



BRECKENRIDGE TOWN COUNCIL WORK SESSION

Tuesday, August 14, 2012; 2:00 PM

Town Hall Auditorium

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

2:00-2:55PM	I	SITE VISIT TO CUCUMBER GULCH Meet at Town Hall to Carpool to Site	
3:00-3:15PM	II	<u>PLANNING COMMISSION DECISIONS</u>	2
3:15-3:45PM	III	<u>LEGISLATIVE REVIEW*</u>	
		Development Agreement BGV	16
		Policy 33/R Energy Conservation	33
		Claimjumper Annexation	39
		MBJ / Wedge Annexation	46
		Street Use Ordinance	52
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3:45-4:15PM	IV	<u>MANAGERS REPORT</u>	
		Public Projects Update	76
		Housing/Childcare Update	
		Committee Reports	77
		Financials	79
4:15-5:15PM	V	<u>OTHER</u>	
		Wildfire Protection Update	92
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		Winter Events Update - Snowball/ Ice Castles	125
5:15-5:45PM	VI	<u>PLANNING MATTERS</u>	
		Cucumber Gulch Wetland Restoration	128
5:45-6:00PM	VII	<u>EXECUTIVE SESSION</u>	
		Personnel Matters	
6:15-7:15PM	VIII	<u>JOINT MEETING</u>	
		Summit School District	154

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

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:

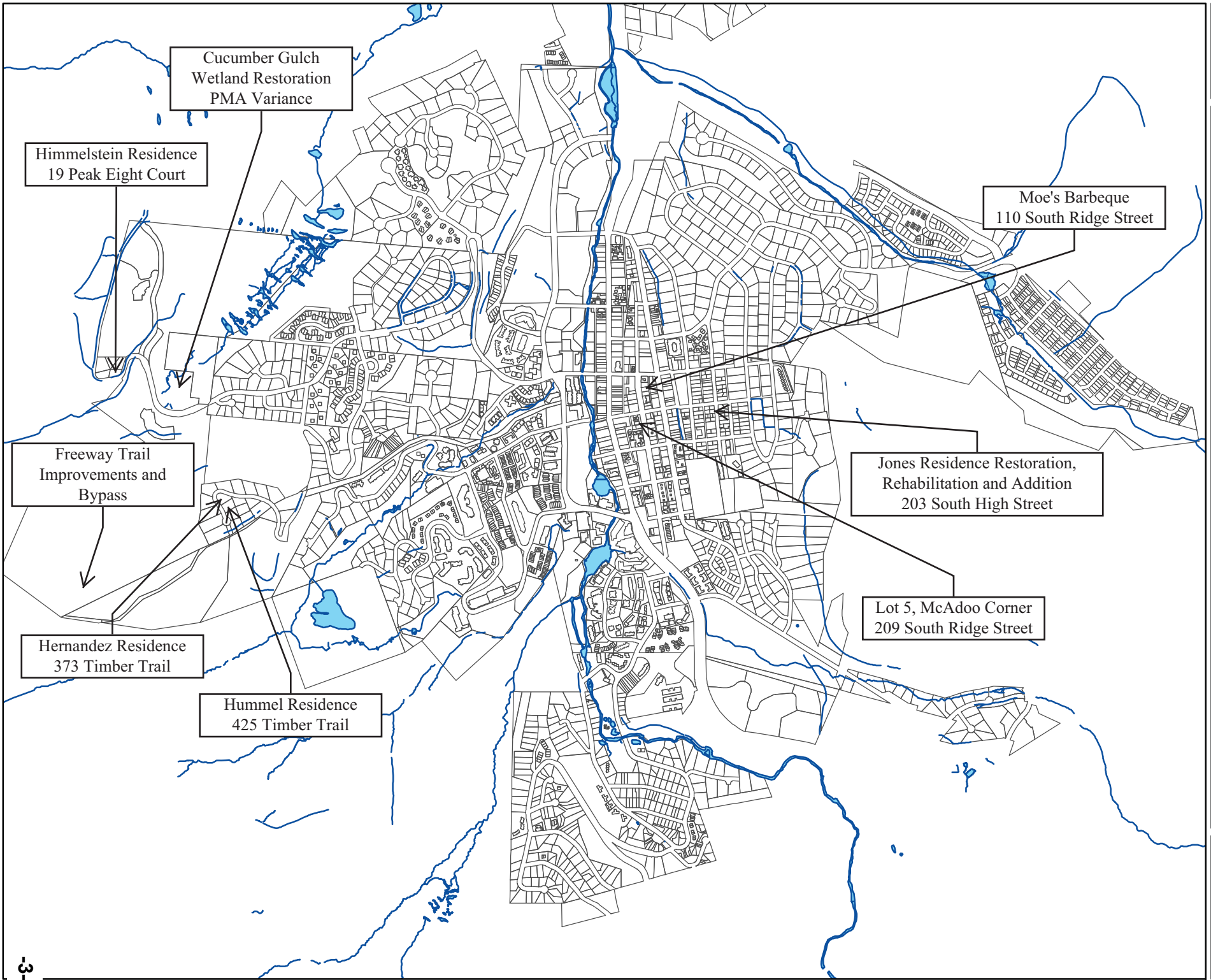
- 1) Hummel Residence (MGT) PC#2012052; 0425 Timber Trail
New single family residence with 6 bedrooms, 6.5 bathrooms, 6,096 sq. ft. of density and 6,947 sq. ft. of mass for a F.A.R. of 1:2.70. Approved.
- 2) Himmelstein Residence (MGT) PC#2012053; 19 Peak Eight Court
New single family residence with 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



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.

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Section 4. Police Power Finding. The Town Council finds, determines, and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

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

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

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

TOWN OF BRECKENRIDGE

By _____
John G. Warner, Mayor

ATTEST:

Town Clerk

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.

10
11
12 TOWN OF BRECKENRIDGE, a Colorado
13 municipal corporation
14

15
16
17 By _____
18 John G. Warner, Mayor
19

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

- 1 2. No annexation proceedings concerning the territory to be annexed have
2 been commenced by another municipality.
- 3
- 4 3. The annexation of the subject real property will not result in the
5 detachment of area from a school district.
- 6
- 7 4. The annexation of the subject real property will not result in the extension
8 of the boundaries of the Town of Breckenridge more than three miles.
- 9
- 10 5. The Town of Breckenridge has a plan in place for the area to be annexed.
- 11

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

14 PARCEL 1

15
16 A TRACT OF LAND LOCATED IN THE NW ¼ OF SECTION 31 AND THE SW ¼ OF
17 SECTION 30, TOWNSHIP 6 SOUTH , RANGE 77 WEST, AND ALSO THE NE ¼ OF
18 SECTION 36 AND THE SE ¼ OF SECTION 25, TOWNSHIP 6 SOUTH, RANGE 78 WEST
19 OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO,
20 AND DESCRIBED AS FOLLOWS:

21
22 BEGINNING AT CORNER NO. 3 OF THE RANKIN PLACER, M.S. 1364, ALSO BEING
23 THE NORTHWEST CORNER OF LOT 5, BLOCK 1, THE AMENDED PLAT OF
24 PARKWAY CENTER, WHENCE THE SOUTHWEST CORNER OF SAID SECTION 30
25 BEARS S84°40’24’’W 147.75 FEET DISTANT; THENCE S08°41’14’’W A DISTANCE OF
26 765.37 FEET TO A POINT ON THE EAST LINE OF SHOCK HILL SUBDIVISION, AS
27 RECORDED UNDER RECEPTION NUMBER 598532 IN THE COUNTY RECORDS;
28 THENCE ALONG THE EASTERLY AND NORTHERLY BOUNDARY OF SAID SHOCK
29 HILL SUBDIVISION FOR THE FOLLOWING THREE (3) COURSES:

- 30
- 31 1.) N24°56’32’’W A DISTANCE OF 445.17 FEET;
- 32 2.) N25°15’06’’W A DISTANCE OF 473.96 FEET;
- 33 3.) S74°46’54’’W A DISTANCE OF 69.14 FEET TO A POINT BEING AN ANGLE
34 POINT ON THE SOUTH LINE OF LOT 42, SHOCK HILL SUBDIVISION,
35 FILING NO. 2, AS RECORDED ATRECEPTION NUMBER 647222;
- 36

37 THENCE N60°39’41’’E A DISTANCE OF 17.55 FEET TO THE SOUTHEAST CORNER OF
38 SAID LOT 42; THENCE ALONG THE SOUTHERLY LINE OF THE CLAIMJUMPER
39 CONDOMINIUM, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER
40 159519 IN THE COUNTY RECORDS FOR THE FOLLOWING SIX (6) COURSES:

- 41
- 42 1.) N61°08’28’’E ALONG THE 3-2 LINE OF THE DORA L. LODGE, M.S. 16068, A
43 DISTANCE OF 226.15 FEET TO A POINT ON THE 2-3 LINE OF THE
44 GERMANIA LODGE, M.S. 12372;

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

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

16 17 PARCEL 2

18
19 A TRACT OF LAND LOCATED IN THE SW ¼ OF SECTION 30, TOWNSHIP 6 SOUTH,
20 RANGE 77 WEST, AND IN THE SOUTH ½ OF SECTION 25, TOWNSHIP 6 SOUTH,
21 RANGE 78 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF SUMMIT,
22 STATE OF COLORADO, AND DESCRIBED AS FOLLOWS:

23
24 BEGINNING AT CORNER NO. 6 OF THE MASONIC PLACER, M.S. 9616, A STANDARD
25 B.L.M. BRASS CAP, WHENCE THE SOUTHWEST CORNER OF SAID SECTION 30
26 BEARS S10°49'38"W 1,066.72 FEET DISTANT; THENCE N89°34'21"E A DISTANCE OF
27 58.31 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE FOR AIRPORT ROAD;
28 THENCE S04°32'41"E ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 559.94
29 FEET TO A POINT ON THE 1-2 LINE OF THE DORA L. LODGE, M.S. 16068; THENCE
30 N24°59'52"W A DISTANCE OF 140.00 FEET TO CORNER NO. 1 OF THE IRON MASK
31 LODGE, M.S. 16068; THENCE N29°08'37"W A DISTANCE OF 150.16 FEET TO CORNER
32 NO. 2 OF SAID IRON MASK LODGE; THENCE ALONG THE NORTH LINE OF THE
33 CLAIMJUMPER CONDOMINIUM, ACCORDING TO THE PLAT RECORDED AT
34 RECEPTION NUMBER 159519 IN THE COUNTY RECORDS FOR THE FOLLOWING
35 FIVE (5) COURSES:

- 36
- 37 1.) S61°01'57"W A DISTANCE OF 175.95 FEET;
- 38 2.) S19°07'01"E A DISTANCE OF 1.79 FEET;
- 39 3.) S72°35'13"W A DISTANCE OF 8.90 FEET;
- 40 4.) S60°55'29"W A DISTANCE OF 38.42 FEET;
- 41 5.) S60°39'11"W A DISTANCE OF 1,002.35 FEET;
- 42

43 THENCE S58°23'15"W ALONG THE 2-3 LINE OF SAID IRON MASK LODGE A DISTANCE
44 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 RAMON 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) 1265.16' W A DISTANCE OF 445.17 FEET;
 (2) 1025'57" W A DISTANCE OF 473.96 FEET;
 (3) 25°15'06" W A DISTANCE OF 1025.80 FEET TO A POINT ON AN ANGLE POINT ON THE SOUTH LINE OF LOT 42, SHOOK HILL SUBDIVISION, PLUNG NO. 4, AS RECORDED AT RECEPTION NUMBER 442220.
 THENCE N89°34'21" 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 126919 IN THE COUNTY RECORDS FOR THE FOLLOWING SIX (6) COURSES:
 (1) 1025.80' W ALONG SAID 2-3 LINE A DISTANCE OF 255.80 FEET TO CORNER NO. 2;
 (2) 58°45'18" E A DISTANCE OF 146.31 FEET TO CORNER NO. 1;
 (3) 51°55'57" W ALONG THE 1-4 LINE OF SAID GERMANIA LODE A DISTANCE OF 81.70 FEET TO A POINT ON SAID 2-3 LINE OF THE DORA L. LODE;
 (4) 1025.80' W ALONG SAID 2-3 LINE A DISTANCE OF 255.80 FEET TO CORNER NO. 2;
 (5) 1025.80' W A DISTANCE OF 346 FEET TO A POINT ON THE LINE BETWEEN SAID SECTIONS 25 AND 30;
 (6) 1025.80' W ALONG SAID 2-3 LINE OF THE DORA L. LODE 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°02'17" W A DISTANCE OF 146.31 FEET TO THE DOUBLE-CORNER 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 210°19'17" W 146.31 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 58.31 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SAID IRON MASK LODE, M.S. 16068; THENCE N29°07'01" W A DISTANCE OF 58.31 FEET TO A POINT ON THE 1-2 LINE OF THE DORA L. LODE, M.S. 12672; THENCE S04°32'41" E ALONG SAID RIGHT-OF-WAY LINE TO CORNER NO. 1 OF THE IRON MASK LODE, M.S. 16068; THENCE N29°07'01" W A DISTANCE OF 1025.80 FEET TO CORNER NO. 2 OF SAID IRON MASK LODE; THENCE ALONG THE NORTH LINE OF THE CLAIMJUMPER CONDOMINIUM, ACCORDING TO THE PLAN RECORDED AT RECEPTION NUMBER 126919 IN THE COUNTY RECORDS FOR THE FOLLOWING FIVE (5) COURSES:
 (1) S01°01'57" W A DISTANCE OF 175.98 FEET;
 (2) S19°10'17" E A DISTANCE OF 129 FEET;
 (3) S72°35'13" W A DISTANCE OF 8.90 FEET;
 (4) S02°02'17" W A DISTANCE OF 8.90 FEET;
 (5) S02°02'17" W A DISTANCE OF 1,002.25 FEET.
 THENCE S02°02'17" W ALONG THE 2-3 LINE OF SAID IRON MASK LODE A DISTANCE OF 270.18 FEET TO CORNER NO. 3 OF SAID IRON MASK LODE; THENCE S02°02'17" W ALONG THE 3-4 LINE OF SAID IRON MASK LODE A DISTANCE OF 107.87 FEET TO A POINT ON THE NORTH LINE OF SHOOK HILL SUBDIVISION, PLUNG NO. 2; THENCE S02°02'17" W ALONG SAID LINE A DISTANCE OF 13.94 FEET TO A POINT ON THE 5-6 LINE OF THE HAROLD PLACER, M.S. 7924; THENCE S02°02'17" W ALONG THE BOUNDARY OF SAID HAROLD PLACER FOR THE FOLLOWING FOUR (4) COURSES:
 (1) 1025.80' W A DISTANCE OF 508.16 FEET TO CORNER NO. 6;
 (2) N05°11'45" E A DISTANCE OF 834.46 FEET TO CORNER NO. 7;
 (3) N71°55'13" E A DISTANCE OF 348.40 FEET TO CORNER NO. 8;
 (4) N89°32'19" W A DISTANCE OF 402.26 FEET TO CORNER NO. 8, ALSO BEING CORNER NO. 17 OF SAID MASONIC PLACER.
 THENCE N89°32'19" W 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°34'21" E CONTINUING ALONG SAID 6-7 LINE A DISTANCE OF 58.31 FEET TO THE DOUBLE-CORNER CONTAINING 728,922 SQUARE FEET OR 16.734 ACRES MORE OR LESS.

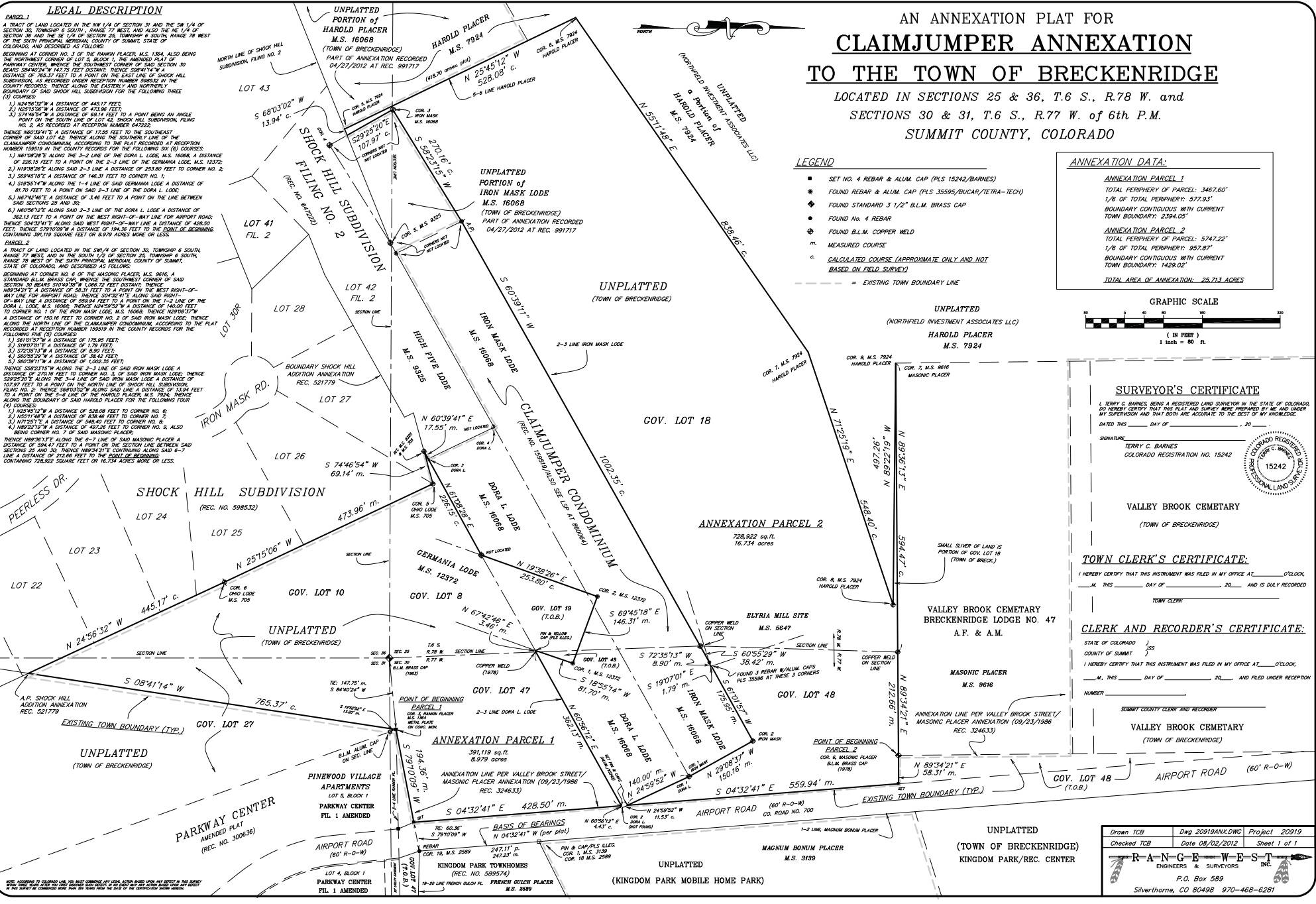
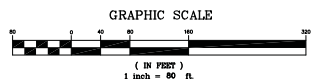
AN ANNEXATION PLAT FOR
CLAIMJUMPER ANNEXATION
 TO THE TOWN OF BRECKENRIDGE

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 PLAN 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:
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27

28 _____
29 Town Clerk
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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:

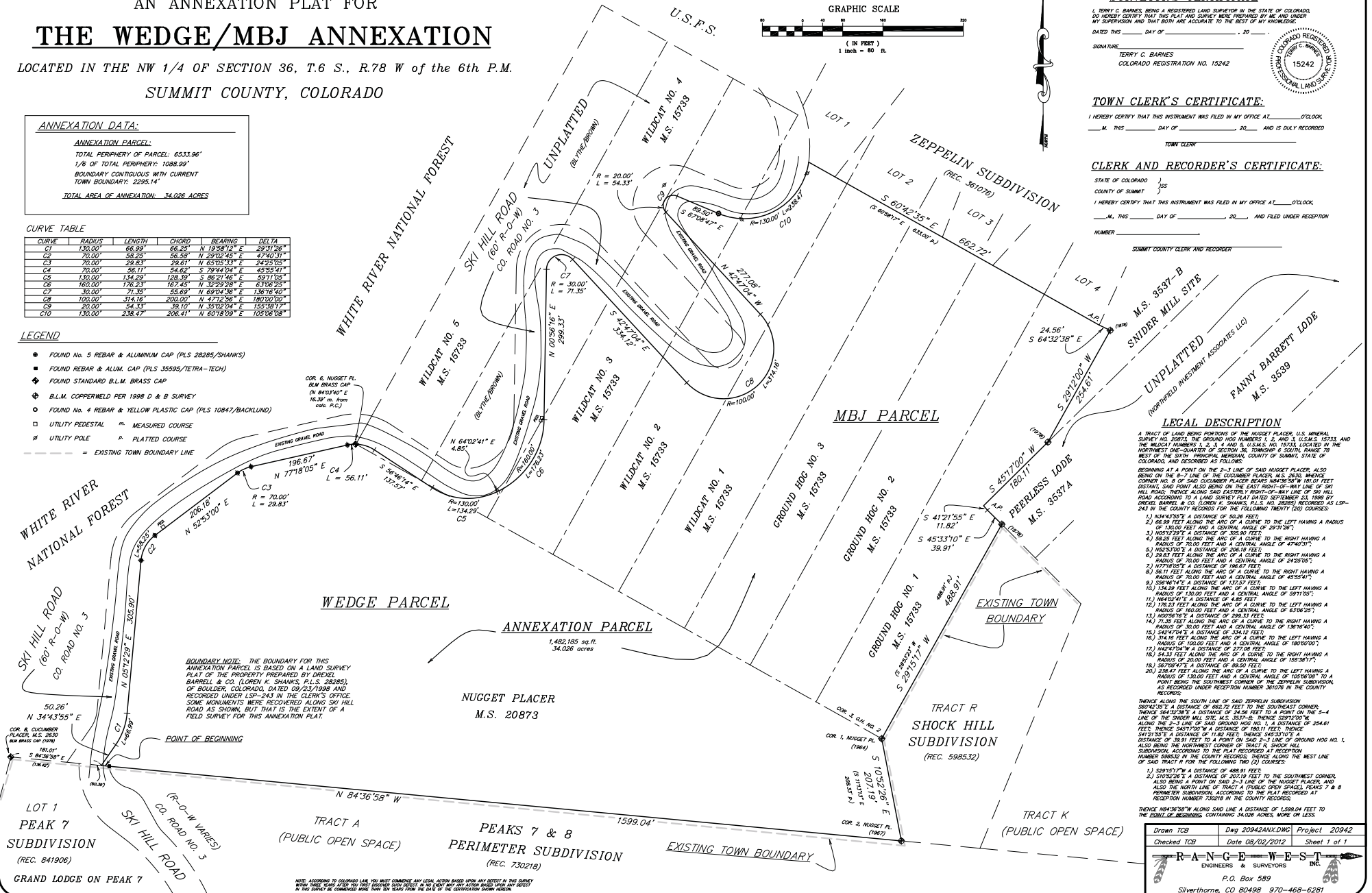
ANNEXATION PARCEL:
TOTAL PERIMETRY OF PARCEL: 6533.96'
1/6 OF TOTAL PERIMETRY: 1088.99'
BOUNDARY CONTIGUOUS WITH CURRENT TOWN BOUNDARY: 2295.14'
TOTAL AREA OF ANNEXATION: 34.026 ACRES

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°09'05"
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°18'03" E	105°06'08"

LEGEND

- FOUND No. 5 REBAR & ALUMINUM CAP (PLS 28285/SHANKS)
- FOUND REBAR & ALUM. CAP (PLS 35595/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 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

LEGAL DESCRIPTION

A TRACT OF LAND BEING PORTIONS OF THE NUGGET PLACER, U.S. MINERAL SURVEY NO. 23878, THE GROUND HOOP NUMBERS 1, 2 AND 3, U.S.M.S. 15783 AND THE WILDCAT NUMBERS 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 DEREK BARNES & CO. (LORREN K. SHANKS, P.L.S. NO. 28285) RECORDED AS LSP-243 IN THE COUNTY RECORDS FOR THE FOLLOWING TWENTY (20) COURSES:

- 1) BEARING N 02°55'16" E A DISTANCE OF 299.53 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) N 05°12'29" E 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) N 05°20'25" E 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) N 77°18'05" E A DISTANCE OF 196.67 FEET;
- 8) 50.26 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) S 09°04'16" E A DISTANCE OF 157.17 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 39°17'05";
- 11) N 69°04'56" E 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°09'05";
- 13) N 05°02'04" E A DISTANCE OF 39.10 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) S 86°21'46" E A DISTANCE OF 334.12 FEET;
- 16) 374.16 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 190°00'00";
- 17) N 35°02'04" E A DISTANCE OF 275.69 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) S 02°12'29" E A DISTANCE OF 89.24 FEET;
- 20) 182.45 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 105°06'08" TO A POINT BEING THE SOUTHWEST CORNER OF TRACT R, SHOCK HILL SUBDIVISION, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 598532 IN THE COUNTY RECORDS.

THENCE ALONG THE SOUTH LINE OF SAID ZEPPELIN SUBDIVISION S 02°12'29" E A DISTANCE OF 662.72 FEET TO THE SOUTHWEST CORNER, THENCE S 02°12'29" E A DISTANCE OF 24.56 FEET TO A POINT ON THE 5-4 LINE OF THE SNIDER MILL SITE, M.S. 3537-B, THENCE S 29°12'00" W 254.61 FEET; THENCE S 29°12'00" W A DISTANCE OF 180.11 FEET; THENCE S 45°33'10" E 39.91 FEET; THENCE S 41°21'55" E 11.82 FEET; THENCE S 60°42'39" E (STATE PLAT) 602.72 FEET TO THE EAST LINE OF SAID ZEPPELIN SUBDIVISION, ACCORDING TO THE PLAT RECORDED AT RECEPTION NUMBER 361078 IN THE COUNTY RECORDS; THENCE ALONG THE WEST LINE OF SAID TRACT R FOR THE FOLLOWING TWO (2) COURSES:

- 1) S 05°32'26" E 207.19 FEET (207.19' PLAT);
- 2) S 10°52'26" E 207.19 FEET (207.19' PLAT).

THENCE N 84°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 ORDINANCE NO. __

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

- 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.
45

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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: Dale Stein, Assistant Town Engineer
DATE: August 8, 2012
RE: Public Projects Update

Riverwalk Center and Tiger Dredge Master Plan

Staff is conducting interviews and anticipates the selection of a Consultant team by August 17th, 2012. The first phase of the project, Public Outreach and Visioning, will begin later this month and continue into September.

Public Works Administration Building

Construction has begun on the new Public Works Administration Building on Airport Road. Excavation for the building will be completed this week with the placement of the concrete foundation scheduled for the week of August 13th.

Burro Barn Panelization

Staff is soliciting contractors for the work on the Burro Barn project later this fall. The historic fabric from the barn will be stabilized and relocated for storage in the Arts District. The historic fabric is expected to be used in the future construction of a public restroom building.

Park Avenue and Four O'clock Road Roundabout

With the recent approval of the IGA by CDOT, Staff has begun soliciting proposals from engineering firms to assist the Town with the design and construction of the proposed roundabout at the Four O'clock Road intersection. The conceptual design phase is anticipated to begin in early September.

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: August 8, 2012
SUBJECT: Committee Reports for 8-14-2012 Council Packet

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

Liquor Licensing Authority	August 6, 2012	Mistaya Pierpont
	<ul style="list-style-type: none">All Consent items were approved off of the agenda, including a change of name and modification of premises for Great Divide Lodge now Double Tree at Breckenridge, a transfer of ownership of J-N-R, LLC for Blue at the Riverwalk (formerly Harvest Catering at the Riverwalk), and a art gallery permit for Art on a Whim.Approval of a new hotel and restaurant liquor license for Moes Original Bar-B-Que be located at 110 S. Ridge Street.Detective Blank followed up with the authority regarding the complaint from the public regarding the town party.Vanessa Agee will be attending the August LLA meeting to discuss the special event permitting process as well as speak specifically about the Town Party.	

Summit Stage Advisory Board	August 8, 2012	James Phelps
July 25, 2012 Summit Stage Advisory Board Meeting	<ul style="list-style-type: none">John Jones reported under 'Directors Report' that there was a significant increase in Ridership for the June period. For the report all sectors tracked saw a solid increase. See below.Under 'New Business' - John Jones is working on the 2013 budget. Preliminary numbers indicate total expenses to be higher than 2012 budget. The variance is due in large part to rising insurance costs.The advisory board was given a presentation by Transit Plus Inc. The draft presentation of the Strategic Planning Study & Comprehensive Operations Analysis – Tech Memorandum 2. The draft document presented the research/survey information/analysis to date. The document included proposed plan changes that would utilize the same level of resources as present. The report identified potential route modifications or changes to increase the system ridership by (1) shorter travel times and (2) fewer transfers. Proposed plan changes could also include expansion of evening service (until 11p). Additional findings: Frisco Circulator evaluated, but not warranted at present. Swan Mountain flyer year round: has potential, but should not be considered until other improvements in place. Regional connections will be important over time but no present demand.Total Ridership for June 2012: increase of 14.63% over 2011. Para transit Ridership for June 2012: increase of 10.06% over 2011. Late Night Ridership for June 2012: increase of 34.22% over 2011. Lake County June Ridership: increase of 39.13% over 2011. Mass Transit Tax Collections for April 2012 were up 16.8% over April 2011. Actual YTD tax collection is up 1.4%	

Summit County Wildfire Council	August 8, 2012	Matt Thompson
Summit County Wildfire Council meeting of 7/19/12	<ul style="list-style-type: none">There was \$65,075 dollars remaining for the CWPP Implementation grant program. The intent of the CWPP Implementation grant is to help fund the "other" projects as identified in the Summit County CWPP. There were four projects the Wildfire Council considered: Willow Brook Metro District, Summit Estates Cistern Project, Summit Guest Ranch, and the Town of Breckenridge's project for defensible space near Pinewood Village and Claimjumper Condos. The Wildfire Council decided to fund both the Town of Breckenridge's project and the Summit Estates project both with a 50/50 match requirement.	

Committees	Representative	Report Status
CAST	Mayor Warner	Verbal Report
CDOT	Tim Gagen	No Meeting/Report
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	No Meeting/Report
Mayors, Managers & Commissions Meeting	Mayor Warner	Verbal Report

Summit Leadership Forum	Tim Gagen	No Meeting/Report
Liquor Licensing Authority*	Linda Coxen	Included
Wildfire Council	Matt Thompson	Included
Public Art Commission*	Jenn Cram	No Meeting/Report
Summit Stage Advisory Board*	James Phelps	Included
Police Advisory Committee	Chief Haynes	No Meeting/Report
Housing/Childcare Committee	Laurie Best	Verbal Report
CMC Advisory Committee	Tim Gagen	No Meeting/Report

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

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

FINANCIAL MEMORANDUM

TO: TIM GAGEN, TOWN MANAGER; RICK HOLMAN, ASSISTANT TOWN MANAGER
FROM: CLERK AND FINANCE DIVISION
SUBJECT: JUNE NET TAXABLE SALES & JULY RETT REPORTING
DATE: 8/7/2012

This memo explains significant items of note in relation to sales that occurred within the Town of Breckenridge in the month of June. Real Estate Transfer Tax, including an analysis of the monthly “churn” and sales by property type, is also included.

New Items of Note:

Net Taxable Sales

- Overall, although net taxable sales for June were ahead of 2011 by 21.9%, remember that June represents a relatively small portion of the Town’s annual tax. Additionally, the month fell below 2007 #s.
- Except for Supplies and Utilities, all other categories were ahead of prior year by a considerable amount.
- Restaurant and Grocery/Liquor had its best June ever. These categories also tracked ahead of 2011 by 32.7% and 12.4%, respectively.
- Retail Sales and Short Term Lodging also did well – above 2006 #s (but below 2007 #s) & ahead of prior year by 31.8% and 19.9% respectively.

Real Estate Transfer Tax

- Collections for the month of July surpassed prior year by 201.8% (yet, still below 2007 by 26.6%), and we came in at 148.7% of budget.
- YTD collections are still behind PY – currently by 28.9%. However, we have moved ahead of YTD budget – at 100.4%.
- We continue to exceed the prior year churn (3 months in a row).
- Vacant Land tracked well in July (as compared with prior years), with Single Family homes and Condos comprising the majority of the sales.

Continuing Items of Note:

- Net Taxable Sales are reported in the first Council meeting following the due date of the tax remittance to the Town of Breckenridge. Taxes collected from the customer by the vendor are remitted to the Town on the 20th of the following month.
- Quarterly taxes are reported in the last month of the period. For example, taxes collected in the first quarter of the year (January – March), are include on the report for the period of March.
- Net Taxable Sales are continually updated as late tax returns are submitted to the Town of Breckenridge. Therefore, you may notice slight changes in prior months, in addition to the reporting for the current month.
- 2012 Real Estate Transfer Tax budget is based upon the monthly distribution for 2007. The reasoning is that we should compare to a year with a “normal distribution.”

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

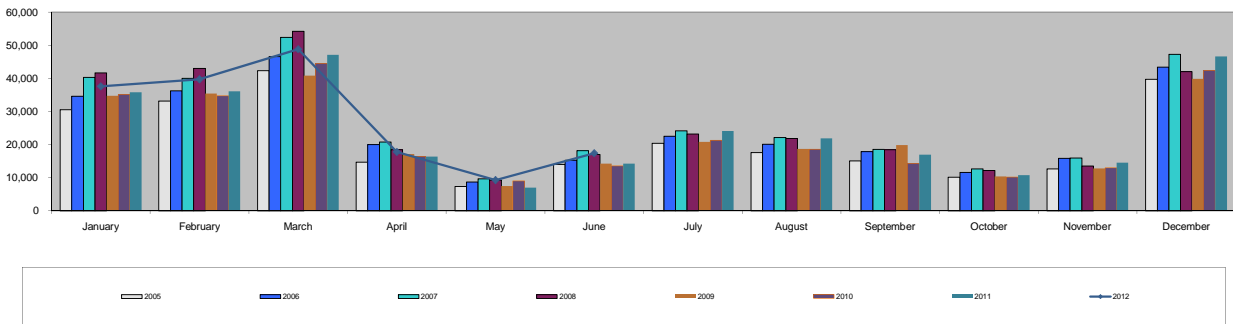
(in Thousands of Dollars)

Total - All Categories*

* excluding Undefined and Utilities categories

	Actual 2005	YTD 2005	Actual 2006	YTD 2006	Actual 2007	YTD 2007	Actual 2008	YTD 2008	Actual 2009	YTD 2009	Actual 2010	YTD 2010	Actual 2011	YTD 2011	Actual 2012	YTD 2012	Monthly 11-12	YTD % Change 11-12
January	30,549	30,549	34,589	34,589	40,283	40,283	41,665	41,665	34,783	34,783	35,105	35,105	35,805	35,805	37,633	37,633	5.1%	5.1%
February	33,171	63,720	36,236	70,825	40,034	80,317	43,052	84,717	35,453	70,236	34,791	69,896	36,128	71,933	39,763	77,396	10.1%	7.6%
March	42,370	106,090	46,603	117,428	52,390	132,707	54,237	138,954	40,810	111,046	44,485	114,381	47,101	119,034	48,839	126,235	3.7%	6.0%
April	14,635	120,725	19,963	137,391	20,758	153,465	18,483	157,437	17,171	128,217	16,346	130,727	16,371	135,405	17,776	144,011	8.6%	6.4%
May	7,355	128,080	8,661	146,052	9,629	163,094	9,251	166,688	7,475	135,692	8,999	139,726	6,976	142,381	9,232	153,243	32.3%	7.6%
June	14,043	142,123	15,209	161,261	18,166	181,260	16,988	183,676	14,286	149,978	13,557	153,283	14,235	156,616	17,349	170,592	21.9%	8.9%
July	20,366	162,489	22,498	183,759	24,168	205,428	23,160	206,836	20,788	170,766	21,346	174,629	24,134	180,750	0	170,592	n/a	n/a
August	17,625	180,114	20,071	203,830	22,125	227,553	21,845	228,681	18,656	189,422	18,603	193,232	21,878	202,628	0	170,592	n/a	n/a
September	15,020	195,134	17,912	221,742	18,560	246,113	18,481	247,162	19,806	209,228	14,320	207,552	16,969	219,597	0	170,592	n/a	n/a
October	10,170	205,304	11,544	233,286	12,687	258,800	12,120	259,282	10,410	219,638	10,226	217,778	10,740	230,337	0	170,592	n/a	n/a
November	12,647	217,951	15,877	249,163	15,943	274,743	13,483	272,765	12,809	232,447	12,985	230,763	14,549	244,886	0	170,592	n/a	n/a
December	39,687	257,638	43,431	292,594	47,258	322,001	42,076	314,841	39,859	272,306	42,343	273,106	46,651	291,537	0	170,592	n/a	n/a
Totals	257,638		292,594		322,001		314,841		272,306		273,106		291,537		170,592			

2012 Monthly Sales Tax Activity (in thousands of dollars)



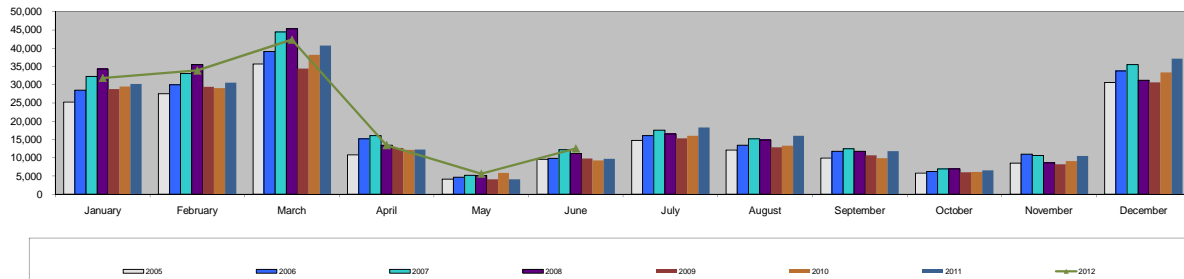
**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail-Restaurant-Lodging Summary

	2005		2006		2007		2008		2009		2010		2011		2012		Monthly 11-12	YTD % Change 11-12
	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD				
January	25,240	25,240	28,528	28,528	32,258	32,258	34,290	34,290	28,802	28,802	29,538	29,538	30,174	30,174	31,799	31,799	5.4%	5.4%
February	27,553	52,793	29,972	58,500	33,039	65,297	35,511	69,801	29,401	58,203	29,090	58,628	30,504	60,678	33,891	65,690	11.1%	8.3%
March	35,705	88,498	39,051	97,551	44,390	109,687	45,338	115,139	34,428	92,631	38,136	96,764	40,676	101,354	42,316	108,006	4.0%	6.6%
April	10,773	99,271	15,134	112,685	16,025	125,712	13,410	128,549	12,653	105,284	12,154	108,918	12,281	113,635	13,428	121,434	9.3%	6.9%
May	4,179	103,450	4,647	117,332	5,146	130,858	5,111	133,660	4,125	109,409	5,836	114,754	4,082	117,717	5,644	127,078	38.3%	8.0%
June	9,568	113,018	9,789	127,121	12,225	143,083	11,112	144,772	9,829	119,238	9,302	124,056	9,713	127,430	12,533	139,611	29.0%	9.6%
July	14,766	127,784	16,038	143,159	17,499	160,582	16,446	161,218	15,305	134,543	15,993	140,049	18,296	145,726	0	139,611	n/a	n/a
August	12,122	139,906	13,446	156,605	15,167	175,749	14,815	176,033	12,859	147,402	13,261	153,310	16,010	161,736	0	139,611	n/a	n/a
September	9,897	149,803	11,761	168,366	12,418	188,167	11,794	187,827	10,705	158,107	9,894	163,204	11,834	173,570	0	139,611	n/a	n/a
October	5,824	155,627	6,248	174,614	6,934	195,101	6,977	194,804	5,986	164,093	6,143	169,347	6,517	180,087	0	139,611	n/a	n/a
November	8,557	164,184	10,963	185,577	10,650	205,751	8,637	203,441	8,234	172,327	9,068	178,415	10,513	190,600	0	139,611	n/a	n/a
December	30,619	194,803	33,736	219,313	35,517	241,268	31,211	234,652	30,667	202,994	33,363	211,778	37,081	227,681	0	139,611	n/a	n/a
Totals	194,803		219,313		241,268		234,652		202,994		211,778		227,681		139,611			

2012 Monthly Sales Tax Activity (in thousands of dollars)



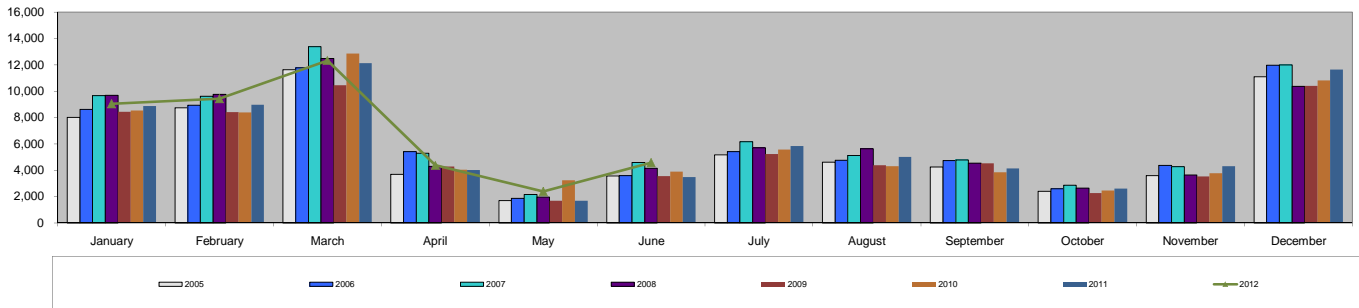
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail Sales

	2005		2006		2007		2008		2009		2010		2011		2012		Monthly 11-12	YTD 11-12
	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD				
January	8,001	8,001	8,607	8,607	9,665	9,665	9,684	9,684	8,430	8,430	8,530	8,530	8,862	8,862	9,039	9,039	2.0%	2.0%
February	8,744	16,745	8,942	17,549	9,607	19,272	9,763	19,447	8,401	16,831	8,378	16,908	8,982	17,844	9,422	18,461	4.9%	3.5%
March	11,632	28,377	11,774	29,323	13,373	32,645	12,479	31,926	10,449	27,280	12,851	29,759	12,125	29,969	12,331	30,792	1.7%	2.7%
April	3,678	32,055	5,406	34,729	5,287	37,932	4,301	36,227	4,274	31,554	4,032	33,791	4,006	33,975	4,378	35,170	9.3%	3.5%
May	1,708	33,763	1,858	36,587	2,165	40,097	1,965	38,192	1,675	33,229	3,251	37,042	1,679	35,654	2,399	37,569	42.9%	5.4%
June	3,565	37,328	3,589	40,176	4,597	44,694	4,153	42,345	3,558	36,787	3,895	40,937	3,477	39,131	4,581	42,150	31.8%	7.7%
July	5,174	42,502	5,403	45,579	6,176	50,870	5,700	48,045	5,240	42,027	5,582	46,519	5,834	44,965	0	42,150	n/a	n/a
August	4,620	47,122	4,757	50,336	5,110	55,980	5,631	53,676	4,384	46,411	4,302	50,821	5,003	49,968	0	42,150	n/a	n/a
September	4,249	51,371	4,726	55,062	4,783	60,763	4,527	58,203	4,536	50,947	3,848	54,669	4,132	54,100	0	42,150	n/a	n/a
October	2,404	53,775	2,591	57,653	2,866	63,629	2,635	60,838	2,277	53,224	2,453	57,122	2,609	56,709	0	42,150	n/a	n/a
November	3,586	57,361	4,376	62,029	4,267	67,896	3,641	64,479	3,540	56,764	3,764	60,886	4,301	61,010	0	42,150	n/a	n/a
December	11,099	68,460	11,971	74,000	12,000	79,896	10,358	74,837	10,403	67,167	10,824	71,710	11,629	72,639	0	42,150	n/a	n/a
Totals	68,460		74,000		79,896		74,837		67,167		71,710		72,639		42,150			

2012 Monthly Sales Tax Activity (in thousands of dollars)



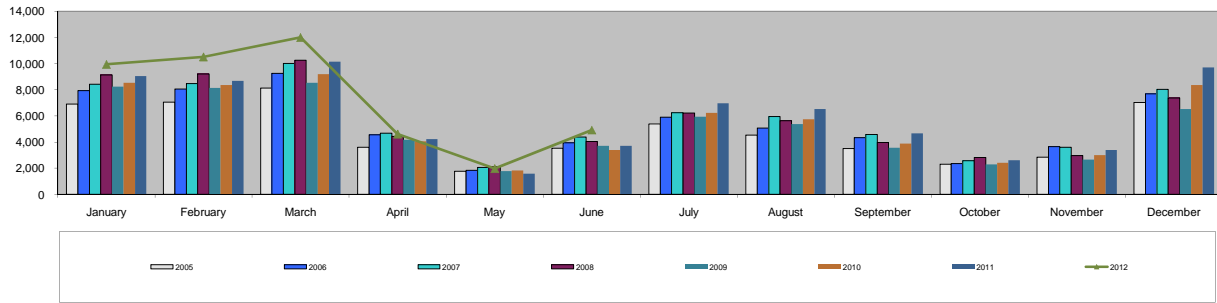
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Restaurants/Bars

	2005		2006		2007		2008		2009		2010		2011		2012		Monthly 11-12	YTD 11-12
	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD				
January	6,897	6,897	7,924	7,924	8,414	8,414	9,117	9,117	8,231	8,231	8,515	8,515	9,039	9,039	9,942	9,942	10.0%	10.0%
February	7,047	13,944	8,058	15,982	8,467	16,881	9,208	18,325	8,129	16,360	8,343	16,858	8,660	17,699	10,506	20,448	21.3%	15.5%
March	8,117	22,061	9,256	25,238	10,015	26,896	10,240	28,565	8,527	24,887	9,186	26,044	10,151	27,850	11,996	32,444	18.2%	16.5%
April	3,609	25,670	4,552	29,790	4,678	31,574	4,440	33,005	4,173	29,060	4,042	30,086	4,222	32,072	4,615	37,059	9.3%	15.5%
May	1,760	27,430	1,832	31,622	2,058	33,632	2,107	35,112	1,783	30,843	1,812	31,898	1,570	33,642	1,965	39,024	25.2%	16.0%
June	3,525	30,955	3,938	35,560	4,370	38,002	4,030	39,142	3,712	34,555	3,397	35,295	3,704	37,346	4,916	43,940	32.7%	17.7%
July	5,375	36,330	5,905	41,465	6,249	44,251	6,218	45,360	5,931	40,486	6,222	41,517	6,949	44,295	0	43,940	n/a	n/a
August	4,521	40,851	5,067	46,532	5,933	50,184	5,639	50,999	5,365	45,851	5,729	47,246	6,526	50,821	0	43,940	n/a	n/a
September	3,498	44,349	4,340	50,872	4,585	54,769	3,971	54,970	3,565	49,416	3,883	51,129	4,656	55,477	0	43,940	n/a	n/a
October	2,290	46,639	2,352	53,224	2,564	57,333	2,818	57,788	2,285	51,701	2,420	53,549	2,618	58,095	0	43,940	n/a	n/a
November	2,841	49,480	3,651	56,875	3,593	60,926	2,972	60,760	2,649	54,350	3,006	56,555	3,380	61,475	0	43,940	n/a	n/a
December	7,017	56,497	7,681	64,556	8,028	68,954	7,371	68,131	6,524	60,874	8,351	64,906	9,701	71,176	0	43,940	n/a	n/a
Totals	56,497		64,556		68,954		68,131		60,874		64,906		71,176		43,940			

2012 Monthly Sales Tax Activity (in thousands of dollars)



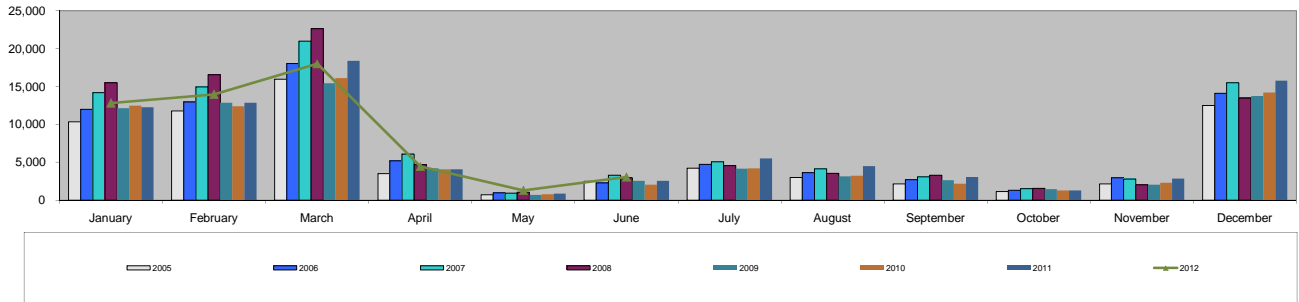
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Short-Term Lodging

	2005		2006		2007		2008		2009		2010		2011		2012		Monthly 11-12	YTD 11-12
	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD		
January	10,342	10,342	11,997	11,997	14,179	14,179	15,489	15,489	12,141	12,141	12,493	12,493	12,273	12,273	12,818	12,818	4.4%	4.4%
February	11,762	22,104	12,972	24,969	14,965	29,144	16,540	32,029	12,871	25,012	12,369	24,862	12,862	25,135	13,963	26,781	8.6%	6.5%
March	15,956	38,060	18,021	42,990	21,002	50,146	22,619	54,648	15,452	40,464	16,099	40,961	18,400	43,535	17,989	44,770	-2.2%	2.8%
April	3,486	41,546	5,176	48,166	6,060	56,206	4,669	59,317	4,206	44,670	4,080	45,041	4,053	47,588	4,435	49,205	9.4%	3.4%
May	711	42,257	957	49,123	923	57,129	1,039	60,356	667	45,337	773	45,814	833	48,421	1,280	50,485	53.7%	4.3%
June	2,478	44,735	2,262	51,385	3,258	60,387	2,929	63,285	2,559	47,896	2,010	47,824	2,532	50,953	3,036	53,521	19.9%	5.0%
July	4,217	48,952	4,730	56,115	5,074	65,461	4,528	67,813	4,134	52,030	4,189	52,013	5,513	56,466	0	53,521	n/a	n/a
August	2,981	51,933	3,622	59,737	4,124	69,585	3,545	71,358	3,110	55,140	3,230	55,243	4,481	60,947	0	53,521	n/a	n/a
September	2,150	54,083	2,695	62,432	3,050	72,635	3,296	74,654	2,604	57,744	2,163	57,406	3,046	63,993	0	53,521	n/a	n/a
October	1,130	55,213	1,305	63,737	1,504	74,139	1,524	76,178	1,424	59,168	1,270	58,676	1,290	65,283	0	53,521	n/a	n/a
November	2,130	57,343	2,936	66,673	2,790	76,929	2,024	78,202	2,045	61,213	2,298	60,974	2,832	68,115	0	53,521	n/a	n/a
December	12,503	69,846	14,084	80,757	15,489	92,418	13,482	91,684	13,740	74,953	14,188	75,162	15,751	83,866	0	53,521	n/a	n/a
Totals	69,846		80,757		92,418		91,684		74,953		75,162		83,866		53,521			

2012 Monthly Sales Tax Activity (in thousands of dollars)



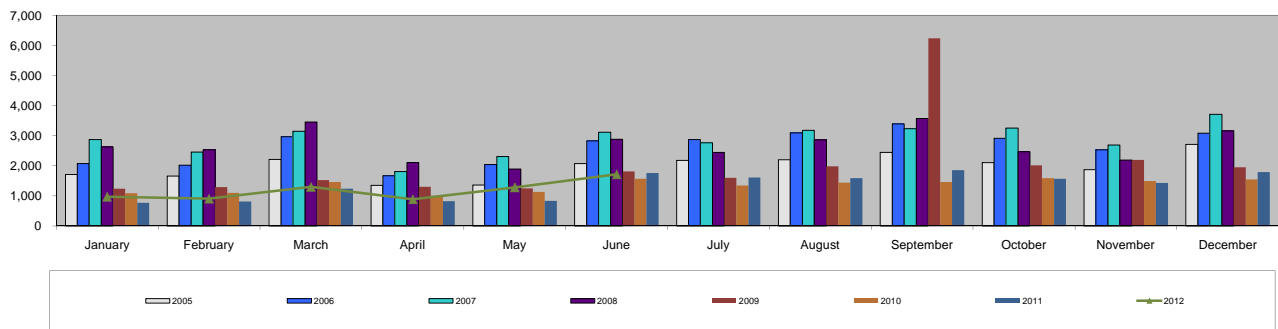
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Supplies

	2005		2006		2007		2008		2009		2010		2011		2012		Monthly 11-12	YTD 11-12
	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD				
January	1,720	1,720	2,084	2,084	2,876	2,876	2,631	2,631	1,240	1,240	1,095	1,095	777	777	977	977	25.7%	25.7%
February	1,669	3,389	2,031	4,115	2,459	5,335	2,532	5,163	1,297	2,537	1,111	2,206	821	1,598	910	1,887	10.8%	18.1%
March	2,216	5,605	2,967	7,082	3,156	8,491	3,463	8,626	1,530	4,067	1,472	3,678	1,245	2,843	1,303	3,190	4.7%	12.2%
April	1,359	6,964	1,680	8,762	1,813	10,304	2,114	10,740	1,305	5,372	1,006	4,684	829	3,672	894	4,084	7.8%	11.2%
May	1,370	8,334	2,045	10,807	2,314	12,618	1,894	12,634	1,250	6,622	1,139	5,823	841	4,513	1,292	5,376	53.6%	19.1%
June	2,083	10,417	2,836	13,643	3,119	15,737	2,886	15,520	1,814	8,436	1,573	7,396	1,765	6,278	1,718	7,094	-2.7%	13.0%
July	2,186	12,603	2,872	16,515	2,770	18,507	2,450	17,970	1,602	10,038	1,354	8,750	1,619	7,897	0	7,094	n/a	n/a
August	2,211	14,814	3,096	19,611	3,187	21,694	2,869	20,839	1,990	12,028	1,446	10,196	1,597	9,494	0	7,094	n/a	n/a
September	2,452	17,266	3,394	23,005	3,234	24,928	3,574	24,413	6,237	18,265	1,471	11,667	1,857	11,351	0	7,094	n/a	n/a
October	2,107	19,373	2,924	25,929	3,259	28,187	2,470	26,883	2,016	20,281	1,595	13,262	1,575	12,926	0	7,094	n/a	n/a
November	1,876	21,249	2,537	28,466	2,693	30,880	2,199	29,082	2,196	22,477	1,495	14,757	1,437	14,363	0	7,094	n/a	n/a
December	2,712	23,961	3,091	31,557	3,713	34,593	3,160	32,242	1,958	24,435	1,548	16,305	1,794	16,157	0	7,094	n/a	n/a
Totals	23,961		31,557		34,593		32,242		24,435		16,305		16,157		7,094			

2012 Monthly Sales Tax Activity (in thousands of dollars)



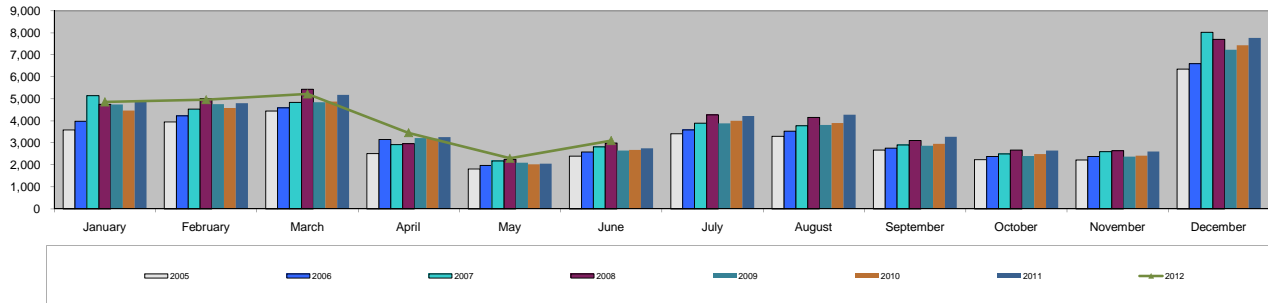
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Grocery/Liquor Stores

	2005		2006		2007		2008		2009		2010		2011		2012		Monthly 11-12	YTD 11-12
	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD				
January	3,589	3,589	3,977	3,977	5,149	5,149	4,744	4,744	4,741	4,741	4,472	4,472	4,854	4,854	4,857	4,857	0.1%	0.1%
February	3,949	7,538	4,233	8,210	4,536	9,685	5,009	9,753	4,755	9,496	4,590	9,062	4,803	9,657	4,962	9,819	3.3%	1.7%
March	4,449	11,987	4,585	12,795	4,844	14,529	5,436	15,189	4,852	14,348	4,877	13,939	5,180	14,837	5,220	15,039	0.8%	1.4%
April	2,503	14,490	3,149	15,944	2,920	17,449	2,959	18,148	3,213	17,561	3,186	17,125	3,261	18,098	3,454	18,493	5.9%	2.2%
May	1,806	16,296	1,969	17,913	2,169	19,618	2,246	20,394	2,100	19,661	2,024	19,149	2,053	20,151	2,296	20,789	11.8%	3.2%
June	2,392	18,688	2,584	20,497	2,822	22,440	2,990	23,384	2,643	22,304	2,682	21,831	2,757	22,908	3,098	23,887	12.4%	4.3%
July	3,414	22,102	3,588	24,085	3,899	26,339	4,264	27,648	3,881	26,185	3,999	25,830	4,219	27,127	0	23,887	n/a	n/a
August	3,292	25,394	3,529	27,614	3,771	30,110	4,161	31,809	3,807	29,992	3,896	29,726	4,271	31,398	0	23,887	n/a	n/a
September	2,671	28,065	2,757	30,371	2,908	33,018	3,113	34,922	2,864	32,856	2,955	32,681	3,278	34,676	0	23,887	n/a	n/a
October	2,239	30,304	2,372	32,743	2,494	35,512	2,673	37,595	2,408	35,264	2,488	35,169	2,648	37,324	0	23,887	n/a	n/a
November	2,214	32,518	2,377	35,120	2,600	38,112	2,647	40,242	2,379	37,643	2,422	37,591	2,599	39,923	0	23,887	n/a	n/a
December	6,356	38,874	6,604	41,724	8,028	46,140	7,705	47,947	7,234	44,877	7,432	45,023	7,776	47,699	0	23,887	n/a	n/a
Totals	38,874		41,724		46,140		47,947		44,877		45,023		47,699		23,887			

2012 Monthly Sales Tax Activity (in thousands of dollars)



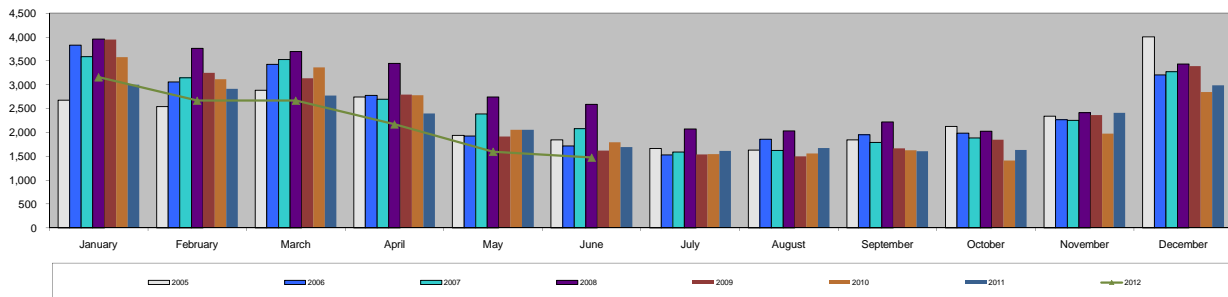
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Utilities

	2005		2006		2007		2008		2009		2010		2011		2012		Monthly 11-12	YTD 11-12
	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD	Actual	YTD				
January	2,675	2,675	3,829	3,829	3,591	3,591	3,961	3,961	3,950	3,950	3,577	3,577	3,004	3,004	3,159	3,159	5.2%	5.2%
February	2,540	5,215	3,056	6,885	3,149	6,740	3,765	7,726	3,253	7,203	3,118	6,695	2,913	5,917	2,668	5,827	-8.4%	-1.5%
March	2,883	8,098	3,428	10,313	3,525	10,265	3,699	11,425	3,134	10,337	3,365	10,060	2,772	8,689	2,667	8,494	-3.8%	-2.2%
April	2,741	10,839	2,778	13,091	2,694	12,959	3,448	14,873	2,792	13,129	2,779	12,839	2,400	11,089	2,170	10,664	-9.6%	-3.8%
May	1,939	12,778	1,926	15,017	2,386	15,345	2,742	17,615	1,917	15,046	2,057	14,896	2,057	13,146	1,597	12,261	-22.4%	-6.7%
June	1,846	14,624	1,713	16,730	2,078	17,423	2,588	20,203	1,620	16,666	1,793	16,689	1,693	14,839	1,473	13,734	-13.0%	-7.4%
July	1,663	16,287	1,529	18,259	1,588	19,011	2,075	22,278	1,539	18,205	1,548	18,237	1,614	16,453	0	13,734	n/a	n/a
August	1,629	17,916	1,854	20,113	1,621	20,632	2,031	24,309	1,497	19,702	1,558	19,795	1,673	18,126	0	13,734	n/a	n/a
September	1,843	19,759	1,949	22,062	1,792	22,424	2,219	26,528	1,667	21,369	1,625	21,420	1,604	19,730	0	13,734	n/a	n/a
October	2,127	21,886	1,987	24,049	1,883	24,307	2,026	28,554	1,845	23,214	1,412	22,832	1,632	21,362	0	13,734	n/a	n/a
November	2,340	24,226	2,264	26,313	2,251	26,558	2,411	30,965	2,364	25,578	1,972	24,804	2,409	23,771	0	13,734	n/a	n/a
December	4,005	28,231	3,206	29,519	3,271	29,829	3,435	34,400	3,389	28,967	2,845	27,649	2,991	26,762	0	13,734	n/a	n/a
Totals	28,231		29,519		29,829		34,400		28,967		27,649		26,762		13,734			

2012 Monthly Sales Tax Activity (in thousands of dollars)

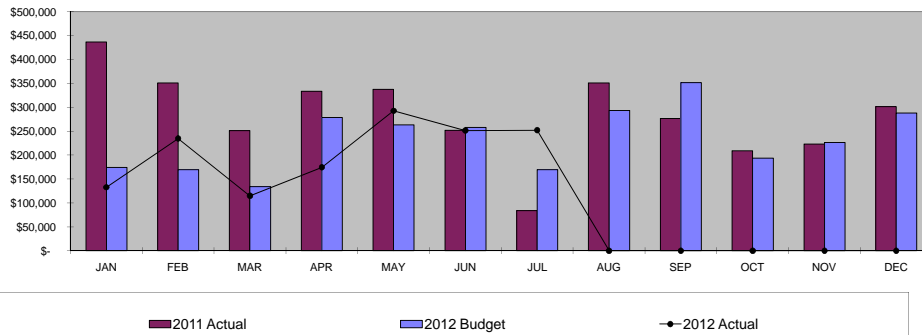


**TOWN OF BRECKENRIDGE
REAL ESTATE TRANSFER TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED**

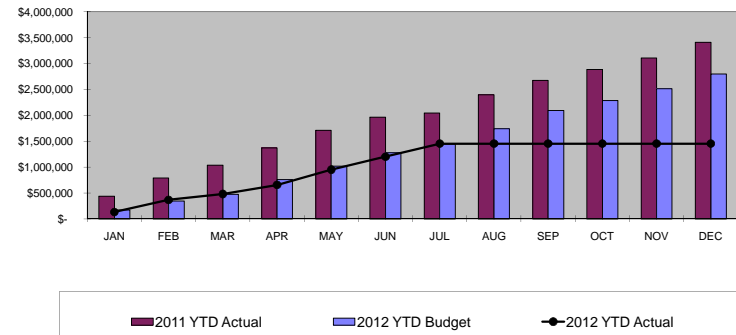
Sales Period	2007 Collections			2011 Collections			2012 Budget			2012 Monthly				2012 Year to Date			
	Tax Collected	Year To Date	Percent of Total	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% of Budget	% Change from 2007	% Change from 2011	Actual	% of Budget	% Change from 2007	% Change from 2011
JAN	\$ 352,958	\$ 352,958	6.2%	\$ 436,605	\$ 436,605	12.8%	\$ 174,140	\$ 174,140	6.2%	\$ 132,557	76.1%	-62.4%	-69.6%	\$ 132,557	76.1%	-62.4%	-69.6%
FEB	342,995	695,953	12.3%	350,866	787,471	23.1%	169,224	343,364	12.3%	234,630	138.7%	-31.6%	-33.1%	367,186	106.9%	-47.2%	-53.4%
MAR	271,817	967,770	17.1%	250,986	1,038,457	30.5%	134,107	477,470	17.1%	114,921	85.7%	-57.7%	-54.2%	482,107	101.0%	-50.2%	-53.6%
APR	564,624	1,532,394	27.0%	333,424	1,371,881	40.3%	278,570	756,040	27.0%	174,514	62.6%	-69.1%	-47.7%	656,621	86.9%	-57.2%	-52.1%
MAY	533,680	2,066,074	36.4%	337,577	1,709,458	50.2%	263,303	1,019,342	36.4%	292,708	111.2%	-45.2%	-13.3%	949,329	93.1%	-54.1%	-44.5%
JUN	522,999	2,589,073	45.6%	251,806	1,961,263	57.6%	258,033	1,277,375	45.6%	251,400	97.4%	-51.9%	-0.2%	1,200,729	94.0%	-53.6%	-38.8%
JUL	343,610	2,932,683	51.7%	83,522	2,044,785	60.0%	169,527	1,446,903	51.7%	252,104	148.7%	-26.6%	201.8%	1,452,833	100.4%	-50.5%	-28.9%
AUG	594,349	3,527,032	62.1%	350,730	2,395,515	70.3%	293,235	1,740,138	62.1%	-	0.0%	n/a	n/a	1,452,833	83.5%	-58.8%	-39.4%
SEP	711,996	4,239,028	74.7%	276,774	2,672,289	78.5%	351,278	2,091,416	74.7%	-	0.0%	n/a	n/a	1,452,833	69.5%	-65.7%	-45.6%
OCT	392,752	4,631,779	81.6%	208,831	2,881,120	84.6%	193,773	2,285,189	81.6%	-	0.0%	n/a	n/a	1,452,833	63.6%	-68.6%	-49.6%
NOV	459,147	5,090,926	89.7%	223,271	3,104,391	91.2%	226,530	2,511,719	89.7%	-	0.0%	n/a	n/a	1,452,833	57.8%	-71.5%	-53.2%
DEC	\$ 584,308	\$ 5,675,235	100.0%	\$ 301,397	\$ 3,405,788	100.0%	\$ 288,281	\$ 2,800,000	100.0%	\$ -	0.0%	n/a	n/a	\$ 1,452,833	51.9%	-74.4%	-57.3%

2012 budget is based upon 2007 monthly distribution
July Collections through 07/13/12

2012 Monthly RETT Tax Collections



2012 Y.T.D. RETT Collections

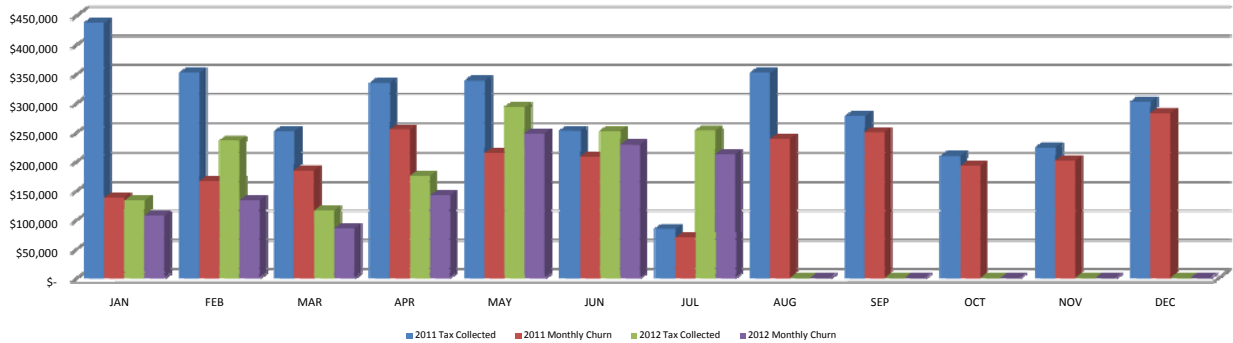


**TOWN OF BRECKENRIDGE
REAL ESTATE TRANSFER TAX CHURN
REPORTED IN THE PERIOD EARNED**

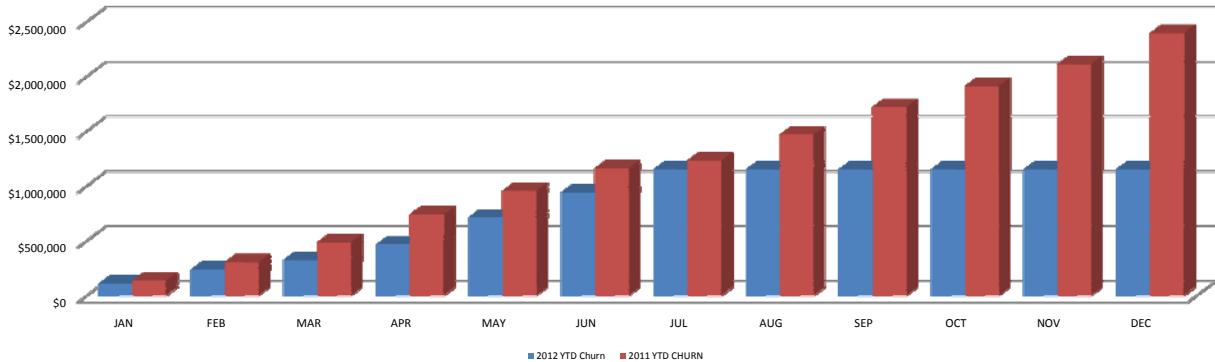
Sales Period	Tax Collected	Year To Date	2011 Collections				Monthly Churn	YTD Churn	% of YTD Total
			New Construction						
			Grand Lodge	1 Ski Hill	Water House	Other			
JAN	\$ 436,605	\$ 436,605	246,243	0	53,370	0	\$ 136,992	\$136,992	31.4%
FEB	\$ 350,866	\$ 787,471	147,234	26,482	11,550	0	\$ 165,599	\$302,592	38.4%
MAR	\$ 250,986	\$ 1,038,457	57,703	0	9,300	0	\$ 183,982	\$486,574	46.9%
APR	\$ 333,424	\$ 1,371,881	41,651	7,296	19,170	11,300	\$ 254,006	\$740,580	54.0%
MAY	\$ 337,577	\$ 1,709,458	87,830	36,403	0	0	\$ 213,344	\$953,925	55.8%
JUN	\$ 251,806	\$ 1,961,263	44,417	0	0	0	\$ 207,389	\$1,161,314	59.2%
JUL	\$ 83,522	\$ 2,044,785	14,277	0	0	0	\$ 69,244	\$1,230,558	60.2%
AUG	\$ 350,730	\$ 2,395,515	107,470	0	0	5,050	\$ 238,210	\$1,468,768	61.3%
SEP	\$ 276,774	\$ 2,672,289	27,114	0	0	0	\$ 249,660	\$1,718,428	64.3%
OCT	\$ 208,381	\$ 2,880,670	2,223	0	0	14,800	\$ 191,359	\$1,909,787	66.3%
NOV	\$ 223,271	\$ 3,103,941	5,083	17,212	0	0	\$ 200,975	\$2,110,762	68.0%
DEC	\$ 301,397	\$ 3,405,338	7,928	0	0	11,300	\$ 282,169	\$2,392,931	70.3%

Sales Period	Tax Collected	Year To Date	2012 Collections				Monthly Churn	YTD Budget	YTD Churn	% of YTD Total	% Change In Churn from Prior Year
			New Construction								
			Grand Lodge	1 Ski Hill	Water House	Other					
JAN	\$ 132,557	\$ 132,557	26,492	0	0	0	\$ 106,065	\$ 174,140	\$106,065	80.0%	-22.6%
FEB	\$ 234,630	\$ 367,186	69,718	0	0	32,250	\$ 132,661	\$ 343,364	\$238,726	65.0%	-21.1%
MAR	\$ 114,921	\$ 482,107	29,935	0	0	0	\$ 84,985	\$ 477,470	\$323,712	67.1%	-33.5%
APR	\$ 174,514	\$ 656,621	33,127	0	0	0	\$ 141,388	\$ 756,040	\$465,099	70.8%	-37.2%
MAY	\$ 292,708	\$ 949,329	45,605	0	0	0	\$ 247,103	\$ 1,019,342	\$712,203	75.0%	-25.3%
JUN	\$ 251,400	\$ 1,200,729	23,453	0	0	0	\$ 227,947	\$ 1,277,375	\$940,150	78.3%	-19.0%
JUL	\$ 252,104	\$ 1,452,833	40,804	0	0	0	\$ 211,300	\$ 1,446,903	\$1,151,450	79.3%	-6.4%
AUG	\$ -	\$ 1,452,833					\$ -	\$ 1,740,138	\$1,151,450	n/a	n/a
SEP	\$ -	\$ 1,452,833					\$ -	\$ 2,091,416	\$1,151,450	n/a	n/a
OCT	\$ -	\$ 1,452,833					\$ -	\$ 2,285,189	\$1,151,450	n/a	n/a
NOV	\$ -	\$ 1,452,833					\$ -	\$ 2,511,719	\$1,151,450	n/a	n/a
DEC	\$ -	\$ 1,452,833					\$ -	\$ 2,800,000	\$1,151,450	n/a	n/a

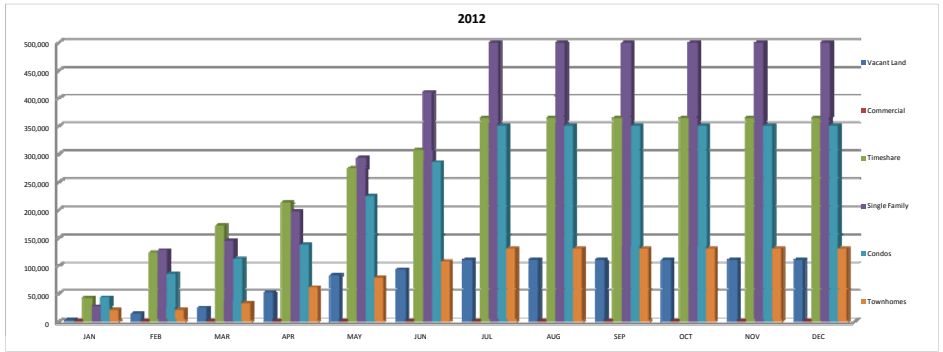
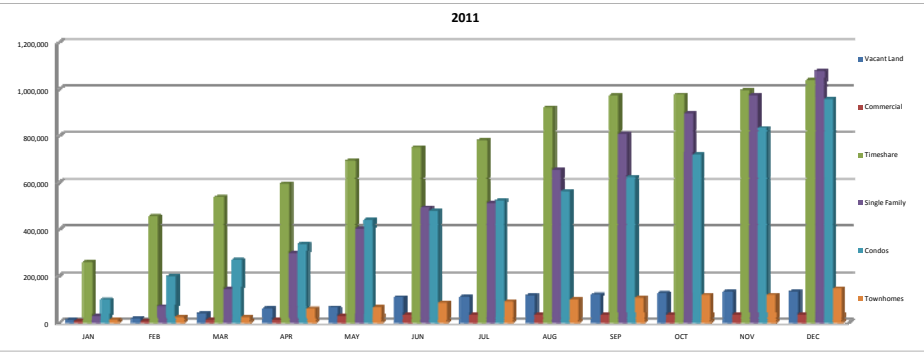
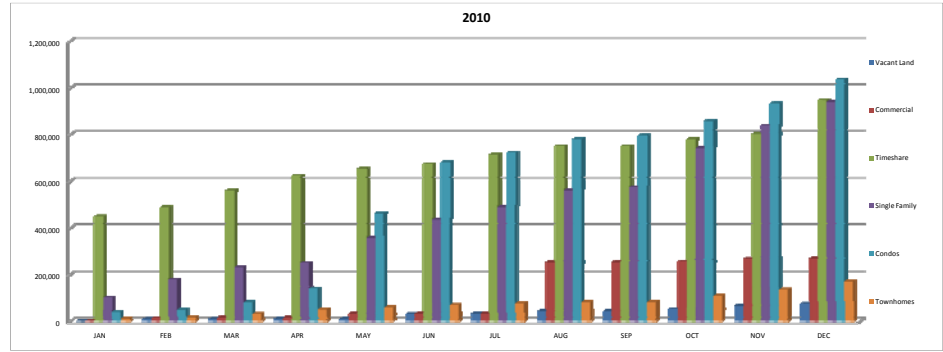
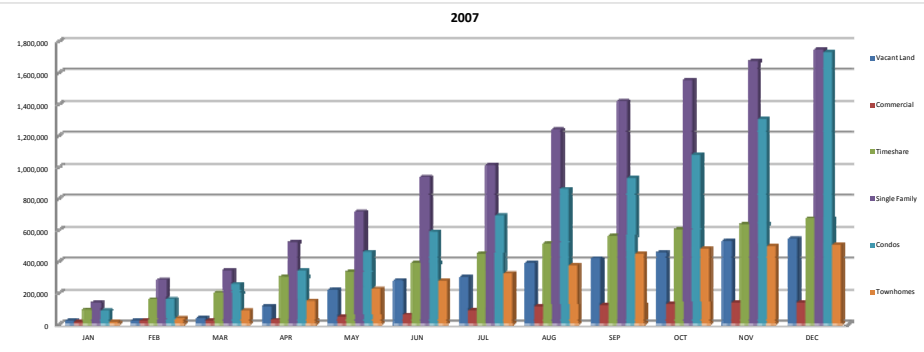
RETT Monthly Collections vs. Churn



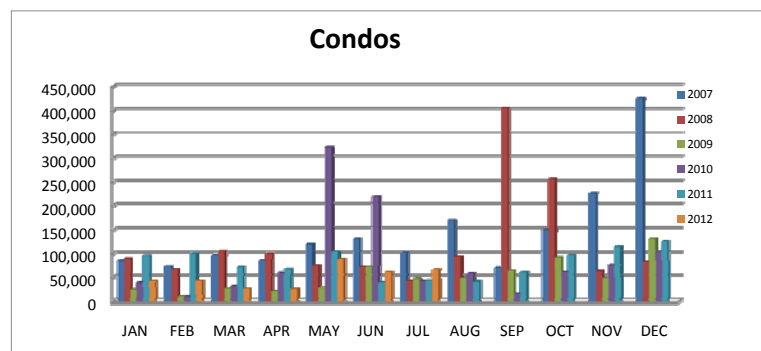
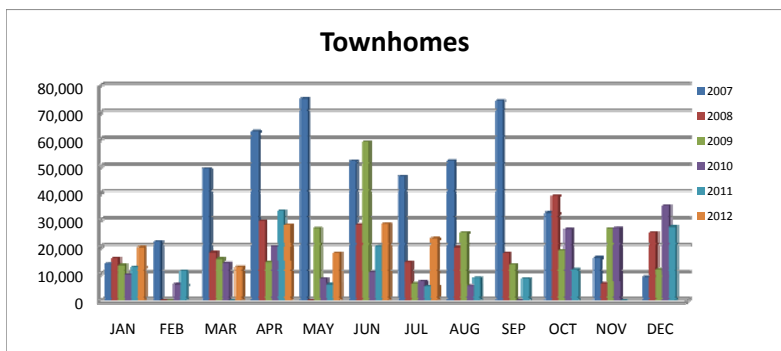
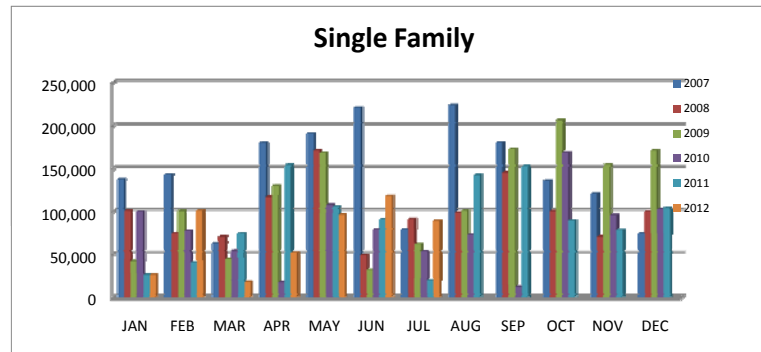
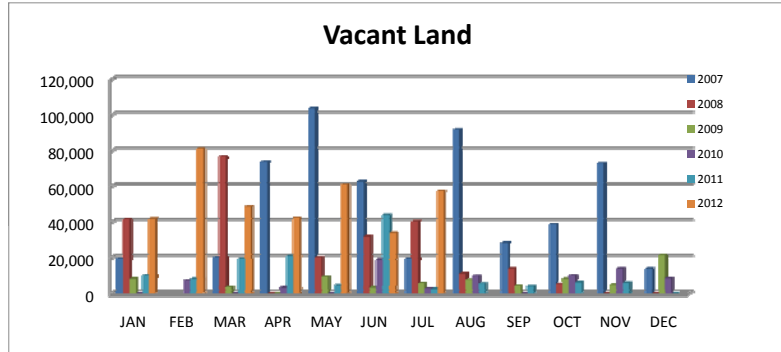
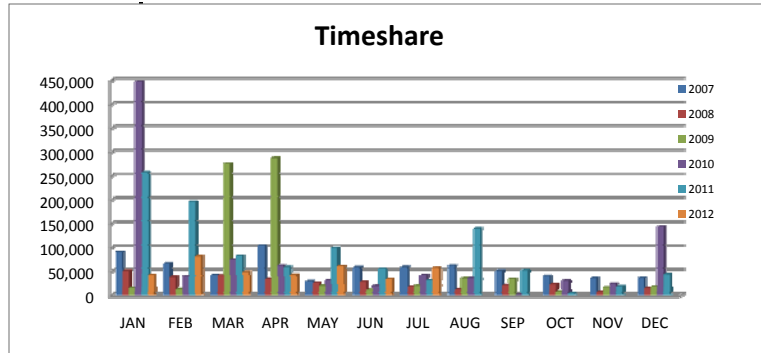
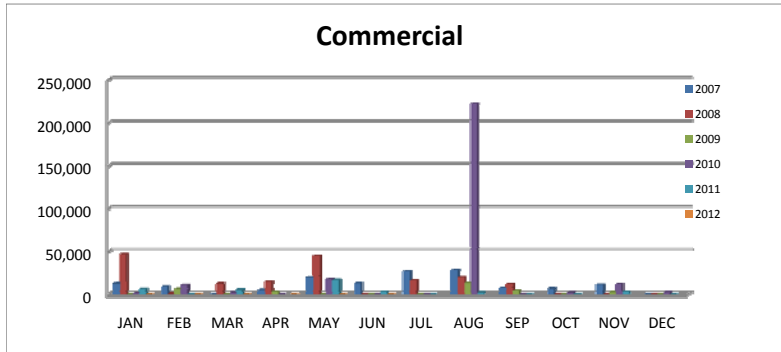
YTD Churn Analysis



**TOWN OF BRECKENRIDGE
REAL ESTATE TRANSFER TAX COLLECTIONS
YTD CATEGORIES BY MONTH**



TOWN OF BRECKENRIDGE REAL ESTATE TRANSFER TAX COLLECTIONS MONTHLY BY CATEGORY



MEMORANDUM

TO: Town Council

FROM: Matt Thompson, AICP

DATE: August 7, 2012, for the August 14th Town Council meeting

SUBJECT: Town of Breckenridge Wildfire Protection Update

Over the last several years, we have been working with the United States Forest Service (USFS), Colorado State Forest Service (CSFS), Summit County Government, and our closest partner, Red White and Blue Fire Protection District (RWB). Together we have laid the cornerstone for all of our efforts, that being the Community Wildfire Protection Plan (CWPP). That plan is based on a fuels hazard, and community asset analysis, and outlines our collective priorities for minimizing the risk from wildfire. The Plan was jointly developed by the member agencies of the Summit County Wildfire Council. Those members include Breckenridge and the other municipalities in Summit County, RWB, Lake Dillon Fire District, Summit County, CSFS, and the USFS.

There are a number of efforts currently being pursued by varying combinations of all of the agencies mentioned above. Some are in the planning stages; others have already had significant on the ground work completed.

Fire Chief Lori Miller and Deputy Chief Jay Nelson of Red, White and Blue Fire District will attend the Council meeting of August 14th to discuss the number of voluntary defensible space inspections, trees marked, acres treated, and hours RWB has spent on this process from 2009 – 2012. RWB will also provide information from the CSFS on fuel reduction projects in our area funded by the Summit County Wildfire Council. Furthermore, RWB will have an update on the USFS projects in the Breckenridge area. Staff from the Community Development Department will be on hand to present the Town's fuel reduction efforts.

The Town of Breckenridge commissioned a study in 2008 to analyze the mountain pine beetle hazard on all in Town open space parcels. This plan prioritized all the Town open space parcels into: High, Moderate-High, Moderate, Low-Moderate, and Low. The Town has treated all High, Moderate-High, and Moderate priority areas. The Town has decided to not treat some of the low-moderate and low priority areas. The parcels that were not treated were due to steepness, lack of access, and/or lodgepole pine trees were not the dominant species.

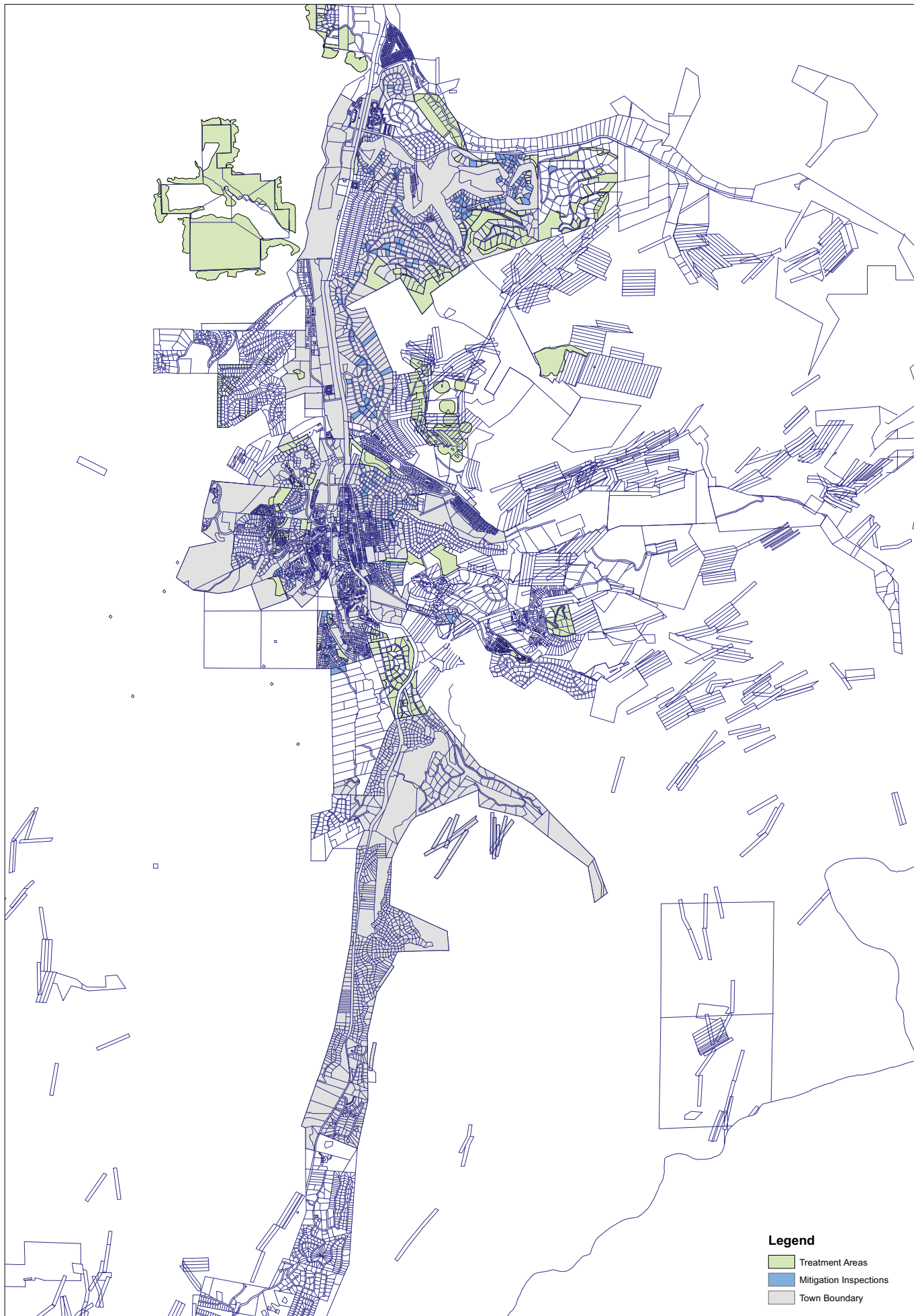
To date approximately 331 (78 acres cut in 2009, 56 acres in 2010, 96 acres in 2011 and 101 acres in 2012) acres have been cleared on Town open space to help create fuel breaks and initiate regeneration of unhealthy lodgepole-dominated mountain pine beetle infested stands. Funding for these projects came from the Town's Open Space Fund, the Summit County Wild Fire Council Grant program, Colorado State Forest Service Forest Restoration Pilot Grants, and supportive local homeowners associations. This does not necessarily mean, however, that all of this acreage has been clear cut. Treatments on this

acreage have been everything from no action, to very selective thinning, to patch cuts, to clear cuts. Other forest management efforts include a variety of treatments on the West Moonstone parcel, and an analysis and prescription for what amounts to no further action in Cucumber Gulch. The Town has been awarded a matching grant in 2012 from the Summit County Wildfire Council to complete an 8.5 acre cut above and around Pinewood Village and Claimjumper Condos. The Town and Summit County currently have a pending application for a matching grant from the Colorado State Forest Service for another 50 acres of jointly owned land in the Golden Horseshoe, scheduled to be cut in 2013.

As you can see, we have been very active in planning for forest management on all fronts. The Red, White and Blue Fire District have been instrumental in helping us develop most of the elements in our planning. The layered effect of all these plans, when brought to fruition, will give us a set of strategies that strikes a reasonable balance of allocation scarce resources, with providing reasonable protection for the community.

List of Attached Documents

- 2009-2012 RWB Data on voluntary defensible space inspections
- Graphs on voluntary defensible space inspections including: number of inspections, hours spent on inspections, trees marked, and acres treated
- Map of private property cut using Summit County Wildfire matching grants
- Maps from the USFS on their proposed cuts in our area

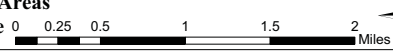


- Legend**
- Treatment Areas
 - Mitigation Inspections
 - Town Boundary



This map is for display purposes only. DO NOT use for legal conveyance.
 NOT necessarily accurate to surveying standards, and DOES NOT
 Comply with National Mapping Accuracy Standards. Red, White and Blue Fire Protection District
 and Summit County Government
 assume no responsibility for the accuracy of the data in the digital GIS
 database, and that use of the product for any purpose is at the user's sole risk.
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Mitigation and Treatment Areas
Town of Breckenridge



Author: JTW
 Date: 8/7/12
 Time: 12:47:55 PM

2009-2012 Data Explanation

2009

Data includes inspections for FireWise® communities within the Town of Breckenridge, which include:

- Highlands Park
- White Wolf
- Shock Hill
- The Pines at Four O'clock
- Park Forest Estates

Ninety percent (90%) of the staff time and inspections were a result of the defensible space proposed ordinance that was being discussed in the Town. More time was spent on each inspection providing education on the proposed requirements. The rest of the inspection time was dedicated to the FireWise® projects.

2010

Decline in inspections and hours are due to change from mandatory to voluntary ordinance. Less people individually inquiring about defensible space, but larger increase in HOA requests for Grant work in large areas.

2011

Data includes all individual property inspections within a HOA.

2012

Data includes all individual property inspections through 7/31/12.

HOA meetings include:

- Wieshorn
- Trappers Glen
- Christy Heights
- Miners View
- Cedars

Ready Set Go presentations include:

- Land Title
- CMC Book Panel Discussion (Big Burn)
- RSG Community Event at CMC
- Animal Control training
- Breckenridge PD Forest Health meeting

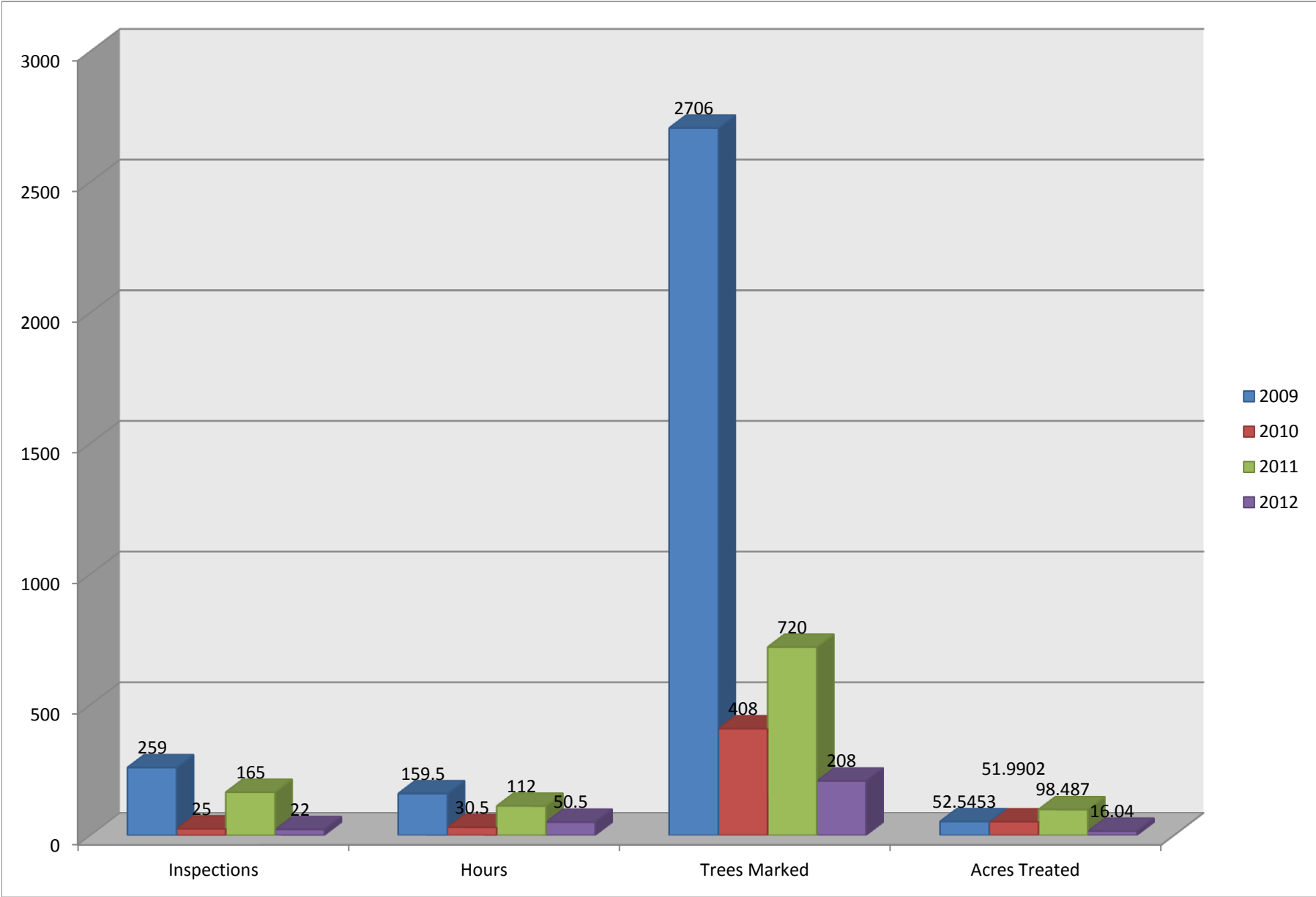
Evacuation Trainings:

- Summit County Fire Authority Joint Trainings
 - Highlands Park
 - Summit Estates

Fire Council Projects:

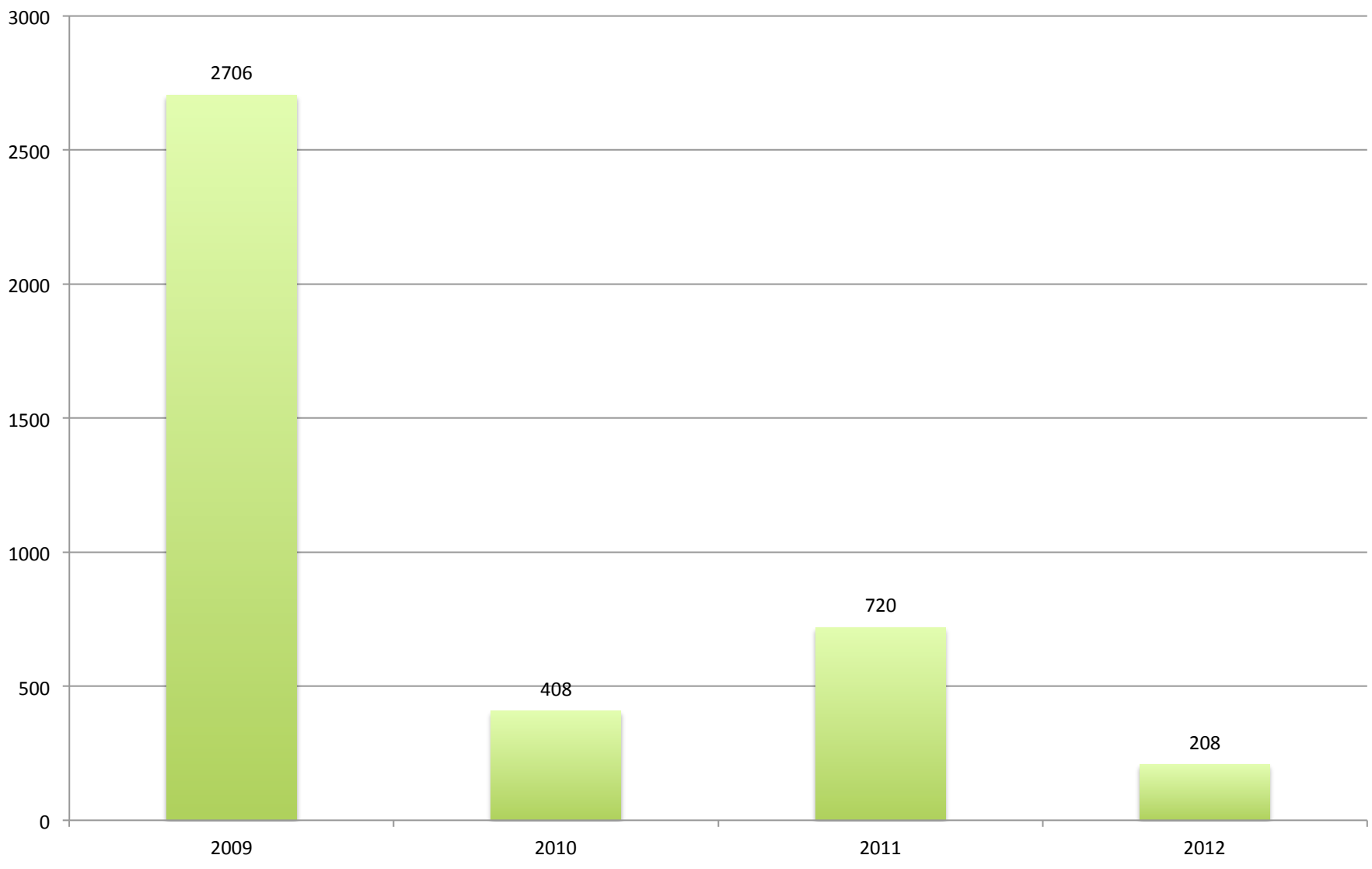
- Highlands – Rounds Road Area
- Highlands – Golf Course Filing 10
- Summit Estates – Water Cisterns
- Adams and American Placer – Peak 7
- Claimjumper Condominiums
- Golden Horseshoe – Joint Project Town of Breckenridge and Summit County

NONE OF THE DATA INCLUDES FIRE COUNCIL PROJECTS OR TOWN OF BRECKENRIDGE PROJECTS

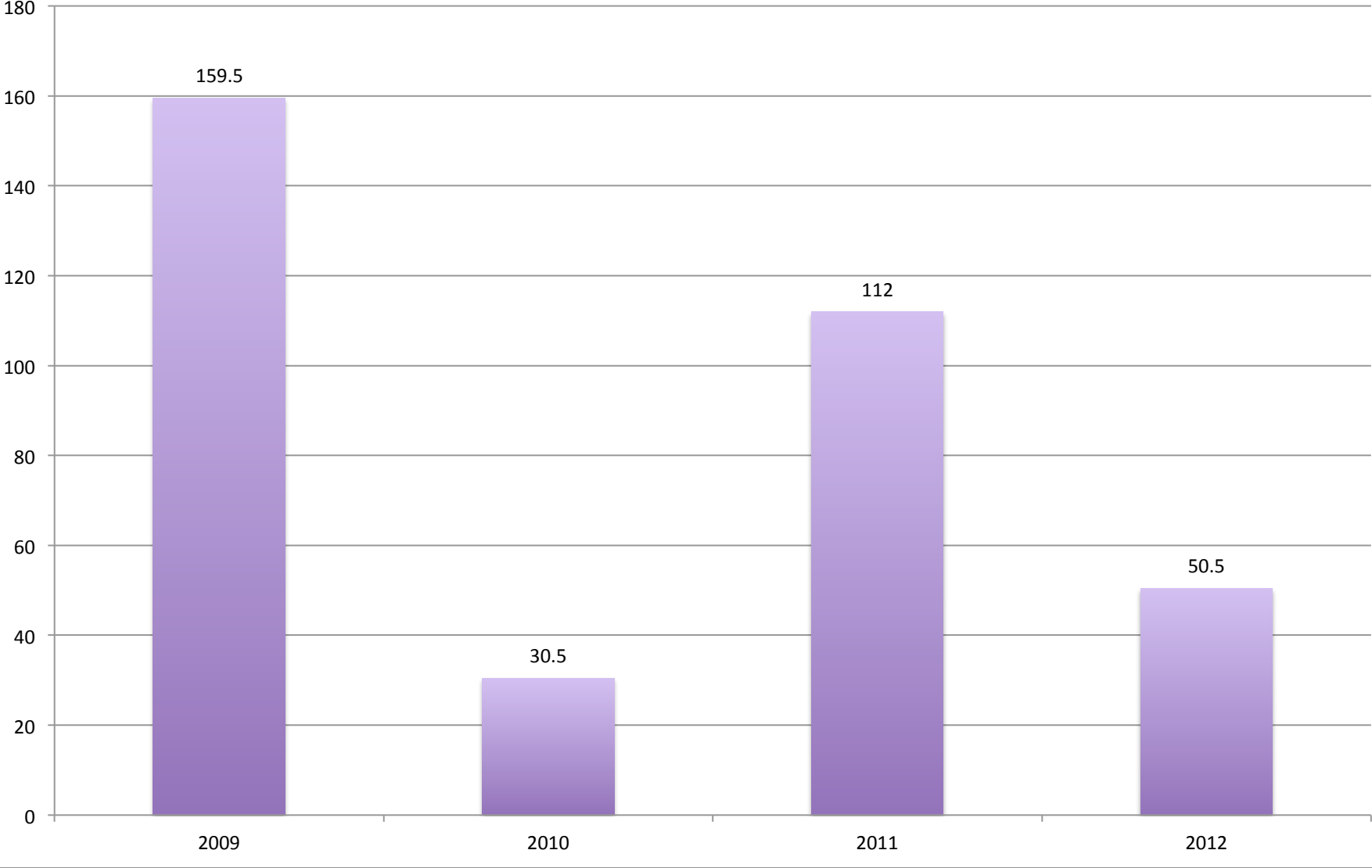




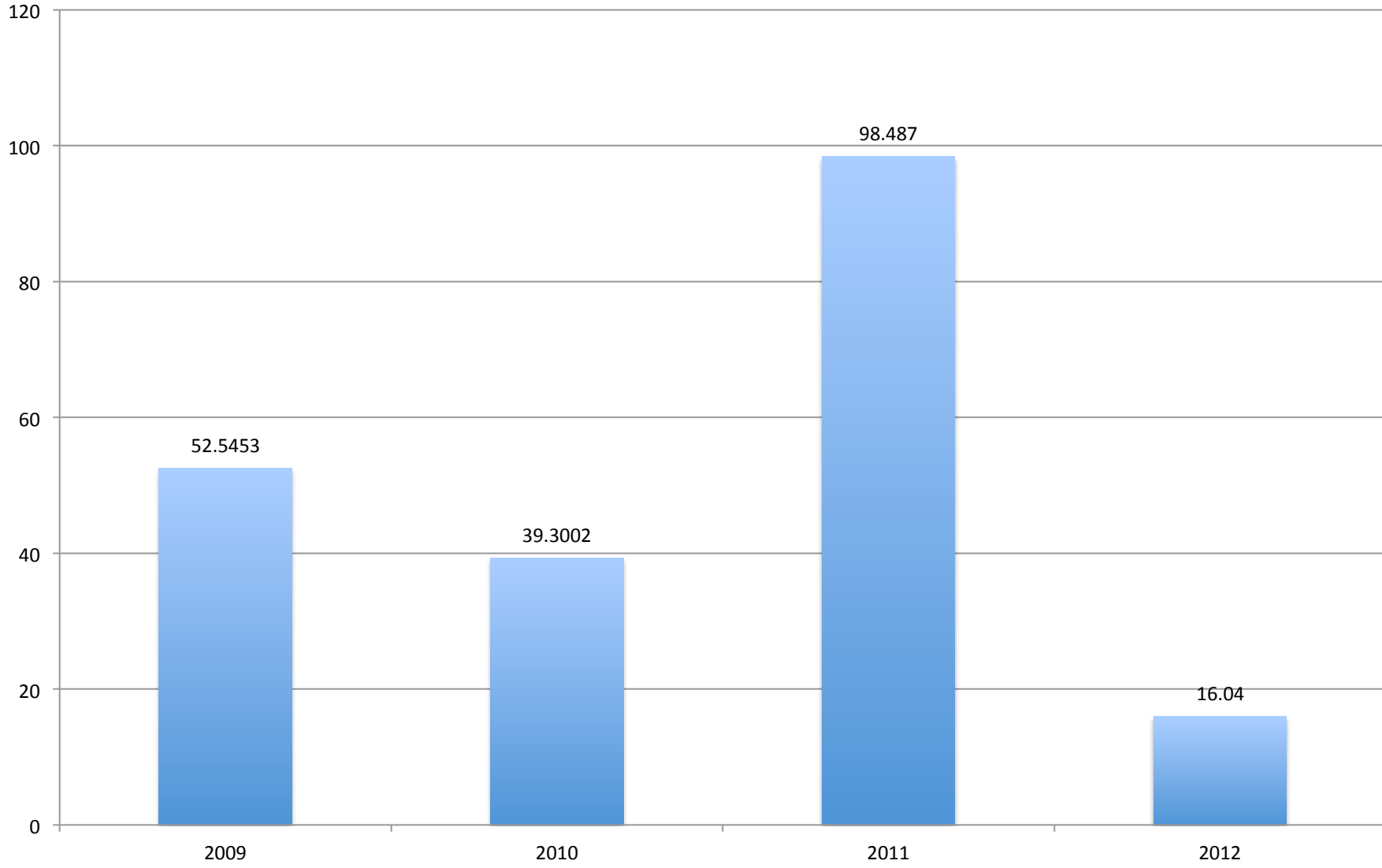
Trees Marked



Hours



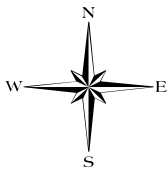
Acres Treated



Project	Contract Status	Road Miles	Road Acres	Fuels/ Forest Acres	Trail Miles	Trail Acres	Treatment Description	District
HT6 Peaks Gold Hill	Awarded 9/13/11, Complete				10.5	248	Fell hazard trees along trails, lop and scatter	Dillon
HT 11 PennSum	Awarded 9/13/11, Partially complete	1.75	47				Fell hazard trees along roads, lop and scatter	Dillon
HT14 Peak 7 South	Awarded 9/13/11, not started			34			Forest Product removal, clearcut	Dillon
Red Tail Ranch Settlement	Awarded 1/25/12, complete			5			Forest Product removal, clearcut	Dillon
Barton Creek Salvage	Awarded 6/4/12, not started			158			Forest Product removal, clearcuts	Dillon
HT20 Ophir East	Planned Award 9/2012			358			Forest Product removal, clearcuts	Dillon
HT22 Highlands	Planned Award 9/2012			455.3			Forest Product removal, clearcuts	Dillon
Breckenridge Hand Treatment 2012	Planned Award 9/2012			115			Cut, hand pile, burn hand piles, scatter large diameter trees	Dillon
Totals		1.75	47	1125	10.5	248		0

HT20 Ophir East Stewardship Task Order Vicinity Map

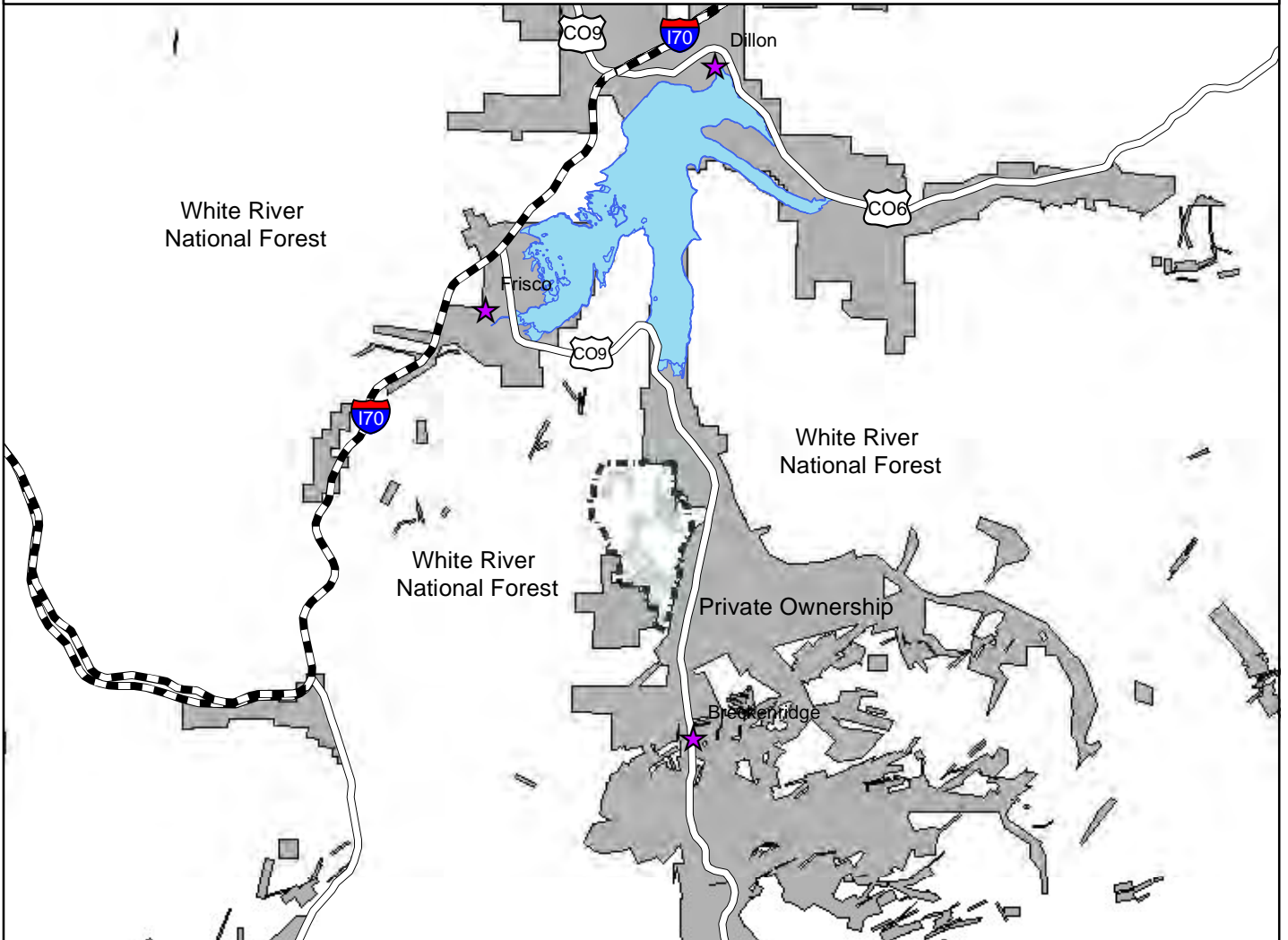
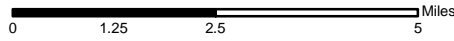
BCC 7/09/2012



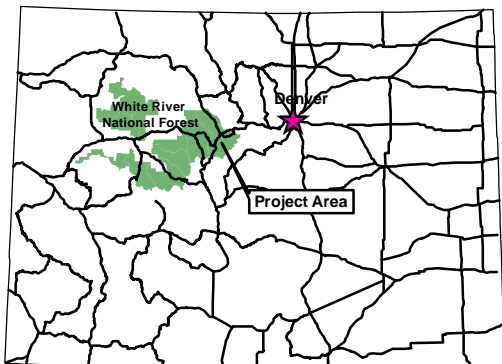
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Dillon Ranger District
White River National Forest
USDA Forest Service






Portions of Sections 7 and 18,
T6S, R77W. Portions of Sections
11, 12, 13 and 24, T6S, R78W
6th P.M., Summit County, Colorado

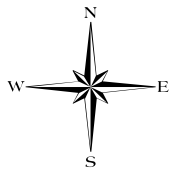


COLORADO



LEGEND

-  Sale Area Boundary
-  Cutting Unit Boundary
-  Interstate 70
-  Major Road
-  Private Ownership

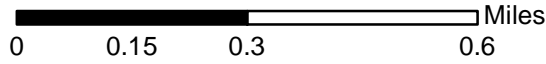


HT20 Ophir East Stewardship Task Order Contract Area Map

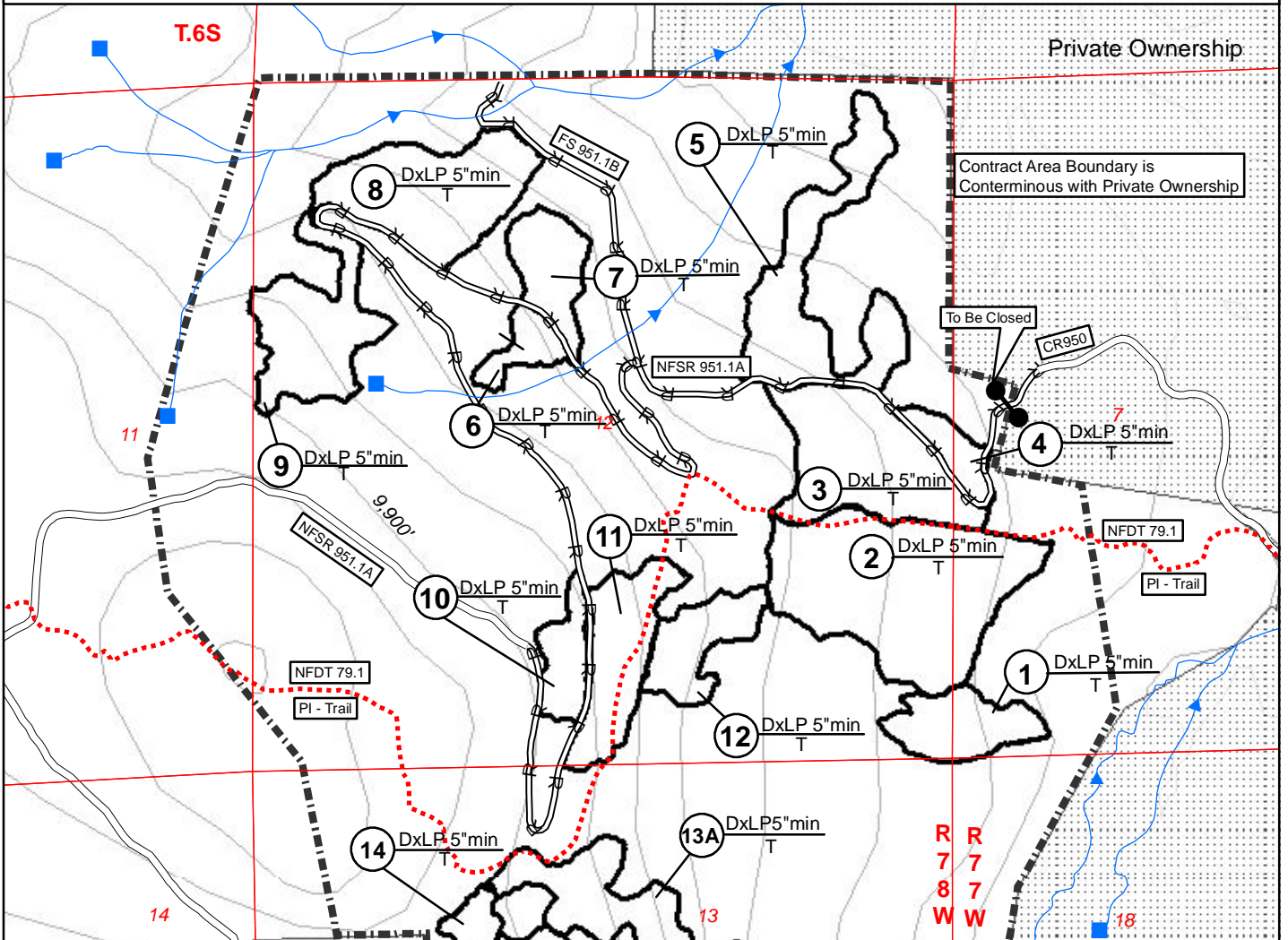
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Dillon Ranger District
White River National Forest
USDA Forest Service

Contour Interval: 100 feet
Scale: 1:15,840
Sheet 1 of 2



Portions of Sections 7 and 18,
T6S, R77W. Portions of Sections
11, 12, 13 and 24, T6S, R78W
6th P.M., Summit County, Colorado



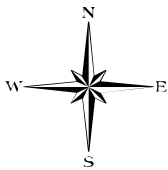
LEGEND

- Contract Area, B.1
- Cutting Unit Boundary, B.1, 29.1a
- Cutting Unit Number
- Designation by Species and Diameter, Tractor Logging Specified, RO-K-C3.5.2#
- Existing Roads, 38
- Existing Roads, Hauling Restricted, 38, 39, 39a

- Protect Streamcourse, 35
- PI - Gate (To Be Closed), RO-K-F4.1#
- PI - Trail, 28a
- National Forest Designated Trail
- National Forest System Route
- County Road
- Private Ownership

HT20 Ophir East Stewardship Task Order Contract Area Map

BCC 8/01/2012

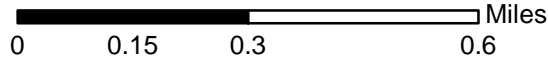


Contour Interval: 100 feet

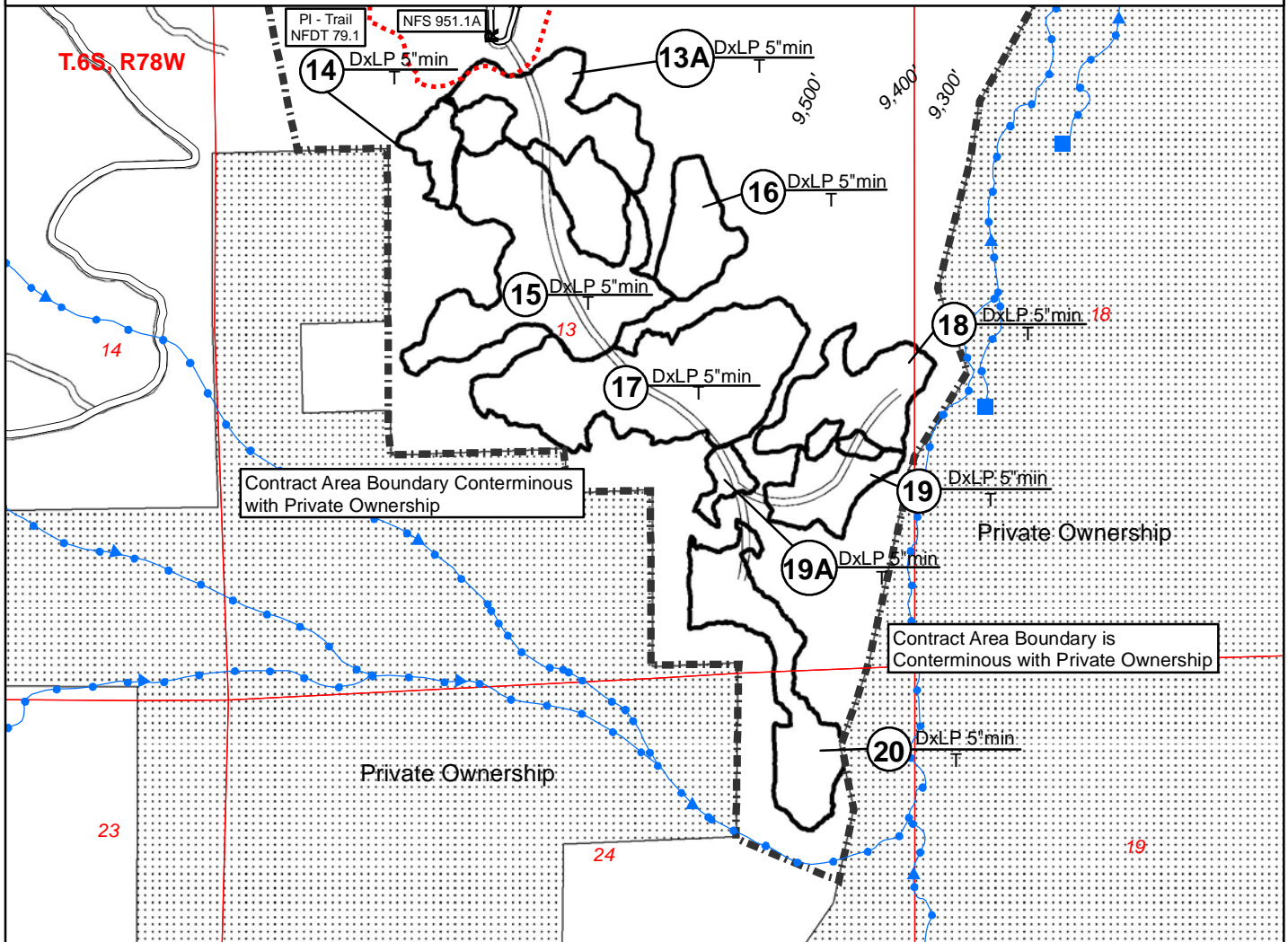
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Sheet 2 of 2

Dillon Ranger District
White River National Forest
USDA Forest Service



Portions of Sections 7 and 18,
T6S, R77W. Portions of Sections
11, 12, 13 and 24, T6S, R78W
6th P.M., Summit County, Colorado



LEGEND



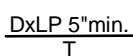
Contract Area, B.1



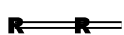
Cutting Unit Boundary, B.1, 29.1a



Cutting Unit Number



Designation by Species and Diameter,
Tractor Logging Specified, RO-K-C3.5.2#



Existing Roads, Hauling Restricted, 38, 39, 39a



Existing Roads, 38



Protect Streamcourse, 35



PI - Trail, 28a



National Forest System Road



National Forest Designated Trail



Private Ownership



HT22 Highlands Stewardship Task Order Contract Area Map

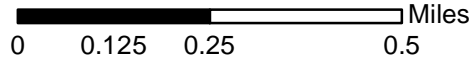
Dillon Ranger District
White River National Forest
Summit County, Colorado

T.6S, R.77W, Sections 19, 20, 21, 28, 29,
30, 32 and 33; 6th Principal Meridian,
Summit County, Colorado

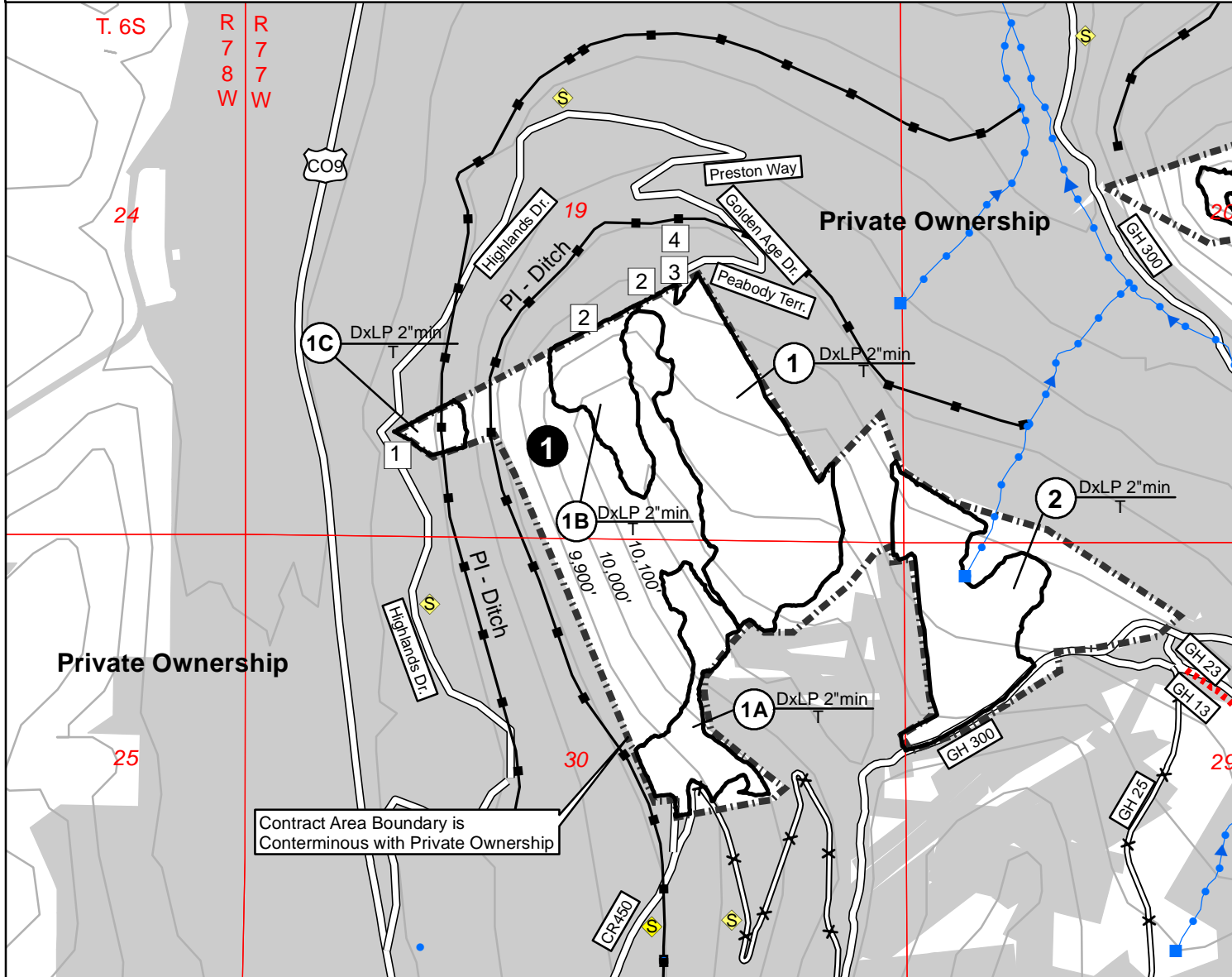
Scale: 1:15,840

Contour Interval: 100-feet

sheet 1 of 3



BCC 7/16/2012



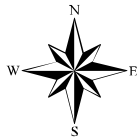
LEGEND

- Road Use Agreement, Appendix C, RO-K-F.1.1.3#
- Safety Sign Location, 42
- Contract Area, Subdivision, B.1
- Subdivision, B.1
- Cutting Unit Boundary, B.1, 29.1a
- Cutting Unit Number
- Designation by Species and Diameter, Tractor Logging Specified, WO-K-C.3.5.2#
- Existing Roads, Hauling Prohibited, 38
- Existing Roads, 38
- Protect Improvement
- PI - Trail, 28a
- PI - Streamcourse, 35
- PI - Ditch, 28a
- County Road
- Golden Horseshoe
- Private Ownership

HT22 Highlands Stewardship Task Order Contract Area Map

Dillon Ranger District
White River National Forest
Summit County, Colorado

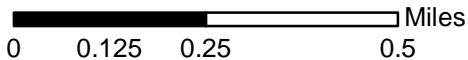
T.6S, R.77W, Sections 19, 20, 21, 28, 29,
30, 32 and 33; 6th Principal Meridian,
Summit County, Colorado



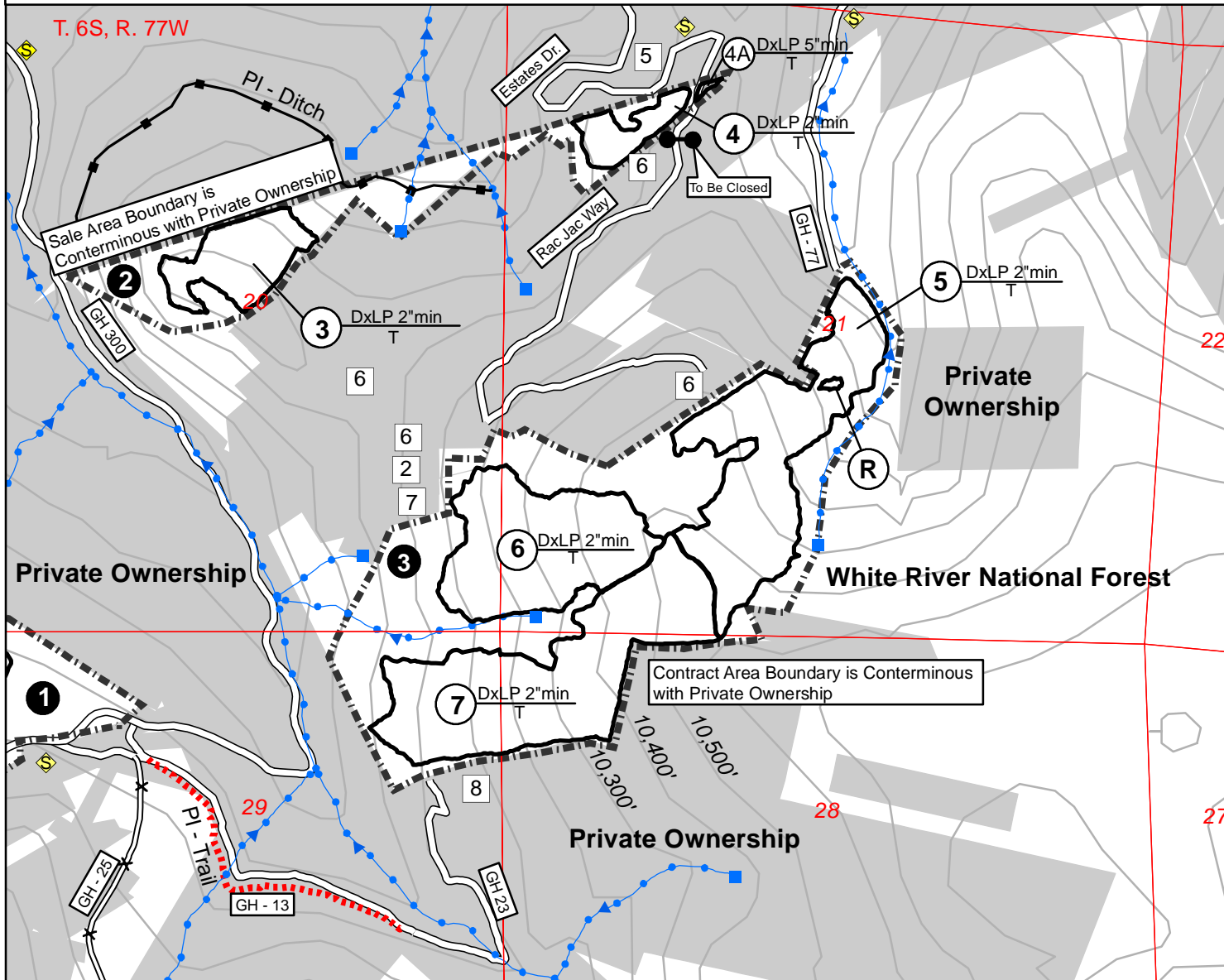
Scale: 1:15,840

Contour Interval: 100-feet

Sheet 2 of 3



BCC 8/01/2012

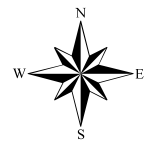


LEGEND

- 1 Road Use Agreement, Appendix C, RO-K-F.1.1.3#
- S Safety Sign Location, 42
- Contract Area, Subdivision, B.1
- 1 Subdivision, B.1
- 1 Cutting Unit Boundary, B.1, 29.1a
- 1 Cutting Unit Number
- Designation by Species and Diameter, Tractor Logging Specified, WO-K-C.3.5.2#
- R Reserve Trees, 29a, 29b
- Existing Roads, Hauling Prohibited, 38
- Existing Roads, 38
- PI Protect Improvement, 28a
- PI - Trail, 28a
- PI - Streamcourse, 35
- PI - Ditch, 28a
- PI - Gate (To Be Closed), RO-K-F4.1#
- CR County Road
- GH Golden Horseshoe
- Private Ownership

HT22 Highlands Stewardship Task Order Contract Area Map

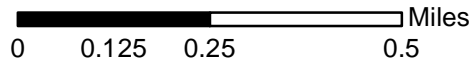
T.6S, R.77W, Sections 19, 20, 21, 28, 29,
30, 32 and 33; 6th Principal Meridian,
Summit County, Colorado



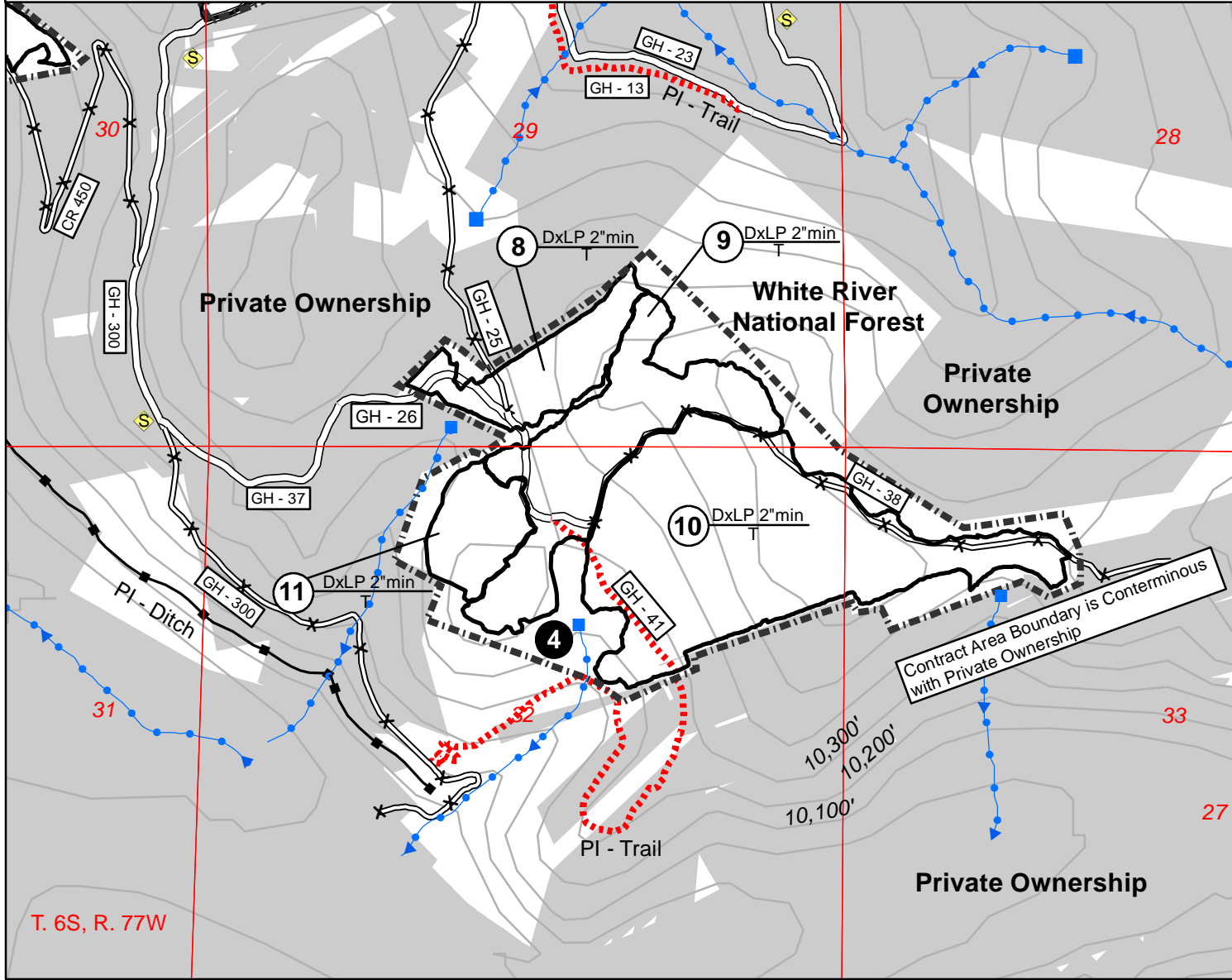
Scale: 1:15,840

Contour Interval: 100-feet

Sheet 3 of 3



BCC 7/16/2012
sl 08/03/2012



LEGEND

- Road Use Agreement, Appendix C, RO-K-F.1.1.3#
- Safety Sign Location, 42
- Contract Area, Subdivision, B.1
- Subdivision, B.1
- Cutting Unit Boundary, B.1, 29.1a
- Cutting Unit Number
- Designation by Species and Diameter, Tractor Logging Specified, WO-K-C.3.5.2#
- Existing Roads, Hauling Prohibited, 38
- Existing Roads, 38
- Protect Improvement, 28a
- PI - Trail, 28a
- PI - Streamcourse, 35
- PI - Ditch, 28a
- County Road
- Golden Horseshoe
- Private Ownership

T. 6S, R. 77W

MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Assistant Town Manager
Date: August 7, 2012
Subject: Review of Draft IGA for Harris Street Building with County

Enclosed is a draft of the Intergovernmental Agreement (IGA) between the Town and Summit County for the remodel/construction and use of 103 South Harris Street in part as a library. This draft IGA has also been presented to county staff for their review. Staff wanted to get this draft in front of the Council for review to confirm that the business/financial agreements as spelled out are consistent with the Council's desires.

As you are reviewing the document, you will find the financial obligations of both parties described in section 4 under Cost of the Project.

Section 5 briefly states the Town and the County will execute a lease prior to completion of the project and states how those operational costs will be shared

The other part of this IGA that you may want to pay close attention to is section 11, Prior Library IGA. As you will see, this IGA terminates the existing IGA on the use of the Airport Road property as a library and transfers that use and obligation to the Harris Street location. It also redefines the use of the existing library location.

Additionally, I did have a conversation with Scott Vargo from the County and broached the concept of the Town and County sharing the cost of hiring a fund-raiser dedicated to this project. Scott Vargo got back with me after speaking with the Library Foundation to let me know the Foundation feels strongly there is no need to hire a fund-raising coordinator and they feel they have a strong plan in place. I expressed my concern to Scott about the Town's desire to keep the Foundation motivated past the \$675,000 goal. Scott thought this was a valid concern and offered the idea of incentivizing the Foundation for every dollar they raise above the 675k they keep 10% for additional library amenities and the remaining 90% is used to offset the Town's cost according to the terms in the IGA. I let Scott know I would share this idea with the Council. If the Council is favorable to this idea, we will incorporate it into the IGA.

The Town Attorney and I will be available at the work session for discussion and questions.

1 ***DRAFT August 8, 2012 DRAFT***

2
3 INTERGOVERNMENTAL AGREEMENT
4 (103 South Harris Street - Library)
5

6 This Intergovernmental Agreement (this “**Agreement**”) is dated _____,
7 2012 (the “**Effective Date**”) and is between the TOWN OF BRECKENRIDGE, a Colorado
8 municipal corporation (the “**Town**”) and SUMMIT COUNTY, COLORADO, acting by and
9 through the BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO
10 (the “**County**”). The Town and the County are sometimes referred to individually as a “**Party**”,
11 and together as the “**Parties.**”
12

13 **Background**
14

15 The County operates a county library system within Summit the County pursuant to
16 Section 24-90-101, et. seq., C.R.S. As part of its library system, the County owns and operates
17 the South Branch of the Summit County Library located at 504 Airport Road, Breckenridge,
18 Colorado 80424. The Town owns the real property commonly known as 103 South Harris Street,
19 Breckenridge, Colorado 80424. There is currently located on the Town’s property a historic
20 structure which, if remodeled, will be suitable for uses that include the library. The Parties have
21 agreed to jointly pay to design and then remodel the Town’s property so that it will be suitable
22 for uses that include the library, all as more fully set forth in this Agreement. The Parties desire
23 that the library be relocated from its current location to the Town’s property, subject to the terms
24 and conditions of this Agreement.
25

26 **Agreement**
27

28 For and in consideration of the mutual promises and covenants contained herein, and intending
29 to be legally bound, the Parties agree as follows:
30

- 31 1. Authority. This Agreement is entered into pursuant to the authority granted by Article
32 XIV, Section 18(2)(a) of the Colorado Constitution and Part 2 of Article 1 of Title 29,
33 C.R.S.
- 34 2. Definitions. As used in this Agreement, the following terms have the following
35 meanings, unless the context clearly requires otherwise:

- ACT: The Colorado Governmental Immunity Act, Part
1 of Article 10 of Title 24, C.R.S., as amended
from time to time.
- BUILDING: The improvements located upon the Property.
- DEFAULTING PARTY: A Party alleged to be in default under this
Agreement.

INTERGOVERNMENTAL AGREEMENT

EXISTING LIBRARY SITE: The site of the South Branch of the Summit County Library as of the date of this Agreement, which property is commonly known as at 504 Airport Road, Breckenridge, Colorado and is more fully described on the attached **Exhibit “B”**.

LEASE: The long-term lease agreement between the Town and the County described in Section 5.

LIBRARY: The South Branch of the Summit County Library to be relocated to a portion of the Building as provided in this Agreement.

NON-DEFAULTING PARTY: The Party asserting that the other Party is in default under this Agreement.

PLANS: The plans for the Project approved by the Town and the County, as amended from time to time in accordance with this Agreement.

PRIOR LIBRARY IGA: The Intergovernmental Agreement between the Parties dated March 1, 1995, as amended by the First Amendment to Intergovernmental Agreement dated October 1, 2001.

PROJECT: The work of designing and remodeling the Building as described in this Agreement.

PROPERTY: The real property owned by the Town as described on the attached **Exhibit “A”**.

- 1
- 2 3. Renovation of the Building.
- 3
- 4 A. The Building will be remodeled by the Town in accordance with the Plans.
- 5 B. The Town and the County must each approve the Plans. Once approved, the Plans
- 6 will not be changed without the Parties’ consent.
- 7 C. The Town and the County will work cooperatively and in good faith with each
- 8 other throughout the design and construction of the Project.
- 9 D. The Town is responsible for the performance of all of the work required to
- 10 complete the Project. To that end, the Town will select the general contractor to
- 11 perform the work described in the Plans, and will enter into all necessary

INTERGOVERNMENTAL AGREEMENT

1 contracts for the design and construction of the Project. The Town will consult
2 with the County before selecting the general contractor. The Town will not
3 change the general contractor without first consulting with the County.

4 E. The Town will complete the Project with due diligence. Subject to the force
5 majeure conditions described in Section 8, the Town will use its best efforts to
6 complete the Project and make the County's leased space in the Building ready
7 for the County's occupancy not later than January 1, 2015; provided, however, as
8 provided in Section 7, the Town is not liable to the County for any delay in the
9 completion of the Project.

10 4. Cost of the Project.

11 A. As of the date of this Agreement, the best information available to the Parties is
12 that the total cost of the Project will be approximately \$7,400,000. Any increase
13 in the cost of the Project must be reviewed and approved by both the Town and
14 the County.

15 B. The County will pay \$2,675,000 toward the cost of the Project. Such sum will be
16 paid upon request of the Town either as the construction progresses, or at the end
17 of the Project.

18 C. Subject to the remainder of this Section, the Town will pay the balance of the cost
19 of the Project.

20 D. The Town and the County will work cooperatively, expeditiously, and in good
21 faith to attempt to raise funds to help pay the cost of the Project. Such efforts will
22 include, without limitation, private donations, public and private grants, and
23 similar awards. It is expected that the Summit Library Foundation will be
24 involved in raising funds for the Project.

25 E. Funds raised through the Parties' joint fundraising efforts will be applied as
26 follows:

27 i. the first \$575,000 will be used to offset the costs incurred or to be incurred
28 by the Town to complete the Project as described in Section 4(C).

29 ii. any amount between \$575,001 and \$675,000 will be set aside and used for
30 special enhancements to the Library to be designated by the County. Any
31 funds described in this Subsection that are not spent will be credited to the
32 Town's financial obligation as described in Section 4(C) .

33 iii. any amount in excess of \$675,000 will be used to offset the costs incurred
34 or to be incurred by the Town to complete the Project as described in
35 Section 4(C), until the Town's share of the cost to complete the Project

1 has been reduced to \$2,675,000 (the amount of the County's share of the
2 cost to complete the Project as described in Section 4(B)).

- 3 iv. any amount in excess of that required to reduce the Town's share of the
4 cost to complete the Project has been reduced to \$2,675,000 will be
5 credited equally to the Town and the County.

6 F. If the actual cost to complete the Project is:

7 i. less than \$7,400,000 but greater than \$6,000,000, the difference between
8 \$7,400,000 and the actual cost to complete the Project will be credited to
9 the Town's financial obligation as described in Section 4(C);

10 ii. \$6,000,000 or less, \$1,400,000 will first be credited to the Town's
11 financial obligation as described in Section 4(C), and the remaining
12 savings will then be credited equally to the Town and the County.

13 5. Lease. Prior to the County's initial occupancy of the Building the Town and the County
14 will negotiate a mutually acceptable long-term lease for the County's use of the Library
15 portion of the Building, as well as certain areas of the Building where use will be shared
16 by the Town and the County. The shared use areas ("**Shared Use Areas**") will include
17 the two multi-purpose rooms, the kitchen, the circulation space, the public restrooms, and
18 the parking areas of the Building. The lease will include, without limitation, the following
19 provisions:

20 A. The County will be required to pay 35% of the annual total cost of providing gas,
21 electricity, water, sewer, and trash removal/recycling for the Building.

22 B. The County will manage the Library and Shared Use Areas and, in connection
23 with such management, will pay for and provide required cleaning and routine
24 maintenance of the Library and the Shared Use Areas.

25 C. The Town will pay 65% of the cleaning and routine maintenance of the Shared
26 Use Areas that the County manages as described in B, above.

27 D. The Town will manage the remainder of the Building, and, in connection with
28 such management, will pay for and provide required cleaning and routine
29 maintenance of the remainder of the Building.

30 E. The Town will be responsible for performing all non-routine maintenance of the
31 Building, such as structural repairs, the replacement of the roof or boiler, and the
32 painting of the Building

33 F. The Parties will agree on a mutually acceptable mechanism for paying for major
34 or emergency repairs of the Building.

35 6. Use of Remainder of Building.

INTERGOVERNMENTAL AGREEMENT

1 A. The Town will retain ownership of the Building, and will have sole and exclusive
2 use and control over those portions of the Building that are not subject to the
3 Lease. The County has no right to use or control any portion of the Building that
4 is not subject to the Lease.

5 B. To attempt to avoid uses that conflict with the County's use of the Building as the
6 Library, the Town will consult with the County with respect to potential uses and
7 future tenants of the portion of the Building that is not subject to the Lease.

8 7. Exclusion of Remedies. **IN NO EVENT WILL THE TOWN BE LIABLE FOR ANY**
9 **INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT**
10 **NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS, REVENUE, OR**
11 **SAVINGS, BUSINESS INTERRUPTION, GOVERNMENT DISRUPTION, LOSS**
12 **OF CONFIDENCE IN GOVERNMENT, OR ANY OTHER CLAIM OF**
13 **WHATEVER KIND, ARISING FROM THE DELAY IN THE COMPLETION OF**
14 **THE PROJECT, EVEN IF THE TOWN HAS BEEN ADVISED OF THE**
15 **POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION WILL APPLY**
16 **NOTWITHSTANDING THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY**
17 **LIMITED REMEDY.**

18 8. Force Majeure. Neither Party is liable to the other for any failure, delay, or interruption in
19 the performance of any of the terms, covenants, or conditions of this Agreement due to
20 causes beyond the control of that Party, including, without limitation, strikes, boycotts,
21 labor dispute, embargoes, shortages of materials, acts of God, acts of the public enemy,
22 terrorism, acts of superior governmental authority, weather conditions, floods, riots,
23 rebellion, sabotage or any other circumstance for which such Party is not responsible or
24 which is not in its power to control.

25 9. Insurance.

26 A. Required Insurance. Until the Project has been completed the Town and the
27 County will each procure and maintain the following minimum insurance
28 coverages:

- 29 i. workers' compensation insurance to cover obligations imposed by
30 applicable laws for any employee of the Town or the County (as
31 applicable).
- 32 ii. general liability insurance with limits of liability not less than the limits of
33 liability established from time to time by the Act. The policy must include
34 coverage for bodily injury, broad form property damage (including
35 complete operations), personal injury (including coverage for contractual
36 and employee's acts), blanket contractual, products, and completed
37 operations.

1 Such coverages will be procured and maintained with forms and insurers
2 reasonably acceptable to the other Party. All coverage will be continuously
3 maintained until the Project has been completed. In the case of any claims-made
4 policy, the necessary retroactive dates and extended reporting periods will be
5 procured to maintain such continuous coverage.
6

7 B. Deductibles. The Town and the County are each solely responsible for any
8 deductible amounts required to be paid under their own required insurance
9 policies described in Subsection A.

10 C. Insurance Certificate. Each Party will provide the other Party with a certificate of
11 insurance evidencing that policies providing the required coverages, conditions,
12 and minimum limits are in full force and effect. Such certificates will be provided
13 within 10 days of the Effective Date of this Agreement, and on each renewal or
14 replacement of the required insurance policies throughout the term of this
15 Agreement. The completed insurance insurances will be sent to the Parties at the
16 addresses provided in Section 13.

17 10. Mutual Indemnification.

18 A. Indemnification By the Town. The Town will indemnify and defend the County,
19 its officers, employees, insurers, and self-insurance pool against all liability,
20 claims, and demands, on account of injury, loss, or damage, including, without
21 limitation, claims arising from bodily injury, personal injury, sickness, disease,
22 death, property loss or damage, or any other loss of any kind whatsoever, arising
23 out of or in any manner connected with this Agreement, to the extent that such
24 injury, loss, or damage is caused by:

- 25 i. the negligence or intentional wrongful act of the Town, or any officer,
26 employee, representative or agent of the Town; or
- 27 ii. the Town's breach of this Agreement,

28 except to the extent such liability, claim or demand arises through the negligence
29 or intentional wrongful act of the County, its officers, employees, or agents, or the
30 County's breach of this Agreement. To the extent indemnification is required
31 under this Agreement, the Town agrees to investigate, handle, respond to, and to
32 provide defense for and defend against, any such liability, claims, or demands at
33 its expense, and to bear all other costs and expenses related thereto, including
34 court costs and attorney fees.
35

36 B. Indemnification By the County. The County will indemnify and defend the Town,
37 its officers, employees, insurers, and self-insurance pool against all liability,
38 claims, and demands, on account of injury, loss, or damage, including, without
39 limitation, claims arising from bodily injury, personal injury, sickness, disease,
40 death, property loss or damage, or any other loss of any kind whatsoever, arising

1 out of or in any manner connected with this Agreement, to the extent that such
2 injury, loss, or damage is caused by:

- 3 i. the negligence or intentional wrongful act of the County, or any officer,
4 employee, representative or agent of the County; or
- 5 ii. the County's breach of this Agreement,

6 except to the extent such liability, claim or demand arises through the negligence
7 or intentional wrongful act of the Town, its officers, employees, or agents, or the
8 Town's breach of this Agreement. To the extent indemnification is required under
9 this Agreement, the County agrees to investigate, handle, respond to, and to
10 provide defense for and defend against, any such liability, claims, or demands at
11 its expense, and to bear all other costs and expenses related thereto, including
12 court costs and attorney fees.

13
14 C. Indemnity Subject To Applicable Law. The obligation of a Party to indemnify
15 and defend the other Party pursuant to this Section is expressly subject to any
16 applicable limitation or provision of the Act or any other law providing similar
17 limitations or protections, as well as to any applicable constitutional prohibition
18 against a Party indemnifying the other Party.

19 D. Indemnity For Worker's Compensation Claims.

- 20 i. The Town will indemnify and defend the County with respect to any
21 claim, damage, or loss arising out of any worker's compensation claim of
22 any employee of the Town.
- 23 ii. The County will indemnify and defend the Town with respect to any
24 claim, damage, or loss arising out of any worker's compensation claim of
25 any employee of the County.

26 E. Survival. The obligation of a Party to indemnify and defend the other Party
27 pursuant to this Section will survive the termination of this Agreement, and will
28 continue to be enforceable thereafter until such obligations are fully performed.

29 11. Prior Library IGA.

30 A. The Prior Library IGA is terminated. The recording of this Agreement with the
31 Summit County Clerk and Recorder constitutes the notice of termination of the
32 prior Intergovernmental Agreement as required by Section 6(D) of the Prior
33 Library IGA.

34 B. Notwithstanding the termination of the Prior Library IGA, it is agreed that upon
35 the first to occur of:

- 36 i. the transfer of legal title to the Existing Library Site by the County;

INTERGOVERNMENTAL AGREEMENT

1 ii. any use of the Existing Library Site after the commencement of the Lease
2 other than as a County or District Attorney’s office; or

3 iii. the termination of the Lease for any reason,

4 then the County will pay to the Town: (1) a sum equal to 92% of the then-current
5 fair market value of the land (but not the improvements) comprising the Existing
6 Library Site, and (2) 100% of the then-current cost of the Plant Investment Fee
7 for the Existing Library Site that the Town deferred payment of pursuant to the
8 Prior Library IGA. The value of the Existing Library Site will be determined by
9 agreement of the Parties, or if the Parties cannot agree, then by the determination
10 of a qualified, impartial real estate appraiser employed and paid equally by the
11 Parties. The selection of the appraiser will be made by mutual agreement of the
12 Parties, but if the Parties cannot agree, then the appraiser will be selected by the
13 then-President of the Continental Divide Bar Association, or successor
14 organization. The fair market value for the Existing Library Site will be paid in
15 cash to Town by the County within 30 days of the Parties’ receipt of the
16 appraiser’s determination of value.

17
18 12. Default; Resolution Of Disputes.

19 A. Default. A default exists under this Agreement if any Party violates any
20 covenant, condition, or obligation required to be performed under this Agreement.
21 If a Defaulting Party fails to cure such default within 20 business days after the
22 other Non-Defaulting Party gives written notice of the default to the Defaulting
23 Party then, at the Non-Defaulting Party’s option, the Non-Defaulting Party may
24 terminate this Agreement. In the event of a default not capable of being cured
25 within 20 business days, a Defaulting Party will not be in default if it commences
26 curing the default within 20 business days after receipt of written notice of default
27 from the Non-Defaulting Party, and thereafter cures such default with due
28 diligence and in good faith. Notwithstanding any Party’s right to terminate this
29 Agreement for an uncured default, this Agreement is subject to the rights of any
30 Party to invoke the remaining provisions of this Section.

31 B. Negotiation. Either Party may give the other Party written notice of any dispute
32 arising out of or related to this Agreement that is not resolved in the normal
33 course of business. The Parties will attempt in good faith to resolve any such
34 dispute promptly by negotiations between the Parties’ Authorized
35 Representatives. Within 15 business days after receipt of said notice, Authorized
36 Representatives will meet at a mutually acceptable time and place, and thereafter
37 as often as they reasonably deem necessary, to exchange relevant information and
38 to attempt to resolve the dispute. If the matter has not been resolved within 60
39 business days of the notice of dispute, or if the Parties fail to initially meet within
40 15 business days, either Party to the dispute may initiate mediation of the
41 controversy as provided below.

1 C. Mediation. If the dispute has not been resolved by negotiation as provided above,
2 the Parties will endeavor to settle the dispute by mediation with a neutral third
3 Party. If the Parties encounter difficulty in agreeing on a neutral third Party, they
4 may each appoint a neutral third Party to mediate.

5 D. Judicial Action. Any dispute arising out of or relating to this Agreement or the
6 breach, termination, or validity hereof, which has not been resolved by the
7 methods set forth above within 30 days of the initiation of mediation, may be
8 finally resolved by appropriate judicial action commenced in a court of competent
9 jurisdiction. The parties agree to venue in the courts of Summit County, Colorado
10 with respect to any dispute arising out of or relating to this Agreement. **BOTH**
11 **PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ACTION TO ENFORCE,**
12 **INTERPRET, OR CONSTRUE THIS AGREEMENT.**

13 E. Provisional Remedies. The procedures specified in this Section are the sole and
14 exclusive procedures for the resolution of disputes among the Parties arising out
15 of or relating to this Agreement; provided, however, that a Party may seek a
16 preliminary injunction or other provisional judicial relief if, in its judgment, such
17 action is necessary to avoid irreparable damage or to preserve the status quo.
18 Despite such action, the Parties will continue to participate in good faith in the
19 procedures specified in this Section.

20 F. Performance To Continue. Each Party is required to continue to perform its
21 obligations under this Agreement pending final resolution of any dispute arising
22 out of or relating to this Agreement.

23 G. Extension Of Deadlines. All deadlines specified in this Section may be extended
24 by mutual agreement.

25 H. Costs. Each Party will pay its own costs with respect to negotiation and
26 mediation. The prevailing Party in any judicial action is entitled to reimbursement
27 from the other Party for all reasonable costs and expenses, including attorney fees
28 in connection with such judicial action.

29 13. Notices. All notices required or permitted under this Agreement must given by registered
30 or certified mail, return receipt requested, postage prepaid, or by hand or commercial
31 carrier delivery, or by telecopies directed as follows:

32 If intended for the Town to:

33
34 Town of Breckenridge
35 P.O. Box 168
36 150 Ski Hill Road
37 Breckenridge, Colorado 80424
38 Attn: Timothy J. Gagen, Town Manager
39 Telecopier number: (970)547-3104

1 Telephone number: (970)453-2251

2
3 with a copy in each case (which will not constitute notice) to:

4
5 Timothy H. Berry, Esq.

6 Town Attorney

7 Timothy H. Berry, P.C.

8 131 West 5th Street

9 P. O. Box 2

10 Leadville, Colorado 80461

11 Telephone number: (719)486-1889

12 Telecopier number: (719)486-3039

13
14 If intended for the County, to:

15
16 Board of the County Commissioners

17 P.O. Box 68

18 Breckenridge, Colorado 80424

19 Attn: Gary Martinez, County Manager

20 Telephone number: (970)453-3401

21 Telecopier number: (970)453-3535

22
23 with a copy in each case (which will not constitute notice) to:

24
25 Jeff Huntley, Esq.

26 Summit County Attorney

27 P.O. Box 68

28 Breckenridge, Colorado 80424

29 Telephone number: (970)453-3407

30 Telecopier number: (970)454-3535

31
32 Any notice delivered by mail in accordance with this Section is effective on the third
33 business day after being deposited in any post office or postal box regularly maintained
34 by the United States postal service. Any notice delivered by telecopier in accordance with
35 this Section is effective upon receipt if concurrently with sending by telecopier receipt is
36 confirmed orally by telephone and a copy of said notice is sent by certified mail, return
37 receipt requested, on the same day to that intended recipient. Any notice delivered by
38 hand or commercial carrier is effective upon actual receipt. Either Party, by notice given
39 as above, may change the address to which future notices may be sent. E-mail is not a
40 valid method for the giving of notice under this Agreement.
41

- 1 14. Pledged Cash Reserves. Both the Town and the County covenant and agree to
2 appropriate during their respective current (2012) fiscal years sufficient funds to allow
3 them to perform and pay for their respective obligations under Section 4 of this
4 Agreement. Such funds will constitute present cash reserves pledged irrevocably for the
5 payment of the Parties' financial obligations under this Agreement in accordance with
6 Section 20(4)(b) of Article X of the Colorado Constitution. Unspent funds appropriated
7 during the current fiscal year will be carried over to the next fiscal year until all
8 appropriated funds have been spent in accordance with this Agreement.
- 9 15. Governmental Immunity. The Parties are each relying on, and do not waive or intend to
10 waive by any provision of this Agreement, the monetary limitations of the Act, which
11 limitations are as of the date of this Agreement \$150,000 per person and \$600,000 per
12 occurrence, or any other limitation, right, immunity, defense or protection otherwise
13 available to the Town and the County, and their respective officers, representatives,
14 agents and employees.
- 15 16. Third Parties. This Agreement does not confer upon or grant to any third party any right
16 to claim damages or to bring suit, action, or other proceeding against either the Town or
17 the County because of any breach of this Agreement, or because of any of the terms,
18 covenants, agreements, and conditions contained in this Agreement.
- 19 17. Waiver. The failure of either Party to exercise any of its rights under this Agreement is
20 not a waiver of those rights. A Party waives only those rights specified in writing and
21 signed by either Party waiving its rights.
- 22 18. Independent Contractor. In connection with this Agreement each of the Parties acts as an
23 independent contractor (and not an agent or employee of the other Party), without the
24 right or authority to impose tort or contractual liability upon the other Party.
- 25 19. Applicable Law. This Agreement is to be interpreted in all respects in accordance with
26 the laws of the State of Colorado.
- 27 20. Entire Agreement. This Agreement constitutes the entire agreement and understanding
28 between the Parties as to the subject matter of this Agreement, and supersedes any prior
29 agreement or understanding relating thereto.
- 30 21. Amendment. This Agreement may be modified or amended only by a duly authorized
31 written instrument executed by the Parties. No oral amendment or modification of this
32 Agreement is allowed.
- 33 22. Severability. If any of the provisions of this Agreement are declared by a final, non-
34 appealable judgment court of competent jurisdiction to be invalid, illegal or
35 unenforceable in any respect, the validity, legality and enforceability of the remaining
36 provisions of this Agreement will not in any way be affected or impaired thereby.

- 1 23. Section Headings. Section and subsection headings are inserted for convenience only
 2 and in no way limit or define the interpretation to be placed upon this Agreement.
- 3 24. Authority. The individuals executing this Agreement on behalf of each of the Parties
 4 represent to the other Party that they have all requisite powers and authority to cause the
 5 Party for whom they have signed to enter into this Agreement, and to bind such Party to
 6 fully perform its obligations as set forth in this Agreement.
- 7 25. No Adverse Construction. Both Parties acknowledge having had the opportunity to
 8 participate in the drafting of this Agreement. This Agreement is not to be construed
 9 against either Party based upon authorship.
- 10 26. Will and Will Not Defined. The terms “will” and “will not” as used in this Agreement
 11 indicate a mandatory obligation to act or to refrain from acting, respectively, as described in
 12 this Agreement.
- 13 27. Incorporation of Exhibits. All exhibits referred to in this Agreement are attached to and
 14 incorporated by reference into this Agreement.
- 15 28. Binding Effect. This Agreement is binding upon, and inures to the benefit of, the Parties
 16 and their respective successor governing boards.
- 17 29. Approval By Governing Boards or Other Authority. In accordance with Section 29-1-
 18 203(1), C.R.S., this Agreement will not become effective unless and until it has been
 19 approved by the governing bodies of both the Town and the County, or by such persons
 20 as has the power to approve this Agreement on behalf of the Town and the County.

21 TOWN OF BRECKENRIDGE, a Colorado
 22 municipal corporation
 23
 24

25
 26 By: _____
 27 John G. Warner, Mayor
 28

29 ATTEST:
 30
 31
 32
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34 _____
 35 Town Clerk

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BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, COLORADO

By:

Chair

ATTEST:

Clerk and Recorder, and ex-officio
clerk to the Board of the County Commissioners

800-105/IGA_5(08-08-12)

EXHIBIT "A"
TO
INTERGOVERNMENTAL AGREEMENT
(103 South Harris Street – Library)

Legal Description of the Property

LOTS 1 THROUGH 9, BLOCK 2, YINGLING & MICKLES ADDITION, AND THAT PORTION OF THE KLACK GULCH PLACER, U.S. MINERAL SURVEY NO. 1224 SITUATE BETWEEN WASHINGTON AVENUE AND LINCOLN AVENUE AND BOUNDED ON THE WEST BY BLOCK 4, ABBETT ADDITION AND ON THE EAST BY BLOCK 2, Y & M ADDITION, ALL IN THE TOWN OF BRECKENRIDGE, COUNTY OF SUMMIT, STATE OF COLORADO.

EXHIBIT "B"
TO
INTERGOVERNMENTAL AGREEMENT
(103 South Harris Street – Library)

Legal Description of the Existing Library Site

Lot C, Block 1, Parkway Center Subdivision Amended



M E M O

Date: August 8, 2012 (for 8.14.12 meeting)
To: Mayor and Town Council Members
Cc: Town Manager, Assistant Town Manager, Director of Public Works
From: Director of Communications & Riverwalk & Events Manager
RE: Winter Events Updates: Ice Castle, SnowBall, and Event Evaluation Process

The purpose of this memo is to update the Council on three Event-related items and to receive direction on next steps.

Ice Castle:

Staff presented the Ice Castle proposal at the July 10th work session, to which the Council was supportive of moving forward as it is an attractive attraction for our winter guests. However, Council were concerned about utilizing the Riverwalk lawn for this attraction as it was quite risky that the grass would be ready for the summer season, and asked Staff to work with the organizer on alternative locations.

Staff (Public Works and Events & Communications) met with the organizers and walked through the southern 'horseshoe' portion of the Tiger Dredge lot. By utilizing this portion of the lot, 35 of 201 parking spaces will be eliminated for the Winter 2012/13 season.

The organizers are proposing this site as the location and have offered the following:

Timing: Installation (pipe, curbing, etc.) to begin mid-October; expected opening date is mid to late November and closing date is expected to be the end of March or early April, weather depending.

Ticket booth: Ice Castle will construct a structure with a similar style to the dumpster enclosure to allow space for people to gather and to purchase tickets.

Revenues to Town: Ice Castle will pay a fee of 7.5% on full priced ticketed sales and a fee of 5% of discounted ticket sales (Costco, Groupon); their estimate of income to the Town from Ticket Sales is \$39,320 and ancillary sales tax revenues due to additional monies spent in businesses to be \$56,250; please note this is Ice Castle's estimate.

Donation/Requests: Ice Castle requests that the Town of Breckenridge donate the water for the Ice Castle – they are estimating a maximum of 4,000,000 gallons. The Town's current bulk rate is \$20/1000 gallons (for clients that aren't paying a tap fee). Staff recommends offering a compromise of \$10/1000 gallons to encourage responsible water use and in recognition of the marketing value Ice Castle is providing.

NOTE: Through the Special Events Permit Application (SEPA) Process, our ToB internal group will review the Ice Castle application in detail and layout any conditions such as insulating the hydrant, electricity usage financial responsibility, tree protection, site layout (fencing, curbing, temporary drainage, shed for storage), lighting along Adams Avenue as an entrance-feature, damage deposit, and Ice Castle providing all expertise, labor and management of the Ice Castle, insurance, naming Town as additionally insured, etc.

Staff requests discussion and direction on the following:

- 1) Is Council supportive of moving forward with the Ice Castle in the Tiger Dredge lot?
- 2) Is Council supportive of the revenue percentage and staff's recommendation of reduced bulk rate water rate?
- 3) Are there any conditions or concerns that Council has that Staff needs to address?

SnowBall:

Staff presented the SnowBall Music Festival concept at the July 10th work session. Council provided staff and Rob Thomas from AEG Live the direction to explore alternative dates either in April or perhaps mid-January to coincide with Ullr Fest.

At the time of this memo, there have been no updates to staff from Rob Thomas of AEG Live. I have reached to him multiple times over the past month; however, this is Rob's busiest season. I will provide a verbal update at the work session.

Mayor Warner brought up this subject at the July 24th regular meeting and reported on research he had completed with the Avon mayor and Breckenridge's Police Chief Haynes. Staff was directed to contact the lodging community for feedback on the proposed date change of April or Ullr Fest. Staff has waited to contact the lodging community in order to have information (i.e. dates) to propose for their discussion. Per Peyton Rogers at the July 10th work session, as proposed at the end of February/early March, the Breckenridge Lodging Association was not supportive.

Kieran Cain of the Breckenridge Ski Resort provided the following as an official statement from BSR/VR: *The Breckenridge Ski Resort will once again be hosting signature concerts as part of the mountain & town's annual Spring Fever festival in an effort to conclude ski season with the biggest possible fanfare. This coming season's Spring Fever event will take place March 17-April 14, with the concerts taking place on Saturdays and Sundays during that period. BSR would like to request to the town and AEG for us to not work at cross purposes to try and book concert events like Snowball that would conflict with these established Breck Spring Fever concerts; more than 1 big name concert in town during the same dates would serve to only dilute and detract from each other's events. We would like the town to consider instead driving the Snowball dates, since they are not yet decided, to take place during need periods where no events currently exist, in an effort to help drive visitation. The January dates sound great, however if Snowball needs to take place during April, it would seem to serve everyone's best interests if it took place during weekdays if it fell during the first half of the month, from April 1-14, or any time at all, weekdays or weekends, from April 15-30. Thanks for any consideration you can give our request.*

Staff requests discussion and direction on how Council would like to proceed.

Event Evaluation Process

At the July 10th Town Council meeting, the question was asked about how Breckenridge events are recapped after they have occurred. It was in context as how to evaluate the Return On Investment (ROI) and how the process works currently.

The Breckenridge Events Coalition (i.e. events staffs of the Town and the BRC) employs a variety of systems - mainly based on the size and impact of the event – ranging from roundtable recap meetings down

to an informal 'notes in the file'. From time to time, the BRC conducts an on-line survey to businesses to gather info on business levels when requested by the Town.

For the Special Events Permit Application (SEPA) process, the SEPA group (ToB Events, PW, PD, Comm Dev, RW&B, and BRC events representatives) meets regularly and conducts a review of events that have happened since the last time they met (twice a month in the summer and once a month in the winter); notes are taken on what went well and what could have improved; this information is then used for reviewing future applications. The application asks for dates, location, layout (parking, traffic flow, etc.), estimated attendance, estimated revenues, requested support, proposed food and beverage, sanitation plan (including 'greening' efforts), safety/security plan, reinforced sound, advertising plan, and estimated community impact (i.e. lodging, retail, restaurant).

Prior to the SEPA process, the BEC staff conducts an informal evaluation with new event producers. The most prevalent questions asked include: proposed dates (are there conflicts with current events? if so, are there resources available to still host the event?), does the event fit the character of our community, what will be the estimated economic impact, what is the targeted demographics, is the location appropriate, does the event producer have the capabilities and resources to produce a quality event (references are checked), what resources are they asking for from the Town and/or BRC.

As for post-event evaluation, the BEC typically organizes a recap roundtable with the organizers and those involved for the high impact events (Dew Tour, July 4th, International Snow Sculpture Championships). For longer 'festivals', such as the Breckenridge Music Festival and the National Repertory Orchestra, the Town relies on the individual organization to provide data and measures of success from their survey efforts.

The Town and the BRC conducted a Special Events Research study after the summer of 1997 (by RRC) for the purpose of understanding the local business community's input on events. In 2000/2001, the events staffs of ToB and the BRC presented an ROI evaluation of the current events calendar to Town Council, and a variety of changes were made, including a BRC staffing increase

As presented at the recent joint TC/BMAC/BRC meeting, BMAC has been discussing how to achieve a more efficient and effective method of evaluating new events and how to fund or seed new events. A general framework includes investigation of how other communities evaluate and fund new events and a report outlining options for a Breckenridge Best Practices for Events process, including how we will evaluate the investment made by the Town and BRC with solid, quantifiable parameters.

As a result of these discussions, BMAC respectfully recommends to the Council that this research and report be contracted out as there are limited internal BRC and Town resources to provide this in a timely, effective manner. The concept is to utilize local resources that are familiar with the Breckenridge process. Initial estimates of this process are \$5,000 to \$7,000. *NOTE: This outline does NOT include an evaluation of our current events, but merely the process by which we handle event evaluations currently; if an evaluation of current events (as was done in 2000/01) is also desired, additional funding would be necessary.*

Staff requests discussion and direction on the following:

- 1) Does Council have any suggestions for additional event evaluation tools?
- 2) Is Council supportive of BMAC's recommendation of funding an Events Report?
- 3) Does Council desire an evaluation of the current events also?

Thank you.



MEMORANDUM

TO: Town Council
FROM: Scott Reid, Open Space and Trails Planner
DATE: August 14, 2012
SUBJECT: Cucumber Gulch Wetland Restoration Plan

Summary

As directed by Town Council, staff has been working cooperatively with the Breckenridge Ski Resort (BSR) to address water and sediment issues related to Boreas Creek in Upper Cucumber Gulch. The attached wetland restoration plan has been developed jointly, with support from both the Town and BSR wetland consultants. The goals of the project are to address existing drainage issues, reestablish historical wetland areas, create a maintainable sediment basin, and promote wetland restoration and beaver colonization in Upper Cucumber Gulch. Staff seeks Council approval to initiate this wetland restoration project in 2012.

Background

Cucumber Gulch Preserve (“the Preserve”) is highly valued by the Town and its citizens due to its valuable wetland complex and associated wildlife biodiversity. Cucumber Gulch has been identified as an Aquatic Resource of National Importance (ARNI) by the U.S. Environmental Protection Agency because the area contains rare peat-forming, groundwater-fed fen wetlands, as well as surface water-fed wetlands that support a rich biodiversity of animals, birds and plants. The Town and its citizens have committed significant resources to acquiring, protecting, and appropriately managing this sensitive wetland ecosystem. The Cucumber Gulch Preserve [Management Plan](#), approved by Town Council, identifies the protection of wetland ecosystems and natural resources as the primary management objective for the area.

Since 2001, the Town has conducted biological and hydrological resource monitoring in the Preserve to better understand, and therefore manage, the wetland ecosystem. In 2011, water quality monitoring received additional focus and resources because: 1) Town Council and BOSAC directed staff to conduct a more thorough wetland and water quality review; and 2) A record snowpack followed by significant runoff and rain events prompted drainage issues throughout the Upper Blue basin. Those elevated water flows stressed the overall hydrologic system and exacerbated existing drainage issues (e.g. Coyne Valley Road and Sawmill Creek).

The [2011 water quality monitoring report](#), developed by EcoMetrics and Johnson Environmental on behalf of the Town, indicated that overall health of the wetlands in the Preserve was good. However, significant issues were identified in the Upper Cucumber Gulch, below the base of Peak 8. Specifically, an altered water flow regime, an altered sediment budget, and the loss of beaver habitat were identified as potential issues in Upper Cucumber Gulch. In addition, stream channelization and head cutting occurred in

Boreas Creek during the 2011 runoff, prompting changes in the water table and an overall loss of wetlands in the area.

Based on these findings, the Breckenridge Open Space Advisory Commission (BOSAC) and Town Council directed Town staff to work cooperatively with the Breckenridge Ski Resort to pursue potential solutions to the issues outlined in the 2011 wetland report. A proposal developed by Claffey Ecological Consulting and Five Rivers Inc. to address these issues is attached.

In general, the proposal includes:

1. Repairing the riprap energy dissipater at the 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 “rewater” 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.

BOSAC also reviewed this concept on site at its [July 16th meeting](#) and unanimously recommended prompt action be taken to address the ongoing water and sediment concerns in Upper Cucumber Gulch. BOSAC also recommended proceeding with the proposed wetland restoration and pursuing a variance to the [Cucumber Gulch Preserve PMA](#) to allow for excavation to occur. At its August 7th [meeting](#), the Planning Commission unanimously recommended approval of a variance to the Cucumber Gulch Preserve PMA to allow the excavation work to proceed.

Costs

The attached proposal includes cost estimates for the wetland restoration plan. BSR has committed to pay for Phase 1 of the proposal (the energy dissipater repair), at an estimated cost of \$37,000. The remaining work to be implemented costs approximately \$110,000. BSR is currently evaluating the degree to which it will participate financially in the remaining wetland restoration work, if at all.

Additional Measures

In addition to the attached wetland restoration proposal, staff is working to address other systemic issues identified by both Town and BSR consultants that contribute to the management issues in Upper Cucumber Gulch. Currently, the Town Engineering staff is

evaluating the role that road sand from Ski Hill Road plays in the sediment loading, as well as potential solutions. Ski Hill Road at the Peak 8 base area is slated to be reconstructed and elevated in the future, which offers another opportunity to address drainage and sediment issues.

Also, BSR is working with Town staff to install sediment control uphill of the Peak 8 base area, on the ski mountain itself. Specifically, BSR is working with the Town Engineering staff to design and install sediment traps, wattles and other maintainable erosion control measures above the inlets that feed the 60-inch Boreas Creek culvert. These efforts should help substantially reduce the amount of sediment being transported into Upper Cucumber Gulch via the Boreas Creek culvert.

Council Direction

Staff requests Council answer the following questions regarding the attached Cucumber Gulch Preserve wetland restoration proposal:

- 1. Does Council agree with the plan as outlined in the attached proposal?*
- 2. What are the Council's thoughts on cost sharing with the Breckenridge Ski Resort the remaining wetlands restoration work outlined in the report?*

UPPER CUCUMBER GULCH

Breckenridge, Colorado

RESTORATION PLAN



Prepared by:
Claffey Ecological Consulting, Inc.
&
Five Rivers, Inc.

Submitted to:
Town of Breckenridge, Open Space
&
Vail Summit Resorts

I. Introduction/Background

This project proposes to restore wetlands and beaver pond habitat in the Upper Cucumber Gulch, Breckenridge, Colorado. The Upper Gulch is part of the larger Cucumber Gulch wetland system which the Town of Breckenridge (Town) manages under a Protective Management Area known as the Cucumber Gulch Preserve (CGP). This restoration plan has been developed for the Town and Vail Summit Resorts (VSR). The plan has been developed in cooperation with Johnson Environmental Consulting, LLC and EcoMetrics, LLC during several field assessments. Johnson and Ecometrics have been monitoring Cucumber Gulch on behalf of the Town since 2011, and they have suggested some of the key elements for this restoration plan during the field assessments. Their report titled “A Comprehensive Assessment of Wetland Condition in Cucumber Gulch Preserve, Breckenridge, Colorado”, dated December 2011 (the Report) documented the condition of the Cucumber Gulch Preserve. The Report discussed the problems in the wetland system including the excess sediment entering the system from the watershed, the importance of active beaver colonies to the stability of the system and the fact that the upper reach of the channel will continue to erode and add additional sediment to the system.

Impacts and Current Conditions

The following observations of site conditions are discussed in the Report and/or were made during site inspections by the restoration team in 2012. In short, the problem in the Upper Gulch is an excess of sediment delivered over the years from the watershed above the base area, some excess from the road and developed area at Peak 8 prior to the installation of the sediment pond in 2008, and the fact that the beavers abandoned use of the Upper Gulch pond system causing failures or breaches in the dams and a general dewatering of the wetland system. The sediment impacts were exacerbated by the 2011 runoff events which not only accelerated the ongoing wetland dewatering but created substantial channel incision or head-cuts, and extensive breaches in the beaver dams.

Although the Lower Gulch is currently stable, it is threatened by the instability in the Upper Gulch, particularly the amount of sediment that has deposited in dry beaver ponds and now exposed in the eroded sections of the creek channel. That sediment in the channel will be easily mobilized by the next major flow event, and sediment plumes in dry beaver ponds will likely be transported downstream to the next pond system. The creek flow is basically channelized and stream discharge is no longer dispersed over the larger wetland system in the Upper Gulch. These impacts have reduced wetland habitat and eliminated beaver ponds/aquatic habitat in the Upper Gulch which are the fairly obvious and visible impacts, but more importantly, this instability could lead to further degradation down valley in the Lower Gulch through cascading failure of beaver dams and sedimentation. As discussed in the Report, the sediment source is both allochthonous: from the watershed upstream of Ski Hill Road (basically Peak 8 of the Ski Area), and autochthonous: from within the disturbed area of the eroded and incised creek channel and sediment now temporarily stored in beaver ponds in the Upper Gulch.

This process of beaver dam failure and channel incision appears to have been occurring over a period of time since 2006 and although beaver colony's fluctuate over periods of time, the runoff and convection storms that occurred in June and July of 2011 at the Breckenridge Ski Area were significant discharge events that created instability in this system as well as other areas in the

Blue River watershed. We believe the system will not likely “heal itself” naturally, nor will beavers re-colonize some of the ponds in the next few years due to depth of sediment. The potential for additional degradation due to sediment transport downstream as identified in the Report is real, and repairing damage downstream in the lower parts of the system would be difficult physically and logistically. Continuing to monitor the situation without restoration could lead to additional aquatic resource degradation; and furthermore, the likelihood of the proposed work causing additional harm is low compared to consequences of not attempting restoration. We propose bio-engineering restoration techniques using biodegradable fabrics, native plants, small equipment and a good deal of practical restoration experience in aquatic ecosystems. Access to and work in the wetland would create minimal impacts; and, the projects would result in overall aquatic ecosystem improvement, wetland restoration and more stability.

We also propose to restore what is known as the Reset Pond at the upper end of the Lower Gulch in Phase 2 of the project. This pond received several hundred cubic yards of sediment during the final collapse of the beaver dams in the Upper Gulch, and the subsequent channel incision and erosion in 2011. This pond was identified as critical in the overall stability of the Lower Gulch in the Report as it “resets” the water distribution system to ponds and wetlands down gradient. Beavers were using the pond in the spring of 2012 but abandoned use in May, and the dam breached on the northern edge. The concern is that the sediments within this pond would mobilize during the next major flow event causing the cascading beaver dam/pond failures in the Lower Gulch. The basic concept for restoration of this pond was to remove the excess sediment. We have developed a plan that allows of minimal access impacts for the heavy equipment and disposal of the sediment in nearby upland habitats affected by the pine beetle. Those disposal areas would be revegetated (seeded and planted), covered with bio-degradable erosion control fabric, and restored to native upland habitats.

This work is proposed to affect restoration of damaged resources and prevent further degradation in the system. It is understood by the restoration design team that long term reductions of sediment delivered to the system is needed in the watershed above Cucumber Gulch. However, the wetland system is damaged and restoration work is needed, soon, regardless of sediment control to be implemented.

II. Plan Description

PHASE 1 RESTORATION

Phase 1 restoration involves the Upper Gulch near Ski Hill Road, and has been divided into two Stages 1 and 2. Stage 1 could proceed without implementation of Stage 2, and resource benefits would be achieved; however, the current concept proposes implementing both stages together. Stage 1 would repairs the rock stilling basin at the 60-inch culvert that carries Boreas Creek under Ski Hill Road and constructs a wetland water supply channel to disperse flows north. Stage 2 repairs beaver dams, restores ponds, removes excess sediment, and constructs access to allow subsequent sediment removal from the Spreader Pond in the future.

Stage 1

Stage 1 would be implemented by CEC and Five Rivers, Inc on behalf of VSR.

We propose to reconstruct outlet protection for the 60-inch culvert and construct a wetland water supply channel (figure 2 and Sheets 1-3 by Tetra Tech). The outlet reconstruction is required for two reasons: one, the previously constructed stilling basin at the 60-inch culvert (constructed in 2008) has deteriorated, no longer functions as designed and appears to lack stability.

The reconstruction methods attempt to slow or ameliorate the degradation, instability and channel incision occurring downstream. We propose to reconstruct the outlet structure as a short section of rock-defended channel using graded rock (ranges from 42 inch down to 9 inch diameter angular granite).

The channel has been designed by Tetra Tech with Ms. Peggy Bailey as the lead. This constructed channel allows for overbank flows during peak flow events similar to a natural channel, and would be constructed to allow for some flow north during those peak events both as overbank sheet flow and in short sections of minor side channels. The side channel (diversion ditch on Tetra Tech Plans) or wetland water supply channel would also convey flows during the late spring and mid-summer to reactivate the water supply in the Upper Gulch and hopefully lead to re-colonization of the upper gulch by beavers (*Castor canadensis*), particularly critical in Upper Cucumber Gulch.

Tetra Tech has designed a rock defended channel capable of transporting sediment rather than allowing it to accumulate in a stilling basin. The concept is that even if a stilling basin at the culvert outlet were to be cleaned out regularly, a major event in the watershed could easily overwhelm capacity and destabilize the culvert outlet. This appeared to occur during the convections storms in the summer of 2011. The wetland water supply channel would reactivate the upper beaver ponds and re-establish water supply to the habitats west of the pond which have been converted to uplands. Groundwater monitoring in 2011 and previous years have documented the changes, and Johnson and Ecometrics have installed additional monitoring wells in 2012 to further document conditions.

The wetland boundaries shown on the attached plans (Figure 2) were delineated by Johnson and EcoMetrics in 2011. The Tetra Tech plans use the wetland boundaries delineated by Western Ecological Resources in 2007. There is little difference in the vicinity of the culvert where

Drawing 3 of 3 for the proposed rock defended channel show an impact of an additional 238 square feet of wetlands (actually most rock and cobble from the 2011 flow events) over and above what had been approved in 2007 for the culvert construction. For a conservative estimate we propose fill in approximately 500 square feet of wetlands/waters of the US at the culvert outlet to construct the channel, the majority of this area is currently rock, sand and cobble but some areas of vegetated wetlands would be impacted. To off-set this loss to permanent fill, approximately 1.5 to 2 acres of wetlands/beaver ponds could be restored in the Upper Gulch by re-establishing the water supply.

As shown on the attached (drawing 1 of 3) the areas of current disturbance (rock and cobble) outside of the channel limits would be filled with soil and rock mixture, seeded and covered with erosion control fabric.

Construction of the **wetland water supply** channel requires excavation in a dense willow wetland for approximately to create temporary impacts (approximately 25 feet in length through vegetated wetlands). This would be a temporary impact as that section would remain waters. The excavated willow shrubs would be transplanted within the project area. A mini-excavator would be used to construct the bulk of the water supply channel. Excavated material from the channel construction would be transported back to the culvert area for use as topsoil and/or sod and willow plantings. The channel dimensions width and depth would be fit in the field during construction but generally the width would 2.5 to 3 feet, and the depth 1 to 1.5 feet. The channel would reach or terminate in the existing “beaver channels’ located by Johnson/Ecometrics in 2011 (blue lines on plan), allowing the majority of the flow to reach the northern sections of the pond known as the Spreader Pond.

Summary of Phase 1

- *Approximately 500 square feet of wetland impacts from the construction of the rock defended channel at the culvert. The majority of the area is existing rock, cobble and sands.*
- *Constructed channel at culvert conveys flows to main channel but allows for overbank flows during peak flow events to reach floodplain rather than concentrating flow in incised channel*
- *Creation of water supply channel to divert some flows north to spread water and dissipate erosion energy from peak flows in the Upper Gulch.*
- *Northern wetland supply channel re-supplies water to dewatered wetlands and beaver ponds in Upper Gulch*
- *Allows for the implementation and success of Phase 1- Stage 2*

Stage 2

Stage 2 would be implemented by CEC and Five Rivers, Inc on behalf of the Town of Breckenridge. This stage provides the most effective restoration in the Upper Gulch (Figure 2). We propose to repair the major beaver dam failure and channel incision of the main channel at the southern end of the Spreader Pond, remove sediment (80-100 cubic yards) from the southern arm of the Spreader Pond, repair and restore the beaver dams on the northern arm of the Spreader Pond, repair and restore 4 beaver ponds in the Seahorse Pond group, and conduct minor channel restoration work to reduce the likelihood of a major channel avulsion. As part this restoration, we would construct access to the Spreader Pond and restore the northern section of this pond in such a manner using techniques that allow for the removal of sediment in future years as sediment deposits.

The southern portion of the Spreader Pond would remain as a natural beaver pond after the dam is repaired, with water supplied by the wetland supply channel (Stage 1), and overflow from the northern portion of the pond.

Access: As shown on the attached plans we would construct a Geo-Web access pathway to the Spreader Pond from the existing construction access used for the culvert outlet channel in Phase 1. The path impact approximately 30 feet of wetland with a width of approximately 8 feet. Approximately 18 feet would be within a willow wetland. The willow shrubs would be excavated and stored temporarily in wet nursery for transplanting. The depth of soil needed for the Geo-Web fabric is removed and stored for re-use keeping the topsoil separate. The fabric is installed, and some from the sand and gravel sediment from the Spreader Pond is used to fill between the cells for stability. The fabric roadway is left as constructed until the project is complete. Upon project completion as the equipment leaves the site, the topsoil is replaced, the soils seeded with a native seed mix, and sedge, grass and willow plugs planted through the GeoWeb cells.

Within the ponded area of the Spreader Pond a “low water crossing” or ford is constructed in the southern section of the pond in the area shown as channel incision repair on Figure 2. The crossing is constructed with 4 to 6 inch rubble (angular cobble) that occurs naturally in the Upper Gulch underlying the soil sediments of the ponds, and which is visible in the incised channels. The low water crossing would extend north from the terminus of the GeoWeb access a short distance into the Spreader Pond. The rubble fill would be placed on and wrapped in tensar geogrid fabric for support, and would be approximately 8-10 wide with 2:1 slopes. The purpose of the rubble crossing is to provide some stability for future sediment removal from the Spreader Pond. The smaller material from the culvert outlet structure restoration would be used for this feature, and some imported material as needed. The crossing would be inundated by 2 to 3 feet of pond water when Stage 2 is complete. The locations of both access features would be survey located and marked in the field for future location and use.

Dam and Channel Incision Repair: The major incision in the beaver pond/channel is repaired with a series of coir fabric lifts filled with a mix of fine grained soils, woody debris and live willow son the upper lifts. The coir fabric is a heavy duty biodegradable, woven fabric with

engineering specifications to withstand sheer stresses, but which will bio-degrade over an 8 to 12 year period. The upper lifts are heavy seeded with native grasses. As shown on the attached diagram, clay soils are placed on the upstream portion of the dam, and conifer branch facines are placed within and on the downstream sides of the dam. The conifer facines provide resistance to flows and reduce the erosive power of the flows while the dam system grows in. Lodgepole pine poles are used to anchor the fabric to the pond sediments in the locations and the fabric is sown together with coir thread. At the downstream face of the dam and into the channel downstream, the rock rubble (sized 6 to 12 inches) is used for an additional erosion protection. Elevations would be set to allow for multiple discharge across the existing beaver dam at high flows although base flows would likely continue to flow over the restored site.

The dam failure in the northern section of the Spreader Pond is also repaired using coir fabric lifts, and native materials. This failure (2007 breach) is not on the main channel but is a fairly wide breach in the dam. The techniques would be similar to those shown on the attached figure but the depth of the structure and number of lifts would be less. At this location we would be installing two coir lift repairs. Repair and subsequent rewetting of this pond would eventually resupply water to additional former wetland areas in the Upper Gulch

Sediment Removal: Approximately 60 to 120 yards of sediment would be removed from the south end of the Spreader Pond as shown on Figure 2. The range for cubic yard removal is broad as we need flexibility in the vicinity of the dam and around existing vegetation, but the basic concept is to remove sediment to re-establish depth in the pond, encourage beaver reuse and provide adequate space for sediment accumulation. Depths of excavation would range from 4 feet near the main channel to 1 to 2 feet in locations.

Material would be removed up to the transverse beaver dam which separates the southern and northern portions of the Spreader Pond. The transverse beaver dam (oriented east-west) would be re-enforced with willow plantings and willow transplants. The **Backflow Channel**, a minor section of channel created to connect the southern portion of the Spreader Pond to the northern, and the transverse dam would serve as additional pressure relief for the main channel incision/dam repair site. When peak flows in the main channel reach the Spreader Pond, the Backflow Channel and the transverse dam provide additional spillways to reduce pressure on the dam restoration, and the shape and configuration of northern portion of the Spreader Pond should allow for deposition of sediment. This mimics natural conditions as a large part of the sediment in the Upper Gulch deposited in this section of the pond.

In Situ Restoration: This series of small beaver ponds (Seahorse Pond group) were impacted by sediment and dam failures as well, but the sedimentation is not as extensive as the Spreader Pond. The ponds are now dry but wetlands still persist. Since removal of sediment from the system as proposed for the Spreader Pond would involve additional wetland disturbance and road construction, we propose to excavate sediments and use those sediments to patch holes and breaches in the beaver dams. Coir fabric would be used as structural component for the repairs, and willow plantings added for additional support. Although areas within wetlands (waters of the US) would be filled with this sediment, it would be placed at an elevation and in an environment where wetlands would be re-established. These areas would be seeded with a native seed mix and planted with nursery stock willows or willow transplants. This part of the

project is wetland/pond restoration without exporting material and importing only bio-degradable fabrics and native plants. Only a small tracked excavator (mini-hoe) and hand labor would be used to implement this work. Water supply would be restored via the **Channel Re-alignment** discussed below and from re-establishment of water supply to the Spreader Pond as described above.

Channel Realignment: A coir beaver dam repair and hardened riffle would be constructed at this location to divert most of the channel flow into the **In Situ Restoration** ponds (where purple line diverts from blue line of surveyed channel location). This channel realignment work is proposed to reduce the probability of a major channel avulsion through the upland area east of the restoration area. Although there was likely a defined channel in this location, now due to the beaver dam failures all flow is now concentrated at this one location, and the channel just downstream is not stable where it flows through a group of large trees (both living and standing dead). In the event these trees fall into the channel creating an obstruction, the channel could erode through an old beaver dam and flow NE through the upland creating major sediment generation. The majority of channel base flows are directed into the beaver ponds which are restored as described below, and is expected that the work described above on the Spreader Pond and the culvert outlet repair would disperse peak flows throughout the Upper Gulch and away from this point. The channel would not be diverted until the **In-Situ Restoration** is completed.

Stage 2 Wetland Impacts: The access road/path using the GeoWeb grid creates an impact but we designed and will construct as a temporary impact to allow the redevelopment of wetlands. This impact would be approximately 240 square feet of temporary disturbance. The current habitat is a willow wetland with dominant understory of *Calamagrostis canadensis*. Other herbaceous species present including *Senecio triangularis* and few sedges were desiccated and starting to die in June of 2012 due to the lack of hydrology as the channel incision/dam failure is draining this portion of the wetland. The last step in Phase 1 the area would be seeded and planted with willows through the web spaces.

The repairs of the dams using coir fabric will involve a discharge of fill material into waters of the US and in some locations wetlands, but the impacts are temporary, and waters and wetlands would be restored. The dam and channel incision repairs in Stage 2 would require a discharge of fill material into approximately 600 square feet of waters and/or wetlands.

Summary of Stage 2

- *Construction of equipment access using bio-engineering techniques that allow for restoration, and subsequent reuse to remove sediment in the future*
- *Restoration of beaver dams and channel incisions using bio-engineering techniques that mimic natural beaver dams*
- *Removal of excess sediment from the Spreader Pond*
- *Restoration of water supply to beaver ponds and wetlands In Upper Cucumber Gulch*
- *Development of an on-channel sediment retention pond that will appear and function as a beaver pond with access for future sediment removal*
- *Channel flow dispersal to prevent potential channel avulsion into upland island*

We believe Phase 1 implemented completely would lead to wetland and aquatic resource habitat restoration in Upper Cucumber Gulch, and allow for a more stable system that would encourage beaver to recolonize the Upper Gulch and reduce the likelihood of further channel and resource degradation in Cucumber Gulch. Phase 1 would not prevent the potential mobilization of sediments from the Reset Pond and subsequent impacts downstream but it would hopefully reduce the erosive power and velocities in the stream channel as some floodplain and wetland storage of runoff would occur in the Upper Gulch due to implementation of Phase 1 (Stages 1 and 2).

However, the techniques proposed are soft bio-engineering techniques placed in a dynamic fluvial landscape, and other than the quality of workmanship, materials used and experience of the restoration team, we cannot guarantee the work or guarantee the beaver dam repairs or against breaches in the beaver ponds in other locations. Ultimately success relies on recolonization of the Upper Gulch by the beaver population which appears to be increasing in the Lower Gulch (based on observations and sign), the future sediment removal in the Northern Portion of the Spreader Pond and reduction of sediment input from the watershed.

The wetland supply channel constructed during Phase 1-Stage 1 will be constructed on a mild gradient due to site conditions and to allow for saturation into the substrate to restore wetlands, thus excess sediment could develop over a period of time. We suggest inspection of the channel by someone after each runoff, and remove excess sediment by hand shovel if needed. If beavers build dams in this channel, the overall project should be considered successful as they will have recolonized the Upper Gulch. If the wetland supply channel is blocked at the diversion point from the rock lined channel by debris or sediment it is easily accessible at the 60-inch culvert. Sediment removal from the Spreader Pond North completed in the future should be conducted in late summer early fall during low flow periods. All flow in Boreas Creek could be diverted at that time to the wetland water supply channel using hand placed rock and irrigation tarps, thus allowing sediment removal in the Spreader Pond in relatively dry conditions.

PHASE 2 – RESET POND RESTORATION

The Reset Pond would be restored by removing excess sediment deposited in the last few years, and by repairing the dam breach and shoring up other holes in the dam in spot locations. Small equipment is used to reduce impacts although a track hoe with sufficient reach is required. The excavated material is transported nearby for disposal and the creation of upland benches or terraces in the openings in the mixed coniferous forest nearby. Haul routes from the Reset to these disposal areas is through uplands. Bio-engineering techniques and experience in working in beaver ponds create a light imprint on the landscape. The overall goal is to restore pond depth and capacity such that beavers would take over management of the pond. Equipment access is through an open canopy forest with minimal tree removal is needed. Figures 3 and 4 depict the project, and the attached detail sheet provides a larger scale.

Upland Disposal Sites Preparation: Prior to pond excavation the upland disposal sites would be prepared by first scraping off the topsoil and stockpiling for reuse. Beetle killed or otherwise dead trees would be dropped for use in the upland benches and to create space as needed. The disposal area is fairly open canopy thus few trees would be removed, and spruce or fir would be avoided to maximum extent practicable. Erosion control wattles would be installed down gradient of the disposal sites and between the disposal sites and haul routes and the wetland boundary.

Excavation: A tracked excavator is used to dredge sediments from the pond. Sediments would be removed, and piled on the north end of the pond form which tracked skid steers (small loaders) would haul the material to the upland disposal sites. The Surveyed Reset Pond boundary shown on Figure 4 is approximately 0.27 acres (survey by Johnson and EcoMetrics) but we would excavate in approximately 0.18 acres leaving wide margins of shallow water. Based on that size, and an attempt to excavate to depths ranging from 1 to 3 feet, we would remove approximately 500-600 cubic yards. Only the pond sediments would be removed, vegetated wetlands on the edge of the pond would remain in place. As stated we will attempt to remove 500-600 cubic yards, and although site conditions may prevent the complete cubic yardage goal, sediments would be removed to the extent that sufficient depth is returned to allow for beavers to return.

Swamp mats, plywood or other support mechanisms may be used to allow for movement around the pond to complete excavation. We may use a pump to temporarily remove as much inflow as possible.

Breach Restoration: The recent breach in the dam on the northern edge of the pond would be repaired using the same coir lift construction proposed for the Spreader Pond. Prior to breach repair, as many of the holes or erosion points in the beaver dam would be filled with sediment as possible without impacting the dam integrity with the heavy equipment. The plan is to use coir fabric as baskets placed in the holes first to add structural support. To complete the main breach restoration, the stream flow would be pumped around the breach, or the outflow set in another location. The elevation of the breach repair would be set to allow the beaver pond to drain in multiple locations. Once the breach repair is complete (the last step in this process), stream flow

would be returned and it is expected beavers would recolonized during the fall dispersal period and begin to manage outflow.

Upland Disposal Site Restoration: The material is shaped and formed to create natural landscape features. Felled trees or existing deadfall are used to create some structure on the lower end of each feature, and the track hoe is used to create pockets or natural depressions. The topsoil excavated earlier is spread over the site, and a native upland seed mix added and raked into the topsoil. The areas are covered with biodegradable erosion control fabric.

Any ruts or disturbances on the haul route are restored by the track-hoe as the project nears completion. Those areas would be seeded with a native seed mix which is raked into the soil. Various techniques for support and reduction of impacts would be used for the equipment in this operation. This may include swamp mats (8x8 timbers cabled together), ¾ inch ply-wood, and fallen or felled dead trees at the site.

Work in the Reset Pond is more difficult than the Upper Gulch - Phase 1. The track-hoe will work slowly due to wet/soft substrate conditions in the pond. The skid steers would move fast in uplands, but will need to work slowly in the pond area. We may not be able to achieve the level of excavation proposed; however, at least a large portion of the excess sediment would be removed (approximately 200 cubic yards), the breach in the dam repaired and the pond returned to a condition that beaver should return as winter habitat depths would be available. Although the pond breached in May, there is evidence in July of beaver use in the Reset Pond which indicates the population in Lower Gulch is currently large enough to re-colonize this pond. The plan is to remove as much sediment as possible and a scaled fee based on the difficulty of project implementation has been developed. The Rest Pond is a one-time restoration project, unlike the Spreader Pond where additional sediment removal may be possible in the future. There would be temporary impacts to beaver use during the project, but it is expected they would return soon after completion.

III. Conclusion

The proposed project will be difficult to implement, and at times is difficult to contemplate due to the nature of the resources where work is proposed. However, the restoration work will lead to substantial aquatic resource and wetland habitat improvements, and more importantly provides protections against further degradation in Cucumber Gulch.

Proposed Costs of Phase 1

All costs include heavy equipment, heavy equipment contractor and labor, materials, trucking (as specified), and design and project management during construction. Costs also include travel and per diem for all involved in restoration project.

Proposal for Phase 1, Stage 1 has been submitted to VSR. That proposal had stipulations for the disposal of material removed from the existing culvert outlet protection that would require additional costs for trucking. Implementation of Phase 2 would utilize some of those materials (the smaller cobble/rubble native to the system) thus potentially reducing trucking costs. There were additional stipulations on material costs.

The bid price for Phase 1, Stage 1 was \$37,000.00

Stage 2

Not-To-Exceed Bid Price for Phase 1, Stage 2: \$46,000.00

All costs include heavy equipment, heavy equipment contractor and labor, materials, trucking (as specified), and design and project management during construction. Costs also include travel and per diem for all involved in restoration project.

Cost Breakdown

Heavy Equipment Contractor, Mobilization, Trucking, and Equipment Rentals - \$21,000
(includes lodging, travel and per diem)

(Heavy equipment operator would be specialty firm retained by CEC and Five Rivers. Trucking to deliver and remove material would be through local Summit County firms.)

Materials/ Delivery to Site - \$5,000

Additional Labor - \$3000

Project Management - \$17,000 (includes time on-site management, design and permitting for Claffey Ecological and Five Rivers, Inc, includes travel, per diem and lodging)

Total Not To Exceed Bid Phase 1, Stage 2: \$46,000

Note: Costs includes trucking of material excavated from beaver pond to disposal location within 10 miles of project site, with no dump fees included. We have allotted \$2000 for trucking fees to remove material excavated in Phase 1, Stage 2 and not utilized in the restoration. If disposal site is further, and/or additional dump or disposal fees are required creating trucking fees in excess of \$2000.00, additional costs would be incurred and those fees would be passed on to the client at cost. We will discuss disposal areas with the client prior to project implementation.

Proposed Costs of Phase 2 – Reset Pond Restoration

The nature of the Re-Set Pond site presents a few unknowns when it comes to determining if the proposed work could be accomplished in full. Also, the environmental sensitivity of the site limits our options for countering these unknowns in the field by altering the planned approach. To be specific, we are not certain that we will be able to access all areas of the pond from within the pond, and assume the wetlands surrounding the pond site cannot be impacted by heavy equipment. It is possible that the pond substrate is too soft to hold-up heavy equipment despite the use of log platforms or timber mats. If this were the case, then access to the south lobe of the pond may not be possible without considerable harm to the surrounding wetland areas. A second possibility is that the excavated sediment is highly saturated and thin and could not be loaded directly into loader buckets or stockpiled for draining. The sediment would have to be stockpiled within the pond for draining, and could likely flow back into the excavated area or out of the pond margins and into wetland areas. In these circumstances we would also not be able to remove the sediment from the south pond lobe.

Despite the possibility of encountering conditions that limit the amount of work that can be accomplished, especially on the south pond lobe, we feel that beneficial work can be completed to re-establish beaver occupation of this pond. It is highly likely that the entire northern lobe of the pond could be excavated despite possible issues with soft ground. Therefore, we propose the following plan for the extent of the project and costs. We propose that the north pond lobe could be excavated as designed for a cost of **\$35,000**. This would include all work needed to place material in fill areas and re-vegetate, removal of the majority of the prominent sand and gravel near the pond center as well as repair the dam breach. This would function as the base price.

The remaining work on the south pond lobe would be accomplished on a per day basis and cost. The cost per day would be **\$5,000**. If the work proceeds as expected with difficulty, it is estimated that the southern lobe could be completed in or about 5 days. If the work proves too difficult, time consuming or harmful to surrounding wetland habitat, then it would be terminated at once and the client would be billed only for time spent.

Not To-Exceed Cost Estimate Proposed \$60,000

This cost estimate includes excavation of entire pond as shown removing as much of the sediments as possible (approximately 500 cubic yards). If work proceeds well with fewer problems encountered than expected, the entire project as proposed removing sediment from both lobes of the pond could be completed for a cost ranging from \$35,000 to \$45,000.

Minimum charge \$35,000 which includes excavation of the northern lobe of the pond, and all other work described above including:

- Mobilization of equipment, preparation of disposal areas, and haul route
- Excavation of northern lobe of Reset Pond to design depths as shown
- Repair of the dam breach on northern edge of pond using coir fabric, soils and willows, and repairs of holes in the dam that can be reached from the pond

Michael Claffey
Claffey Ecological Consulting, Inc.

Date

For the Client

Date

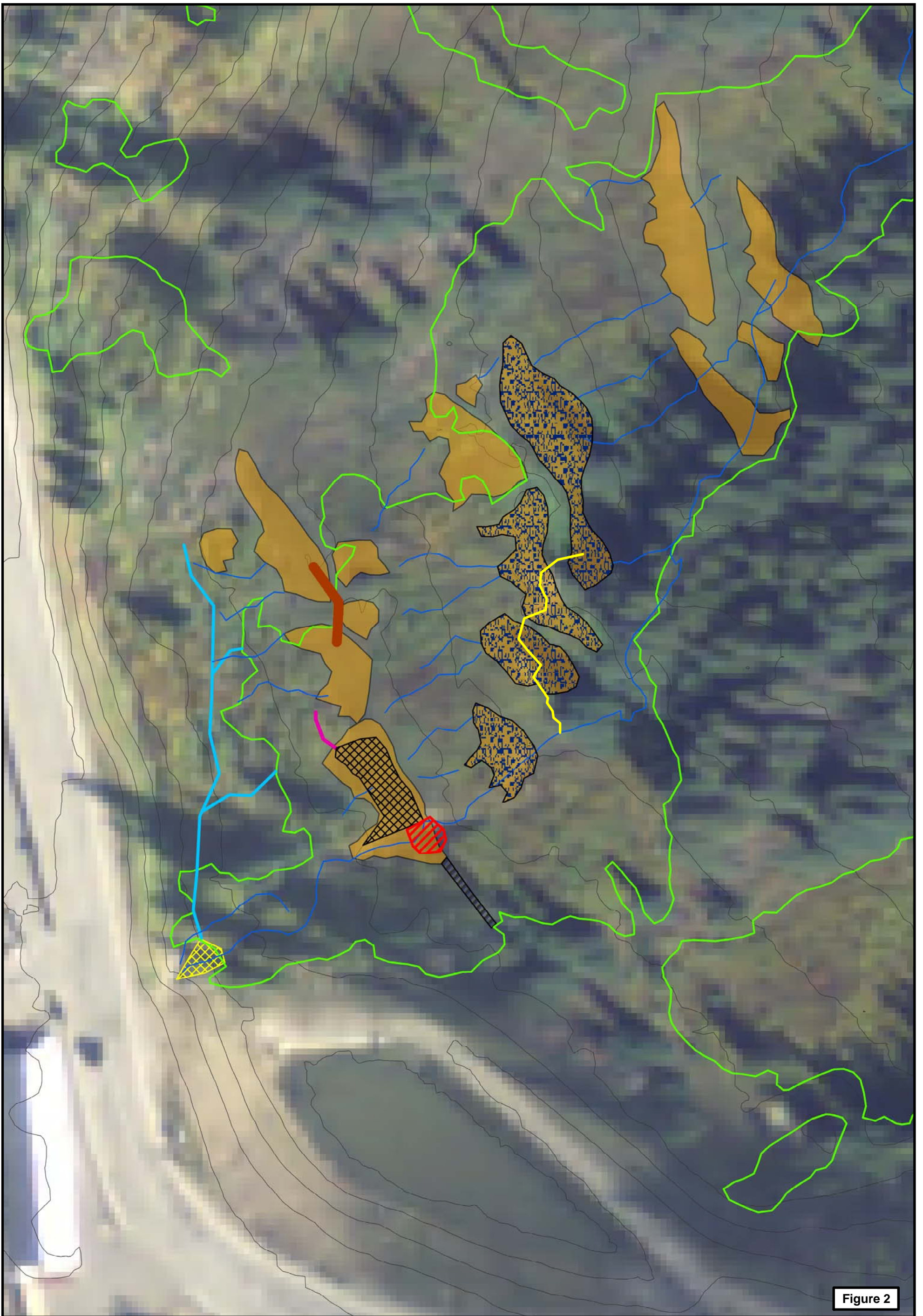


Figure 2

50 25 0 50 Feet
1 Inch = 50 Feet

Datum: NAD_1983_UTM_Zone_13N
Source: NAIP 2011 Orthophoto
GIS Prepared by Suzanne Claffey

Claffey Ecological Consulting, Inc.

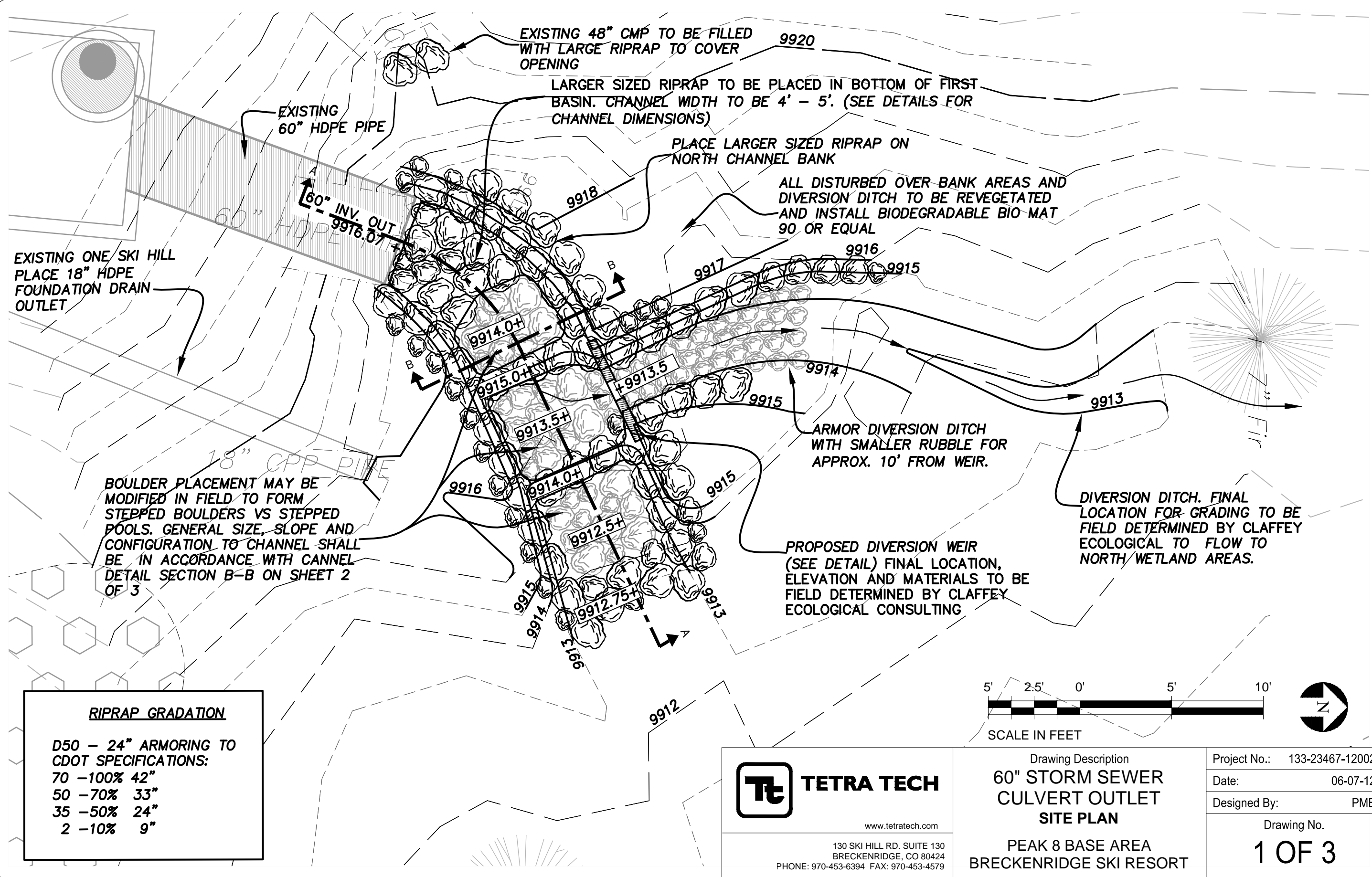
UPPER CUCUMBER GULCH
Phase 1 Restoration
BRECKENRIDGE SKI RESORT

July 2012



Legend	
	Upper CG Wetlands 2011
	Wetland Channel-Proposed
	Channel Incision Repair
	Channel Realignment
	Access GeoWeb
	Backflow Channel
	CG 5ft Contour
	Upper CG Ponds
	Restoration In Situ
	Upper CG Channels
	Spreader Excavation
	Outlet Channel 2012
	Beaver Dam f

Thursday, June 07, 2012 4:31:04 PM DRAWING: F:\EIBreкенridge\Project\PROJECTS - CIVIL\Project Land Dev R2\01452-0010-01 PEAK 7 & 8 BASE AREA\CADD FILES\SITE 60 INCH CULVERT OUTLET\VP8-60inch_outlet_design2.DW



EXISTING ONE SKI HILL PLACE 18" HDPE FOUNDATION DRAIN OUTLET

EXISTING 48" CMP TO BE FILLED WITH LARGE RIPRAP TO COVER OPENING

LARGER SIZED RIPRAP TO BE PLACED IN BOTTOM OF FIRST BASIN. CHANNEL WIDTH TO BE 4' - 5'. (SEE DETAILS FOR CHANNEL DIMENSIONS)

PLACE LARGER SIZED RIPRAP ON NORTH CHANNEL BANK

ALL DISTURBED OVER-BANK AREAS AND DIVERSION DITCH TO BE REVEGETATED AND INSTALL BIODEGRADABLE BIO-MAT 90 OR EQUAL

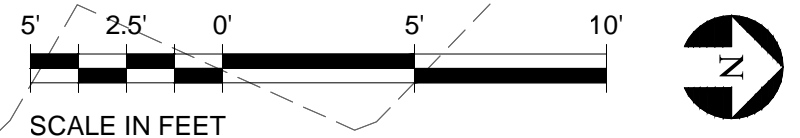
ARMOR DIVERSION DITCH WITH SMALLER RUBBLE FOR APPROX. 10' FROM WEIR.


PROPOSED DIVERSION WEIR (SEE DETAIL) FINAL LOCATION, ELEVATION AND MATERIALS TO BE FIELD DETERMINED BY CLAFFEY ECOLOGICAL CONSULTING

DIVERSION DITCH. FINAL LOCATION FOR GRADING TO BE FIELD DETERMINED BY CLAFFEY ECOLOGICAL TO FLOW TO NORTH/WETLAND AREAS.

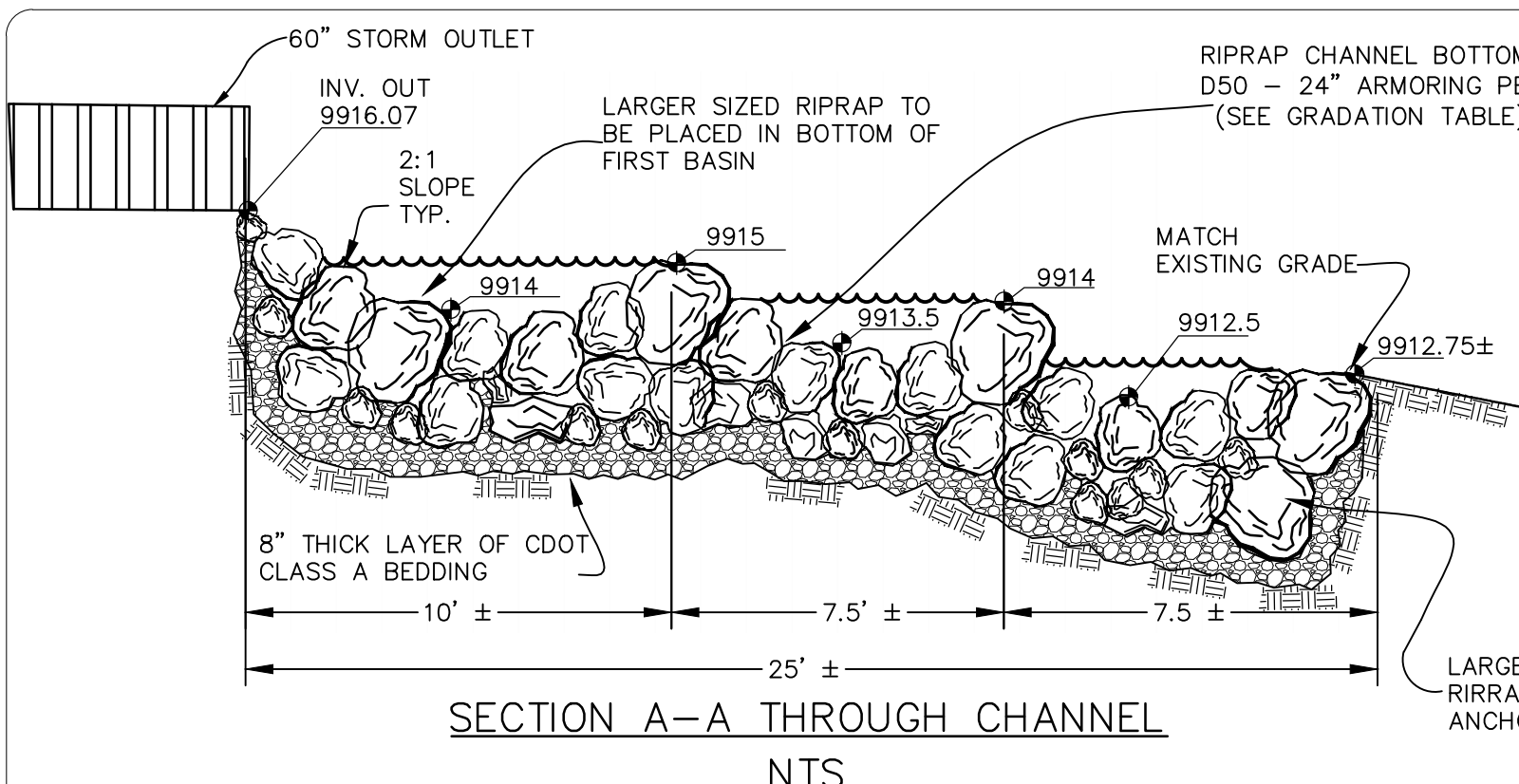
BOULDER PLACEMENT MAY BE MODIFIED IN FIELD TO FORM STEPPED BOULDERS VS STEPPED POOLS. GENERAL SIZE, SLOPE AND CONFIGURATION TO CHANNEL SHALL BE IN ACCORDANCE WITH CANNEL DETAIL SECTION B-B ON SHEET 2 OF 3

RIPRAP GRADATION	
D50 - 24" ARMORING TO CDOT SPECIFICATIONS:	
70 -100%	42"
50 -70%	33"
35 -50%	24"
2 -10%	9"



 TETRA TECH <small>www.tetrattech.com</small> <small>130 SKI HILL RD. SUITE 130 BRECKENRIDGE, CO 80424 PHONE: 970-453-6394 FAX: 970-453-4579</small>	Drawing Description 60" STORM SEWER CULVERT OUTLET SITE PLAN PEAK 8 BASE AREA BRECKENRIDGE SKI RESORT	Project No.: 133-23467-12002 Date: 06-07-12 Designed By: PMB
	Drawing No. 1 OF 3	

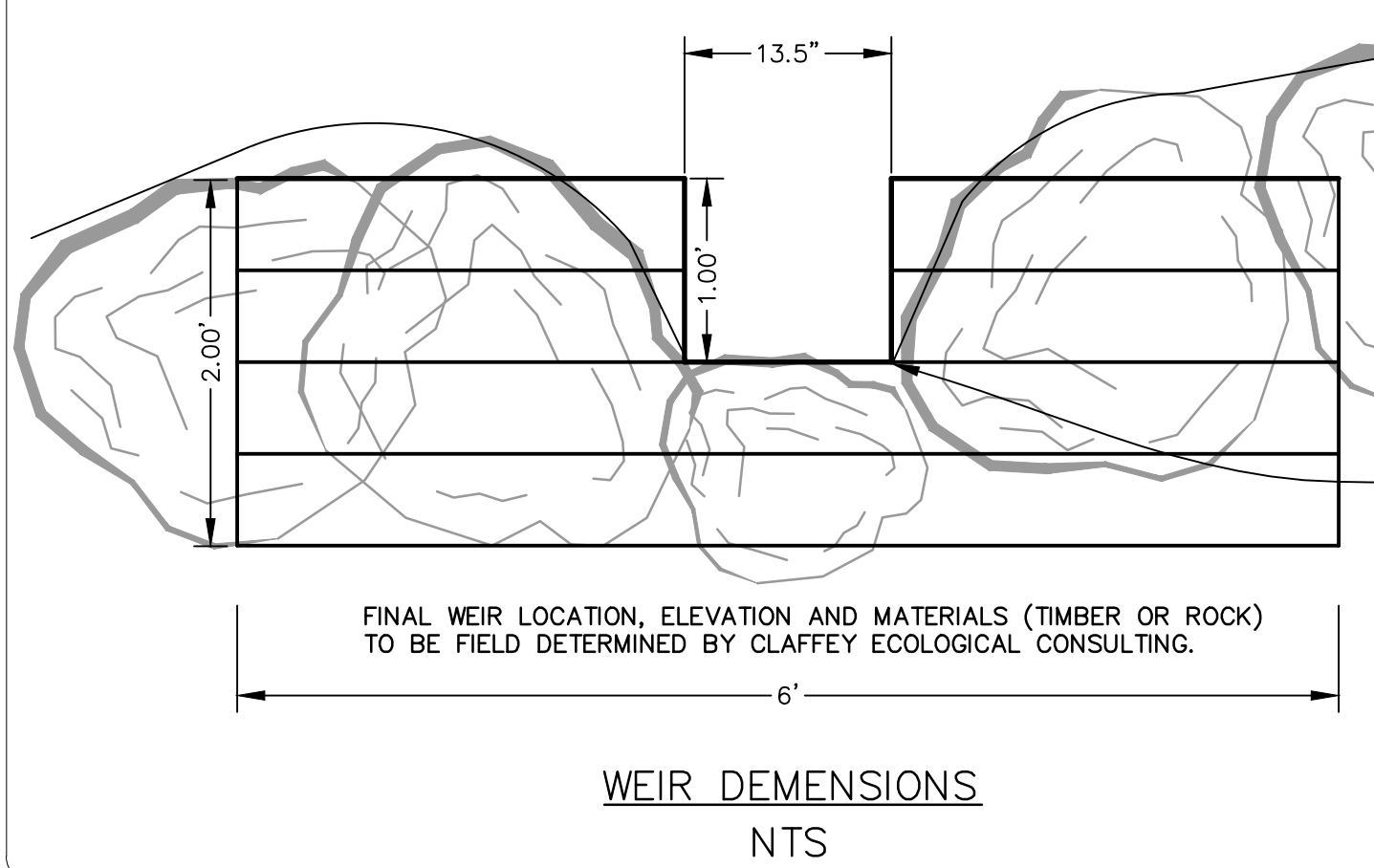
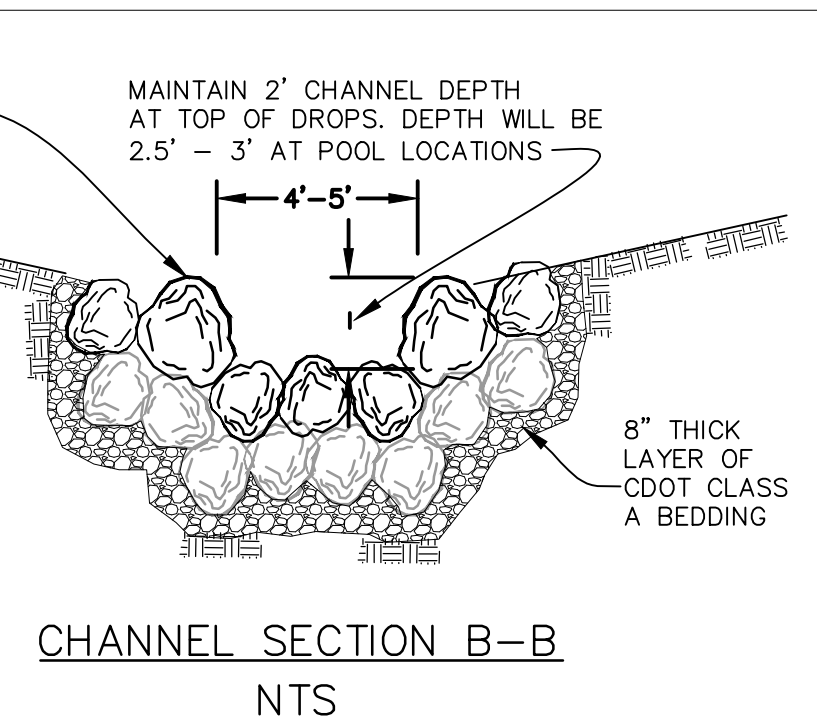
Thursday, June 07, 2012 4:31:08 PM DRAWING: F:\EIBreckenridge\Project\PROJECTS - CIVIL\Project Land Dev R2\PO1452-0010-01 PEAK 7 & 8 BASE AREA\CADD FILES\SITE 60 INCH CULVERT OUTLET\TP8-60inch_outlet_design2.DW




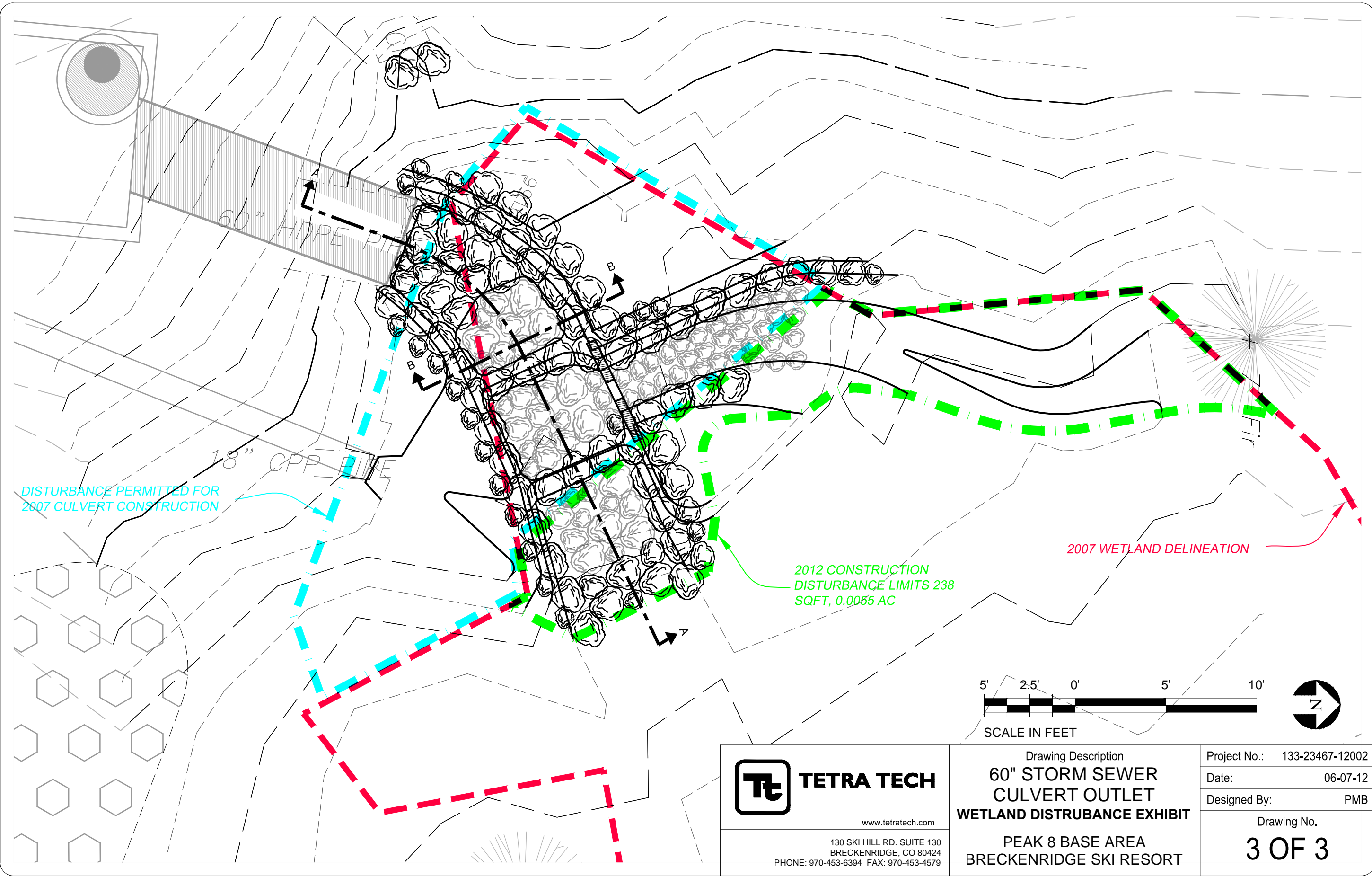
RIPRAP GRADATION

D50 - 24" ARMORING TO CDOT SPECIFICATIONS:

70 - 100%	42"
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 TETRA TECH <small>www.tetrattech.com</small> <small>130 SKI HILL RD. SUITE 130 BRECKENRIDGE, CO 80424 PHONE: 970-453-6394 FAX: 970-453-4579</small>	Drawing Description 60" STORM SEWER CULVERT OUTLET SECTION DETAILS	Project No.: 133-23467-12002 Date: 06-07-12 Designed By: PMB
	PEAK 8 BASE AREA BRECKENRIDGE SKI RESORT	Drawing No. 2 OF 3

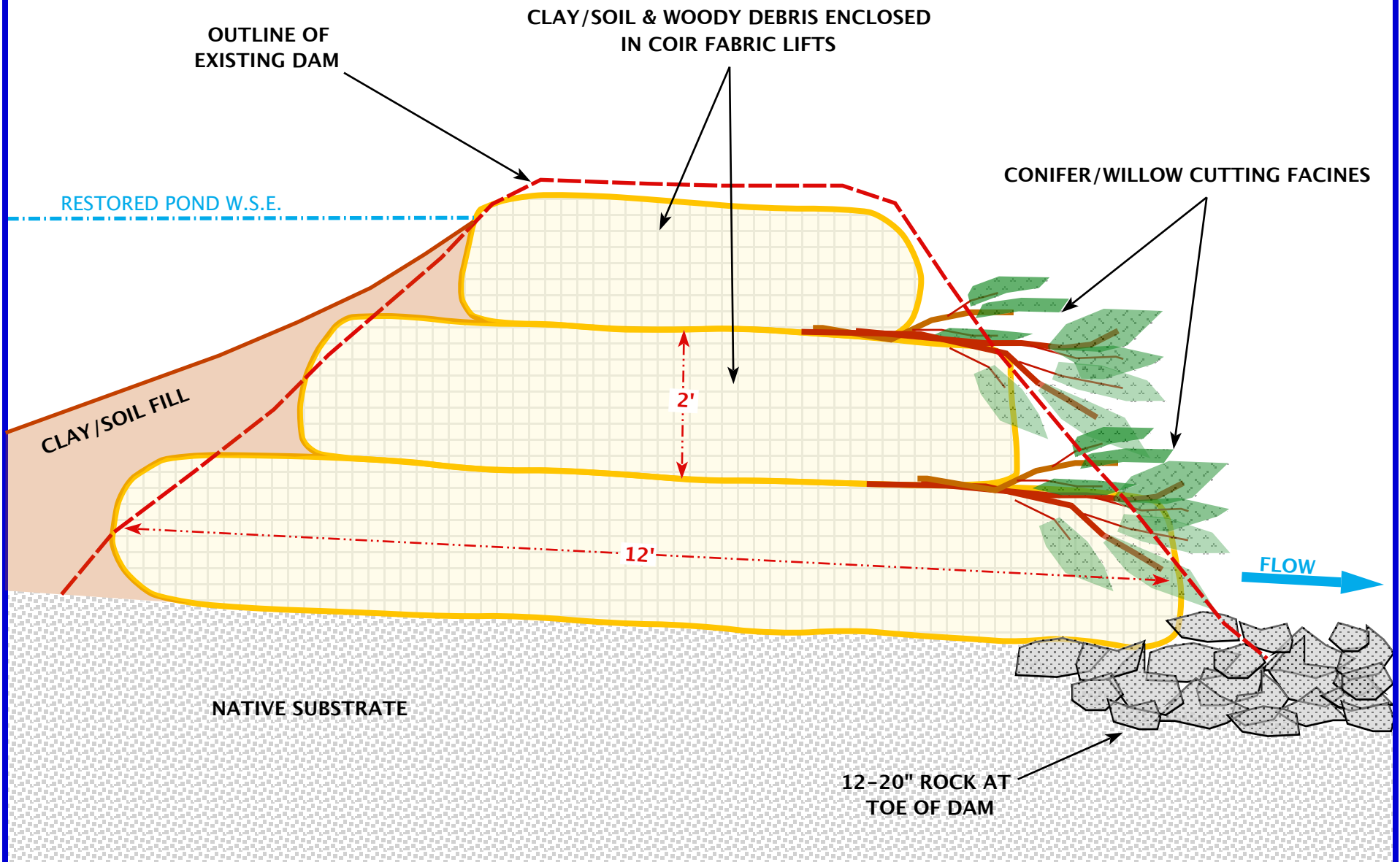


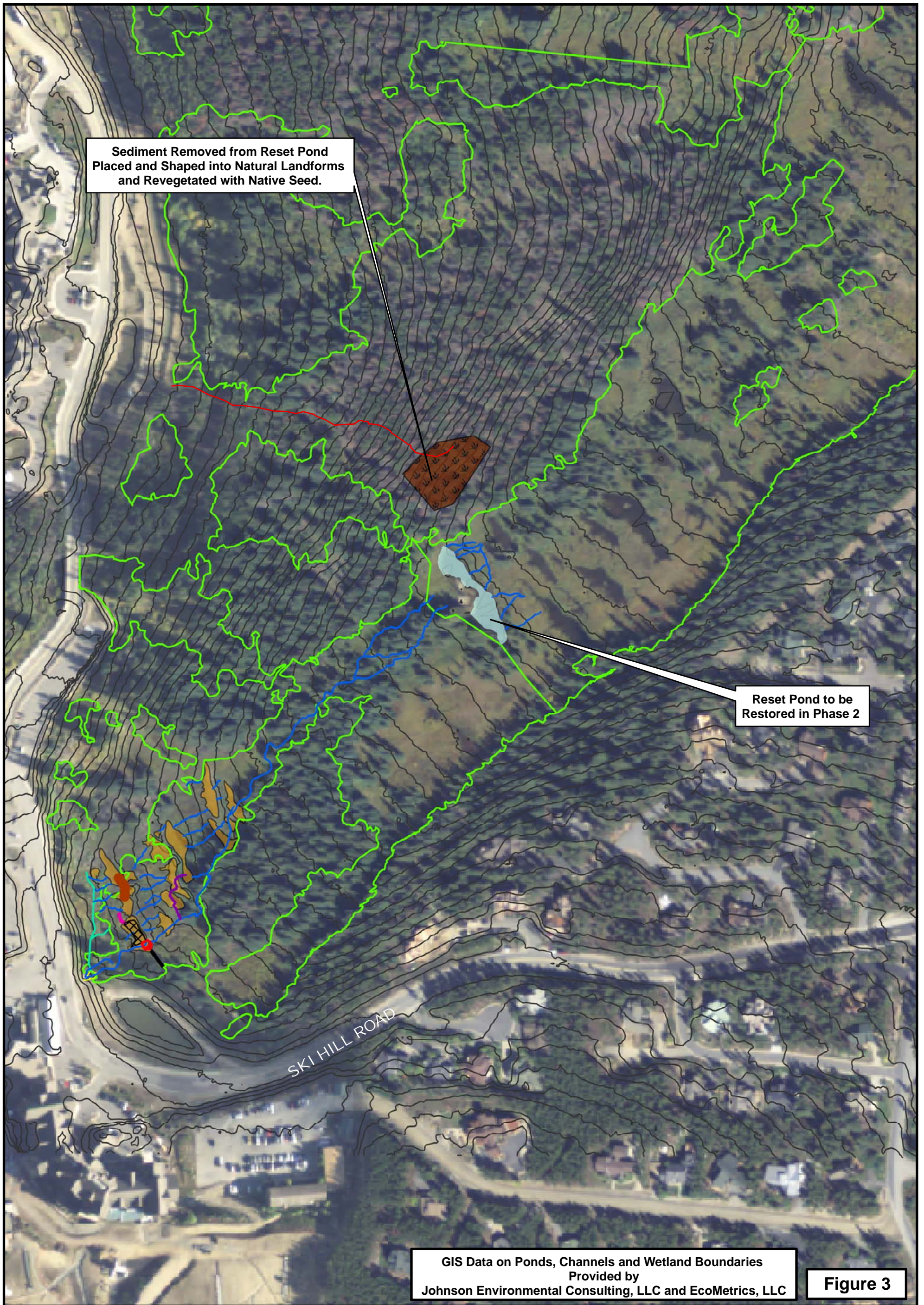
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 www.tetrattech.com
 130 SKI HILL RD. SUITE 130
 BRECKENRIDGE, CO 80424
 PHONE: 970-453-6394 FAX: 970-453-4579

Drawing Description
60" STORM SEWER CULVERT OUTLET
WETLAND DISTURBANCE EXHIBIT
 PEAK 8 BASE AREA
 BRECKENRIDGE SKI RESORT

Project No.: 133-23467-12002
 Date: 06-07-12
 Designed By: PMB
 Drawing No.
3 OF 3

CUCUMBER GULCH BEAVER DAM REPAIR X-SECTION VIEW





GIS Data on Ponds, Channels and Wetland Boundaries
 Provided by
 Johnson Environmental Consulting, LLC and EcoMetrics, LLC

Figure 3

UPPER CUCUMBER GULCH
Phase 1 and 2 Restoration
BRECKENRIDGE SKI RESORT

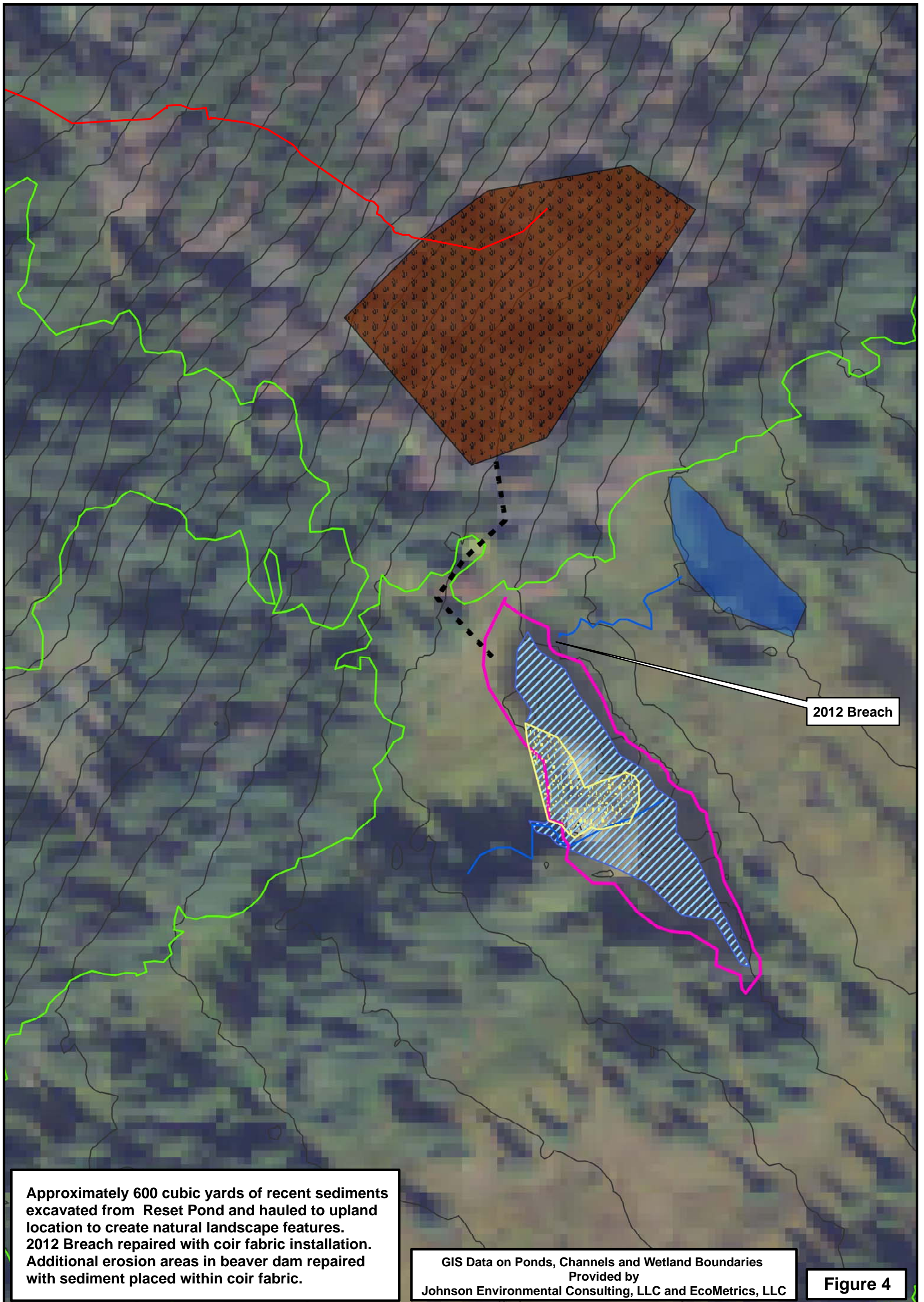
July 2012



Datum: NAD_1983_UTM_Zone_13N
 Source: NAIP 2011 Orthophoto
 GIS Prepared by Suzanne Claffey

Claffey Ecological Consulting, Inc.

Legend	
	Wetland boundaries 2011
	Upper CG Channels
	Wetland Channel-Proposed
	Channel Realignment
	Upper CG Ponds
	Upland Benches Created
	Reset Pond
	Access Reset Pond
	Channel Incision Repair
	Spreader Excavation
	Access/Reveg
	Outlet Channel 2012
	Backflow Channel
	Beaver Dam Repa
	CG 5ft Contour



Approximately 600 cubic yards of recent sediments excavated from Reset Pond and hauled to upland location to create natural landscape features. 2012 Breach repaired with coir fabric installation. Additional erosion areas in beaver dam repaired with sediment placed within coir fabric.

GIS Data on Ponds, Channels and Wetland Boundaries
 Provided by
 Johnson Environmental Consulting, LLC and EcoMetrics, LLC

Figure 4

50 25 0 50 Feet
 1 Inch = 50 Feet

Datum: NAD_1983_UTM_Zone_13N
 Source: NAIP 2011 Orthophoto
 GIS Prepared by Suzanne Claffey

Claffey Ecological Consulting, Inc.

UPPER CUCUMBER GULCH
Reset Pond - Phase 2
BRECKENRIDGE SKI RESORT

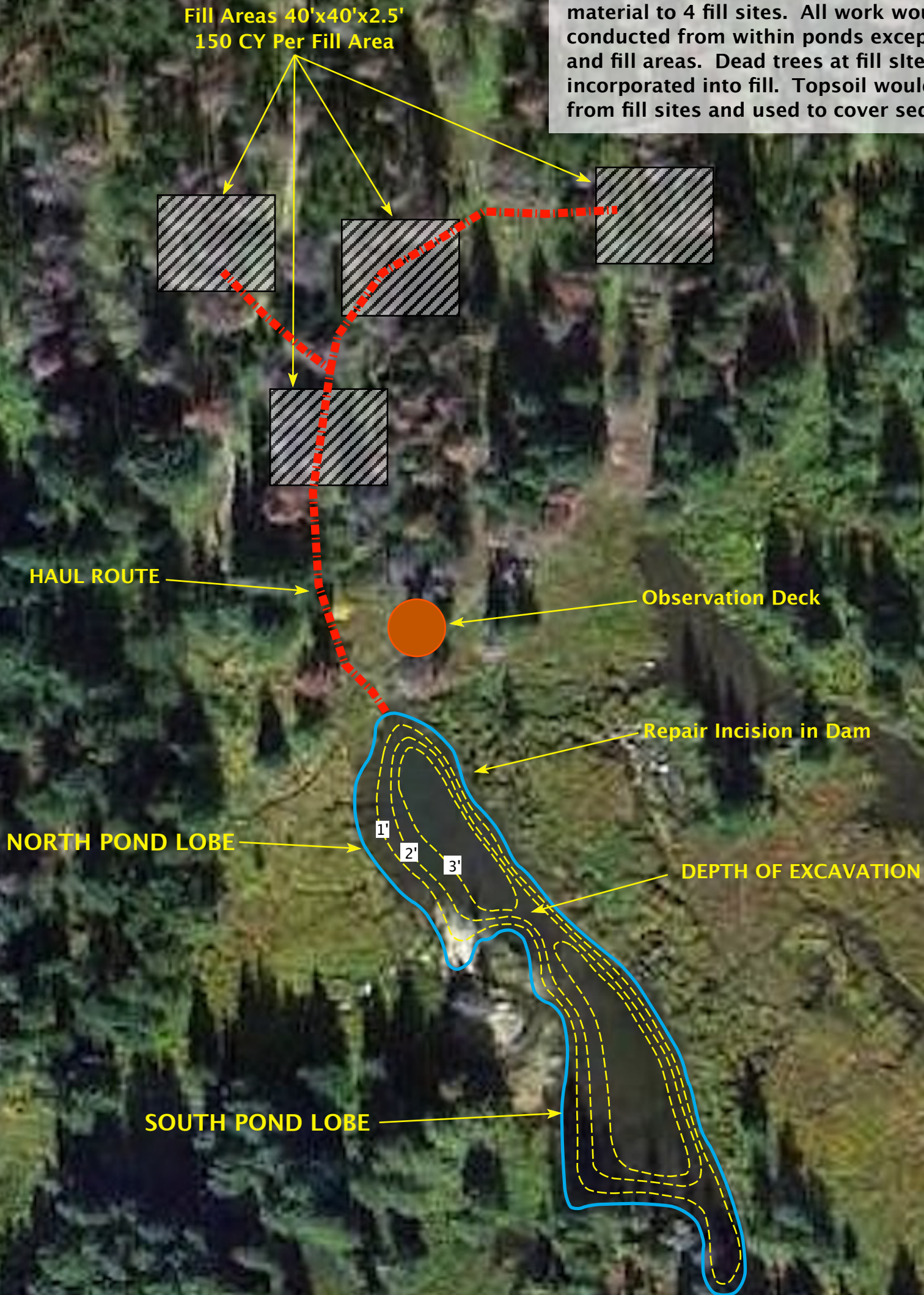
N
 July 2012

- Legend**
- Wetland Boundaries 2011
 - Upland Benches Created
 - Haul Route
 - Lower Pond
 - Access Reset Pond
 - Gravel Plume
 - Surveyed Reset Pond
 - Reset Channels
 - Proposed Excavation
 - CG 5ft Contour

RE-SET POND EXCAVATION CUCUMBER GULCH, BRECKENRIDGE, CO

Material would be excavated from south half of pond and piled in north half pond. This would require the excavator to handle material 3 to 4 times. Tracked skid steer loaders would load from pile inside north half of pond and transport material to 4 fill sites. All work would be conducted from within ponds except haul road and fill areas. Dead trees at fill sites would be incorporated into fill. Topsoil would be removed from fill sites and used to cover sediment.

Fill Areas 40'x40'x2.5'
150 CY Per Fill Area



Five Rivers, Inc.
 RE-SET POND PROPOSED EXCAVATION
 CUCUMBER GULCH
 DATE: 07/5/2012
 DRAWN BY: Matt Weaver
 SCALE: 1" = 50'
 8950 Chapman Road, Bozeman, MT 59718
 406.209.1970



SCALE: 1" = 50'



Breckenridge Town Council & Summit School District

Joint Meeting Agenda

Tuesday, August 14, 2012
6:00 – 7:15 pm
Town of Breckenridge, Town Hall
Council Chambers

AGENDA

- 1) Introductions
- 2) School District Overview
- 3) Impact of Addition of Private School
- 4) After-School Programs in Breckenridge