



BRECKENRIDGE TOWN COUNCIL REGULAR MEETING

Tuesday, August 14, 2012; 7:30 PM
Town Hall Auditorium

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	C. USA PRO CYCLING CHALLENGE UPDATE FROM LOCAL ORGANIZING COMMITTEE CO-CHAIRS	
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*Report of the 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. 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.

IX REPORT OF MAYOR AND COUNCILMEMBERS

- A. CAST/MMC (MAYOR WARNER)
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)
- C. BRC (MR. BURKE)
- D. MARKETING COMMITTEE (MR. DUDICK)
- E. SUMMIT COMBINED HOUSING AUTHORITY (MS. WOLFE)
- F. BRECKENRIDGE HERITAGE ALLIANCE (MR. BREWER)
- G. WATER TASK FORCE (MR. GALLAGHER)
- H. LANDFILL TASK FORCE (MS. WOLFE)

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I CALL TO ORDER, ROLL CALL

Mayor Warner called the meeting of July 24, 2012 to order at 7:35pm. The following members answered roll call: Mr. Gallagher, Ms. Wolfe, Mr. Brewer, Mr. Dudick, Mr. Burke, and Mayor Warner. Ms. McAtamney was absent.

II APPROVAL OF MINUTES - JULY 10, 2012

With no changes or corrections to the meeting minutes of July 10, 2012, Mayor Warner declared they would stand as submitted.

III APPROVAL OF AGENDA

Mr. Gagen reported there were no changes to the agenda.

IV COMMUNICATIONS TO COUNCIL

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

Mayor Warner opened citizen's comments.

Eric Mamula, of The Peaks School, offered up a third option for the Harris St building and asked to have more discussions about helping with the costs to renovate this location. He would like to not only see the Peak school in this location but also retain the speakeasy theatre. Carol Craig, from the Peak School board also spoke to the Council and wanted to thank them for granting The Peaks School the lease for this first year and was hoping the Council would explore the option to extend their lease. She also wanted to let the Council know that they are open to discuss all options for this location. Carol handed out a memo requesting time at an upcoming work session to present the idea of restoring the building as a school. Mayor Warner stated that the Council's discussions about this location have not yet come to fruition and stated that the Peaks School will be involved in the discussions of the future of this building.

Laura Dzedzic from the Breckenridge Music Festival (BMF) wanted to extend an invitation to all of the Council members to not only attend the BMF, but also to announce some of their upcoming concerts. The Council members seemed open to this idea and Kim Dykstra-DiLallo stated that scheduling the Council members could be run through the manager's office.

Frankie Hood, President of the Board of Directors of the Backstage Theatre, wanted to reach out to the Town Council regarding the accelerated schedule for expanding the arts district and the master plan for this area. They would like to partner with the Town and would like to be very involved in the planning for this art district expansion. Tim Gagen thought that the best place for them to start this process of getting involved would be to speak with the art commission and let them know how they would like to be involved.

Diane Jaynes an artist from Arts Alive wanted to extend an invitation to the Arts Alive 2nd Saturday special event in conjunction with the Summit County Garden Club. The event is called "Art in Bloom" and it is going to be held on August 11th from 4-8 pm in the Breckenridge Alpine Garden. Elizabeth Wicket- President of the Summit County Garden Club also extended the invitation to enjoy this garden and the upcoming art event. She wanted to encourage everyone to take some time to check out this beautiful garden that the Garden club has put a lot of work into.

With no further comments the citizen comments were closed.

V CONTINUED BUSINESS

A. SECOND READING OF COUNCILS BILLS, SERIES 2012 - PUBLIC HEARINGS

1. Council Bill No. 23, Series 2012 - AN ORDINANCE ADOPTING CHAPTER 23 OF TITLE 1 OF THE BRECKENRIDGE TOWN CODE CONCERNING CIVIL EMERGENCIES, EMERGENCIES, AND LOCAL DISASTERS

Mayor Warner read the title into the minutes. Tim Berry, Town Attorney, stated that this ordinance defines the specific authority of the Town Mayor and Manager in case of emergencies and provides frame work for operations that will substantially reduce the risk of delays in effectively responding to an emergency event in Breckenridge. There were no changes since the first reading.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed. Mr. Dudick moved to approve Council Bill No. 23, Series 2012 - AN ORDINANCE ADOPTING CHAPTER 23 OF TITLE 1 OF THE BRECKENRIDGE TOWN CODE CONCERNING CIVIL EMERGENCIES, EMERGENCIES, AND LOCAL DISASTERS. Ms. Wolfe seconded the motion.

The motion passed 6-0.

VI NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2012

1. Council Bill No. 19, Series 2012 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH VAIL SUMMIT RESORTS, INC., A Colorado Corporation, AND PEAK 8 PROPERTIES, LLC, A Colorado Limited Liability Company)

Mayor Warner read the title into the minutes. Mr. Gagen stated that the owners of Breckenridge Grand

Vacations have approached the Town regarding a potential time share development at the Base of Peak 8 in the general location of the Berghof Restaurant. Before beginning the formal planning review process, BGV has requested a development agreement with the Town to deal with certain development related issues. The following issues are addressed in the proposed development agreement before the Council for consideration tonight on First Reading: Ability to begin infrastructure improvements and demolition of the Berghof prior to issuance of building permit; Extent vesting by one year from the normal three years; Increase the bonus multiplier for conference/amenity space from approximately 6,000 square feet to approximately 18,000 square feet; Decrease parking requirement to 1.7 spaces per parking study; Transfer 11.5 residential SFE's and five commercial SFE's via TDR from Open Space bank; Reclassify already built and future proposed public restroom space, employee locker room space and storage spaces as listed in the Peak 7 and 8 Master Plan as skier services to new category that does not require density. In connection with the requested changes listed, the proponents are providing \$25,000 to be applied toward the Town's ongoing Cucumber Gulch preservation activities.

Mr. Gallagher moved to approve Council Bill No. 19, Series 2012 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH VAIL SUMMIT RESORTS, INC., A Colorado Corporation, AND PEAK 8 PROPERTIES, LLC, A Colorado Limited Liability Company). Mr. Burke seconded the motion. The motion passed 4-1. Mr. Dudick recused himself from the vote because of a conflict of interest.

2. Council Bill, No. 24, Series 2012 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES POLICY 33 (RELATIVE) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING ENERGY CONSERVATION;

Mayor Warner read the title into the minutes. Julia Puester, Planner II, stated that the modification to Policy 33R would warrant points for existing structures based on the percentage improvement of the HERS index of the existing structure before and after improvements have been made. A similar modification is proposed for existing commercial, mixed use and multifamily buildings over 3 stories in height (maximum height in HERS system). In this case, positive points would be based on the percentage of energy use saved by comparing the existing energy consumption of the building to the consumption of the proposed remodeled structure. The policy includes the following highlights: Positive points for proposed incremental percentage increase in energy consumption saved in existing residential and commercial structures; Clarification on HERS and commercial International Energy Conservation Code analysis submittal timing for review with the development permit application and building permit application; Detailed descriptions of required plan information for commercial structures (for clarification to applicants); Clarification on public safety areas for exemptions (both public and private high pedestrian areas).

Ms. Wolfe moved to approve Council Bill, No. 24, Series 2012 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES POLICY 33 (RELATIVE) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING ENERGY CONSERVATION. Mr. Burke seconded the motion.

The motion passed on a 5-1 vote.

- B. RESOLUTIONS, SERIES 2012
- C. OTHER

1. BMAC Appointment- The purpose of the Breckenridge Marketing Advisory Committee (BMAC) is to advise Town Council on best practices that will maximize the effectiveness and efficiency of all tourism marketing investments made with town marketing funds. The Council passed out a secret ballot for voting for this position with BMAC; Mr. Gagen collected the votes; The Council ended up split in their voting decision and after discussing each of the candidates, Mayor Warner change his vote to break the tie to appoint John Hendryson to the BMAC.

VII PLANNING MATTERS

- A. PLANNING COMMISSION DECISIONS-JULY 17, 2012
With no request to call an item off the consent calendar, Mayor Warner declared the Planning Commission decisions would stand approved as presented.
- B. PLANNING COMMISSION REPORT (MR. GALLAGHER)
Mr. Gallagher stated that he attended the recent planning commission meeting; The minutes have been updated per his input from the last several Town Council meetings; He brought up the shed discussion the Council had talked about at their previous meeting and they will be addressing this topic at the work session on September 14th.

VIII REPORT OF TOWN MANAGER AND STAFF

Tim Gagen had one update to share; The trash cans have been restored on Main Street (mid-block) with the incorporation of recycling component on the corners to try to address concerns about excessive trash and littering in this area.

IX REPORT OF MAYOR AND COUNCILMEMBERS

- A. CAST/MMC (MAYOR WARNER)
Mayor Warner stated nothing to report. Both meetings are upcoming.
- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)
Mr. Brewer stated he sent an email and pictures to all of the Council members regarding his tour of Cucumber Gulch with BOSAC; they met with a hydrologist to look at this area; there are a couple of big areas of concern, a big wash out area and sediment running into the beaver ponds; The bottom line is that there are issues in this area and they need to be addressed on a permanent basis.
The trails in Cucumber gulch are now open; Special events on Open Space trails are now on a special calendar to

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notify people of trail use; There was a piece of environmental art that the art commission put in place on the Moonstone trail.

C. BRC (MR. BURKE)

Mr. Burke stated that he has a meeting tomorrow.

D. MARKETING COMMITTEE (MR. DUDICK)

Ms. Wolfe attended in place of Mr. Dudick; At their next meeting they are going to take an initial look at the budget for 2013. Ms. Wolfe and Mr. Dudick discussed that one of the topics that is going to be coming up is the town's contract with the BRC/BMAC, and the BMAC's long term retention of a creative agency for at least a 3 year contract. The Council will want to discuss whether or not they want to go to a longer contract with the BRC and that the BRC's decision to have a longer contract with a creative agency is a separate issue.

No report.

E. SUMMIT COMBINED HOUSING AUTHORITY (MS. WOLFE)

Ms. Wolfe stated that she has a meeting tomorrow.

F. BRECKENRIDGE HERITAGE ALLIANCE (MR. BREWER)

Mr. Brewer stated that attendance at their museums has doubled since they have stopped charging; Reiling Dredge wood tests are going to occur this week to look at the preservation of this structure; Looking at expansion of the rotary snow park; they have a Master plan for this area including a new entrance, a possible play park, and amphitheatre, it is more of a conceptual plan at this point; they would like to share this at an upcoming meeting to get feedback from the Council. Their heritage tourism programs are going great; their haunted tours are sold out every night. Theobald award reception at the Barney Ford Museum is on Aug 10, 2102.

G. WATER TASK FORCE (MR. GALLAGHER)

No report.

H. LANDFILL TASK FORCE (MS. WOLFE)

Ms. Wolfe stated that there are now sub-committees to have further discussions with the County regarding the landfill operations; The landfill model does not work in its current state; Really need the County and the trash haulers to come together to get to the next level in these discussions; Need to start talking financials.

X OTHER MATTERS

Mr. Burke asked about the development on the property across from 7-Eleven. Mayor Warner stated that the development plan for the back portion of the property is going to be storage units; This is a Summit County development. The developer has also committed to installing a sidewalk from the corner up to the connection in French Creek.

Mr. Burke also wanted to discuss the Snow ball further. He really wanted to make sure that they reach out to the lodging community and the police department to discuss this event. Mayor Warner spoke to the Mayor of Avon regarding the snow ball and the Mayor liked the promoter but thought that the demographics did not fit their community well. Avon probably would not bring this event back. Mayor Warner also spoke to Chief Shannon Haynes regarding this event and she stated she would want clear direction from the council regarding underage consumption, and drug use. Chief Haynes also asked about outreach to the neighbors on the South end of town, to addresses the noise complaints that are going to occur. Some Council members are leaning towards not supporting this event. The Council decided that this requires more conversations.

Mr. Burke asked about the water restriction the Council has put in place and how we determine the need. Tom Daugherty said this was based on river CCF levels; We used the level of 20 CCF's to determine the need for these restrictions; Even with all of the rain we have been getting we are still way off of the normal levels which are normally 50-70 CCF's.

Mr. Gallagher asked the question about whether or not we are expecting Rodeo protests; Mr. Holman stated that he is expecting at least one protest group; We are required to provide them a reasonable protest area including the area along airport rd towards the entrance; They will not be allowed in the permitted area including the parking area.

Mayor Warner stated he received a letter of apology from John Niemi for not having the permanent fencing and barriers in place during their project. He wanted to thank the Town for acting so quickly to address the concerns that were raised.

Mayor Warner met with Pat Campbell from the ski area to discuss a few items. She stated she was pretty sure they would consider wrapping the buses and purchasing radios, they would have to bring this before their board of directors to ask for the money. Mayor Warner really pushed them about the installation of a roundabout; He wants them to commit to this and is willing to work on a business plan to get this accomplished, Pat said they would bring this up to her board.

Mr. Burke wanted to share that Albert Stole stopped him to give great praise about his experience dealing with Mike Mosher in the Planning department. His courtesy has changed Albert's whole perspective about dealing with the Town.

XI SCHEDULED MEETINGS

XII ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:06pm
Submitted by Mistaya Pierpont, Administrative Services

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ATTEST:

Laura Kennedy, Town Clerk

John G. Warner, Mayor

**TOWN OF BRECKENRIDGE
TOWN COUNCIL SPECIAL MEETING
Wednesday, August 1, 2012
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I. CALL TO ORDER, ROLL CALL

Mayor Warner called the special meeting of August 1, 2012 to order at 3:00pm. The following members answered roll call: Mr. Gallagher, Ms. McAtamney, Ms. Wolfe via conference call, Mr. Brewer, Mr. Dudick, Mr. Burke, and Mayor Warner.

II. APPROVAL OF AGENDA

Mr. Gagen reported there were no changes to the agenda.

III. EXECUTIVE SESSION

Personnel Matter

As part of the Town Council special meeting on August 1, 2012 at 3:02 pm, Ms. McAtamney moved to convene in executive session pursuant to Paragraph 4(f) of Section 24-6-402, C.R.S., relating to personnel matters. Mr. Dudick made the second. The Mayor stated that a motion has been made for the Town Council to go into an executive session pursuant to Paragraph 4(f) of Section 24-6-402, C.R.S., relating to personnel matters. The subject matter of the executive session involves an appointed member of a Town Board or Commission. A roll call vote was taken and all were in favor of the motion.

Ms. McAtamney made a motion to come out of executive session at 3:17pm. Mr. Dudick seconded the motion. A roll call vote was taken and all were in favor of the motion.

IV. PERSONNEL ACTION

Mayor Warner stated the Council wanted to entertain a motion regarding a personnel matter. Mr. Dudick made a motion to remove Mr. Rath from the Breckenridge Planning Commission. Ms. McAtamney seconded the motion. A roll call vote was taken and all were in favor of the motion. The motion passed 7-0.

V. ADJOURNMENT

Motion

With no further business to discuss, the meeting adjourned at 3:20pm
Submitted by Mistaya Pierpont, Administrative Services

ATTEST:

Laura Kennedy, Town Clerk

John G. Warner, Mayor



MEMORANDUM

To: Mayor & Town Council
From: Tim Gagen, Town Manager
Date: August 8, 2012
Subject: *Breckenridge Grand Vacation (BGV) & Vail Resorts Development Agreement*

The owners of BGV have approached the Town regarding a potential time share development at the Base of Peak 8 in the general location of the Berghof Restaurant. This proposed site is part of the Peak 8 Master Plan with Vail Resorts (VR) and would be purchased from VR. Before beginning the formal planning review process, BGV has requested a development agreement with the Town to deal with certain development related issues. The following issues are addressed in the proposed development agreement:

1. Ability to begin infrastructure improvements and demolition of the Berghof prior to issuance of building permit.
2. Extent vesting by one year from the normal three years.
3. Increase the bonus multiplier for conference/amenity space from approximately 6,000 square feet to approximately 18,000 square feet.
4. Decrease parking requirement per a parking study.
5. Transfer 11.5 residential SFE's and five commercial SFE's via TDR from Open Space bank.
6. Reclassify already built and future proposed public restroom space, employee locker room space and storage spaces as listed in the Peak 7 and 8 Master Plan as skier services to new category that does not require density.

At the 1st reading Council direct staff to look at language to be placed in the agreement to address sedimentation issues that are being introduced into Cucumber Gulch from Ski Area property west of Ski Hill Rd. Staff has suggested some language along these lines for Council consideration. The Ski Area is not in agreement with this language and plans to offer an alternative to doing another study. They prefer spending money on actual corrective actions instead of a study and will offer to the Council what they have been doing and/or plan to do but since it was not available at time of the packet we have not modified the development agreement. There is also some other wording modifications included in the agreement for 2nd reading. In connection with the requested changes listed, the proponents are providing \$25,000 to be applied toward the Town's ongoing Cucumber Gulch preservation activities.

The development agreement, if approved, does not approve the proposed development. It only provides a framework upon which the development can be considered by the Planning Commission. The development is still subject to full review by the Planning Commission including a fit test and ultimate approval by the Town Council.

The proposed development agreement has been subject to give and take by the Council and proponents and we believe is now ready for formal Council consideration.

1 **FOR WORKSESSION/SECOND READING – AUG. 14**

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. 19

7
8 Series 2012

9
10 AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH
11 VAIL SUMMIT RESORTS, INC., a Colorado corporation, AND PEAK 8 PROPERTIES, LLC,
12 a Colorado limited liability company)

13
14 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
15 COLORADO:

16
17 Section 1. Findings. The Town Council of the Town of Breckenridge finds and
18 determines as follows:

19
20 A. Vail Summit Resorts, Inc., a Colorado corporation (“**VSR**”) is the owner of the
21 Remainder of Tract C, Peak 8 Subdivision Filing No. 1 according to the Plat thereof recorded
22 March 24, 2010 at Reception No. 936240, Summit County, Colorado (“**Property**”).

23
24 B. VSR and Peak 8 Properties, LLC, a Colorado limited liability company (“**Peak 8**”),
25 are in discussions related to a potential sale of an approximately 2.1 acre portion of the Property
26 (the “**Sale Parcel**”) for Peak 8 to develop in a manner similar to Peak 8’s project known as
27 Grand Lodge on Peak 7.

28
29 C. The Property is subject to the Master Plan - Amended, Breckenridge Ski Resort,
30 Amendment to May 2003 Peaks 7 & 8 Master Plan approved by the Breckenridge Town Council
31 on April 8, 2008, notice of which approval was recorded June 3, 2008 at Reception No. 889143
of the Summit County, Colorado records (the “**Master Plan**”).

32
33 D. As owner of the Property, VSR has the right to propose an amendment to the Master
34 Plan, to request density transfers to the Property, to request Town approval for the gross density
35 recommended by the Town’s Land Use Guidelines (“**Guidelines**”) to be exceed as provided for
36 in Subsection 9-1-19:39.I.(2) of the Breckenridge Town Code, and to enter into agreements with
37 the Town concerning such amendment to the Master Plan, such a density transfer, such density
38 in excess of that recommended by the Guidelines, and such other matters as the Town and the
39 VSR may agree is appropriate.

40
41 E. Pursuant to Chapter 9 of the Breckenridge Town Code the Town Council has the
42 authority to enter into a development agreement. Further, in connection with a master plan
43 amendment, there is no process in the Town’s Development Code for approval of density in
excess of that recommended by the Guidelines and the transfer of density pursuant to a

1 certificate of development rights (“TDRs”) issued pursuant to the Intergovernmental Agreement
2 concerning transfer of development rights between the Town and Summit County, Colorado
3 (“IGA”), and, therefore, a development agreement provides a means for such an approval and
4 transfer.

5 F. In order for Peak 8 to develop the Sale Parcel in a manner that will enhance the sale
6 of Peak 8’s timeshare product an additional 11.5 SFEs of residential density and 5 SFEs of
7 commercial density will be required and an amendment to the Master Plan and authorization to
8 use TDRs to accommodate such density will be required.

9 G. In connection with the future development of the Property, it has been proposed that
10 there should be an amendment to the Master Plan to authorize an increase in the 200% multiplier
11 for amenity space as provided for in Subsection 9-1-19:24 (Relative): D of the Breckenridge
12 Town Code to 600% in order to further encourage meeting and conference facilities or recreation
13 and leisure amenities.

14 H. In connection with VSR’s ability to complete the potential build-out authorized under
15 the Master Plan and provide additional improved facilities to service VSR’s guests, including
16 facilities planned to be included in Peak 8’s development of the Sale Parcel, an amendment to
17 the definition of Guest Services in the Master Plan has been proposed to provide for existing and
18 future non-income producing space for such functions as employee lockers, public restrooms,
19 storage areas, and lift and lift personnel facilities not to be treated as density or mass.

20 I. ~~Based on parking data provided by Peak 8 verifying that, at its two other timeshare~~
21 ~~resorts in Breckenridge (Grand Timber Lodge and Grand Lodge on Peak 7), the average number~~
22 ~~of cars parked per two bedroom unit with a lock-off or divisible room was 1.55 over the 12~~
23 ~~months from April, 2011 through March, 2012, a variance or exception of the requirement under~~
24 ~~Subsection 9-3-16:A of the Breckenridge Town Code for two off street parking spaces for each~~
25 ~~such two bedroom unit with a divisible room should be provided to reduce the required parking~~
26 ~~to 1.7 spaces for each such two bedroom unit with a divisible room.~~
27 **In connection with the**
28 **review of the amendment of the Master Plan to allow for the approval of a mixed use**
29 **development containing not less than one hundred thousand (100,000) square feet to have**
30 **the off-street parking requirements of Section 9-3-8 of the Breckenridge Town Code**
31 **decreased, as provided for in Subsection 9-3-8:D of the Breckenridge Town Code, the**
32 **Breckenridge Planning Commission is authorized to approve a reduction in the**
33 **requirement for 2 off-street parking spaces for each 2 bedroom unit with a lock-off or**
34 **divisible room, based on a written analysis to be paid for by the Buyer and prepared by a**
qualified parking consultant.

35 J. Because there is no provision in the Breckenridge Town Code allowing site work to
36 begin prior to issuance of a building permit, in order to facilitate the beginning of vertical
37 construction of Peak 8’s proposed project in the spring of 2014, the Town has been requested to
38 authorize its Department of Community Development to grant permission for the
39 commencement of infrastructure improvements, including, but not limited to, demolition of the
40 Berghof building located on the Sale Parcel, construction of storm water management
41 facilities, and relocation of utilities prior to issuance of a building permit, and site excavation

1 subject to receipt of assurances of completion deemed satisfactory by the Town’s Department of
2 Community Development.

3 K. As the commitment encouraged to be made in connection with an application for a
4 development agreement in accordance with Section 9-9-4 of the Breckenridge Town Code, Peak
5 8 has proposed a payment to the Town of \$25,000 to be applied toward the Town’s ongoing
6 Cucumber Gulch preservation activities. This commitment is intended to apply as the
7 commitment encouraged not only for the proposed Development Agreement described in this
8 ordinance, but also as the commitment for a subsequent development agreement for one
9 additional year of vesting (four total years of vesting) for Peak 8’s development permit, which
10 has been requested by Peak 8 but cannot be approved by the Town until after the applicable
11 permit has been issued.

12
13 L. A proposed development agreement between the Town, BSR, and Peak 8 addressing
14 the topics described above has been prepared, a copy of which is marked Exhibit “A”, attached
15 hereto and incorporated herein by reference (“**Development Agreement**”).

16
17 M. The Town Council had a preliminary discussion of the development agreement
18 application, and the proposed Development Agreement, as required by Section 9-9-10(A) of the
19 Breckenridge Town Code.

20
21 N. The Town Council determined that request for a development agreement need not be
22 referred to the Breckenridge Planning Commission for its review and recommendation.

23
24 O. The Town Council has reviewed the Development Agreement.

25
26 P. The approval of the Development Agreement is warranted in light of all relevant
27 circumstances.

28
29 Q. The procedures to be used to review and approve a development agreement are
30 provided in Chapter 9 of Title 9 of the Breckenridge Town Code. The requirements of such
31 Chapter have substantially been met or waived in connection with the approval of the
32 Development Agreement and the adoption of this ordinance.

33
34 Section 2. Approval of Development Agreement. The Development Agreement between
35 the Town, Vail Summit Resorts, Inc., a Colorado corporation, and Peak 8 Properties, LLC, a
36 Colorado limited liability company, (Exhibit “A” hereto) is approved, and the Town Manager is
37 authorized, empowered, and directed to execute such agreement for and on behalf of the Town of
38 Breckenridge.

39
40 Section 3. Notice of Approval. The Development Agreement must contain a notice in the
41 form provided in Section 9-9-13 of the Breckenridge Town Code. In addition, a notice in
42 compliance with the requirements of Section 9-9-13 of the Breckenridge Town Code must be
43 published by the Town Clerk one time in a newspaper of general circulation in the Town within
44 fourteen days after the adoption of this ordinance. Such notice shall satisfy the requirement of
45 Section 24-68-103, C.R.S.

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

DEVELOPMENT AGREEMENT

This Development Agreement (“Agreement”) is made as of the ____ day of _____, 2012 among the TOWN OF BRECKENRIDGE, a municipal corporation of the State of Colorado (the “Town”), VAIL SUMMIT RESORTS, INC., a Colorado corporation (the “Owner”), and PEAK 8 PROPERTIES, LLC, a Colorado limited liability company (the “Buyer”).

Recitals

A. Owner is the owner of the Remainder of Tract C, Peak 8 Subdivision Filing No. 1 according to the Plat thereof recorded March 24, 2010 at Reception No. 936240, Summit County, Colorado (“Property”).

B. Owner and Buyer are in discussions related to a potential sale of an approximately 2.1 acre portion of the Property (the “Sale Parcel”) for Buyer to develop in a manner similar to Buyer’s project known as Grand Lodge on Peak 7.

C. The Property is subject to the Master Plan - Amended, Breckenridge Ski Resort, Amendment to May 2003 Peaks 7 & 8 Master Plan approved by the Breckenridge Town Council on April 8, 2008, notice of which approval was recorded June 3, 2008 at Reception No. 889143 of the Summit County, Colorado records (the “Master Plan”).

D. As owner of the Property, Owner has the right to propose an amendment to the Master Plan, to request density transfers to the Property, to request Town approval for the gross density recommended by the Town’s Land Use Guidelines (“Guidelines”) to be exceed as provided for in Subsection 9-1-19:39.I.(2) of the Breckenridge Town Code, and to enter into agreements with the Town concerning such amendment to the Master Plan, such a density transfer, such density in excess of that recommended by the Guidelines and such other matters as the Town and the Owner may agree is appropriate.

E. Pursuant to Chapter 9 of the Breckenridge Town Code the Town Council has the authority to enter into a development agreement. Further, in connection with a master plan amendment, there is no process in the Town’s Development Code for approval of density in excess of that recommended by the Guidelines and the transfer of density pursuant to a certificate of development rights (“TDRs”) issued pursuant to the Intergovernmental Agreement concerning transfer of development rights between the Town and Summit County, Colorado (“IGA”), and, therefore, a development agreement provides a means for such an approval and transfer.

F. In order for Buyer to develop the Sale Parcel in a manner that will enhance the sale of Buyer’s timeshare product an additional 11.5 SFEs of residential density and 5 SFEs of

commercial density will be required and an amendment to the Master Plan and authorization to use TDRs to accommodate such density will be required.

G. In connection with the future development of the Property, it has been agreed that there should be an amendment to the Master Plan to authorize an increase in the 200% multiplier for amenity space as provided for in Subsection 9-1-19:24 (Relative): D of the Breckenridge Town Code to 600% in order to further encourage meeting and conference facilities or recreation and leisure amenities.

H. In connection with Owner's ability to complete the potential build-out authorized under the Master Plan and provide additional improved facilities to service Owner's guests, including facilities planned to be included in Buyer's development of the Sale Parcel, an amendment to the definition of Guest Services in the Master Plan is required to provide for existing and future non-income producing space for such functions as employee lockers, public restrooms, storage areas, and lift and lift personnel facilities not to be treated as density or mass.

I. In connection with the review of the amendment of the Master Plan to allow for the approval of a mixed use development containing not less than one hundred thousand (100,000) square feet to have the off-street parking requirements of Section 9-3-8 of the Breckenridge Town Code decreased, as provided for in Subsection 9-3-8:D of the Breckenridge Town Code, the Breckenridge Planning Commission is authorized to approve a reduction in the requirement for 2 off-street parking spaces for each 2 bedroom unit with a lock-off or divisible room, based on a written analysis to be paid for by the Buyer and prepared by a qualified parking consultant.

J. Based on parking data provided by Buyer verifying that, at its 2 other timeshare resorts in Breckenridge (Grand Timber Lodge and Grand Lodge on Peak 7), the average number of cars parked per 2 bedroom unit with a lock-off or divisible room was 1.55 over the 12 months from April, 2011 through March, 2012, a variance or exception of the requirement under Subsection 9-3-8:B of the Breckenridge Town Code for 2 off-street parking spaces for each such 2 bedroom unit with a divisible room should be provided to reduce the required parking to 1.7 spaces for each such 2 bedroom unit with a divisible room.

K. Because there is no provision in the Breckenridge Town Code allowing site work to begin prior to issuance of a building permit, in order to facilitate the beginning of vertical construction of Buyer's proposed project in the spring of 2014, the Town is prepared to authorize its Department of Community Development to grant permission for the commencement of infrastructure improvements, including, but not limited to, demolition of the Berghof building located on the Sale Parcel, construction of storm water management facilities, and relocation of utilities prior to issuance of a building permit, and site excavation subject to receipt of assurances of completion deemed satisfactory by the Town's Department of Community Development.

L. As the commitment encouraged to be made in connection with an application for a development agreement in accordance with Section 9-9-4 of the Breckenridge Town Code, Buyer has proposed a payment to the Town of \$25,000 to be applied toward the Town's ongoing Cucumber Gulch preservation activities. This commitment is intended to apply as the

commitment encouraged not only for this Agreement but also as the commitment for a development agreement for 1 additional year of vesting (4 total years of vesting) for the Buyer's development permit, which has been requested by Buyer but will not be approved by the Town until after the applicable permit has been issued.

M. The Town Council has received a completed application and all required submittals for a development agreement, had a preliminary discussion of the application and this Agreement, determined that it should commence proceedings for the approval of this Agreement and, in accordance with the procedures set forth in Subsection 9-9-10:C of the Breckenridge Town Code, has approved this Agreement by non-emergency ordinance.

Agreement

1. Upon: (a) final approval of (i) the transfer of TDRs consisting of up to 16.5 SFEs (11.5 for residential use and 5 for commercial use) to the Sale Parcel, (ii) a Class A Development Permit amending the Master Plan to allow for such additional density (the "Master Plan Amendment"), and (iii) a Class A Development Permit for the Sale Parcel acceptable to Buyer and Owner allowing for the development of the Sale Parcel utilizing up to 91.5 SFEs for a Condo-Hotel (as provided for in the Town Code) at 1,200 square feet of density per SFE and up to 5 SFEs for commercial use at 1,000 square feet of density per SFE (the "Permit"); and (b) the passage of any time periods within which any referendums, appeals or other challenges to such approvals must be brought, without any such referendums, appeals or other challenges having been filed, commenced or asserted, Buyer shall: (A) pay \$25,000 to the Town to be applied to the Town's ongoing Cucumber Gulch preservation activities, and (B) pursuant to the terms of the IGA, pay the then-current price per TDR for each TDR required to support the total residential density authorized by the Permit minus the total residential density of 80 SFEs to be assigned to the Sale Parcel by Seller under the Master Plan.

2. Pursuant to Subsection 9-1-19:39.I.(2) of the Development Code, the Town's Planning Commission is hereby authorized to review and approve, subject to compliance with all other applicable development policies of the Town, an application for the Master Plan Amendment providing for density in excess of the current Guidelines by the addition of up to 16.5 SFEs (11.5 residential and 5 commercial) to the allowable density of 80 SFEs for the Sale Parcel and an application for the Permit accommodating such excess density.

3. Upon approval of the Master Plan Amendment and the Permit, the Owner is hereby authorized to process the transfer to the Sale Parcel of up to 16.5 TDRs providing for up to 16.5 SFEs, pursuant to the terms of the IGA.

4. The provisions of subsection 9-1-19:24 (Relative):D of the Breckenridge Town Code notwithstanding, in connection with the future development of the Property pursuant to the Master Plan, meeting and conference facilities or recreation and leisure amenities over and above that required in subsection 9-1-19:24 (Absolute) of the Breckenridge Town Code shall not be assessed against the density and mass of a project when the facilities or amenities are legally guaranteed to remain as meeting and conference facilities or recreation and leisure amenities and

they do not equal more than 600% of the area required under said subsection 9-1-19:24 (Absolute).

5. Pursuant to Subsection 9-1-19:39.I.(2) of the Development Code, the Town's Planning Commission is hereby authorized to review and approve, subject to compliance with all other applicable development policies of the Town, an application for the Master Plan Amendment providing for the following amended definition of Guest Services Facilities:

Guest Services Facilities include space for the following primary activities or facilities: ticket sales, administration, nursery or childcare facilities, lockers for guests, cafeterias, lounges, storage areas for recreational equipment for sale or rental, patrol and first aid facilities, and instruction related activities. Guest Services Facilities constructed using the 57 SFEs, which were excluded from total density for purposes of a separate density reduction calculation, may not be used as a private club or other restricted access facility requiring membership. Cafeterias constructed using Guest Services Facilities density may be used from time to time outside of the winter recreation season, but may not be used as full service restaurants open to the public on a regular basis outside of the winter recreation season.

Guest Services Facilities will not include lockers for employees, public restrooms, storage areas (not including storage areas for recreational equipment for sale or rental) and lift and lift personnel facilities ("Support Facilities") already constructed at the time of approval of this Amendment or to be constructed. Support Facilities will not apply against the 57 SFEs authorized under this Master Plan for Guest Services Facilities and shall not be assessed against the density and mass of any building within which they are located or are to be located provided that the Support Facilities are legally guaranteed to be used only for the foregoing described purposes and do not exceed a total of 17,594 square feet.

6. The requirements of Section 9-3-8 of the Breckenridge Town Code for 2 off-street parking spaces to be provided for each 2 bedroom unit with a lock-off or divisible room may be decreased for Buyer's development for each 2 bedroom unit with a lock-off or divisible room if the Planning Commission finds that the written analysis paid for by Buyer and prepared by a qualified parking consultant supports such decrease. Further, the Planning Commission is hereby authorized to review and approve an amendment to the Master Plan providing for parking in accordance with the foregoing, which will be less than required by the Breckenridge Town Code.

7. Subject to the Town's Department of Community Department receiving adequate assurances of or security for completion of the authorized infrastructure improvements or return of the Sale Parcel generally to the condition it was in before the commencement of any work, the Town's Department of Community Development is hereby authorized to permit the excavation for and construction of infrastructure improvements, including, but not limited to, demolition of the Berghof building located on the Sale Parcel (subject to obtaining a demolition permit from the Town), construction of storm water management facilities, and relocation of utilities, and site excavation after issuance of the Permit but before issuance of a building permit.

8. Owner will cooperate with Town in a study of the watershed upstream of the Town's Cucumber Gulch Preserve. A consultant will be selected by the Town and Owner within 20 days from the date of the Town's approval of this Agreement, and the consultant will be charged with diligently pursuing the study to its conclusion. The purpose of the study will be to identify existing allochthonous sediment sources that are impacting the Town's Cucumber Gulch Preserve, and to propose solutions for the long term reduction of sediment and surface runoff that is delivered to the Preserve.

9. Except as provided in Section 24-68-105, C.R.S. and except as specifically provided for herein, the execution of this Agreement shall not preclude the current or future application of municipal, state or federal ordinances, laws, rules or regulations to the Property (collectively, "laws"), including, but not limited to, building, fire, plumbing, engineering, electrical and mechanical codes, and the Town's Development Code, Subdivision Standards and other land use laws, as the same may be in effect from time to time throughout the term of this Agreement. Except to the extent the Town otherwise specifically agrees, any development of the Property which is the subject of this Agreement, the Master Plan Amendment and the Permit shall be done in compliance with the then-current laws of the Town.

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

11. This Agreement shall be binding upon and inure to the benefit of Town, Owner and Buyer, their successors and assigns.

12. Prior to any action against the Town for breach of this Agreement, Owner or Buyer shall give the Town a sixty (60) day written notice of any claim by the Owner or Buyer of a breach or default by the Town, and the Town shall have the opportunity to cure such alleged default within such time period.

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

14. Buyer with respect to its interests or benefits provided for in paragraphs 1, 2, 3, 4, 6, and 7 agrees to indemnify and hold the Town, its officers, employees, insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with such benefits under this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligence or wrongful intentional act or omission of Buyer; any subcontractor of Buyer, or any officer, employee, representative, or agent of Buyer or of any subcontractor of Buyer, or which arise out of any worker's compensation claim of any employee of Buyer, or of any employee of any subcontractor of Buyer; except to the extent such liability, claim or demand arises through the negligence or intentional act or omission of Town, its officers, employees, or agents. Buyer agrees to investigate, handle, respond to, and to provide

defense for and defend against, any such liability, claims, or demands at the sole expense of the Buyer. Buyer also agrees to bear all other costs and expenses related thereto, including court costs and attorney's fees.

15. Owner with respect to its interests or benefits provided for in paragraph 5 agrees to indemnify and hold the Town, its officers, employees, insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with such benefits under this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligence or wrongful intentional act or omission of Owner; any subcontractor of Owner, or any officer, employee, representative, or agent of Owner or of any subcontractor of Owner, or which arise out of any worker's compensation claim of any employee of Owner, or of any employee of any subcontractor of Owner; except to the extent such liability, claim or demand arises through the negligence or intentional act or omission of Town, its officers, employees, or agents. Owner agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at the sole expense of the Owner. Owner also agrees to bear all other costs and expenses related thereto, including court costs and attorney's fees.

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

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

18. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both Town and Owner; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by the Owner or Buyer or the acceptance of any improvements.

19. This Agreement shall be recorded in the office of the Clerk and Recorder of Summit County, Colorado.

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

21. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement shall be deemed to be proper only if such action is commenced in District Court of Summit County, Colorado. The Owner and Buyer expressly waive their right to bring such action in or to remove such action to any other court, whether state or federal.

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

If To The Town: Timothy J. Gagen, Town Manager
Town of Breckenridge
P.O. Box 168
Breckenridge, CO 80424

With A Copy (which shall not constitute notice to the Town) to: Timothy H. Berry, Esq.
Town Attorney
P.O. Box 2
Leadville, CO 80461

If To The Owner: Alex Iskenderian
Vail Resorts Development Company
137 Benchmark Road
P.O. Box 959
Avon, CO 81620

With A Copy (which shall not constitute notice) to: Stephen C. West, Esq.
West Brown Huntley & Hunter, P.C.
P.O. Box 588
Breckenridge, CO 80424

With A Copy (which shall not constitute notice) to: Vail Resorts Management Company
137 Benchmark Road
P.O. Box 959
Avon, CO 81620
Attn: Legal Department

If to the Buyer : Nick Doran
Peak 7, LLC
100 S. Main Street
P.O. Box 6879

Breckenridge, CO 80424

With A Copy (which shall not constitute notice) to:

John L. Palmquist, Esq.
GC Legal Strategies
2520 S. St. Paul Street
Denver, CO 80210

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

23. As between Owner and Buyer, nothing contained within this Agreement shall be deemed to modify that certain letter of intent related to the Sale Parcel dated as of June 7, 2012 between Owner and Buyer (the "LOI") or to create any binding obligations of a part of Owner to Buyer or Buyer to Owner which are not expressly set forth in the LOI. The foregoing sentence shall not affect Owner's or Buyer's obligations to the Town as provided for in this Agreement.

24. This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter of this Agreement and supersedes any prior agreement or understanding relating to such subject matter.

25. This Agreement shall be interpreted in accordance with the laws of the State of Colorado.

[SEPARATE SIGNATURE PAGES TO FOLLOW]

TOWN OF BRECKENRIDGE

Attest:

Town Clerk

By: _____
Timothy J. Gagen, Manager

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing was acknowledged before me this _____ day of _____, 2012
by Timothy J. Gagen as Town Manager and _____, of the Town of
Breckenridge.

Witness my hand and official seal.
My commission expires: _____

Notary Public

VAIL SUMMIT RESORTS, INC.
a Colorado corporation

By:

Alex Iskenderian, Senior Vice President

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing was acknowledged before me this _____ day of _____, 2012
by Alex Iskenderian as Senior Vice President of Vail Summit Resorts, Inc., a Colorado
corporation.

Witness my hand and official seal.

My commission expires: _____

Notary Public

PEAK 8 PROPERTIES, LLC
a Colorado limited liability company

By:

Robert A. Millisor, Member

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing was acknowledged before me this _____ day of _____, 2012
by Robert A. Millisor as a Member of Peak 8 Properties, LLC, a Colorado limited liability
company.

Witness my hand and official seal.
My commission expires: _____

Notary Public

Memo

To: Mayor and Town Council

From: Julia Puester, AICP

Date: July 31, 2012 for meeting of August 14, 2012

Re: Second Reading Policy 33R Energy Conservation (Existing Structures)

The second reading of the ordinance modifying Policy 33R Energy Conservation is attached. This modification would allow positive points for existing single family and multifamily structures (3 stories in height or lesser) based on the percentage improvement of the HERS index before and after improvements have been made. A similar modification based on the percentage of energy use saved for existing commercial, mixed use and multifamily buildings (over 3 stories) is also proposed.

There are no changes proposed from the first reading.

Staff will be available to answer questions at the meeting on the proposed Policy 33R modification attached.

1 **FOR WORKSESSION/SECOND READING – AUG. 14**

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. 24

7
8 Series 2012

9
10 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES POLICY 33
11 (RELATIVE) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS
12 THE “BRECKENRIDGE DEVELOPMENT CODE”, CONCERNING ENERGY
13 CONSERVATION;

14
15 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
16 COLORADO:

17
18 Section 1. Policy 33 (Relative) of Section 9-1-19 of the Breckenridge Town Code is
19 amended so as to read in its entirety as follows:

20 9-1-19-33R: POLICY 33 (RELATIVE) ENERGY CONSERVATION:

21
22 The goal of this policy is to incentivize energy conservation and renewable energy
23 systems in new and existing development at a site plan level. This policy is not
24 applicable to an application for a master plan. This policy seeks to reduce the
25 community’s carbon footprint and energy usage and to help protect the public
26 health, safety and welfare of its citizens.

27 A. Residential Structure Three Stories Or Less: All new and existing
28 residential developments are strongly encouraged to have a home energy rating
29 survey (HERS) as part of the development permit review process to determine
30 potential energy saving methods and to reward developments that reduce their
31 energy use.

32
33 For existing residential development, including additions, positive points will be awarded
34 for the percentage of improvement in the HERS index when comparing the HERS index
35 of the existing structure to the HERS index of the proposed structure with improvements.
36 (Example: The percentage shall be calculated as follows: If the existing structure has a
37 HERS index of 120, and has a HERS index of 70 as a result of the improvements
38 proposed in the development permit application, there is a 41% improvement in the
39 HERS index over the existing conditions (120-70=50; 50/120=0.41). Such improvement
40 warrants an award of positive three (+3) points.)

41
42 Positive points will be awarded according to the following point schedule:

<u>Points</u>	New Residential HERS Index	Existing Residential (prior to August 14 , 2012): Percentage (%) Improvement Beyond existing HERS Index
+1	Obtaining a HERS index	Obtaining a HERS Index
+2	61 - 80	10-29%
+3	41 - 60	30-49%
+4	21 - 40	50-69%
+5	1 - 20	70-99%
+6	0	100+%

1 B. Commercial, Lodging and Multi-Family In Excess Of Three Stories In
2 Height: New and existing commercial, lodging, and multi-family developments
3 are strongly encouraged to take advantage of the positive points that are available
4 under this policy by achieving demonstrable and quantifiable energy use
5 reduction within the development. For new construction, positive points will be
6 awarded for the percentage of energy use reduction of the performance building
7 when compared to the same building built to the minimum standards of the
8 adopted IECC¹. The percentage of energy use saved shall be expressed as MBh
9 (thousand BTUs/hour).

10 For modifications to existing buildings including additions, positive points will be
11 awarded for the percentage of energy saved beyond the energy consumption
12 analysis of the existing structure(s) compared to the energy consumption of the
13 proposed structure remodel. Points shall be awarded in accordance with the
14 following point schedule:
15

<u>Points</u>	<u>New Structures: Percent Energy Saved Beyond The IECC Minimum Standards</u>	<u>Existing Structures (prior to August 14, 2012): Percent Improvement Beyond Existing Energy Consumption</u>
+1	10% - 19%	10% - 19%
+3	20% - 29%	20% - 29%
+4	30% - 39%	30% - 39%
+5	40% - 49%	40% - 49%
+6	50% - 59%	50% - 59%
+7	60% - 69%	60% - 69%
+8	70% - 79%	70% - 79%
+9	80%+	80%+

¹ The international energy conservation code adopted and amended by title 8, chapter 1 of this code.

1 Positive points will be awarded only if an energy analysis has been prepared by a
2 registered design professional as required by Section E of this Policy, using an
3 approved simulation tool in accordance with simulated performance alternative
4 provisions of the Town's adopted energy code.

5 C. Excessive Energy Usage: Developments with excessive energy components
6 are discouraged. However, if the planning commission determines that any of the
7 following design features are required for the health, safety and welfare of the
8 general public, then no negative points shall be assessed. To encourage energy
9 conservation, the following point schedule shall be utilized to evaluate how well a
10 proposal meets this policy:
11

<u>Point Range</u>	<u>Design Feature</u>
1x(-3/0)	Heated driveway, sidewalk, plaza, etc.
1x(-1/0)	Outdoor commercial or common space residential gas fireplace (per gas fireplace)
1x(-1/0)	Large outdoor water features (per feature)

12 D. Other Design Features:
13

14 1x(-2/+2) Other design features determined by the planning commission to
15 conserve significant amounts of energy may be considered for positive points.
16 Alternatively, other features that use excessive amounts of energy may be
17 assigned negative points.

18 E. General Provisions:

19 (1) A projected analysis shall be submitted at the time of development permit
20 application as well as submittal of a confirmed analysis prior to the issuance
21 of a certificate of occupancy or certificate of completion. A HERS analysis
22 shall be performed by a certified HERS rater. An analysis of energy saved
23 beyond the IECC shall be performed by a licensed Colorado Engineer.

24 (2) No development approved with required positive points under this policy
25 shall be modified to reduce the HERS index, percentage of improvement, or
26 percentage of energy savings above the IECC standards in connection with the
27 issuance of such development permit. ("Required positive points" means those
28 points that were necessary for the project to be approved with a passing point
29 analysis.)

30 (3) Prior to the issuance of a certificate of occupancy each development for
31 which positive points are awarded under this policy shall submit a letter of
32 certification showing compliance with the projected energy rating or
33 percentage of energy savings in comparison to the IECC. The required

1 confirmed certification for a residential development three (3) stories or less
2 in height shall be submitted by a certified HERS rater. The required confirmed
3 certification for a residential development taller than three (3) stories, and for
4 all commercial development, shall be submitted by a licensed Colorado
5 Engineer and accompanied by balance and commissioning reports.

6 F. Sliding Scale Examples: Examples set forth in this policy are for purpose of
7 illustration only, and are not binding upon the planning commission. The
8 ultimate allocation of points shall be made by the planning commission
9 pursuant to section 9-1-17-3 of this chapter.

10 (1) Heated Outdoor Spaces 1x(0/-3):

11 a. Zero points: For public safety concerns on public or private property such
12 as high pedestrian traffic areas or small areas on private property which are
13 part of a generally well designed plan that takes advantage of southern
14 exposure and/or specific site features.

15 b. Negative points: Assessed based on the specific application of heated area.
16 (For example, a heated driveway of a single-family home compared to a
17 driveway apron only; a heated patio). The points warranted are dependent on
18 the specific project layout such as safety concerns, amount of heated area,
19 design issues such as north or south facing outdoor living spaces, etc.

20 (2) Water Features 1x(0/-1):

21 a. Zero points: No water feature or features powered by an alternative energy
22 source or feature utilizing less than four thousand (4,000) watts or less than
23 five (5) horsepower.

24 b. Negative points: Based on the amount of energy (watts) utilized for the
25 feature (large features of 4,000 watts or more, or 5 horsepower motor or
26 greater).

27
28 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and
29 the various secondary codes adopted by reference therein, shall continue in full force and effect.

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

34 Section 4. The Town Council hereby finds, determines and declares that it has the
35 power to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling
36 Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning
37 municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers);
38 (iv) Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to

1 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
2 contained in the Breckenridge Town Charter.

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

5 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
6 PUBLISHED IN FULL this ____ day of _____, 2012. A Public Hearing shall be held at the
7 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
8 _____, 2012, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
9 Town.

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11
12 TOWN OF BRECKENRIDGE, a Colorado
13 municipal corporation
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17 By _____
18 John G. Warner, Mayor
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20 ATTEST:
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24 _____
25 Town Clerk
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MEMO

TO: Breckenridge Town Council
FROM: Laurie Best, Community Development Department
RE: Claimjumper Annexation Ordinance-First Reading
DATE: August 8, 2012 (for meeting August 14, 2012)

Enclosed in your packets is an Ordinance to annex the Town-owned Claimjumper property. This property was part of the Town of Breckenridge Land Exchange which was completed in the spring of 2012 and the Patent was recorded on March 23, 2012. The Claimjumper property consists of two separate parcels identified as Annexation Parcel 1 and Annexation Parcel 2. Parcel 1 is 8.979 acres and is located between the Pinewood Village Apartments, which is already in Town, and the Claimjumper Condominiums, which are in the County. Parcel 2 is 16.734 acres and is located immediately north of the Claimjumper Condominiums. The annexation map which is included in your packet identifies the property. Within ninety days of the annexation the Town must place the annexed property into a Land Use District. The process of determining the appropriate land use district is underway and that will be presented to the Council at a future meeting.

Staff recommends approval of the Claimjumper Annexation Ordinance First Reading and will be available to answer questions on August 14th .

1
2 ***FOR WORKSESSION/FIRST READING – AUG. 14***

3
4 COUNCIL BILL NO. ____

5
6 SERIES 2012

7
8 AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL
9 PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE
10 (Claimjumper Parcels - 25.713 acres)

11
12 WHEREAS, the Town of Breckenridge is the owner in fee of the hereafter described real
13 property; and

14
15 WHEREAS, the hereafter described real property is currently located in an
16 unincorporated area of Summit County, Colorado; and

17
18 WHEREAS, Section 31-12-106(3), C.R.S., provides that a municipality may annex by
19 ordinance municipally-owned real property without notice and hearing upon the determination
20 that the property is eligible for annexation under Section 30(1)(c) of Article II of the Colorado
21 Constitution, and Sections 31-12-104(1)(a) and 31-12-105 of the “Municipal Annexation Act of
22 1965”, Part 1 of Article 12 of Title 31, C.R.S.; and

23
24 WHEREAS, it is the desire of the Town Council to annex the hereinafter described
25 Town-owned property to the Town of Breckenridge.

26
27 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
28 BRECKENRIDGE, COLORADO:

29
30 Section 1. The Town Council finds that the Town of Breckenridge is the owner in fee of
31 the real property described in Section 3 of this ordinance, and that such property is not solely a
32 public street or right-of-way. This ordinance is the written consent of the Town of Breckenridge
33 to the division of its property into two or more contiguous tracts for purpose of annexation as
34 required by Section 31-12-105, C.R.S.

35
36 Section 2. The Town Council finds and determines that the Town-owned real property
37 described in Section 3 of this ordinance is eligible for annexation to the Town of Breckenridge
38 under Section 30(1)(c) of Article II of the Colorado Constitution, and Sections 31-12-104(1)(a)
39 and 31-12-105, C.R.S. Specifically, the Town Council finds, determines and concludes that:

- 40
41 1. Not less than one-sixth of the perimeter of the area to be annexed is
42 contiguous with the existing boundaries of the Town of Breckenridge.
43

2. No annexation proceedings concerning the territory to be annexed have been commenced by another municipality.
3. The annexation of the subject real property will not result in the detachment of area from a school district.
4. The annexation of the subject real property will not result in the extension of the boundaries of the Town of Breckenridge more than three miles.
5. The Town of Breckenridge has a plan in place for the area to be annexed.

Section 3. The following described real property is hereby annexed to and made a part of the Town of Breckenridge, Colorado, to wit:

PARCEL 1

A TRACT OF LAND LOCATED IN THE NW ¼ OF SECTION 31 AND THE SW ¼ OF SECTION 30, TOWNSHIP 6 SOUTH , RANGE 77 WEST, AND ALSO THE NE ¼ OF SECTION 36 AND THE SE ¼ OF SECTION 25, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO, AND DESCRIBED AS FOLLOWS:

BEGINNING AT CORNER NO. 3 OF THE RANKIN PLACER, M.S. 1364, ALSO BEING THE NORTHWEST CORNER OF LOT 5, BLOCK 1, THE AMENDED PLAT OF PARKWAY CENTER, WHENCE THE SOUTHWEST CORNER OF SAID SECTION 30 BEARS S84°40'24"W 147.75 FEET DISTANT; THENCE S08°41'14"W A DISTANCE OF 765.37 FEET TO A POINT ON THE EAST LINE OF SHOCK HILL SUBDIVISION, AS RECORDED UNDER RECEPTION NUMBER 598532 IN THE COUNTY RECORDS; THENCE ALONG THE EASTERLY AND NORTHERLY BOUNDARY OF SAID SHOCK HILL SUBDIVISION FOR THE FOLLOWING THREE (3) COURSES:

- 1.) N24°56'32"W A DISTANCE OF 445.17 FEET;
- 2.) N25°15'06"W A DISTANCE OF 473.96 FEET;
- 3.) S74°46'54"W A DISTANCE OF 69.14 FEET TO A POINT BEING AN ANGLE POINT ON THE SOUTH LINE OF LOT 42, SHOCK HILL SUBDIVISION, FILING NO. 2, AS RECORDED ATRECEPTION NUMBER 647222;

THENCE N60°39'41"E A DISTANCE OF 17.55 FEET TO THE SOUTHEAST CORNER OF SAID LOT 42; THENCE ALONG THE SOUTHERLY LINE OF THE CLAIMJUMPER CONDOMINIUM, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 159519 IN THE COUNTY RECORDS FOR THE FOLLOWING SIX (6) COURSES:

- 1.) N61°08'28"E ALONG THE 3-2 LINE OF THE DORA L. LODE, M.S. 16068, A DISTANCE OF 226.15 FEET TO A POINT ON THE 2-3 LINE OF THE GERMANIA LODE, M.S. 12372;

- 2.) N19°38'26"E ALONG SAID 2-3 LINE A DISTANCE OF 253.80 FEET TO CORNER NO. 2;
- 3.) S69°45'18"E A DISTANCE OF 146.31 FEET TO CORNER NO. 1;
- 4.) S18°55'14"W ALONG THE 1-4 LINE OF SAID GERMANIA LODGE A DISTANCE OF 81.70 FEET TO A POINT ON SAID 2-3 LINE OF THE DORA L. LODGE;
- 5.) N67°42'46"E A DISTANCE OF 3.46 FEET TO A POINT ON THE LINE BETWEEN SAID SECTIONS 25 AND 30;
- 6.) N60°56'12"E ALONG SAID 2-3 LINE OF THE DORA L. LODGE A DISTANCE OF 362.13 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE FOR AIRPORT ROAD;

THENCE S04°32'41"E ALONG SAID WEST RIGHT-OF-WAY A DISTANCE OF 428.50 FEET; THENCE S79°10'09"W A DISTANCE OF 194.36 FEET TO THE POINT OF BEGINNING, CONTAINING 391,119 SQUARE FEET OR 8.979 ACRES MORE OR LESS.

PARCEL 2

A TRACT OF LAND LOCATED IN THE SW ¼ OF SECTION 30, TOWNSHIP 6 SOUTH, RANGE 77 WEST, AND IN THE SOUTH ½ OF SECTION 25, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO, AND DESCRIBED AS FOLLOWS:

BEGINNING AT CORNER NO. 6 OF THE MASONIC PLACER, M.S. 9616, A STANDARD B.L.M. BRASS CAP, WHENCE THE SOUTHWEST CORNER OF SAID SECTION 30 BEARS S10°49'38"W 1,066.72 FEET DISTANT; THENCE N89°34'21"E A DISTANCE OF 58.31 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE FOR AIRPORT ROAD; THENCE S04°32'41"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 559.94 FEET TO A POINT ON THE 1-2 LINE OF THE DORA L. LODGE, M.S. 16068; THENCE N24°59'52"W A DISTANCE OF 140.00 FEET TO CORNER NO. 1 OF THE IRON MASK LODGE, M.S. 16068; THENCE N29°08'37"W A DISTANCE OF 150.16 FEET TO CORNER NO. 2 OF SAID IRON MASK LODGE; THENCE ALONG THE NORTH LINE OF THE CLAIMJUMPER CONDOMINIUM, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 159519 IN THE COUNTY RECORDS FOR THE FOLLOWING FIVE (5) COURSES:

- 1.) S61°01'57"W A DISTANCE OF 175.95 FEET;
- 2.) S19°07'01"E A DISTANCE OF 1.79 FEET;
- 3.) S72°35'13"W A DISTANCE OF 8.90 FEET;
- 4.) S60°55'29"W A DISTANCE OF 38.42 FEET;
- 5.) S60°39'11"W A DISTANCE OF 1,002.35 FEET;

THENCE S58°23'15"W ALONG THE 2-3 LINE OF SAID IRON MASK LODGE A DISTANCE OF 270.16 FEET TO CORNER NO. 3, OF SAID IRON MASK LODGE; THENCE S29°25'20"E

1 ALONG THE 3-4 LINE OF SAID IRON MASK LODE A DISTANCE OF 107.97 FEET TO A
2 POINT ON THE NORTH LINE OF SHOCK HILL SUBDIVISION, FILING NO. 2; THENCE
3 S68°03'02"W ALONG SAID LINE A DISTANCE OF 13.94 FEET TO A POINT ON THE 5-6
4 LINE OF THE HAROLD PLACER, M.S. 7924; THENCE ALONG THE BOUNDARY OF
5 SAID HAROLD PLACER FOR THE FOLLOWING FOUR (4) COURSES:
6

- 7 1.) N25°45'12"W A DISTANCE OF 528.08 FEET TO CORNER NO. 6;
- 8 2.) N55°11'48"E A DISTANCE OF 838.46 FEET TO CORNER NO. 7;
- 9 3.) N71°25'19"E A DISTANCE OF 548.40 FEET TO CORNER NO. 8;
- 10 4.) N89°22'19"W A DISTANCE OF 497.26 FEET TO CORNER NO. 9, ALSO
11 BEING CORNER NO. 7 OF SAID MASONIC PLACER;
- 12

13 THENCE N89°36'13"E ALONG THE 6-7 LINE OF SAID MASONIC PLACER A DISTANCE
14 OF 594.47 FEET TO A POINT ON THE SECTION LINE BETWEEN SAID SECTIONS 25
15 AND 30; THENCE N89°34'21"E CONTINUING ALONG SAID 6-7 LINE A DISTANCE OF
16 212.66 FEET TO THE POINT OF BEGINNING; CONTAINING 728,922 SQUARE FEET OR
17 16.734 ACRES MORE OR LESS.
18

19 Section 4. Within thirty (30) days after the effective date of this ordinance, the Town
20 Clerk is hereby authorized and directed to:

- 21
- 22 A. File one copy of the annexation map with the original of the annexation
23 ordinance in the office of the Town Clerk of the Town of Breckenridge,
24 Colorado; and
- 25
- 26 B. File for recording three certified copies of the annexation ordinance and
27 map of the area annexed containing a legal description of such area with
28 the Summit County Clerk and Recorder.
29

30 Section 5. This ordinance shall be published and become effective as provided in Section
31 5.9 of the Breckenridge Town Charter.

32
33 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
34 PUBLISHED IN FULL this ____ day of _____, 2012. A Public Hearing shall be
35 held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the
36 ____ day of _____, 2012, at 7:30 P.M., or as soon thereafter as possible in the
37 Municipal Building of the Town.
38

39 TOWN OF BRECKENRIDGE, a Colorado
40 municipal corporation

41
42
43 By _____
44 John G. Warner, Mayor

1 ATTEST:

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Town Clerk

LEGAL DESCRIPTION

PARCEL 1
 A TRACT OF LAND LOCATED IN THE NW 1/4 OF SECTION 31 AND THE SW 1/4 OF SECTION 32, TOWNSHIP 6 SOUTH, RANGE 77 WEST, AND ALSO THE NE 1/4 OF SECTION 36 AND THE SE 1/4 OF SECTION 25, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO, AND DESCRIBED AS FOLLOWS:
 BEGINNING AT CORNER NO. 3 OF THE IRON MASK PLACER, M.S. 1264, ALSO BEING THE NORTHWEST CORNER OF LOT 5, BLOCK 1, THE AMENDED PLAN OF PARKWAY CENTER, THENCE THE SOUTHWEST CORNER OF SAID SECTION 30 CONTAINING 142,725 SQUARE FEET TO A POINT ON THE EAST LINE OF SHOOK HILL SUBDIVISION, AS RECORDED UNDER RECEPTION NUMBER 521779 IN THE COUNTY RECORDS; THENCE ALONG THE EASTERN AND NORTHERLY BOUNDARY OF SAID SHOOK HILL SUBDIVISION FOR THE FOLLOWING THREE (3) COURSES:
 (1) 1264.16' ALONG A DISTANCE OF 445.17 FEET;
 (2) 1025.97' ALONG A DISTANCE OF 473.96 FEET;
 (3) 524.64' ALONG A DISTANCE OF 614.25 FEET TO A POINT BEING AN ANGLE POINT ON THE SOUTH LINE OF LOT 42, SHOOK HILL SUBDIVISION, PLUNG NO. 4, AS RECORDED AT RECEPTION NUMBER 44220;
 THENCE N89°34'17" E A DISTANCE OF 17.25 FEET TO THE SOUTHEAST CORNER OF SAID LOT 42; THENCE ALONG THE SOUTHERLY LINE OF THE CLAIMJUMPER CONDOMINIUM, ACCORDING TO THE PLAN RECORDED AT RECEPTION NUMBER 12619 IN THE COUNTY RECORDS FOR THE FOLLOWING SIX (6) COURSES:
 (1) 102.25' ALONG THE 2-3 LINE OF THE DORA L. LODGE, M.S. 12372;
 (2) 226.15 FEET TO A POINT ON THE 2-3 LINE OF THE GERMANIA LODGE, M.S. 12372;
 (3) 102.25' ALONG SAID 2-3 LINE A DISTANCE OF 253.80 FEET TO CORNER NO. 2;
 (4) 589.576' E A DISTANCE OF 148.31 FEET TO CORNER NO. 1;
 (5) 518°55'74" W ALONG THE 1-4 LINE OF SAID GERMANIA LODGE A DISTANCE OF 87.70 FEET TO A POINT ON SAID 2-3 LINE OF THE DORA L. LODGE;
 (6) 102.25' ALONG SAID 2-3 LINE A DISTANCE OF 253.80 FEET TO CORNER NO. 2;
 (7) 102.25' ALONG SAID 2-3 LINE A DISTANCE OF 253.80 FEET TO CORNER NO. 2;
 (8) 589.576' E A DISTANCE OF 3.46 FEET TO A POINT ON THE LINE BETWEEN SAID SECTIONS 25 AND 30;
 (9) 102.25' ALONG SAID 2-3 LINE OF THE DORA L. LODGE A DISTANCE OF 362.13 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE FOR AIRPORT ROAD; THENCE S04°32'41" E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 428.50 FEET; THENCE S27°05'17" W A DISTANCE OF 104.36 FEET TO THE BEGINNING OF THE 60' R-O-W CONTAINING 391,119 SQUARE FEET OR 8.979 ACRES MORE OR LESS.

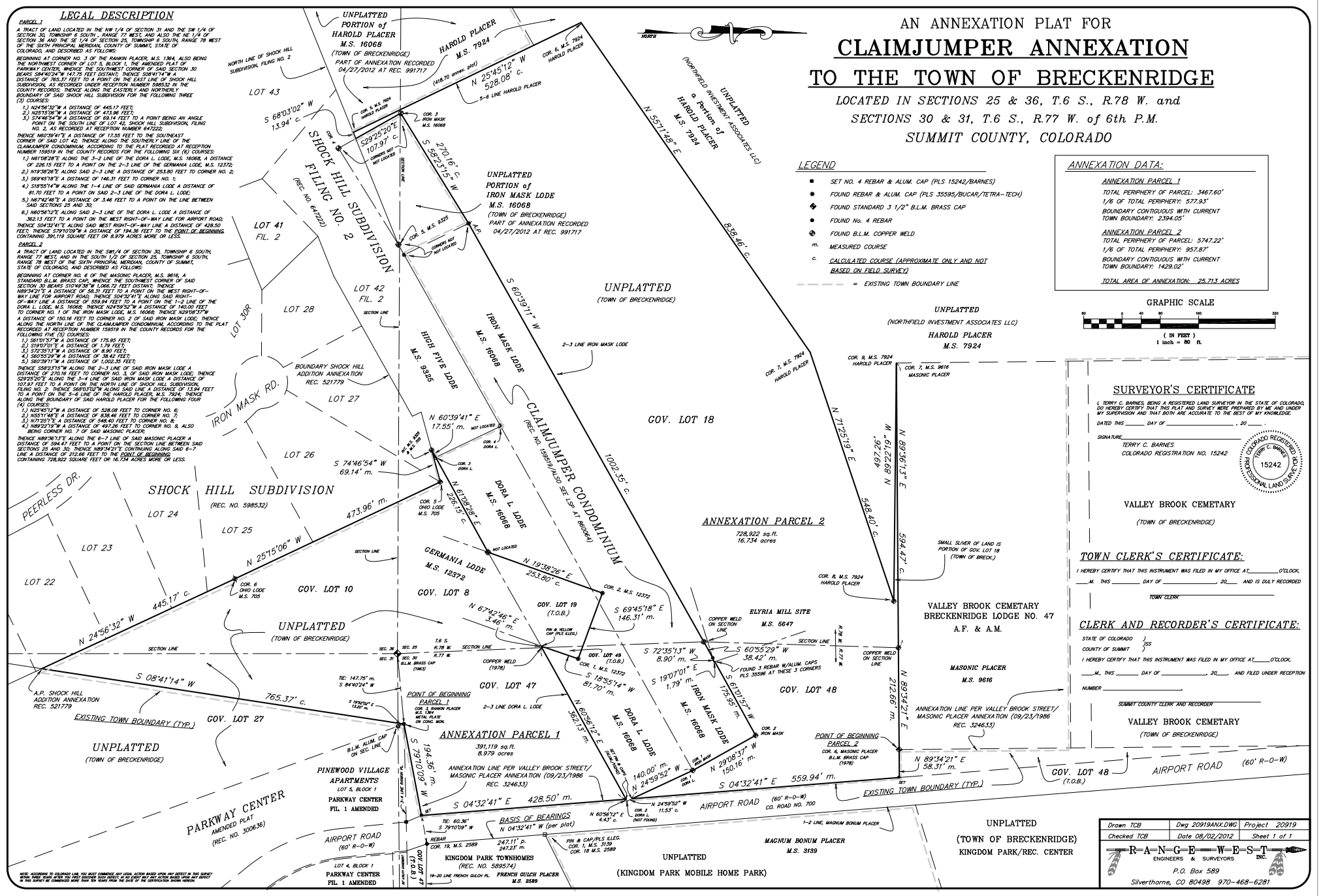
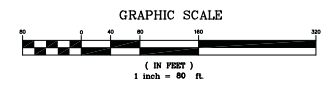
PARCEL 2
 A TRACT OF LAND LOCATED IN THE SW 1/4 OF SECTION 30, TOWNSHIP 6 SOUTH, RANGE 77 WEST, AND IN THE SOUTH 1/2 OF SECTION 25, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO, AND DESCRIBED AS FOLLOWS:
 BEGINNING AT CORNER NO. 6 OF THE MASONIC PLACER, M.S. 9616, A STANDARD B.L.M. BRASS CAP, THENCE THE SOUTHWEST CORNER OF SAID SECTION 30 BEARS 510°19'17" W A DISTANCE OF 175.98 FEET TO CORNER NO. 1; THENCE N87°14'21" E A DISTANCE OF 58.31 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE FOR AIRPORT ROAD; THENCE S89°57'17" W A DISTANCE OF 148.00 FEET TO CORNER NO. 1 OF THE IRON MASK LODGE, M.S. 16068; THENCE N29°08'37" W A DISTANCE OF 102.25 FEET TO CORNER NO. 2 OF SAID IRON MASK LODGE; THENCE ALONG THE NORTH LINE OF THE CLAIMJUMPER CONDOMINIUM, ACCORDING TO THE PLAN RECORDED AT RECEPTION NUMBER 12619 IN THE COUNTY RECORDS FOR THE FOLLOWING FIVE (5) COURSES:
 (1) 589.576' E A DISTANCE OF 175.98 FEET;
 (2) 518°55'74" E A DISTANCE OF 175.98 FEET;
 (3) 522°53'13" W A DISTANCE OF 8.90 FEET;
 (4) 589.576' E A DISTANCE OF 8.90 FEET;
 (5) 360°39'11" W A DISTANCE OF 1,002.25 FEET;
 THENCE S89°57'17" W ALONG THE 2-3 LINE OF SAID IRON MASK LODGE A DISTANCE OF 270.18 FEET TO CORNER NO. 3 OF SAID IRON MASK LODGE; THENCE S89°57'17" W ALONG THE 3-4 LINE OF SAID IRON MASK LODGE A DISTANCE OF 107.87 FEET TO A POINT ON THE NORTH LINE OF SHOOK HILL SUBDIVISION, PLUNG NO. 2; THENCE S89°57'17" W A DISTANCE OF 13.94 FEET TO A POINT ON THE 5-6 LINE OF THE HAROLD PLACER, M.S. 7924; THENCE S89°57'17" W A DISTANCE OF 60.28 FEET TO CORNER NO. 8, ALSO BEING CORNER NO. 17 OF SAID HAROLD PLACER FOR THE FOLLOWING FOUR (4) COURSES:
 (1) 102.25' W A DISTANCE OF 50.18 FEET TO CORNER NO. 6;
 (2) 102.25' W A DISTANCE OF 83.46 FEET TO CORNER NO. 7;
 (3) 102.25' W A DISTANCE OF 54.40 FEET TO CORNER NO. 8;
 (4) 102.25' W A DISTANCE OF 40.28 FEET TO CORNER NO. 8, ALSO BEING CORNER NO. 17 OF SAID HAROLD PLACER;
 THENCE N89°34'17" E ALONG THE 6-7 LINE OF SAID MASONIC PLACER A DISTANCE OF 584.47 FEET TO A POINT ON THE SECTION LINE BETWEEN SAID SECTIONS 25 AND 30; THENCE N89°34'17" E CONTINUING ALONG SAID 6-7 LINE A DISTANCE OF 58.31 FEET TO THE CORNER BEARING; THENCE CONTAINING 728,922 SQUARE FEET OR 16.734 ACRES MORE OR LESS.

AN ANNEXATION PLAT FOR
CLAIMJUMPER ANNEXATION
 TO THE TOWN OF BRECKENRIDGE
 LOCATED IN SECTIONS 25 & 36, T.6 S., R.78 W. and
 SECTIONS 30 & 31, T.6 S., R.77 W. of 6th P.M.
 SUMMIT COUNTY, COLORADO

- LEGEND**
- SET NO. 4 REBAR & ALUM. CAP (PLS 15242/BARNES)
 - ◆ FOUND REBAR & ALUM. CAP (PLS 35595/BUCAR/TETRA-TECH)
 - ◆ FOUND STANDARD 3 1/2" B.L.M. BRASS CAP
 - ◆ FOUND NO. 4 REBAR
 - ◆ FOUND B.L.M. COPPER WELD
 - m. MEASURED COURSE
 - c. CALCULATED COURSE (APPROXIMATE ONLY AND NOT BASED ON FIELD SURVEY)
 - EXISTING TOWN BOUNDARY LINE

ANNEXATION DATA:

ANNEXATION PARCEL 1	TOTAL PERIMETRY OF PARCEL: 3467.60'
	1/6 OF TOTAL PERIMETRY: 577.93'
	BOUNDARY CONTIGUOUS WITH CURRENT TOWN BOUNDARY: 2,394.05'
ANNEXATION PARCEL 2	TOTAL PERIMETRY OF PARCEL: 5747.22'
	1/6 OF TOTAL PERIMETRY: 957.87'
	BOUNDARY CONTIGUOUS WITH CURRENT TOWN BOUNDARY: 1429.02'
TOTAL AREA OF ANNEXATION: 25,713 ACRES	



SURVEYOR'S CERTIFICATE
 I, TERRY C. BARNES, BEING A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT AND SURVEY WERE PREPARED BY ME AND UNDER MY SUPERVISION AND THAT BOTH ARE ACCURATE TO THE BEST OF MY KNOWLEDGE.
 DATED THIS _____ DAY OF _____, 20____
 SIGNATURE: _____
 TERRY C. BARNES
 COLORADO REGISTRATION NO. 15242

TOWN CLERK'S CERTIFICATE:
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O'CLOCK
 M. THIS _____ DAY OF _____, 20____ AND IS DULY RECORDED.
 TOWN CLERK: _____

CLERK AND RECORDER'S CERTIFICATE:
 STATE OF COLORADO }
 COUNTY OF SUMMIT }
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O'CLOCK
 M. THIS _____ DAY OF _____, 20____ AND FILED UNDER RECEPTION
 NUMBER _____
 SUMMIT COUNTY CLERK AND RECORDER: _____

Drawn TCB Dwg 20919ANX.DWG Project 20919
 Checked TCB Date 08/02/2012 Sheet 1 of 1

R-A-N-G-E-W-E-S-T
 ENGINEERS & SURVEYORS, INC.
 P.O. Box 589
 Silverthorne, CO 80498 970-468-6281

MEMO

TO: Breckenridge Town Council
FROM: Laurie Best, Community Development Department
RE: Wedge/MBJ Annexation Ordinance-First Reading
DATE: August 8, 2012 (for meeting August 14, 2012)

Enclosed in your packets is an Ordinance to annex the Town-owned Wedge and MBJ parcels. Both parcels are currently located in unincorporated Summit County. The Wedge parcel was part of the Town of Breckenridge Land Exchange which was completed in the spring of 2012 and the Patent was recorded on March 23, 2012. The MBJ parcel was acquired by the Town in January of 2011. The parcels are contiguous and are located east of Ski Hill Road at the top of Cucumber Gulch. The annexation map that is enclosed in your packets identifies the parcels. Within ninety days of the annexation the Town must place the annexed property into a Town Land Use District. The process of determining the appropriate land use district is underway and that will be presented to the Council at a future meeting.

Staff recommends approval of the Wedge/MBJ Annexation Ordinance First Reading and will be available to answer questions on August 14th .

1
2 ***FOR WORKSESSION/FIRST READING – AUG. 14***

3
4 COUNCIL BILL NO. ____

5
6 SERIES 2012

7
8 AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL
9 PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE
10 (Wedge & MBJ Parcels - 34.026 acres)

11
12 WHEREAS, the Town of Breckenridge is the owner in fee of the hereafter described real
13 property; and

14
15 WHEREAS, the hereafter described real property is currently located in an
16 unincorporated area of Summit County, Colorado; and

17
18 WHEREAS, Section 31-12-106(3), C.R.S., provides that a municipality may annex by
19 ordinance municipally-owned real property without notice and hearing upon the determination
20 that the property is eligible for annexation under Section 30(1)(c) of Article II of the Colorado
21 Constitution, and Sections 31-12-104(1)(a) and 31-12-105 of the “Municipal Annexation Act of
22 1965”, Part 1 of Article 12 of Title 31, C.R.S.; and

23
24 WHEREAS, it is the desire of the Town Council to annex the hereinafter described
25 Town-owned property to the Town of Breckenridge.

26
27 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
28 BRECKENRIDGE, COLORADO:

29
30 Section 1. The Town Council finds that the Town of Breckenridge is the owner in fee of
31 the real property described in Section 3 of this ordinance, and that such property is not solely a
32 public street or right-of-way.

33
34 Section 2. The Town Council finds and concludes that the Town-owned real property
35 described in Section 3 of this ordinance is eligible for annexation to the Town of Breckenridge
36 under Section 30(1)(c) of Article II of the Colorado Constitution, and Sections 31-12-104(1)(a)
37 and 31-12-105, C.R.S. Specifically, the Town Council finds, determines and concludes that:

- 38
39 1. Not less than one-sixth of the perimeter of the area to be annexed is
40 contiguous with the existing boundaries of the Town of Breckenridge.
41
42 2. No annexation proceedings concerning the territory to be annexed have
43 been commenced by another municipality.
44

3. The annexation of the subject real property will not result in the detachment of area from a school district.
4. The annexation of the subject real property will not result in the extension of the boundaries of the Town of Breckenridge more than three miles.
5. The Town of Breckenridge has a plan in place for the area to be annexed.

Section 3. The following described real property is hereby annexed to and made a part of the Town of Breckenridge, Colorado, to wit:

A TRACT OF LAND BEING PORTIONS OF THE NUGGET PLACER, U.S. MINERAL SURVEY NO. 20873, THE GROUND HOG NUMBERS 1, 2, AND 3, U.S.M.S. 15733, AND THE WILDCAT NUMBERS 1, 2, 3, 4 AND 5, U.S.M.S. NO. 15733, LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO, AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE 2-3 LINE OF SAID NUGGET PLACER, ALSO BEING ON THE 8-7 LINE OF THE CUCUMBER PLACER, M.S. 2630, WHENCE CORNER NO. 8 OF SAID CUCUMBER PLACER BEARS N84°36'58"W 181.01 FEET DISTANT, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SKI HILL ROAD; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF SKI HILL ROAD ACCORDING TO A LAND SURVEY PLAT DATED SEPTEMBER 23, 1998 BY DREXEL BARREL & CO. (LOREN K. SHANKS, P.L.S. NO. 28285) RECORDED AS LSP-243 IN THE COUNTY RECORDS FOR THE FOLLOWING TWENTY (20) COURSES:

- 1.) N34°43'55"E A DISTANCE OF 50.26 FEET;
- 2.) 66.99 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 29°31'26";
- 3.) N05°12'29"E A DISTANCE OF 305.90 FEET;
- 4.) 58.25 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 47°40'31";
- 5.) N52°53'00"E A DISTANCE OF 206.18 FEET;
- 6.) 29.83 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 24°25'05";
- 7.) N77°18'05"E A DISTANCE OF 196.67 FEET;
- 8.) 56.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 45°55'41";
- 9.) S56°46'14"E A DISTANCE OF 137.57 FEET;
- 10.) 134.29 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 59°11'05";
- 11.) N64°02'41"E A DISTANCE OF 4.85 FEET;
- 12.) 176.23 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 160.00 FEET AND A CENTRAL ANGLE OF 63°06'25";

- 1 13.) N00°56'16``E A DISTANCE OF 299.33 FEET;
- 2 14.) 71.35 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A
- 3 RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 136°16'40``;
- 4 15.) S42°47'04``E A DISTANCE OF 334.12 FEET;
- 5 16.) 314.16 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A
- 6 RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 180°00'00``;
- 7 17.) N42°47'04``W A DISTANCE OF 277.08 FEET;
- 8 18.) 54.33 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A
- 9 RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 155°38'17``;
- 10 19.) S67°08'47``E A DISTANCE OF 89.50 FEET;
- 11 20.) 238.47 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A
- 12 RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 105°06'08`` TO A
- 13 POINT BEING THE SOUTHWEST CORNER OF THE ZEPPELIN
- 14 SUBDIVISION, AS RECORDED UNDER RECEPTION NUMBER 361076 IN
- 15 THE COUNTY RECORDS;
- 16

17 THENCE ALONG THE SOUTH LINE OF SAID ZEPPELIN SUBDIVISION S60°42'35``E A
 18 DISTANCE OF 662.72 FEET TO THE SOUTHEAST CORNER; THENCE S64°32'38``E A
 19 DISTANCE OF 24.56 FEET TO A POINT ON THE 5-4 LINE OF THE SNIDER MILL SITE,
 20 M.S. 3537-B; THENCE S29°12'00``W, ALONG THE 2-3 LINE OF SAID GROUND HOG
 21 NO. 1, A DISTANCE OF 254.61 FEET; THENCE S45°17'00``W A DISTANCE OF 180.11
 22 FEET; THENCE S41°21'55``E A DISTANCE OF 11.82 FEET; THENCE S45°33'10``E A
 23 DISTANCE OF 39.91 FEET TO A POINT ON SAID 2-3 LINE OF GROUND HOG NO. 1,
 24 ALSO BEING THE NORTHWEST CORNER OF TRACT R, SHOCK HILL SUBDIVISION,
 25 ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 598532 IN THE
 26 COUNTY RECORDS; THENCE ALONG THE WEST LINE OF SAID TRACT R FOR THE
 27 FOLLOWING TWO (2) COURSES:

- 28
- 29 1.) S29°15'17``W A DISTANCE OF 488.91 FEET;
- 30 2.) S10°52'26``E A DISTANCE OF 207.19 FEET TO THE SOUTHWEST
- 31 CORNER, ALSO BEING A POINT ON SAID 2-3 LINE OF THE NUGGET
- 32 PLACER, AND ALSO THE NORTH LINE OF TRACT A (PUBLIC OPEN
- 33 SPACE), PEAKS 7 & 8 PERIMETER SUBDIVISION, ACCORDING TO THE
- 34 PLAT RECORDED AT RECEPTION NUMBER 730218 IN THE COUNTY
- 35 RECORDS;
- 36

37 THENCE N84°36'58``W ALONG SAID LINE A DISTANCE OF 1,599.04 FEET TO THE
 38 POINT OF BEGINNING, CONTAINING 34.026 ACRES, MORE OR LESS.

39
 40 Section 4. Within thirty (30) days after the effective date of this ordinance, the Town
 41 Clerk is authorized and directed to:

- 42
- 43 A. File one copy of the annexation map with the original of the annexation
- 44 ordinance in the office of the Town Clerk of the Town of Breckenridge,
- 45 Colorado; and

1
2 B. File for recording three certified copies of the annexation ordinance and
3 map of the area annexed containing a legal description of such area with
4 the Summit County Clerk and Recorder.
5

6 Section 5. This ordinance shall be published and become effective as provided in Section
7 5.9 of the Breckenridge Town Charter.
8

9 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
10 PUBLISHED IN FULL this ____ day of _____, 2012. A Public Hearing shall be
11 held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the
12 ____ day of _____, 2012, at 7:30 P.M., or as soon thereafter as possible in the
13 Municipal Building of the Town.
14

15 TOWN OF BRECKENRIDGE, a Colorado
16 municipal corporation
17
18

19
20 By _____
21 John G. Warner, Mayor
22

23 ATTEST:
24
25
26
27

28 _____
29 Town Clerk
30
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43
44

AN ANNEXATION PLAT FOR THE WEDGE/MBJ ANNEXATION

LOCATED IN THE NW 1/4 OF SECTION 36, T.6 S., R.78 W of the 6th P.M.
SUMMIT COUNTY, COLORADO

ANNEXATION DATA:

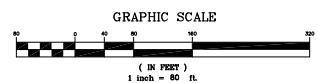
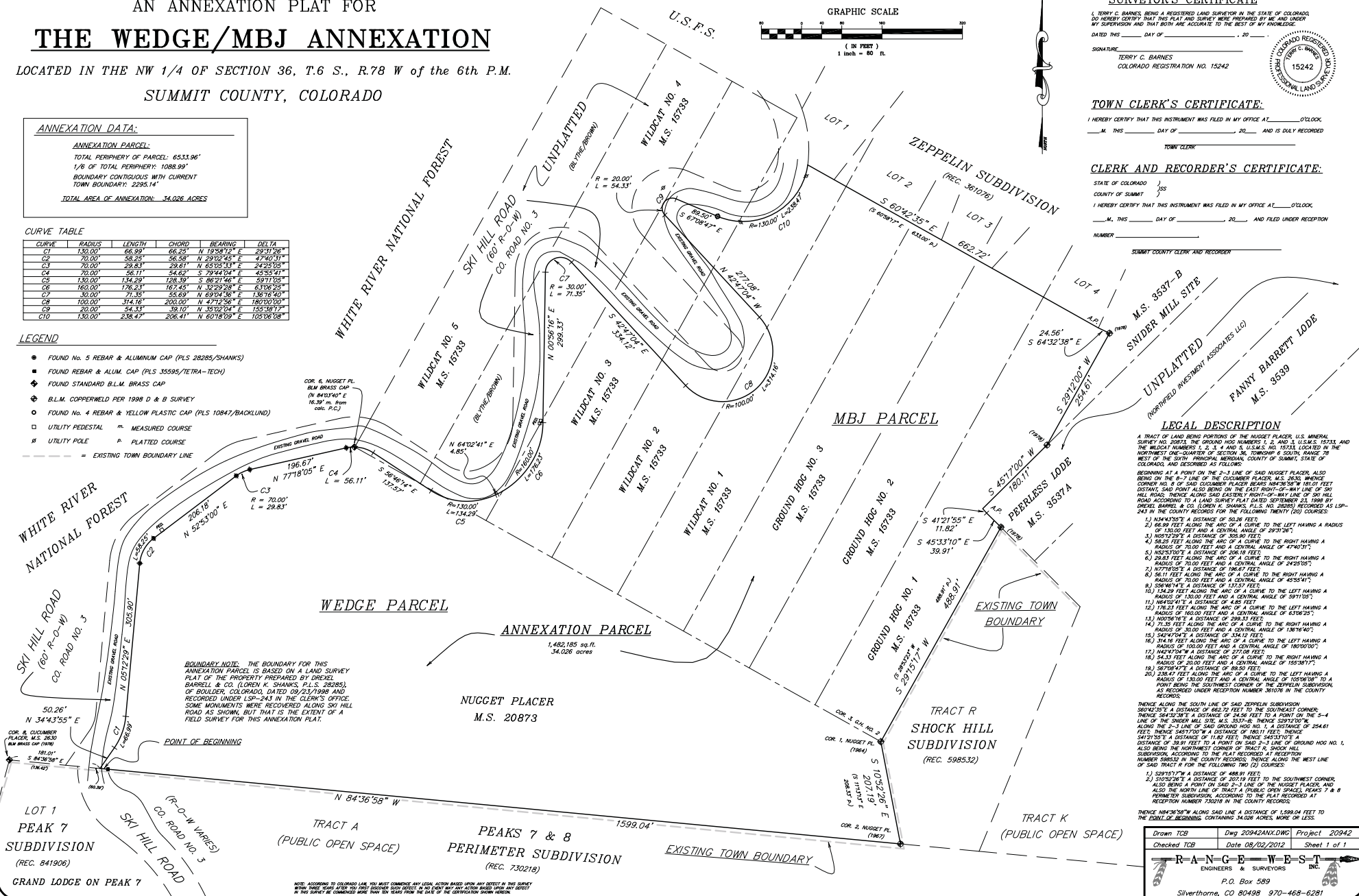
ANNEXATION PARCEL:
TOTAL PERIMETRY OF PARCEL: 6533.96'
1/6 OF TOTAL PERIMETRY: 1088.99'
BOUNDARY CONTIGUOUS WITH CURRENT TOWN BOUNDARY: 2295.14'
TOTAL AREA OF ANNEXATION: 34,026 ACRES

CURVE TABLE

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	130.00	66.99	66.25	N 19°58'12" E	29°31'56"
C2	70.00	38.25	36.98	N 29°02'45" E	47°40'01"
C3	70.00	29.83	29.81	N 63°02'43" E	24°25'53"
C4	70.00	56.11	54.62	S 79°44'04" E	45°55'41"
C5	130.00	134.29	129.39	S 86°21'46" E	39°17'05"
C6	100.00	178.23	182.45	N 35°22'28" E	63°09'51"
C7	30.00	71.35	55.69	N 69°04'56" E	136°16'40"
C8	100.00	374.16	200.00	N 47°25'36" E	190°00'00"
C9	25.00	54.33	39.10	N 35°02'04" E	155°38'17"
C10	130.00	238.47	206.41	N 60°18'02" E	105°06'58"

LEGEND

- FOUND No. 5 REBAR & ALUMINUM CAP (PLS 28285/SHANKS)
- FOUND REBAR & ALUM. CAP (PLS 35895/TETRA-TECH)
- ◆ FOUND STANDARD B.L.M. BRASS CAP
- B.L.M. COPPERWELD PER 1998 D & B SURVEY
- FOUND No. 4 REBAR & YELLOW PLASTIC CAP (PLS 10847/BACKLUND)
- UTILITY PEDESTAL m. MEASURED COURSE
- ▣ UTILITY POLE p. PLATTED COURSE
- - - EXISTING TOWN BOUNDARY LINE



SURVEYOR'S CERTIFICATE

I, TERRY C. BARNES, BEING A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT AND SURVEY WERE PREPARED BY ME AND UNDER MY SUPERVISION AND THAT BOTH ARE ACCORDING TO THE BEST OF MY KNOWLEDGE.
DATED THIS _____ DAY OF _____, 20____.
SIGNATURE: TERRY C. BARNES
COLORADO REGISTRATION NO. 15242



TOWN CLERK'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O'CLOCK, _____ M. THIS _____ DAY OF _____, 20____ AND IS DULY RECORDED.
TOWN CLERK _____

CLERK AND RECORDER'S CERTIFICATE:

STATE OF COLORADO }
COUNTY OF SUMMIT }
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O'CLOCK, _____ M. THIS _____ DAY OF _____, 20____ AND FILED UNDER RECEPTION NUMBER _____.
SUMMIT COUNTY CLERK AND RECORDER _____

LEGAL DESCRIPTION

A TRACT OF LAND BEING PORTIONS OF THE NUGGET PLACER, U.S. MINERAL SURVEY NO. 28878, THE GROUND HOLES NO. 1, 2 AND 3, U.S.M.S. 15783 AND THE WILDCAT PARCELS NO. 1, 2, 3, 4 AND 5, U.S.M.S. NO. 15783, LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO, AND DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE 2-3 LINE OF SAID NUGGET PLACER, ALSO BEING ON THE 6-7 LINE OF THE COLUMBER PLACER, U.S. MINERAL SURVEY NO. 9, OF SAID COLUMBER PLACER BEARS NAME 50' W 101.01 FEET DISTANT, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF SKI HILL ROAD, THENCE ALONG SAID EASTERN RIGHT-OF-WAY LINE OF SKI HILL ROAD ACCORDING TO A LAND SURVEY PLAT DATED SEPTEMBER 21, 1988 BY DREDEL BARNELL & CO. (LORIN K. SHANKS, P.L.S. NO. 28285) RECORDED AS LSP-243 IN THE COUNTY RECORDS FOR THE FOLLOWING TWENTY (20) COURSES:
1) BEARING 180°00'00" A DISTANCE OF 30.00 FEET;
2) 66.99 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 29°31'56";
3) 105°21'29" A DISTANCE OF 105.80 FEET;
4) 58.25 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 47°40'01";
5) 105°21'29" A DISTANCE OF 115.82 FEET;
6) 29.83 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 24°25'53";
7) 107°18'05" A DISTANCE OF 196.67 FEET;
8) 56.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 45°55'41";
9) 39.17 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 63°09'51";
10) 134.29 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 63°09'51";
11) 105°21'29" A DISTANCE OF 4.85 FEET;
12) 178.23 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 63°09'51";
13) 105°21'29" A DISTANCE OF 206.41 FEET;
14) 71.35 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 136°16'40";
15) 34.16 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 155°38'17";
16) 54.33 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 105°06'58";
17) 105°21'29" A DISTANCE OF 27.50 FEET;
18) 54.33 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 155°38'17";
19) 56.11 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 105°06'58" TO A POINT BEING THE SOUTHWEST CORNER OF THE ZEPPELIN SUBDIVISION, AS RECORDED UNDER RECEPTION NUMBER 361078 IN THE COUNTY RECORDS;
THENCE ALONG THE SOUTH LINE OF SAID ZEPPELIN SUBDIVISION S60°42'55" A DISTANCE OF 662.72 FEET TO THE SOUTHWEST CORNER, THENCE S60°42'55" A DISTANCE OF 24.56 FEET TO A POINT ON THE 5-4 LINE OF THE SNIDER MILL SITE, U.S. M.S. 3537-B, THENCE S29°12'00" W 254.61 FEET, THENCE ALONG THE 2-3 LINE OF SAID NUGGET PLACER, U.S. MINERAL SURVEY NO. 28878, A DISTANCE OF 11.82 FEET, THENCE S45°33'10" E 39.91 FEET, THENCE S45°33'10" E A DISTANCE OF 180.17 FEET, THENCE S60°42'55" A DISTANCE OF 11.82 FEET, THENCE S45°33'10" E A DISTANCE OF 39.91 FEET TO A POINT ON SAID 2-3 LINE OF GROUND HOLE NO. 1, ALSO BEING THE NORTHEAST CORNER OF TRACT G, SHOCK HILL SUBDIVISION, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 598532 IN THE COUNTY RECORDS; THENCE ALONG THE WEST LINE OF SAID TRACT G FOR THE FOLLOWING TWO (2) COURSES:
1) S29°12'00" W A DISTANCE OF 488.91 FEET;
2) S105°21'29" E A DISTANCE OF 24.56 FEET TO A POINT ON THE 5-4 LINE OF THE SNIDER MILL SITE, U.S. M.S. 3537-B, THENCE S29°12'00" W 254.61 FEET, THENCE S45°33'10" E 39.91 FEET, THENCE S60°42'55" A DISTANCE OF 11.82 FEET, THENCE S45°33'10" E A DISTANCE OF 180.17 FEET, THENCE S60°42'55" A DISTANCE OF 11.82 FEET, THENCE S45°33'10" E A DISTANCE OF 39.91 FEET TO A POINT ON SAID 2-3 LINE OF GROUND HOLE NO. 1, ALSO BEING THE NORTHEAST CORNER OF TRACT G, SHOCK HILL SUBDIVISION, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 598532 IN THE COUNTY RECORDS;
THENCE N84°36'58" W ALONG SAID LINE A DISTANCE OF 1,599.04 FEET TO THE POINT OF BEGINNING, CONTAINING 34,026 ACRES, MORE OR LESS.

Drawn TCB	Dwg 20942ANX.DWG	Project 20942
Checked TCB	Date 08/02/2012	Sheet 1 of 1
R-A-N-G-E-W-E-S-T		
ENGINEERS & SURVEYORS		
P.O. Box 589 Silverthorne, CO 80498 970-468-6281		

MEMO

TO: Town Council

FROM: Tim Berry, Town Attorney

RE: Revised Street Use Licensing Ordinance

DATE: August 8, 2012 (for August 14th meeting)

Enclosed with this memo is a revised form of the proposed new Street Use Licensing Ordinance. I made several changes to the ordinance since you reviewed it on July 24th. A blacklined version of the ordinance is enclosed. It is marked to show the changes.

The key changes to the ordinance are as follows:

Ordinance Section	Ordinance Page	Concerning	Change
§4-15-4	Page 4	Definitions	The application form will require the applicant to designate its “primary location.” This location is important because it will be used to determine which members of the public get notice of the public hearing on the application (only those persons within 300 feet of the applicant’s primary location receive mailed notice of the public hearing). It seemed necessary to define what constitutes the applicant’s primary location, and I have done that. As you will see, the new definition requires that if an applicant proposes to operate within the Town’s Conservation District, its primary location must be in the Conservation District. This approach was selected to prohibit an applicant from designating a primary location with very few neighbors, thereby minimizing the effectiveness of the notice of public hearing.
§4-15-7	Page 7	Application Fee	I have suggested an application fee for 2012 in the amount of \$1,370.00. This is the current fee for a Class C Development Permit application, and seemed reasonable to me. It is also in line with the fee most current licensees paid to obtain their Development Permit.
§4-15-8(C)	Page 7	Town Manager	In several places in the ordinance I have

§4-15-9(F)	Page 8	Preliminary Investigation Town Council Review of Application	referenced the ability of the Town Manager (in connection with his preliminary investigation of the application) and the Town Council (in connection with its public hearing and formal consideration of the application) to request additional information from the applicant. In Section 4-15-8(C) I have included language requiring the applicant to respond in five days to the Town Manager's request for additional information concerning the application. Language was inserted into Section 4-15-9 (F) specifically authorizing the Town Council to request additional information of the applicant at the time of the public hearing, and providing that the public hearing will not be concluded until the applicant provides the requested information. The Council then has 30 days after the public hearing to make a decision on the application.
§4-15-10 (B)(7) §4-15-10 (C)(5)	Page 10 Page 11	Decision By Town Council	In Section 4-15-10(B)(7) I have included language requiring that before the Council approves a permit it must determine from the application and the evidence presented at the hearing that the granting of the application will not endanger public health or safety. Conversely, language has been inserted in 4-15-10(C)(5) requiring the Town Council to deny the application if it determines that the granting of the application will endanger public health or safety.
§4-15-16(G)	Page 15	Renewal of Permit	At the July 24 discussion the Town Council indicated that it was willing to conduct the initial licensing process, but that it wanted the annual renewal process to normally be handled administratively by the Town Manager (or his designee). Language establishing such a process has been added in Section 4-15-16(G). The Council can handle a renewal itself if it elects to do so.

As you will notice, other minor edits have been made to the ordinance that you reviewed on July 24. The changes discussed above, however, are the most important ones.

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

1 ***FOR WORKSESSION/FIRST READING – AUG. 14***

2
3 Additions To The Draft Ordinance Reviewed on July 24, 2012 Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. 27

7
8 Series 2012

9
10 AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE
11 BY ADOPTING PROVISIONS REQUIRING THE ISSUANCE OF A SPECIAL PERMIT TO
12 CONDUCT CERTAIN BUSINESS OPERATIONS ON TOWN STREETS

13
14 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
15 COLORADO:

16
17 Section 1. Title 4 of the Breckenridge Town Code is amended by the addition of a new
18 Chapter 15, to be entitled “Permits Required to Conduct Certain Businesses on Town Streets”,
19 which shall read in its entirety as follows:

20
21 CHAPTER 15

22
23 PERMITS REQUIRED TO CONDUCT CERTAIN BUSINESSES ON TOWN STREETS

24
25 SECTION:

- 26
27 4-15-1: Short Title
28 4-15-2: Authority
29 4-15-3: Findings
30 4-15-4: Definitions
31 4-15-5: Permit Required; Exceptions
32 4-15-6: Application For Permit
33 4-15-7: Application Fee
34 4-15-8: Town Manager’s Preliminary Investigation of Application
35 4-15-9: Town Council Review of Application
36 4-15-10: Decision By Town Council
37 4-15-11: Authority To Impose Conditions on Permit
38 4-15-12: Standard Terms and Conditions
39 4-15-13: Contents of Permit
40 4-15-14: Permit Not Transferable
41 4-15-15: Duration of Permit
42 4-15-16: Renewal of Permit

2012 STREET USE LICENSING ORDINANCE

- 1 4-15-17: Duties of Permittee
- 2 4-15-18: Suspension Or Revocation of Permit
- 3 4-15-19: Town Council Decision Is Final
- 4 4-15-20: Signage
- 5 4-15-21: Transition From Prior Development Permit
- 6 4-15-22: Penalties; Injunctive Relief
- 7 4-15-23: No Town Liability
- 8 4-15-24: Rules and Regulations

9
 10 4-15-1: SHORT TITLE: This Chapter shall be known and may be cited as the “2012 Town Of
 11 Breckenridge Street Use Licensing Ordinance.”

12
 13 4-15-2: AUTHORITY: The Town Council finds, determines, and declares that it has the power
 14 to adopt this Chapter pursuant to:

- 15
- 16 A. Section 31-15-501, C.R.S. (concerning municipal regulation of business), and in
 17 particular, Section 31-15-501(1)(h), C.R.S. (concerning municipal regulations of
 18 hackmen, omnibus drivers, carters, cabmen, porters, expressmen, and all others
 19 pursuing like occupations);
- 20 B. Section 31-15-702, C.R.S. (concerning municipal regulation of streets and alleys);
- 21 C. Section 31-15-103, C.R.S. (concerning municipal police powers);
- 22 D. Section 31-15-401, C.R.S.(concerning general municipal police powers);
- 23 E. The authority granted to home rule municipalities by Article XX of the Colorado
 24 Constitution; and
- 25 F. The powers contained in the Breckenridge Town Charter.

26 4-15-3: FINDINGS: The Town Council adopts this Chapter based upon the following findings
 27 of fact:

- 28
- 29 A. The primary purpose of a public street is for public travel.
- 30 B. There is no natural right to use the public streets for the purposes of private
 31 business or gain. Such rule is often stated as a cardinal doctrine of municipal law.
- 32 C. The Colorado courts have held that a municipality has the legal authority to
 33 regulate, by the issuance of a license or permit, the private business use of a
 34 public street that may obstruct the use of a public street for public travel.

- 1 D. If not regulated, the use of the public streets by those business activities regulated
 2 by this Chapter can cause obstruction of the public streets along with the attendant
 3 disruption to the right of the people to use the public streets as an avenue of
 4 travel.
- 5 E. The use of the public streets by those business activities regulated by this Chapter
 6 are private, not public, uses.
- 7 F. The public receives some benefit for the use of the public streets by those
 8 business activities regulated by this Chapter.
- 9 G. The issuance of a permit to use the public streets as authorized by this Chapter is
 10 not inconsistent with the primary purpose of the public streets as described in
 11 Finding A of this Section.
- 12 H. This Chapter is necessary and proper to provide for the safety, preserve the health,
 13 promote the prosperity, and improve the order, comfort and convenience of the
 14 Town and the inhabitants thereof.

15 4-15-4: DEFINITIONS:
 16

- APPLICANT: A person who has submitted an application for permit pursuant to this Chapter.
- APPLICATION: An application for permit submitted pursuant to this Chapter.
- DAY: A calendar day, unless otherwise indicated.
- GOOD CAUSE (for the purpose of refusing or denying a permit renewal under this Chapter): Means:
- A. The permittee has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this Chapter; and any rule and regulation promulgated pursuant to this Chapter; **any other law applicable to permittee;** or
 - B. The permittee has failed to comply with any special terms or conditions that were placed on its permit at the time the permit was issued, or that were placed on its permit in prior disciplinary

proceedings or that arose in the context of potential disciplinary proceedings.

HORSE DRAWN CARRIAGE:	A wheeled vehicle pulled by a horse and used to carry people for a fee.
PARTY IN INTEREST:	The applicant; a resident of the Town; or the owner or manager of a property or business located within the Town.
PEDAL BUS:	Has the meaning provided in the Town's Traffic Code, Chapter 1 of Title 7 of this Code.
PEDICAB:	Has the meaning provided in the Town's Traffic Code, Chapter 1 of Title 7 of this Code.
PERMITTEE:	The person to whom a permit has been issued pursuant to this Chapter.
PERMITTED BUSINESS:	A business authorized to be operated on Town streets and alleys by a permit issued pursuant to this Chapter.
PERSON:	Has the meaning provided in Section 1-3-2 of this Code.
POLICE CHIEF:	The Police Chief of the Town, or the Police Chief's designee authorized to act pursuant to Section 1-7-2 of this Code.
<u>PRIMARY LOCATION:</u>	<u>The primary physical location of the applicant's proposed business operation. If the applicant proposes to operate within the Town's Conservation District, the applicant's primary location must be located within the Conservation District.</u>
TOWN:	Has the meaning provided in Section 1-3-2 of this Code.
TOWN MANAGER:	The Town Manager of the Town, or the Town Manager's designee authorized to act pursuant

to Section 1-7-2 of this Code.

1
2 4-15-5: PERMIT REQUIRED; EXCEPTIONS:

3 A. No person shall operate for hire any of the following business activities upon any
4 street or alley within the Town without a valid permit issued by the Town Council
5 in accordance with this Chapter:

- 6 1. a horse drawn carriage;
- 7 2. a pedicab;
- 8 3. a pedal bus; or
- 9 4. any other business whose operation on Town street or alleys routinely
10 includes, or may include, stopping on Town streets or alleys (except to
11 comply with applicable traffic regulations).

12 B. This Section shall not apply to:

- 13 1. a business engaged in interstate or intrastate commerce;
- 14 2. a business licensed or permitted to operate on Town streets or alleys by
15 the State of Colorado, including, but not limited to, taxicabs and similar
16 forms of public conveyance;
- 17 3. a business that operates on Town streets or alleys only to make deliveries;
- 18 4. a governmental or quasi-governmental entity while performing its lawful
19 governmental functions;
- 20 5. a business that the Town Manager determines is not subject to the terms
21 and conditions of this Chapter; and
- 22 6. any business that the Town may not lawfully require to have a permit to
23 operate on Town streets and alleys.

24 C. Any person operating a vehicle described in Subsection A of this Section on a
25 public street or alley in a special event authorized by the Town pursuant to
26 Chapter 13 of Title 4 of this Code shall be exempt from the requirements of this
27 Chapter, but shall comply with the terms and conditions of the special event
28 permit issued by the Town.

29 D. This Chapter does not apply to the use of the public streets of the Town by any
30 person authorized to operate a business on the public streets pursuant to a valid

1 license or permit issued by the state or federal government, or any agency or
2 instrumentality thereof.

3 4-15-6: APPLICATION FOR PERMIT:
4

5 A. A person seeking to obtain a permit pursuant to this Chapter shall file an
6 application with the Town Manager. The form of the application shall be provided
7 by the Town Manager.

8 B. A permit issued pursuant to this Chapter does not eliminate the need for the
9 permittee to obtain other required Town licenses and permits related to the
10 operation of the permitted business, including, without limitation:

- 11 1. a development permit if required by the terms of Chapter 1 of Title 9 of
12 this Code;
- 13 2. a sign permit if required by the terms of the Town's Sign Code (Chapter 2
14 of Title 8 of this Code);
- 15 3. a Town sales tax license; and
- 16 4. a Town Business and Occupational Tax License.

17 C. An application for a permit under this Chapter shall contain the following
18 information:

- 19 1. the applicant's name, address, and telephone number;
- 20 2. a statement of the nature of the applicant's proposed business;
- 21 3. the primary location of the business;
- 22 4. the primary route(s) over Town streets and alleys where the applicant
23 proposes to operate the business;
- 24 5. a statement of the applicant's qualifications and experience in operating
25 the proposed business;
- 26 6. a list of the applicant's equipment/animals that will be used to operate the
27 proposed business;
- 28 7. a statement of the training that will be provided to the applicant's
29 employees or contractors to be involved in the operation of the proposed
30 business

- 1 8. a list of any permit or license previously issued to the applicant
2 authorizing the operation of a business similar to the proposed business,
3 and a statement of any disciplinary action imposed by the issuing authority
4 with respect to such permit or license; and
- 5 9. any additional information that the Town Manager reasonably determines
6 to be necessary in connection with the investigation and review of the
7 application.

8 4-15-7: APPLICATION FEE: An applicant shall pay to the Town a non-refundable application
9 fee when the application is filed. The purpose of the fee is to cover the administrative costs of
10 processing the application, and monitoring and enforcing permits issued pursuant to this Chapter.
11 For applications filed in 2012 the application fee is \$ ~~_____~~ 1,370.00. Thereafter, the
12 amount of the application fee shall be fixed by the Town Council as part of its annual budget
13 process.
14

15 4-15-8: TOWN MANAGER'S PRELIMINARY INVESTIGATION OF APPLICATION:
16

17 A. Upon receipt of a properly completed application, together with all information
18 required in connection therewith, and the payment of the application fee as
19 required by Section 4-15-7, the Town Manager shall transmit copies of the
20 application to:

- 21 1. the Police Department;
22 2. the Department of Community Development;
23 3. the Public Works Department; and
24 4. any other person or agency that the Town Manager determines should
25 properly investigate and comment upon the application.

26 B. Within twenty days of receipt of a completed application those Town departments
27 and other referral agencies described in Subsection A of this Section shall provide
28 the Town Manager with comments concerning the application.

29 **C. If the Town Manager requests the applicant to provide additional**
30 **information that the Town Manager reasonably determines to be necessary**
31 **in connection with the investigation and review of the application, the**
32 **applicant shall provide such information within five days of the Town**
33 **Manager's request, unless the Town Manager agrees to a longer time period.**
34

35 **D.** ~~C.~~ The Town Manager shall complete his preliminary investigation of the
36 application with within forty five days of his receipt of the application, unless the

1 applicant agrees to an extension of such time period. The Town Manager's
2 preliminary investigation of the application shall be provided to the Town Council
3 and the applicant in connection with the Town Council's review of the
4 application.
5

6 4-15-9: TOWN COUNCIL REVIEW OF APPLICATION:
7

- 8 A. Once the Town Manager has completed his preliminary investigation of the
9 application as described in Section 4-15-8, the Town Manager shall schedule the
10 application for consideration by the Town Council at the earliest practicable date.
- 11 B. Written notice of the date and time of the meeting at which the Town Council will
12 consider the application shall be provided to the applicant at least ten days before
13 the meeting.
- 14 C. Before deciding the application the Town Council shall hold a public hearing to
15 receive public comments concerning the application.
- 16 D. Notice of the public hearing on the application shall be provided as follows:
 - 17 1. Notice shall be published on the Town's website for at least five days
18 prior to the hearing;
 - 19 2. Notice shall be published once in a newspaper of general circulation in the
20 Town at least five days prior to the public hearing; and
 - 21 3. Notice shall be mailed by first class mail to all property owners whose
22 property lies within three hundred feet of the primary location of the
23 proposed business as described in the application. Such notice shall be
24 mailed by the Town not less than ten days prior to the public hearing.
- 25 E. At a public hearing held by the Town Council pursuant to this Chapter any party
26 in interest shall be allowed to present evidence.
- 27 **F. At the conclusion of the public hearing the Town Council may require the**
28 **applicant to provide any additional information it reasonably determines to**
29 **be necessary in connection with the investigation and review of the**
30 **application. For purpose of rendering a decision on the application, the**
31 **public hearing on the application shall not be concluded until the applicant**
32 **has provide the requested additional information.**

33 4-15-10: DECISION BY TOWN COUNCIL:
34

- 1 A. The Town Council shall review an application submitted pursuant to this Chapter
2 and approve, deny, or conditionally approve an application within thirty days of
3 the conclusion of the public hearing on the application unless, by written notice to
4 the applicant, the decision period is extended for an additional ten days if
5 necessary for the Town Council to complete its review of the application.
- 6 B. The Town Council shall issue a permit under this Chapter when, from a
7 consideration of the application, the evidence received at the public hearing, and
8 from such other information as may otherwise be obtained, the Town Council
9 determines that:
- 10 1. The application (including any required attachments and submissions) is
11 complete and signed by the applicant, **and the applicant has provided**
12 **any additional information concerning the application requested by**
13 **either the Town Manager pursuant to Section 4-15-6(C)(9) or the**
14 **Town Council pursuant to Section 4-15-9(F);**
- 15 2. The applicant has paid the application fee and any other fees required by
16 Section 4-15-7;
- 17 3. The application does not contain a material falsehood or
18 misrepresentation;
- 19 4. The application complies with all of the requirements of this Chapter;
- 20 5. The proposed primary location of the business will not substantially
21 interfere with motor vehicle or pedestrian travel, or pose a threat to the
22 public health, safety or welfare;
- 23 6. The operation of the proposed business on the Town streets and alleys is
24 not likely to:
- 25 a. cause substantial disruption of traffic or pedestrian flow in the area
26 of the Town where the proposed business will operate;
- 27 b. create a substantial inconvenience or annoyance to the public; or
- 28 c. cause a public nuisance.
- 29 In making this determination, the Town Council shall consider such
30 factors as:
- 31 a. the number of then-current permits issued under this Chapter;

- 1 b. the experience and qualification of the applicant to operate the
- 2 proposed business;
- 3 c. the quality of the equipment proposed to be used by the applicant
- 4 in operating the proposed business;
- 5 d. the days/hours of operation of the proposed business;
- 6 e. the proposed routes or area of operation of the proposed business;
- 7 f. the reasonable requirements of the Town and the desires of the
- 8 inhabitants as evidenced by petitions, remonstrances, or otherwise;
- 9 and
- 10 g. such other relevant and probative factors as may be determined by
- 11 the Town Council.

12 7. **The granting of the application will not endanger public health or**
 13 **safety.**

14 C. The Town Council shall deny an application for a permit under this Chapter if it
 15 determines that:

- 16 1. Information contained in the application, or supplemental information
- 17 requested from the applicant, is found to be false in any material respect;
- 18 2. The applicant has had a permit issued under this Chapter revoked by the
- 19 Town Council within the two years immediately preceding the filing of
- 20 the application, or if the applicant owned a fifty percent or greater interest
- 21 in any business entity that has had a permit issued under this Chapter
- 22 revoked by the Town Council within the two years immediately preceding
- 23 the filing of the application;
- 24 3. The applicant is currently indebted to the Town for any lawfully assessed
- 25 tax or fee; or
- 26 4. The operation of the proposed business on the Town streets and alleys is
- 27 likely to:
 - 28 a. cause substantial disruption of traffic or pedestrian flow in the
 - 29 area of the Town where the proposed business will operate;
 - 30 b. create a substantial inconvenience or annoyance to the public; or
 - 31 c. cause a public nuisance.

1 **5. The granting of the application will endanger public health or safety.**

- 2 D. If the application is denied, the Town Council shall clearly set forth in writing the
3 grounds for denial.
- 4 E. If the application is conditionally approved, the Town Council shall clearly set
5 forth in writing the conditions of approval.
- 6 F. If an application is denied the application fee shall not be refunded.

7 4-15-11: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT: The Town Council shall
8 have the authority to impose such reasonable terms and conditions on a permit as may be
9 necessary to protect the public health, safety, and welfare, and to obtain compliance with the
10 requirements of this Chapter and applicable law.

11
12 4-15-12: STANDARD TERMS AND CONDITIONS: The following shall be standard terms
13 and conditions for any permit issued under this Chapter:

- 14
15 A. The permittee shall procure and continuously maintain throughout the term of the
16 permit a policy of comprehensive commercial general liability insurance with
17 limits of liability not less than One Million Dollars (\$1,000,000) per claim, One
18 Million Dollars (\$1,000,000) aggregate, and Fifty Thousand Dollars (\$50,000) for
19 property damage. The Town shall be named as an additional insured under such
20 insurance policy. An ACORD Form 27, or other certificate of insurance
21 acceptable to Town Clerk, shall be completed by the permittee's insurance agent
22 and provided to the Town Clerk as evidence that policies providing the required
23 coverages, conditions, and minimum limits are in full force and effect and shall be
24 reviewed and approved by Town prior to commencement of the operations of the
25 business pursuant to the permit, and on each renewal or replacement of the policy
26 during the term of the permit.
- 27 B. The permittee shall indemnify and defend the Town, its officers, employees,
28 insurers, and self-insurance pool (with counsel acceptable to the Town), from and
29 against all liability, claims, and demands, on account of injury, loss, or damage,
30 including without limitation, claims arising from bodily injury, personal injury,
31 sickness, disease, death, property loss or damage, or any other loss of any kind
32 whatsoever, arising out of in any manner connected with the operation of the
33 business for which the permit was issued. The permittee shall investigate, handle,
34 respond to, and to provide defense for and defend against, any such liability,
35 claims, or demands at the sole expense of the permittee, and bear all other costs
36 and expenses related thereto, including court costs and attorney fees. The
37 indemnity obligation of this Subsection shall survive the expiration or revocation
38 of the permit, and shall continue to be fully enforceable thereafter.

1 C. If the permit authorizes the operation of a horse and carriage, the following
2 additional standard terms and conditions apply **unless the Town Council**
3 **otherwise determines:**

- 4 1. The driver or operator of the horse drawn carriage must be at least 18
5 years of age, and have a valid Colorado driver's license.
- 6 2. The driver or operator of the horse drawn carriage must be qualified to
7 safely operate the horse drawn carriage.
- 8 3. The driver or operator of the horse drawn carriage must register with the
9 Police Chief by providing the Police Chief with a copy of the driver's or
10 operator's current Colorado driver's license.
- 11 4. The permittee shall:
 - 12 a. Use new ropes or halters, not bridle ties, when stopped;
 - 13 b. Properly adjust all equipment;
 - 14 c. Not leave horses unattended while hitched or untied; and
 - 15 d. Never remove the bridle while hitched to a horse drawn carriage.
 - 16 e. Each horse drawn carriage shall be equipped with the following:
 - 17 (i) Buckles only on hold back and driving end lines; snaps
18 allowed on other harness parts;
 - 19 (ii) Throat latch;
 - 20 (iii) Blinders;
 - 21 (iv) Nose band;
 - 22 (v) Brichen;
 - 23 (vi) Buckle safes or keepers behind all buckles;
 - 24 (vii) Round collar or breast collar style harness;
 - 25 (viii) Kickstrap; and
 - 26 (ix) Diapers/harness bags to trap manure.

- 1 f. The permittee shall maintain the horse drawn carriage and related
2 equipment in a clean and safe condition.
- 3 g. The permittee shall not permit horse waste to accumulate and
4 create an offensive odor.
- 5 h. The permittee shall properly collect and dispose of all horse waste.
6 Manure shall not be deposited in either Town refuse containers or
7 the Blue River. Urine shall be collected by an absorbent material
8 and disposed of properly.
- 9 i. The permittee shall immediately clean up any manure or urine
10 deposited onto a Town street, alley or sidewalk.
- 11 j. At the end of its operations each day the permittee shall wash
12 down the area of the street where its horses stand.
- 13 k. The permittee shall clean the storm sewer inlet structure nearest to
14 the area of the street where its horses stand at least two times each
15 year, once in June and again in September. The permittee shall
16 contact the Town's Public Works Department at least twenty four
17 hours prior to each cleaning, and again within twenty four hours
18 after each cleaning.
- 19 l. The permittee shall operate the horse drawn carriage in accordance
20 with all applicable state and local traffic laws.
- 21 m. This list is not intended to be exclusive, and the permittee shall
22 take such other and further action as may be needed to safely
23 operate the horse drawn carriage.

24 D. If the permit authorizes the operation of a pedicab, the following additional
25 standard terms and conditions apply **unless the Town Council otherwise**
26 **determines:**

- 27 1. A permittee shall comply with the following restrictions:
- 28 a. The driver or operator of the pedicab must be at least 18 years of
29 age, and have a valid Colorado driver's license.
- 30 b. The driver of operator of the pedicab must be qualified to safely
31 operate the pedicab.

- 1 c. The driver or operator of the pedicab must register with the Police
2 Chief by providing the Police Chief with a copy of the driver's or
3 operator's current Colorado driver's license.
- 4 2. The permittee shall maintain the pedicab in a clean and safe condition.
- 5 3. The permittee shall operate the pedicab in accordance with all applicable
6 state and local traffic laws.
- 7 E. If the permit authorizes the operation of a pedal bus, the following additional
8 standard terms and conditions apply **unless the Town Council otherwise**
9 **determines**:
- 10 1. A permittee shall comply with the following restrictions:
- 11 a. The driver or operator of the pedal bus must be at least 18 years of
12 age, and have a valid Colorado driver's license.
- 13 b. The driver of operator of the pedal bus must be qualified to safely
14 operate the pedal bus.
- 15 c. The driver or operator of the pedal bus must register with the
16 Police Chief by providing the Police Chief with a copy of the
17 driver's or operator's current Colorado driver's license.
- 18 2. The permittee shall maintain the pedal bus in a clean and safe condition.
- 19 3. The permittee shall operate the pedal bus in accordance with all applicable
20 state and local traffic laws.

21 4-15-13: CONTENTS OF PERMIT: A permit shall contain the following information:
22

- 23 A. The name of the permittee;
- 24 B. The date of the issuance of the permit;
- 25 C. The address at which the permittee is authorized to operate the business; and
- 26 D. The date of the expiration of the license.

27 A permit must be signed by both the applicant and the Town Manager to be valid.
28

29 4-15-14: PERMIT NOT TRANSFERABLE: A permit is non-transferable and non-assignable.
30 Any attempt to transfer or assign a permit voids the permit.
31

1 4-15-15: DURATION OF PERMIT: Each permit issued pursuant to this Chapter shall be valid
2 for one year from the date of issuance, unless the Town Council specifies a shorter term for the
3 permit.

4
5 4-15-16: RENEWAL OF PERMIT:
6

7 **A.** **A permittee does not have a vested right or a property right in the renewal of**
8 **a permit issued pursuant to this Chapter.**

9 **B.** ~~A~~—Each permit issued pursuant to this Chapter may be renewed as provided in
10 this Section.

11 **C.** ~~B~~—An application for the renewal of an existing permit shall be made to the Town
12 Manager not less than forty-five days prior to the date of expiration. No
13 application for renewal shall be accepted by the Town Manager after the date of
14 expiration. The Town Manager may waive the forty-five days time requirement
15 set forth in this Subsection if the applicant demonstrates an adequate reason.

16 **D.** ~~C~~—The timely filing of a renewal application shall extend the current permit until
17 a final decision is made on the renewal application by the Town Council.

18 **E.** ~~D~~—At the time of the filing of an application for the renewal of an existing permit
19 the applicant shall pay a renewal fee in an amount fixed by the Town Council as
20 part of its annual budget process.

21 **F.** ~~E~~—The Town Council may, but is not required to, hold a public hearing on an
22 application for renewal of a permit.

23 **G.** **If the Town Council determines not to hold a public hearing on an**
24 **application for renewal of a permit, the permit may be renewed**
25 **administratively by the Town Manager. At the time of the administrative**
26 **renewal of a permit the Town Manager may impose any condition on the**
27 **permit that the Town Council could lawfully impose pursuant to this**
28 **Chapter.**

29 **H.** ~~F~~—The Town Council may refuse to renew a permit for good cause; provided,
30 however, that the Town Council shall not refuse to renew a permit without
31 holding a public hearing on the renewal application. If a public hearing on a
32 renewal application is held, notice of such hearing shall be given as provided in
33 Section 4-15-9(D).

34 4-15-17: DUTIES OF PERMITTEE: It is the duty and obligation of each permittee to do the
35 following:
36

- 1 A. Comply with all of the terms and conditions of the permit, and any special
2 conditions on the permit imposed by the Town Council pursuant to Section 4-15-
3 11;
- 4 B. Comply with all of the requirements of this Chapter; and
- 5 C. Comply with all other Town ordinances that are applicable to the business for
6 which the permit was issued.

7 4-15-18: SUSPENSION OR REVOCATION OF PERMIT:
8

- 9 A. A permit issued pursuant to this Chapter may be suspended or revoked by the
10 Town Council after a hearing for any of the following reasons:
 - 11 1. Fraud, misrepresentation, or a false statement of material fact contained in
12 the permit application.
 - 13 2. A violation of any Town, state, or federal law or regulation pertaining to
14 the operation of the business for which the permit was issued.
 - 15 3. A violation of any of the terms and conditions of the permit, including any
16 special conditions of approval imposed upon the permit by the Town
17 Council pursuant to Section 4-15-11.
 - 18 4. The permittee or the permittee’s employees, agents, or contractors were
19 involved in one or more accidents while operating the vehicle, device or
20 contrivance authorized by the permit that were determined to be the fault
21 of the operator.
 - 22 5. Operations have ceased at the business for more than six months for any
23 reason.
 - 24 6. Ownership of the permitted business has been transferred without the new
25 owner obtaining a permit pursuant to this Chapter.
- 26 B. In connection with the suspension of a permit, the Town Council may impose
27 reasonable conditions.
- 28 C. A hearing held pursuant to this Section shall be processed in accordance with
29 Chapter 19 of Title 1 of this Code.
- 30 D. For the purpose of disciplinary action imposed pursuant to this Section, a
31 permittee is responsible and accountable for the conduct of the permittee’s
32 employees, agents, and contractors occurring in connection with the operation of
33 the business for which a permit has been issued.

1 E. In deciding whether a permit should be suspended or revoked, and in deciding
2 what conditions to impose in the event of a suspension, if any, the Town Council
3 shall consider all of the following:

- 4 1. The nature and seriousness of the violation.
- 5 2. Corrective action, if any, taken by the permittee.
- 6 3. Prior violation(s), if any, by the permittee.
- 7 4. The likelihood of recurrence.
- 8 5. All circumstances surrounding the violation.
- 9 6. Whether the violation was willful.
- 10 7. The number of previous violations by the permittee.
- 11 8. Previous sanctions, if any, imposed against the permittee.

12 F. No fee previously paid by a permittee in connection with the application shall be
13 refunded if such permit is suspended or revoked.

14 4-15-19: TOWN COUNCIL DECISION IS FINAL: Any decision made by the Town Council
15 pursuant to this Chapter shall be a final decision of the Town and may be appealed to the district
16 court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's or
17 permittee's (as applicable) failure to timely appeal the decision is a waiver the applicant's or
18 permittee's right to contest the denial or conditional approval of the application.

19
20 4-15-20: SIGNAGE: All signage for a business for which a permit has been issued shall comply
21 with the requirements of Chapter 2 of Title 8 of this Code.

22
23 4-4-21: TRANSITION FROM PRIOR DEVELOPMENT PERMIT: Any person required to
24 obtain a permit pursuant to this Chapter who holds a valid development permit issued pursuant to
25 Chapter 1 of Title 9 of this Code authorizing the operation of the permittee's business is not
26 required to obtain a permit pursuant to this Chapter until the current development permit expires
27 or is revoked. Thereafter, the person must obtain a permit pursuant to this Chapter.

28
29 4-15-22: PENALTIES; INJUNCTIVE RELIEF:

30
31 A. It is a misdemeanor offense for any person to violate any provision of this
32 Chapter. Any person convicted of having violated any provision of this Chapter
33 shall be punished as set forth in Chapter 4 of Title 1 of this Code.

1 B. If a business is required to have a permit issued pursuant to this Chapter the
2 operation of such business on a Town street or alley without a valid permit issued
3 pursuant to this Chapter may be enjoined by the Town in an action brought in the
4 municipal court pursuant to Section 1-8-10 of this Code, or in any other court of
5 competent jurisdiction. In any case in which the Town prevails in a civil action
6 initiated pursuant to this Section, the Town may recover its reasonable attorney
7 fees plus costs of the proceeding.

8 C. The remedies provided in this Section are in addition to any other remedy
9 provided by applicable law.

10 4-15-23: NO TOWN LIABILITY: The adoption of this Chapter and the issuance of permits
11 pursuant to this Chapter shall not create any duty to any person. No person shall have any civil
12 liability remedy against the Town, or its officers, employees or agents, for any damage or loss of
13 any kind arising out of or in any way connected with the issuance of any permit pursuant to this
14 Chapter. Nothing in this Chapter shall be construed to create any liability or to waive any of the
15 immunities, limitations on liability, or other provisions of the Colorado Governmental Immunity
16 Act, Section 24-10-101, et seq., C.R.S., or to waive any immunities or limitations on liability
17 otherwise available to the Town, or its officers, employees or agents.

18
19 4-15-24: RULES AND REGULATIONS: The Town Manager shall have the authority from
20 time to time to adopt, amend, alter, and repeal administrative rules and regulations as may be
21 necessary for the proper administration of this Chapter. Such regulations shall be adopted in
22 accordance with the procedures established by Chapter 18, Title 1 of this Code.

23
24 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and the
25 various secondary Codes adopted by reference therein, shall continue in full force and effect.

26
27 Section 3. 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 _____, 2012. 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 _____, 2012, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
34 Town.

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Town Clerk

Memo

To: Town Council Members
From: Michael Barney, Director of Recreation
CC: Tim Gagen, Rick Holman
Date: 8/8/2012
Re: *Great Outdoors Colorado Grant Application – Fall 2012*

As you are aware, the current CIP schedule and budget includes the conversion of the multi-pitch field at Kingdom Park from natural grass to artificial turf. This project is scheduled to occur in 2013 and is budgeted to cost \$885,000. To assist in funding the project, the Recreation Department is requesting your approval to submit a grant application to Great Outdoors Colorado. The department will be requesting the maximum amount allowable, \$350,000 from the grant program. The deadline for grant submission is August 29, 2012 and awards are scheduled to be announced on December 11, 2012.

As a component of the grant application, we are required to include a resolution passed by the governing entity of our municipality, which you will find attached to this MEMO within your council meeting agenda packet. According to the grant application instructions, the resolution must address the following:

- Demonstrate your support of the project and for its completion
- Show recognition of the need to provide matching funds
- Verify that the project will be properly maintained
- Verify that the property is owned by the municipality and will continue to be owned for at least 25 years
- Provide approval for a designated official (Town Manager in our case) to sign the grant agreement if funds are awarded

I have worked with Tim Berry to develop the resolution. Please let me know if you have any questions. I will also be present at the Town Council meeting to address any questions that you may have about the resolution or grant application.

1 ***FOR WORKSESSION/ADOPTION – AUG. 14***

2
3 A RESOLUTION

4
5 SERIES 2012

6
7 A RESOLUTION SUPPORTING THE TOWN OF BRECKENRIDGE’S GRANT
8 APPLICATION FOR A LOCAL PARKS AND OUTDOOR RECREATION GRANT FROM
9 THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND, AND
10 THE COMPLETION OF KINGDOM PARK MULTI-PITCH RENOVATION

11
12 WHEREAS, the Town of Breckenridge has requested a grant of \$350,000 from Great
13 Outdoors Colorado to convert the Town’s multi-pitch at Kingdom Park from natural grass to
14 artificial turf; and

15
16 WHEREAS, the Town Council supports the grant application; and

17
18 WHEREAS, if the grant is awarded, the Town will complete the conversion of the
19 Town’s multi-pitch at Kingdom Park from natural grass to artificial turf.

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

23
24 Section 1. The Town Council strongly supports the Town’s Great Outdoors Colorado
25 grant application described above.

26
27 Section 2. If the requested grant is awarded, the Town Council will complete the
28 conversion of the Town’s multi-pitch at Kingdom Park from natural grass to artificial turf.

29
30 Section 3. The Town Council has appropriated matching funds for the requested grant,
31 and authorizes the expenditure of Town funds necessary to meet the terms and obligations of any
32 grant that is awarded.

33
34 Section 4. The project site is owned by the Town, and will continue to be owned by the
35 Town for at least twenty five years after the grant is awarded.

36
37 Section 5. The Town Council will continue to maintain the improvements constructed
38 with the grant funds in a high quality condition, and will appropriate funds for maintenance in its
39 annual budget.

40
41 Section 6. If the grant is awarded, the Town Council authorizes the Town Manager to
42 sign the grant agreement with Great Outdoors Colorado.

43
44 Section 7. This resolution is effective upon adoption.
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RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2012.

TOWN OF BRECKENRIDGE

By _____
John G. Warner, Mayor

ATTEST:

Town Clerk

APPROVED IN FORM

Town Attorney Date

MEMORANDUM

To: Town Council

From: Joanie Brewster, Administrative Services Coordinator

Date: August 8, 2012

Re: Town Council Consent Calendar from the Planning Commission Decisions of the August 7, 2012, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF August 7, 2012:

CLASS C APPLICATIONS:

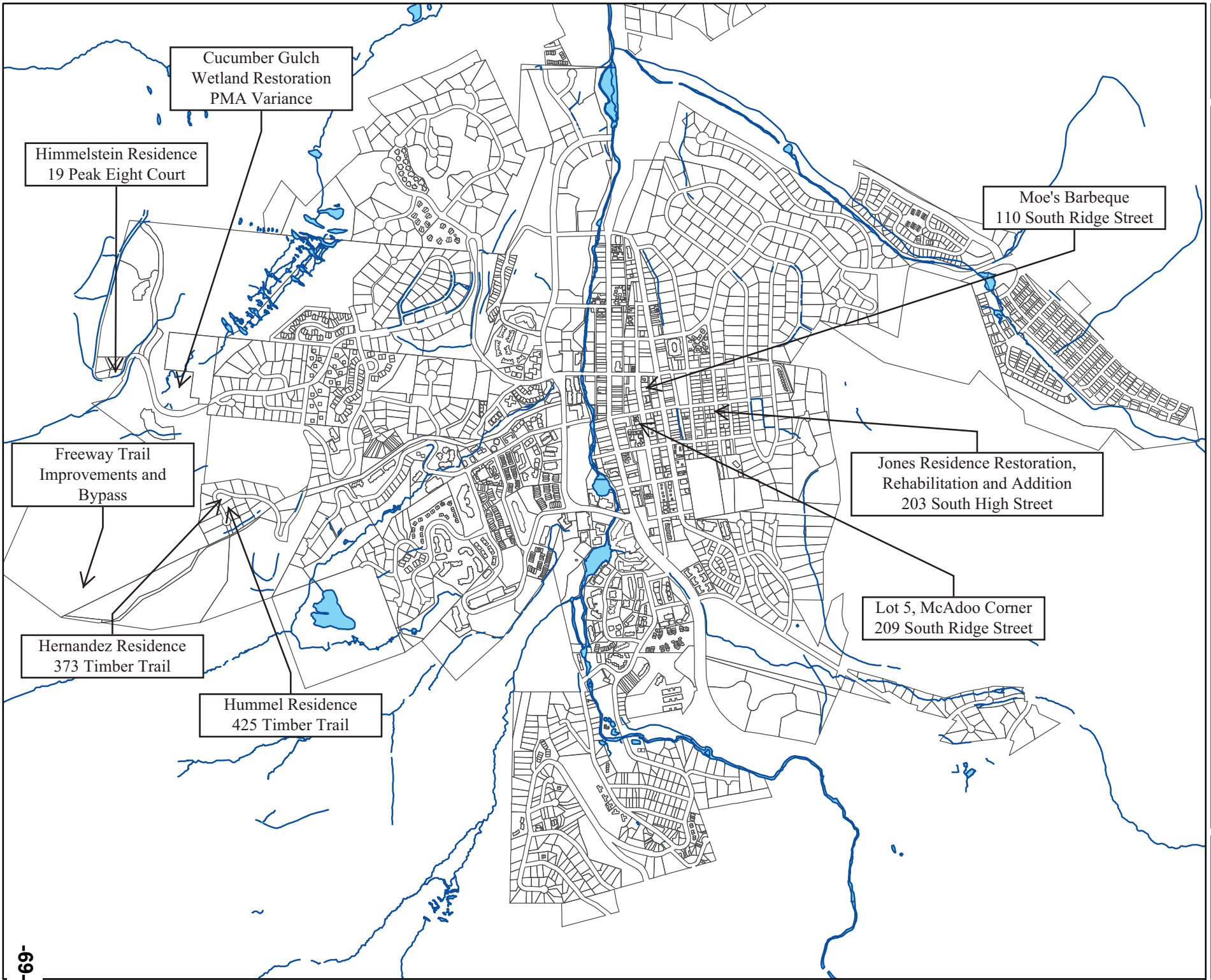
- 1) Hummel Residence (MGT) PC#2012052; 0425 Timber Trail
New single family residence with 6 bedrooms, 6.5 bathrooms, 6,096 sq. ft. of density and 6,947 sq. ft. of mass for a F.A.R. of 1:2.70. Approved.
- 2) Himmelstein Residence (MGT) PC#2012053; 19 Peak Eight Court
New single family residence with 5 bedrooms, 7.5 bathrooms, 6,733 sq. ft. of density and 7,570 sq. ft. of mass for a F.A.R. of 1:1.78. Approved.
- 3) Hernandez Residence (MGT) PC#2012054; 0373 Timber Trail
New single family residence with 5 bedrooms, 5 bathrooms, 6,452 sq. ft. of density and 7,418 sq. ft. of mass for a F.A.R. of 1:2.40. Approved.

CLASS B APPLICATIONS:

- 1) Cucumber Gulch Wetland Restoration PMA Variance (SR) PC#2012051; Tract A, Peak 7 & 8 Perimeter Subdivision
Application to restore wetlands and beaver pond habitat in the Upper Cucumber Gulch area. Approved.
- 2) Lot 5, McAdoo Corner (MGT) PC#2009009; 209 South Ridge Street
Application to renew the development permit to construct a 3,365 sq. ft. restaurant. Approved.
- 3) Moe's Barbeque (MGT) PC#2012055; 110 South Ridge Street
Application to add a barbeque smoker to the kitchen of historic structure, patch, repair and add, where necessary, exterior wood battens and siding, remove derelict wiring from front and side of building, replace front door with ADA compliant door, replace sliding window on south side of building with historically compatible window, paint exterior trim, remove gas vent from front façade, repair wall, replace wood shake shingles as necessary, add a foundation to the southwest wall and northeast wall for stabilization. Approved.
- 4) Freeway Trail Improvements and Bypass (CN) PC#2012057; 1599 Ski Hill Road
Application to create new access trail by removing trees on the upper portion of Trygve's / Dyersville trails below Four O'clock Trail to provide easier access to beginner terrain for beginner skiers, cut trees along edge of Freeway Terrain Park to widen trail, remove tree island near lower portion of Freeway Terrain Park, cut trees along an existing road near water tank to allow for snow grooming, revegetate all disturbed soils with US Forest Service seed mix. Approved.

CLASS A APPLICATIONS:

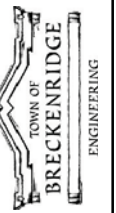
None.



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Breckenridge South

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PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm by Dan Schroder

ROLL CALL

Kate Christopher	Trip Butler	Gretchen Dudney
Jim Lamb	Dan Schroder	David Pringle—arrived at 7:20pm

APPROVAL OF AGENDA

With no changes, the August 7, 2012 Planning Commission meeting agenda was approved unanimously (6-0).

APPROVAL OF MINUTES

With no changes, the July 17, 2012 Planning Commission meeting minutes were approved unanimously (6-0).

CONSENT CALENDAR:

1. Hummel Residence (MGT) PC#2012052, 0452 Timber Trail
No feedback
2. Himmelstein Residence (MGT) PC#2012053, 19 Peak 8 Court
No feedback
3. Hernandez Residence (MGT) PC#2012054, 0373 Timber Trail
No feedback

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

PRELIMINARY HEARINGS:

1. Jones Residence Restoration, Rehabilitation and Addition (MM) PC#2012043, 203 South High Street
Mr. Mosher presented a proposal to restore the exterior of the historic house to an earlier period, landmark the historic house, add a full basement beneath the historic house, and demolish a newer non-historic addition to the house. Two small additions are proposed in the rear and side of the original house with two parking spaces along the south side yard.

The existing building is under recommended density, under the recommended 9 UPA for above ground density and under recommended mass. With this proposal, the non-historic portions are to be removed and two newer portions added. Most of the added basement is beneath the historic portion of the building (the portions not underneath the historic building will count as density) and, with local landmarking, is not counted towards the density calculations. The proposed above ground density will result in negative three (-3) points being incurred.

The historic house will be placed in the same historic location after the basement is added. Since no change in location is proposed, the existing 4-foot setback and 4-foot north side yard setback will remain as a legal non-conforming. No variance is required and no negative points will be incurred as a result. The northwest addition to the house meets the relative side and rear yard setbacks. The southwest addition meets the absolute, not relative, setbacks. The rear yard setback is at 10-feet and the south side yard is at 3-feet. The eave of the building, at the 10-foot rear yard setback, overhangs 12-inches into the setback. The applicant is seeking approval of this encroachment. Did the Commission support allowing the eaves of the roof along the 10-foot rear yard setback to encroach 12-inches into the setback?

Staff believes that the landmarking criteria have been met with this application and the house can be recommended for local landmarking. At the final hearing, Staff would suggest the Planning Commission recommend that the Town Council adopt an ordinance to landmark the historic structure based on proposed restoration efforts and the fulfillment of criteria for Architectural and Physical Integrity significance as stated in Section 9-11-4 of the Landmarking Ordinance.

Did the Commission concur?

At this preliminary review, Staff are recommending negative nine (-9) points.

- Policy 5/R (-3 points) Above Ground Density of 9.32 UPA
- Policy 9/R (-6 points) for not meeting two suggested building setbacks.

A total of positive nine (+9) points are recommended;

- Policy 24/R (+9 points) for the restoration/rehabilitation efforts.

This results in a passing score of zero (0) points.

Staff believes that the restoration of this historic house is a good public benefit for the community. We understand some of the hardships the property has incurred from past additions and the non-compliant subdivision of the historic lot. The Applicant and Agent have responded to all concerns and direction provided over the last meeting. At this time we have the following questions:

1. Did the Commission support allowing the eaves of the roof along the 10-foot rear yard setback to encroach 12-inches into the setback? (All: Yes)
2. Did the Commission support awarding positive nine (+9) points for the restoration efforts?

Mr. Pringle: Asked again about penalizing the current applicant with positive nine (+9) instead of positive twelve (+12) points. (Mr. Mosher: Yes, the subdivision compromises the application.) I don't agree. It's not applicant's fault that the subdivision compromises the site; maybe the additions drop the points from +12 to +9 but not the site. Is it even possible to get a +12 point effort with a historically proper addition? (Mr. Neubecker: Yes, it might be possible. But you couldn't get back to historic context on this site, so +15 is impossible here. On this property however, a +12 is not, because of the history of the property and the subdivision of the lot.) I think that the points from +12 to +9 would be because of the additions only. I could go with +12 and not hold the Applicant responsible for the subdivision. (Mr. Mosher: Explained the most recent and rare +12 rating - Blue Front Bakery - and the history of the site was respected.) Persisted with the argument that we don't really know the history of the Blue Front Bakery building to warrant a +12 point rating for it, and not for this property. (Mr. Neubecker: Pointed out that on a +15 point project additions wouldn't be made, per examples in the Code.)

Ms. Dudney: I don't agree with this. I think that the additions should change the points from +15 to +12, and the site shouldn't be affected by the subdivision and believes the points should be +12.

Ms. Christopher: On the fence from the discussion; could go with +9 or +12; I can see where it is +9 with the subdivision and the additions; I hate to hold that against the applicant.

Mr. Butler: Supportive of +9 points.

3. Did the Commission support the listed criteria for locally landmarking the historic structure?

All: Yes.

Ms. Christopher: Yes, with an addition in column B because of Mr. Schroder's input (social importance). Given the number of 'players' in the economy at that time. (Mr. Neubecker: Are they "notable" persons?)

Mr. Schroder: I was just looking at the entire history.

Staff welcomed any additional comments.

Ms. Janet Sutterley, Architect for the Applicant:

Derek Jones is the Applicant. On the east side, pointed out the prominent side of the property. Links are too small for a regular gable roof, which is why we opted for a shed roof. Shed roofs are common in historic district. Adhered to Staff's window comments except for north wall in master addition (bath). I want to move the windows to the side; Mr. Mosher wants us to take the middle top window out; but I want to leave it. Borrowing light from the north side.

Historic restoration points: We are bringing 'back' the front of the house, it's a good project; west facing solid wall. We don't know what is inside of this wall. Asking to not hold this as a condition of approval; we had to satisfy the link dilemma; it's important to open the dining room into the house. Doesn't want to be held to a tiny opening in the wall at dining room; smaller opening makes it non functional; I would prefer instead of going through the point assessment, I want flexibility with that wall. Mr. Mosher asked us to at least save an edge, but that it isn't a code issue (interior). Additionally, it's not a point issue. Had the house been restored to its original 1901 structure, it would be a +12 point house. We don't need +12 points, but I feel like with every project, we are raising the bar to hit +12 points and doesn't see the improvements that justify +12 points.

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

Commissioner Questions / Comments:

- Mr. Schroder: Wanted to know about adding historical persons not mentioned to landmarking.
Mr. Lamb: Is exploratory research into walls going to be done before final? (Mr. Mosher: There is a site visit with inspector. They continue to assess as this house gets reconstructed.)
Ms. Dudney: Wanted to know why Staff wanted windows placed differently. (Mr. Mosher: We looked at the code.) I have no problem with it.
Mr. Lamb: I don't like the third window; isn't historic looking.
Mr. Pringle: I don't mind the window as it is outside of public view.
Ms. Christopher: It looks a little modern (the window); wouldn't be opposed to an added window to the bottom so that it is three above and three below.

COMBINED HEARINGS:

- 1) Cucumber Gulch Wetland Restoration PMA Variance (SR) PC#2012051, Tract A, Peak 7 & 8 Perimeter Subdivision

Mr. Scott Reid, Open Space and Trails Manager, presented a proposal to restore wetlands and beaver pond habitat in the Upper Cucumber Gulch area. Although the work described in the Application is a "public improvement project" as defined in Section 9-1-27(A) of the Town's Development Code (and is normally not subject to the requirements of the Development Code), the Town has voluntarily elected to use the normal Development Code process to review and approve this Application.

In general, the proposal includes:

- 1) Repairing the riprap energy dissipater at the 60" culvert outlet for Boreas Creek, as part of the existing BSR 404 Federal wetlands permit.
- 2) Restoring the dam faces for the Spreader Pond, Seahorse Pond, and other breached ponds in Upper Cucumber Gulch.
- 3) Using a portion of the Spreader Pond as a sediment basin that could be accessed periodically to remove depositional material from Boreas Creek.
- 4) Reallocating a portion of the Boreas Creek flows to "re-water" the Spreader Pond and other former wetland

areas to the north.

- 5) Dredging sediment in the Reset Pond to gain water depth and fortify the dam face. (Some material would have to be deposited in the adjacent uplands to gain the appropriate pond depth.)
- 6) Creating a site to encourage future beaver colonization in Upper Cucumber Gulch.

Both the Army Corps of Engineers and the U.S. Environmental Protection Agency staff have reviewed this proposal in the field and have indicated general support for the approach. The federal agencies are currently reviewing the proposal internally. No action would occur without the concurrence of these two agencies.

The Breckenridge Open Space Advisory Commission (BOSAC) also reviewed this concept on site at its July 16th, 2012, meeting. BOSAC unanimously recommended proceeding with the proposed wetland restoration as soon as possible, and pursuing a variance in the Cucumber Gulch Preserve PMA through the Planning Commission and Town Council. BOSAC recommended prompt action be taken to address the ongoing water and sediment concerns in Upper Cucumber Gulch.

The Planning Department staff recommends approval of this variance request, so that the necessary wetland restoration work can proceed expeditiously.

Commissioner Questions / Comments:

- Mr. Lamb: What is the timeframe? (Mr. Reid: We expect it to be a 3 week project.) Who would monitor the project? (Mr. Reid: Town Staff and the federal agencies involved.)
- Mr. Schroder: Who else is involved besides Army Corp and EPA?
- Mr. Butler: Reiterated 2 goals that Mr. Reid said—improve water quality, and slow down water; also reducing sediment.
- Mr. Pringle: Did Mr. Robin and Ms. Patty Theobald sign off on this? (Ms. Theobald: We weren't even consulted.) (Mr. Reid: I spoke with Mr. Theobald initially.) I would assume that they would want to be involved.

Mr. Schroder opened the hearing to public comment.

Public Comment:

Jim Nuxoll from White Wolf Subdivision that adjoins Cucumber Gulch: From a long term standpoint, are the beavers going to be back there? Are we setting ourselves up for a continuing maintenance problem? Are we setting a precedent? (Mr. Pringle: If we had epic snow falls, would we not have the same problem occur?) (Mr. Reid: Mr. Nuxoll is correct; there is ongoing maintenance required with this plan. One portion of the spider pond will be retained as a sediment trap. There would be an access to be able to go in and remove that sediment. With the sediment rising and rising, the ponds didn't have the depth to keep the beavers in the pond. The sediment trap would have to be maintained.)

Mark Beardsley from EcoMetrics (Consultant for Town): The project is more than just repairing a beaver dam. It's trying to control the amount of sediment at the highest point possible and trying to get that water spread back out; I can see where that question is coming from, but the answer is no because if we can get that system working naturally it will go back to maintaining itself. (Mr. Reid: We believe that we have the right people in the design, Eco Metrics, the Town, and Mike Claffey are making sure that they agree with the plan.)

Mr. Butler: I spoke with Ms. Theobald on this issue briefly. I had to disclose that before Mr. Theobald spoke. (Mr. Neubecker asked if he felt influenced by their conversation; Mr. Butler said he didn't feel influenced.)

Mr. Robin Theobald: I constructed the reset pond in 1989. It did what it was constructed to do; catch the

sediment. It wasn't constructed to last forever without dredging. The plan is headed in the right direction. There is nothing in the plan to deal with where the sediment is getting into the 60" pipe. If you stop what gets the sediment into the pipe, you will be ahead of the 'curve'. I have seen better "Conditions of Approval". Shouldn't we be worrying about returning it to how it was before? Where are the best management conditions? Lastly, I have a lot of faith in Mike Claffey; I'd put in the conditions that he be onsite. We have had lack of oversight from Staff / Town historically, and given that circumstance I am a little leery of the 'lots of eyes' on the project concept.

Ms. Patty Theobald: Live on the bottom mile of Cucumber Gulch. I have been monitoring the ecosystem and the condition of the creek since 1985. There were days in 1985 and 1986 where I took water samples from the base of Peak 8 to Airport Road and had them tested in Denver every day. This is a very sensitive ecosystem easily thrown out of balance. I'm not going to speak to the process of restoring the wetlands. I support it. I object to the way that this request for the variance is being rushed through; when was the first time you heard about this? The Town has been monitoring the creek since 2000. All of a sudden, the town wants to solve everything by throwing out the whole protective management plan. We've had years to plan this and I think that it is irresponsible for this Commission to be asked this kind of decision in one shot. To allow this important management plan to be thrown aside in August /September of 2012 is wrong. You owe it to the entire community to consider this fully. I am asking you to not make another mistake by rushing this request. I don't think you have the background to make this decision from one presentation. I think you as a Commission are being asked by the people who are getting paid to do the project to rush this project. Let's take some time to do this properly. I take offense that Mr. Reid doesn't think that we are affected; water runs downhill.

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

Commissioner Questions / Comments:

Mr. Pringle: I understand the need to do this; haven't heard a lot about how it is going to happen.

Mr. Schroder: 5 of us toured the site today and we understand the process. Much of the process was explained in the site visit. (Mr. Reid: Your packet details the 'how' and he reviewed the tactics specifically; went over the dam repair and the machines used to complete the work. The challenge with the reset pond is getting to it; causing damage with trucks etc, so we want to use as much on the dam face as we can. Those areas are full of spruce and fir and some dead lodge pole pines. The overall result would be that there would be new deposits and debris out of the dredging would be used for dam face.

Mr. Pringle: This causes more questions. When you are saying we are building roads, etc, that it seems like Ms. Theobald might be on to something. It seems to be quite a big operation. Am I wrong? (Mr. Reid: There is no doubt that this is a big endeavor; as far as waiting, we believe-as do the consultants- that this is an issue that needs to be taken care of immediately. If we have more storms and a large 2013 runoff, etc, we will have continued degradation cascading down the Gulch. We received the report that this was a real problem in December of 2011. Frankly, from then to now, having a number of cooperative entities and a plan, we have a very ambitious timeline, but we do not want to wait for another season that will cause more challenges. The PMA was designed to limit the number of machines in there; there is a variance process for a reason. This is heading in the right direction. Is it worth reviewing? Yes. The next step is to get in front of Council. A week from now they will be reviewing the 'hows'. This is not something that we should monitor and see how it goes while additional problems incur.) I just don't like the urgency.

Mr. Lamb: What is the impact of weather? (Mr. Reid: Water levels in the fall are lower; early October is a good time to operate machinery. This is the best time of year to be doing this type of work.)

- Mr. Grosshuesch: Mr. Pringle, in response to your point; this has been scrutinized by the BOSAC; you will have another look at it and have a lot of confidence in who we are consulting with and it has paid off to change to our new consultant. Mike Claffey used to work for the Army Corps and he has a balanced approach; had experience before he left the Corps with issues like this and is very familiar with our area. Has to go through the Corps and the EPA. We are not the only ones looking at this; it is getting a very vetted review. It is a quick turn around, but unfortunately it is necessary.
- Mr. Pringle: The whole point of the PMA was to prohibit machinery; it seems to be directly against what we designed the PMA for. We really need to have someone who has interest in preserving Cucumber Gulch. Yes it needs to be done, but how heavy handed do we need to be? (Mr. Grosshuesch: We are going through a bid process; I don't think that we are solely interested in the lowest bid. I'm not sure that going in there with people with shovels is better than mini excavators. We are looking at all of these issues. We are doing the reclamation to restore any damage by the machines that we have to bring in; this isn't about construction wherein someone is going in and making money out of it. It will be carefully designed and monitored. If there is additional damage, then we will have to restore it and we will be back next year to monitor its performance. This is not a one shot deal.)
- Mr. Schroder: How many prohibitions are in the PMA? The variance is seeking variance from a certain section. Are we just asking to get excavators in one area or the entire Cucumber Gulch? What we are seeking to do is to restore wetlands. The head cut seems pretty severe; I asked a lot of the same questions today at Cucumber Gulch site visit; this is a nationally designated protected wetland that seems to be drying out through the head cut. If we continue to allow it, we need to move towards a variance.
- Ms. Dudney: One thing that I heard was some lack of confidence in the monitoring; what will be the problem for making Mike Claffey part of the condition? (Mr. Grosshuesch: We have to work that out with the other funding entity.)
- Mr. Schroder: Could the sediment be addressed prior to it going through Cucumber Creek? (Mr. Grosshuesch: There are measures currently underway to help with that.)
- Mr. Lamb: What makes me more confident; we, as the Town, have screwed some stuff up in there; intentions were good but I am hoping as a result of that happening, that everyone involved will work towards it not happening again. I am just hoping that we have learned from what happened in the past.
- Mr. Schroder: We have a high level of expectation because of past mistakes.
- Ms. Dudney: I'm not sure that past mistakes are irrelevant at all. Are the findings sufficient to allow for proper monitoring? (Mr. Grosshuesch: As a result of the situation you are discussing, we have evaluated and assessed our processes, put some control issues in place where we will be in control of the contractor (which we weren't in the last one) so we are going to put the specs in the contract that this monitoring occurs. We will put some of the responsibility in the hands of the contractor and we will be watching it as well as the Army Corps. I can't stand here and say nothing will go wrong, but we have learned some lessons.) (Mr. Beardsley: I have a lot of the same concerns. I liken this to open heart surgery. The problems are very big. The concerns that I am agreeing with that you need the right surgeon. My question is that...is Mike Claffey be the right guy for this work?)
- Mr. Pringle: You're asking the wrong people. (Mr. Grosshuesch: We are going thru our RFP process; Mike Claffey designed it. Mr. Reid said that Mike Claffey intended to submit a bid.)
- Mr. Butler: I do think that we have two issues; I am not concerned about the urgency. I rarely get to see such a complete plan and design and am confident with the steps that they suggested. The second issue is the monitoring. I am in favor though of this piece.
- Ms. Christopher: The erosion control and restoration is of high importance; it needs to be done. Without retaining these upper pools, our entire water table and wetlands will dry up and we will lose

this very important ecosystem. All we can approve is what is in front of us. Council needs to guide us. I am in support of the variance.

Mr. Schroder: Is there a motion to approve variance?

Mr. Lamb: I think that this needs to be done; I am not qualified as to when. I am seeing people who are qualified, and I think we need to get the best heart surgeon and there will be a lot of eyes on this and I hope that we don't screw this up. This is very important to the Gulch and to the Theobalds. I would support the variance. Ms. Theobald, it would be nice that the community were notified that this is going in front of Council next week.

Ms. Dudney: I am not qualified to determine when this should be done but I can see the plan and details and experts. I would like to put this forward to the Town Council and strengthen the verbiage regarding monitoring this in the future. I don't think that it is wise to put in one person's name.

Mr. Pringle: The patient is in dire need of heart work and we need the best team; I agree with the need to do the work, and I will support a variance for you to go forward to do it. I am still leery about how it will happen. I don't want to see a big mining project in the Gulch. I want it to look like it looks today. Our concerns should be assuaged by the effort that this whole team puts out; we need the assurances that we get the restoration back as it is presented.

Ms. Christopher: We are not environmental specialists; we rely on the experts to tell us what should be done here however, what happened before has raised the bar and it is in our back yard, so this needs to be done properly. (Mr. Grosshuesch (during motion modification): We need some flexibility; not sure that we need a third party wetlands consultant inspecting. We need to think about how to craft this that there will be a combination of contractor, wetlands consultant and Town Staff that will monitor the erosion control system on a regular basis. To say that we are going to hire someone and have them in there every day might be difficult.) As far as I am concerned that is a Town Council business topic anyway. We just want to make sure that we are saying "let's look at this".

Ms. Dudney: Asked Mr. Neubecker to modify the motion to specify all three (contractor, Town Staff and wetlands consultant.)

Mr. Pringle: Asked if this monitoring would last forever. (Mr. Grosshuesch: Answered that the intention is yes; that during regular maintenance and monitoring it will be under watch. Part of this project will be under a pond if it works; if the beavers don't resume, they will be back to Council to rework it. We don't know how else to do it; leaving it alone is a mistake.) I don't like the three month restriction. (Mr. Grosshuesch: We are making the commitment that we will do the monitoring as necessary. We have passed the Cucumber Plan as the highest priority to the gulch. We have approximately \$60,000/year budgeted for our consultants to monitor the area. We will continue to monitor that for the foreseeable future. This isn't a construction project with a finite ending.)

Ms. Dudney made a motion to approve the Cucumber Gulch Wetland Restoration PMA Variance, PC#2012051, Tract A, Peak 7 & 8 Perimeter Subdivision with an added condition that the Applicant's contractor, Wetlands Consultant and/or Town Staff shall inspect all erosion control features as necessary during the period of onsite work for this project. In addition, after completion of the project all erosion control features shall be inspected after each significant rain event thru the spring of 2013. Ms. Christopher seconded and the motion was carried unanimously (6-0).

2) Lot 5, McAdoo Corner (MGT) PC#2009009, 209 South Ridge Street

Mr. Thompson presented a proposal to renew the existing development permit to construct a 3,365 sq. ft. restaurant.

This restaurant proposal was approved by the Planning Commission on July 7, 2009 and then by the Town

Council on July 14, 2009. The Development Permit was set to expire on July 14, 2012; however, the Town received a written request on June 6, 2012 to extend the Development Permit. The Development Code allows the Planning Commission to extend a Development Permit.

The proposal was for a wood-burning pizza oven. At the time wood-burning cooking appliances received negative two (-2) points under 30/R Air Quality; however, Policy 30/R Air Quality has been revised (Council Bill 18, Series 2012) so that wood-fired ovens do not receive negative points.

Energy Conservation (33/R): The applicant is proposing to add solar panels to the roof of the restaurant. The implementation and operation of systems or devices which provide an effective means of renewable energy are encouraged. This Policy has been revised since the original approval. The applicant would have to achieve demonstrable and quantifiable energy saving within the building. Positive points are awarded for the percentage of energy saved beyond the minimum standards of the IECC; however, the applicant is now receiving no negative points under Policy 30/R Air Quality. Hence, the applicant does not need to make up positive points under Policy 33/R Energy Conservation. Staff would still encourage the applicant to install the solar panels; however, there will be no positive points under this Policy unless quantifiable energy saving beyond IECC standards could be demonstrated.

After reviewing the plans against Policy 80A of the Historic District Standards, Staff realized a mistake was made measuring the connector element during the original review. Specifically, the connector exceeds two-thirds the façade of the smaller of the two modules that are to be linked. The front façade is 38 feet, hence the connector should not exceed 25', (two-thirds the façade). The width of the connector element should be reduced by two feet to meet this Policy. Staff found this issue late in the review of the plans and the applicant had no time to revise the plans.

Point Analysis (Section: 9-1-17-3): Staff finds no reason to award positive or negative points under any Relative Policies of the Development Code. Staff finds that the proposed project meets all Absolute Policies. Staff recommends the Planning Commission approve Lot 5, McAdoo Corner, and PC #2009009, located at 209 South Ridge Street, with the presented Findings and Conditions.

Janet Sutterley, Architect for Applicant:

This was a long project; we went through a lot of changes. It took me about 5 minutes to even find where they were talking about. It is not two feet, it is 1.4 feet; so I don't feel like it was a mistake on planning part, but when we received approval for this, the structural engineering, everyone, has worked on these plans. The design revision in this is huge. I feel that this isn't a fair request to go back at this point. I would like to request that the Commission consider striking the condition of approval #8.

Mr. Schroder opened the hearing to public comment.

Mr. Richard Riley: My family owns two condos directly across from the planned restaurant. We are concerned about the potential odor of wood oven. We would like to ask that you make every effort to minimize this odor situation.

There was no further comment and the hearing was closed.

Commissioner Questions / Comments:

Ms. Dudney: Clarification on pizza oven points.

Mr. Butler: What would be the impact if we didn't approve it as is? (Mr. Thompson: Reiterated that the Applicant would have to alter the plans. Ms. Sutterley would have to redraw the plans and it is a tough submittal.)

- Mr. Schroder: Just to clarify; we don't need to talk about ovens or solar panels. We have a connector conversation.
- Mr. Pringle: Could we do a variance to Policy 80A? Knowing that 80A set the priority policy, and that this is going to be a deviation from it, what is the best way to proceed? (Mr. Neubecker: We understand the issue and wish that we had caught it three years ago. Code allows the Commission to extend the duration of a permit, and we have the application to extend. You can approve it with conditions; considering that all of the information we have available, we understand why there may be approval as it is. It's a foot and a half. I don't think that we need a variance hearing. Existing permit has been approved. The current vesting is as drawn; Applicant is just asking for extension of permit.)
- Mr. Lamb: Ready to move forward on this. In the spirit of the design, I would support renewing this application.
- Mr. Pringle: I would support an extension.
- Ms. Christopher: I believe in the circumstances of this application; I'm in favor of extension.
- Mr. Butler: Agree.
- Ms. Dudney: Agree.

Mr. Pringle made a motion to approve Lot 5, McAdoo Corner, PC#2009009, 209 South Ridge Street, with the presented findings and conditions. Mr. Lamb seconded, and the motion was carried unanimously (6-0).

3) Moe's Barbeque (MGT) PC#2012055, 110 South Ridge Street

Mr. Thompson presented a proposal to add a barbeque smoker to the kitchen of this historic structure. Patch, repair and add (where necessary) exterior wood battens and siding, remove derelict wiring from front and side of building, replace front door with ADA compliant door, replace sliding window on south side of building with historically compatible window, paint exterior trim, remove gas vent (from front façade) and repair wall, replace wood shake shingles as necessary, and add a foundation to the southwest wall and northeast wall for stabilization.

Staff believes the proposal warrants positive three (+3) points for the historic preservation. Moe's BBQ has proposed adding a wood smoker to the non-historic kitchen in the rear of the building. The smoker is integral to their barbeque concept and recipes. The smoker will cook the meat at low temperatures, which will infuse the smoky flavor into the meat; however, per the Code this wood smoker incurs negative two (-2) points.

The Planning Department recommends the Planning Commission approve Moe's BBQ Historic Preservation, PC#2012055, located at 110 South Ridge Street, Lot 26-27, Block 11, Abbetts Addition, with the presented Findings and Conditions.

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

Commissioner Questions / Comments:

Ms. Christopher: Is that painted brown? Is it going to stay that way? (Mr. Thompson: Yes.)

John Redecker with Dexter Meadows and Eli Feldman (Applicants): Don't have anything to add; Amenable to questions. As tenants, to have the smoker will make it a better business and a better building. We are also doing improvements to the interior. They have been very patient and spending money during this process. Moe's is three guys from Alabama; there are 20 Moe's and it is a franchise. There are seven in Colorado. There are two in Denver. We have our own little ambiance; trying to fit the whole Devil's Triangle into Ridge Street. We would like to be open on Aug 28th; depends on when we can start working on exterior. If we are approved tonight, we aim for a Labor Day opening.

Ms. Dudney made a motion to approve the point analysis for Moe’s Barbeque, PC#2012055, 110 South Ridge Street. Ms. Christopher seconded and the motion was carried unanimously (6-0).

Ms. Dudney made a motion to approve Moe’s Barbeque, PC#2012055, 110 South Ridge Street, with the presented Findings and Conditions. Ms. Christopher seconded, and the motion was carried unanimously (6-0).

4) Freeway Trail Improvements and Bypass (CN) PC#2012057, 1599 Ski Hill Road

Mr. Neubecker presented a proposal to create new access trail by removing trees on the upper portion of Trygve’s / Dyersville trails, below Four O’clock Trail, to provide easier access to beginner terrain for beginner skiers. The project also proposes to cut trees along edge of Freeway Terrain Park to widen trail, and remove a tree island near lower portion of Freeway Terrain Park. Trees would also be cut along an existing road near water tank to allow for snow grooming. Revegetate all disturbed soils with US Forest Service seed mix.

Site and Environmental Design (7/R): The proposed project will require the removal of trees, as well as some grading on the ski trails. Staff does not believe that the proposed project is to such a degree as to warrant negative points under this policy. Staff recommended zero (0) points under this policy.

Internal Circulation (16/R): Staff believes that the proposed projects meet the intent of this policy and will help to improve circulation around the ski area, particularly for beginning skiers; however, Staff does not find that the project is significant enough to warrant positive or negative points for this project. Staff recommended zero (0) points under this policy.

Water Quality / Drainage: Even though this site work is further uphill which would likely allow sediment more time to settle, a series of erosion control features are proposed. (This water flows through the Four O’clock Subdivision to CR 708, and eventually to Sawmill Creek.) To reduce the possible impact to the water quality in this area, several measures are proposed at the construction site to prevent erosion and improve water quality. These include:

1. Installation of straw wattles to prevent erosion in the project area above and below the tree removal and re-grading areas.
2. Installation of new water bars along Freeway Trail widening to direct water into the existing forest.
3. Installation of wattles or stone check dams every 80’ perpendicular to new trail slopes.
4. Revegetation of all disturbed soils with US Forest Service seed mix.

In addition to these measures proposed by the Applicant, Staff recommended the following additional steps be taken to prevent erosion and negative impacts to the watershed below:

1. Installation of new hay or straw bales within existing water bars leading away from this site.
2. Routine inspection of all straw bales and wattles to ensure proper functioning.
3. Re-seeding of disturbed slopes in the spring of 2013 for any areas where growth is not visible.
4. All Best Management Practices listed above should remain in place until the revegetation has been successfully implemented and growth established.

With the additional Best Management Practices suggested by Staff, we find these measures to be sufficient to protect the water quality. Staff has added a condition of approval requiring the installation of these erosion control features, with an inspection by the Town’s Engineering Department, prior to any tree removal or site grading.

Staff finds that all Absolute policies are met with this application and finds no reason to assign positive or negative points under any Relative policies of the Development Code. If the Planning Commission believes

otherwise, please let us know. This application has been advertised as a Combined Preliminary and Final Hearing; however, we realize that there may be additional concerns raised by the Commission that have not been fully addressed in this report.

The Planning Department recommends approval of the Freeway Trail Improvements and Tree Removal (Class B Minor, PC#2012057) along with the presented findings and conditions.

Commissioner Questions/Comments:

Mr. Schroder: Asked Staff to point out top of Snowflake lift on plans. (Mr. Neubecker pointed it out.) The turn off onto Peak 9 gets congested; beginners don't where to go.

Ms. Christopher: Are you suggesting that the new "S" shaped cut for beginners? (Mr. Neubecker: Yes.) The trees to be removed, is it just the hatched area? Is this to scale? (Mr. Neubecker: Yes.)

Jeff Zimmerman, Director of Mountain Planning, Applicant: I am responsible for long and short range planning; my prevue is both Breckenridge and Keystone. This project has two elements that we combined into one application. Although not related to each other; one is to get beginners off of 4 O'Clock Trail (which can be fairly hazardous at the end of the day). We've looked at several edits and this U-turn alignment is the most efficient because we are using two existing roads, and just requires an upper cut. It's something we need to pursue. The other phase is the north side of Freeway; it's obvious that Breck's Terrain park use is growing stronger. It's the shining star and a very important part of our business. We wish to take full analysis of the environmental impact in conjunction with our business plan. Energy efficiencies are being looked at; we have over the past 15 years incorporated a lot of tower technology. Snow guns are bigger and have more 'throw'. These guns on freeway are quieter, and cover the trail further and are automated. Have their own air compressors on them; it's an ongoing trend for these low energy quiet gun technologies. We get safety, quiet and stay to our plan with this agenda. We are incurring some resource damage on the upper quarter of that cut, so a lot of this lodgepole is getting pushed into the trees. So, we widen the trail and get rid of some unhealthy trail; this is basically all lodgepole. We can manage the forest, offer better product with the half pipe. The jog in the middle of Freeway, has become a choke point. We acquire safety and guest services with this plan. Erosion control is obviously a concern of ours. We've walked the site with Tom Daugherty and Shannon Smith (Town Engineers) and there is a more detailed erosion plan than what we see here. That is a requirement before we cut trees and a very aggressive re-vegetation program needs to be started.

Commissioner Questions/Comments (continued):

Mr. Butler: There are no retaining walls on the plan? (Mr. Zimmerman: Final design may have three foot boulders on the downhill of that cut to tighten the construction of that cut. It's a cost of construction; anything that we can do to improve that we will.)

Mr. Schroder: If you were to go under Snowflake Lift, can you take another left to come to the offload of Rip's Ride? (Mr. Zimmerman: That is usually roped off; our desire is to put people down Twister.) It's a smart move. (Mr. Zimmerman: That section is intimidating to beginners; Peak 8 isn't set up for beginners. Peak 9 has Silverthorne, and football fields worth of 5 and 10% slopes. This area is where we focus on our beginner lessons. It's a challenge. We try and look at all of the various factors, and least amount of resource damage.)

Mr. Pringle: Are you noticing more beetlekill in the area? (Mr. Zimmerman: It has tapered. Forest service may say the same thing. Maybe its elevation; mountain operation guys have seen it. We are doing a lot of pine beetle mitigation on forest land too. Keystone has been ravaged. Lodgepole are surprisingly fast to grow. We've been doing a lot of revegetation in both areas. 5 years ago we did a revegetation, and there are now spruce, fir and lodgepole that are 5 feet tall. The widening is the first part of the project that we would like to do; we report to Council next week. We would like to do the Freeway project ; it is the most important to us right now.) (Mr. Neubecker: This is a Class B and would be valid for 3 years.)

Ms. Christopher: Is there anything (pine beetle trees) in that area that could be pulled out while you are pulling out trees? (Mr. Zimmerman: There are no significant ‘stands’ of pine beetle, just individual trees. Breckenridge has weathered the pine beetle fairly well.) I appreciate the ‘S’ curve to create a separation from slow moving skiers from faster movers. My biggest comment would be to plan for the future as much as possible with respect to water conservation.

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

Mr. Lamb made a motion to approve the point analysis for the Freeway Trail Improvements and Bypass, PC#2012057, 1599 Ski Hill Road. Ms. Christopher seconded the motion to approve and the motion was carried unanimously (6-0).

Mr. Lamb made a motion to approve the Freeway Trail Improvements and Bypass, PC#2012057, 1599 Ski Hill Road. Ms. Christopher seconded and the motion was carried unanimously (6-0).

OTHER MATTERS:

None.

ADJOURNMENT:

The meeting was adjourned at 10:23 p.m.

Dan Schroder, Chair



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.

AUGUST 2012

Friday, August 10; Park & Main	Coffee Talk
Tuesday, August, 14; 3:00/7:30 p.m.	First Meeting of the Month
Friday, August 24; Main St Breckenridge	USA Pro Cycling Challenge
Tuesday, August 28; 3:00/7:30 p.m.	Second Meeting of the Month

SEPTEMBER 2012

Tuesday, September, 11; 3:00/7:30 p.m.	First Meeting of the Month
Friday, September 14; TBD	Coffee Talk
September 14-16; Main Street Breckenridge	Oktoberfest
Tuesday, September 25; 3:00/7:30 p.m.	Second Meeting of the Month

OTHER MEETINGS

1 st & 3 rd Tuesday of the Month; 7:00 p.m.	Planning Commission; Council Chambers
1 st Wednesday of the Month; 4:00 p.m.	Public Art Commission; 3 rd floor Conf Room
2 nd & 4 th Tuesday of the Month; 1:30 p.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; 5:30 p.m.	Sanitation District
3 rd Monday of the Month; 5:30 p.m.	BOSAC; 3 rd floor Conf Room
3 rd Tuesday of the Month; 9:00 a.m.	Liquor Licensing Authority; Council Chambers
4 th Wednesday of the Month; 9:00 a.m.	Summit Combined Housing Authority
4 th Wednesday of the Month; 8:30 a.m.	Breckenridge Resort Chamber; BRC Offices
4 th Thursday of the Month; 7:00 a.m.	Red White and Blue; Main Fire Station
3 rd Monday of the Month; 1:00 p.m.	Breckenridge Marketing Advisory Committee; Breck PD Training Room

Other Meetings: CAST, CML, NWCCOG, RRR, QQ, I-70 Coalition