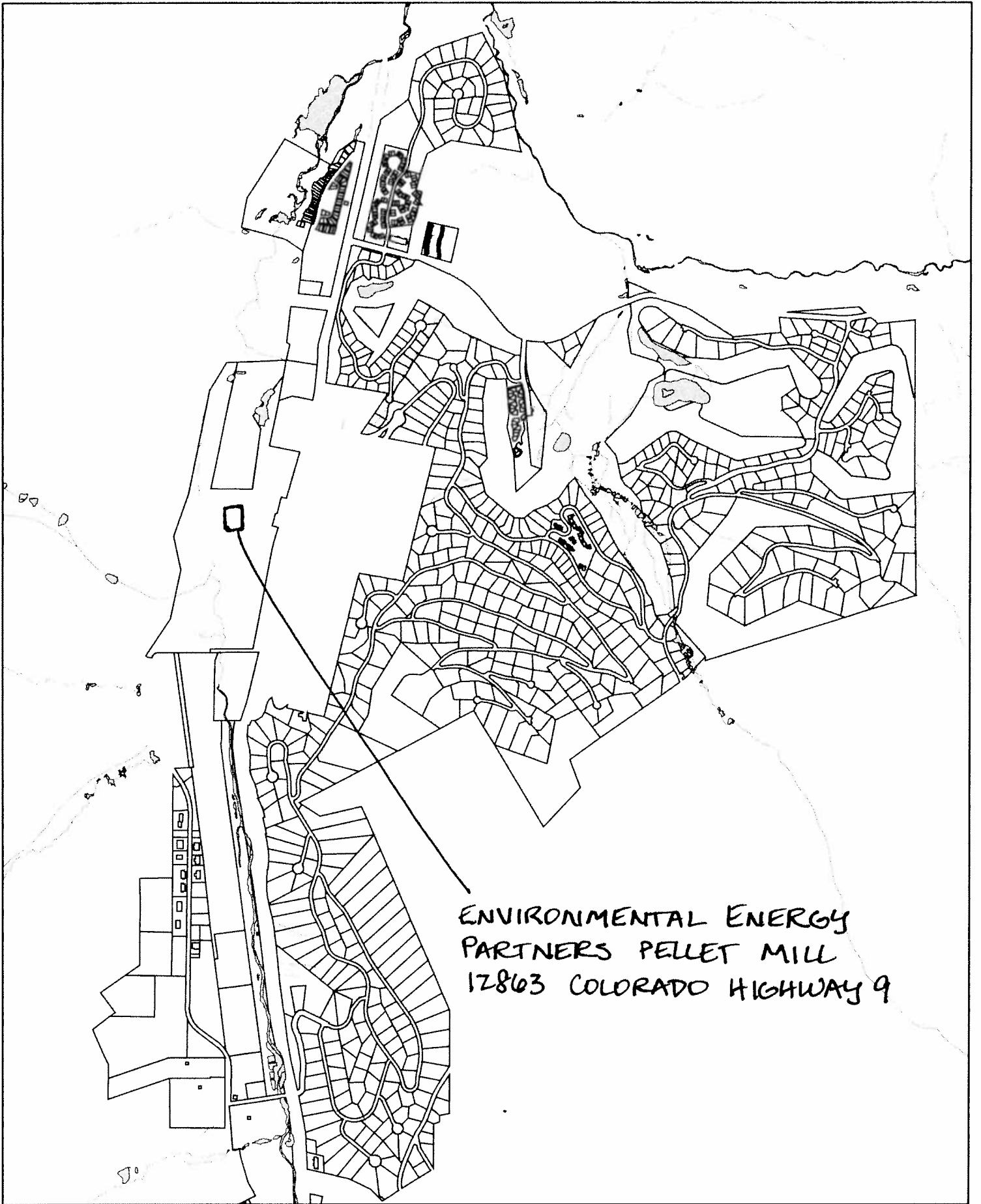


**Town of Breckenridge**  
**Planning Commission Agenda**  
Tuesday, July 20, 2010  
Breckenridge Council Chambers  
150 Ski Hill Road

<b>7:00</b>	<b><i>Call to Order of the July 20, 2010 Planning Commission Meeting; 7:00 p.m. Roll Call Approval of Minutes July 6, 2010 Regular Meeting Approval of Agenda</i></b>	<b>4</b>
<b>7:05</b>	<b><i>Consent Calendar</i></b> 1. Vista Point and Gibson Heights Master Plan Modification (MGT) PC#2010039	<b>15</b>
<b>7:15</b>	<b><i>Town Council Report</i></b>	
<b>7:25</b>	<b><i>Combined Hearings</i></b> 1. Environmental Energy Partners Pellet Mill (MGT) PC#2010038 12863 Colorado Highway 9	<b>26</b>
	2. Amazing Grace Change of Use (CN) PC#2010025 213 Lincoln Avenue	<b>52</b>
<b>9:05</b>	<b><i>Preliminary Hearings</i></b> 1. Lot B, Parkway Center (CK) PC#2010037 ( <i>Withdrawn at the request of the Applicant.</i> ) 503 Airport Road	
<b>9:05</b>	<b><i>Other Matters</i></b>	
<b>9:15</b>	<b><i>Adjournment</i></b>	

For further information, please contact the Planning Department at 970/453-3160.

*\*The indicated times are intended only to be used as guides. The order of projects, as well as the length of the discussion for each project, is at the discretion of the Commission. We advise you to be present at the beginning of the meeting regardless of the estimated times.*



ENVIRONMENTAL ENERGY  
PARTNERS PELLET MILL  
12863 COLORADO HIGHWAY 9



Town of Breckenridge and Summit County governments  
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the product for any purpose is at user's sole risk.

**Breckenridge North**

printed 2007

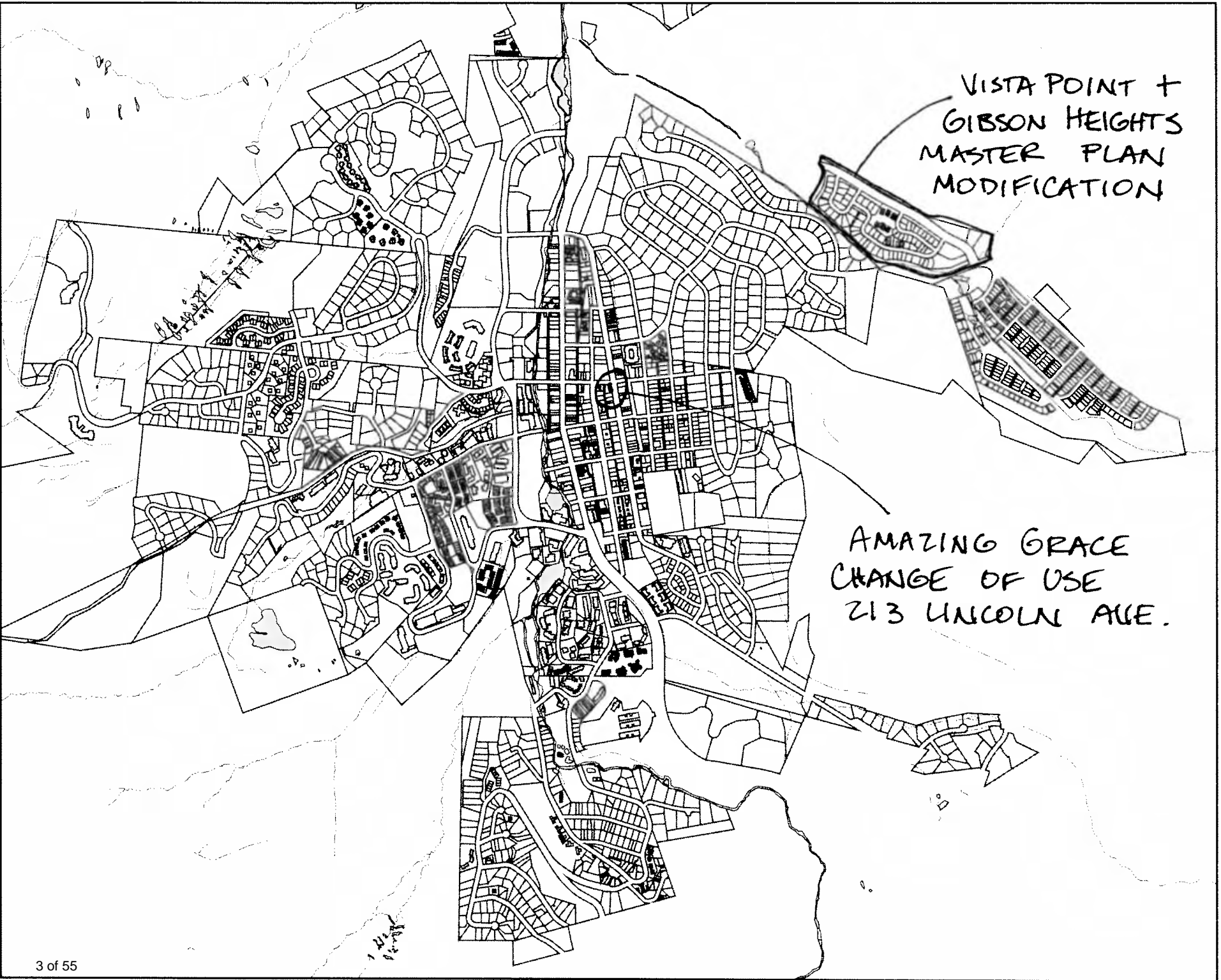
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Town of Breckenridge and Summit County governments assume no responsibility for the accuracy of the data, and use of the product for any purpose is at user's sole risk.

# Breckenridge South

printed 2007



VISTA POINT +  
GIBSON HEIGHTS  
MASTER PLAN  
MODIFICATION

AMAZING GRACE  
CHANGE OF USE  
213 LINCOLN AVE.

PLANNING COMMISSION MEETING

THE MEETING WAS CALLED TO ORDER AT 7:02 P.M.

ROLL CALL

Jim Lamb                      Dan Schroder                      Michael Bertaux  
Leigh Girvin                      Rodney Allen                      Mark Burke  
Dave Pringle (arrived at 7:03)  
JB Katz was absent.

APPROVAL OF MINUTES

Mr. Schroder stated that the start time for the June 15, 2010, meeting needed to be changed from 7:35 to 7:05 pm. With no other changes, the minutes of the June 15, 2010 Planning Commission meetings were approved unanimously (5-0).

APPROVAL OF AGENDA

With no changes, the Agenda for the July 6, 2010 Planning Commission meeting was approved unanimously (5-0).

**CONSENT CALENDAR:**

1. Sunrise Ridge Townhomes Remodel (MGT) PC#2010032, 436-446 White Cloud Drive

Mr. Pringle made a motion to call up the Sunrise Ridge Townhomes Remodel, PC#2010032, 436-446 White Cloud Drive. Mr. Schroder seconded, and the motion was carried unanimously (6-0).

Mr. Thompson presented architectural renderings and blueprints describing the Sunrise Ridge Townhomes Remodel project. From our methods of measuring density, we are showing that there will be an increase in density after the remodel. We talked to Laurie Best (who worked on the annexation of Warriors Mark) and Peter Grosshuesch about this increase. They think that this remodel should be allowed within the community, since it would have been allowed in the county. That was the intent of the zoning in Warriors Mark. The Land Use Guidelines say “existing density per plat”. The plat does not list density, only shows the 10 lots, and in the County, there is no density cap on townhomes. The existing dormers show that this would have been allowed in the County. Some residents do not want the new dormers, some do. Natural stone will be used, an appropriate color pallet, a pitched gable, etc. Mr. Stais, would you like to add any additional information on how the dormers came about?

Mr. Stais, Architect: Yes, I would. This project was designed in the mid 1970s by Gene Baker, and built as three (3) buildings. Since then, many owners have made internal modifications to each property, adding their own personal touches. Two (2) owners requesting dormers are present here tonight, and would love to talk to you later if necessary. With that history, we think that the back dormers are a relatively simple issue. The front dormers will add to the complexity of the design, but will break up the rooflines, which in our opinion is a good thing. Each building is not the same. We think that it is okay for each owner to change the original design as desired. Some owners may want to spruce up their property, and others may not want to invest financially in the structure.

Commissioner Questions/Comments:

Mr. Pringle: It’s pretty hard to see what’s going on here on an 8x11”. Has the design been requested by the owners or the HOA? (Mr. Stais: Yes.) Is this a separate HOA? When we approve buildings, the approval is for an organized, overall look. My biggest concern is that we need to have expectations on what can be done, and the homeowners need to have expectations on what can be done. (Mr. Stais: That is excellent. We agree that there needs to be a concise look. Another thing to think about, we will be remodeling all the roofs this year, because of roof damage, and siding next year. So we propose that the dormers are done now as part of the roof work, and after those remodels, they will not be able to be done economically. So, owners will be able to decide now if they want additional dormers, and in the near future we will not be asking for more dormer additions. This project is unique. Things that seem simple are actually costly and hard to accomplish.) I guess I’m just curious what the elevations would look like if there are half dormers and half skylights. If we could have a written expectation, a condition of what this needs to look like, that would be great. (Mr. Jim Hourihan, owner of Unit 9: My wife and I have lived in Unit 9 for nearly 20 years as a

second home. We have spent nearly three to four years on this proposition. We do not want to hodge-podge. We want to do this right, through the architectural committee and the housing board. I am confident that you will see little variation on this project from the previous remodel.) (Mr. Bertaux: If we could have that in writing that would be good.) Yes, put that in writing that this project will be cohesive with the other building elevations.) (Mr. Hourihan ?: We will do that.) I'm still concerned that additional dormers will be asked for later that will not be cohesive in the design. (Mr. Thompson: Our development code states that we have to bring each project back to the Planning Commission each time there is a new change. So we don't have to worry about other persons asking for dormers that don't match because it has to go through the same process that this one goes through.) As far as improvements in the density, there is no question about the project going forward because of that. It's simply a matter of aesthetics. We've worked hard to get a unified look to all these buildings, and as they come in one-at-a-time, we need to stay on-top of the design, and make sure it's okay.

(Mr. Neubecker proposed the following condition of approval: Prior to issuance of a building permit for the Sunrise Ridge Townhomes, the Sunrise Ridge Townhomes Homeowners Association shall submit a letter to the Town of Breckenridge indicating that any future dormers within the Sunrise Ridge property shall be architecturally compatible with the remodel and dormer windows approval in the permit (PC#2010032))

Mr. Bertaux: They are trying to go by the rules that were in place before the annexation. This probably would have been allowed. (Mr. Thompson: Particularly within the density. A roof leak problem started this whole process.) I second it.

Ms. Girvin: I like the idea of putting this in writing. (Mr. Schroder: Agreed.)

Mr. Pringle made a motion to approve the Sunrise Ridge Townhomes Remodel, PC#2010032, 436-446 White Cloud Drive, with the presented findings and conditions plus the additional condition suggested by Mr. Neubecker: "Prior to issuance of a building permit, the Sunrise Ridge Townhomes HOA shall submit a letter to the Town of Breckenridge indicating that any future dormers within the Sunrise Ridge property shall be architecturally compatible with the remodel and dormer windows approved in the permit (PC#2010032)". Mr. Bertaux seconded, and the motion was carried unanimously (6-0).

#### WORKSESSIONS:

##### 1. Energy Policy (JP)

Ms. Puester presented. Both the Planning Commission and Town Council have expressed interest in further encouraging sustainable site and building design through the Development Code, specifically Policy 33R *Energy Conservation*. Staff met with the Planning Commission July 16, 2008, September 15, 2009, January 19, 2010, and May 18, 2010, to discuss this policy as well as held a Planning Commission Field Trip to various sites on the Front Range in October, 2009, that focused on energy efficient home designs and construction and Home Energy Rating Surveys (HERS). The energy policy modifications were most recently discussed at the joint Town Council - Planning Commission meeting held on June 15, 2010.

Staff presented a draft policy with the following highlights:

- Residential HERS rating and percentage above the commercial International Energy Code (IECC) for positive points.
- Exemption provision from ratings for improvements temporary in nature such as light bulbs and appliances, as determined by the Town.
- Excessive energy uses assigned negative points. This has been left vague to allow the Planning Commission to set precedent and make judgments on aspects which may be safety related.

Staff would like to get Commissioner in-input on the proposed Policy 33R.

#### Commissioner Questions/Comments:

Mr. Schroder: Like the direction that we are taking this to. It seems that the language would require this to be permanent going forward. The energy measures used to gain positive points would need to be maintained. Even if the HERS system is not used ten years from now, we are setting up a quantifiable way for our future citizens to mandate the energy usage in our community.

Final Comments: Believe that we are on a good track. I like the point measure. Xcel now raises the price of energy over a certain threshold. We need to consider those outside forces. If the Applicants choose to go with these points, it will hit their pocket books in a good way, and they will keep up the good work. We should keep removable features like appliances and lights in the HERS score; otherwise, it will not be comparable to other communities. I would be in favor of requiring new construction to achieve a certain HERS rating.

Mr. Pringle: Unclear on the points needing to be maintained in perpetuity, is it the HERS score or improvements that need to be maintained? (Ms. Puester: If we're giving you positive points on an application, we are expecting the homeowner to keep up the property in order to keep their points, similar to what is required elsewhere in the code with landscaping or solar panels.) So, we're making the assumption that they are repairing their home? (Mr. Neubecker: We are assuming that they are keeping up with their home as they should. If you're undergoing the HERS score process, no matter what number of points given, we are giving one positive (+1) point for getting a rating. This would give the owner the knowledge of his home energy usage which is a valuable piece of information.) All I'm saying is that this says "maintained in perpetuity." To me, that sounds like a long time to maintain that point. (Ms. Puester: "In perpetuity" reads to mean not the HERS number, but the energy measures aka improvements that were used to get that score.) If building a new house that received no negative points, would 33R apply? (Ms. Puester: No, if there was no need for a point analysis, no points would be assessed to the home.)

Final Comments: On one hand, I believe very strongly that people should conserve their energy use now and in the future. People should do that out of their own personal sense of good. I'm concerned about the Town getting too involved. That has been my biggest objection. This gets into lifestyle issues instead of just energy issues. I'm unsure about the 'in perpetuity' language here. I'm reluctant to endorse these points, because someone may use these points to offset negative points elsewhere. I would like the Town to look into the possibility of bringing in energy ratings within the building department, instead of sub-contracted out. I think it would be much better for the town if we had consistency within a certain house. (Mr. Grosshuesch: That is a policy question.)

Mr. Bertaux: Good start but seems like we should have some more discussion before moving forward.

Final Comments: I think that new construction should have a HERS rating requirement. I think that remodels should at least have an energy audit. I support your positive points here, as well as negative points for energy wasters. The perpetuity issue should require that all improvements should remain on site.

Mr. Lamb: Final Comments: Good start, I like that this is a relative policy. It still needs some massaging. I'm opposed to mandating ratings. If someone needs positive points, they will come ask for them. I think that a homeowner is not going to take out energy efficient appliances or light bulbs after getting a positive score for them. Think that we should keep removable fixtures within the HERS score to be true to the scoring system and comparable to other places that use HERS. With the perpetuity issue, a HERS rating surely could not drop so drastically in ten years to affect the rating that much.

Ms. Girvin: Final Comments: My sense is that we're on the right track, both positive and negative, except for the water features. There is an incredible amount of energy needed to move, distribute, and treat water. Perhaps the outdoor water features are a negative two (-2) points with a one multiplier. Energy efficient appliances and light bulbs should count as part of the rating and not be removed from the score. Define "measures". If not "in perpetuity" then something similar. I think that most homeowners will see this as a positive and will want to maintain the measures that got them their good ratings. Mr. Grosshuesch is right; this is the wave of the future. It is a good selling point and people will want to maintain the measures. In the future, believe that this will be mandated and be the norm.

Mr. Burke: I think what Mr. Pringle is asking, if someone remodels the house years later, does that one positive (+1) point continue through the life of the home? Does it have perpetuity? Ten years from now when the homeowner sells the house, can the rating change because insulation, windows, doors, light bulbs, etc. change because they are no longer as energy efficient? Ten years from now, who is going to be monitoring it? Will it be the same monitoring system? The running joke is that landscaping is not maintained. (Mr. Neubecker: Staff monitors points and maintenance. For example, I have personally researched landscaping issues in town on places like Airport Road and had the owners replant or replace needed greenery. I challenge you to find dead landscaping out there on Airport Road.) (Mr. Grosshuesch: The way the code has been put in place, there is a point balance that has

to be kept up in order to keep your points. If solar panels are put in place and fail, they need to be replaced to keep your points.) So we are mandating this rating? (Mr. Grosshuesch: No, this is voluntary, but if the homeowner wants positive points under 33R, the homeowner is binding future homeowners to keep their rating. If that makes it harder to sell the house, that is up to the property owner. Otherwise, they can always choose from other points in the code.) The 100 is the base rating in the HERS for a passing score. Are these numbers firm, or is that just a sample? (Ms. Puester: We can write the system however we like. If we eliminate removable appliance which are typically included in a HERS rating, then our point system will be more difficult to achieve.)

Final Comments: I am concerned about perpetuity. I do think that things will deteriorate after fifteen years. If we mandate the HERS rating, then perpetuity makes sense. If we do not require this, I think that the 'in perpetuity' clause is a mistake. Also, taking out the energy efficient appliances clause is a mistake. That is a part of the HERS rating and should be kept as such. This will be comparable to other communities.

Mr. Allen: Is it clear that the outdoor wood fireplace does not get negative points? (Ms. Puester: That is the intent of specifying "gas fireplaces".) Believe that safety issues should be exempted for the individual property owners as well not just for the general public, as written. Do other Commissioners agree? (Mr. Neubecker: Staff discussed that point and the thought was that the house should be designed to be safe and work. If you have to design a house with heated sidewalks and driveways, then you're not designing the house well. It's different from a highly public area.)

Final Comments: Like 4A. Define "energy measures". Believe that the safety of the occupants should be exempt. Disagree with Ms. Girvin on how much energy is used for water features. Provide numbers for that. Would like to keep removable appliance in the HERS score. Take all of HERS or use something else. Should keep measures in perpetuity; we do it through the whole code. Send Builder's Association the draft for review. I'm not in favor of mandating this for new construction.

Mr. Allen opened the hearing to public comment.

Marc Hogan, Architect: Likes that this is voluntary. Also, the sustainable code still needs to be analyzed to see how it has been working. If you allowed an energy audit, it would be less expensive. (Ms. Puester: The reason for looking toward a HERS and IECC is that it is measurable, whereas the energy audit does not have a measurable score for point assessment consistency, which has been an issue with the existing policy.) Should be able to put in a heated driveway and offset with solar panels. (Mr. Allen: That is how this policy has been drafted. You can get negative points for one thing and positive for another.)

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

#### TOWN COUNCIL REPORT:

Mr. Burke: Update on Peak 6 expansion. The Council was requested to donate money to the gulf cleanup. We denied the request and felt very strongly that grant money should stay in the community. On the one percent (1%) increase in the lodging tax, we support it if the community supports it. We will decide in August if that will go on the ballot. There was concern after the joint meeting of the electronic devices being used in meetings. Locomotive #9 was approved. It will be located at the Rotary Snowplow Park. If it is ever taken back, they will help us locate another historically significant engine. Engine #111 will be sold for \$130,000. Medical Marijuana moratorium was discussed. Anybody who had already submitted an application submitted will still be processed. (Ms. Girvin: What is the term of moratorium?) Eight months. Natural products as exterior siding were discussed. It seems to me that it was almost unanimous that the Commission would like Breckenridge to review the code and allow synthetic products such as Hardi-board, etc. The Council has officially asked that the Planning Commission at least look at that code.

#### PRELIMINARY HEARINGS:

1. Columbia Lode Master Plan 1<sup>st</sup> Preliminary (MMO) PC#2010017, 400 North Main Street

Mr. Mosher presented a proposal to Master Plan for 24 units total per an approved Development Agreement made with Town Council allowing up to a maximum of 24 units with all plans passing a Point Analysis based on the Development Code. The proposal is for 21 market-rate units in duplex and single family form with two workforce units (duplex) on

the lower portion of the site. The original Breckenridge Building Center (BBC) buildings and lumber yard will be demolished. In addition, the existing single-family SFE from the Corkscrew Subdivision Filing No. 1 is proposed to be relocated to the upper/northern portion of the property and would be accessible off of Royal Tiger Road. Master Plan development standards in the form of Master Plan Notes are proposed for the entire development. After Council approval, each building will be submitted separately for review under individual Class C applications.

The Master Plan notes describe the proposed architecture in greater detail and two colored exhibits have been added for review. The architecture along Main Street will reflect some of the Historic character associated with the neighboring Conservation and Historic Districts. The units above these are to be more of the typical contemporary mountain architecture we see outside the Historic District.

The Applicants are proposing adding a considerable amount of fill to the site to ‘correct’ the existing grading that has lowered and flattened the site for the BBC use. Per the Code, the measurement of building height allows ‘averaging’ the grade to measure to an existing grade that would have been there prior to any previous mining activities or unnatural grading that had occurred. The new grading, if approved, would become part of the Master Plan documents and would need to be adhered to exactly for proper building height measurement of 35-feet overall or less. Otherwise, the building will measure at nearly 40-feet tall.

Site disturbance for the multi-family is contained to the existing disturbed area and staff is not recommending any negative points under 7/R for site disturbance. The single family home (SFR) site off Royal Tiger has very large retaining walls and over 10-feet of exposure of the exhibit house on the south. Staff is suggesting negative points for this under policy 7/R. Also, have concerns that the single family residence will not be able to meet Absolute Policy 8, Ridgeline Development with the current size of the disturbance envelope. We suggest reducing the side of the envelope to reduce the impacts to the hillside below.

The multi-family units have a separation of approximately 20 feet similar to other projects. Though the illustrative plans show landscaping, this will likely be addressed at subdivision and at individual development of each unit. The Master Plan notes are to address added landscaping at the driveway access point at Tiger Road as part of the single family development permit.

#### Changes since the April 20th Worksession

Mr. Mosher presented a list of changes made to the Columbia Lode Master Plan supplied by the agent responding to comments from Planning Commission and Planning and Engineering staff:

##### Site Plan:

1. The Klack drainage is now piped its entire length from Briar Rose to the existing inlets on Main Street. The ‘creek’ has been deleted.
2. Undulating berms have been planned along Main Street in the proposed park.
3. All surface water detention is collected and treated on site.
4. Park and Landscaping Plans have been added.
5. The disturbance building envelope on the Single Family Home Site has been moved away from Main Street.
6. Unit 5 driveway turnaround was modified.
7. We are still anticipating results from the Traffic Study and resolution on the location of the trail. This will be reviewed at the next meeting.

##### Architecture:

1. The Master Plan Architectural guidelines have been revised to incorporate items listed below.
2. Architectural Variability: Language to ensure no buildings will be identical and similar unit types will have enough variation has been added.
3. Main Street Character: Statement that the design intent of units along Main Street is to make the Main Street façades the front of the home, keeping in character with homes in the Breckenridge Historic district.
4. Remaining Density: Outlines the process for allocation of remaining density and mass for additions and modifications.
5. The overall height on the single-family home site is restricted to 30’-0”.



Additional Documents Presented to the Planning Commission:

1. Existing Disturbance Site Plan
2. Proposed “Existing Grade” Site Plan
3. Unit Height Matrix
4. Photos from off-site of the proposed development

Since the last review the applicant and agent have responded to some of the suggested changes and supplied additional information for the proposal. Staff is still waiting for an agreement on the proposed trail realignment and the final response on the Traffic Study.

Staff reminded the Commission that, although the Council gave the applicant direction to move the single family SFE to the north of the site, it is still subject to full review by the Planning Commission. It must be reviewed against all policies of the Development Code, with the exception of Policy 2/R, Land Use Guidelines, and pass a point analysis.

Staff had the following questions for the Planning Commission:

1. Did the Commission have any comments on the Master Plan notes?
2. Did the Commission support the guidelines and general appearance/materials of the units facing Main Street? Did they convey enough “Historic” character to complement the entrance to Town?
3. Would the Commission support measuring the multi-family buildings based on an “average slope” as opposed to the existing grade left by the previous disturbances?
4. Did the Commission believe that negative points for site disturbance were warranted for the Multi-family site under Policy 7/R? (The answer to question number 3 may impact your answer.) For the Single Family site?
5. Did the Commission believe that the Single-Family site passes Absolute Policy 8/A, Ridgeline Development?
6. Did the Commission support the depicted building separation for the Multi-family units?

Staff welcomed any additional comments and suggested this application return for another review.

Mr. Marc Hogan, Architect: Introduced the development team from BHH Partners. We are pleased to be here tonight, thank you for having us. We are pleased to be involved with this project and helping Mr. Brownson and his family to create a quality development on this project. As Mr. Mosher mentioned, we are proposing 24 total units plus moving the existing single family residence to access off of Royal Tiger Road. Our civil engineer has worked out the drainage issues in the Klack. We will be nursery storing the existing trees in the area near the existing Klack area at the south of the site. The park on the southwest corner is a simple and we’ve worked out the details better. We have plans for a nice public art area to celebrate our skiing history. Since the site has already been disturbed, we feel that infill is important and if we get negative points for that we can likely make it up in other areas. Site issues: The historic grid has been worked out, increasing the setback and creating a 20-foot barrier between each unit. Architectural issues: Each building will be different along the Main Street side, with varying materials and lines. The upper units will have five unit designs. We’ve identified our building heights, which are all under 35-feet as proposed with the new grade. We have designed all the units to have solar potential, either solar thermal or PV capabilities. We are expecting a five-year development period for the whole thing. (A 3D computer model of the site was shown of the single family home site off Royal Tiger in relation to the nearby surrounding houses, as well as to show the grade around the house.) This envelope is a quarter of the size of the existing envelope. We believe we meet Absolute Policy 8, Ridgeline Development. Today, with Staff approval, we reduced the envelope further by clipping the corners of the lower edges of the disturbance envelope. We did this to protect the existing mature spruce trees on the site. Does the Commission have comments on the master plan notes? We have toned down the colors. (Another computer model was shown depicting the area of infill in the proposed development area of the multi-family site; a proposition that they feel re-establishes the grade to the natural ‘Ute Indian’ grade. The site is currently unnaturally dug out. The proposed fill also helps bury the proposed Klack drainage pipe. We would like to submit this project for final at the next hearing. We are ready to move the project along. Thank you for your time.

Mr. Allen opened the Public Hearing for public comment.

Mr. Gary and Ms. Marilyn List, 315 Royal Tiger Road: My wife and I are long term owners of several properties in the community. We have submitted a letter in the packet, describing our concerns about the project. We never expected to see a single family home up here. We bought the neighboring properties in the Weisshorn area, partly

because of the underlying Land Use District 1 not allowing development. We also have issues with the proposed trail, but will have to comment at the next meeting. We do not think that the single family home belongs in the northern area of the property. Moving it to this area is not the answer. After removal of the dead beetle-kill trees at the driveway area, the remaining live trees will be ripped out by the proposed driveway. On page 58 of your packet, there is a picture I provided of a stepladder visible from the bike path across Main Street. The single family house will be visible. When beetle-kill trees are removed, the visibility will be even greater. There are no other homes in that area which are that visible. This proposed single family home will be very visible. We encourage you to reject the move of the single family home to the proposed area.

Mr. Ron Schuman (representing the neighboring Gold Creek Condominium HOA): We support the proposal and think that the timing is good as Gold Creek is looking towards major exterior improvements at the same time.

Mr. JJ Bosgraaf (property manager for Eric G. Politte at 227 N. Goldflake): The Politte's have concerns over the proposed addition of nearly 10-feet of fill at the base of the property and then adding 35-foot tall structure. Have concerns over light and noise pollution with this change. They also hope that the developer will maintain all those mature trees up the hill towards their lot.

Mr. John Studebaker (neighbor at 218 Briar Rose Lane): There is a portion of the nearby Corkscrew subdivision that has not been part of the discussion (Mr. Gillian's property). I am not supportive of allowing the additional fill at the lower portion of the site. But will offer 60% of the units an enhanced view by doing that.

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

Commissioner Questions/Comments:

Mr. Schroder: Code allows building height measurement to a site that has been filled? (Mr. Mosher: If the Commission supports that this as a 'previously disturbed site' then the grade may be averaged.) I'm pleased with the master plan notes as presented. The solid-to-void materials appear to be okay too, as they will be reviewed again with the Development Permits in the future. I support the architecture of the multi-family units proposed outside the Transition Area and Historic District. I support filling the previously disturbed grading to an average slope, instead of the current cutout grade. I don't believe negative points should be incurred for this grading under Policy 7/R. Retaining walls in this area (multi-family) would look worse than bringing the disturbed site up. If the existing tree line is disturbed with this development, then would support assigning negative points. Not supporting negative points under 7/R for the single family home site either. Believe it has been mitigated. Not sure if the development at the single family can pass Policy 8/A. The house is in view, and that concerns me. Can't provide a solid answer about Policy 8/A yet. The 20-foot minimum spacing between multi-family buildings is fine.

Ms. Girvin: I don't understand measuring the height on existing grade vs. average grade. (Mr. Mosher explained the grading measurements using sections in the packet.) Does the private drive align with the alley? It looks like it doesn't. I thought it did. (Mr. Sam Kellerman, BHH Partners: They do not align. If we try to align them, they are interfering with utilities such as a hydrant and utility poles, etc.) I don't understand the pocket park by Main Street. Can you please enlighten me? Is it used for buffering? Why is it there? (Mr. Hogan: We wanted to create a green space buffering the housing from Main Street and creating a public area for community use.) (Mr. Mosher: Also, the traffic speed is typically faster here despite the posted limit.) On the drawing sheet A1, you show a sketch of what buildings 1, 2, 3 and 4 look like. Is this set in stone, or is this a general plan? (Mr. Mosher: This is a concept sketch only. The Master Plan notes will have specific notes addressing the architecture. There may be an exhibit too)

Final Comments: This is certainly a gateway to our community. Its appearance is very important. I do support over lot grading the lot, because it is already disturbed. Negative points are warranted because of the site disturbance for the over-lot grading. There is so much impervious surfacing in this project. I don't understand why. The pocket park and detention pond in front do not match the historic settlement pattern of the Historic District. It just seems random and not cohesive. Would prefer more work force housing here. I agree that the site needs to be filled in to match the grade of Main Street at French, but I am not okay with bringing in another ten feet of fill and adding 35 feet of building on top of that. As for Policy 8/A: No, it does not meet this Policy. That home site will

be very visible. When the Lodgepole pines die, it will take 75 years for the trees to regain a natural height to screen the house from view. Ready for final? That is up to you.

Mr. Bertaux: How would we have a discussion about height? (Mr. Mosher: Based on if the Commission would allow grade averaging.) (Mr. Tim Gerken, BHH Partners: If you drop the development down to the current grade, there will be even more disturbance with retaining walls and tree destruction.)

Final Comments: I apologize for missing the last meeting. I have a better understanding of the project today than my first impression. I support the initial grid module. I would support another unit of affordable housing. This might counter a project that is only being used a few months out of the year by most of the residents. I'm concerned about adding ten feet of fill to the grade and then adding 35 feet of building on top. I would like to see that 35 foot building height number come down if possible, or somehow lessen the grade to alleviate the impact of the height seen by neighbors. I'm not convinced that this private drive coming out onto French Street is the best solution. It will be hard for people to see around the nearby condos to get out safely. Maybe this drive should be one-way to lessen the conflicts with the current alley and street. The park is a great idea. More green space is a better aspect of the community. However, a traditional front yard reflecting the look of the historic district would be preferred instead of unused green space. It doesn't have to be cookie-cutter, just cohesive. The single family house may be a whole other situation. A 200-foot driveway is too long, not energy efficient in plowing, etc. On the steep side, it seems like the retaining wall and house need more engineering. Can't this be pushed back away from the steep slope, creating less of a visibility issue? I appreciate that you have lowered the overall building height to 30-feet. Beefing up the landscaping, both around the single family and around the lower site as well, will be important. On the single family lot, pulling that driveway away from the edge seems to be the safer way, as well as a more aesthetically pleasing way to go. Don't just provide an option for solar panels; make it mandatory if you want points. Given that most people support the private drive through the lower development, then I would go for the average slope. I agree with 20 feet spacing between the multi-family buildings.

Mr. Pringle: If the private drive didn't have to align with the alley, what would that access look like? How far down do those pockets of grading between the multifamily driveways go, are they very deep depressions? I'm not in favor of the current alignment. (Mr. Gerken: Driveways slope at 6-10 inches, for drainage. The depressions are a few feet below.) (Mr. Hogan: The BBC site is currently graded too low and does not drain properly. That is another reason why we have proposed the new fill.) I just want to know what the proposed grading looks like. Here, it looks like it is dramatic and steep. (Mr. Hogan: Another computer model was shown depicting the proposed over-lot grading.)

Final Comments: I'm not in favor of filling this site for drainage purposes and to correct damage created by the Applicant. The homes along Main Street could reinforce the town grid a little better. Too much land area is provided in front of units 3, 4 and 5. I don't believe they need to raise the grade for the development 10-feet. We're kidding ourselves if we think we can restore the natural grade of this area. It would be easy to develop on the existing flat site. Most developers want a flatter site. Also, I believe there is too much density in the back portion of the duplex lots. The historic grid needs reinforcement too. I don't believe that this is a safe situation coming off French Street. The existing alley makes for a dangerous access egress situation. For the single family home site, a 200-foot long driveway is excessive anyway you look at it. They did not look at the impacts of this location enough. Moving the envelope two feet is not enough. They need to look at a different alternative. This is a critically important property in our Town. Don't fast track this review. We need to sit back and look at the impacts it will have in more detail. Don't rush the development review process. I do not support raising the lot 10 feet. Lifting the site up will not be the aesthetic way to develop this site. Will overwhelm the appearance at the entrance to Town. I do not support the access and egress plan, before or now. On the master plan notes, as far as the design, materials and architectural look, I support. I think there will be negative points for site disturbance any way you look at it. Policy 8/A, no, does not meet this policy. A reduction in density is called for here.

Mr. Lamb: The current Main Street intersection is not pedestrian friendly, so I support the park/green space proposed and look forward to the improvements at the intersection. The grid pattern, architecture and materials are all okay. I support filling the site, maybe not with ten feet, but six or seven. Keep to a minimum. I don't see negative points for the multi-family site disturbance, because you're returning it to the original site grade and maintaining the development in the existing disturbed area.

I thought that the single family site needed to be buffered more. I need to go back to the site for another look.

Mr. Allen: The multi family site, I support the architecture, but not materials. I believe they should complement the historic character of Main Street more. I would support the proposal to re-fill the site, but I'm concerned about the impacts of an overall 40 to 45 foot height increase. So try for minimum fill, and maybe bring down the height of the buildings. Yes, there should be negative points for site disturbance. The building separation of 20 feet is fine. I agree with Ms. Girvin's comments about too much impervious surface. Try to reduce. I believe that there is an access problem at French Street, needs more attention. The single family site plan has some ridgeline development problems. Policy 8 suggests relocating density if it does not meet the policy. I see 8 acres of alternative site for this single family building, so I do not support the proposed single family site. I do not believe that you are ready for final hearing. I think that we should take care and concern about this important project. Overall, this is great project. Thank you.

2. Nauman Residence Historic Renovation and Landmarking (MM) PC#2010030, 211 East Washington

Mr. Mosher presented a proposal to perform an extensive exterior restoration of the historic house and remodel of the non-compliant addition. The reconstruction of the historic house will include a full basement beneath the historic portion of the footprint within the property lines and a window well outside the property line along the west edge of the site. A variance is sought for noncompliance with Priority Policy 80/A of the Handbook of Design Standards for the Historic and Conservation Districts. Local landmarking of the property is also requested.

Changes since the June 1, 2010 Meeting

1. The on-site parking plan has been modified showing a reduced encroachment for the parking spaces. There is now only 2'-1 3/4" of the required 18-foot extending over the north property line.
2. On the lower level (new basement level) the 3'-6" encroachment at the northwest corner (into the alley ROW) has been eliminated. Now, beneath the existing bay window there is only a new foundation area with less than 5'-0" clearance.
3. An egress window well along the west wall of the basement level is shown within the alley right of way.
4. The basement is being shown as completely unfinished.
5. Overall and Above Ground Density have been slightly reduced.
6. The exposed portions of the foundation are to be textured as "Dark Stain Textured Concrete".
7. The proposed architecture remains as presented at the last hearing.
8. Metal newels have been added to the restored railings. (Staff prefers wood.)

The overall concept of this major rehabilitation remains unchanged since the last review. There are concerns to be addressed before this proposal can proceed to final. The attorney has indicated that he can accommodate any decision the Commission makes to ensure the conditions are unique to this property. A variance will be processed as a Condition of Approval at final review for Policy 80-A.

1. Would the Commission recommend that the Council support the agent's request to allow the egress window well behind the historic bay window in the alley ROW?
2. Did the Commission believe the exterior stairs and separate entry to the basement should be removed to discourage any possibility of a future illegal accessory apartment?
3. Did the Commission believe that the metal newels for the historic porch and stairs should be changed to wood?

With this submittal, the basement will be completely unfinished, with concrete walls, gravel floors, and exposed framing. Glen Morgan, Chief Building Official, said that in order to build any improvements here, concrete must be poured from the outside. Can't be 'snuck' in and will require building, plumbing and electrical permits to finish. Staff would add Conditions of Approval to not allow 220 volt outlets or natural gas lines in the basement space to discourage any bandit accessory unit.

Staff is exploring the possibility of interpreting Policy 80A (historic link to new additions) in the Historic handbook as being "non-applicable". This is not a new addition; it is an existing addition that is being modified. Staff will process an encroachment license agreement for all existing encroachments. The basement density that occurred outside the

property line has been removed. Utilities and drainage are no concern. We are asking the Commission to comment on allowing a window well in the alley ROW that would align with the existing bay window encroachment. Also, the applicant is asking for the Commission's input regarding keeping the exterior access stair to the basement. The applicants are not seeking to put in a bandit unit. There is no code basis for disallowing these stairs.

Ms. Janet Sutterley, Architect: We (the Naumans and the contractor) have crunched cost numbers for the overall project, and the first thing to go is the basement and the level of finish down there. Make no mistake that four or five years down the road, we will want to finish it, but not now. The basement window well is needed for cross ventilation and natural light. In calculating, there was no available existing density for the full space beneath the window well, so, it was eliminated. There are two main issues for you: the Town Attorney had no issue with the window well on the West side pending your approval. There will be no change of grading, not additional density, no visible impact from it. Without that window well, a bedroom will only be able to be in the northeast side of the basement, that's it. Is that a Building Code issue? No. The rec-room could be ventilated mechanically. However, in my opinion, that is not a good solution. Also, it's not green; it's not fun to live in a space without natural light. I think it is very important to have a secondary living area in this space for future livability. The second item is the concern expressed over a possible future banded unit. We're not trying to get away with anything here. They are looking to do this renovation to increase their personal livability, not to increase her rental market and resale of the house. This is for public good. Otherwise, this would be a fully contained, dark basement, with no possibly for natural light or ventilation. Who would want to rent that? We're still proposing to have an outdoor access. How else will we store bikes, grills, etc. on this tiny lot? We need to have an outdoor access to create easy storage of these items. We support "no gas or 220 volt outlet". This will not be an accessory apartment. (Ms. Sutterley presented a list of other nearby homeowners with similar basements who would never allow division of the house into multiple apartment rental living.) I don't think that either of these requests is in violation of our code.

Staff welcomed any additional comments regarding this project.

Mr. Lamb opened the hearing to public comment. There was no public comment and the hearing was closed.

Commissioner Questions/Comments:

Mr. Lamb: Final Comments: I have no issue with the egress window well. Support wooden newels for railings. I still have issues with the exterior stairs. I know that the Nauman's will not take advantage of this, but I think that future tenants and owners will try. I'm not real sure why the basement has a separate entrance. Everything else, I'm okay with except the stairs. Policy 80/A is not applicable.

Mr. Pringle: What activities make this area 'non-livable'? (Mr. Mosher: It will count as density for calculations. When the Naumans or the next owner wishes to make it livable.)

Final Comments: The window well is either an issue or not with the attorney. (Mr. Mosher: Pending decision from the Commission, it's not. Mr. Berry indicated that Findings can prevent establishing precedent with your decision.) Great, then it's not an issue. I'm OK with the window well. I'm concerned about the basement being finished and used illegally, but... if it were placed illegally we would look after. We have to deal with that all over Town already. We could deal with that when it happens. I'd be willing to go with the unfinished basement with the stair entry in this particular case. I support 80/A being non-applicable.

Mr. Bertaux: I'm in favor of the window well, the stairway, the wooden newels.

Ms. Girvin: The actual square footage is including the basement? (Mr. Mosher: For the report the basement density has been separated from the overall pending locally landmarking. Still subject to water taps and similar fees.) The entire density is how a realtor will advertise this house. I don't get the metal vs. wood thing. (Ms. Sutterley: When used in larger portions, metal is less 'busy' than wood and offer's more light. Can easily switch.) Ms. Sutterley, do you have window wells for cross ventilation in the basement of your historic renovation under construction now on Harris Street? (Ms. Sutterley: Yes, I do.) My last question is on landscaping, why is a Balsam Poplar not proposed here? Our Balsam Poplars here in town are nearing the end of their life cycle. We will be really sad when they are all gone.

Final Comments: I'm still not comfortable with the stairs. Can be OK with the window well. Whether there is a potential for future basement illegal usage or not, I feel that the stairs take away from the lot. I do not think that they are necessary in this project. There is too much program on the

site. We are naive if we think that any future residents will not turn this into an accessory apartment. I think this could be a windowless ‘entertainment room’. Policy 80/A is inapplicable.

Mr. Schroder: Another density question. What happens when the homeowners put a rec-room in that basement? (Mr. Mosher: It still counts as density now, even though it is unfinished. The Sanitation District will wait for improvements before charging tap fees.) I am in favor of the window well, efficiency, stairs. 80/A is not applicable. From this project, the Town is getting a great historic restoration and renovation.

Mr. Allen: I don’t think that the west window meets Policy 9, Building Placement, so I’m not in favor of supporting it. Also still do not support allowing any of the parking in the Town Right of Way. I have no issue of the illegal apartment and the access stairs. If it comes up in the future, we can deal with it then. I believe that you could put in 220, gas, etc. if needed for a laundry unit, or gas fireplace if you wanted. We just need to reinforce the legality of livability. Support Policy 80/A as not applicable. Other than that, good.

***OTHER MATTERS:***

1. Class C Subdivisions Approved 1/1/10-6/30/10 (CN) Memo Only

Mr. Neubecker presented a memo listing the Class C Subdivisions approved during the first 6 months of 2010. There was one Class C Subdivision approved during the period: PC#2010020, One Ski Hill Place Condominiums, 1521 Ski Hill Road.

**ADJOURNMENT**

The meeting was adjourned at 11:33 p.m.

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Rodney Allen, Chair

## Planning Commission Staff Report

Project Manager: Matt Thompson, AICP

Date: July 14, 2010 (For meeting of July 20, 2010)

Subject: Vista Point and Gibson Heights Master Plan Fence Modification, Class C minor (PC#2010039)

Applicants/Owners: Vista Point and Gibson Heights HOA

Agent: Rebecca Johnson

Proposal: To modify the existing Vista Point and Gibson Heights Master Plan to allow for a second design option for fences in their neighborhood.

Address: Locals Lane

Legal Description: Vista Point and Gibson Heights

Land Use District: LUD 14: Residential.

Site Conditions: Single family, duplex and townhomes in an existing neighborhood

Adjacent Uses: North: Unincorporated Summit County  
East: Wellington Neighborhood  
South: Wellington Road  
West: French Creek Neighborhood

### Item History

When Gibson Heights and Vista Point Master Plans were approved the developer made a stipulation in the master plan that fences could only be made of 4” wide cedar picket fences 60” in height were allowed. Per the Development Code, Absolute Policy 39, Master Plan:

*L. Modification Or Amendment Of Master Plan:*

*(2) A minor master plan amendment is an amendment made to a master plan for the purpose of correcting an error, updating a master plan to reflect as-built conditions, or making other changes to the master plan which do not involve the reallocation of density, a change in or addition to approved uses, a change in an approved phasing sequence, or circulation. A major master plan amendment is any master plan amendment which is not a minor master plan amendment. Master plan amendments shall be classified as provided in the definitions of "Class A Development" and "Class C - Minor Development" in Section 9 1 5 of this Chapter, and processed accordingly. (Ord. 17, Series 1999)*

### Details of HOA fence proposal

The HOA would like to allow a second option for owners to consider with fence design. Option 1 would still be the cedar “dog ear” 60” tall picket fence. Option 2, is the design the HOA is asking the

Town to consider. The option 2 fence would be a 60” high, 4” x 4” squared hole galvanized steel “invisible” fence supported by 4” x 4” cedar posts and framed on top and bottom with a 2x4 and 2x6 cedar boards. The HOA believes this type of fence would serve several beneficial purposes to our neighborhood and properties that the cedar fences do not:

- The fence design allows people to be able to see through the fence, allowing a more open feel to the neighborhood.
- The fence design is more sustainable, because it does not need to be stained or replaced as often.
- The 60” height matches the existing 60” height requirement.
- The new fence design is more similar to the Town’s Fence Ordinance as compared to the allowed solid cedar fence in the existing Master Plan, by allowing a view through the fence.

Point Analysis (Section: 9-11-7-3): Since this request only affects the Master Plan exhibit for allowed fence design, no other Development Code policies were identified in this report. Hence, Staff found no reason to award negative or positive points to this proposal.

### **Staff Decision**

Staff has approved the Vista Point and Gibson Heights Master Plan fence modification, PC#2010039, with the attached Findings and Conditions.



## TOWN OF BRECKENRIDGE

**Vista Point and Gibson Heights Master Plan Fence Modification**  
**Vista Point and Gibson Heights**  
**Locals Lane, Sheppard Circle and Rachel Lane**  
**PC#2010039**

**STAFF RECOMMENDATION:** Staff recommends the Planning Commission approve this application with the following findings and conditions.

### FINDINGS

1. The proposed project is in accord with the Development Code and does not propose any prohibited use.
2. The project will not have a significant adverse environmental impact or demonstrative negative aesthetic effect.
3. All feasible measures mitigating adverse environmental impacts have been included, and there are no economically feasible alternatives which would have less adverse environmental impact.
4. This approval is based on the staff report dated **July 14, 2010**, and findings made by the Planning Commission with respect to the project. Your project was approved based on the proposed design of the project and your acceptance of these terms and conditions imposed.
5. The terms of approval include any representations made by you or your representatives in any writing or plans submitted to the Town of Breckenridge, and at the hearing on the project held on **July 20, 2010**, as to the nature of the project. In addition to Commission minutes, the meetings of the Commission are tape recorded.

### CONDITIONS

1. This permit does not become effective, and the project may not be commenced, unless and until the applicant accepts the preceding findings and following conditions in writing and transmits the acceptance to the Town of Breckenridge.
2. If the terms and conditions of the approval are violated, the Town, in addition to criminal and civil judicial proceedings, may, if appropriate, issue a stop order requiring the cessation of work, revoke this permit, require removal of any improvements made in reliance upon this permit with costs to constitute a lien on the property and/or restoration of the property.
4. The terms and conditions of this permit are in compliance with the statements of the staff and applicant made on the evidentiary forms and policy analysis forms.
5. This permit contains no agreement, consideration, or promise that a certificate of occupancy or certificate of compliance will be issued by the Town. A certificate of occupancy or certificate of compliance will be issued only in accordance with the Town's planning requirements/codes and building codes.
6. This Master Plan is entered into pursuant to Policy 39 (Absolute) of the Breckenridge Development Code (Chapter 1 of Title 9 of the Breckenridge Town Code). Uses specifically approved in this Master Plan shall supersede the Town's Land Use Guidelines and shall serve as an absolute development policy under the Development Code during the vesting period of this Master Plan. The provisions and procedures of the

Development Code (including the requirement for a point analysis) shall govern any future site specific development of the property subject to this Master Plan.

7. Approval of a Master Plan is limited to the general acceptability of the land uses proposed and their interrelationships, and shall not be construed to endorse the precise location of uses or engineering feasibility.
8. Concurrently with the issuance of a Development Permit, applicant shall submit a 24"x36" mylar document of the final master plan, including all maps and text, as approved by Planning Commission at the final hearing, and reflecting any changes required. The name of the architect, and signature block signed by property owner of record or agent with power of attorney shall appear on the mylar.
9. Applicant shall record with the Summit County Clerk and Recorder a mylar document reflecting all information in the approved Master Plan. The mylar document shall be in a form and substance acceptable to the Town Attorney, and after recording shall constitute the approved Master Plan for the future development of the property.

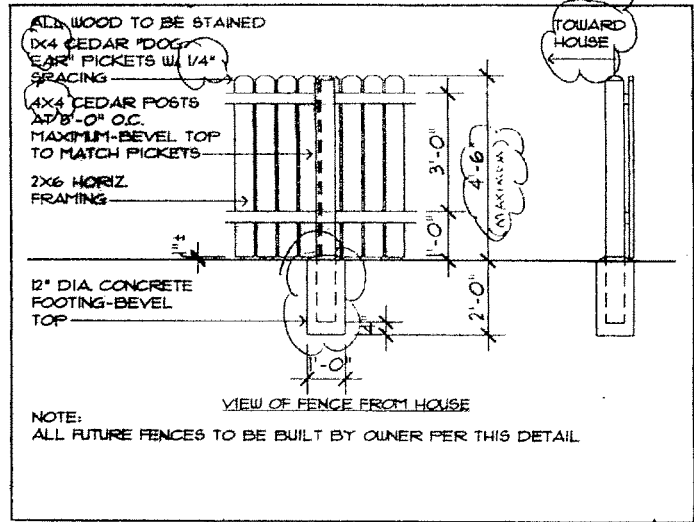
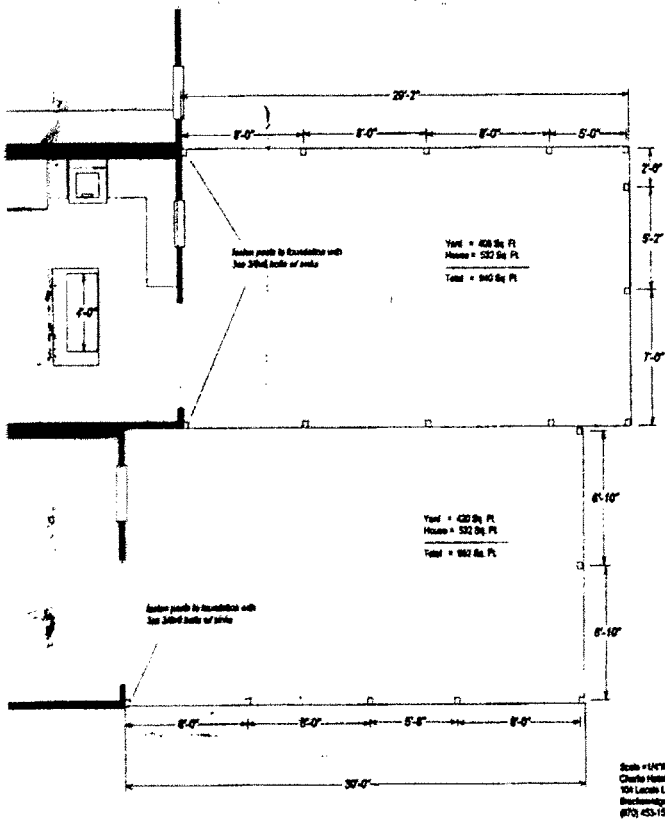


# VISTA POINT & Gibson Heights Homeowners Association

## Fence Information:

1. Measure, Layout, Material List and Create drawing of your yard, fences and gates.
2. Fill out Request for Modification/Change of the Common Element Form.
3. Fill out Class D Application Form for the Town of Breckenridge.
4. Submit the paperwork to the Board/Architectural Review Board.
5. Allow a Minimum of two (2) weeks for approval before you schedule any work.
6. After HOA approval, submit the forms to the Town of Breckenridge Planning Department.
7. After Planning Department approval complete the work.
8. Have any required inspections completed
9. Submit the final inspection form to the Board/Architectural Review Board.

### Option 1

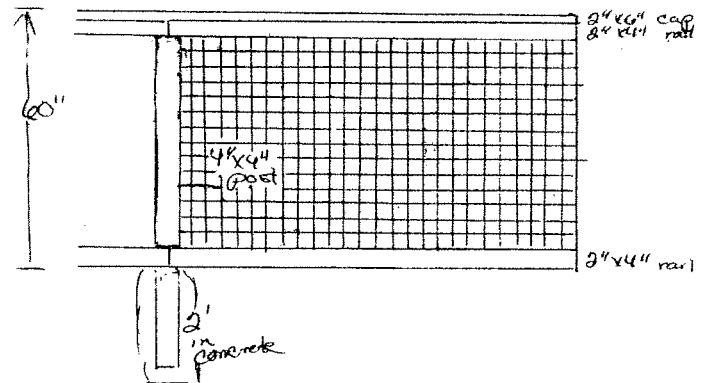


### FENCE DETAIL

NOT TO SCALE

APPROVED 9/16/02  
RZ# D-02-199

### Option 2



All Wood is to be Western Red Cedar with posts set @ 8' on center or less [redacted]  
2" x 4" top & bottom rails with 2" x 6" top cap.  
Wire mesh is to be 6 gauge galvanized 4" x 4" utility panel to be no more than 60" in height.

NAME	ADDRESS ON LOCALS LANE	PHONE NUMBER
Rebecca Johnson	# 103	303 279-7880
Melissa Bly	# 101	970-453-2220
TINA Zimmermann	108	970 453-2631
ERIC Bell	# 127 Look	970 453 0277
DIANNE McHinnis	# <del>100</del> 173	970-453-9655
Dolores Morales Lopez	200	970 485-2135
STACY Annason	215	970 547-9957
Esther McIntyre	247	970 471 3041
Scott Giles	252	970-547-0061
Kaista Cross	317	970-453-0732
Michael J. Campbell	257	970-453 1776
I. Steen	348	970-485-2079
AMANDA SELMAN	374	no phone
Parker Foz	137	970-547-0247
Rachel Meisler	100	970 406 1750
Christopher T. Bully	114	970-333-4733

Kari Kellie	99 Herald Lane	970-547-1278
Leslie Fischer	97 Locals Lane	970-485-3999
Charles Hark	104 LOCALS	970-453-1514
Kathleen A. Christel	151 Rachel	970-470-2170
<del>MS</del>	97 Rachel	970-547-5370
Suzanne Williams	120 Rachel Lane	970-547-843
Keri Morse	98 Locals Ln	413-230-9207
Carmel Sanders	125 Rachel Ln	970-384-0025
Angie	90 Sheppard Cir	970-485-1881





06/23/10

To: Town of Breckenridge Planning Department

RE: master Plan Modification to Gibson Heights and Vista Point

On behalf of the residents/owners of properties in Gibson Heights and Vista Point (in the Town of Breckenridge), please review the following request to make a change to the fencing regulations in the Master Plan of Gibson Heights and Vista Point.

When Gibson Heights and Vista Point were developed it appears the developer made a stipulation in the master plans that fenced yards could only be made of 4" wide dog eared cedar pickets and 60" in height. We would like re-consideration of this stipulation regarding fencing to include the attached type of fence described within and have it changed on the Master Plan.

Strategic Fence in Breckenridge builds a 60" high 4"x4" squared hole galvanized steel "invisible" fence supported by 4"x4" cedar posts and framed on top and bottom with 2x4 and 2x6 cedar boards. This type of fence would serve several beneficial purposes to our neighborhood and properties that the cedar fences do not.

1. Because this galvanized steel is very heavy gauge, it will not bend or sag and is somewhat invisible – but still very functional. This type of fence is sturdy and would require NO maintenance once constructed/installed, unlike the cedar pickets which require regular staining and regular maintenance and repair if broken. Decreasing our use of wood and stains is an environmentally solid and sustainable choice.
2. These fences would be much more visibly pleasing to both homeowners/surrounding neighbors and would keep the "openness" of our rear common, open space areas for all to enjoy. We feel keeping the "openness" to the rear and side of our properties is likely the original intent when Gibson Heights and Vista Point were first developed when you see the winding bike paths and open common areas, and we would like to keep it as visually open as possible with still allowing individual neighbors to satisfy their personal needs of having a fenced yard.
3. A great number of residents in our area are families with children, and we love our family oriented community. Our children play together on a daily basis in each others yards and common areas behind and between our homes. Having this type of fence would allow all of us to have a better visual view of our kids from our homes which we believe increases the safety of all of our children. The cedar fences block our yards visually from each other and essentially create little "alleys" between units and into the common areas in the back.
4. For homeowners that wish to keep their dog inside their yard, this new fence is virtually escape proof, and will serve to keep unwanted animals out as well (like the Coyotes that we seem to have families of in the woods just to our North or the numerous at large dogs). Wood picket fences can be chewed



through and will break over time, which makes for ongoing costs associated with up-keep.

5. The cost of installing this fence for the homeowner is substantially less compared to that of a cedar fence. As owners of deed-restricted units and owners who want to improve their properties... this is a much more affordable option than the cedar fence.

6. This fence for descriptive purposes is considered an "invisible" type fence and would not take away from the visual look of our neighborhood as many of the cedar fences do, especially when only one unit in a building of three or four units has a fenced yard or if they are stained with an even slightly different color stain than the next. These fences are not very noticeable and will never become an eye sore.

7. The areas we are allowed to fence are quite small on average. To fence a 14' wide (variable length) solid cedar fence stops the air flow into the fenced area making it very hot, and blocks much of the sun from coming into the yard hindering grass or flower growth and making the area very "closed in". This "invisible" fence would allow for both air flow and sunshine making our small, personal areas more comfortable, useable and more apt to grow vegetation.

8. This type fence will allow homeowners whose property is along the river to fence their yard, but still have an amazing view of the river.

This request is not to restrict the building of future cedar picket fences in Gibson Heights or Vista Point should a homeowner still choose to go with the cedar picket, but merely to add an option for homeowners to build this invisible type of fence as well. This fence would be the already approved height of 60" as not to clash with the height of the already existing 60" solid cedar fences.

**PLEASE look at the attached photos of the galvanized fence on cedar posts, look closely at the sample of fencing also included and come to our neighborhood and view the cedar picket fences. We are confident when you see the difference in these two fences you will agree the galvanized invisible fence would only enhance the look of our neighborhood, even when installed next to or near an already constructed picket fence. You would barely see them yet they serve the function of a closed yard for those who need/want one.**

Times have changed in the almost 9 years our neighborhood was designed and developed when this cedar picket regulation was written into the Master Plan. "Openness" on/around properties seems to be the preferred path for most of the Town of Breckenridge with any new development, and we ask that you make this change so we can move along with you in a more visibly pleasing and environmentally friendly way.

The following homeowners have signed this letter as our request to the Town of Breckenridge and its Planning Department to modify the master Plan for Gibson Heights and Vista Point to allow this alternative type of fence.

We sincerely thank you for your time, prompt consideration and approval.

## Planning Commission Staff Report

- Project Manager:** Matt Thompson, AICP
- Date:** July 8, 2010 (For meeting of July 20, 2010)
- Subject:** (Class A, Combined Hearing; PC#2010038)
- Applicant:** Environmental Energy Partners
- Property Owner:** Town of Breckenridge
- Agent:** Bill Nootenboom of Environmental Energy Partners
- Proposal:** To install two temporary Sprung structures, 56 feet wide by 91 feet long, to house equipment for manufacturing wood pellets. Each structure would be 5,091 sq. ft. and sit on its own concrete pad. There would be three pieces of equipment operating outdoors: a diesel powered wood chipper, a log loader, and a front end loader. The operation would run 24-hours a day and seven days a week inside of the tents, but only outside operations from 7am-7pm Monday through Saturday. The Town Council and the applicant have proposed a five-year lease for the operation.
- Address:** 12863 Highway 9
- Legal Description:** Portion of the McCain Property
- Site Area:** 5 acres, (217,800 sq. ft.)
- Land Use District:** 43, Permitted uses: Existing residential, service commercial, recreational, open space, governmental uses, mining and related uses
- Site Conditions:** The southern 102 acres of the site is owned by the Town of Breckenridge and contains a pit where rock is being extracted. Alpine Rock has finished mining approximately 20 acres in the center of the Town's property and has begun re-grading and reclaiming that section. There remains about 70,000 to 100,000 tons of dredge rock that has not been mined located in the southwestern section of the property, just north of County Road 3. The timing of the removal of this material will be based on timing of the removal of material from Block 11 pursuant to the Lease Agreement between the Town and Alpine Rock. Market conditions will impact the removal of material from both Block 11 and the site. The northern 25 acres of the site is owned by Alpine Rock and contains the processing operation.
- Adjacent Uses:** North: Stan Miller Rock Crushing (Class C #2003030)  
South: County Road 3  
East: Tatro PUD-Service Commercial  
West: Vacant-US Forest

**F.A.R.** 1:21

**Total Square**

**Footage:** Main Level: 10,181 sq. ft.

**Height:** Recommended: Not to exceed two stories - 26 ft.  
Proposed: 25 ft. (overall)

**Setbacks:** East: 270 ft.  
West: 541 ft.  
North: 1,965 ft.  
South: 1,800 ft.

**Item History**

The Town has been working on the forest health issue for a number of years now. The Town has had problems getting rid of the existing chip pile we have off of Airport Road. Tree contractors all around Summit County have been having major difficulty finding a suitable use or customer to take the wood after it has been dropped. Hence, the vast majority of wood is simply taken to the landfill or chipped on-site. The Town is interested in finding a more environmentally positive use for the wood. The Mountain Pine Beetle Ordinance requires property owners to remove dead and infested trees annually, so we will continue to see many more trees coming down in and around Breckenridge in the coming years.

Environmental Energy Partners came to the Town with a private sector solution for a positive use for some of this wood. They first discussed the possible use of this five acre site with the Town on December of 2009, looking for a location for a mobile pellet mill. Since that time, the Town Council and Planning Staff and the applicant have had many meetings and discussions related to this proposed site. The Town and the applicant have also met with Alpine Rock to discuss this proposal.

Although Alpine Rock is the mining operator, the Town of Breckenridge acquired the bulk of the property in 2002. The Town has worked with Alpine Rock to reconfigure the property so the processing facilities on the northern portion of the property are contained within 25 acres owned by Alpine Rock and the pit is contained within 102 acres owned by the Town. The 122 acres is subject to a 20-year lease between Alpine Rock and the Town of Breckenridge, dated November 18, 2002. The lease authorizes Alpine Rock to use the Town's property for mining and related uses, and restricts the use of Alpine Rock's 25 acres to aggregate processing. The lease includes an option for the Town to purchase the 25 acre Alpine Rock parcel when the mining is complete.

The Town meets annually with Alpine Rock to monitor the mining, the reclamation, the royalties, and also to coordinate in regard to other Town projects that impact either the mining or the restoration. This includes the Blue River restoration project and the potential water reservoir. The last annual lease meeting was August of 2007 and no issues or concerns relative to the operation were raised. Since 2007, Alpine Rock has worked closely with the Town Engineer relating to temporary storage of "plating" material for the Town as well as assisting with the rough grading and removal of material from Block 11.

The lease includes the approved reclamation plan and a procedure for incrementally releasing small section of the property from the lease once mining and reclamation is complete. At this time, only a small section of the property has been filled, and some reclamation has been completed but, because the property is under

consideration for a water storage reservoir, none of the property has been fully filled, graded to the required finished grade, or released from the lease.

Summit County regulated the mining/processing operation through their Conditional Use Permit process from 1983 until the property was annexed to the Town of Breckenridge in 2003. Upon annexation Alpine Rock obtained a Class C Development Permit (2003107) authorizing the continuation of the operation. The permit was approved for three years on November 11, 2003. It was subsequently renewed for another three years on October 3, 2006. The operation is considered a temporary use of the land that provides rock, concrete, and asphalt while preparing the land for its ultimate use.

An Alpine Rock Task Force, composed of three Silver Shekel property owners, was created in 1993 to meet periodically to work directly with Alpine Rock to minimize the impacts of the operation on the neighboring homes. The intent was to create a process by which the residents of Silver Shekel could work directly with the operator and insure that unresolved issues were brought to the attention of the County or the Town. Two of those property owners no longer own property in Silver Shekel but Alpine Rock has continued to coordinate with the remaining Task Force member. The last official meeting was in the spring of 2006 and there were no concerns raised. Alpine Rock has stayed in contact with the Task Force via telephone, and the feedback from Silver Shekel indicates that they have had no issues with the operation. Alpine Rock remains available for periodic meetings should Silver Shekel or the Town desire.

### **Staff Comments**

**Land Use (Policies 2/A & 2/R):** Land Use District 43 was specifically created in 2003 to allow the mining and processing operations. According to the Land Use Guidelines (LUGs) these uses “*shall be in accordance with the lease between the Town of Breckenridge and Alpine Rock*” and the intent of Land Use District 43 is to “*allow for the continuation of these uses as provided for and conditioned by Summit County Conditional Use permit.*” The LUGs require that a development permit be obtained to insure on-going over site of the operation. Upon annexation in 2003, the Town approved the original Class C permit for a three-year period, which is consistent with the Stan Miller temporary rock crushing facility just north of this site. It appears that the current mining and processing operation is also consistent with the Summit County Conditional Use Permit and the Lease, and has not changed substantively since approved by Summit County or when the property was annexed by the Town. The Town is currently developing a Master Plan that will identify the long-term use for this property once the mining activity is discontinued or completed. At this time, it is anticipated that the property will be used for open space, recreation, and possible water storage when mining is complete. Staff believes the proposed pellet mill is a similar use of the property that could be allowed in Land Use District 43.

**Architectural Compatibility (5/A & 5/R):** The tents are proposed to be brown in color. The structures appear to be architecturally compatible with the surrounding buildings on the McCain property. White tents are somewhat translucent. Brown tents are more opaque. Environmental Energy Partners have opted to go with the brown tents for other design considerations. The chip tent will not be lit at night, only the mill tent. They also plan to insulate the mill tent, which will also inhibit most of the light and sound from reaching outside.

The proposed outdoor lights for use on the tents are "dark sky compliant". They are LED and they project all of their light downward. The applicants don't foresee any need to light up any part of the surrounding yard at night, except for the parking area when shifts change and employees access their cars.

**Building Height (6/A & 6/R):** Per the LUGs, buildings in excess of two stories are discouraged. The proposed tents would not exceed two stories.

**Site and Environmental Design (7/R):** The applicant and the Staff had been working to find a suitable site that did not require significant site grading. During the review process, the applicant changed the site plan to avoid a depression that would have required significant fill. Also, the site plan was adjusted to move away from seasonal water runoff. Staff believes the site and environmental design is sensitive to the existing conditions.

**Placement Of Structures (9/A & 9/R):** Each of the two buildings would sit on a concrete pad. The whole logs would first be chipped, then the chips would go into the chipper tent, and then onto a conveyor into the mill tent, which also includes an office. (Employees would have onsite restrooms.) There would be a dumpster south of the mill tent. The log trucks would enter the site and stop on a weigh station. There would be three pieces of equipment operating outdoors: a diesel powered wood chipper, a log loader, and front end loader. The remainder of the site would be used for log storage. The placement of these structures abides with the absolute and relative portions of this policy. Staff has no concerns.

**Snow Removal And Storage (13/R):** With little site restriction, snow removal and storage should function efficiently. The key areas where they need to manage snow are the truck traffic lanes and the finished pellet yard. The applicants plan to store snow into the corners of the site: the southwest corner, southeast corner, northwest corner, and at the west end of the chip tent. They also plan to use a large front end loader to move snow. The only paved surfaces would be under the tents. They will not be able to transport a lot of wood onto the site during the winter because logging operations tend to slow down in winter. That means that as the winter progresses, more log storage area will become available for snow storage.

**Access / Circulation (16/A & 16/R; 17/A & 17/R):** The property is accessed off an entrance/exit at the Fairview Blvd./Hwy 9 intersection. These Hwy 9 access points connect to access drives for the logging trucks.

**Parking (18/A & 18/R):** It appears there is room for parking in the finished pellet yard area, however, the parking is not shown on the site plan. Section L. Paving, of the Off-street parking regulations requires all off-street parking spaces and driveways to be paved. However, the driving and parking area within the five acres is not intended for public use. This would be a private road and parking. Furthermore, this is a temporary use where we will have a reservoir in the future and the Town does not want the applicant to pave the entire site. The applicant indicates they will park south of the security trailer in the finished pellet yard. Their employees will be spread out over 3 shifts, so they don't need to park their entire staff at the same time. They will have ten parking spaces available in the used pellet yard.

**Landscaping (22/A & 22/R):** There is no landscaping proposed for this temporary use. Perhaps landscaping should be considered for screening. However, most of the views of the property come from Silver Shekel – which landscaping at the ground level would not help to mitigate.

**Social Community (24/R):** Per the Development Code:

*3 x (0/+2) B. Community Need: Developments which address specific needs of the community which are identified in the yearly goals and objectives report are encouraged. Positive points shall be awarded under*

*this subsection only for development activities which occur on the applicant's property. (Ord. 10, Series 2004)*

Per the 2010 Town Council goal identified in this yeas retreat:

**3. NATURAL RESOURCES**

*The Town will continue to visit various environmental issues that impact the community and strive to be a leader in creating awareness, education, and information on these issues. The Town continues its leadership role in the stewardship of our water, air and overall environment. The Town is continuing talks and research on the feasibility of a pumpback project of the Blue River another water storage location that could have aesthetic as well as economic benefits. And, the Town continues to ensure the preservation of our natural resource assets, such as Cucumber Gulch and B&B parcel through various policies and enforcement strategies. The council works closely in conjunction w/BOSAC, OSAC, staff Open Space and Trails, and the appropriate federal and state agencies to be a leader in this area.*

Staff believes the applicant is meeting a critical community need related to natural resource protection. Most of the dead and infested mountain pine beetle pine trees are going to the landfill or chipped on-site. This is an opportunity to show locals and visitors alike how a community can help change their energy system from non-sustainable fossil fuels to sustainable, carbon neutral sources of energy. Thus, we suggest positive three (+3) points under this policy.

**Utilities Infrastructure (26/A & 26/R; 28/A):** The applicant is proposing to add a water line, sewer line, and power brought from the existing utilities just to the East of the proposed site. There does not appear to be any issues with bringing in these utilities.

**Noise/Production Levels:** The project is also in the commercial noise zone. The pellet mill activities are considered to be construction related and the associated noise is considered ‘construction noise’ pursuant to the Town Noise Ordinance, and precedent permitting activity. Under the Town Noise Ordinance there is not a maximum permissible noise level assigned to construction activity. Instead, it is unlawful to cause or make construction noise between the hours of 7 p.m. and 6:59 a.m. Monday through Saturday and no construction all day Sunday. The provisions of the Town Noise Ordinance may be varied by a development permit issued under the Breckenridge Development Code.

There are more strict noise/production standards in place for residential uses, which even though they do not apply here, staff has gone through the analysis to see how this application would fare under those regulations. Based on those standards, Staff believes the development whould not be exceeding the maximum permissible noise levels as outlined in Section 5-8-5 of the Municipal Code.

<u>Town Noise Zone</u>	<u>7:01 A.M. to next 10:59 P.M. (in Decibels)</u>	<u>11:00 P.M. to next 7:00 A.M.</u>
<i>Commercial noise zone</i>	70	65
<i>Residential noise zone</i>	55	50

The Bandit 3680 chipper creates about 90-decibels when you are one-foot away from it. However, at the property line the noise dissipates under normal conditions (where the Code requires the decibel levels to be measured from) down to 33.8 decibels, which is well below our maximum decibel level of 70.

Staff has spoken to two property owners at Silver Shekel that are concerned about the noise of the operation. We have received one message of opposition to the proposed pellet plant through the SustainableBreck website. We also received one-voice mail in opposition to the proposed pellet mill.

We have only heard from property owners in the Silver Shekel Subdivision. Staff has included all written responses to the proposed pellet mill.

**Point Analysis (Section: 9-1-17-3):** This application has been advertised as a combined hearing. The application passes all absolute and meets all relative policies. We have no concerns.

**Staff Recommendation / Decision**

If the Commission finds that the Environmental Energy Partners Pellet Mill application meets all absolute and relative policies, Staff recommends approval of PC#2010038, with the attached findings and conditions.

<b>Final Hearing Impact Analysis</b>				
Project:	Environmental Energy Partners Pellet Mill	<b>Positive</b>	<b>Points</b>	<b>+3</b>
PC#:	2010038			
Date:	07/08/2010	<b>Negative</b>	<b>Points</b>	<b>0</b>
Staff:	Matt Thompson, AICP			
		<b>Total Allocation: +3</b>		
Items left blank are either not applicable or have no comment				
<b>Sect.</b>	<b>Policy</b>	<b>Range</b>	<b>Points</b>	<b>Comments</b>
1/A	<b>Codes, Correlative Documents &amp; Plat Notes</b>	Complies		
2/A	<b>Land Use Guidelines</b>	Complies		
2/R	Land Use Guidelines - Uses	4x(-3/+2)		
2/R	Land Use Guidelines - Relationship To Other Districts	2x(-2/0)		
2/R	Land Use Guidelines - Nuisances	3x(-2/0)		
3/A	<b>Density/Intensity</b>	Complies		
3/R	Density/ Intensity Guidelines	5x (-2>-20)		
4/R	Mass	5x (-2>-20)		
5/A	<b>Architectural Compatibility / Historic Priority Policies</b>	Complies		
5/R	Architectural Compatibility - Aesthetics	3x(-2/+2)		
5/R	Architectural Compatibility / Conservation District	5x(-5/0)		
5/R	Architectural Compatibility H.D. / Above Ground Density 12 UPA	(-3>-18)		
5/R	Architectural Compatibility H.D. / Above Ground Density 10 UPA	(-3>-6)		
6/A	<b>Building Height</b>	Complies		
6/R	Relative Building Height - General Provisions	1X(-2,+2)		
	For all structures except Single Family and Duplex Units outside the Historic District			
6/R	Building Height Inside H.D. - 23 feet	(-1>-3)		
6/R	Building Height Inside H.D. - 25 feet	(-1>-5)		
6/R	Building Height Outside H.D. / Stories	(-5>-20)		
6/R	Density in roof structure	1x(+1/-1)		
6/R	Broken, interesting roof forms that step down at the edges	1x(+1/-1)		
	For all Single Family and Duplex Units outside the Conservation District			
6/R	Density in roof structure	1x(+1/-1)		
6/R	Broken, interesting roof forms that step down at the edges	1x(+1/-1)		
6/R	Minimum pitch of eight in twelve (8:12)	1x(0/+1)		
7/R	Site and Environmental Design - General Provisions	2X(-2/+2)		
7/R	Site and Environmental Design / Site Design and Grading	2X(-2/+2)		
7/R	Site and Environmental Design / Site Buffering	4X(-2/+2)		
7/R	Site and Environmental Design / Retaining Walls	2X(-2/+2)		
7/R	Site and Environmental Design / Driveways and Site Circulation Systems	4X(-2/+2)		
7/R	Site and Environmental Design / Site Privacy	2X(-1/+1)		
7/R	Site and Environmental Design / Wetlands	2X(0/+2)		
7/R	Site and Environmental Design / Significant Natural Features	2X(-2/+2)		
8/A	<b>Ridgeline and Hillside Development</b>	Complies		
9/A	<b>Placement of Structures</b>	Complies		
9/R	Placement of Structures - Public Safety	2x(-2/+2)		
9/R	Placement of Structures - Adverse Effects	3x(-2/0)		
9/R	Placement of Structures - Public Snow Storage	4x(-2/0)		
9/R	Placement of Structures - Setbacks	3x(0/-3)		
12/A	Signs	Complies		
13/A	<b>Snow Removal/Storage</b>	Complies		
13/R	Snow Removal/Storage - Snow Storage Area	4x(-2/+2)		
14/A	<b>Storage</b>	Complies		
14/R	Storage	2x(-2/0)		
15/A	<b>Refuse</b>	Complies		
15/R	Refuse - Dumpster enclosure incorporated in principal structure	1x(+1)		
15/R	Refuse - Rehabilitated historic shed as trash enclosure	1x(+2)		
15/R	Refuse - Dumpster sharing with neighboring property (on site)	1x(+2)		
16/A	Internal Circulation	Complies		
16/R	Internal Circulation / Accessibility	3x(-2/+2)		
16/R	Internal Circulation - Drive Through Operations	3x(-2/0)		
17/A	<b>External Circulation</b>	Complies		
18/A	<b>Parking</b>	Complies		
18/R	Parking - General Requirements	1x(-2/+2)		



18/R	Parking-Public View/Usage	2x(-2/+2)		
18/R	Parking - Joint Parking Facilities	1x(+1)		
18/R	Parking - Common Driveways	1x(+1)		
18/R	Parking - Downtown Service Area	2x(-2/+2)		
19/A	<b>Loading</b>	Complies		
20/R	Recreation Facilities	3x(-2/+2)		
21/R	Open Space - Private Open Space	3x(-2/+2)		
21/R	Open Space - Public Open Space	3x(0/+2)		
22/A	<b>Landscaping</b>	Complies		
22/R	Landscaping	4x(-2/+2)		
24/A	<b>Social Community</b>	Complies		
24/R	Social Community - Employee Housing	1x(-10/+10)		
		3x(0/+2)	+3	Staff believes the applicant is meeting a critical community need related to natural resource protection. Most of the dead and infested mountain pine beetle pine trees are going to the landfill or chipped on-site. This is an opportunity to show locals and visitors alike how a community can help change their energy system from non-sustainable fossil fuels to sustainable, carbon neutral sources of energy. Thus, we suggest positive three (+3) points under this policy.
24/R	Social Community - Community Need			
24/R	Social Community - Social Services	4x(-2/+2)		
24/R	Social Community - Meeting and Conference Rooms	3x(0/+2)		
24/R	Social Community - Historic Preservation	3x(0/+5)		
24/R	Social Community - Historic Preservation/Restoration - Benefit	+3/6/9/12/15		
25/R	Transit	4x(-2/+2)		
26/A	<b>Infrastructure</b>	Complies		
26/R	Infrastructure - Capital Improvements	4x(-2/+2)		
27/A	<b>Drainage</b>	Complies		
27/R	Drainage - Municipal Drainage System	3x(0/+2)		
28/A	<b>Utilities - Power lines</b>	Complies		
29/A	<b>Construction Activities</b>	Complies		
30/A	<b>Air Quality</b>	Complies		
30/R	Air Quality - wood-burning appliance in restaurant/bar	-2		
30/R	Beyond the provisions of Policy 30/A	2x(0/+2)		
31/A	<b>Water Quality</b>	Complies		
31/R	Water Quality - Water Criteria	3x(0/+2)		
32/A	<b>Water Conservation</b>	Complies		
33/R	Energy Conservation - Renewable Energy Sources	3x(0/+2)		
33/R	Energy Conservation - Energy Conservation	3x(-2/+2)		
34/A	<b>Hazardous Conditions</b>	Complies		
34/R	Hazardous Conditions - Floodway Improvements	3x(0/+2)		
35/A	<b>Subdivision</b>	Complies		
36/A	<b>Temporary Structures</b>	Complies		
37/A	<b>Special Areas</b>	Complies		
37/R	Community Entrance	4x(-2/0)		
37/R	Individual Sites	3x(-2/+2)		
37/R	Blue River	2x(0/+2)		
37/R	Cucumber Gulch/Setbacks	2x(0/+2)		
37/R	Cucumber Gulch/Impervious Surfaces	1x(0/-2)		
38/A	<b>Home Occupation</b>	Complies		
39/A	<b>Master Plan</b>	Complies		
40/A	<b>Chalet House</b>	Complies		
41/A	<b>Satellite Earth Station Antennas</b>	Complies		
42/A	<b>Exterior Loudspeakers</b>	Complies		
43/A	<b>Public Art</b>	Complies		
43/R	Public Art	1x(0/+1)		
44/A	<b>Radio Broadcasts</b>	Complies		
45/A	<b>Special Commercial Events</b>	Complies		
46/A	<b>Exterior Lighting</b>	Complies		
47/A	<b>Fences, Gates And Gateway Entrance Monuments</b>	Complies		

# TOWN OF BRECKENRIDGE

Environmental Energy Partners Pellet Mill  
12863 State Highway 9  
PERMIT #2010038

**STAFF RECOMMENDATION:** Staff has approved this application with the following Findings and Conditions and recommends the Planning Commission uphold this decision.

## FINDINGS

1. The proposed project is in accord with the Development Code and does not propose any prohibited use.
2. The proposed activity is an existing activity and the operation will be consistent with all of the conditions and approvals granted by Summit County prior to the annexation.
2. The project will not have a significant adverse environmental impact or demonstrative negative aesthetic effect.
3. All feasible measures mitigating adverse environmental impacts have been included, and there are no economically feasible alternatives, which would have less adverse environmental impact.
4. This approval is based on the staff report dated July 8, 2010, and findings made by the Planning Commission with respect to the project. Your project was approved based on the proposed design of the project and your acceptance of these terms and conditions imposed.
5. The terms of approval include any representations made by you or your representatives in any writing or plans submitted to the Town of Breckenridge, and at the hearing on the project held on July 20, 2010, as to the nature of the project. In addition to Commission minutes, the meetings of the Commission are tape-recorded.
6. Notwithstanding the provisions of Section 9-1-22 of the Town Code, the terms and conditions of this development permit shall remain in full force and effect and shall govern the permittee's use of the property which is the subject of this development permit for a period of 3 years from the date hereof. During this time, the permit shall be binding upon and enforceable against the permittee and all subsequent owners of the property unless the permit is revised, modified or superseded by another development permit. The permit may be renewed upon review of a new permit application.
7. The activities authorized pursuant to this permit are primarily construction related, and the noise generated by the permittee in connection with its use of the property pursuant to this development permit shall be deemed "construction noise" within the meaning of Section 5-8-6 of the Town Code.
8. The permittee's hours of operation for outdoor work pursuant to this development permit shall be:

### Asphalt Plant and Crushing

Work outside of tents

7:00am to 7:00am, Monday - Saturday

Work inside of tents

24-hours a day, 7-days a week

Permittee's operation at the property outside such hours shall constitute a violation of this permit. The only exception is for a bona fide emergency, or in the event of a temporary and occasional

extension upon advance notification to the Town of Breckenridge. Temporary extensions will be reviewed through the Class “D” review process. Any temporary or occasional extension to the hours is subject to the Town Noise Ordinance.

### CONDITIONS

1. This permit does not become effective, and the project may not be commenced, unless and until the applicant accepts the preceding findings and following conditions in writing and transmits the acceptance to the Town of Breckenridge.
2. If the terms and conditions of the approval are violated, the Town, in addition to criminal and civil judicial proceedings, may, if appropriate, issue a stop order requiring the cessation of work, revoke this permit, require removal of any improvements made in reliance upon this permit with costs to constitute a lien on the property and/or restoration of the property.
3. This permit expires three (3) years from date of issuance, on July 27, 2013. However, the Planning Commission may require an interim review and subsequent additional restrictions prior to the expiration date if there are equipment changes, permit violations, or unauthorized changes or additions to the operation that are deemed by the Town to endanger the health, safety, or welfare of the general public.
4. The terms and conditions of this permit are in compliance with the statements of the staff and applicant made on the evidentiary forms and policy analysis forms.
5. Environmental Energy Partners Pellet Mill operation onsite is subject to the requirements of issued the Colorado Department of Public Health, Water Quality Control Division. Environmental Energy Partners shall immediately notify the Town of Breckenridge Community Development Department of any notifications or correspondence it receives concerning alleged violations.
6. Environmental Energy Partners shall comply with any Storm Water Management practices required by the Town Engineer.
7. Environmental Energy Partners operations onsite are subject to the requirements of the Colorado Department of Public Health, Air Quality Division. Alpine Rock shall immediately notify the Town of Breckenridge Community Development Department of any notifications or correspondence it receives concerning alleged violation of these permits. The operation shall not create any air pollution, other than the exhaust vehicles and the chipper create.
8. Environmental Energy Partners shall maintain dust control on site and on any affected roadways.
9. Alpine Rock shall clean the bike path as necessary, as trucks cross the path during operation.
10. At all times during the course of the work on the development authorized by this permit, Environmental Energy Partners shall refrain from depositing any dirt, mud, sand, gravel, rubbish, trash, wastepaper, garbage, construction material, or any other waste material of any kind upon the public street(s) adjacent to the construction site. Town shall provide oral notification if the Town believes that Environmental Energy Partners has violated this condition. If Alpine Rock fails to clean up any material deposited on the street(s) in violation of this condition within 24 hours of oral notice from Town, Environmental Energy Partners agrees that the Town may clean up such

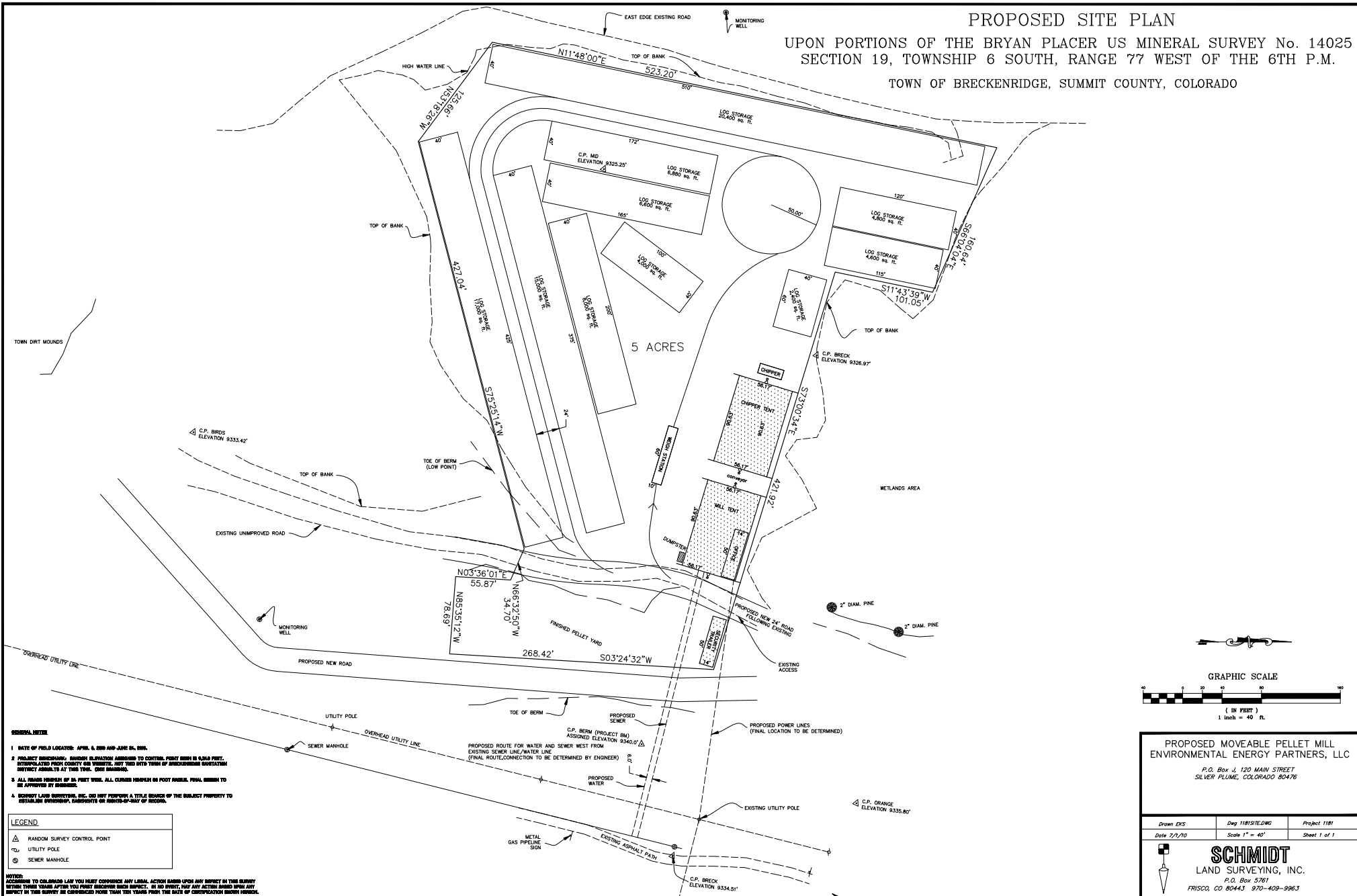
material without further notice and Environmental Energy Partners agrees to reimburse the Town for the costs incurred by the Town in cleaning the streets.

11. The project approved by this Permit must be operated in accordance with the plans and specifications, which were approved by the Town in connection with the Development Permit application. The project must be operated in accordance with the plans, conditions, and specifications that were approved by the County pursuant to the Conditional Use Permit. Any material deviation from the approved plans and specifications without Town approval may result in the Town issuing a Stop Work Order, and/or other appropriate legal action under the Town's development regulations. A Stop Work Order may not be released until a modification to the permit is reviewed and approved by the Town. If the operation changes significantly the Town Engineer or Community Development Department may require additional mitigation to impacts including but not limited to traffic and water quality. Based upon the magnitude of the changes, another hearing before the Planning Commission may be required.
12. The applicant shall take all practical measures to reduce the noise impact to residential properties. This may include the use of flashers rather than back up beepers on vehicles subject to the approval of OSHA.

# PROPOSED SITE PLAN

UPON PORTIONS OF THE BRYAN PLACER US MINERAL SURVEY No. 14025  
SECTION 19, TOWNSHIP 6 SOUTH, RANGE 77 WEST OF THE 6TH P.M.

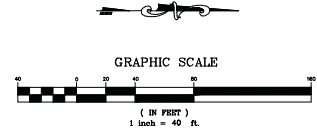
TOWN OF BRECKENRIDGE, SUMMIT COUNTY, COLORADO



- 1. DATE OF FIELD LOCATOR: APRIL 9, 2009 AND JUNE 26, 2009.
- 2. POLARITY BENCHMARK: BENCHMARK INFORMATION ASSIGNED TO CONTROL POINT BIRD IS 6.944 FEET, INTERPOLATED FROM COUNTY GIS DATA. SET THIS DATA FROM OF BRECKENRIDGE QUANTIFICATION DISTRICT ASSEMBLY AT THIS TIME. ONE DRAWING.
- 3. ALL DIMENSIONS SHOWN ON PL FIRST TIME. ALL DIMENSIONS SHOWN ON FOOT PRINTS, FINAL DESIGN TO BE APPROVED BY ENGINEER.
- 4. SCHMIDT LAND SURVEYING, INC. DID NOT PERFORM A TITLE SEARCH OF THE SUBJECT PROPERTY TO ESTABLISH OWNERSHIP, ENCUMBRANCES OR RIGHTS-OF-WAY OF RECORD.

LEGEND	
△	RANDOM SURVEY CONTROL POINT
⊕	UTILITY POLE
⊙	SEWER MANHOLE

NOTES: ACCORDING TO COLORADO LAW YOU MUST CONSIDER ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST RECEIVE WHEN DEFECT. IN NO EVENT, MAY ANY ACTION BE BROUGHT UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF COMPLETION HEREIN HERETO.

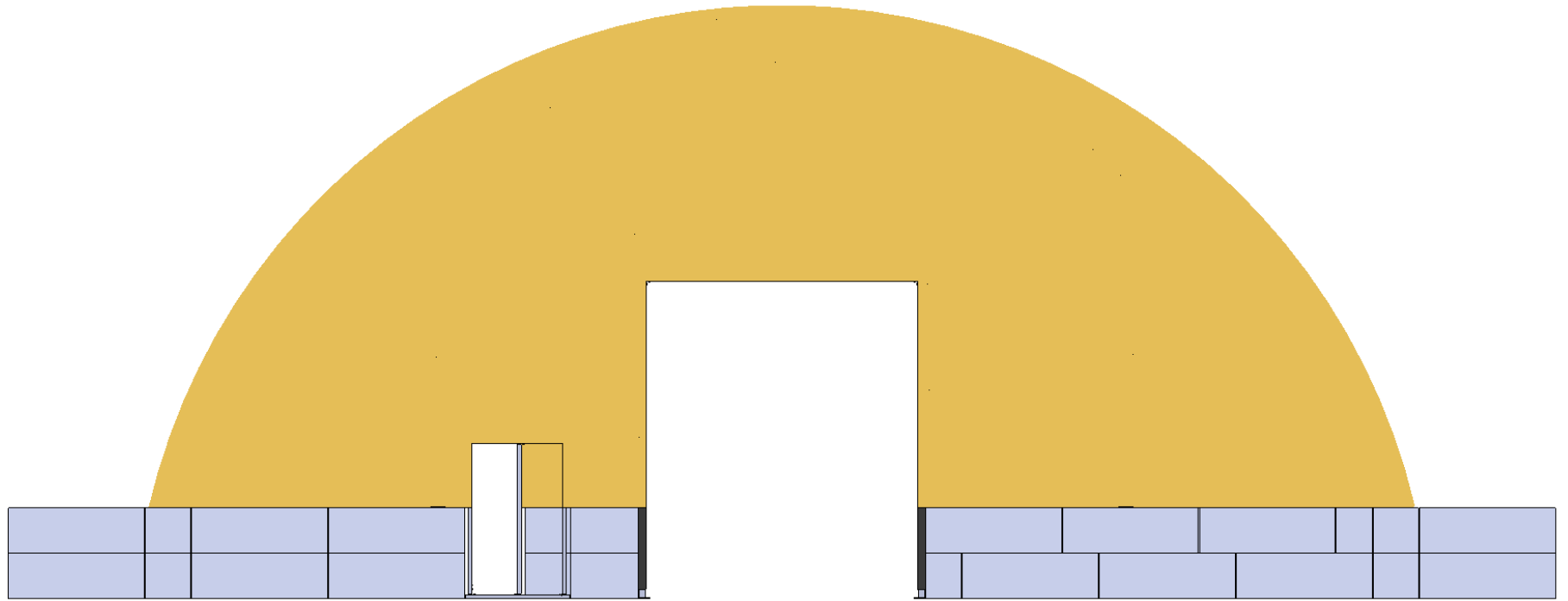


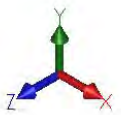
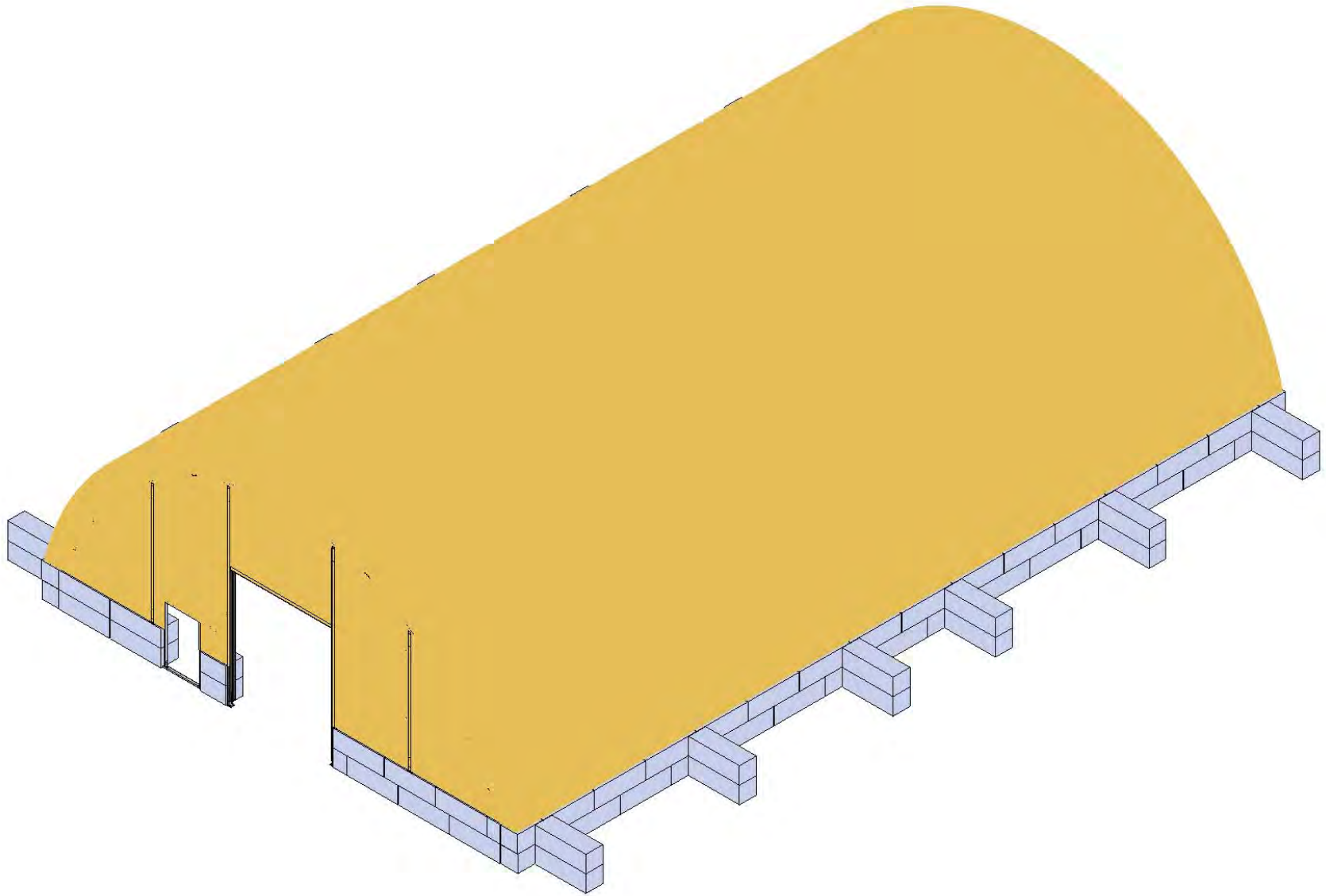
PROPOSED MOVEABLE PELLET MILL  
ENVIRONMENTAL ENERGY PARTNERS, LLC  
P.O. Box 4, 120 MAIN STREET  
SILVER PLUME, COLORADO 80476

Drawn: EKS	Dwg: 1181SITE.DWG	Project: 1181
Date: 7/1/10	Scale: 1" = 40'	Sheet: 1 of 1

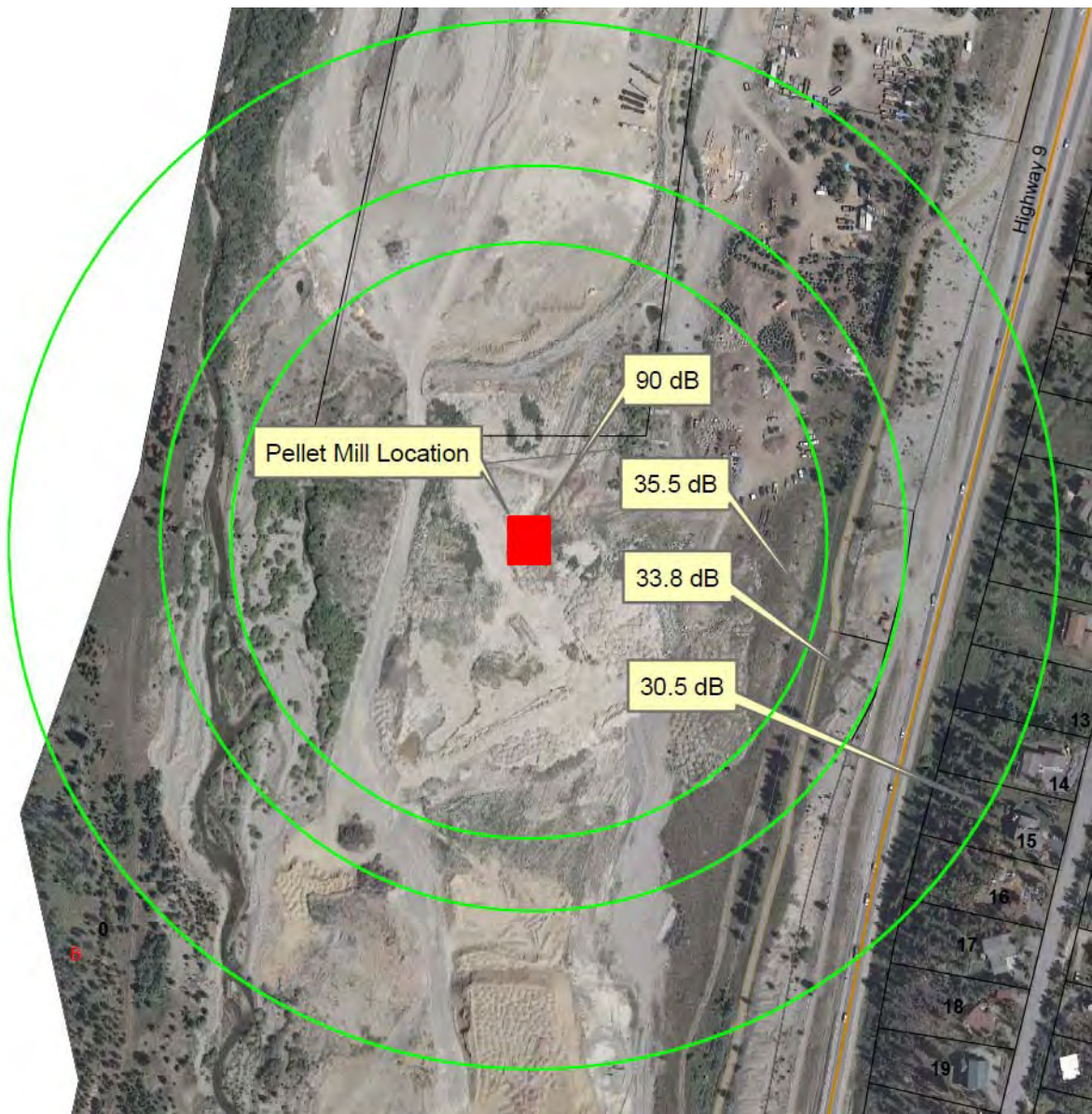
**SCHMIDT**  
LAND SURVEYING, INC.  
P.O. Box 5761  
FRISCO, CO 80443 970-409-9963













**BANDIT** Industries, Inc.

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**NEWSFLASH**

Due to growing Biomass manufacturing markets, we are seeking an experienced **large equipment salesperson** to work from the factory in Remus, MI.  
Click here for more information.

Wednesday, May 5, 2010

**EVENTS**

Wednesday, May 5, 2010 8:00 AM  
FRA Southcentral

Wednesday, May 5, 2010 8:00 AM  
Waste Expo

Wednesday, May 5, 2010 8:00 AM  
Biomass Conference & Expo

Home ▶ Product Line ▶ Horizontal Grinders ▶ Model 3680

**MAIN MENU**

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**Model 3680  
Beast Recycler**



**NEWS**

- Bandit Named 2010 World Trader of the Year
- MasterTrak
- Is Your Bandit Chipper Up to Date?
- Is Your Bandit Chipper Properly Maintained?
- Change proves profitable for Maryland organic recycling project

The 3680 Beast Recycler has been Bandit's most popular waste reduction unit. The 3680 has greatly exceeded other grinders in it's class with noted production numbers of over 500 yards or more per hour. With a mill opening of 33 inches by 60 inches and engine options that range from 365- to 700-horsepower, this unit can be setup for any grinding application you may encounter!

Recently, the Model 3680 has been put into numerous types of applications producing valuable end products for the bio-energy industry. One application consists of processing debarked hardwood logs, turning them into a usable end product uniquely name "Beast Bio-Sawdust". This end product is extremely fine, making it perfect for those companies in the pellet industry.

**VIDEO HIGHLIGHT**



Model 1490XP - A Steady Diet Of Oak And Cherry

**FEATURE MODEL**



Model 90XP (9" Disc Style) Brush Bandit

**USED EQUIPMENT**

Latest Entries:

**LOGIN**

Username

Password

Remember me

Login  
 Forgotten your  
 password?



Another application related to the bio-energy industry, includes the Model 3680 supplying grasses for a cellulose paper plant in Swiecie, Poland. The plant uses the ground grassy material to fire a boiler that supplies steam and electricity to the plant. Although the round bales are larger than the opening into the Beast, the top feed wheel extends over the top of the bales of material and rolls the bales into the cuttermill, easily processing the material. Because of the long infeed bed, bales can continuously be set into the machine ensuring steady production. The end product is of ideal size for boiler fuel.



Talk about versatile! The above applications are just a few of what this beast can handle. It is also known to process: piled brush, whole trees, stumps, pallets, land clearing waste, green waste, palm fronds, logging slash, sawmill waste, construction waste, housing demolition, railroad ties, shingles and asphalt.

The above materials are transformed into salable products like compost, mulch, animal bedding, fuel for wood-fired boilers, pressed board and more. These units are perfect for landfills that need to convert waste into recyclable products or to reduce the size of material going to the landfill. It is also popular with those converting logging and sawmill waste into useful products like those listed above.

This is the only unit that has the potential to process shingles and asphalt pavement into a hot mix supplement at a rate of 100 tons an hour year round in a single pass without screening. Material is then discharged into a uniform pile. Ideal for cold in-place recycling.



- Model 1900 Track Whole Tree Chipper (19" Disc-Style) Whole Tree Chipper 2005
- Model 3680 Beast Recycler 1986
- Model 5880 Beast Recycler
- Model 4680 Beast Recycler 2004
- Model 150XP (12' Disc-Style) Brush Bandit 2008
- Model 1890 2003
- Model 3680 Beast Recycler 2003



Who Is Online

We have 170 guests online!



Specifications	Colors	Options	Engines
<b>Name</b>		<b>Value</b>	
<b>Dimensions</b>			
Width			9' 7"
Height			13' 3"
Length			39'
Weight			57, 500 pounds
<b>Tires and Axles</b>			
Tires			(6) 385/65R 22.5, 18.5 ply tires mounted on 10-bolt aluminum rims
Number of Axles			(3) 25,000 pound axles with air brakes
<b>Mill Opening</b>			
35" high X 60" wide			
<b>Tongue Jack</b>			
Hydraulic tongue jack with front stabilizer			
<b>Steel Fuel Tank Capacity</b>			
500 gallons			
<b>Steel Hydraulic Tank Capacity</b>			
140 gallons			
<b>Towing Hitch</b>			
3" pintle ring with safety chains			
<b>Infeed Conveyor</b>			
20' long X 60" wide (3) speed track-type infeed conveyor			
<b>Feed System</b>			
Feed Wheel			24" diameter by 5' wide
Cuttermill			42" diameter X 63" wide cuttermill
Cutters			60 teeth and cutterbodies
<b>Discharge Conveyor System</b>			
Length			30 ft.
Width			48"
Height			17.7 ft. (Discharge Height)
<b>Reversing Auto Feed</b>			
Radio remote control with tether backup			
Heat acuated fire suppression system			

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**environmental  
energy PARTNERS**

Mr. Matt Thompson  
Community Development Department  
Town of Breckenridge

July 16, 2010

RE: Spill Containment Plan

Dear Matt:

You have asked me to prepare a written spill containment plan for our proposed pellet mill on the McCain Property in Breckenridge. This letter will serve as our written containment plan. As an alternative energy company, protecting our environment from fossil fuel pollution is core to our values. Our entire company exists to lessen our dependence on fossil fuels, and to decrease the pollution caused by them. We take this issue very seriously.

We will use a 500 gallon tank for diesel fuel for our log loaders that will operate on the property. The 500 gallon tank will be double walled tank, which greatly reduces the risk of accidental puncture. In addition, the double walled tank will be placed within a 600 gallon water trough. These troughs are made from galvanized steel, with rubber gaskets where the side walls meet the floor of the tank. The troughs are completely water tight and have a capacity of 120% of the container.

If for any reason a spill should escape the double walled tank, and the containment trough, we will absorb any spilled liquid with wood pellets or wood chips. Our pellets and chips have had most of their moisture reduced, so they make an excellent absorbent. In fact, several companies sell wood chips and pellets as floor dry and spill absorbing products.

We contract with mobile diesel mechanics to provide oil change and lubrication services for our equipment. Oil is removed from our machines with a quick couple attachment, and used oil is

phone: 970 819 9116 fax: 303 684 9712  
6274 Trevarton Drive, Longmont, CO 80503

[www.eepellets.com](http://www.eepellets.com)

Now is the time to be Environmental Energy Partners



**environmental  
energy** PARTNERS

vacuumed out of the engines directly in to a truck designed to transport waste oil materials. No oil is allowed to gravity drain into a pan when we are servicing our engines.

We will use handheld grease guns to lubricate our machines, and we will store small amounts of grease in tubes. Our pellet mill uses grease to lubricate its bearings. We will have a 30 gallon container of grease connected to the pellet mill at all times, and one in storage. This grease is in a gel form, and a spill is unlikely.

I hope this letter answers your concerns about spills. Please let me know if you need any additional information.

Sincerely yours,

S/William Nootenboom

Bill Nootenboom  
Chief Operating Officer

phone: 970 819 9116 fax: 303 684 9712  
6274 Trevarton Drive, Longmont, CO 80503

[www.eepellets.com](http://www.eepellets.com)

Now is the time to be Environmental Energy Partners

**From:** jeffrey bergeron [mailto:biffbreck@yahoo.com]  
**Sent:** Monday, June 28, 2010 12:01 PM  
**To:** Thompson, Matt  
**Subject:** Fw: Fwd: Pellet plant-

Jeffrey Bergeron/Biff America  
[biffbreck@yahoo.com](mailto:biffbreck@yahoo.com)

----- Forwarded Message -----

**From:** Linda Schutt <lindaschut@aol.com>  
**To:** Jeffrey & Ellen Bergeron <biffbreck@yahoo.com>  
**Sent:** Sun, June 27, 2010 1:21:11 PM  
**Subject:** Fwd: Pellet plant-

Jeffrey, can you comment on this? Why does this company want to operate in the resort town of Breckenridge over their Silver Plume location? I would think the noise and diesel exhaust of so many logging trucks arriving day after day - plus the noise of the operation itself - is surely not in the best interest of the adjacent residential neighborhoods. We're not golfers, but surely the Breckenridge Golf Course will also be within earshot of this noise on the holes adjacent to Hwy 9. In addition, such a continual and increased load of trucks on newly resurfaced Hwy 9 doesn't make sense either.

This seems a very inappropriate place for such an operation.

Linda

Submission recorded on: 7/14/2010 3:51:37 PM

Survey answers

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Select a Topic

Mayor and Town Council

Your Message here: Proposed pellet plant on Rt 9

I am a resident of Silver Shekel, and I object strongly to the possibility of erecting a pellet plant on the Blue River at the Alpine Rock location. The pellet plant in Kremling has been in the news as a failure. The noise and disruption to residents of Silver Shekel, the Highlands and users of the Breckenridge Golf Course is blatantly unsustainable.

Please deny this request for industry in this area. We are a residential and a tourist town!

Elizabeth Swett, 72 Fairview Blvd, Breckenridge, CO 80424 Your Email is required:

[nancyswett@comcast.net](mailto:nancyswett@comcast.net)





July 16, 2010  
Breckenridge Planning Commission.  
Breckenridge CO

Dear Members of the Breckenridge Town Council.

### **Proposal**

Environmental Energy Partners is proposing to bring to Breckenridge a small, moveable pellet mill that will turn beetle killed lodge pole pine into wood pellets. We need help from the Town of Breckenridge to provide a site for our mill. As a company, we are dedicated to providing collaborative solutions to ecological problems, while creating sustainable local jobs and a carbon neutral source of energy. The mill we are proposing will produce a sustainable, local bio-fuel equivalent to four million gallons of fuel oil per year. And because wood pellets are carbon neutral, together we will effectively reduce green house effects by almost one-hundred million pounds.

Locating a pellet mill in Breckenridge is good for the environment, good for the people of Breckenridge, and good for the Town. This pellet mill will provide 15-20 full time manufacturing jobs for local people. Because we will sell product directly to retail consumers, it will provide sales tax revenue for the Town. The Town will also earn revenue from the lease of the site to Environmental Energy Partners. We are proposing that the Town lease to us 5 acres of vacant property on the McCain site for a temporary mill site. Environmental Energy Partners will contribute \$100,000.00 to the town for the use of the vacant property while environmentally utilizing problematic beetle kill trees.

### **The Problem**

The Mountain Pine Beetle infestation is a significant ecological event, that is pointing out the dangers of global climate change. Years of drought have weakened trees in Colorado, and as the climate warms, the deep winter cold spells that previously kept the beetles in check have become increasingly rare. Virtually all of the mature lodge pole pine in Colorado are expected to die during the outbreak, which is spreading all across the west and into Canada. There is virtually nothing we can do to stop it.

Millions of acres of dead trees pose significant problems for mountain communities. The dead, dry timber in the forest poses a significant risk of devastating fires. Periodic small fires are part of the lodgepole pine ecosystem, and can contribute to forest health. However, large conflagrations of the type that are likely with millions of acres of dead timber can burn hot enough to destroy the soil, and make forest re-growth impossible.

But this ecological catastrophe also provides an opportunity. The beetle outbreak gives us the chance to change the way we produce and consume energy. We can change the way heat our homes, reduce the greenhouse gases we emit, and create local jobs which will improve our economy and strengthen our community, and help slow global warming. But these complicated changes will require more cooperation and collaboration from all parties to work.

### **The Solution**

Environmental Energy Partners is building a number of moveable mills throughout the area affected by beetle kill. Our first location in Silver Plume is beginning operations. We think Breckenridge could make a good second location for us because of its proximity to the trees and 1-70. It's also a community that can serve as an example to the world. People who travel to Breckenridge from all over the world can't help but notice the effects of the beetle outbreak. We can also show them how a community can help change their energy system from non-sustainable fossil fuels to sustainable, carbon neutral sources of energy. Wood pellets are the cleanest burning solid fuel available. The process of making the pellet removes almost all of the water, and densifies the material, so that wood pellets burn hotter and more cleanly than other solid fuels.



Our mills are designed to go to where the fiber is. We will locate a mill in one spot, and stay there as long as the supply of fiber remains strong. Once the residue of the beetle infestation has been cleaned up, we can move the mill to the next location, where the need to clean up is stronger. We anticipate being in Breckenridge for at least five years, and potentially as long as 15 years, depending on the supply of fiber from beetle kill clean up and fire mitigation work. We need about 5 acres of flat land, accessible to highways, and close to electric power.

The costs and risks associated with building pelleting operations are large. In order to bring all of the benefits, we have to collaborate with a number of parties to keep costs down. Loggers, truckers, state and federal forest service, and landowners all have to work together to make a project like this work.

### **The Proposal**

Working with staff members Peter Grosshuesch, Tom Daugherty, James Phelps, and Matt Thompson, Environmental Energy Partners has identified a 5 acre parcel on the McCain property. See attached site plan. We have negotiated the terms of the lease with the Town, and before we sign that lease, we need to clear the Planning Commission and make sure that the community's needs for this abandoned mine site are consistent with our needs for a cost effective site.

### **The Details.**

A number of questions usually come to mind about the impact of our operations on the local community. First we will be creating local jobs. We anticipate between 15-20 full time manufacturing jobs to be created. We think these jobs will benefit the local community. We will also be selling our wood pellets locally at retail, which will generate sales tax revenue for the Town. We plan to sell between 40% and 50% of our annual production at retail. Our retail sales will provide local residents with a reliable source of carbon neutral energy, locally manufactured. Our use of the beetle kill timber will make it easier to mitigate the danger of forest fires.

Most of the 5 acre site will be used to store logs. Most harvesting and transportation of logs will take place in the summer, but we will need to produce year round. At full capacity, the mill will produce 100 tons of pellets per day. That equates to about 5 semi truck loads per day of logs coming in, and 3-4 truck loads of pellets going out. Pellets are denser than wood, so we need fewer trucks going out. There will be more log trucks coming onto the site during the spring, summer and fall. The site needs to be five acres large in order to allow us to store 6 months' worth of logs on the site to provide enough material to last through the winter. The McCain site will work because of its close access to Highway 9, and because the truck traffic will not directly impact neighbors. Since the McCain site is already a sand and gravel mining operation, heavy equipment and trucks should be nothing new.

Manufacturing pellets is an industrial process that does create some noise. The biggest noise impact will come from our chipping operation. We will be turning whole trees into wood chips with a large chipper. The chipper will be able to produce an entire day's worth of chips in less than 4 hours. So the largest noise will be limited in time. There will also be some noise from our log loaders moving trees around the yard to prepare for chipping, and to unload trucks. These activities will be limited to daylight hours. The mill will operate 24 hours a day when it is running at full capacity. But all operations other than chipping take place within the tents.

Air quality is an important issue for Environmental Energy Partners, and we have changed the pelleting process to reduce our impacts on air quality. Most pellet mills dry their wood chips by burning wood chips to produce heat. Burning wet wood chips in order to dry wood chips causes releases smoke and particulates into the air. Our process is different. We use a mechanical system that produces heat through friction and compression. The only emission into the air is clean steam as the water evaporates out of the wood. There is also some dust created in the chipping operations, but since we are putting our chips into a chip tent, the affects will be minimized.

### **The Timeline**

We are very excited about the prospect of locating our second plant in Breckenridge. We truly hope we will have the opportunity to work with the Town to provide jobs, energy, fire mitigation, and help our global warming crisis. In order to get



our operations up and running, and logs on the site prior to winter, we need to site preparations as soon as possible. We hope the Planning Commission can approve our site plan as soon as possible. If we can provide any further information or help, please do not hesitate to contact us.

Sincerely yours,

Rosalie Bianco  
Founding Parnter/President  
[RosalieBianco@eepellets.com](mailto:RosalieBianco@eepellets.com)  
321-917-6976

Bill Nootenboom  
COO  
Bill @eepellets.com  
970-778-2884

## Planning Commission Staff Report

**Project Manager:** Chris Neubecker AICP

**Date:** July 7, 2010 (for the July 20, 2010 meeting)

**Subject:** Amazing Grace Change of Use (Class C Minor; PC# 2010025)

**Applicant:** Monique Merrill

**Proposal:** The applicant proposes to change the use of the property from retail use to a sit down food service establishment (snack bar/deli). No changes are proposed to the exterior of the building.

**Address:** 213 Lincoln Avenue

**Legal Description:** Lot 1, Block 11, Abbetts Addition

**Land Use District:** 17: Residential (Single family or duplex)

**Site Conditions:** The site is fully developed with an existing building (originally constructed as a restaurant or cottage) with outdoor seating and landscaping in the rear.

**Adjacent Uses:** North: Summit County Courthouse                      South: Laundromat  
East: St. John’s Episcopal Church                                      West: Exchange Building

**Density:** Existing: 915 square feet  
Proposed: 915 square feet

No change is proposed to the height, lot coverage, parking, snow stacking, setbacks, architecture or landscaping.

**Parking:** Existing: 2 in parking district  
Required: 4 spaces (1 per 4 persons capacity)  
Proposed to be added: 0 spaces

### **Item History**

This property was first constructed in approximately 1880. It is possible that the building was originally constructed as a restaurant, but it was converted to use as a cottage in about 1886. It was used as a residence until 1991, when Amazing Grace first opened on this site. Amazing Grace continued as a natural foods grocery on this site until just a few years ago, when its business model changed due to increasing competition from larger operations (such as City Market and Vitamin Cottage) selling natural and organic foods. More recently, the applicant began offering sandwiches and foods for on-site consumption. This year, the applicant also applied for a liquor license.

## Staff Comments

**Land Use (Policies 2/A & 2/R):** Residential uses are recommended in this Land Use District. The applicant proposes to change the existing commercial (retail) use to a snack bar / delicatessen use, with on-site food preparation and on-site food consumption. (The difference between a snack bar / delicatessen and a restaurant is the use of disposable plates for a snack bar / delicatessen, and the lower water tap fee.) Considering that this property has been used for almost 20 years for commercial uses without significant conflict, staff finds it appropriate to allow for this continued commercial use. The property is surrounded by other non-residential uses (such as the laundromat, church, and offices), and we find that the proposed use is in character with the uses immediately adjacent. We find no reason to assign any positive or negative points to this change of use.

**Site Plan/Parking:** No changes are proposed to the site plan. However, due to the change of use from retail to food service, 2 additional parking spaces would be required per Section 9-3-8: Off-Street Parking Requirement, of the Development Code. For restaurants and sit down food service businesses, parking is a function of the seating capacity of the business. In this case, with seating for 16 proposed, 4 spaces would be required. (Note: The existing business seats 24, but as part of this proposal, seating would be removed to allow seating for only 16.) No new parking is proposed, however.

There is space for adding parking at the rear of the building, but to do so would require removal of the outdoor seating area and landscaping (which received positive points when first installed). Furthermore, adding 2 parking spaces at the rear of the building would require the removal of 2 parking spaces from the French Street right-of-way, resulting in no increase in parking overall. (In fact, it would result in a loss of 2 parking spaces available to the general public, but an increase in parking available only to employees and guests of Amazing Grace.) For this reason, the applicant will be seeking a variance from the parking requirements from the Town Council. (Staff notes that because the Off Street Parking Regulations specifically state that Town Council may grant a variance, exception or waiver, this parking issue is not part of this change of use application. The approval of a variance from the parking regulations has been made a Condition of Approval for this permit, and will be heard by the Town Council at a later date.)

### *9-3-16: RELIEF PROCEDURES:*

*A. The Town Council may grant a variance, exception or waiver of condition from any requirement of this Chapter, upon written request by a developer or owner of property subject to this Chapter, following a public hearing, and only upon finding that: 1) a strict application of such requirement would, when regarded as a whole, result in confiscation of the property or 2) that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal or requirement. No variance, exception or waiver of condition shall have the effect of nullifying the intent and purpose of these regulations. The Town Council shall not approve a variance, exception or waiver of condition unless it makes findings based upon the evidence presented to it in each specific case that:*

- 1. The granting of the variance, exception or waiver of condition will not be detrimental to the public health, safety, or welfare or injurious to other property;*
- 2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;*

*3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and*

*4. The relief sought will not in any manner vary the provisions of the development code, town master plan or other town law, except that those documents may be amended in the manner prescribed by law.*

**Point Analysis (Section: 9-1-17-3):** Staff conducted an informal point analysis and found all the Absolute Policies of the Development Code to be met (except for Policy 18/A-Parking), and no reason to assign positive or negative points to this project under any Relative policies.

### **Staff Recommendation**

The Planning Department recommends approval of this Change of Use at Amazing Grace, 213 Lincoln Avenue (PC#2010025), and we recommend the Planning Commission uphold this decision.

**TOWN OF BRECKENRIDGE**

**Amazing Grace Change of Use  
Lot 1, Block 11, Abbetts Addition  
213 Lincoln Avenue  
PERMIT #2010025**

STAFF RECOMMENDATION: The staff has approved this application with the following Findings and Conditions, and recommends the Planning Commission uphold this decision.

**FINDINGS**

1. The proposed project is in accord with the Development Code and does not propose any prohibited use.
2. The project will not have a significant adverse environmental impact or demonstrative negative aesthetic effect.
3. All feasible measures mitigating adverse environmental impacts have been included, and there are no economically feasible alternatives which would have less adverse environmental impact.
4. This approval is based on the staff report dated July 7, 2010 and findings made by the Planning Commission on July 20, 2010 with respect to the project. Your project was approved based on the proposed design of the project and your acceptance of these terms and conditions imposed.
5. The terms of approval include any representations made by you or your representatives in any writing or plans submitted to the Town of Breckenridge, and at the hearing on the project held on July 20, 2010 as to the nature of the project. In addition to Commission minutes, the meetings of the Commission are tape recorded.

**CONDITIONS**

1. This permit does not become effective, and the project may not be commenced, unless and until the applicant accepts the preceding findings and following conditions in writing and transmits the acceptance to the Town of Breckenridge.
2. If the terms and conditions of the approval are violated, the Town, in addition to criminal and civil judicial proceedings, may, if appropriate, issue a stop order requiring the cessation of work, revoke this permit, require removal of any improvements made in reliance upon this permit with costs to constitute a lien on the property and/or restoration of the property.
3. Sewer and water assessments shall be reviewed and updated prior to change of use.
4. For the purposes of this change of use, the property shall be classified as a “snack bar / delicatessen” use. As such, all food and drink served on the property shall be served on disposable or compostable plates and cups. No dishes that must be washed shall be used by guests on the premises.
5. Prior to this permit becoming effective, the Applicant shall obtain approval from the Town Council of a variance, exception or waiver of the Off Street Parking Regulations for the additional two (2) parking spaces for the new use.
6. Applicant shall revise the interior seating of the business in a manner that allows for no more than sixteen (16) seats for guests.