



BRECKENRIDGE TOWN COUNCIL WORK SESSION
Tuesday, March 8, 2011; 3:00 p.m.
Town Hall Auditorium

ESTIMATED TIMES: *The times indicated are intended only as a guide. They are at the discretion of the Mayor, depending on the length of the discussion, and are subject to change.*

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| 3:00 – 3:15 p.m. | I | <u>PLANNING COMMISSION DECISIONS</u> | 2 |
| 3:15 – 3:45 p.m. | II | <u>LEGISLATIVE REVIEW*</u> | |
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| | | Open House Signs Reauthorization | 141 |
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| | | Grand Lodge Water PIF Deferral Agreement | 147 |
| 3:45 – 4:30 p.m. | III | <u>MANAGERS REPORT</u> | |
| | | Ski Area Update | Verbal |
| | | Public Projects Update | Verbal |
| | | Housing/Childcare Update | Verbal |
| | | Committee Reports | 9 |
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| 4:30 – 5:15 p.m. | IV | <u>OTHER</u> | |
| | | Draft Nordic Building Agreement | 18 |
| | | Power Purchase Agreement (PPA) Golf Club House/Riverwalk Center Placement | 39 |
| 5:15 – 6:15 p.m. | V | <u>PLANNING MATTERS</u> | |
| | | Breckenridge Heritage Alliance (BHA) 2010 Report | 41 |
| | | Joint Upper Blue Master Plan (JUBMP) Update | 48 |
| | | Fence Policy | 92 |
| 6:15 – 7:15 p.m. | VI | <u>EXECUTIVE SESSION</u> | |
| | | Acquisition | |
| | | *ACTION ITEMS THAT APPEAR ON THE EVENING AGENDA | 98 |

NOTE: Public hearings are not held during Town Council Work Sessions. The public is invited to attend the Work Session and listen to the Council's discussion. However, the Council is not required to take public comments during Work Sessions. At the discretion of the Council, public comment may be allowed if time permits and, if allowed, public comment may be limited. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item. The public will be excluded from any portion of the Work Session during which an Executive Session is held.

Report of Town Manager; Report of Mayor and Council members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items.

MEMORANDUM

To: Town Council

From: Peter Grosshuesch

Date: March 2, 2011

Re: Town Council Consent Calendar from the Planning Commission Decisions of the March 1, 2011, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF March 1, 2011:

CLASS C APPLICATIONS:

1. Hester Residence (MGT) PC#2011004, 432 Golden Age Drive
Construction of new single family residence with 4 bedrooms, 1 office, 4.5 bathrooms, 4,809 sq. ft. of density and 7,143 sq. ft. of mass for a F.A.R. of 1:17.80. Approved.

PLANNING COMMISSION MEETING

The meeting was called to order at 7:02 p.m.

ROLL CALL

| | | |
|---------------------------|------------------|-----------------|
| Trip Butler | Kate Christopher | Gretchen Dudney |
| Rodney Allen | Dan Schroder | Jack Wolfe |
| Dave Pringle | | |
| Mark Burke (Town Council) | | |

APPROVAL OF MINUTES

Ms. Dudney (page 2 of the minutes): Please change “insurance companies may be an concern” to “insurance companies red-lining zip codes and not providing fire insurance based solely on zip code (brought up by Captain Kim Scott) may be a concern”.

Mr. Burke (page 3 of the minutes) under Town Council Report: Please change “There was a moratorium” to “There was a first reading that initiated a moratorium”.

Mr. Burke (page 3 of the minutes) under Town Council Report: I need correction from Mr. Wolfe; it sounds like Mr. Wolfe is against fiber cement siding by allowing non-grain fiber cement. Did he say Council reduced the standards by allowing non-grain? Please change “fiber cement siding” to “fiber cement siding without wood grain”.

Mr. Schroder (page 6 of the minutes): Please change my initial final comments to read “I disagree that the link as presented meets the absolute. The link may not meet the absolute regardless of its abutment to the Gold Pan.” Also separate the comment about ice into its’ own sentence: “I have concern with the problems with ice.”

With the noted changes, the February 15, 2011, Planning Commission meeting minutes were approved unanimously (7-0).

APPROVAL OF AGENDA

With no changes, the Agenda for the March 1, 2011 Planning Commission meeting was approved unanimously (7-0).

CONSENT CALENDAR:

1. Hester Residence (MGT) PC#2011004, 432 Golden Age Drive

With no requests for call up, the Consent Calendar was approved as presented.

WORKSESSIONS:

1. Fence Policy (CN)

Mr. Neubecker presented. The Town Council expressed concern with the current Development Code policy on Fences, Privacy Gates and Gateway Entrance Monuments, (based on concerns at the Shock Hill Lodge project) and directed the Staff to modify the policy. The concern included the required fence material for swimming pools and hot tubs, plus the use of archways over driveways. Staff proposes several changes to this policy, including removing the language about chain link fencing near pools and other outdoor recreation areas. Staff has also taken this opportunity to propose other revisions they believe are warranted, and based on input from the Planning Commission on January 18, 2011. Following is a summary of some of the proposed changes to the fence policy:

- Fences at swimming pools and spas could be constructed of steel, aluminum or wood. Chain link fencing would be prohibited in these areas.
- Chain link fencing would still be allowed at ball fields and tennis courts.
- Fencing would be allowed at parking lots to protect pedestrians and designate drive aisles. (For example: The split rail fence in the South Gondola Lot, near the skier drop-off.)
- Where fences are required by law, the Planning Commission may approve a fence that does not meet the Handbook of Design Standards for the Historic and Conservation District.
- Privacy fences around hot tubs within fifty (50) feet of a right-of-way would be allowed. (They are currently prohibited).

- Fencing would be allowed around utility equipment.
- Fences around self-storage warehouses would also be allowed, up to six (6) feet tall.

There was also a question about the height of various subdivision entry monuments in town. The entry monument at the Corkscrew Subdivision is nine (9) feet tall. The Sunbeam Estates entry monument is 6’-6” tall. Staff presented a draft of the revisions proposed. Staff believes that with these changes this policy is ready to go to the Town Council for their review. Staff welcomed input from the Commission on the direction for this policy, and if any changes are needed.

Commissioner Questions / Comments:

- Ms. Dudley: Why does the Town need to distinguish in the code if someone can’t tell the difference from plastic or wood? (Mr. Neubecker: Materials and details in the Conservation District are more important. I would rather not see replacement materials where people can walk up to and touch a fence, where it’s pedestrian character.) I don’t know if these issues are not already addressed. Don’t like to see paneled Plexiglas fences as they don’t look good for very long.
- Mr. Schroder: Mr. Pringle, are you suggesting a specific type of plastic fencing? We don’t want our Town to look plastic. Would the rear deck railing at Bubba Gumps Plexiglas fence be allowed? (Mr. Neubecker: It’s not really a fence; it’s a deck railing.) On item 9, are you referencing the total length or each side of a hot tub privacy wall? (Mr. Neubecker: The entire length.)
- Ms. Christopher: Perhaps address the fences that unduly contrast with the background? (Mr. Neubecker: This is already in the policy.)
- Mr. Wolfe: Mr. Pringle, are you differentiating between inside the Historic District and outside the District? There is a certain amount of authenticity to the Historic District we should preserve. We don’t want to ruin this. Section J (a) is a bit confusing. “One monument is allowed on either side of the road...” (Mr. Neubecker: We could change that to state “one monument is allowed on each side of the road...”)
- Mr. Pringle: There may be an issue depending on the use, the fence is specific. This can get a little fuzzy. Either prohibit material in any use or allow in any use. Maybe negative points would allow some flexibility. Are we familiar with all the fencing materials in the market today? Perhaps we could allow some plastic products if we review them carefully. (Mr. Neubecker: The Council wanted this policy to be an absolute. If we use language such as “discouraged” then we would need a Relative policy.) What about the orange plastic fencing at the ski area? (Mr. Neubecker: These are likely outside the Town limits...) If you add “prohibited” we may face problems later. (Mr. Neubecker: Perhaps for safety reasons, this type of fence may be allowed. We can add safety fences on ski runs.) Maybe we should be open to other materials. If we look at the design standards you can only have a 20’ x 20’ area for your kid or dog. Why so small? (Mr. Grosshuesch: The Council gave these directions to limit dog runs and fenced in areas.)
- Mr. Allen: It may be approached like the cementitious siding – address what it looks like not what it is made of. (Mr. Neubecker: The code allows some exceptions that may allow these suggestions to work. Perhaps we need to move it to another portion of the policy.) Does the Commission support adding a description that the product should look like wood? (The Commission generally concurred.) What about distinguishing from inside or outside the historic district? (Mr. Neubecker: The Conservation District is much more up close and detailed. This will be a concern.) If an application came in a residential area outside the Conservation District with a plastic fence would this work? (Mr. Neubecker: Yes, if indistinguishable from wood.) I have a question about swimming pool fencing – the Marriott has a Plexiglas fence around their pool. Is that allowed?
- Mr. Burke: This came about from the Shock Hill Lodge application? (Mr. Neubecker explained the background.) Technology and products will always be changing. Bottom line, I would rather not see PVC or plastic fences at all. Don’t put any exception in the policy. Safety and plastic are two different topics for materials. On page 23 – the first sentence bolded in section “B” – and item “3” seem to say the same thing.
- Mr. Grosshuesch: Wouldn’t a Plexiglas fence be more of a wind-screen? (Mr. Neubecker: Perhaps we can apply this detail to the policy.)

With minor changes proposed (Historic District concerns and safety fencing) by the Commission, the policy was approved as presented.

2. Air Quality Policy (CN)

Mr. Neubecker presented. The Town's current Development Code policy on air quality places limits the number of wood burning appliances based on land use type, as follows:

| | |
|----------------------------|---|
| Single Family Residential: | 1 per unit, with zero allowed in accessory apartments |
| Duplex and Townhouse: | 1 per unit provided that internal space (density) is at least 1,500 square feet |
| Multi-Unit Residential: | 1 per floor in common area or lobby; zero allowed in individual units |
| Restaurant or Bar: | 1 per restaurant or bar or restaurant/bar combined |

All new wood burning appliances in residential units are required to meet or exceed EPA Phase II emission standards. Also, gas-burning fireplaces and stoves are allowed. Wood burning cooking appliances are prohibited, except one wood burning cooking appliance is allowed in a restaurant or bar (and negative two (-2) points are assigned for wood burning cooking appliances in a restaurant/bar).

Staff proposes to change the policy on the installation of wood burning fireplaces and stoves to allow existing fireplaces and wood burning stoves to be replaced with new EPA Phase II appliances, even if a fireplace or wood stove would not be allowed for new construction. Staff believes that allowing old, inefficient fireplaces and stoves to be replaced with cleaner burning EPA Phase II fireplaces and stoves will encourage owners of older appliances to upgrade. Otherwise, many of these old wood burning appliances will remain. Owners can already change to gas burning inserts, but in many cases gas is not available in the building, and it is unlikely that owners will voluntarily remove their wood burning fireplace.

Staff will also research wood burning cooking appliances (such as pizza ovens) to see if they have improved since this policy was first adopted, and make recommendations if any changes are warranted to the current policy.

Commissioner Questions / Comments:

- Ms. Dudney: It will hard to get a 'black and white' answer. But we should still study these issues. Perhaps new products can save people money.
- Ms. Christopher: Responding to Mr. Burke's comment about wood burning and gas environmental impacts, we are micro managing this – it's hard to define. We need further study for the impacts. I can check with some fellow graduate students and maybe get some research. Having a wood pile at a multi-family project would become an issue too.
- Mr. Pringle: The smoke and the air are issues to the neighbors too.
- Mr. Allen: Has the Council requested this change? (Mr. Neubecker: No comment from the Council. Initial direction came from my research to change out my old wood-burning fireplace in my condominium to a new EPA phase 2. The code does not allow this today.) (Commission supports the concept.) We need more detail on the overall impacts of each option. (Mr. Neubecker: Air quality was the initial issue when the code was originally written.) The Commission supported allowing a retro-fit to EPA Phase 2 for applicants in multi-family buildings. Planning Commission supports going forward with the proposed changes as presented.
- Mr. Burke: When I read this I questioned whether a gas fireplace is truly better for the environment. Gas fireplaces may be just as bad. I run my two fireplaces all the time. If it were wood burning, wouldn't go as long. Why are negative points assigned for a wood burning appliance in a restaurant? (Mr. Neubecker: The code was written long ago to address air quality, not as a sustainability issue. Wood pizza ovens in restaurants would run all day, every day.)
- Mr. Truckey: We have no plans to research this pizza oven issue immediately.

TOWN COUNCIL REPORT:

- Mr. Burke: Columbia Lode Development Agreement has been processed. Moratorium on vendor carts was approved. New rules about Pedi-cabs adopted. We discussed Marijuana Dispensary issues about

a business moving but not having to shut down as a result of the Moratorium. Some did not want any dispensary business on Main Street, due to concerns about smell and traffic. BOEC bill to sell property.

FINAL HEARINGS:

1. Columbia Lode Master Plan (MM) PC#2010017, 400 North Main Street (*Continued to a future meeting.*) Mr. Allen mentioned that this item will not be discussed tonight, but would be heard at a later date. He noted that there was no one from the general public in the audience for this item.

OTHER MATTERS:

1. Public Process Plan for Transition Standards Adoption (MM)
Mr. Mosher presented. Over the past year, Planning Staff presented detailed individual reviews of the un-adopted “Handbook of Design Standards for the Transition Areas of the Conservation District”. The goal is to formally adopt these standards in the coming months.

Similar to the adopted “Handbook of Design Standards for the Historic and Conservation Districts”, there are seven separate Character Areas or “Transitions Areas”. These are:

- #8 - River Park Corridor Transition Area
- #9 - North Main Transition Area
- #10 - Briar Rose Transition Area
- #11 - North End Residential Transition Area
- #12 - East Side Residential Transition Area
- #13 - South End Residential Transition Area
- #14 - South Main Transition Area

- Staff has already completed the detailed reviews of the Introduction / Overview portion and each Character / Transition Area.
- For the next step, Staff proposes to re-assemble the complete handbook with the modifications and corrections. Staff will also generate an overall summary of the most notable changes that occurred during the review process of the last year. This will then be presented to the Commission during a worksession for review.
- Next, Staff will begin the public process. The public will be notified via individual letters to all property owners within all of the Transition Areas, an advertisement in the local newspapers, and a posting on the Town’s website. Staff also recommends an “Open House” for an opportunity for the public to meet with Staff to review the Transition Standards and the possible impacts to the properties within the boundary. Staff will have maps of each Transition Area and the associated design criteria to share with concerned property owners.
- Comments will be taken from the open house, letters, and emails.
- Any substantial changes or concerns will be presented to the Planning Commission.
- Staff will then begin the formal process of adoption of the “Handbook of Design Standards for the Transition Areas of the Conservation District with the Town Council.

Staff welcomed any additional comments.

Commissioner Questions / Comments:

Mr. Schroder: Do you expect that we would review it in one night before going to Council? (Mr. Mosher: Yes. We would review with Planning Commission, then the public, before going to Council.)

2. Ordinance Updates (CN) (Memo Only)

Mr. Neubecker presented a memo outlining several Town Ordinances currently being updated that may be of interest to the Planning Commission, including:

- Medical Marijuana Dispensary Change of Location
- Vendor Carts
- Fiber Cement Siding
- Basement Density under Historic Commercial Buildings

Commissioner Questions / Comments:

Mr. Wolfe: Under the historic building, if the property currently has unused density, would they have to use this first? If so, what would be the incentive? (Mr. Neubecker: Most are built-out, so the incentive is there. But no, they would not need to use up existing unused density.)

3. Annexation Updates (CN)

Mr. Neubecker presented. Staff has been working on a variety of annexations over the past few months. No action is required by the Planning Commission. Annexations in the works or recently approved include 0112 Beaver Drive, Xcel Substation on Wellington Road, Woods Manor and Allaire Timbers, Ski Hill Road / County Road 3, and the MBJ Property near Peak 7 base.

Commissioner Questions / Comments:

Mr. Pringle: Are most of these annexations driven by Town or applicants? (Mr. Neubecker: Most by the Town.) Is there opposition? (Mr. Neubecker and Mr. Grosshuesch: There are a couple of properties not agreeing with the Town. Allaire Timbers is one, but most have no opposition. We follow a public process.)

4. Planning Commission Field Trip (CN)

Mr. Neubecker presented. Staff would like the Commission to start to think about topics for a Planning Commission field trip. Each year, the Planning Commission and Staff take a trip to another community to see how they handle similar issues that Breckenridge faces. In the past, these trips have focused on ski area base development, historic preservation, affordable housing, sustainable development, redevelopment, and streetscapes. Any trip will need to remain within driving distance for budget reasons. This could include site visits to Denver and the Front Range, or other mountain/ski communities. The trip has traditionally taken place in September or October of each year.

Commissioner Questions / Comments:

Ms. Dudney: Maybe re-visit Vail to re-assess the issues. Affordability for loans is going to become an issue if Freddie Mac and Fannie Mae go away.

Ms. Christopher: After visiting Vail, we spoke of going to Aspen. They have had issues losing historic properties. Durango has similar Historic Standards and a new base area development.

Mr. Wolfe: Let's address our current burning issues like non-natural materials, the current market, staff sizes, etc.

Mr. Allen: How about the changing real estate market? Larger developments are becoming obsolete in today's market. How are other communities adopting to this? Telluride is possible for ski area development issues.

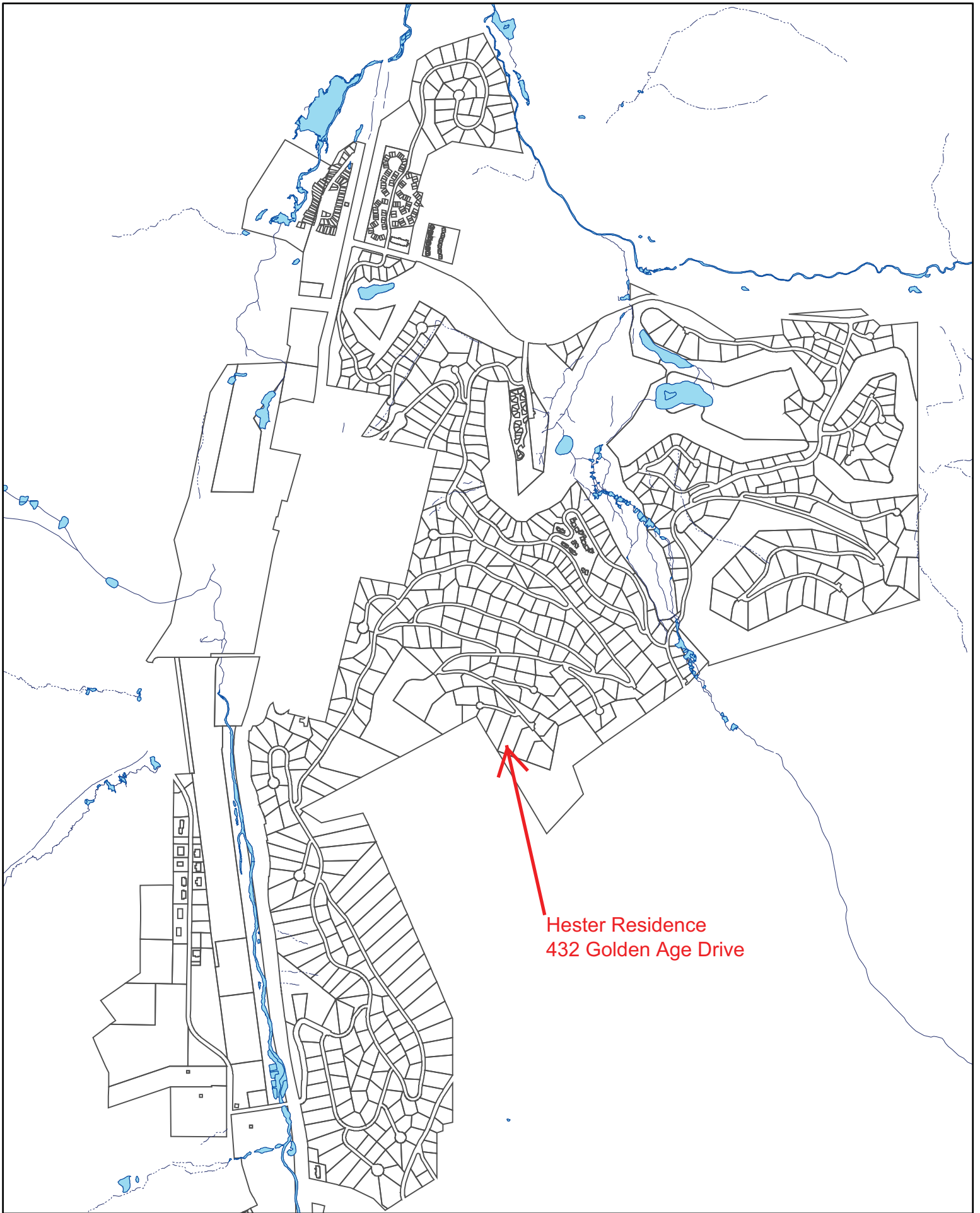
Mr. Burke: I would like to see Santa Fe included in this review. Let find someone someplace better than we are. (Mr. Grosshuesch: Most do not do as well as we do.) Arts are becoming bigger and bigger draws year round. (Mr. Neubecker: The state planning conference is in Santa Fe this year. It's a "four corners" conference that they do once every 5 years or so. Sometimes the bad things we see in other towns inspires us to address issues before they are a problem here in Breckenridge.)

Mr. Grosshuesch: Sustainable issues, housing; shop around for Towns that have the same issues.

ADJOURNMENT:

The meeting was adjourned at 8:55 pm.

Rodney Allen, Chair



MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: March 2, 2011
SUBJECT: Committee Reports for 3.8.11 Council Packet

The following committee reports were submitted by Town Employees and/or the Town Manager:

| | | |
|------------------------------|------------------|----------------------|
| Public Art Commission | Jenn Cram | February 2011 |
|------------------------------|------------------|----------------------|

Breckenridge Theatre Gallery

The Commission has accepted 9 artists as well as students from Summit High School and CMC to exhibit at the Breckenridge Theatre Gallery in 2011. Artists will be grouped together based on the style of their work and to provide a mixture of 2D and 3D artwork for each show. Artist receptions will continue on the Second Saturday of each month from 4 to 6 pm.

Sculpture on the Blue

The Commission plans to extend the length of the outdoor sculpture exhibition to install in late May and remove in mid February. The Commission would like to increase the travel stipend by \$100 to better compete with other communities that have rotating outdoor sculpture exhibitions. Jennifer will research what other communities are doing before making a final decision. A "Call to Sculptors" will go out soon.

Community Arts Update

The Tin Shop Gala and Art Auction was a huge success. The art auction featured the 2010 Tin Shop artist collection along with donated artwork from local and regional artists. Local restaurants including Briar Rose, Ember, Fatty's, Hearthstone, Mi Casa and Modis all donated wonderful appetizers for the event. The Fuqua Livery Stable was packed with art enthusiasts and the event raised \$2,693 for the Tin Shop and Arts District programs.

The Tin Shop hosted Todd Powell from Frisco, CO in February. Todd is a professional photographer that experimented with solar plate printmaking during his visit. Todd filled in for guest artist John Orth from Minneapolis, MN as he had to leave early due to a family emergency. Having Todd fill in kept the lights on and activities going at the Tin Shop. Ann Murphy from Brooklyn, NY will be at the Tin Shop March 3rd through April 9th. Ann is a mixed media artist that focuses on drawing and sculpture.

The Robert Whyte House is currently hosting two new resident artists. Ned Walley and Erica Morgan moved in beginning of February. Both Ned and Erica will have open studio hours and will participate in Second Saturdays. The rental income from their residency will help to generate revenues for sustaining Arts District programs.

BAD bags are printed and selling like hot cakes! The reusable canvas bags designed by Stephanie Sadler help promote the Breckenridge Arts District and are green too. Each bag sells for \$15 and all profits go to help the Arts District.

| <u>Committees</u> | <u>Representative</u> | <u>Report Status</u> |
|------------------------------------|-----------------------|----------------------|
| CAST | Mayor Warner | Verbal Report |
| CDOT | Tim Gagen | Verbal |
| CML | Tim Gagen | No Meeting/Report |
| I-70 Coalition | Tim Gagen | No Meeting/Report |
| Mayors, Managers & Commissions Mtg | Mayor Warner | Verbal Report |
| Summit Leadership Forum | Tim Gagen | No Meeting/Report |
| Liquor Licensing Authority* | MJ Loufek | No Meeting/Report |
| Wildfire Council | Matt Thompson | No Meeting/Report |
| Public Art Commission* | Jenn Cram | Included |
| Summit Stage Advisory Board* | James Phelps | No Meeting/Report |
| Police Advisory Committee | Rick Holman | No Meeting/Report |
| Housing/Childcare Committee | Laurie Best | Verbal Report |

Note: Reports by provided by the Mayor and Council Members are listed in the council agenda.

* Minutes to some meetings are provided in the Manager's Newsletter.

**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

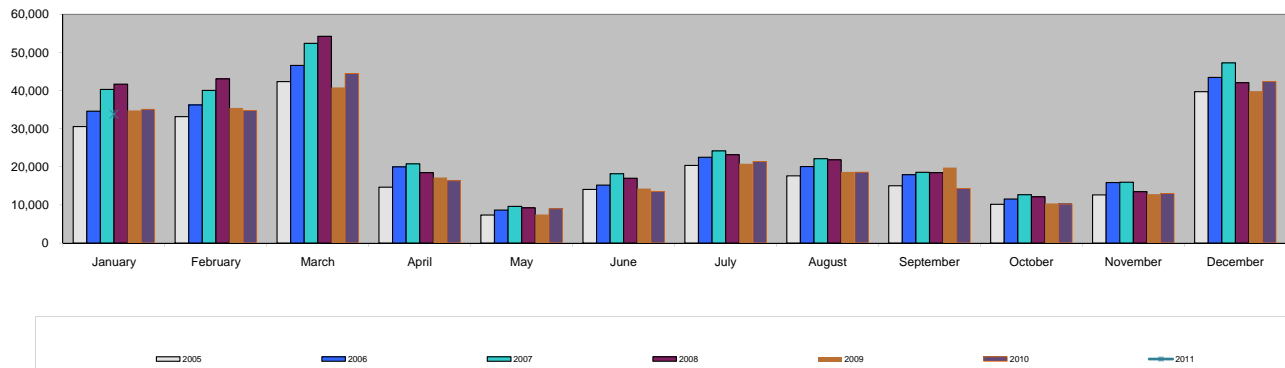
(in Thousands of Dollars)

Total - All Categories*

* excluding Undefined and Utilities categories

| | Actual 2005 | YTD 2005 | Actual 2006 | YTD 2006 | Actual 2007 | YTD 2007 | Actual 2008 | YTD 2008 | Actual 2009 | YTD 2009 | Actual 2010 | YTD 2010 | Actual 2011 | YTD 2011 | Monthly 10-11 | YTD % Change 10-11 |
|---------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|----------------|-------------|------------------|--------------------------|
| January | 30,549 | 30,549 | 34,589 | 34,589 | 40,283 | 40,283 | 41,665 | 41,665 | 34,783 | 34,783 | 35,105 | 35,105 | 33,804 | 33,804 | -3.7% | -3.7% |
| February | 33,171 | 63,720 | 36,236 | 70,825 | 40,034 | 80,317 | 43,052 | 84,717 | 35,453 | 70,236 | 34,791 | 69,896 | 0 | 33,804 | n/a | n/a |
| March | 42,370 | 106,090 | 46,603 | 117,428 | 52,390 | 132,707 | 54,237 | 138,954 | 40,810 | 111,046 | 44,485 | 114,381 | 0 | 33,804 | n/a | n/a |
| April | 14,635 | 120,725 | 19,963 | 137,391 | 20,758 | 153,465 | 18,483 | 157,437 | 17,171 | 128,217 | 16,346 | 130,727 | 0 | 33,804 | n/a | n/a |
| May | 7,355 | 128,080 | 8,661 | 146,052 | 9,629 | 163,094 | 9,251 | 166,688 | 7,475 | 135,692 | 8,999 | 139,726 | 0 | 33,804 | n/a | n/a |
| June | 14,043 | 142,123 | 15,209 | 161,261 | 18,166 | 181,260 | 16,988 | 183,676 | 14,286 | 149,978 | 13,557 | 153,283 | 0 | 33,804 | n/a | n/a |
| July | 20,366 | 162,489 | 22,498 | 183,759 | 24,168 | 205,428 | 23,160 | 206,836 | 20,788 | 170,766 | 21,346 | 174,629 | 0 | 33,804 | n/a | n/a |
| August | 17,625 | 180,114 | 20,071 | 203,830 | 22,125 | 227,553 | 21,845 | 228,681 | 18,656 | 189,422 | 18,603 | 193,232 | 0 | 33,804 | n/a | n/a |
| September | 15,020 | 195,134 | 17,912 | 221,742 | 18,560 | 246,113 | 18,481 | 247,162 | 19,806 | 209,228 | 14,320 | 207,552 | 0 | 33,804 | n/a | n/a |
| October | 10,170 | 205,304 | 11,544 | 233,286 | 12,687 | 258,800 | 12,120 | 259,282 | 10,410 | 219,638 | 10,226 | 217,778 | 0 | 33,804 | n/a | n/a |
| November | 12,647 | 217,951 | 15,877 | 249,163 | 15,943 | 274,743 | 13,483 | 272,765 | 12,809 | 232,447 | 12,985 | 230,763 | 0 | 33,804 | n/a | n/a |
| December | 39,687 | 257,638 | 43,431 | 292,594 | 47,258 | 322,001 | 42,076 | 314,841 | 39,859 | 272,306 | 42,343 | 273,106 | 0 | 33,804 | n/a | n/a |
| Totals | 257,638 | | 292,594 | | 322,001 | | 314,841 | | 272,306 | | 273,106 | | 33,804 | | | |

2011 Monthly Sales Tax Activity (in thousands of dollars)



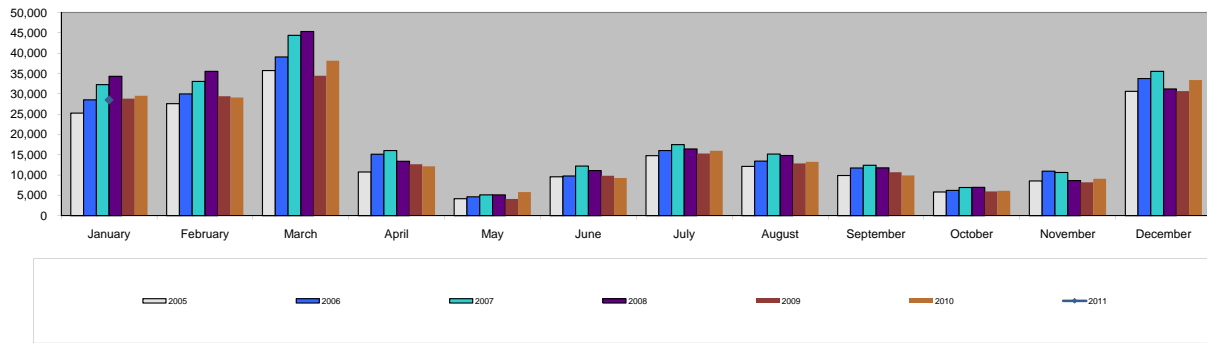
**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail-Restaurant-Lodging Summary

| | 2005 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Monthly 10-11 | YTD % Change 09-10 |
|---------------|----------------|---------|----------------|---------|----------------|---------|----------------|---------|----------------|---------|----------------|---------|---------------|--------|------------------|--------------------------|
| | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | | |
| January | 25,240 | 25,240 | 28,528 | 28,528 | 32,258 | 32,258 | 34,290 | 34,290 | 28,802 | 28,802 | 29,538 | 29,538 | 28,473 | 28,473 | -3.6% | -3.6% |
| February | 27,553 | 52,793 | 29,972 | 58,500 | 33,039 | 65,297 | 35,511 | 69,801 | 29,401 | 58,203 | 29,090 | 58,628 | 0 | 28,473 | n/a | n/a |
| March | 35,705 | 88,498 | 39,051 | 97,551 | 44,390 | 109,687 | 45,338 | 115,139 | 34,428 | 92,631 | 38,136 | 96,764 | 0 | 28,473 | n/a | n/a |
| April | 10,773 | 99,271 | 15,134 | 112,685 | 16,025 | 125,712 | 13,410 | 128,549 | 12,653 | 105,284 | 12,154 | 108,918 | 0 | 28,473 | n/a | n/a |
| May | 4,179 | 103,450 | 4,647 | 117,332 | 5,146 | 130,858 | 5,111 | 133,660 | 4,125 | 109,409 | 5,836 | 114,754 | 0 | 28,473 | n/a | n/a |
| June | 9,568 | 113,018 | 9,789 | 127,121 | 12,225 | 143,083 | 11,112 | 144,772 | 9,829 | 119,238 | 9,302 | 124,056 | 0 | 28,473 | n/a | n/a |
| July | 14,766 | 127,784 | 16,038 | 143,159 | 17,499 | 160,582 | 16,446 | 161,218 | 15,305 | 134,543 | 15,993 | 140,049 | 0 | 28,473 | n/a | n/a |
| August | 12,122 | 139,906 | 13,446 | 156,605 | 15,167 | 175,749 | 14,815 | 176,033 | 12,859 | 147,402 | 13,261 | 153,310 | 0 | 28,473 | n/a | n/a |
| September | 9,897 | 149,803 | 11,761 | 168,366 | 12,418 | 188,167 | 11,794 | 187,827 | 10,705 | 158,107 | 9,894 | 163,204 | 0 | 28,473 | n/a | n/a |
| October | 5,824 | 155,627 | 6,248 | 174,614 | 6,934 | 195,101 | 6,977 | 194,804 | 5,986 | 164,093 | 6,143 | 169,347 | 0 | 28,473 | n/a | n/a |
| November | 8,557 | 164,184 | 10,963 | 185,577 | 10,650 | 205,751 | 8,637 | 203,441 | 8,234 | 172,327 | 9,068 | 178,415 | 0 | 28,473 | n/a | n/a |
| December | 30,619 | 194,803 | 33,736 | 219,313 | 35,517 | 241,268 | 31,211 | 234,652 | 30,667 | 202,994 | 33,363 | 211,778 | 0 | 28,473 | n/a | n/a |
| Totals | 194,803 | | 219,313 | | 241,268 | | 234,652 | | 202,994 | | 211,778 | | 28,473 | | | |

2011 Monthly Sales Tax Activity (in thousands of dollars)



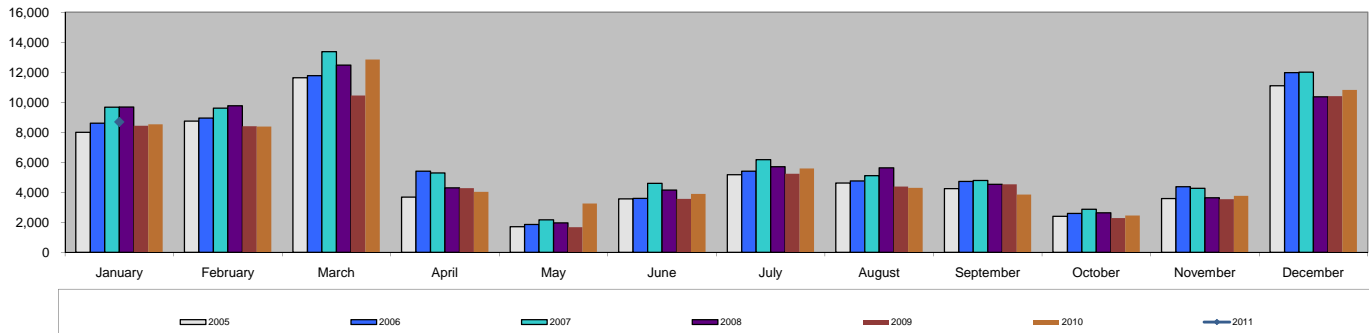
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail Sales

| | 2005 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Monthly 10-11 | YTD 09-10 |
|---------------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|--------------|-------|------------------|--------------|
| | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | | |
| January | 8,001 | 8,001 | 8,607 | 8,607 | 9,665 | 9,665 | 9,684 | 9,684 | 8,430 | 8,430 | 8,530 | 8,530 | 8,690 | 8,690 | 1.9% | 1.9% |
| February | 8,744 | 16,745 | 8,942 | 17,549 | 9,607 | 19,272 | 9,763 | 19,447 | 8,401 | 16,831 | 8,378 | 16,908 | 0 | 8,690 | n/a | n/a |
| March | 11,632 | 28,377 | 11,774 | 29,323 | 13,373 | 32,645 | 12,479 | 31,926 | 10,449 | 27,280 | 12,851 | 29,759 | 0 | 8,690 | n/a | n/a |
| April | 3,678 | 32,055 | 5,406 | 34,729 | 5,287 | 37,932 | 4,301 | 36,227 | 4,274 | 31,554 | 4,032 | 33,791 | 0 | 8,690 | n/a | n/a |
| May | 1,708 | 33,763 | 1,858 | 36,587 | 2,165 | 40,097 | 1,965 | 38,192 | 1,675 | 33,229 | 3,251 | 37,042 | 0 | 8,690 | n/a | n/a |
| June | 3,565 | 37,328 | 3,589 | 40,176 | 4,597 | 44,694 | 4,153 | 42,345 | 3,558 | 36,787 | 3,895 | 40,937 | 0 | 8,690 | n/a | n/a |
| July | 5,174 | 42,502 | 5,403 | 45,579 | 6,176 | 50,870 | 5,700 | 48,045 | 5,240 | 42,027 | 5,582 | 46,519 | 0 | 8,690 | n/a | n/a |
| August | 4,620 | 47,122 | 4,757 | 50,336 | 5,110 | 55,980 | 5,631 | 53,676 | 4,384 | 46,411 | 4,302 | 50,821 | 0 | 8,690 | n/a | n/a |
| September | 4,249 | 51,371 | 4,726 | 55,062 | 4,783 | 60,763 | 4,527 | 58,203 | 4,536 | 50,947 | 3,848 | 54,669 | 0 | 8,690 | n/a | n/a |
| October | 2,404 | 53,775 | 2,591 | 57,653 | 2,866 | 63,629 | 2,635 | 60,838 | 2,277 | 53,224 | 2,453 | 57,122 | 0 | 8,690 | n/a | n/a |
| November | 3,586 | 57,361 | 4,376 | 62,029 | 4,267 | 67,896 | 3,641 | 64,479 | 3,540 | 56,764 | 3,764 | 60,886 | 0 | 8,690 | n/a | n/a |
| December | 11,099 | 68,460 | 11,971 | 74,000 | 12,000 | 79,896 | 10,358 | 74,837 | 10,403 | 67,167 | 10,824 | 71,710 | 0 | 8,690 | n/a | n/a |
| Totals | 68,460 | | 74,000 | | 79,896 | | 74,837 | | 67,167 | | 71,710 | | 8,690 | | | |

2011 Monthly Sales Tax Activity (in thousands of dollars)



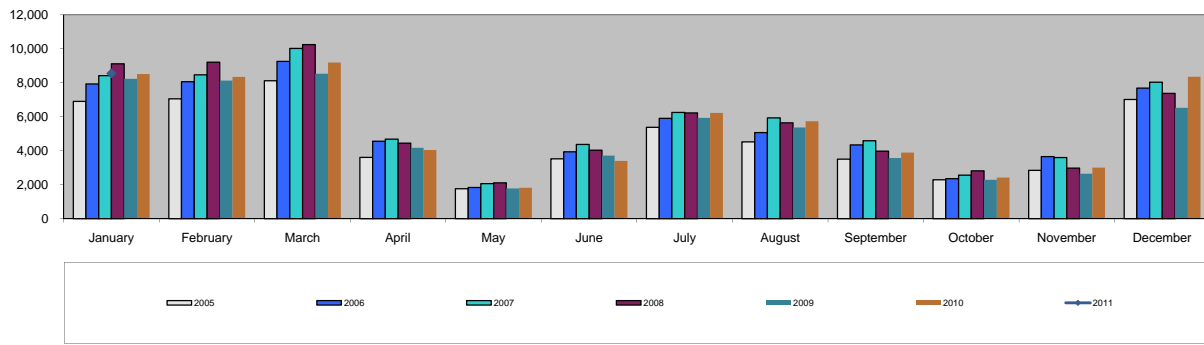
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Restaurants/Bars

| | 2005 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Monthly 10-11 | YTD 09-10 |
|---------------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|--------------|-------|------------------|--------------|
| | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | | |
| January | 6,897 | 6,897 | 7,924 | 7,924 | 8,414 | 8,414 | 9,117 | 9,117 | 8,231 | 8,231 | 8,515 | 8,515 | 8,545 | 8,545 | 0.4% | 0.4% |
| February | 7,047 | 13,944 | 8,058 | 15,982 | 8,467 | 16,881 | 9,208 | 18,325 | 8,129 | 16,360 | 8,343 | 16,858 | 0 | 8,545 | n/a | n/a |
| March | 8,117 | 22,061 | 9,256 | 25,238 | 10,015 | 26,896 | 10,240 | 28,565 | 8,527 | 24,887 | 9,186 | 26,044 | 0 | 8,545 | n/a | n/a |
| April | 3,609 | 25,670 | 4,552 | 29,790 | 4,678 | 31,574 | 4,440 | 33,005 | 4,173 | 29,060 | 4,042 | 30,086 | 0 | 8,545 | n/a | n/a |
| May | 1,760 | 27,430 | 1,832 | 31,622 | 2,058 | 33,632 | 2,107 | 35,112 | 1,783 | 30,843 | 1,812 | 31,898 | 0 | 8,545 | n/a | n/a |
| June | 3,525 | 30,955 | 3,938 | 35,560 | 4,370 | 38,002 | 4,030 | 39,142 | 3,712 | 34,555 | 3,397 | 35,295 | 0 | 8,545 | n/a | n/a |
| July | 5,375 | 36,330 | 5,905 | 41,465 | 6,249 | 44,251 | 6,218 | 45,360 | 5,931 | 40,486 | 6,222 | 41,517 | 0 | 8,545 | n/a | n/a |
| August | 4,521 | 40,851 | 5,067 | 46,532 | 5,933 | 50,184 | 5,639 | 50,999 | 5,365 | 45,851 | 5,729 | 47,246 | 0 | 8,545 | n/a | n/a |
| September | 3,498 | 44,349 | 4,340 | 50,872 | 4,585 | 54,769 | 3,971 | 54,970 | 3,565 | 49,416 | 3,883 | 51,129 | 0 | 8,545 | n/a | n/a |
| October | 2,290 | 46,639 | 2,352 | 53,224 | 2,564 | 57,333 | 2,818 | 57,788 | 2,285 | 51,701 | 2,420 | 53,549 | 0 | 8,545 | n/a | n/a |
| November | 2,841 | 49,480 | 3,651 | 56,875 | 3,593 | 60,926 | 2,972 | 60,760 | 2,649 | 54,350 | 3,006 | 56,555 | 0 | 8,545 | n/a | n/a |
| December | 7,017 | 56,497 | 7,681 | 64,556 | 8,028 | 68,954 | 7,371 | 68,131 | 6,524 | 60,874 | 8,351 | 64,906 | 0 | 8,545 | n/a | n/a |
| Totals | 56,497 | | 64,556 | | 68,954 | | 68,131 | | 60,874 | | 64,906 | | 8,545 | | | |

2011 Monthly Sales Tax Activity (in thousands of dollars)



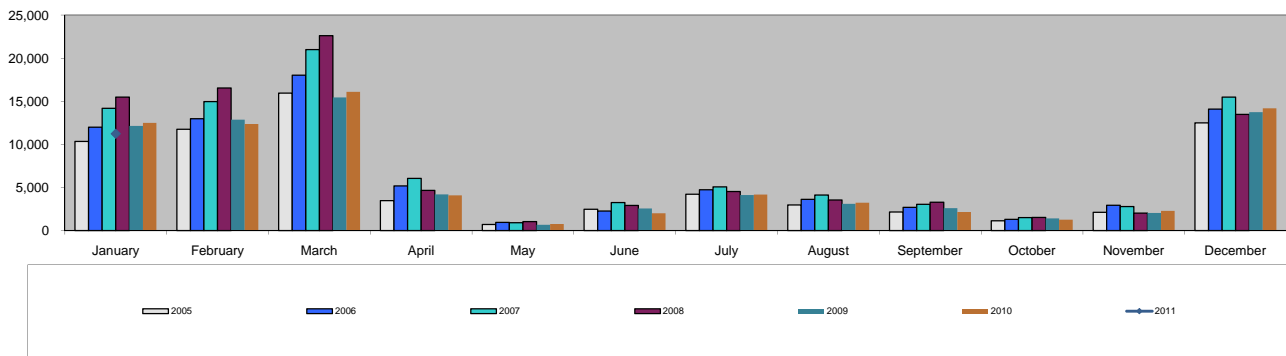
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Short-Term Lodging

| | 2005 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Monthly 10-11 | YTD 09-10 |
|---------------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|------------------|--------------|
| | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | | |
| January | 10,342 | 10,342 | 11,997 | 11,997 | 14,179 | 14,179 | 15,489 | 15,489 | 12,141 | 12,141 | 12,493 | 12,493 | 11,238 | 11,238 | -10.0% | -10.0% |
| February | 11,762 | 22,104 | 12,972 | 24,969 | 14,965 | 29,144 | 16,540 | 32,029 | 12,871 | 25,012 | 12,369 | 24,862 | 0 | 11,238 | n/a | n/a |
| March | 15,956 | 38,060 | 18,021 | 42,990 | 21,002 | 50,146 | 22,619 | 54,648 | 15,452 | 40,464 | 16,099 | 40,961 | 0 | 11,238 | n/a | n/a |
| April | 3,486 | 41,546 | 5,176 | 48,166 | 6,060 | 56,206 | 4,669 | 59,317 | 4,206 | 44,670 | 4,080 | 45,041 | 0 | 11,238 | n/a | n/a |
| May | 711 | 42,257 | 957 | 49,123 | 923 | 57,129 | 1,039 | 60,356 | 667 | 45,337 | 773 | 45,814 | 0 | 11,238 | n/a | n/a |
| June | 2,478 | 44,735 | 2,262 | 51,385 | 3,258 | 60,387 | 2,929 | 63,285 | 2,559 | 47,896 | 2,010 | 47,824 | 0 | 11,238 | n/a | n/a |
| July | 4,217 | 48,952 | 4,730 | 56,115 | 5,074 | 65,461 | 4,528 | 67,813 | 4,134 | 52,030 | 4,189 | 52,013 | 0 | 11,238 | n/a | n/a |
| August | 2,981 | 51,933 | 3,622 | 59,737 | 4,124 | 69,585 | 3,545 | 71,358 | 3,110 | 55,140 | 3,230 | 55,243 | 0 | 11,238 | n/a | n/a |
| September | 2,150 | 54,083 | 2,695 | 62,432 | 3,050 | 72,635 | 3,296 | 74,654 | 2,604 | 57,744 | 2,163 | 57,406 | 0 | 11,238 | n/a | n/a |
| October | 1,130 | 55,213 | 1,305 | 63,737 | 1,504 | 74,139 | 1,524 | 76,178 | 1,424 | 59,168 | 1,270 | 58,676 | 0 | 11,238 | n/a | n/a |
| November | 2,130 | 57,343 | 2,936 | 66,673 | 2,790 | 76,929 | 2,024 | 78,202 | 2,045 | 61,213 | 2,298 | 60,974 | 0 | 11,238 | n/a | n/a |
| December | 12,503 | 69,846 | 14,084 | 80,757 | 15,489 | 92,418 | 13,482 | 91,684 | 13,740 | 74,953 | 14,188 | 75,162 | 0 | 11,238 | n/a | n/a |
| Totals | 69,846 | | 80,757 | | 92,418 | | 91,684 | | 74,953 | | 75,162 | | 11,238 | | | |

2011 Monthly Sales Tax Activity (in thousands of dollars)



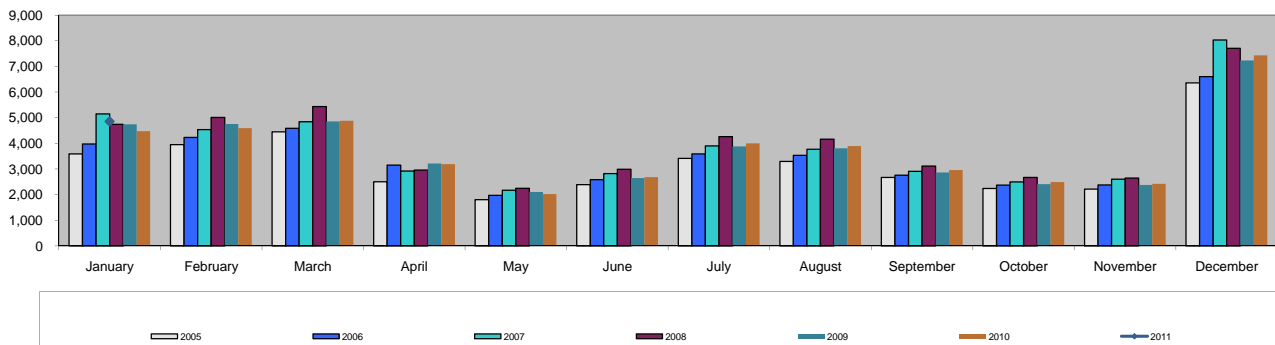
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Grocery/Liquor Stores

| | 2005 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Monthly 10-11 | YTD 09-10 |
|---------------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|--------------|-------|------------------|--------------|
| | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | | |
| January | 3,589 | 3,589 | 3,977 | 3,977 | 5,149 | 5,149 | 4,744 | 4,744 | 4,741 | 4,741 | 4,472 | 4,472 | 4,854 | 4,854 | 8.5% | 8.5% |
| February | 3,949 | 7,538 | 4,233 | 8,210 | 4,536 | 9,685 | 5,009 | 9,753 | 4,755 | 9,496 | 4,590 | 9,062 | 0 | 4,854 | n/a | n/a |
| March | 4,449 | 11,987 | 4,585 | 12,795 | 4,844 | 14,529 | 5,436 | 15,189 | 4,852 | 14,348 | 4,877 | 13,939 | 0 | 4,854 | n/a | n/a |
| April | 2,503 | 14,490 | 3,149 | 15,944 | 2,920 | 17,449 | 2,959 | 18,148 | 3,213 | 17,561 | 3,186 | 17,125 | 0 | 4,854 | n/a | n/a |
| May | 1,806 | 16,296 | 1,969 | 17,913 | 2,169 | 19,618 | 2,246 | 20,394 | 2,100 | 19,661 | 2,024 | 19,149 | 0 | 4,854 | n/a | n/a |
| June | 2,392 | 18,688 | 2,584 | 20,497 | 2,822 | 22,440 | 2,990 | 23,384 | 2,643 | 22,304 | 2,682 | 21,831 | 0 | 4,854 | n/a | n/a |
| July | 3,414 | 22,102 | 3,588 | 24,085 | 3,899 | 26,339 | 4,264 | 27,648 | 3,881 | 26,185 | 3,999 | 25,830 | 0 | 4,854 | n/a | n/a |
| August | 3,292 | 25,394 | 3,529 | 27,614 | 3,771 | 30,110 | 4,161 | 31,809 | 3,807 | 29,992 | 3,896 | 29,726 | 0 | 4,854 | n/a | n/a |
| September | 2,671 | 28,065 | 2,757 | 30,371 | 2,908 | 33,018 | 3,113 | 34,922 | 2,864 | 32,856 | 2,955 | 32,681 | 0 | 4,854 | n/a | n/a |
| October | 2,239 | 30,304 | 2,372 | 32,743 | 2,494 | 35,512 | 2,673 | 37,595 | 2,408 | 35,264 | 2,488 | 35,169 | 0 | 4,854 | n/a | n/a |
| November | 2,214 | 32,518 | 2,377 | 35,120 | 2,600 | 38,112 | 2,647 | 40,242 | 2,379 | 37,643 | 2,422 | 37,591 | 0 | 4,854 | n/a | n/a |
| December | 6,356 | 38,874 | 6,604 | 41,724 | 8,028 | 46,140 | 7,705 | 47,947 | 7,234 | 44,877 | 7,432 | 45,023 | 0 | 4,854 | n/a | n/a |
| Totals | 38,874 | | 41,724 | | 46,140 | | 47,947 | | 44,877 | | 45,023 | | 4,854 | | | |

2011 Monthly Sales Tax Activity (in thousands of dollars)



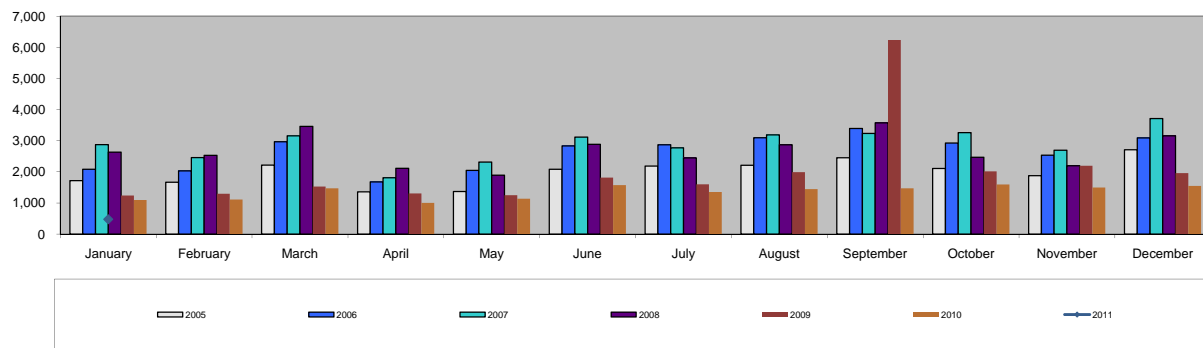
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

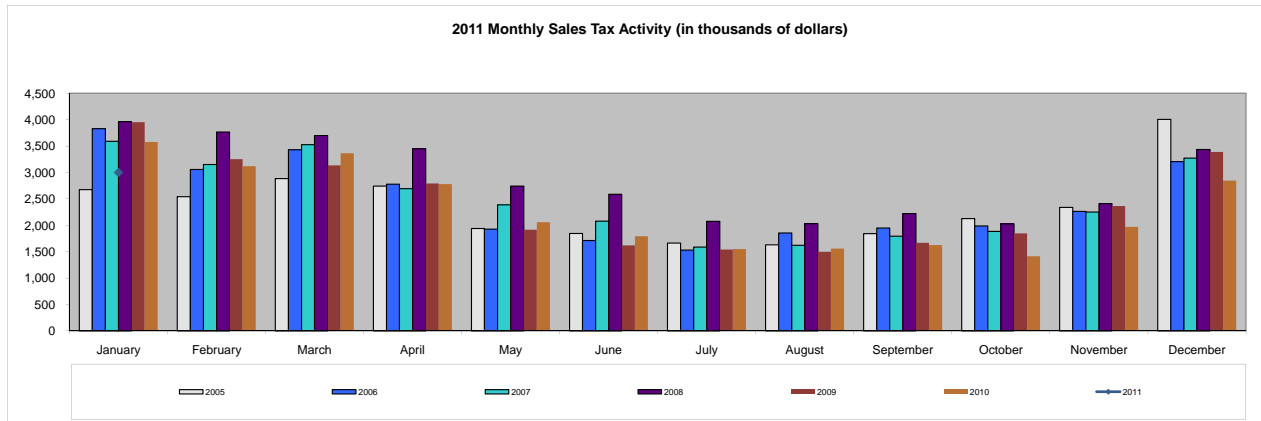
Supplies

| | 2005 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Monthly 10-11 | YTD 09-10 |
|---------------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|---------------|--------|------------|-----|------------------|--------------|
| | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | | |
| January | 1,720 | 1,720 | 2,084 | 2,084 | 2,876 | 2,876 | 2,631 | 2,631 | 1,240 | 1,240 | 1,095 | 1,095 | 477 | 477 | -56.4% | -56.4% |
| February | 1,669 | 3,389 | 2,031 | 4,115 | 2,459 | 5,335 | 2,532 | 5,163 | 1,297 | 2,537 | 1,111 | 2,206 | 0 | 477 | n/a | n/a |
| March | 2,216 | 5,605 | 2,967 | 7,082 | 3,156 | 8,491 | 3,463 | 8,626 | 1,530 | 4,067 | 1,472 | 3,678 | 0 | 477 | n/a | n/a |
| April | 1,359 | 6,964 | 1,680 | 8,762 | 1,813 | 10,304 | 2,114 | 10,740 | 1,305 | 5,372 | 1,006 | 4,684 | 0 | 477 | n/a | n/a |
| May | 1,370 | 8,334 | 2,045 | 10,807 | 2,314 | 12,618 | 1,894 | 12,634 | 1,250 | 6,622 | 1,139 | 5,823 | 0 | 477 | n/a | n/a |
| June | 2,083 | 10,417 | 2,836 | 13,643 | 3,119 | 15,737 | 2,886 | 15,520 | 1,814 | 8,436 | 1,573 | 7,396 | 0 | 477 | n/a | n/a |
| July | 2,186 | 12,603 | 2,872 | 16,515 | 2,770 | 18,507 | 2,450 | 17,970 | 1,602 | 10,038 | 1,354 | 8,750 | 0 | 477 | n/a | n/a |
| August | 2,211 | 14,814 | 3,096 | 19,611 | 3,187 | 21,694 | 2,869 | 20,839 | 1,990 | 12,028 | 1,446 | 10,196 | 0 | 477 | n/a | n/a |
| September | 2,452 | 17,266 | 3,394 | 23,005 | 3,234 | 24,928 | 3,574 | 24,413 | 6,237 | 18,265 | 1,471 | 11,667 | 0 | 477 | n/a | n/a |
| October | 2,107 | 19,373 | 2,924 | 25,929 | 3,259 | 28,187 | 2,470 | 26,883 | 2,016 | 20,281 | 1,595 | 13,262 | 0 | 477 | n/a | n/a |
| November | 1,876 | 21,249 | 2,537 | 28,466 | 2,693 | 30,880 | 2,199 | 29,082 | 2,196 | 22,477 | 1,495 | 14,757 | 0 | 477 | n/a | n/a |
| December | 2,712 | 23,961 | 3,091 | 31,557 | 3,713 | 34,593 | 3,160 | 32,242 | 1,958 | 24,435 | 1,548 | 16,305 | 0 | 477 | n/a | n/a |
| Totals | 23,961 | | 31,557 | | 34,593 | | 32,242 | | 24,435 | | 16,305 | | 477 | | | |

2011 Monthly Sales Tax Activity (in thousands of dollars)



| TOWN OF BRECKENRIDGE TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR | | | | | | | | | | | | | | | | |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------|------------------|--------------|
| (in Thousands of Dollars) | | | | | | | | | | | | | | | | |
| Utilities | | | | | | | | | | | | | | | | |
| | 2005 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | Monthly 10-11 | YTD 09-10 |
| | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | Actual | YTD | | |
| January | 2,675 | 2,675 | 3,829 | 3,829 | 3,591 | 3,591 | 3,961 | 3,961 | 3,950 | 3,950 | 3,577 | 3,577 | 2,999 | 2,999 | -16.2% | -16.2% |
| February | 2,540 | 5,215 | 3,056 | 6,885 | 3,149 | 6,740 | 3,765 | 7,726 | 3,253 | 7,203 | 3,118 | 6,695 | 0 | 2,999 | n/a | n/a |
| March | 2,883 | 8,098 | 3,428 | 10,313 | 3,525 | 10,265 | 3,699 | 11,425 | 3,134 | 10,337 | 3,365 | 10,060 | 0 | 2,999 | n/a | n/a |
| April | 2,741 | 10,839 | 2,778 | 13,091 | 2,694 | 12,959 | 3,448 | 14,873 | 2,792 | 13,129 | 2,779 | 12,839 | 0 | 2,999 | n/a | n/a |
| May | 1,939 | 12,778 | 1,926 | 15,017 | 2,386 | 15,345 | 2,742 | 17,615 | 1,917 | 15,046 | 2,057 | 14,896 | 0 | 2,999 | n/a | n/a |
| June | 1,846 | 14,624 | 1,713 | 16,730 | 2,078 | 17,423 | 2,588 | 20,203 | 1,620 | 16,666 | 1,793 | 16,689 | 0 | 2,999 | n/a | n/a |
| July | 1,663 | 16,287 | 1,529 | 18,259 | 1,588 | 19,011 | 2,075 | 22,278 | 1,539 | 18,205 | 1,548 | 18,237 | 0 | 2,999 | n/a | n/a |
| August | 1,629 | 17,916 | 1,854 | 20,113 | 1,621 | 20,632 | 2,031 | 24,309 | 1,497 | 19,702 | 1,558 | 19,795 | 0 | 2,999 | n/a | n/a |
| September | 1,843 | 19,759 | 1,949 | 22,062 | 1,792 | 22,424 | 2,219 | 26,528 | 1,667 | 21,369 | 1,625 | 21,420 | 0 | 2,999 | n/a | n/a |
| October | 2,127 | 21,886 | 1,987 | 24,049 | 1,883 | 24,307 | 2,026 | 28,554 | 1,845 | 23,214 | 1,412 | 22,832 | 0 | 2,999 | n/a | n/a |
| November | 2,340 | 24,226 | 2,264 | 26,313 | 2,251 | 26,558 | 2,411 | 30,965 | 2,364 | 25,578 | 1,972 | 24,804 | 0 | 2,999 | n/a | n/a |
| December | 4,005 | 28,231 | 3,206 | 29,519 | 3,271 | 29,829 | 3,435 | 34,400 | 3,389 | 28,967 | 2,845 | 27,649 | 0 | 2,999 | n/a | n/a |
| Totals | 28,231 | | 29,519 | | 29,829 | | 34,400 | | 28,967 | | 27,649 | | 2,999 | | | |



MEMORANDUM

To: Town Council
From: Tim Gagen, Town Manager
Date: March 1, 2011
Subject: Draft Nordic Building Agreement

Issue

The matter requested for Council review is consideration of the terms of a draft Nordic Building Agreement.

Background

The Town and the Breckenridge Nordic Center have a long-standing relationship in which the Nordic Center utilizes land the Town owns for its Nordic operation, including where the current Nordic Center buildings reside.

At some point in the future, these buildings will need to be removed to allow a platted road to be built. In anticipation of this day, the Town and the Nordic Center have been discussing an agreement whereby the Nordic Center owners would construct new replacement buildings on Town land, adjacent to the old buildings. In exchange for investing in the new buildings, the Town would provide financing for the construction of the buildings and a long-term lease of the Nordic operation.

To implement this arrangement, the Town has been working with the Nordic Center Operators to prepare an agreement. This agreement is in draft form and is being reviewed by the Nordic Center operators.

To ensure that the Town staff and Town Attorney have properly captured the terms of agreement that the Council has previously articulated, this draft is being presented to Council at the March 8th work session for discussion and comment.

In addition to the basic arrangement noted above, the agreement references the Town's responsibility to construct infrastructure to service the new buildings. Also included are terms of the construction loan and use of the new facility by the Town. In this agreement, conveyance of the facilities to the Town would occur either after the term of the agreement; or, if the operators choose to cease operation. Any related compensation, if due in this instance, is also addressed in this draft.

We look forward to any comments the Council may have regarding the draft, after which we hope to finalize the agreement with the Nordic Center Operators.

1 **AGREEMENT CONCERNING NEW BRECKENRIDGE NORDIC CENTER FACILITY**

2
3 This Agreement Concerning New Breckenridge Nordic Center Facility (the
4 “*Agreement*”) is dated _____, 2011 and is between the Town of
5 Breckenridge, a Colorado municipal corporation (the “*Town*”) and Breckenridge Nordic Center,
6 L.L.C., a Colorado limited liability company (“*BNC*”). The Town and BNC are sometimes
7 collectively referred to in this Agreement as “*the Parties*”, and individually as a “*Party*.”
8

9 **Background**

10
11 The Town owns Tract C, Christie Heights Subdivision Filing No. 2, County of Summit
12 and State of Colorado (“*Tract C*”), and various recreational trails located in the “Cucumber
13 Creek” nature preserve area near Tract C that are suitable for use as Nordic ski trails under
14 certain conditions (the “*Town Trails*”). The Town and BNC entered into that Nordic License
15 Agreement dated _____, 2008 (the “*License Agreement*”). By the License
16 Agreement the Town granted BNC a license to use Tract C and the Town Trails. BNC uses Tract
17 C and the Town Trails (as well as other property) to operate the “Breckenridge Nordic Center.”
18

19 As part of its operation of the Breckenridge Nordic Center BNC currently owns and
20 operates a facility located at ___ Ski Hill Road in the Town of Breckenridge, Summit County,
21 Colorado (the “*Existing Facility*”). The Existing Facility consists of approximately ___ square
22 feet, and is currently located on Tract D, Christie Heights Subdivision Filing No. 2, County of
23 Summit and State of Colorado (“*Tract D*”). BNC does not own Tract D, but the Existing Facility
24 is located on Tract D with the permission of the owner of Tract D.
25

26 The Existing Facility is no longer adequate to support the operation of the Breckenridge
27 Nordic Center. BNC would like to abandon the Existing Facility and to construct a new, larger
28 facility and a separate storage building that would be located on both Tract C and Tract D
29 (collectively, the “*New Facility*”).
30

31 The Town hopes to acquire Tract D in the near future, and the Town and BNC have come
32 to an agreement pursuant to which: (i) BNC will design and construct the New Facility on Tract
33 C and Tract D at its cost; (ii) the Town will design and construct certain infrastructure required
34 for the operation of the New Facility at its cost; (iii) the Town will finance a substantial portion
35 of the costs of BNC’s construction of the New Facility upon certain terms and conditions; (iv)
36 BNC will use the New Facility to continue to operate the Breckenridge Nordic Center upon
37 certain agreed terms and conditions; and (v) either Party may determine to cease use of the New
38 Facility as a Nordic skiing operation, in which event the Town will buy the New Facility from
39 BNC using an agreed methodology to value the New Facility, all as more fully set forth in this
40 Agreement.
41

42 **Agreement**

43
44 Now, Therefore, the Parties agree as follows:

45 **ARTICLE 1**

46 **PLANNING AND APPROVAL OF NEW FACILITY**

1 **BNC TO CONSTRUCT NEW FACILITY**

2
3 3.1 **BNC Will Construct New Facility.** When (and only when) BNC has obtained
4 the approvals required by Article 1, BNC will construct the New Facility at its sole cost. BNC
5 will construct the New Facility expeditiously and with due diligence. The New Facility may be
6 constructed in phases if approved by the Town in accordance with its discretionary approval
7 authority described in Section 1.3. BNC will not temporarily suspend construction of the New
8 Facility, or abandon construction of the New Facility, without Town’s prior written
9 authorization.

10 3.2 **Mechanic’s Liens.** BNC will not allow any mechanics' or similar liens to be filed
11 against Tract C, Tract D, or the Town Trails, or the New Facility, itself, arising from any work
12 done by BNC in connection with the construction of the New Facility., BNC will indemnify and
13 defend the Town with respect to any such lien, including any attorney's fees incurred by Town in
14 connection with any such lien. If any mechanics' or other liens are filed against Tract C, Tract D,
15 or the Town Trails, or the New Facility itself, by reason of labor performed or materials
16 furnished for the New Facility, BNC will at its sole cost cause the lien to be satisfied and
17 discharged of record within ten (10) days after the lien is filed with the Clerk and Recorder of
18 Summit County, Colorado.

19 3.3 **Town’s Waiver of Certain Fees.** In connection with the construction of the New
20 Facility the Town will waive all building permit and plan review fees normally charged by the
21 Town acting in its governmental capacity. All other fees and governmental charges normally
22 required for the construction of the New Facility will be paid by BNC.

23 3.4 **BNC’s Statement of Construction Costs.** BNC will determine the actual and
24 necessary costs incurred and paid by it to plan, design, and construct the New Facility. BNC will
25 provide the Town with a statement of such costs (the “*Statement of Construction Costs*”).
26 Unless the Town provides written objection to the Statement of Construction Costs within ten
27 (10) days of receipt, such statement will be conclusive; will become part of this Agreement; and
28 will be used the Parties in connection with the determination of the Town’s purchase price for
29 the New Facility as described in Article 8. If the Town provides timely written objection to the
30 Statement of Construction Costs, representatives of the Parties will meet and confer at a mutually
31 acceptable time and location, and, in good faith, agree upon the correct Statement of
32 Construction Costs. The agreed Statement of Construction Costs will then be conclusive; will
33 become part of this Agreement; and will used in connection with the determination of the
34 Town’s purchase price for the New Facility as described in Article 8.

35 3.5 **Removal of Old Facility.** Prior to the issuance of the certificate of occupancy for
36 the New Facility, BNC will completely tear down and remove the Existing Facility from Tract
37 D.

38

1 **ARTICLE 4**

2 **CONSTRUCTION OF INFRASTRUCTURE BY TOWN**

3
4 4.1 **Town To Construct Infrastructure.** When (and only when) BNC has obtained
5 the approvals required by Article 1, Town will install and construct at its cost the following
6 infrastructure that the Parties have determined is necessary for the operation of the New Facility:

7 (a) the parking area, including grading, paving and striping;

8 (b) the installation of all required utilities, including, but not limited to, water
9 and sewer sufficient to allow for connection to the public water and sewer systems; and

10 (c) landscaping of the parking area.

11 All infrastructure improvements constructed by the Town pursuant to this Article 4 are referred
12 to in this Agreement as the ***“Town’s Infrastructure Improvements.”***

13
14 4.2 **Infrastructure Construction Schedule.** The construction schedule for the
15 Town’s Infrastructure Improvements will be coordinated with BNC’s construction of the New
16 Facility, and will be agreed to by the Town and BNC. The Town will construct the Town’s
17 Infrastructure Improvements expeditiously and with due diligence.

18 4.3 **Statement of Infrastructure Costs.** The Town will determine the actual and
19 necessary costs incurred and paid by it to plan, design, install, and construct the Town’s
20 Infrastructure Improvements. The Town will provide BNC with a statement of such costs (the
21 ***“Statement of Infrastructure Costs”***). The Statement of Infrastructure Costs will include, but
22 will not be limited to, any new water or sewer plant investment fees for the New Facility. Unless
23 BNC provides written objection to the Town’s Statement of Infrastructure Costs within ten (10)
24 days of receipt, such statement will be conclusive; will become part of this Agreement; and will
25 be used the Parties in connection with the determination of the Town’s purchase price for the
26 New Facility as described in Article 8. If BNC provides timely written objection to the Town’s
27 Statement of Infrastructure Costs, representatives of the Parties will meet and confer at a
28 mutually acceptable time and location and, in good faith, agree upon the correct Statement of
29 Infrastructure Costs. The agreed Statement of Infrastructure Costs will then be conclusive; will
30 become part of this Agreement: and will used in connection with the determination of the
31 Town’s purchase price for the New Facility as described in Article 8.

32 **ARTICLE 5**

33 **TOWN’S CONSTRUCTION LOAN**

34
35 5.1 **“Loan Documents” Defined.** As used in this Article 5, the term “Loan
36 Documents” means this Agreement; the Promissory Note; and Deed of Trust/Security
37 Agreement described in this Article 5.

38 5.2 **Loan By Town.** In accordance with the terms of this Agreement, and the other
39 Loan Documents, the Town will provide BNC with a loan to be evidenced by BNC’s promissory

1 note (the “**Promissory Note**”) in an original principal amount equal to seventy five percent (75%)
2 of the estimated cost of planning, designing and constructing the New Facility (the “**Loan**”). The
3 estimated cost of planning, designing and constructing the New Facility will be based upon bona
4 fide construction estimates reasonably acceptable to the Town, or such other methodology as the
5 Parties may agree upon. BNC will execute the Promissory Note when requested to do so by the
6 Town. The loaned funds will be advanced by Town to BNC on such schedule and based upon
7 such information and documentation as the Parties may agree upon in the Promissory Note.

8 5.3 **Interest.** BNC will pay interest on the Loan at the rate of four percent (4.0%) per
9 annum. The default rate on the Loan, and on any advances made by the Town under the Loan
10 Documents, will be twelve percent (12%) per annum. Interest will be computed on the basis of a
11 year of 365 or 366 days, as applicable, and the actual number of days elapsed.

12 5.4 **Repayment of Loan.** The Loan will be repaid by BNC to Town in consecutive
13 equal monthly installments, each installment including principal and interest, commencing on
14 thirty (30) days after the issuance of the certificate of occupancy for the New Facility. Monthly
15 payments will be based on a straight thirty (30) year amortization of the Loan. If not sooner paid,
16 the entire unpaid balance of the Loan, both principal and interest, will be due and payable thirty
17 (30) years after the issuance of the certificate of occupancy for the New Facility. The Loan may
18 be prepaid, in whole or in part, at any time without penalty.

19 5.5 **Collateral.** The Loan will be secured by a first deed of trust/security interest in
20 the New Facility. BNC will execute the appropriate collateral loan documents when requested to
21 do so by the Town.

22 5.6 **Insecurity.** The Town may accelerate the Promissory Note if it ever reasonably
23 determines that it is insecure.

24 5.7 **Set-Off.** The Town may use the right of set-off to collect the Loan.

25 5.8 **Condition Precedent to Town’s Obligation to Fund Loan.** Town will not be
26 obligated to fund the Loan until BNC has deposited into escrow with a title insurance company
27 acceptable to Town the sum of \$_____ to be used to pay BNC’s share
28 of the cost of constructing the New Facility.

29 5.9 **BNC’s Warranties, and Representations.** To induce the Town to make the
30 Loan, BNC makes the following warranties and representations to the Town, and agrees that the
31 following warranties and representations will continue to true throughout the term of this
32 Agreement:

33 (a) **Entity Existence.** BNC is a limited liability company organized and
34 existing under the laws of the State of Colorado. As of the date of this Agreement, BNC is in
35 good standing with the Colorado Secretary of State.

36 (b) **Authority.** The execution, delivery, and performance of this Agreement
37 and the obligations evidenced by the Loan Documents are within BNC’s powers; have been duly
38 authorized; will not violate any provision of law, or order of court or governmental agency; and

1 will not violate any agreement to which BNC is a Party or to which BNC or to which the New
2 Facility will be is subject.

3 (c) **Loan Purpose.** The Loan is for commercial purposes. BNC will use the
4 proceeds of the Loan only to pay for the cost of planning, designing and constructing the New
5 Facility.

6 (d) **No Other Loans.** BNC owns or leases all of the personal property needed
7 to operate the business of the Breckenridge Nordic Center. BNC has good and marketable title to
8 all such property. All of BNC's property is free and clear of all liens, security interests,
9 encumbrances, and other adverse claims and interests, except for the Loan Documents.

10 (e) **Compliance With Laws.** In constructing the New Facility, and in
11 operating the business of the Breckenridge Nordic Center, BNC will not violate any law,
12 regulation, rule, order, judgment, or judicial decree that is applicable to BNC or the Breckenridge
13 Nordic Center, except for those that BNC challenges in good faith through proper proceedings
14 after providing adequate reserves to fully pay the claim should BNC lose.

15 (f) **Financial Information.** During the term of the Loan BNC will provide
16 the Town with any reasonable information about its operations, financial affairs, and condition
17 within thirty (30) days after the Town's request. The Parties agree that any information provided
18 to Town by BNC pursuant to this subsection may contain "confidential commercial information"
19 within the meaning of Section 24-72-204(3)(a)(IV), C.R.S. (that is part of the Colorado Open
20 Record Act). If the Town receives a request for disclosure under the Colorado Open Records
21 Act of any of BNC's confidential financial information provided to the Town pursuant to this
22 subsection (f), the Town will resist such request, and will not disclose any of BNC's confidential
23 financial information Agreement except pursuant to a final, non-appealable judgment of a court
24 of competent jurisdiction. Further, upon receipt of a request for disclosure under the Colorado
25 Open Records Act of any of BNC's confidential financial information the Town will promptly
26 notify BNC of the request so that BNC may seek an appropriate protective order or waive the
27 confidentiality provisions of this subsection (f) and allow the requested disclosure of BNC's
28 confidential financial information. The Town will not oppose any action by BNC to obtain an
29 appropriate protective order or other reliable assurance that the confidentiality provisions of this
30 subsection.

31 5.10 **BNC's Covenants.** During the term of this Agreement BNC covenants and
32 agrees with the Town that it will comply with the following:

33 (a) **Continued Existence.** BNC will preserve and maintain its present
34 existence as a limited liability in good standing in Colorado.

35 (b) **Compliance with Laws.** BNC will not violate any law, regulation, rule,
36 order, judgment or decree applicable to it or the New Facility, except for those which BNC
37 challenges in good faith through proper proceedings after providing adequate reserves to fully
38 pay the claim should BNC lose.

1 (c) **Continued Operation of Breckenridge Nordic Center.** Until the Note is
2 fully paid BNC will continue to operate the Breckenridge Nordic Center without interruption
3 (except seasonal closures) and without cessation of operations.

4 (d) **Change of Business Operations.** BNC will obtain the Town's written
5 consent and any necessary changes to the Loan Documents before BNC:

6 (i) organizes or participates in the organization of any new business entity;

7 (ii) merges into or consolidates with any other business entity;

8 (iii) permits any other business entity to merge into BNC;

9 (iv) acquires all or substantially all of the assets of any other business entity; or

10 (v) otherwise materially changes BNC's legal structure, management,
11 ownership or financial condition.

12 (e) **Other Liabilities.** BNC will not incur, assume, or permit any debt
13 evidenced by notes, bonds, or similar obligations, except debt incurred in the ordinary course of
14 BNC's business.

15 (f) **Notice of Material Change of Condition.** BNC will promptly notify the
16 Town of any material change in BNC's financial condition; of the occurrence of a default under
17 the terms of this Agreement; or of a default by BNC under any agreement between BNC and any
18 third Party that materially and adversely affects BNC's property, operations, financial condition,
19 or business.

20 (g) **Dispose of No Assets.** Without the Town's prior written consent or as the
21 Loan documents permit, BNC will not sell, lease, assign, transfer, dispose of or otherwise
22 distribute all or substantially all of BNC assets to any person.

23 (h) **Casualty Loss.** BNC will immediately notify the Town of any material
24 casualty, loss, or depreciation to the New Facility, or to any other property owned by BNC that
25 materially affects the operation of the Breckenridge Nordic Center.

26 (i) **Alterations or Additions to New Facility.** BNC will make no structural
27 alteration or addition to the New Facility without the prior written consent of Landlord.

28 **ARTICLE 6**

29 **MAINTENANCE OF NEW FACILITY**

30
31 6.1 **Maintenance and Repair of New Facility.** During the term of this Agreement
32 BNC will, at BNC's sole expense, perform all required maintenance and upkeep of the New
33 Facility, and make all required repairs to the New Facility. Without limiting the generality of the
34 preceding sentence, BNC will, at its expense, maintain the New Facility in compliance with all
35 applicable governmental building and technical codes. BNC will also perform and pay the cost

1 of maintaining (and repairing or replacing as necessary) the following portions of the New
2 Facility:

- 3 (i) roof;
- 4 (ii) foundation;
- 5 (iii) exterior walls;
- 6 (iv) interior structural walls (excluding finish and trim of these walls);
- 7 (v) all other structural components;
- 8 (vi) the water, sewer, plumbing system and plumbing fixtures of the New
9 Facility;
- 10 (vii) the mechanical, electrical, and heating/ventilation systems; and
- 11 (viii) the glass windows in the New Facility.

13 6.2 **Maintenance and Repair of Parking Area.** During the term of this Agreement
14 BNC will, at BNC's sole expense, perform all required provide any required pothole filling and
15 striping in the parking area for the New Facility.

16 6.3 **Snow Plowing.** During the term of this Agreement BNC will, at its sole expense,
17 provide all snow plowing necessary to allow the New Facility to be used by BNC in connection
18 with its operation of the Breckenridge Nordic Center.

19 **ARTICLE 7**

20 **USE OF NEW FACILITY**

21
22 7.1 **Use of New Facility By BNC.** During the term of this Agreement BNC will only
23 use the New Facility in connection with its operation of the Breckenridge Nordic Center. BNC
24 will not use the New Facility for any other purpose or use without the prior written approval of
25 the Town.

26 7.2 **Use of New Facility By Town.** During the summer months (that is, the months
27 when: (i) the New Facility is not open for public Nordic skiing in connection with BNC's normal
28 operation of the Breckenridge Nordic Center) and (ii) BNC is not otherwise using the New
29 Facility, the Town may use the New Facility without charge for any purpose determined to be
30 appropriate by the Town. The Town will pay its proportionate share of the utilities used or
31 consumed at the New Facility during such period of Town usage, and the Town will also
32 perform and required cleaning and periodic maintenance of the New Facility.

33

1 **ARTICLE 8**

2 **CONVEYANCE OF NEW FACILITY TO TOWN**

3
4 8.1 **Cessation of Ski Operations in Cucumber Creek.** Within thirty (30) years from
5 the date of the issuance of the certificate of occupancy for the New Facility either Party, in its
6 sole and absolute discretion, may elect to permanently discontinue the use of the New Facility
7 for Nordic skiing operations. To exercise such discretion the terminating Party must give the
8 other Party not less than one (1) year advance written notice. Such notice must specify the
9 effective date of the discontinuance of the use of the New Facility for Nordic Skiing operations.
10 Upon the effective date of the discontinuance of the use of the New Facility for Nordic Skiing
11 operations, the Nordic Facility will be conveyed by BNC to Town and Town will pay BNC in
12 the manner described in Section 8.6.

13 8.2 **“Conveyance Date” Defined.** As used in this Article 8, the term *“Conveyance*
14 *Date”* means the date that the New Facility is conveyed to the Town.

15 8.3 **Conveyance of New Facility to Town.** On the Conveyance Date BNC will
16 convey the New Facility to Town by appropriate documentation reasonably acceptable to the
17 Town Attorney. The title to the New Facility conveyed to the Town will be free and clear of all
18 liens and encumbrances, except for the general property tax lien of the year of conveyance.

19 8.4 **Conveyance “AS IS”.** The New Facility will be conveyed and transferred by
20 BNC to Town, and accepted by the Town, **“AS IS”, “WHERE IS” and “WITH ALL**
21 **FAULTS.”** BNC will not be required to warrant or make any representation to the Town,
22 express or implied, relating to the **MERCHANTABILITY**, quality, condition, suitability or
23 **FITNESS FOR ANY PURPOSE WHATSOEVER** of the New Facility

24 8.5 **Environmental Matters.** At the time of conveyance to the Town the New
25 Facility will be free of all contamination, including: (i) any “hazardous water”, “underground
26 storage tanks”, “petroleum”, “regulated substance”, or “used oil” as defined by the Resource
27 Conservation and Recovery Act of 1976 (42 U.S.C. §§6901, et seq.), as amended, or by any
28 regulations promulgated thereunder; (ii) any “hazardous substance” as defined by the
29 Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C.
30 §§9601, et seq.), as amended, or by any regulations promulgated thereunder (including, but not
31 limited to, asbestos and radon); (iii) any “petroleum” and “fuel products”, as defined by Section
32 25-15-101 et seq., C.R.S., as amended, or by any regulations promulgated thereunder; (iv) any
33 “hazardous waste” as defined by the Colorado Hazardous Waste Act, Section 25-15-101, et seq.,
34 C.R.S., or by any regulations promulgated thereunder; (v) any substance the presence of which
35 on, in or under the Property is prohibited by any law similar to those set forth above; and (vi) any
36 other substance which by law, regulation or ordinance requires special handling in its collection,
37 storage, treatment or disposal.

38 8.6 **Town’s Payment to BNC For New Facility.** Upon the first to occur of: (i) the
39 effective date of the discontinuance of use of the New Facility for Nordic Skiing operations as
40 described in Section 8.1, or (ii) thirty (30) years from the date of the issuance of the certificate of

1 occupancy for the New Facility, the Town will pay BNC in cash a sum that will be determined as
2 follows:

3 (a) Begin with the amount of BNC's Statement of Construction Costs as
4 described in Section 3.4; then

5 (b) Subtract the amount of the Town's Statement of Infrastructure Costs as
6 described in Section 4.3; then

7 (c) Divide the difference determined in (b) by one-thirtieth (1/30) for each full
8 twelve-month period that BNC has owned the New Facility prior to the date of its conveyance to
9 the Town. There will be no apportionment for any partial twelve-month period of BNC's
10 ownership of the New Facility.

11 *Example:* For example, if BNC spent \$1,250,000 to construct the New Facility; the Town spent
12 \$300,000 to construct the infrastructure improvements; and BNC owned the New Facility for a
13 full thirty (30) years, the Town's payment to BNC for the New Facility would be calculated as
14 follows:

15
$$\$1,250,000 - \$300,000 = \$950,000 \div 30 = \$31,666.67 \text{ (amount due to BNC)}$$

16 **8.7 BNC May Voluntarily Convey New Facility to Town.** In its discretion, BNC
17 may convey the New Facility to the Town at any time within ten (10) years following the date of
18 the issuance by the Town of the initial certificate of occupancy for the New Facility. Following
19 conveyance of the New Facility to the Town pursuant to this Section 8.7 BNC will continue to
20 pay the Promissory Note in accordance with its terms. Following conveyance of the New
21 Facility to the Town, BNC may lease the New Facility from the Town until the date that is thirty
22 (30) years after the date of the issuance by the Town of the initial certificate of occupancy for the
23 New Facility. The terms of the lease will be commercially reasonable; provided, however, that
24 the payments due to the Town under the Promissory Note will be treated as the rent due to the
25 Town for the use of the New Facility. If BNC stays in possession of the New Facility after the
26 Promissory Note has been fully paid, the rent for the use of the New Facility will be a
27 commercially reasonable rental based on then-prevailing rental market conditions in
28 Breckenridge, Colorado.

29 **8.8 Termination of License Agreement On Conveyance Date; New Business**
30 **Arrangement For Use of Town-owned Property for the Breckenridge Nordic Center.** At the
31 time of the conveyance of the New Facility to the Town pursuant to this Article 8, all existing
32 agreements between the Town and BNC related to the use of any Town-owned property by BNC
33 in connection with its operation of the Breckenridge Nordic Center will terminate. The Parties
34 anticipate negotiating a new business arrangement for the use of Town-owned property by BNC
35 in connection with its operation of the Breckenridge Nordic Center, taking into consideration all
36 then-relevant factors, including, but not limited to, BNC's performance under this Agreement
37 and BNC's performance under the other agreement(s) for the use of Town-owned property by
38 BNC in connection with its operation of the Breckenridge Nordic Center; provided, however,
39 that nothing in this Agreement obligates or requires either the Town or BNC to enter into any
40 new agreement for the use of Town-owned property by BNC.

1 (d) **Deductible.** BNC is be solely responsible for any deductible losses under
2 any insurance policy required of it above.

3 (e) **Insurance Certificate.** An ACORD Form 27, or other certificate of
4 insurance acceptable to Town, will be completed by BNC's insurance agent and provided to the
5 Town as evidence that policies providing the required coverages, conditions, and minimum
6 limits are in full force and effect and will be reviewed and approved by Town prior to
7 commencement of construction of the New Facility. The certificate will identify this Agreement
8 and will provide that the coverages afforded under the policies will not be cancelled or
9 terminated until at least 30 days' prior written notice has been given to the Town. The
10 completed certificate of insurance will be sent to:

11 Town Clerk
12 Town of Breckenridge
13 P.O. Box 168
14 Breckenridge, Colorado 80424
15

16 (f) **Lack of Insurance.** Notwithstanding any other portion of this
17 Agreement, failure on the part of BNC to procure or maintain policies providing the required
18 coverages, conditions, and minimum limits will constitute a material breach of this Agreement
19 for which Town may immediately terminate this Agreement, accelerate the Promissory Note, or,
20 at its discretion, Town may procure or renew any such policy or any extended reporting period
21 thereto, and may pay any and all premiums in connection therewith, and all monies so paid by
22 Town will be repaid by BNC upon demand, together with interest at the default rate as provided
23 in Section 5.3, or Town may offset the cost of the premiums against any monies due to BNC
24 from Town.

25 **ARTICLE 10**

26 **PROPERTY TAXES**

27
28 10.1 **Taxes Defined.** As used in this Article 10, the term "*taxes*" means all personal
29 property and real property taxes that may be levied, assessed, or imposed arising out of BNC's
30 occupancy and use of the New Facility during the term of this Agreement.

31 10.2 **Possessory Interests.** Pursuant to Section 39-3-105, C.R.S., all real or personal
32 property owned by Town is exempt from taxation. However, the Parties acknowledge that
33 BNC's occupancy and use of Tract C, Tract D and the Town Trails pursuant to this Agreement
34 may be deemed to be a taxable possessory interest pursuant to Section 39-1-103(17)(a), C.R.S.

35 10.3 **BNC To Pay Taxes.** Any taxes lawfully assessed arising from BNC's occupancy
36 and use of Tract C, Tract D and the Town Trails pursuant to this Agreement will be paid by
37 BNC, and BNC will indemnify and hold Town harmless from any such taxes. Any taxes due
38 arising from BNC's occupancy and use of Tract C, Tract D and the Town Trails pursuant to this
39 Agreement will be paid by BNC in a timely manner. Prior to the last day for payment of such
40 taxes without penalty or interest, BNC will provide to Town a photostatic copy of the receipt(s)

1 (b) **BNC's Condition.** The obligation of BNC to perform its obligations
2 under this this Agreement is subject to BNC obtaining all of the approvals required by Article 1.

3 (c) **Failure of Condition.** If, within one hundred twenty (120) days of the
4 date of this Agreement, the Town gives written notice to BNC of the nonfulfillment of any of the
5 conditions described in Section 11.1(a), or BNC gives written notice to Town of the
6 nonfulfillment of any of the condition described in Section 11.1(b) this Agreement will
7 terminate, and each Party will be released from any further obligation under this Agreement.

8 **ARTICLE 12**

9 **DEFAULT; REMEDIES**

10 **12.1 Default; Resolution Of Disputes.**

11
12 (a) **Default.** A default will exist under this Agreement if any Party violates
13 any provision of this Agreement. If any Party (the "**Defaulting Party**") fails to cure such default
14 within twenty (20) days after the other Party (the "**Non-Defaulting Party**") gives written notice
15 of the default to the Defaulting Party or, in the event of a default not capable of being cured
16 within such twenty (20) day period, if the Defaulting Party fails to commence curing the default
17 within such twenty (20) day period and thereafter fails to cure such default with due diligence,
18 then, at the Non-Defaulting Party's option, the Non-Defaulting Party may terminate this
19 Agreement, or exercise such other rights and remedies as may be provided by applicable law. If
20 the Non-Defaulting Party is the Town and the Loan has been made to BNC, the Town may also
21 accelerate the Note and foreclose the Deed of Trust, or exercise any other rights and remedies
22 that are available to the Town under the law. All rights and remedies may be exercised singly or
23 in combination with other allowed rights and remedies. Notwithstanding any Party's right to
24 terminate this Agreement for an uncured default, this Agreement is subject to the rights of any
25 Party to invoke the remaining provisions of this Section.

26 (b) **Negotiation.** The Parties will attempt in good faith to resolve any dispute
27 arising out of or relating to this Agreement promptly by negotiations between persons who have
28 authority to settle the controversy ("**Executives**"). Either Party may give the other Party written
29 notice of any dispute not resolved in the normal course of business. Within five (5) days after
30 receipt of such notice, the Executives will meet at a mutually acceptable time and place, and
31 thereafter as often as they reasonably deem necessary, to exchange relevant information and to
32 attempt to resolve the dispute. If the matter has not been resolved within ten (10) days of the
33 notice of dispute, or if the Parties fail to meet within five (5) days, either Party to the dispute may
34 initiate mediation of the controversy as provided below.

35 (c) **Mediation.** If the dispute has not been resolved by negotiation as
36 provided above, the Parties will endeavor to settle the dispute by mediation with a neutral third
37 Party. If the Parties encounter difficulty in agreeing on a neutral third Party, they may each
38 appoint a neutral third Party, such third Parties to appoint a neutral third Party to mediate. Each
39 Party will pay their own attorneys' fees incurred in connection with a mediation.

1 (d) **Judicial Action.** Any dispute arising out of or relating to this Agreement
2 or the breach, termination, or validity of this Agreement, which has not been resolved by the
3 methods set forth above within thirty (30) days of the initiation of mediation, may be finally
4 resolved by appropriate judicial action commenced in a court of competent jurisdiction. The
5 Parties agree to venue in the courts of Summit County, Colorado with respect to any dispute
6 arising out of or relating to this Agreement. Both Parties waive the right to a jury trial in action to
7 enforce, interpret or construe this Agreement.

8 (e) **Attorneys' Fees and Costs.** If any action is brought in a court of law by
9 either Party to this Agreement concerning the enforcement, interpretation, or construction of this
10 Agreement, the prevailing Party, either at trial or upon appeal, is entitled to reasonable attorneys'
11 fees, as well as costs, including expert witness' fees, incurred in the prosecution or defense of
12 such action.

13 (f) **Equitable Relief.** The Parties acknowledge that any violation of this
14 Agreement by either Party would caused immediate and irreparable damage to the other Party,
15 for which monetary relief would be inadequate or difficult to ascertain. Accordingly, the Parties
16 agree that in the event of the breach of this Agreement by either Party the Non-Defaulting Party
17 may, without limitation of any other right the Non-Defaulting Party may have, obtain from a
18 court of competent jurisdiction a temporary restraining order, preliminary injunction, permanent
19 injunction or other appropriate form of equitable relief to enforce the provisions of this
20 Agreement.

21 (g) **"Days" Defined.** As used in this Article 12 , the term "days" means
22 calendar days, not to business or working days.

23 **ARTICLE 13**

24 **NO CONSTITUTIONAL DEBT**

25
26 13.1 **No Constitutional Debt; Annual Appropriation.** The Town's obligations under
27 this Agreement are subject to an annual appropriation being made by the Town Council in an
28 amount sufficient to allow the Town to perform its obligations under this Agreement. If
29 sufficient funds are not appropriated for the payment of sums due to BNC under this Agreement,
30 this Agreement may be terminated by either Party without penalty. The Town's obligations
31 under this Agreement do not constitute a general obligation indebtedness or multiple year direct
32 or indirect debt or other financial obligation whatsoever within the meaning of the Constitution
33 or laws of the State of Colorado.

34 **ARTICLE 14**

35 **MISCELLANEOUS PROVISIONS**

36
37 14.1 **"Will" and "Will Not" Defined.** The terms "will" and "will not" indicate a
38 mandatory obligation to act or to refrain from acting as indicated in the context of the sentence in
39 which such terms are used.

1 14.2 **Town Consent.** Except as otherwise expressly provided in this Agreement, any
2 request for Town consent or Town approval may be granted, withheld, or conditionally approved
3 by the Town in its sole and absolute discretion.

4 14.3 **Assignment.** BNC covenants and agrees not to assign, pledge, transfer, or sublet
5 its rights in this Agreement, in whole or in part, nor grant any license or other interest hereunder,
6 without the prior written consent of the Town. Any attempt by BNC to assign or in any way
7 transfer its interest in this Agreement, in whole or in part, without such prior written consent of
8 the Town, will at the option of the Town, constitute a default under this Agreement hereunder.

9 14.4 **Agreement Binding Upon Successors.** This Agreement is binding upon and
10 extends to the successors and permitted assigns of the Parties.

11 14.5 **Force Majeure.** Neither Party is liable to the other for any failure, delay, or
12 interruption in the performance of any of the terms, covenants or conditions of this Agreement
13 due to causes beyond the control of that Party, including, without limitation, strikes, boycotts,
14 labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of
15 terrorism, acts of superior governmental authority, weather conditions, floods, riots, rebellion,
16 sabotage or any other circumstance for which such Party is not responsible or which is not in its
17 power to control.

18 14.6 **No Partnership.** Town is not a partner, associate, or joint venturer of BNC in the
19 conduct of BNC's Business. BNC is an independent contractor without the right or authority to
20 impose tort or contractual liability upon the Town.

21 14.7 **Communications.** All communications (oral, written, telephonic and electronic)
22 between BNC and the Town related to this Agreement will be directed to the Town Manager of
23 the Town of Breckenridge, or his designee. BNC will not communicate directly with any
24 member of the Town Council of the Town of Breckenridge with respect to any matter related to
25 this Agreement.

26 14.8 **Notices.** All notices required or permitted under this Agreement must be given by
27 registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial
28 carrier delivery, or by telecopies, directed as follows:

29 If intended for Town to:

30
31 Town of Breckenridge
32 P.O. Box 168
33 150 Ski Hill Road
34 Breckenridge, Colorado 80424
35 Attn: Town Manager
36 Telecopier number: (970)547-3104
37 Telephone number: (970)453-2251
38

39 with a copy in each case (which will not constitute notice) to:
40

1 Timothy H. Berry, Esq.
2 Timothy H. Berry, P.C.
3 131 West 5th Street
4 P. O. Box 2
5 Leadville, Colorado 80461
6 Telecopier number: (719)486-3039
7 Telephone number: (719)486-1889
8

9 If intended for BNC, to:

10
11 Breckenridge Nordic Center, L.L.C.
12 P. O. Box 1776
13 Breckenridge, CO 80424
14 Telecopier number: (970)_____

15 Telephone number: (970)_____

16
17 with a copy in each case (which will not constitute notice) to:

18
19 Mark Richmond, Esq.
20 Richmond, Sprouse & Murphy, LLC
21 PO Box 280
22 Frisco, CO 80443
23 Telecopier number: (970)668-3757
24 Telephone number: (970)668-0176
25

26 Any notice delivered by mail in accordance with this Section will be deemed to have been duly
27 given and received on the third business day after the same is deposited in any post office or
28 postal box regularly maintained by the United States postal service. Any notice delivered by
29 telecopier in accordance with this Section will be deemed to have been duly given and received
30 upon receipt if concurrently with sending by telecopier receipt is confirmed orally by telephone
31 and a copy of said notice is sent by certified mail, return receipt requested, on the same day to
32 the intended recipient. Any notice delivered by hand or commercial carrier will be deemed to
33 have been duly given and received upon actual receipt. Either Party, by notice given as provided
34 above, may change the address to which future notices may be sent.
35

36 14.9 **Headings.** The article and section headings herein are for convenience in
37 reference only, and do not define or limit the scope of any provision of this Agreement.

38 14.10 **Severability.** If any covenant, condition, or provision contained in this
39 Agreement is held by any court of competent jurisdiction to be invalid, the invalidity of any such
40 covenant, condition, or provision will in no way affect any other covenant, condition, or
41 provision herein; provided, that the invalidity of any such covenant, condition or provision does
42 not materially prejudice either Party in its respective rights and obligations contained in the valid
43 covenants, conditions, or provisions of this Agreement.

44 14.11 **Terminology.** Wherever applicable, the pronouns in this Agreement designating
45 the masculine or neuter will equally apply to the feminine, neuter and masculine genders.

1 Furthermore, wherever applicable within this Agreement, the singular will include the plural, and
2 the plural will include the singular.

3 14.12 **Third Parties.** There are no third Party beneficiaries of this Agreement.

4 14.13 **Advances By Town For BNC.** If BNC fails to do anything required to be done
5 by it under the terms of this Agreement (other than a failure to make the payments to Town
6 required by this Agreement) the Town may, at its sole option, but without any obligation to do so,
7 do or perform such act or thing on behalf of BNC, and in doing so the Town will not be deemed
8 to be a volunteer; provided, however, that before exercising its rights under this Section Town
9 will give notice to BNC as provided in Section 12.1 with respect to the giving of notice of
10 default, and will afford the BNC five (5) days from the giving of such notice within which to do
11 or perform the act required by BNC. Upon notification to BNC of the costs incurred by the Town
12 BNC will promptly pay to Town the full amount of costs and/or expenses incurred by Town,
13 together with interest thereon at the default interest rate described in Section 5.3. The provisions
14 of this Section 14.13 do not apply to the Town's payment of insurance premiums as described in
15 Section 9.3(f).

16 14.14 **Non-Discrimination.** BNC agrees that in connection with its use of the New
17 Facility it:

18 (a) will not discriminate against any employee, applicant for employment, or
19 patron because of race, color, creed, sex, sexual orientation, marital status, national origin,
20 ancestry, age, religion or disability;

21 (b) will insure that applicants are employed and that employees are treated
22 during employment without regard to their race, color, creed, sex, sexual orientation, marital
23 status, national origin, ancestry, age, religion or disability; and

24 (c) will in all solicitations or advertisements for employees to be engaged in
25 the performance of work at the New Facility state that all qualified applicants will receive
26 consideration for employment without regard to race, color, creed, sex, sexual orientation,
27 marital status, national origin, ancestry, age, religion or disability.

28 14.15 **Governmental Immunity.** The Town is relying on, and does not waive or intend
29 to waive by any provision of this Agreement, the monetary limitations (presently \$150,000 per
30 person and \$600,000 per occurrence) or any other rights, immunities, and protections provided
31 by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to
32 time amended, or any other limitation, right, immunity or protection otherwise available to
33 Town, its officers, or its employees.

34 14.16 **Additional Instruments.** Each Party will deliver or caused to be delivered upon
35 request such additional documents and instruments as may be required to accomplish the intent
36 of this Agreement.

37 14.17 **Waiver.** The failure of either Party to exercise any of its rights under this
38 Agreement is not a waiver of those rights. A Party waives only those rights specified in writing
39 and signed by the Party waiving such rights.

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STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011 by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS BNC hand and official seal.

My commission expires: _____.

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011 by Therese E. D. Dayton, as Manager of Breckenridge Nordic Center, L.L.C., a Colorado limited liability company.

WITNESS BNC hand and official seal.

My commission expires: _____.

Notary Public

TO: BRECKENRIDGE TOWN COUNCIL
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: GOLF AND RIVER WALK CENTER SOLAR SITES
DATE: 2/24/11
CC: TIM GAGEN, KATE BONIFACE

At the Town Council work session on 2-22-11, a request was made of staff to provide additional financial and environmental information on the new solar site designs for the Riverwalk Center (RWC) and Golf Clubhouse. Contained herein is information on potential financial savings, total electrical usage savings, and carbon emissions and oil consumption offset.

Riverwalk Center

The 50 kW of solar installations at the RWC will generate an estimated 71,000 kWh of the 300,000 kWh consumed annually at the site (23% solar powered). This will reduce our carbon emissions by an estimated 83.3 metric tons of CO₂ annually or 2,500 metric tons of CO₂ over the estimated functional life of the arrays. That equates to 217 barrels of oil annually, or 6,500 barrels over the useful life of the arrays.

Financial savings in year one are estimated at \$6,700 at the RWC alone. Calculating the financial savings thereafter requires assumptions about the annual increase in Xcel rates as well as estimated fair market value of the RWC arrays at the end of the fifth year of the PPA. Assuming flat Xcel rates and no buyout of the Power Purchase Agreement (PPA), the Town would save \$134,000 over the term of the PPA on this array. It bears stating that this figure is the minimum we would save. Assuming increasing Xcel rates and a buyout of the arrays would increase our savings starting in year two.

Golf Clubhouse

The 105 kW of solar installations at the Golf Clubhouse will generate an estimated 145,600 kWh of the 206,560 kWh consumed annually at the site (71% solar powered). This will reduce our carbon emissions by an estimated 167 metric tons of CO₂ annually or 5,000 metric tons of CO₂ over the estimated functional life of the arrays. That equates to 433 barrels of oil annually, or 13,000 barrels over the useful life of the arrays.

Financial savings in year one are estimated at \$10,811 at the Golf Clubhouse alone. Assuming flat Xcel rates and no buyout of the Power Purchase Agreement (PPA), the Town would save \$216,000 over the term of the PPA on this array.

These results are summarized and aggregated in table 1 below.

Conclusion

Staff will perform a more in depth analysis of both the financial savings at these two locations as well as for the PPA as a whole. Since the redesign has affected some of the Renewable Energy Credit

contracts (RECs), the pro forma will be recalculated once we have complete information. This analysis will be ready for the 3-8-11 Council meeting, barring any unforeseen delays. The financial savings estimates above are extremely conservative. Factors such as increasing Xcel rates and the potential exercise of our purchase option on the arrays will increase savings estimates. The environmental impacts estimates will not change substantially.

This memo was distributed electronically to all Council members on 2-24-11. It will also be included in your 3-8-11 Council packet and I will be happy to answer any questions you have either at the meeting or before.

table 1

| est. CO₂ Offset (in Metric Tons) | | | est. Oil Consumption offset (bbls) | |
|--|---------------|--------------------|---|--------------------|
| Site | Annual | Useful Life | Annual | Useful Life |
| RWC | 83 | 2,500 | 216.7 | 6,500 |
| Golf | 167 | 5,000 | 433.3 | 13,000 |
| Tot. | 250 | 7,500 | 650 | 19,500 |

| Gasoline Equivalent (in gallons) | | | est Electrical Usage offset (in kWh) | | |
|---|---------------|--------------------|---|---------------------------|-----------------|
| Site | Annual | Useful Life | Solar | Total Annual Usage | % Offset |
| RWC | 9,996 | 300,000 | 71,000 | 310,000 | 22.9% |
| Golf | 20,040 | 600,000 | 145,600 | 206,560 | 70.5% |
| Tot. | 30,036 | 900,000 | 216,600 | 516,560 | 41.9% |

MEMO

TO: Breckenridge Town Council

FROM: Laurie Best, Community Development Department

RE: Breckenridge Heritage Alliance 2010 Annual Report

DATE: March 2, 2011 (for worksession March 8th)

With the support of the Town of Breckenridge, the Breckenridge Heritage Alliance was organized as a Colorado 501 3 (c) non-profit corporation in late 2006. The Town continues to provide funding for the organization, and the organization submits annual reports highlighting key projects and activities. Staff has received the 2010 report and a copy is enclosed in your packet for your review. Staff has reviewed the report and believes the organization continues to fulfill the goals outlined the 2008 Funding Agreement between the Town and the Alliance, specifically to:

- Promote heritage tourism within the Town
- Develop, manage, and conduct programs, events, and tours of historic properties and area within the Town for the benefit of residents and visitors
- Develop, maintain, and implement a sustainable business
- Manage, improve, and enhance heritage sites and exhibits
- Work cooperatively and in good faith with other organizations to coordinate programming
- Measure and track attendance and obtain public feedback
- Insure a sustainable heritage tourism program, promote authenticity, and protect and preserve resources

Representatives from the Alliance will attend the worksession on March 8th to answer any questions from the Council.

2010 Annual Report

Breckenridge Heritage Alliance

Dear Breckenridge Town Council and Members of the Community:

What better way to celebrate the end of another successful year for heritage tourism in Breckenridge than with the arrival of Engine No. 9. After years of waiting, the Alliance was given the green light in August 2010, to make plans for the delivery of No. 9. Three months later, the locomotive arrived in town on an 80-foot-long trailer and rolled ever-so-slowly down a ramp under its new home, an open air shelter at the Rotary Snowplow Park. In just three months, the Alliance drafted construction documents, hired contractors, built the shelter, and made arrangements to transport the locomotive from Palisade to Breckenridge.



Engine No. 9, April 10, 1937, the day the last passenger train was pulled over the High Line to Denver.

We also asked the community to help us with the shelter, and they did. Locals gave generously to the project, with their time, services and materials. At the end of 2010, more than \$40,000 in donated materials, labor and cash came from Summit County businesses and individuals, which allowed us to complete the project on schedule and on a reduced budget.



Delivery Day, December 14, 2010



Engine No. 9, home again...

I am proud of this lasting and visible accomplishment, and thankful for the many people who worked to bring the locomotive home, yet it's important to remember that Engine No. 9 and our multitude of other historic sites in Breckenridge don't tell their own stories. Our day-to-day business is to share our history with the public. In 2010, more than 85,000 visitors sought out our sites. Thirty tour guides provided fourteen regular activities for guests, from museum tours to hiking and snowshoe tours to school programs. Our 2010 visitor statistics are included on page five.

During a year of great successes, the Alliance was also challenged to do more with less. Operating support from the Town decreased by 20%, from \$316,000 to \$250,000. We cut out non-essential office overhead, we decreased our staff size, and we raised our tour prices. The result? The Alliance generated 27% more revenue than in 2009, and visitor numbers increased by 13%. We also saw the economic challenges of 2010 as an opportunity to embrace and promote our spirit of volunteerism. In addition to contributions for the locomotive shelter, the community also donated \$56,000 in in-kind support to our operations, and \$14,000 in donated labor and materials to the restoration of the Klack Placer Cabin. A full financial report for 2010 is included on page six.



Carter Museum, Kingdom Days 2010



*Klack Placer Cabin restoration,
2009 - 2010*



Looking forward, we will continue to focus on our storytelling, and finding new ways to present our history in entertaining ways that engage new audiences. In addition to our newly developed Haunted and Saloon Tours, we are excited to try a new guided bus tour (with the help of the Breckenridge Recreation Department), which will allow guests to sit back, relax and see 150 years of history from their seats. On the flip side, we continue to coordinate activities that combine recreation and history, like guided hikes and biking tours.



In addition to expanded programming, we have our sights set on some new interpretation and preservation projects for 2011. At the Engine No. 9 site, we plan to install outdoor interpretive signs that will share the meaning of the locomotive and the railroad with visitors. We also look forward to managing the restoration of Engine No. 9's tender and transporting the tender to the locomotive park.

In French Gulch, the long-awaited installation of twelve interpretive signs will take place this spring. We are also making plans to stabilize the Reiling Gold Dredge in French Gulch, the only Breckenridge-area dredge that has not completely collapsed. The stabilization will be an effort to keep what's left of the dredge intact and in place, so it can be appreciated by recreationalists and heritage tourists for years to come.



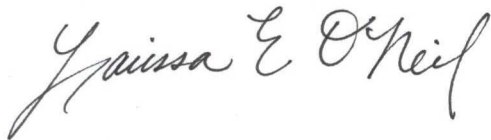
Reiling Gold Dredge, 1920 and 2010

Finally, we will focus our efforts in 2011 on marketing and celebrating Breckenridge’s Historic District. Our community has what so many other towns wish they had – a defining historic district that gives our commercial core real character. We believe there are many new ways to market our historic district, and as a first step, we plan to install new National Historic District book-end signs at the north and south end of town. In future years, we hope to implement other projects that will increase the visibility of our historic district and also encourage local building and business owners to see our district as a celebrated concept, not just a regulated one.

In December 2011, the Breckenridge Heritage Alliance will celebrate its five-year anniversary. We’ve grown leaps and bounds since 2006, yet there is much more work to be done for heritage tourism and historic preservation in Breckenridge.

We appreciate the Town’s continued support for the Breckenridge Heritage Alliance.

Respectfully submitted,



Larissa O’Neil
Executive Director



Breckenridge Heritage Alliance Staff

Larissa O’Neil, Executive Director
Michelle Kazmier, Office Manager

Ryan Bernal, Program & Marketing Director
Rebecca Waugh, Town Historian

Board of Directors

Wendy Wolfe, President

Larry Crispell, Vice President

Rick Hague, Secretary

Robin Theobald

Wally Ducayet, Treasurer

Dan Gibbs

Janet Sutterley

Chris Juskowiak

Steve Graham

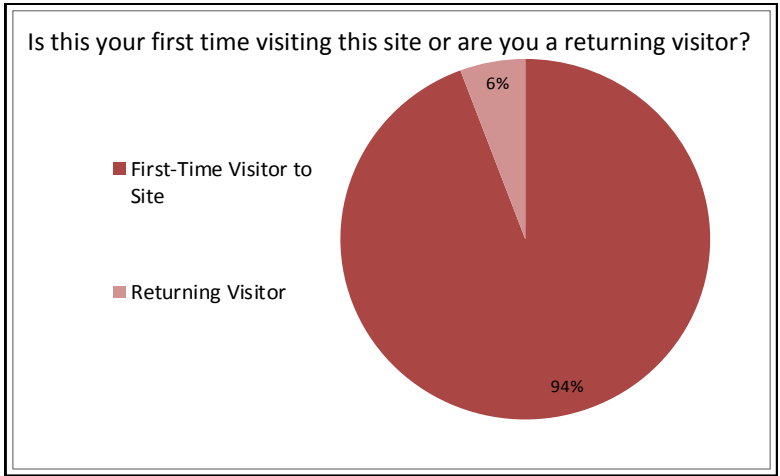
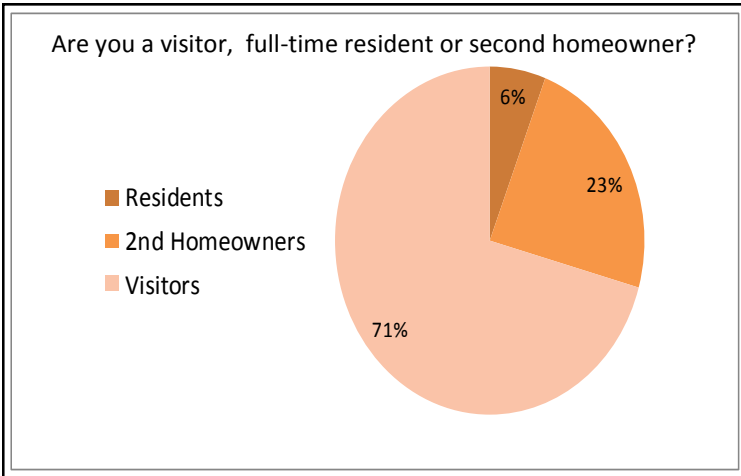
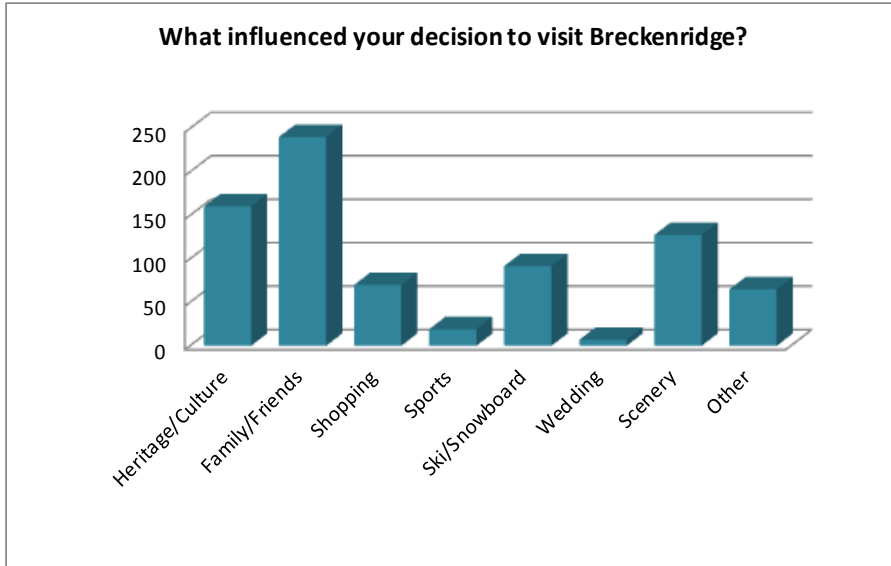
Mark Burke (Town Council Representative)

2010 Statistics

2010 Monthly Visitor Numbers at BHA Sites

| Jan. | Feb. | March | April | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. | TOTAL |
|-------|-------|-------|-------|-------|-------|--------|--------|-------|-------|-------|-------|--------|
| 6,789 | 6,833 | 6,754 | 3,511 | 2,089 | 9,393 | 13,990 | 13,154 | 8,782 | 6,847 | 3,369 | 5,470 | 86,981 |

2010 Visitor Survey Responses



Net Promoter Score - The Net Promoter Score is obtained by asking customers a single question on a 0 to 10 rating scale: "How likely is it that you would recommend this tour or program to a friend?" Based on their responses, customers are categorized into one of three groups: Promoters (9–10 rating), Passives (7–8 rating), and Detractors (0–6 rating). The net promoter score can be as low as -100 (everybody is a detractor) or as high as +100 (everybody is a promoter). **An score that is higher than zero is felt to be good, and a net promoter score of +50 is considered excellent.**

| Net Promoter Survey Results | Surveys Submitted | Promoters | Detractors | Passives | BHA Net Promoter Score for 2010 |
|-----------------------------|-------------------|-----------|------------|----------|---------------------------------|
| | 747 | 631 | 6 | 110 | 84 |

Breckenridge Heritage Alliance

Profit & Loss Statement 2010

Income

| | |
|---|----------------|
| Grants | 4,220 |
| Government Support | |
| Town of Breckenridge Income | 250,000 |
| Town of Breckenridge In-Kind Support (Gaymon Cabin) | 12,000 |
| Site/Tour Income | |
| Year-Round Sites Income | 31,290 |
| Year-Round Sites In-Kind Support | 21,949 |
| Seasonal Sites Income | 5,364 |
| Seasonal (summer only) In-Kind Support | 3,176 |
| Merchandise Sales | 6,260 |
| Other Types of Income | 1,002 |
| Other In-Kind Services | 15,900 |
| Fundraiser & Event Income | |
| Site Rental Income | 750 |
| Fundraisers, Events | 7,114 |
| Program & Event In-Kind Income | 2,823 |
| Total Income | 361,848 |

Expenses

| | |
|---|----------------|
| Business Expenses and Admin. | |
| Contract Services | |
| Accounting Fees | 4,977 |
| Outside Contract Services | 15,000 |
| Staff Development | 910 |
| Insurance | 3,603 |
| Meetings | 1,114 |
| Office Expenses | 23,415 |
| Other Business Expenses | 2,414 |
| Merchandise | 851 |
| Site Expenses (exhibits, maintenance, utilities) | 39,134 |
| Event Expenses | 6,421 |
| Administration (Salaries, Benefits and related taxes) | 176,195 |
| Year-Round tour guides (salaries, training) | 49,472 |
| Seasonal (summer only) tour guides (salaries, training) | 7,081 |
| Advertising | 31,294 |
| Total Expense | 361,881 |

Subtotal Net Income -33

Klack Cabin Restoration

| | |
|-----------------------------|--------|
| Klack Cabin Funding | 14,300 |
| Klack Cabin In-Kind Support | 12,700 |
| Klack Cabin Expenses | 27,587 |

Total Net Income 2010 -620

MEMORANDUM

TO: Town Council

FROM: Mark Truckey, Assistant Director of Community Development
Julia Puester, Planner II

SUBJECT: Joint Upper Blue Master Plan Update

The Joint Upper Blue Master Plan (JUBMP) Update Committee has now met six times and has reached consensus on the key JUBMP issues. A first draft of the Plan Update has been prepared. We have attached a copy of the Plan draft but have also summarized its contents and key issues below. Each jurisdiction (Town of Breckenridge, Town of Blue River, Summit County) is being updated on the overall Plan in early March, in preparation for a public open house that will be held on Thursday evening, March 24, at the Summit County Courthouse. Staff would like Council's feedback on the key goals/policies of the draft Plan and if there are any changes we need to consider to bring back to the Committee prior to releasing the Plan to the public.

Key Goals/Policies of JUBMP Update

Included below is a bulleted summary of the principle goals and policy direction contained in the Plan.

- Maintain a cap on overall density in the Upper Blue Basin (i.e. no upzonings in the Basin without utilizing Transferable Development Rights/TDRs).
- Recognize a new realistic build-out, which is higher than the one contained in the 1997 edition of the Plan, and incorporate the envisioned demand for affordable workforce housing.
- Target a recognized realistic build-out [of 14,200] residential units in consideration of pursuing realistic density reduction strategies. A list of realistic density reduction strategies is included in Table 7 of the Plan draft.
- The targeted build-out in the Basin is based on maintaining community character, not necessarily infrastructure capacity.
- Continue to preserve the undeveloped character of the Upper Blue Basin's backcountry areas and limit development in the backcountry to the maximum extent possible. Continue to promote the TDR program as a means of protecting backcountry areas.
- Work to increase the supply of affordable housing units in the basin.
- Extinguish density at a 1:2 ratio when building new affordable workforce housing units to offset impacts to activity levels.
- Increase capacities and efficiencies in the basin's transportation and transit systems, including an emphasis on "complete streets" and providing for the full range of alternative

transportation modes (e.g., biking, walking).

- Promotion of “sustainable” development and support for the Town and County sustainability planning efforts.
- Support for forest management projects that improve forest health and for long-term planning efforts to avoid impacts of wildfire and protect our watershed.
- Commitment of the County and Town to continue to jointly acquire open space and improve the basin’s trail network.
- A goal to continue to develop active recreational and park spaces.
- Policies that support provision of adequate infrastructure while recognizing that growth should be driven by character issues as opposed to ability to service areas.
- Policies suggesting that the County adopt development standards similar to the Town’s in an area of mutual interest.
- Policies suggesting amending the current intergovernmental agreement on TDRs and in re-evaluating the methodology used to determine the price of TDRs.
- Support for retaining lands that are zoned for commercial service/light industrial uses.
- Policies addressing redevelopment.
- Policies in the draft Plan would preclude the Town of Breckenridge or the County from allowing deed restricted units in the Town of Blue River to meet Breckenridge or County housing requirements/obligations. The Town of Blue River is also exempt from the overall Plan recommendations to reduce density.

Adoption Process

The JUBMP Update Committee met on March 3 and reached agreement on the draft Plan. Future steps we intend to take include:

- March 24 public open house on the draft Plan
- Public hearings by each jurisdiction in April
- A joint meeting in early to mid May between the Breckenridge Town Council, the Upper Blue Planning Commission, and the Town of Blue River Board to simultaneously adopt the joint plan. The Plan was adopted at a similar joint meeting in 1997.

Questions for Council

- Is the Council comfortable with the key goals and policies outlined above?
- Does Council have any suggestions at this time on the draft Plan?
- Are there other suggestions Council has regarding the JUBMP update?

JUBMP Update – Working Draft

**(Note – most numbers are anticipated to be updated slightly
as the Plan is finalized)**

Cover Pages & Acknowledgements

[To be inserted]

TABLE OF CONTENTS

[To be inserted]

Organization of the Plan

The Joint Upper Blue Master Plan is organized and presented in the following sections:

- I. Executive Summary:** Overviews the core themes and identifies the significant goals, policies/actions and recommendations contained in the Plan.
- II. Introduction:** Includes basic information on the purpose and scope of the Plan and the guiding tenets.
- III. Overview & Background:** Presents a summary of the development and adoption of the Plan in 1997, implementation, and background on the update to the Plan in 2011.
- IV. Basin Overview/Existing Conditions & Future Growth Projections:** Provides an overview of the Upper Blue Basin's geographic setting, land use ownership, population, visitation, build-out and community character.
- V. A Vision:** Presents a statement of the community's vision for the future on which the goals, policies/actions, and implementation strategies of the Plan are based.
- VI. Land Use:** Identifies and defines Upper Blue Basin specific land use issues accompanied by related goals and policies/actions.
- VII. Backcountry Protection:** Summarizes efforts to protect the backcountry and reinforces reasons to champion continued programs to safeguard it.
- VIII. Affordable Workforce Housing:** Reviews the importance of continuing to provide for affordable workforce housing, estimated demand and policy directive to extinguish density at a 1:2 ratio to offset impacts to activity levels and build-out.
- IX. Transportation & Transit:** Overviews previous studies, recommendations and accomplishments to address transportation and transit system capacity in the Basin, and identifies strategies to continue to increase efficiency and effectiveness of said systems.
- X. Other Significant Issues:** Identifies other important issues in the Upper Blue Basin and provides a general policy foundation and statements that can be used and referenced.
- XI. Implementation Strategies:** Provides a list of measures that should be pursued to implement the action steps identified by goals and policies/actions contained in the Plan. Strategies are prioritized and agencies responsible for implementation identified.

APPENDIX – UPPER BLUE BASIN BUILD-OUT: Presents a detailed analysis of existing and potential absolute and realistic build-out within the Upper Blue Basin.

I. Executive Summary

Through the goals, and policies/actions contained in the following pages, the Joint Upper Blue Master Plan, hereafter referred to as “the Plan,” seeks to sustain the quality of the valley's resources and the character of the community as we know it today. Meaningful ways to accomplish this are through: encouraging reduced activity levels that are compatible with surrounding land uses, protecting the Basin's backcountry areas and natural systems, promoting enhancements to transportation and transit systems, and promoting adequate supplies of affordable workforce housing. The Plan recognizes that some amount of additional growth will occur. Therefore, the Plan fosters an urban and rural development pattern, emphasizes the need to develop in a sensitive manner, and provide affordable workforce housing, recreation and open space to adequately serve the needs of the community and visitors as it grows. If fulfilled, the Plan's goals and policies/actions are intended to preserve a sense of place and spirit of the community while allowing for growth that can be comfortably accommodated without requiring dramatic increases in infrastructure and service capacities.

Following are the principle goals and policy direction contained in the Plan. These represent the major policy conclusions and recommendations:

- Maintain a cap on overall density in the Upper Blue Basin (i.e. no upzonings in the Basin without utilizing Transferable Development Rights/TDRs).
- Recognize a new realistic build-out, which is higher than the one contained in the 1997 edition of the Plan, and incorporate the envisioned demand for affordable workforce housing.
- Target a recognized realistic build-out [of 14,200] residential units in consideration of pursuing realistic density reduction strategies.
- The targeted build-out in the Basin is based on maintaining community character, not necessarily infrastructure capacity.
- Continue to preserve the undeveloped character of the Upper Blue Basin's backcountry areas and limit development in the backcountry to the maximum extent possible.
- Extinguish density at a 1:2 ratio when building new affordable workforce housing units to offset impacts to activity levels.

II. Introduction

Purpose and Intent

The Plan articulates a common vision for the future, and informs citizens, landowners and developers of the goals, policies and desired actions which will shape the future of the Basin. The purpose of the Plan is to serve as an advisory guide to sustain community character in light of changes implicated by future growth and development in the Upper Blue Basin (hereafter referred to a “the Basin”). In this context, it will be used by the Upper Blue Planning Commission, Board of County Commissioners (“BOCC”), Breckenridge Planning Commission, Breckenridge Town Council and Blue River Town Trustees as a reference and guide for decisions which affect the physical development of the Basin. It also provides a means for communication and coordination between the towns of Breckenridge and Blue River, Summit County (“the County”), special districts and federal, regional and state agencies.

The Plan is not the equivalent of zoning or other land use regulations in that it does not regulate use of land. The Plan is not binding upon the decision making authority of the County, or the towns of Breckenridge and Blue River. However, it is recognized that each of these jurisdictions will strive to make decisions which are consistent with the Plan.

Guiding Tenets of the Plan

The underlying tenets that guide how the Plan is intended to be interpreted and applied include the following:

Narrative

The narrative contained herein serves to explain some of the background and important considerations in developing the Plan, and provides a summary of significant issues and policy direction presented. The narrative does not serve as a goal or policy/action in its own right, or the basis for any determination as to applicable master plan goals and policies, and is for illustration and guidance only.

Umbrella Document/Hierarchy of Master Plans

In regards to unincorporated portions of the County, the County’s Countywide Comprehensive Plan and Joint Upper Blue Master Plan are intended to provide general policy guidance, and serve as the umbrella documents for the Upper Blue Master Plan. In contrast, the Upper Blue Master Plan serves as the primary document for particular guidance envisioned for the Basin, and is intended to be in harmony with the Countywide Comprehensive Plan and Joint Upper Blue Master Plan. It is expressly intended that the Countywide Comprehensive Plan and Joint Upper Blue Master Plan address broader issues and defer specific goals and policies/actions to the Upper Blue Master Plan for specific issues pertaining to unincorporated portions of the Basin.

In regards to the Town of Breckenridge, the Town’s Comprehensive Plan provides specific policy direction for the Town as it considers future decisions affecting the Town's land use, transportation systems, and a host of other important issues. The Comprehensive Plan is intended to more fully carry out the general policy guidance provided in the Joint Upper Blue Master Plan and Town's Vision Plan. Specific development review guidance is provided in the Town of Breckenridge’s Development Code and Land Use Guidelines.

In regards to the Town of Blue River, the Town’s zoning designations provide specific direction on future land use decisions. This Plan can be used in conjunction with the zoning to help guide or evaluate proposed changes in land use within the Town’s limits.

The County and towns of Breckenridge and Blue River should also use the Plan in conjunction with the other plans which may address more specific issues, limited areas or functions such as comprehensive plans,

subbasin and neighborhood plans, trails plans and open space plans.

Consistency Between Goals and Policies

The goals and policies/actions articulated in the Plan are the primary mechanism to carry out the vision of this particular master plan. Nevertheless, the vision, goals and policies/actions in the Countywide Comprehensive Plan, Upper Blue Master Plan and Town of Breckenridge Comprehensive Plan, are all intended to be in harmony with each other.

Advisory Nature, Application and Interpretation

The Plan is an advisory document and contains goals and policies/actions recommended to carry out the vision for the community in a number of different areas. Such goals or policies/actions do not have the force and effect of law. Nevertheless, the County's Land Use and Development Code makes "*general conformance*" with the provisions of master plans a requirement for certain development applications. The BOCC and County planning commissions have the authority to consider and even require compliance with the Plan and certain goals and policies contained herein in particular applications (i.e. rezonings, PUDs, subdivisions, conditional use permits and regulatory revisions).

Density and Zoning - County

A number of considerations under federal, state, and local law allow or enable the County and towns to impose more restrictive development standards or otherwise create a higher degree of restriction on the development of property, including the density related thereto. It is expressly anticipated that the application of this Plan's provisions and other policy documents by the County during the review of a development proposal, and other laws and regulations, may limit and affect the type of land uses and/or related density that may be located on the property to a level below the maximum potential density permitted by zoning.

Accordingly, this Plan by design goes beyond the simple linear or direct contemplation of density afforded by zoning and establishes goals and policies that attempt to shape the actual physical development of the community and the Basin. Thus, this Plan, in conjunction with the Upper Blue Master Plan and Countywide Comprehensive Plan, may have the effect of limiting the potential development of the theoretical maximum density allowed by zoning on property.

Review Authority – County

When using and applying a master plan, a County Review Authority (i.e. BOCC, planning commission or staff) is entitled to discretion in evaluating whether there has been "*general conformity*" and compliance with the county's master plans and assigning weight to particular goals and policies/actions in the Plan on a case-by-case basis. Accordingly, Chapter 15 of the County's Land Use and Development Code defines general conformance as:

“When a development application is evaluated regarding its general conformance with applicable master plans, the Review Authority shall evaluate the application against the entirety of the goals, policies and actions contained in the master plans and need not require compliance with every provision contained therein. Nonetheless, the Review Authority may require that an applicant satisfy any particular goal, action or policy if such compliance is deemed necessary to attain general conformance.”

Nexus to County's Land Use and Development Code

In the County, master plans are utilized to set out the broad goals, policies, information and concerns that speak to the issues implicated by growth and development, and, in turn, may affect the manner in which such development occurs. In this regard, within the framework of master planning, local ordinances and land use regulations are developed and adopted in consideration of master plan policies. Thus, such regulations, including the County's Land Use and Development Code and regulations contained therein for procedures

such as subdivisions, rezonings, and permits are regulatory and contain specific standards.

III. Overview & Background

Background – 1997 Edition of the Plan

In the early 1990s the towns of Breckenridge and Blue River, together with the County, started a cooperative planning effort to address land use and related issues, which were considered crucial to maintaining the special sense of community and quality of life in the Basin. In 1994 the Joint Upper Blue Master Plan Committee was formed and charged with the challenging task of reviewing the existing master plans for the Basin and charting a course for the future. As stated in the 1997 edition of the Plan, the goal of this effort was to “adopt a seamless plan which provides for a unified vision and consistent land use policy for the entire basin.”

Once initiated, the Plan took 3 ½ years to develop, and over 30 public meetings were held to discuss issues and garner community input. The Joint Upper Blue Master Plan Committee began public meetings in March 1994, and in-depth analyses of existing development, build-out, zoning, subdivided areas, land ownership patterns and environmental factors were started for the entire Basin. As part of the planning effort there were three significant professional studies conducted. These studies were important as they served as the backbone and foundation to form the Plan’s framework and included:

Land Use Inventory and Analysis – Prepared by RRC Associates, John Humphreys Associates and RG Plans (Year). The land use inventory analyzed potential and projected build-out by subdivision in the Basin.

Upper Blue River Basin Transportation Plan – Prepared by Flesburg, Holt & Ullevig (Year). The Transportation Plan defined and quantified the major transportation constraints and opportunities in consideration of potential build-out of the Basin.

Commercial Zoning Analysis Upper Blue River Basin – Prepared by Economies Research Associates (Year). The analysis assessed and projected the amount of supportable commercial in the Basin in consideration of future residential build-out and visitor volume growth.

In August 1997, the County, along with the towns of Breckenridge and Blue River, adopted the Plan. In 1998 the Colorado Chapter of the American Planning Association recognized and awarded the Plan as an “Outstanding Project” at their annual conference. The following year, the Plan was awarded the 1999 Governor’s Smart Growth Award.

Significant Themes and Goals - 1997 Edition of the Plan

The 1997 edition of the Plan was developed in response to heightened pressures and awareness related to growth and development in the Basin. The Plan was unique for a number of reasons. First, it represented a collaborative effort between the towns of Breckenridge and Blue River and the County to create a common vision, goals and strategies for the Basin. Secondly, the Plan attempted to focus on both broad and more specific policies to guide and direct overall growth within the entire Basin.

It was apparent in developing the Plan that the Basin’s community showed support for the concepts of no creation of new density, reduced development potential and better control over land use development patterns in the Basin. As a result the more significant key goals/policy directives developed and provided in the 1997 edition of the Plan included:

- **Density Cap** - No additional density should be created in the Basin (with the exception of deed-restricted affordable workforce housing).

- **Reduce Activity Levels and Density Levels (Basin Density Target of 75% of Build-Out Potential)** – Reduce activity levels and ultimate build-out in the Basin to less than could potentially be allowed by existing zoning. Target a reduction of 2,500 residential units and adopt strategies to reduce development levels to this target of 75% of the projected full build-out.
- **Backcountry Protection** - Preserve the undeveloped character of the Basin’s backcountry areas, limit development in the backcountry to the extent possible, and establish an open space/development rights acquisition program and new backcountry zoning district.
- **Establish Transferable Development Rights (“TDR”) Program** - Develop a TDR program and a requirement that upzonings on properties only be allowed when TDRs are used to transfer the density to the property proposed for upzoning. Moreover, designate the backcountry as the TDR sending area.
- **Recreational Resources** - Preserve and enhance recreational and trail opportunities in the Basin.

The following excerpts from the 1997 edition of the Plan best summarize the rationale behind the basic premise, driving tenets and framework for capping density, reducing activity levels and build-out, and protecting the backcountry:

“Public testimony and research conducted by the Joint Upper Blue Master Plan Committee show that at the zoned maximum potential, full build out would erode the quality of life, change the character of the community, degrade aesthetic qualities and threaten the associated economic benefits so critical to a resort community's economic well being.”

“In summary, through the recommendations contained in the following pages, the plan seeks to sustain the quality of the valley's resources and the character of the community as we know it today through protecting community assets and natural systems, allowing for reduced development potential that is compatible with surrounding land uses, promoting adequate supplies of affordable housing and providing for efficient delivery of services.”

Implementation – 1997 Edition of the Plan

The 1997 edition of the Plan has been recognized as a very successful joint planning venture. There was a strong desire, commitment and steady resolve by the towns and County to implement the Plan after it was adopted. Overall, there were 22 key goals/policies contained in the Plan and approximately 90 recommended actions/implementation strategies. As of 2011 approximately 85% of the recommended actions/identified strategies were implemented or realized to some degree. Some of the significant accomplishments between 1997 and 2011 included: reducing density by 2,387 units through identified density reduction strategies; development of an award winning joint TDR program which protected 987 acres of backcountry and generated \$1,572,000 to supplement the County’s and Town of Breckenridge’s open space programs; rezoning of approximately 450 properties to a newly created Backcountry zone district; adoption of the Upper Blue Master Plan by the Upper Blue Planning Commission; and acquisition/purchase of approximately 3,820 acres for open space protection (of which 2,003 acres was backcountry). As a result of these implementation efforts, approximately 78% of the backcountry lands within the Basin have been protected from development as of February 2011.

There were only approximately 13 (or 15%) of the recommended actions/implementation strategies contained in the Plan that were not realized to some degree between 1997 and 2011. These strategies centered on: use of residual density, the Highway 9 corridor, modified town transit, traffic/transportation, parking, roadway design standards and affordable workforce housing provisions. Implementation of most of these strategies was explored, but the strategies were not diligently pursued for a number of reasons.

2011 Plan Update Effort

In the later part of 2010 the staffing resources and work program priorities of the towns and County were galvanized to undertake a joint effort to update the Plan. The important circumstances that prompted the need to update the Plan included:

- The Plan was over thirteen years old and it was recognized that an update would enable conditions that had changed since 1997 to be reflected in the Plan. For example, the Plan's density target has been exceeded and must be revised. The build-out numbers, density reduction strategies and implementation strategies also needed to be revisited and updated.
- In August 2009 the BOCC reprioritized the County's Planning Department's work program to amend all of the County's master plans and Land Use and Development Code to more thoroughly address issues related to the balance and interaction between the various master plan policies. This direction was squarely based on the implications of a decision at the Colorado District Court level (i.e. Polanski, May 2009) which appeared to suggest that the Countywide Comprehensive Plan worked to establish an absolute mandate that zoned density be allowed, and that any basin plans that served to abrogate such zoned density were invalid because they were in conflict with the Countywide Comprehensive Plan.
- An update would provide an opportunity to address new issues that the community and elected officials thought were important to further examine in consideration of changing conditions, future growth and community values.

Nevertheless, it was felt that the existing Plan was a sound planning document, relevant and useful. As such the update was envisioned not to be a comprehensive one but rather more limited in scope to refine existing issues and address only a few new topics. In light of this envisioned scope and mindset, in October 2010, a Joint Upper Blue Master Plan Advisory Committee was formed to serve as the body to work through the core issues and develop the majority of the update to Plan. The Advisory Committee was modeled after the committee created to develop the 1997 edition of the Plan and included seven members: two Breckenridge Town Council members, two Town of Blue River Trustees, two Upper Blue planning commissioners and one County Commissioner.

The Advisory Committee met seven times between November 2010 and April 2011 to work through issues and develop consensus. The committee expressed continued support for the key policy directives and recommendations provided in the 1997 edition of the plan. Specifically, in the context of maintaining community character: continue to cap overall density in the Basin (i.e. no upzonings in the Basin without TDRs), support density reductions and protect the backcountry. Moreover, the committee recognized the need to update realistic build-out and adjust it to reflect density reduction strategies which could realistically be pursued. It was acknowledged that the realistic build-out number would be higher than the 10,500 units targeted in the 1997 edition of the Plan, and the corresponding numeric goal to reduce activity levels and density by 25% would not be a realistic density reduction target for the updated version of the Plan. Therefore, a more realistic build-out target, in consideration of potential density reduction strategies, was developed.

As the update to the Plan progressed, opportunities for ongoing feedback between the Advisory Committee, elected officials, planning commissions and the public were provided. Additionally, a community open house was held on March 24, 2011 to seek public input and feedback. The Plan was endorsed by the Advisory Committee on __. Due to the multijurisdictional nature of the Plan and procedural issues, it was adopted by the respective entities on the following dates: Upper Blue Planning Commission; Breckenridge Town Council; Town of Blue River Town Trustees.

IV. Basin Overview/Existing Conditions & Future Growth Projections

This section is intended to provide an understanding of the physical and social context of the Basin and provide an overview of the Basin’s key characteristics, existing conditions and future growth projections. The overview includes information on the Basin’s geographic setting, population and visitation, land ownership, residential and commercial build-out and transportation systems. It concludes with a synopsis of the desired community character.

Geographic Setting

Located in west central Colorado, the Basin is approximately 75 miles west of Denver and lies entirely on the western slope of the Continental Divide. The Basin is positioned in the southern end of the County and includes the towns of Breckenridge and Blue River as well as unincorporated areas of the County.

The majority of the Basin is defined by beautiful and undeveloped mountainsides, a high alpine environment and serves as the headwaters of the magnificent Blue River. The Blue River runs northwest through the Basin until it reaches the Dillon Reservoir/Farmer’s Korner area, which defines the Basin’s northern limits. The rest of the Basin is completely surrounded by mountain ranges, as it is bounded on the east and south by the Continental Divide and on the west by the Ten Mile Range. Elevation in the Basin ranges from approximately 9,014 feet at Lake Dillon to 14,265 feet at the summit of Quandary Peak. Traffic is funneled into the Basin on Highway 9 from two points: southern traffic must cross over Hoosier Pass (elevation 11,542 feet) and traffic from the north comes through the Town of Frisco and Farmer’s Korner. The climate can best be described as one of long, cold winters and short, cool summers.

Land Use Inventory & Ownership

The Basin contains approximately 80,412 acres, of which, 5,222 acres (6.5%) are located within the incorporated towns of Breckenridge and Blue River, and the remaining 75,190 acres (93.5%) are located within the unincorporated areas of the Basin.

| Table 1. Land Area in the Upper Blue Basin by Jurisdiction | | |
|---|-------------------|---------------------------------------|
| Jurisdiction | Approximate Acres | % of Total Upper Blue Basin Land Area |
| Town of Blue River | 1,471 | 1.83% |
| Town of Breckenridge | 3,751 | 4.66% |
| Unincorporated Areas ¹ | 75,190 | 93.51% |
| Total Basin Land Area | 80,412 | 100% |

Source: Summit County Geographic Information Systems (GIS) Department.

¹ Approximately 62,446 acres (83%) of unincorporated areas are National Forest System lands, leaving approximately 12,744 acres (17%) of unincorporated areas outside the National Forest System.

As shown in Table 2, approximately 86% of the land in the Basin is publicly owned and managed. The majority of this publicly owned land is National Forest System land (approximately 62,446 acres, or 78% of the total Basin land area). The County and towns are also significant landowners, owning approximately 4,979 acres or 6% of the total Basin land area. Privately owned lands within the Basin make up approximately 14% of the total Basin land area, with approximately 3,638 acres of privately owned land located within the incorporated towns and approximately 7,735 acres of privately owned land in the unincorporated areas of the Basin.

| Table 2. Upper Blue Basin Land Ownership | | |
|---|-------------------|---|
| Entity | Approximate Acres | Percent Ownership of Total Upper Blue Basin Land Area |
| Publicly Owned Land: | | |
| National Forest System lands | 62,446 | 77.66% |
| Summit County Government & Town of Breckenridge | 4,889 | 6.08% |
| CDOT / Public Rights-of-Way | 1,129 | 1.40% |
| Denver Water | 244 | 0.30% |
| Summit School District | 113 | 0.14% |
| Town of Blue River | 90 | 0.11% |
| Colorado Springs | 85 | 0.11% |
| Upper Blue Sanitation District | 30 | 0.04% |
| Other Publicly Owned Lands ¹ | 13 | 0.02% |
| Publicly Owned Land Total | 69,039 | 85.86% |
| Privately Owned Land: | | |
| Town of Blue River Jurisdiction | 1,166 | 1.45% |
| Town of Breckenridge Jurisdiction | 2,472 | 3.07% |
| County Jurisdiction | 7,735 | 9.62% |
| Privately Owned Land Total | 11,373 | 14.14% |
| Total Basin Land Area | 80,412 | 100% |

Source: Summit County Geographic Information Systems (GIS) Department.

¹ Other Publicly Owned Lands includes 5 acres owned by the U.S. Postal Service, 5 acres owned by the Summit Historical Society, and 3 acres owned by the Summit County Finance Corporation.

Population & Visitation

Population in a resort community includes permanent residents, second homeowners, overnight visitors and day visitor components. Over the past 45 years, the Town of Breckenridge and Upper Blue Basin have been transformed from a sleepy mountain community of 400 people to a thriving year round resort center of approximately 9,600 permanent residents and over 58,000 people during peak periods. Under these conditions, Breckenridge and the surrounding developed areas take on many of the characteristics of a small city.

The 1997 edition of the Plan noted that, in 1995 there were approximately 5,500 permanent residents living in the Basin, and that over 35,000 people could be accommodated during maximum peak periods. Since 1995, the permanent resident population has grown by approximately 4,100 people or 75%. Moreover, it is now estimated that the Basin accommodates up to approximately 58,650 people per day during peak periods. Visitation to the Basin is primarily driven by Breckenridge Ski Resort, which hosted more than 1.6 million skiers and riders during the 2009-2010 ski season. The ski area regularly accommodates over 23,000 visitors on peak days and is consistently the first or second most heavily visited ski resort in North America.

In consideration of existing development approvals and growth trends, it is projected that the permanent resident population could grow by approximately 4,300 residents, or 44%, with approximately 13,900 permanent residents living in the Basin at full build-out. As build-out approaches it is also projected that the Basin could experience nearly 70,600 people per day during the "high" season peak periods (typically

occurring during December and March). This represents a projected growth of 20% in peak population. Thus, full build-out of the Basin would result in an estimated permanent population of 13,900 residents, and an estimated maximum peak population of approximately 70,600 people per day.

Permanent resident and peak population estimates are shown in Table 3 below. These estimates are based on assumptions about occupancy rates and build-out that are described in the footnotes.

| Table 3. Upper Blue Basin Permanent Resident and Peak Population Estimates | | | | | | | |
|--|---------------|---------------|----------------------|------------|-----------------------------------|-------------------------------------|------------|
| | 1995 Estimate | 2010 Estimate | Increase 1995 - 2010 | | Projected Population at Build-Out | Projected Increase 2010 – Build Out | |
| | | | People | Percent | | People | Percent |
| Permanent Residents¹ | 5,513 | 9,634 | 4,121 | 75% | 13,912 | 4,278 | 44% |
| Maximum Peak Population² | | | | | | | |
| Permanent Residents | 5,513 | 9,634 | 4,121 | 75% | 13,912 | 4,278 | 44% |
| 2 nd Homeowners/ Overnight Visitors | 25,324 | 38,799 | 13,475 | 53% | 45,415 | 6,616 | 17% |
| Day Skiers & Visitors ³ | 4,619 | 10,223 | 5,604 | 121% | 11,245 | 1,022 | 10% |
| Totals | 35,456 | 58,656 | 23,200 | 65% | 70,572 | 11,916 | 20% |

Source: Summit County and Town of Breckenridge planning departments. [Update numbers in consideration of 2010 Census data to be released soon. Also the County and Town of Breckenridge planning staffs are working on a revision to the methodology used to estimate permanent resident and maximum peak populations, based on revised assumptions about occupancy rates and persons/household for the towns and County. The population projections and footnotes will be modified to reflect the improved methodology.]

- ¹. The projected permanent resident population at build-out was calculated using the assumptions that, at build-out, 40% of all housing units will be occupied by permanent residents with an estimated 2.44 persons/household. Using these assumptions, the projected permanent resident population at build-out was calculated as follows: 14,255 projected housing units at realistic build-out x .40 occupancy x 2.44 persons per household = 13,912 permanent residents projected at build-out.
- ². Maximum Peak Population estimates include: permanent residents, second homeowners/overnight visitors, and day skiers and visitors during peak season. Maximum peak population was calculated using the methodology for projecting the permanent resident population described in footnote #1, and the following assumptions regarding 2nd homes / overnight accommodations: 60% of the housing stock is second homes and 100% of these units will be occupied with 5.5 persons per unit during maximum peak periods. Day skiers are estimated based on a peak day at Breckenridge Ski Resort with approximately 23,000 skiers, assuming approximately one-third (7,667) are day skiers. Day visitors are then estimated based on the assumption of one non-skier for every three day skiers (2,556). 7,667 day skiers + 2,556 non-skier day visitors = 10,223 day visitors. (Source: Town of Breckenridge 2009 Overview.)
- ³. Future growth in day visitors at full build-out of the Basin is difficult to project, and could range significantly from a conservative estimate of 2% to a more aggressive estimate of 10%. For purposes of projecting the potential maximum peak population at build-out, an estimated 10% growth in day visitors was utilized.

Basin Build-Out

A very thorough and extensive analysis of existing and potential build-out within the Basin was

conducted by the County and Town planning departments in 2010 as part of the update to the Plan. The build-out was critical to gaining an understanding of growth trends since 1997, development potential remaining in the Basin, and to provide a solid foundation for the update effort. Moreover, the build-out analysis was intended to illustrate the status and the scope of potential additional development that could occur in the Basin given existing development regulations and standards. A review of the build-out analysis conducted is provided below. For more detailed build-out data and an explanation of the methodologies used to conduct the analysis, reference the Appendix - Upper Blue Basin Build Out.

Residential Growth Experienced Since 1997

The build-out analysis included in the 1997 edition of the Plan indicated that, as of the end of 1996, there were approximately 7,664 residential units built within the Basin. The 2010 build-out analysis indicated that 3,189 residential units had been built in the Basin since 1996, bringing the total number of units in the Basin to approximately 10,850. This amount of development roughly equates to adding the number of housing units within the Town of Frisco to the Basin over the past 13 years. As shown in Table 4 the majority of this development (81%) has occurred within the Town of Breckenridge.

| Jurisdiction | 1996 Existing Units | 2010 Existing Units | Units Increase 1996 – 2010 | Percent Increase 1996 - 2010 | Percent of Total Basin Growth |
|--------------|---------------------|---------------------|----------------------------|------------------------------|-------------------------------|
| County | 2,843 | 3,381 | 538 | 19% | 17% |
| Breckenridge | 4,243 | 6,812 | 2,569 ¹ | 61% | 81% ¹ |
| Blue River | 578 | 660 | 82 | 14% | 2% |
| Total | 7,664 | 10,853 | 3,189 | 42% | 100% |

Source: Summit County and Town of Breckenridge planning departments.

¹ A significant portion of the Town of Breckenridge’s growth over the 13 year period was a result of annexation of unincorporated portions of the County by the Town of Breckenridge (e.g., Warrior’s Mark). Residential unit counts for the County were correspondingly decreased based on these annexations.

2010 Build-Out Analysis: Three-Tiers

The 2010 residential build-out analysis shown in Table 5 is broken out into three categories: 1) absolute build-out, 2) realistic build-out, and 3) realistic build-out with implementation of the density reduction strategies recommended in this Plan. An explanation of each build-out category is provided below.

| Jurisdiction | 2010 Existing Units | Projected Absolute Build-Out | Current % of Absolute Build-Out | Projected Realistic Build-Out (Including Future Affordable Housing) | Current % of Realistic Build-Out | Projected Realistic Build-Out with Density Reductions |
|---------------------------|---------------------|------------------------------|---------------------------------|---|----------------------------------|---|
| County | 3,381 | 5,673 | 60% | 5,098 | 66% | 504 – 670 units targeted to be reduced |
| Breckenridge | 6,812 | 8,661 | 79% | 8,989 | 76% | |
| Blue River | 660 | 838 | 79% | 838 | 79% | |
| Total ¹ | 10,853 | 15,172 | 72% | 14,925 | 73% | 14,255 - 14,421 |

Source: Summit County and Town of Breckenridge planning departments.

¹ Accessory dwelling units (i.e. accessory apartments and caretaker units) have not been included in the residential build-out analysis for two main reasons: 1) Unapproved / illegal accessory apartments and caretaker units are difficult to account for. 2) Estimating the potential for new accessory apartments or caretaker units to be constructed on single-family residential lots throughout the basin is very difficult. Since every single-family residential property in the Basin

has the potential ability to construct an accessory apartment or caretaker unit (if approved in accordance with applicable regulations), estimating the total number of accessory apartments and caretaker units that could exist at full build-out could artificially inflate the projected build-out, and is speculative and problematic. As of February 2011, there were approximately 55 approved accessory apartments and 9 approved caretaker units within the unincorporated areas of the Basin and approximately [redacted] within the towns of Breckenridge and Blue River.

Absolute Build-Out

Absolute build-out represents an evaluation of the existing zoning on every parcel of land in the Basin and identifies the maximum potential residential development allowed by that zoning. This is referred to as absolute build-out, because it represents the absolute or ultimate build-out potential that is permitted by existing zoning. As shown in Table 5, projected absolute build-out of the basin is approximately 15,172 residential units. With about 10,850 units now constructed, the Basin is currently approximately 72% built-out in terms of absolute build-out.

Realistic Build-Out (Including Future Affordable Workforce Housing)

Realistic build-out factors in natural constraints and development standards that could preclude realization of the full development potential allowed under the existing zoning regulations (e.g., access or environmental constraints such as steep slopes or wetlands). Thus, realistic build-out is intended to represent a more likely picture of the build-out that may occur in the Basin, which accounts for the fact that it is unlikely absolute build-out will be realized.

Inclusion of Future Affordable Workforce Housing Units

Realistic build-out has been calculated to account for additional density that could potentially be added to the Basin. This includes a total of 914 deed-restricted affordable workforce housing units, as identified in the Town of Breckenridge 2006 Housing Needs Assessment (above what had been built or was projected to be built during development of the 2006 Housing Needs Assessment).

It is important to note that inclusion of these 914 affordable housing units in realistic build-out does not imply that these units *will* be constructed. Rather, it is recognized that the 914-unit target is a *goal*, which is currently based on the 2006 Housing Needs Assessment. Affordable housing needs within the Basin will be continually evaluated over time. Thus, the 914-unit target may change over time, in response to improved assessment techniques, changing market conditions and other factors. Nevertheless, the current goal of 914 additional affordable housing units has been factored into realistic build-out, so the potential impacts of these units on the overall activity levels and carrying capacity of the basin can be accounted for and appropriately mitigated when making future planning decisions.

Summary of Realistic Build-Out

Without accounting for future deed-restricted affordable housing units, projected realistic build-out of the Basin is approximately 14,147 units. Using the methodology described in the Appendix attached to this Plan, overall it is estimated that an additional 778 units of density would be created in the Basin to meet the identified affordable housing needs outlined in the 2006 Housing Needs Assessment (914 total units – 136 units already permitted by zoning = 778 new units). Adding these 778 affordable housing units to the Basin's build-out results in a projected realistic build-out of approximately 14,925 units. Thus, with approximately 10,850 units now constructed, the Basin is approximately 73% built-out in terms of realistic build-out. This recognizes approximately 4,072 units remaining to be built in the Basin over the coming years.

Realistic Build-Out (Inclusive of Recommended Density Reduction Strategies)

As discussed in detail in the Land Use section below, one of the main goals of the Plan is to reduce overall activity levels and impacts from potential build-out and density in the Basin through implementation of various density reduction strategies (e.g., extinguishing density to offset impacts of new affordable housing units). The Land Use section sets forth policies aimed at reducing overall density in the Basin, ranging from a conservative reduction of 504 units to a more aggressive targeted reduction of 670 units. Thus, depending on how aggressively the density reduction strategies identified in the Plan are implemented, realistic build-out of the Basin could be reduced to approximately 14,255 - 14,421 units.

In consideration of the density reduction strategies recommended in this Plan, there are still approximately 3,400 – 3,500 units remaining to be built in the Basin. According to the build-out analysis, approximately 53% of this remaining development potential is located within the Town of Breckenridge (1,800 – 1,850 units), 42% within the unincorporated areas of the Basin (1,430 – 1,470 units), and the remaining 4% within the Town of Blue River.

Commercial Build-Out Analysis

In conjunction with the above residential build-out analysis, an estimate of commercial build-out in the Basin was conducted by the County and Town of Breckenridge planning department staffs based on existing commercial zoning and development approvals. Included in the estimates is all retail, office, warehousing and other business uses in the Basin. Hotel and lodge rooms are not included as commercial - they are counted in the residential estimates noted above.

| Jurisdiction | 2010 Existing Commercial (sq. ft.) | Projected Absolute Build-Out (sq. ft.) | Existing as a % of Absolute Build-Out | Projected Realistic Build-Out (sq. ft.) | Existing as a % of Realistic Build-Out |
|---------------------------|------------------------------------|--|---------------------------------------|---|--|
| Breckenridge ¹ | 1,615,171 | 2,353,098 | 69% | 1,915,045 | 84% |
| County | 354,488 | 728,574 | 49% | 594,828 | 60% |
| Total | 1,969,659 | 3,081,672 | 64% | 2,509,873 | 79% |

¹ Realistic commercial build-out in the Town does not include any density on parking lots (___ square feet) that may eventually be redeveloped.

Currently there is approximately 1.97 million square feet of commercial development in the Basin. The majority of this commercial (82%) is located within the Town of Breckenridge. The commercial build-out analysis indicates that, according to existing zoning, absolute build-out of commercial space within the Basin could total up to approximately 3 million square feet. However, realistic build-out accounts for the fact that realization of absolute build-out is unlikely due to site constraints and other limiting factors.

Realistically, the Basin could see up to 2.5 million square feet of commercial space developed at full build-out, most of which would be located within the Town of Breckenridge. Of the approximately 540,000 square feet of commercial space remaining to be built in the Basin, 55% is located within the Town of Breckenridge (approximately 300,000 square feet) and 45% is located in the unincorporated areas of the County adjacent to the Town of Breckenridge (approximately 240,000 square feet). The majority of the remaining realistic commercial development within the Town of Breckenridge is located in the Parkway Center (137,800 square feet) and the Breckenridge Airport Subdivision (92,163 square

feet).

Community Character

During the creation of the 1997 edition of the Plan and the 2011 update to the Plan, citizens repeatedly expressed concern that values connected to the natural environment and small town atmosphere in the Basin may become endangered by unrestrained growth and development. The public has expressed a strong desire to curtail development potential, preserve the rural character of outlying or backcountry areas and the small mountain resort character of the Town of Breckenridge. Additional high priority concerns expressed by the public include affordable housing, traffic and parking - problems typically found in urban and resort areas.

Ski town development is unique and is frequently characterized as "micro urban." That is to say that the typical development pattern is a small urban community surrounded by rural areas and public lands. Such a micro urban community must provide urban levels of service and contend with planning and development issues that are common in urban areas. At the same time, these types of communities often think of themselves as rural or small town. The community and this Plan place a high priority on maintaining a small town lifestyle and rural surroundings. Residents and visitors value the surrounding open spaces, a high quality natural environment, easy access to recreation on public lands, comfort in knowing one's neighbors and the friendly lifestyle that is associated with a small community. However, residents and visitors also desire urban services and amenities such as reliable mass transit, high quality law enforcement, fire and emergency response, recreation centers, arts and cultural programs, and varied opportunities for dining and entertainment.

Retaining a small mountain town character and rural surroundings while enjoying the benefits of urban type amenities and conveniences defines the dilemma of planning in a resort community. As development in the Basin continues, the concerns and issues that define this dilemma will continue to become more and more critical unless strategies and programs are put in place to address them. In other words - a plan.

V. A Vision

The Upper Blue River Valley is both a valuable and vulnerable resource. The valley sustains the community in many ways. The sense of place and the spirit of the community are largely defined by the high alpine setting and pristine natural environment of the Upper Blue. The relatively unspoiled quality of the valley's resources - its clean air and water, spectacular mountain vistas, abundant open spaces, diverse and easily seen wildlife as well as rare plants and animals; relative lack of urban problems or annoyances such as serious crime, noise and light pollution; easy access to multiple outdoor recreation and opportunities for solitude in the backcountry; and the small town atmosphere are just some of the values which define this community. It is both individual and shared beliefs about the value of these intangibles, much more than measurable components like traffic volume and sewer capacity, which define our community as it is today and how we wish it to be in the future.

The valley's resources have brought us all here and made the community what it is today - a thriving resort area. At the same time, our economic success can threaten the values that we all hold dear. We are at a critical juncture. Recognizing that our high alpine setting is a fragile ecosystem, "Killing the goose that laid the golden egg," is a real possibility if urbanization as well as scattered growth and the resulting impacts created degrade the valley's resources.

The vision of the Plan, simply put, is to preserve the quality of the valley's resources and the character of

the community as we know it today. That is not to suggest that continued economic growth should not or will not occur. Rather, the guiding theme of the Plan is to implement a shared set of policies among the towns of Breckenridge and Blue River and the County in order to preserve our high alpine environment along with the character and spirit of the community that we enjoy and value today as growth and inevitable change occurs.

VI. Land Use

The following Land Use section narrative does not serve as a goal or policy/action in its own right and is for illustration and guidance only.

Basin Development Pattern

The nature of development pressure and the resulting activity patterns in a mountain setting such as the Upper Blue River Valley is very different than in areas with fewer constraints. The amount of developable land in the Valley is severely limited by the extensive public land holdings: approximately 78% of the land area in the Basin is managed by the U.S. Forest Service and approximately 6% is owned by the County and Town of Breckenridge. Most of the private land that is suitable for higher densities is already developed. Within the unincorporated areas of the Basin, a large portion of the remaining private land to be developed is generally too steep, too remote or too wet for all but low density rural residential development.

As stated in the 1997 edition of the Plan, the overall development pattern in the Basin can best be described as linear - generally following the Blue River Valley from Farmer's Korner to Hoosier Pass. Breckenridge is the urban (or "micro urban") center. South to Hoosier Pass the predominant pattern is single family residential in the 1 unit to 2 units per acre range. North and east of Breckenridge, densities tend to transition from urban or suburban to rural. The more remote areas of the Basin (Upper Swan, French Gulch, and Upper Boreas) are largely undeveloped. Since 1978, land use planning in the basin has embraced a growth center concept where high density development is concentrated in an urban core. Outside of the core, densities are significantly lower and eventually transition into a rural or undeveloped character.

The desired development pattern and growth center concept has not changed for the Basin since the Plan was adopted in 1997. However, the updated edition of the Plan attempts to repackage the growth center concept into a more clearly delineated development pattern of "urban" and "rural". It is felt this will provide more consistency with development patterns established in master plans that have been adopted since 1997.

Growth Center Concept

"One of the keys to achieving a "seamless" land use plan is to reach consensus on development patterns in transition areas where town and county jurisdictions meet."

-- 1997 Joint Upper Blue Master Plan

The growth center concept in the 1997 edition of the Plan can best be described as an urban or micro urban core and limited transition areas within the development area, surrounded by rural or undeveloped lands. Per the 1997 Plan, the urban/micro urban area consists of what is best described as the developed portions of the Basin. It includes all of the incorporated areas within the towns of Breckenridge and Blue River, and most of the developed or partially developed areas in the County. Land uses include high

density residential, lodging, commercial and mixed use development in the core area of Breckenridge, service commercial and light industrial uses located along County Road 450, airport and north valley areas, and moderate to lower density residential areas surrounding the towns and in outlying areas. The Breckenridge Ski Area is also located within the urban/micro urban area. Providing for high quality development of a full service resort community while maintaining the rural/small town character of the Basin as additional development occurs is the focus of the urban/micro urban area.

The 1997 edition of the Plan affirmed the growth center concept. However, in doing so it significantly modified the transition scheme of the 1988 Upper Blue Master Plan (the County's basin master plan for all unincorporated property in the Basin) by defining a boundary between development and rural/backcountry - i.e. a rural/backcountry boundary. The 1997 Plan contemplated that rural and backcountry areas remain primarily undeveloped. As a consequence it is important to note many of the transition areas in the 1988 Upper Blue Master Plan were significantly reduced or eliminated altogether.

Transition to Urban and Rural Concept

The growth center concept contained in the 1997 edition of the Plan (i.e. urban or micro urban core and limited transition areas within the development area, surrounded by rural or undeveloped lands) significantly influenced subsequent master planning conducted by the County. Primarily the growth center concept carried over into master plan discussions and decisions in updating the County's 2003 Countywide Comprehensive Plan and all ensuing basin and subbasin master plans (particularly the 2005 Upper Blue Basin Master Plan).

The County's 2003 Countywide Comprehensive Plan attempted to focus new development within or adjacent to existing urban areas (primarily to limit impacts of development in rural or environmentally sensitive areas). More specifically the Countywide Comprehensive Plan embraced the notion that land use should be characterized as either "urban land use" or "rural land use". The Countywide Comprehensive Plan embodied this concept through specific goals and policies/actions in the Land Use Element, such as: focus development within existing urban areas and future land use decisions in rural areas should be consistent and harmonious with the rural character of the land. Moreover, the Countywide Comprehensive Plan prescribed that "urban" and "rural" areas be identified in basin master plans and provided criteria and considerations when determining such locations.

The significance of the urban/rural framework established in the County's 2003 Countywide Comprehensive Plan to the Basin was that when the 1988 Upper Blue Master Plan was amended in 2005, the land use maps and land use designations were delineated and focused into urban or rural categories. Although pre-existing land use patterns in the Basin may not completely fit within the urban/rural land use concept, it is the desire of the Plan that future development follow this concept to the extent possible.

Basin Growth and Development – Infrastructure Considerations

As a result of land ownership and development constraints in the Basin, the settlement pattern of the Valley as we know it has emerged. The densities at the heart of the settlement, the downtown area of Breckenridge, are high and relatively concentrated for a small community. This development pattern has necessitated more urban style solutions in terms of public transportation infrastructure, such as the use of remote parking lots and the development of a substantial public transit system to link them with the downtown core and the Breckenridge Ski Area.

Building more and larger infrastructure elements to keep pace with continued development is a never ending cycle that could have multiple negative consequences for the community. A self fulfilling prophecy can occur where expanding infrastructure allows additional growth which, in turn, creates

demand for more infrastructure. When this happens without regard to more important community values, the results will not be satisfactory to the community. At the root of the constraints is the roadway network which serves the Valley and the Town of Breckenridge, which was established in the historic mining era. Given the small amount of land on the valley floor, and the existing development patterns, there are very few alternatives for adding meaningful roadway capacity in the Basin. While new road way configurations and capacity increases could be designed and probably funded, they probably cannot be constructed without dramatically altering the landscape and creating significant aesthetic and functional impacts that are not consistent with the community's values and its distinctive character.

Goal and Policies/Actions

Goal A. Future land use decisions should advance an urban/rural development pattern and not increase overall density in the Basin.

- Policy/Action 1. Locate new development within existing urban areas to the maximum extent possible.
- Policy/Action 2. Land use decisions in rural areas should be consistent and harmonious with protecting the backcountry character of the Basin.
- Policy/Action 3. No new density (beyond that currently zoned) shall be approved or allocated to any parcel within the Basin unless such density is transferred to the proposed development site in accordance with the guidelines established in Basin Transferable Development Rights (TDR) programs and the Town and County Development Codes.
- An exception to the density cap shall be allowed for deed-restricted affordable workforce housing units, as described in the Affordable Workforce Housing section.
- Policy/Action 4. Rezoning or other actions which increase density beyond the level currently zoned should require a transfer of development rights in accordance with established TDR program regulations. Exceptions to the transfer requirements include community facilities and institutional uses and affordable housing as identified in the Affordable Workforce Housing section.
- Identified TDR Receiving Areas for density transfers shall be able to accommodate additional development within the limits of available services and infrastructure, site constraints and neighborhood compatibility, and also be in conformance with the Town and County Development Codes.
- Policy/Action 5. Vacant land annexations should restrict development levels to the density established by County zoning or the Town of Breckenridge Land Use Guideline recommended density, whichever is less, unless additional density is transferred to the site.
- Policy/Action 6. Commercial activity is not encouraged in rural or outlying areas of the Basin, but rather should be focused in the urban core or urban areas.
- Policy/Action 7. Individual sites should be developed within the limitations of site specific constraints and overall infrastructure and service capacities within the Basin.

Activity Level Approach

It is the goal of the Plan to establish a balance between saving the Basin's small town, rural character and allowing a reasonable increment of growth. This is based on public response and the Plan's theme to reduce potential build-out and that the burden of any reductions should be fairly distributed among the

various land use types and activity generators within the Basin. Therefore, the Plan identifies and recommends strategies to reduce or control activity levels. The following identifies and describes the key components that contribute to generating activity in the Basin:

Human and Vehicular Activity

Activity levels are best defined as the amount of human and vehicular activity associated with a specified level of development. The hustle and bustle of Breckenridge Main Street creates an exciting and vibrant downtown. However, as more and more people are attracted to the commercial core area of Breckenridge, the congestion that results from large numbers of cars and people moving into and through downtown is a negative component of activity. Similarly, traffic activity on Highway 9 leading into and out of Breckenridge can easily become a negative experience during peak periods.

Residential Development

Activity levels also can be related to residential development in the Basin. Neighborhoods that are quiet most of the year can experience the negative aspects of increased activity when single family homes or other residential units are occupied by large numbers of short term and overnight visitors who come and go frequently in private automobiles or shuttles.

Recreation

There are also activity level impacts associated with recreational pursuits. With more and more visitors and residents looking for solitude or a backcountry experience, it is inevitable that a favorite backcountry road or trail will become more crowded and more user conflicts will occur. Day skiers are also a significant contributor to activity levels as they generate traffic flow into the Breckenridge area and drive the need for additional parking facilities and transit service.

Day Skiers

Day skier impacts are difficult to quantify, but have a significant effect on activity levels within the Basin. It is expected that day skiers will continue to grow in the foreseeable future as population on the Front Range grows. Day skiers impact the activity levels and increase demand in the Basin in many ways, including traffic congestion and parking; infrastructure (water, sewer, roads, sidewalks); provision of adequate services (transportation, medical, auto related, police); and services and housing related to the need for seasonal employees.

From a more intangible perspective, increasing activity levels will result in an increasingly faster urban pace and lifestyle, consequences which are contrary to the community's expressed desire to retain a small town character and informal lifestyle. However, it is recognized that limiting future growth will likely result in a more expensive community to live in. Already high housing costs could be pushed even higher, forcing more workers to live elsewhere and commute into the valley and adding to traffic congestion and overall activity levels. Over time, the result could be a loss of community diversity and increased activity levels as more workers are forced to drive into the valley every day. Strong incentives and other measures which seek to provide adequate supplies of affordable workforce housing must be coupled with any limitations on development.

Goal and Policies/Actions

Goal B. Potential activity levels within the Basin should be reduced to a level which is consistent with the vision of this Plan and desired community character.

Policy/Action 1. Additional density should not be created anywhere within the Basin, whether through upzonings, annexations or some other mechanism. An exception is for community facilities and institutional uses and those identified in the Affordable Workforce

Housing section.

Policy/Action 2. The County and towns should work with the Breckenridge Resort Ski Area to mitigate existing and future impacts associated with day skiers visits.

Reducing Build-Out Impacts

The basic premise of this Plan is to strike a reasonable balance between those who feel strongly that the Basin is at its capacity now, and those who believe that few if any restrictions are necessary. Activity levels and development impacts associated with absolute and realistic build-out in the Basin, coupled with growth in day skier numbers could lead to a scenario that is inconsistent with the community's vision and values.

The 1997 edition of the Plan proposed that the build-out level for the Basin should not exceed the equivalent of 10,500 residential dwelling units, or approximately 75% of the zoned maximum potential density (the specific target was to reduce residential density by 2,550 units). This conclusion was based primarily on a concern that build-out beyond this level would dramatically change the character of the community and erode the quality of life in a way that is contrary to the vision of the Plan. However, as indicated in the build-out section, as of January 2011, the 10,500 target had been exceeded and approximately 10,853 units were built in the Basin.

In updating the Plan it was recognized that the realistic build-out of the Basin could approach 14,500 units. This is significantly more than the 10,500 units originally targeted in the 1997 edition of the Plan, which served as the barometer of a desired comfortable carrying capacity and associated activity levels. Thus, the update to the Plan in 2011 brought to light the fact that another 3,500 units may be built in the Basin and those units would invariably have a considerable impact to community character. Therefore, the Plan stresses the need to continue to pursue strategies to reduce anticipated development levels in order to move toward a desirable activity level at build-out.

Density Reduction Strategies

This section identifies strategies which, if realized, will move the Basin toward a reduced targeted build-out. The strategies represent a wide range of realistic alternatives that distribute the burden of reductions among a range of land use types and activity generators in the Basin. Each projection and strategy includes a conservative and aggressive estimate of the development level reduction that might be expected if the projection or strategy is realized. These projections were based on the updated build-out analysis and in-depth review of the density reduction strategies achieved between 1997 and 2011.

The strategy which could result in the largest reduction in density is extinguishing development rights at a 1:2 ratio for affordable workforce housing, with the County and Town of Breckenridge retiring density on County and Town-owned properties in conjunction with new affordable housing developments. This strategy is discussed in more detail in the affordable workforce housing section. When combined, all of the identified strategies will, if realized, move the Basin toward a targeted build-out of approximately 14,000 residential units and reduce realistic build-out by 504 to 670 units.

A slight deviation from the recommendations to reduce density in the Basin is recognized for the Town of Blue River, allowing the Town to be excluded from implementing these types of strategies. A land use inventory and zoning analysis of remaining development potential in the Town revealed very few opportunities to reduce density within their boundaries. The lack of opportunities to reduce density coupled with the Town's desire to increase its property tax base advances the notion that the Town of Blue River should not be subject to the identified density reduction strategies outlined below.

Goal and Policies/Actions

Goal C. Pursue strategies to reduce density and development potential anywhere from 504 to 670 residential units in the Basin.

Policy/Action 1. The County and Town of Breckenridge shall encourage and facilitate the reduction of density and development potential in the Basin through implementation of the strategies identified and summarized in Table 7 below.

- The Town of Blue River shall not be subject to the recommend density reduction strategies to be pursued by the County and Town of Breckenridge.

| Table 7. Upper Blue Basin: Density Reduction Strategies & Estimated Reduction in Density | | | |
|---|-----------------------------|------------|---|
| Realistic Strategies | Potential Density Reduction | | Comment |
| | Conservative | Aggressive | |
| Affordable Workforce Housing | 389 | 389 | Extinguish development rights at a 1:2 ratio to offset impacts from affordable workforce housing. |
| Review of Development Applications in Town and County | 35 | 70 | As part of reviewing development applications, density may be reduced through application of goals and policies in the Plan. |
| Town and County Single Family Lot Combinations | 30 | 55 | On contiguous platted parcels owned by the same individual – encourage density reductions through the vacation of lot lines and recordation of a perpetual restrictive covenant on the property prohibiting re-subdivision. |
| Conversion of Density Through Acquisition of Backcountry Property | 20 | 36 | The County and Town will continue to purchase properties zoned Backcountry (BC) for open space protection. Density reduced through the TDR conversion ratio would result in a reduction of density (i.e. conversion from 1 unit per parcel to 1 unit per 20 acres). |
| Creation of Site-Specific Master Plans Within the Town of Breckenridge | 10 | 60 | Extinguishing 25% of zoned density may be considered an eligible public benefit as part of a Development Agreement for large projects. |
| Mitigating Impacts of Development Proposals Through Use of TDRs | 5 | 15 | Applicants may voluntarily propose to utilize development rights/TDRs as a means of mitigation to ameliorate concerns with development project proposals other than rezonings/upzonings. |
| Conservation Easements | 5 | 15 | Voluntary conservation easements placed on properties by private landowners, land trusts or other entities. |
| U.S. Forest Service Land Trades | 5 | 15 | County and Town owned land traded to the U.S. Forest Service would effectively reduce the density previously entitled or zoned on the property. |
| Other Strategies | 5 | 15 | There could be other strategies or unanticipated situations which result in density being extinguished. |
| Total | 504 | 670 | |

Policy/Action 2. Work with the County Assessor’s office to create incentives or other voluntary mechanisms to encourage single family lots to be combined. Incentives from local government could be provided for properties ineligible for Federal tax deductions. For example, savings in property tax payments that may be realized when single family zoned lots are combined.

- Policy/Action 3. As part of the Town of Breckenridge development review process and procedures, 25% of zoned density may be extinguished and considered an eligible public benefit (e.g., as part of a Development Agreement for large projects).
- Policy/Action 4. When a property within the Basin is traded to the U.S. Forest Service, the property should subsequently be rezoned to the County’s Natural Resources (NR-2) zoning district to permanently extinguish any density that previously existed on the property.
- Policy/Action 5. To enable a better understanding of the impact of various land uses on activity levels and their interrelationship, the towns and County shall continue to monitor build-out and reductions in development potential that occur in the future.

Other Density Reduction Strategies

In addition to the strategies identified in Table 7 above, reductions in density and potential build-out can be expected elsewhere and through other actions. However, it is difficult to estimate how many development rights could be reduced through these types of actions. Examples of these types of strategies include but are not limited to:

- Voluntary reduction efforts on properties purchased or owned by the County or Town of Breckenridge.
- Selected rezonings initiated by individuals or the County or Town of Breckenridge of properties, which are significantly out of conformance with respective master plan/comprehensive plan land use designations or guidelines.
- Reductions in commercial build-out.
- Application of development standards (i.e. codified standards might not make it possible to develop a site at the maximum density potentially allowed on the site through zoning or land use guidelines).
- Adjustments to the density ranges contained within the Town of Breckenridge Land Use Guidelines in consideration of the Town’s Comprehensive Plan.

Goal and Policies/Actions

Goal D. Pursue other voluntary and market driven decreases in density and potential development as opportunities present themselves.

- Policy/Action 1. The County and Town of Breckenridge shall commit to exploring other creative density reduction strategies in the future. Examples of these strategies include, but are not limited to: voluntary reduction efforts and rezoning of properties significantly out of conformance with respective master plans.
- Policy/Action 2. The County and Town of Breckenridge should look for opportunities to limit or reduce the amount of commercial development that can occur. This approach should recognize the unique location and market sector factors that influence commercial development potential within existing commercial nodes or commercial areas, traffic impacts, infrastructure availability, and compatibility with surrounding areas.
- Policy/Action 3. Ensure that all new development meets current site design and development standards regardless of the zoning designation on the parcel.
- Policy/Action 4. Review and where necessary adjust the density ranges contained within the Town of Breckenridge Land Use Guidelines, giving consideration to the following factors:
- Updates to the Town’s Comprehensive Plan.

- Recent changes to the Town’s Land Use and Development Code.
- Refined information on physical characteristics of land within the Town.

VII. Backcountry Protection

The 1997 edition of the Plan expressed an overwhelming desire to see development in the rural/backcountry area limited to the greatest extent possible. This desire was driven, in large part, by the importance of protecting the diverse wildlife habitat, unspoiled ridgeline and mountain vistas, forested hillsides and backdrops, along with the opportunities for solitude and outdoor recreation that characterize the rural/backcountry areas of the Basin. Put another way, protecting the rural/backcountry areas was considered a critical component to help maintain the sense of place and spirit of the community that existed in the Basin. As stated in the 1997 edition of the Plan, “These areas provide residents and visitors a respite from the urban activity of Breckenridge and the more developed areas of the Basin, in addition to major metropolitan areas where most visitors come from.”

To accomplish protecting the rural/backcountry areas, the implementation strategies included in the 1997 edition of the Plan placed emphasis on: designating the rural/backcountry area as a sending area for transferable development rights; establishing an Upper Blue Basin open space/development rights acquisition program; and establishing a new backcountry zoning district that could be applied to backcountry areas and limit the impacts of development by limiting structure size, site disturbance and the construction of new roads. As indicated in the Overview and Background section, these strategies were successfully implemented and have resulted in approximately 5,635 acres, or 78% of the backcountry zoned properties within the Basin being protected from development as of February 2011.

In 2001, the County adopted the backcountry zoning district, which was applied to approximately 7,200 acres of property in the Upper Blue Basin. The adoption of the backcountry zoning district implemented a major goal in the 1997 Plan. The zoning regulations ensure that development on backcountry properties is constructed in a manner that preserves the rural, high alpine character of these areas. The zoning district works together with the TDR regulations, giving a property owner the choice to either build on their property in accordance with the backcountry zoning regulations, or to voluntarily sell or transfer their development right out of backcountry areas to more suitable locations in the urban/developed portions of the Basin. The Towns and County recognize the success of this zoning district and are supportive of maintaining the backcountry zoning district to keep this effective tool in place for protecting the character of the Basin’s backcountry areas.

Although the Basin's rural or backcountry areas are, for the most part, sparsely developed or substantially protected, there is remaining development potential that could have undesirable impacts. There are currently 122 private properties zoned Backcountry (21.9% of the Backcountry zoned properties). It is anticipated that the County and Town of Breckenridge will continue to pursue the purchase of many of these remaining privately owned Backcountry zoned properties. Using a conservative estimate, the County and Town will probably acquire at least half of these claims. Thus, in light of the remaining development potential and possible impacts, continued implementation of programs to protect and preserve the rural/backcountry areas of the Basin is recommended.

Goal and Policies/Actions

Goal E. Preserve the natural resources and undeveloped character of rural/backcountry areas to the fullest extent possible.

Policy/Action 1. As opportunities present themselves, programs, regulations or policies should be enacted and land use recommendations adopted in order to preserve and protect the character of the backcountry.

- Policy/Action 2. Continue to explore the creation of incentives that encourage landowners to limit the scale and intensity of development, preserve open spaces, views and other environmental values, and retain access to roads, trails and public lands.
- Policy/Action 3. Continue to encourage and incentivize development rights to be transferred out of designated backcountry TDR sending areas to designated TDR receiving areas in the urban area, which are more appropriate for development.
- Policy/Action 4. The County and Town of Breckenridge shall continue to coordinate open space protection programs and other innovative methods to acquire properties zoned Backcountry (BC) for open space protection.
- Policy/Action 5. Encourage land exchanges which increase the amount of public land in rural/backcountry areas as suggested in the Land Ownership Adjustment Analysis for the Dillon Ranger District. Identify and map national forest system lands properties that should not be transferred to private ownership, and move expeditiously to preserve them as publicly held whether through acquisition or some other method.
- Policy/Action 6. Preserve the existing character of roads in rural/backcountry areas to the fullest extent possible given the need to provide for reasonable access to properties and the protection of public health, safety and welfare.
- Policy/Action 7. Discourage construction of new roads in rural/backcountry areas.
- Policy/Action 8. Winter maintenance of roads in the rural/backcountry areas that have significant value for over the snow recreational uses should be prohibited or restricted to the fullest extent possible.
- Policy/Action 9. The County should continue to maintain its Backcountry Zoning District as a means of preserving the backcountry character of the Basin.

VIII. Affordable Workforce Housing

Lack of affordable housing is consistently identified as one of the most pressing problems in the Basin. An adequate supply and availability of affordable housing is critical to retaining a healthy community and economy.

During the creation of the 1997 edition of the Plan, the median price of a single family home in the Basin was approximately \$265,000. By 2006, the median price of a single family home in the Basin had increased to \$950,000. This represents a 260% increase in the price of a single family home between 1996 and 2006 for the area. In comparison to median home price, the area median income (AMI) for a 4 person family in the Basin in 1996 was \$56,350 and increased to \$78,400 in 2006. This represents an AMI increase of 39% over the same 10-year timeframe. Thus, it is evident that real estate appreciation of 260% far outpaced the 39% increase in the median income of workers in the area during the same time period.

As a result, the “gap” between the cost of housing and the income of workers continues to grow at an alarming rate. Current home prices are beyond the means of most area residents and workers. Therefore, many people are forced to live in surrounding areas and counties where costs of housing are more reasonable. This in turn has led to increased traffic congestion and demand for parking in Breckenridge and on Highway 9 due to workers commuting into the Breckenridge area, and, over the long term, an increasing shortage of workforce housing could lead to a loss of community diversity and vitality.

Affordable Workforce Housing – Increase in Supply Since 1997

The 1997 edition of the Plan recognized the shortage of affordable workforce housing within the Basin as a significant issue of concern. Therefore, the Plan identified the need to create a strategic affordable housing plan and recommended a number of other policies and implementation strategies aimed at increasing the supply of affordable housing throughout the Basin.

Since adoption of the 1997 Plan, the Town of Breckenridge has taken a leading role in proactively pursuing efforts to develop affordable housing. The Town adopted an Affordable Housing Strategy in 2000, which outlined a program to incentivize the private sector to develop workforce housing and strategies for the Town to participate directly in the development of affordable housing projects such as the Valleybrook Subdivision. Although the lack of affordable units within the Basin remains an issue, great strides have been made since adoption of the 1997 edition of the Plan. Table 8 displays that, as of February 2011, a total of 756 deed-restricted affordable housing units have been developed within the Basin. The majority of these units (89%) are located within the Town of Breckenridge. With the addition of another 107 units currently planned and vested within future phases of the Valleybrook and Wellington Neighborhoods, there will be a total of 863 affordable workforce housing units developed within the Basin at build-out of said projects. 91% of these (782 of 863 units) will be located within the Town of Breckenridge limits.

| Table 8. Upper Blue Basin: Inventory of Affordable Workforce Housing Units Provided Between 1997 – February 2011 | | | | |
|---|--|-----------------------|-----------------------------------|--|
| Project Name | Average Area Median Income (AMI) Target | Existing Units | Planned Future Phase Units | Total Units (Existing & Future Planned) |
| Town of Breckenridge Housing Units | | | | |
| Wellington 1 | 99% | 98 | | 98 |
| Wellington 2 | 110% | 128 | 78 | 226 |
| Gibson Heights | 71% | 40 | | 40 |
| Vista Point | 113% | 19 | | 19 |
| Breckenridge Terrace | 90% | 180 | | 180 |
| Pinewood Village | 83% | 74 | | 74 |
| Vic’s Landing | 86% | 24 | | 24 |
| Valleybrook | 85% | 13 | 29 | 42 |
| Other Dispersed Units | N/A | 99 | | 99 |
| Total Units in Town of Breckenridge | | 675 | 107 | 782 |
| Unincorporated Area Housing Units | | | | |
| Project Name | Average Area Median Income (AMI) Target | Existing Units | Planned Future Phase Units | Total Units (Existing & Future Planned) |
| Kennington Townhomes | N/A | 36 | | 36 |
| Farmers Grove | N/A | 15 | | 15 |
| Monarch Townhomes | 90% | 13 | | 13 |
| Other Dispersed Units | N/A | 17 | | 17 |
| Total Units in Unincorporated Area | | 81 | | 81 |
| Total Affordable Workforce Housing Units Built or Approved in the Upper Blue Basin | | 756 | 107 | 863 |

Source: Town of Breckenridge and Summit County planning departments.

[Note – The total number of future planned housing units listed in Table 8 is in the process of being refined by the

Town of Breckenridge and County Planning Department staffs. Therefore the numbers in Table 8 will change slightly as the Plan is finalized].

Projected Affordable Workforce Housing Needs

Projected needs for additional affordable workforce housing units within the Basin are based on a 2006 Housing Needs Assessment that was completed for the Town of Breckenridge by RRC Associates, Inc. This housing needs assessment identified a need for 914 additional affordable housing units throughout the Basin by the time realistic build-out is reached (above what had been built or was projected to be built during the 2006 housing needs assessment).

The housing needs identified in the 2006 assessment included both “catch-up” housing and “keep-up” housing. Catch-up housing is housing needed to address current deficiencies in the existing housing supply. Catch-up housing needs are based on an evaluation of current resident households with housing problems (e.g., cost-burdened, overcrowded or substandard living conditions), local renters looking to purchase housing, and in-commuters that would prefer to live in the Breckenridge area if affordable and suitable housing was available. Keep-up housing is housing that will be needed to keep up with projected future demands for housing. Keep-up housing needs focused on new housing units that will be needed as a result of job growth within the Basin. The housing needs assessment has been considered a conservative study, as it did not account for the projected loss of existing market-rate units, which are currently owned and occupied by area employees, as these employees retire and sell their units over time at market prices unaffordable to local workers.

It is important to acknowledge that the current 914 unit target is a “living number” that will need to be continually re-evaluated over time. Recognizing this, the Plan establishes a policy stating that the Basin’s affordable workforce housing needs should be continually analyzed over time by conducting periodic housing needs assessments. Thus, the 914-unit target could change over time, in response to changing market conditions, improved assessment techniques, additional loss of employee occupied market-rate units as units are sold over time to second homeowners, and other factors.

Other Adopted Affordable Workforce Housing Plans

Since adoption of the 1997 edition of the Plan, there have been a number of affordable workforce housing-related plans developed, which outline specific goals, policies and implementation strategies to increase the supply of affordable workforce housing within the Basin, as well as within other areas of the County. These include the Countywide Comprehensive Plan Housing Element, Upper Blue Basin Master Plan Housing Element, Joint Summit County Housing Strategy, and Town of Breckenridge 2008 Workforce Housing Action Plan.

The primary goal for the Basin, which is expressed in these respective plans, is to ensure that the targeted 914 additional affordable workforce housing units are constructed by the time the Basin reaches realistic build-out. This goal was derived from the 2006 Housing Needs Assessment, and is to be achieved through a combination of local government resources, impact fee and sales tax revenue, incentives, policies placed on new development, and partnerships among the towns, County, Summit Combined Housing Authority, and other appropriate entities.

Appropriate Locations for Affordable Workforce Housing

When planning for the development of additional affordable workforce housing within the Basin, it is recognized that the majority of future affordable workforce housing should be located within the Town of Breckenridge limits or within close proximity to employment centers, and should be sited to allow

employees convenient access to public transit, to ensure the efficient provision of adequate infrastructure to accommodate residential densities (i.e. minimize required extension of services into rural, outlying areas), and to provide opportunities for infill and redevelopment within the existing urban area. Concentrating affordable workforce housing within and adjacent to Town is consistent with the vision of this Plan, the County's Countywide Comprehensive Plan and Upper Blue Master Plans philosophy and goals of focusing development in existing urban areas and protecting rural, outlying areas of the Basin from development.

Accordingly, a policy has been included in this section of the Plan, stating that affordable workforce housing should be located within the Town of Breckenridge limits or within close proximity to the Town. It is important to note that this policy applies to both new construction of affordable housing units and buy-down efforts to deed-restrict existing housing units for affordable housing purposes. In this vein the Plan also recognizes that the County and Town of Breckenridge should not require housing units within the Town of Blue River to be deed restricted as a way of meeting County or Town of Breckenridge affordable housing obligations. This is primarily based on keeping affordable workforce housing in close proximity to the urban employment center. Similarly, the County, Town of Breckenridge and/or Summit Housing Authority should not purchase buy-down units in the Town of Blue River or other locations outside of the urban areas of the Basin where public transit service is not available.

Density Reduction Strategy: Mitigating Impacts on Density & Activity Levels

The 1997 edition of the Plan included a policy that exempted affordable housing projects targeted to low and moderate income residents and employees from requirements to transfer in density, thus allowing "free" density to be created for affordable housing units as an exception to the basin-wide density cap. The purpose of this exemption was to prevent the basin-wide density cap and corresponding transferable development rights requirements from impeding the construction of affordable housing within the Basin.

As noted above, since 1997, there have been approximately 756 affordable workforce housing units constructed within the Basin and the 2006 Housing Needs Assessment points to an identified need for an additional 914 affordable housing units by the time realistic build-out of the Basin is reached. Thus, at realistic build-out of the Basin, there could be a total of approximately 1,670 deed-restricted affordable workforce housing units. These units are required to be occupied on a full-time basis by persons residing and employed within the County, thus creating real impacts on overall activity levels and service demands within the Basin.

During the 2011 Plan update process, it was recognized that continuing to create "new" density for affordable workforce housing units could significantly increase activity levels within the Basin in a manner that is not consistent with the vision of this Plan and would likely result in the degradation of the desired community character within the Basin. For this reason, the Breckenridge Town Council and Board of County Commissioners expressed the desire to begin offsetting the impacts of new affordable housing units on the overall density and activity levels within the Basin by extinguishing density on County and Town of Breckenridge-owned properties in conjunction with new affordable workforce housing developments. The Town Council and BOCC therefore committed to establish a new Plan policy, requiring the Town and/or County to extinguish density for new affordable housing developments at a minimum 1:2 ratio (i.e. extinguish 1 development right for every 2 affordable workforce housing units permitted to be built).

Both the Town of Breckenridge and County own lands that have density assigned to the properties. In order to meet the obligations of the above referenced policy, the Town and County will extinguish the density that they own at a 1:2 ratio as new affordable housing projects are developed.

As noted in the discussion of realistic residential build-out above, overall it is estimated than an additional 778 units of density would need to be created in the Basin to meet the identified need for an additional 914 affordable workforce housing units outlined in the 2006 Housing Needs Assessment (914 total units – 136 units already permitted by zoning on identified housing parcels = 778 new units). Establishing a policy that requires existing density located elsewhere in the Basin to be extinguished in conjunction with new affordable housing projects will help to reduce the impact of these 778 units on the realistic build-out of the Basin. Extinguishing density for these 778 units at a ratio of 1:2 will result in 389 fewer residential units being constructed within the Basin, thus reducing overall activity levels at build-out and helping to maintain the desired community character expressed in this Plan.

Goal and Policies / Actions

Goal F. Increase the supply of affordable workforce housing within the Basin by pursuing the goals, policies and implementation strategies set forth in the County’s Countywide Comprehensive Plan Housing Element, Upper Blue Master Plan Housing Element, Joint Summit County Housing Strategy, and Town of Breckenridge 2008 Housing Action Work Plan.

Policy/Action 1. Affordable workforce housing should be located within the Town of Breckenridge or within close proximity to employment centers, and should be sited to allow convenient access to public transit, to ensure the efficient provision of infrastructure and utilities (i.e. minimize required extension of services into rural, outlying areas), and to provide opportunities for infill and redevelopment within the existing urban area.

- Affordable workforce housing or buy-down units shall not be located within the Town of Blue River to meet County or Town of Breckenridge affordable housing requirements.

Policy/Action 2. The County and Town of Breckenridge should continue to work together to provide affordable workforce housing on the Valleybrook and Claimjumper sites, and to pursue other housing projects within and adjacent to the Town as jointly determined to be appropriate. Cooperative efforts to provide affordable workforce housing within the Basin should focus on the following prioritized locations, which have been identified as appropriate areas to accommodate affordable workforce housing:

- Block 11, Airport Subdivision on Airport Rd.
- County-owned property on CR 450 adjacent to Kennington Townhomes (currently utilized for recycling drop-off center and other County uses).
- Stan Miller Property along Highway 9.
- City Market redevelopment on Park Avenue.
- Alpensee Condos/Farmer’s Grove area in Farmer’s Korner.

Policy/Action 3. The County and Town of Breckenridge should work together to ensure sufficient water rights are allocated to connect future affordable housing developments to public water systems.

Policy/Action 4. The local governments should provide strong incentives such as land, density, financing, fee waivers and tap fees to facilitate the development of affordable workforce housing within the Basin by the private sector.

- Incentives and other measures, which seek to provide adequate supplies of affordable workforce housing, shall not be pursued at the expense of other important master plan policies or development standards that would otherwise limit development (e.g., regulations intended to protect wetlands or other environmentally sensitive areas from development).

- Policy/Action 5. Work to preserve existing market-rate units that are now occupied by local residents or employees for continued occupancy as affordable workforce housing into the future through buy-down initiatives (i.e. acquisition and resale / rental or buying the right to impose deed restrictions) or other appropriate strategies.
- Policy/Action 6. The Breckenridge Ski Resort and other major employers in the Basin should be encouraged to actively participate in providing housing for their employees with special attention to the needs of seasonal employees.
- Local governments should incentivize employers to provide additional affordable workforce housing for their employees within the urban areas of the Basin.
- Policy/Action 7. The County, Town of Breckenridge and Summit Combined Housing Authority should work to continually analyze the Basin’s affordable workforce housing needs over time, by conducting periodic housing needs assessments.

Goal G. Mitigate the impacts of new affordable workforce housing on the overall density and activity levels within the Basin.

- Policy/Action 1. Affordable workforce housing, as defined by respective jurisdictions, shall not be subject to transferable development rights (TDR) requirements.
- Policy/Action 2. Impacts of affordable housing on the overall density and activity levels within the Basin shall be mitigated by extinguishing density at a 1:2 ratio from County and/or Town of Breckenridge-owned properties in conjunction with new affordable workforce housing developments (i.e. extinguish 1 development right for every 2 affordable workforce housing units permitted to be built).

IX. Transportation & Transit

During development of the 1997 edition of the Plan, a traffic analysis (“Upper Blue River Basin Transportation Plan [Year]”) was completed by Felsburg, Holt & Ullevig (“FHU”). The Plan evaluated the current transportation system and road capacities within the urban/micro urban area of the Basin in 1996. The key findings of this analysis were:

- If the then-projected build-out of 13,762 units were realized, the resultant travel demands would exceed the existing 1996 transportation system capacity by 50% to 60%. Thus, travel demand management options would need to be pursued within the Breckenridge core area to accommodate projected travel demands at build-out.
- The existing 1996 transportation system would reach capacity at approximately 9,000 units. However, there were identified improvements recommended to the existing system that would increase efficiency of movement and allow the system to adequately serve up to 10,500 dwelling units and an associated level of commercial development.
- Physical improvement options to the Highway 9 corridor north of Breckenridge were limited to a four lane configuration or developing a two lane parallel road west of the Blue River.

The recommendations in the Transportation Plan fell into two categories: “Highway 9 Corridor Alternatives” and “Breckenridge Travel Demand Alternatives”. Regarding the Highway 9 Corridor Alternative, the Transportation Plan stressed: mass transit solutions over increasing highway capacity north of Breckenridge to preserve the existing rural small town character of the valley; and minor improvements to accommodate a desired build-out of 10,500 units. However, if build-out was to exceed 10,500 dwelling units, it was recommended that Highway 9 north of Breckenridge be widened to a full

four lane cross section with turning lanes as needed (this alternative was preferable to a west valley floor arterial).

Although creating four lanes was not the recommended strategy in the 1997 edition of the Plan, the widening of Highway 9 to four lanes north of Breckenridge to Tiger Run Road was realized in 2010 and has helped to significantly address overall capacity and congestion in the Basin. Interestingly, the build-out of the Basin was at approximately 10,800 units when the four lanes were constructed. The 1996 Transportation Plan accurately noted that 10,500 dwelling units would serve as a tipping point for additional increased capacity needs on Highway 9 north of Breckenridge.

The 1996 Transportation Plan projected a significant increase in congestion within the Town of Breckenridge if improvements were not made to the Town's transportation system to address capacity (particularly at a build-out of 10,500 units and in light of potentially expanding Highway 9 north of Breckenridge to four lanes). The Transportation Plan broke the Breckenridge Travel Demand Alternatives into the following categories: intercept parking/mode transfer, expanded/modified transit, core area parking management, pedestrian and bicycle and other. Under each category there were a number of specific strategies ranging from developing a downtown circulator to making improvements to turning lane configurations at major intersections with Highway 9. Almost every strategy identified under the Travel Demand Alternative section of the Plan was addressed to some degree between 1997 and 2010.

A catalyst to implement the Breckenridge Travel Demand Alternatives was *The Town of Breckenridge Transportation, Circulation and Main Street Reconstruction Plan* produced in 2001 by Charlier and Associates. This 2001 Transportation Plan built upon the recommendations contained in the 1997 edition of the Plan and similarly outlined several specific recommendations for improvements to the transportation system within the urban/micro urban area of the Basin. Some of the key recommendations contained in the Transportation Plan, which have subsequently been implemented, include:

- Realignment of State Highway 9 from Main Street to Park Avenue, and re-design of the Main Street and Park Avenue intersection (completed in 2006).
- Creation of an intermodal transit center within the Town of Breckenridge, and construction of a gondola from the intermodal transit center to Peaks 7 & 8 (completed in 2006).
- Creation of a parking management plan (analyzed yearly).

Overall, the Town transportation system's efficiency and capacity have been successfully enhanced to accommodate the projected increase in demand, as originally identified in 1996 Upper Blue River Basin Transportation Plan.

In 2008, the Town of Breckenridge worked with FHU to further analyze existing roadway capacity within the Basin and estimate future traffic levels based on updated build-out projections and skier information. This analysis estimated that there are currently approximately 20 days of traffic congestion per year within the urban/micro urban area of the Basin. According to the FHU analysis, the number of traffic congested days is projected to increase to 40-45 days at full realistic build-out of the Basin, if no further transportation improvements are implemented. However, the FHU study notes that the additional travel demands anticipated at build-out can be accommodated without increasing the number of days of traffic congestion if upgrades to the Basin's transit system and roadways are implemented.

Nevertheless, successfully addressing transportation, transit, parking, pedestrian and related congestion issues will remain an ongoing challenge in the years ahead. Continued development pressure coupled with likely increases in visitation will make it essential to increase the efficiency and capacity of travel and transit systems through improved performance and management. In this regard some of the salient

strategies that could still be evaluated and implemented in the Basin include:

- Consider construction of an in-town people mover to facilitate non-automobile transportation within the Town of Breckenridge downtown core.
- Extension of the Riverwalk south under Park Avenue and north from Ski Hill Road to French Street.
- Additional intercept parking areas north and south of the Town of Breckenridge.
- Widening of Highway 9 from Tiger Run Road to Agape/Farmer's Korner.
- Improving Highway 9 from Frisco to Farmer's Korner.
- Construction of a roundabout at Park Avenue and Four O'Clock Road.

Goal and Policies/Actions

Goal H. Maximize the capacity and efficiency of the existing transportation and transit systems through improved performance and management or construction of appropriate transportation improvements.

- Policy/Action 1. Enhance and improve transit service to better serve visitors, commuters and employees.
- Policy/Action 2. Encourage and emphasize the use of roundabouts rather than improvements to turning lane configurations and additional traffic signals whenever possible, to enable the transportation system to reasonably handle the traffic associated with realistic build-out in a manner that effectively accommodates multiple modes of travel (i.e. efficiently move traffic through intersections, while providing pedestrian friendly road crossings).
- Policy/Action 3. Continue to explore opportunities to shift the transportation modal split from auto to transit through investments in new park-n-rides and other transit-oriented improvements (e.g., transit stops and stations).
- Explore and construct intercept parking/mode transfer facilities on the north and south ends of Breckenridge (e.g., Tiger Run Road area) to increase commuter and day skier use of the Summit Stage and mitigate impacts to in-town parking.
- Policy/Action 4. Increase the capacity and efficiency of transportation and transit systems:
- Extend the Riverwalk south under Park Avenue and north from Ski Hill Road to French Street.
 - Widen Highway 9 from Tiger Run Road to Agape/Farmer's Korner.
 - Improve Highway 9 from Frisco to Farmer's Korner.
 - Construct a roundabout at Park Avenue and Four O'Clock Road.
- Policy/Action 5. Increase opportunities for pedestrian and bicycle modes of travel, and enhance their related facilities, including commuter routes and connections and construction of "complete streets" when roadway improvements are undertaken. "Complete streets" are designed to accommodate all modes of travel within the roadway (e.g., pedestrians, bicyclists, automobiles, transit riders).
- Policy/Action 6. To the extent possible roadway design should be compatible with a mountain resort community image and the unique constraints of a high mountain environment.
- Policy/Action 7. Marketing for visitor accommodations should emphasize the use of mass transit and the ability to move around the Basin and County without a car.

Policy/Action 8. Consider the effects of noise from Highway 9 and design future improvements to reduce the impacts of noise from Highway 9.

X. Other Significant Basin Issues

This Plan is intended to articulate a common vision for the future and serve as an advisory guide for decisions that affect the physical development and community character of the Basin. It provides a public policy base from which sound planning decisions can be made and guidance for decisions pertaining primarily to land use, density and development potential. However, master plans can address a host of other important issues, as they are effective mechanisms to guide and assist in the decision-making processes that invariably accompany growth and changes in a community.

In this regard, this section is intended to identify and describe other issues that are important to recognize in the context of joint planning, growth and the future of the Basin. The section seeks to provide information and broad goals and policies that speak to the significant issues in relation the Basin's vision, activity levels and community character. These issues are not addressed in the level of detail or specificity as the issues above, but are important to acknowledge. These issues will also play a role in shaping the Basin's community character, services or infrastructure. As such, the following issues and policies should be evaluated and weighed in making decisions or evaluating programs or projects that affect the Basin.

Community Sustainability

Although the phrase "Sustainability" was not expressly used in the 1997 edition of the Plan, many of the core concepts contained in the 1997 edition of the Plan carry a sustainable message, despite the fact that the term was not in vogue at the time. For example, the policy to not create new density in the Basin was established to avoid a situation where the population could eventually overwhelm the Basin's infrastructure and negatively impact the character of the community. In other words, a sustainable and livable community for the long-term was envisioned.

When the original Plan was developed a more holistic approach towards sustaining our environment was not a key issue for consideration at the time. Today Sustainability is being embraced by many communities, including the Town of Breckenridge and Summit County. Both jurisdictions have recently undertaken efforts to adopt "Sustainability Plans". In the Town's case, the Sustainable Breck effort has emphasized a broad-based approach towards taking action on the different components that make up a sustainable community (e.g., housing, energy consumption, economy). In the County's case, the effort has been more focused on steps that the County government can undertake to reduce its carbon footprint (particularly regarding improvements to County facilities and operations).

This section, thus, has been added to the Plan not because its tenor was absent before, but as recognition of the efforts that have been taken in subsequent years regarding this topic. There is a much better understanding today of the ways in which our different planning efforts truly affect our sustainability.

Goal and Policies/Actions

Goal I. Future land use and growth decisions in the Basin should be based on our ability to sustain for future generations the resources and community character we currently enjoy.

Policy/Action 1. Protection and maintenance of the Basin's environment and natural systems should continue to be emphasized in all public decision making.

- Policy/Action 2. New development in the Basin should strive to be completed in a manner that fits with the natural environment and minimizes the carbon footprint and energy consumption required by such new development.
- Policy/Action 3. Goals and policies of this Plan are intended to complement and support governmental efforts such as the Summit County Energy Action Plan, Sustainable Breck Plan, and Summit County Sustainability Action Plan for County Facilities & Operations to help reduce the overall carbon footprint of the developed areas within the Basin.
- Policy/Action 4. Transportation planning and road construction projects should occur with a focus on making streets, sidewalks, and other movement corridors easily accessible and useable by bikers, walkers, and transit users, making such uses viable and important alternative modes of transportation.
- Policy/Action 5. Land in the Basin should be acquired and/or designated to accommodate the possible location of community solar gardens and other appropriate forms of renewable energy production.
- Policy/Action 6. Through adopting or implementing applicable programs, regulations or policies support the establishment of community food gardens and the ability to produce foods locally.

Forest Management

The severe regional drought that occurred in 2002 left our monoculture lodgepole forests in a greatly compromised state, affecting its ability to ward off stand clearing infestations like the mountain pine beetle infestation, which we have experienced from about 2006 to the present (2011). Our Basin's forest lacks species and age diversity, has an overly dense growth pattern, and is nearing the end of its normal life expectancy. The presence of all these stress factors in the forest made it ripe for the effects of the mountain pine beetle to become greatly exacerbated. Forest health experts predict an eventual lodgepole mortality rate to be as high as 90-95% in the Basin and County.

Efforts to combat the unprecedented, rapid and widespread advance of the pine beetle have proven to be largely ineffective. Management agencies have refocused their efforts on the wildfire related public safety concerns and on restoring the forest to a more healthy condition in the aftermath of the infestation. The potential for large fires in the wildland urban interface ("WUI"), where many subdivisions are at risk, has attracted the most public resources to date.

Related to mitigating risks in identified WUI areas there are a number of other initiatives to protect valuable public infrastructure elements such as power lines, roads and watersheds that provide municipal drinking water supplies. Watershed protection also involves retention of wetlands that provide natural purification of the flowing waters of the valley. All of these efforts to protect the public infrastructure are coordinated by the Summit Wildfire Council and are consistent with their guiding policy document, the Summit County Community Wildfire Protection Plan (CWPP), first adopted in 2006, (subsequently updated in 2010) by all the local governments and fire districts in the County, the Colorado State Forest Service (CSF), and the USDA Forest Service (U.S. Forest Service).

In the broad scheme, the strategy the agencies are implementing in accordance with the CWPP can be thought of as being arranged in a layered fashion in scale, ranging from the broad landscape approach of the U.S. Forest Service fuels reduction projects to homeowner associations creating fuel breaks between their subdivisions and the forest beyond and down to individual property owners creating defensible space around their homes. This approach fills in gaps that address the wildfire threat, and avoids the duplication

of efforts. Moreover, the adoption of the CWPP qualifies our programs for state and federal funding assistance.

Goal and Policies/Actions

- Goal J. Continue to design, fund and implement projects in the Basin that will:**
- **Protect the public safety at the home owner level, the subdivision level and at the community level.**
 - **Protect the public infrastructure.**
 - **Restore forest health and maintain the health of the surrounding ecological structure.**
 - **Maintain the aesthetic qualities of the Basin wherever feasible by striking an appropriate balance between aesthetics and what is necessary to protect the public safety and infrastructure.**
- Policy/Action 1. Support the U.S. Forest Service in their efforts to implement their broad scale forest management and fuels reduction projects in the WUI. As part of this effort, encourage the preservation of recreation and intrinsic resources through commenting on and contributing to the design of U.S. Forest Service proposals.
- Policy/Action 2. Work with the Summit Wildfire Council, CFS, Red White and Blue Fire Protection District and homeowner associations in creating fire breaks and reducing fuel loads in subdivisions and on non-federal public properties in accordance with the CWFP.
- Policy/Action 3. Support individual property owners in: creating defensible space; reducing fuels on their properties; using firewise plant materials; and using fire resistant exterior building materials and construction methods. At the same time, work with home owners to retain and replant visual buffers wherever feasible.
- Policy/Action 4. Use integrated pest management measures to address and prevent pine beetle attacks in established formal landscape areas around homes, public buildings and recreation facilities, etc. Integrated pest management includes a combination of tree cutting, selective spraying outside of wetlands or riparian areas, and the creation of species diverse firewise landscapes.
- Policy/Action 5. Implement more public education strategies about what homeowners can do to protect themselves and their property from the effects of a wildfire.
- Policy/Action 6. Continue to work with local police, sheriff, and fire districts to ensure that adequate wildfire emergency evacuation planning is in place.
- Policy/Action 7. Increase reforestation efforts including reseeding, weed control, and replanting of trees and shrubs to promote forest and habitat regeneration, watershed protection and species and age diversification.
- Policy/Action 8. Explore and pursue diverse funding sources to secure the resources needed to implement recommended forest health projects.
- Policy/Action 9. Plan for the financial implications of fighting a major wildfire in the Basin.
- Policy/Action 10. Watershed Protection:
- Pursue cooperative efforts between the County, towns, and U.S. Forest Service for specific watershed protection strategies designed to prevent post wildfire sedimentation from impacting the Goose Pasture Tarn water treatment plant and reservoir and other water bodies throughout the Basin.

- Continue to purchase properties that contain high quality wetlands or wetlands of concern through the County's and Town's open space acquisition programs and manage these properties to protect or improve their wetland functionality.
- Explore the feasibility of establishing a wetland mitigation bank within the Upper Blue River Basin in order to implement the recommendations found in the "Conceptual Strategy for the Enhanced Management of Wetlands within Summit County".
- Pursue a "pump back" solution for increased water system capacity and storage for the benefit of the residents and visitors of the County and towns in the Basin.

Open Space and Trails

Since adoption of the 1997 edition of the Plan, the County and Town of Breckenridge have forged a very impressive partnership aimed at protecting important open space and backcountry lands in the Basin. Over 3,800 acres have been acquired by the two entities (of which most has been jointly acquired). The Town has recognized the value of protecting lands that, although they may be five or more miles from Town limits, are still used and appreciated by the Town's residents for various recreational pursuits. One acquisition, the old B&B Mines land acquisition, amassed close to 2,000 acres of backcountry land in close proximity to the Town of Breckenridge.

The Basin has a rich and varied trail network consisting of old ditches, burro trails, historic mining roads, jeep trails, single track, bike paths, and newer recreation trails. In addition to the Basin's internal trail network, there are many important trails or routes that connect outside of the Basin. Georgia Pass and Boreas Pass were some of the first routes into the Breckenridge area. The Colorado Trail and Wheeler Pack Trail are two significant backcountry hiking trails that have statewide and regional importance. In recent years, the County and Town of Breckenridge have constructed a number of miles of new trails that have added to the Basin's system and increased connectivity for users. The Basin's trail system is a profound community asset. The ability to enjoy, from one's front door, a quiet walk in the woods, access to a favorite fishing spot, or mountain bike, hike, ski or ride in the Basin's backcountry and alpine areas is critical to overall quality of life.

Many trails in the Basin, and in particular those located east of Highway 9, cross through a patchwork of private and public lands created by mining claims which were patented during the Basin's mining era. In many cases, public access across private lands has not been restricted, due in large part to the undeveloped status of most of these areas. However, as development expands outward into more remote areas and fills valley bottoms, public access could be endangered. Ensuring continued public access to this valuable trail network and the public lands and waters of the Basin is a high priority of this Plan.

One of these large recreational areas east of Highway 9 includes the Golden Horseshoe area. This area, some 8,900 acres in size, is a mix of predominantly public lands (national forest system lands along with jointly held County/Town land) and some smaller private lands. Due to its close proximity to the Town of Breckenridge and the relatively heavy levels of recreational use it receives from a diverse group of recreationists, in 2006 an extensive public planning process was undertaken. In late 2007, the County and Town agreed to a draft management plan for the Golden Horseshoe, pending final approval on national forest system lands by the U.S. Forest Service. The Golden Horseshoe plan primarily focuses on the Golden Horseshoe's trail network and identification of open routes and the appropriate types of users allowed on each route, with protection of natural and historic resources being a focus. The recommendations of this management plan represent the outcome of months of challenging discussions between different user groups and hard-fought compromises. The County, Town, and U.S. Forest Service have committed to continue to work together to manage uses and activities in the area in a sustainable manner, based on the recommendations of the management plan.

Goals and Policies/Actions

Goal K. The County and Town of Breckenridge should continue to work cooperatively to jointly acquire and protect open space and improve the trail network in the Basin.

- Policy/Action 1. A rich and varied trail network that provides a variety of recreational opportunities should be preserved and enhanced. This network shall also provide for easy accessibility from residential neighborhoods and the core area of Breckenridge to public lands, trails, water and other recreation areas.
- Policy/Action 2. Public access to public lands and water should be retained wherever it exists and should be obtained wherever feasible where it does not exist.
- Policy/Action 3. Commuter use of bicycle and pedestrian trails should be accommodated and encouraged wherever possible. Extension of the Rec Path along Highway 9 south of Breckenridge to Hoosier Pass should be pursued.
- Policy/Action 4. Management of trail systems and trail head access should minimize conflicts among various user groups, minimize environmental impacts and provide for a quality recreational experience.
- Policy/Action 5. Improve and develop trail heads in order to facilitate easy public access to trails and minimize potential user conflicts.
- Policy/Action 6. A uniform requirement for improvement of shoulders to occur concurrent with improvement to state highways and other roads that are primary bicycle routes should be pursued.
- Policy/Action 7. The County, Town of Breckenridge, and the U.S. Forest Service should work cooperatively to implement the goals and actions of the Golden Horseshoe Management Plan.
- Policy/Action 8. Local governments should take an active role in facilitating expansion of noncommercial recreational activities. Examples could include: fishing access, active play/park areas in neighborhoods, nordic/backcountry skiing, recreational trails, wildlife viewing, sightseeing, etc.
- Policy/Action 9. Maintain, establish or re-establish access to the backcountry.
- Policy/Action 10. Trail design and construction standards, which result in trails which follow natural terrain with minimal environmental impact and provide buffers between trails and developed areas, should be adopted.
- Policy/Action 11. Traffic impacts and parking needs should be considered before establishing new trail heads or trail access points within neighborhoods.

Recreation

In addition to the bountiful open space and trails system found in the Basin, there are also numerous more developed recreational facilities (e.g., ballfields, formal parks, etc.). It is the goal of this Plan to see new developed recreational facilities constructed or expanded to meet future population growth in the Basin.

Neighborhood recreation facilities include small park areas, open space and local pathways. In many of the Basin's neighborhoods, undeveloped private properties have often functioned as open space. These undeveloped areas often have pathways where residents can walk and also can provide safe places for

children to play. These lots are slowly being built on as neighborhoods continue to grow and develop. In many cases, there are no nearby parks or playground areas.

Goal and Policy/Action

Goal L. Develop active recreational spaces and public parks within the urban areas of the Basin to continue to meet the needs of the Basin's population.

Policy/Action 1. Opportunities to acquire and develop small neighborhood parks should be identified. Both developed pocket parks and natural areas should be provided.

Policy/Action 2. Prior to the development of any neighborhood park within the unincorporated areas of the County, provisions shall be made to ensure the ongoing maintenance of the developed park space by a neighborhood association or other appropriate entity.

Infrastructure

The adequacy of infrastructure (i.e. water and sanitation services, utilities and community facilities) is key to a well functioning community. Service levels must be sufficient to serve anticipated development. Central water and sewer services are currently provided within the Town of Breckenridge and most of the larger residential subdivisions adjoining the town (Woodmoor, Tyrollean Terrace, Silver Shekel, Peak 7). Service providers include the Town of Breckenridge, Breckenridge Sanitation District, Woodmoor Water District and Swan's Nest Metropolitan District. The Town of Blue River is served entirely by individual wells with sewer service provided by on site septic in most portions of the town. The exception is a limited area on the south end of Blue River which is served by the South Blue River Waste Water Treatment Plant operated by the Breckenridge Sanitation District. Small satellite waste water treatment plants operated by the Breckenridge Sanitation District serve Valley of the Blue Condos, Skiers Edge and McDill Placer. The remaining lower density and remote areas in the Basin are served by on site wells and septic systems. It is the goal of the Upper Blue Sanitation District to provide sanitary sewer service to the entire Town of Blue River by 2021. Other utilities (electricity, cable and phone) are generally available within all developed portions of the Basin.

The potential public benefits of sewer extensions into developed areas that are currently served by individual sewage disposal systems (i.e. septic systems) include improved public health and water quality through removal of older septic systems that may have been poorly designed, located in areas of marginal soil suitability or are not performing properly. Additionally, converting septic systems to central sewer could decrease septic effluent impacts on local ground and surface water, and will reduce the amount of phosphorus loading in Dillon Reservoir. With that said, conversion of septic systems to central sewer could have impacts to ground water recharge, which should be considered and monitored.

The County and Town of Breckenridge provide a variety of community services and facilities (recreation center, library and social services). The Summit School District RE-1 provides K-12 education. Colorado Mountain College provides both community and college level education programs. Fire and emergency response protection in the Basin is provided by the Red, White and Blue Fire Protection District and Summit County Ambulance. An emergency medical clinic is located in Breckenridge.

Goal and Policies/Actions

Goal M. Develop adequate levels of infrastructure to support the potential realistic build-out identified in this Plan while respecting compatibility with the Basin's high alpine environment and community character.

- Policy/Action 1. Development should be located adjacent to existing communities, when consistent with desired land use patterns, and designed so as to minimize the need for expansion of services.
- Policy/Action 2. New growth should be responsible for funding the capital improvements which it requires. The developers of new growth should be responsible for all necessary capital improvements.
- Policy/Action 3. The County and towns should cooperate in coordinated planning for schools, parks and other facilities with the Summit School District.
- Policy/Action 4. The Town of Breckenridge and County should investigate opportunities to partner on new water or service opportunities and infrastructure, such as the Pumpback project from Dillon Reservoir to Breckenridge, and provision of services for affordable workforce housing developments.
- Policy/Action 5. The Breckenridge Sanitation District should continue to work with appropriate jurisdictions and property owners to meet its ten-year goal to extend central sewer systems into Blue River and other areas identified as having poor suitability for septic systems, substandard or failing systems. Areas with potential public health and water quality concerns should have priority for extension of central sewer service. However, conversion of septic systems to central sewer could have impacts to ground water recharge which should be considered and monitored.
- Policy/Action 6. Careful consideration should be given to the growth impacts and potential change in character that may result if central sewer becomes widely available within the Basin. Many lots which are currently "unbuildable" may be developed if central sewer is available.
- Policy/Action 7. Decisions to provide central sewer into an area should be consistent with respective County and town master/comprehensive plans. Extensions of sewage collection systems and expansion of treatment facilities should not drive land use patterns.
- Policy/Action 8. The impact of new development on aquifers and water tables that serve existing homes on individual wells should be evaluated on a project by project or specific area basis.

COOPERATIVE PLANNING/ DESIGN STANDARDS

The design and appearance of development can greatly impact the overall sense and feel of the community. The welfare of the Basin is based to a great extent on the natural beauty of the valley, scenic backdrops, and other natural features. Because of the importance of visual aesthetics to the community, views are crucial and must be preserved. Protecting the scenic backdrop of the valley helps to protect property values, enhances the visitor and resident experience, improves recreation experiences, expands the economic viability of the local economy, increases the desirability of the town and county as a destination resort, and adds to the overall health of the community. From an overall community character perspective, preservation of important view corridors, ridgelines and prominent hillsides from major roadways and public areas is very important. Poor location and design of development in these areas can significantly detract from overall community appearance and sense of place.

Design issues range from view corridors and ridgeline development to more neighborhood and site specific concerns with basic site layout, massing of structures and identification of appropriate building design and materials. The landscape scale issues are usually addressed as part of the land use approval

process (i.e. zoning and subdivision). Site plan review addresses site layout, building mass, building design, materials and colors.

The Towns of Breckenridge and Blue River have detailed architectural review processes, which occur in conjunction with site plan development. The Town of Breckenridge's development regulations are particularly rigorous within the historic district. Currently, there are some basic architectural design standards included in the County's Development Code (e.g., design standards addressing exterior building materials, colors, and lighting), and there are also heightened or more specific design guidelines outlined for certain subdivisions or properties, as specified in respective planned unit developments (PUDs).

In response to the recommendations of the 1997 Plan, the Town of Breckenridge has adopted design regulations restricting development on hillsides and ridgelines, residential home size, landscaping and firewise planting material, solar devices, exterior lighting, and appropriate subdivision updates. During the 2011 Plan update, the community voiced a desire for the County to adopt an Overlay District, which would apply design standards similar to the Town of Breckenridge's within certain areas surrounding the Town, which are visible from major roadways or public spaces.

Goal and Policies/Actions

Goal N. The visual appearance of the Upper Blue Basin should be one where spectacular mountain vistas and unique environments are retained, and development blends with the natural landscape to the fullest extent possible.

Policy/Action 1. Significant view corridors and other highly visible properties adjacent to the Town of Breckenridge should be identified, and special design criteria should be established for future development within these areas. This effort should focus on identifying: properties which are visible from major transportation routes within the Basin; properties that serve as a gateway into the Town; and properties that are visible from other important public spaces within and adjacent to the Town.

Policy/Action 2. The County should adopt an Overlay District encompassing the identified boundary of the highly visible properties described above, which requires design standards compatible with the Town's within the Overlay District. These standards should include:

- a. Setbacks
- b. Street standards and sidewalks
- c. Landscaping
- d. Building design, height, materials and colors
- e. Building massing
- f. Ridgeline and hillside development
- g. Utilities
- h. Solar devices
- i. Exterior lighting

Policy/Action 3. The Towns and County should develop a formal joint development review process for properties within the County's Overlay District as well as incorporated parcels in close proximity to the unincorporated boundaries or unincorporated area annexation proposals.

Transferable Development Rights (TDRs)

As a means to help achieve important goals of the Plan and protect the rural/backcountry areas in the

Basin, one of the high priority implementation strategies included in the 1997 edition of the Plan was to establish a transfer of development rights mechanism that allows for development rights to be moved from “sending areas” to “receiving areas”. Moreover, the Plan recommended that each jurisdiction adopt an ordinance with consistent goals and an Intergovernmental Agreement allowing the transfer of development rights across jurisdictional boundaries. As indicated in the Overview and Background section, this strategy was successfully implemented as an operational and permanent TDR program for the Basin was established.

In July 2000 the County and Town of Breckenridge adopted the “Intergovernmental Agreement Between County of Summit and the Town of Breckenridge Concerning Transferred Development Rights”. The IGA accomplished two primary purposes: 1) allowed density to be transferred from TDR Sending Areas in the County to TDR Receiving Areas mainly in the Town of Breckenridge; and 2) established the Joint Upper Blue TDR Bank—an administrative program run by the County which both purchases and sells development rights. Per the Section 6.8 of the IGA, the County and Town of Breckenridge are required to set a sales price for TDRs to be sold from the Joint Upper Blue TDR Bank on an annual basis. As a result, the price of a TDR sold from the TDR Bank has ranged from \$30,000 in 2000 to \$45,870 in 2011. The methodology used to establish the sales price of a TDR has changed somewhat over the years but has been based on either sales prices of parcels in the backcountry or the change in assessed value of backcountry zoned properties.

The County and towns have had the opportunity to observe how the different sales prices of TDRs have worked. There are a number of reasons that could possibly warrant revisiting the methodology to determine a new sales price of a TDR. These reasons range from the perceived value of a development right when it lands in a TDR Receiving Area to the differences in value of vacant backcountry zoned properties. As such, this Plan recognizes the need for the County and towns to jointly re-evaluate the current methodology used to determine the price of a TDR sold by the Joint Upper Blue TDR Bank and amend Section 6.8 of the IGA accordingly.

Another component of the IGA is the “Official Upper Blue Basin Transferable Development Rights Sending and Receiving Areas Map” (the Map was last amended in April 2007). The IGA governs respective TDR programs and transactions, and the accompanying TDR Map identifies TDR Receiving and Sending areas. The significance of the Official TDR Map is that County and town development and rezoning applications need to be consistent with the TDR Map designations.

In 2010 the Upper Blue Master Plan TDR Map was significantly amended to address changing conditions, growth and development patterns, land use approvals, availability of infrastructure and community sentiments (the Upper Blue Master Plan provides policy guidance and recommendations for the unincorporated portions of the Basin). The amended TDR Map focused on refining and identifying appropriate TDR Receiving and Neutral areas on unincorporated properties. Neutral Areas delineate those parcels that have been determined to not be suitable for transferring development rights from or to, and therefore are not eligible to send or receive density. To complement the County’s new Upper Blue Master Plan TDR Map, Upper Blue TDR program regulations and spirit and intent of the IGA, it is suggested to amend the IGA to incorporate a new Official TDR Map for the entire Basin.

In 2005 the Town of Blue River approved a subdivision proposal that required the applicant to purchase 4 TDRs. This demonstrated the Town’s commitment to uphold the intent of the Plan and not create new density unless it is transferred in. However, as part of this process, it was recognized that the IGA should be amended to more clearly make the Town of Blue River party to its provisions. More formally including the Town of Blue River as part of the IGA would create more consistency and clarity in allowing density transfers across jurisdictional boundaries.

Goal and Policies/Actions

Goal O. Amend the “Intergovernmental Agreement Between Summit County and the Town of Breckenridge Concerning Transferable Development Rights” to address changing conditions.

- Policy/Action 1. The County and towns shall re-evaluate the current methodology used to annually determine the price of a Transferable Development Right sold by the Joint Upper Blue TDR Bank, and amend the IGA accordingly.
- Policy/Action 2. Amend the IGA to reflect consistency with the Upper Blue Master Plan TDR Map (particularly identified Receiving and Neutral areas on unincorporated properties), where mutually agreed upon by all parties to the IGA.
- Policy/Action 3. Amend the IGA to include the Town of Blue River as a party to its provisions and regulations.

Service Commercial/Light Industrial Uses

Service commercial/light industrial uses include uses such as auto repair, landscaping/nurseries, mini-storage and contractor yards. These uses serve vital needs of the community. In the Basin, service commercial uses are located primarily in three outlying locations - along Airport Road, and areas of County Road 450 and Farmers Korner. These areas are largely built-out and there is a limited opportunity for new development, although there are some redevelopment opportunities. As land values increase there is a concern that alternative, more lucrative land uses (e.g., offices, retail) may eventually replace the few remaining parcels available for service commercial/light industrial space. As a result, service commercial/light industrial uses may eventually be displaced, potentially to locations outside of the Basin. This Plan aims to recognize the need to maintain a healthy amount of these types of important uses in the Basin to meet the needs of the Upper Blue community.

Goals and Policies/Actions

Goal P. Properties currently zoned and designated for service commercial/light industrial land use areas should be retained for such uses to the maximum extent possible.

- Policy/Action 1. The County and Town of Breckenridge should discourage the conversion of service commercial/light industrial land uses to other uses, unless determined to be appropriate in light of other equally important master plan goals and policies that would be achieved.
- Policy/Action 2. The County and Town of Breckenridge should look for opportunities to designate additional land areas to accommodate service commercial/light industrial uses, provided they are sited in a compatible manner in appropriate locations.

Redevelopment

As the Basin continues to approach realistic build-out and vacant land becomes more scarce, development activity will inevitably shift away from “green field” or vacant land development toward infill, redevelopment and adaptive reuse of existing developed properties.

This projected shift toward infill and redevelopment has the potential to significantly reshape the physical development of the Basin over the next 10 – 20 years. Redevelopment provides opportunities for the public and private sectors to act collaboratively to renew and revitalize important components of the community. Key benefits of redevelopment include spurring economic development, utilizing land more efficiently, and improving the aesthetic appeal and overall quality of life within important community spaces. Recognizing the potential benefits that redevelopment could bring to the Basin, during the 2011 Plan update process, the community indicated that the time to proactively plan for such redevelopment activities is now.

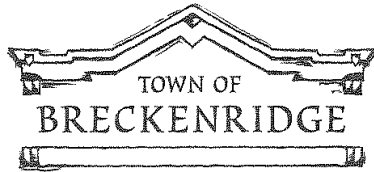
Redevelopment planning should include an analysis of potentially viable redevelopment opportunities within the Basin, and development of appropriate strategies for encouraging and facilitating redevelopment within these areas. Potentially appropriate areas in the Basin to encourage and facilitate redevelopment activities include underutilized and/or deteriorating properties in urban areas and gateway locations along major transportation corridors (e.g., Farmers Korner area, and properties at the north end of the Town of Breckenridge near the Highway 9 / CR 450 intersection).

Goal and Policies / Actions

Goal Q. Plan for infill and redevelopment of properties within the urban areas of the Basin, to guide such development activities in a manner that is consistent with the vision of this Plan and desired community character.

- Policy / Action 1. Conduct a thorough analysis of properties within the Basin to identify potentially appropriate and viable redevelopment opportunities. The analysis should focus on identifying underutilized and/or deteriorating properties within the urban areas of the Basin and within gateway locations along major transportation corridors.
- Policy / Action 2. Develop a plan to guide redevelopment activities within the areas identified as viable redevelopment locations, which outlines appropriate strategies to encourage, facilitate and provide incentives for recommended redevelopment activities within these areas.
- Policy / Action 3. Explore creative financing mechanisms and partnership opportunities to implement identified redevelopment strategies in appropriate locations within the Basin.

XI. Implementation Strategies/Implementation Program [To be completed]



MEMORANDUM

TO: Town Council

FROM: Chris Neubecker

DATE: March 2, 2011

SUBJECT: Policy 47 (Absolute) Fences, Privacy Gates and Gateway Entrance Monuments

On December 14, 2010 the Town Council expressed concern with the current Development Code policy on Fences, Privacy Gates and Gateway Entrance Monuments, and directed the Staff to modify the policy. The concern included the required fence material for swimming pools and hot tubs, plus the use of archways over driveways. Staff proposes several changes to this policy, including prohibiting chain link fencing around pools and other outdoor recreation areas. We have also taken this opportunity to propose other revisions we believe are warranted, and based on input from the Planning Commission on January 18 and March 1, 2011. Following is a summary of some of the proposed changes to the fence policy:

- Fences at swimming pools and spas could be constructed of steel, aluminum or wood. Glass windscreens could also be used. Chain link fencing would be prohibited in these areas.
- Chain link fencing would still be allowed at ball fields and tennis courts.
- Fencing would be allowed at parking lots to protect pedestrians and designate drive aisles. (For example: The split rail fence in the South Gondola Lot, near the skier drop-off.)
- Where fences are required by law, the Planning Commission may approve a fence that does not meet the Handbook of Design Standards for the Historic and Conservation District.
- Privacy fences around hot tubs within fifty (50) feet of a right-of-way would be allowed. (They are currently prohibited).
- Fencing would be allowed around utility equipment.
- Fences around self-storage warehouses would also be allowed, up to six feet (6') tall.
- Fences at ski runs would be allowed, including plastic safety fencing or fences to delineate lift lines and protect people from overhead lifts and mechanical equipment.

We have attached a draft of the revisions proposed by staff. We welcome input from the Council on the direction we are headed with this policy, and if any changes are needed.

Proposed Changes to Policy 47 (Absolute):
Fences, Gates and Gateway Entrance Monuments

For Town Council meeting of March 8, 2011
Staff Planner: Chris Neubecker

New language proposed is shown in **bold**. Language proposed for removal is shown in ~~strikethrough~~.

47: (ABSOLUTE) FENCES, GATES AND GATEWAY ENTRANCE MONUMENTS (47/A):

A. General Statement: The welfare of the Town is based to a great extent on the character of the community, which includes natural terrain, open spaces, wildlife corridors and wooded hillsides. The installation of fences and privacy gates **in residential areas** can erode this character by impeding views, hindering wildlife movement and creating the image of a closed, unwelcoming community. It is the intent of the Town to prohibit fences in most situations in areas outside of the Conservation District in order to: maintain the open, natural and wooded alpine character of the community; ~~to~~ establish mandatory requirements for the erection of allowed fences in other parts of the Town; ~~to~~ allow for fences on small lots in master planned communities; ~~to~~ regulate the design of gateway entrance monuments; ~~and to~~ **and** prohibit privacy gates anywhere within the Town.

B. Within the Conservation District: Fences within the Conservation District shall be reviewed under the criteria of the "Handbook of Design Standards for the Historic and Conservation District". **Where fences are required by law and the proposed fence design does not meet the Handbook of Design Standards, the Planning Commission may approve an alternate design if all of the following required criteria are met: 1.) the project as a whole is in substantial compliance with the Handbook of Design Standards for the Historic and Conservation Districts; 2.) the alternate fence design does not have a significant negative aesthetic impact on the development and it complies as much as feasible with the Handbook of Design Standards; 3.) a fence design that meets the Handbook of Design Standards for the Historic and Conservation Districts could not meet the design required by law.**

C. Outside the Conservation District: Fences and landscape walls are prohibited outside the Conservation District, except the following fences are permitted when constructed in accordance with the design standards described in section D of this policy:

1. pet fences;
2. fences around children's play areas;
3. fences around ball fields, tennis courts, swimming pools, **ski lifts** or other outdoor recreation areas;
4. construction fences;

5. temporary fences used for crowd control or to limit access or egress to or from a short-term special event;
6. fencing required by law;
7. privacy fencing to screen hot tubs;
8. fencing around cemeteries; ~~and~~
9. fences specifically authorized in a vested master plan containing specific fence design standards;
10. Town fences to delineate public trails or protect open space values;
11. fencing at public improvement projects proposed by the town;
12. private fences to delineate the boundary between private land and a public trail or public open space, but only if authorized by a variance granted pursuant to section K of this policy;
13. **fencing at parking lots to protect pedestrians and designate crosswalks;**
14. **fencing at self-storage warehouses;**
15. **fences around utility equipment.**

D. Design Standards for fences: All fencing outside the Conservation District shall comply with the following design standards:

1. Fences in residential areas shall be constructed of natural materials, and shall be either a split rail, buck-and-rail, or log fence design because such designs have a natural appearance, blend well into the natural terrain, and have an open character. Fences of other materials or designs are prohibited. ~~(Exception: Where an applicant can demonstrate to the satisfaction of the Town that an alternative material would be indistinguishable from natural materials, the Town may authorize such materials.)~~ Fences in residential areas shall have a maximum solid to void ratio of 1:3 (example: one inch of solid material for every three inches of opening.) Solid privacy fences are prohibited, except for short lengths of fencing used to screen hot tubs, if they comply with Section D7 of this policy.
2. ~~Smooth, cut timbers are prohibited.~~ PVC, vinyl and plastic fences are prohibited. Rough sawn timbers or natural logs are ~~allowed~~ **preferred**.
3. Pet fences shall be located in a rear or side yard or where the fence is not visible from a public right-of-way. Pet fences shall be located to minimize their visibility to the greatest extent possible, which in most instances will require the fence to be located behind or to the side of a structure. Pet fences may incorporate a wire mesh material to control pets. The wire mesh may be on the vertical portions of the fence, or may extend horizontally over the top of the enclosed pet area, or both. The maximum area of a fenced pet enclosure shall be 400 square feet. Pet fences are limited to fifty-four (54) inches in height, and shall have a maximum solid to void ratio of 1:3.
4. Fences around children's play areas shall be located in a rear or side yard where possible, or where the fence is not visible from a public right-of-way, which in most instances will require the fence to be located behind or to the side of a structure. The fence may incorporate a wire mesh material to enclose the yard. The maximum area of a fenced children's play area on private property shall be 400 square feet. Fences around children's play areas are limited to fifty-four (54)

inches in height, and shall have a maximum solid to void ratio of 1:3. **Fencing at state licensed child-care centers may exceed 400 square feet if required by their state license.**

5. Fences around ball fields, tennis courts, ~~swimming pools~~, or other outdoor recreation areas ~~shall~~ **may** use black or dark green coated chain link fencing, **steel or aluminum, or wood**. Uncoated or galvanized chain link fencing is prohibited. This standard applies to fencing of both public and private recreation areas. Wind privacy screens may be incorporated into the fence.
6. **Fences at outdoor swimming pools shall be constructed of steel or aluminum tubing (square or round) or wood, and may include a tempered glass windscreen. Chain link fencing is prohibited. The use of acrylic glass or Plexiglas is prohibited, except in small amounts at access control points to prevent unauthorized access.**
7. **Fencing at ski lifts and gondolas may be used to protect pedestrians and skiers from overhead lifts and mechanical equipment, or to delineate passenger loading zones. Such fencing may be constructed of natural materials, such as split rail wood, or steel or aluminum. Chain link and plastic or PVC fencing is prohibited. Safety fencing and netting on ski runs is allowed and may be constructed of plastic, high density polyethylene or similar materials.**
8. Construction fencing may be constructed of plastic, chain link, **wood** or other material, as approved by the Town. Wind **and/or** privacy screens may be incorporated into the construction fence. Temporary construction fencing shall be removed upon completion of the project or upon issuance of a Certificate of Occupancy or Certificate of Compliance, where applicable.
9. ~~Privacy fencing around hot tubs may only be used where the fence will not be nearer than fifty (50) feet from a public right of way.~~ Privacy fences **around hot tubs and spas** shall not exceed six feet (6') in height and **shall** not exceed fifteen feet (15') in **total** length. **Such fences shall be architecturally compatible with the adjacent buildings. Landscaping may be required at privacy fencing to soften the visual impact of the fence, where highly visible.**
10. Fencing around cemeteries is exempt from this ordinance. The design of cemetery fencing is encouraged to emulate historic fencing from local cemeteries and follow the fence policy in the "Handbook of Design Standards for the Historic and Conservations Districts". ~~These~~ **Historically** fences were generally constructed of wrought iron, cast iron, or wood pickets, and were generally about three feet (3') tall.
11. Where fences are specifically authorized in a vested master plan containing specific fence design standards, the design standards of the master plan shall govern the fence design.
12. Fences approved by the Town to delineate public trails or protect open spaces shall be constructed of natural materials, and shall be either a split rail, buck-and-rail, or log fence design because such designs have a natural appearance, blend well into the natural terrain, and have an open character. These fences should be designed to accommodate wildlife, and may be substantially different from

fences on residential or commercial properties, due to the unique needs and goals of public trails and open spaces.

- ~~13. Fences at public improvement projects proposed by the town are exempt from these regulations. However, every attempt shall be made to incorporate the criteria listed above, where practical.~~
 - 14. Fences in parking lots may be allowed when necessary to delineate pedestrian areas from parking and circulation areas, and to designate drive aisles. The design of fences in parking lots shall reflect the surrounding character of the neighborhood. Within the Conservation District, fences shall reflect the character of historic fences. Outside the Conservation District natural materials and greater openings between rails shall be used to reflect the more open and natural character of the neighborhood. In most cases, split rail fences will be most appropriate.**
 - 15. Fences at self-storage warehouses shall not exceed six (6) feet in height, and shall be designed to allow visibility through the fence. Such fences shall be designed with a maximum solid to void ratio of 1:3, shall be constructed of steel, aluminum or wood, and may be painted. Chain link fencing is prohibited. Self-storage warehouses may incorporate a gate to control access to the site, notwithstanding Section H of this policy.**
 - 16. Fencing around utility equipment shall not exceed six (6) feet tall. Such fencing may be constructed of chain link, metal, or wood.**
 - 17. Exception: Where natural materials are required by this policy, and where an applicant can demonstrate to the satisfaction of the Town that an alternative material would be indistinguishable from natural materials, or where other materials or designs are required by law, the Town may authorize such materials or designs.**
- E. Site Plan; Survey: A site plan showing the location of existing structures, property lines, and the location of the proposed fence may be required by the Director as part of the submittal requirements for a fence. A survey from a Colorado licensed surveyor may also be required by the Director to verify property lines **and easements**.
- F. Architectural Specifications: Architectural elevations showing the design, material, color, and size of the proposed fence may be required by the Director as part of the submittal requirements for a fence.
- G. Fences on Easements: If a fence crosses an easement, the fence shall not interfere with the use of the easement.
- H. Privacy gates: Privacy gates are prohibited anywhere within the Town.
- I. This policy shall not apply to any fence to be constructed upon land that is subject to a vested master plan containing specific fence design standards and criteria. The construction of such fence shall be governed by the applicable design standards and criteria contained in the master plan.

- J. Gateway Entrance Monuments: Gateway entrance monuments within the Conservation District are prohibited. Outside the Conservation District, gateway entrance monuments may be allowed only when they meet the following criteria:
- a. Gateway entrance monuments shall be permitted only for residential subdivisions of five (5) or more lots, and for hotels and condominiums located outside of the Conservation District. Such gateway entrance monuments shall not exceed eight feet (8') in height, and shall not exceed twenty feet (20') in length. One (1) monument is allowed to ~~either~~ **each** side of the road **or driveway** at the entrance to the subdivision, with up to two (2) monuments total at each **vehicular** entrance to the subdivision. Entry monuments shall not be constructed in the public right-of-way. Such entrance monuments shall be constructed of natural materials, such as stone and/or wood, and may incorporate the subdivision entrance sign, under a separate permit. ~~Gateway entrance monuments shall not incorporate an arch or other structure over the road.~~ **Gateway entrance monuments at hotels, condo-hotels and commercial properties may incorporate an arch feature over the private road or driveway, but such arches are prohibited in other residential projects. Gateway entrance arches shall be in scale with the development, as determined by the Town.** Privacy gates shall not be incorporated into the gateway entrance monument.
 - b. Gateway entrance monuments at private residences shall not exceed ~~five feet (5')~~ **six feet (6')** in height, and shall not exceed a footprint of ten (10) square feet in ground area. One (1) monument is allowed on either side of the driveway at the entrance to the property, with up to two (2) monuments total at the entrance. Entry monuments shall not be constructed in the public right-of-way. Such entrance monuments shall be constructed of natural materials, such as stone and/or wood, and may incorporate the residence name or street address **and light fixtures**. Gateway entrance monuments shall not incorporate an arch or other structure over the road. Privacy gates shall not be incorporated into the gateway entrance monument.
- K. The planning commission or town council may authorize the erection of a private fence to delineate the boundary between private land and a public trail or public open space by granting a variance from the limitations of this policy. A variance shall be granted under this subsection J only upon the written request of the applicant, and a finding that the applicant has satisfactorily demonstrated that: 1) the fence is needed in order to reduce public confusion as to the location of the boundary between the applicant's land and the public trail or public open space; 2) the applicant's inability to erect the fence would present a hardship; and 3) the purposes of this policy will be adequately served by the granting of the variance. No variance shall have the effect of nullifying the intent and purpose of this policy. Section 9-1-11 of this chapter is not applicable to the granting of a variance to erect a private fence to delineate the boundary between private land and a public trail under this section.



BRECKENRIDGE TOWN COUNCIL REGULAR MEETING
Tuesday, March 8, 2011; 7:30 p.m.
Town Hall Auditorium

| | | |
|-------------|---|-----|
| I | CALL TO ORDER and ROLL CALL | |
| II | APPROVAL OF MINUTES – February 22, 2011 | 100 |
| III | APPROVAL OF AGENDA | |
| IV | COMMUNICATIONS TO COUNCIL | |
| | A. Citizen’s Comment - (Non-Agenda Items ONLY; 3 minute limit please) | |
| | B. Breckenridge Resort Chamber – Director’s Report | |
| | C. Earth Hour Proclamation | 103 |
| V | CONTINUED BUSINESS | |
| | A. SECOND READING OF COUNCIL BILLS, SERIES 2011 - PUBLIC HEARINGS | |
| | 1. Council Bill No. 10, Series 2011 - An Ordinance Concerning The Operation Of Pedicabs Within The Town Of Breckenridge | 104 |
| | 2. Council Bill No. 11, Series 2011 – An Ordinance Amending Ordinance No. 16, Series 2010 And Ordinance No. 38, Series 2010, To Allow For The Change Of Location Of Town Of Breckenridge Medical Marijuana Dispensary Permits; And Setting Forth The Terms And Conditions Under Which Such Change Of Location May Be Approved. | 110 |
| | 3. Council Bill No. 12, Series 2011 – An Ordinance Approving An Option Agreement With The Breckenridge Outdoor Education Center, A Colorado Nonprofit Corporation; Authorizing The Sale Of Certain Town-Owned Real Property Pursuant Thereto; And Making Certain Findings In Connection Therewith (524 Wellington Road) | 114 |
| VI | NEW BUSINESS | |
| | A. FIRST READING OF COUNCIL BILLS, SERIES 2011 | |
| | 1. Council Bill No. 13, Series 2011 - An Ordinance Amending Policy 5 (Relative)(Architectural Compatibility) Of Section 9-1-19 Of The <u>Breckenridge Town Code</u> , Known As The “Breckenridge Development Code”, Concerning The Allowed Use Of Fiber-Cement Siding | 138 |
| | 2. Council Bill No. 14, Series 2011 – An Ordinance Amending Ordinance No. 9, Series, 2009, By Eliminating The Sunset Date For The “Town Of Breckenridge Open House Sign Ordinance” | 141 |
| | 3. Council Bill No. 15, Series 2011 – An Ordinance Amending Policy 3 (Absolute) Of Section 9-1-19 The <u>Breckenridge Town Code</u> , Known As The “Breckenridge Development Code”, Concerning The Density Exemption For Basement Areas Of Town-Designated Landmark Commercial Structures | 144 |
| | B. RESOLUTIONS, SERIES 2011 | |
| | 1. A Resolution Authorizing the Deferral of Plant Investment Fees Pursuant to Section 12-4-9 of the <u>Breckenridge Town Code</u> (Peak 7 Development Company, LLC-Lot 1, Peak 7 Subdivision) | 147 |
| | C. OTHER - None | |
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CALL TO ORDER and ROLL CALL

Mayor Warner called the February 22, 2011 Town Council Meeting to order at 7:31 p.m. The following members answered roll call: Mr. Dudick, Ms. McAtamney, Mr. Bergeron, Mr. Mamula, Mr. Joyce, Mr. Burke, and Mayor Warner.

APPROVAL OF MINUTES – February 8, 2011 Regular Meeting

Mayor Warner pointed out a spelling correction under the heading Approval of Minutes. Holly Robb’s last name should be corrected to “Robb”.

With no other changes or corrections, Mayor Warner declared the minutes were approved as corrected.

APPROVAL OF AGENDA

There were no changes.

COMMUNICATIONS TO COUNCIL

A. Citizen’s Comments - (Non-Agenda Items ONLY; 3 minute limit please)

Dan McCreery of Summit Nordic Ski Club (SNSC) came to compliment the Gold Run Nordic Center for the wonderful things they are doing for the club as well as the community. He mentioned that SNSC has supplied materials to expand the wax room at the Nordic Center. The coaching series is going very well for the younger kids who are learning to ski. Youth development is a great aspect of the sport and thinks that the Town is doing a great job in that area. Mr. McCreery complimented Town of Breckenridge employee Jon “Zeke” Zdechlik for his excellent dedication and service.

CONTINUED BUSINESS

A. **SECOND READING OF COUNCIL BILL, SERIES 2011 – PUBLIC HEARINGS**

1. **Council Bill No. 2, Series 2011-AN ORDINANCE FINDING AND DETERMINING THAT CERTAIN REAL PROPERTY LOCATED IN AN UNINCORPORATED AREA OF SUMMIT COUNTY IS AN ENCLAVE UNDER APPLICABLE LAW; MAKING CERTAIN OTHER FINDINGS IN ACCORDANCE WITH THE “MUNICIPAL ANNEXATION ACT OF 1965”; AND ANNEXING SUCH REAL PROPERTY TO THE TOWN OF BRECKENRIDGE (.488 ACRES, MORE OR LESS)**

Town Attorney Tim Berry explained that Municipal Annexation Law allows the Town to annex property that has been an enclave for three years and is located within the town boundaries. This ordinance would annex this property into the Town. The current owner has no objection. There were a couple of minor changes included in the agenda packet regarding the legal description. Mr. Berry asked that Council refer to the form that is included in agenda packet when voting for this ordinance.

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

Mr. Dudick moved to approve Council Bill No. 2, Series 2011 referencing the version included in the agenda packet. Mr. Joyce seconded the motion. The motion passed 7-0.

2. **Council Bill No. 3, Series 2011-AN ORDINANCE FINDING AND DETERMINING THAT CERTAIN REAL PROPERTY LOCATED IN AN UNINCORPORATED AREA OF SUMMIT COUNTY IS AN ENCLAVE UNDER APPLICABLE LAW; MAKING CERTAIN OTHER FINDINGS IN ACCORDANCE WITH THE “MUNICIPAL ANNEXATION ACT OF 1965”; AND ANNEXING SUCH REAL PROPERTY TO THE TOWN OF BRECKENRIDGE (5.8468 ACRES, MORE OR LESS)**

Mr. Berry explained that this ordinance would annex a second enclave into the Town which is owned by Xcel Energy. There were changes made to the legal description for the adjacent parcel which was omitted from first reading. Mr. Berry asked that Council refer to the form that is included in agenda packet when voting for this ordinance.

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

Mr. Bergeron moved to approve Council Bill No. 3, Series 2011 referencing the version included in the agenda packet. Mr. Joyce seconded the motion. The motion passed 7-0.

3. **Council Bill No. 6, Series 2011- AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE WATER ORDINANCE”**

Mr. Berry explained that this ordinance would make miscellaneous amendments to the water ordinance in the Breckenridge Town Code. There were no changes from first reading.

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

Mr. Mamula moved to approve Council Bill No. 6, Series 2011. Ms. McAtamney seconded the motion. The motion passed 7-0.

4. **Council Bill No.7, Series 2011 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, BY ADOPTING PROCEDURES TO BE FOLLOWED TO AMEND THE TOWN OF BRECKENRIDGE “LAND USE GUIDELINES”**

Mr. Berry explained that this ordinance would move the established procedures for amending the Town’s Land Use Guidelines into the Breckenridge Town Code. There were no changes from first reading.

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

Mr. Bergeron moved to approve Council Bill No. 7, Series 2011. Mr. Mamula seconded the motion. The motion passed 7-0.

5. **Council Bill No. 8, Series 2011 – AN ORDINANCE APPROVING AN AMENDMENT TO DEVELOPMENT AGREEMENT WITH B & D LIMITED PARTNERSHIP (REDEVELOPMENT OF OLD BBC SITE)**

Mr. Berry explained that last year council approved a development agreement with B&D Limited Partnership concerning the “Old Breckenridge Building Center (BBC)” site. Since then, Planning Commission has been reviewing the project and determined that the single family residential site needs to be relocated. In order for it to be relocated, the Planning Commission would need Council’s approval to amend the development agreement.

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

Ms. McAtamney moved to approve Council Bill No. 8, Series 2011. Mr. Burke seconded the motion. The motion passed 7-0.

6. **Council Bill No. 9, Series 2011 – AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF NEW APPLICATIONS FOR DEVELOPMENT PERMITS TO OPERATE TEMPORARY VENDOR CARTS**

Mr. Berry explained that at the last town council meeting there was a moratorium for vendor cart applications while the Community Development Department reviewed and revised the town's land use regulations. The original scope was considered too broad and included transient vendor carts. The version of the ordinance handed out in the packet would delete the reference to transient vendor carts.

Mayor Warner opened the public hearing.

Dar Doralohr asked council for the definition of a temporary vendor cart. Chris Neubecker of the Community Development Department clarified that it is a cart which is permitted for longer than four days but less than three years and usually isn't hooked up to permanent utilities.

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

Mr. Bergeron moved to approve Council Bill No. 9, Series 2011. Ms. McAtamney seconded the motion. The motion passed 7-0.

NEW BUSINESS

A. **FIRST READING OF COUNCIL BILL, SERIES 2011**

1. **Council Bill No. 10, Series 2011 - AN ORDINANCE CONCERNING THE OPERATION OF PEDICABS WITHIN THE TOWN OF BRECKENRIDGE**

Mr. Berry explained that several months ago council authorized an ordinance for pedicabs. However, the previous version didn't create any traffic rules associated with their use. Council reviewed a draft of tonight's ordinance several weeks ago and Mr. Berry was directed to work on language concerning their use on Highway 9. The Colorado Department of Transportation (CDOT) has reviewed and approved the ordinance.

Mr. Mamula moved to approve Council Bill No. 10, Series 2011. Mr. Burke seconded the motion. The motion passed 7-0.

2. **Council Bill No. 11, Series 2011 – AN ORDINANCE AMENDING ORDINANCE NO. 16, SERIES 2010 AND ORDINANCE NO. 38, SERIES 2010, TO ALLOW FOR THE CHANGE OF LOCATION OF TOWN OF BRECKENRIDGE MEDICAL MARIJUANA DISPENSARY PERMITS; AND SETTING FORTH THE TERMS AND CONDITIONS UNDER WHICH SUCH CHANGE OF LOCATION MAY BE APPROVED.**

Mr. Berry explained a couple of changes to this ordinance since the work session. The first change is to the wording which states that both the existing and new locations of the dispensary are within the Downtown Overlay District, and secondly, there are several other requirements that the dispensary must comply with. Mr. Berry asked for council's opinion on if this should pertain to both Main Street and the Downtown Overlay District. Council agreed that it should include both. Mr. Berry added that the intent will be to broaden the scope of the ordinance for the second reading.

Mr. Bergeron moved to approve Council Bill No. 11, Series 2011. Ms. McAtamney seconded the motion. The motion passed 6-1 with Mr. Joyce voting against the ordinance.

3. **Council Bill No. 12, Series 2011 – AN ORDINANCE APPROVING AN OPTION AGREEMENT WITH THE BRECKENRIDGE OUTDOOR EDUCATION CENTER, A COLORADO NONPROFIT CORPORATION; AUTHORIZING THE SALE OF CERTAIN TOWN-OWNED REAL PROPERTY PURSUANT THERETO; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH (524 WELLINGTON ROAD)**

Mr. Berry explained that the Town owns this property and has leased it to the Breckenridge Outdoor Education Center (BOEC). The Town Charter requires that an ordinance be passed regarding the sale of this property. This ordinance would authorize the Town Manager to sign the option agreement. Mr. Berry will be back in two weeks with discussion points provided by Council and any proposed changes for the second reading.

Ms. McAtamney moved to approve Council Bill No. 12, Series 2011. Mr. Burke seconded the motion. The motion passed 7-0.

B. **RESOLUTIONS, SERIES 2011**

1. **A RESOLUTION REPEALING RESOLUTION NO. 8, SERIES 2010**

Mr. Berry explained that last year Council passed a resolution regarding a policy for phase one of the Valley Brook construction project. The previous version required a contractor to be locally based for the first phase of construction. Since then staff has developed a local preference policy that will be used instead of the original resolution. This ordinance would allow staff to implement the new rules in the development agreement.

Mr. Dudick moved to approve a Resolution Repealing Resolution No. 8, Series 2010. Ms. McAtamney seconded the motion. The motion passed 7-0.

2. **A RESOLUTION APPROVING TWO AGREEMENTS IN CONNECTION WITH A PROPOSED LAND EXCHANGE**

Mr. Berry explained that this resolution would approve two different agreements for portions of a proposed federal land exchange. The first would be between the Town and Trust for Public Land where the Town would purchase certain real property. The second would trade the purchased land with the Forest Service and obtain the Wedge and Claimjumper parcels. The Town Charter requires an ordinance to approve the sale of land – this will be a separate ordinance at a later date with the Trust of Public Lands. Council should adopt the resolution now with the understanding that if they don't like the final appraisal, the Town can still decline the offer.

Mr. Joyce moved to approve a Resolution Approving Two Agreements In Connection With A Proposed Land Exchange. Ms. McAtamney seconded the motion. The motion passed 7-0.

C. **OTHER**

1. Mayor Warner expressed his appreciation for the years of service that Herman Haering gave to the Town of Breckenridge Planning Commission. Memorial services will take place at St. Michael Archangel Church, 19099 W Floyd Ave, Aurora, Colorado at 10:30 a.m. Monday, February 28, 2011.

PLANNING MATTERS

A. **Planning Commission Decisions of February 15, 2010**

There were no requests for call up. Mayor Warner declared the Planning Commission Decisions were approved as presented.

B. **Town Council Representative Report (Mr. Burke)** – Mr. Burke reported during work session.

REPORT OF TOWN MANAGER AND STAFF

Assistant Town Manager Kate Boniface had nothing to report.

REPORT OF MAYOR AND COUNCILMEMBERS

A. **CAST/MMC** (Mayor Warner) – Mr. Warner reported during the work session.

B. **Breckenridge Open Space Advisory Commission** (Ms. McAtamney) – Ms. McAtamney reported during the work session.

C. **Breckenridge Resort Chamber** (Mr. Dudick) - Mr. Dudick reported during the work session.

D. **Summit Combined Housing Authority** (Mr. Joyce) – Mr. Joyce reported during the work session.

E. **Breckenridge Heritage Alliance** (Mr. Burke) – Mr. Burke reported during the work session.

F. **Sustainability** (Mr. Bergeron, Mr. Joyce, Mayor Warner) – Mr. Joyce reported during work session.

G. **Marketing Committee** (Mr. Dudick) – Mr. Dudick reported during the work session.

H. **Joint Upper Blue Master Plan Update Committee** (Mr. Bergeron, Mr. Mamula) – Mr. Bergeron reported during the work session.

OTHER MATTERS

Mr. Burke brought up a concern with the patron parking passes that are handed out at local bars when patrons feel they have had too much to drink and can't drive home. Some of these patrons have received parking tickets for leaving their cars overnight. Another council member agreed that this issue should be brought up at a later meeting.

Mayor Warner was aware of a couple of complaints with 453 Taxi having to do with moving people in an efficient manner. Police Chief Rick Holman has discussed this issue with Town Manager Tim Gagen.

Mr. Dudick would like to see the Town of Breckenridge Green Team spearhead other local company green teams and encourage a bigger role in the business community. He also thanked everyone for the birthday cupcakes and card.

Mayor Warner had received communications from Ellen Hollinshead regarding the Peak 6 Memorandum of Understanding (MOU). Mayor Warner asked for clarification from the council as to the strategy and proceedings for the MOU and the Environmental Impact Study (EIS). The Council had a lengthy discussion on the processes that occurred on this subject. Mayor Warner will follow up with Summit County Manager Gary Martinez.

SCHEDULED MEETINGS

There were none.

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:00 p.m.

Submitted by Jena Taylor, Administrative Specialist.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor



EARTH HOUR PROCLAMATION
8:30 – 9:30 p.m. on March 26, 2011

WHEREAS, the Town of Breckenridge is concerned about the potential impacts of climate change and believes that efforts at energy efficiency and natural resource conservation should be promoted; and

WHEREAS, “Earth Hour” is both an international and local symbolic event to raise awareness about climate change issues, to encourage businesses, individuals and government to take action to reduce their carbon emissions and their impact on the environment in their daily lives and operations; and

WHEREAS, “Earth Hour” asks all citizens, businesses, government agencies and commercial and non-commercial establishments to turn off all non-essential lighting for one hour from 8:30 to 9:30 p.m. on Saturday, March 26, 2011 and further, to commit to actions they can take in the coming year to reduce their carbon footprint and conserve energy; and

WHEREAS, the Town of Breckenridge will turn off non-essential lights in Town buildings during “Earth Hour” to show support for energy conservation and “Earth Hour” events around the world.

NOW, THEREFORE, BE IT RESOLVED THAT, I, Mayor John Warner do hereby proclaim March 26, 2011 from 8:30 to 9:30 p.m. as “Earth Hour” in Breckenridge, Colorado, and call upon all residents of Breckenridge to join me in supporting the aims and goals of this effort.

Adopted this _____ day of _____, 2011.

Mayor John Warner

Attest:

Town Clerk Mary Jean Loufek

MEMO

TO: Town Council
FROM: Town Attorney
RE: Council Bill No. 10 (Pedicab Traffic Regulations)
DATE: March 1, 2011 (for March 8th meeting)

The second reading of the Pedicab Traffic Regulations Ordinance is scheduled for your meeting on March 8th. There are no changes proposed to ordinance from first reading.

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

1 FOR WORKSESSION/SECOND READING – MARCH 8

2
3 NO CHANGE FROM FIRST READING

4
5 COUNCIL BILL NO. 10

6
7 Series 2011

8
9 AN ORDINANCE CONCERNING THE OPERATION OF PEDICABS WITHIN THE TOWN
10 OF BRECKENRIDGE

11
12 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
13 COLORADO:

14
15 Section 1. Section 6-3H-5(A) of the Breckenridge Town Code is amended by the
16 addition of the following definition:

17
18 PEDICAB: As defined in the Town’s Traffic Code adopted
19 by reference in Title 7, Chapter 1 of this Code.

20
21 Section 2. Section 6-3H-5 of the Breckenridge Town Code, entitled “Riverwalk
22 Restrictions”, is amended by the addition of a new subsection F.5, which shall read in its entirety
23 as follows:

24 F.5 Pedicabs may lawfully be operated on the Riverwalk only from November 1
25 through the end of the ski season at the Breckenridge Ski Area. It is unlawful to
26 operate a pedicab on the Riverwalk at any other time.

27
28 Section 3. Section 7-1-2 of the Breckenridge Town Code is amended by the addition of a
29 new subsection T.5, which shall read in its entirety as follows:

30 T.5 The adopted code is amended by the addition of a new Section 1417, to be
31 entitled “Operation of Pedicabs”, which shall read in its entirety as follows:

32
33 1417. Operation of Pedicabs. (1) Every person operating a pedicab shall have all
34 of the rights and duties applicable to the driver of any other vehicle under this
35 Code, except as to special regulations in this Code and except as to those
36 provisions which by their nature can have no application. Said operators shall
37 comply with the rules set forth in this section when using the streets and highways
38 within the Town.

39
40 (2) No pedicab shall be operated on Colorado Highway 9 (Park Avenue) south of
41 the intersection of Colorado Highway 9 (Park Avenue) and South Main Street and
42 north of the intersection of Colorado Highway 9 (Park Avenue) and Village Road
43 within the Town. Pedicabs may lawfully be operated on Colorado Highway 9

1 (Park Avenue) between the intersection of Colorado Highway 9 (Park Avenue)
2 and South Main Street and the intersection of Colorado Highway 9 (Park Avenue)
3 and Village Road within the Town, subject to the other rules described in this
4 section. It shall not be a violation of this section if a pedicab is operated on
5 Colorado Highway 9 in a direct route to and from the pedicab's garage facility if
6 no passengers are carried when the pedicab is traveling on such route and if the
7 pedicab is otherwise operated to the other rules described in this section.
8

9 (3) No pedicab shall be used to carry more persons at one time than the number
10 for which it is designed or equipped.
11

12 (4) No person operating upon any pedicab shall attach the same or himself or
13 herself to any motor vehicle upon a roadway.
14

15 (5)(a) Any person operating a pedicab upon a roadway at less than the normal
16 speed of traffic shall ride in the right-hand lane, subject to the following
17 conditions:
18

19 (I) If the right-hand lane then available for traffic is wide enough to be safely
20 shared with overtaking vehicles, a pedicab operator shall ride far enough to the
21 right as judged safe by the pedicab operator to facilitate the movement of such
22 overtaking vehicles unless other conditions make it unsafe to do so.
23

24 (II) A pedicab operator may use a lane other than the right-hand lane when:
25

26 (A) Preparing for a left turn at an intersection or into a private roadway or
27 driveway;
28

29 (B) Overtaking a slower vehicle; or
30

31 (C) Taking reasonably necessary precautions to avoid hazards or road conditions.
32

33 (III) Upon approaching an intersection where right turns are permitted and there is
34 a dedicated right-turn lane, a pedicab operator may ride on the left-hand portion of
35 the dedicated right-turn lane even if the pedicab operator does not intend to turn
36 right.
37

38 (b) A pedicab operator shall not be expected or required to:
39

40 (I) Ride over or through hazards at the edge of a roadway, including but not
41 limited to fixed or moving objects, parked or moving vehicles, bicycles, other
42 pedicabs, pedestrians, animals, surface hazards, or narrow lanes; or
43

44 (II) Ride without a reasonable safety margin on the right-hand side of the
45 roadway.
46

1 (c) A person operating a pedicab upon a one-way roadway with two or more
2 marked traffic lanes may ride as near to the left-hand curb or edge of such
3 roadway as judged safe by the pedicab operator, subject to the following
4 conditions:

5
6 (I) If the left-hand lane then available for traffic is wide enough to be safely
7 shared with overtaking vehicles, a pedicab operator shall ride far enough to the
8 left as judged safe by the pedicab operator to facilitate the movement of such
9 overtaking vehicles unless other conditions make it unsafe to do so.

10
11 (II) A pedicab operator shall not be expected or required to:

12
13 (A) Ride over or through hazards at the edge of a roadway, including but not
14 limited to fixed or moving objects, parked or moving vehicles, bicycles, other
15 pedicabs, pedestrians, animals, surface hazards, or narrow lanes; or

16
17 (B) Ride without a reasonable safety margin on the left-hand side of the roadway.

18
19 (6)(a) A person operating a pedicab upon a roadway shall ride in a single file.

20
21 (b) A person operating a pedicab shall not impede the normal and reasonable
22 movement of traffic and, on a laned roadway, shall ride within a single lane.

23
24 (7) A person operating a pedicab shall keep at least one hand on the handlebars at
25 all times.

26
27 (8)(a) A person operating a pedicab intending to turn left shall follow a course
28 described in sections 901(1), 903, and 1007 or may make a left turn in the manner
29 prescribed in paragraph (b) of this subsection (8).

30
31 (b) A person operating a pedicab intending to turn left shall approach the turn as
32 closely as practicable to the right-hand curb or edge of the roadway. After
33 proceeding across the intersecting roadway to the far corner of the curb or
34 intersection of the roadway edges, the pedicab operator shall stop, as much as
35 practicable, out of the way of traffic. After stopping, the pedicab operator shall
36 yield to any traffic proceeding in either direction along the roadway that the
37 pedicab operator had been using. After yielding and complying with any official
38 traffic control device or police officer regulating traffic on the highway along
39 which the pedicab operator intends to proceed, the pedicab operator may proceed
40 in the new direction.

41
42 (c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection
43 (8), the police chief may cause official traffic control devices to be placed on
44 roadways and thereby require and direct that a specific course be traveled.

45

1 (9)(a) Except as otherwise provided in this subsection (9), every person operating
2 a pedicab shall signal the intention to turn or stop in accordance with section 903;
3 except that a person operating a pedicab may signal a right turn with the right arm
4 extended horizontally.

5
6 (b) A signal of intention to turn right or left when required shall be given
7 continuously during not less than the last one hundred feet traveled by the pedicab
8 before turning and shall be given while the pedicab is stopped waiting to turn. A
9 signal by hand and arm need not be given continuously if the hand is needed in
10 the control or operation of the pedicab.

11
12 (10) A person shall not operate a pedicab on a sidewalk, except when necessary to
13 cross a street or highway.

14
15 (11)(a) A person may not park a pedicab on a sidewalk.

16
17 (b) Pedicabs parked anywhere on a street shall conform to the provisions of part
18 12 of this Code regulating the parking of vehicles.

19
20 (12) Any person who violates any provision of this section commits a
21 misdemeanor traffic offense; except that section 42-2-127, C.R.S., shall not apply.

22
23 (13) Upon request, the law enforcement agency having jurisdiction shall complete
24 a report concerning an injury or death incident that involves a pedicab anywhere
25 within the Town, even if such accident does not involve a motor vehicle.

26
27 Section 4. Section 7-1-2(Y) of the Breckenridge Town Code is amended by the addition
28 of the following additional definition:

29
30 (69.5) "Pedicab" means a three-wheeled vehicle for hire that regularly transports
31 passengers for a fee using only human power.

32
33 Section 5. Except as specifically amended hereby, the Breckenridge Town Code, and the
34 various secondary codes adopted by reference therein, shall continue in full force and effect.

35
36 Section 6. The Town Council hereby finds, determines and declares that this ordinance is
37 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
38 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
39 thereof.

40
41 Section 7. The Town Council hereby finds, determines and declares that it has the power
42 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
43 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

44
45 Section 8. This ordinance shall be published as provided by Section 5.9 of the
46 Breckenridge Town Charter, and shall become effective upon the last to occur of: (i) approval of
this ordinance by the Colorado Department of Transportation pursuant to Sections 42-4-

1 110(1)(e) and 43-2-135(1)(g), C.R.S.; and (ii) the effective dated provided by Section 5.9 of the
2 Breckenridge Town Charter.

3
4 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
5 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
6 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
7 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
8 Town.

9
10 TOWN OF BRECKENRIDGE, a Colorado
11 municipal corporation
12

13
14
15 By _____
16 John G. Warner, Mayor
17

18 ATTEST:
19
20
21

22 _____
23 Mary Jean Loufek, CMC,
24 Town Clerk
25

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 11 (Amendment to Medical Marijuana Moratorium Ordinance)

DATE: March 1, 2011 (for March 8th meeting)

The second reading of the ordinance amending the Town's Medical Marijuana Moratorium Ordinance is scheduled for your meeting on March 8th.

Several changes are proposed to the ordinance from first reading. The changes are marked on the attached version of the ordinance, and are as follows:

1. The signage provision has been changed to prohibit signage that is visible from any public street within the Downtown Overlay District. Previously, the provision only prohibited signage that was visible from Main Street;
2. The reference to a dispensary not being located on the "garden level" of the building has been changed to the "ground floor" to match the language in the existing Dispensary Ordinance; and
3. The entryway provision has been amended to refer to Ridge Street and Lincoln Avenue, as well as to Main Street.

Because the need for this ordinance arose in the context of the proposed move of the Medicine Man dispensary to the SCI Building on Main Street, staff has measured the distance between the Main Street right of way and the closest portion of the side entrance to the SCI Building. The distance is approximately 39 feet. As you will recall, at the last meeting the Council was advised that the entrance to the relocated Medicine Man dispensary in the SCI Building will be at the rear of the building, not the side. If the Council wants the address the possibility that the side entrance of the SCI Building will actually be used as the entrance to the relocated dispensary, the 50 foot provision in the ordinance will have to be reduced. As currently drafted, the side entrance is too close to Main Street to be usable.

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

1 *FOR WORKSESSION/SECOND READING – MARCH 8*

2
3 Additions To The Ordinance As Approved On First Reading Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. 11

7
8 Series 2011

9
10 AN ORDINANCE AMENDING ORDINANCE NO. 16, SERIES 2010 AND ORDINANCE
11 NO. 38, SERIES 2010 ,TO ALLOW FOR THE CHANGE OF LOCATION OF TOWN OF
12 BRECKENRIDGE MEDICAL MARIJUANA DISPENSARY PERMITS; AND SETTING
13 FORTH THE TERMS AND CONDITIONS UNDER WHICH SUCH CHANGE OF
14 LOCATION MAY BE APPROVED

15
16 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
17 COLORADO:

18
19 Section 1. Section 2 of Ordinance No. 16, Series 2010 is amended so as to read in its
20 entirety as follows:

21 Section 2. Imposition of Temporary Moratorium on Applications For New Permits
22 Under The Town’s Medical Marijuana Dispensary Ordinance; Exception For
23 Change of Location of Existing Permits; Continuation of Existing Permits Until
24 July 1, 2011.

25
26 A. Upon the adoption of this ordinance a moratorium is imposed upon the
27 submission, acceptance, processing, and approval of all applications for new permits
28 to operate medical marijuana dispensaries under the Town’s Medical Marijuana
29 Dispensary Ordinance. During the moratorium period, except as provided in Section
30 2(B) of this ordinance the Town Manager and Town staff shall not: (i) accept for
31 filing any application for a new permit to operate a medical marijuana dispensary
32 under the Town’s Medical Marijuana Dispensary Ordinance; or (ii) process, review,
33 grant, deny or take any action with respect to any application for a new permit to
34 operate a medical marijuana dispensary under the Town’s Medical Marijuana
35 Dispensary Ordinance.

36
37 B. Notwithstanding Section 2(A) of this ordinance, during the moratorium
38 imposed by this ordinance the Town Manager may accept, process, and approve
39 an application for a new medical marijuana dispensary permit for the sole purpose
40 of changing the location of an existing medical marijuana dispensary if: (i) the
41 new permit is issued to the same person who holds a current permit issued by the
42 Town pursuant to Chapter 14 of Title 4 of the Breckenridge Town Code (the
43 “Town of Breckenridge Medical Marijuana Dispensary Ordinance”); (ii)
44 contemporaneously with the issuance of the new permit the permittee’s existing
45 permit is surrendered and cancelled by the Town Manager; (iii) the new permit
46 meets all of the qualifications and requirements established of the Town of

1 Breckenridge Medical Marijuana Dispensary Ordinance, and (iv) both the existing
2 and new location of the medical marijuana dispensary are within the Downtown
3 Overlay District; provided, however, that any new permit issued by the Town
4 Manager pursuant to this Section 2(A) shall be subject to the following
5 conditions: (i) no signage for the dispensary will be visible from ~~Main Street~~ any
6 public street within the Downtown Overlay District; (ii) the dispensary will not
7 be located on the ~~garden level~~ ground floor of the building in which the
8 dispensary is located; (iii) no entryway into the dispensary will front onto Main
9 Street, Ridge Street, or Lincoln Avenue, or be any closer than 50 feet from Main
10 Street, Ridge Street or Lincoln Avenue; and (iv) no marijuana plants may be
11 grown within the dispensary.

12
13 C. All currently valid permits issued under the Town of Breckenridge Medical
14 Marijuana Ordinance shall remain in full force and effect until July 1, 2011,
15 notwithstanding the date of issuance. Commencing 45 days prior to July 1, 2011,
16 all permits issued under the Town of Breckenridge Medical Marijuana Ordinance
17 may be renewed in accordance with then-applicable law.

18
19 D. All terms used in this ordinance that are defined in the Town of Breckenridge
20 Medical Marijuana Ordinance shall have the meanings provided in such
21 ordinance.

22
23 Section 2. Except as specifically amended, Ordinance No. 16, Series 2010, as amended
24 by Ordinance No. 38, Series 2010, shall continue in full force and effect.

25 Section 3. The Town Council hereby finds, determines, and declares that this ordinance
26 is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
27 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
28 thereof.

29 Section 4. The Town Council hereby finds, determines and declares that it has the power
30 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
31 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
32 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
33 Section 31-15-401, C.R.S. (concerning municipal police powers); (v) Section 31-15-501
34 (concerning municipal power to regulate businesses); (vi) Section 12-43.3-202(b)(II), C.R.S.;
35 (vii) the authority granted to home rule municipalities by Article XX of the Colorado
36 Constitution; and (viii) the powers contained in the Breckenridge Town Charter.

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

39
40 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
41 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
42 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
43 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
44 Town.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
John G. Warner, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

APPROVED IN FORM

Town Attorney



MEMORANDUM

To: Town Council
From: Tim Gagen, Town Manager
Date: March 1, 2011
Subject: BOEC Option Contract

Background

The Breckenridge Outdoor Education Center (BOEC) currently leases the property at 524 Wellington Road, referred to as the "Old Sanitation District" property.

The BOEC has presented a proposal to the Town Council to purchase the property. This proposal is subject to the Town retaining control of an out-building at the location which houses the Town's technology/data center.

The Council directed the Town Manager and the Town Attorney to proceed with developing an option agreement to effect the sale of the property. Attached for Council review is a close-to-final draft of the "Option Contract". We believe this draft captures the terms of the purchase put forward by the BOEC that are agreeable to the Council. The BOEC has reviewed this draft of the contract and are satisfied with it.

At the worksession of February 22, Council request that we talk with BOEC regarding language in the agreement related to the Town right to repurchase the property if BOEC decides to sell it at a later date. Based on our discussions with BOEC we have revised Article 7.1 by adding a new subsection (d) to address the concerns raised. If this new language is acceptable to the Council then the agreement is ready for approval by the Council.

1 acknowledged by Seller. The Option Money will not be applied against the Purchase Price (as
2 later defined in this Contract), and is non-refundable.

3
4 **1.4 Term and Exercise of Option.**

5
6 (a) Unless sooner exercised or extended by mutual agreement of the
7 Parties, the Buyer's right to exercise the Option expires at 11:59 P.M., local time, on
8 December 31, 2020 (the "**Option Deadline**").

9 (b) Buyer may exercise the Option at any time prior to the Option
10 Deadline. To exercise the Option, Buyer must deliver written notice to Seller in accordance
11 with Section 9.6; provided, however, that Buyer may not exercise the Option if, at the time of
12 attempted exercise of the Option, Buyer is in default under this Contract or the Lease. Buyer
13 may give notice of the exercise of the Option only once.

14 **1.5 If Timely Notice of Exercise of The Option Is Given.** Upon the timely giving of
15 notice of the exercise of the Option, the remaining provisions of this Contract will govern the
16 closing of the sale and purchase of the Property. Such sale and purchase is hereafter referred to
17 as the "**Closing**."

18 **1.6 If Timely Notice of The Exercise of The Option Is Not Given.** Time is of the
19 essence of this Contract. Accordingly, it is agreed that if Buyer fails, for any reason, to give
20 timely notice of the exercise of the Option by the Option Deadline Seller may, in Seller's sole
21 and absolute discretion, elect to terminate this Contract. Buyer's failure give timely notice of the
22 exercise of any the Option is not a "default" under this Contract, and Seller is not required to
23 give notice of default with respect to such failure to give timely notice. Further, Buyer has no
24 right of cure with respect to Buyer's failure give timely notice of the exercise of the Option. If
25 the Seller determines to terminate this Contract as a result of Buyer's failure to give timely notice
26 of the exercise of the Option, Seller will give Buyer written notice in accordance with Section
27 9.6. If Seller gives notice of termination as provided in this Section 1.6, this Contract will
28 terminate, and each party will be released from any further obligations under this Contract.

29
30 **ARTICLE 2**
31 **PURCHASE OF THE PROPERTY**

32
33 **2.1 Purchase and Sale of the Property.** On the Closing Date (as later defined in this
34 Contract) Buyer will purchase the Property from Seller, and Seller will sell and convey the
35 Property to Buyer. Purchase and conveyance of the Property will be in accordance with the terms
36 and conditions contained in this Article, and the applicable provisions of the remainder of this
37 Contract.

38 **2.2 Purchase Price.** The purchase price to be paid by Buyer to Seller for the Property
39 (the "**Purchase Price**") will be determined based upon the date that Seller gives Buyer notice of
40 the exercise of the Option in accordance with the requirements of this Contract. The Purchase
41 Price will be determined as follows:

| Calendar Year in Which Seller Gives Notice of Exercise of Option | Purchase Price |
|--|----------------|
| 2011 | \$500,000 |
| 2012 | \$510,000 |
| 2013 | \$520,200 |
| 2014 | \$530,604 |
| 2015 | \$541,216 |
| 2016 | \$552,040 |
| 2017 | \$563,081 |
| 2018 | \$574,342 |
| 2019 | \$585,829 |
| 2020 | \$597,546 |

1
2 2.3 Payment of Purchase Price. The Purchase Price will be paid to Seller by Buyer at
3 Closing as follows:

4 (a) A sum equal to sixty percent (60%) of the Purchase Price will be paid
5 in the form of the execution of and delivery of Buyer's Promissory Note to Seller (the
6 "**Promissory Note**"). The Promissory Note will be secured by a Deed of Trust (the "**Deed of**
7 **Trust**") encumbering the Property.

8 (b) The balance of the Purchase Price will be paid in good funds as defined
9 by Colorado law.

10 2.4 The Note and Deed of Trust.

11 (a) The Promissory Note and Deed of Trust will contain the provisions
12 described below, and will otherwise be in a form reasonably satisfactory to Seller and Buyer:

13 (i) The unpaid principal balance of the Promissory Note will bear interest at
14 the rate of four percent (4%) per annum. The Promissory Note will be paid in equal
15 amortized quarterly payments based on a fifteen (15) year amortization with the first
16 payment due three (3) months after the Closing Date (as later defined in this Contract);
17 provided, however, the entire unpaid balance of the Promissory Note, both principal and
18 interest, will be due and payable without demand in ONE BALLOON PAYMENT seven
19 (7) years after the Closing Date. Seller is under no obligation to refinance or extend the
20 balloon payment. The default interest rate on the Promissory Note will be twelve percent
21 (12%) per annum.

22 (ii) The Promissory Note may be prepaid in whole or part at any time without
23 penalty. Any partial prepayment of principal will be credited against the next maturing
24 installment or installments due under the Promissory Note.

1 (iii) The Deed of Trust will be a first and prior lien on the Property, subject
2 only to: (i) the lien of the general property taxes for the year of Closing; and (ii) the
3 Permitted Exceptions (as later defined in this Contract). Seller will never be obligated to
4 subordinate the Deed of Trust to any lien or encumbrance.

5 (iv) Buyer will not be in default under the Promissory Note and Deed of Trust
6 until thirty (30) days after written notice of default has been given to Buyer specifically
7 setting forth the claimed default, and such default remains uncured at the expiration of
8 such thirty (30) day period.

9 (v) The Deed of Trust will contain a “due on sale clause” pursuant to which
10 the entire unpaid balance of the Promissory Note will immediately become due and
11 payable if the Property is sold or transferred by Buyer without the Promissory Note
12 having been paid in full.

13 2.5 Closing Date. The transaction contemplated by this Contract will be closed at the
14 offices of Land Title Guarantee Company – Breckenridge office (“**Title Company**”), 200 North
15 Ridge Street, Breckenridge, Colorado, on or before the expiration of sixty (60) days after the
16 timely exercise of the Option by the Buyer as set forth in Section 1.4 (the “**Closing Date**”). The
17 Parties will mutually agree on the Closing Date and time of Closing, but if the Parties are unable
18 to agree, the Closing Date and time of Closing will be established by the Title Company. The
19 Closing Date may be extended by mutual agreement of the Parties.

20 2.6 Closing Costs. At Closing, Buyer will pay the cost of recording the deed
21 conveying the Property to it. Seller will pay the cost of the title insurance premium, and tax
22 certificate. Each party will pay one-half of the reasonable cost of closing services charged by the
23 Title Company. Otherwise, each party will pay the usual and customary closing costs.

24 2.7 No Tax Apportionment. The Property has been tax-exempt while owned by
25 Seller. Accordingly, no apportionment of real property taxes will be done at Closing. Buyer will
26 pay at Closing any taxes lawfully levied against its use of the Property based upon the Lease (if
27 the Lease is determined by the Summit County Assessor to be a taxable possessory interest under
28 state law.)
29

30 **ARTICLE 3**
31 **TITLE MATTERS; CONVEYANCE OF THE PROPERTY**
32

33 3.1 Title Insurance.

34 (a) Within thirty (30) days from the date of the execution of this Contract
35 the Seller will obtain and deliver to Buyer, at Seller's expense, a certificate of taxes due on the
36 Property and a current title insurance commitment (“**Commitment**”) issued by the Title
37 Company. The Commitment will include legible copies of all instruments referred to in the
38 Commitment. The Commitment will not provide for the deletion of all standard printed
39 exceptions of Schedule B-2 thereof.

1 (b) All items on the Commitment will be permitted title exceptions
2 (“*Permitted Exceptions*”) unless Buyer notifies Seller within twenty (20) days of receipt of
3 the Commitment of any particular item(s) to which Buyer objects. If Buyer gives Seller
4 timely notice of a title objection then Seller will have twenty (20) days within which to
5 remove such exceptions or to notify Buyer that it is unable to remove such exceptions, in
6 which case Buyer may elect to terminate this Contract within twenty (20) days of receipt of
7 Seller's notice by giving written notice to Seller, or to accept such exceptions (which Buyer
8 will be deemed to do if Buyer does not timely elect to terminate this Contract).

9 (c) On or before five (5) days prior to the Closing Date, Seller will obtain
10 and deliver to Buyer, at Seller's sole expense, an endorsement to the Commitment with a
11 current effective date, showing no new title exceptions therein.

12 (d) After Closing, Seller will obtain and deliver to Buyer, at Seller's sole
13 expense, a title insurance policy for the Property in the amount of the Purchase Price showing
14 fee simple absolute title being vested in Buyer, subject only to the Permitted Exceptions.

15 3.2 Conveyance of the Property. On the Closing Date, Seller will convey to Buyer
16 marketable fee simple absolute title to the Property, subject only to the Permitted Exceptions.
17 Such conveyance will be by special warranty deed. The deed will convey the Property to Buyer
18 free and clear of any and all taxes, assessments, liens, encumbrances and other matters which
19 could affect title, except the Permitted Exception. Personal property shall be conveyed by bill of
20 sale.

21 3.3 Comcast Lease.

22 (a) General; Intent. The Parties acknowledge that as of the date of this
23 Contract a portion of the Property (consisting of approximately 0.51 acres, more or less, and
24 described and depicted on the attached Exhibit “B”)(the “Head-End Property”) is subject to
25 that Lease between the Seller and Universal Cable Communications Inc. d/b/a Classic Cable
26 (now “Comcast” dated September 7, 1999 (the “Existing Comcast Lease”). The term of the
27 Existing Comcast Lease will expire during the term of this Contract, and it is anticipated by
28 the parties that a new lease agreement for the Head-End Property will be negotiated as part of
29 the Seller’s renewal of the Comcast cable television franchise (the “New Comcast Lease”).
30 Regardless of whether Buyer has exercised the Option and acquired the Property before the
31 New Comcast Lease is negotiated, the Buyer acknowledges that it is important to Seller that
32 Seller has both the right to negotiate and control the terms under which the Head-End
33 Property is leased to Comcast, and the right to receive any rental from the New Comcast
34 Lease that is over and above the monthly rental collected from the Existing Comcast Lease.

35 Accordingly, in order to clarify the parties’ rights and responsibilities under both the Existing
36 Comcast Lease and the potential New Comcast Lease, the parties agree as follows

37 (b) Rent Collected Under Existing Comcast Lease. The following
38 provisions apply to rent collected under the Existing Comcast Lease:

1 (i) Rent collected under the Existing Comcast Lease prior to the conveyance
2 of the Property to Buyer will be the sole property of Seller.

3 (ii) Rent collected under the Existing Comcast Lease after the conveyance of
4 the Property to Buyer will be the sole property of Buyer.

5 (c) Terms and Conditions of New Comcast Lease. The following
6 provisions apply to the terms and conditions of the New Comcast Lease:

7 (i) If the New Comcast Lease is negotiated while the Seller owns the
8 Property, Seller will consult with Buyer before entering into the New Comcast Lease;
9 however, Seller will have the sole right and authority to negotiate the terms and
10 conditions of the New Comcast Lease, including, but not limited to, the amount of rent to
11 be paid by Comcast under the New Comcast Lease. Notwithstanding the preceding
12 sentence, however, Seller will use its best efforts to attempt to negotiate a monthly rent
13 under the New Comcast Lease that will not be less than the monthly rent payable under
14 the Existing Comcast Lease.

15 (ii) If the New Comcast Lease is negotiated after the Buyer acquires the
16 Property pursuant to this Contract, Buyer will not enter into the New Comcast Lease
17 without the prior, written consent of the Seller. The requirements of the preceding
18 sentence are specifically enforceable. It is the intent of this Subsection (c)(i) that
19 notwithstanding the conveyance of the Property to the Buyer pursuant to this Contract,
20 Seller will have the sole right and authority to negotiate the terms and conditions of the
21 New Comcast Lease, including, but not limited to, the amount of rent to be paid by
22 Comcast under the New Comcast Lease. Notwithstanding the preceding sentence,
23 however, the Parties will use their best efforts to attempt to negotiate a monthly rent
24 under the New Comcast Lease that will not be less than the monthly rent payable under
25 the Existing Comcast Lease.

26 (d) Rent Collected Under New Comcast Lease. The following provisions
27 apply to rent collected under the New Comcast Lease. If the New Comcast Lease is not
28 successfully negotiated, the provisions of this Subsection (d) will be null, void and of no
29 effect:

30 (i) During the time that the Seller owns the Property, all of the rent collected
31 under the New Comcast Lease will be the property of the Seller.

32 (ii) If during the term of the New Comcast Lease Buyer acquires title to the
33 Property pursuant to this Contract, any monthly rent collected during the term of the New
34 Comcast Lease, not to exceed the sum of \$1,500.00 each month, will be the property of
35 the Buyer. The remainder of the monthly rent (if any) will be the property of the Seller.
36 Buyer will remit to Seller any amount of monthly rent collected under the New Comcast
37 Lease that is in excess of \$1,500.00.

1 (e) Acceptance of Title Subject to Lease.

2 (i) If the Existing Comcast Lease is in effect when Buyer acquires title to the
3 Property pursuant to this Contract, Buyer will accept title to the Property subject to the
4 Existing Comcast Lease.

5 (ii) If the New Comcast Lease is in effect when Buyer acquires title to the
6 Property pursuant to this Contract, Buyer will accept title to the Property subject to the
7 New Comcast Lease.

8 (f) Resubdivision and Exclusion. If Buyer gives timely notice of the
9 exercise of the Option, Seller, at its sole option and election, may resubdivide the Property
10 prior to Closing so that the Head-End Property is a separate legal parcel. Seller will pay all
11 costs associated with such resubdivision. If the Property is resubdivided as provided in this
12 Subsection (f): (i) the Head-End Property will be excluded from the Option; (ii) the Head-End
13 Property will not be conveyed to Buyer pursuant to this Contract; and (iii) there will be no
14 adjustment to the Purchase Price. Provided, however, that if the Head-End Property is
15 resubdivided and excluded from the Option any monthly rent collected by Seller during the
16 term of the New Comcast Lease, not to exceed the sum of \$1,500.00 each month, will be the
17 property of the Buyer and when collected will be paid by Seller to Buyer. The remainder of
18 the monthly rent (if any) will be the property of the Seller.

19 (g) Survival; Restrictive Covenant. The obligations of this Section 3.3 will
20 survive the Closing and will continue to be fully enforceable thereafter. At the option of either
21 the Seller or the Buyer, a restrictive covenant describing the terms and conditions of this
22 Section 3.3 will be executed by the parties and recorded with the Summit County Clerk and
23 Recorder prior to Closing. The form of the restrictive covenant will be subject to the
24 reasonable approval of counsel for both the Seller and the Buyer.

25 (h) Meaning of “New Comcast Lease”. The term “New Comcast Lease” as
26 used in this Section 3.3 means only the first lease entered into between the then-owner of the
27 Head End Property and the holder of a valid cable television franchise agreement with Seller
28 (acting in its governmental capacity) after the expiration of the Current Comcast Lease,
29 together with any renewal or extension of such lease. Upon the termination of the New
30 Comcast Lease for any reason, this Section 3.3 will no longer apply.

31 **ARTICLE 4**
32 **SELLER’S DISCLAIMERS**

33 4.1 Seller’s General Disclaimer. Buyer acknowledges that the Property will be
34 conveyed and transferred “**AS IS**”, “**WHERE IS**”, and “**WITH ALL FAULTS**”, and that
35 Seller does not warrant or make any representations, express or implied, relating to the
36 **MERCHANTABILITY**, quality, condition, suitability, or **FITNESS FOR ANY PURPOSE**
37 **WHATSOEVER** of the Property. Seller has no liability to undertake any repairs, alterations,
38 removal, remedial actions, or other work of any kind with respect to any portion of the Property.

1 Buyer also acknowledges and agrees that by virtue of its possession of the Property pursuant to
2 the Lease, Buyer is able to make Buyer's own determination concerning the merchantability,
3 quality, condition, and suitability, or fitness for any purpose of the Property.

4 4.2 Environmental Condition of the Property.

5 (a) Seller's Environmental Disclaimer. Seller makes no warranty or
6 representation concerning the environmental condition of the Property (including, without
7 limitation, land, surface water, ground water, air, and any improvements). Without limiting
8 the generality of the preceding sentence, Seller specifically disclaims any and all warranties or
9 representations with respect to the location or presence on the Property of: (i) any "hazardous
10 water", "underground storage tanks", "petroleum", "regulated substance", or "used oil" as
11 defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§6901, et seq.),
12 as amended, or by any regulations promulgated thereunder; (ii) any "hazardous substance" as
13 defined by the Comprehensive Environmental Response, Compensation and Liability Act of
14 1980 (42 U.S.C. §§9601, et seq.), as amended, or by any regulations promulgated thereunder
15 (including, but not limited to, asbestos and radon); (iii) any "petroleum" and "fuel products",
16 as defined by Section 25-15-101 et seq., C.R.S., as amended, or by any regulations
17 promulgated thereunder; (iv) any "hazardous waste" as defined by the Colorado Hazardous
18 Waste Act, Section 25-15-101, et seq., C.R.S., or by any regulations promulgated thereunder;
19 (v) any substance the presence of which on, in or under the Property is prohibited or regulated
20 by any law similar to those set forth above; and (vi) any other substance which by law,
21 regulation or ordinance requires special handling in its collection, storage, treatment or
22 disposal.

23 (b) Buyer's Right to Inspect Environmental Condition of the Property.
24 Prior to July 1, 2011 Buyer may conduct such non-destructive soil tests, environmental
25 assessments, or other investigations as Buyer will determine to be necessary or appropriate (in
26 Buyer's sole discretion) for the purpose of determining the environmental condition of the
27 Property. Within a reasonable time after such actions Buyer will, to the extent practicable,
28 restore the Property to its prior condition. Buyer will indemnify and save Seller harmless from
29 all claims arising by reason of such entries, tests and assessments. This indemnity obligation
30 will survive the termination of the Contract and continue to be fully enforceable thereafter.
31 Buyer also acknowledges and agrees that Buyer's possession of the Property pursuant to the
32 Lease is adequate to enable Buyer to make Buyer's own determination with respect to the
33 environmental condition of the Property.

34 (c) Buyer's Contingency For The Environmental Condition of the
35 Property; Waiver. If Buyer determines that the environmental condition of the Property is not
36 acceptable, Buyer may terminate this Contract by giving Seller written notice of termination
37 not later than July 15, 2011. If Buyer elects to terminate this Contract pursuant to this Section,
38 this Contract will become null and void, and each party will be released from any further
39 obligation under this Contract. If Buyer does not give timely notice of termination of this
40 Contract by July 1, 2011, Buyer will have irrevocably waived its right to terminate this
41 Contract because of the environmental condition of the Property.

1 (d) Buyer's Waiver of Environmental Claims Against Seller. If Buyer
2 waives its right to terminate this Contract because of to the environmental condition of the
3 Property as provided in Section 4.2(c), at Closing Buyer will execute and deliver to Seller a
4 written waiver of any claims which Buyer may have or in the future acquire against Seller
5 with respect to the known or unknown environmental condition of the Property, including,
6 without limitation, claims arising under federal and state statutory law, and claims under the
7 common law, including, without limitation, claims for fraud or misrepresentation with respect
8 to the environmental condition of the Property. The form of such wavier will be subject to the
9 reasonable approval of Seller's counsel. The execution and delivery of such documentation
10 will be a condition precedent to Seller's obligations to convey the Property to Buyer.

11 **ARTICLE 5**
12 **RIGHT OF FIRST OFFER**

13 5.1 Right of First Offer. The following provisions will be included in the Seller's
14 deed conveying the Property to the Buyer:

15 (a) Definitions. As used in this Section the following words will have the
16 following meanings:

17 "Offer" means an offer to sell the Property made pursuant to and in accordance
18 with this Section.

19
20 "Property" means all of the Property, or so much thereof as may be the subject of
21 an Offer.

22
23 (b) Right of First Offer. Buyer will not sell the Property without first
24 offering the Property to the Seller as provided in this Section. This Section creates a
25 specifically enforceable right of first offer to repurchase the Property in favor of the Seller
26 according to the terms of this Section.

27 (c) Procedure to Comply With Right of First Offer. The right of first offer
28 created by this Article 5 will be honored by the Buyer and exercised by the Seller in the
29 following manner:

30 (i) If the Buyer desires to sell the Property, the Buyer will first send a written
31 Offer to the Seller by certified mail, return receipt requested, addressed to P.O. Box 168,
32 Breckenridge, Colorado 80424, or at any other mailing address for the Seller then shown
33 on the Town of Breckenridge website (<http://www.townofbreckenridge.com>).
34 Alternatively, the Offer may be personally delivered to the Town Manager of the Town
35 of Breckenridge. The Offer will have been properly served on the Seller in accordance
36 with this Section when the Offer is delivered to the Town Manager, or upon the Seller's
37 receipt of the Offer if the Offer is served by mail, whichever is applicable.

1 (ii) An Offer will describe the portion of the Property proposed to be sold, and
2 will state a specified price and all principal terms and conditions of the proposed sale.
3 The Offer will also set forth the Buyer's then-current mailing address to which any notice
4 of acceptance of the Offer may be delivered.

5 (iii) If the Seller desires to accept the Offer, the Seller must notify the Buyer in
6 writing of such acceptance within thirty (30) days of the date of service of the Offer upon
7 the Seller. Notice of Seller's acceptance of the Offer must either be personally delivered
8 to the Buyer, or sent by certified mail, return receipt requested, to the Buyer at the
9 mailing address set forth in the Offer. A notice of acceptance is valid and effective when
10 personally delivered to the Buyer, or when mailed to the Buyer at the mailing address set
11 forth in the Offer, whichever is applicable.

12 (iv) If the Seller fails give timely written notice of acceptance of the Offer
13 within the thirty (30) day period, the Buyer may, within one hundred eighty (180) days
14 after the expiration of the thirty (30) day period described above, sell the Property upon
15 terms and conditions that are substantially similar to those in the Offer, but not for a price
16 that is less than 100 percent (100%) of the sale price described in the Offer. Such sale
17 may be made free and clear of the right of first offer provided for in this Section;
18 provided, however, that the contract between the Seller and the purchaser shall include
19 language mutually agreeable to both Buyer herein and Seller limiting the use of the
20 Property to uses that are compatible with the adjoining neighborhood's primary
21 residential character. In this regard, the parties agree to work together in good faith so as
22 to serve Seller's valid planning interests without impairing Buyer's ability to realize
23 financial gain commensurate with the then-prevailing market conditions. If the Property
24 not sold within such one hundred eighty (180) day period, any subsequent sale of the
25 Property is subject to the requirement that a new Offer be given to the Seller in
26 accordance with this Section

27 (v) If the Seller accepts the Offer, then the Buyer and the Seller will negotiate
28 in good faith and attempt to reach a commercially reasonable contract for the purchase
29 and sale of the Property. If the Seller and the Buyer sign a contract for the purchase and
30 sale of the Property, the rights and responsibilities of such Parties will be as set forth in
31 the contract. If the Seller and the Buyer have not signed a bona fide contract for the sale
32 and purchase of the Property within thirty (30) days after the giving of timely notice of
33 acceptance of the Offer by the Seller, the Buyer may sell the Property to any party upon
34 terms and conditions that are substantially similar to those in the Offer, but not for a price
35 that is less than 100 percent (100%) of the Offer. Such sale may be made free and clear of
36 the right of first offer provided for in this Section.

37 (vi) The deed will provide that provisions of this Article 5 are specifically
38 enforceable by the Seller.

39 **ARTICLE 6**
40 **NO EFFECT ON EXISTING LEASE**

1 (b) If the dispute has not been resolved by negotiation as provided above,
2 the parties will endeavor to settle the dispute by mediation with a neutral third party. If the
3 parties encounter difficulty in agreeing on a neutral third party, they may each appoint a
4 neutral third party, such third parties to appoint a neutral third party to mediate. Each party
5 will pay their own attorneys' fees incurred in connection with a mediation.

6 (c) Any dispute arising out of or relating to this Agreement or the breach,
7 termination or validity hereof, which has not been resolved by the methods set forth above
8 within thirty (30) days of the initiation of mediation, may be finally resolved by appropriate
9 judicial action commenced in a court of competent jurisdiction. The parties agree to venue in
10 the courts of Summit County, Colorado with respect to any dispute arising out of or relating to
11 this Agreement.

12 (d) If any action is brought in a court of law by either party to this
13 Agreement concerning the enforcement, interpretation or construction of this Agreement, the
14 prevailing party, either at trial or upon appeal, will be entitled to reasonable attorneys' fees, as
15 well as costs, including expert witness' fees, incurred in the prosecution or defense of such
16 action.

17
18 8.3 Survival of Indemnity Obligations. Notwithstanding anything contained in the
19 Contract to the contrary, in the event of the termination of this Contract for any reason the various
20 indemnity obligations described in this Contract will continue to be fully enforceable after
21 termination.

22 **ARTICLE 9**
23 **PROVISIONS OF GENERAL APPLICATION**
24

25 9.1 Incorporation of Exhibit. The attached **Exhibit "A"** and **Exhibit "B"** are
26 incorporated into this Contract by reference.

27 9.2 "Day" Defined. As used in this Contract the term "day" means a calendar day, not
28 a business or working day. However, if any date or deadline set forth herein falls on a weekend
29 or holiday, it automatically shall be extended to the next regular business day.

30 9.3 "Will" Defined. As used in this Contract, the term "will" means a mandatory
31 obligation to act, or to refrain from acting, as indicated in the context of the sentence in which
32 such term is used.

33 9.4 Recording. This Contract will **NOT** be recorded in the real property records of
34 the Clerk and Recorder of Summit County, Colorado. However, Buyer may record a
35 memorandum of this Contract. Such memorandum will be subject to the reasonable approval of
36 Seller and its counsel. If this Contract is terminated by Seller because of the failure of the Buyer
37 to exercise the Option and/or close on the Property, Buyer will, upon demand from Seller,
38 promptly execute and deliver to Seller, in a form reasonably acceptable to Seller and its counsel,
39 a document in recordable form disclaiming any further rights to the Property except as provided

1 in the Lease. This obligation will survive the termination of this Contract, and will be
2 specifically enforceable against Buyer thereafter.

3 9.5 Commissions. Seller and Buyer agree to defend, indemnify, and save the other
4 harmless from any commission or fee which may be payable to any broker, agent or finder with
5 whom the indemnifying party has dealt in connection with this Contract.

6 9.6 Notices. Any notices required or permitted under this Contract will be sufficient
7 if personally delivered or if sent by certified mail, return receipt requested, addressed as follows:

8 If To Seller: Town of Breckenridge
9 P.O. Box 168
10 Breckenridge, CO 80424
11 Attn.: Timothy J. Gagen, Town Manager
12

13 With A Copy (Which Will
14 Not Constitute Notice) To: Timothy H. Berry, Esq.
15 Timothy H. Berry, P.C.
16 P. O. Box 2
17 Leadville, CO 80461
18

19 If To Buyer: Breckenridge Outdoor Education Center
20 P.O. Box 697
21 Breckenridge, CO 80424
22

23 With A Copy (Which Will
24 Not Constitute Notice) To: Raule G. Nemer, Esq.
25 Toussaint, Nemer & Coaty, P.C.
26 32065 Castle Court, Suite 150
27 Evergreen, CO 80439
28

29 Notices mailed in accordance with the provisions of this Section will be deemed to have been
30 given on the third day following mailing. Notices personally delivered will be deemed to have
31 been given upon delivery. Nothing herein will prohibit the giving of notice in the manner
32 provided for in the Colorado Rules of Civil Procedure for service of civil process. E-mail is not a
33 valid means of delivering a notice under this Contract.
34

35 9.7 Waiver. The failure of either party to exercise any of their rights under this
36 Contract will not be a waiver of those rights. A party waives only those rights specified in
37 writing and signed by the party waiving such rights.

38 9.8 Applicable Law. This Contract will be interpreted in all respects in accordance
39 with the laws of the State of Colorado.

1 9.9 Additional Instruments. The Parties will deliver or caused to be delivered upon
2 request such additional documents and instruments as may be required to accomplish the intent
3 of this Contract.

4 9.10 Entire Agreement. This Contract constitutes the entire agreement and
5 understanding between the Parties concerning the purchase and sale of the Property, and
6 supersedes any prior agreement or understanding relating to the subject matter of this Contract.

7 9.11 Modification. This Contract may be modified or amended only by a duly
8 authorized written instrument executed by the Parties. Oral amendments are not permitted.

9 9.12 Section Headings. Section headings are inserted for convenience only and in no
10 way limit or define the interpretation to be placed upon this Contract.

11 9.13 Attorney's Advisement. Buyer has been advised to seek legal counsel as to this
12 Contract. The law firm of Timothy H. Berry, P.C. *represents only the Seller* in connection with
13 this Contract.

14 9.14 No Adverse Construction. Both Parties acknowledge having had the opportunity
15 to participate in the drafting of this Contract. This Contract will not be construed against either
16 party based upon authorship.

17 9.15 Assignment. Neither party will have the right to assign this Contract, or any
18 interest therein, without the express written consent of the other party.

19 9.16 Binding Effect. This Contract will be binding upon, and will inure to the benefit
20 of, the Parties, and their respective heirs, successors, assigns, legal representatives, and personal
21 representatives.

22 **9.17 Warning Concerning Special Taxing Districts. SPECIAL TAXING**
23 **DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS**
24 **THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE**
25 **TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH**
26 **DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX**
27 **TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE**
28 **RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH**
29 **INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**
30 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE**
31 **PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY**
32 **REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY**
33 **OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**
34 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY**
35 **ASSESSOR.**

36

Exhibit "A"

To Option Contract Between the Town of Breckenridge, a Colorado municipal corporation, as Seller, and the Breckenridge Outdoor Education Center, a Colorado nonprofit corporation, as Buyer

Legal Description

Tract B, Revett's Landing Subdivision, according to the plat thereof recorded August 13, 2001 under Reception No. 659673 of the records of the Clerk and Recorder of Summit County, Colorado

|

Exhibit "B"
To Option Contract Between the Town of Breckenridge, a Colorado municipal corporation, as Seller, and the Breckenridge Outdoor Education Center, a Colorado nonprofit corporation, as Buyer

Head-End Property

1 ***FOR WORKSESSION/SECOND READING – MARCH 8***

2
3 Additions To The Option Agreement As Approved on First Reading Are
4 Indicated In Track Changes Format

5
6 COUNCIL BILL NO. 12

7
8 Series 2011

9
10 AN ORDINANCE APPROVING AN OPTION AGREEMENT WITH THE BRECKENRIDGE
11 OUTDOOR EDUCATION CENTER, A COLORADO NONPROFIT CORPORATION;
12 AUTHORIZING THE SALE OF CERTAIN TOWN-OWNED REAL PROPERTY PURSUANT
13 THERE TO; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH
14 (524 Wellington Road)

15
16 WHEREAS, the Town of Breckenridge owns the real property and improvements located
17 at 524 Wellington Road in Breckenridge, Summit County, Colorado (“**Property**”); and

18
19 WHEREAS, the Breckenridge Outdoor Education Center (“**BOEC**”) is a Colorado
20 nonprofit corporation; and

21
22 WHEREAS, the BOEC was formed in 1976, and has been in continuous operation within
23 the Town since that date; and

24
25 WHEREAS, the BOEC provide numerous valuable nonprofit activities, and is an
26 important part of the fabric of the community; and

27
28 WHEREAS, the Town has previously leased the Property to the BOEC pursuant to that
29 Lease dated July 10, 2001 and recorded November 9, 2001 at Reception No. 667684 of the
30 records of the Clerk and Recorder of Summit County, Colorado (“**Lease**”); and

31
32 WHEREAS, the Lease was amended by that Amendment to Lease dated August 28,
33 2001 and recorded November 9, 2001 at Reception No. 667685 of the records of the Clerk and
34 Recorder of Summit County, Colorado; and

35
36 WHEREAS, the BOEC has continuously occupied the Property pursuant to the Lease
37 since 2001, and has made portions of the Property available for use by other nonprofit entities
38 that serve the Town, its residents, and its many visitors; and

39
40 WHEREAS, the BOEC has demonstrated that substantial public benefits arise from its
41 presence on the Property, and its use of the Property to fulfill its nonprofit mission and the
42 nonprofit missions of the other users of the Property; and

43
44 WHEREAS, the Town has agreed to grant to the BOEC, and the BOEC wants to
45 purchase and acquire from Town, an exclusive option to buy the Property, all in accordance with,

1 and subject to, the terms, conditions and provisions of the proposed “Option Contract” between
2 the Town and the BOEC, a copy of which is marked Exhibit “A”, attached hereto and
3 incorporated herein by reference (“*Option Agreement*”); and
4

5 WHEREAS, even though the purchase price for the Property provided in the Option
6 Agreement is somewhat below the current appraised value of the Property, the Town Council finds
7 and determines that there will be substantial public benefits accruing to the Town if the Property is
8 sold to the BOEC pursuant to the Option Agreement; that there will be a public purpose associated
9 with the sale of the Property to the BOEC pursuant to the Option Agreement; and that the Town
10 will receive adequate consideration in return for the sale of the Property to the BOEC pursuant to
11 the Option Agreement; and
12

13 WHEREAS, the Town Council has reviewed the proposed Option Agreement, and finds
14 and determines that it would be in the best interest of the Town and its residents for the Town to
15 enter into the Option Agreement; and
16

17 WHEREAS, if the BOEC exercises the option granted to it by the Option Agreement the
18 Town will be obligated to convey the Property to it, subject, however, to the terms and conditions of
19 the Option Agreement; and
20

21 WHEREAS, Section 15.3 of the Breckenridge Town Charter provides that the Town
22 Council may lawfully authorize the sale of Town-owned real property by ordinance.
23

24 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
25 BRECKENRIDGE, COLORADO:
26

27 Section 1. The Town Council finds, determines, and declares that approval of the Option
28 Agreement, and the sale of the Property to the BOEC pursuant thereto, would serve the public
29 purpose of providing a permanent location for the BOEC to conduct its many valuable nonprofit
30 activities. In addition, because of the commitment of the BOEC to continue to make a portion of
31 the Property available for the location and operation of other nonprofit entities, the public will
32 benefit from the sale of the Property to the BOEC pursuant to the Option Agreement through the
33 continued presence on the Property of other important nonprofit entities.
34

35 Section 2. For the reasons set forth in Section 1 of this ordinance, the Town Council
36 finds, determines, and declares that the approval of the proposed Option Agreement with the
37 BOEC (Exhibit “A” hereto), and the sale of the Property to the BOEC pursuant thereto, will
38 provide a public benefit and further a public purpose within the meaning of Article 11, Section 2
39 of the Colorado Constitution. The Town Council further finds, determines, and declares that the
40 Town of Breckenridge will receive adequate consideration in return for the sale of the Property
41 to the BOEC pursuant to the Option Agreement.
42

43 Section 3. The Option Agreement between the Town and the BOEC, in substantially the
44 form attached hereto as Exhibit “A”, is approved; and the Town Manager is hereby authorized,
45 empowered, and directed to execute such Option Agreement for and on behalf of the Town of
46 Breckenridge. Minor changes to or amendments of the approved agreement may be made by the

1 Town Manager if the Town Attorney certifies in writing that the proposed changes or
2 amendments do not substantially affect the consideration to be received or paid by the Town
3 pursuant to the approved agreement, or the essential elements of the approved agreement.
4

5 Section 4. If the BOEC timely exercises the option to purchase the Property granted to it by
6 the Option Agreement the Town Manager, without the need for further authorization, is hereby
7 empowered and directed to take all necessary and appropriate action to close the sale of the Property
8 to the BOEC as contemplated by the Option Agreement. In connection therewith, the Town
9 Manager shall have full power and authority to do and perform all matters and things necessary to
10 the sale of the Property pursuant to the Option Agreement, including, but not limited to, the
11 following:
12

- 13 1. The making, execution and acknowledgement of settlement
14 statements, closing agreements, and other usual and customary
15 closing documents;
- 16 2. The execution, acknowledgement and delivery to the BOEC of the
17 deed of conveyance for the Property; and
18
- 19 3. The performance of all other things necessary to the sale of the
20 Property by the Town pursuant to the Option Agreement.
21
22

23 Section 5. The Town Council hereby finds, determines and declares that it has the power to
24 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of
25 the Colorado Constitution and the powers contained in the Breckenridge Town Charter.
26

27 Section 6. This ordinance shall be published and become effective as provided by
28 Section 5.9 of the Breckenridge Town Charter.
29

30 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
31 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
32 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
33 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
34 Town.
35

36 TOWN OF BRECKENRIDGE, a Colorado
37 municipal corporation
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39
40 By: _____
41 John G. Warner, Mayor
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ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

MEMO

TO: Town Council

FROM: Chris Neubecker

RE: Policy 5/R-Architectural Compatibility (Fiber Cement Siding); First Reading

DATE: March 1, 2011

On February 8, 2011 the Town Council directed the staff to modify the existing policy on the use of non-natural materials (such as fiber cement siding) outside the Conservation District. The Council supported the unlimited use of fiber cement siding (as opposed to Planning Commission, which suggested that some natural materials be required on a building, such as a stone base or timber trim.)

Based on direction from the Council, Staff suggests the following changes to the adopted Development Code Policy 5 (Relative) Architectural Compatibility:

*“Exterior building materials and colors should not unduly contrast with the site's background. The use of natural materials, such as logs, timbers, wood siding and stone, are strongly encouraged because they weather well and reflect the area's indigenous architecture. Brick is an acceptable building material on smaller building elements, provided an earth tone color is selected. Stucco is an acceptable building material so long as an earth tone color is selected, but its use is discouraged and negative points shall be assessed if the application exceeds twenty five percent (25%) on any elevation as measured from the bottom of the fascia board to finished grade. Such measurement shall include column elements, windows and chimneys, but shall not include decks and railing elements. **Fiber-cement siding may be used without the assignment of negative points if the fiber-cement siding simulates wood grain, and if there are other natural materials on each elevation of the structure (such as wood trim or accents, or a natural stone base, as examples appears compatible with the general design criteria listed in the Land Use Guidelines.** Roof materials should be nonreflective and blend into the site's backdrop as much as possible. Inappropriate exterior building materials include, but are not limited to, untextured exposed concrete, untextured or unfinished unit masonry, highly reflective glass, reflective metal roof, and unpainted aluminum window frames. This section applies only to areas outside of the historic district, but does not apply to the Cucumber Gulch overlay protection district (see policy 5 (absolute), subsection D, of this section).”* (Note: ~~“**Bold and strikethrough**”~~ shows language originally recommended by Planning Commission. This wording is not in the current policy.)

The language “materials and colors should not unduly contrast with the site’s background” will remain in this policy. This language should give the Planning Commission and Town Council the leverage to assign negative points to materials and colors inconsistent with a natural and forested site.

Staff will be available during the meeting on Tuesday to answer questions.

1 ***FOR WORKSESSION/FIRST READING – MARCH 8***

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

5
6 COUNCIL BILL NO. 13

7
8 Series 2011

9
10 AN ORDINANCE AMENDING POLICY 5 (RELATIVE)(ARCHITECTURAL
11 COMPATIBILITY) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE,
12 KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, CONCERNING THE
13 ALLOWED USE OF FIBER-CEMENT SIDING

14
15 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
16 COLORADO:

17
18 Section 1. The second unnumbered paragraph of Section A of Policy 5
19 (Relative)(Architectural Compatibility) of Section 9-1-19 of the Breckenridge Town Code is
20 amended so as to read in its entirety as follows:

21 Exterior building materials and colors should not unduly contrast with the site's
22 background. The use of natural materials, such as logs, timbers, wood siding and
23 stone, are strongly encouraged because they weather well and reflect the area's
24 indigenous architecture. Brick is an acceptable building material on smaller
25 building elements, provided an earth tone color is selected. Stucco is an
26 acceptable building material so long as an earth tone color is selected, but its use
27 is discouraged and negative points shall be assessed if the application exceeds
28 twenty five percent (25%) on any elevation as measured from the bottom of the
29 fascia board to finished grade. Such measurement shall include column elements,
30 windows and chimneys, but shall not include decks and railing elements. Fiber-
31 cement siding may be used without the assignment of negative points if the
32 fiber-cement siding appears compatible with the general design criteria listed
33 in the Land Use Guidelines. Roof materials should be nonreflective and blend
34 into the site's backdrop as much as possible. Inappropriate exterior building
35 materials include, but are not limited to, untextured exposed concrete, untextured
36 or unfinished unit masonry, highly reflective glass, reflective metal roof, and
37 unpainted aluminum window frames. This section applies only to areas outside of
38 the historic district, but does not apply to the Cucumber Gulch overlay protection
39 district (see policy 5 (absolute), subsection D, of this section).

40
41 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and
42 the various secondary codes adopted by reference therein, shall continue in full force and effect.

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

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

10 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
11 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
12 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
13 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
14 Town.

15
16 TOWN OF BRECKENRIDGE, a Colorado
17 municipal corporation
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19
20

21 By _____
22 John G. Warner, Mayor
23

24 ATTEST:
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29 _____
30 Mary Jean Loufek, CMC,
31 Town Clerk
32
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**MEMORANDUM
(Memo Only)**

TO: Town Council

FROM: Matt Thompson, AICP

DATE: March 1, 2011 (For the 03/08/11 Town Council Meeting)

SUBJECT: Ordinance No. 9, Series 2009. Open House Signs.

On December 9, 2008 the Town Council directed the Department of Community Development to prepare amendments to Chapter 2 of Title 8 of the Breckenridge Town Code, known as the “Breckenridge Sign Ordinance”, to update the Town’s regulations concerning open house signs, which allowed for up to three off-site directional signs. The Council adopted the updated Ordinance on March 24, 2009, with a one-year sunset provision written into the Ordinance. Per Section 8, of Ordinance No. 9, 2009, this ordinance was set to be repealed effective April 1, 2010.

On February 9, 2010 the Town Council directed Town Staff to extend the Ordinance for another twelve-months, until April 1, 2011. The Ordinance seems to be working well with only a few Code Enforcement actions. The Real Estate Brokers have done a good job of self-policing on this issue. Staff asks the Town Council if they would consider removing the one-year sunset provision. We have included an ordinance for first reading that would remove this sunset provision. We point out that the Council could repeal this ordinance in the future, or make other changes to the policy, if needed.

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

1 **FOR WORKSESSION/FIRST READING – MARCH 8**

2
3 COUNCIL BILL NO. 14

4
5 Series 2011

6
7 AN ORDINANCE AMENDING ORDINANCE NO. 9, SERIES 2009, BY ELIMINATING
8 THE SUNSET DATE FOR THE “TOWN OF BRECKENRIDGE OPEN HOUSE SIGN
9 ORDINANCE”

10
11 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
12 COLORADO:

13
14 Section 1. Section 8 of Ordinance No. 9, Series 2009, as amended by Ordinance No. 9,
15 Series 2010, is repealed.

16 Section 2. Except as specifically amended, Ordinance No. 9, Series 2009, shall continue
17 in full force and effect.

18 Section 3. The Town Council hereby finds, determines and declares that this ordinance is
19 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
20 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
21 thereof.

22 Section 4. The Town Council hereby finds, determines and declares that it has the power
23 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
24 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
25 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
26 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
27 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
28 contained in the Breckenridge Town Charter.

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

31 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
32 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
33 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
34 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
35 Town.
36
37

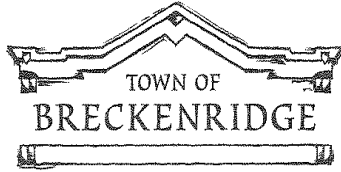
TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

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MEMORANDUM

TO: Town Council

FROM: Michael Mosher and Chris Neubecker

DATE: March 1, 2011 for the March 8, 2011 Town Council Meeting

SUBJECT: Ordinance - First Reading - Free Basement Density under Historic Commercial Buildings

At the February 8, 2011 worksession, Staff introduced a proposal to change a portion of Policy 3 of the Town Code, (C) (2) Section 9-1-19, to allow other functions/uses, besides storage only, in the basement of “Town designated landmark” historic commercial buildings as an incentive for restoration/preservation. We heard support from the Council to remove that portion of the Code restricting the use.

Attached is an Ordinance, for First Reading, amending Policy 3 to reflect these changes. We welcome any comment.

1 **FOR WORKSESSION/FIRST READING – MARCH 8**

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

5
6 COUNCIL BILL NO. 15

7
8 Series 2011

9
10 AN ORDINANCE AMENDING POLICY 3 (ABSOLUTE) OF SECTION 9-1-19 THE
11 BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT
12 CODE”, CONCERNING THE DENSITY EXEMPTION FOR BASEMENT AREAS OF
13 TOWN-DESIGNATED LANDMARK COMMERCIAL STRUCTURES

14
15 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
16 COLORADO:

17
18 Section 1. The unnumbered paragraph of Section (C)(2) of Policy 3 (Absolute)
19 (Density/Intensity) of Section 9-1-19 of the Breckenridge Town Code that is entitled
20 “Commercial” is amended so as to read in its entirety as follows:

21
22 Commercial: Density shall be calculated by adding the total square footage of
23 each floor of the building. Except as provided below, this shall include any
24 basement areas or storage areas, no matter what the proposed use shall be, and
25 shall be measured from the outside of the exterior walls. Exceptions: (a) any
26 portion of a basement area of a "Town designated landmark" as defined in chapter
27 11 of this title, which is: (1) located directly underneath the existing building, and
28 (2) completely or partially buried below grade, ~~and (3) properly restricted to use~~
29 ~~as storage for tenants or occupants of the building,~~ shall not be counted toward
30 allowed density for such building so long as the historic USGS floor elevation of
31 the building is maintained; and (b) any underground portion of a building which is
32 used to provide required or approved parking for the project. This exemption
33 shall not apply to any other provision of this code.

34
35 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the
36 various secondary codes adopted by reference therein, shall continue in full force and effect.

37
38 Section 3. The Town Council hereby finds, determines and declares that this ordinance is
39 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
40 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
41 thereof.

42
43 Section 4. The Town Council hereby finds, determines and declares that it has the power
44 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
45 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
46 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)

1 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
2 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
3 contained in the Breckenridge Town Charter.
4

5 Section 5. This ordinance shall be published and become effective as provided by
6 Section 5.9 of the Breckenridge Town Charter.
7

8 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
9 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
10 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
11 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
12 Town.
13

14 TOWN OF BRECKENRIDGE, a Colorado
15 municipal corporation
16

17
18
19 By _____
20 John G. Warner, Mayor
21

22 ATTEST:
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26 _____
27 Mary Jean Loufek, CMC,
28 Town Clerk
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MEMO

TO: Town Council
FROM: Town Attorney
RE: Second Request for Deferral of Payment of PIFs—Peak 7 Development Company
DATE: March 1, 2011 (for March 8th Meeting)

The Town’s Water Ordinance normally requires that Water Plant Investment Fees (PIFs) be paid at the time of the issuance of a building permit. However, the ordinance allows the Town Council to approve deferred payment of PIFs under certain limited circumstances.

The Peak 7 development was approved to be constructed in five phases, and will be located in two separate buildings—the North Building (now complete) and the South Building (pending building permit).

In 2007 the Council approved an agreement with the Peak 7 developer deferring the PIFs for Phases Two and Three for the South Building. In connection with that Agreement, the Developer contributed the sum of \$25,000.00 to the Town’s Riverwalk Center Improvements as a substantial public benefit for the Town entering into the agreement. All PIFs due to the Town under the 2007 agreement have now been fully paid.

The Developer has applied for a building permit for the entire North Building, Phases Four and Five, and wishes to defer the payment of PIFs for Phase Five until the earlier of: (i) the issuance of a Certificate of Occupancy for Phase Four, or (ii) December 15, 2012. The \$25,000.00 previously contributed by Peak 7 to the Riverwalk Center project is proposed to serve as the public benefit for this second deferral request.

To assure the Town that the deferred PIFs will be paid when due, the developer has proposed to post an irrevocable letter of credit with the Town. The Town could collect the letter of credit if the deferred PIFs were not paid in a timely fashion.

Section 12-4-9 of the Town’s Water Ordinance provides in pertinent part as follows:

12-4- 9: WAIVER OR DEFERRAL OF PLANT INVESTMENT FEES:

A. Upon request the Town Council may waive or defer payment of the PIF for any of the following developments:

1. A development constructed by a governmental entity; or
2. A development the primary purpose of which is determined by the Town Council to provide low or moderately priced housing for residents of Summit County; or

3. A development, other than those enumerated above, which the Town Council determines will provide a substantial public benefit.

The way the Water Ordinance is worded only the Council can approve the deferral of PIFs. If the developer's request is to be granted, I recommend that it be done by Council resolution.

Enclosed is a proposed resolution that would approve the deferral of the PIFs for Phase 5 of the Peak 7 Development as requested by the developer. The proposed resolution determines that the developer's request satisfies the requirements for deferral of PIFs as outlined in Section 12-4-9 of the Water Ordinance and, in Section 1 of the resolution, specifies the terms and conditions of the deferral. Those conditions would be contained in a written agreement, also included, between the Town and the developer which could be signed by the Town Manager.

I will be happy to review this matter with you next Tuesday.

1 **DRAFT February 18, 2011 DRAFT**

2
3 SECOND PIF DEFERRAL AGREEMENT

4
5 THIS SECOND PIF DEFERRAL AGREEMENT (“**Second Agreement**”) is dated
6 _____, 2011 and is between the Town of Breckenridge, a Colorado municipal
7 corporation (“**Town**”), and Peak 7, LLC, a Colorado limited liability company (“**Peak 7**”).

8
9 R E C I T A L S:

10
11 This Second Agreement is entered into on the basis of the following facts,
12 understandings, and intentions of the parties:

13
14 (a) Peak 7 is the owner of the following real property located in the Town of
15 Breckenridge, Colorado:

16
17 Lot 1, Peak 7 Subdivision according to the Plat recorded December 15,
18 2006, at Reception No. 841906, County of Summit, State of Colorado;
19 also known as 1979 and 2065 Ski Hill Road, Breckenridge, Colorado
20 80424 (“**Property**”).

21
22 (b) Peak 7 intends to construct a resort project known as The Grand Lodge on
23 Peak 7 (“**Project**”) on the Property. As defined by the Town’s Development Code, the
24 Project will consist of 232 residential condominium units, two commercial units, and
25 common amenities such as a swimming pool.

26
27 (c) The Project will located in two separate buildings, the North Building and
28 the South Building.

29
30 (d) The South Building was constructed in three phases and is complete.

31
32 (e) The North Building will be constructed in two phases, denominated as
33 “Phase Four” and “Phase Five.”

34
35 (f) Peak 7 intends to apply for a building permit for the entire North Building
36 on or about February 1, 2011, but wishes to defer payment of the water Plant Investment
37 Fees (“**PIFs**”) on Phase Five.

38
39 (g) Pursuant to Section 12-4-3 of the Breckenridge Town Code payment of
40 the PIFs are normally due at the time of the issuance of a building permit.

41
42 (h) Peak 7 has requested the Town to defer payment of the PIFs for Phase
43 Five of the Project upon certain terms and conditions.

44
45 (i) Peak 7 and the Town entered into that Agreement dated April 25, 2007
46 providing for the deferral of the payment of the PIFs that were due to the Town in

1 connection with the construction of the South Building (“*Prior Agreement*”). All
2 payments due to the Town under the Prior Agreement were timely made by Peak 7, and
3 the Prior Agreement has been fully complied with and terminated.
4

5 (j) As part of the Prior Agreement Peak 7 contributed the sum of \$25,000.00
6 to the Town’s Riverwalk Center improvement project as a substantial public benefit for
7 the Town entering into the Prior Agreement.
8

9 (k) The Town has agreed to defer a portion the payment of such PIFs upon
10 certain terms and conditions.
11

12 NOW, THEREFORE, the parties agree as follows:
13

14 1. Phase Four PIFs. The PIFs that are due to the Town for the Phase Four of the
15 Project shall be paid by Peak 7 to the Town in full without demand on or before March 15, 2011.
16

17 2. Phase Five PIFs. The PIFs that are due to the Town for Phase Five of the Project
18 shall be paid to the Town in full without demand on the earlier of: (i) the issuance of a Certificate
19 of Occupancy for Phase Four, or (ii) December 15, 2012 (“*Deferred PIFs*”).
20

21 3. Actual PIF Calculations. The actual sum due to the Town for the PIFS for the
22 North Building shall be determined pursuant to the Town’s Water Ordinance based on final
23 construction drawings, and any approved changes to the Project, and shall be computed at the
24 then-current rate as of the date of payment.
25

26 4. Substantial Public Benefit. The \$25,000.00 previously contributed by Peak 7 to
27 the Town’s Riverwalk Center improvement project pursuant to the Prior Agreement will act as
28 the substantial public benefit for this Second Agreement. No further substantial public benefit is
29 required in connection with this Second Agreement.
30

31 5. Security for Payment of PIFs. As security for the payment of the Deferred PIFs,
32 at the time that the PIFs for Phase Four of the Project are paid Peak 7 shall deliver to the Town
33 an Irrevocable Letter of Credit in the sum of \$181,789.13. The Letter of Credit shall be due on
34 December 20, 2012. The Letter of Credit shall be subject to the approval of the Town Attorney.
35

36 5. Personal Obligation of Peak 7. Notwithstanding the posting of the Letter of
37 Credit, Peak 7 shall be personally liable for any amounts due in connection with the payment of
38 the Deferred PIFs or under the terms of this Second Agreement.
39

40 6. Burden and Benefit to Run with Land and Successors. The deferral of the
41 payment of water PIFs for Phase Five of the Project as provided in this Second Agreement is
42 both a benefit and burden to the Property. This Second Agreement shall run with the Property
43 and be binding upon Peak 7, its heirs, successors, and assigns.
44

1 7. Attorneys Fees and Costs. In the event of any dispute arising under this Second
2 Agreement, the prevailing party shall be entitled to recover its costs, including reasonable
3 attorneys’ fees.

4
5 8. Default. In the event of any default by Peak 7 under the terms of this Second
6 Agreement the Town may, in addition to any other remedies available to it under Colorado law,
7 withhold issuance of a Building Permit or a Certificate of Occupancy for any units in the North
8 Building for which a Building Permit or Certificate of Occupancy has not yet been issued by the
9 Town.

10
11 9. Recording. This Second Agreement may be recorded in the real property records
12 of Summit County, Colorado.

13
14 10. Reimbursement of Town’s Attorney’s’ Fees. Peak 7 shall reimburse the Town for
15 its attorney’s fees incurred in connection with the drafting of this Second Agreement and the
16 approving resolution.

17
18 TOWN OF BRECKENRIDGE

PEAK 7, LLC

19
20
21
22 By: _____
23 Timothy J. Gagen

By: _____
Michael C. Millisor, Member

24
25 Attest: _____
26 Mary Jean Loufek, CMC, Town Clerk

27
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31
32 STATE OF COLORADO)
33) ss.
34 COUNTY OF SUMMIT)

35
36 The foregoing instrument was acknowledged before me this ___ day of _____, 2011,
37 by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, Town Clerk, of the Town of
38 Breckenridge, a Colorado municipal corporation.

39
40 Witness my hand and official seal.
41 My commission expires: _____

42 _____
43 Notary Public

1 STATE OF COLORADO)
2) ss.
3 COUNTY OF SUMMIT)
4

5 The foregoing instrument was acknowledged before me this ___ day of _____ 2011
6 by Michael C. Millisor, as a Member of Peak 7, LLC, a Colorado limited liability company.

7
8 Witness my hand and official seal.
9 My commission expires: _____

10 _____
11 Notary Public
12
13

1 WHEREAS, Developer has requested the Town to defer payment of the PIFs for Phase
2 Five of the Project upon certain terms and conditions; and
3

4 WHEREAS, Developer and the Town entered into that Agreement dated April 25, 2007
5 providing for the deferral of the payment of the PIFs that were due to the Town in connection
6 with the construction of the South Building ("*Prior Agreement*"); and
7

8 WHEREAS, all payments due to the Town under the Prior Agreement were timely made
9 by Developer, and the Prior Agreement has been fully complied with and terminated; and
10

11 WHEREAS, as part of the Prior Agreement Developer contributed the sum of \$25,000.00
12 to the Town's Riverwalk Center improvement project as a substantial public benefit for the
13 Town entering into the Prior Agreement; and
14

15 WHEREAS, the Town Council finds, determines and declares that the Project satisfies
16 the requirements of Section 12-4-9 of the Breckenridge Town Code, and that the Developer's
17 request to defer payment of the PIFs for Phase Five of the North Building should be granted,
18 subject to certain terms and conditions; and
19

20 WHEREAS, a proposed "Second PIF Deferral Agreement" between the Town and the
21 Developer has been prepared, a copy of which is marked **Exhibit "A"**, attached hereto and
22 incorporated herein by reference ("*Second Agreement*"); and
23

24 WHEREAS, the Town Council has reviewed the proposed Second Agreement, and finds
25 and determines that it would be in the best interests of the Town and its residents for the Town to
26 enter into the proposed Second Agreement; and
27

28 WHEREAS, Rule 6.1(b) of the Council Procedures and Rules of Order provides that a
29 resolution may be used to approve a contract.
30

31 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
32 BRECKENRIDGE, COLORADO, as follows:
33

34 Section 1. The proposed "Second PIF Deferral Agreement" with Peak 7 Development
35 Company, LLC, a Colorado limited liability company (Exhibit "A" hereto) is approved; and the
36 Town Manager is hereby authorized, empowered, and directed to execute such agreement for
37 and on behalf of the Town of Breckenridge.
38

39 Section 2. Minor changes to or amendments of the approved agreement may be made by
40 the Town Manager if the Town Attorney certifies in writing that the proposed changes or
41 amendments do not substantially affect the consideration to be received or paid by the Town
42 pursuant to the approved agreement, or the essential elements of the approved agreement.
43

44 Section 3. This resolution shall become effective upon its adoption.
45

46 RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2011.

1 TOWN OF BRECKENRIDGE

2

3 ATTEST:

4

By _____

5

John G. Warner, Mayor

6

7 _____
Mary Jean Loufek,

8 CMC, Town Clerk

9

10 APPROVED IN FORM

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14 _____
Town Attorney Date

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Scheduled Meetings, Important Dates and Events

Shading indicates Council attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them. All Council Meetings are held in the Council Chambers, 150 Ski Hill Road, Breckenridge, unless otherwise noted.

MARCH 2011

| | |
|------------------------------------|-----------------------------|
| Tuesday, March 8; 3:00/7:30 p.m. | First Meeting of the Month |
| Friday, March 11; 8:00 – 9:00 a.m. | Coffee Talk – Amazing Grace |
| Tuesday, March 22; 3:00/7:30 p.m. | Second Meeting of the Month |

APRIL 2011

NOTE: The FIRST council meeting in April, scheduled for Tuesday, April 12, has been cancelled.

| | |
|-----------------------------------|-----------------------------|
| Tuesday, April 26; 3:00/7:30 p.m. | Second Meeting of the Month |
|-----------------------------------|-----------------------------|

OTHER MEETINGS

| | |
|--|--|
| 1 st & 3 rd Tuesday of the Month; 7:00p.m. | Planning Commission; Council Chambers |
| 1 st Wednesday of the Month; 4:00p.m. | Public Art Commission; 3 rd floor Conf Room |
| 2 nd & 4 th Tuesday of the Month; 1:30p.m. | Board of County Commissioners; County |
| 2 nd Thursday of every other month (Dec, Feb, Apr, June, Aug, Oct) 12:00 noon | Breckenridge Heritage Alliance |
| 2 nd & 4 th Tuesday of the month; 2:00 p.m. | Housing/Childcare Committee |
| 2 nd Thursday of the Month; 5:30p.m. | Sanitation District |
| 3 rd Monday of the Month; 5:30p.m. | BOSAC; 3 rd floor Conf Room |
| 3 rd Tuesday of the Month; 9:00 a.m. | Liquor Licensing Authority; Council Chambers |
| 3 rd Thursday of the Month; 7:00p.m. | Red White and Blue; Main Fire Station |
| 4 th Wednesday of the Month; 9a.m. | Summit Combined Housing Authority |
| 4 th Wednesday of the Month; 8:30a.m. | Breckenridge Resort Chamber; BRC Offices |
| TBD (on web site as meetings are scheduled) | Breckenridge Marketing Advisory Committee; 3 rd floor Conf Room |

Other Meetings: CAST, CML, NWCCOG, RRR, QQ, I-70 Coalition