


















**BRECKENRIDGE TOWN COUNCIL
WORK SESSION
Tuesday, July 14, 2009**

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

| | | |
|-----------------------|---|-----------------|
| 3:00 – 3:15 pm | I. <u>PLANNING COMMISSION DECISIONS</u> | Page 2 |
| 3:15 – 3:45 pm | II. <u>LEGISLATIVE REVIEW</u> * | |
| |  Building Materials Waste Ordinance | Page 63 |
| |  Blue Front Easement | Page 69 |
| |  Silverthorne House Landmark | Page 97 |
| |  Elevator Ordinance | Page 101 |
| |  Vic's Landing Covenant | Page 104 |
| 3:45 – 4:30 pm | III. <u>MANAGERS REPORT</u> | |
| |  Public Projects Update | Page 11 |
| |  4 o'clock Road signal/roundabout | |
| |  Housing/Childcare Update | Verbal |
| |  Committee Reports | Page 14 |
| |  Financials | Page 16 |
| 4:30 – 5:00 pm | IV. <u>PLANNING MATTERS</u> | |
| |  Preservation Homes at Vista Point | Page 25 |
| 5:00 – 6:15 pm | V. <u>OTHER</u> | |
| |  Budget Discussion | Page 27 |
| |  Nordic Season Report | Page 30 |
| |  ESCO | Page 38 |
| |  Final Peak 6 Findings | Page 48 |
| 6:15 – 7:15 pm | VI. <u>EXECUTIVE SESSION</u> | |

***ACTION ITEMS THAT APPEAR ON THE EVENING AGENDA** **Page 57**

NOTE: Public hearings are not held during Town Council Work Sessions. The public is invited to attend the Work Session and listen to the Council's discussion. However, the Council is not required to take public comments during Work Sessions. At the discretion of the Council, public comment may be allowed if time permits and, if allowed, public comment may be limited. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item. The public will be excluded from any portion of the Work Session during which an Executive Session is held.

Report of Town Manager; Report of Mayor and Council members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items.

MEMORANDUM

To: Town Council

From: Peter Grosshuesch

Date: July 8, 2009

Re: Town Council Consent Calendar from the Planning Commission Decisions of the July 7, 2009, meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF June 7, 2009:

CLASS C APPLICATIONS:

1. Levenick Residence, PC#2009028, 416 Peerless Drive

Construct a new single family residence with 5 bedrooms, 5 bathrooms, 7,061 sq. ft. of density and 7,982 sq. ft. of mass for a F.A.R. of 1:3.83. Approved.

2. Gittins Residence, PC#2009029, 83 Brooks Snider Road

Construct a new single family residence with 5 bedrooms, 5 bathrooms, 5,272 sq. ft. of density and 6,314 sq. ft. of mass for a F.A.R. of 1:4.33. Approved.

CLASS A APPLICATIONS:

1. Lot 5 McAdoo Corner, PC#2009009, 209 South Ridge Street

Construct a new 3,365 square foot restaurant. Approved.

PLANNING COMMISSION MEETING

THE MEETING WAS CALLED TO ORDER AT 7:06 P.M.

ROLL CALL

| | | |
|--------------------------|--------------|--------------------------------|
| Leigh Girvin | Rodney Allen | Michael Bertaux |
| JB Katz | Jim Lamb | Dave Pringle arrived at 7:08pm |
| Dan Schroder was absent. | | |

APPROVAL OF MINUTES

With three changes, the minutes of the June 16, 2009 Planning Commission meeting were approved unanimously (5-0). Leigh Girvin abstained.

Michael Bertaux's name was misspelled on page 8.

On page 10 under the council report, it should say "Alpine Arborist" instead of "Alpine tree removal". Also on page 10, it was Rodney Allen that said that "the Valleybrook intersection would be 7 lanes wide".

APPROVAL OF AGENDA

With no changes, the July 7, 2009 Planning Commission agenda was approved unanimously (6-0).

Mr. Allen suggested that the site disturbance code issue (Policy 7/R) be discussed at the end of the meeting.

CONSENT CALENDAR:

1. Levenick Residence (CK) PC#2009028, 416 Peerless Drive
2. Gittins Residence (CK) PC#2009029, 83 Brooks Snider Road

Gittins Residence (CK) PC#2009029, 83 Brooks Snider Road stands approved.

Ms. Girvin called up PC#2009028 to discuss site disturbance and landscaping. Mr. Allen seconded. Ms. Girvin noted that site disturbance was an issue and the offset of the negative points with landscaping. Mr. Allen noted that the landscape plans on the Levenick plans had only slightly more landscaping than the Gittins plans, but only one of the residences was achieving points for the landscape.

Ms. Girvin asked how near the two homes in Shock Hill were to each other. (Mr. Kulick showed the commission the plans and locations of the homes.) (Mr. Kulick and Mr. Neubecker noted that the Shock Hill plat notes allow for grading and site disturbance outside the envelope, as long as it does not involve tree removal.) Mr. Pringle noted that the home was completely within the envelope. Ms. Girvin noted mitigating excessive site disturbance with landscape doesn't seem right. She suggested we change our philosophy to award positive points for less site disturbance and preserving the natural vegetation. Mr. Lamb said that the issue began a long time ago with the setbacks and site disturbance. (Mr. Neubecker noted that negative points were assigned for site disturbance and the long driveway. The code is set up to have positive and negatives, and any positive points can be used to offset any negative points. The primary issue here is if staff prepared the point analysis correctly. The reason that positive points were not assigned to the Gittins residence is that no negative points were needed to be offset; therefore, a need to assign positive points was not triggered; looking back, Gittins might deserve positive points for landscaping. Staff also thought that the Levenick residence had more and larger caliber trees and a good design.) (Mr. Kulick noted that the landscaping is located to buffer the driveway, not just the quantity of the trees.) Ms. Katz asked whether or not the landscaping would be removed due to the defensible space ordinance. (Mr. Thompson noted that required landscaping is exempt from defensible space.) Mr. Allen cited the code section for the site disturbance. Mr. Pringle noted that they received negative points for site disturbance per the code. (Mr. Kulick noted that Shock Hill has requirements for access and garage design and the residence meets those criteria.) (Mr. Neubecker noted that staff had researched previously approved single family residences and the landscape plans that received positive points. Staff felt that this application did warrant positive points due to that comparison.) Ms. Girvin noted that she would like to look at the landscaping requirements in the code in the future.

John Gunson, Architect for the Levenick residence: The design requirements and plan for Shock Hill Subdivision were done very well. The setbacks from the road make it a really pleasant neighborhood, but also make the driveways longer. Peerless Drive slopes up and the homes are built into the hillsides, and the homes on the other

side of the street really don't see this home. The garage doors are required to be hidden from the street, which makes a nicer streetscape but contributes to longer driveways. When you do a disturbance envelope, that doesn't allow for good grading and drainage solutions. It is almost impossible to not disturb anything outside the envelope. The goal is to avoid retaining walls, reinforced swales and other things, to stay within the envelope. The addition of landscape on the lots provides more diversity in the forest.

Mr. Pringle noted that he hadn't heard anything to overturn staff's point analysis, and could approve the motion.

Ms. Katz moved to approve the Levenick Residence, PC#2009028, with the existing point analysis and conditions and requirements of staff listed in the packet. Mr. Pringle seconded the motion. The motion passed unanimously, (6-0).

FINAL HEARINGS:

1. Lot 5, McAdoo Corner (MGT) PC#2009009, 209 South Ridge Street

Mr. Thompson presented a proposal to build a new, 3,365 square foot restaurant and reviewed the Commission's comments and concerns from the last preliminary hearing on May 19, 2009.

Ms. Janet Sutterley, Architect for the McAdoo Corner application: There was going to be rooftop mechanical equipment in the northwest corner near the kitchen area, which is the best location for that equipment. The largest trees will be located on site to screen that equipment. An exit stair is required off the deck. Ms. Sutterley noted the location on the plan and stated that it is tucked into the corner and will not be an entry point and not very visible. A small cricket roof will be located above the stair to accommodate snow shedding. The chimney is now only popping up from the ridgeline, rather than visible the entire elevation. The south elevation shows where solar panels will be located. Signage will come through as a separate signage application, but a free-standing sign will be proposed and if there is additional signage needed it will be on the building.

Mr. Allen opened the hearing to public comment.

Mr. Jason Swinger, Wendall Square Condo Association: The Association has concerns with air quality from the wood burning cooking pizza oven. There could be considerable exhaust that could affect the residential, and that residential isn't allowed to have wood burning unless its EPA Phase II, so why can commercial? The point system shouldn't allow solar panels to make up for air quality. The Association would ask that anything that could be done to minimize the smell and quality of life would be appreciated.

Commissioner Questions/Comments:

Mr. Lamb: Is the wattage for the solar panels known? (Ms. Sutterley noted that that is not known at this time.)
Final Comments: Disagreed with the point analysis. The two negative points for the wood burning is fine, but didn't agree with positive three (+3) points for energy conservation without understanding the wattage and effectiveness of the solar panels. Landscaping points could be applied to offset the negative points, so it will still pass. Thought the Commission needed more understanding of solar panel wattage and what would be enough to achieve these types of positive points. (Mr. Allen noted that the code uses the words "effective means" of renewable energy, which may be something that the Commission has to decide.)

Ms. Girvin: Asked about the smoker at Salt Creek and how it is regulated. (Mr. Neubecker noted that it is regulated by the outdoor burning ordinance.) (Mr. Allen noted the code section on page 102 that discusses wood burning appliances not being allowed.) (Mr. Neubecker noted the difference between the definitions of "wood-burning appliance" and "wood-burning cooking appliance".) (Mr. Pringle noted that the Code allows wood burning ovens for restaurants, and that if there is an issue with a code that it should be brought up to Town Council.) (Ms. Katz noted that the Code applies differently to residential versus commercial development, and that the code specifically allows this use.)

Final Comments: Are the solar panels in the conditions of approval, and required? (Mr. Neubecker: Yes, since they are shown on the plans and discussed in the Staff report, they are part of this development application.) I think Mr. Lamb has a good point about being consistent about what is "effective" and we need to determine if positive three (+3) points would be warranted. It is worth discussing in the future. Agreed with the Wendell Square that the Town Code is very difficult to

understand and it is hard to follow in the public process, but the Code allows this wood burning use. I do support this application.

Ms. Katz: People have different issues with the point system. (Mr. Allen noted that the Commission’s hands are tied by the Code on this application, but Policy 33/R should be reviewed.)

Final Comments: I appreciate the work that has gone into this. I am not sure how to interpret the vague language in the Code regarding renewable energy, but that the point analysis is okay as it stands. (Mr. Lamb noted that this could be an issue in the future, especially when someone puts just one solar panel up and gets positive three (+3) points.)

Mr. Bertaux: What is the EPA rating on the wood burning furnace? (Ms. Sutterley noted that it isn’t EPA certified because it is a pizza wood fire stove with an open front.)

Final Comments: I appreciate the changes that have been made through the process. The Code is made up of a lot of trade-offs, and here is another example. I support the application.

Mr. Pringle: Mr. Pringle noted that EPA rated stoves are not required for commercial; it is just assigned negative points.

Final Comments: I agree with the staff’s point analysis and think it will be a wonderful addition to the streetscape.

Mr. Allen: Did not agree with positive points if only one solar panel.

Final Comments: I agree with a lot that has been said, especially those from the representatives from Wendell Square. The people involved in the project are really good local people, and I believe they will work with the Association to mitigate their concerns. I agree with Mr. Lamb that we shouldn’t be awarding positive points for solar panels when we aren’t sure if they are effective. We could potentially do an audit on built properties, and look at a percentage of energy generated for future projects and points relationship to that. (Ms. Katz noted that an audit on future properties would require more than just solar panels, with other items such as energy efficient windows, etc. as discussed with the state historic preservation office representative a few weeks ago.)

Mr. Neubecker noted that if the wood burning stove was considered a “nuisance” the Planning Commission could assign negative points under Policy 2/R. (Ms. Katz noted that quality of life is based on perception, and some people like the smell of wood burning stoves.) (Mr. Neubecker noted that in his 11 years, this is only the second commercial wood burning stove he has seen. They are much less common than wood burners in residences.)

Jeremy Fisher, Contractor/Builder for McAdoo: The wood burning appliance is a focal point and theme of the restaurant; it is not the primary cooking device in the restaurant. Other Associations have also brought up this as a concern, and we will work on filtering the air and the exhaust system.

Mr. Pringle made a motion to approve the point analysis for Lot 5, McAdoo Corner, PC#2009009, 209 South Ridge Street. Ms. Katz seconded, and the motion was approved (4-2), with Mr. Allen and Mr. Lamb voting no.

Mr. Pringle made a motion to approve Lot 5, McAdoo Corner, PC#2009009, 209 South Ridge Street. Mr. Bertaux seconded, and the motion was approved (5-1), with Mr. Allen voting no.

PRELIMINARY HEARINGS:

1. Gondola Lots Master Plan (CN) PC#2009010, 320 North Park Avenue

Mr. Neubecker presented the next topic on the Gondola Lots Master Plan to discuss the Blue River corridor, landscaping, and gondola plaza as well as infrastructure, utilities and drainage. The restoration and integration of the Blue River into the site plan are key goals of this master plan. The river physically separates this site from the downtown core, but it will become a new link to downtown through an extension of the existing Riverwalk and new pedestrian crossings. By creating a bicycle and pedestrian pathway along the river, the Riverwalk to the south will be connected to the existing bike path on the north. This important link is currently missing, and this portion of the river is virtually inaccessible and is generally unseen by most locals and visitors.

It is important to note that many of the details of the river restoration have not been determined at this time. Portions of the river are owned by the Town of Breckenridge, and the landscape vision for the river includes moving the river to the east adjacent to the Mixed Use building. Also, the land east of the Breckenridge Professional Building on Ski Hill Road is not controlled by the Town or VRDC, and as such, has not been included within this plan. While the master plan envisions how the river might be treated at some point in the future, many of the business aspects of

land ownership or changes to property lines have not yet been discussed. Also, the elevation of the river and the impact to adjacent land if the banks are laid back has not been finalized. As a result, detailed plans for the river are not yet possible. Nevertheless, this master plan seeks to visualize how the river corridor could be improved in the future, and identifies major design elements necessary to integrate the river improvements with the site plan, circulation and land uses.

Landscaping and the use of trees, shrubs, flowers and well designed hardscape will help to minimize the impact of the built environment. It can help provide buffers from public ways, and can be used to provide refuge for both humans and wildlife from the urban environment.

The landscape and hardscape treatment within the plan should reflect the uses of each space. The master plan language seeks to identify major areas of the plan and the appropriate landscape design intent for each area.

In order to develop a large site such as this, many infrastructure improvements are usually required. In this case, much of the needed infrastructure, including most of the roads and utilities are already in place, due to the surrounding developed areas. The existing network of streets, including North Park Avenue, Watson Avenue, and French Street help to feed traffic into and out of this site. Two new roads are proposed to supplement these existing streets, and provide improved internal circulation.

Depending on the design of the Blue River and the pedestrian/bike pathway along the river, new bridges could be installed at Watson Avenue, and possibly at Ski Hill Road. This would be done to allow an underpass at these crossings, where there are currently culverts.

There are water and sanitary sewer lines that surround the subject lots within North Park Avenue, French Street, Main Street and Watson Avenue. There is also an existing natural gas line that runs along the west edge of this property, near Park Avenue. This new development would require the extension of some of these utilities.

During the visioning process sustainability was identified as one of the primary design drivers for this site. Sustainability can mean different things to different people. In the case of this master plan, “sustainability” is used to identify a commitment to environmentally sensitive site planning, efficient transportation systems, energy efficient buildings, low waste construction management techniques, improved indoor air quality, protection and enhancement of the natural environment, energy conservation and renewable energy sources.

Staff welcomed any comments or questions from the Commission concerning the Blue River Corridor, gondola plaza, landscaping/hardscaping, infrastructure, utilities, or sustainability.

1. Did the Commission find that the language on sustainability needs more detail, or did the Commission support more general master plan notes? Did the Commission find that any major sustainability elements have not been addressed?
2. Should the sustainability features be compulsory? Or was the Commission agreeable to a more flexible commitment? (Please keep in mind that it is very difficult at this time to commit to a specific sustainability program now for a project that won't begin construction for many years.)
3. Did the Commission support the design concept for the Blue River and Riverwalk extension?
4. Did the Commission support the language on the restoration of the river? Were there elements that were missing or unnecessary?
5. Did the Commission support the landscaping intent of the master plan?
6. Did the Commission support the design goals for the gondola plaza?
7. Were there other elements of these topics that have not been adequately addressed?

Mr. Dave Williams, DTJ Design, representing the applicant, presented the project. Mr. Williams presented a slide show and began with a discussion of the Blue River corridor. The topics included maintaining the existing trail location, potential to add a pedestrian bridge, landscape enhancement and river restoration. Mr. Williams noted that portions of the river are not owned or controlled by the town or the developer, so it will be worked out in the future in specific areas of the plan. The vision for the Blue River is to develop a destination for all seasons, adding landscape, creating better habitat conditions, providing opportunities for interaction, and extending the bike path. The Blue River is proposed to be shifted east near the mixed use building area of the plan, to provide opportunities

to interaction and bike path extensions. The second topic was landscaping, with a more urbanized landscape treatment on the new Depot streets including planters, street trees, and on street parking. There will be significant buffer landscaping along French and Park Avenue, especially at the parking structures. Adjacent to the ski-back tunnel into the plaza there will be opportunity to walk to the garage, along Park Avenue, or through the plaza. The inspiration for the plaza is intended to be an extension of the mountain and transition to a more urbanized landscape as existing on Main Street. The Gondola Plaza theme is to include the movement of the river, water and snow, including plaza space, water features, and landforms. The third topic was sustainability. Mr. Iskenderian, from Vail Resorts Development Company, noted the company's commitment to sustainability and the environment, such as wind credit off-sets, and that there is an over-arching commitment at this project as well. More detailed discussions about specific sustainability measures will occur in the future. A variety of sustainable systems concepts were explored, particularly for high altitude climates and a report was prepared. Big idea concepts for alternative energy included PV arrays for site lighting, PV panels on parking structures, and alternative fuels sources (beetle kill). Alternative snowmelt systems, including seasonal thermal storage, will be explored which utilizes pipe systems under paved surfaces to re-circulate snowmelt to melt snow on the surfaces, similar to radiant heat system. A shade and shadow analysis was completed and showed that the gondola plaza is in sun most of the day, year round. Shared parking facilities are utilized on the project, minimizing surface parking on the site and locating as much parking as possible close to Main Street. The transit system will also be enhanced with this project, including the proposed skier services building, and dedicated bus or trolley that delivers people directly to Main Street. A list of LEED/LEED ND certification checklist items were shown that could be applied to this project, should a certification level be pursued.

Mr. Allen opened the hearing to public comment.

Ms. Diane Jaynes, property owner on east side of the river: Questions about the gondola plaza, and the large bank and terraces on the sides of the river. My concern is the access and how it will affect private property owners on the other side of the river. Also how will the existing willows and vegetation be addressed, which provides habitat and buffering? Will there be any mitigation with this development as far as privacy for property owners and keeping the public from coming over to our property? Also concerned with flooding in this area, especially the proposed bike path location, and concerned with moving the river. (Mr. Neubecker noted that more detailed studies of the river and floodplain will have to be done in the future. We will get to that detailed level later in the process. Some of the willows will likely be removed, but replaced with other plantings that provide habitat. The idea is to make it more attractive and usable for people along with improved habitat. It will be public on the west side and private on the east side.) (Mr. Pringle: Unless the river is moved further west and creates some public property between your property and the river, it will likely be the same access situation as exists today. At this stage, we only have a vision and these plans will come in the future that you should pay attention to.)

Lindsay Shorthouse, developed the first LEED Certified building in the Rocky Mountains: LEED certification or third party verification could help with the sustainability portion of the master plan. I had the same concerns with the bike path location and nearness to the river. I love the idea of the ice skating rink, since the current facility has events until 3am. Love the idea of the kayak park being extended to this area.

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

Commissioner Questions/Comments:

Mr. Bertaux: Abstained as an Employee of Vail Resorts.

Mr. Lamb: What are the costs to put in river elements that can stimulate the needs of a kayak park? It could generate activity with the large length of river access. (Mr. Williams: That isn't included now, but we are open to suggestions. The Watson underpass could interrupt a kayak park.)

Final Comments: Liked the sustainability details in the plan and think that it should be compulsory. Thought the design concept for the Blue River is good, although early on. Supported language on restoration. This whole project revolves around the river, and this is a great way to improve it, augment properties, and enhance habitat. Thought the landscaping will have good buffering. Trust that the gondola plaza will be absolutely beautiful and it will be on the cover of travel brochures. Liked the language of the third party certification on sustainability.

Ms. Girvin: On the current transit building, were public monies used to build that? (Mr. Iskendarian: Yes.) Will it be paid back? (Mr. Neubecker: No. The agreement with the state is that the function of the

facility be provided or replaced.) Where are stormwater detention and improvements addressed in this plan? (Ms. Shannon Smith, Town of Breckenridge Engineer, noted that it isn't a requirement to provide stormwater plans at this level, only that it will happen and there is adequate space allocated.) It doesn't have to be done? (Mr. Neubecker: We will verify that there is enough space to accommodate it, but we don't need to know the details yet. We just need to know that it will fit.) (Mr. Williams noted that the best water quality management strategy is to allow stormwater to infiltrate prior to entering the Blue River.) When this is developed, how will we stage our parades and where will we have our fireworks? We need to consider these things. (Mr. Neubecker: I've wondered about that, but I don't think that community has discussed it.)

Final Comments: A little concerned with moving the river near the mixed use building. Liked the ability to enhance the river in that area, but it would eliminate a lot of free employee parking. Free parking should be replaced. Stressed "free" for employees because I know how much it costs to park in ski area lots. Was concerned with stormwater, and there has to be room for it. One issue I'd like addressed in the sustainability plan is landscaping that enhances wildlife and bird migration. The sensitive river and wetland environment is primary area for birds and other wildlife and it is important. There are a lot of design elements in the existing gondola plaza, and if you can provide detail here it should be included in other areas of the plan as well. Sustainability needs more detail and should be compulsory. Generally supported the Blue River concepts. The 4th of July and parade issues also should be addressed.

Ms. Katz: Final Comments: Felt better tonight than I did before, and some unknowns have been answered tonight. Really liked the idea from Ms. Shorthouse regarding third party certification regarding sustainability. Did think that sustainability should be compulsory, because VRDC is a publicly traded company and we should nail it down. (Mr. Iskenderian: I have no problem with you holding us to it. Put it in writing in the plan). Was fine with the design concepts for the river and restoration. Fine with landscaping intent and design goals for the plaza. There are many elements that haven't been adequately addressed, but this is doing the best that it can to address what we know now. We need to make our intent as clear as we can whenever we can.

Mr. Pringle: With respect to the Blue River corridor, do we want to anticipate that a corridor by which the river will run through will be dedicated with this development, or stated another way; should the river fall within a specific area with this master plan? Or should we wait to see what will happen in the future? (Mr. Neubecker noted that this plan should establish a vision for the corridor, and the specifics of where things will be located or restored, etc. will be required to meet the vision.) On the gondola plaza behind the gondola, my sense is that the river goes down very steeply in this area. The plans show a very minimal amount of land for gondola queuing in this area; is this really a good representation of the land availability? (Mr. Williams: Vail Resorts operations people have reviewed the plans and felt it would operate to their standard.) Do you think that the river can be laid back more? (Mr. Williams noted that some areas of the river cannot be laid back and others will more likely be stepped terraces, as opposed to a gentler slope, due to the existing grades around the area. The steps will provide access to the river in this area.)

Final Comments: Agreed with the concept of sustainability, and wondered if the commitment is more of a building code consideration than vision in the master plan. It really gets tied down at the building department level, rather than the planning department. (Mr. Iskenderian: The goal is to document those sustainable elements that we would like to commit to). Applauded the Applicant's commitment, but wondered if the Applicant can commit to these because they are building code issues. Wanted this project to provide economic vitality to the town, and didn't want to lose track of that in this process. It is a key part of sustainability. Supported the design concept and vision for the Blue River and language of elements for restoration. Liked the landscape intent and transition from north to south. Could support the vision for the gondola plaza. Would like to keep the idea of the river as more natural, as opposed to more manipulated.

Mr. Allen: You mentioned a potential bridge over Ski Hill Road? (Mr. Williams: Under Ski Hill Road; and it is highly dependent on what happens in the southeast area of the river plan. Our focus is to not preclude the potential for that to happen.) (Mr. Pringle: will that be part of a future development agreement?) (Mr. Williams: It can't be a part of this master plan, because we don't own or control that area.) One of the concerns last time from a community member was lighting on the top floor of the parking structures. How would solar panels on the top of the parking structure affect lighting?

(Mr. Williams noted that lighting would be located underneath solar panels, should that concept be pursued in the future. Hours of operation and other mechanisms could also be explored.)

Final Comments: Thought that there were a lot of details that need to get resolved. The biggest one is the underpasses, bridges, overpasses, bike paths, etc. and didn't need to see design details, but is that something that is going to happen or not? Minimization of conflicts between people, cars, and bikes is a big issue, and if you can get people under the road that is great. Concurred with Ms. Girvin's comment regarding moving the river and loss of parking in that area. The landscape and hardscape vision needs more detail. On sustainability, agreed with Ms. Shorthouse regarding third party verification (and the highest level of that certification – like gold), along with lists for things like alternative energy etc. Thought the mention of VRDC in the sustainability language should be removed, since the land could be sold. Would like to add carpooling incentive to transportation items in sustainability. Sustainability should be compulsory. The design goals for the gondola plaza are great. Really like what the Riverwalk center has done to the river and would like to create a balance to be not too "Disneyland" but also natural.

COMBINED HEARINGS:

1. Main Street Mauka Re-Subdivision (MM) PC#2009026, 203 North Main Street

This application was removed at the request of the Applicant as it is a Class C Subdivision and will therefore be a staff level approval.

TOWN COUNCIL REPORT:

Mr. Neubecker noted that Mr. Rossi will now be the representative for Town Council. No Town Council members were present to provide a report.

Mr. Allen mentioned that the defensible space initiative is gaining some ground, may go to a vote at some time, and it may be beneficial to discuss it and take another look at it. Mr. Neubecker said that first the Town Council would have to reconsider it, before it would go back to Planning Commission. Mr. Bertaux asked if a lunch or dinner was planned with Town Council coming up to discuss the defensible space ordinance and other code issues. Ms. Girvin noted that the defensible space petition didn't say anything about a vote. Ms. Katz noted that many petitions aren't very well drafted. Mr. Truckey noted that if the petition is accepted, then one step that the Council can take is to reconsider it before it goes to a vote. Mr. Neubecker noted that there is a video that the town is trying to put on the website that shows the effectiveness of defensible space. Mr. Lamb and Ms. Katz noted that people aren't questioning if defensible space works, but rather that it was mandated by the town. Mr. Pringle noted that the town's reasons for approving the ordinance weren't explained thoroughly enough to the public and that public education should be enhanced. Ms. Katz noted that when people are facing tough economic issues, they don't like to be told how to spend their money, and it isn't about why it was approved or why the town considered it. Mr. Pringle asked if there was any liability to the town and the fire district if someone doesn't certify their yard for defensible space. Ms. Katz noted that towns are protected. The interesting case with liability would be if one person does it, and their neighbor doesn't do it. Mr. Neubecker noted that the staff is looking at the ordinance for landscaping and site work, and permit requirements.

Mr. Bertaux brought up the "other petition", and was wondering if it might allow a medical marijuana clinic to be proposed as a use in the town. Are there certain land use districts where that would be allowed? Mr. Neubecker noted that the petition discusses decriminalizing possession of marijuana for adults age 21 and over, and has nothing to do with locations for dispensaries or land use. Town Council recently issued a moratorium for location of new dispensaries in town. Ms. Katz said that she could research police enforcement on the issue. Mr. Bertaux's main concern is with dispensary locations being within a certain radius of a school, church, etc. and will they be treated similar to Adult Oriented Business? Mr. Neubecker noted that these are all things that staff is researching at this time.

OTHER MATTERS:

Mr. Neubecker presented a memo to the Planning Commission listing the Class C Subdivisions that have been approved since the last time the Commission was updated. There were no questions on these approvals from the Commission.

Mr. Allen brought up issues with Policy 7R and site disturbance. Mr. Allen's concern is that although he supports what is in the code now for some applications, but using it as a "one size fits all" doesn't work. He brought up that the site specific considerations are important, and that the code doesn't enforce that at all time. Mr. Pringle noted that is why the code is written as flexible as is it. Ms. Katz noted that the balance is important. Mr. Bertaux noted the similar example with the wood burning oven offsetting points with solar panels. Ms. Girvin noted that solar panels are a lot more expensive than trees. Mr. Neubecker noted that when we bring the landscaping policy forward in a few weeks, we are analyzing the multiplier for the landscaping points. Mr. Bertaux suggested that at some point in the process we need to decide "taller, bigger caliper trees", etc. rather than more trees. Ms. Katz noted that she is not necessarily in favor of reducing available points, and that our flexible code over the years has served us well. It can be frustrating, but for the most part it has had good results. Mr. Pringle noted that we have to trust our staff, and that they are going to come up with the point analysis based on sound judgment. Didn't think it serves the process when if we don't like something we start picking apart the point analysis. We should not do this discussion in front of the applicant in the process of a meeting. If we have a problem with the way the points are being addressed, we should go to a staff meeting to see how it is done and that way we can see how staff arrives at a point analysis. Mr. Lamb brought up the renewable energy, and the concept of a lot value per square foot for effectiveness, and a formula. Ms. Katz noted that we should trust science and think through a way to define "effective" without re-doing code sections. Some day, that percentage of "effectiveness" that we determine now might not be that high of a percentage anymore. Mr. Neubecker noted that the energy policy is written to be vague on purpose at this time. Mr. Lamb noted that planning staff could let the applicant know during the review process that they need to prove that the energy proposal is effective. Precedent isn't set in one meeting, with this application. Mr. Pringle noted again that staff needs to be trusted on this issue. They are the ones that are the professionals and determine how things are awarded. As far as precedent goes, we are never compelled to make bad decisions again based on bad information.

Ms. Girvin noted that she was glad that landscaping points are being considered to be reduced. It is ineffective at doing what it is supposed to do, which is to mitigate flaws. Wouldn't we prefer that people do solar panels rather than plant three more trees? Mr. Allen noted that trees might be preferable in some scenarios. Mr. Pringle noted that it should be negative four (-4) to no (0) points and that there are no positive points. Mr. Allen noted that landscaping can get expensive for positive points depending on scale of the project. Ms. Katz was in favor of positive points for landscaping and keeping it. I trust that staff will push applicants in certain directions on certain applications. Mr. Neubecker noted that he would be happy to look at the landscape projects that Ms. Girvin has brought up on a tour.

ADJOURNMENT

The meeting was adjourned at 10:15p.m.

Rodney Allen, Chair

Memorandum

TO: Town Council
FROM: Tom Daugherty, Town Engineer
DATE: July 9, 2009
RE: Public Projects Update

2009 Asphalt Overlay Project

The asphalt overlay project for 2009 is now complete. This work included the completion of Dension Placer Rd. to accommodate transit service to the new CMC building.

CDOT SH 9 Update (Coyne Valley Road to Valley Brook Street)

Town staff has been communicating with CDOT on a regular basis and has also been attending project progress meetings. CDOT is currently on schedule with their planned activities on the project. CDOT reopened the bike path through the corridor prior to the July 4th holiday and expects to continue to have the bike path open through the summer of 2009. Minor delays on the bike path may be expected with ongoing construction work by CDOT adjacent to the path. CDOT will provide traffic control flaggers on the path during these activities.

CDOT will begin the placement on a new storm pipe system in SH 9 on July 13, 2009. This activity will last for approximately 2 weeks. During this period CDOT will be installing the new pipe during night time hours in an effort to minimize traffic impacts on SH 9. Traffic will be detoured onto Airport Rd. during the night time work.

Main Street Improvements (Ski Hill Road intersection)

Town staff has worked to complete the final design of the improvements to the Ski Hill Road intersection. The design of the intersection is based on the recommendations included in the "Main Street Revitalization" concept drawings prepared by Design Workshop. Town staff is expecting to construct the improvements to the intersection during the Fall of 2009.

The improvements include: pedestrian crosswalks, bulb-outs (all corners), and sidewalk improvements. Attached are drawings referencing the Design Workshop concepts previously reviewed by Town Council, and the proposed construction prepared by Town staff.

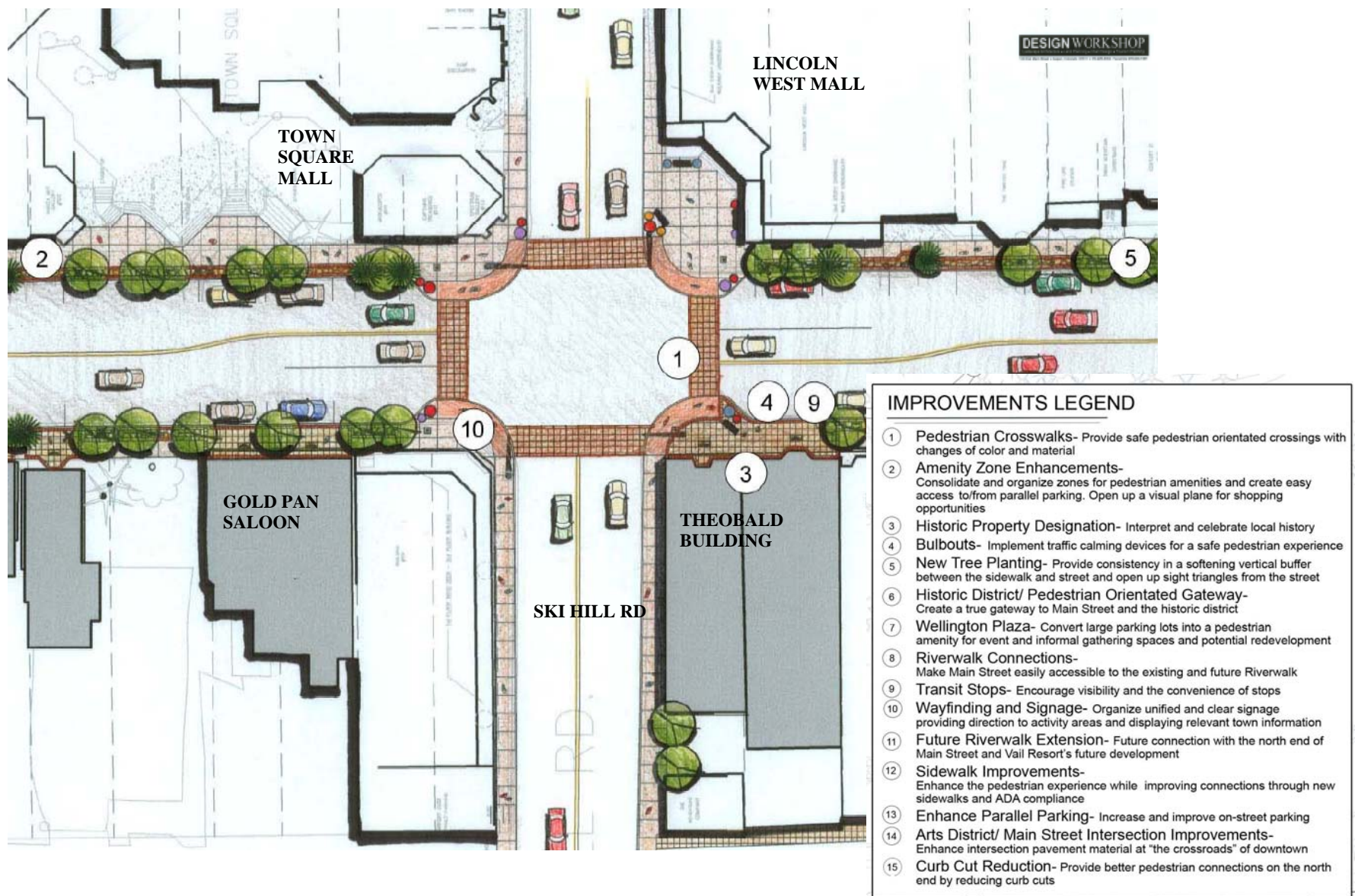


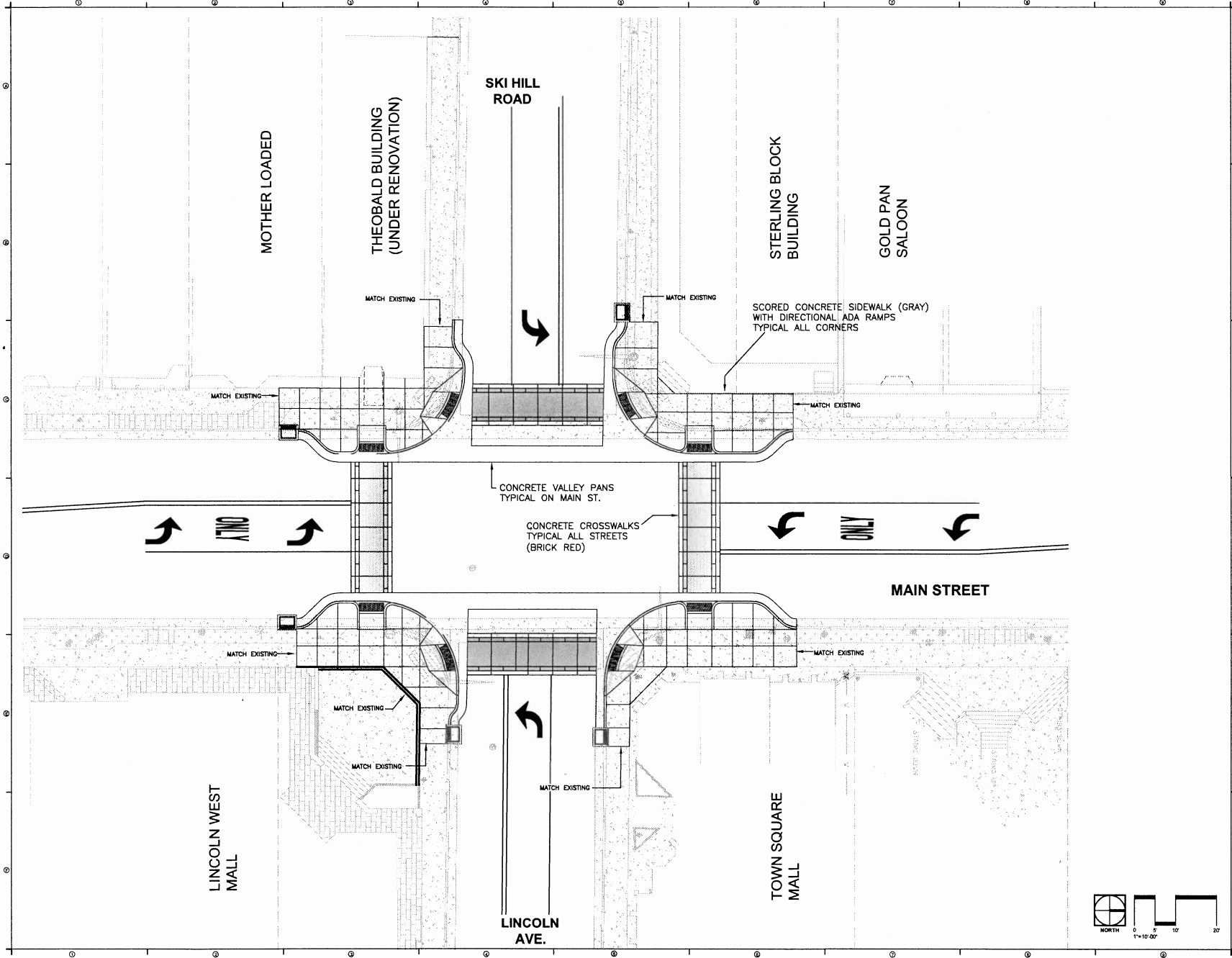
Figure 1. The intersection of Ski Hill Rd. and Main St. as presented in the “Main Street Revitalization Project” concept drawing by consultant Design Workshop.



ENGINEERING
 P. O. Box 168
 150 Ski Hill Road
 Breckenridge, Colorado 80424
 (970) 453-2251
www.townofbreckenridge.com

Main Street Revitalization Ski Hill Road Intersection

Town of Breckenridge, Colorado



| ISSUE DATE | | |
|-------------|------|----------------|
| REVISIONS | | |
| # | DATE | DESCRIPTION |
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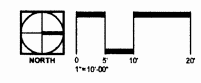
PROJECT NUMBER _____

SITE PLAN

SHEET NUMBER

C1.60

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➤ MEMO

TO: Mayor & Town Council

FROM: Tim Gagen

DATE: June 9, 2009

RE: Committee Reports

Summit Stage

James Phelps

June 24, 2009

The connection of Denison Placer and Airport Rd. is completed. The connection was made possible by joint cooperation between Colorado Mtn. College, Summit County Road & Bridge and the Town of Breckenridge. Transit service to the CMC will begin on August 24th. This will include both the Summit Stage and the Breckenridge Free Ride.

The Summit Stage BOD is exploring alternative revenue sources. There is ongoing discussion of “outside the bus” advertising as a possibility. This would need to get support from all the Towns/Public and would require a change of the sign code for the various Towns. The expected revenue would be around 35K to start and could reach upwards of 100K depending on outside advertising restrictions.

The Blue River Survey has been distributed to the residents of Blue River including the Bekkedal area. The results of the survey will be known in late August.

The groundbreaking ceremony for the Summit County Fleet Maintenance Facility will take place on Wednesday, August 5, 2009 at 1PM, 0218 County Shops Road.

Lake County is proceeding with Federal funding for potential Transit Service beginning Jan. 2010. The Stage would be the contracted service provider and would be reimbursed for all expenses. Currently the Stage has the fleet to provide this service. The grant is 50/50 and at this time Lake County believes it will have the matching funds.

Total Ridership for May: decrease of 21.21% under 2008. Para transit Ridership for May: decrease of 8.83% over 2008. Late night Ridership for May: decrease of 8.81% over 2008.

CDOT

Tim Gagen

Quarterly Meeting

The state’s financial condition continues to deteriorate and we are unsure as to the effects on the CDOT budget. The stimulus projects of Highway 9 and Vail Pass paving are going well. Funding for Highway 9 from Agape to Tiger Rd is still up in the air related to savings from current projects. Heavy Tow and Courtesy patrol will continue this winter. CDOT is open to evaluating the roundabout alternatives to signals at Fairview and 4 o’clock but study money is a problem. Also committed to experimenting with flashing signals for late night and early morning hours. More patching to be done on Highway 9 between Breckenridge and Frisco.

| | <u>Other Meetings</u> | |
|---------------------------|------------------------------|------------|
| Police Advisory Committee | Rick Holman | No Meeting |
| CML | Tim Gagen | No Meeting |
| Summit Leadership Forum | Tim Gagen | No Meeting |
| SCHA | Laurie Best | No Meeting |
| CAST | Tim Gagen | No Meeting |
| I-70 Coalition | Tim Gagen | No Meeting |
| Public Art Commission | Jen Cram | No Meeting |
| Wildfire Council | Peter Grosshuesch | No Meeting |
| Public Arts Commission | Jennifer Cram | No Meeting |
| LLA | MJ Loufek | No meeting |

**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

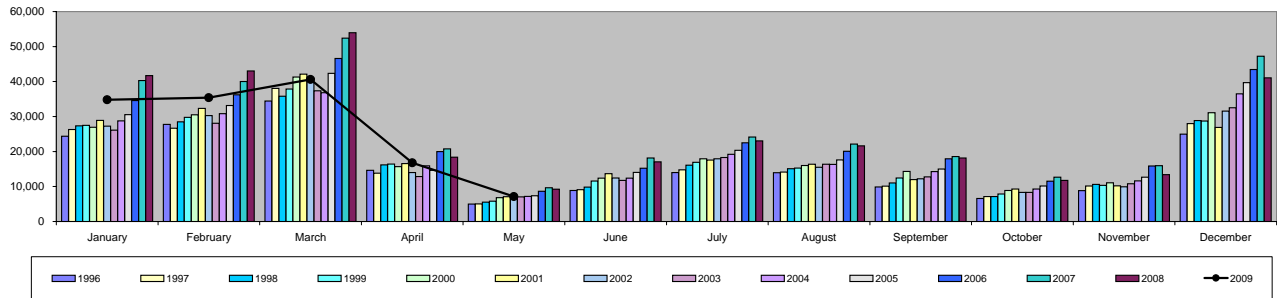
(in Thousands of Dollars)

Total - All Categories*

* excluding Undefined and Utilities categories

| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly 08-09 | YTD 2008 | YTD 2009 | YTD % Change 08-09 |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|-------------|-------------|--------------------------|
| January | 24,356 | 26,315 | 27,355 | 27,490 | 26,938 | 28,887 | 27,264 | 26,117 | 28,764 | 30,549 | 34,589 | 40,283 | 41,708 | 34,799 | -16.6% | 41,708 | 34,799 | -16.6% |
| February | 27,767 | 26,667 | 28,510 | 29,777 | 30,510 | 32,350 | 30,295 | 28,093 | 30,808 | 33,171 | 36,236 | 40,034 | 43,045 | 35,407 | -17.7% | 84,753 | 70,206 | -17.2% |
| March | 34,438 | 38,037 | 35,824 | 37,843 | 41,307 | 42,120 | 40,962 | 37,377 | 36,807 | 42,370 | 46,603 | 52,390 | 53,985 | 40,602 | -24.8% | 138,738 | 110,808 | -20.1% |
| April | 14,619 | 13,809 | 16,196 | 16,407 | 15,702 | 16,565 | 13,982 | 12,868 | 15,894 | 14,635 | 19,963 | 20,758 | 18,402 | 16,782 | -8.8% | 157,140 | 127,590 | -18.8% |
| May | 4,994 | 5,024 | 5,530 | 5,822 | 6,816 | 7,107 | 6,914 | 7,028 | 7,179 | 7,355 | 8,661 | 9,629 | 9,236 | 7,133 | -22.8% | 166,376 | 134,723 | -19.0% |
| June | 8,856 | 9,093 | 9,826 | 11,561 | 12,400 | 13,676 | 12,426 | 11,774 | 12,395 | 14,043 | 15,209 | 18,166 | 17,060 | 0 | n/a | 183,436 | 134,723 | n/a |
| July | 13,979 | 14,791 | 16,080 | 16,899 | 17,949 | 17,575 | 17,909 | 18,273 | 19,208 | 20,366 | 22,498 | 24,168 | 23,037 | 0 | n/a | 206,473 | 134,723 | n/a |
| August | 13,940 | 14,145 | 15,077 | 15,253 | 15,994 | 16,389 | 15,508 | 16,362 | 16,326 | 17,625 | 20,071 | 22,125 | 21,617 | 0 | n/a | 228,090 | 134,723 | n/a |
| September | 9,865 | 10,099 | 11,033 | 12,427 | 14,310 | 12,002 | 12,224 | 12,778 | 14,261 | 15,020 | 17,912 | 18,560 | 18,152 | 0 | n/a | 246,242 | 134,723 | n/a |
| October | 6,598 | 7,120 | 7,132 | 7,880 | 8,876 | 9,289 | 8,323 | 8,311 | 9,306 | 10,170 | 11,544 | 12,687 | 11,766 | 0 | n/a | 258,008 | 134,723 | n/a |
| November | 8,847 | 10,173 | 10,588 | 10,340 | 11,069 | 10,211 | 9,942 | 10,780 | 11,604 | 12,647 | 15,877 | 15,943 | 13,390 | 0 | n/a | 271,398 | 134,723 | n/a |
| December | 24,975 | 27,965 | 28,845 | 28,736 | 31,107 | 26,870 | 31,564 | 32,525 | 36,482 | 39,687 | 43,431 | 47,258 | 41,085 | 0 | n/a | 312,483 | 134,723 | n/a |
| Totals | 193,234 | 203,238 | 211,996 | 220,435 | 232,978 | 233,041 | 227,313 | 222,286 | 239,034 | 257,638 | 292,594 | 322,001 | 312,483 | 134,723 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



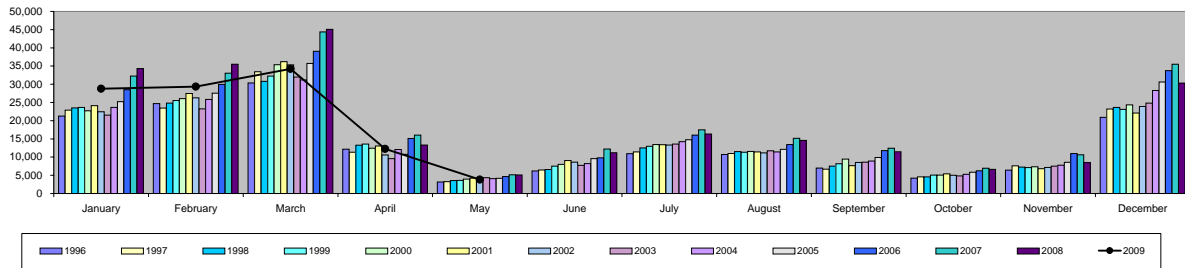
**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail-Restaurant-Lodging Summary

| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly 08-09 | YTD 2008 | YTD 2009 | YTD % Change 08-09 |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|-------------|-------------|--------------------------|
| January | 21,263 | 22,893 | 23,523 | 23,629 | 22,723 | 24,118 | 22,465 | 21,509 | 23,620 | 25,240 | 28,528 | 32,258 | 34,333 | 28,779 | -16.2% | 34,333 | 28,779 | -16.2% |
| February | 24,673 | 23,443 | 24,805 | 25,532 | 26,044 | 27,464 | 26,258 | 23,253 | 25,826 | 27,553 | 29,972 | 33,039 | 35,504 | 29,366 | -17.3% | 69,837 | 58,145 | -16.7% |
| March | 30,343 | 33,414 | 30,809 | 32,254 | 35,348 | 36,196 | 35,344 | 31,988 | 31,209 | 35,705 | 39,051 | 44,390 | 45,086 | 34,215 | -24.1% | 114,923 | 92,360 | -19.6% |
| April | 12,182 | 11,347 | 13,256 | 13,579 | 12,426 | 13,029 | 10,587 | 9,562 | 12,102 | 10,773 | 15,134 | 16,025 | 13,329 | 12,280 | -7.9% | 128,252 | 104,640 | -18.4% |
| May | 3,167 | 3,264 | 3,565 | 3,610 | 3,949 | 4,203 | 3,950 | 4,331 | 4,095 | 4,179 | 4,647 | 5,146 | 5,096 | 3,840 | -24.6% | 133,348 | 108,480 | -18.6% |
| June | 6,174 | 6,451 | 6,588 | 7,513 | 8,001 | 9,058 | 8,619 | 7,724 | 8,217 | 9,568 | 9,789 | 12,225 | 11,184 | 0 | n/a | 144,532 | 108,480 | n/a |
| July | 10,950 | 11,405 | 12,527 | 12,944 | 13,464 | 13,406 | 13,292 | 13,590 | 14,248 | 14,766 | 16,038 | 17,499 | 16,323 | 0 | n/a | 160,855 | 108,480 | n/a |
| August | 10,738 | 10,981 | 11,517 | 11,352 | 11,542 | 11,407 | 11,174 | 11,717 | 11,429 | 12,122 | 13,446 | 15,167 | 14,587 | 0 | n/a | 175,442 | 108,480 | n/a |
| September | 6,966 | 6,687 | 7,492 | 8,160 | 9,443 | 7,666 | 8,513 | 8,599 | 8,940 | 9,897 | 11,761 | 12,418 | 11,465 | 0 | n/a | 186,907 | 108,480 | n/a |
| October | 4,232 | 4,560 | 4,578 | 5,049 | 5,054 | 5,425 | 4,991 | 4,855 | 5,257 | 5,824 | 6,248 | 6,934 | 6,623 | 0 | n/a | 193,530 | 108,480 | n/a |
| November | 6,426 | 7,617 | 7,255 | 7,122 | 7,352 | 6,816 | 7,174 | 7,511 | 7,771 | 8,557 | 10,963 | 10,650 | 8,544 | 0 | n/a | 202,074 | 108,480 | n/a |
| December | 20,928 | 23,219 | 23,650 | 23,124 | 24,361 | 22,090 | 23,901 | 24,818 | 28,314 | 30,619 | 33,736 | 35,517 | 30,337 | 0 | n/a | 232,411 | 108,480 | n/a |
| Totals | 158,042 | 165,281 | 169,565 | 173,868 | 179,707 | 180,878 | 176,268 | 169,457 | 181,028 | 194,803 | 219,313 | 241,268 | 232,411 | 108,480 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



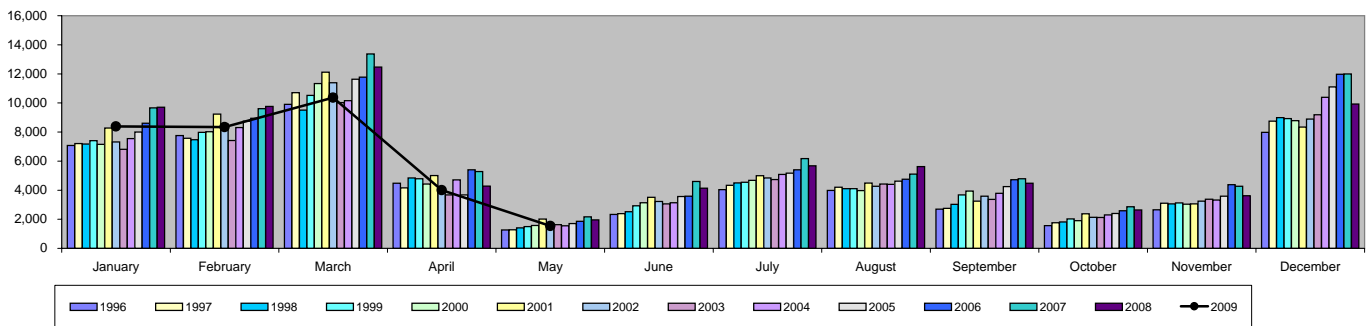
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail Sales

| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly % CHG | Actual 2008 | Actual 2009 | YTD % CHG |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|----------------|----------------|--------------|
| January | 7,079 | 7,205 | 7,173 | 7,411 | 7,149 | 8,271 | 7,320 | 6,807 | 7,545 | 8,001 | 8,607 | 9,665 | 9,707 | 8,382 | -13.6% | 9,707 | 8,382 | -13.6% |
| February | 7,753 | 7,568 | 7,474 | 7,983 | 8,024 | 9,231 | 8,549 | 7,418 | 8,312 | 8,744 | 8,942 | 9,607 | 9,756 | 8,338 | -14.5% | 19,463 | 16,720 | -14.1% |
| March | 9,902 | 10,702 | 9,507 | 10,525 | 11,337 | 12,116 | 11,390 | 10,028 | 10,162 | 11,632 | 11,774 | 13,373 | 12,473 | 10,366 | -16.9% | 31,936 | 27,086 | -15.2% |
| April | 4,481 | 4,156 | 4,841 | 4,789 | 4,423 | 5,008 | 4,105 | 3,679 | 4,714 | 3,678 | 5,406 | 5,287 | 4,277 | 4,006 | -6.3% | 36,213 | 31,092 | -14.1% |
| May | 1,263 | 1,272 | 1,408 | 1,492 | 1,569 | 2,014 | 1,583 | 1,626 | 1,549 | 1,708 | 1,858 | 2,165 | 1,957 | 1,546 | -21.0% | 38,170 | 32,638 | -14.5% |
| June | 2,335 | 2,391 | 2,521 | 2,931 | 3,135 | 3,514 | 3,227 | 3,062 | 3,140 | 3,565 | 3,589 | 4,597 | 4,140 | 0 | n/a | 42,310 | 32,638 | n/a |
| July | 4,040 | 4,336 | 4,499 | 4,543 | 4,678 | 4,998 | 4,838 | 4,732 | 5,087 | 5,174 | 5,403 | 6,176 | 5,678 | 0 | n/a | 47,988 | 32,638 | n/a |
| August | 3,981 | 4,199 | 4,109 | 4,100 | 3,973 | 4,492 | 4,269 | 4,429 | 4,397 | 4,620 | 4,757 | 5,110 | 5,620 | 0 | n/a | 53,608 | 32,638 | n/a |
| September | 2,698 | 2,753 | 3,021 | 3,671 | 3,944 | 3,242 | 3,587 | 3,370 | 3,781 | 4,249 | 4,726 | 4,783 | 4,479 | 0 | n/a | 58,087 | 32,638 | n/a |
| October | 1,563 | 1,759 | 1,815 | 2,024 | 1,908 | 2,374 | 2,132 | 2,127 | 2,298 | 2,404 | 2,591 | 2,866 | 2,641 | 0 | n/a | 60,728 | 32,638 | n/a |
| November | 2,650 | 3,108 | 3,060 | 3,124 | 3,041 | 3,057 | 3,249 | 3,378 | 3,326 | 3,586 | 4,376 | 4,267 | 3,622 | 0 | n/a | 64,350 | 32,638 | n/a |
| December | 7,978 | 8,746 | 8,985 | 8,919 | 8,782 | 8,338 | 8,893 | 9,184 | 10,388 | 11,099 | 11,971 | 12,000 | 9,924 | 0 | n/a | 74,274 | 32,638 | n/a |
| Totals | 55,723 | 58,195 | 58,413 | 61,512 | 61,963 | 66,655 | 63,142 | 59,840 | 64,699 | 68,460 | 74,000 | 79,896 | 74,274 | 32,638 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



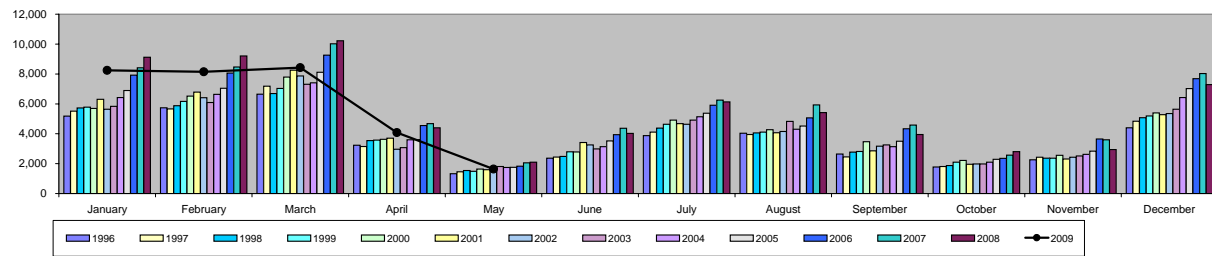
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Restaurants/Bars

| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly % CHG | Actual 2008 | Actual 2009 | YTD % CHG |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|----------------|----------------|--------------|
| January | 5,180 | 5,515 | 5,723 | 5,784 | 5,697 | 6,300 | 5,644 | 5,835 | 6,425 | 6,897 | 7,924 | 8,414 | 9,117 | 8,243 | -9.6% | 9,117 | 8,243 | -9.6% |
| February | 5,735 | 5,667 | 5,880 | 6,162 | 6,519 | 6,783 | 6,412 | 6,092 | 6,637 | 7,047 | 8,058 | 8,467 | 9,206 | 8,151 | -11.5% | 18,323 | 16,394 | -10.5% |
| March | 6,651 | 7,180 | 6,688 | 7,031 | 7,792 | 8,258 | 7,870 | 7,307 | 7,413 | 8,117 | 9,256 | 10,015 | 10,223 | 8,421 | -17.6% | 28,546 | 24,815 | -13.1% |
| April | 3,238 | 3,149 | 3,548 | 3,576 | 3,624 | 3,706 | 2,967 | 3,068 | 3,595 | 3,609 | 4,552 | 4,678 | 4,404 | 4,074 | -7.5% | 32,950 | 28,889 | -12.3% |
| May | 1,329 | 1,454 | 1,541 | 1,492 | 1,641 | 1,590 | 1,561 | 1,808 | 1,746 | 1,760 | 1,832 | 2,058 | 2,102 | 1,639 | -22.0% | 35,052 | 30,528 | -12.9% |
| June | 2,364 | 2,437 | 2,488 | 2,796 | 2,779 | 3,413 | 3,257 | 2,982 | 3,136 | 3,525 | 3,938 | 4,370 | 4,027 | 0 | n/a | 39,079 | 30,528 | n/a |
| July | 3,877 | 4,113 | 4,380 | 4,639 | 4,910 | 4,675 | 4,632 | 4,913 | 5,138 | 5,375 | 5,905 | 6,249 | 6,130 | 0 | n/a | 45,209 | 30,528 | n/a |
| August | 4,032 | 3,953 | 4,056 | 4,106 | 4,270 | 4,068 | 4,156 | 4,832 | 4,302 | 4,521 | 5,067 | 5,933 | 5,414 | 0 | n/a | 50,623 | 30,528 | n/a |
| September | 2,641 | 2,452 | 2,770 | 2,814 | 3,468 | 2,860 | 3,169 | 3,249 | 3,138 | 3,498 | 4,340 | 4,585 | 3,950 | 0 | n/a | 54,573 | 30,528 | n/a |
| October | 1,779 | 1,807 | 1,870 | 2,097 | 2,220 | 1,959 | 1,977 | 1,978 | 2,100 | 2,290 | 2,352 | 2,564 | 2,801 | 0 | n/a | 57,374 | 30,528 | n/a |
| November | 2,261 | 2,428 | 2,364 | 2,367 | 2,558 | 2,307 | 2,425 | 2,520 | 2,624 | 2,841 | 3,651 | 3,593 | 2,946 | 0 | n/a | 60,320 | 30,528 | n/a |
| December | 4,402 | 4,834 | 5,076 | 5,191 | 5,393 | 5,275 | 5,354 | 5,646 | 6,428 | 7,017 | 7,681 | 8,028 | 7,287 | 0 | n/a | 67,607 | 30,528 | n/a |
| Totals | 43,489 | 44,989 | 46,384 | 48,055 | 50,871 | 51,194 | 49,424 | 50,230 | 52,682 | 56,497 | 64,556 | 68,954 | 67,607 | 30,528 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



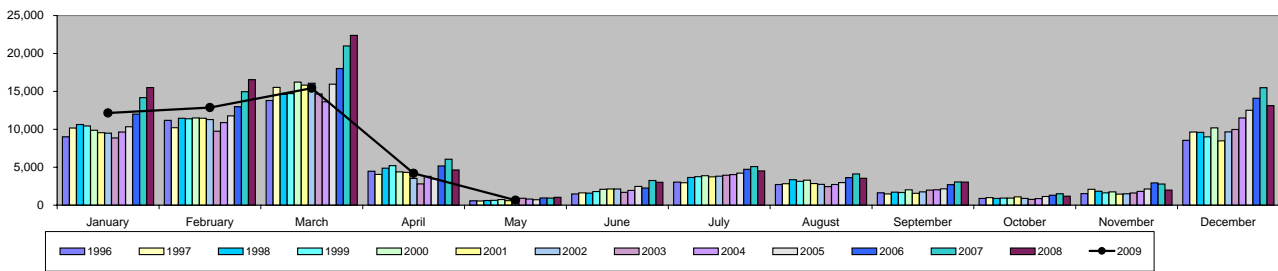
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Short-Term Lodging

| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly % CHG | Actual 2008 | Actual 2009 | YTD % CHG |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|----------------|----------------|--------------|
| January | 9,004 | 10,173 | 10,627 | 10,434 | 9,877 | 9,547 | 9,501 | 8,867 | 9,650 | 10,342 | 11,997 | 14,179 | 15,509 | 12,154 | -21.6% | 15,509 | 12,154 | -21.6% |
| February | 11,185 | 10,208 | 11,451 | 11,387 | 11,501 | 11,450 | 11,297 | 9,743 | 10,877 | 11,762 | 12,972 | 14,965 | 16,542 | 12,877 | -22.2% | 32,051 | 25,031 | -21.9% |
| March | 13,790 | 15,532 | 14,614 | 14,698 | 16,219 | 15,822 | 16,084 | 14,653 | 13,634 | 15,956 | 18,021 | 21,002 | 22,390 | 15,428 | -31.1% | 54,441 | 40,459 | -25.7% |
| April | 4,463 | 4,042 | 4,867 | 5,214 | 4,379 | 4,315 | 3,515 | 2,815 | 3,793 | 3,486 | 5,176 | 6,060 | 4,648 | 4,200 | -9.6% | 59,089 | 44,659 | -24.4% |
| May | 575 | 538 | 616 | 626 | 739 | 599 | 806 | 897 | 800 | 711 | 957 | 923 | 1,037 | 655 | -36.8% | 60,126 | 45,314 | -24.6% |
| June | 1,475 | 1,623 | 1,579 | 1,786 | 2,087 | 2,131 | 2,135 | 1,680 | 1,941 | 2,478 | 2,262 | 3,258 | 3,017 | 0 | n/a | 63,143 | 45,314 | n/a |
| July | 3,033 | 2,956 | 3,648 | 3,762 | 3,876 | 3,733 | 3,822 | 3,945 | 4,023 | 4,217 | 4,730 | 5,074 | 4,515 | 0 | n/a | 67,658 | 45,314 | n/a |
| August | 2,725 | 2,829 | 3,352 | 3,146 | 3,299 | 2,847 | 2,749 | 2,456 | 2,730 | 2,981 | 3,622 | 4,124 | 3,553 | 0 | n/a | 71,211 | 45,314 | n/a |
| September | 1,627 | 1,482 | 1,701 | 1,675 | 2,031 | 1,564 | 1,757 | 1,980 | 2,021 | 2,150 | 2,695 | 3,050 | 3,036 | 0 | n/a | 74,247 | 45,314 | n/a |
| October | 890 | 994 | 893 | 928 | 926 | 1,092 | 882 | 750 | 859 | 1,130 | 1,305 | 1,504 | 1,181 | 0 | n/a | 75,428 | 45,314 | n/a |
| November | 1,515 | 2,081 | 1,831 | 1,631 | 1,753 | 1,452 | 1,500 | 1,613 | 1,821 | 2,130 | 2,936 | 2,790 | 1,976 | 0 | n/a | 77,404 | 45,314 | n/a |
| December | 8,548 | 9,639 | 9,589 | 9,014 | 10,186 | 8,477 | 9,654 | 9,988 | 11,498 | 12,503 | 14,084 | 15,489 | 13,126 | 0 | n/a | 90,530 | 45,314 | n/a |
| Totals | 58,830 | 62,097 | 64,768 | 64,301 | 66,873 | 63,029 | 63,702 | 59,387 | 63,647 | 69,846 | 80,757 | 92,418 | 90,530 | 45,314 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



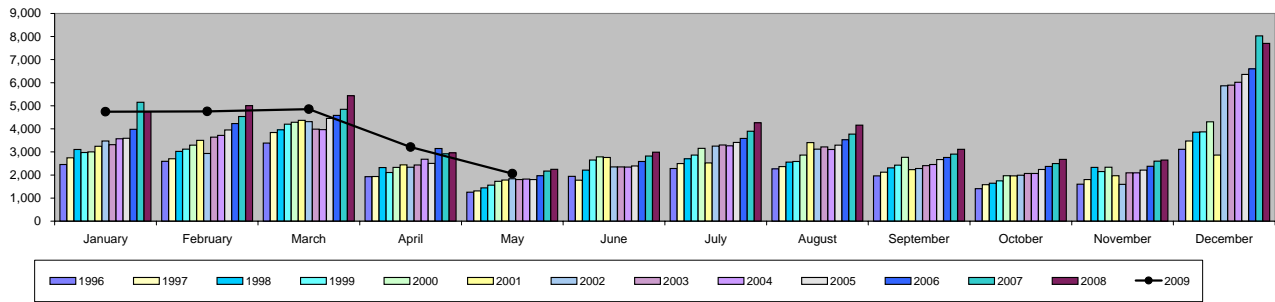
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Grocery/Liquor Stores

| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly % CHG | Actual 2008 | Actual 2009 | YTD % CHG |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|----------------|----------------|--------------|
| January | 2,458 | 2,746 | 3,104 | 2,977 | 2,999 | 3,242 | 3,472 | 3,314 | 3,570 | 3,589 | 3,977 | 5,149 | 4,744 | 4,741 | -0.1% | 4,744 | 4,741 | -0.1% |
| February | 2,595 | 2,702 | 3,020 | 3,119 | 3,296 | 3,501 | 2,931 | 3,643 | 3,714 | 3,949 | 4,233 | 4,536 | 5,009 | 4,755 | -5.1% | 9,753 | 9,496 | -2.6% |
| March | 3,383 | 3,839 | 3,960 | 4,199 | 4,282 | 4,366 | 4,311 | 3,988 | 3,968 | 4,449 | 4,585 | 4,844 | 5,436 | 4,852 | -10.7% | 15,189 | 14,348 | -5.5% |
| April | 1,928 | 1,937 | 2,325 | 2,105 | 2,330 | 2,441 | 2,336 | 2,437 | 2,682 | 2,503 | 3,149 | 2,920 | 2,959 | 3,213 | 8.6% | 18,148 | 17,561 | -3.2% |
| May | 1,256 | 1,309 | 1,440 | 1,558 | 1,728 | 1,779 | 1,836 | 1,801 | 1,823 | 1,806 | 1,969 | 2,169 | 2,246 | 2,062 | -8.2% | 20,394 | 19,623 | -3.8% |
| June | 1,940 | 1,772 | 2,214 | 2,648 | 2,784 | 2,760 | 2,352 | 2,354 | 2,341 | 2,392 | 2,584 | 2,822 | 2,990 | 0 | n/a | 23,384 | 19,623 | n/a |
| July | 2,283 | 2,494 | 2,701 | 2,862 | 3,152 | 2,527 | 3,253 | 3,303 | 3,266 | 3,414 | 3,588 | 3,899 | 4,264 | 0 | n/a | 27,648 | 19,623 | n/a |
| August | 2,266 | 2,364 | 2,559 | 2,587 | 2,861 | 3,404 | 3,117 | 3,216 | 3,103 | 3,292 | 3,529 | 3,771 | 4,161 | 0 | n/a | 31,809 | 19,623 | n/a |
| September | 1,959 | 2,122 | 2,311 | 2,430 | 2,765 | 2,231 | 2,284 | 2,409 | 2,456 | 2,671 | 2,757 | 2,908 | 3,113 | 0 | n/a | 34,922 | 19,623 | n/a |
| October | 1,407 | 1,584 | 1,644 | 1,748 | 1,969 | 1,965 | 1,990 | 2,066 | 2,069 | 2,239 | 2,372 | 2,494 | 2,673 | 0 | n/a | 37,595 | 19,623 | n/a |
| November | 1,602 | 1,804 | 2,330 | 2,152 | 2,339 | 1,970 | 1,597 | 2,096 | 2,096 | 2,214 | 2,377 | 2,600 | 2,647 | 0 | n/a | 40,242 | 19,623 | n/a |
| December | 3,115 | 3,477 | 3,858 | 3,869 | 4,305 | 2,865 | 5,868 | 5,897 | 6,017 | 6,356 | 6,604 | 8,028 | 7,705 | 0 | n/a | 47,947 | 19,623 | n/a |
| Totals | 26,192 | 28,150 | 31,466 | 32,254 | 34,810 | 33,051 | 35,347 | 36,524 | 37,105 | 38,874 | 41,724 | 46,140 | 47,947 | 19,623 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



THE TOWN IS AWARE OF INCONSISTENT FILING PRACTICES THAT HAVE NEGATIVELY IMPACTED COMPARISONS FOR THIS SECTOR.

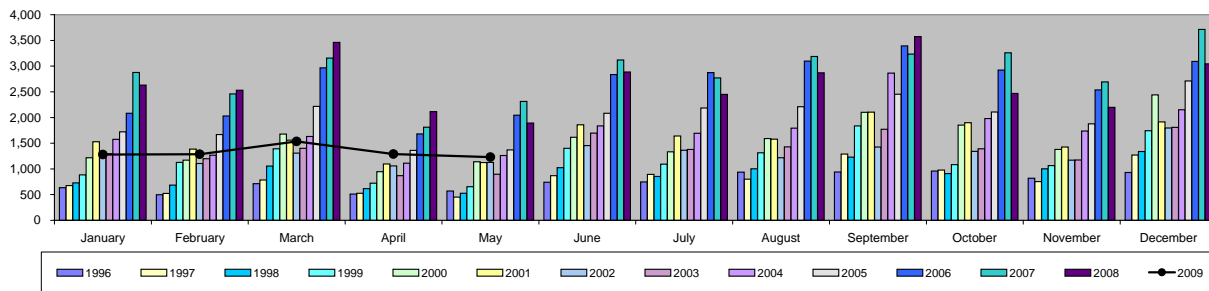
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Supplies

| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly % CHG | Actual 2008 | Actual 2009 | YTD % CHG |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|----------------|----------------|--------------|
| January | 635 | 676 | 728 | 884 | 1,216 | 1,527 | 1,327 | 1,294 | 1,574 | 1,720 | 2,084 | 2,876 | 2,631 | 1,279 | -51.4% | 2,631 | 1,279 | -51.4% |
| February | 499 | 522 | 685 | 1,126 | 1,170 | 1,385 | 1,106 | 1,197 | 1,268 | 1,669 | 2,031 | 2,459 | 2,532 | 1,286 | -49.2% | 5,163 | 2,565 | -50.3% |
| March | 712 | 784 | 1,055 | 1,390 | 1,677 | 1,558 | 1,307 | 1,401 | 1,630 | 2,216 | 2,967 | 3,156 | 3,463 | 1,535 | -55.7% | 8,626 | 4,100 | -52.5% |
| April | 509 | 525 | 615 | 723 | 946 | 1,095 | 1,059 | 869 | 1,110 | 1,359 | 1,680 | 1,813 | 2,114 | 1,289 | -39.0% | 10,740 | 5,389 | -49.8% |
| May | 571 | 451 | 525 | 654 | 1,139 | 1,125 | 1,128 | 896 | 1,261 | 1,370 | 2,045 | 2,314 | 1,894 | 1,231 | -35.0% | 12,634 | 6,620 | -47.6% |
| June | 742 | 870 | 1,024 | 1,400 | 1,615 | 1,858 | 1,455 | 1,696 | 1,837 | 2,083 | 2,836 | 3,119 | 2,886 | 0 | n/a | 15,520 | 6,620 | n/a |
| July | 746 | 892 | 852 | 1,093 | 1,333 | 1,642 | 1,364 | 1,380 | 1,694 | 2,186 | 2,872 | 2,770 | 2,450 | 0 | n/a | 17,970 | 6,620 | n/a |
| August | 936 | 800 | 1,001 | 1,314 | 1,591 | 1,578 | 1,217 | 1,429 | 1,794 | 2,211 | 3,096 | 3,187 | 2,869 | 0 | n/a | 20,839 | 6,620 | n/a |
| September | 940 | 1,290 | 1,230 | 1,837 | 2,102 | 2,105 | 1,427 | 1,770 | 2,865 | 2,452 | 3,394 | 3,234 | 3,574 | 0 | n/a | 24,413 | 6,620 | n/a |
| October | 959 | 976 | 910 | 1,083 | 1,853 | 1,899 | 1,342 | 1,390 | 1,980 | 2,107 | 2,924 | 3,259 | 2,470 | 0 | n/a | 26,883 | 6,620 | n/a |
| November | 819 | 752 | 1,003 | 1,066 | 1,378 | 1,425 | 1,171 | 1,173 | 1,737 | 1,876 | 2,537 | 2,693 | 2,199 | 0 | n/a | 29,082 | 6,620 | n/a |
| December | 932 | 1,269 | 1,337 | 1,743 | 2,441 | 1,915 | 1,795 | 1,810 | 2,151 | 2,712 | 3,091 | 3,713 | 3,043 | 0 | n/a | 32,125 | 6,620 | n/a |
| Totals | 9,000 | 9,807 | 10,965 | 14,313 | 18,461 | 19,112 | 15,698 | 16,305 | 20,901 | 23,961 | 31,557 | 34,593 | 32,125 | 6,620 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



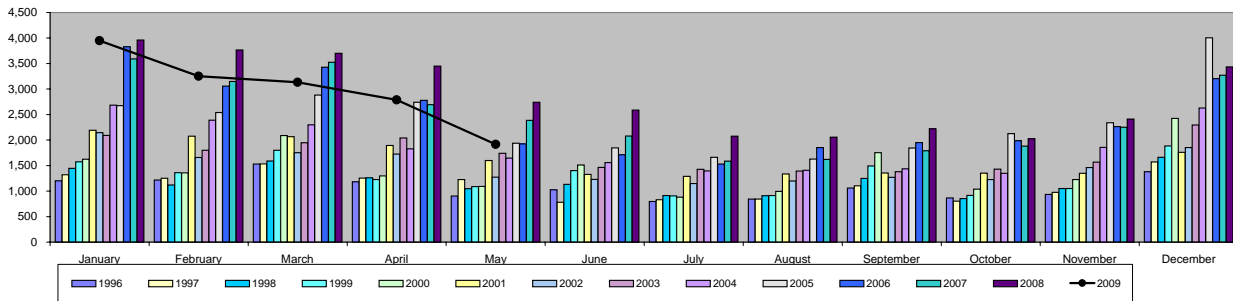
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Utilities

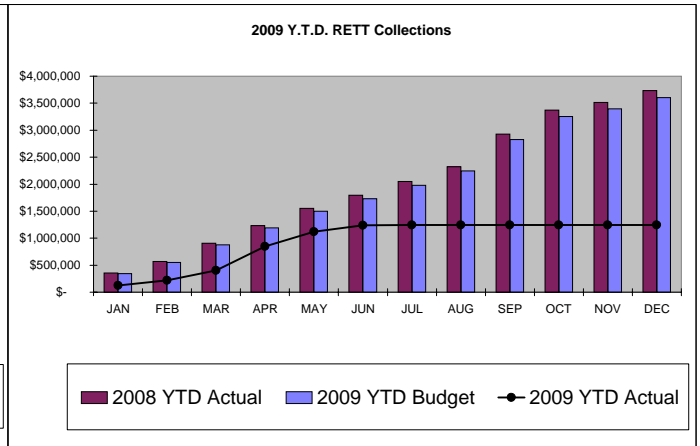
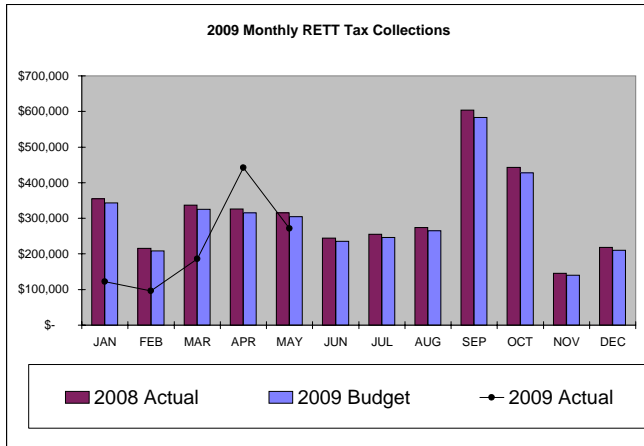
| | Actual 1996 | Actual 1997 | Actual 1998 | Actual 1999 | Actual 2000 | Actual 2001 | Actual 2002 | Actual 2003 | Actual 2004 | Actual 2005 | Actual 2006 | Actual 2007 | Actual 2008 | Actual 2009 | Monthly % CHG | Actual 2008 | Actual 2009 | YTD % CHG |
|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------|----------------|----------------|--------------|
| January | 1,201 | 1,320 | 1,446 | 1,575 | 1,625 | 2,191 | 2,144 | 2,093 | 2,684 | 2,675 | 3,829 | 3,591 | 3,961 | 3,949 | -0.3% | 3,961 | 3,949 | -0.3% |
| February | 1,218 | 1,250 | 1,121 | 1,360 | 1,359 | 2,075 | 1,659 | 1,800 | 2,391 | 2,540 | 3,056 | 3,149 | 3,765 | 3,252 | -13.6% | 7,726 | 7,201 | -6.8% |
| March | 1,529 | 1,533 | 1,591 | 1,799 | 2,090 | 2,067 | 1,754 | 1,947 | 2,299 | 2,883 | 3,428 | 3,525 | 3,699 | 3,133 | -15.3% | 11,425 | 10,334 | -9.5% |
| April | 1,181 | 1,255 | 1,262 | 1,227 | 1,299 | 1,894 | 1,724 | 2,040 | 1,827 | 2,741 | 2,778 | 2,694 | 3,448 | 2,789 | -19.1% | 14,873 | 13,123 | -11.8% |
| May | 904 | 1,226 | 1,047 | 1,089 | 1,091 | 1,599 | 1,272 | 1,740 | 1,647 | 1,939 | 1,926 | 2,386 | 2,742 | 1,915 | -30.2% | 17,615 | 15,038 | -14.6% |
| June | 1,027 | 780 | 1,133 | 1,402 | 1,510 | 1,325 | 1,228 | 1,466 | 1,558 | 1,846 | 1,713 | 2,078 | 2,588 | 0 | n/a | 20,203 | 15,038 | n/a |
| July | 796 | 830 | 913 | 907 | 880 | 1,289 | 1,147 | 1,427 | 1,394 | 1,663 | 1,529 | 1,588 | 2,075 | 0 | n/a | 22,278 | 15,038 | n/a |
| August | 844 | 844 | 910 | 913 | 994 | 1,336 | 1,198 | 1,393 | 1,408 | 1,629 | 1,854 | 1,621 | 2,058 | 0 | n/a | 24,336 | 15,038 | n/a |
| September | 1,059 | 1,103 | 1,249 | 1,494 | 1,752 | 1,354 | 1,271 | 1,381 | 1,435 | 1,843 | 1,949 | 1,792 | 2,219 | 0 | n/a | 26,555 | 15,038 | n/a |
| October | 866 | 804 | 854 | 917 | 1,039 | 1,353 | 1,227 | 1,429 | 1,348 | 2,127 | 1,987 | 1,883 | 2,026 | 0 | n/a | 28,581 | 15,038 | n/a |
| November | 935 | 974 | 1,049 | 1,052 | 1,225 | 1,348 | 1,461 | 1,569 | 1,856 | 2,340 | 2,264 | 2,251 | 2,411 | 0 | n/a | 30,992 | 15,038 | n/a |
| December | 1,381 | 1,570 | 1,661 | 1,885 | 2,423 | 1,760 | 1,852 | 2,297 | 2,627 | 4,005 | 3,206 | 3,271 | 3,435 | 0 | n/a | 34,427 | 15,038 | n/a |
| Totals | 12,941 | 13,489 | 14,236 | 15,620 | 17,287 | 19,591 | 17,937 | 20,582 | 22,474 | 28,231 | 29,519 | 29,829 | 34,427 | 15,038 | | | | |

2009 Monthly Sales Tax Activity (in thousands of dollars)



**TOWN OF BRECKENRIDGE
REAL ESTATE TRANSFER TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED**

| Sales Period | 2008 Collections | | | 2009 Budget | | | 2009 Monthly | | | 2009 Year to Date | | |
|--------------|------------------|--------------|------------------|--------------|--------------|------------------|--------------|--------------------|-------------|-------------------|--------------------|-------------|
| | Tax Collected | Year To Date | Percent of Total | Tax Budgeted | Year To Date | Percent of Total | Actual | % Change from 2008 | % of Budget | Actual | % Change from 2008 | % of Budget |
| JAN | \$ 355,179 | \$ 355,179 | 9.5% | \$ 342,940 | \$ 342,940 | 9.51% | \$ 122,245 | -65.6% | 35.6% | \$ 122,245 | -65.6% | 3.4% |
| FEB | 215,566 | 570,745 | 15.3% | 208,138 | 551,078 | 15.29% | 96,379 | -55.3% | 46.3% | 218,623 | -61.7% | 6.1% |
| MAR | 336,956 | 907,701 | 24.3% | 325,345 | 876,423 | 24.31% | 185,714 | -44.9% | 57.1% | 404,337 | -55.5% | 11.2% |
| APR | 326,521 | 1,234,222 | 33.1% | 315,270 | 1,191,693 | 33.06% | 442,039 | 35.4% | 140.2% | 846,376 | -31.4% | 23.5% |
| MAY | 315,494 | 1,549,716 | 41.5% | 304,623 | 1,496,317 | 41.51% | 271,393 | -14.0% | 89.1% | 1,117,770 | -27.9% | 31.0% |
| JUN | 243,969 | 1,793,685 | 48.0% | 235,562 | 1,731,879 | 48.04% | 117,832 | -51.7% | 50.0% | 1,235,602 | -31.1% | 34.3% |
| JUL | 255,305 | 2,048,990 | 54.9% | 246,508 | 1,978,387 | 54.88% | 6,090 | -97.6% | 2.5% | 1,241,692 | -39.4% | 34.4% |
| AUG | 274,442 | 2,323,432 | 62.2% | 264,985 | 2,243,372 | 62.23% | - | n/a | 0.0% | 1,241,692 | -46.6% | 34.4% |
| SEP | 604,037 | 2,927,469 | 78.4% | 583,223 | 2,826,596 | 78.40% | - | n/a | 0.0% | 1,241,692 | -57.6% | 34.4% |
| OCT | 442,830 | 3,370,299 | 90.3% | 427,571 | 3,254,167 | 90.26% | - | n/a | 0.0% | 1,241,692 | -63.2% | 34.4% |
| NOV | 145,549 | 3,515,848 | 94.2% | 140,534 | 3,394,701 | 94.16% | - | n/a | 0.0% | 1,241,692 | -64.7% | 34.4% |
| DEC | \$ 217,937 | \$ 3,733,785 | 100.0% | \$ 210,427 | \$ 3,605,128 | 100.00% | \$ - | n/a | 0.0% | \$ 1,241,692 | -66.7% | 34.4% |





To: Town Council (Worksession)

From: Laurie Best and Michael Mosher, Community Development Department

Date: July 6, 2009

Re: Preservation Village at Vista Point

Staff has been approached by Royce Tolley, Preservation Development Group, LLC, and Marc Hogan, BHH Partners, to review a proposal to develop Lots 1, 2 and 3 (3.85 acres) at the Vista Point Subdivision. These are the single family lots across Reiling Road from the Little Red Schoolhouse.

The proposal is to create 14 units as 7 duplexes. Ten of these units would be permanently affordable deed restricted workforce housing at around 110% AMI (\$325,000 +/-) with the remaining four as market rate units. The market rate density would utilize the existing 3 single family SFEs and the fourth would be purchased from the Town/County Density bank. The Town is being asked to provide for the density for the workforce housing. Along with the density request, the applicants are seeking Town fee waivers for the workforce housing portion of the development.

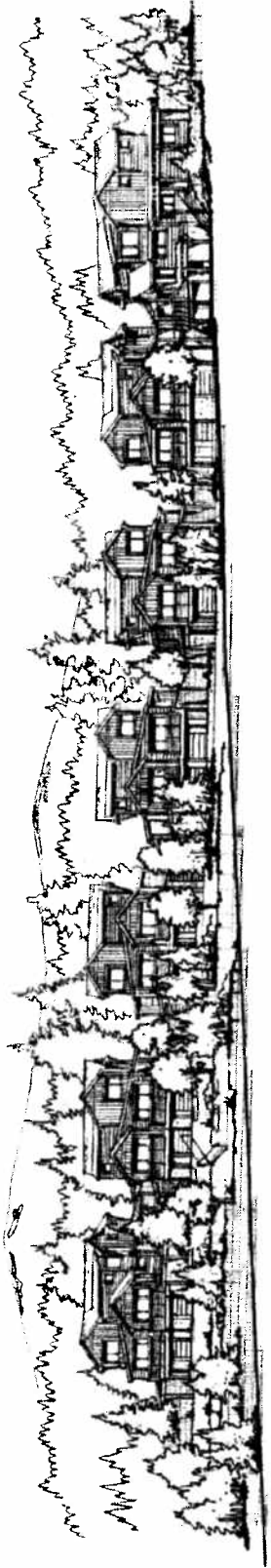
Staff has spoken with the Town Attorney regarding the method of changing this property from single family to multi-family use with the following direction:

- All reference to the property would need to be removed from the Vista Point Declarations and Homeowner's documents. The developer would ultimately need to obtain a letter of intent from the Vista Point HOA and an agreement from them to separate this property from their DEC's and Bylaws.
- A development agreement would need to be processed to transfer any density to the property, from the Town and the Density Bank.
- The current owner (Andy Landis) could begin a Master Plan Modification to address the change of use and density level.
- The property would need to be resubdivided to remove the existing property lines and establish the new properties.
 - A plat note would be needed to identify that this portion of the Vista Point Subdivision is NOT subject to the DEC's and HOA of the rest of Vista Point.

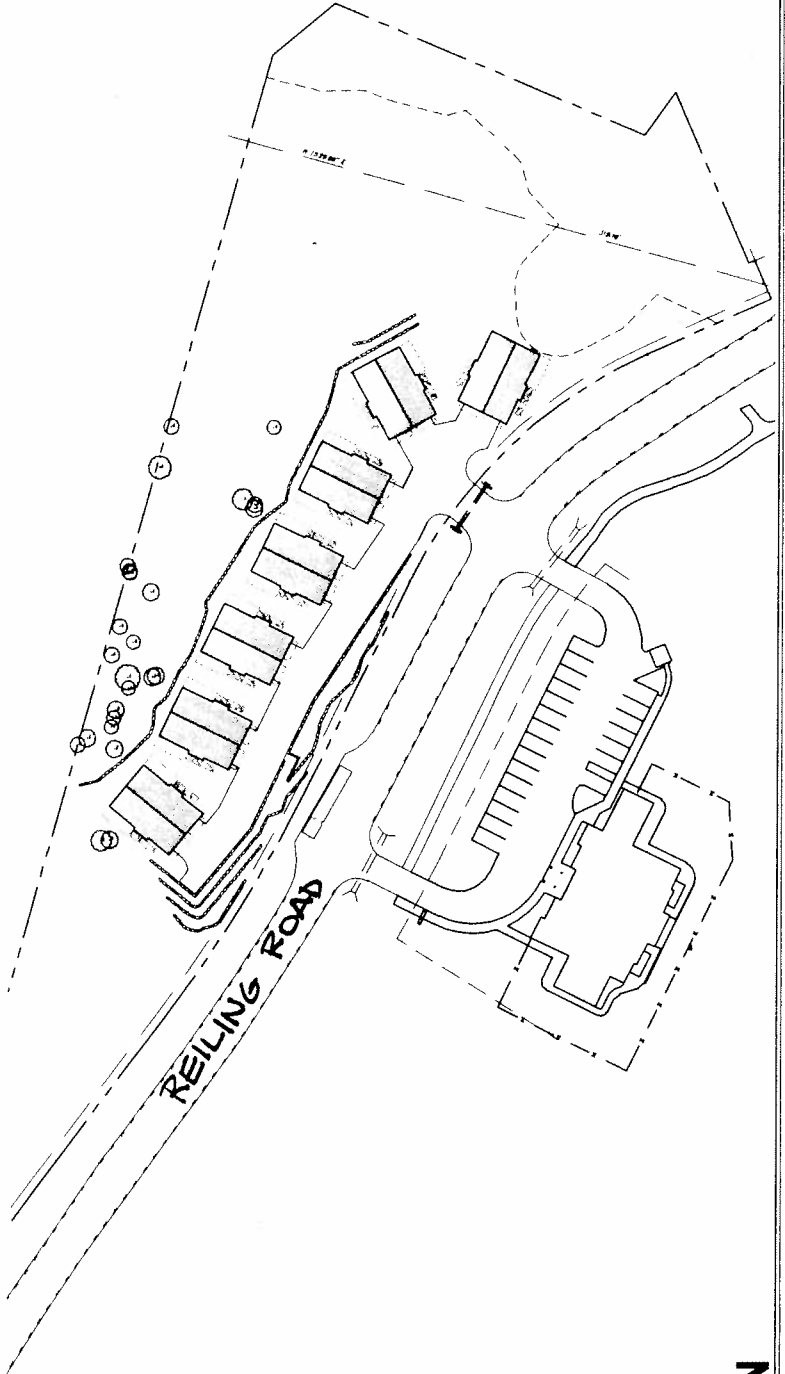
The duplex architecture is similar to that which the Council recently reviewed for the Maggie Placer annexation (modular construction). These would be two-story, three-bedroom, two-bath, tuck-under garage units with front and back decks.

The project would be targeted to 110% AMI households. The needs assessment indicates approximately 313 units needed at 100% AMI or greater. A full development review including fit test by the Planning Commission and Town Council would be required. But, prior to moving forward with the project, staff and the applicant are asking for Council comment and direction regarding the appropriateness of this site for increased density and for affordable housing.

PRESERVATION VILLAGE VISTA POINT



STREETSCAPE AT REILING ROAD



SITE PLAN
SCALE: 1" = 10'-0"

CONTRACTOR'S OBLIGATION: The intent and meaning of these drawings shall be the Contractor's responsibility. The Contractor shall provide all labor, materials, transportation, and equipment necessary to complete the job within the specified time frame of the industry.

NOTATIONS: All "equal" products will be acceptable with Architect's approval. See specifications.

CONSTRUCTION SAFETY: The Contractor shall provide for the safety of all workers and the public. All construction shall comply with state and federal safety regulations.

PERMITS: The Contractor shall obtain all necessary permits from the appropriate authorities. The Contractor shall be responsible for the cost of all permits.

CONCRETE: All concrete shall be placed and finished in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

STEEL: All steel shall be fabricated and erected in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

MECHANICAL: All mechanical equipment shall be installed in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

ELECTRICAL: All electrical work shall be installed in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

PLUMBING: All plumbing work shall be installed in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

PAINTING: All painting shall be done in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

LANDSCAPING: All landscaping shall be done in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

GENERAL CONDITIONS: These conditions shall govern the construction of the project. The Contractor shall be responsible for the cost of all materials, labor, and equipment necessary to complete the job within the specified time frame of the industry.

PERMITS: The Contractor shall obtain all necessary permits from the appropriate authorities. The Contractor shall be responsible for the cost of all permits.

CONCRETE: All concrete shall be placed and finished in accordance with the specifications. The Contractor shall provide all labor, materials, and equipment necessary to complete the job within the specified time frame of the industry.

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TYPICAL UNIT AREA CALC

| | UNFINISHED | FINISHED | TOTAL |
|---------|------------|----------|---------|
| WALL | 528 SF | 0 SF | 528 SF |
| FLOOR | 0 SF | 151 SF | 151 SF |
| CEILING | 0 SF | 518 SF | 518 SF |
| TOTAL | 528 SF | 669 SF | 1197 SF |

NOTE: SQUARE FOOTAGES ARE CALCULATED FOR THE UNIT ONLY. SQUARE FOOTAGES FOR COMMON AREAS ARE CALCULATED FOR ALL OTHER PURPOSES.

HEET INDEX

- 01 OVERALL SITE PLAN
- 02 ENLARGED SITE PLAN / LANDSCAPE PLAN
- 03 TYPICAL UNIT LOWER LEVEL FLOOR PLANS
- 04 TYPICAL UNIT UPPER LEVEL PLAN & ROOF PLAN
- 05 BUILDING ELEVATIONS

MEMO

TO: Mayor & Town Council

FROM: Tim Gagen

DATE: 7/9/2009

RE: Updated Budget Reduction- Tier III

As part of our continuing 2009 budget work, the staff has revised the planned Tier III budget reductions to reflect the Council direction given at our recent budget retreat. Tier II reductions have also been refined. Attached are the updated Tier II and III initiatives. As a reminder the approved budget for 2009 already was reduced by \$721,000 as part of the budget approval in November which is referred to as Tier I.

For the 7/14/2009 work session we are looking for Council input on the revised Tier III to make sure this initiatives are in line with the Council's input. A number of these changes are already being implemented and the rest will soon be put into place.

Staff continues to work on the more long-term structured changes that might be made to the Town operations to prepare for 2010 and beyond and will be bringing these to you as they are refined.

2009 Budget Initiatives

| Tier II - Staff Initiatives | Savings vs. 2009 Bud. |
|--|--------------------------|
| Comm Dev | \$ 71,600 |
| Misc. expenses reduced (e.g., consultants, training, Arts District programs) with negligible impacts to public service | |
| REC | 210,000 |
| Cut training, equipment purchases, facility repair & maintenance, utility savings, marketing, printing, and other miscellaneous expenses. | |
| PW | 408,679 |
| Reduced training | |
| Limit Overtime | |
| Frozen positions | |
| Shortened summer season | |
| Additional operations | |
| Transit | 171,000 |
| Reduced Bus Service | |
| General Admin | 33,900 |
| Significant reduction of business travel, non-profit event attendance, and professional development/training | |
| Admin: Events and Comm (RWC) | 40,000 |
| Box Office hours reduced, Program reductions (Dance Fest cut completely, Family Series reduced number, 7/4 entertainment went regional vs. national) | |
| Admin: HR | 34,241 |
| Cancellation of jobing.com, reduction of professional development, training and business expense | |
| Admin: Clerk & Finance | 32,390 |
| Reduced Staff Training and 3rd party sales tax audit program | |
| Admin: IT | |
| One open position frozen | |
| Admin Sub-Total | 140,531 |
| Police | 214,402 |
| Froze a Police Officer position. | |
| Froze a Community Service Officer position. | |
| Elimination of the majority of our training dollars | |
| Eliminate over half of our allotted overtime dollars | |
| Merit freeze (6% to 0%, all departments) | 348,000 |
| Liab. Ins Premium Adjustment / Other GF cuts | 94,500 |
| Special Projects Fund | |
| Breck Heritage Alliance reductions (mine site inventory, staffing, sign expenses) | 35,000 |
| Tier II | \$ 1,693,712 |

| 2009 Budget Initiatives | |
|--|------------------------------|
| Tier III | Savings vs. 2009 Bud. |
| Police Department | \$ 22,039 |
| Elimination of PT records position | |
| DTF saving / possible elimination depending on grant funding | |
| | |
| Public Works | 146,132 |
| Reduced, Defer some summer maintenance activities/materials | |
| Shorten Summer Seasonals season | |
| Transit - Extend Summer Operation Schedule by 3 wks | |
| Reduce non-public cleaning frequency | |
| | |
| Admin: HR, Clerk & Finance, Events & Communications, Admin Office | |
| Reducing/eliminating temporary admin support; reducing hours of pt/seasonal staff and hours of operations of box office; increased use of online and electronic information processing & receiving; reduction in traditional recruitment efforts/expenses; more focused efforts on utilizing new software investment to create efficiencies; continued reduction of operational expenses overall. | |
| Admin Total | 117,700 |
| Comm Dev | 52,300 |
| Elimination of contracted service fees for building inspection assistance (i.e., Safe Built). | |
| Eliminate about half of the remaining scheduled Arts District workshops for this year. <i>Note: the summer calendar through August has been released and individuals are already signing up for these workshops.</i> | |
| Suspend/scale back the resident artist program at the Tin Shop. | |
| Reduce Planning Commission stipends back to 2008 pay levels. | |
| Retreat, typist, training, etc. | |
| REC | 350,000 |
| REC - Lost Revenue | (40,000) |
| Various expense reductions including eliminating print media/brochures and focusing on electronic and online; eliminating outdoor education programs, bus service; changing contract service agreements as needed; reducing all facilities' hours and seasonal operations of nordic and ice; reduce sports leagues, special events, outdoor recreation programs, 2 FT positions; general reduction of PT hours; continuing to reduce misc. operational expenses. | |
| Special Projects Fund | 211,720 |
| BHA Funding Reduction | 11,720 |
| Pine Beetle - Replanting | 200,000 |
| Housing Fund Fund | 250,000 |
| Excise Fund transfer Reduction Amount | 250,000 |
| Tier III General Fund | \$ 622,171 |
| Tier III Special Projects Fund | 211,720 |
| Tier III Housing Fund | 250,000 |
| Tier III Total | 1,083,891 |
| Tier II Total | 1,693,712 |
| | \$ 2,777,603 |



End of Season Report for 2008/09 Ski Season

Presented to Breckenridge Town Council
July, 2009
by
Lynn Zwaagstra, Director of Recreation

Report Outline

- **Introduction / Season Overview** p. 3
- **Participation and Revenue Summaries** p. 4
- **Season Results** p. 5-8
 - **Pass Sales and Visitation**
 - **Lessons, Rentals, Snowshoeing and Retail**
 - **Events and Economic Impact**

Season Overview: 2008/2009

The 2008/2009 Nordic ski season again started out late due to the late arrival of snow, causing the opening to bump back to December 4. Snow was somewhat marginal throughout the middle of the season and almost caused an early closure. However, snow began falling in the middle of March, creating exceptional end-of-season conditions and a closure on the scheduled date of April 5, 2009.



Operating for Success:

Train System Grooming / Maintenance / Expansion: Gold Run Nordic Center is known for its trail grooming and maintenance. In essence, this is the product we sell. Tim Walsh and his crew do an exceptional job with the trails. Trails have been aligned to minimize impact on summer golf operations, which seems to be having the desired effect. The addition of the Hoodoo Voodoo 5k trail met with tremendous success, high participation, and strong interest from locals. The Preston 5k loop in the Peabody Placer continued to receive numerous guest comments and praise. These trails are particularly utilized by locals who enjoy the more sheltered and challenging nature of the trails.

Food Service / Restaurant Operations / Sleigh Rides: Mi Zuppa soup is offered for daily food service and continues to be successful. The relationship with the catering contractor is critical for success, and seemed to operate relatively smoothly this season. Due to continued difficulties between the sleigh ride contractor and the food service vendor, dinner sleigh rides were not offered, which has an effect on GRNC revenue.

Marketing / Sales / Promotions: The presence of Gold Run Nordic Center in the marketplace has continued to increase, which helps with the Town's goal of becoming a regionally significant Nordic Destination. Gold Run is well versed as a learning / lesson center, as its terrain is particularly suitable for this purpose. Advertising in major Nordic skiing magazines and presence in the Summit Daily News and other local media outlets has been critical for success. Special sales and promotions are offered regularly and Gold Run continues to leverage its strengths for growing participation and revenue.

Staff Certification / Lessons / Retail: Having PSIA certified staff has been an important factor in creating a strong lesson program. 12 of the 17 staff at GRNC are PSIA certified. Support services such as rentals and retail compliment each other to create an attractive package for seasonal visitors.

Guest Feedback: Random guest evaluations and program evaluations were implemented in 2007. Staff collected 133 evaluations in 2008/2009.
2008/2009 Net Promoter Score = 93% for Facility and Services; 95% for Programs and Events
2007/2008 Net Promoter Score = 98%
Guest comments continue to focus on the exceptional grooming and knowledgeable and friendly staff. In addition, there were some comments regarding confusion on the signage in the trail expansion area.

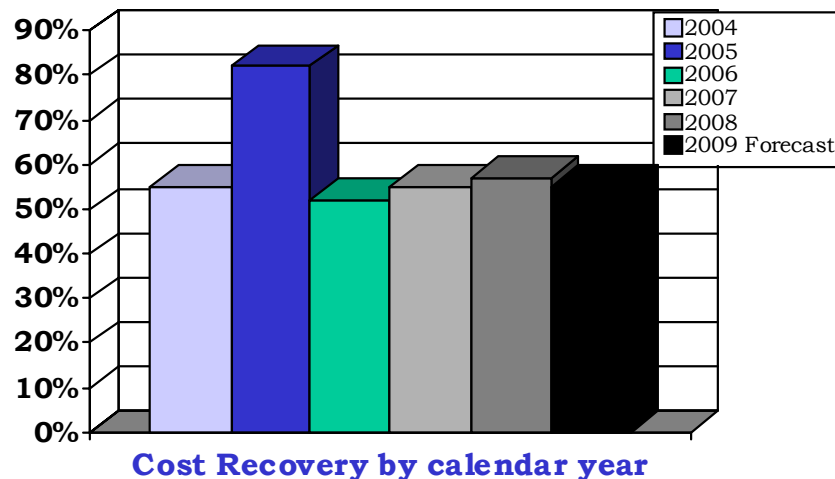
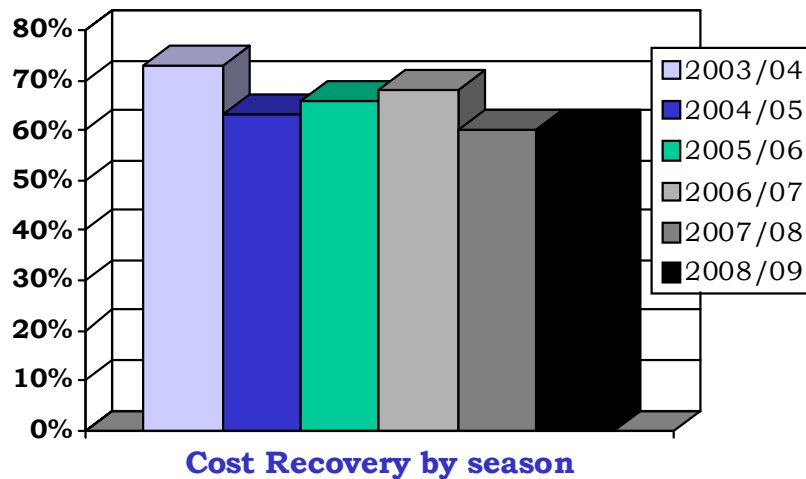
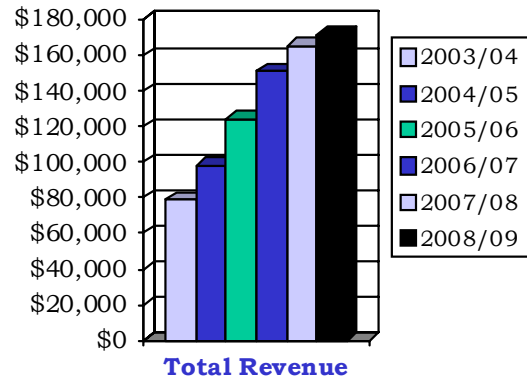
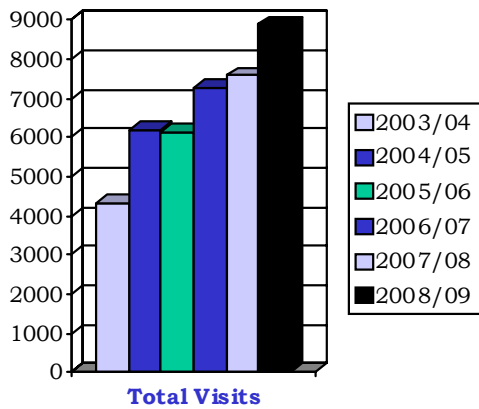


2008/2009 Season Highlights:

- 8,880 visits for the season, which was an increase of 17% over the 2007/2008 season. Revenue was up 4% over the 2007/2008 season.
- Significant increases in day use visits, day pass sales and revenue, season pass visits and revenue, equipment rentals, punch pass visits, and event participation.
- Grand opening of the new Hoodoo Voodoo 5k trail.
- Addition of a new Pisten Bully 100 snow cat.
- 13 of the 17 staff members were returning staff from the previous season(s).

Participation and Revenue Summaries

The following charts summarize the visitation, revenue and expense performance for the 2008/09 season compared to prior seasons. Revenue and participation continues to increase. Tracking expenses and cost recovery by the season can be slightly misleading since some expense item changes are implemented in the middle of a Nordic season (e.g., garage fund, IT fund, benefit cost changes, etc.). Thus, both the season and fiscal year results are shown. Expense increases parallel the increase in participation, as expenses for trail map production, season pass sales production, retail and equipment purchases, etc., correspond to increased participation. At this time, all true Nordic costs are shown in the budget including partial clubhouse maintenance costs and facilities fund.



Season Results: Pass Sales and Visitation

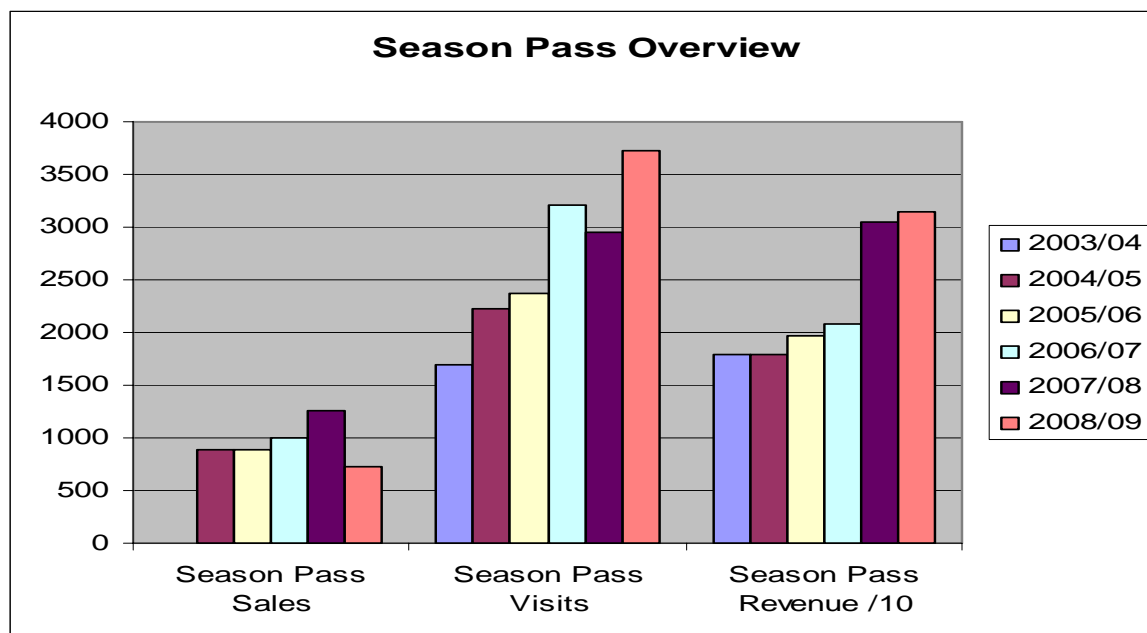
As can be seen in the charts below, there was a significant increase in season pass visits, day use visits and special event participation. There was a corresponding increase in season pass revenue, which came from an increase in market share between Gold Run Nordic Center and Breckenridge Nordic Center, instead of from increased pass sales. This is partially attributed to the Hoodoo Voodoo Trail and the Preston Loop. Locals visited these trails heavily. Overall season pass visits to GRNC increased by 26% this season.

The trend of decreased punch pass sales with an increase in punch pass visits continued this year; again showing that people are taking full advantage of all the punches available. Additionally, punch pass prices increased for this season, potentially driving traffic to other products.

Season Pass Sales and Visits

| Season | Total Passes Sold | GRNC Visits | BNC Visits | GRNC Revenue |
|---------|-------------------|-------------|-------------|--------------|
| 2008/09 | 718 | 3726 | 2983 | \$31,397 |
| 2007/08 | 1265 | 2957 | 2418 | \$30,553 |
| 2006/07 | 1007 | 3213 | 4205 | \$20,818 |
| 2005/06 | 887 | 2376 | 3283 | \$19,643 |
| 2004/05 | 886 | 2222 | 2842 | \$17,900 |
| 2003/04 | unavailable | 1696 | unavailable | \$17,846 |

| Season | Season Pass Visits | Day Use Visits | Events | Lessons | Total Visits |
|---------|--------------------|----------------|------------|------------|--------------|
| 2008/09 | 3726 (42%) | 3254 (36%) | 1231 (14%) | 669 (7.5%) | 8880 |
| 2007/08 | 2957 (39%) | 2701 (36%) | 1104 (14%) | 818 (11%) | 7580 |
| 2006/07 | 3212 (44%) | 2013 (28%) | 1361 (19%) | 687 (9%) | 7273 |
| 2005/06 | 2376 (39%) | 2109 (34%) | 1058 (17%) | 602 (10%) | 6145 |
| 2004/05 | 2222 (36%) | 2503 (40%) | 875 (14%) | 613 (10%) | 6213 |
| 2003/04 | 1696 (39%) | 1193 (28%) | 960 (22%) | 454 (11%) | 4303 |



Season Results: Lessons, Rentals, Snowshoeing, Retail

Lessons

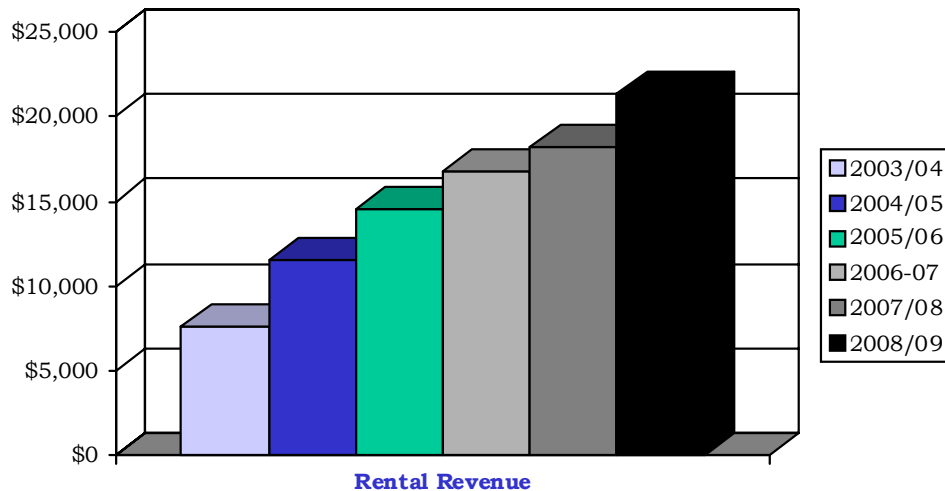
As can be seen in the chart below, lessons decreased across the board. There are several factors for this decrease, including the reduction in discretionary spending due to the down economy. The increase in lesson prices partially offset the reduction in lesson numbers. The decrease in special youth groups was primarily due to the change in the Summit County School District's winter activities program from 5 weeks to three weeks.

| Season | Reg. Lessons | Special Yth. Grps. | Total Lessons | Total Lesson Revenue |
|-----------|--------------|--------------------|---------------|----------------------|
| 2008/2009 | 284 | 385 | 669 | \$12,564 |
| 2007/08 | 301 | 517 | 818 | \$12,559 |
| 2006/07 | 223 | 464 | 687 | \$11,772 |
| 2005/06 | 203 | 399 | 602 | \$8,123 |
| 2004/05 | 231 | 382 | 613 | \$6,267 |
| 2003/04 | 132 | 315 | 447 | \$3,997 |

Regular lessons include clinics, group and private lessons, and tours. Special Youth groups include Upper Blue and Breckenridge Elementary Winter Activity Programs, which are low revenue bearing weekly programs.

Rentals

Total rentals and rental revenue increased by 17% over last season and parallel the increase in trail visits. Rental numbers usually correlate to day pass sales/visits, and this season was no exception. Gold Run Nordic Center has a strong relationship with Rossignol as a demo center, which allows for high quality rental service, demos and sales. This aspect is critical to the success of this program.



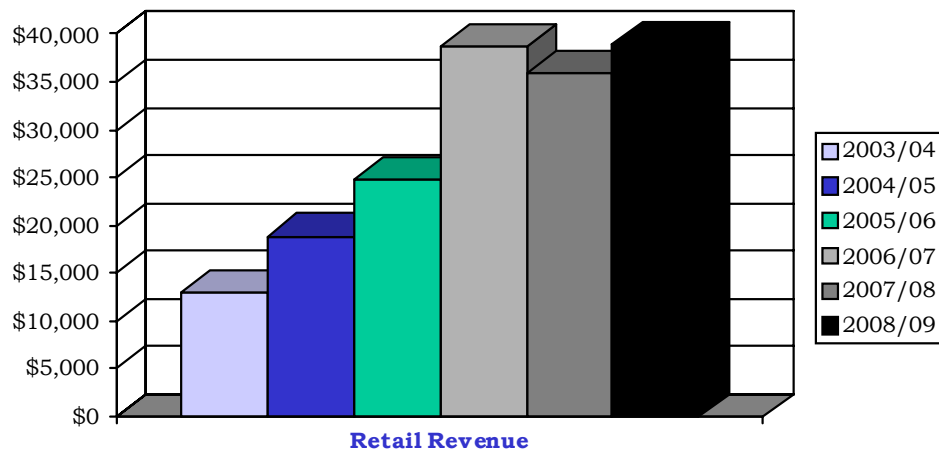
Snowshoeing

Snowshoers are sold a basic trail pass, so calculating out snowshoe visitation is not feasible. However, participation in snowshoeing can be indicated by tracking snowshoe rentals and program participation. Snowshoe rentals increased by 26% over last season and snowshoe rental revenue increased by 19%. Snowmobiles and volunteers were used to pack and maintain the trails this season, leading to more consistent conditions.



Retail

Retail sales remained strong, ending the season 8% over last season. This was especially surprising considering the down economy at the start of 2009. Increased sales were most likely attributed to the increase in trail visits. In addition, guests were observed to be more selective about spending, with most purchases occurring during the Christmas season and during pro shop sales.



Season Results: Events

Special event revenue decreased by 52%, while participation increased by 12%. Participation was strong at several of this season’s events, including the NRL race, Local’s Appreciation Day, Ullr Fest Bonfire, Tour the Summit and Dogterra. Unfortunately, these events do not generate much direct revenue. They do, however, have a positive economic impact to the community. Participation in the revenue generating events was down from previous seasons. The event schedule will be reexamined for 2009/2010.

| Season | Total Event Participants | Total Event Revenue |
|---------|--------------------------|---------------------|
| 2008/09 | 1,231 | \$3,703 |
| 2007/08 | 1,104 | \$8,156 |
| 2006/07 | 1,361 | \$7,517 |
| 2005/06 | 1,058 | \$6,375 |
| 2004/05 | 875 | \$4,265 |
| 2003/04 | 960 | \$3,512 |

Economic Impact

The following chart illustrates the Economic Impact of special events, listed below, at GRNC. Day visitors, in-state and out-of-state overnight visitors, and international visitors are all represented in the chart below. Data is calculated for participants who travel to Breckenridge specifically to attend an event held at Gold Run Nordic Center.

The overall Economic Impact of events at GRNC for 2008/2009 was:

| Month | Economic Impact |
|--------------|-----------------|
| December | \$57,000 |
| January | \$26,691 |
| February | \$2,235 |
| March | \$2,059 |
| TOTAL | \$87,985 |

December 2008

- Dec. 4 – Early Season Wax Clinic
- Dec. 6-7 – Gold Run USSA National Ranking List Cross Country Ski Race
- Dec. 6 – Gold Run Classic 5k/10k Classic Technique Citizen's Cross Country Ski Race.
- Dec. 12-13 – Local's Appreciation and Rossignol Demo Day

January 2009

- Jan. 5 – Ullr Fest Bonfire/Nordic Event
- Jan. 11 – Keep Winter White "Tour the Summit" Tour, Gold Run to Frisco Nordic
- Jan. 22 – Mid-Season Wax Clinic
- Jan. 24 – Gold Run Loppet 15k/30k Citizens Freestyle Cross Country Ski Race
- Jan. 31 – Gold Run Volksmarch

February 2009

- Feb. 14 – Hoodoo Voodoo Trail Grand Opening Ceremony
- Feb. 21 – Swift Skedaddle Snowshoe Adventure, 4k/10k Snowshoe Citizens Race

March 2009

- March 8 – 6th Annual DogTerra Event
- March 29 – Gold Run Golden Egg Hunt



Memorandum

To: Town Council

From: Tom Daugherty

Date: 7/9/2009

Re: ESCO

Introduction

The Town of Breckenridge has initiated a sustainability effort and as a part of that effort the Council asked staff to review the Town facilities for ways to save energy.

A performance contract was used to conduct that review. A performance contract is where a private firm evaluates our buildings and facilities for ways to save energy and then recommends a package of energy saving measures and improvements that can be paid for with the energy savings. The Town chose EMC Engineers for that contract.

The contract is structured in a way that once the audit is completed the Town can choose to enter into a performance contract with EMC Engineers and the cost of the audit will be incorporated into the performance contract. If the Town does not enter into the performance contract the Town will pay EMC Engineers for the costs of the audit which is \$80,900.00.

EMC Engineers has completed an Energy Audit for our facilities and buildings in which the facilities were inspected and the energy use information was reviewed. This audit identified 3 different measures; Energy Conservation Measures (ECM), Facility Improvements Measures (FIM) and Renewable Energy Systems (RES). The table in the executive summary from EMC Engineers' report outlines these measures for Town facilities.

Potential Projects

The audit report has a number of measures that the Town can perform with its own staff and resources such as replace weather striping. These items will create energy savings and we anticipate completing within our normal duties.

The remaining measures identified in the audit can not be completed by in house staff. These projects will have to be completed by contractors. Some elements of the measures identified will require further design. EMC Engineers can perform that design as part of a performance contract. If we chose to not use a performance contract staff would have the projects designed before they can be implemented and contracted out.

The ECM list has paybacks that are typically within the lifetime of the improvements and make financial sense. Staff would recommend these projects be the first priority.

The FIM and RES lists do not have an attractive payback but may be beneficial in other ways. Some of these projects update old systems that make the buildings easier to manage while others create energy and would be a very visual example of the Town's leadership in

the sustainable effort. The list on page 1-1 of the executive summary shows the cost of each type of measure and the total cost is approximately \$8.6M.

Staff has discussed that a total project payback of 15 to 20 years is a suitable time for these types of projects. This range of payback would result in a cost of \$1.5M to \$2.3M. If Council is comfortable with this direction staff can put together a project that meets these payback criteria and provide the most benefit to the Town facilities.

How to Pay for Projects

There are some options to implement and pay for a project like this.

1. Incorporate into our 5 year CIP plan and complete as money is available.
2. Borrow money and complete the projects in a very short time frame via a performance contract.

Grants are available for these types of projects and EMC Engineers has identified a number of these that could be applicable to our projects, they are listed in table 1-2 of the executive summary. EMC Engineers could also aid in the application of these grants. I do not know the availability of grants in the future and how that may impact moving forward with option 1.

Measurement and Verification

The performance contract includes a measurement and verification component so that the savings can be verified. The same could happen with option 1 but a consultant would have to be hired to measure and verify the savings as the projects are completed. Staff believes this to be an important aspect of the project so that our success can be measured and verified.

Town of Breckenridge

TECHNICAL ENERGY AUDIT

1 EXECUTIVE SUMMARY

1.1 Introduction

The Technical Energy Audit developed for the Town of Breckenridge has determined that a comprehensive energy savings program could reduce energy and utility costs by approximately \$116,410, or about 12 percent of the projected annual future utility costs. By including a variety of energy management and infrastructure improvement projects together in one package, the Town of Breckenridge may obtain additional financial support from numerous grant providers totaling an estimated \$1,219,000. This additional funding can help improve the return on investment, help offset the costs of addressing many of the Town of Breckenridge's infrastructure needs, and add renewable energy systems to several facilities.

The overall projected budget for the program totals approximately \$8,689,969. By rolling over some budgets from 2009, obtaining grants and rebates, and utilizing proposed budgets for 2010, the entire project could be developed. The overall Town of Breckenridge budget for the recommended program is \$5,260,000.

Due to potential timing of grant funding, a core group of projects is recommended for a Phase One of the program that could take place next spring, summer, and fall. This would represent a budget about one-half of that mentioned in the previous paragraph, provided that grant funding is still obtained for a majority of the projects.

The following sections of the executive summary provide an overview of the methods and recommendations for developing a comprehensive program, and include energy conservation measures (ECMs), facility improvement measures (FIMs), renewable energy systems (RESs), plus Grant and Rebate providers.

1.2 Project Recommendations for ESPC Program

The recommended projects as part of the ESPC program and the sustainability projects are summarized in Table 1-4.

TABLE 1-1: RECOMMENDED ESPC PROJECTS

| Project Name | Estimated Energy Savings | Project Budget |
|-------------------------------|--------------------------|----------------|
| Energy Conservation Measures | \$116,430 | \$1,030,494 |
| Facility Improvement Measures | \$20,475 | \$4,591,835 |
| Renewable Energy Systems | \$54,476 | \$2,986,741 |
| Totals | \$191,382 | \$8,609,069 |

Table 1-2 summarizes the potential grants and rebates that may be possible to obtain to help fund the recommended projects. The actual grants and rebates obtained will be dependent on the projects selected and the final award, if any, from the grant providers.

TABLE 1-2: ESTIMATED GRANT AND REBATE SUPPORT

| Potential Grant / Rebate Provider | Grant / Rebate Name | Estimated Support |
|-----------------------------------|--|--------------------|
| GOCO | Great Outdoors Colorado* | \$100,000 |
| Historic Fund | Architectural Assessment* | TBD |
| Governor’s Energy Office | Renewables in Performance Contracting Grant* | \$150,000 |
| Governor’s Energy Office | American Recovery and Reinvestment Act (ARRA) Energy Efficiency Block Grant* | \$868,997 |
| USDA | Water & Waste Disposal Systems for Rural Communities* | \$100,000 |
| Xcel Energy | Renewable Energy Systems and Energy Efficiency Rebates* | \$648,943 |
| Total | - | \$1,867,940 |

*Pending Applications and Awards.

Table 1-3 provides a summary of the costs and potential funding streams, as well as the additional budget that the Town of Breckenridge would need to support all of the recommended projects.

TABLE 1-3: PROJECT FINANCIAL SUMMARY

| Estimated Project Cost | Potential Grants and Rebates | Estimated Lease Purchase Financing | Estimated Additional Budget Required |
|------------------------|------------------------------|------------------------------------|--------------------------------------|
| \$8,689,969 | \$1,867,940 | \$1,562,029 | \$5,260,000 |

Table 1-4 provides a summary of the energy baselines for the utility bills analyzed for the Town of Breckenridge, and difference between the baselines after the proposed modifications. The savings presented are for the ECMs only.

TABLE 1-4: BASELINE SAVINGS TABLE

| | Town of Breckenridge | | Greenhouse Gases (lbs.CO ₂) |
|---|----------------------|----------------------|---|
| | Electricity | Natural Gas | |
| Utility Baseline | 6,315,217 kWh | 335,492 therms | 15,219,548 lbs |
| After Retrofit Use | 5,575,061 kWh | 291,930 therms | 13,389,126 lbs |
| Savings Compared to Baseline | 740,155 kWh | 43,562 therms | 1,830,422 lbs |
| Percent Savings Compared to Baseline | 11.7% | 13.0% | 12.1% |

1.3 Energy Conservation Measures Recommendations

A summary of the ECMs recommended for the Town of Breckenridge and their savings potential are presented in Table 1-5. The simple payback periods for the projects do not include the potential results of obtaining grants to help finance these projects.

TABLE 1-5: ECM SUMMARY PER BUILDING

| Building Name | Measure Type | Annual Energy Cost Savings | Project Cost | Estimated Rebates | Simple Payback w/o Rebates (yrs) | Simple Payback w/ Rebates (yrs) |
|-------------------------------|----------------------------------|----------------------------|--------------------|-------------------|----------------------------------|---------------------------------|
| Town Hall | General, Mechanical, Electrical | \$2,932 | \$38,615 | \$4,300 | 13.2 | 11.7 |
| Recreation Center | Mechanical, Electrical, | \$33,052 | \$302,542 | \$6,800 | 9.2 | 8.9 |
| River Walk Center | Electrical, Controls | \$5,434 | \$36,444 | \$2,300 | 6.7 | 6.3 |
| Ice Rink | Mechanical, Electrical | \$33,259 | \$328,368 | \$3,000 | 9.9 | 9.8 |
| Police Facility | Electrical | \$3,677 | \$20,954 | TBD | 5.7 | 5.7 |
| Street Lighting | - | \$0 | \$0 | - | 0.0 | 0.0 |
| GHR Water Treatment Plant | Mechanical, Electrical | \$1,569 | \$54,460 | TBD | 34.7 | 34.7 |
| Water Pump Stations | - | \$0 | \$0 | - | 0.0 | 0.0 |
| PW Fleet Maintenance | Mechanical, Electrical | \$11,257 | \$53,095 | \$2,400 | 4.7 | 4.5 |
| PW Bus Barn | | \$0 | \$0 | - | 0.0 | 0.0 |
| PW Shops - Office Addition | Electrical | \$1,768 | \$38,537 | \$1,800 | 21.8 | 20.8 |
| PW Water-Streets Storage | Electrical | \$5,331 | \$21,793 | \$200 | 4.1 | 4.1 |
| Golf Club House | Mechanical, Electrical, Controls | \$11,941 | \$63,892 | \$2,800 | 5.4 | 5.1 |
| Golf Maintenance & Storage | General, Electrical, Controls | \$955 | \$15,127 | TBD | 15.8 | 15.8 |
| Golf Restrooms & Starter Bldg | Electrical | \$209 | \$1,125 | TBD | 5.4 | 5.4 |
| Golf Course Pump Houses | - | \$0 | \$0 | - | 0.0 | 0.0 |
| Breck Transit Center | General, Mechanical, Electrical, | \$829 | \$30,059 | \$300 | 36.3 | 35.9 |
| Breck Theater | General, Mechanical, Electrical | \$223 | \$5,235 | \$300 | 23.5 | 22.1 |
| Welcome Center | General, Electrical | \$2,535 | \$3,234 | \$400 | 1.3 | 1.1 |
| *BOEC -524 Wellington | - | \$0 | \$0 | - | 0.0 | 0.0 |
| Valley Brook Housing | General, Mechanical, Electrical | \$351 | \$4,663 | TBD | 13.3 | 13.3 |
| Schoonover (housing/office) | - | \$0 | \$0 | - | 0.0 | 0.0 |
| Grandview Housing | Electrical | \$43 | \$603 | TBD | 14.1 | 14.1 |
| Pavilions | Electrical | \$372 | \$3,954 | TBD | 10.6 | 10.6 |
| Comcast Data Center - #526 | - | \$0 | \$0 | - | 0.0 | 0.0 |
| Equestrian Stables | - | \$0 | \$0 | - | 0.0 | 0.0 |
| Bus Shelters | Electrical | \$338 | \$884 | TBD | 2.6 | 2.6 |
| Historic Buildings | General, Electrical | \$357 | \$6,909 | TBD | 19.3 | 19.3 |
| TOB Dumpster Buildings | - | \$0 | \$0 | - | 0.0 | 0.0 |
| TOB Storage Buildings | - | \$0 | \$0 | - | 0.0 | 0.0 |
| Colorado Mountain College | - | \$0 | \$0 | - | 0.0 | 0.0 |
| TOTAL | | \$116,430 | \$1,030,494 | \$24,600 | 8.9 | 8.6 |

1.4 Facility Improvement Measures Recommendations

Table 1-6 provides a summary of the FIMs recommended for the Town of Breckenridge. While some of these projects may reduce energy costs, the primary purpose of the projects is to improve the infrastructure of the facilities, the comfort of occupants, and/or improve a facility.

TABLE 1-6: FIM SUMMARY PER BUILDING

| Building Name | Measure Type | Annual Energy Cost Savings | Project Cost |
|--|--------------------------------|----------------------------|--------------------|
| Town Hall ¹ | Mechanical, Controls | \$1,195 | \$383,462 |
| Recreation Center ¹ | Mechanical, Controls | \$10,073 | \$1,975,116 |
| River Walk Center | General, Mechanical, Controls, | - | \$49,335 |
| Ice Rink ¹ | General, Controls | \$1,782 | \$693,142 |
| Police Facility | Controls | - | \$54,212 |
| GHR Water Treatment Plant | - | - | \$0 |
| Water Pump Stations | - | - | \$0 |
| PW Fleet Maintenance ¹ | Mechanical, Controls | \$3,267 | \$346,234 |
| PW Bus Barn | Controls | - | \$14,188 |
| PW Shops - Office Addition | Mechanical, Controls | - | \$97,585 |
| PW Water-Streets Storage | Controls | - | \$14,188 |
| Golf Club House ¹ | Controls | \$2,692 | \$584,492 |
| Golf Maintenance | Mechanical, Controls | - | \$56,054 |
| Golf Restrooms & Starter Bldg ¹ | Mechanical, Controls | \$48 | \$31,624 |
| Breck Transit Center ¹ | General, Controls | \$111 | \$86,072 |
| Breck Theater ¹ | Mechanical | \$66 | \$24,382 |
| Welcome Center | General, Mechanical, Controls | - | \$81,457 |
| *BOEC -524 Wellington | - | - | \$0 |
| Valley Brook Housing ¹ | Mechanical, Controls | \$1,027 | \$77,183 |
| Schoonover Housing | - | - | \$0 |
| Grandview Housing | Mechanical | - | \$440 |
| Pavilions | Mechanical | - | \$3,465 |
| Historic Buildings | - | \$216 | \$19,204 |
| TOB Dumpster Buildings ¹ | - | - | \$0 |
| TOB Storage Buildings ¹ | - | - | \$0 |
| Colorado Mountain College | - | - | \$0 |
| TOTAL | - | \$20,475 | \$4,591,835 |

Notes:

¹These facilities include measures that were originally evaluated as ECMs; however, the ECM had a SPB > 50 years. These measures are now included in the FIM package. Potential energy savings for these ECMs are presenting in the table.

1.5 Renewable Energy Systems Recommendations

A summary of the renewable energy systems (RESs) recommended for the Town of Breckenridge is presented in Table 1-7. It is important to note that the following projects do not include various potential grants that may be available to assist with financing of these projects. There are also potential grants from several sources that may help to further reduce the overall cost of any or all of these projects.

The solar photovoltaic (PV) systems listed in Table 1-7 were selected for their ability to have improved economic benefits for a public installation and for their ability to be good examples to the rest of the community. There are other financing mechanisms that may be considered, including a power purchase agreement (PPA), should the Town of Breckenridge want to evaluate other financing development opportunities.

TABLE 1-7: RENEWABLE ENERGY SAVINGS SUMMARY

| Building Name | PV System Capacity(kW) | Total Annual Cost Savings | Project Cost | Estimated Xcel Energy Rebates * | Project Cost with Rebates | Simple Payback (yrs) |
|---------------------------------|------------------------|---------------------------|--------------|---------------------------------|---------------------------|----------------------|
| RC - Recreation Center | 83 | \$12,980 | \$893,211 | \$174,092 | \$719,119 | 55.4 |
| PF - Police Facility | 27 | \$5,297 | \$264,719 | \$57,013 | \$207,706 | 39.2 |
| WTP - GHR Water Treatment Plant | 35 | \$7,086 | \$346,038 | \$74,531 | \$271,507 | 38.3 |
| GC - Golf Club House | 11 | \$2,085 | \$103,811 | \$22,326 | \$81,485 | 39.1 |
| IR - Ice Rink | 110 | \$21,134 | \$1,090,020 | \$234,241 | \$855,778 | 40.5 |
| RWC- Riverwalk Center | 29 | \$5,894 | \$288,942 | \$62,140 | \$226,802 | 38.5 |
| Totals | 295 | \$54,476 | \$2,986,741 | \$624,343 | \$2,362,397 | 43.4 |

*Rebates do not include any potential grants

Once all of the costs and funding streams are evaluated, a complete financial analysis may be developed to support the entire (first phase) of the program. Table 1-8 provides a summary of a potential financial package to support the ESPC program.

TABLE 1-8: POTENTIAL ESPC FINANCIAL PACKAGE

| | | |
|---|--------------------|--------------|
| PROJECT: Town of Breckenridge ESPC | | |
| ENGINEERING COST: | \$80,900 | |
| CONSTRUCTION COST: | \$8,609,069 | |
| TOTAL COST | \$8,689,969 | |
| GOCO GRANT: | \$100,000 | 1.2% |
| USDA GRANT: | \$100,000 | 1.2% |
| GEO GRANT: | \$150,000 | 1.7% |
| ENERGY BLOCK GRANT: | \$868,997 | 10.0% |
| TOWN OF | | |
| BRECKENRIDGE: | \$5,260,000 | 60.5% |
| UTILITY REBATES: | \$648,943 | 7.5% |
| TOTAL FINANCED: | \$1,562,029 | 18.0% |
| SAVINGS: | \$191,360 | 100.0% |
| TERM: | 144 | |
| INTEREST RATE: | 4.50% | |

TYPE OF FINANCING: **GUARANTEED LEASE-PURCHASE**

| YEAR | SAVINGS | PAYMENTS | SERVICE & MONITORING | NET CASH FLOW |
|---------------|--------------------|--------------------|----------------------|------------------|
| 1 | \$191,360 | \$171,302 | \$20,000 | \$58 |
| 2 | \$200,928 | \$171,302 | \$20,800 | \$8,826 |
| 3 | \$210,974 | \$171,302 | \$21,632 | \$18,041 |
| 4 | \$221,523 | \$171,302 | \$22,497 | \$27,724 |
| 5 | \$232,599 | \$171,302 | \$23,397 | \$37,900 |
| 6 | \$244,229 | \$171,302 | \$24,333 | \$48,594 |
| 7 | \$256,441 | \$171,302 | \$25,306 | \$59,833 |
| 8 | \$269,263 | \$171,302 | \$26,319 | \$71,642 |
| 9 | \$282,726 | \$171,302 | \$27,371 | \$84,053 |
| 10 | \$296,862 | \$171,302 | \$28,466 | \$97,094 |
| 11 | \$311,705 | \$171,302 | \$29,605 | \$110,799 |
| 12 | \$327,291 | \$171,302 | \$30,789 | \$125,200 |
| TOTALS | \$3,045,901 | \$2,055,622 | \$300,516 | \$689,764 |

- [1] Assume annual inflation/fuel cost escalation rate of 5%.
- [2] Capital cost includes turn-key installation.

1.6 Overview of ESPC Program Development

The overall development of an ESPC program is shown graphically in Figure 1-1.

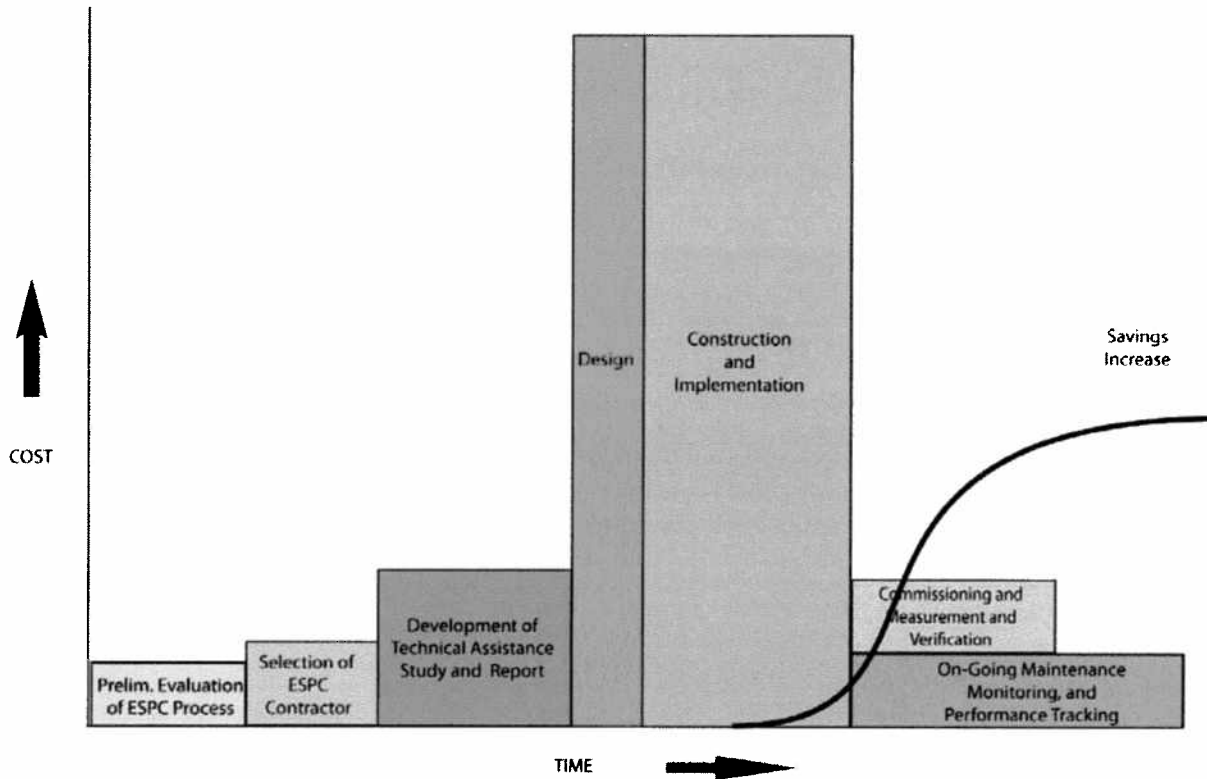


FIGURE 1-1 DEVELOPMENT OF ESPC PROGRAM

As shown in the figure, there are many steps and phases to the development of a successful ESPC contract. Each of the blocks shown in the figure represents a specific phase of the project that is necessary for the project to be successful. The Town of Breckenridge has completed the first two blocks of activities and is currently working on completing the third block. These first three blocks are summarized in Table 1-9.

TABLE 1-9: SUMMARY OF ESPC DEVELOPMENT

| | |
|---------------------------|--|
| <p>Block One</p> | <p>Preliminary Evaluation of ESPC Process Projects involving the potential use of an ESPC start with initial discussions about how the process may be more advantageous than the typical way of developing a project, or many projects. The first block of the graphic represents the time and cost invested in learning about the ESPC process and deciding whether or not it may have an application to the traditional ways of doing business. The time and cost are typically very small.</p> |
| <p>Block Two</p> | <p>Selection of ESPC Contractor The second block of the graphic represents the time, and potential cost, invested in setting up for developing the ESPC. The work includes developing an in-house evaluation team, obtaining consensus and approval of the process, working with the Governor’s Energy Office (GEO) as a support function to the process, developing a state accepted RFP for an energy service company (ESCO), listing potential providers to receive the RFP, receiving and reviewing responses from ESCOs, short-listing companies, conducting interviews, company selection, and contract development.</p> |
| <p>Block Three</p> | <p>Development of Technical Assistance Study and Report This block represents the time and investment for completing the Technical Energy Audit of all facilities and sites to be included into the program. This can typically take from four to ten months to complete. Depending on the financing package selected, additional time may be required to submit grants, finalize lease-purchase agreements, and prepare for rebates.</p> |

After the Technical Energy Audit Report is reviewed and the Town of Breckenridge has selected the projects to be developed, the funding program is developed. During this time, lease-purchase financing and grants are applied for to help support the entire package of selected projects. Once all funding is obtained and approved, the project moves into the design and construction phase. Table 1-10 summarizes the activities in the next stages of program development.

TABLE 1-10: SUMMARY OF ESPC DEVELOPMENT

| | |
|------------|--|
| Block Four | Design, Construction, and Implementation |
| | This block represents the final design, construction, and implementation of all projects selected for implementation during the first phase of the ESPC program. Projects may be completed all at the same time or phased depending on the Town of Breckenridge requirements. Construction can last from two to three months to an entire year, or longer, depending on scope. |
| Curve One | Savings Accumulation |
| | This curve represents the beginning of savings realized by the program. Some savings typically begin fairly quickly, depending on the projects completed. Lighting, controls, and operational changes may produce savings within three months of the beginning of construction, unless they are scheduled to be completed in conjunction with larger, longer development projects. |
| Block Five | Commissioning and Measurement and Verification |
| | This block represents the time and investment into completing the Technical Energy Audit of all facilities and sites to be included into the program. This can typically take from four to ten months to complete. |
| Block Six | On-Going Maintenance, Monitoring, and Performance Tracking |
| | This block represents the on-going maintenance, monitoring, and program performance tracking that will continue at a minimum for the first three years of the program. |

Peak 6 Social Issues Task Force
Summary of Key Findings and Guiding Principles
FINAL WORKING DOCUMENT
July 1, 2009

Background:

The Task Force was created through an agreement between the Breckenridge Ski Resort, Town of Breckenridge, and Summit County in response to the comments received about the possible socio-economic impacts of a proposed ski area development on Peak 6 during the National Environmental Policy Act (NEPA) Scoping process. The Forest Service, the body entirely responsible for the approval, rejection, or modification of this proposal, agreed to participate in these meetings to help them address the socio-economic impacts that are unique to this proposal and not necessarily always covered in detail during their review of the application.

The impetus for the formation of the group is the proposed project and the effects on several socio-economic and quality of life issues around the Town of Breckenridge and Summit County. Members recognize that some of these socio-economic issues raised are broader community issues, and are difficult to address in an isolated discussion about Peak 6. These issues should be addressed also from a perspective of the overall carrying capacity for the Breckenridge area and in consideration of the cumulative effects of the recent developments on and adjacent to Peaks 7 and 8. Therefore, the goals of the Task Force between October, 2008 and February, 2009 were as follows:

- Address the 180 plus letters sent to the US Forest Service during comment period last year expressing opposition to BSR development on Peak 6
- Identify the socio-economic issues that the ski area, town, and business community share with respect to growth and identify a process for dealing with them holistically. Initially, the group has identified employee recruitment and retention, affordable housing, healthcare and social services, parking and transportation.
- Address quality-of-life issues that might impact negatively the community and how those issues might be mitigated and what mechanisms are available to Town, BSR, County and other entities to enable mitigation.
- Determine the specific range of possible impacts on these issues from a proposed Peak 6 development and possible measures to mitigate those impacts.
- Serve as a model to address broader community needs on an ongoing basis.

Summarized below are the findings of the Task Force in each of the areas discussed as well as guiding principles the Task Force has identified for addressing these issues with respect to the Peak 6 proposal, and in some cases, over the longer term.

Overall Possible Impacts:

The Task Force attempted to quantify the range of possible impacts the Peak 6 project might have in terms of additional employees required to staff the area, as well as the potential rise in skier visits that may be attributed to the project.

Additional employees:

Related to Peak 6, the amount of employees is most variable for the restaurant and the size of the restaurant and will be tightened as the project proposal is finalized. Currently, it is anticipated that 30-55 additional employees may be added through the current proposal for Peak 6, though the total number of BSR employees may still decrease due to other factors such as technology advancement in scanning lift tickets, and other business decisions. A component of the proposal is a 150 seat food and beverage facility at the proposed Peak 6 lift bottom terminal. The National Restaurant Association estimates that a 150 person cafeteria style restaurant to be between 21-30 employees. Given that the majority of the seating will be deck/outside seating, BSR estimates 14-16 staff will be needed for the restaurant. The remaining 25 employees would be mountain operations of lift attendants and ski patrol.

Additional skier visits:

By Forest Service estimates the Comfortable Carrying Capacity (CCC) for skiers will increase by 8% with the Peak 6 expansion from the current CCC of 14,920 to 16,090. The ski area estimates that the expansion will provide approximately 200 acres of additional lift serviced intermediate terrain. This does not necessarily mean that there will be an 8% increase in visits, only that the area can comfortably serve this many skiers better. It is possible that Peak 6 may result in spreading out existing skier visits without a dramatic increase in skier days. As reflected in public comment on the project, some members of the Task Force believe that expansion to Peak 6 will inevitably drive more skier visits above beyond normal growth.

The Task Force has discussed that there continue to be concerns about how much of the expansion will truly become intermediate terrain. The extent to which the proposed project meets its proposed Purpose and Need is an important factor to the Task Force outcomes and recommendations. As such, this will need to be verified through the NEPA process.

However, it is anticipated that BSR skier visits will increase annually, with or without Peak 6, and Peak 6 will at least contribute to this annual growth, which is currently around 1 to 3% annually.

While an increase in skier visits can be difficult to isolate with respect to any one factor in the business, of utmost importance to the Task Force is how the town and resort respond to these numbers when visits are at capacity. Currently, there are several peak periods at which the Town and Resort are at capacity, including the Christmas and New Year's holiday week, Martin Luther King and President's Day weekends, and spring break. Most of the findings and recommendations below are aimed at trying to maintain

and minimize the current days at which the resort and town are operating at capacity. This is particularly relevant when looking at traffic and parking issues, and currently those days are at Level of Service (LOS) F approximately 20 winter days out of the year. Not all of these days can be attributed directly to skier visits, and other events such as Snow Sculpture days need to also be accounted for.

Also, as more information is developed in analyzing these numbers, through the Task Force may need to revisit these numbers.

BSR will conduct regular/scheduled discussions with TOB and SCG regarding forecasting and management of these peak days and making management adjustments as needed.

Housing:

Findings:

Workforce housing is already an issue, and Breckenridge is behind in providing workforce housing. According to current Town of Breckenridge estimates, 45% of those who work in Town live in Town, 60% live in the Upper Blue (including the Town of Breckenridge). There currently is a scarcity of deed restricted units, which may exacerbate the problem down the road as current workforce housing leaves the rental market. There is also a scarcity of rental units for seasonal employees at or below the 60-80% Average Median Income (AMI)¹ income levels, and these are the most likely to be impacted by the jobs created through the Peak 6 project. BSR currently provides the full amount of employee housing that will be required at approved build out of its projects.

Guiding Principles:

It is a high priority of the Town to keep at least 45% of those working in town living in town as the Town strongly believes that this will keep the community sustainable.

Continuing partnerships between the Town, BSR, the County, and the Summit Combined Housing Authority are important to address broader ongoing housing needs.

A goal for the project is no net impact from the project to overall housing needs. No net impact is based on the incremental addition of employees required to staff Peak 6.

¹ AMI is determined by the US Department of Housing and Urban Development (HUD), is adjusted on an annual basis, and varies based on household size and area. In determining AMI HUD typically uses a 7.5 percent interest rate over 30-years. The different AMIs imply the amount spent on rent or mortgage (excluding utilities) will not exceed 30 percent of the combined gross income of all household members. The county and Summit Combined Housing Authority use the various AMIs as calculated by HUD to determine the maximum purchase price individuals or households can afford.

For example, in the county in 2004 100 percent AMI for a four-person family household was \$76,100. In 2008 100 percent AMI for a four-person household was \$81,300. These AMIs represent the middle point (50th percentile) of all four-person household incomes in the entire county (i.e. half the four-person households make more and half the four-person households make less). According to RRC Associates, Inc., in 2005 32 percent of the county's households earned less than 80 percent of the AMI, 51 percent earned less than 100 percent AMI, and 65 percent earned less than 120 percent AMI.

Task Force Recommendations:

The Town, County, and BSR create an MOU that lays out the principles of no net impact and a framework for determining the final impact and mitigation.

BSR Response:

VR currently provides 501 employee housing beds which had approximately 74% occupancy this past winter season. Summer occupancy is typically less than 50%. A portion of these beds are reserved for TOB for their employees and a portion is allocated to VR's lodging division in Breckenridge. The highest occupancy week was January 17 at 89%; leaving 54 beds available. On average, there were 131 unused beds each week. In the highest occupancy week, in a season with near full employment, there is inventory to easily cover an incremental 40 employees associated with Peak 6. There is housing in excess of the requirements for full build out of Peak 7 and Peak 8 base areas, as well as, the Gondola Lot development.

Solution: Better management of existing inventory. Improved and more frequent occupancy statistics. Open inventory to Breckenridge community employees if BSR/TOB/Breck Lodging cannot fill. Open to local businesses in summer.

Task Force Recommended Actions:

There have been two proposals for how to address no net impact, one based on the occupancy rates of BSR-owned employee housing that would include annual reporting mechanisms, the other based on deed restricting units based on the AMI of the typical Peak 6 employee. As next steps:

- **The County and Town will develop and use appropriate employee generation rates to create a formula for number of deed restricted units that will be required to accomplish no net impact. This ultimately be based on actual Peak 6 employee numbers rather than the range captured above and will take into account the AMI of the typical Peak 6 employee.**
- **Based on this formula, BSR, the Town and County will negotiate a specific agreement on how deed restrictions will work to accomplish no net impact.**

Human Resources/Social Services:

Social Services is a broad topic that includes public health services, family services, child care and other services provided by the County, the Town of Breckenridge, and non-profits in the county.

Findings:

The jobs created through a Peak 6 project are likely to be at or below the 60-80% AMI level. For people in this category, two of the biggest pressure points are on affording health care insurance and child care.

11% of visits to the Community Care Clinic come from all Ski Resort (Arapahoe Basin, Breckenridge, Copper Mountain, and Keystone Resort) employees countywide. No

current data exists to determine how many of those are from BSR mountain employees but this information has been requested.

The Family Intercultural Resource Center (FIRC) also noted that resort employees countywide represent 42% of the use of the foodbank.

VRI strives to provide affordable and adequate health insurance options for all of its employees.

BSR's contributions through The Summit Foundation and its own donations to social services organizations are critical to the maintenance and survival of these services. The Dwight Brill Foundation is also available for employees in need.

Guiding Principles:

Peak 6 may be relatively small impact to these areas, but it may provide an important tipping point.

BSR's goal is to provide adequate health care benefits to all employees and improve participation to reduce pressure on public health and Community Care Clinic services from their employees.

The Task Force would like to ensure that BSR's community contributions continue at pace with the growth of the resort and the needs of the community.

Task Force Recommendations:

BSR continue its efforts to offer adequate health insurance benefits to all employees to reduce use of county-offered services.

BSR maintain current levels support of social services through its contributions to The Summit Foundation and its own private donations and strive to continue to meet future needs through similar community-based mechanisms. Task Force members recognize that the current contributions are not always full recognized within the community.

BSR become engaged in regular dialogue with the social services community about the status of their services and operations and to provide BSR with feedback as to how their contributions are being used.

BSR Response:

VR/BSR has contributed generously to non-profits in the Summit County community for many years. Our commitment to the community in this regard has not wavered; in fact, we maintained the same level of giving this past year, even through tough economic times for the business. With the launch of VR 360 this year and staff dedicated solely to charitable contributions, the company is looking for more ways to be involved with and connected to both The Summit Foundation and non-profits in Summit County.

Through VR 360 we will remain committed to supporting the social services needs of the community and encouraging our employees to be more involved in community efforts. Our commitment is not declining; we want to make a stronger connection. For BSR/VR, our charitable giving through VR 360 is not related to Peak 6, but part of a much larger company commitment and program to help improve the lives of youth in Summit County and protect the resources that make our resort community unique.

Task Force Recommended Actions:

These issues are broader than Peak 6 and BSR, and conversations are on-going, and specific numbers are not yet included in these actions, but will get more specific as these move discussions forward. Since these may include agreements and impacts that are broader than Peak 6, while inclusive of Peak 6 impacts, may not be tied directly to the impact Peak 6 employees.

- **BSR remains committed to supporting social services needs of the community. Our commitment is not declining, we want to make a stronger connection. For VR/BSR, our charitable giving, including social services, is not related to Peak 6, but part of a much larger company commitment. This is work in progress outside of the Peak 6 project.**
- **BSR will work with the County and Town to develop an ongoing structure for discussion and reporting on the status and needs of social services in the community.**
- **As these discussions take place, Task Force members request that VRI make specific commitments to on-going corporate giving includes community-based decision-making about priorities for funding (e.g., using The Summit Foundation or the Care Council to assist in decision-making).**
- **Some Task Force members would like to see a distinction between general corporate giving and mitigation for impacts to the provision of social services, recognizing that corporate giving may be the best mechanism to address them.**

Parking and Transportation:

Findings:

Town of Breckenridge findings in the recent 2030 Study noted that traffic exceeds a level of service F (i.e., it reaches gridlock to a point where TOB Police have to assist in directing traffic) about 20 days out of the season. If no further improvements in transit or roadways are made this number could reach 45 days year at build-out. With improvements to either transit systems or Park Avenue, it is estimated that the Town can maintain the current status of 20 days a season. While Peak 6 was not specifically addressed in the study, the study does look comprehensively at development growth to build out.

BSR currently maintains 2,190 day skier parking spaces in the Gondola lots, Gold Rush lot, Satellite lot on Airport Road, and at Beaver Run. There are currently peak capacity days for skier parking (NOTE: THE TASK FORCE HAS REQUESTED THE SPECIFIC NUMBER OF DAYS FOR THIS YEAR), so some additional parking or systems to use existing parking more efficiently may be needed if Peak 6 significantly increases skier visits which require parking.

Guiding Principles:

BSR participate in solutions to transit and parking issues with Town and the County to address both congestion within Breckenridge and among Summit County towns.

Limit any additional days at LOS F due to skier visits and reduce the current level of days, if possible.

A comprehensive solution will require looking at the movement of people through Town, reducing the overall number of car trips, and investment and collaboration among the County, the Town, the parking district, and BSR.

Task Force Recommendations:

Maintain or reduce number of days at LOS F due to skier visits and days when there are more than 500 cars in Airport Road parking lots through parking and transit solutions.

Create an MOU or amend the existing parking agreement to address the above issues.

BSR Response:

1. *Amendment to the current parking agreement is currently in progress with the town.*
2. *We will work with TOB/SCG to establish a joint program encouraging locals to car pool and use public transportation. (1.9 is the local average per the BRC parking survey).*
3. *Work toward carpooling incentives for front range day visitors. BSR/TOB/SCG*
4. *Continue free parking after 3 and encourage guests to visit Main Street.*

Task Force Recommended Actions:

- **Amendment to the current parking agreement is currently in progress with BSR and TOB. Traffic growth that results in additional days above LOS F attributable to Peak 6 will be included in the MOU and the master parking and transportation agreement**
- **BSR and TOB will be negotiating a master framework for a TDM/Transit/ and parking agreement. Through these agreements the Task Force members believe the impacts from Peak 6 should be addressed. The Task Force recognizes that depending on the timing and other issues of scope associated with these agreements, the MOU may need to include more specific mitigation as discussions proceed.**
- **BSR will support incentives for green commutes and transportation by:**
 - **Working with TOB/SCG to establish a joint program encouraging locals to carpool and use public transportation.**
 - **Working toward carpooling incentives for front range day visitors with TOB and SCG.**
- **BSR will continue free parking after 3 pm during winter season.**
- **As stated above, BSR will participate in solutions to transit and parking issues with Town and County to address both congestion within Breckenridge and**

among Summit County towns. As a part of these discussions, the following items will be considered:

- **Possible funding for Summit Stage**
- **Bus program coordination**

Quality of Life Issues:

The Task Force recognizes that in addition to the important issues above, “quality of life” issues that include a sense of place and community identified through the scoping process are holistic and will continue to need to be evaluated by BSR, the Forest Service, and the Breckenridge and Upper Blue Basin communities as the analysis of the project moves forward. These issues are most apparent when the resort, and the town are operating at or over full capacity. While the peak days do not appear to be growing, business is spreading out through and the ski season, and the number of days where the resort and town are busy are increasing, exacerbating the feeling of being “at capacity.” As the resort’s capacity grows with additional improvements or terrain, the Town’s capacity to serve visitors must also grow at the same pace. Further, growth in and around Breckenridge needs to be balanced to benefit both the town and the resort.

Several mechanisms embedded in the principles above, begin to address the quality life issues raised in the scoping process. These include the following:

- managing the number of peak days associated with skier visits, and
- continuing regular and routine dialogue between the resort and the town on important issues that affect the overall quality of life and ensuring that any proposed developments are carefully considered.

While the Task Force has not reviewed the environmental and recreational aspects of the project (such as the removal of side-country terrain within the BSR Special Use Permit boundary) because they will be more fully evaluated through the NEPA process, the Task Force recognizes that they are important to the overall quality of life in a mountain resort town and need to be carefully evaluated through the EIS.

Task Force Recommendations:

BSR, the Town, the County, and the Forest Service should emphasize existing master planning and zoning requirements to prohibit adjacent and base development associated with Peak 6.

The Task Force recommends that through the development of the EIS, the Forest Service consider alternatives that minimize impacts to the environment and diversity of recreational options associated with comments received from the Scoping process, throughout the Task Force meetings, and at the Task Force Public Forum (Blue Sky list and comments from Public Forum attached).

BSR Response:

VR/BSR intends no development at the base of Peak 6 in perpetuity.

VR/BSR intends no development on the Ten Mile Range beyond the current SUP boundary in perpetuity.

There could be a community driven trigger (driven by TOB and Summit County Gov't) to change this at some point in the future.

Task Force Recommended Actions:

- **VR/BSR commits to no development at the base of Peak 6 in perpetuity.**
- **VR/BSR commits no development on the Ten Mile Range beyond the current Peak 6 proposal in perpetuity.**
Some members of the Task Force would like to see a community driven trigger that could take place through an agreement between TOB and Summit County Government to petition the Forest Service to change this if community vision or needs change in the future.
- **Some members would like to see that if VR/BSR demonstrates purpose and need and receives Forest Service approval for the Peak 6 project, they are committed to developing the project in a timely manner to fulfill the proposed purpose of the project of meeting existing needs at the resort.**
- **The Task Force has primarily addressed quality of life issues related to off-mountain impacts. They would like to reiterate their recommendation to the Forest Service that the Forest Service take a hard look at the environmental and user experience issues raised in the comments and on the Blue Sky list that are not addressed by BSR/Town/County MOU through a thorough analysis of alternatives, cumulative impacts, and other aspects of the EIS.**

Next Steps:

The County Commissioners and Town Council will consider these recommendations and then task staff to draft initial language for the MOU for BSR/VRI to review. When these issues are on agenda for the BOCC or TC, Task Force members will be notified via e-mail so they can be available to participate in the conversation as needed.

Once the draft MOU is acceptable to all parties, the draft will be shared with the Task Force for review. The Town and County will then hold joint public hearings on the MOU. Ideally, the MOU will be complete for incorporation into the draft EIS.

Once the EIS is available for review, the Town and County will review the proposed alternative and the MOU to determine if any revisions are required based on the final design of the project. If revisions are required, they will Task Force for review, and further recommendations as needed.



TOWN OF BRECKENRIDGE TOWN COUNCIL AGENDA
Tuesday, July 14, 2009 (Regular Meeting); 7:30 p.m.

- I CALL TO ORDER and ROLL CALL**
- II APPROVAL OF MINUTES – June 23, 2009** **Page 58**
- III APPROVAL OF AGENDA**
- IV COMMUNICATIONS TO COUNCIL**
 - A. Citizen’s Comment - (Non-Agenda Items ONLY; 3 minute limit please)
- V CONTINUED BUSINESS**
 - A. SECOND READING OF COUNCIL BILL, SERIES 2009 - PUBLIC HEARINGS****
 - 1. Council Bill No.18, Series 2009- AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE REQUIRED REMOVAL OF WASTE MATERIALS FROM CONSTRUCTION SITES** **Page 63**
 - 2. Council Bill No.19, Series 2009- AN ORDINANCE APPROVING A MUTUAL EASEMENT AGREEMENT WITH BLUE FRONT OFFICE SUITES, INC., GHW ASSOCIATES, AND THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO** **Page 69**
- VI NEW BUSINESS**
 - A. FIRST READING OF COUNCIL BILL, SERIES 2009 –**
 - 1. Council Bill No.20, Series 2009- AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE (Silverthorne House and Carriage Barn–South 60 Feet of Lots 22 and 22½, Snider Addition, and the North 15 Feet of Lot 60 and 61 Bartlett and Shock Addition)** **Page 97**
 - 2. Council Bill No.21, Series 2009- AN ORDINANCE AMENDING THE INTERNATIONAL BUILDING CODE, 2006 EDITION, ADOPTED BY REFERENCE IN CHAPTER 1 OF TITLE 8 OF THE BRECKENRIDGE TOWN CODE, BY ADOPTING BY REFERENCE CERTAIN NEW AND UPDATED STANDARDS PROMULGATED BY THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS CONCERNING ELEVATORS, ESCALATORS, AND SIMILAR FORMS OF CONVEYANCE** **Page 101**
 - B. RESOLUTIONS, SERIES 2009-**
 - 1. A RESOLUTION APPROVING THE “AMENDMENT TO VIC’S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANT AND AGREEMENT”** **Page 104**
 - C. OTHER – NONE**
- VII PLANNING MATTERS**
 - A. Planning Commission Decisions of July 7, 2009 **Page 2**
 - B. Town Council Representative Report (Mr. Rossi)
- VIII REPORT OF TOWN MANAGER AND STAFF***
- IX REPORT OF MAYOR AND COUNCILMEMBERS***
 - A. CAST/MMC (Mayor Warner)
 - B. Breckenridge Open Space Advisory Commission (Mr. Joyce)
 - C. BRC (Ms. McAtamney)
 - D. Summit Combined Housing Authority (Mr. Millisor)
 - E. Breckenridge Heritage Alliance (Mr. Bergeron)
 - F. Peak 6 Task Force (Mr. Bergeron)
 - G. Sustainability Committee (Mr. Millisor)
- X OTHER MATTERS**
- XI SCHEDULED MEETINGS** **Page 116**
- XII ADJOURNMENT**

*Report of Town Manager; Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item

CALL TO ORDER and ROLL CALL

Mayor Warner called the June 23, 2009 Town Council Meeting to order at 7:34 p.m. The following members answered roll call: Ms. McAtamney, Mr. Joyce, Mr. Millisor, Mr. Bergeron, Mr. Rossi, Mr. Mamula and Mayor Warner.

APPROVAL OF MINUTES – June 9, 2009 Regular Meeting

There were no changes, and Mayor Warner declared the minutes were approved.

APPROVAL OF AGENDA

Town Manager requested the addition of Council Bill No. 19 as Item A.2 under “New Business.”

COMMUNICATIONS TO COUNCIL

A. Citizen’s Comments - (Non-Agenda Items ONLY; 3 minute limit please)

Mary Ellen Gilliland and her husband Larry were pleased to present to the Mayor, Town Council and Town Manager a copy of Ms. Gilliland’s new book “Breckenridge 150 Golden Years 1859-2009.” The book was produced in cooperation and conjunction with the Breckenridge Heritage Alliance.

CONTINUED BUSINESS

A. ***SECOND READING OF COUNCIL BILL, SERIES 2009 - PUBLIC HEARINGS*****

1. Council Bill No. 16, Series 2009 - AN ORDINANCE AMENDING POLICY 9 (ABSOLUTE) AND POLICY 9 (RELATIVE) OF CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, CONCERNING BUILDING SETBACKS

Town Attorney Tim Berry informed that this ordinance proposes to add language to the Development Code dealing with setback requirements for historic secondary structures. There were no changes from first reading.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve Council Bill No. 16, Series 2009. Ms. McAtamney seconded the motion. The motion passed 7-0.

2. Council Bill No. 17, Series 2009 - AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE SUBDIVISION STANDARDS”, BY ADOPTING A PROCEDURE FOR THE CORRECTION OF A RECORDED SUBDIVISION PLAT

Mr. Berry explained that this ordinance is intended to create a simplified, easy process for correcting errors to recorded subdivision plats by filing an affidavit of correction or a correction plat. There was some discussion about the fees and it was decided to revisit the fee structure again next year.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve Council Bill No. 17, Series 2009 in the form contained in the agenda packet. Mr. Joyce seconded the motion. The motion passed 7-0.

NEW BUSINESS

A. ***FIRST READING OF COUNCIL BILL, SERIES 2009***

1. Council Bill No. 18, Series 2009 - AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE CONCERNING THE REQUIRED REMOVAL OF WASTE MATERIALS FROM CONSTRUCTION SITES

Mr. Berry explained that it recently came to his attention that there are two nearly identical provisions concerning removal of building material waste from construction sites in two different sections

of the Town Code. This ordinance removes one of the ordinances thereby correcting the error, clarifies the abatement provisions, and makes it clear that the construction waste provision can be enforced as a nuisance.

Mr. Bergeron moved to approve Council Bill No. 18, Series 2009. Ms. McAtamney seconded the motion. The motion passed 7-0.

2. Council Bill No. 19, Series 2009 - AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING AND APPROVAL OF ANY APPLICATION FOR A TOWN OF BRECKENRIDGE PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE 18, SECTION 14 OF THE COLORADO CONSTITUTION; DIRECTING THE PROMPT INVESTIGATION OF THE TOWN'S REGULATORY AUTHORITY OVER SUCH BUSINESSES; DECLARING THE INTENTION OF THE TOWN COUNCIL TO CONSIDER THE ADOPTION OF APPROPRIATE TOWN REGULATIONS WITH RESPECT TO SUCH BUSINESSES IF PERMITTED BY LAW; DECLARING AN EMERGENCY; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE

Mr. Berry explained this emergency ordinance imposes a temporary moratorium on medical marijuana businesses. This is an emergency ordinance that requires five affirmative votes, does not require a public hearing, and does not have the right of referendum. Mr. Berry informed that courts have upheld moratoriums in the land use context, and he then reviewed the special ordinance findings. Upon adoption, a moratorium will be imposed on all permits and licenses for businesses that sell medical marijuana for 90 days. As soon as regulations are in place, the Council can repeal the ordinance.

Council asked questions about the scope of regulations that can be imposed. Mr. Berry believes the Town can regulate this use, but time is needed to better understand the regulatory authority. Staff will be contacting other communities that currently have regulations in place. Mr. Berry explained that it may take up to 90 days to create the ordinance and regulations.

Mayor Warner opened a public hearing. Sean McAllister ("Mr. Marijuana") introduced two medical marijuana patients. Mr. McAllister has a drug policy reform non-profit organization, "Sensible Colorado." He was happy to hear that the Town wants to look into this and to come up with reasonable regulations. To put this in context he explained there are 600 licensed dispensaries in California; 25 on the Front Range; and about a dozen in Denver. Recent court cases have upheld the state's right to enforce state law. Mr. McAllister is committed to working with the Town Attorney and Planning staff, and feels it is important that the Town and County deal with this to get these businesses out of people's homes and into a separate location.

The Mayor thanked the Town Attorney for putting together this ordinance so quickly.

Mr. Bergeron moved to approve Council Bill No. 19, Series 2009. Mr. Rossi seconded the motion. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2009 - None

C. OTHER - None

PLANNING MATTERS

A. Planning Commission Decisions of June 16, 2009

There were no Planning Commission decisions for approval.

B. Report of Planning Commission Liaison

Mayor Warner felt the minutes accurately reflected the meeting, and asked for clarification of the concern about ingress/egress from Maggie Placer. Planner Chris Neubecker explained the development has approval for right-turn in and right-turn out and there is a concern this will cause people to make frequent u-turns. The Planning Commission suggested the Ski & Racquet Club homeowners work with

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, JUNE 23, 2009
PAGE 3**

the Maggie Placer development to allow access through their property. Mr. Rossi will attend the next meeting.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen had nothing to add to those items previously covered during the work session.

REPORT OF MAYOR AND COUNCILMEMBERS

- A. **CAST/MMC** (Mayor Warner) – Mayor Warner missed the CAST meeting. The next Mayors and Managers meeting is on July 9.
- B. **Breckenridge Open Space Advisory Commission** (Mr. Joyce) – No report.
- C. **Breckenridge Resort Chamber** (Ms. McAtamney) – The next meeting is tomorrow. Ms. McAtamney will provide an update on the meeting with BOSAC.
- D. **Summit Combined Housing Authority** (Mr. Millisor) – The next meeting is tomorrow.
- E. **Breckenridge Heritage Alliance** (Mr. Bergeron) – Mr. Bergeron updated on the change to Rebecca Waugh’s job description and trimming down the budget. Larissa Enns has been given the interim Director’s position and they are currently rewriting the director’s job description. With less involvement by Ms. Waugh, someone will have to step up to the plate for grant writing. Mr. Bergeron noted some issues with the train. Mr. Gagen reported there is a new proposal from the state. Engine No. 9 cannot be fixed to run and the state may wish to purchase Engine No. 111. The funds could then be used to cover the cost of improvements and expenses to display Engine No. 9; however the state would maintain ownership of Engine No. 9.
- F. **Peak 6 Task Force** (Mr. Bergeron) – Discussion took place at the work session.
- G. **Neighborhood Preservation** (Mr. Mamula) – Council thanked Mr. Mamula for a job well done.
- H. **Sustainability** (Mr. Millisor) – The group met and discussed density and banking parking.

OTHER MATTERS

Mr. Gagen will be providing a revised Tier 3 budget list for the next meeting. There will also be a big-picture discussion on several ways of looking at business. The discussion will take place in both open and executive session.

Ms. McAtamney asked about the lights being left on at Kingdom Park.

Mr. Mamula voiced his feelings about art in the river. He feels the latest sculpture seems dangerous and goes against the river’s natural beauty. The Council members had mixed feelings about the sculpture, but were in agreement that they have some safety concerns with the piece.

Mr. Millisor would like to see “bulb outs” built on all four corners of the Main & Lincoln intersection, rather than just two. Mr. Mamula and Ms. McAtamney agreed. Mr. Millisor also asked about the lights at the construction site on Peak 8.

Jeffrey Bergeron would like to see three-way stop signs placed at the Little Red Schoolhouse/Vista Point/Wellington Road intersection. It was also suggested that a cross walk be striped.

Ms. McAtamney was taking donations to purchase and place the “Popsicle” sculpture in the Vista Point playground.

There was discussion about the Breck 150 banners around Town. People like them, but the size and color of the banners makes them somewhat difficult to see.

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, JUNE 23, 2009
PAGE 4**

Mayor Warner informed that his associate will be leaving the practice this Friday. Therefore, he will not be as available to attend functions, and may be calling on other Town Council members to help out with certain duties.

SCHEDULED MEETINGS

Mr. Millisor will attend the Summit Foundation grant reception on Thursday evening.

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 8:35 p.m.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor

EXECUTIVE SESSION CERTIFICATE

Town of Breckenridge)
County of Summit)
State of Colorado)

John Warner, the duly elected, qualified and acting Mayor of the Town of Breckenridge, hereby certifies as follows:

As part of the Town Council meeting on Tuesday, June 9, 2009 at 7:15 p.m., Mr. Rossi moved to convene in Executive Session pursuant to Paragraph 4(a) of Section 24-6-402, C.R.S., relating to the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; Paragraph 4(b) of Section 24-6-402, C.R.S., relating to conferences with the Town Attorney for the purposes of receiving legal advice on specific legal questions; and Paragraph 4(e) of Section 24-6-402, C.R.S., relating to determining positions relative to matters that may be subject to negotiations, developing strategies for negotiations; and instructing negotiators. Mr. Joyce made the second.

The Mayor restated the motion. The Mayor further stated that the real property that is the subject of the executive session is a mining claim located within the corporate limits of the Town of Breckenridge that the Town may have an interest in acquiring; and that the conference with the Town Attorney primarily involves the real estate matter described above, but may also include conferences with the Town Attorney on other matters covered by the attorney-client privilege that exists between the Town and the Town Attorney.

A roll call vote was taken and all were in favor of the motion.

Mr. Rossi moved to adjourn the Executive Session at 7:30 p.m. Ms. McAtamney made the second. All were in favor of the motion.

This certificate shall be included after the minutes of the regular Town Council meeting of Tuesday, June 23, 2009.

John Warner, Mayor

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 18 (Construction Rubbish Ordinance)

DATE: July 1, 2009 (for July 14th meeting)

The second reading of the ordinance to clean up the Town's Construction Rubbish Ordinance is scheduled for your meeting on July 14th.

You will recall that the primary purpose of this ordinance (as originally drafted) was primarily to remove duplicate code language from the Town Code. However, at the time of first reading Councilmember Rossi asked whether the ordinance adequately addressed trash and rubbish being blown or scattered from the construction site. I was asked to deal with that issue at the time of second reading of the ordinance.

When I looked carefully at the current Construction Rubbish Ordinance I noticed that the ordinance does require the person responsible for the work to promptly remove or discard the rubbish "in such a manner as not be scattered about by the wind or otherwise." A close reading of this language, however, suggests that the reference to trash being "scattered about by the wind" is only to the "manner" in which the trash is to be removed; the language can be read as not really prohibiting the scattering of the construction debris about the jobsite except at the point in time when the trash is actually being removed. For example, the "scattering" language can be interpreted as only applying if construction waste is being removed from a site and as part of the removal process is permitted to be blown onto a neighbor's property. I did not think that was the Council's intent.

As I started to work on revising the current ordinance I also noticed that the language of the ordinance was unclear in a number of places and generally needed to be cleaned up to make it much more specific (and therefore more likely to be enforceable).

The attached version of the ordinance contains the current Construction Rubbish Ordinance in ~~strikethrough~~, and my proposed revisions in **bold + double underline**. This will allow you to clearly see the changes I have proposed to be made to the current ordinance language.

I've shared this revised ordinance with the Police Chief and he indicated that he liked the new language and would support its adoption. As you will see, I tried not to change a great deal of the substance of the current ordinance, but I did tighten up the ordinance substantially (such as by making separate requirements to not allow construction rubbish to be scattered from a construction site and to remove the construction waste at the end of the project; imposing specific dates by which construction rubbish must be removed; inserting several key definitions

that were not contained in the current ordinance; and making it clear that the offenses are “strict liability” offenses (i.e., it is not necessary to prove an intention to violate the ordinance as part of the prosecution of an ordinance violation). I think the revised ordinance is an improvement over the current one. I hope you agree.

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

1 **FOR WORKSESSION/SECOND READING – JULY 14**

2
3 Additions To The Ordinance As Approved on First Reading Are
4 Indicated By **Bold + Dbf Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. 18

7
8 Series 2009

9
10 AN ORDINANCE AMENDING THE BRECKENRIDGE TOWN CODE
11 CONCERNING THE REQUIRED REMOVAL OF WASTE MATERIALS FROM
12 CONSTRUCTION SITES

13
14 WHEREAS, Section 5-2-4 of the Breckenridge Town Code imposes a requirement that
15 persons remove waste materials from construction sites; and

16
17 WHEREAS, Section 6-3C-9 (E) of the Breckenridge Town Code contains a similar
18 provision; and

19
20 WHEREAS, the Town Council finds and determines that Section 6-3C-9 (E) of the
21 Breckenridge Town Code is unnecessary and should be repealed **and Section 5-2-4 revised to**
22 **more clearly define the responsibility to secure and remove construction materials from a**
23 **construction site**; and

24
25 WHEREAS, the Town Council further finds and determines that clarifying language
26 needs to be included in Chapter 2 of Title 5 of the Breckenridge Town Code, entitled “Garbage
27 and Refuse”, to make it clear that the abatement procedures set forth in Sections 5-2-8 through
28 5-2-13, inclusive, of the Breckenridge Town Code are alternatives to and do not prohibit the
29 institution of misdemeanor ordinance violation procedures against persons alleged to have
30 violated the other provisions of Chapter 2 of Title 5 of the Breckenridge Town Code.

31
32 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
33 BRECKENRIDGE, COLORADO:

34
35 Section 1. Section 6-3C-9 (E) of the Breckenridge Town Code is repealed.

36
37 **Section 2. Section 5-2-4 of the Breckenridge Town Code is amended so as to read in**
38 **its entirety as follows:**

39
40 5-2-4: BUILDING MATERIALS REMOVED FROM CONSTRUCTION SITES;
41 **PREVENTED FROM BEING SCATTERED:**

42
43 ~~All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material,~~
44 ~~wire or metal binding, sacks or loose, discarded or unused material of any kind~~
45 ~~resulting from wrecking, constructing or reconstruction of any room, basement,~~

1 wall, fence or sidewalk or building shall be promptly removed or discarded in
2 such a manner as not to be scattered about by the wind or otherwise, and as soon
3 as possible be removed by the person responsible for such work. It is unlawful for
4 any person to fail to so remove or discard such building materials.
5

6 **A. As used in this section the following terms have the following meanings:**
7

8 **“completion of a construction project” means the first to occur of either:**
9

10 **1. the completion of a construction project and the issuance by the Town**
11 **of a final certificate of occupancy or final certificate of completion,**
12 **whichever is applicable; or**
13

14 **2. the suspension or revocation of the building permit for such**
15 **construction project.**
16

17 **“construction site” means the site of the demolition, construction or**
18 **reconstruction of a building, structure, wall, fence, sidewalk or any**
19 **portion thereof.**
20

21 **“construction materials” includes, without limitation, all plaster, broken**
22 **concrete, bricks, cinder blocks, stones, wood, roofing material, wire or**
23 **metal binding, wrapping, plastic sheeting, paper, sacks, or loose,**
24 **discarded or unused material of any kind used in connection with or**
25 **resulting from the demolition, construction or reconstruction of a**
26 **building, structure, wall, fence, sidewalk or any portion thereof.**
27

28 **“person responsible for the construction work” means the person to**
29 **whom the Town has issued a building permit authorizing such work, or if**
30 **no permit has been issued, the owner of the property upon which the**
31 **construction work was performed.**
32

33 **B. Prior to the completion of a construction project the person responsible**
34 **for the construction work shall secure all construction materials located**
35 **on the construction site and prevent them from being scattered off of the**
36 **construction site by the wind or other cause. This offense shall be a strict**
37 **liability offense and shall not require proof of intent.**
38

39 **C. Not later than the completion of a construction project the person**
40 **responsible for the construction work shall remove all construction**
41 **materials from the construction site and properly discard such materials**
42 **away from the construction site. This offense shall be a strict liability**
43 **offense and shall not require proof of intent.**
44

45 **Section 3.** Section 5-2-8 of the Breckenridge Town Code is amended so as to read in its
46 entirety as follows:

1
2 5-2-8: NOTICE TO ABATE:
3

4 In addition to any other remedy provided by law, the director of the department of
5 community development, or his designated agent, may give written notice to the
6 person in charge of any such premises within the town by certified or registered
7 mail, return receipt requested, directing the removal of weeds, or the removal of
8 an accumulation of rubbish, or both, and true copy of such notice shall at the same
9 time be mailed by registered or certified mail, return receipt requested, to the
10 owner of such property as shown upon the tax rolls of the county of Summit, at
11 the address of such owner as therein shown. Such notice shall state if such weeds
12 are not removed, or if such accumulation of rubbish is not removed within the
13 time stated in the notice (which shall not be less than 10 nor more than 20 days
14 from the date of the notice), the costs of such removal may be assessed against the
15 property (describing same) pursuant to the terms of this chapter, together with an
16 additional five percent (5%) for inspection and incidental costs and an additional
17 ten percent (10%) penalty for cost of collection, and collected in the same manner
18 as real estate taxes against the property
19

20 Section 34. Section 5-2-7 of the Breckenridge Town Code, entitled “Nuisance
21 Declared”, is amended to read in its entirety as follows:
22

23 5-2-7: NUISANCE DECLARED: A violation of either Section 5-2-4 or Section
24 5-2-5 of this chapter is declared to be a nuisance. The provisions of chapter 1 of
25 title 5 of this code shall apply to the abatement of such nuisance.
26

27 Section 45. Except as specifically amended hereby, the Breckenridge Town Code, and
28 the various secondary codes adopted by reference therein, shall continue in full force and effect.
29

30 Section 56. The Town Council hereby finds, determines and declares that it has the
31 power to adopt this ordinance pursuant to the provisions of: (i) Section 31-15-103, C.R.S.
32 (concerning municipal police powers); (ii) Section 31-15-401, C.R.S.(concerning municipal
33 police powers); and (iii) the powers possessed by home rule municipalities in Colorado.
34

35 Section 67. This ordinance shall be published and become effective as provided by
36 Section 5.9 of the Breckenridge Town Charter.
37

38 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
39 PUBLISHED IN FULL this ____ day of _____, 2009. A Public Hearing shall be held at the
40 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
41 _____, 2009, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
42 Town.
43

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

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SUMMARY OF PROPOSED MUTUAL EASEMENT AGREEMENT

1. Parties: Blue Front Office Suites, Inc. (“**Blue Front**”); GHW Associates (“**GHW**”); the Town; and the County.
2. Background: Blue Front owns Lot 40, Bartlett & Shock Addition, located at the intersection of Ridge St. and Lincoln Ave.. This is the old “Theobald” property. GHW owns Lot 41, which adjoins the Blue Front property to the west, and faces onto Lincoln. The Town and the County each own parcels which together form the public parking area behind Town Square.
3. Purpose: The agreement is intended to provide easements for that benefit the Town and County if a parking structure is ever built on the public parking lot. It also provides a public pedestrian access connecting the public parking lot and Lincoln Ave. In return, Blue Front and GHW get an access easement on the Town and County property behind their properties (on the public parking lot) to provide access to their future developments.
4. Identification of Easements: The agreement provides a series of easements, as follows:
 - (a) a “**Parking Easement**” granted to the Town and County by Blue Front and GHW;
 - (b) a “**Pedestrian Easement**” also granted to the Town and County by Blue Front and GHW;
 - (c) a “**Development Access Easement**” granted by to Blue Front and GHW by the Town and County; and
 - (d) mutual access easements granted by the Town and County to each other across the current public parking lot.

At the end of the proposed agreement in the agenda packet are three exhibits that clearly depict the Parking Easement (**Exhibit A**); the Pedestrian Easement (**Exhibit B**); and the Development Access Easement (**Exhibit C**). The mutual easement between the Town and the County is a general access easement over each parcel (see ¶17), so that the Town can have access across the County’s part of the public parking lot, and the County can have access across the Town’s part of the lot. There is no exhibit depicting the mutual easement between the Town and County. I encourage you to review the exhibits in connection with your review of this summary.

5. Explanation of Parking Requirements for Blue Front and GHW developments:
 - (a) (¶1G) Blue Front: 6.15 required parking spaces; 5.25 initially to be to be provided within the Parking Easement area, and .9 provided through the Parking District. Blue Front gets credit of 5.25 parking spaces against site’s parking requirement (¶5). If the Parking Structure is built, two of the 5.25 spaces initially located on the Parking Easement will be moved into the Parking Structure, and two of the required parking spaces will be provided underneath the Blue Front building. The remaining required parking spaces will be provided in undesignated parking

spaces within the Parking Structure. More specific details concerning the location of the Blue Front parking is provided in the agreement.

- (b) (§11H) GHW: 3 parking spaces initially provided within the Parking Easement. If the Structure is built, the 3 parking spaces will be moved into the Structure. GHW gets credit of 3 parking spaces against site's parking requirement (§5). If feasible, 1 parking space will be provided underneath the GHW Building. More specific details of the location of the GHW parking is provided in the agreement.
6. Special Details of Parking Easement (§§3-7; §19): The Town and County may use the Parking Easement for surface parking, and to construct the Parking Structure. Until Parking Structure constructed Blue Front and GHW reserves exclusive right to use the Parking Easement area. But if less than entire area of Parking Easement is reserved, Town and County may use unreserved part for public parking. Town and County will provide maintenance within the Parking Easement for any improvements made by them, including snow removal for parking spaces within the Parking Easement used by the public. May provide snow removal within the Parking Easement for Blue Front and GHW parking spaces, but no requirement to do so. If Parking Structure is constructed, Blue Front and GHW will upon request convey fee title to the governmental entity that constructed the structure free and clear of all liens and encumbrances. Also, if Parking Structure is built Blue Front/GHW can reserve the portion of the lower level confirming to the Parking Easement premises under the same terms and conditions as provided in the agreement.
7. Special Details of Pedestrian Easement (§§9-12): The Pedestrian Easement is to be used to provide public access across the Blue Front and GHW properties to Lincoln Ave. Can also be used for utility installations by any party. Blue Front/GHW will construct the required improvements to the Pedestrian Easement as part of their developments. Blue Front/GHW will maintain the Pedestrian Easement area.
8. Special Details of Development Access Easement (§§13-15): The Development Access Easement is to be used by Blue Front and GHW to provide vehicular and pedestrian access to their respective parcels. If the Structure is built, the Development Access Easement will continue across the lower level of the Structure and accommodate vehicular access to the parking spaces to be located on the bottom floor of the Blue Front/GHW buildings. Access to the Blue Front/GHW buildings will be from the existing north-south alley between Euro Deli and Salt Creek. Any improvements made to the Development Access Easement area by either Blue Front or GHW must be reviewed and approved by the Town and County. Blue Front/GHW will maintain any improvements constructed by them within the easement area. Town and County provide snow removal within the easement area.
9. License For Drainage (§16): In addition to the easements, the Town and the County grant Blue Front and GHW a revocable license for drainage from the roofs of the Blue Front/GHW buildings to the storm sewer in Lincoln Ave.

10. Special Details If Parking Structure Constructed: (§19): The agreement establishes certain specific rights and obligations of the parties in the event the Parking Structure is constructed.
11. Right to Relocate Easement (§20): The agreement establishes a procedure for any part to relocate one of the easements upon certain terms and conditions.
12. Right To Terminate Agreement (§21): Either the Town or County may, in their discretion and without liability, terminate the agreement before the Structure is constructed, or an agreement concerning the construction of the structure has been entered into. If the Town determines such continued use will not interfere with the Town's use of its property, upon termination agreement is terminated, Town will allow GHW to continue to obtain access to its building through the alley and GHW also can continue to park on the Town's part of the parking lot. Similarly, if the agreement is terminated Blue Front can take its access to the rear (northerly) side of its property from Ridge Street.
13. Right of First Offer (§22): If the County decides to sell its part of the public parking lot, it agrees to offer it first to the Town, Blue Front, and GHW. Town gets first chance to purchase the County property; if the Town doesn't want to buy the property Blue Front and GHW can. If neither Town, Blue Front, nor GHW want the property, County can sell the property to a third party. If either the Town, Blue Front, or GHW want to buy the property, the County will enter into a commercially reasonable contract for the sale. No agreement at this point on purchase price for the County property; just an obligation on the part of the County to offer it to Town, Blue Front, and GHW first before trying to sell to third party.
14. Indemnification (§28): The agreement contains a standard mutual indemnification provision.
15. Insurance (§31): The agreement contains a standard mutual insurance provision.

1 ***FOR WORKSESSION/FIRST READING – JULY 14***

2
3 COUNCIL BILL NO. ____

4
5 Series 2009

6
7 AN ORDINANCE APPROVING A MUTUAL EASEMENT AGREEMENT WITH BLUE
8 FRONT OFFICE SUITES, INC., GHW ASSOCIATES, AND THE BOARD OF COUNTY
9 COMMISSIONERS OF SUMMIT COUNTY, COLORADO
10 (Lots 37, 38, 39, 40 and 41, Bartlett and Shock Addition)

11
12 WHEREAS, a proposed “Mutual Easement Agreement” between the Town of
13 Breckenridge, Blue Front Office Suites, Inc., GHW Associates, and the Board of County
14 Commissioners has been prepared, a copy of which is marked Exhibit “A”, attached hereto and
15 incorporated herein by reference; and

16
17 WHEREAS, the Town Council has reviewed the proposed agreement and finds and
18 determines that it should be approved; and

19
20 WHEREAS, the proposed Mutual Easement Agreement involves, in part, the granting of
21 an easement across certain Town-owned real property described therein, and the Town Attorney
22 has informed the Town Council that, in his opinion, Section 15.3 of the Breckenridge Town
23 Charter requires that granting of such easement be authorized by ordinance.

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

27
28 Section 1. The proposed “Mutual Easement Agreement” between the Town, Blue Front
29 Office Suites, Inc., GHW Associates, and the Board of County is approved in substantially the
30 form attached as Exhibit “A” to this ordinance. The Town Manager is hereby authorized,
31 empowered, and directed to execute such agreement on behalf of the Town of Breckenridge the

32
33 Section 2. The Town Council hereby finds, determines and declares that it has the power
34 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
35 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

36
37 Section 3. This ordinance shall be published and become effective as provided by
38 Section 5.9 of the Breckenridge Town Charter.

39
40 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
41 PUBLISHED IN FULL this ____ day of _____, 2009. A Public Hearing shall be
42 held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the
43 ____ day of _____, 2009, at 7:30 P.M., or as soon thereafter as possible in the
44 Municipal Building of the Town.
45

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

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MUTUAL EASEMENT AGREEMENT

THIS MUTUAL EASEMENT AGREEMENT ("Agreement") is dated _____, 2009 and is between BLUE FRONT OFFICE SUITES, INC., a Colorado corporation, whose address is P.O. Box 1552, Breckenridge, Colorado 80424 ("Blue Front"), GHW ASSOCIATES, a Colorado general partnership, whose address is P.O. Box 1490, Breckenridge, Colorado 80424 ("GHW"), the TOWN OF BRECKENRIDGE, a Colorado municipal corporation, whose address is P. O. Box 168, Breckenridge, Colorado 80424 ("Town"), and the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO ("County"), whose address is P.O. Box 68, Breckenridge, Colorado 80424.

In consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants, and restrictions are made:

1. Recitals. The following recitals of fact are a material part of this instrument:

A. Blue Front is the owner of a tract of land described as follows and hereafter referred to as "Parcel 1":

Lot 40, Bartlett and Shock Addition to the Town of Breckenridge, County of Summit and State of Colorado

B. GHW is the owner of a tract of land described as follows and hereafter referred to as "Parcel 2":

Lot 41, Bartlett and Shock Addition to the Town of Breckenridge, County of Summit and State of Colorado

C. Town is the owner of a tract of land described as follows and hereafter referred to as "Parcel 3":

Lot 39 1/2 and the West one-half of Lots 37, 38, and 39, Bartlett and Shock Addition to the Town of Breckenridge, County of Summit and State of Colorado

D. County is the owner of a tract of land described as follows and hereafter referred to as "Parcel 4":

The East one-half of Lots 37, 38, and 39, Bartlett and Shock Addition to the Town of Breckenridge, County of Summit and State of Colorado

E. The Town and County have previously constructed a surface parking lot upon Parcels 3 and 4 and upon the northerly 18.0 feet of Parcels 1 and 2.

- 1 F. Blue Front, GHW, Town, and County each wish to grant and to receive certain
2 easements and rights over, under, and across those portions of Parcel 1, Parcel 2,
3 Parcel 3, and Parcel 4 as described in this Agreement. The easements that are
4 granted to the parties by this Agreement are depicted on the attached **Exhibits**
5 **“A”, “B” and “C,”** which are incorporated herein by reference.
- 6 G. Blue Front intends to construct a mixed use commercial and residential structure
7 on Parcel 1 consisting of five commercial units and one residential unit with two
8 residential apartments (**“Blue Front Building”**), and desires to obtain pedestrian
9 and vehicular access to the Blue Front Building through Parcels 3 and 4, and
10 through the Parking Structure (as defined herein) if it is constructed. Pursuant to
11 the Town’s development permit, the required parking for the Blue Front Building
12 is 6.15 parking spaces. Prior to the construction of the Parking Structure, the Blue
13 Front Building will have 5.25 parking spaces which will be provided within the
14 Parking Easement Premises (as hereafter defined); and .9 (nine-tenth) of a parking
15 space will be provided by paying into the Town’s Parking District. If the Parking
16 Structure is constructed by the Town and County, then:
- 17 i. two of the 5.25 parking spaces initially located on the Parking Easement
18 Premises will be moved into the Parking Structure, located within the
19 Parking Structure as close as possible to their location when they were
20 within the Parking Easement Premises and, if possible, directly to the
21 north of the entrance to the garage door into the lower level of the Blue
22 Front Building, and designated as parking for the Blue Front Building; and
- 23 ii. two of the required parking spaces will be provided underneath the Blue
24 Front Building; and the balance of the required parking will be provided in
25 undesignated parking spaces within the Parking Structure that are
26 available for use by the general public.
- 27 H. GHW intends to construct a mixed use commercial and residential structure with
28 one residential unit, on Parcel 2 (**“GHW Building”**), and desires to obtain
29 pedestrian and vehicular access to the GHW Building through Parcels 3 and 4,
30 and through the Parking Structure if it is constructed. Prior to the construction of
31 the Parking Structure the GHW Building will have 3.0 parking spaces which will
32 be provided within the Parking Easement Premises. If the Parking Structure is
33 constructed by the Town and County, then the 3.0 parking spaces initially located
34 on the Parking Easement Premises will be moved into the Parking Structure at the
35 same approximate location. However, if it is feasible to locate one parking space
36 underneath the GHW Building, then one parking space shall be provided
37 underneath the GHW Building, and the remaining parking spaces necessary to
38 meet the on-site required parking for the residential unit, up to a maximum of two
39 additional parking spaces, shall be provided in the Parking Structure. If possible
40 one of the additional parking spaces shall be located directly to the north of the
41 entrance to the garage door into the lower level of the GHW Building. All
42 parking spaces necessary to meet the on-site required parking for the residential

1 unit at the GHW Building shall be designated as parking for the GHW Building;
2 and the balance, if any, of the required parking will be provided in undesignated
3 parking spaces within the Parking Structure that are available for use by the
4 general public. If the GHW Building cannot accommodate an underground
5 parking space, then the parking spaces necessary to meet the on-site required
6 parking for the residential unit for the GHW Building will, up to a maximum of
7 three parking spaces, continue to be provided in the Parking Easement Premises
8 and then in the Parking Structure, and designated as parking for the GHW
9 Building, if the Parking Structure is constructed.

10 I. Blue Front and GHW intend to grant to the Town and County a pedestrian access
11 and utility easement over contiguous portions of Parcel 1 and Parcel 2, providing
12 for pedestrian access from Parcels 3 and 4 to Lincoln Avenue, and shall construct
13 and maintain certain improvements within said easement.

14 **I. PARKING EASEMENT**

15
16 2. Grant Of Parking Easement. Blue Front and GHW hereby grant and convey to the Town
17 and County, their successors and assigns, as an easement appurtenant to Parcel 3 and
18 Parcel 4, a perpetual, non-exclusive easement for the purposes stated in Section 3, below,
19 over, under, upon, in, across and through the following portions of Parcel 1 and Parcel 2,
20 to wit:

21 The northerly 18.0 feet of Lot 40 and the northerly 18.0 feet of Lot
22 41, Bartlett and Shock Addition to the Town of Breckenridge,
23 County of Summit and State of Colorado, as depicted on **Exhibit**
24 **“A” (“Parking Easement Premises”)**.

25
26 3. Use Of Parking Easement Premises. The Parking Easement Premises may only be used
27 for the following purposes:

- 28 A. to provide an area for the surface parking of vehicles (both motorized and non-
29 motorized) by the Town and County, their licensees, lessees, contractors,
30 employees, agents and the general public;

- 31 B. to construct a parking structure of not more than two levels at or above grade (and
32 such levels below grade as the Town or County may determine) and of such size,
33 design, and materials as the Town and County may determine (“**Parking**
34 **Structure**”) for use as a temporary storage facility for parked vehicles (both
35 motorized and non-motorized) including, but not limited to, the right to survey,
36 construct, repair, remove, replace, reconstruct, control, inspect, improve, enlarge
37 and maintain the Parking Structure. Nothing in this Agreement, however,
38 obligates either the Town or the County to construct the Parking Structure, and
39 such determination may be made by the Town and County in their sole and
40 absolute discretion;

- 1 C. to provide temporary construction access in connection with the construction of a
2 Parking Structure;
- 3 D. to provide public pedestrian and vehicular (both motorized and non-motorized)
4 ingress and egress for the Town and County, their licensees, lessees, contractors,
5 employees, agents, and the general public to and from Parcels 3 and 4; and
- 6 E. for the location, operation, and maintenance of underground utility transmission
7 lines, street lights, and appurtenances, over, under, upon, across, in and through
8 the Parking Easement Premises.

9 No other use of the Parking Easement Premises will be made or permitted by the
10 Town and County without Blue Front's and GHW's prior permission.

11
12 4. Maintenance Of Parking Easement Premises. The Town and County will, at their sole
13 cost, provide such maintenance, upkeep, repair, and replacement as may be required with
14 respect to any improvements made by it to the Parking Easement Premises. The Town
15 and County will provide at their sole cost any required snow and ice removal from any
16 parking spaces within the Parking Easement Premises used by the Town and County, and
17 Blue Front and GHW will provide at their sole cost any required snow and ice removal
18 for any parking spaces within the Parking Easement Premises not used by the Town and
19 County. The Town and County may in their discretion, but are not required to, provide
20 snow and ice removal from all of the parking spaces within the Parking Easement
21 Premises, whether used by the Town and County or not.

22 5. Blue Front's and GHW's Reserved Rights Regarding the Parking Easement Premises.
23 Until such time as the Town or County elects to construct the Parking Structure, Blue
24 Front, and GHW, their successors and assigns, reserves the right to the exclusive use of
25 the Parking Easement Premises, including the right to exclude access by a chain or
26 barricade; to tow or remove other vehicles from the Parking Easement Premises; and to
27 post appropriate signs notifying the public that the area is reserved for Blue Front's and
28 GHW's exclusive use. Provided, however, if Blue Front or GHW, their successors and
29 assigns, elect to reserve less than the entire Parking Easement Premises for their
30 exclusive use, the Town and County may use the non-reserved portion for the purposes
31 described in Section 3 of this Agreement. Blue Front shall be entitled to a total credit of
32 5.25 parking spaces against the parking requirement for the Blue Front Building as
33 provided in the Town's development permit approving such project. GHW shall be
34 entitled to a total credit of 3.0 parking spaces against the parking requirement for the
35 GHW Building as provided in the Town's development permit approving such project.
36 Blue Front and GHW shall be obligated to pay for any parking spaces in excess of the
37 credits provided in their development permits through the Town's Parking District. In
38 addition to the foregoing, Blue Front and GHW reserve the right to locate, operate, and
39 maintain underground utility transmission lines over, under, upon, across, in and through
40 the Parking Easement Premises, provided, however, that Blue Front and GHW shall use
41 their best efforts, in installing such lines, to allow for the future construction of the
42 Parking Structure in such a manner as will not require the relocation of such lines, and,

1 further, Blue Front and GHW acknowledge and agree that a temporary disruption of
2 service provided by such lines shall be allowed during the construction of the Parking
3 Structure.

4 6. Conveyance of Fee Title. If either the Town, the County or both the Town and County
5 construct a Parking Structure on the Parking Easement Premises Blue Front and GHW
6 will, upon the request of whichever governmental entity constructed the Parking
7 Structure ("**Constructing Governmental Entity**"), convey the Parking Easement Premises
8 to the Constructing Governmental Entity by special warranty deed free and clear of all
9 liens and encumbrances, except for the lien of the general property taxes for the year in
10 which the conveyance is made. Upon the conveyance of the Parking Easement Premises
11 to the Constructing Government Entity pursuant to this Section, the Parking Easement
12 conveyed to the Town and County pursuant to Section 2 of this Agreement will be
13 extinguished and merged with the Constructing Governmental Entity's ownership of the
14 fee simple absolute title to the land.

15 7. No Previous Adverse Use By Town or County. The parties acknowledge and agree that
16 any use of the Parking Easement Premises by the Town, the County or the general public
17 prior to the execution of this Agreement was consensual and not adverse to the owners of
18 Parcel 1 and Parcel 2.

19 II. PEDESTRIAN EASEMENT

20
21 8. Grant of Pedestrian Easement. Blue Front and GHW hereby grant and convey to the
22 Town and County, their successors and assigns, as an easement appurtenant to Parcel 3
23 and Parcel 4, a perpetual, non-exclusive easement for the purposes stated in Section 9
24 below, over, under, upon, in, across and through the following real property situate in the
25 County of Summit and State of Colorado, to wit:

26 See the attached **Exhibit "B"**

27
28 ("**Pedestrian Easement Premises**").

29
30 9. Use of Pedestrian Easement. The Pedestrian Easement Premises may only be used to
31 provide public pedestrian ingress and egress for the Town and County, their licensees,
32 lessees, contractors, employees, agents, and the general public to and from the Parking
33 Easement Premises (and the Parking Structure, if constructed) and Lincoln Avenue. No
34 other use of the Pedestrian Easement Premises will be made or permitted by the Town
35 and County without Blue Front and GHW's prior permission. The Pedestrian Easement
36 Premises may be used by any party to this Agreement to install and maintain
37 underground utilities lines and facilities. The Pedestrian Easement Premises shall also be
38 an easement appurtenant to all other parcels described herein for the location, operation,
39 and maintenance of underground utility transmission lines and appurtenances over, under,
40 upon, across, in and through said Pedestrian Easement Premises, provided, however, that
41 the owner of the parcel benefiting from such utility lines shall replace and/or repair the

1 surface of said Pedestrian Easement Premises whenever such surface is disturbed as the
2 result of such location, operation and/or maintenance.

3 10. Construction of Pedestrian Easement Premises. Blue Front will, at its cost and expense,
4 construct the improvements to the Pedestrian Easement Premises in a manner that
5 accommodates pedestrian access from the existing parking lot located on Parcel 3 and
6 Parcel 4 and in a manner permitting the direct connection of the Parking Easement
7 Premises with the Parking Structure. Blue Front will also design and improve the
8 Pedestrian Easement Premises so that it will have a hard surface of a material approved
9 by the Town and slope to Lincoln Avenue to accommodate handicapped persons. Such
10 improvements may also include a snowmelt system. The construction of the
11 improvements to the Pedestrian Easement Premises will be completed by Blue Front
12 prior to the issuance of a certificate of occupancy for the Blue Front Building.

13 11. Maintenance Of Pedestrian Easement Premises. Blue Front and GHW will, at their sole
14 cost, provide such maintenance, upkeep, repair, and replacement as may be required with
15 respect to the improvements to the Pedestrian Easement Premises, as well as any required
16 snow and ice removal from the Pedestrian Easement Premises.

17 12. Right of GHW to Temporarily Encroach. GHW shall have the right to temporarily
18 encroach on and remove a portion of the improvements constructed on the Pedestrian
19 Easement, if necessary in order to construct a foundation for the GHW building.
20 Provided, that the period of the encroachment and blockage shall be limited to the extent
21 feasible, and GHW shall submit a proposed closure schedule for review and approval by
22 the Town and County prior to exercising any rights under this Section. Further provided,
23 that GHW shall promptly restore all improvements to their former condition at its sole
24 cost

25 III. ACCESS EASEMENT AND LICENSE FOR DEVELOPMENT

26
27 13. Grant of Access Easement For Development. The Town and County hereby grant and
28 convey to Blue Front and GHW, their successors and assigns, as an easement appurtenant
29 to Parcel 1 and Parcel 2 (including the Parking Easement Premises), a perpetual, non-
30 exclusive easement for ingress and egress, by vehicles and pedestrians, over, in, across
31 and through those portions of Parcel 3 and Parcel 4 which are labeled as the
32 “Development Access Easement” on **Exhibit “C”** (“*Development Access Easement*
33 *Premises*”).

34 14. Development Access Easement If Parking Structure Constructed. If a Parking Structure is
35 constructed on the Parking Easement Premises, the Development Access Easement will
36 continue across the lower level of the Parking Structure, and accommodate vehicular
37 access to parking spaces to be located on the bottom floor of the Blue Front Building,
38 and, if appropriate, the GHW Building. Further, in such event, vehicular access to the
39 Blue Front and GHW Buildings and the Parking Easement Premises across the Parking
40 Structure will be obtained from the existing alley north-south alley adjacent to and
41 westerly of Lot 39 ½, Abbett Addition to the Town of Breckenridge (“**Alley**”). Except as

1 specifically provided in this Agreement, the Town and County will take no action to
2 vacate the Alley or otherwise unreasonably restrict vehicular access from the Alley to the
3 Parking Easement Premises without the prior written consent of Blue Front and GHW.

4 15. Maintenance Of Development Access Easement Premises. Any improvements proposed
5 to be made by Blue Front or GHW to the Development Access Easement Premises must
6 be reviewed and approved by the Town and the County prior to commencement. Blue
7 Front and GHW will, at their sole cost, provide such maintenance, upkeep, repair, and
8 replacement as may be required with respect to any approved improvements made by
9 them to the Development Access Easement Premises. The Town and County will further
10 provide at their sole cost any required snow and ice removal from the Development
11 Access Easement Premises consistent with the snow and ice removal provided for the
12 remainder of the parking lot constructed upon Parcels 3 and 4.

13 16. License For Drainage. Town and County hereby grant to Blue Front and GHW a
14 revocable license for drainage from the roofs of the Blue Front Building and the GHW
15 Building to the adjacent storm sewer located in Lincoln Avenue. Any connection
16 proposed to be made to the Town's storm sewer system by Blue Front or GHW must be
17 reviewed and approved by the Town and the County prior to such connection being
18 made.

19 **IV. MUTUAL EASEMENT GRANTS BETWEEN TOWN AND COUNTY**

20
21 17. Mutual Grants To and From Town and County Property. The Town grants and conveys
22 to the County, its successors and assigns, as an easement appurtenant to Parcel 4, a
23 perpetual, non-exclusive easement for ingress and egress, by vehicles and pedestrians,
24 and vehicular parking, over, in, across and through Parcel 3. The County grants and
25 conveys to the Town, its successors and assigns, as an easement appurtenant to Parcel 3,
26 a perpetual, non-exclusive easement for ingress and egress, by vehicles and pedestrians,
27 and vehicular parking, over, in, across and through Parcel 4.

28 18. No Restriction. Neither the Town nor the County will take any action to unreasonably
29 restrict the rights granted to the other party pursuant to Section 17 of this Agreement

30 **V. SPECIAL PROVISIONS IF PARKING STRUCTURE CONSTRUCTED**

31
32 19. Special Provisions If Parking Structure Constructed. If the Town and County elect to
33 construct a Parking Structure on Parcel 3, Parcel 4 and the Parking Easement Premises,
34 the following provisions shall apply:

35 A. The Town and County shall have a temporary construction easement over, under,
36 upon, across, in and through such portion of Parcels 1 and 2 as is reasonably
37 necessary in order to facilitate the construction of such Parking Structure,
38 provided, however, such easement shall be limited to that portion of Parcels 1 and
39 2 that are to the north of the northerly foundation wall of any improvements
40 constructed upon Parcels 1 and 2, and provided further that the Town and County

1 shall, at all times during and following the construction of the Parking Structure,
2 insure proper and appropriate support for all improvements located upon Parcels 1
3 and 2, and further shall restore all improvements disturbed as the result of such
4 construction activities to the same or better condition as existed prior to the onset
5 of such construction activities.

6 B. Blue Front and GHW, their successors and assigns, will be permitted to reserve
7 that portion of the lower level of the Parking Structure which conforms to the
8 Parking Easement Premises under the same terms and conditions as are provided
9 in Section 5 of this Agreement.

10 C. The Development Access Easement Premises will be modified to coincide with
11 the drive aisles of the lower level of the Parking Structure and to accommodate
12 vehicular access to the parking spaces to be located on the bottom floor of the
13 Blue Front Building and, if applicable, to the GHW Building, and reserved spaces
14 directly to the north of the Blue Front and GHW Buildings. Once the relocated
15 Development Access Easement Premises are identified, the parties shall execute
16 and record an appropriate amendment to this Agreement describing and depicting
17 the relocated Development Access Easement Premises, and any other agreed
18 changes to this Agreement pertaining to the use and maintenance of the
19 Development Access Easement Premises.

20 D. During the construction of the Parking Structure the Town and the County shall
21 reserve five parking spaces on Ridge Street adjacent to Parcel 1 for the exclusive
22 use of the occupants of the residential units in the Blue Front Building and three
23 spaces for use of the occupants of the residential unit in the GHW Building. Such
24 use shall be without time restrictions. The special right described in this
25 Subsection shall terminate when the Parking Structure is complete and parking for
26 the occupants of the residential units in the Blue Front and GHW Buildings are
27 available within the Parking Structure.

28 **V. RIGHT TO RELOCATE EASEMENT**

29
30 20. Relocation Of An Easement. Any party may propose to relocate any easement that it has
31 granted pursuant to this Agreement in accordance with the following procedures:

32 A. The party proposing the relocation must first notify all of the other parties of the
33 proposed relocation by mailing notice to such parties in accordance with Section
34 33. Such notice must be mailed not less than 90 days prior to the commencement
35 of the proposed relocation. The notice must include a description of the proposed
36 relocation, including a legal description and a survey or map showing the
37 proposed relocated easement premises ("**Relocated Easement Premises**"), and the
38 probable commencement and completion dates of the relocation.

39 B. Within 60 days of receipt of the notice of proposed relocation as provided above,
40 any party to this Agreement adversely affected by the relocation may approve or

1 reject the proposed relocation. No party will unreasonably withhold its consent to
2 a proposed relocation of an easement. A party's failure to reject the proposed
3 relocation within such 60 day period will be deemed to be an approval of the
4 proposed relocation. No easement may be relocated if any party timely objects to
5 such relocation.

6 C. If an easement is relocated as provided in this Section 20, the party proposing the
7 relocation shall, at its sole cost, improve the Relocated Easement Premises so that
8 the Relocated Easement Premises are fully comparable to the easement that
9 existed immediately prior to the relocation.

10 D. At the completion of the relocation, the parties shall execute and record an
11 appropriate amendment to this Agreement describing and depicting the Relocated
12 Easement Premises in form and substance reasonably acceptable each of them.

13 **VI. RIGHT TO TERMINATE AGREEMENT**

14
15 21. Town and County Right To Terminate Agreement.

16 A. This Agreement may be terminated by the Town or the County, in their sole and
17 absolute discretion, at any time without liability for breach of this Agreement at
18 any time before either:

- 19 i. the Parking Structure has been constructed; or
- 20 ii. the parties, or their successors or assigns, have entered into an enforceable
21 agreement concerning the construction of the Parking Structure.

22 To cause termination pursuant to this Section 21 the Town or the County (whichever
23 entity desires to terminate this Agreement) shall provide all other parties with written
24 notice of termination in the manner provided in Section 33. The notice of termination
25 shall specify the effective date of termination, which shall be the longer of the following
26 time periods: (i) 180 days after the notice has been given; or (ii) the next September 30th
27 following the giving of the notice of termination (it being the intent of the parties that at
28 least one building season shall pass before the effective date of termination of this
29 Agreement). Upon the effective date of termination, this Agreement shall terminate and
30 each party shall be released from any further duties or obligations under this Agreement
31 except for the indemnity obligations of this Agreement; provided, however, that in the
32 event either the Town or County has elected to terminate this Agreement as provided
33 above, the following provisions of the Agreement shall survive such termination:

- 34 i. The provisions of Section 8 which permit the use of the
35 Pedestrian Easement Premises to install and maintain underground
36 utility lines and services and the obligation to repair and restore the
37 surface whenever it is disturbed as a result thereof;

- 1 ii. The right to temporarily encroach as set forth in Section 12; and
2
3 iii. The license for drainage set forth in Section 16.
4 B. If this Agreement is terminated by either the Town or the Country pursuant to this
5 Section 21, and if the Town determines that GHW's use of Parcel 3 for ingress
6 and egress will not substantially interfere with the Town's use of such parcel,
7 then:
- 8 i. the Town will allow GHW to continue to obtain access to the GHW
9 Building through the Alley; and
10
11 ii. GHW will allow the Town to continue to use that part of the Parking
12 Easement located on Parcel 2.
13
- 14 If the provisions of this Subsection B are implemented, the Town and GHW will
15 enter into a separate easement agreement setting forth the terms and conditions of
16 the Town's use of Parcel 2 and GHW's use of the Alley.
- 17 C. If this Agreement is terminated by either the Town or the County, the Town and
18 the County agree that Blue Front may then obtain vehicular and pedestrian access
19 to the rear (northerly side) of the Blue Front Building from Ridge Street.
20 However, such access will be limited to residential use only. Blue Front's rights
21 under this Subsection C shall survive the termination of this Agreement and
22 continue to be fully enforceable thereafter.

VI. RIGHT OF FIRST OFFER

22. Right of First Offer.

- 25 A. County agrees not to sell Parcel 4, or any portion thereof, without first offering
26 such property to the Town, Blue Front and GHW for purchase. This section
27 creates a right of first offer to purchase Parcel 4, or any portion thereof, according
28 to the terms of this Section.
- 29 B. The right of first offer created by this Section 22 shall be honored by County and
30 exercised by the Town, Blue Front and GHW in the following manner:
- 31 i. If the County desires to sell Parcel 4, or any portion thereof, County shall
32 first send a written offer to the Town, Blue Front and GHW. The offer
33 shall describe the land proposed to be sold, and shall state a specified price
34 and all principal terms and conditions of the proposed sale.
- 35 ii. If Town desires to accept the County's offer, the Town shall notify the
36 County, Blue Front and GHW in writing within 15 business days of the
37 Town's receipt of the County's offer. If the Town elects not to accept the
38 County's offer, it shall notify the County, Blue Front and GHW in writing

1 within the 15 business day period. The failure of the Town to give notice
2 of acceptance of the County's offer within the 15 business day period will
3 conclusively be deemed to be an election by the Town not to accept the
4 County's offer.

5 iii. If the Town elects not to accept the County's offer, or is deemed not to
6 have accepted the County's offer through inaction as described in
7 Subsection 22(B)(ii), above, Blue Front shall have the next right to accept
8 the County's offer. If Blue Front desires to accept the County's offer, Blue
9 Front shall notify the County and GHW in writing within 5 business days
10 of Blue Front's receipt of the Town's notice that the Town is not going to
11 accept the County's offer, or 5 business days from the date the Town is
12 deemed not to have elected the purchase the property, whichever is
13 applicable. The failure of Blue Front to give notice of acceptance of the
14 County's offer within the applicable 5 business day period will
15 conclusively be deemed to be an election by Blue Front not to accept the
16 County's offer.

17 iv. If neither the Town nor Blue Front elect to accept the County's offer, or is
18 deemed not to have accepted the County's offer through inaction as
19 described in Subsections 22(B)(ii) and 21(B)(iii), above, GHW shall have
20 the final right to accept the County's offer. If GHW desires to accept the
21 County's offer, GHW shall notify the County in writing within 5 business
22 days of GHW's receipt of Blue Front's notice that Blue Front is not going
23 to accept the County's offer, or 5 business days from the date Blue Front
24 is deemed not to have elected the purchase the property, whichever is
25 applicable. The failure of GHW to give notice of acceptance of the
26 County's offer within the applicable 5 business day period will
27 conclusively be deemed to be an election by GHW not to accept the
28 County's offer.

29 v. If neither the Town, Blue Front nor GHW elect to accept the County's
30 offer, the County may sell the property (or the portion offered to the
31 Town, Blue Front and GHW) to any party whomever upon terms and
32 conditions that are substantially similar to those in the County's offer, but
33 not for a price that is less than 90 percent of the County's offer. .

34 vi. If either the Town, Blue Front or GHW elect to accept the County's offer
35 (the "**Accepting Party**"), the County and the Accepting Party shall in good
36 faith negotiate and attempt to reach a commercially reasonable contract for
37 the purchase and sale of the property that was the subject of the County's
38 offer. If the County and the Accepting Party have not signed a bona fide
39 contract for the sale and purchase of the property within 20 business days
40 after notice of acceptance of the County's offer has been given, the
41 County may sell the property (or the portion offered to the Town, Blue
42 Front and GHW) to any party whomever, upon terms and conditions that

1 are substantially similar to those in the County's offer, but not for a price
2 that is less than 90 percent of the County's offer.

3 **VII. GENERALLY APPLICABLE PROVISIONS**
4

5 23. Title Insurance. Should the recipient of an easement granted by this Agreement so desire,
6 it may, at its cost, apply forthwith for a title insurance policy insuring the easement
7 hereby granted, and the party granting such easement will make available for inspection
8 by the title company any and all evidence of title in its possession.

9 24. Landowner's Use Of Easement Premises. Each party granting an easement pursuant to
10 this Agreement has the right to use and occupy the granted Easement Premises for any
11 purpose not inconsistent with the easement recipient's (or the general public's, as
12 applicable) full and complete enjoyment of the rights hereby granted.

13 25. Improvements. Each recipient of an easement granted by this Agreement may construct
14 upon the granted Easement Premises, at its sole cost, any and all improvements necessary
15 or desirable in order to make the granted Easement Premises useable for the allowed
16 purposes. Each easement recipient will indemnify and defend the party granting the
17 easement from all costs (including reasonable attorney's fees, expert witness fees and
18 court costs) arising out of the construction by it of improvements to the granted Easement
19 Premises.

20 26. Non-Waiver Of Governmental Immunity. The parties hereto understand and agree that
21 the Town and County are relying on, and do not waive or intend to waive by any
22 provision of this Agreement, the monetary limitations (presently \$150,000 per person and
23 \$600,000 per occurrence) or any other rights, immunities, and protections provided by
24 the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from
25 time to time amended ("Act"), or any other law or limitation otherwise available to the
26 Town and County, their officers, or their employees.

27 27. Duty Of Care. Each recipient of an easement granted by this Agreement will exercise the
28 rights herein granted to it with due care.

29 28. Indemnification.

30 A. Indemnification By Town. To the extent of the limits of liability established from
31 time to time by the Act, or other applicable law, the Town will indemnify and
32 defend Blue Front and GHW from all claims, demands, judgments, and causes of
33 action (including reasonable attorney's fees, expert witness fees and court costs)
34 arising from the use of the Parking Easement Premises and the Pedestrian
35 Easement Premises by the Town, its successors, licensees, lessees, contractors and
36 assigns, as well as the general public; provided, however, the Town has no
37 obligation under this Section to the extent any claim, demand, judgment, or cause
38 of action is caused by the negligence or wrongful act of Blue Front, GHW, and
39 their respective agents, employees, officers, contractors, licensees, lessees,

1 successors or assigns, or Blue Front or GHW’s breach of this Agreement; and,
2 provided further, that the Town’s obligation under this Subsection will in no event
3 exceed the monetary limitations established from time to time by the Act.

4 B. Indemnification By County. To the extent of the limits of liability established
5 from time to time by the Act, or other applicable law, the County will indemnify
6 and defend Blue Front and GHW from all claims, demands, judgments, and
7 causes of action (including reasonable attorney's fees, expert witness fees and
8 court costs) arising from the use of the Parking Easement Premises and the
9 Pedestrian Easement Premises by the County, its successors, licensees, lessees,
10 contractors and assigns, as well as the general public; provided, however, the
11 County has no obligation under this Section to the extent any claim, demand,
12 judgment, or cause of action is caused by the negligence or wrongful act of Blue
13 Front, GHW, and their respective agents, employees, officers, contractors,
14 licensees, lessees, successors or assigns, or Blue Front or GHW’s breach of this
15 Agreement; and, provided further, that the County's obligation under this
16 Subsection will in no event exceed the monetary limitations established from time
17 to time by the Act.

18 C. Indemnification By Blue Front. Blue Front will indemnify and defend Town and
19 County from all claims, demands, judgments and causes of action (including
20 reasonable attorney's fees, expert witness fees and court costs) arising from the
21 use of either the Development Access Easement Premises, the Pedestrian
22 Easement Premises, or both the Development Access Easement Premises and the
23 Pedestrian Easement Premises by Blue Front, its successors, licensees, lessees,
24 contractors and assigns; provided, however, Blue Front has no obligation under
25 this Section to the extent any claim, demand, judgment, or cause of action is
26 caused by the negligence or wrongful act of either Town, County, or their
27 respective agents, employees, officers, contractors, licensees, lessees, successors
28 or assigns, or the Town or County’s breach of this Agreement.

29 D. Indemnification By GHW. GHW will indemnify and defend Town and County
30 from all claims, demands, judgments and causes of action (including reasonable
31 attorney's fees, expert witness fees and court costs) arising from the use of either
32 the Development Access Easement Premises, the Pedestrian Easement Premises
33 or , or both the Development Access Easement Premises and the Pedestrian
34 Easement Premises by GHW, its successors, licensees, lessees, contractors and
35 assigns; ,provided, however, GHW has no obligation under this Section to the
36 extent any claim, demand, judgment, or cause of action is caused by the
37 negligence or wrongful act of either Town, County, or their respective agents,
38 employees, officers, contractors, licensees, lessees, successors or assigns, or the
39 Town or County’s breach of this Agreement.

40 29. Attorney’s Fees. If any action is brought in a court of law by any party to this Agreement
41 concerning the enforcement, interpretation or construction of this Agreement, the
42 prevailing party, either at trial or upon appeal, is entitled to reasonable attorney’s fees, as

1 well as costs, including expert witness' fees, incurred in the prosecution or defense of
2 such action.

3 30. No Effect on Density. Neither the execution of this Agreement nor the future conveyance
4 of fee title to the Parking Easement Premises as contemplated by Section 6 of this
5 Agreement shall affect the amount of buildable density which may lawfully be
6 constructed on either Parcel 1, Parcel 2 or Parcel 4 under the Town's land use regulations
7 as in effect as of the date of this Agreement, or as subsequently amended. Nothing in this
8 Agreement: (i) is a site-specific approval of the development of Parcel 1, Parcel 2 or
9 Parcel 4; (ii) modifies or limits the requirements of the Town's land use regulations in
10 effect at the time of the execution of this Agreement; or (iii) obligates the Town to
11 approve the development of Parcel 1, Parcel 2 or Parcel 4. The development of Parcel 1
12 and Parcel 2 requires development permits issued by the Town pursuant to its land use
13 regulations in effect at the time development of such parcels is approved.

14 31. Insurance.

15 A. Town and County Insurance. Town and County will at all times maintain
16 comprehensive general liability insurance with limits of liability not less than the
17 limits of liability for local governmental entities established from time to time by
18 the Act. Copies of such insurance be available for inspection by Agreement or at
19 the Town and County's business offices in Breckenridge, Colorado during normal
20 business hours.

21 B. Blue Front and GHW Insurance. Blue Front and GHW will at all times maintain
22 comprehensive general liability insurance with limits of not less than One Million
23 Dollars (\$1,000,000) combined single limits. The policy will be applicable to all
24 premises and operations. The policy will include coverage for bodily injury, broad
25 form property damage (including completed operations), personal injury
26 (including coverage for contractual and employee's acts), blanket contractual,
27 products, and completed operations. In the case of any claims-made policy, the
28 necessary retroactive dates and extended reporting periods will be procured to
29 maintain such continuous coverages. The policies required by this Subsection will
30 be endorsed to include the Town and County as additional insureds. Blue Front
31 and GHW are solely responsible for any deductible losses under any policy
32 required above. An ACORD Form 27, or other certificate of insurance acceptable
33 to Town and County, will be completed by Blue Front and GHW's insurance
34 agents and provided to the Town and County as evidence that policies providing
35 the required coverages, conditions, and minimum limits are in full force and effect
36 and must be reviewed and approved by the Town and County prior to
37 commencement of this Agreement, and on each renewal or replacement of such
38 insurance policies. The certificate will identify this Agreement and provide that
39 the coverages afforded under the policies will not be cancelled or terminated until
40 at least 30 days' prior written notice has been given to the Town and County. The
41 completed certificate of insurance be sent to:

1 Town Clerk
2 Town of Breckenridge
3 P.O. Box 168
4 Breckenridge, Colorado 80424
5

6 AND
7

8 Clerk and Recorder
9 Summit County Government
10 P.O. Box 68
11 Breckenridge, Colorado 80424
12

13 32. Default; Right To Cure. The obligations of the parties under this Agreement are
14 specifically enforceable. If any party materially defaults in the performance of the
15 material covenants or agreements to be kept, done, or performed by it under the terms of
16 this Agreement, the non-defaulting parties may notify the defaulting party in writing of
17 the nature of such default. Within 20 days following receipt of such notice the defaulting
18 party will correct such default or, in the event of a default not capable of being corrected
19 within 20 days, the defaulting party will commence correcting the default within 20 days
20 of receipt of notification thereof and thereafter correct the default with due diligence. If
21 the defaulting party fails to correct the default as provided above, the non-defaulting
22 party, without further notice, has the right to obtain from any court of competent
23 jurisdiction a temporary restraining order, preliminary injunction, and permanent
24 injunction to obtain such performance. Any equitable relief provided for in this Section
25 may be sought singly or in combination with such legal remedies as the non-defaulting
26 party may be entitled to under the laws of the State of Colorado.

27 33. Notice. Each party's initial address is set forth in the introductory paragraph of this
28 Agreement. Any party may lodge written notice of change of address with the other
29 parties. All notices must be sent by U.S. mail, certified, return receipt requested, to the
30 addresses provided in the introductory paragraph of this Agreement or, if any party no
31 longer owns its respective parcel, then a notice intended for the subsequent owner(s) of
32 such parcel may be sent to the address to which tax bills for such parcel are sent by the
33 Summit County, Colorado Treasurer. Any notice will be deemed given and received
34 when placed in the mail. The affidavit of the person depositing the notice in the U.S. Post
35 Office receptacle is evidence of such mailing.

36 34. Non-Use Of Easement Premises. Non-use or limited use of any easement herein granted
37 does not prevent the recipient of such easement from thereafter making use of such
38 easement to the full extent herein authorized.

39 35. Construction. The rule of strict construction does not apply to this Agreement. This
40 Agreement is to be given a reasonable construction so that the intentions of the parties to
41 confer to the parties the several easements described in this Agreement are carried out.
42 No extrinsic evidence may be admitted in any action to interpret or construe this
43 Agreement.

- 1 36. Applicable Law. This Agreement is to be interpreted in all respects in accordance with
2 the laws of the State of Colorado.
- 3 37. Termination Of Covenant Liability. Whenever a transfer of ownership of any parcel of
4 land that is subject to this Agreement takes place, the liability of the transferor for breach
5 of covenant occurring thereafter automatically terminates.
- 6 38. Release Of Easement. The recipient of an easement granted and conveyed by this
7 Agreement may terminate and reconvey such easement by recording a release in
8 recordable form with directions for delivery of the release to the owner of the parcel
9 burdened by such easement at such party's last address given pursuant hereto, whereupon
10 all rights, duties, and liabilities hereby created with respect to such easement will
11 terminate. For convenience, such instrument may run to "the owner or owners and parties
12 interested" in the parcel burdened by the released easement. The release of one easement
13 granted and conveyed by this Agreement will not affect the other granted easements
14 granted and conveyed by this Agreement without the express written consent of the
15 recipient(s) of the easement to be released.
- 16 39. No Adverse Construction. All parties acknowledge having had the opportunity to
17 participate in the drafting of this Agreement. This Agreement is not to be construed
18 against any party based upon authorship.
- 19 40. Modification. This Agreement may be modified or amended only by a duly authorized
20 written instrument executed by all of the parties hereto or, if less than all parcels are
21 affected by the modification or amendment, by a duly authorized written instrument
22 executed by those parties affected by such modification or amendment. Oral amendments
23 to this Agreement are not permitted.
- 24 41. Waiver. The failure of any party to exercise any of its rights under this Agreement is not
25 a waiver of those rights. A party waives only those rights specified in writing and signed
26 by the party waiving such rights.
- 27 42. Terminology. Wherever applicable, the pronouns in this Agreement designating the
28 masculine or neuter apply equally to the feminine, neuter and masculine genders.
29 Furthermore, wherever applicable within this Agreement, the singular include the plural,
30 and the plural includes the singular. "Shall" and "will" each indicate a mandatory
31 obligation to do or perform the described act or action.
- 32 43. Entire Agreement. This Agreement constitutes the entire agreement and understanding
33 between the parties and supersedes any prior agreement or understanding, written or oral,
34 relating to the subject matter of this Agreement.
- 35 44. Recording. A copy of this Agreement SHALL BE RECORDED with the Clerk and
36 Recorder of Summit County, Colorado.

1 45. Running Of Benefits And Burdens. All provisions of this instrument, including the
2 benefits and burdens, run with the land and are binding upon and inure to the successors,
3 assigns, and tenants of the parties hereto.

4 BLUE FRONT OFFICE SUITES, INC., a Colorado
5 corporation

6
7
8
9 By: _____

10 Title: _____

11
12
13 GHW ASSOCIATES, a Colorado general
14 partnership

15
16
17
18 By: _____

19 Title: _____

20
21
22 TOWN OF BRECKENRIDGE, a Colorado
23 municipal corporation

24
25
26 By _____
27 Timothy J. Gagen, Town Manager

28 ATTEST:
29
30
31 _____
32 Mary Jean Loufek, CMC,
33 Town Clerk
34

BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO

By: _____

Title: Chair

ATTEST:

Clerk and Recorder and ex-officio
Clerk to the Board of County Commissioners

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day
of _____, 2009, by _____, as
_____ of Blue Front Office Suites, Inc., a Colorado
corporation.

WITNESS my hand and official seal.
My commission expires: _____.

Notary Public

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STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day
of _____, 2009, by _____, as
_____ of GHW Associates, a Colorado general
partnership.

WITNESS my hand and official seal.
My commission expires: _____.

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day
of _____, 2009, by Timothy J. Gagen, Town Manager, and Mary Jean Loufek,
CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.
My commission expires: _____.

Notary Public

1 STATE OF COLORADO)
2) ss.
3 COUNTY OF SUMMIT)
4

5 The foregoing instrument was acknowledged before me this ____ day
6 of _____, 2009, by _____, as Chair of the
7 Board of County Commissioners of Summit County, Colorado and _____,
8 as Clerk and Recorder and ex-officio clerk to the Board of County Commissioners of Summit
9 County, Colorado.

10
11 WITNESS my hand and official seal.

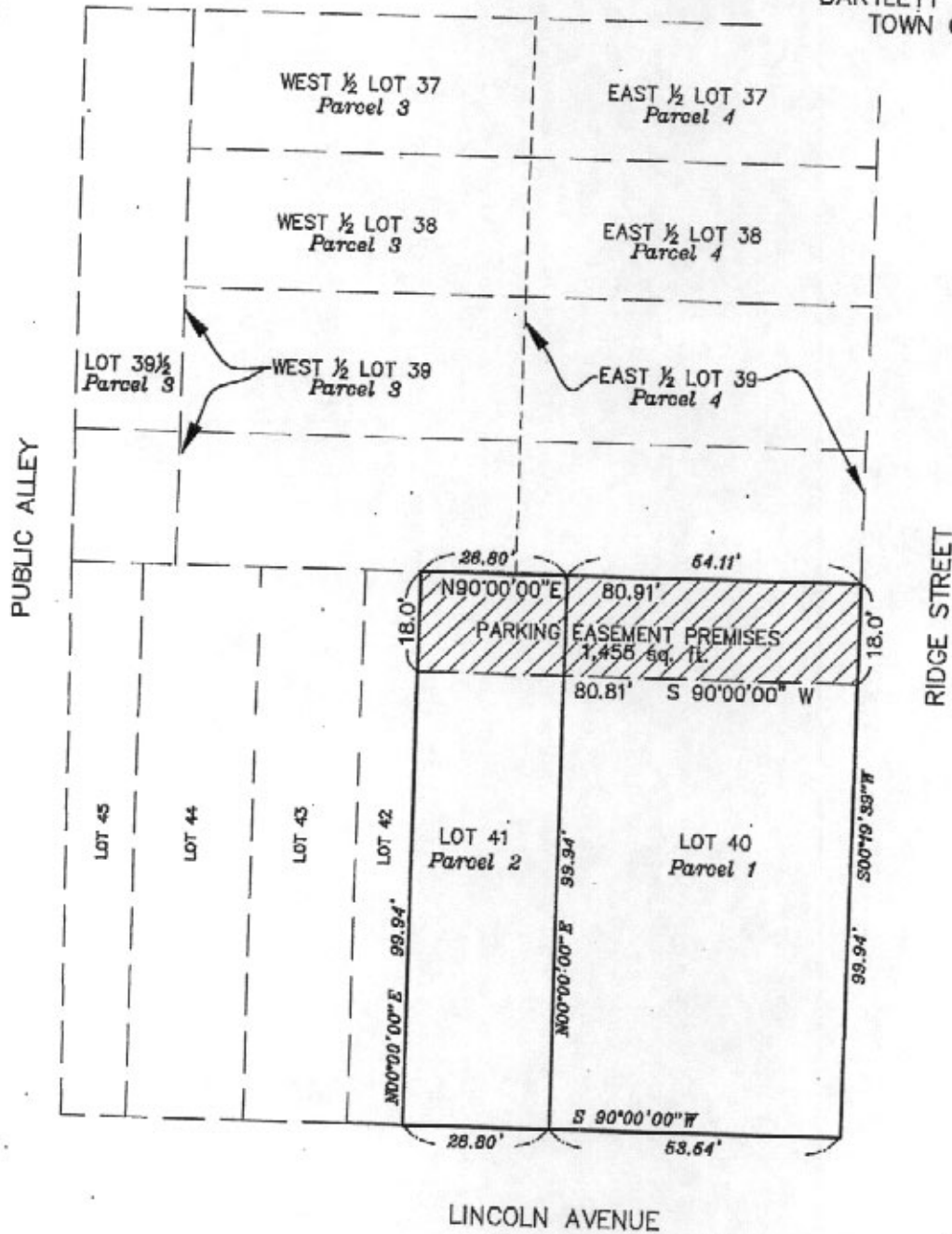
12
13 My commission expires: _____.

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18 Notary Public
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EXHIBIT "A"

PARKING EASEMENT PREMISES

LOTS 40 AND 41
BARTLETT AND SHOCK ADDITION
TOWN OF BRECKENRIDGE



GRAPHIC SCALE
1 inch = 30 ft.

 **SCHMIDT**
LAND SURVEYING, INC.
P.O. Box 5761
FRISCO, CO 80443 978-109-3363

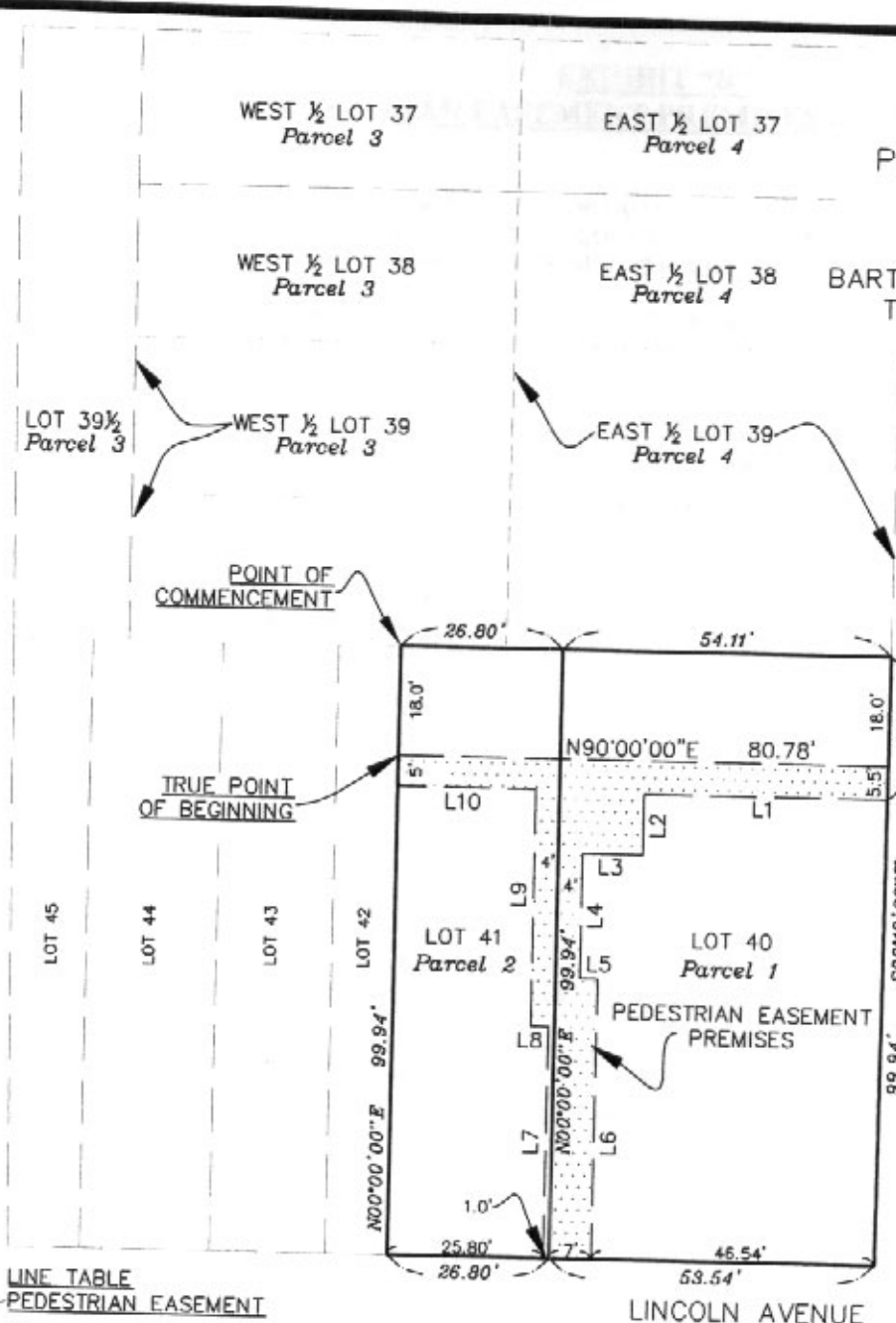
EXHIBIT "B"

PEDESTRIAN EASEMENT PREMISES

LOTS 40 AND 41
BARTLETT AND SHOCK ADDITION
TOWN OF BRECKENRIDGE

PUBLIC ALLEY

RIDGE STREET



LINE TABLE
PEDESTRIAN EASEMENT

| LINE | BEARING | LENGTH |
|------|-------------|--------|
| L1 | N90°00'00"W | 39.98' |
| L2 | S00°00'00"W | 10.00' |
| L3 | N90°00'00"W | 10.00' |
| L4 | S00°00'00"W | 20.44' |
| L5 | N90°00'00"E | 3.00' |
| L6 | S00°00'00"W | 46.00' |
| L7 | N00°00'00"E | 38.00' |
| L8 | N90°00'00"W | 3.00' |
| L9 | N00°00'00"E | 38.94' |
| L10 | N90°00'00"W | 22.80' |



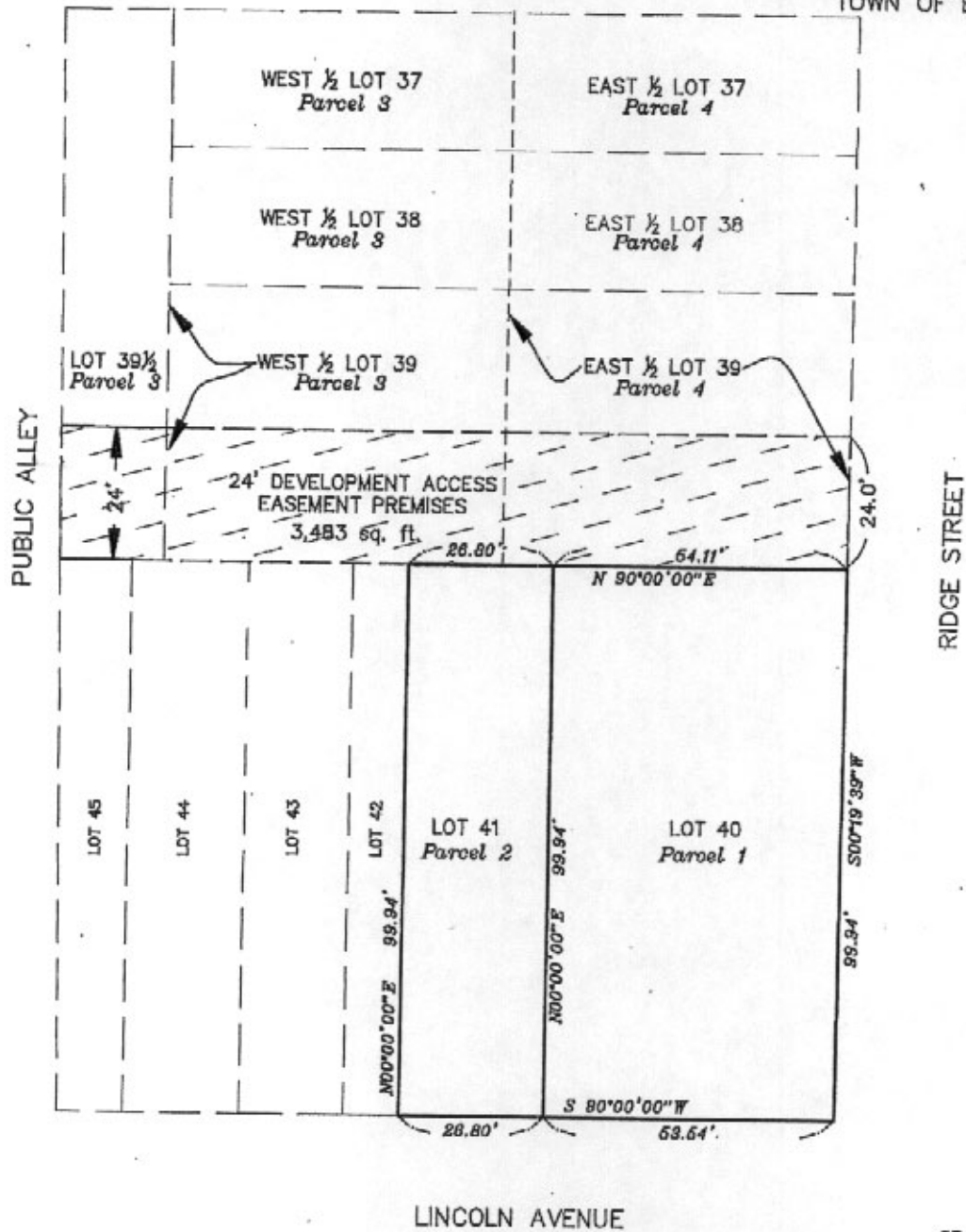
GRAPHIC SCALE
1 inch = 30 ft.

SCHMIDT
LAND SURVEYING, INC.
Page 95 of 116
P.O. Box 5761
FRISCO, CO 80443 970-409-9963

EXHIBIT "C"

DEVELOPMENT ACCESS
EASEMENT PREMISES

LOTS 40 AND 41
BARTLETT AND SHOCK ADDITION
TOWN OF BRECKENRIDGE



RIDGE STREET



GRAPHIC SCALE
1 inch = 30 ft.

LINCOLN AVENUE

SCHMIDT
LAND SURVEYING, INC.
P.O. Box 526
FRISCO, CO. 80443 970-409-9953



MEMORANDUM

TO: Town Council

FROM: Julia Puester, AICP

DATE: July, 7, 2009 for meeting of July 14, 2009

SUBJECT: First Reading- Landmarking the Silverthorne House and Carriage Barn, 300 North Main Street

Enclosed with this memo is a landmarking ordinance at first reading for the Silverthorne house and carriage barn located at 300 North Main Street. The property that is the subject of the ordinance is:

An Ordinance Designating Certain Real Property
As A Landmark Under Chapter 11 Of Title 9 Of The Breckenridge Town Code
(South 60 Feet of Lots 22 and 22½, Snider Addition, and the North 15 Feet of Lot 60 and 61
Bartlett and Shock Addition)

The Town Council approved the Silverthorne House Property Re-Development and Landmarking, PC #2007004 on June 9, 2009. The same application included the restoration the historic house and carriage barn on the property. The Planning Commission approved this project on June 2, 2009 and recommended that the Town Council adopt both structures as local landmarks. Landmarking the property was placed as a condition of approval for the Development Permit.

Staff will be available at the meeting for questions.

1 **FOR WORKSESSION/FIRST READING – JULY 14**

2
3 COUNCIL BILL NO. _____

4
5 Series 2009

6
7 AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK
8 UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE
9 (Silverthorne House and Carriage Barn–South 60 Feet of Lots 22 and 22½, Snider Addition, and
10 the North 15 Feet of Lot 60 and 61 Bartlett and Shock Addition)

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

14
15 Section 1. Findings. The Town Council of the Town of Breckenridge hereby finds and
16 determines as follows:

17
18 A. Dave Hartman and Liz Hartman own the hereinafter described real property.
19 Such real property is located within the corporate limits of the Town of Breckenridge,
20 County of Summit and State of Colorado.

21
22 B. Dave Hartman and Liz Hartman filed an application with the Town pursuant
23 to Chapter 11 of Title 9 of the Breckenridge Town Code seeking to have the Town
24 designate the hereinafter described real property as a landmark (“Application”).

25
26 C. The Town followed all of procedural requirements of Chapter 11 of Title 9 of
27 the Breckenridge Town Code in connection with the processing of the Application.

28
29 D. The hereinafter described real property is more than fifty (50) years old.

30
31 E. The hereinafter described real property meets the “architectural” designation
32 criteria for a landmark as set forth in Section 9-11-4(A)(1)(a) of the Breckenridge Town
33 Code because the property:

- 34
35 (i) exemplifies specific elements of architectural style or period;
36 (ii) is of a style particularly associated with the Breckenridge area; and
37 (iii) represents a built environment of a group of people in an era of history.

38
39 F. The hereinafter described real property meets the “social” designation criteria
40 for a landmark as set forth in Section 9-11-4(A)(1)(b) of the Breckenridge Town Code
41 because the area is associated with a notable person or the work of a notable person.

42
43 G. The hereinafter described real property meets the “physical integrity” criteria
44 for a landmark as set forth in Section 9-11-4(A)(3)(a) of the Breckenridge Town Code
45 because the property the property shows character, interest or value as part of the

1 development, heritage or cultural characteristics of the community, region, state or
2 nation.

3
4 H. In accordance with the requirements of Section 9-11-3(B)(3) of the
5 Breckenridge Town Code, on June 2, 2009 the Application was reviewed by the
6 Breckenridge Planning Commission. On such date the Planning Commission
7 recommended to the Town Council that the Application be granted.

8
9 I. The Application meets the applicable requirements of Chapter 11 of Title 9 of
10 the Breckenridge Town Code, and should be granted without conditions.

11
12 J. Section 9-11-3(B)(4) of the Breckenridge Town Code requires that final
13 approval of an application for landmark designation under Chapter 11 of Title 9 of the
14 Breckenridge Town Code be made by ordinance duly adopted by the Town Council.

15
16 Section 2. Designation of Property as Landmark. The following described real
17 property situate in the Town of Breckenridge, County of Summit, and State of Colorado,
18 to wit:

19
20 The South 60 feet of Lot or M.C. #22 and the South 60 feet of Lot No. 22½ ,
21 Snider's Addition, and the North 15 feet of Lot 60 and 61, Bartlett and Shock
22 Addition to the Town of Breckenridge, as shown the plats thereof filed in the
23 office of the Clerk and Recorder of Summit County, Colorado; commonly known
24 and described as 300 North Main Street, Breckenridge, Colorado 80424

25
26 is hereby designated as a landmark pursuant to Chapter 11 of Title 9 of the Breckenridge
27 Town Code.

28
29 Section 3. Police Power Finding. The Town Council hereby finds, determines and
30 declares that this ordinance is necessary and proper to provide for the safety, preserve the health,
31 promote the prosperity, and improve the order, comfort and convenience of the Town of
32 Breckenridge and the inhabitants thereof.

33
34 Section 4. Town Authority. The Town Council hereby finds, determines and declares
35 that it has the power to adopt this ordinance pursuant to the authority granted to home rule
36 municipalities by Article XX of the Colorado Constitution and the powers contained in the
37 Breckenridge Town Charter.

38
39 Section 5. Effective Date. This ordinance shall be published and become effective as
40 provided by Section 5.9 of the Breckenridge Town Charter.

41
42 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
43 PUBLISHED IN FULL this ____ day of _____, 2009. A Public Hearing shall be held at the
44 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
45 _____, 2009, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
46 Town.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

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MEMORANDUM

TO: Town Council

FROM: Glen Morgan, Chief Building Official

DATE: July, 2009 for meeting of July 14, 2009

SUBJECT: Building Code Elevator Standards

The North West Colorado Council of Governments (NWCOG) has been carrying out elevator and escalator inspections on behalf of the Town since 1992. Recently SB 07-123 (The Elevator and Escalator Act) and SB 08-224 concerning elevator and escalator regulations were passed by the State.

The new regulations require any organization that approves and inspects elevators and escalators to enter into a Memorandum of Agreement (MOA) with the Division of Oil and Public Safety (OPS). NWCOG has entered into a MOA with the State and has been identified as an Approved Authority Having Jurisdiction.

As a participant of the NWCOG elevator inspection program the Town signed a new Letter of Agreement with NWCOG in July 2008, which reflects the requirements of the Act. The letter of agreement requires the Town to adopt the same standards that have been adopted by the OPS by December 31, 2010.

The attached proposed ordinance will amend the Town's Building Code to reference the updated standards adopted by the OPS for elevators and escalators.

1 **FOR WORKSESSION/FIRST READING – JULY 14**

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By **Bold + Dbl Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. ____

7
8 Series 2009

9
10 AN ORDINANCE AMENDING THE INTERNATIONAL BUILDING CODE, 2006 EDITION,
11 ADOPTED BY REFERENCE IN CHAPTER 1 OF TITLE 8 OF THE BRECKENRIDGE
12 TOWN CODE, BY ADOPTING BY REFERENCE CERTAIN NEW AND UPDATED
13 STANDARDS PROMULGATED BY THE AMERICAN SOCIETY OF MECHANICAL
14 ENGINEERS CONCERNING ELEVATORS, ESCALATORS, AND SIMILAR FORMS OF
15 CONVEYANCE

16
17 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
18 COLORADO:

19
20 Section 1. Section 8-1-4 of the Breckenridge Town Code, entitled “Amendments to the
21 International Building Code”, is hereby amended by the addition of the following additional
22 amendments to be placed at the end of Section 8-1-4:

23
24 **The following amendments are made to the list of the “Referenced**
25 **Standards” of the American Society of Mechanical Engineers (ASME)**
26 **contained in Chapter 35 of this code:**

- 27
28 1. **The reference to standard A17.1–04, entitled “Safety Code For**
29 **Elevators and Escalators with A17.1a-2005 addenda and A17.1S**
30 **Supplement 2005” is deleted, and replaced with a reference to**
31 **standard A17.1–2007/CSA B44-07, entitled “Safety Code For**
32 **Elevators and Escalators.” ASME Standard A17.1–2007/CSA B44-**
33 **07, entitled “Safety Code For Elevators and Escalators”, is hereby**
34 **adopted by reference and made a part of this code.**
35
36 2. **The reference to standard A18.1–03, entitled “Safety Standard for**
37 **Platform Lifts and Stairway Chairlifts” is deleted, and replaced with**
38 **a reference to standard A18.1–2005, entitled “Safety Standard For**
39 **Platform Lifts and Stairway Chairlifts.” ASME Standard A18.1–2005,**
40 **entitled “Safety Standard For Platform Lifts and Stairway**
41 **Chairlifts”, is hereby adopted by reference and made a part of this**
42 **code.**
43
44 3. **Standard A17.3–2005, entitled “Safety Code For Existing Elevators**
45 **and Escalators”, is adopted by reference and made a part of this code.**
46

MEMO

TO: Town Council

FROM: Laurie Best, Community Development Department

RE: Vic's Landing-FHA compliant deed restriction

DATE: July 6, 2009 (for July 14th)

Enclosed in your packets is a resolution approving an amendment to the "Vic's landing Employee Housing Restrictive Covenant and Agreement". The amendment was drafted to satisfy FHA underwriting criteria and once the amendment is executed the deed restricted units in Vic's Landing will be eligible for FHA-insured mortgage loans. A copy of the amendment is included in your packet.

The "Amendment to Vic's Landing Employee Housing Restrictive Covenant and Agreement" has been approved by HUD/FHA. Before it can be recorded it must be signed by both the Town and by Vic's Landing, LLC. Thomas Silengo has reviewed the amendment and supports the amendment because it provides additional mortgage options. As you may recall Vic's Landing is targeted to 80% and 100% AMI households and falls within the FHA's income guidelines.

The amendment modifies the original covenant as follows:

- In the event of a foreclosure or deed in lieu of foreclosure of a HUD insured mortgage the restrictive covenant will automatically and permanently terminate. The provision requiring the Town's Deed of Trust to be a first lien does not apply to a HUD insured mortgage. Owners are required to provide notice to the Town when a foreclosure of a HUD insured mortgage is commenced or when they are more than 21 days late on a payment that is required to avoid foreclosure of a HUD insured mortgage. The Town has certain rights to acquire an owners' interest (in the event of a HUD insured mortgage) in order to avoid a foreclosure or to redeem the property after a foreclosure.
- The restrictive covenant does not cause a conveyance (HUD insured mortgage) to be void or voidable, be the basis of contractual liability, terminate or be subject to termination, be subject to consent of a third party, be subject to limits on sales proceeds (except as provided below), be grounds for accelerating the mortgage, or be grounds for increasing the interest rate.

- **The maximum resale price must allow for capital improvements, sales commission, and accrued negative amortization. The Town is in the process of creating administrative rules and regulations to implement the resale price calculations.**

Staff believes that FHA/HUD financing is important and we recommend approval of the amendment. Since FHA does require the termination of the deed restriction in the event of foreclosure there is a risk that the Town may have to exercise its option to acquire the unit in order to preserve the deed restriction. We will be available during the worksession to discuss the amendment. The resolution authorizing the Town manager to execute the amendment is schedule for your consideration during the evening meeting.

1 **FOR WORKSESSION/ADOPTION – JULY 14**

2
3 A RESOLUTION

4
5 SERIES 2009

6
7 A RESOLUTION APPROVING THE “AMENDMENT
8 TO VIC’S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANT AND
9 AGREEMENT”

10
11 WHEREAS, Vic’s Landing, LLC, a Colorado limited liability company, and the Town of
12 Breckenridge entered into that “Vic’s Landing Employee Housing Restrictive Covenant and
13 Agreement”, dated October 5, 2006 and recorded October 5, 2006 under Reception No. 834975
14 of the records of the Clerk and Recorded of Summit County, Colorado (“Restrictive Covenant”);
15 and

16
17 WHEREAS, Section 12 of the Restrictive Covenant authorizes Developer and Town to
18 amend the Restrictive Covenant; and

19
20 WHEREAS, Developer and Town desire to amend the Restrictive Covenant as hereafter
21 set forth; and

22
23 WHEREAS, Developer and Town find, determine, and declare that the amendments to
24 the Restrictive Covenant contained in this Amendment amend the Affordability Restrictions of
25 the Restrictive Covenant in a way that makes the Restrictive Covenant less restrictive on the Unit
26 Owners (as defined in the Restrictive Covenant) within the meaning of Section 12(A) of the
27 Restrictive Covenant.

28
29 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
30 BRECKENRIDGE, COLORADO, as follows:

31
32 Section 1. The proposed” Amendment To Vic’s Landing Employee Housing Restrictive
33 Covenant and Agreement” (Exhibit “A” hereto) is approved, and the Town Manager is hereby
34 authorized to execute such document for and on behalf of the Town of Breckenridge.

35
36 Section 2. This resolution shall become effective upon its adoption.

37
38 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2009.

39
40 TOWN OF BRECKENRIDGE

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43
44 By _____
45 John G. Warner, Mayor

1 ATTEST:

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Mary Jean Loufek,
CMC, Town Clerk

APPROVED IN FORM

Town Attorney Date

1 ***DRAFT December 2, 2008 DRAFT***

2
3 Additions To The Current Restrictive Covenant Are
4 Indicated By Bold + Dbl Underline; Deletions By ~~Strikeout~~

5
6 **AMENDMENT**
7 **TO**
8 **VIC’S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANT AND**
9 **AGREEMENT**

10
11 This Amendment to Vic’s Landing Employee Housing Restrictive Covenant and
12 Agreement (“*Amendment*”) is dated _____, 200__ and is made by
13 the VIC’S LANDING, LLC, a Colorado limited liability company (“*Developer*”) and the
14 TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“*Town*”).

15
16 **WITNESSETH:**

17
18 WHEREAS, Developer and Town entered into that “Vic’s Landing Employee
19 Housing Restrictive Covenant and Agreement”, dated October 5, 2006 and recorded
20 October 5, 2006 under Reception No. 834975 of the records of the Clerk and Recorded of
21 Summit County, Colorado (“*Restrictive Covenant*”); and

22
23 WHEREAS, Section 12 of the Restrictive Covenant authorizes Developer and
24 Town to amend the Restrictive Covenant; and

25
26 WHEREAS, Developer and Town desire to amend the Restrictive Covenant as
27 hereafter set forth; and

28
29 WHEREAS, Developer and Town find, determine, and declare that the
30 amendments to the Restrictive Covenant contained in this Amendment amend the
31 Affordability Restrictions of the Restrictive Covenant in a way that makes the Restrictive
32 Covenant less restrictive on the Unit Owners (as defined in the Restrictive Covenant)
33 within the meaning of Section 12(A) of the Restrictive Covenant.

34
35 **NOW, THEREFORE,** the parties agree as follows:

- 36
37 1. Subsection 5(E) of the Restrictive Covenant is hereby amended so as to
38 read in its entirety as follows:

39 E. Appreciating Limiting Promissory Note and Deed of Trust. At the
40 time of each sale of a Residential Unit, beginning with the first such sale
41 by Developer to a Unit Owner, the purchaser(s) of each Residential Unit
42 shall execute an Appreciating Limiting Promissory Note in the form
43 attached hereto as **Exhibit B**, or such other form as may be adopted from

AMENDMENT
TO
VIC’S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANTS AND AGREEMENT

1 time to time by the Town which is consistent with the intent of this
2 **Restrictive** Covenant (“Note”), together with a form of Deed of Trust to a
3 public trustee encumbering the Residential Unit to secure strict
4 compliance with the terms of the Note. The deed of trust shall contain a
5 strict due on sale provision and shall be in form and substance acceptable
6 to the Town Attorney of the Town (“Deed of Trust”). **Except as provided**
7 **in Subsection 6.5 of this Restrictive Covenant with respect to HUD**
8 **Insured Mortgages, the Deed of Trust shall create a first lien on the**
9 **Residential Unit, subordinate and inferior only to the lien of the**
10 **general property taxes.** At the time of each closing of the transfer of title
11 to a Residential Unit, a new Note shall be executed by the purchaser(s)
12 and delivered to the Town and a new Deed of Trust shall be executed by
13 the purchaser(s) and recorded in the Summit County, Colorado real estate
14 records. At the time of closing of each transfer of title to a Residential
15 Unit subsequent to the first transfer by Developer, the Town shall
16 determine whether the transfer complies with the requirements of this
17 Restrictive Covenant. If the transfer complies with the requirements of
18 this Restrictive Covenant, the Town shall mark the selling Unit Owner’s
19 Note as paid and execute a request for release of deed of trust on
20 verification to the Town, by the title company or other independent agent
21 responsible for closing on the transfer of title to a Residential Unit, that the
22 amount paid for the purchase of the Residential Unit does not exceed the
23 Maximum Allowed Sale Price or that, if the price exceeds the Maximum
24 Allowed Sale Price, the amount of such excess will be paid to the Town.
25 If title to a Residential Unit is transferred without obtaining the release of
26 a Deed of Trust securing a Note in favor of the Town, the Town, among
27 other rights available to it, shall have the right to foreclose said Deed of
28 Trust.

- 29 2. The Restrictive Covenant is amended by adding a new Section 6.5, to be
30 entitled “HUD Insured Mortgages”, which shall read in its entirety as
31 follows:

32 **6.5 HUD Insured Mortgages.**

- 33 A. **This Section 6.5 applies only to a mortgage encumbering a**
34 **Residential Unit that is insured by HUD under the National**
35 **Housing Act and other authorities. This Section 6.5 does not**
36 **apply to other types or categories of mortgage loans.**
- 37 B. **The intent of this Section 6.5 is to satisfy the requirements of**
38 **the applicable HUD regulations, currently set forth at 24**
39 **C.E.R. §203.41, so that a Unit Owner may obtain a HUD**
40 **Insured Mortgage on a Residential Unit. This Section shall be**

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1 interpreted and applied at all times in a manner that is
2 consistent with this intent.

3 C. As used in this Section 6.5, the following terms have the
4 following meanings, unless the context clearly requires
5 otherwise:

- 6 i. “Director” means the Town’s Director of the
7 Department of Community Development, or such
8 person’s designee.
- 9 ii. “HUD” means the United States Department of
10 Housing and Urban Development, or any authorized
11 agency or department thereof.
- 12 iii. “HUD Insured Mortgage” means a mortgage insured
13 by HUD under the National Housing Act and other
14 authorities.
- 15 iv. “Mortgage” includes both a mortgage and a deed of
16 trust.
- 17 v. “Mortgaged Property” means the Residential Unit
18 encumbered by the Mortgage.
- 19 vi. “Secretary” means the Secretary of Housing and Urban
20 Development, or such person’s authorized designee.

21 D. The provisions of this Restrictive Covenant will automatically
22 and permanently terminate as to a Residential Unit if title to
23 the Residential Unit is transferred by foreclosure or deed-in-
24 lieu of foreclosure, or if the mortgage is assigned to the
25 Secretary. The provisions of Section 5(E) of the Restrictive
26 Covenant requiring the Deed of Trust securing the
27 Appreciation Limiting Promissory Note to be a first lien on the
28 Residential Unit do not apply to a HUD Insured Mortgage, and
29 a HUD Insured Mortgage shall have priority over the Deed of
30 Trust securing the Appreciation Limiting Promissory Note.

31 E. Nothing in this Restrictive Covenant shall be interpreted or
32 construed to cause a conveyance of a Residential Unit
33 (including a lease) made by the borrower of a HUD Insured
34 Mortgage to:

- 35 i. Be void, or voidable by a third party;

AMENDMENT
TO
VIC’S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANTS AND AGREEMENT

- 1 ii. Be the basis of contractual liability of the borrower;
- 2 iii. Terminate, or subject to termination, the borrower's
3 interest in the Residential Unit;
- 4 iv. Be subject to the consent of a third party;
- 5 v. Be subject to limits on the amount of sales proceeds a
6 borrower can retain, except as provided in Subsection
7 F, below;
- 8 vi. Be grounds for accelerating the insured mortgage; or
- 9 vii. Be grounds for increasing the interest rate of the
10 insured mortgage.

11 If there is a HUD Insured Mortgage, the provisions of Section 9
12 (Equitable Relief) and Section 10 (Liquidated Damages) of the
13 Restrictive Covenant do not apply to the enforcement of the
14 Resale Restrictions of Section 5 of this Restrictive by the Town.
15 Without limiting the generality of the preceding sentence,
16 neither specific performance nor injunctive or other equitable
17 relief shall be available to the Town to enforce the Resale
18 Restrictions of Section 5 of the Restrictive Covenant.

19 F. The Maximum Resale Price for which a Residential Unit may
20 be sold shall be as set forth in Section 5 of the Restrictive
21 Covenant; provided, however, that if market conditions allow,
22 the selling Unit Owner is permitted to recover at least the
23 original purchase price paid for the Residential Unit, sales
24 commissions actually paid by the selling Unit Owner to
25 procure a ready, willing and able purchaser, cost of capital
26 improvements made by the selling Unit Owner, and any
27 accrued negative amortization if the Residential Unit was
28 financed with a graduated payment mortgage. The Director
29 shall promulgate administrative rules and regulations to
30 properly implement the provisions of this Subsection F. Such
31 rules and regulations shall be consistent with this Subsection F,
32 and the applicable federal laws and regulations pertaining to
33 HUD Insured Mortgages.

34 G. Town's Right to Acquire Unit Owner's Interest

- 35 i. The Unit Owner agrees that he or she will give
36 immediate notice to the Town upon the first to occur of:

1 (1) the date any notice of foreclosure is provided to
2 the Unit Owner or any foreclosure is commenced
3 against the Residential Unit under a HUD
4 Insured Mortgage, or

5 (2) the date when the Unit Owner becomes twenty-
6 one (21) days late in making a payment on any
7 indebtedness encumbering the Residential Unit
8 required to avoid foreclosure of the HUD
9 Insured Mortgage.

10 ii. At any time within sixty (60) days after receipt of any
11 notice described in Subsection (G)(i) above, the Town
12 may (but is not be obligated to) make any payment
13 required in order to avoid foreclosure or to redeem the
14 Residential Unit after a foreclosure. Upon making any
15 such payment, the Town shall succeed to all rights of
16 the Unit Owner with respect to the Residential Unit,
17 and the Town shall assume all of the Unit Owner's
18 rights and obligations under the HUD Insured
19 Mortgage, subject to the terms of the Restrictive
20 Covenant. In such event the Unit Owner shall forthwith
21 vacate the Residential Unit and relinquish possession
22 thereof to the Town.

23 iii. The Unit Owner may redeem his or her interest in the
24 Residential Unit by payment to the Town of all sums
25 paid by the Town in connection with the HUD Insured
26 Mortgage, and all other sums reasonably expended by
27 the Town in relation to the Residential Unit, plus
28 eighteen (18) percent simple interest from each date of
29 expenditure. This redemption may only occur within
30 120 days of the date when the Town made the first of
31 any payments due pursuant to Subsection (G)(i) above.
32 As of the date of such redemption, the Unit Owner shall
33 re-assume all of his or her rights and obligations under
34 the HUD Insured Mortgage, and shall be entitled to re-
35 assume possession of the Residential Unit. At the end of
36 such 120 day redemption period, if the Unit Owner's
37 interest has not been so redeemed, all of the Unit
38 Owner's right, title and interest in the Residential Unit
39 shall forever be extinguished, and the Unit Owner shall
40 execute, acknowledge and deliver to the Town a quit
41 claim deed to evidence the transfer of legal title to the
42 Residential Unit to the Town. If the Unit Owner fails or

AMENDMENT
TO
VIC'S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANTS AND AGREEMENT

refuses to execute such a deed after being sent a written request therefor by the Town, the Town may execute it on behalf of the Unit Owner as the Unit Owner's attorney-in-fact.

3. To the extent of any conflict between the provisions of this Amendment and the Restrictive Covenant, the provisions of this Amendment shall control.

4. Defined terms used in this Amendment shall have the same meaning as provided in the Restrictive Covenant.

5. Except as amended by this Amendment, the Restrictive Covenant shall continue in full force and effect.

6. In case any one or more of the provisions of this Amendment, or any application hereof, shall be finally declared by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, then:

A. such provision shall be stricken from this Amendment;

B. the Restrictive Covenant shall continue in full force and effect as if the stricken portion of this Amendment had not been executed; and

C. the validity, legality and enforceability of the remaining provisions of this Amendment shall not in any way be affected or impaired thereby.

If the entirety of this Amendment, or any application hereof, shall be finally declared by a court of competent jurisdiction invalid, illegal or unenforceable for any reason, then:

A. the Restrictive Covenant shall continue in full force and effect as if this Amendment had not been executed; and

B. (b) the validity, legality and enforceability of the Restrictive Covenant, or any application thereof, shall not in any way be affected or impaired thereby.

**AMENDMENT
TO
VIC'S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANTS AND AGREEMENT**

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Timothy J. Gagen, Town Manager

Address:
P. O. Box 168
Breckenridge, CO 80424

VIC'S LANDING, LLC, a Colorado limited
liability company

By: _____
Thomas Silengo, Manager

Address:
P.O. Box 5684
Frisco, CO 80443

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day
of _____, 200__, by Thomas Silengo, as Manager of Vic's Landing, LLC, a
Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

**AMENDMENT
TO
VIC'S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANTS AND AGREEMENT**

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STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

**AMENDMENT
TO
VIC’S LANDING EMPLOYEE HOUSING RESTRICTIVE COVENANTS AND AGREEMENT**



Scheduled Meetings, Important Dates and Events

Shading indicates Council attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them. All Council Meetings are held in the Council Chambers, 150 Ski Hill Road, Breckenridge.

JULY 2009

| | |
|-------------------------------|-------------------------------------|
| Friday, July 3 | Town Hall Closed |
| Tuesday, July 14; 3:00/7:30pm | First Meeting of the Month |
| Friday, July 17; 8am | Coffee Talk; Cool River Coffeehouse |
| Tuesday, July 28; 3:00/7:30pm | Second Meeting of the Month |
| Wednesday, July 29 | BRC Annual Meeting |

AUGUST 2009

| | |
|---------------------------------|---------------------------------------|
| Wednesday, August 5 | County Fleet Building Ground Breaking |
| Tuesday, August 11; 3:00/7:30pm | First Meeting of the Month |
| Thursday, August 20 | TOB Employee Picnic |
| Tuesday, August 25; 3:00/7:30pm | Second Meeting of the Month |
| Thursday, August 27-28 | CAST Meeting & Dinner in Breckenridge |

OTHER MEETINGS

| | |
|--|--|
| 1 st & 3 rd Tuesday of the Month; 7:00pm | Planning Commission; Council Chambers |
| 1 st Wednesday of the Month; 4:00pm | Public Art Commission; 3 rd floor Conf Room |
| 2 nd & 4 th Tuesday of the Month; 1:30pm | Board of County Commissioners; County |
| 2 nd Wednesday of the Month; 12 pm | Breckenridge Heritage Alliance |
| 2 nd Thursday of the Month; 5:30pm | Sanitation District |
| 3 rd Monday of the Month; 5:30pm | BOSAC; 3 rd floor Conf Room |
| 3 rd Thursday of the Month; 7:00pm | Red White and Blue; Main Fire Station |
| 4 th Wednesday of the Month; 9am | Summit Combined Housing Authority |
| Last Wednesday of the Month; 8am | Breckenridge Resort Chamber; BRC Offices |