



**TOWN OF
BRECKENRIDGE**

Town Council Regular Meeting
Tuesday, August 10, 2021, 7:00 PM
Town Hall Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE IS NOW HOLDING HYBRID MEETINGS. THIS MEETING WILL BE HELD IN PERSON AT BRECKENRIDGE TOWN HALL. ALL MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. MASKS ARE RECOMMENDED FOR UNVACCINATED INDIVIDUALS. IN PERSON ATTENDEES MUST NOT ACCESS THE VIRTUAL MEETING WHILE IN COUNCIL CHAMBERS. This meeting will also be broadcast live over Zoom. Log-in information is available in the calendar section of our website: www.townofbreckenridge.com. Questions and comments can be submitted prior to the meeting to Mayor@townofbreckenridge.com.

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - JULY 27, 2021

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

- A. CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)
- B. BRECKENRIDGE TOURISM OFFICE UPDATE

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2021

- 1. *COUNCIL BILL NO. 21, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE DEVELOPMENT CODE," CONCERNING RECREATIONAL AND LEISURE AMENITY CLUBS; AND AMENDING CHAPTER 3 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE OFF STREET PARKING ORDINANCE," CONCERNING REQUIRED OFF STREET PARKING FOR RECREATIONAL AND LEISURE AMENITY CLUBS*

VI. NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2021

- 1. *COUNCIL BILL NO. 22, SERIES 2021 - AN ORDINANCE EXTENDING THE TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE,*

PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A TOWN OF BRECKENRIDGE DEVELOPMENT PERMIT THAT INCLUDES AS A PART THEREOF AN AMENITY CLUB; DECLARING AN EMERGENCY; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE

2. *COUNCIL BILL NO. 23, SERIES 2021 - AN ORDINANCE AMENDING SECTION 4-4-2 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE AUTHORITY OF THE LIQUOR AND MARIJUANA LICENSING AUTHORITY TO ACCEPT A FINE-IN-LIEU OF SUSPENSION*

B. RESOLUTIONS, SERIES 2021

C. OTHER

1. *MAYORAL DECLARATION TO END PUBLIC HEALTH EMERGENCY*

VII. PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

A. CAST/MMC (MAYOR MAMULA)

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MS. GIGLIELLO)

C. BRECKENRIDGE TOURISM OFFICE (MR. KUHN)

D. BRECKENRIDGE HERITAGE ALLIANCE (MR. KUHN)

E. BRECKENRIDGE CREATIVE ARTS (MS. OWENS)

F. BRECKENRIDGE EVENTS COMMITTEE (MS. SAADE)

G. CHILD CARE ADVISORY COMMITTEE (MS. OWENS)

H. WORKFORCE HOUSING COMMITTEE (MR. CARLETON)

I. SOCIAL EQUITY ADVISORY COMMISSION (MS. SAADE, MR. CARLETON, MS. GIGLIELLO)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

A. SCHEDULED MEETINGS FOR AUGUST AND SEPTEMBER

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of July 27, 2021 to order at 7:01pm. The following members answered roll call: Ms. Saade, Ms. Gigliello, Mr. Carleton, Mr. Kuhn, Mr. Bergeron, Ms. Owens and Mayor Mamula.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – JULY 13, 2021

With no changes or corrections to the meeting minutes of July 13, 2021 Mayor Mamula declared they would stand approved as presented.

III) APPROVAL OF AGENDA

Mr. Holman stated there were no changes to the agenda. Mayor Mamula declared the agenda approved as presented.

IV) COMMUNICATIONS TO COUNCIL

A) CITIZEN'S COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

Mayor Mamula opened Citizen's Comment. Meeting attendees were encouraged to email their comments in advance of the meeting to the Mayor.

Mr. Tom Vitalone, representing 2V's Landscaping, stated they have been renting land on the McCain property from the Town for many years, they have over 60 employees, and they are doing more than half the commercial landscaping jobs in Summit County at this point. He stated the Town is creating monopolies by pushing the businesses out of that area for development, and he suggested using the space in the summer for businesses and the Town could use it in the winter for snow storage. He further stated he is supportive of the plan for McCain, but does not agree with all of the uses and would like the Town to take care of local businesses.

Ms. Owens asked how many acres his business is using, and Mr. Vitalone stated about four acres. Mr. Kuhn asked about other options for the business and Mr. Vitalone stated there are not many other viable options.

There were no additional comments and Citizen's Comment was closed.

B) BRECKENRIDGE CREATIVE ARTS UPDATE

Ms. Tamara Park, of the BCA, reviewed the summer program and event successes, including an installation at Old Masonic Hall, an art piece in the trees in the Arts District, neighborhood block parties, the tiny porch series and bike-in movies. She also asked Council about Town Party and what they might prefer to do for that event, if it happens this year? Mayor Mamula stated the Council would like to delay Town Party until 2022, and Ms. Owens stated the Council believes the Airstage has created smaller town parties this summer, and we should wait until youth can get fully vaccinated and we can know what COVID might do this fall.

V) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2021 - PUBLIC HEARINGS

1) COUNCIL BILL NO. 18, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 8 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE BUILDING CODES OF THE TOWN OF BRECKENRIDGE BY ADOPTING BY REFERENCE THE NATIONAL ELECTRICAL CODE, 2020 EDITION

Mayor Mamula read the title into the minutes. Mr. Berry stated this ordinance would amend Town Code by adopting the 2020 National Electrical Code. He further stated there are no changes to this ordinance from first reading.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 18, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 8 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE BUILDING CODES OF THE TOWN OF BRECKENRIDGE BY ADOPTING BY REFERENCE THE NATIONAL ELECTRICAL CODE, 2020 EDITION. Ms. Saade seconded the motion.

The motion passed 7-0.

- 2) COUNCIL BILL NO. 19, SERIES 2021 - AN ORDINANCE AMENDING SECTION 4-1-8-1 OF THE BRECKENRIDGE TOWN CODE CONCERNING UNREASONABLE NOISE EMANATING FROM AN ACCOMMODATION UNIT
Mayor Mamula read the title into the minutes. Ms. Shannon Haynes stated there were no changes to this ordinance from first reading.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 19, SERIES 2021 - AN ORDINANCE AMENDING SECTION 4-1-8-1 OF THE BRECKENRIDGE TOWN CODE CONCERNING UNREASONABLE NOISE EMANATING FROM AN ACCOMMODATION UNIT. Mr. Carleton seconded the motion.

The motion passed 7-0.

- 3) COUNCIL BILL NO. 20, SERIES 2021 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH ZACHARY DAVID HIMMELMAN AND TARYN ELIZABETH POWER (63 Bridge Street)
Mayor Mamula read the title into the minutes. Mr. Chapin LaChance stated changes to this proposed ordinance were included in the packet and staff recommends approval. He further clarified this development agreement is for a bonus room above a garage and is necessary because additional density is needed for the project, and the applicant is requesting a restrictive covenant for this bonus room. Mr. LaChance stated changes to this ordinance provide clarity on the restrictive covenant.

Mayor Mamula opened the public hearing.

Ms. Elisabeth Lawrence, a resident of Bridge Street, stated she believes this is an opportunity to make a difference for a deed-restricted hosing unit and she doesn't believe parking is a big issue. She also stated the HOA is working on the parking issue and asks that Council pass this ordinance.

There were no additional comments and the public hearing was closed.

Mr. Bergeron moved to approve COUNCIL BILL NO. 20, SERIES 2021 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH ZACHARY DAVID HIMMELMAN AND TARYN ELIZABETH POWER (63 Bridge Street). Ms. Gigliello seconded the motion.

The motion passed 7-0.

VI) NEW BUSINESS

- A) FIRST READING OF COUNCIL BILLS, SERIES 2021
1) COUNCIL BILL NO. 21, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE DEVELOPMENT CODE," CONCERNING RECREATIONAL AND LEISURE AMENITY CLUBS; AND AMENDING CHAPTER 3 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE OFF STREET PARKING ORDINANCE," CONCERNING REQUIRED OFF STREET PARKING FOR RECREATIONAL AND LEISURE AMENITY CLUBS

Mayor Mamula read the title into the minutes. Mr. Chris Kulick stated this ordinance would create the framework to regulate amenity clubs, including establishing the definition of amenity clubs and recreation centers, clarifying parking requirements, and other things as detailed in the memo.

Mayor Mamula opened the public hearing.
There were no comments and the public hearing was closed.
Mr. Kuhn thanked Mr. Kulick for his work on this ordinance.

Mr. Bergeron moved to approve COUNCIL BILL NO. 21, SERIES 2021 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE

TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE DEVELOPMENT CODE,” CONCERNING RECREATIONAL AND LEISURE AMENITY CLUBS; AND AMENDING CHAPTER 3 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE OFF STREET PARKING ORDINANCE,” CONCERNING REQUIRED OFF STREET PARKING FOR RECREATIONAL AND LEISURE AMENITY CLUBS. Ms. Gigliello seconded the motion.

The motion passed 7-0.

Mr. Berry clarified that in order not to have a gap between the effective date of this ordinance and the expiration of the moratorium we will introduce an emergency ordinance at the next meeting to extend the moratorium until this ordinance becomes effective.

- B) RESOLUTIONS, SERIES 2021
- 1) RESOLUTION NO. 18, SERIES 2021 - A RESOLUTION APPROVING THE EMPLOYMENT OF SQUIRE PATTON BOGGS LLP AS SPECIAL COUNSEL
Mayor Mamula read the title into the minutes. Mr. Rick Holman stated the Town would like to enter into an agreement with Squire Patton Boggs as special counsel for the purpose of advocating for the Town and the County in the 2021-2022 congressional redistricting process.

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

Mayor Mamula stated this new proposed district would group Summit County into a large western district with most of the western slope and he is afraid we may lose our voice as a small mountain community.

Mr. Bergeron moved to approve RESOLUTION NO. 18, SERIES 2021 - A RESOLUTION APPROVING THE EMPLOYMENT OF SQUIRE PATTON BOGGS LLP AS SPECIAL COUNSEL. Ms. Saade seconded the motion.

The motion passed 7-0.

- C) OTHER

VII) PLANNING MATTERS

- A) PLANNING COMMISSION DECISIONS
Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.

VIII) REPORT OF TOWN MANAGER AND STAFF

Reports of Town Manager and Staff were covered during the afternoon Work Session.

IX) REPORT OF MAYOR AND COUNCIL MEMBERS

Reports of Mayor and Council Members were covered during the afternoon Work Session.

- A. CAST/MMC (MAYOR MAMULA)
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MS. GIGLIELLO)
- B. BRECKENRIDGE TOURISM OFFICE (MR. KUHN)
- C. BRECKENRIDGE HERITAGE ALLIANCE (MR. KUHN)
- D. WATER TASK FORCE (MAYOR MAMULA)
- E. BRECKENRIDGE CREATIVE ARTS
- F. BRECKENRIDGE EVENTS COMMITTEE (MS. SAADE)
- G. CHILD CARE ADVISORY COMMITTEE (MS. OWENS)
- H. WORKFORCE HOUSING COMMITTEE (MR. CARLETON)
- I. SOCIAL EQUITY ADVISORY COMMISSION

X) OTHER MATTERS

Ms. Gigliello stated she would like to have a further discussion about the use of the McCain parcel and current tenants.

XI) SCHEDULED MEETINGS

- A) SCHEDULED MEETINGS FOR JULY, AUGUST AND SEPTEMBER

XII) ADJOURNMENT

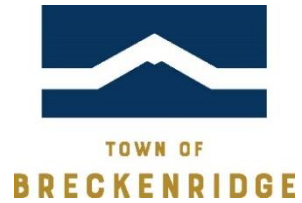
With no further business to discuss, the meeting adjourned at 7:33pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

Eric S. Mamula, Mayor

DRAFT



Memo

To: Mayor and Town Council Members
From: Town Attorney
Date: August 2, 2021 (for August 10th meeting)
Subject: Council Bill No. 21 (Amenity Club Ordinance)

The second reading of the Amenity Club Ordinance is scheduled for your meeting on August 10th. There are no changes proposed to the ordinance from first reading.

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

1 **FOR WORKSESSION/SECOND READING – AUG. 3**

2
3 **NO CHANGE FROM FIRST READING**

4
5 Additions To The Current Breckenridge Town Code Are
6 Indicated By ; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. 21

9
10 Series 2021

11
12 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE
13 TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE DEVELOPMENT CODE,”
14 CONCERNING RECREATIONAL AND LEISURE AMENITY CLUBS; AND AMENDING
15 CHAPTER 3 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE
16 “TOWN OF BRECKENRIDGE OFF STREET PARKING ORDINANCE,” CONCERNING
17 REQUIRED OFF STREET PARKING FOR RECREATIONAL AND LEISURE AMENITY
18 CLUBS

19
20 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
21 COLORADO:

22
23 Section 1. The definition of “Timeshared Unit” in Section 9-1-5 of the Breckenridge
24 Town Code is repealed and replaced with the following definition of “Timeshare Interests”:

25
26 ~~Timeshared Unit: A residential unit which is owned by more than one person with~~
27 ~~the ownership interest being divided by specific periods of time.~~

28
29 **Timeshare Interests: Interval estates, timeshare estates, timespan estates,**
30 **and other timesharing interests as defined in the Condominium Ownership**
31 **Act, Article 33, Title 38, C.R.S., as amended from time to time.**

32
33 Section 2. Section 9-1-5 of the Breckenridge Town Code, entitled “Definitions,” is
34 amended by the inclusion of the following definitions:

<u>RECREATION CENTER:</u>	<u>A commercial use requiring density and mass located within a residential use property, which may include, but is not limited to, facilities for aerobic exercises, running and jogging, weight training, game courts, swimming facilities, saunas, showers and lockers. Recreation Centers may also include eating facilities and shops selling a variety of sports equipment and clothing. Instruction programs and fitness classes may be offered. A Recreation Center is neither:</u>
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	<p><u>(a) an amenity club, nor (b) common indoor space located in a condominium, condominium/hotel, hotel, lodge, or inn pursuant to Subsection A of Section 9-1-19-24A, “Policy 24 (Absolute) The Social Community,” of this Chapter.</u></p>
<p><u>RECREATION AND LEISURE AMENITY CLUB OR AMENITY CLUB:</u></p>	<p><u>The meaning of Amenity Club depends upon the type of residential property in which the property’s amenity components (as defined below) are located:</u></p> <p><u>In a hotel/lodge/inn or a condominium that does not include one or more timeshare estates an Amenity Club:</u></p> <ol style="list-style-type: none"> <u>1. allows admission to the property’s amenity components by a person who is not a registered overnight guest at the property; and</u> <u>2. requires payment of a fee, a club membership, or other consideration given by the user of the property’s amenity components.</u> <p><u>In a condominium that includes one or more timeshare estates an Amenity Club permits admission to the property’s amenity components by a person who is not an overnight guest at the property.</u></p> <p><u>No residential property other than a hotel/lodge/inn or a condominium may contain an Amenity Club.</u></p> <p><u>An Amenity Club is classified as a commercial use and requires density above the allowed mass.</u></p> <p><u>An Amenity Club may include, but shall not be limited to, the following amenity components:</u></p> <ol style="list-style-type: none"> <u>A. Personal lockers,</u> <u>B. Boot dryers,</u> <u>C. Ski storage racks,</u> <u>D. Ski tuning,</u> <u>E. Areas for congregation and/or socializing,</u> <u>F. Restrooms and/or shower facilities,</u>

	<u>G. Movie theaters</u> <u>H. Game rooms</u> <u>I. Clubhouse food amenities</u> <u>J. Concierge ski services,</u> <u>K. Access to an aquatics facility or other recreational facilities, and/or</u> <u>L. Parking.</u>
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1
2 Section 3. Section 9-1-19-3A, “Policy 3 (Absolute) Density” of the Breckenridge Town
3 Code is amended by the addition of a new section 2.5 which shall read as follows:
4

5 **2.5 Space that is utilized for a Recreation and Leisure Amenity Club may be**
6 **included in the additional twenty-five percent (25%) of aboveground floor area**
7 **allowed under Subsection A4 of Section 9-1-19-4R, “Policy 4 (Relative) Mass,” of**
8 **this Chapter, provided there is any remaining space after all common areas have**
9 **been counted. Any additional common area space above this additional 25% shall**
10 **be counted as commercial density.**
11

12 Section 4. Subsection A4 of Section 9-1-19-4R, “Policy 4 (Relative) Mass” of the
13 Breckenridge Town Code is amended to read as follows:
14

15 (4) Condominiums, Hotels, Inns, And Lodges: Condominiums, hotels, inns,
16 lodges, and other similar uses may be allowed an additional twenty-five percent
17 (25%) of aboveground floor area for the provision of amenities and/or common
18 areas. **Space that is utilized for a Recreation and Leisure Amenity Club may**
19 **be included in this additional twenty-five percent (25%) of aboveground**
20 **floor area, provided there is any remaining space after all common areas**
21 **have been counted. Any additional common area space above this additional**
22 **25% shall be counted as commercial density as specified in Section 9-1-19-**
23 **3A, “Policy 3 (Absolute) Density/Intensity,” of this Chapter.**
24

25 Section 5. Subsection D of Section 9-1-19-24R, “Policy 24 (Relative) Social
26 Community,” of the Breckenridge Town Code is amended to read as follows:
27

3 x (0 <u>-2/+2</u>)	D.	Meeting And Conference Rooms Or Recreation And Leisure Amenities: The provision of meeting and conference facilities or recreation and leisure amenities, over and above that required in section 9-1-19-24A, “Policy 24 (Absolute) The Social Community”, subsection A, of this chapter is strongly encouraged. (These facilities, when provided over and above that required in section 9-1-19-24A, “Policy 24 (Absolute) The Social Community”, subsection A, of this chapter, shall not be assessed against the density and mass of a project when the facilities are legally guaranteed to remain as meeting and conference facilities or recreation and leisure amenities, and they do not equal more than 200 percent of the area required under section 9-1-19-24A, “Policy 24 (Absolute) The Social Community”, subsection A, of this chapter.)
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	<u>The square footage of any portion of previously approved Recreation and Leisure Amenity space that is proposed to be converted into an Amenity Club that is above the allowed mass specified in Section 9-1-19-4R shall be treated as commercial density.</u>
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1
2 Section 6. Section 9-1-19-24R, “Policy 24 (Relative) Social Community,” of the
3 Breckenridge Town Code is amended by the addition of a new section G, which shall read as
4 follows:
5

6 **G. Recreation and Leisure Amenity Club:**
7

8 **1. The operator of an Amenity Club shall use a managed reservation system**
9 **such that daily admission to the Amenity Club is limited to the total number**
10 **of vacant units within the property in which the Amenity Club is located on**
11 **such day. Each day a maximum of four (4) persons from one household may**
12 **be admitted to the Amenity Club for each vacant unit.**
13

14 **2. Prior to the issuance of a certificate of occupancy for a property that**
15 **contains an Amenity Club the developer shall execute and record with the**
16 **Clerk and Recorder of Summit County, Colorado a restrictive covenant in**
17 **accordance with the requirements of Section 9-1-26 of this Chapter. Such**
18 **restrictive covenant shall require that the Amenity Club be operated in**
19 **continuous compliance with the requirements of subsection 1 of this section,**
20 **and other applicable provisions of this Code. Without limiting the generality**
21 **of the preceding the required restrictive covenant shall authorize the Town**
22 **to audit the property’s managed reservation system upon request.**
23

24 Section 7. Section 9-3-8B of the Breckenridge Town Code is amended by the addition of
25 the following provision in that part of the table that concerns property that is “Commercial”:
26

<u>Recreation and Leisure Amenity Club</u>	<u>No additional parking shall be required or</u> <u>allowed for a development that includes a</u> <u>Recreation and Leisure Amenity Club</u> <u>beyond the required residential or</u> <u>commercial parking, as applicable.</u>
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27
28 Section 8. Except as specifically amended hereby, the Breckenridge Town Code, and the
29 various secondary codes adopted by reference therein, shall continue in full force and effect.
30

31 Section 9. The Town Council hereby finds, determines and declares that this ordinance is
32 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
33 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
34 thereof.
35

36 Section 10. The Town Council hereby finds, determines and declares that it has the
37 power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling

1 Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning
2 municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers);
3 (iv) Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
4 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
5 contained in the Breckenridge Town Charter.
6

7 Section 11. This ordinance shall be published and become effective as provided by
8 Section 5.9 of the Breckenridge Town Charter.
9

10 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
11 PUBLISHED IN FULL this ____ day of _____, 2021. A Public Hearing shall be held at the
12 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
13 _____, 2021, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
14 Town.
15

16 TOWN OF BRECKENRIDGE, a Colorado
17 municipal corporation
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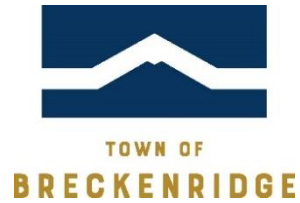
21 By: _____
22 Eric S. Mamula, Mayor
23

24 ATTEST:
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26
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28 _____
29 Helen Cospolich, CMC,
30 Town Clerk
31

32 APPROVED IN FORM
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37 _____
38 Town Attorney
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Memo

To: Mayor and Town Council Members
From: Town Attorney
Date: August 2, 2021 (for August 10th meeting)
Subject: Moratorium Extension Emergency Ordinance

Council Bill No. 21 (the Amenity Club Ordinance) is scheduled for second reading at your meeting on Tuesday. It is a non-emergency ordinance, and if adopted it will become effective 35 days after the Town Clerk posts the ordinance on the Town's website following its adoption. That is expected to occur not later than September 15, 2021. Following adoption, the Amenity Club Ordinance will become Ordinance No. 24, Series 2021.

The current moratorium on the submission, acceptance, processing and approval of a new development permit application that proposes the development of an amenity club will expire on August 26, 2021. To avoid there being a gap between the expiration of the temporary moratorium (on August 26, 2021) and the effective date of the Amenity Club Ordinance (on or about September 15, 2021), it is necessary that the temporary moratorium be extended until September 15, 2021, and that the extension go into effect immediately.

Enclosed with this memo is a proposed emergency ordinance to extend the temporary moratorium on amenity club applications until the new Amenity Club Ordinance becomes effective on or about September 15th.

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

1 ***FOR WORKSESSION/ADOPTION AS AN***
2 ***EMERGENCY ORDINANCE – AUG.10***
3

4 COUNCIL BILL NO. ____
5

6 Series 2021
7

8 AN ORDINANCE EXTENDING THE TEMPORARY MORATORIUM ON THE
9 SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION
10 FOR A TOWN OF BRECKENRIDGE DEVELOPMENT PERMIT THAT INCLUDES AS A
11 PART THEREOF AN AMENITY CLUB; DECLARING AN EMERGENCY; AND
12 PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE
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14 WHEREAS, on May 26, 2020, the Town Council adopted Ordinance No. 23, Series 2020
15 imposing a temporary moratorium on the submission, acceptance, processing, and approval of all
16 applications for Town development permits that include as a part thereof the proposed
17 development of an amenity club as defined in such ordinance (the “**Temporary Moratorium**”);
18 and
19

20 WHEREAS, the Temporary Moratorium was adopted to allow the Town staff to
21 thoroughly evaluate the potential impacts of amenity clubs on the Town, and to bring back to the
22 Town Council the staff’s analysis of potential regulatory approaches to amenity clubs; and
23

24 WHEREAS, the Temporary Moratorium was also adopted to allow the Town Council
25 sufficient time to determine if the Development Code should be amended to specifically address
26 amenity clubs and, if so, to adopt an ordinance amending the Development Code to include the
27 Town Council’s preferred regulatory approach to amenity clubs; and
28

29 WHEREAS, the Temporary Moratorium was extended until May 26, 2021, by Ordinance
30 No. 39, Series 2020; and
31

32 WHEREAS, the Temporary Moratorium was further extended until August 26, 2021, by
33 Ordinance No. 13, Series 2021; and
34

35 WHEREAS, concurrently with the adoption of this ordinance the Town Council has
36 adopted Ordinance No. 24, Series 2021, entitled “An Ordinance Amending Chapter 1 of Title 9
37 of the Breckenridge Town Code, known as the “Town of Breckenridge Development Code,”
38 Concerning Recreational and Leisure Amenity Clubs; and Amending Chapter 3 of Title 9 of the
39 Breckenridge Town Code, known as the “Town of Breckenridge Off Street Parking Ordinance,”
40 which ordinance specifically addresses and regulates amenity clubs; and
41

42 WHEREAS, Ordinance No. 24, Series 2021 will become effective on or about
43 September 15, 2021; and
44
45

1 WHEREAS, with the adoption of Ordinance No. 24, Series 2021 the Temporary
2 Moratorium is no longer needed and should be ended; and
3

4 WHEREAS, to avoid a gap between the Temporary Moratorium (on August 26, 2021)
5 expiring and Ordinance No. 24, Series 2021 becoming effective (on or about September 15,
6 2021), the Town Council finds and determines that the Temporary Moratorium should not be
7 terminated until Ordinance No. 24, Series 2021 becomes effective.
8

9 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
10 BRECKENRIDGE, COLORADO:
11

12 Section 1. Extension of Moratorium. Section 5 of Ordinance No. 23, Series 2020 is
13 amended to read in its entirety as follows:
14

15 Section 5. Effective Dates of Moratorium. The moratorium imposed by this
16 ordinance shall commence on the effective date of this ordinance, and shall expire
17 on the date and time that Ordinance No. 24, Series 2021 becomes effective.
18

19 Section 2. Police Power Finding. The Town Council hereby finds, determines, and
20 declares that this ordinance is necessary and proper to provide for the safety, preserve the health,
21 promote the prosperity, and improve the order, comfort, and convenience of the Town of
22 Breckenridge and the inhabitants thereof.
23

24 Section 3. Authority. The Town Council hereby finds, determines, and declares that it
25 has the power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control
26 Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S.
27 (concerning municipal land use powers); (iii) Section 31-15-103, C.R.S. (concerning municipal
28 police powers); (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); (v) the
29 authority granted to home rule municipalities by Article XX of the Colorado Constitution; and
30 (vi) the powers contained in the Breckenridge Town Charter.
31

32 Section 4. Emergency Ordinance Findings. The Town Council of the Town of
33 Breckenridge hereby finds, determines, and declares that an emergency exists and that this
34 ordinance is necessary for the immediate preservation of public property, health, welfare, peace
35 or safety. The current Temporary Moratorium on the submission, acceptance, processing and
36 approval of a new development permit application that proposes the development of an amenity
37 club will expire on August 26, 2021. Concurrently with the adoption of this ordinance, the Town
38 Council has adopted Ordinance No. 24, Series 2021 specifically addressing amenity clubs. As
39 provided by Section 5.9 of the Town's Charter Ordinance No. 24, Series 2021 will not become
40 effective until approximately September 15, 2021. The Town Council finds and determines that
41 there should not be a gap in time between the expiration of the Temporary Moratorium (on
42 August 26, 2021) and the effective date of Ordinance No. 24, Series 2021 (on or about
43 September 15, 2021). Therefore, the adoption of this ordinance as an emergency ordinance is in
44 the best interest of the citizens of the Town of Breckenridge.
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Section 5. Effective Date and Time. Pursuant to Section 5.11 of the Breckenridge Town Charter this Ordinance shall take effect and be in full force upon adoption of this ordinance by the affirmative votes of at least five (5) members of the Town Council.

Section 6. Publication. This ordinance shall be published in full within ten (10) days after adoption, or as soon thereafter as possible, as required by Section 5.11 of the Breckenridge Town Charter.

ADOPTED AND APPROVED as an Emergency Ordinance this ___ day of _____, 2021.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

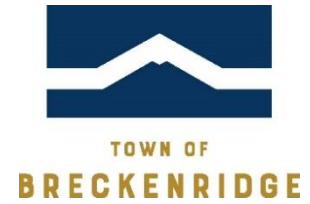
By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM:

Town Attorney



Memo

To: Mayor and Town Council Members
From: Town Attorney
Date: August 2, 2021 (for August 10th meeting)
Subject: Ordinance Updating the Town Ordinance Allowing the Liquor and Marijuana Licensing Authority to Accept a Fine in Lieu of the Suspension of a Liquor License

The Colorado Liquor Code allows the Town’s Liquor and Marijuana Licensing Authority (“LMLA”) to impose discipline against a liquor licensee who violates the laws that govern the operation of the liquor-licensed premises. For a proven violation of such laws, the law allows the LMLA to order that the liquor license of the offending licensee be suspended for a maximum of six months. When a liquor license is suspended the licensee is prohibited from selling alcoholic beverages at the licensed premises.

However, state law provides that a local ordinance can authorize the local licensing authority to accept a monetary fine from a licensee instead of suspending the licensee’s local liquor license. When the LMLA was established the Town Council authorized the LMLA to accept a fine in lieu of suspension under certain circumstances.

The Town Code currently authorizes the LMLA to allow the payment of a fine in lieu of suspension if:

1. public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and
2. The books and records of the licensee are kept in such a manner that the loss of sales of alcoholic beverages which the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

It is important to note that the ordinance does not *require* the LMLA to accept a fine in lieu of a suspension. If the LMLA does not believe that accepting a fine will “achieve the desired disciplinary purpose” then the LMLA may require the licensee to serve the period of suspension.

If the LMLA agrees to accept a fine in lieu of suspension the current Town ordinance provides that the fine that is accepted must be equivalent to 20% of the licensee's estimated gross revenues from sales of alcoholic beverage during the prior of the proposed suspension. However, the fine cannot be less than \$200 and not more than \$5,000. The monetary fine limits in the current ordinance were based on state law that was in effect when the ordinance was last updated.

The state law has recently changed. Now, local licensing authority in lieu of the suspension must still be equivalent to 20% of the licensee's estimated gross revenues from sales of alcoholic beverage during the prior of the proposed suspension, but the range of permissible fines is not between \$500 and \$100,000. To be able to use the new fine limits it is necessary for the Town's ordinance to be amended.

Enclosed with this memo is an ordinance which, if adopted, will amend the Town's ordinance by providing that a fine which is accepted by the LMLA in lieu of the suspension of a liquor license must not be less than \$500 and not more than \$100,000.

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

1 ***FOR WORKSESSION/FIRST READING – AUG. 10***

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

5
6 COUNCIL BILL NO. ____

7
8 Series 2021

9
10 AN ORDINANCE AMENDING SECTION 4-4-2 OF THE BRECKENRIDGE TOWN CODE
11 CONCERNING THE AUTHORITY OF THE LIQUOR AND MARIJUANA LICENSING
12 AUTHORITY TO ACCEPT A FINE-IN-LIEU OF SUSPENSION

13
14 WHEREAS, Section 4-4-2 of the Breckenridge Town Code authorizes the Town of
15 Breckenridge Liquor and Marijuana Licensing Authority to accept a fine-in-lieu of suspension
16 under certain circumstances; and

17
18 WHEREAS, such circumstances are established in Section 44-3-601(3)(b), C.R.S., which
19 is part of the Colorado Liquor Code; and

20
21 WHEREAS, Section 4-4-2 of the Breckenridge Town Code needs to be updated to reflect
22 recent changes to Section 44-3-601(3)(b), C.R.S.

23
24 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
25 BRECKENRIDGE, COLORADO:

26
27 Section 1. Section 4-4-2(B) of the Breckenridge Town Code is amended to read as
28 follows:

29
30 B. The fine accepted shall be equivalent to twenty percent (20%) of the retail
31 licensee's estimated gross revenues from sales of alcoholic beverages during the period of
32 the proposed suspension; except that the fine shall be not less than ~~two~~ **five** hundred
33 dollars (~~\$200.00~~**500.00**) nor more than ~~five~~ **one hundred** thousand dollars
34 (~~\$5,000.00~~**100,000.00**).

35
36 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the
37 various secondary codes adopted by reference therein, shall continue in full force and effect.

38
39 Section 3. The Town Council hereby finds, determines and declares that this ordinance is
40 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
41 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
42 thereof.

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Section 4. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the provisions of Section 44-3-601(3)(b), C.R.S., and the powers possessed by home rule municipalities in Colorado.

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this ____ day of _____, 2021. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of _____, 2021, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____
Eric S. Mamula, Mayor

ATTEST:

Helen Cospolich, CMC,
Town Clerk

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2
3 ***DRAFT August 4, 2021 DRAFT***

4 **A MAYORAL DECLARATION DECLARING AN END TO THE COVID-19 PUBLIC**
5 **HEALTH EMERGENCY WITHIN THE TOWN OF BRECKENRIDGE**

6 **Background**

7
8 On March 12, 2020, the Town Council of the Town of Breckenridge adopted Ordinance
9 No. 9, Series 2020, entitled “An Emergency Ordinance Concerning the Coronavirus (COVID -
10 19) Public Health Emergency.” Since that date, the Town, its citizens and visitors have had to
11 cope with numerous temporary rules, regulations, requirements, and restrictions that were
12 implemented by federal, state, county, and Town officials to protect the public health, safety, and
13 welfare in the face of the COVID-19 public health emergency. By and large, such temporary
14 rules, regulations, requirements, and regulations have been complied with, and such compliance
15 has substantially aided in the efforts to get us through the COVID-19 public health emergency.
16 The public is to be thanked for their cooperation in the Town’s fight against COVID-19.
17

18 Earlier this year vaccines were developed and made available to the public to help protect
19 against the COVID-19 virus. Most of the citizens of the Town stepped up and took the vaccine.
20 Such action also substantially aided in the efforts to get us through the COVID-19 public health
21 emergency, and those who took the vaccine are to be applauded.
22

23 On July 8, 2021, in Executive Order D 2021 122, Jared Polis, the Governor of the State
24 of Colorado, rescinded his 2020 Executive Order which declared a state of disaster emergency
25 within the State of Colorado due to the presence of coronavirus disease 2019 (COVID-19). As a
26 result, the State is no longer under a declared state of emergency concerning the COVID-19
27 virus.
28

29 Based on the actions of the Governor, data from the Summit County Health Department
30 and others, and other relevant information, I have determined that it is now time to declare an
31 end to the Town’s COVID-19 public health emergency.
32

33 **Finding**

34
35 I find and determine that the COVID-19 public health emergency within the Town of
36 Breckenridge has passed.
37

38 **Declaration**

39
40 Now, Therefore, I, Eric S. Mamula, Mayor of the Town of Breckenridge, Colorado declare as
41 follows:
42

43 Section 1. The End of the COVID-19 Public Health Emergency. The COVID-19
44 public health emergency within the Town of Breckenridge is ended.
45

1 Section 2. Temporary Exemptions Continue Until November 1, 2021. Although the
2 COVID-19 public health emergency within the Town has ended, the exemptions for temporary
3 outdoor structures, outdoor dining, firepits, lighting, signs, and outdoor merchandise display
4 previously granted by the Town in connection with the COVID-19 public health emergency shall
5 continue until November 1, 2021, pursuant to the guidelines of the document entitled “Town of
6 Breckenridge – Summer 2021: Temporary Outdoor Structures, Firepits, Signs, and Outdoor
7 Merchandise Exemptions Frequently Asked Questions (FAQs)” (published May 13, 2021). On
8 November 1, 2021, such exemptions shall terminate without further action.
9

10 Section 3. Repeal Of Covid-19 Related Ordinances. Each of the following ordinances
11 contains the following provision:
12

13 This ordinance shall be automatically repealed at such time as the Mayor of the Town
14 of Breckenridge declares that the COVID-10 public health emergency within the
15 Town has passed.
16

17 In accordance with such language, upon the effective date and time of this Declaration the
18 following COVID-19 related ordinances are declared to be repealed:
19

20 1. Ordinance No. 9, Series 2020, which declared the public health emergency
21

22 2. Ordinance No. 26, Series 2020, which authorized the suspension of a Town BOLT
23 licensee if the licensee violated a Summit County Public Health Order.
24

25 3. Ordinance No. 12, Series 2021, which required compliance with Summit County
26 Public Health Orders concerning the required wearing of face coverings.
27

28 Section 4. Effective Date and Time. This Declaration is issued and is effective this
29 ____ day of August 2021 at _____ o’clock __. M.
30

31 TOWN OF BRECKENRIDGE
32
33

34
35 By: _____
36 Eric S. Mamula, Mayor

37 ATTEST:
38
39

40
41 _____
42 Helen Cospolich, CMC,
43 Town Clerk
44



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: August 4, 2021
Subject: Planning Commission Decisions of the August 3, 2021 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, August 3, 2021:

CLASS A APPLICATIONS:

1. Highland Greens Lodge Spa Remodel, 34 Highfield Trail, PL-2021-0235 (Continued from the July 20th Meeting)

A proposal to remove 2 existing outdoor spas and replace with 1 new in-ground outdoor spa in the same location, install 1,120 sq. ft. of outdoor heated spa deck, replace all existing decking and fencing around the spa, install a new outdoor fireplace and trellis over the spa deck, and convert 3 existing parking spaces to electric vehicle parking spaces. *Approved, see second memo.*

CLASS B APPLICATIONS:

1. RMU Roof Top Deck, 112 S. Main Street, PL-2021-0132

A proposal to add a deck and bar area to portion of the flat roof on a non-historic structure. The deck area is designed to have an 88 person occupancy and will be set back 24' from the front façade of the building. The proposal also features solid 3' tall guard rails, an exterior staircase, exterior lift and associated fire wall on the rear of the building. The interior space and uses will remain unchanged with the exception of a new stairway providing access to the roof area. *Approved, see third memo.*

CLASS C APPLICATIONS:

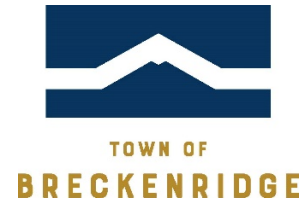
1. Miller Master Plan 6th Amendment, 13541 & 13545, PL-2021-0312

A proposal to amend the 2021 Miller Master Plan to change Parcel I to Parcel W and change the use of the Parcel from Public Open Space to Private Open Space. *Approved.*

2. Shoop Residence, 1110 Bright Hope Drive, PL-2021-0096 (Continued from the July 20th Meeting) A proposal to build a new 6,381 sq. ft. single family residence with 5 bedrooms and 5 bathrooms over the Illinois Gulch. *Denied, see fourth memo.*

TOWN PROJECT HEARINGS: None.

OTHER: None.



Memo

To: Town Council
From: Chapin LaChance, AICP – Planner II
Date: August 4, 2021 for meeting of August 10, 2021
Subject: Highland Greens Lodge Common Area Spa Remodel Class A Development Permit Application: Planning Commission Approval Summary

The Highland Greens Condominium Association proposes to remove their two (2) existing outdoor spas and replace with one (1) new in-ground outdoor spa in the same location. The HOA also proposes to install 999 sq. ft. of outdoor heated spa deck, to replace all existing decking and fencing around the spa, to install a new outdoor fireplace and trellis over the spa deck, and to convert three (3) existing parking spaces to electric vehicle parking spaces. The application is classified as a Class A Development because the proposed site work exceeds \$200,000 in value. This Planning Commission reviewed the application at a Combined Hearing on July 20, 2021, and continued the Hearing to the August 3, 2021 meeting so that the application could make revisions to achieve a passing point analysis.

At the Combined Hearing continuance on August 3, the Planning Commission approved the Class A Development Permit application with a vote of 4-0, with Findings and Conditions of Approval.

Additional detail on the application is available in the Planning Commission's online packet here: <https://www.townofbreckenridge.com/home/showpublisheddocument/20426/637632484382670000>

Staff will be available at the meeting to answer any questions.

Memo

To: Town Council
 From: Chris Kulick, AICP, Senior Planner
 Date: August 4, 2021 for meeting of August 10, 2021
 Subject: Rocky Mountain Underground Roof Top Deck and Bar Class B Major Planning Commission Approval Summary



A Final Hearing for the Rocky Mountain Underground Roof Top Deck and Bar, located at 112 South Main Street, was held by the Planning Commission on August 3, 2021. The development proposes to add a deck and bar area to a portion of the flat roof of a non-historic structure. The deck area is designed to have an 88 person occupancy and will be setback 24' from the front façade of the building. The proposal also features solid 3' tall, lap sided, guard rails, an exterior staircase, exterior lift and associated fire wall on the rear of the building. The interior space and uses will remain unchanged with the exception of a new stairway providing access to the roof area. The property is located on the east side of the 100 block of South Main Street and is in the Core Commercial Character Area of the Historic District. The property has purchased 8.88 parking spaces from the Town's Parking District and has 4 onsite parking spaces that are located in the rear of the property. Since the proposed stairway will encroach into two of the existing parking spaces the applicants are required to purchase two additional spaces from the Parking District. Additionally, since this is a Class B Major application, the applicants are required to pave the

existing gravel parking area. The property is within Lighting Zone 1 and the applicants are proposing seasonal bistro style lighting. Bistro lighting is permitted in outdoor dining/bar areas exclusively in Lighting Zone 1. Additionally, fully shielded permanent and downcast light fixtures are also proposed. All proposed exterior lighting will be no greater than 7' above the upper level deck or 18' above finished grade.

The Commission listened to public comment from concerned citizens related to the potential for noise generation. The Commission understood those concerns but found that the proposal would not be dissimilar to other outside dining/ bar areas located in the core of Town. The Commission also did not find any relevant Policies related to those concerns in the Development Code. The Commission and Staff noted, that the conduct of the business will be subject to the requirements of the Town's noise ordinance (title 5, chapter 8 of the Municipal Code).

The Commission found the majority of the proposal complied with all Priority Design Standards and Absolute Policies, and assigned a total cumulative score of zero (0) points under the Relative Policies. An additional Finding (number 7.) was added to the Findings and Conditions since the Commission did not believe the rear metal exterior staircase and lift strictly complied with Design Standards 90, 91 and 225 but acknowledged the materials are required by Building Code and that the stairs and lift are located at the rear of the property. Previously the Commission has made allowances for design elements that are required by Building Code and that do not significantly impact the overall character of the design. The Revised Findings and Conditions are included in the packet. Additionally, a link to the original Planning Commission [packet](#) is provided. The report and plans start on p. 66 of the packet. The Commission approved the application 4-0.

Staff will be available at the meeting to answer any questions.

TOWN OF BRECKENRIDGE

**Rocky Mountain Underground
Roof Top Deck and Bar
Parcel B of Lot 15, Bartlett
and Shock Subdivision
112 South Main Street
PL-2021-0132**

FINDINGS

1. The project is in accord with the Development Code and does not propose a prohibited use.
2. The project will not have significant adverse environmental impact or demonstrative negative aesthetic effect.
3. All feasible measures mitigating adverse environmental impacts have been included, and there are no economically feasible alternatives, which would have less adverse environmental impact.
4. This approval is based on the staff report dated **July 29, 2021**, and findings made by Community Development with respect to the project. Your project was approved based on the proposed design of the project and your acceptance of these terms and conditions imposed.
5. The terms of approval include any representations made by you or your representatives in any writing or plans submitted to the Town of Breckenridge, and at the Hearings on the project held on **May 18, 2021 and August 3, 2021** as to the nature of the project. In addition to Commission minutes, the audio of the meetings of the Commission are recorded.
6. The Commission determined the proposed fire wall is not explicitly addressed under the Handbook of Design Standards and since is not visible from anywhere other than the alley, is aligned with the north wall of the building and will be sided with lap siding and painted to match the existing building that it is a satisfactory way of meeting the building code requirement.
7. The Commission determined the proposed metal stairway and lift does not strictly comply with Design Standards 90, 91 and 225 but acknowledges those components are required by Building Code and that the stairs and lift are located at the rear of the property. Previously, the Commission has made allowances for design elements that are required by Building Code and that do not significantly impact the overall character of the design.

CONDITIONS

1. This permit does not become effective, and the project may not be commenced, unless and until the applicant accepts the preceding findings and following conditions in writing and transmits the acceptance to the Town of Breckenridge.
2. If the terms and conditions of the approval are violated, the Town, in addition to criminal and civil judicial proceedings, may, if appropriate, issue a stop order requiring the cessation of work, revoke this permit, require removal of any improvements made in reliance upon this permit with costs to constitute a lien on the property and/or restoration of the property.
3. This permit expires three (3) years from date of issuance, on **August 10, 2024**, unless a building permit has been issued and substantial construction pursuant thereto has taken place. In addition, if this permit is not signed and returned to the Town within 30 days from the permit mailing date, the duration of the permit shall be 18 months, but without the benefit of any vested property right.
4. The terms and conditions of this permit are in compliance with the statements of the staff and applicant made on the evidentiary forms and policy analysis forms.

5. Nothing in this permit shall constitute an agreement by the Town of Breckenridge to issue a certificate of occupancy for the project covered by this permit. The determination of whether a certificate of occupancy should be issued for such project shall be made by the Town in accordance with the applicable provisions of the Town Code, including, but not limited to the building code.
6. All hazardous materials used in construction of the improvements authorized by this permit shall be disposed of properly off site.
7. Applicant shall field locate utility service lines to avoid existing trees.
8. An improvement location certificate of the height of the building's ridges must be submitted and approved by the Town during the various phases of construction. The final building height shall not exceed the existing 27' cornice.
9. **Prior to the use or installation of any exterior loudspeakers, the loudspeakers must be reviewed as a separate Class D Minor permit and comply with Policy 42 of the Development Code. As referenced in Policy 42, the use of loudspeakers shall adhere to the Town's Noise Ordinance (title 5, chapter 8 of the Municipal Code).**

PRIOR TO ISSUANCE OF BUILDING PERMIT

10. Applicant shall submit proof of ownership of the project site.
11. Applicant shall submit and obtain approval from the Town Engineer of final drainage, grading, utility, and erosion control plans.
12. Applicant shall provide plans stamped by a registered professional engineer licensed in Colorado, to the Town Engineer for all retaining walls over four feet in height.
13. Any exposed foundation wall in excess of 12 inches shall be finished (i.e. textured or painted) in accordance with the Breckenridge Development Code Section 9-1-19-5R.
14. **Applicant shall contact the Town of Breckenridge and schedule a preconstruction meeting between the Applicant, Applicant's architect, Applicant's contractor and the Town's project Manager, Chief Building Official and Town Historian to discuss the methods, process and timeline for the project.**
15. Applicant shall submit and obtain approval from the Town of a construction staging plan indicating the location of all construction material storage, fill and excavation material storage areas, portolet and dumpster locations, and employee vehicle parking areas. No staging is permitted within public right of way without Town permission. Any dirt tracked upon the public road shall be the applicant's responsibility to remove. Contractor parking within the public right of way is not permitted without the express permission of the Town, and cars must be moved for snow removal. A project contact person is to be selected and the name provided to the Public Works Department prior to issuance of the building permit.
16. **Applicant shall submit and obtain approval from Town staff of a cut sheet detail for all exterior lighting on the site. All exterior lighting on the site or buildings, with the exception of seasonal bistro lighting, shall be fully shielded to hide the light source and shall cast light downward. Exterior residential lighting shall not exceed 15' in height from finished grade, 7' above upper decks. Seasonal bistro lighting is only permitted from May 1, through October 31, of the same year.**

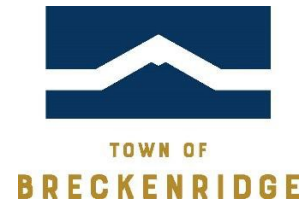
PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

17. **The applicant shall purchase two additional parking spaces from the Town's Parking District to offset the onsite spaces lost to the new exterior staircase.**

18. **The applicant shall pave all onsite parking to the satisfaction of the Town Engineer.**
19. Applicant shall paint all metal flashing, vents, flues, rooftop mechanical equipment, meters, and utility boxes on the building a flat, dark color or to match the building color.
20. Applicant shall screen all utilities.
21. **Applicant shall submit and obtain approval from Town staff of a cut sheet detail for all exterior lighting on the site. All exterior lighting on the site or buildings, with the exception of seasonal bistro lighting, shall be fully shielded to hide the light source and shall cast light downward. Exterior residential lighting shall not exceed 15' in height from finished grade, 7' above upper decks. Seasonal bistro lighting is only permitted from May 1, through October 31, of the same year.**
22. At all times during the course of the work on the development authorized by this permit, the permittee shall refrain from depositing any dirt, mud, sand, gravel, rubbish, trash, wastepaper, garbage, construction material, or any other waste material of any kind upon the public street(s) adjacent to the construction site. Town shall provide oral notification to permittee if Town believes that permittee has violated this condition. If permittee fails to clean up any material deposited on the street(s) in violation of this condition within 24 hours of oral notice from Town, permittee agrees that the Town may clean up such material without further notice and permittee agrees to reimburse the Town for the costs incurred by the Town in cleaning the streets. Town shall be required to give notice to permittee of a violation of this condition only once during the term of this permit.
23. The development project approved by this Permit must be constructed in accordance with the plans and specifications, which were approved by the Town in connection with the Development Permit application. Any material deviation from the approved plans and specifications without Town approval as a modification may result in the Town issuing a Stop Work Order and/or not issuing a Certificate of Occupancy or Compliance for the project, and/or other appropriate legal action under the Town's development regulations. A Stop Work Order may not be released until a modification to the permit is reviewed and approved by the Town. Based upon the magnitude of the modification, another hearing before the Planning Commission may be required.
24. No Certificate of Occupancy or Certificate of Compliance will be issued by the Town until: (i) all work done pursuant to this permit is determined by the Town to be in compliance with the approved plans and specifications for the project, and all applicable Town codes, ordinances and standards, and (ii) all conditions of approval set forth in the Development Permit for this project have been properly satisfied. If either of these requirements cannot be met due to prevailing weather conditions, the Town may issue a Certificate of Occupancy or Certificate of Compliance if the permittee enters into a Cash Deposit Agreement providing that the permittee will deposit with the Town a cash bond, or other acceptable surety, equal to at least 125% of the estimated cost of completing any required work or any applicable condition of approval, and establishing the deadline for the completion of such work or the satisfaction of the condition of approval. The form of the Cash Deposit Agreement shall be subject to approval of the Town Attorney. "Prevailing weather conditions" generally means that work can not be done due to excessive snow and/or frozen ground. **As a general rule, a cash bond or other acceptable surety will only be accepted by the Town between November 1 and May 31 of the following year. The final decision to accept a bond as a guarantee will be made by the Town of Breckenridge.**
25. Applicant shall submit the written statement concerning contractors, subcontractors and material suppliers required in accordance with Ordinance No. 1, Series 2004.
26. The development authorized by this Development Permit may be subject to the development impact fee imposed by Resolution 2006-05 of the Summit County Housing Authority. Such resolution implements the impact fee approved by the electors at the general election held November 7, 2006. Pursuant to intergovernmental agreement among the members of the Summit Combined Housing Authority, the Town of Breckenridge is authorized to administer and collect any impact fee which is due in connection with

development occurring within the Town. For this purpose, the Town has issued administrative rules and regulations which govern the Town's administration and collection of the impact fee. ***Applicant will pay any required impact fee for the development authorized by this Development Permit prior to the issuance of a Certificate of Occupancy.***

(Initial Here)



Memo

To: Town Council
From: Luke Sponable, Planner II
Date: August 4, 2021 for August 10th Town Council Meeting
Subject: Shoop Residence, 1110 Bright Hope Dr; PL-2021-0096

The application is a proposal to build a new 6,381 sq. ft. single-family residence with 5 bedrooms and 5 bathrooms over the Illinois Creek.

The Planning Commission called the project off the consent calendar at the July 20th meeting and continued the project to the August 3rd meeting. During the August meeting concerns were raised over a portion of the house which was being constructed in the floodway, driveway slope and driveway connection to Bright Hope Rd. The point analysis was modified (by a vote of 5-0) to add two negative (-2) points under Policy 7/R for not preserving significant natural features. The Planning Commission also did not support the variance required to allow a driveway of over 8% but did support a variance for the driveway connection. Due to the driveway slope issue and the non-passing point analysis the project was denied. No public comment was heard at the hearing. Planning Commission meeting minutes are included in the Town Council packet and the project plans can be found in the Planning Commission packet, starting on page 15.

<https://www.townofbreckenridge.com/home/showpublisheddocument/20426/637632484382670000>

Staff will be available at the meeting to answer any questions.

Miller Master Plan 6th
Amendment, 13541 & 13545
State Hwy 9

Highland Greens Lodge
Spa Remodel, 34
Highfield Trail





RMU Rooftop Deck,
112 S. Main St.

Shoop Residence,
1110 Bright Hope Rd.



NOT TO SCALE

Breckenridge South



PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 p.m. by Chair Beckerman.

ROLL CALL

Christie Mathews-Leidal	Mike Giller (Left at 7:30)	Jay Beckerman	Mark Leas
Tanya Delahoz (Absent)	Steve Gerard	Allen Frechter (Absent)	

APPROVAL OF MINUTES

With no changes, the July 20, 2021 Planning Commission Minutes were approved.

APPROVAL OF AGENDA

Ms. Leidal: Name misspelled on page 2 inadvertently.

With no additional changes, the August 3, 2021 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

CONSENT CALENDAR:

1. Miller Master Plan 6th Amendment (CL), 13541 & 13545 State Hwy 9, PL-2021-0312

With no call-ups, the Consent Calendar was approved as presented.

OTHER HEARINGS:

1. Shoop Residence (LS), 1110 Bright Hope Drive, PL-2021-0096 (**Continued from the July 20, 2021 Meeting**)

Mr. Sponable presented a proposal to build a new 6,381 sq. ft. single-family residence with 5 bedrooms and 5 bathrooms over the Illinois Creek.

Chris McGinnis:

The alternatives we looked at conceptually. For this one it is the walkway over the river that drives the grade. The other options would mean more disturbance. It is a unique condition with the floodplain and floodway controlling it, so we do not think this would establish precedent. So in this case we are allowing a little over 8%. For the driveway code, 10 ft. is the absolute minimum for separation. It is in the street standards appendix. It would not be a simple change of design to meet the 8%.

Commissioner Questions / Comments:

- Ms. Leidal: Section 9-3-16 – planning commission or town council are the ones to grant a variance under the off- street parking regulations
- Mr. Gerard: I think the commission is the one to grant the variance. I realize we have the time crunch of 21 days after call up, so need to make a decision this evening.
- Ms. Leidal: Just a quick fix, for the permit expiration of 18 months in the Conditions it should be February, not August.
- Mr. Giller: I am not hearing a hard and fast that the driveway wouldn't work. You could drop the apron and garage to be lower and then meet the 8% grade.

Mark Harris, Architect:

The driveway grade the way we calculated was right between 8 and 9 percent. The issue was the garage elevation that needed to be that 2 feet based on the development code or the FEMA requirements. In order for the garage slab to be legal. We could make the driveway longer more towards the West and North, but we

were getting too close to the 30 ft. that was asked of us by Chris McGinnis to be closer to the private drive. It is my knowledge that 10% in a driveway in the first 10 feet is sometimes allowed. We could have a 10 or 9 percent slope closer to the road. I thought we had to be 2 feet above the elevation that is what has driven the height of the house. If we could drop the garage slab we would be happy to. (Mr. McGinnis: what drove the elevation is the walkway, from engineering the garage slab can be dropped since it now isn't in the floodway. We will meet FEMA codes. We have 12.5 ft. of grade difference.)

Kirkton Shoop, owner:

The intent is for the entryway to be accessible. Lowering the slab of the garage to meet 8% nullifies ADA compliance due to limited space for a ramp. We examined steps up from the garage but it nullifies access for the whole home. That is why we chose the single level design.

Chair Beckerman opened the meeting to public comments. None were heard and the comment period was closed.

Commissioner Questions / Comments:

- Mr. Gerard: I have considerable issues. We are being asked to grant two variances. It is clear from the discussion that it is not able to meet the grade, they don't want to meet it to take negative points. This isn't a criteria that lets us grant a variance. I think that the 10 feet is an absolute but they still need a variance for the 30 feet. Policy 7R F. Significant Natural Features concerns me. We are talking about a creek with a floodway, building in it. I plan to make a motion to change the point analysis. I have concerns, I was disappointed with the minimal changes. Our other comments weren't addressed.
- Mr. Leas: No Comments
- Ms. Leidal: I understand this is a platted lot we don't want to take those rights away, we want to make this work within the code. There are a number of policies we are struggling with. I don't support the driveway grade variance. It can be done, we can drop the slab. I know you want to make it ADA accessible but you can use a ramp or another entrance. I don't see the 10 ft, minimum for the driveway separation. If so, we need to note that in 18A Parking and we need to modify condition #3. Any other variances should be memorialized in the findings and the point analysis.
- Mr. Giller: I echo everyone. The driveway warrants more work. As you go over to the flat garage, you can slope that south to meet the development code requirements.
- Mr. Beckerman: I understand the desire for this to come to fruition it is a unique design, appreciate the applicant and Chris' time for being here, I do believe that the point analysis is incorrect as stated previously by Steve. I would support a motion to change that point analysis.

Mr. Gerard made a motion to change the point analysis to reflect -2 points for development of an area with significant natural features where physical conditions render a portion of the site where development should be avoided. This would be the area of the South building, which is built into the floodplain, and the garage slab that is encroaching into the floodway itself; on the Shoop Residence seconded by Mr. Giller. The motion passed 5 to 0.

- Mr. Sponable: This would be a non-passing point analysis of -2 points.
- Mr. Truckey: Commission will need to take action tonight or within the next 7 days or the project is denied. Sect. 9-1-10A is on modifications. If the project is denied, the applicant would be able to submit changes to the applications within 30 days after denial and come back to the Planning Commission for a final hearing.
- Mr. Gerard: Driveway grade issue can be resolved. I think that the buildings need to be pulled out of the floodplain. This is bad precedent.
- Mr. Giller: I too want to see this project proceed, but the design skirts the floodplain. I would hesitate

- to build this and I would pull back from the drainage way.
- Ms. Leidal: I don't support a variance for the driveway grade. There are design changes that could address this. If the driveway doesn't meet the 8% parking standards I would continue to support negative points under 7R. I think FEMA will take care of the encroachment.
- Mr. Leas: Driveway issue is solvable, garage slab can be moved. I wouldn't be concerned moving the driveway closer. I don't know where that stands with the code. I share concern about the precedent.
- Mr. Beckerman: I concur. It comes down to the code. I would lean towards not issuing a variance unless necessary. Amicable to floodplain issue. I need more clarification on the driveway distances.

Mark Harris, Architect:

The owners wanted to keep it ADA accessible. Regarding points, we can't add more panels for sun exposure and cost for the positive points. It would be twice as many panels.

Kirkton Shoop, Owner:

Additional points to burden us with out of the blue involves changes the window design, adding solar. We would be in the 8%, but by connecting the two sides of the home but we want the ADA compliance. We did evaluate lowering the garage and the ramp space to come into the entry way, it didn't allow for a ramp. We didn't evaluate going out and in due to snow storms and wheel chairs needing to go on the outside. I am baffled by the burden of more negative points. We are protecting old growth trees. We want to move forward so with my hands tied I can remove the ADA.

Mr. Beckerman: On 5R we can remove some of the non-natural materials to eliminate negative points.

Mr. Sponable: On 33R, two more EVSE Installed Chargers would bring us to passing.

Mr. Truckey: Lowering the garage apron is the first issue, second is if the applicant is willing to commit to points one way or another (two EVSEs or changes to the architectural).

Mark Harris: I can't speak for them, if we need to revise the driveway to be under 8% we will do what we can, we can commit to that. We will commit to finding two extra points in some for or fashion, two EVSEs, modifying the materials, I don't know but we will work to figure that out. (Mr. Truckey: We need to specify what exactly would be committed to regarding positive points now.)

Mr. Shoop: So you have added two points now. During the meeting? (Mr. Beckerman: Correct, the commission is the final decision maker, not staff. This is per a Commission finding to add the extra negative two points.)

Mr. Gerard made a motion to deny the Shoop Residence, based on a failing point analysis of negative two points, seconded by Mr. Giller. The motion passed 5 to 0.

FINAL HEARINGS:

1. RMU Roof Top Deck, 112 S. Main Street, PL-2021-0132

Mr. Kulick presented a proposal to add a deck and bar area to a portion of the flat roof of the non-historic structure. The area is designed to have an 88-person occupancy and will be set back 24' from the front façade of the building.

Planning Commission Questions:

Based on staff's analysis, we have the following questions for the Commission:

1. Architectural Compatibility - Staff understands fire separation is required for the proposed exterior egress and therefore is generally comfortable with the proposed design and choice of materials. Does the Commission agree with staff?
2. Does the Commission have any additional comments on the proposed project design?

Rebecca Paiz, RMU Development Manager:

To address some of the concerns. We will install a brand new lift that will go two stories. They are customizable. It can have a roof or not, we want it enclosed on three sides. The flooring system and height, the pedestal system will have a distance of 2 inches at the highest- it won't go over the 42 inches. For the stairs being moved, the new staircase is 10 feet from the property line from the south, we will work with building department and it should comply. We will do what we can to comply. Most important is to address the concerns of the community with the noise. We appreciate everyone and how passionate they are. To assure you, we will comply with all codes, noise ordinances. We had the original one (noise violation) five years ago so I hope proving that we haven't had one in that many years we don't want to have one ever again.

Danny Teodoru, Timberline Law:

For legal issues, on the notion of a building code. This is not within the auspice. We will comply with the technical code requirements, we will carry forward regardless of tonight. Here we are talking about design, and we can address technical issues during that process. For nuisance, it regards continuance. Nuisance as a legal term is significant, the only place you can have loud speakers is on restaurant decks. It requires that someone from there is responsible to be the contact. Noise is addressed by the noise ordinance. RMU will have to always comply day in day out for noise. For firewalls and sprinklers- the firewalls and lifts were to accommodate, ADA I think it was to accommodate further access. For snow storage, there is no plan to have operations in the winter; if they were this is something they would be responsible for. Again, this is state and federal and we will comply. We are here to answer questions or design concerns. I want to commend staff helping coordinate the two codes that don't always go hand in hand. Again, to get the building permit we have to comply, to operate we have to comply with nuisance code. Thank you.

Zane Levin, Architect:

As Becca mentioned, the pedestal system comes really low profile. The roof pitches water and snow to the middle of the roof. So they are sleek where they approach the roof and will come down a few inches. With 6 inches wiggle room we should have no problem for the guardrail, and shouldn't be an issue on the front elevation. We have yet to determine the firewall. We think it will be a CMU to meet the 2-hour rating (building code here), it will be fire rated with lap siding on the outside for the exterior so it will match.

Danny Teodoru, Timberline Law:

That is the one section nuisance is defined. The notion of a nuisance isn't where someone doesn't like it, it is important because it underscores the significance. 19-1 ordinance where the lighting was taken out in 2019. The lighting code supersedes. Notion is fundamental unlawfulness that doesn't fit where it is. 5-8 talks about the fact that you can have outdoor seating at a restaurant and or loud speakers. It talks about significant and continuous noise, more so industrial in nature.

Mike Waesche, Applicant:

With respect to everyone, it has been inspiring to see the community rally around this project. I wanted to communicate that the development of this project is based around the community. We want to continue that process. If issues arise in the future, we are open to continually work on. I see this as building skys I see the people that have built our company, and the entire employee ownership company. That is most important. We want to be here to support the community going forward, give positive impact, and if complains arise we are approachable. Our team is working on things and willing to make changes. With full respect, I want it to be known that we are approachable. We are happy to evolve. Breckenridge is our home.

Mr. Beckerman opened the hearing for public comment.

Tim Casey, 108 S. Harris Street:

I would like to submit some more signatures to the petition submitted earlier. 50+ people have signed, multiplied by 30 is 1500 years of living here. Our biggest concern is the noise and the impact. This is unique as it is 25 feet in the air. We are concerned with continuous noise and potential enjoyment of our community. The historic character, this will have a negative meaningful impact on our use and enjoyment. We also have accessibility concerns, we will identify this later. A few questions: will there be live music? Will there be limits on hours of operations? It is a low bar for 70 decibels, normal conversation is 65. That is a tough standard. Our biggest concern is 25 feet in the air. This will establish negative precedent. Everyone nearby with flat roofs, what is to stop them? Bourbon Street Breckenridge is not a place that we want to live and it is not a place that is acceptable as far as residents. Thank you.

Peter Grosshuesch, PO Box 5675:

Rooftop decks are difficult. I echo what Tim said. The precedent is a key central reoccurring theme with this application. The precedents for outdoor decks as you go back in time - the character of those are accessory. They have fewer seats compared to the inside. This is the inverse of that, 24 seats on the inside but an occupant load of 88 on the outside. This is on the extreme end in terms of size. I would argue that outdoor use of this application is beyond what we had envisioned in the past in terms of along incentives. This project would generate in 150,000 in PIFs and water fees. This is unfair competitive advantage to those who have developed within the wall of their buildings. Parking and water fees have affected young business owners otherwise. COVID has blurred the picture on the use of outdoor spaces. The town lacks direct design standards for outdoor spaces. Typically, development review works best when there are specific policies. For outdoor spaces it is reliant on precedents. There is an absence of authority for design. As the former planning director, I was involved with the writing of the design handbook. While the view from the street it is the most important for historic preservation, it isn't the only relevant view. This will be in plain view from different angles. This doesn't comply with 90 and 91 "building components and materials". All these additions to the rooftop deck, fire walls, the lift, the stairs, the bar furniture, bistro lights, the shade umbrellas, those aren't consistent on surviving historic structures. You do have a way to deny this project by calling up the point analysis. Outdoor loud speakers, I request that you make a condition that it comes back as a Class B on loud speakers for public input. For egress as part of building code and a stair tower is required, the stair tower would add 8 ft. which would bring it to 32 feet. This would then have negative points and failure of an absolute policy.

Jon Gunson, 215 N. Goldflake Terrace:

I have been an architect since 1970 I tried to work as a good citizen and member of the community. For this project, the restrooms and the stairs. I helped write our ADA code that came into compliance 20 years ago, I had my leg amputated 3 years ago. We would give accommodation to handicapped when we can. This is a classic case where it meets the letter of the code, they won't violate laws, but this goes beyond law. To meet the letter of the code it may not comply with what we see is the intent of the code – accommodate guests as well as we can. I would like to ask you to put yourself in the position of someone coming in the front door. Then they have to walk around the block, go down the alley, get on a lift, get loaned an umbrella. The stairs meet the letter of the code but the intent is to accommodate our guests. This could be solved by putting in an elevator that goes to all of the floors. Second area is the accommodation of restrooms. The required would be 1 per 75 men, 1 per 75 for women. For entertainment/nightclub that is reduced to 40 persons per toilet. I think that the restrooms as shown as inadequate for the use. Let's say you are on the rooftop so you go down a floor lower then you have to wait in line for one toilet. I think you have the gist; this group has the obligation to go beyond the letter of the code and get to the intent of what we would like to do for our community, whether handicapped or ambulatory.

Deb Edwards 103 N High St. and own on French Street:

I am struggling I have lived in the historic district continuously on High Street for 43 years. I am struggling to understand what the noise impact will be to the district. I am not one to complain. I have worked to make this community better. Because I have chosen to live here I want it to be a pleasant experience. I don't know if there is a way to simulate the noise. There's lots of happenings on Main Street, Riverwalk, Ridge Street. I rarely hear a lot of noise that makes its way to High Street. I spend time on my upper deck. There isn't sound that makes its way there. I appreciate the rights that the owner has to their property, I understand not causing nuisance, but I wish I could have a better understanding of the noise level that we think might occur. I chose not to sign the petition, I didn't know enough about the impact. I attended this meeting to learn more. I am not for or against, I don't hear a lot of noise on High St. I like the commotion, I like all that we have to offer, but I like the opportunities to participate.

Chris Glen, 53 Royal Drive, COO RMU:

I trust our team following the code. We are here to be a part of this community. We started building skis in a garage. Our goals as a company, one of them is positive impact. Wherever we are and the locations where we are at. This is our home. We use these places for non-profit work, we gain 500,000 for non-profit efforts. It is our goal to continue, to follow the law, to abide by the law, and to represent the community and our mountain town. We will follow the law through us and you guys, we want this to follow every need that you have.

Commissioner Questions / Comments:

- Mr. Gerard: 1. It is sufficiently so (compliant). 2. Comments: This is unique. There isn't something to compare this to. This also really isn't something to point to deny. We look if it meets the provisions of the town development code, not what we like or don't like. It takes a while to learn this. We are careful here to not waste time talking about building code. To address a comment, we have a long precedent of finding that safety and ADA is something that we are concerned about and something that we will fit in. the building department ultimately decides bathrooms, stairways, access, not us. This isn't part of our code. Another area is whether this is actually going to fit with enough parapet. It is an issue of the building versus the business. People are here because they are concerned with what the business will do to the building. Mr. Grosshuesch explained the fees, this is a big business and they aren't paying another dime but it doesn't seem right to me. As Danny pointed out noise and light is subject to regulations. They will pay the price for that, but again that isn't part of the development code. It was mentioned if this fit in the historic district, that is a political decision, and if Council decides that they can legislate that out of the code. I am worried about the height of the bistro lighting, if there should be amplified sound. I hope the public could address that. 88 people on the roof would make enough noise.
- Mr. Leas: 1. I agree with staff. 2. Comments: Lots of issues raised here. Our board is sensitive to all of these. As a matter of what we can address we are somewhat limited. We have to deal with the planning code. No other comments.
- Ms. Leidal: 1. No I don't agree, but we should add a condition on why we are allowing it. 2. Comments: It is difficult. We don't have a specific rooftop deck ordinance. Steve hit a good point, this project is based on the premise of seasonal operation (no parking or water PIFs) can we say it would be used seasonally? (Ms. Paiz: We don't foresee people wanting to be up there in the winter, I would prefer not to put it in writing). (Mr. Kulick: The exemption of extra PIF and Parking fees isn't related to being seasonal, it is tied to not being gross floor area, we discussed this with Tim Berry.) You can customize the lift? Could you paint not to be reflective? (Mr. Levin: current lift is beige, we can paint any color that is least obtrusive). I still have concerns with metal tubing stairs. I know there is a metal railing next door, but we had projects where they integrated wood. (Mr. Levin: Our engineers requested it be non-combustible as a mean of egress. Since it isn't enclosed.)
- Mr. Beckerman: 2. Comments: We take your comments to heart, this is your forum to be heard. The exterior

speakers would be a Class D minor and you wouldn't be able to weigh in. The police would consider La Cima as a nuisance. Council is supportive of rooftop bars, it adds to the ambiance. I am confounded by the lighting in our code, we are so dark sky compliant obsessed, yet bistro lighting is allowed 8 months out of the year. Does it deserve minus two points of nuisance code? I am hesitant putting more on enforcement. This is a great application and a good project, but it is difficult affecting the nearby residential. Sound does carry when it's higher. It comes down to the point analysis whether it is correct or not. Comes down to the 2R.

Mr. Leas made a motion to approve the RMU Roof Top Deck and Bar.

Mr. Gerard amended the motion (with the approval of Mr. Leas) to approve the RMU Roof Top Deck and Bar, amending the attached findings adding a finding that the metal railing and lift complies with 24R is based upon the need for safety and building code requirements and the location at the rear of the building. Seconded by Ms. Leidal. This motion passes 4 to 0.

COMBINED HEARINGS:

1. Highland Greens Lodge Spa Remodel (CL), 34 Highfield Trail, PL-2021-0235 (**Continued from the July 20, 2021 Meeting**)

Mr. LaChance presented a proposal to remove two (2) existing outdoor spas and replace with one (1) new in-ground outdoor spa in the same location, install 999 sq. ft. of outdoor heated spa deck, replace all existing decking and fencing around the spa, install a new gas outdoor fireplace and trellis over the spa deck, and to convert three (3) existing parking spaces to electric vehicle parking spaces.

Commissioner Questions / Comments:

Ms. Leidal: I am supportive but we are all about the record and policy. I looked at Policy 47/A for fences. Should we add a finding that the fence is allowed due to the location and safety around a hot tub? Is it appropriate? I know it's been done before. (Mr. LaChance: If the Commission finds it appropriate, staff would support a finding).

Mr. Gerard: Even in my tenure on commission, the Village at Breckenridge project was surrounded with fencing. I think. I would support a specific finding based on precedent and visibility. No comments, I support.

Mr. Leas: No comments.

Ms. Leidal: Nothing besides the finding.

Mr. Gerard made a motion to approve the Highland Greens Lodge Spa Remodel, with the additional finding that the metal fencing around the spa deck is allowed because it conforms with precedence and is not highly visible. Seconded by Ms. Leidal. The motion passed 4 to 0.

OTHER MATTERS:

1. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 8:57 pm.

Jay Beckerman, Chair



Scheduled Meetings

Shading indicates Council required 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.

August 2021

Tuesday, August 10th, 2021	3:00 pm / 7:00 pm	Council Chambers	First Meeting of the Month
Tuesday, August 24th, 2021	3:00 pm / 7:00 pm	Council Chambers	Second Meeting of the Month
August 26th & 27th, 2021	CAST Conference		Telluride, CO

September 2021

September 4th, 2021	Rubber Duck Race		Blue River
Tuesday, September 14th, 2021	3:00 pm / 7:00 pm	Council Chambers	First Meeting of the Month
September 15th - 20th, 2021	Breck Film Festival		Throughout Town
September 22nd - 24th, 2021	Colorado Municipal League Conference		Westminster, CO
September 24th - 26th, 2021	"Oktoberfest"		Riverwalk Center
September 25th, 2021	RAM Walk		Carter Park
Tuesday, September 28th, 2021	3:00 pm / 7:00 pm	Council Chambers	Second Meeting of the Month

Other Meetings

August 10th, 2021	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
August 11th, 2021	Breckenridge Heritage Alliance	Noon
August 12th, 2021	I-70 Coalition	9:30am
	Upper Blue Sanitation District	5:30pm
August 16th, 2021	Social Equity Advisory Commission	9:00am
August 17th, 2021	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
August 19th, 2021	Transit Advisory Council Meeting	8:00am
August 23rd, 2021	Breckenridge Creative Arts	3:00pm
	Open Space & Trails Meeting	5:30pm
August 24th, 2021	Board of County Commissioners Meeting	9:00am / 1:30pm
August 25th, 2021	Summit Stage Transit Board Meeting	8:15am
August 26th, 2021	Breckenridge Tourism Office Board Meeting	8:30am
	Northwest CO Council of Governments	10:00am
	RW&B Board Meeting	3:00pm
September 1st, 2021	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	10:00am



Scheduled Meetings

Shading indicates Council required 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.

September 7th, 2021	Board of County Commissioners Meeting Planning Commission Meeting	9:00am 5:30pm
September 8th, 2021	Breckenridge Heritage Alliance	Noon
September 9th, 2021	I-70 Coalition Upper Blue Sanitation District	10:00am 5:30pm
September 14th, 2021	Board of County Commissioners Meeting Workforce Housing Committee	9:00am / 1:30pm 10:30am
September 16th, 2021	Transit Advisory Council Meeting	8:00am
September 20th, 2021	Social Equity Advisory Commission Breckenridge Creative Arts	9:00am 1:00pm
September 21st, 2021	Board of County Commissioners Meeting Liquor & Marijuana Licensing Authority Planning Commission Meeting	9:00am 9:00am 5:30pm
September 22nd, 2021	Summit Stage Transit Board Meeting Summit Combined Housing Authority	8:15am 9:00am
September 23rd, 2021	Breckenridge Tourism Office Board Meeting RW&B Board Meeting	8:30am 3:00pm
September 27th, 2021	Open Space & Trails Meeting	5:30pm
September 28th, 2021	Board of County Commissioners Meeting	9:00am / 1:30pm
October 5th, 2021	Board of County Commissioners Meeting Planning Commission Meeting	9:00am 5:30pm
October 6th, 2021	Breckenridge Events Committee Childcare Advisory Committee	9:00am 3:00pm
October 14th, 2021	I-70 Coalition	10:00am
TBD	Water Task Force Meeting Art Installation Meeting QQ - Quality and Quantity - Water District	8:00am 2:00pm 1:15pm