



**TOWN OF  
BRECKENRIDGE**

**Town Council Regular Meeting**

Tuesday, November 14, 2023, 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 and will also be broadcast live over Zoom. Login information is available in the calendar section of our website: [www.townofbreckenridge.com](http://www.townofbreckenridge.com). If you will need special assistance in order to attend any of the Town's public meetings, please notify the Town Clerk's Office at (970) 547-3127, at least 72 hours in advance of the meeting.

**I. CALL TO ORDER, ROLL CALL**

**II. APPROVAL OF MINUTES**

A. TOWN COUNCIL MINUTES - OCTOBER 24, 2023

**III. APPROVAL OF AGENDA**

**IV. COMMUNICATIONS TO COUNCIL**

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

**V. CONTINUED BUSINESS**

A. SECOND READING OF COUNCIL BILLS, SERIES 2023

1. *COUNCIL BILL NO. 38, SERIES 2023 - AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2024*
2. *COUNCIL BILL NO. 39, SERIES 2023 - AN ORDINANCE AMENDING THE BRECKENRIDGE SALES TAX CODE PERTAINING TO THE DEFINITION OF SOFTWARE AS A SERVICE*

**VI. NEW BUSINESS**

A. FIRST READING OF COUNCIL BILLS, SERIES 2023

1. *COUNCIL BILL NO. 40, SERIES 2023 - AN ORDINANCE OF THE TOWN OF BRECKENRIDGE SETTING FORTH THE ANNUAL APPROPRIATION FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2024, AND ENDING DECEMBER 31, 2024*

B. RESOLUTIONS, SERIES 2023

C. OTHER

1. *MOTION TO EXTEND BRECKENRIDGE GRAND VACATIONS VESTED DEVELOPMENT AGREEMENT*

**VII. PLANNING MATTERS**

A. PLANNING COMMISSION DECISIONS

B. 114 SOUTH MAIN STREET REDEVELOPMENT 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 (Bergeron)

C. BRECKENRIDGE TOURISM OFFICE (Carleton)

D. BRECKENRIDGE HISTORY (Saade)

E. BRECKENRIDGE CREATIVE ARTS (Rankin)

F. CML ADVISORY BOARD UPDATE (Saade)

G. CHILD CARE ADVISORY COMMITTEE (Beckerman)

H. SOCIAL EQUITY ADVISORY COMMISSION (Saade)

**X. OTHER MATTERS**

**XI. SCHEDULED MEETINGS**

A. SCHEDULED MEETINGS FOR NOVEMBER, DECEMBER AND JANUARY

**XII. ADJOURNMENT**

**I) CALL TO ORDER, ROLL CALL**

Mayor Mamula called the meeting of October 24, 2023, to order at 7:00pm. The following members answered roll call: Todd Rankin, Carol Saade, Jeffrey Bergeron, Dick Carleton, Jay Beckerman, Kelly Owens and Mayor Eric Mamula.

**II) APPROVAL OF MINUTES**

- A) TOWN COUNCIL MINUTES – October 10, 2023  
With no changes or corrections to the meeting minutes of October 10, 2023, Mayor Mamula declared they would stand approved as presented.

**III) APPROVAL OF AGENDA**

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

**IV) NATIONAL VETERAN’S SMALL BUSINESS WEEK PROCLAMATION**

Mayor Mamula read the proclamation into record.

**V) COMMUNICATIONS TO COUNCIL**

- A) PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)  
Mayor Mamula opened Public Comment.  
There were no comments and Mayor Mamula closed Public Comment.
- B) BRECKENRIDGE TOURISM OFFICE  
The update was included in the agenda packet.

**VI) CONTINUED BUSINESS**

- A) SECOND READING OF COUNCIL BILLS, SERIES 2023 - PUBLIC HEARINGS

**VII) NEW BUSINESS**

- A) FIRST READING OF COUNCIL BILLS, SERIES 2023  
1) COUNCIL BILL NO. 38, SERIES 2023 - AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2024  
Mayor Mamula read the title into the minutes. Pam Ness, Revenue Manager, stated this ordinance would set the property tax mill levy and remains the same rate as all years since 2014.

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

Council Member Bergeron moved to approve COUNCIL BILL NO. 38, SERIES 2023 - AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2024. Council Member Saade seconded the motion.

The motion passed 7-0.

- 2) COUNCIL BILL NO. 39, SERIES 2023 - AN ORDINANCE AMENDING THE BRECKENRIDGE SALES TAX CODE PERTAINING TO THE DEFINITION OF SOFTWARE AS A SERVICE  
Mayor Mamula read the title into the minutes. Pam Ness stated this ordinance changes definitions in the Town Tax Code. The proposed revisions include edits to the existing definitions of “Software as Service” and “Digital Product”.

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

Council Member Bergeron moved to approve COUNCIL BILL NO. 39, SERIES 2023 - AN ORDINANCE AMENDING THE BRECKENRIDGE SALES TAX CODE PERTAINING TO THE DEFINITION OF SOFTWARE AS A SERVICE. Council Member Beckerman seconded the motion.

The motion passed 7-0.

- B) RESOLUTIONS, SERIES 2023  
1) RESOLUTION NO. 19, SERIES 2023 - A RESOLUTION ADOPTING THE 2024 BUDGET AND APPROVING THE 2024-2028 CAPITAL IMPROVEMENT PLAN (AND PUBLIC HEARING)

Mayor Mamula read the title into the minutes. Dave Byrd, Finance Director, stated this resolution would adopt the 2024 budget and the 2024-2028 CIP. He further explained that the modifications from the last presentation of the budget have been made and the complete proposed budget can be found on the Town's website.

Mayor Mamula opened the public hearing.

Kyle Brochu, a local resident, stated he is here on behalf of a group that is concerned about the use of turf on the ball fields and how it causes injuries. He stated the ultimate frisbee group relies on the south softball field, which is proposed to turn into turf. He further stated Breckenridge is the only place to play within a two-hour range, and the teams can play May-October with lights. Brochu would like to consider only converting the north field and leaving the south field as grass. He clarified that the concern is with injury.

Council Member Carleton explained that turf would make the season longer.

Sam Brede, a local resident, stated he has been playing ultimate frisbee since he moved here, and our fields are the best ones in the County. He thanked staff for their work on the fields and stated the abrasion from a turf field would make it difficult to play there.

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

Council Member Carleton stated he would like to consider phasing the fields in the CIP, and he would like to see the CIP numbers if we phased turf so we have time to review these concerns. Deputy Town Manager Haynes stated we have asked staff to review sustainability and other considerations for the turf fields. She also confirmed that we can look at not spending the entire budget on turf this year.

Council Member Bergeron moved to approve RESOLUTION NO. 19, SERIES 2023 - A RESOLUTION ADOPTING THE 2024 BUDGET AND APPROVING THE 2024-2028 CAPITAL IMPROVEMENT PLAN. Council Member Owens seconded the motion.

The motion passed 7-0.

- 2) RESOLUTION NO. 20, SERIES 2023 - A RESOLUTION AUTHORIZING THE GRANTS ADMINISTRATOR TO SUBMIT A GRANT REQUEST TO THE COLORADO PARKS AND WILDLIFE DEPARTMENT LAND AND WATER CONSERVATION FUND GRANT

Mayor Mamula read the title into the minutes. Scott Reid stated this resolution would authorize the Town to submit a grant request to CPW for the purpose of improving hardscaping around the Kingdom Park ballfields.

Mayor Mamula opened the public hearing.

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

Council Member Bergeron moved to approve RESOLUTION NO. 20, SERIES 2023 - A RESOLUTION AUTHORIZING THE GRANTS TO SUBMIT A GRANT REQUEST TO THE COLORADO PARKS AND WILDLIFE DEPARTMENT LAND AND WATER CONSERVATION FUND GRANT. Council Member Saade seconded the motion.

The motion passed 7-0.

- 3) RESOLUTION NO. 21, SERIES 2023 - A RESOLUTION AUTHORIZING THE GRANTS ADMINISTRATOR TO SUBMIT A GRANT REQUEST TO THE COLORADO PARKS AND WILDLIFE DEPARTMENT STATE TRAILS GRANT PROGRAM

Mayor Mamula read the title into the minutes. Scott Reid stated this resolution would authorize the Town to submit a grant request to CPW for a trails grant. He further stated the purpose of this grant would be to improve trails with a focus on accessibility.

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

Council Member Bergeron moved to approve RESOLUTION NO. 21, SERIES 2023 - A RESOLUTION AUTHORIZING THE GRANTS ADMINISTRATOR TO SUBMIT A GRANT REQUEST TO THE COLORADO PARKS AND WILDLIFE DEPARTMENT STATE TRAILS GRANT PROGRAM. Council Member Carleton seconded the motion.

The motion passed 7-0.

- 4) RESOLUTION NO. 22, SERIES 2023 - A RESOLUTION APPOINTING THE TOWN MANAGER AND APPROVING THE EMPLOYMENT AGREEMENT  
Mayor Mamula read the title into the minutes. Rick Holman, Town Manager, stated this resolution would appoint Shannon Haynes to be the new Town Manager and approve her employment agreement with the Town, to be effective December 19, 2024.

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

Council Member Bergeron moved to approve RESOLUTION NO. 22, SERIES 2023 - A RESOLUTION APPOINTING THE TOWN MANAGER AND APPROVING THE EMPLOYMENT AGREEMENT. Council Member Owens seconded the motion.

The motion passed 7-0.

- C) OTHER

**VIII) PLANNING MATTERS**

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

- B) DE NOVO HEARING 114 SOUTH MAIN STREET REDEVELOPMENT  
Mayor Mamula introduced the DE NOVO HEARING 114 SOUTH MAIN STREET REDEVELOPMENT. Mayor Mamula read the script into record. Sarah Crump, Planner III, introduced the application. She reviewed the project specifications, including land use district, and the history of remodels of the building. She also reviewed the core commercial character area of this section of Main Street. She stated that this application meets the design standards, including windows, entryway, roof form and materials. She also reviewed the rooftop deck specifications and the proposed building width. She reviewed the priority design standards in relation to the building meeting the sidewalk edge. Crump stated staff does not have concerns about the building width. She explained that the building would generate 8.1 employees and employee mitigation, parking and PIFs will be assessed when the applicant applies for a business or liquor license, for example. Crump stated staff is recommending -5 points for building height, and the space on the south side of the building allows for drainage, but not pedestrians. She further stated that the developer is providing 8 parking spaces on site, and will require 10.2 spaces so they would need to purchase the difference. Also, the building will have two EV charging stations, for positive points. Crump explained additional permitting would be required for exterior speakers, and staff recommends approval with a total of +1 point.

Council Member Carleton asked about the liquor license in the space, and the circulation between the retail and bar area. Staff explained there is not yet a tenant in this space, and no liquor application has been submitted to the Town.

Mayor Mamula asked about the floors, how guests would access the rooftop deck from the bar, and the purpose of the patio.

Council Member Beckerman asked about the EV chargers to get positive points and if there is any heating proposed on the rooftop patio. He also asked about the square footage of the indoor bar on the second level, and staff answered it was 674 ft.

Suzanne Sabo, an architect representing the applicant, stated her client is out of the country, so she is representing the applicant here today. She described the modifications of this project over the past few iterations, including the setbacks for the rooftop deck. She stated this building was intended to be a “core and shell” building by the developer, without a tenant in mind, so for the employee generation pieces this is only a placeholder at this time. She stated we feel this building is detailed to read less wide than it is, and it’s consistent with other buildings in the core. She further explained the gap on the south side is for drainage, and they can gate that area. She also stated the front is aligned with the building to the north. Council Member Carleton asked about the parking area in the back. Mayor Mamula asked about the configuration of the rear of the building and Sabo stated it will be used for egress. Chris Kulick clarified that that in order to program the rooftop deck, they would need amenities inside to match the use, which would determine the employee mitigation calculation.

Mayor Mamula closed the call up hearing.

Council Member Carleton stated he was perplexed about the employee generation calculation and now it makes sense that there wasn’t a clear answer because there isn’t yet a tenant for that space. Other council members agreed that they are comfortable with this project as explained.

Mayor Mamula read the hearing script to close the hearing.

Council Member Bergeron moved to approve the 114 SOUTH MAIN STREET REDEVELOPMENT, as called up from the Planning Commission Decisions. Council Member Beckerman seconded the motion.

The motion passed 7-0.

**IX) REPORT OF TOWN MANAGER AND STAFF**

Town Manager Holman stated there was no report.

**X) REPORT OF MAYOR AND COUNCIL MEMBERS**

**A. CAST/MMC**

Mayor Mamula stated Mountain Town 2030 and CAST were last week and they were positive.

**B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE**

No update.

**C. BRECKENRIDGE TOURISM OFFICE**

No update.

**D. BRECKENRIDGE HISTORY**

Council Member Saade stated staff made the move to Milne Park, and they will host an open house on November 4, 10am-12pm. She also stated the Jessie Mill project is wrapping up soon and they intend to have a community celebration. Council Member Saade stated student programming has been successful and they are encouraging homeowners to stabilize historic sheds on their property.

**E. BRECKENRIDGE CREATIVE ARTS**

Council Member Rankin stated Breck Create is looking at the number of hosted events as opposed to outside organizations using the facilities, and they are looking forward to the upcoming planning process.

**F. CML ADVISORY BOARD UPDATE**

Council Member Saade stated there was a meeting last Friday, and CML is going to be proactive in introducing legislation during the next session. She stated they are looking at a new housing bill draft, as well as transit-oriented bills, among other things.

**G. CHILD CARE ADVISORY COMMITTEE**

No update.

H. SOCIAL EQUITY ADVISORY COMMISSION  
The minutes from the last meeting are in the packet.

**XI) OTHER MATTERS**

Mayor Mamula stated he and Council Member Owens went to see the delivery center run by 106 West in Vail, and he believes we could fix a lot of the problems on the Riverwalk by implementing a delivery center similar to how they do it. He further stated we need to find a place to do it.

**XII) SCHEDULED MEETINGS**

A) SCHEDULED MEETINGS FOR OCTOBER, NOVEMBER AND DECEMBER.

**XIII) ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 8:24pm. Submitted by Helen Cospolich, Municipal Services Director and Town Clerk.

ATTEST:

\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

\_\_\_\_\_  
Eric S. Mamula, Mayor

DRAFT



# Memo

To: Breckenridge Town Council  
From: Pamela Ness, Revenue Manager  
Date: November 6, 2023 (for the November 14th meeting)  
Subject: 2024 Property Tax Mill Levy

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Please find attached the ordinance setting the mill levy within the Town of Breckenridge for 2024 at 5.07 mills. The ordinance is submitted for second reading.

The 5.07 mill levy is the amount the Town is authorized to impose, and cannot be increased without an election. The Mill Levy rate has remained the same since 2014. For the 2024 budget year, we are forecasting the 5.07 mill levy to result in property tax revenues of \$5.3M. If there are any changes made at the county or state level we will come back with an appropriation. There have been no changes to the ordinance since first reading.

The 5.07 mills are for the purpose of defraying the expenses of the General Fund.



# FOR WORKSESSION/SECOND READING – NOV 14

COUNCIL BILL NO. 38

Series 2023

## AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2024

WHEREAS, the Town Council of the Town of Breckenridge has determined that a mill levy of 5.07 mills upon each dollar of the assessed valuation of all taxable property within the Town of Breckenridge is needed to balance the 2024 Town budget.

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

Section 1. For the purpose of defraying the expense of the General Fund of Breckenridge, Colorado for the fiscal year 2024, there is hereby levied a tax of 5.07 mills upon each dollar of assessed valuation for all taxable property within the Town of Breckenridge.

Section 2. The Town Clerk is authorized and directed, after adoption of the budget by the Town Council, to certify to the Board of County Commissioners of Summit County, Colorado, the tax levies for the Town of Breckenridge, Colorado as herein set forth.

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 24th day of October 2023. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_\_ day of \_\_\_\_\_ 2023, at 7:00 p.m., or as soon thereafter as possible.

ATTEST:

TOWN OF BRECKENRIDGE

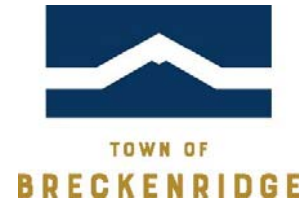
\_\_\_\_\_  
Helen Cospolich, Town Clerk

\_\_\_\_\_  
Eric Mamula, Mayor

APPROVED IN FORM

\_\_\_\_\_  
Town Attorney

\_\_\_\_\_  
Date



# Memo

To: Breckenridge Town Council  
From: Pamela Ness, Revenue Manager  
Date: November 8th, 2023 (for the November 14<sup>th</sup> meeting)  
Subject: Town Tax Code revisions (Second Reading)

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## **Background**

Staff is proposing additions and changes to definitions which are needed from time to time to “catch up” with new technology and other nuances that have come to light since the Town Code was written. Revenue Recovery Group (RRG), our out-of-town auditing consulting firm, has recommended changes to improve clarity of some definitions due to recent technological innovations.

Based on the changes recommended by RRG, staff has reviewed our Town Code, as well as those of other municipalities with tax policies that mirror the Town of Breckenridge’s. The intent of these revisions is to update our code to provide clarification on current policy. It is important to note that these revisions will not garner new net tax revenues for the Town.

The proposed definition revisions include edits to the existing definitions of “Software as a Service” and “Digital Product”.

## **Recommended Action:**

We ask that the Council review the proposed revisions in the attached ordinance and approve the ordinance on second reading. There have been no changes to the ordinance since first reading.

5 **AN ORDINANCE AMENDING THE BRECKENRIDGE SALES TAX CODE**  
6 **PERTAINING TO THE DEFINITION OF SOFTWARE AS A SERVICE.**

7  
8 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
9 BRECKENRIDGE, COLORADO:  
10

11  
12 **Section 1.** That section 3-2-2, entitled "DEFINITIONS" by repealing and replacing  
13 the term "DIGITAL PRODUCT" and the term "SOFTWARE AS A SERVICE" with the new  
14 definitions below:  
15

16 DIGITAL PRODUCT: Electronic products including, but not limited to: (1) "digital images" which  
17 means works that include, but are not limited to, the following that are generally recognized in  
18 the ordinary and usual sense as "photographs," "logos," "cartoons," or "drawings," (2) "digital  
19 audio-visual works" which means a series of related images which, when shown in succession,  
20 impart an impression of motion, together with accompanying sounds, if any, (3) "digital audio  
21 works" which means works that result from the fixation of a series of musical, spoken, or other  
22 sounds, including ringtones. For purposes of the definition of "digital audio works," "ringtones"  
23 means digitized sound files that are downloaded onto a device and that may be used to alert the  
24 customer with respect to a communication, (4) "digital books" which means works that are  
25 generally recognized in the ordinary and usual sense as "books" and, (5) "streaming services",  
26 which means digital products that are transferred to a user for consumption either immediately  
27 or offline at a later time.  
28

29 SOFTWARE AS A SERVICE: Tangible personal property in the form of software that is rented,  
30 leased, or subscribed to from a provider, including but not limited to applications, systems, or  
31 programs regardless of delivery method.  
32

33 **Section 2.** The Town Council hereby finds, determines, and declares that this ordinance  
34 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 3.** This ordinance shall be effective as provided in Section 5.9 of the municipal  
4 charter.

5  
6 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
7 PUBLISHED IN FULL this 24<sup>th</sup> day of October 2023. A Public Hearing shall be held at the  
8 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_\_ day of  
9 \_\_\_\_\_, 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building  
10 of the Town.

11 TOWN OF BRECKENRIDGE, a Colorado municipal corporation

12

13

14

15 By: \_\_\_\_\_

16 Eric S. Mamula, Mayor

17

18 ATTEST:

19

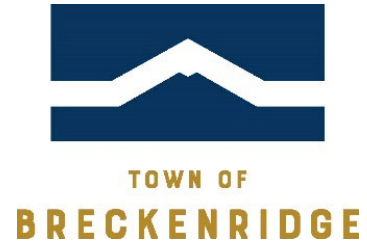
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21

22 \_\_\_\_\_

23 Helen Cospolich, CMC,

24 Town Clerk



# Memo

**To:** Breckenridge Town Council  
**From:** Tracey Lambert, Senior Accountant  
**Date:** November 8, 2023 (for the November 14<sup>th</sup> meeting)  
**Subject:** 2024 Budget Appropriation

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Please find attached the ordinance appropriating the funds required for the Adopted Budget 2024. The ordinance is submitted for first reading.

The Operating Budget 2024 Expenditures, inclusive of transfers is \$209.3M and considers Personnel, Materials and Supplies, Charges for Services, Capital, Debt Services, Grants, Reserves, Restrictions, and Transfers.

COUNCIL BILL NO. XX

Series 2023

**AN ORDINANCE OF THE TOWN OF BRECKENRIDGE SETTING FORTH THE ANNUAL APPROPRIATION FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2024, AND ENDING DECEMBER 31, 2024**

WHEREAS, at the direction of the Town of Breckenridge Council, the Town Manager has prepared and submitted a proposed budget for the fiscal year beginning January 1, 2024, and ending December 31, 2024 to the Town Council; and

WHEREAS, in accordance with the municipal charter, §10.5, a public hearing was held on October 24, 2023, at which time interested taxpayers were given the opportunity to file or register any objections to said proposed budget; and

WHEREAS, in accordance with the municipal charter, § 5.8, the Town Council hereby appropriates to the various funds as hereinafter stated to be used for the purpose for which these funds were created and exist.

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

1. Town Council hereby approves the ordinance appropriating expenditure of the Town of Breckenridge for the year beginning January 1, 2024, and ending December 31, 2024, to the various funds as hereinafter stated to be used for the purpose for which these funds were created and exist.

<b>FUND #</b>	<b>FUND NAME</b>	<b>2024 TOTAL EXPENSE APPROPRIATIONS</b>
001	GENERAL FUND	\$34,513,877
002	UTILITY FUND	\$8,264,135
003	CAPITAL FUND	\$30,967,105
004	MARKETING FUND	\$5,701,184
005	GOLF COURSE FUND	\$3,936,347
006	EXCISE TAX FUND	\$51,172,347
007	HOUSING FUND	\$24,231,644
008	OPEN SPACE ACQUISITION FUND	\$3,964,665
009	CONSERVATION TRUST FUND	\$55,000
010	GARAGE SERVICES FUND	\$7,303,924
011	INFORMATION TECHNOLOGY FUND	\$2,058,817
012	FACILITIES MAINTENANCE FUND	\$1,018,466

013	SPECIAL PROJECTS FUND	\$3,668,209
014	MARIJUANA FUND	\$672,361
015	CEMETERY FUND	\$28,600
016	CHILDCARE FUND	\$895,848
017	PARKING & TRANSPORTATION FUND	\$15,594,130
018	HEALTH BENEFITS FUND	\$5,200,000
019	SUSTAINABILITY FUND	\$2,616,606
020	ACCOMMODATION UNIT COMPLIANCE FUND	\$7,486,680

\$209,349,945

2. The amounts set forth above and in the annual budget of 2024 as approved by Resolution No. 19, Series of 2023, are hereby appropriated to the uses stated and the Town Manager has the authority to expend the amounts shown for the purposes stated.

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 14<sup>th</sup> day of November 2023. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 28th day of November 2023, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE

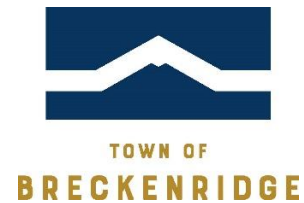
\_\_\_\_\_  
Helen Cospolich, Town Clerk

\_\_\_\_\_  
Eric Mamula, Mayor

APPROVED IN FORM

\_\_\_\_\_  
Town Attorney

\_\_\_\_\_  
Date



# Memo

**To:** Town Council

**From:** Chris Kulick, AICP, Planning Manager

**Date:** November 8, 2023, for the meeting of November 14, 2023

**Subject:** Development Agreement Provision Extension Between the Town of Breckenridge and Breckenridge Grand Vacations (Gondola Lot Properties LLC) that any site-specific Development Permit application within the Gondola Lots Master Plan Area Not Be Subject to any Policy/Development Code changes Subsequent to May 25, 2022 for an Additional Six Month Period

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Gondola Lot Properties (a subsidiary of Breckenridge Grand Vacations- BGV) has requested an extension to the provisions in section 2 of an existing Development Agreement (Recording Number 1312523) in order to continue working on the current Gondola Lots/ Peak 8 Development Agreement application without forfeiting the ability to have a potential site-specific Development Permit application within the current Gondola Lots Master Plan area not be subject to any Development Code changes subsequent to May 25, 2022. Only the provisions of section 2 need an extension at this time because the remainder of the benefits offered under the Development Agreement as described in section 1 are vested through May 23, 2025.

In June 2023, the Council agreed to amend the terms of an existing Development Agreement that extended the vesting of the Gondola Lots Master Plan by six months to May 23, 2025 (Section 1). The approved amendment allowed in addition to the six months of extended vesting for the Master Plan, that any site-specific Development Permit application within the Master Plan area not be subject to any Development Code changes subsequent to May 25, 2022, for a period of six months from the effective date of this amendment, June 13, 2023 (Section 2). The Council agreed to this amendment in order for BGV to withdraw their site-specific Development Permit Application and begin discussing a new Development Agreement that would potentially enable an alternative development prescription for the Gondola Lots Master Plan Area. The applicant and the Council are currently under negotiations for a new Development Agreement and need additional time to continue working through deal points.

Understanding that a new Development Agreement would also include three parcels in the Peak 8 area in addition to the Gondola Lots Master Plan area, both parties contemplated that negotiations would possibly stretch beyond the initial six (6) month timeline. Therefore, the amended Development Agreement was drafted with a provision that allows for an additional six (6) month extension with a simple majority vote of the Council. A copy of the signed and recorded Development Agreement is included in the packet.

From the Amended Development Agreement:

***2. Subject to the provisions of this Agreement, any site-specific Development Permit application within the Master Plan area will not be subject to any Development Code changes subsequent to May 25, 2022 for a period of six months from the effective date of this amendment, expiring on December 12, 2023 with the option of the Town Council, by affirmative vote of a majority of Council members at a regularly scheduled Town Council meeting, to extend this provision an additional six (6) months***



***to June 12, 2024, provided the extension is granted prior to this provision's expiration on December 12, 2023.***

Staff notes the requested six (6) month extension of the allowance that any site-specific Development Permit application within the Master Plan area to not be subject to any Development Code changes subsequent to May 25, 2022 does not require an additional \$100,000 childcare center improvement contribution per the direction of section 6 of the Development Agreement.

**Staff Recommendation**

Since the Council and the applicant are making progress towards creating a mutually agreeable, new, Development Agreement, staff recommends the Council make a motion to extend the Development Agreement, Recording Number 1312523, another six (6) months to June 12, 2024.

Staff are available to answer any questions.

**OTTENJOHNSON**  
ROBINSON NEFF + RAGONETTI<sub>PC</sub>

October 27, 2023

ANDREW L.W. PETERS  
303 575 7507  
APETERS@OTTENJOHNSON.COM

Mark Truckey  
Town of Breckenridge  
150 Ski Hill Road #2  
Breckenridge, Colorado 80424

Re: Request for Extension of Allowance

Dear Mr. Truckey:

As you know, this firm represents Gondola Lot Properties LLC (“GLP”) in connection with certain entitlements matters in the Town of Breckenridge (the “Town”). Earlier this year, GLP and the Town entered into that certain Amended and Restated Development Agreement dated June 12, 2023 and recorded at Reception No. 1312523 (the “Agreement”). I write now to request the extension of certain rights as permitted by the Agreement.

Sections 2 and 6 of the Agreement provide for an allowance (the “Allowance”) for any site-specific Development Permit application within the Gondola Lots Master Plan area to not be subject to any Development Code changes subsequent to May 25, 2022, for a period of six months from June 12, 2023. Section 2 further provides that the Allowance may be extended six months, to June 12, 2024, with no additional consideration, by an affirmative vote of a majority of Town Council members at a regularly scheduled Town Council meeting, so long as the extension is granted before December 12, 2023.

By this letter, GLP respectfully requests that Town Council grant a six-month extension of the Allowance in accordance with the requirements of Section 2, to June 12, 2024, to allow GLP and its affiliates to pursue the ongoing Development Agreement process.

Thank you for your attention to this matter.

Very truly yours,



Andrew L.W. Peters  
For the Firm

ALWP/lm



1312523

Taryn Power - Summit County Recorder

Exhibit "A"

APPROVAL OF THIS DEVELOPMENT AGREEMENT CONSTITUTES A VESTED  
PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED  
STATUTES, AS AMENDED

DEVELOPMENT AGREEMENT

This Amended and Restated Development Agreement ("**Agreement**") is made as of the 12th day of June, 2023 ("**Effective Date**," which shall be the date when this ordinance approving this Agreement becomes effective) between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the "**Town**") and GONDOLA LOT PROPERTIES LLC, a Colorado limited liability company, (the "**Developer**"). This Agreement amends and restates that Development Agreement dated as of April 14, 2023, and recorded April 14, 2023, at Reception No. 1309020 of the records of the Clerk and Recorder of Summit County, Colorado ("**Original Development Agreement**"). The Town and the Developer are sometimes collectively referred to in this Agreement as the "**Parties**," and individually by name or as a "**Party**."

Recitals

A. The Developer owns, or has a ground lease, for the following described real property in the Town of Breckenridge, Summit County, Colorado that is controlled by the Breckenridge Grand Vacations Gondola Lot Master Plan (PL-2021-0052) ("**Master Plan**"):

- Lot 1, Gondola Lots, Filing No. 1
- Lot 2, Gondola Lots, Filing No. 1
- Lot 3, Gondola Lots, Filing No. 1
- Lot 4, Gondola Lots, Filing No. 2
- Lot 5, Gondola Lots, Filing No. 2
- Lot 6, Gondola Lots, Filing No. 2
- Lot 1B, Block 4, Parkway Center ("**Property**").

B. In accordance with Subsection (H)(1) of Section 9-1-19-39A, "Policy 39 (Absolute) Master Plan" of the Breckenridge Town Code a development permit for an approved master plan is vested for three (3) years.

C. The approved vesting of the Master Plan expires three (3) years from the approval, November 23, 2024.

1 D. The Developer proposes to extend the vesting of the Master Plan by six (6) months to  
2 May 23, 2025. The extended vesting period is referred to in this Agreement as the “**Extension.**”  
3  
4

5 E. In accordance with Section 9-1-17-2 of the Breckenridge Town Code, development  
6 permits shall be granted or denied on the basis of the policies contained in the Development  
7 Code and on no other basis.  
8

9 F. The Developer proposes an allowance for any site-specific Development Permit  
10 application within the Gondola Lots Master Plan area to not be subject to any Development Code  
11 changes subsequent to May 25, 2022, for a period of six months from the effective date of this  
12 amendment, June 12, 2023. This time limited provision is referred to in this Agreement as the  
13 “**Allowance.**”  
14

15 G. A development agreement is necessary both in order to authorize the Extension of the  
16 vesting and in order to authorize the Allowance in paragraphs D and F, respectively.  
17

18 H. Town has received a completed application for a Class A Development Permit  
19 (“**Application**”) within the Gondola Lots Master Plan area which is currently under review by  
20 the planning commission.  
21

22 I. The Developer proposes to withdraw the pending Application in order to explore  
23 with the Town whether there are development opportunities that provide maximum opportunity  
24 for public benefits to the Town.  
25

26 J. Pursuant to Chapter 9 of Title 9 of the Breckenridge Town Code the Town Council  
27 has the authority to enter into a development agreement.  
28

29 K. The commitments proposed by the Developer in connection with this Agreement are  
30 set forth hereafter and are found and determined by the Town Council to be adequate.  
31

32 L. The Town Council has received a completed application and all required submittals  
33 for a development agreement; had a preliminary discussion of such application and submittals;  
34 determined that it should commence proceedings for the approval of this Agreement; and, in  
35 accordance with the procedures set forth in Section 9-9-10(C) of the Breckenridge Town Code,  
36 has approved this Agreement by non-emergency ordinance.  
37

38 Agreement  
39

40 1. Subject to the provisions of this Agreement, the Master Plan, is hereby extended until  
41 May 23, 2025, with the option of the Town Council, by affirmative vote of a majority of Council  
42 members at a regularly scheduled Town Council meeting, to extend the Master Plan’s vesting an

1 additional six (6) months to November 23, 2025, provided the extension is granted prior to this  
2 agreement's expiration on May 23, 2025.

3  
4 2. Subject to the provisions of this Agreement, any site-specific Development Permit  
5 application within the Master Plan area will not be subject to any Development Code changes  
6 subsequent to May 25, 2022 for a period of six months from the effective date of this  
7 amendment, expiring on December 12, 2023 with the option of the Town Council, by affirmative  
8 vote of a majority of Council members at a regularly scheduled Town Council meeting, to extend  
9 this provision an additional six (6) months to June 12, 2024, provided the extension is granted  
10 prior to this provision's expiration on December 12, 2023.

11  
12 3. Subject to the provisions of this Agreement, the applicant will withdraw the  
13 Application (PL-2022-0208) on or prior to the effective date of this Agreement.

14  
15 4. As the commitments encouraged to be made in connection with a development  
16 agreement pursuant to Section 9-9-4 of the Breckenridge Town Code, the Developer shall do the  
17 following: agree to make a \$100,000 capital contribution toward either a new in-town childcare  
18 center or a project that increases capacity to an existing in-town childcare center prior to the  
19 Agreement going to into effect.

20  
21 5. The term of the Extension described in this Agreement shall commence on the  
22 Effective Date and shall end, subject to earlier termination in the event of a breach of this  
23 Agreement, on May 23, 2025, unless extended an additional six (6) months in accordance with  
24 section 1 above to November 23, 2025, upon which approval will require an additional \$100,000  
25 for the purpose of Section 2 above.

26  
27 6. The term of the Allowance described in this Agreement shall commence on the  
28 Effective Date and shall end, subject to earlier termination in the event of a breach of this  
29 Agreement, on December 12, 2023, unless extended an additional six (6) months in accordance  
30 with section 2 above to June 12, 2024.

31  
32 7. Nothing in this Agreement shall preclude or otherwise limit the lawful authority of  
33 the Town to adopt or amend any Town law, including, but not limited to the Town's: (i)  
34 Development Code, (ii) Comprehensive Plan, (iii) Land Use Guidelines, and (iv) Subdivision  
35 Standards.

36  
37 8. The Agreement shall run with the title to the land and be binding upon the owners,  
38 heirs, successors and assigns.

39  
40 9. Prior to any action against the Town for breach of this Agreement, the Developer  
41 shall give the Town a sixty (60) day written notice of any claim of a breach or default by the  
42 Town, and the Town shall have the opportunity to cure such alleged default within such time  
43 period.  
44

1           10. The Town shall not be responsible for, and the Developer shall not have any remedy  
2 against the Town, if the Project is prevented or delayed for reasons beyond the control of the  
3 Town.  
4

5           11. Actual development of the real property which is the subject of the Agreement shall  
6 require the issuance of such other and further permits and approvals by the town as may be  
7 required from time to time by applicable town ordinances.  
8

9           12. No official or employee of the Town shall be personally responsible for any actual or  
10 alleged breach of this Agreement by the Town.  
11

12           13. The Developer agrees to indemnify and hold the Town, its officers, employees,  
13 insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on  
14 account of injury, loss, or damage, including without limitation claims arising from bodily  
15 injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any  
16 kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such  
17 injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in  
18 part by, the negligence or intentional act or omission of the Developer; any subcontractor of the  
19 Developer, or any officer, employee, representative, or agent of the Developer or of any  
20 subcontractor of the Developer, or which arise out of any worker's compensation claim of any  
21 employee of the Developer, or of any employee of any subcontractor of the Developer; except to  
22 the extent such liability, claim or demand arises through the negligence or intentional act or  
23 omission of the Town, its officers, employees, or agents. The Developer agrees to investigate,  
24 handle, respond to, and provide defense for and defend against, any such liability, claims, or  
25 demands at the sole expense of the Developer. The Developer also agrees to bear all other costs  
26 and expenses related thereto, including court costs and attorney's fees.  
27

28           14. If any provision of this Agreement shall be invalid, illegal, or unenforceable, it shall  
29 not affect or impair the validity, legality, or enforceability of the remaining provisions of the  
30 Agreement.  
31

32           15. This Agreement constitutes a vested property right pursuant to Article 68 of Title 24,  
33 Colorado Revised Statutes, as amended.  
34

35           16. No waiver of any provision of this Agreement shall be deemed or constitute a waiver  
36 of any other provision, nor shall it be deemed to constitute a continuing waiver, unless expressly  
37 provided for by a written amendment to this Agreement signed by the Parties; nor shall the  
38 waiver of any default under this Agreement be deemed a waiver of any subsequent default or  
39 defaults of the same type.  
40

41           17. Nothing contained in this Agreement shall constitute a waiver of the Town's  
42 sovereign immunity under any applicable state or federal law.  
43



1 18. Personal jurisdiction and venue for any civil action commenced by any Party to this  
2 Agreement shall be deemed to be proper only if such action is commenced in District Court of  
3 Summit County, Colorado. The Developer expressly waives any right to bring such action in or  
4 to remove such action to any other court, whether state or federal. The Parties hereby mutually  
5 agree to waive any right to a jury trial in connection with any action to enforce, interpret or  
6 construe this agreement.  
7

8 19. Any notice required or permitted hereunder shall be in writing and shall be sufficient  
9 if personally delivered or mailed by certified mail, return receipt requested, addressed as follows:  
10

11 If to the Town: Rick G. Holman, Town Manager  
12 Town of Breckenridge  
13 P.O. Box 168  
14 Breckenridge, CO 80424  
15

16 With a copy (which  
17 shall not constitute  
18 notice to the Town) to: Kirsten Crawford, Esq.  
19 Town Attorney  
20 P.O. Box 168  
21 Breckenridge, CO 80424  
22

23 If to the Developer: Mike Dudick  
24 Gondola Lot Properties LLC  
25 P.O. Box 6879  
26 Breckenridge, CO 80424  
27

28 Notices mailed in accordance with the provisions of this Section 19 shall be deemed to have been  
29 given upon delivery. Notices personally delivered shall be deemed to have been given upon  
30 delivery. Nothing herein shall prohibit the giving of notice in the manner provided for in the  
31 Colorado Rules of Civil Procedure for service of civil process.  
32

33 20. This Agreement shall be interpreted in accordance with the laws of the State of  
34 Colorado without regard to principles of conflicts of laws.  
35

36 21. This Agreement constitutes the entire agreement and understanding between the  
37 Parties relating to the subject matter of this Agreement and supersedes any prior agreement or  
38 understanding relating to such subject matter.  
39

40 TOWN OF BRECKENRIDGE, a Colorado  
41 municipal corporation  
42  
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44



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DocuSigned by:  
By: Rick Holman  
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Rick G. Holman, Town Manager

GONDOLA LOT PROPERTIES LLC,  
A COLORADO LIMITED LIABILITY  
COMPANY

BY: MAD

NAME: Mike Duval

TITLE: Member

ATTEST:

DocuSigned by:  
Helen Cospolich  
F6FCABE1D12447E...  
Helen Cospolich, CMC, Town  
Clerk

*MAD*





# Memo

To: Breckenridge Town Council Members  
From: Mark Truckey, Director of Community Development  
Date: November 8, 2023  
Subject: Planning Commission Decisions of the November 7, 2023 Meeting

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***DECISIONS FROM THE PLANNING COMMISSION MEETING, November 7, 2023:***

**CLASS A APPLICATIONS:** None.

**CLASS B APPLICATIONS:**

1. Romer Residence, 203 Briar Rose Ln., PL-2023-0354  
A proposal to remove an existing modular single-family residence and construct a 3,229 sq. ft. single family residence with 5 bedrooms and a 506 sq. ft. two-car garage. *Approved, see second memo.*

**CLASS C APPLICATIONS:**

1. BCM Housing Unit, 103 Sawmill Rd., PL-2023-0511  
A proposal to convert 529 sq. ft. of existing lower-level space to an employee housing unit and create an accessible restroom. *Approved.*

**TOWN PROJECT HEARINGS:** None.

**OTHER:** None.

# Memo

**To:** Town Council  
**From:** Clif Cross – Planner II  
**Date:** November 8, 2023 for meeting of November 14, 2023  
**Subject:** Romer Single Family Residence - Class B Major Development Permit Application:  
Planning Commission Approval Summary

---

The applicant proposes to construct a 3,229 sq. ft. single-family residence with five (5) bedrooms and a 506 sq. ft., two-car garage. This proposal is subject to a Development Agreement approved by the Town Council in 2020 to subdivide the existing Lot 2 into equally sized Lots 2A and Lot 2B. The Development Agreement also placed limitations on the density and mass for each lot. The development proposed within this application is for the northern lot, Lot 2A. The subdivision, which is a requirement prior to completion of the residence, has already been completed. The existing modular single-family residence on Lot 2A is proposed to be removed with this application. The Planning Commission reviewed this proposal at a First Preliminary Hearing on September 5, 2023, a Second Preliminary Hearing on October 2, 2023, and at Final Hearing on November 7, 2023. No public comment was received at or prior to any of the Hearings. The Commission approved the application at the November 7, 2023 meeting with a vote of 5-0.

Additional detail on the application is available in the Planning Commission's online packet here: <https://www.townofbreckenridge.com/home/showpublisheddocument/23809/638346071855298734>

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



Image 1 (above): Architect's rendering of proposed development, as viewed looking southwest from Briar Rose Lane.



BCM Housing Unit,  
103 Sawmill Rd.

Romer  
Residence, 203  
Briar Rose Ln.



NOT TO SCALE

# Breckenridge South



## PLANNING COMMISSION MEETING

The meeting was called to order at 5:33 pm by Chair Frechter.

### ROLL CALL

Mike Giller                      Mark Leas                      Allen Frechter - **Remote**                      Susan Propper  
Ethan Guerra                      Steve Gerard - **Absent**                      Elaine Gort

### APPROVAL OF MINUTES

With no changes, the October 17, 2023 Planning Commission Minutes were approved.

### APPROVAL OF AGENDA

With no changes, the November 7, 2023 Planning Commission Agenda was approved.

### PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- No comments

### CONSENT CALENDAR:

1. BCM Housing Unit (SVC), 103 Sawmill Rd., PL-2023-0511

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

### FINAL HEARINGS:

1. Romer Residence, 203 Briar Rose Ln., PL-2023-0354

Mr. Cross presented a proposal to construct a 3,229 sq. ft. single-family residence with five (5) bedrooms and a 506 sq. ft., two-car garage. This proposal is subject to a Development Agreement approved by the Town Council in 2020 for subdivision of the existing Lot 2 into equally sized Lots 2A and Lot 2B, and development of each lot. The development proposed with this application is for the northern lot, Lot 2A. The subdivision, which is a requirement prior to completion of the residence, has already been completed. The existing modular single-family residence on the property (Lot 2A) is proposed to be removed with this application.

Mr. Giller recused himself as his employer may be building the project.

#### *Commissioner Questions / Comments:*

No comments.

Mr. Guerra made a motion to approve the Romer Residence, seconded by Ms. Gort. The motion passed 5 to 0.

### OTHER MATTERS:

1. Chair and Vice Chair Appointments

Mr. Guerra made a motion to appoint Mr. Leas as the Planning Commission Chair, seconded by Mr. Giller. The motion passed 6 to 0.

Mr. Leas made a motion to appoint Mr. Guerra as the Planning Commission Vice Chair, seconded by Ms. Gort. The motion passed 6 to 0.

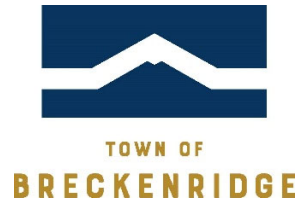
2. Town Council Summary

### ADJOURNMENT:

The meeting was adjourned at 6:06 pm.

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Allen Frechter, Chair



# Memo

To: Breckenridge Town Council  
From: Sarah Crump, AICP, Planner III  
Date: November 7, 2023 (For November 14, 2023 Meeting)  
Subject: 114 South Main Street Redevelopment De Novo Hearing Decision

---

On October 24, 2023, Town Council held a de novo hearing for the redevelopment of commercial property located at 114 South Main Street, Lot 14 of the Bartlett and Shock Subdivision. The Council voted 7-0 to approve the project with the findings and conditions of the decision recommended by staff. This approval authorizes a development permit for demolition of the existing commercial building at 114 South Main Street and the construction of a new two-story commercial building of 5,890 sq. ft. with commercial retail, food and beverage, and exterior food and beverage uses.

The decision document is attached below to be entered into the record.

1 PROCEEDINGS OF THE TOWN COUNCIL  
2 OF THE TOWN OF BRECKENRIDGE, COLORADO  
3

4 Application No. PL-2023- 0077  
5

6 Applicant: Allen-Guerra Architecture – Yves Mariethoz  
7

8 Owner: Main Street Development Partners, LLC – Stuart Ratzon  
9

10 Type of Application: Class A Development Permit  
11

12 Property Description: Lot 14, Bartlett and Shock Addition; also known as: 114 South Main  
13 Street, Breckenridge, Colorado 80424  
14

---

15 **DECISION**  
16  
17

---

18  
19 This matter came before the Town Council of the Town of Breckenridge, Colorado  
20 (“**Town Council**”) on October 24, 2023.  
21

22 Having heard and considered all of the evidence presented both in favor of and in  
23 opposition to the Application, the Town Council finds and determines as follows:

- 24 1. The Applicant seeks a Class A Development Permit to demolish the existing commercial  
25 building and construct a new two-story commercial building located on the above  
26 described real property (“**Property**”), all as more specifically described in the  
27 Application and supporting documentation.
- 28 2. The Applicant has filed a completed Application, and has paid all required Application  
29 fees.
- 30 3. The Applicant is the owner of the Property.
- 31 4. The Application was originally considered by the Town of Breckenridge Planning  
32 Commission (“**Planning Commission**”) in accordance with the procedures and  
33 requirements of the Town of Breckenridge Development Code<sup>1</sup> (the “**Development**  
34 **Code**”).
- 35 5. On September 5, 2023 the Planning Commission conditionally approved the Application.
- 36 6. On September 12, 2023 the Planning Commission’s decision on the Application was  
37 presented to the Town Council by the Director of the Department of Community  
38 Development as required by Section 9-1-18-1(E)(6) of the Development Code.

---

<sup>1</sup>Chapter 1 of Title 9 of the Breckenridge Town Code.

- 1 7. On September 12, 2023 the Town Council voted to “call up” the Planning Commission’s  
2 decision on the Application.
- 3 8. Pursuant to Section 9-1-5 of the Development Code, a call up is the decision of the Town  
4 Council to vacate the Planning Commission’s decision on an application and to make the  
5 final decision on the application itself.
- 6 9. The Town Council’s decision to call up the Application operated to vacate the Planning  
7 Commission’s decision on the Application.
- 8 10. The applicable procedures for a call up hearing to be conducted by the Town Council are  
9 set forth in Section 9-1-18-5 of the Development Code. When the Town Council is  
10 conducting a call up hearing, it becomes the final decision maker for the Town with  
11 respect to an application and, therefore, in connection with a Council call up hearing the  
12 provisions of the Development Code dealing with the powers and authority of the  
13 Planning Commission apply equally to the Town Council. Thus, when the Town Council  
14 is conducting a call up hearing references in the Development Code to the Planning  
15 Commission may properly be taken to mean and to apply to the Town Council.
- 16 11. Pursuant to Section 9-1-18-5(A)(1)(c) of the Development Code, a call up hearing on a  
17 development permit application is conducted by the Town Council as a de novo hearing.
- 18 12. With the consent of the Applicant, the call up hearing on the Application was scheduled  
19 for October 24, 2023.
- 20 13. The Town Council conducted its call up hearing on the Application on October 24, 2023.
- 21 14. Notice of the Town Council’s call up hearing on the Application was given in the same  
22 manner as is required for final hearings on development permit applications held before  
23 the Planning Commission as required by Section 9-1-18-5(A)(1)(b) of the Development  
24 Code. Proof that notice of the hearing was properly given by the Town’s Department of  
25 Community Development was made a part of the record of the proceedings of the  
26 hearing.
- 27 15. The Town Council has jurisdiction over the Application pursuant to the Development  
28 Code.
- 29 16. The Applicant was represented at the call up hearing by Suzanne Allen-Sabo.
- 30 17. At the hearing the Applicant, through its representative and other witnesses, appeared and  
31 gave testimony and presented evidence in support of the Application. At the hearing other  
32 interested parties were given the opportunity to give testimony concerning the  
33 Application. Such testimony and evidence are contained in the record of the proceedings  
34 pertaining to the Application.
- 35 18. All the members of the Town Council are familiar with the property that is the subject of  
36 the Application.



- 1 19. All members of the Town Council have carefully considered all the relevant evidence  
2 submitted pertaining to the Application, both oral and written, and the applicable  
3 requirements of the Development Code.
- 4 20. Pursuant to Section 9-1-17-6 of the Development Code, for the Application to be granted  
5 the burden is on the Applicant to demonstrate by competent evidence that the Application  
6 satisfies all of the applicable requirements of the Development Code. The Applicant's  
7 burden of proof is by a preponderance of the evidence.
- 8 21. The Town's land use system as reflected in the Development Code measures the impacts  
9 of a proposed development against both "absolute" development policies and "relative"  
10 development policies.
- 11 22. An "absolute policy" is defined in Section 9-1-5 of the Development Code as "a policy  
12 which, unless irrelevant to the development, must be implemented for a (development)  
13 permit to be issued. The policies are described in Section 9-1-19 of this chapter." More  
14 simply stated, in order to be approved an application for a development permit must  
15 comply with all relevant absolute policies set forth in the Development Code.
- 16 23. A "relative policy" is defined in Section 9-1-5 of the Development Code as "a policy  
17 which need not be implemented by a development, but for which positive, negative, or  
18 zero points are allocated based on the features of the proposed development." This means  
19 that a development permit application need not score zero or higher on each individual  
20 relative policy, so long as the total net points awarded under all relevant relative policies  
21 totals zero or higher.
- 22 24. Section 9-1-17-3 of the Development Code provides as follows:

23 **9-1-17-3: ASSIGNMENT OF POINTS:**  
24

25 All policies are applied to all developments: Classes A, B, C, and D, unless  
26 otherwise expressly provided in a particular policy. Relative policies are assigned  
27 points, and unless provided differently in a particular policy, a negative score  
28 indicates that the policy is implemented but the proposed development will have a  
29 negative impact on the community on the basis of that particular policy. A score  
30 of zero indicates either that the particular policy is irrelevant to the proposed  
31 development or that a negative impact on the basis of that particular policy is  
32 completely mitigated. A positive score indicates that the proposed development  
33 implements a policy in such a way that there will be a positive impact on the  
34 community (i.e., the community will benefit) on the basis of that particular policy.  
35

36 A point analysis shall be conducted for all policies relevant to an Application, and  
37 shall be completed prior to the final hearing on the Application. However, a point  
38 analysis is not required for a Class D Major or D Minor development permit  
39 Application.  
40

1 Unless otherwise expressly provided in a particular policy, each relative policy is  
2 assigned points for the Applicant's performance, as follows:  
3

- + 2 (or greater) - Awarded for providing a significant public benefit with no substantial public detriment, or for an excellent job of implementation. The more the public benefit without substantial public detriment, or the better the job of implementation, the more the award of positive points.
- + 1 - Awarded for providing some public benefits, mitigating a minor public detriment, or for doing a good job of implementation.
- 0 - Awarded if the policy is irrelevant, if there is no public benefit and no public detriment from the project, if there is a public detriment which has been fully mitigated, or for an adequate job of implementation.
- 1 - Assessed for an inadequate job of implementation, or for producing some public detriment.
- 2/-3 (or greater) - Assessed for substantially no effort at implementation or for an unmitigated significant public detriment. The less the effort at implementation, or the greater the degree of unmitigated significant public detriment, the greater the assessment of negative points.

4  
5 Where a different range of points or standards for the award of positive points or  
6 the assessment of negative points are provided in a particular policy, such range  
7 of points or standards for the award or assessment of points shall apply.  
8

9 25. Section 9-1-17-4 of the Development Code provides as follows:

10 **9-1-17-4: ASSIGNMENT OF MULTIPLIERS:**  
11

12 Multipliers established by the Town Council are used to determine the relative  
13 importance of the policy vis-à-vis the other policies. The meaning of each  
14 multiplier is as follows:  
15

- x1 - Indicates a policy of minimal importance.
- x2 - Indicates a policy of moderate importance.
- x3 - Indicates a policy of average importance.

x4 - Indicates a policy of relatively significant community importance.

5 - Indicates a policy of significant community importance.

- 1 26. The Application proposes to demolish the existing non-historic commercial structure and  
2 construct a new two-story building of 5,890 sq. ft., containing commercial retail and  
3 restaurant uses.  
4
- 5 27. Section 9-1-18-1(E)(3)(b) of the Development Code provides that prior to a final  
6 hearing on a Class A development permit application the staff shall deliver to the  
7 Applicant and make available at the Town Hall their conclusion on an  
8 application's compliance with relevant absolute policies, allocation of points on  
9 all relative polices, and recommend conditions to be attached for approval.  
10 Section 9-1-18-1(E)(3)(b) applies to call up hearings conducted by the Town  
11 Council.
- 12 28. Prior to the call up hearing on the Application the Town's Department of Community  
13 Development ("**Department**") prepared its written report on the Application, dated  
14 October 13, 2023, as required by Section 9-1-18-1(E)(3)(b) of the Development Code.  
15 The staff report reflects the Department's best professional judgment of the manner and  
16 degree to which the Application implements all the relevant "Relative Policies" of the  
17 Development Code, as well as the Department's best professional judgment as to whether  
18 the Application implements all of the relevant "Absolute Policies" of the Development  
19 Code. The required staff report includes the Department's proposed "Point Analysis" for  
20 an application. The Point Analysis is the Department's analysis of how points should be  
21 awarded for the Application under the relevant Relative Polices of the Development  
22 Code, and an analysis of whether the Application implements all relevant Absolute  
23 Polices of the Development Code.  
24
- 25 29. The Town Council has reviewed and carefully considered the Department's staff report  
26 and proposed Point Analysis.
- 27 30. The Town Council finds and determines that the Department's conclusions as set forth in  
28 the staff report and Point Analysis are correct.
- 29 31. The Point Analysis prepared by the Department has been approved and adopted by the  
30 Town Council.
- 31 32. The approved Point Analysis indicates that the Application received a score of positive  
32 one (+1) points with respect to all relevant Relative Policies of the Development Code,  
33 and implements all relevant Absolute Polices.
- 34 33. Section 9-1-18-2(E)(5)(a) of the Development Code provides, in pertinent part, that if the  
35 Town Council agrees with the Point Analysis prepared by the Department and the Point  
36 Analysis indicates that the Application implements or has no effect on all relevant

1 Absolute Policies and is allocated a score of zero or net positive points on all relevant  
2 Relative Policies, the Town Council shall approve the Application.

3 34. Section 9-1-18-5(E)(5) of the Development Code authorizes the Town Council to impose  
4 conditions of approval on a Class A development permit application.

5 35. The conditions of approval hereinafter set forth are reasonably necessary to adequately  
6 protect the public health, safety and welfare, and to ensure that particular development  
7 policies will be implemented by the Applicant in the manner indicated in the Application.

8 36. After carefully considering the record in this matter, the Town Council finds and  
9 determines that:

10 A. The Applicant has met its burden of proof and sufficiently demonstrated that the  
11 Application satisfies the applicable requirements of the Development Code; and

12 B. The Applicant is entitled to conditional approval of the Application.

13 IT IS THEREFORE ORDERED as follows:

14 1. The Application of 114 South Main Street Redevelopment for a Class A Development  
15 Permit to demolish the existing non-historic structure and construct a new two-story commercial  
16 structure on the above described real property, all as more specifically described in the  
17 Application and supporting documentation is hereby conditionally GRANTED, with the  
18 additional Findings and subject to the Conditions set forth on the attached **Exhibit "A"**, which is  
19 incorporated herein by reference. The Director of the Department of Community Development is  
20 directed to issue a development permit to the Applicant that is consistent with the Application  
21 and this Decision.

22 .  
23 2. This Decision is the final decision of the Town Council on the Application for all  
24 purposes.

25  
26 3. A copy of this Decision shall be mailed by the Town Clerk to the Applicant at its  
27 address as shown on the Application.

28  
29 ADOPTED: November 14, 2023

30  
31 TOWN OF BRECKENRIDGE, a Colorado  
32 municipal corporation

33  
34 By: \_\_\_\_\_  
35 Eric S. Mamula, Mayor

36 ATTEST:  
37 \_\_\_\_\_  
38 Helen Cospolich , CMC,  
39 Town Clerk

40

1 **EXHIBIT "A"**

2  
3 **CONDITIONS OF APPROVAL**  
4

---

5  
6 1. The permit does not become effective, and the project may not be commenced, unless  
7 and until the applicant accepts the preceding findings and following conditions in writing and  
8 transmits the acceptance to the Town of Breckenridge.  
9

10 2. If the terms and conditions of the approval are violated, the Town, in addition to criminal  
11 and civil judicial proceedings, may, if appropriate, issue a stop order requiring the cessation of  
12 work, revoke the permit, require removal of any improvements made in reliance upon the permit  
13 with costs to constitute a lien on the property and/or restoration of the property.  
14

15 3. The permit expires three (3) years from date of issuance, on November 15, 2026, unless a  
16 building permit has been issued and substantial construction pursuant thereto has taken place. In  
17 addition, if the permit is not signed and returned to the Town within 30 days from the permit  
18 mailing date, the duration of the permit shall be 18 months, but without the benefit of any vested  
19 property right.  
20

21 4. The terms and conditions of the permit are in compliance with the statements of the staff  
22 and applicant made on the evidentiary forms and policy analysis forms.  
23

24 5. Nothing in the permit shall constitute an agreement by the Town of Breckenridge to issue  
25 a certificate of occupancy for the project covered by the permit. The determination of whether a  
26 certificate of occupancy should be issued for such project shall be made by the Town in  
27 accordance with the applicable provisions of the Town Code, including, but not limited to the  
28 building code.  
29

30 6. All hazardous materials used in construction of the improvements authorized by the  
31 permit shall be disposed of properly off site.  
32

33 7. Applicant shall field locate utility service lines to avoid existing trees.  
34

35 8. An improvement location certificate of the height of the building's ridges must be  
36 submitted and approved by the Town during the various phases of construction. The final  
37 building height shall not exceed 30' at the front cornice or 26.6' at the rear gable as measured  
38 from finished grade.  
39

40 9. Based on the provided floor areas for proposed commercial retail, restaurant, and exterior  
41 food and beverage service areas, no employee mitigation is required for the project because of  
42 credit given in the employee generation calculation for the existing commercial operations on site.  
43 However, the calculated employee generation of the project under Policy 24A Social Community  
44 Section C. Employee Housing Impact Mitigation is subject to change, should the floor areas be  
45 revised prior to the building permit application.  
46

1 10. This development permit does not authorize the placement of any signs. A separate sign  
2 permit shall be required for any proposed signs which must comply with the Town’s Sign Code.

3  
4 11. This development permit does not authorize any bistro lighting associated with the roof  
5 deck exterior food and beverage area. A separate permit shall be required for any additional  
6 lighting which must comply with the Town’s Lighting Standards.

7  
8 12. This development permit does not authorize any exterior loudspeakers associated with the  
9 roof deck exterior food and beverage area. A separate permit shall be required for any exterior  
10 loudspeakers which must comply with the Town’s exterior loudspeaker regulations and noise  
11 ordinances.

12  
13 PRIOR TO ISSUANCE OF BUILDING PERMIT

14  
15 13. The proposed design for the elevator and elevator landings must comply with current  
16 Americans with Disabilities Act and American National Standards for Accessible and Usable  
17 Buildings and Facilities.

18  
19 14. Applicant shall submit proof of ownership of the project site.

20  
21 15. Applicant shall submit and obtain approval from the Town Engineer of final drainage,  
22 grading, utility, and erosion control plans.

23  
24 16. Applicant shall provide plans stamped by a registered professional engineer licensed in  
25 Colorado, to the Town Engineer for all retaining walls over four feet in height.

26  
27 17. Any exposed foundation wall in excess of 12 inches shall be finished (i.e. textured or  
28 painted) in accordance with the Breckenridge Development Code Section 9-1-19-5R.

29  
30 18. Applicant shall contact the Town of Breckenridge and schedule a preconstruction  
31 meeting between the Applicant, Applicant’s architect, Applicant’s contractor and the Town’s  
32 project Manager, Chief Building Official and Town Historian to discuss the methods, process  
33 and timeline for the project.

34  
35 19. Applicant shall submit and obtain approval from the Town of a construction staging plan  
36 indicating the location of all construction material storage, fill and excavation material storage  
37 areas, portolet and dumpster locations, and employee vehicle parking areas. No staging is  
38 permitted within public right of way without Town permission. Any dirt tracked upon the public  
39 road shall be the applicant’s responsibility to remove. Contractor parking within the public right  
40 of way is not permitted without the express permission of the Town, and cars must be moved for  
41 snow removal. A project contact person is to be selected and the name provided to the Public  
42 Works Department prior to issuance of the building permit.

43  
44 20. Applicant shall submit and obtain approval from Town staff of a cut sheet detail for all  
45 exterior lighting on the site. All exterior lighting on the site or buildings, with the exception of  
46 seasonal bistro lighting, shall be fully shielded to hide the light source and shall cast light

1 downward. Exterior residential lighting shall not exceed 15' in height from finished grade, 7'  
2 above upper decks. Seasonal bistro lighting is only permitted from May 1, through October 31,  
3 of the same year.

4  
5  
6 **PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY**  
7

8 21. Per section 9-3-12 of the Town Code, the applicant shall pay a fee-in-lieu for 2.29 parking  
9 spaces. The amount of the in-lieu fee shall be calculated for the year in which the Building Permit  
10 application is received. The fee amount is adjusted annually to reflect the percentage increase, if  
11 any, in the consumer price index (CPI-U) for all items for the Denver-Boulder, Colorado area  
12 produced by the bureau of labor statistics, or any successor index. This fee is on record with the  
13 Town.

14  
15 22. Applicant shall paint all metal flashing, vents, flues, rooftop mechanical equipment,  
16 meters, and utility boxes on the building a flat, dark color or to match the building color.

17  
18 23. Applicant shall screen all utilities.  
19

20  
21 24. At all times during the course of the work on the development authorized by the permit,  
22 the permittee shall refrain from depositing any dirt, mud, sand, gravel, rubbish, trash,  
23 wastepaper, garbage, construction material, or any other waste material of any kind upon the  
24 public street(s) adjacent to the construction site. Town shall provide oral notification to permittee  
25 if Town believes that permittee has violated this condition. If permittee fails to clean up any  
26 material deposited on the street(s) in violation of this condition within 24 hours of oral notice  
27 from Town, permittee agrees that the Town may clean up such material without further notice  
28 and permittee agrees to reimburse the Town for the costs incurred by the Town in cleaning the  
29 streets. Town shall be required to give notice to permittee of a violation of this condition only  
30 once during the term of the permit.

31  
32 25. The development project approved by the permit must be constructed in accordance with  
33 the plans and specifications, which were approved by the Town in connection with the  
34 Development Permit application. Any material deviation from the approved plans and  
35 specifications without Town approval as a modification may result in the Town issuing a Stop  
36 Work Order and/or not issuing a Certificate of Occupancy or Compliance for the project, and/or  
37 other appropriate legal action under the Town's development regulations. A Stop Work Order  
38 may not be released until a modification to the permit is reviewed and approved by the Town.  
39 Based upon the magnitude of the modification, another hearing before the Planning Commission  
40 may be required.

41  
42 26. No Certificate of Occupancy or Certificate of Compliance will be issued by the Town  
43 until: (i) all work done pursuant to the permit is determined by the Town to be in compliance  
44 with the approved plans and specifications for the project, and all applicable Town codes,  
45 ordinances and standards, and (ii) all conditions of approval set forth in the Development Permit  
46 for this project have been properly satisfied. If either of these requirements cannot be met due to

1 prevailing weather conditions, the Town may issue a Certificate of Occupancy or Certificate of  
2 Compliance if the permittee enters into a Cash Deposit Agreement providing that the permittee  
3 will deposit with the Town a cash bond, or other acceptable surety, equal to at least 125% of the  
4 estimated cost of completing any required work or any applicable condition of approval, and  
5 establishing the deadline for the completion of such work or the satisfaction of the condition of  
6 approval. The form of the Cash Deposit Agreement shall be subject to approval of the Town  
7 Attorney. "Prevailing weather conditions" generally means that work cannot be done due to  
8 excessive snow and/or frozen ground. As a general rule, a cash bond or other acceptable surety  
9 will only be accepted by the Town between November 1 and May 31 of the following year. The  
10 final decision to accept a bond as a guarantee will be made by the Town of Breckenridge.

11  
12 27. Applicant shall submit the written statement concerning contractors, subcontractors and  
13 material suppliers required in accordance with Ordinance No. 1, Series 2004.

14  
15 28. Applicant shall be held responsible for any deterioration or damages caused by  
16 development or construction activities to any Town infrastructure, public rights-of-way, or  
17 public property. This includes but is not limited to deterioration or damages to roadway surfaces,  
18 curbs, drainage systems, sidewalks, and signage. Applicant must rectify such deterioration or  
19 damages to the previous condition at their own expense. Town shall provide written notification  
20 to permittee if Town believes that permittee has caused deterioration or damages which would  
21 enact this condition. If permittee fails to rectify deterioration or damages in violation of this  
22 condition, permittee agrees that the Town may resolve such deterioration or damages and  
23 permittee agrees to reimburse the Town for the costs incurred by the Town. Town shall be  
24 required to give notice to permittee of a violation of this condition only once during the term of  
25 this permit. Any failure to rectify deterioration or damages or provide reimbursement without  
26 Town approval may also result in the Town issuing a Stop Work Order and/or not issuing a  
27 Certificate of Occupancy or Compliance for the project, and/or other appropriate legal action  
28 under the Town's development regulations.

29  
30 29. The development authorized by this Development Permit may be subject to the  
31 development impact fee imposed by Resolution 2006-05 of the Summit County Housing  
32 Authority. Such resolution implements the impact fee approved by the electors at the general  
33 election held November 7, 2006. Pursuant to intergovernmental agreement among the members  
34 of the Summit Combined Housing Authority, the Town of Breckenridge is authorized to  
35 administer and collect any impact fee which is due in connection with development occurring  
36 within the Town. For this purpose, the Town has issued administrative rules and regulations  
37 which govern the Town's administration and collection of the impact fee. Applicant will pay any  
38 required impact fee for the development authorized by this Development Permit prior to the  
39 issuance of a Certificate of Occupancy.

40  
41  
42  
43 \_\_\_\_\_  
(Initial Here)





## 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.*

### November 2023

<b>Tuesday, Nov. 14th, 2023</b>	<b>Council Chambers</b>	<b>First Meeting of the Month</b>	<b>3:00 pm / 7:00 pm</b>
<b>Tuesday, Nov. 28th, 2023</b>	<b>Council Chambers</b>	<b>Second Meeting of the Month</b>	<b>3:00 pm / 7:00 pm</b>

### December 2023

December 2nd, 2023	Main Street	Lighting of Breck and Race of the Santas	
December 7th - 9th, 2023	Main Street	ULLR Fest	All Day
<b>Tuesday, Dec. 12th, 2023</b>	<b>Council Chambers</b>	<b>First Meeting of the Month</b>	<b>3:00 pm / 7:00 pm</b>

### Other Meetings

November 14th, 2023	Board of County Commissioners Meeting Workforce Housing Committee	9:00am / 1:30pm 10:30am
November 20th, 2023	Social Equity Advisory Commission Summit Combined Housing Authority	7:30am 9:00am
November 21st, 2023	Board of County Commissioners Meeting Liquor & Marijuana Licensing Authority Planning Commission Meeting	9:00am 9:00am 5:30pm
November 27th, 2023	Open Space & Trails Meeting	5:30pm
November 28th, 2023	Board of County Commissioners Meeting	9:00am / 1:30pm
November 30th, 2023	Summit Stage Transit Board Meeting Breckenridge Tourism Office Board Meeting RW&B Board Meeting	8:15am 8:30am 3:00pm
December 5th, 2023	Board of County Commissioners Meeting Planning Commission Meeting	9:00am 5:30pm
December 6th, 2023	Breckenridge Events Committee Childcare Advisory Committee	9:00am 3:00pm
December 7th, 2023	NWCCOG Board Meeting	10:00am
December 11th, 2023	Open Space & Trails Meeting	5:30pm
December 12th, 2023	Board of County Commissioners Meeting Workforce Housing Committee	9:00am / 1:30pm 10:30am
December 13th, 2023	Breckenridge Heritage Alliance	Noon
December 14th, 2023	I-70 Coalition Upper Blue Sanitation District	1:00pm 5:30pm
December 15th, 2023	Breck Create	3:30pm
December 18th, 2023	Social Equity Advisory Commission Summit Combined Housing Authority	7:30am 9:00am



## Scheduled Meetings

**Shading indicates Council required attendance – others are optional**

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

December 19th, 2023	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
December 26th, 2023	Board of County Commissioners Meeting	9:00am / 1:30pm
December 28th, 2023	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	RW&B Board Meeting	3:00pm
January 2nd, 2024	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
January 3rd, 2024	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	10:00am
January 10th, 2024	Breckenridge Heritage Alliance	Noon
January 11th, 2024	Upper Blue Sanitation District	5:30pm
TBD	Tourism Overlay District Advisory Committee Meeting	10:30am
	Transit Advisory Council Meeting	8:00am
	Water Task Force Meeting	9:30am
	QQ - Quality and Quantity - Water District	10:00am