



TOWN OF
BRECKENRIDGE

Town Council Regular Meeting

Tuesday, June 28, 2022, 7:00 PM

Town Hall Council Chambers

150 Ski Hill Road

Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE IS HOLDING HYBRID MEETINGS. THIS MEETING WILL BE HELD IN PERSON AT BRECKENRIDGE TOWN HALL. ALL MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND. 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. All public comments must be delivered in person in Council Chambers during designated public comment times, by email to mayor@townofbreckenridge.com, or by mailed letter, prior to the meeting.

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - JUNE 14, 2022

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

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

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2022

1. *COUNCIL BILL NO. 19, SERIES 2022 - AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE*

2. *COUNCIL BILL NO. 20, SERIES 2022 - AN ORDINANCE ADOPTING TIMELINE FOR NOTICE AND RELOCATION OF FACILITIES AND IN CONNECTION THEREWITH ADOPTING FINES AND PENALTIES FOR FAILURE TO COMPLY*

VI. NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2022

B. RESOLUTIONS, SERIES 2022

1. *RESOLUTION NO. 14, SERIES 2022 - A RESOLUTION APPROVING ACCEPTANCE OF A WATER TREATMENT PLANT*

C. OTHER

VII. PLANNING MATTERS

- A. PLANNING COMMISSION DECISIONS
- B. BRECKENRIDGE GRAND VACATIONS DE NOVO HEARING WRITTEN DECISION

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

- A. CAST/MMC (Mayor/Town Manager)
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (Mr. Bergeron)
- C. BRECKENRIDGE TOURISM OFFICE (Mr. Carleton)
- D. BRECKENRIDGE HISTORY (Ms. Saade)
- E. BRECKENRIDGE CREATIVE ARTS (Mr. Rankin)
- F. BRECKENRIDGE EVENTS COMMITTEE (Ms. Owens)
- G. CHILD CARE ADVISORY COMMITTEE (Mr. Beckerman)
- H. WORKFORCE HOUSING COMMITTEE (Mr. Carleton/Mr. Rankin)
- I. SOCIAL EQUITY ADVISORY COMMISSION (Ms. Saade)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

- A. SCHEDULED MEETINGS FOR JUNE, JULY AND AUGUST

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Mamula called the meeting of June 14, 2022 to order at 7:00pm. The following members answered roll call: Mr. Bergeron, Ms. Saade, Mr. Rankin, Mr. Carleton, Ms. Owens, Mr. Beckerman and Mayor Mamula.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – MAY 24, 2022

With no changes or corrections to the meeting minutes of May 24, 2022 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.

Mr. Dave DePeters, the CEO of the National Repertory Orchestra, stated the musicians will arrive this weekend and the first concert will be on June 25. He further stated there are approximately 100 musicians and staff, including an alumni string quartet, and Michael Stern, the Music Director, will be returning this year. He stated the July 4th Concert will take place, and the Joshua Bell concert will be on July 8th. He also stated they are partnering with Breck Film to present West Side Story at the Riverwalk Center on July 27th, and they will host kids concerts and will be partnering with BCA for the BIFA events this year.

Mr. Brian Stokes, a local business owner, stated that on behalf of small business owners he was present to ask Council to continue to use sandwich boards. He stated the Town provides a genuine experience and he feels the sandwich board ban is unnecessary. He asked Council to allow the boards to direct traffic, and to use fines to handle this issue instead of a ban.

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

B) BTO UPDATE

Ms. Lucy Kay, Director of the BTO, stated they are working on pre-arrival messaging with road construction, and they built a lodging toolkit on OneBreckenridge.com that has seen an increased engagement about messaging for guests. She further stated we are pacing 10% ahead for the summer season, but the pace is declining quickly and we are watching that trend. She stated group business is back and keeping us steady right now. She also stated Bike to Work Day is June 22, and the July 4th parade is ready, although for the weekend of the 4th we are down 7% compared to last year. She stated that for Oktoberfest we are moving forward with new partners and will be buying tables this year, and a community task force will be put together to make the event feel more local. Ms. Kay stated the annual meeting is on Thursday morning in Council Chambers and the keynote speaker will be the director of Colorado Tourism.

V) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2022 - PUBLIC HEARINGS

VI) NEW BUSINESS

A) FIRST READING OF COUNCIL BILLS, SERIES 2022

1) COUNCIL BILL NO. 19, SERIES 2022 - AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

Mayor Mamula read the title into the minutes. Ms. Kirsten Crawford stated this ordinance would allow for the installation of additional charging stations, specifically at Town facilities and other areas as noted in the memo.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 19, SERIES 2022 - AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE. Mr. Beckerman seconded the motion.

The motion passed 7-0.

- 2) COUNCIL BILL NO. 20, SERIES 2022 - AN ORDINANCE ADOPTING TIMELINE FOR NOTICE AND RELOCATION OF FACILITIES AND IN CONNECTION THEREWITH ADOPTING FINES AND PENALTIES FOR FAILURE TO COMPLY
Mayor Mamula read the title into the minutes. Ms. Shannon Haynes stated this ordinance would allow the town to enforce penalties for not relocating utilities in a timely manner during construction projects.

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

Mr. Bergeron moved to approve COUNCIL BILL NO. 20, SERIES 2022 - AN ORDINANCE ADOPTING TIMELINE FOR NOTICE AND RELOCATION OF FACILITIES AND IN CONNECTION THEREWITH ADOPTING FINES AND PENALTIES FOR FAILURE TO COMPLY. Ms. Owens seconded the motion.

The motion passed 7-0.

- B) RESOLUTIONS, SERIES 2022
1) RESOLUTION NO. 13, SERIES 2022 - A RESOLUTION APPROVING CERTAIN DOCUMENTS IN CONNECTION WITH THE ALTA VERDE APARTMENTS
Mayor Mamula read the title into the minutes. Ms. Laurie Best stated this resolution has to do with the Alta Verde housing apartments and would allow the Town to execute documents related to the financial closing of this project.

Mr. Bergeron moved to approve RESOLUTION NO. 13, SERIES 2022 - A RESOLUTION APPROVING CERTAIN DOCUMENTS IN CONNECTION WITH THE ALTA VERDE APARTMENTS. Ms. Saade seconded the motion.

The motion passed 7-0.

- C) OTHER
1) BRECKENRIDGE EVENTS COMMITTEE APPOINTMENTS
Mr. Bergeron moved to affirm the Breckenridge Events Committee selection committee's recommendation by appointing the following individuals to the Breckenridge Events Committee for a term of four years each: Maddie Schilling and Michelle Chapdelaine beginning in July 2022. Ms. Owens seconded the motion.

The motion passed unanimously by voice vote.

VII) PLANNING MATTERS

- A) PLANNING COMMISSION DECISIONS
Mayor Mamula declared the Planning Commission Decisions would stand approved as presented.
- B) GONDOLA LOTS SUBDIVISION DE NOVO HEARING
- C) Mayor Mamula introduced the GONDOLA LOTS SUBDIVISION DE NOVO HEARING. Mayor Mamula read into record the hearing script. Mr. Mike Dudick and Mr. Graham Frank were present to represent the applicant.

Mr. Mark Truckey introduced the application, including a description and maps of the proposed subdivision area. Mr. Chris Kulick further gave examples of recent subdivisions that were approved by Council. Ms. Owens asked about the proposed use of Lot 2 in the subdivision. Mr. Beckerman asked about the wetland area in the Master Plan, and Mr. Bergeron asked if the wetlands could be touched. Mr. Truckey stated it makes sense that the Town would have control over the wetlands area to preserve it. Ms. Owens asked about the approval of the Master Plan versus approval of the site-specific development proposal. Mr. Bergeron asked about the preservation of the wetlands. Mr. Beckerman

asked about the shape of the parcel. Mr. Carleton asked about straight lines on the property influencing where the buildings will be. Mr. Kulick and Mr. Truckey explained that the subdivision plan comes after the Master Plan for this project. There were no additional questions by Council for staff.

Mr. Dudick stated they followed staff and code direction. He further stated precedent supports this application, and staff and the Planning Commission support it. He stated the lines were drawn to benefit the community and the open space in the area. Ms. Owens asked about the plans for Lot 2 and Mr. Dudick stated there are no plans for that space as there is no density on it. Mr. Beckerman asked if the applicant would be willing to straighten the line by the wetland area to meet the letter of the code. Mr. Frank explained the history behind the shape of that parcel and the wetlands studies that were conducted in that area.

Mayor Mamula opened the public hearing. Mr. Brian Stokes, a local resident, asked about the state of the wetlands next to the development and Mr. Frank stated they have used engineers to direct the draining water into another area.

Mayor Mamula closed the public hearing.

Mr. Bergeron stated he would support the subdivision and stated there has been more public concern about this project than anything other recent projects. He further stated he feels every decision needs to be scrutinized. Mayor Mamula stated the Master Plan really sets the plan for the area, and the site-specific plan is more specific to building mass, texture, etc. so the difference between the Master Plan and the subdivision application needs to be cleaned up in the future.

Mr. Owens stated she agrees with Mr. Bergeron and was initially concerned because the subdivision code states the parcels should be developed so they aren't over-programming the site. She further stated she is most concerned about the Vail Resorts parcel. She also stated she doesn't understand why we have a code that we usually never follow.

Mr. Carleton stated we are trying to protect the Town and he's struggling with Lot 2 and the lack of explanation about the shape of it. He also stated he's concerned about the ditch that goes through Lot 2.

Mr. Rankin stated he agrees with Mr. Bergeron.

Ms. Saade stated she is comfortable with the subdivision as drawn.

Mr. Beckerman stated he appreciates the contributions of the applicant to the community, but we need to look at this application separate from the applicant. He further stated the visibility and impact of this project is unprecedented and these decisions could have significant ramifications.

Mayor Mamula stated he believes the code allows permissive language and he thinks this is the best configuration of the lot lines and that the lot lines won't change the density. He further stated these lot lines work in the favor of the applicant and he believes Vail Resorts is retaining this piece of property on their balance sheet for some reason we don't understand. He further stated in the past we focused on not allowing lots for the benefit of one owner over another.

Mr. Bergeron made a motion to approve GONDOLA LOTS SUBDIVISION DE NOVO HEARING. Mr. Rankin seconded the motion.
The motion passed 7-0.

VIII) REPORT OF TOWN MANAGER AND STAFF

Mr. Holman stated the Town Party is Thursday and Happy Hour with the Mayor is tomorrow. He also stated the BOCC would like a joint meeting with the Council. Mr. Holman stated he would like the authority to make amendments to the current staff budget to adjust salaries as a result of a pay study. Council supported Mr. Holman and gave him the authority to make the adjustments.

IX) REPORT OF MAYOR AND COUNCIL MEMBERS

A. CAST/MMC

Mr. Mamula stated CAST is next week at the CML conference. He also stated he met with the Winter Park Town Council this week to talk through how we have handled our housing issues. Mr. Holman stated there is a lottery this Friday for 8 deed-restricted housing units.

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE

Mr. Bergeron stated there was a meeting yesterday to discuss the Master Plan progress, including the criteria for acquisitions and criteria for trails to be built on the acquisitions. He further stated it be awhile before we can bring the plan to Council.

Mayor Mamula stated he wasn't pleased with the direction of the draft plan and the time it has been taking for it to be completed. Ms. Owens stated she was concerned about the cost of the project.

C. BRECKENRIDGE TOURISM OFFICE

No update.

D. BRECKENRIDGE HISTORY

Ms. Saade stated historic tours have started for the summer and the Milne Park project is underway. She further stated the board is trying to prioritize capital projects and www.BreckHistory.org has a digital archive of all historic documents.

E. BRECKENRIDGE CREATIVE ARTS

No update.

F. BRECKENRIDGE EVENTS COMMITTEE

No update.

G. CHILD CARE ADVISORY COMMITTEE

Mr. Beckerman stated they discussed the increase in tuition to families and the increase in pay for teachers. He stated the main issues are retention and recruitment of teachers, stemming from housing and health insurance concerns. He stated they are testing flex scheduling with split shifts, and trying to explore all options to keep teachers.

H. WORKFORCE HOUSING COMMITTEE

Mr. Rankin stated the housing units lottery will be on Friday and we are going to look at Block 11 again to plan additional projects in that space. He also stated some housing helps applications came in recently. Mr. Carleton stated they talked about using housing helps for units that are new builds.

I. SOCIAL EQUITY ADVISORY COMMISSION

No update.

X) OTHER MATTERS

Mr. Holman stated the Recreation Director is asking to close the Recreation Center on July 4th so staff can assist with the special events that day. Council agreed to close the Recreation Center.

Ms. Owens stated the Recreation Center is critical for local families and they are seeing about 600 kids per week in their programs. She further stated the Recreation Center is by far the best youth program center in the county. Mr. Holman gave kudos to Jon Dorr for running the programs.

Mr. Carleton stated Matt Vawter has been added to the BTO board.

Mr. Carleton stated he would like to look at our planning incentives for amenity spaces to see if we really need to incentivize projects anymore.

Mr. Rankin stated he would like to look to add more xeriscaping to code requirements. He stated he would also like to work with the County on the Lake Hill housing project if that's possible. Mayor Mamula stated we have offered to be part of that project in the past with no help.

Mr. Bergeron asked when the road painting would happen on Wellington Road.

Mr. Saade stated tomorrow is the 10th year anniversary of the DACA program.

Mr. Beckerman encouraged Council to attend the BTO annual meeting.

Mayor Mamula stated he believes gun legislation is important and it should start at the local level. He stated he would like the Town Attorney to look into policy considerations that could be legislated by Council. Mr. Carleton stated he had concerns about trying to enforce our own legislation around this matter.

Mayor Mamula stated he would like to bring back the Citizen Award. He also stated there was significant event overlap this weekend. Mayor Mamula would like to consider combining Town Cleanup and Town Party into one event for locals.

Council discussed the sandwich board code requirements. Mr. Holman stated we could look at allowing them on private property only, and staff stated we had a task force for this 5 years ago and staff will share the old memos on this topic.

Ms. Saade suggested a change to the Citizen Award name, which was to rename it as the Community Award.

XI) SCHEDULED MEETINGS

A) SCHEDULED MEETINGS FOR MAY, JUNE AND JULY

XII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:20pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

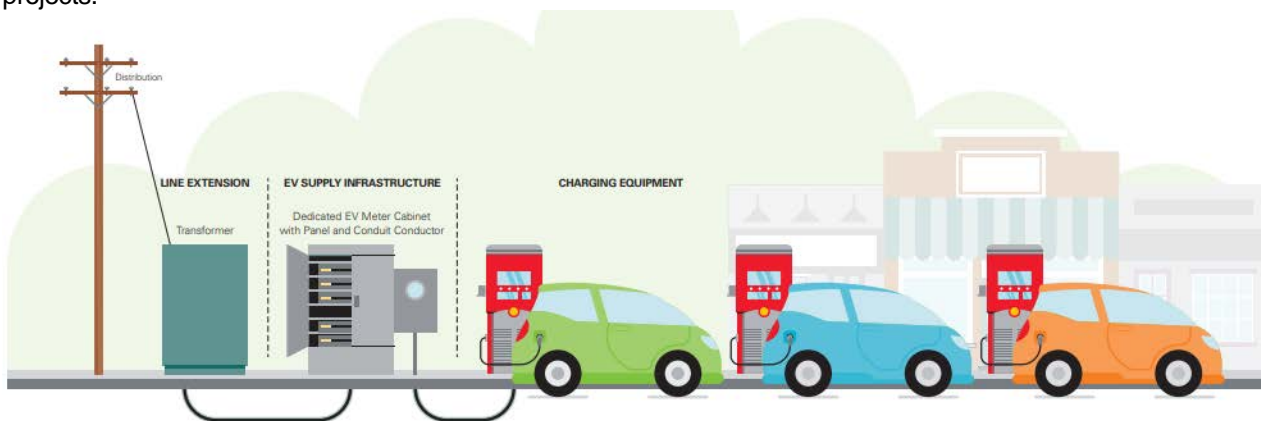
Eric S. Mamula, Mayor

Memo

To: Breckenridge Town Council
 From: Teddy Wilkinson, Sustainability Administrator
 Date: 6/21/2022
 Subject: Easements for EV Supply Infrastructure (2nd Reading)

There are no changes to this Bill from first reading. This Bill authorizes the Town Manager to enter into service agreements with Xcel, as well as provide the necessary easements to install and maintain the EVSI equipment at two project locations: Breckenridge Police Department (150 Valley Brook St) and the Golf Course (200 Clubhouse Drive). Staff recommends that council approve this bill on second reading tonight.

The Xcel Energy Electric Vehicle Supply Infrastructure (EVSI) program helps provide some of the behind-the-meter infrastructure needed to install EV chargers, providing significant cost-savings to the Town for these projects.



Source: Xcel Energy EVSI Program Overview

As a reminder, here is a quick summary of the two EV-charging projects:

- 150 Valley Brook Rd. (Breckenridge Police Department)** Breck PD anticipates procurement of an electric F150 Lightning to be used as a new Community Service Officer truck in late 2022. To support this vehicle, and future fleet EVs, staff is planning to install a DC Fast Charger on site. Town has been awarded a \$50,000 grant from the Colorado Energy Office, and the project has been accepted into Xcel's EVSI program to cover some of the infrastructure costs (New transformer, switchgear, and line extension will be needed). The charger is intended to be "Police Priority" but still open for public use.
- 200 Clubhouse Dr. (Breckenridge Golf Course/Gold Run Nordic Center)** Town was awarded an \$18,000 grant from the Colorado Energy Office to install two dual-port level 2 chargers at the Golf Course/Nordic Center. These would be open to the public, and are the same type of chargers we currently use at Town Hall, Rec Center, Ice Rink, and Public Works. Users would be able to charge their EV while playing a round of golf or during an outing on the Nordic trails.

COUNCIL BILL NO. 19

Series 2022

AN ORDINANCE AUTHORIZING THE GRANTING OF EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO FOR THE INSTALLATION OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE.

WHEREAS, Public Service Company of Colorado has requested the granting of certain easements over, across, and through certain real property owned by the Town; and

WHEREAS, the Town Council of the Town of Breckenridge has determined that it should grant the requested easements; and

WHEREAS, Section 15.3 of the Breckenridge Town Charter requires that granting of an easement be authorized by ordinance.

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

Section 1. The Town Manager is authorized, empowered, and directed to execute, acknowledge, and deliver to Public Service Company of Colorado easements for the installation of electric vehicle charging equipment as more fully described in the EVSI charging agreements, Exhibit A and B, attached hereto and incorporated by reference.

Section 2. The EVSI agreements contemplate that the Town shall grant to Public Service Company of Colorado an easement area at the Breckenridge golf course, 200 Clubhouse Drive, and the Breckenridge police department, 150 Valley Brook Street.

Section 3. The areas in the approved easements for each location shall be further described and defined on the basis of an as-built drawing and description to be provided by Public Service Company of Colorado at its cost following the installation of Public Service Company of Colorado's charging stations. Upon the approval by Grantor and Grantee of the as-built drawing and description of the easement areas the Town Manager is further authorized to execute, acknowledge, and deliver an amended grant of easement based on an as-built legal description.

Section 4. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity,

1 and improve the order, comfort and convenience of the Town of Breckenridge and the
2 inhabitants thereof.

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

5 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
6 PUBLISHED IN FULL this ___ day of ____, 2022. A Public Hearing shall be held at the regular
7 meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of ____,
8 2022, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

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10 TOWN OF BRECKENRIDGE, a Colorado
11 municipal corporation

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By: _____

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Eric S. Mamula, Mayor

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18 ATTEST:

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23 Helen Cospolich, CMC,

24 Town Clerk

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Memo

To: Breckenridge Town Council Members
From: Shannon Smith, Town Engineer
Date: 6/22/2022
Subject: Ordinance for Utility Relocation



This is the second reading of the Ordinance Adopting Timeline For Notice and Relocation of Facilities And In Connection Therewith Adopting Fines and Penalties For Failure To Comply. This ordinance will allow the Town to enforce penalties and damages when a utility company does not relocate facilities in a timely manner causing delays to public projects. The ordinance was circulated to major utility companies and staff received no comments. There were no changes made to the ordinance from the first reading.

During recent construction, Staff found that the Town did not have an over-arching mechanism to enforce relocation of existing utilities in Town rights-of-way or property. This ordinance will support utility relocation to happen in a more timely and efficient manner for public projects. In some instances, relocation requests have taken multiple years for recent projects. This ordinance will allow for a clear and more stringent timeline and provide enforcement provisions for the Town.

4
5 **AN ORDINANCE ADOPTING TIMELINE FOR NOTICE AND RELOCATION OF**
6 **FACILITIES AND IN CONNECTION THEREWITH ADOPTING FINES AND**
7 **PENALTIES FOR FAILURE TO COMPLY.**
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9 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
10 BRECKENRIDGE, COLORADO:
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12 **Section 1.** That Title 11 entitled "Public Ways and Property" be amended by adding
13 a new Chapter 10 entitled "Relocation of Facilities" as follows:

14 **CHAPTER 10**

15 **RELOCATION OF FACILITIES**

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19 **A. Definitions.** For purposes of enforcement of this chapter, the following terms
20 shall mean:

21 1. Facility or facilities: any works or improvements used or useful in providing
22 electric, communication, gas, and water service including, but not limited to, poles, supports,
23 tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms,
24 crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters,
25 communication circuits, appliances, attachments, and appurtenances. The term facility
26 easement shall be interpreted to include public utility easement.

27 2. Person: any individual, partnership, firm, company, association, corporation,
28 limited liability company or governmental entity.

29 **B. Relocation obligation.** A person shall temporarily or permanently remove,
30 relocate, change or alter the position of any facility in: (i) Town streets; (ii) public facility
31 easements in Town streets or other Town property; or (iii) in any other Town property at no cost
32 or expense to the Town whenever the Town determines such relocation is necessary for the
33 completion of any public project. For all relocations, a person and the Town agree to cooperate
34 on the location and relocation of the facilities in the most efficient and cost-effective manner
35 possible, the terms of which are set forth in a permit issued by the Town engineer.

36 Notwithstanding the foregoing, once a person has relocated any facility at the Town's direction,
37 if the Town requests that the same facility be relocated within two years, the subsequent
38 relocation shall not be at the person's expense. Nothing provided herein shall prevent a person
39 from recovering its relocation costs and expenses from third parties.

1 **C. Relocation performance.** Relocation required by this chapter shall be
2 completed within a reasonable time, not to exceed 60 (sixty) days from the later of the date on
3 which the Town engineer requests, in writing, that the relocation commence, or the date when a
4 person is provided all supporting documentation. A person subject to this chapter shall notify
5 the Town engineer within 20 (twenty) days of receipt of the request if the supporting
6 documentation is insufficient to complete the project. The timeframes in this section may be
7 extended as follows:

8 1. Any revision by the Town of supporting documentation provided to a person that
9 causes a person to substantially redesign and/or change its plans regarding facility relocation
10 shall be deemed good cause for a reasonable extension of time to complete the relocation
11 under this chapter.

12 2. A person shall receive an extension of time to complete a relocation where
13 relocation performance was delayed due to force majeure or the failure of the Town to provide
14 adequate supporting documentation. The person notified about the duty to relocate has the
15 burden of presenting evidence to reasonably demonstrate the basis for the delay.

16 3. Upon written request from a person subject to relocation under this chapter, the
17 Town may also grant a person reasonable extensions of time for good cause shown and the
18 Town shall not unreasonably withhold any such extension.

19 **D. Completion.** Each relocation shall be complete only when a person restores the
20 relocation site in accordance with permits issued by the Town engineer, and removes from the
21 site or properly abandons on-site all unused facilities, equipment, material and other
22 impediments.

23 **E. Coordination.** When requested in writing by the Town or a person, representatives
24 of the Town and the person shall meet to share information regarding coordination of
25 anticipated projects that will require relocation of facilities in the Town. Such meetings shall be
26 for the purpose of minimizing conflicts where possible and to facilitate coordination with any
27 reasonable timetable established by the Town engineer for any public project.

28 **F. Notice.** The Town shall provide a person with one year's advance notice of any
29 planned street repaving to the extent the Town has such information. A person shall make
30 reasonable best efforts to complete any necessary or anticipated repairs or upgrades to facilities
31 that are located underneath the street within the one-year period if practicable.

32 **G. Proposed alternatives or modifications.** Upon receipt of written notice of a
33 required relocation, a person may propose an alternative to or modification of the public project
34 requiring the relocation in an effort to mitigate or avoid the impact of the required relocation of

1 facilities. The Town shall in good faith review the proposed alternative or modification. The
2 acceptance of the proposed alternative or modification shall be at the sole discretion of the
3 Town. In the event the Town accepts the proposed alternative or modification, a person agrees
4 to promptly compensate the Town for all additional costs, expenses, or delay that the Town
5 reasonably determines resulted from the implementation of the proposed alternative.

6 **H. Town revision of supporting documentation.**

7 **I. Rules and Regulations.** The Town engineer has the power and authority to
8 adopt rules and regulations to implement this chapter.

9 **J. Enforcement, fines and penalties.**

10 1. The Town engineer shall enforce all provisions found in this chapter against any
11 person except where a person has a franchise agreement with the Town with different or
12 conflicting provisions. In such case, the franchise agreement shall control. A person who fails
13 to comply with this chapter is subject to the following penalties:

14 2. It is a violation of this chapter to maintain overhead electric distribution lines or
15 telecommunication lines including circumstances governed by the Town of Breckenridge
16 Development Code.

17 3. It is a violation of this chapter if a person fails to relocate facilities within the
18 timeframes established by this chapter or, if an extension is granted, as set forth in the
19 extension granted in writing by the Town engineer.

20 4. Any person found in violation of this section shall be subject to a fine of up to
21 \$2,650.00 per day for each day in which the facilities remain in place. In addition to the penalties
22 in this chapter, the Town may seek any appropriate remedy, including delay damages and
23 equitable relief to secure compliance with this Chapter and to preserve the Town's interest in
24 Town streets or other Town property.

25 5. After providing notice and the opportunity for relocation, if a person fails to
26 comply with the terms and conditions of this chapter and any permits issued, the Town may
27 cause any work to be done to relocate any facilities and bill the person for the cost of repair. In
28 circumstances where the Town causes such work to be done, the Town shall not be liable for
29 the work.

30 **Section 2.** The Town Council hereby finds, determines and declares that this
31 ordinance is necessary and proper to provide for the safety, preserve the health, promote the
32 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and
33 the inhabitants thereof.

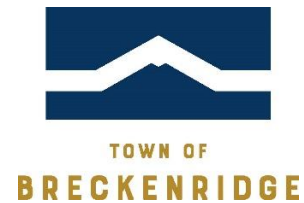
1 INTRODUCTION, READ ON FIRST READING, APPROVED AND ORDERED
2 PUBLISHED IN FULL this ____ day of _____, 2022. A Public Hearing shall be held at the
3 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
4 _____, 2022, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
5 Town.

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7 TOWN OF BRECKENRIDGE, a Colorado municipal corporation

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11 By: _____
12 Eric S. Mamula, Mayor
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14 ATTEST:

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18 _____
19 Helen Cospolich, CMC,
20 Town Clerk
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Memo

To: Breckenridge Town Council
Cc: Rick Holman, Shannon Haynes
From: James Phelps, Director Public Works
Date: 6/23/2022
Subject: Resolution for Acceptance of Second Water Treatment Plant - (Breckenridge North Water Plant - BNWP)

In 2011, a water task force was established to understand the Town's Water Utility. There were a number of issues identified as potential concerns; water supply during drought conditions, water quality after a wildfire, redundancy of treatment capacity, and operational flexibility. It was determined to conduct a second water plant feasibility study (2014) to understand the benefits. The study considered future population growth, water quality, water rights, plant locations, and estimated costs. It was determined that the Town needed to construct the BNWP.

The BNWP original design and construction contract (\$58M) was to construct a 3.0 Million Gallons per Day, (MGD) plant with the capability and footprint for future expansion to 4.5 MGD. During the construction, the project team realized a schedule and financial benefit to build-out the additional capacity. As a result, the BNWP has been constructed at a 4.5 MGD production capacity and without increasing the original project budget. The second plant will ensure that the water utility will be able to provide safe drinking water and meet the future water demands of the community.

The resolution is a process requirement of the Colorado Department of Public Health and Environment, (CDPHE), for loan closeout. A \$58M loan was applied for, approved, and issued by the Colorado Water Resources & Power Development Authority (CWRPDA) for the project. The loan has been administered by CDPHE. The resolution acknowledges the acceptance and completion of the Breckenridge North Water Plant, (BNWP) by the Breckenridge Town Council.

Public Works recommends approval of the resolution as the project has been satisfactorily complete as set forth with the contract documents.

1 RESOLUTION NO. ____

2
3 Series 2022

4
5 **A RESOLUTION APPROVING ACCEPTANCE OF A WATER TREATMENT**
6 **PLANT.**
7

8 **WHEREAS**, The Town has commissioned the construction of a second water treatment
9 plant (hereinafter referred to as “the Project”) to serve as part of the municipal water system
10 under the Town of Breckenridge code, Title 12;

11 **WHEREAS**, the notice to proceed for the Project was dated December 15, 2017;

12 **WHEREAS**, Colorado consulting engineer HDR Engineering, Inc (“Project engineer”)
13 has deemed the Project successfully completed within the allotted amount of contractual time,
14 performed all necessary tasks as contained within the contract documents, and performed all
15 the required work acceptable to the Town;

16 **WHEREAS**, Town Council is in receipt of a recommendation from the Project engineer
17 to approve a resolution accepting construction of the Project; and,

18 **WHEREAS**, the Town Council hereby deems the Project, satisfactory, acceptable and
19 consistent with the requirements as set forth in the contract documents.

20 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF**
21 **BRECKENRIDGE, COLORADO:**

22 **Section 1.** The Town Council hereby approves and accepts the water treatment plant as
23 installed and completed in place as of March 4, 2022 in its current condition.

24 **Section 2.** This resolution is effective upon adoption.

25 RESOLUTION APPROVED AND ADOPTED this 28th day of June 2022.

26
27 TOWN OF BRECKENRIDGE
28

29
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31 By: _____
32 Eric S. Mamula, Mayor
33

34 ATTEST:

35
36
37
38 _____

1 Helen Cospolich, CMC,
2 Town Clerk

3
4 APPROVED IN FORM

5
6
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9 _____
Town Attorney Date

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Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: June 22, 2022
Subject: Planning Commission Decisions of the June 21, 2022 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, June 21, 2022:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS:

1. Kuhn Subdivision, 203 Briar Rose Lane, PL-2022-0150

A proposal to subdivide the existing Lot 2 into two (2) equally sized lots, Lot 2A and 2B. The proposed subdivision is subject to a Development Agreement approved by Town Council. *Approved, see second memo.*

CLASS C APPLICATIONS: None.

TOWN PROJECT HEARINGS: None.

OTHER: None.

Memo

To: Town Council
 From: Chapin LaChance, AICP – Planner III
 Date: June 22, 2022 for meeting of June 28, 2022
 Subject: Kuhn Subdivision - Class B Subdivision Permit Application: Planning Commission Approval Summary

The applicant proposes to subdivide the existing lot (Weisshorn Sub. #1, Block 1, Lot 2) into two (2) equally sized lots, Lot 2A and 2B. This is a very simple and straightforward subdivision, with only one new proposed property line, resulting in two smaller rectangular lots. The proposed subdivision is subject to and in conformance with, a Development Agreement approved by the Town Council in 2020, which exempts the proposed subdivision from the depth to width ratio requirement of the Subdivision Standards. The Planning Commission reviewed this proposal at a Combined Hearing on June 21, 2022. The Commission unanimously approved the application with a vote of 7-0, 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/21665>.

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

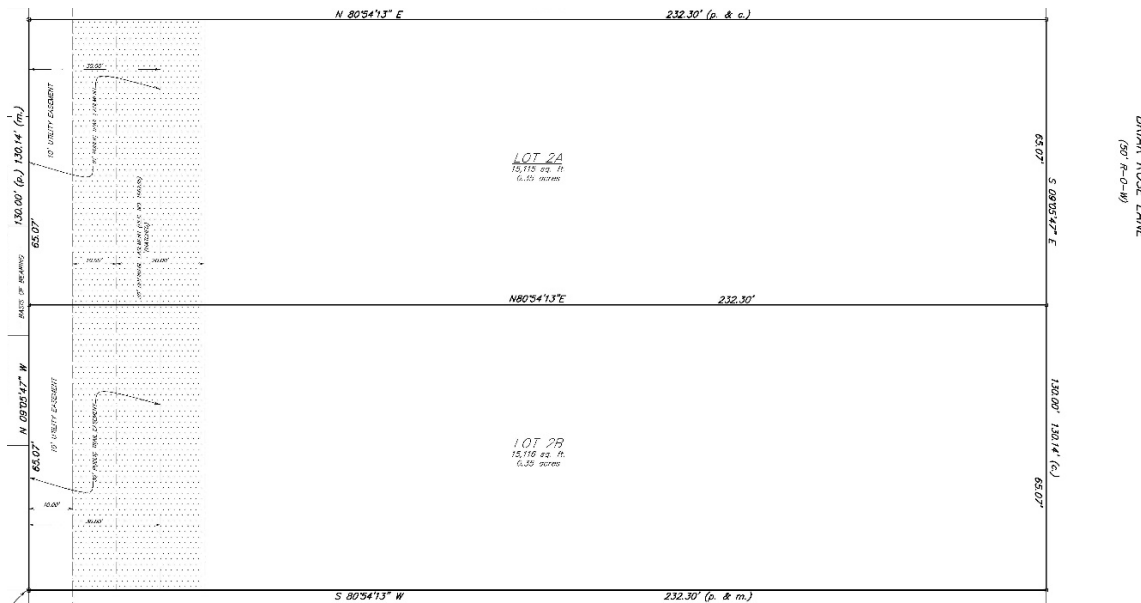
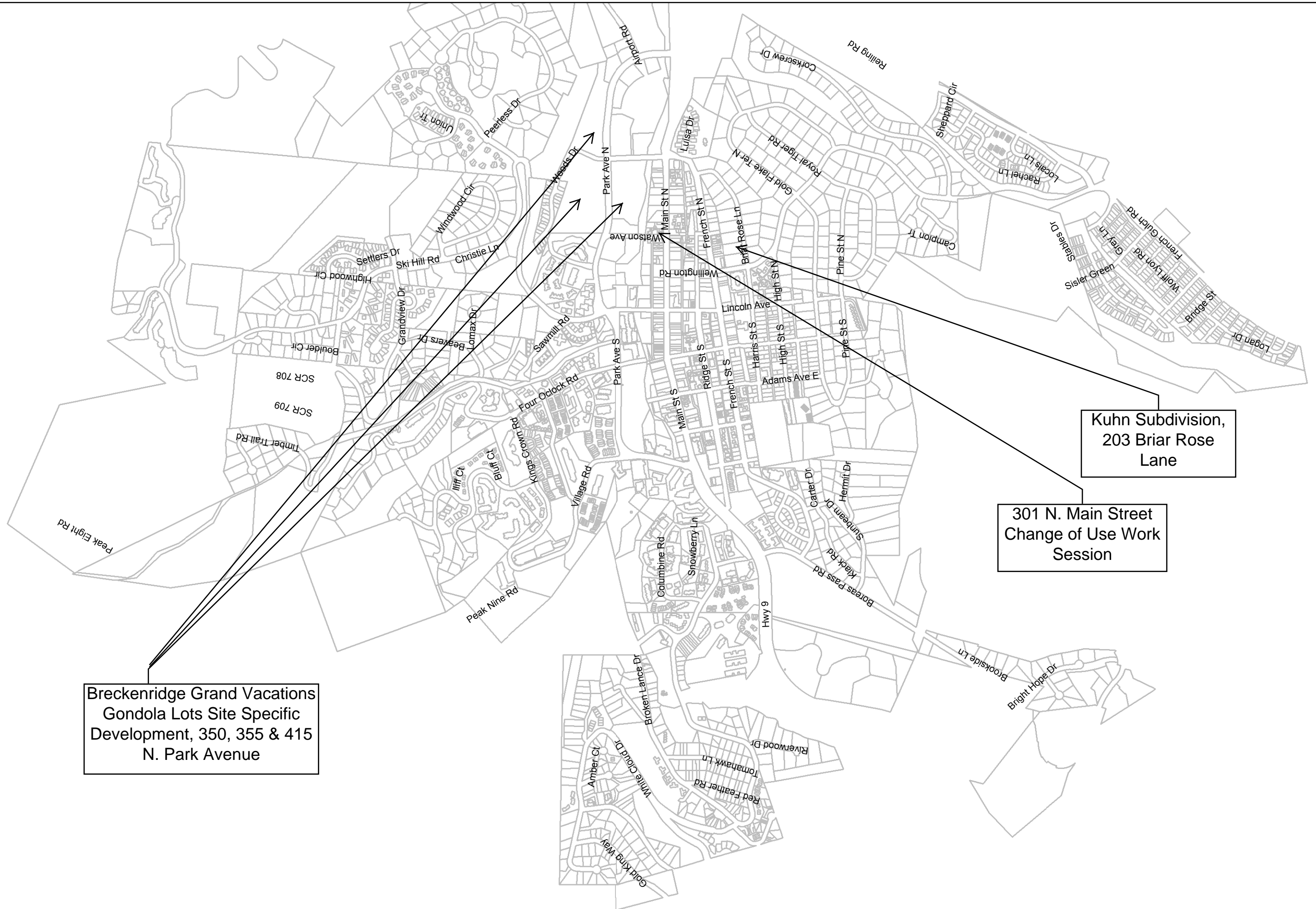


Image 1 (above): Proposed subdivision plat.



NOT TO SCALE



Breckenridge Grand Vacations
Gondola Lots Site Specific
Development, 350, 355 & 415
N. Park Avenue

301 N. Main Street
Change of Use Work
Session

Kuhn Subdivision,
203 Briar Rose
Lane

Breckenridge South



PLANNING COMMISSION MEETING

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

ROLL CALL

Mike Giller
Tanya Delahoz
Allen Frechter

Mark Leas
Ethan Guerra

George Swintz- Virtual, joined at 5:47
Steve Gerard

APPROVAL OF MINUTES

With no changes, the June 7, 2022 Planning Commission Minutes were approved.

APPROVAL OF AGENDA

With no changes, the June 21, 2022 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

COMBINED HEARINGS:

1. Kuhn Subdivision (CL), 203 Briar Rose Lane; PL-2022-0150

Mr. LaChance presented a proposal to subdivide the existing Lot 2 into two (2) equally sized lots, Lot 2A and 2B. The proposed subdivision is subject to a Development Agreement approved by the Town Council in 2020.

Commissioner Questions / Comments:

Mr. Guerra: None

Mr. Leas: None

Mr. Gerard: I want to note that Mr. Leas was insistent that we get started on this project, so and no further comments.

Mr. Giller: None

Mr. Frechter: None

Ms. Delahoz: None

Mr. Giller made a motion to approve the Kuhn Subdivision, seconded by Mr. Gerard. The motion passed 7 to 0.

PRELIMINARY HEARINGS:

1. Breckenridge Grand Vacations Gondola Lots Site Specific Development Permit (CK), 350, 355 & 415 N. Park Avenue; PL-2022-0208

Mr. Kulick presented a proposal for a site specific development permit application for 149 condominiums, 20,405 sq. ft. of commercial space, 9 employee housing apartment units, and 12 townhome units over 16 buildings. The proposal also includes roadway and pedestrian improvements, including a roundabout at the intersection of Park Avenue and French Street, a new gondola, a new park and pedestrian plaza, and a 1,039 space parking structure. The following specific questions were asked of the Commission:

1. Building Height:

- a. Should the open stair towers of the North Gold Rush parking structure and the spires on Mixed Use Buildings 1 and 2 be granted an exemption from being counted as Building Height?

- b. The master plan notes other buildings to vary between one and three stories throughout the site, considering all of the buildings on the North Gondola Lot are greater than two-stories does the design meet this provision of the master plan?
 2. **Snowmelt:** Should the snowmelt adjacent to the gondola terminals be exempted from the assessment of negative points?
 3. **Additional Comments:** Does the Commission have any additional questions or comments on the proposed plan?

Commissioner Discussion/Questions:

- Mr. Guerra: Building height, Gold Rush parking structure. All 3 stories above ground, this might be backed into the hill? (Mr. Kulick: That's an option. Long term concerns are buffering and vegetation). Doing that would change the height calcs. Employee housing would be underground.
- Mr. Leas: New design for the circle of development across the parking garage (South Gold Rush). Do we define what a condo versus townhome is? (Mr. Kulick: Timeshares are condos by our code. This is written into Master Plan, must be designated townhome or duplex).
- Mr. Gerard: Loading/delivery area, this is a great place. How does this effect the overall circulation? (Mr. Kulick: Won't be loaded all day every day, but every few days for a few minutes. Minimal). (Mr. Truckey: 19R and 16R so it's two different policies, loading and internal circulation). Snowmelt, I see the public benefit. Point analysis, waiver for 17,000 sf – we should add that a number of people that could benefit from snowmelt in this heavy traffic area (hundreds).
- Mr. Frechter: I assume the applicant will fix the failed absolutes? (Mr. Kulick: Yes. The applicants have a right to bring it up if they disagree with staff's assessment). Building height for building 1 and 2 – is there a floor above the roof bearing line on the elevations? (Mr. Kulick: Per code it measures regardless of vaulted space or not, measure the shell. Exemption is looking at the spire, clock tower for example).
- Mr. Swintz: The pinnacles are an issue, but the medians of the sloped roof could be an issues too (Mr. Kulick: It measures all the way from the top to finished grade, 53 feet, pretty consistent all the way around both buildings. Building 1 is allowed to 50 ft., Building 2 can go to 38 feet – 15 ft. over on that part per the MP). Public letter from Margaret Douglas, is this accurate? (Mr. Kulick: Traffic generation gets addressed by the traffic study. Usually there's congestion there in general on ski days and weekends. More cars but better design and controlled intersection. Some items contradicted in traffic study. Town engineer previously supported design at Master Plan. Skier usage, Woods Drive is a public street. Skiing on public streets is prohibited. It does have a skiable grade, it may result in an increase of people skiing on it but it's not significant enough to be a deal breaker). No elevations of entrances into the parking structure in plans. (Mr. Kulick: Loop connected at grade. Engineering has commented that the drop off loop needs to be revised. There will be traffic control, likely a stop sign, for vehicles exiting the parking structure before they turn onto woods drive.). Energy conservation, excess snow removal, what is the number? (Mr. Kulick: ~38000 sf is -11 points. The total I didn't state in the report was for outdoor heated pools and hot tubs there's a fair bit programmed onsite so I wanted to make everyone aware there likely will be a significant amount of negative points associated with outdoor pools and hot tubs despite not knowing the proposed square footage). Circulation at the entrance of the parking structure, did we look at right in right out? Been stuck before (Mr. Kulick: We don't want to send people into the neighborhood. Might be some stacking at times. Traffic study showed the engineers were comfortable. We will get more details with this application).
- Mr. Giller: None of the buildings are 1 story, what's needed to comply? (Mr. Kulick: Other height

items are black and white, regarding varying heights we want the PC input on this in regards to the appropriate amount of variation). Townhome vs. condo: building code defines it by foundation to roofline and firewalls, which is different from a condo. Massing along the river would change if they were townhomes (Mr. Kulick: We want lower to higher transition from the bank back of the river to the center of the site.) Snowmelt – exposed on the sloped parking garage. (Mr. Kulick: Sometimes steeper angles are permissible if it's snowmelted on driveways per engineering).

Ms. Delahoz: Anything on 1.5 story buildings? (Mr. Kulick: Aquatics building is more like 1.5 stories). Snowmelted exemptions for public safety, was that subjective? (Mr. Kulick: Looking where it is, staff determined as a response to their submittal. People will funnel into this smaller area at the parking garage. Exemption in these areas seems reasonable).

Bill Campie, DTJ Design, Applicant:

The focus of this process and the Master Plan process before this addressed the traffic, circulation, and density. We aren't expecting to dive into that again, but rather these new pieces. What is this thing going to be? We want to have a conversation, part of the process for us is to converse about it. I want to thank staff for being part of the cooperative process and to incorporate your feedback. This will be mostly conversational, we are expecting to take this input and do a redesign between hearing 2 and 3. We can list and discuss, get comments again. I want to note some of the concepts and to refresh all of our minds. 15 years ago was this infill piece, last missing piece to connect to Main Street. We want to get people from these parking lots into town, those mantras live forward. Extending town, the walking street, all pedestrian based. Cars out of the way as soon as possible. Key commercial pieces to create places around the gondola and river. There is a lot of public benefit, wetland dedication, public parks. We feel like it comes together in an inclusive way. We integrated and are encouraging people to come through. Keeping within the goals, note that there is a 1 story building in the center of the circle. 1-3 story elements. Idea on the pedestrian streets is to move cars away quickly. A semi would pull in and back down – minimal disturbance. This has been modeled. Absolute policies we will do all of those things. As we developed the site project and got final calcs, based on this process, we will target them. The mass calcs can be remedied easily, we will make it happen. Snowmelt conversation – it's an interesting look. BGV searches for energy conservation. We would be fine with none (snowmelt), but real world experience isn't the right choice to not have any, especially around the gondola. Majority is on the slope of the parking structure. That's just best practice. Open to conversation here. Sloped, high traffic, it's a best practice thing. We can figure out how to navigate this. We want to meet halfway. Building height – we are using elements in the code, focal elements, clock towers. We will comply with the 10 ft. piece, our floor to floor heights are larger than code but I feel confident we can get height solved. Might be a different roof, no spires, etc. I have confidence. I would note – you don't have to cover the garages by roofs, but again this is a best practice to cover those entrances. The impact is almost hard to see. Snowmelt we've already discussed, again note that it is pool decks, by restaurants. Connected to a snowmelt area. There is real concerns on ice damming. Something to be aware of. On the blue, it makes the number larger than it would be normally. I appreciate your patience and I am happy to answer any questions.

Mr. Giller: The rooftop grade is 2.4-4% slope which isn't steep. If there were a roof over that portion, would you need snowmelt? (Mr. Campie: No but it is best practice to have snowmelt with the intensity of the use. We can work it out. Roof is possible solution)

Mr. Giller: Townhome versus condo? (Mr. Campie we will come back with a townhome design)

Mr. Swintz: Was parking on the to-do list too? (Mr. Campie: Yes. There will be a redesign with new parking calcs. We will meet the code when we get the final unit count).

Mr. Swintz: Offsite employee housing – was Chris referencing Entrada? Can we see the timing that that project will be for the offsite housing (Mr. Campie: I can address next round) (Mr. Kulick: The projects have to provide a certain square footage onsite of employee housing, we usually don't have it determined to a certain building for offsite).

Public Comment:

Kim Stevenson, 252 Kimball Place:

I am wondering, why this Planning Commission and the Town Council is considering building more short term rental properties when last November there was a town ordinance capping these. A lot of the properties built in town and resort core the buyers cannot obtain short term rental licenses. So why would you want to build more, this doesn't make any sense. I would ask the council to institute a building moratorium in the core and resort until we can catch up with affordable housing. People can sell to a buyer who can't get a STR license. Building more isn't fair to the people already here.

Commissioner Comments:

- Mr. Guerra: 1.a. Applicant has stated that he will address our concerns. Open aired stair towers are a fair exemption. 1.b. Still confused here on the question. As I look at it I don't see that it does, but it seems the applicant has stated that they will re-address Specific to building 1 and 2, which don't have a lot of steps. (Mr. Kulick: pertains to north gondola lot specifically. Broader than 1 and 2 but not the gold rush lot sites). 2. The snowmelt adjacent to the gondola is a fair exemption from assessment of negative points. 3. No other comments.
- Mr. Leas: We need to make a distinction for the snow melt – public safety versus convenience and draw a line. If we have hazardous sidewalks, ramps, we need to treat it differently than a hot tub or pool. I think that will tie into the comment on heights. The heights on the North Gondola lot is something we need to address the applicant said they will address this. For the parking garage against the ugly hill of Shock Hill they say this is irrelevant. Needs to be looked at differently. Would have pleased me to see a three story garage with the top floors all workforce housing. Thermal hot water panels should be worked into the parking garage. This might help with points. I addressed building 1 and 2 this needs to be addressed and the applicant said they will do so.
- Mr. Gerard: We have been working step by step on this. Addressing the public comments. STRs are an apple versus orange. For N and S Gondola lot, hotels and housing has been part of that plan. It's a valid point, but not something the PC has anything to do with unfortunately. My comment is that this is a big project, people are interested in it. It has big buildings but the master plan should cap this and be followed. Master plan was when we fought that out, we need to live by it. Sounds like the applicant will address. This also refers to the plat note on 1, 2 and 3 story mix. For open stair towers, that's nominal. I would allow the height exemption for the lid on the stairs. For the spires, that's decorative. It's not a big historical feature here but I think they should be fit into the criteria. Snowmelt, if it serves hundreds it can be exempted. We don't have a lot of precedent for the total amount, so we should look at the past. Mr. Giller had a nice idea of a roof over the parking garage entrance. 3. We are on the right track. Looks like what we thought. Lets keep moving.
- Mr. Frechter: Thanks to the applicant and to Chris. 1. Building height – I am amendable on exemption for stair cases, spires I would need to see the future projects. Heights on the relative heights, I think aesthetically if you put a one story building it might look off compared to the scale. I would defer until we see further plans. The water park structure, I wonder if there is a larger building? Aesthetically how it would look, could be awkward. 2. Snowmelt – safety/public area – I would approve an exemption. 3. I would be careful with other exemptions. MSS would probably want it too. You could argue that all of Main Street needs it. I support the loading points, but a trailer coming out will have to go to Main Street to leave.
- Mr. Giller: Thanks everyone. Important project for all. 1.a. as accent a tower could be ten feet taller per the code. We shouldn't allow more. This has challenges with height as it is. The rest should

comply regarding height. 1.b. Needs to be meaningful amount of 1 story buildings, but more than just the one on the S Gold Rush. Loose some square feet, 6.7% over. 2. Snowmelt adjacent to gondola has public benefit. I support it. A roof on the parking garage is something staff needs to think about but if it protects the ramp or if there's another way here it would be more sustainable. 3. Prelude to the next meeting, still concerned on architecture. The project includes heavy rustic, mountain modern, brick and mansard, transitional, and other designs. Vernacular in Breck works well, but looks for more consistent materials or design. Too much going on. Great project and we look forward to next submission.

Mr. Swintz: 1. No problem with stair towers being higher, deviation in height is good. Spires we might lose, I am not a fan but we can look next time, heights you said you would take care – we need balance of shorter structure too. 2. Snowmelt for safety is fine by me. 3. Bigger questions here is the phasing of this, is a big question. We need to study this in detail. To have comfort. The three year limit, what happens if it's not met. I don't understand the easements, is it airspace? Can buildings be put under the gondola? There's some on the South Gold Rush Lot underneath it. I like the workforce housing tagged onto this. I haven't read the traffic study, I am assuming exiting out of the structure I assume it took into account what's happening at the structure and I hope these are linked. This is the first hearing, I think, Bill says they will make progress on the third hearing, so there are two more? (Mr. Kulick: yes, biggest issues here and not covering everything now. Next in July will focus on architecture and other elements. Likely meetings 3 and 4 will be split into two meetings before merging again if we get enough consensus items).

Ms. Delahoz: 1.a. Comfortable with the stair towers, spires in main Gondola Lot may be reduced. 1.b. I would like to see more varying heights. The Master Plan doesn't specify how many, but I think the intent was a little more variation. You don't want a huge skyscraper next to a 1 story. Having a step down would be appreciated 2. I agree with the exemption for public safety. 3. I appreciate how this is being presented in phases for us to break it up and allows us to give this huge project the time and attention.

WORK SESSIONS:

1. 301 N. Main Street Change of Use and Employee Housing Generation/Impact Mitigation Deviation Request (CL), 301 N. Main Street, PL-2022-0184

Mr. LaChance presented a proposal to change the use of portions of the applicant's property located at 301 N. Main St. The change of use includes an expansion of an existing restaurant (Pho Real) into the remainder of the Watson House, and conversion of the McMenemy House from retail (current tenant: Taspin's Organics) to a beer taproom. The applicant specifically requests feedback from the Commission regarding deviation from the employee housing impact mitigation rates specified by Policy 24 (Absolute) Social Community and has submitted the attached narrative and deviation request, stating that no additional employees will be generated from the proposed changes in use. This is the first application that the Town has received regarding a proposed increase in intensity of use, which would require implementation of the recently adopted employee housing impact mitigation. The following specific questions were asked of the Commission:

1. Staff recommends hiring a third party consultant at the applicant's expense as allowed under Policy 24/A to verify the proposal's employee generation. Does the Commission concur?
 - a. If not, how does the Commission recommend staff evaluate the proposal's employee generation?
2. Does the Commission have any other feedback for staff or the applicant regarding the proposed changes in use?

Commissioner Discussion/Questions:

- Mr. Swintz: Third party consultant resource? (Mr. LaChance: Economics and planning consultant, third party consultant we have previously used, EPS). When code was written, did we use the consultant? (Ms. Best: We based it off of Vail's numbers when we wrote the code. We had wanted to conduct a Breck specific study, wasn't the right time because of the pandemic and employee numbers would be skewed). I agree with Chapin, business use model could morph. (Mr. Truckey: Employee mitigation rates could change but the mitigation rate is based on 35% of that number. We aren't mitigating 100% of the impact, so this is a conservative estimate. Gives us flexibility).
- Mr. Leas: If we come to a conclusion as the # of employees and require the town to audit the payroll, that is more common sense than what we are trying to do here. Should be audited and then the town can adjust it, it's common sense.
- Mr. Giller: The recommendation of 1600 sf = 11 employees is based on standard math and code, and other business comply? (Mr. LaChance: This is the first new commercial that would be subject to this, no standard before this for employee housing mitigation.) (Mr. Truckey: Negative points were assigned before for not providing employee housing, but now it's mandatory.) (Mr. Kulick: Before was based negative points on square footage--no mitigation required for a change of use within an already developed structure). What assurance do we have that the consultant is objective? (Mr. LaChance: Hired by Town, paid by applicant. Yes, we would expect them be objective).
- Mr. Frechter: Change of use, from bar to restaurant? How do we monitor? (Mr. Puester: That is the issue, with business plan monitoring, it changes the use and changes staff counts. There are problems chasing down the business plan changes and concerns with ability and staff time to monitor.)
- Mr. Swintz: If they add a kitchen they would need a permit and we would know. (Ms. Puester: We can flag in our system, but it could get missed.)
- Mr. Leas: Rewrite the code that they have to submit employee lists and how many. Seems so simple to do. (Mr. Truckey: Could also be a condition of approval.) You want to count the employees.
- Mr. Gerard: When did Vail do the study? (Ms. Best: Pre-Covid, 2018 or 2019. They calculated the generation by an intensive survey, determine how many, and come up with a standard for different uses. A lot of communities use this approach. Uses come along that weren't contemplated so there's the provision for a third party analysis in our code).
- Mr. Guerra: Cost and timeline of the third party? (Mr. LaChance: Not there yet.) The applicant has hired an attorney, who made a detailed presentation. They started this process before the implementation of this ordinance. We implemented this in 2020. There is conflict there in the time line. (Mr. LaChance: Applicant contacted staff regarding various change of use concepts within the 3 buildings over the years and staff provided them multiple updates to the fee estimates based on modified proposals and annual fee updates. Two of those fee estimate updates did not include the estimate for housing impact mitigation after the Ordinance became effective.) They should be subject to it when they were applying if that's the case. (Mr. LaChance: No permit has been issued nor applied for since the Ordinance, but there are overlaps between the effective date of the Ordinance and the fee estimates provided to the applicant).
- Ms. Delahoz: Monitoring a possibility? PIFs are tied to a property address, can we do owed but not due fee in lieu, tied to a business license? (Mr. LaChance: A Restrictive Covenant recorded against the property would be the only method of enforcement to ensure housing impact mitigation for any future morphing of the business. No permit required for change in business ownership).
- Mr. Frechter: No fee in lieu here? (Mr. LaChance: If less than 1 employee, there is a fee-in-lieu.)

Bob Gregory, Attorney Representing the Applicant:

Before I start, I wanted to circle back to a question, the exhibit A to the memo did reference that the Watson house is all under the restaurant use. The applicant had already paid the parking fee for a restaurant use for the entire Watson House. This conversation has pre-existed the implementation of the policy. No formal application or permit yet, but the applicant has submitted income and funds for the Watson House portion change of use. I wanted to introduce other members of the audience, Chad Washenfelder, owner of Pho Real restaurant and David Axelrod, who is proposing the tap room. Most importantly the applicant appreciates the purpose of the policy, the purpose is stated in sect. C., (quoted Code). Sect. D2 gives the Commission ability to hear competent evidence from an applicant stating that the numbers in the table do not accurately reflect what we are proposing. When we look at the policies together the applicant shouldn't have to pay for employees that don't exist. For a new development, it's easier to look at, you can apply the numbers. This would generate employees from vacant land. These 2 buildings are previously existing. The Watson house the primary thing that we want to say is that this is existing restaurant, fast casual, not full service, each table is not served. The existing use for the rest of the building. The proposal is that the existing use of the vast majority of the rest of the building, 1595 sf, is absorbing 272 sf rest of the building, creates a more efficient use for entire building as all restaurant use. Pho Real has 8 employees shared amongst other restaurants. 5.33 is more accurate. The absorption of the extra square footage won't require additional staff. We are providing as much info as we think we can to show that 10.2 employees per 1000 sf for an existing restaurant doesn't accurately reflect the change in intensity of use of the space. This has housed the real estate group, 4 of them are on the lease. That space has been occupied by 4 employees. We are taking this from 4 to zero. Net decrease. McMenemy house: the proposed use shows there is weakness in using broad category for all uses in restaurant types which is a disadvantage. In Policy 24/A there is not classification of taproom. It references that if there isn't a category that there needs to be a nexus study, but that study doesn't exist or doesn't account for a tap room either. In this instance we gave info from David Axelrod who has provided statements from other taprooms throughout the regions that gives evidence that this is more efficient than a full service restaurants.

He will only need 3 full time employees to fully staff this space. For the Commission comments on enforcement, we believe that the PC could include as a condition that the applicant submit info on an annual basis showing the payroll and staffing as compliance. A recorded Restrictive Covenant wouldn't be appropriate and would be overly burdensome. The applicant has come to the Town with the change of use, and a future change of use would need to be permitted. They would pull a Building Permit for the kitchen as well. All that needs to be installed with the tap room is the beer cooler.

Last thing, the McMenemy house – there was another letter by the applicant that didn't make it to packet materials. This is a letter of another brewing taproom representing their employee numbers. This reflects confident evidence that the table in Policy 24/A don't apply to a taproom under these circumstances. I also prepared a chart of the numbers on how we are preparing them (Handed out copies of chart to Commission). This chart will help conceptualize. Policy 24/A isn't very clear, the other fees that have been paid on this property are applied to the property as a whole – it is very unique with 3 separate buildings. We aren't necessarily concerned with establishing precedent. I have included information relating to the North Cottage, which is 595 square feet, and a restaurant use, Mimi and Pin. We have provided the numbers here that reflect the existing allowed use compared to the property itself. This is how the town looks at PIFs, parking, etc. this would be consistent (Explained chart). We don't think a consultant is needed as it doesn't generate new employees. We don't believe it's the appropriate interpretation and calculation, we wanted to show that this proposed use change doesn't increase the intensity of employees.

Commissioner Discussion/Questions:

Mr. Swintz: Staff is applying the square footage of the existing to the new calculations? (Mr. Gregory: It's relevant they have already paid parking fees-in-lieu for a change in use. It's nuanced.

The \$200k in fees to release the existing tenants have turned into a significant investment. The magnitude of the strict application of the policy is astronomical). The drawing of the tap house isn't precise, the room is 18 feet wide. Is there really only two tables there? What is the staff? (Chad Washenfelder, Pho Real: Pho Real isn't a full service restaurant. Order at counter. Number is lower. Estimate, but it's really the only space we can add tables. It could seat a max. of 12 more people).

Mr. Giller: How much employee housing do you provide now? (Ed Bello, property owner: None.) (David Axelrod, Highside Brewing: We provide some but it's not required or deed-restricted, first time we are seeing the requirement. For example, my general manager lives with me.) (Chad Washenfelder, Pho Real: I own Breck Taphouse and we have 2 employees living upstairs there and 4 at Gold Camp. They aren't deed restricted but we use them. I have shared employees across all 3 restaurant I own).

Mr. Frechter: Are there tables now? Those would be new? Volume won't increase? (Chad Washenfelder, Pho Real: Yes, heavy on takeout already).

Commissioner Comments:

Mr. Swintz: There are three different buildings on the property, so we have to analyze it as one. My experience is that with a taphouse I don't think there's a staffing amount increase here. For hiring a third party, if we are really only talking about the tap house I don't see a need.

Mr. Giller: Codes based on the metric of square footage. Clearly adding 272 sf in Pho Real and the Tap house at 1465 sf is more commerce, which means more labor, more workforce, more employees. The town has worked hard on employee housing and the requirements. Policy 24 was publically vetted. This property isn't unique, it's small mixed use with three units. Applicant is hiding behind confusion here. You can do the study, but I think the applicant is required to provide housing in compliance with 24R.

Mr. Frechter: We need more definitions and we will be getting these requests every time there is a change of use. The applicant requests that we narrow the use, they should then accept a recorded restrictive covenant that the building is only used as a taproom. If you add space the employee volume changes, more space means more room for guests and more costumers. Change of use from CBD shop to a bar means more employees. With the current CBD shop there's always one employee at any given time. For the third party consultant, I need to know more about the consultant and what data they are basing this on.

Mr. Gerard: Two different things, the Pho Real situation is different than the taproom. The McMenamy house and tap house is truly a new business. I don't find a persuasive argument that they should be lumped with Pho Real. All businesses are different. Even every McDonalds is different. Plugging every business into a model coming from Vail is problematic. I support having an independent analysis. I think you can start big and you have to drill down to what it really is and how many employees it's really generating. For Pho Real, what Chad is running, I agree, I don't think he will get more business with 2 more tables. He gets more people coming in the front and a wasted space now. Calculating these 272 sf added to his existing business of 6 years, a consultant would look at. If it changes it or not. This is a big problem because every business can morph into something else, can be done under the radar. It's complicated and will be hard to track the compliance.

Mr. Leas: The intention of this requirement to get reimbursement is well intended and good. I have an issue with the shakiness of this being based on numbers from Vail. When we put these in place, the Town is inviting litigation because it isn't clear or specific. If they submit payroll we should be able to do an adjustment. I don't think the third party consultant will necessarily be clear or honest.

Mr. Guerra: Based on my experience I can buy into the employee calculations. I am concerned with the morphing and what happens there. I question the validity of an outside consultant. And cost and time. This is a complicated issue, it's not a new building and has had use for many

- years not sure how to move forward. I can buy into the staffing numbers the applicant has proposed. Hiring an outside party isn't the answer.
- Mr. Frechter: Amending comment – the answer is between these estimates. We have too broad of a category for restaurants. A taproom is less than a Blue River Bistro – consultant can maybe do that and maybe we can dig into Vail's numbers. To protect from morphing we need a recorded restrictive covenant.
- Mr. Leas: Any other places that have had these types of studies done? (Ms. Best: Most do a community specific study. Vail Resorts used a consultant.)
- Mr. Swintz: Savings Places is a resource we can use for this.

Ed Bello, Landowner, 215 N Ridge:

For the comments, I understand Mr. Giller and Mr. Swintz. What we are doing here is not asking you to interpret the code differently or any favors. The way I read the code it says that the property if you count the formula and use it for employee count, the threshold if you go above you need to mediate. That is 26.71 per the code. We are saying that three of us came in today to offer information that we think is valid, if we come in and offer valid info, we are exempt from this. If you add the number of employees that David and Chad are saying they will add, they run these restaurants, the numbers are from them. The numbers that we are proposing are lower than the threshold. I don't want anyone to give me anything I don't deserve. If you want us to prove these numbers we will. Anything reasonable we can do about monitoring. We can do monitoring. But it's simple, we give you numbers. I think we meet the threshold. According to the numbers I have to go over 26.71 employees to meet the mitigation. The consultants job would be to verify the numbers.

David Axelrod, Highside Brewing:

One more clarification – tap room license is through the state, the liquor license is a wholesale. This is different than any other license out there. Could be a particular way that would allow you to move forward distinguishing it in the code is by regulating it based on the liquor license type.

- Ms. Delahoz: If we did a community specific staffing analysis I would want to see the data. Vail's numbers are pre pandemic which is really different. We owe it to the community. If we are going to have this code in place, we need factual data to the business owners. If we are asking them to do this, we need to do our due diligence to make sure it works for our community. This is unique. For Pho Real I don't think the space would generate more. I don't know enough of the tap house to know. I know it's a lot less than a regular bar or something with food service. I don't know if it's staff's responsibility to monitor this moving forward. But I don't know if the third party is the right way either. It's a hard challenge. Let's take a poll.
- Mr. Truckey: We should look at how many agree with the applicant analysis and their numbers, and are willing to deviate from the code? How many are comfortable with the deviation based on what the applicant has proposed? Who accepts their numbers? (**Commissioners voted yes, 5 to 2.**)
- Mr. Truckey: Five of you agree with the applicant's conclusions. Given that, I don't see that a third party review is needed.
- Mr. Leas: As a condition we should see payroll. Real simple.
- Mr. LaChance: We do not have an active application yet for the change of use. We are holding this Work Session with the Commission to get the Commission's feedback because the Development Permit for the change of use will be processed at staff level, which is why we need direction from the Commission now related to any Condition of Approval for ongoing monitoring.
- Mr. Gregory: The code says that the applicant can submitted evidence and the Commission can find that this warrants a deviation, the Commission shall allow the deviation as appropriate.

Confusing language. The Commission has found this so the deviation shall be allowed.
Mr. Frechter: Can we vote on voting on staff doing the conditions?
Ms. Puester: At this point, staff can work on coordinating conditions and the monitoring for the actual application.

All commissioners agreed to staff working to drafting conditions that include monitoring to ensure employee numbers do not change. The application will be processed at staff level.

OTHER MATTERS:

1. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 9:59 pm.

Tanya Delahoz, Chair



TOWN OF BRECKENRIDGE
TOWN COUNCIL

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.

June 2022

June 21st - 24th, 2022	Beaver Run	100th Annual CML Conference	All Day
June 22nd, 2022	Peabody Placer	Site Visit	2:00pm - 4:00pm
Tuesday, June 28th, 2022	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm

July 2022

July 4th, 2022	Main Street	4th of July Celebrations	All Day
Tuesday, July 12th, 2022	Council Chambers	First Meeting of the Month	3:00 pm / 7:00 pm
July 20th, 2022	Country Boy Mine	Coffee Talk w/ the Mayor & Mtn Bike	8:00am - 9:00am
Tuesday, July 26th, 2022	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm

Other Meetings

June 27th, 2022	Open Space & Trails Meeting	5:30pm
June 28th, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
July 5th, 2022	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
July 6th, 2022	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	10:00am
July 7th, 2022	Northwest CO Council of Governments	10:00am
July 12th, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
July 13th, 2022	Breckenridge Heritage Alliance	Noon
July 14th, 2022	I-70 Coalition	1:00pm
	Upper Blue Sanitation District	5:30pm
July 18th, 2022	Social Equity Advisory Commission	9:00am
July 19th, 2022	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
July 20th, 2022	Summit Combined Housing Authority	9:00am
	Breckenridge Creative Arts	2:00pm
July 21st, 2022	Transit Advisory Council Meeting	8:10am
July 25th, 2022	Open Space & Trails Open House	5:30pm



Scheduled Meetings

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The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them.

July 26th, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
July 28th, 2022	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	Breckenridge Creative Arts	1:00pm
	RW&B Board Meeting	3:00pm
August 2nd, 2022	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
August 3rd, 2022	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
August 9th, 2022	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
August 10th, 2022	Breckenridge Heritage Alliance	Noon
August 11th, 2022	Upper Blue Sanitation District	5:30pm
August 15th, 2022	Social Equity Advisory Commission	9:00am
August 16th, 2022	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
August 18th, 2022	Transit Advisory Council Meeting	8:00am
August 25th, 2022	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	RW&B Board Meeting	3:00pm
September 10th, 2022	Breckenridge Creative Arts	1:00pm
TBD	Water Task Force Meeting	10:00am
	Tourism Overlay District Advisory Committee Meeting	10:30am
	QQ - Quality and Quantity - Water District	1:15pm