
Covenants:

7 %
Standard landscaping covenant

Point Analysis (Sec. 9-1-17-3):

An informal point was conducted for this proposed residence and no positive or negative points are warranted.

Staff Action:

Staff has approved the Greenawalt Residence, PC#2009002, located at 299 Peerless Drive, Lot 48, Shock Hill, with the attached findings and conditions.

Comments:

Additional Conditions of Approval:

An added condition of approval will require the applicant to sign an Agreement For Partial Termination of Access Restriction and record it with the Summit County Clerk and Recorder prior to the issuance of a building permit.

TOWN OF BRECKENRIDGE

Greenawalt Residence
Lot 48, Shock Hill
299 Peerless Dr.
PC#2009002

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 19, 2009**, 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 hearing on the project held on **March 3, 2009** as to the nature of the project. In addition to Commission minutes, the meetings of the Commission are tape-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 **September 10, 2010**, 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. Driveway culverts shall be 18-inch heavy-duty corrugated polyethylene pipe with flared end sections and a minimum of 12 inches of cover over the pipe. Applicant shall be responsible for any grading necessary to allow the drainage ditch to flow unobstructed to and from the culvert.

7. At the point where the driveway opening ties into the road, the driveway shall continue for five feet at the same cross slope grade as the road before sloping to the residence. This is to prevent snowplow equipment from damaging the new driveway pavement.
8. Applicant shall field locate utility service lines to avoid existing trees.
9. An improvement location certificate of the height of the top of the foundation wall and the height of the building's ridge must be submitted and approved by the Town during the various phases of construction. The final building height shall not exceed 35' at any location.
10. At no time shall site disturbance extend beyond the limits of the platted site disturbance envelope, including building excavation, and access for equipment necessary to construct the residence.
11. All hazardous materials used in construction of the improvements authorized by this permit shall be disposed of properly off site.

PRIOR TO ISSUANCE OF BUILDING PERMIT

12. Applicant shall submit proof of ownership of the project site.
13. Applicant shall submit and obtain approval from the Town Engineer of final drainage, grading, utility, and erosion control plans.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.

21. Applicant shall sign and record with the Summit County Clerk and Recorder, an Agreement for Partial Termination of Access Restriction, in a form acceptable to the Town Attorney, prior to the issuance of a building permit. Applicant shall be responsible for payment of recording fees to the Summit County Clerk and Recorder.

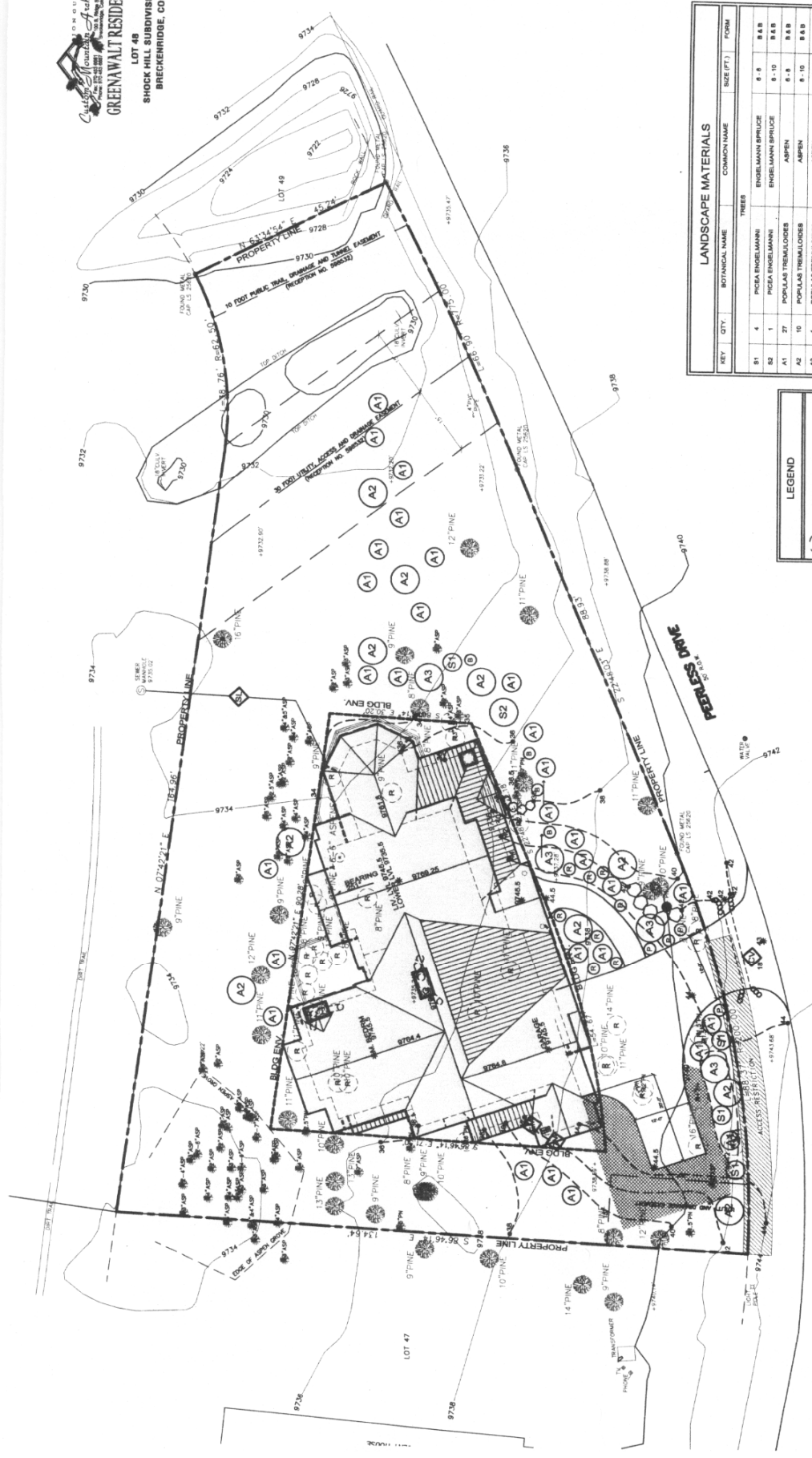
PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

22. Applicant shall revegetate all disturbed areas with a minimum of 2 inches topsoil, seed and mulch.
23. 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.
24. Applicant shall execute and record with the Summit County Clerk and Recorder a covenant and agreement running with the land, in a form acceptable to the Town Attorney, requiring compliance in perpetuity with the approved landscape plan for the property. Applicant shall be responsible for payment of recording fees to the Summit County Clerk and Recorder.
25. 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.
26. Applicant shall screen all utilities.
27. All exterior lighting on the site or buildings shall be fully shielded to hide the light source and shall cast light downward.
28. 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.
29. 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.
30. 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.

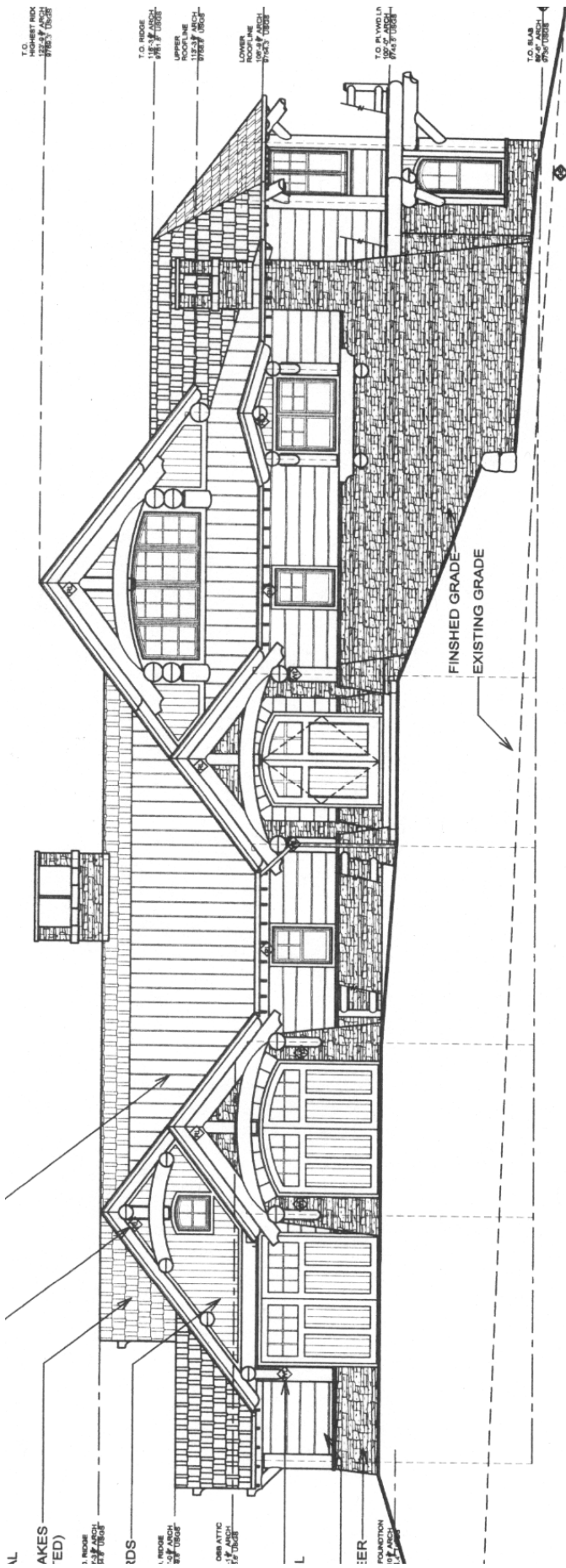
31. Applicant shall submit the written statement concerning contractors, subcontractors and material suppliers required in accordance with Ordinance No. 1, Series 2004.
32. Applicant shall construct all proposed trails according to the Town of Breckenridge Trail Standards and Guidelines (dated June 12, 2007). All trails disturbed during construction of this project shall be repaired by the Applicant according to the Town of Breckenridge Trail Standards and Guidelines. Prior to any trail work, Applicant shall consult with the Town of Breckenridge Open Space and Trails staff.
33. The development authorized by this Development Permit may be subject to the development impact fee imposed by Resolution 2006-05 of the Summit County Housing Authority. Such resolution implements the impact fee approved by the electors at the general election held November 7, 2006. Pursuant to intergovernmental agreement among the members of the Summit Combined Housing Authority, the Town of Breckenridge is authorized to administer and collect any impact fee which is due in connection with development occurring within the Town. For this purpose, the Town has issued administrative rules and regulations which govern the Town's administration and collection of the impact fee. ***Applicant will pay any required impact fee for the development authorized by this Development Permit prior to the issuance of a Certificate of Occupancy.***

(Initial Here)



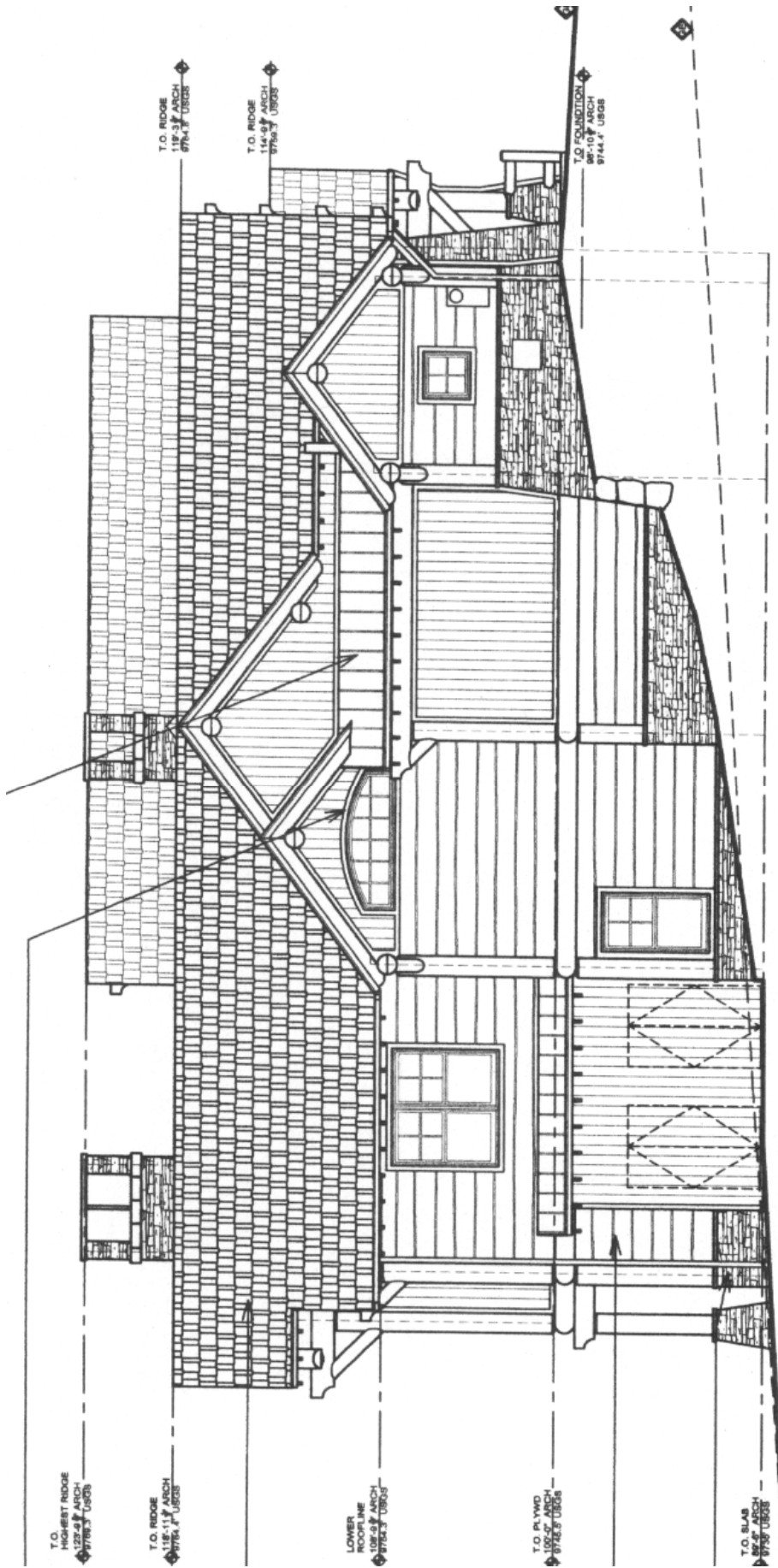
KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE (FT.)	FORM
S1	4	PICEA ENGELMANNI	ENGELMANN SPRUCE	9-9	B.B.
S2	1	PICEA ENGELMANNI	ENGELMANN SPRUCE	9-10	B.B.
A1	27	POPULUS TREMALOIDES	ASPEN	6-8	B.B.
A2	10	POPULUS TREMALOIDES	ASPEN	8-10	B.B.
A3	4	POPULUS TREMALOIDES	ASPEN	8-10	B.B.

(A1)	12" PINE
(A2)	16" PINE
(A3)	18" PINE
(S1)	10" PINE
(S2)	14" PINE
(B)	6" PINE

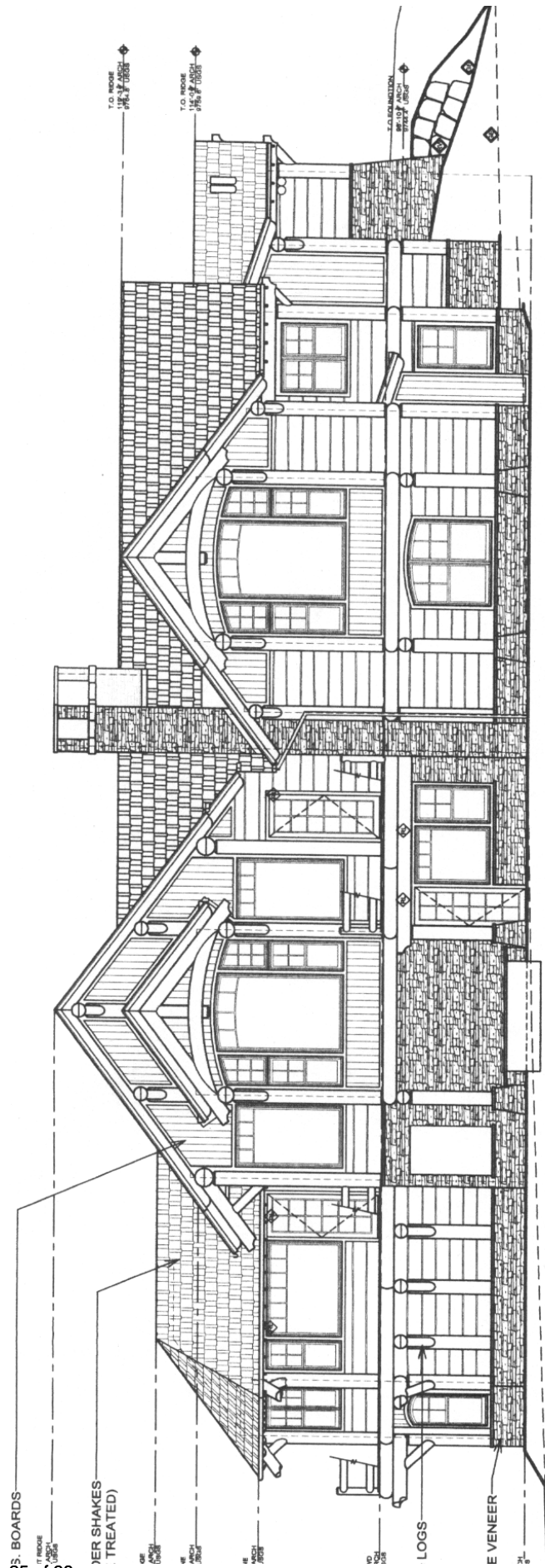


5 EAST ELEVATION

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



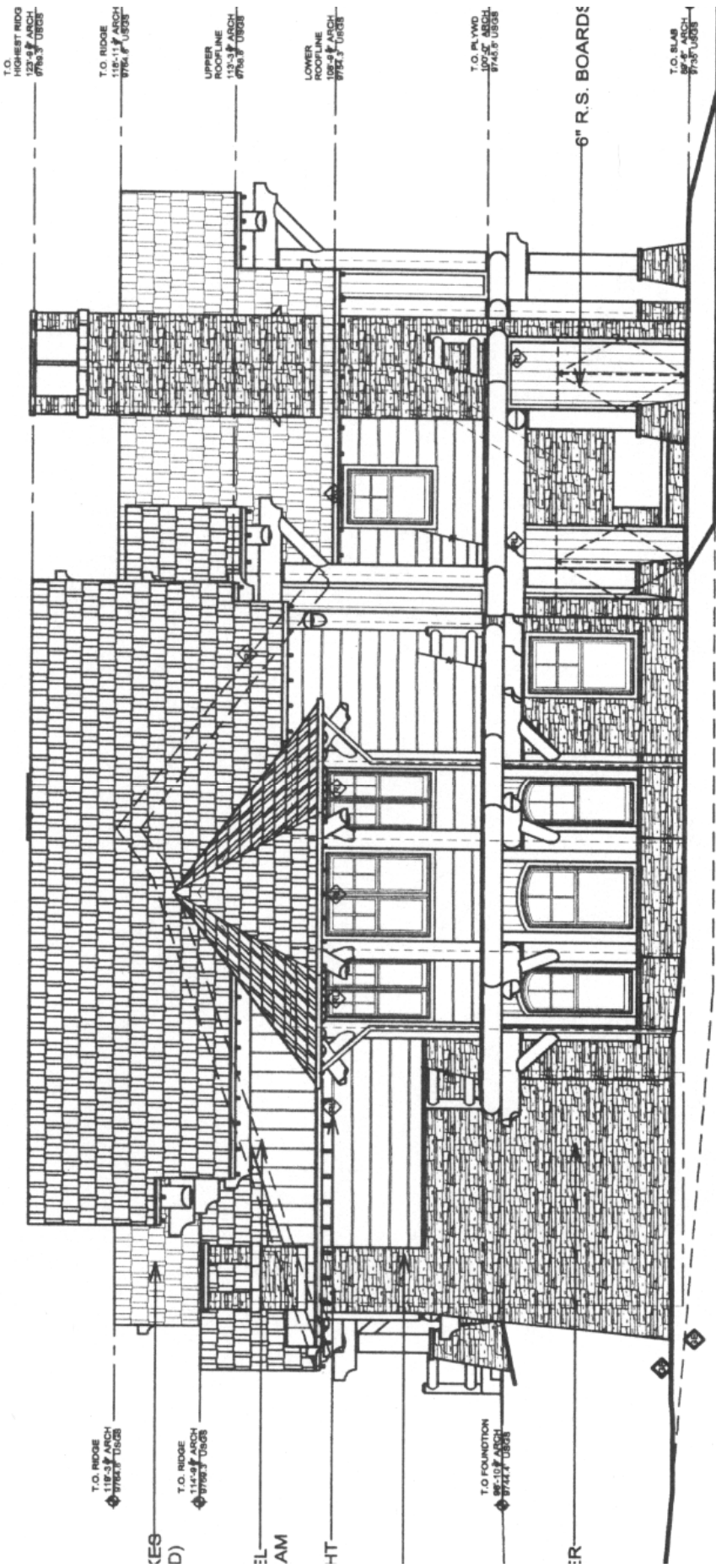
8 SOUTH EL
SCALE: 1/8" = 1'-0"



WEST ELEVATION

7

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



6 NORTH
SCALE: 1/8" =

Memorandum

To: Planning Commission

From: Tom Daugherty, Assistant Public Works Director/Town Engineer

Date: 02/27/2009

Re: Lot 48 Shock Hill

After reviewing the plan for Lot 48 in the Shock Hill Subdivision I will allow a variance from the access restriction on the plat.

The access restriction was placed on the original plat because the site was a larger parcel with multi-family density that has since been further subdivided into two single family lots. Because of this change of density and to reduce impacts to the open space and trails adjacent to the lot, the variance will be allowed.



MEMORANDUM

TO: Town Council

FROM: Scott Reid, Open Space and Trails Planner

DATE: February 19, 2009

SUBJECT: Access restriction on Lot 48, Shock Hill (0299 Peerless Drive)

The Open Space and Trails division staff supports the applicant's proposal to override the current access restriction on the above lot and allow driveway access to this home to be located within the current access restriction area.

As I understand it, the original access restriction was intended to prevent a series of driveway accesses onto Peerless Drive. However, as the applicant points out, placing the driveway within that current access restriction area will reduce tree clearing and offer an improved buffer between the proposed structure and the public trail to the north, including additional landscaping. The Open Space and Trails division staff supports this effort to provide a visual and landscape buffer from the trail and believes that this public benefit outweighs the costs of having an additional driveway on Peerless Drive.



MEMORANDUM

To: Planning Commission
From: Jennifer Cram, Planner III
Subject: Proposed Defensible Space Ordinance and Updates to the MPB Ordinance
Date: February 27, 2009 (For meeting on March 3, 2009)

Proposed Defensible Space Program

Staff is currently working with the Red, White and Blue Fire District (RWB) to develop a program for creating Defensible Space around structures in Breckenridge. As part of this, staff has been working on a draft ordinance.

The Defensible Space Ordinance, if adopted, will be administered by the RWB. All properties would be affected by the Ordinance, however many properties may not have to remove any trees or vegetation, as they already meet the intent of the Ordinance.

The proposed Ordinance identifies three Zones where treatment is required. It is not the intent of the Ordinance to require clear cutting in any Zone. Zone One extends 30 feet from the eave of a structure. Thirty feet allows flexibility to preserve approved landscaping that is drip irrigated, native specimen trees and other vegetation that provide buffers while still reducing fuels and creating an area where fire suppression crews can defend the structure. Zone Two extends 75 to 125 feet from the eave of the structure beyond Zone One depending on slope. Within Zone Two dead and diseased trees are proposed to be removed and trees are thinned to open up crown spacing. Trees in Zone Two can be preserved in clumps to help prevent wind throw and to preserve buffers between properties. Zone Three extends beyond Zone Two to the property boundary. Within Zone Three all dead and diseased trees are removed. In all three Zones, all downed dead trees are removed, dead branches are limbed up, and leaf clutter and other debris are removed to reduce ground fuels.

Forest Management Plans

In addition to developing a Defensible Space Program staff has been working with RWB and a consultant to create a plan for Fuel Breaks around Town. As the Commission already knows one fuel break was already created in the Discovery Hill neighborhood this fall/winter. The proposed Fuel Break plan is consistent with what the County, State

and US Forest Service are planning for fuels reduction and forest health prescriptions for the Upper Blue Valley. The Open Space Division has also outlined twelve projects for treatment in 2009. Staff will have some preliminary maps to share with the Commission during the worksession.

Changes to the MPB Ordinance

Proposed changes to the Mountain Pine Beetle (MPB) Ordinance help to simplify the inspection and inspection warrant processes. Changes also help to make the MPB Ordinance consistent with the Defensible Space Ordinance and allow property owners to coordinate the removal of dead and infested trees with a Defensible Space Plan to receive an economy of scale. If adopted, property owners would have one year to remove infested trees. Changes proposed include an exemption for those properties that have dead and infested trees that are inaccessible due to steep slopes. The updated ordinance also clarifies how Town owned property will be treated with Open Space being treated according to the Forest Management plan created for Town owned Open Space.

Staff has a PowerPoint presentation prepared that highlights the proposed Defensible Space Ordinance and updates to the MPB Ordinance. We look forward to discussing these Ordinances with the Commission during the worksession.



MEMORANDUM

TO: Planning Commission
FROM: Michael Mosher and Chris Neubecker
DATE: February 24, 2009
SUBJECT: Free Basement Density under Historic Commercial Buildings

As an incentive to encourage the installation of foundations under historic structures, the Town developed a policy to waive the density in the basement of such buildings. The current policy waives the basement density under a historic residential structure. It also allows for storage under historic commercial buildings, but does not allow the basement density to be used for leasable space. The intent of this memo is to discuss changing the policy, to allow leasable space in the basement of historic commercial buildings, as an additional incentive for restoration/preservation.

During the last review of this subject on February 3rd, Staff was directed by the Planning Commission to explore some of the properties on Main Street that might be able to add basements beneath the historic portions of the buildings. Doing a rough estimate of the properties within Land Use District 19 (commercial uses suggested) we have the following data to share:

Address	Common Name (Past/ Present)	Rough Estimate of Possible Free Basment Density	Retail and Office Parking	0.4 per / 1,000 SF - PIFs
103 S. Main Street	Mother Loaded - Restarurant	3,200 SF	11.2 Spaces	14.40 SFEs
114 S. Main Street	Canary in a Clothes Mine	1,746 SF	2.4 Spaces	0.70 SFEs
120 S. Main Street	Mtountain tees	3,174 SF	4.4 Spaces	1.27 SFEs
121 S. Main Street	Skinny Winter	1,088 SF	1.5 Spaces	0.44 SFEs
128 S. Main Street	Mtn. Cookies	2,013 SF	2.8 Spaces	0.81 SFEs
130 S. Main Street	Prospector - Restaurant	1,994 SF	7.0 Spaces	8.97 SFEs
132 S. Main Street	Wildflower Gifts	1,826 SF	2.6 Spaces	0.73 SFEs
136 S. Main Street	Abby Hall	1,532 SF	2.1 Spaces	0.61 SFEs
221 S. Main Street	Tiger Rags (Exec. Resorts)	1,538 SF	2.2 Spaces	0.62 SFEs
225 S. Main Street	Frank Brown (Starbucks)	1,683 SF	2.4 Spaces	0.67 SFEs
229 S. Main Street	Red Ugly (Breck Associates)	1,105 SF	1.5 Spaces	0.44 SFEs
300 S. Main Street	Photo Shop	1,521 SF	2.1 Spaces	0.61 SFEs
309 S. Main Street	Miller House (Peak Performance)	1,424 SF	2.0 Spaces	0.57 SFEs
310 S. Main Street	Phillips House	1,275 SF	1.8 Spaces	0.51 SFEs
Total impacts		25,119 SF	46.1 Spaces	31.34 SFEs

These numbers are based off Summit County records and Staff’s best estimate of the main level square footage of the historic portions of the developments on the property. The impacts are totaled at the base of the chart. Again, this represents a rough number. If and when an applicant submits an application for basement density, accurate numbers are requested.

One concern raised at the February 3rd worksession was the impact of added parking to the Service Area and resulting impacts to the core downtown parking. Below are the percentages from the peak winter parking occupancies from 2007 to 2009. Not all existing parking is being utilized to full capacity.

2007/2008 & 2008/2009 Winter Season	
Average Daily Occupancy	64%
Single Day Peak Occupancy	84%

Build out Winter Season	
Average Daily Occupancy	79%
Single Day Peak Occupancy	103%

With the goal of encouraging restoration or rehabilitation of historic structures, it might be possible to allow historic buildings with a retail/commercial use to add “free” basement area with uses other than storage. Allowing basement density without use restrictions might be a greater incentive for properties to be locally landmarked, restored and placed on new foundations.

If the Commission believes that the intensity of the added density should be restricted in any manner, a covenant, running with the land, could be recorded with the property. We welcome any comments and direction from the Commission.

Memo

To: Planning Commission
From: Julia Puester, AICP
Date: February 27th for meeting of March 3rd
Re: Policy Modification for Solar Panels

The Town Council directed Staff to rewrite the solar panel ordinance to allow for additional flexibility and conformance with the Governor's Energy Office Solar Hot Water Rebate Program. Staff has proposed changes to the Policy 5(*Absolute Architectural Compatibility*) regarding solar panels inside and outside of the Conservation District in strike and bold to allow for more flexibility outside of the Conservation District. Staff has also proposed some changes within the Conservation District to allow the opportunity for solar access to more property owners.

Staff took the proposed changes to the Planning Commission January 16th and the Town Council February 24th.

Commission comments at the January 16th Worksession

- Require panels which do not function to be removed.
- Ensure that the character of the Conservation District was protected from solar panels highly visible from rights-of-ways.
- Tilted and angled panels on east/west facing rooflines should be the last resort.
- Define "highly visible".
- Have an escape clause built in that would allow for denial if something doesn't look right in the Conservation District.

Town Council comments at the February 24th Worksession

- Should not allow for panels to exceed the ridgeline.
- Tilted and angles panels should last option.
- Have placement recommendations for both inside and outside of the Conservation District. Prove all options have been considered before applying panels on the least desired location.
- Do not allow for panels to reduce the historic rating of the building or District.
- Planning Commission should review all applications in the Conservation District carefully.

Proposed Policy Changes since January 16th meeting

- Included an order of consideration for placement of panels inside and outside of the Conservation District and associated language.
- Definition of “highly visible”, “tilted panel”, and “angled panel”.
- Removed the allowance for panels to exceed one foot above ridgeline outside of the Conservation District.
- Language on enforcement for disrepair has been included in the policy which will need to be standardized by the Town Attorney.

Staff would like to hear any Commissioner comments on the proposed changes as well as any suggestions on the solar panel policy modification (modification to Policy 5 Absolute).

ANGLED PANEL: Any solar array that does not follow the orientation of the roofline. Often occurs when a roofline is not south facing such as with an east/west facing roofline.

DETACHED SOLAR ARRAY: Any solar array that is mounted independently of the building structure.

ELEVATED SOLAR ARRAY: Any solar array that does not run parallel to the roofline.

HIGHLY VISIBLE: A particular portion of a solar array which is always visible or readily seen from public rights of way or other public areas.

NON-PRIMARY ELEVATION: The portion of a structure which does not front on a public street or other public right of way. If a corner lot, the primary elevation is the elevation where the primary entrance is located. (Ord. 26, Series 2008)

MOUNTING STRUCTURE: Any racking, hardware, or material used to affix solar panels to a roof, wall, or to facilitate a detached array.

ORIENTATION (AZIMUTH): This is the compass bearing that the collection surface faces. True south is defined as 13 degrees to the east of magnetic south.

RIDGELINE: The intersection of two roof surfaces forming the horizontal line of the roof.

ROOFLINE: The roof plane.

SOLAR ARRAY: A grouping of solar panels that are connected together.

SOLAR DEVICE: Solar membranes, solar shingles, solar in glass, ~~non-PV technology,~~ and solar hot water systems, and similar solar technology.

SOLAR PANEL: ~~An electrical~~ A device consisting of an array of connected solar cells which ~~converts~~ collects or harvests solar energy. A solar panel is used for the capture and creation of solar electric or solar thermal energy (also referred to as a solar collector). ~~into electricity or hot water/liquid for space heating or domestic hot water production. Also referred to as photovoltaic (PV) panel or solar array. (Ord. 26, Series 2008)~~

TILT ANGLE: The angle above the horizon that the array faces. Optimum angle for year round production is equal to the latitude of the site (Breckenridge is at 40 degrees latitude).

TILTED PANEL: A solar panel, array or device which is installed with a tilt angle.

From Policy 5 (Absolute)

E. Solar Panels and Solar Devices

- (1) Within the Conservation District: The preservation of the character of the Conservation District and the historic structures and sites within the Conservation District are of the utmost importance. The Town encourages the installation of solar panels and solar devices as an alternative energy source. However, there may be instances where solar panels or solar devices are not appropriate on a particular building or site if such a device is determined **by the Planning Commission or Town Council** to be detrimental to the character of the Conservation District **or would result in a reduced historic rating.**

The Town encourages solar array placement to be sensitive to the character of the Conservation District and located away from the public right of way. The order of consideration for placement is (1) a detached array in the rear or side yard away from public view, (2) on non-historic structures or additions, (3) on an accessory structure, (4) on the primary structure.

- (2) Within the Conservation District, no solar device shall be installed on a structure or site without first obtaining a Class C minor development permit. Solar panels and solar devices are encouraged to be installed on a non-historic building or building addition and integrated into the building design. To ensure that the character of the Conservation District and its historic structures and sites are protected, an application for a development permit to install a solar panel or solar device within the Conservation District will be reviewed under the following requirements:
 - (a) Solar panels or other solar devices on roofs shall be placed on a non-character defining roofline of a non-primary elevation (not readily visible from public streets). **For corner-lots properties which have exhausted the placement options above, panels the south-facing roofline visible from the Right of Way on public areas may be appropriate for panels if located to if designed to have minimize minimal visual impacts from the Right of Way on public areas and which do not result in detrimental character to the Conservation District, or a reduced historic rating for the structure or surrounding structures. Roof mounted solar panels and solar devices shall not break the existing ridgeline of the roof to which the panels are mounted.** Solar panels and solar devices shall be setback from the edge of a flat roof to minimize visibility and may be set at a pitch and elevated if not highly visible ~~from public streets~~. On all other roof types, solar panels and solar devices shall be located so as not to alter a historic roofline or character defining features such as dormers or chimneys. All solar panels and solar devices shall run parallel the original roofline and shall not exceed nine inches (9") above the roofline **as measured from the**

bottom of the panel. Solar panels, solar devices, mechanical equipment and mounting structures shall be non-reflective such as an anodized finish. Mechanical equipment associated with the solar system such as invertors, convertors and tubing attached to the building fascia shall be painted to match the building fascia color to blend into the building.

Applications for new structures within the Conservation District are encouraged to include building integrated solar panels and other solar devices into the initial design, including a similar roof color, rather than as a later addition. Solar panels and solar devices which contrast with the color of the roof of new or historic structures are inappropriate if found to be detrimental to the character of the Conservation District.

(b) Detached arrays of solar panels and solar devices at a historic site may be located in the rear or side yard if the arrays are not highly visible ~~from the public streets~~ and do not detract from other major character defining aspects of the site. The location of detached solar arrays shall also consider visibility from adjacent properties, which shall be reduced to the extent possible while still maintaining solar access.

(c) On historic buildings, character defining elements such as historic windows, walls, siding or shutters which face public streets or contribute to the character of the building shall not be altered ~~or~~ in connection with the installation of solar panels or solar devices. Solar devices **integrated** into non-historic windows, walls, siding or shutters which do not face public streets are encouraged.

(3) Outside the Conservation District: The Town encourages the installation of solar panels and solar devices on structures or sites located outside the Conservation District as an alternative energy source. The following regulations shall apply to the installation of solar panels or solar devices outside the Conservation District:

(a) No solar panel or solar device shall be installed on a structure or site without first obtaining a Class D development permit. The director shall have the authority to reclassify an application as a Class C minor application, and to require review by the Planning Commission, if he feels the purpose of this code would be best served by the reclassification. Reclassification shall be done pursuant to the definition of "Classification" in Section 9-1-5 of this chapter.

The Town encourages solar array placement outside of the Conservation District to follow the order of consideration for placement which is (1) a flush mounted (9" above the roofline) panel on an accessory structure roof, (2) a flush mounted roof panel on the primary structure or screened detached array, (3) a tilted roof mounted panel (4) an angled

and tilted roof mounted panel.

- (b) **Roof mounted** solar panels and solar devices shall run **as closely** parallel to the roofline ~~and shall not exceed nine inches (9") above the roofline as possible while still maintaining efficient solar access.~~ Solar panels, solar devices, mechanical equipment and mounting structures shall be **non-reflective such as an anodized finish.** Mechanical equipment associated with the solar system such as invertors, convertors and tubing attached to the building fascia shall be **painted to match the building fascia color to blend into the building.** New structures are encouraged to include building integrated solar panels and solar devices into the initial design, rather than as a later addition.
- (c) **Roof mounted solar panels and solar devices shall not break the existing** ~~ridgeline of the roof to which the panels are mounted unless the solar panel or solar device is flush mounted and parallel to the roof (within 9" above the roof surface as measured from the bottom of the panel) in which case the device may exceed the roof line by a maximum of one foot.~~ All mounting structures shall be on the same roofline as the panels. Elevated arrays are allowed which follow the orientation of the roofline. An east or west facing roof may have an angled orientation in relation to the existing roofline. A maximum tilt angle of 45 degrees is allowed for electrical solar panels. An elevated array for a solar hot water heating system may have a maximum tilt angle of 50 degrees and a maximum tilt angle of 55 degrees for a solar space heating systems.
- (d) **Solar arrays which appear as an awning may be mounted onto building facades or decks.**

~~(e)~~(e) Detached arrays of solar panels and solar devices may be located in the rear or side yard if not highly visible from the public streets. The location of detached solar arrays shall also consider visibility from adjacent properties, which shall be reduced to the extent possible while still maintaining solar access. Detached solar arrays which serve the residence on the site may be located outside of the building or disturbance envelope if no significant existing vegetation must be removed for the installation and an adequate buffer is provided to adjacent properties. (Ord. 26, Series 2008)

(4) All solar panels and solar devices found to be in disrepair or nonfunctional shall be removed and properly discarded.