

Tourism Overlay District Task Force
February 23, 2022 Meeting Minutes
10:30 am – 12:30 pm, Breckenridge Town Hall Council Chambers

Meeting Attendees

Task Force Members: Abby Epperson, Jim Schlegel, Kelly Owens, Steve Fisher, Devon O’Neil, Abbey Browne, Dick Carleton, Mike Hessel, Steve Gerard, Bob Barto, Michelle Zimmerman

Town Staff: Rick Holman, Shannon Haynes, Mark Truckey, Julia Puester, Brad LaRochelle, Sarah Crump

Overview of Scenarios/ Hybrid Scenarios

Several scenarios and hybrid scenarios were sent to the Task Force. We made some updates to the scenarios but kept Scenario 2 since it had some support and is most restrictive. Some adjustments were made to other scenarios. Hybrid Scenario 1/4 brings Zone 1 up to 80% STR and sets a 3900 cap, splitting the gap between the restrictive and more liberal cap.

The second piece is the migration issue. Steve Gerard previously suggested a migration option between Zones 3 and 1, where for every license lost in Zone 3, a new one could be added in Zone 1. Or migration could occur on a 1:2 ratio, where for every two licenses lost in Zone 3, one could be added in Zone 1.

The idea of restricting licenses on undeveloped properties. Areas that could be developed into larger properties include the North Gondola Lot and East Peak 8 Hotel location. The summary table predicts the number of potential STR licenses at these locations. East Peak 8 Hotel could have 137 hotel units, these would not require STR licenses but the proposed 49 condo units at the location could need STR licenses. These undeveloped properties could total 350 to 400 units that are not currently figured into the current cap numbers. New licenses for undeveloped properties would need to be determined by the Town Council in the future.

Lodging licenses are required when there is a single ownership of all units on the property.

There could be legal implications for telling future potential developments that they cannot get an STR license.

Discussion - What is the input of Task Force members on the various scenarios?

We must stick with the 3700 number. Looking at Town in the last 6 weeks, it is not a livable situation. There are lot of pieces which affect experience but this is the one piece we can do something about. – Michelle Zimmerman

What is the difference in exempt and non-exempt? I thought there were no more exempt. –Bob Barto

Lodging licenses and exempt property STR licenses are separate things. Exempt properties are not exempt from having an STR license, but are exempt from the fees. To be considered exempt, properties with STR licenses must have a 24-hour front desk service, 24-hour private security, and 24-hour phone line. –Sarah Crump

The term exempt hasn't gone away, because it is currently a valid term under Code. Under the current Code there is no cap on exempt properties but a 2200 cap on non-exempt properties. We received lots of feedback that the majority of STRs should be concentrated in Zone 1 where it was designed for rental and land use guidelines discuss lodging. If you look at Scenario 2, there is a cap in Zone 1 of 3144 licenses. For example, if a Beaver Run unit were to sell and there was a waiting list for STR licenses, that Beaver Run owner would be forced to go on to the waitlist. –Rick Holman

How does that work for properties where covenants require them to be short-term rented? If there is no license to obtain. –Abbey Browne

There are several properties like this. Park Avenue Lofts for example. –Steve Fisher

A cap on exempt properties also creates an issue for properties like Beaver Run because those units serve as the hotel room pool when conferences come to Town and are used as hotel rentals. –Rick Holman

The change in our HOA docs to only allow long-term occupancy by the unit owner was triggered by BGV saying they wanted to purchase Beaver Run units to make them employee housing. –Bob Barto

Making this cap could cause some operational challenges for some units. –Rick Holman

Initially, I was for getting rid of exempt versus non-exempt terminology because it would stop the inequity and imbalance between properties like BGV/hotels/and everybody else. Now that we see the data we can perhaps tweak our proposal to make some adjustments for specific properties. Especially if we think there could be 400 timeshares, why should they be able to cut out someone else's availability of a license? – Abbey Browne

Our Town Attorney will argue that undeveloped properties have no right to STR licenses. No building permit has been issued for these projects. From our standing there is no guaranteed right to an STR license. But we know that they will argue the opposite. Making this a bargaining tool for some sort of development agreement. We're not sure on the Peak 8 hotel, they may not need the STR licenses and they don't seem concerned about the license situation. I don't think this should drive the conversation. – Rick Holman

Wouldn't the onus would be on individual properties to update their HOA docs to accommodate new STR rules and regulations? –Devon O'Neil

For properties with hundreds of units, changing HOA docs would likely not be their first response. – Abbey Browne

Is there a desire to keep the 3144 number in Zone 1 if we were to know that everyone today who has a license could keep it, for example properties like Beaver Run if those licenses stayed with that property? What if we made it property by property? So that licenses stay with each property only in Zone 1? –Rick Holman

Would this apply to all properties, not just exempt? –Abbey Browne

Yes, this could apply to all properties in Zone 1. If the license is lost at a specific property, the property could decide to place the license in the pool. If a unit sells in a property and the owner chooses not to

have an STR, the property could decide to take the license and apply it to another unit. This helps protect the business model for some properties. –Rick Holman

For Beaver Run, we need a certain amount of units for rental for our business model to work. –Bob Barto

I think this is helpful because throughout this process it hasn't been clear what being in the Tourism Overlay Zone 1 gets you. If you're in it what is the advantage? If you bring up that Town Council is not going to allow unfettered access to licenses in Zone 1, I think having licenses stay with properties in Zone 1 is a clear distinction without allowing more growth. Otherwise there is no advantage except there are more licenses in Zone 1. And you could get there without increasing the overall number of licenses. Fair is fair and if you have had this business model for a long time it is fair. There has been so much discussion about not taking. This is an example of that working for both sides. This is timely, we're at the last meeting and suddenly there is an acute property by property solution to consider. –Devon O'Neil

Is there any developable land in Zone 1 left? –Bob Barto

No, it is pretty much built out. –Mark Truckey

[If we go with this proposal] If somebody wanted to build a hotel somewhere in town and needed short-term rentals to make it work. The seated Council at the time would be able to require a development agreement and obtain benefits for the Town. It gives Council the ability to negotiate the need at the time for the community's benefit. – Dick Carleton

I am seeing agreement on Rick's suggestion for 1:1 replacement in Zone 1. The new buyer would have option to have STR license on first right of refusal. Which would be different than in Zones 2 and 3 where the STR license goes away with a sale. – Mark Truckey

I actually really like this proposal because it allows for sales and some movement and transfer of licenses in Zone 1, but I also wonder if the administration of it would be difficult. If the new owner declines the STR licenses, are you saying to offer it to the property at large and if they decline the license goes into a pool? Eventually you have a pool for everyone. Administratively it would be difficult. – Abbey Browne

Bela may have other thoughts, but realistically I think we would put a 30 day window of opportunity on the license that is available in which another unit on that property or the new owner could obtain the license. If it was declined, it could go into the Zone 1 pool. –Rick Holman

If it is a single family property which loses a license, would the license just go into the pool? Because otherwise we're creating a favorable scenario for those single family properties. –Kelly Owens

Yes, because I also worry about creating or adding artificial or inflated property values, but if we allowed unfettered licenses in Zone 1 the same could happen. We could make this transfer proposal for multi-family only. –Rick Holman

I think you have to offer the license to other units on the property first, before the new owner. This could be a difficult management issue. –Jim Schlegel

Yes, I agree, because otherwise you are creating the added value for the unit that is for sale. –Kelly Owens

Most agree that for single family homes, the HOAs should not manage distributing any STR licenses or get first right of refusal. The license should just go into a pool.

Yes, this could be a difficult management solution but capping the number of licenses in any way creates a management situation. –Rick Holman

There are a lot of multi-family units that are not like Beaver Run. I understand why we want to move away from the exempt model but we don't need every property in Zone 1 to operate like this just because some do. –Kelly Owens

Everywhere in Zone 1, does not have these required HOA short-term rental covenants. I would only be in favor of this applying to the properties with these grandfathered clauses. – Devon O'Neil

What would that look like? Would those properties be grandfathered in at their current number or not be held to any cap? –Rick Holman

For Bob, Beaver Run has a certain number of units that are not in the Beaver Run rental pool and are rented through another management company? Someone in one of those units with an STR license shouldn't be allowed to be in the exempt pool. How many people have opted out of Beaver Run's rental pool? –Steve Gerard

501 units out of 560 are in our rental pool. Others are rented by other management companies. There are probably less than a half dozen who don't rent at all. – Bob Barto

Couldn't the Code just say there is transferability of STR license if your HOA documents require STR rental? This would be a very limited definition of transferability. – Mike Hessel

My concern with that is that we would be rewarding people for not long-term renting. – Dick Carleton

Making a change to HOA docs is not easy. –Abbey Browne

From an administrative standpoint it would be easier if we grandfathered the existing properties that are considered exempt. The decision would be, do we grandfather them at their current number of STR or allow as many STRs as are units on the property? –Rick Holman

Are you saying grandfathering in exempt properties, their licenses would just transfer over to the new owner? And what about non-exempt properties in Zone 1? –Abby Epperson

I am saying for the ~1500 exempt properties the license would stay with the property. To give them the ability to maintain their needed level of units. Non-exempt properties would still be part of overall cap pool. –Rick Holman

After this process, I question what progress we have made. Keystone and Copper have made the decision they have because they know it's for tourists. It's lodging. I just go back to the Zone 1, west of Park Avenue, why are we having restrictions there? I thought it was to pull the trouble from the neighborhoods. I am a firm believer that west of Park Avenue should not have restrictions. If it sells, you could end up having it go to a wealthy buyer and it would just sit there. Then we would turn into Vail. I don't know why we're changing the Overlay district. There were hundreds of people that contacted me before November and they didn't understand exempt and non-exempt. But I am not seeing where

anything is really changing. This is getting over complicated and I feel like I've let the people down because I don't see what we've done. – Abby Epperson

I agree with you Abby. If you don't have a cap I believe you're going to see the numbers of STRs drop in Zone 1. We've set limits in Zones 2 and 3 where there are problems. –Abbey Browne

I would argue that it will land somewhere in the middle on this and where the pendulum swings will be up to the Council. I would argue that if it stays the way it is, the chances of getting a license in Zone 1 are far greater than in Zone 2 and 3 and that is something. –Rick Holman

To address some of your questions, the difference between Breckenridge and Keystone and Copper, we are an incorporated Town that has been around since long before tourism. There are a lot of people here who want it to be a livable year-round community. If you say, why are there restrictions on Zone 1, I would agree if you could easily move licenses from Zones 2 and 3 where they make less sense, but the overall cap addresses a larger problem - currently there are too many overall. In those other places, there are not the same number of year-round residents who don't want this level of tourism. –Devon O'Neil

Tourism is not going to stop. The population of Colorado has grown. You can't stop people from coming to Breckenridge. People come they want to enjoy Main Street. What are you going to do? I would rather people be in short-term rentals than crowding roads for day trips. The 2008 Comprehensive plan worked for attracting more tourists. –Abby Epperson

I think that is the point. The 2008 plan did attract tourists and we went a little too far. If you look at visitor surveys the visitor experience is no longer good. Tourism has long been a part of Breckenridge but the issue of the Town experience, short-term rentals are only one piece of the experience puzzle. I think one thing we're losing vision of, is the rising cost of housing, not for rental, but for ownership. When real estate is allowed to be a business model it loses the purpose it was intended for, to be a home. Can people who live here afford to live here? I think you can't have both in all places and have a livable community. – Michelle Zimmerman

Real estate is always going to be a business. You can't have a tourism economy and limit tourists. Let's focus on getting tourists in one space and then we can manage the other areas. –Abbey Browne

You're trying to say we're trying to get rid of tourism. None of us want to eliminate tourism. There are too many. The only tool we have that we're debating is how to manage it responsibly. You have this idea that we're trying to get rid of tourists. We're trying to manage it. – Devon O'Neil

You're trying to reduce it. –Abbey Browne

Yes, because it's too much. –Devon O'Neil

I obviously want the higher number on the cap, at minimum 80 percent in Zone 1 and the migration as the other areas start opening up. Those numbers can go into the tourism Zone. – Abbey Browne

The migration piece, to better understand it, are we increasing the number of the cap? – Dick Carleton

No, the migration licenses leaving Zone 3 would only allowed to be added in Zone 1 until the Zone 1 cap is reached. –Steve Gerard

Migration is really just a pause. The licenses available in Zone 1 will be obtained and then licenses will be lost down to their cap in the other Zones. –Kelly Owens

What if the Council says we want the lower 3700 cap, but decide to place 3500 in Zone 1? What about the other Zones (2 and 3), do those Zones need licenses? –Rick Holman

I was thinking about this, but less severely. The other Zones just don't have as many units. So reducing in those Zones doesn't get us very far toward reaching the cap. – Kelly Owens

If we do end up with a 3700 cap, which I hope we don't, I would be in favor of sacrificing STR licenses in Zones 2 and 3 to get more STR licenses in Zone 1. –Jim Schlegel

If we extinguish STRs with large bedroom counts in Zone 3 that could be the equivalent of 3 properties extinguished in Zone 1. – Steve Gerard

We should hold on to some licenses in Zones 2 and 3 for some grandfathered licenses. Council is hearing arguments from people outside Zone 1 that their properties were constructed specifically for STR and we should be aware that is an argument. –Michelle Zimmerman

I think the hybrid scenarios are the most fair for both sides. The Scenario 2, takes a lot away from stakeholders. This needs to be fair for people who live here and own here. A hybrid scenario is the way to go. –Steve Fisher

I know we can't reach a consensus, but I do want to get to some conclusions. The way the 80 percent was written in Zone 1, is it the thought that reaching 80 percent is only as result of licenses being extinguished through attrition in Zone 3? –Mark Truckey

That was not my original intent. My thought was 80 percent in Zone 1 would free up some licenses for flexibility until the fee goes up and more licenses are surrendered. –Abbey Browne

How many people think that 80 percent in Zone 1 should be reached without migration from Zone 3? Abby Epperson, Abbey Browne, Steve Fisher, Jim Schlegel, and Mike Hessel agree.

The same people agree that Zone 1 should be allowed to exceed 80 percent STR.

Others agree that Zone 1 could exceed 80 percent only with the caveat that the overall license numbers are within the overall cap.

Reverse of the question, a scenario where you can get up to 80 percent in Zone 1 and to get above 80 percent licenses must migrate from Zone 3. How many do not support that option? There is agreement for going to 80 percent in Zone 1 and over 80 percent in Zone 1 if an overall cap is met.

I have concerns that owners in Zones 2 and 3 will still want licenses and migrating too many to Zone 1 would not work. –Mike Hessel

Anticipated Schedule

- Staff will work to draft a report for a March 22 work session and discussion with Town Council.
- Based on Council feedback, staff will work to draft an Amendment to the existing Ordinance.
 - First Reading April 12
 - Second Reading April 26