



**BRECKENRIDGE TOWN COUNCIL REGULAR MEETING**

Tuesday, November 27, 2012; 7:30 PM

Town Hall Auditorium

<b>I</b>	<b>CALL TO ORDER, ROLL CALL</b>	
<b>II</b>	<b>APPROVAL OF MINUTES - NOVEMBER 13, 2012</b>	<b>3</b>
<b>III</b>	<b>APPROVAL OF AGENDA</b>	
<b>IV</b>	<b>COMMUNICATIONS TO COUNCIL</b>	
	A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)	
	B. BRECKENRIDGE RESORT CHAMBER UPDATE	
<b>V</b>	<b>CONTINUED BUSINESS</b>	
	A. SECOND READING OF COUNCILS BILLS, SERIES 2012 - PUBLIC HEARINGS	
	1. COUNCIL BILL NO. 31, SERIES 2012-AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2013	<b>6</b>
	2. COUNCIL BILL NO. 32, SERIES 2012-AN ORDINANCE PROVIDING FOR AN INCREASE IN MUNICIPAL WATER USER FEES EFFECTIVE JANUARY 1, 2013; AND MAKING MISCELLANEOUS AMENDMENTS TO TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE WATER ORDINANCE"	<b>8</b>
	3. COUNCIL BILL NO. 33, SERIES 2012- AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH WELK RESORT GROUP, INC., A CALIFORNIA CORPORATION	<b>14</b>
<b>VI</b>	<b>NEW BUSINESS</b>	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2012	
	1. COUNCIL BILL NO. 34, SERIES 2012 - AN ORDINANCE PLACING RECENTLY ANNEXED PROPERTY IN LAND USE DISTRICT 1 (WEDGE AND MBJ PARCELS - 34.026 ACRES)	<b>23</b>
	B. RESOLUTIONS, SERIES 2012	
	1. RESOLUTION NO. 26, SERIES 2012- A RESOLUTION ADOPTING THE 2013 BUDGET AND MAKING APPROPRIATIONS THEREFOR	<b>29</b>
	C. OTHER	
<b>VII</b>	<b>PLANNING MATTERS</b>	
	A. PLANNING COMMISSION DECISION	<b>31</b>
	B. PLANNING COMMISSION REPORT (MR.GALLAGHER)	
<b>VIII</b>	<b>REPORT OF TOWN MANAGER AND STAFF</b>	
<b>IX</b>	<b>REPORT OF MAYOR AND COUNCILMEMBERS</b>	
	A. CAST/MMC (MAYOR WARNER)	
	B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)	
	C. BRC (MR. BURKE)	
	D. MARKETING COMMITTEE (MR. DUDICK)	
	E. SUMMIT COMBINED HOUSING AUTHORITY (MS. WOLFE)	
	F. BRECKENRIDGE HERITAGE ALLIANCE (MR. BREWER)	
	G. WATER TASK FORCE (MR. GALLAGHER)	

\*Report of the Town Manager, Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item.

- H. LANDFILL TASK FORCE (MS. WOLFE)
- I. PUBLIC ART COMMISSION (MR. GALLAGHER)

**X OTHER MATTERS**

**XI SCHEDULED MEETINGS**

**XII ADJOURNMENT**

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**I CALL TO ORDER, ROLL CALL**

Mayor Warner called the meeting of November 13, 2012 to order at 7:39pm. The following members answered roll call: Mr. Gallagher, Ms. Wolfe, Mr. Brewer, Mr. Dudick, Ms. McAtamney, Mr. Burke and Mayor Warner.

**II APPROVAL OF MINUTES - OCTOBER 23, 2012**

No changes were made to the October 23, 2012 minutes. Mayor Warner declared the meeting minutes of October 23, 2012, would stand as approved.

**III APPROVAL OF AGENDA**

Mr. Gagen reported there are two changes to the agenda: adding an executive session at the end of the meeting; and the development agreement ordinance from the work session under first readings.

**IV COMMUNICATIONS TO COUNCIL**

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

Seeing no public comments, Mayor Warner closed the public comment session.

**B. BRECKENRIDGE RESORT CHAMBER UPDATE**

Rescheduled for meeting on November 27.

**C. RWB FD UPDATE**

Jay Nelson, RWB Deputy Fire Chief, stated they are still addressing wildfire mitigation efforts. No additional updates since rain and cooler temps have come to the area. RWB is preparing for next year, including increased outreach and community education.

Mr. Jim Keating, RWB Fire Chief, stated they are working on the reorganization of the department, including consolidation and significant changes. The final report should be available at the end of January. If they find a reason to proceed with consolidation with Lake Dillon Fire District, public discussion would ensue in March or April. Consolidation would operate like a fire authority with independent boards. Also, if they decide to pursue consolidation, it would go to a vote of the people.

**V CONTINUED BUSINESS**

**A. SECOND READING OF COUNCILS BILLS, SERIES 2012 - PUBLIC HEARINGS-NONE**

**VI NEW BUSINESS**

**A. FIRST READING OF COUNCIL BILLS, SERIES 2012**

**1. COUNCIL BILL NO. 31, SERIES 2012-AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2013**

Mayor Warner read the title into the minutes.

Mr. Gagen said that the Mill Levy must be approved prior to the first week of December. Town proposes an identical a Mill Rate as 2012 with this ordinance.

Mr. Dudick moved to approve Council Bill No. 31, Series 2012 - AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2013.

Ms. McAtamney seconded the motion.  
The motion passed 7-0.

**2. COUNCIL BILL NO. 32, SERIES 2012-AN ORDINANCE PROVIDING FOR AN INCREASE IN MUNICIPAL WATER USER FEES EFFECTIVE JANUARY 1, 2013; AND MAKING MISCELLANEOUS AMENDMENTS TO TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE WATER ORDINANCE"**

Mayor Warner read the title into the minutes.

Mr. Berry stated it amends the Town's water ordinance is part of the Town's Budget process and addresses recommendations made by CIRSA.

Mr. Gallagher moved to approve Council Bill No. 32, Series 2012 - AN ORDINANCE PROVIDING FOR AN INCREASE IN MUNICIPAL WATER USER FEES EFFECTIVE JANUARY 1, 2013; AND MAKING MISCELLANEOUS AMENDMENTS TO TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "TOWN OF BRECKENRIDGE WATER ORDINANCE".

Ms. Wolfe seconded the motion.

The motion passed 7-0.

**3. COUNCIL BILL NO. 33, SERIES 2012 - AN ORDINANCE APPROVING A DEVELOPMENT**

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AGREEMENT WITH WELK RESORT GROUP, INC., A CALIFORNIA CORPORATION  
Mayor Warner read the title into the minutes.

Mr. Berry stated the town's process requires review of the development agreement at a worksession before being brought to the first reading. There is one change reflected in the document handed out at the meeting, which is a change of payment schedule based on project completion.

Ms. McAtamney moved to approve Council Bill No. 33, Series 2012 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH WELK RESORT GROUP, INC., A CALIFORNIA CORPORATION

Mr. Burke seconded the motion.

The motion passed 6-1.

**B. RESOLUTIONS, SERIES 2012**

1. RESOLUTION NO. 25, SERIES 2012-A RESOLUTION AUTHORIZING THE SUBMISSION OF AN ENERGY AND MINERAL IMPACT ASSISTANCE PROGRAM GRANT APPLICATION TO THE COLORADO DEPARTMENT OF LOCAL AFFAIRS (103 South Harris Street Building)

Mayor Warner read the title into the minutes.

Mr. Gagen stated that the requirement of the grant is that the governing body approve this resolution authorizing the submission of it.

Mr. Brewer moved to approve Resolution No. 25 - A RESOLUTION AUTHORIZING THE SUBMISSION OF AN ENERGY AND MINERAL IMPACT ASSISTANCE PROGRAM GRANT APPLICATION TO THE COLORADO DEPARTMENT OF LOCAL AFFAIRS

Ms. McAtamney seconded the motion.

The motion passed 7-0.

**C. OTHER**

1. PUBLIC HEARING - 2013 BUDGET

Mr. Gagen stated this is the first of two public hearings. He received one public comment from Carol Rockne who wanted to make sure we aren't raising property taxes. Budget is flat to prior year. No proposed increases in revenue streams. Significant change in Special Projects Fund due to acceleration of some projects, including the Riverwalk. All other funds are projected flat. Projecting a 1% increase in water rates. Paying off debt, reduction in Mill Levy in subsequent year. Money for future improvements at the Golf Course.

Mr. Dudick asked about Blue River reclamation project, which hasn't been vetted with this Council. Net of \$5 Mil. Would like to better understand the issue if deciding to spend the money. Mr. Gagen stated grant is possible for a net of \$1 Mil. Mayor Warner agreed that this project needs to be vetted with current council. Discussion ensued regarding how the figure is viewed as part of the budget.

Seeing no public comment, Mayor Warner closed the public hearing.

**VII PLANNING MATTERS**

**A. PLANNING COMMISSION DECISIONS**

With no request to call an item off the consent calendar, Mayor Warner declared the Planning Commission decisions would stand approved as presented.

**B. PLANNING COMMISSION REPORT (MR.GALLAGHER)**

Mr. Gallagher stated there is no report.

**VIII REPORT OF TOWN MANAGER AND STAFF**

Mr. Gagen stated new minutes process is starting and you'll see old version and new version for approval at next meeting. Grants committee has awarded Grants for 2013. Questions about Youth Corps and FDRD grant requests. Second question about request from Flight for Life a capitol request rather than grant ask. Mr. Gallagher stated he wishes other communities will be more in line with Breckenridge. Ms. Wolfe stated she agrees it should be a capitol request. Mr. Dudick said he's not comfortable comparing asks from the different communities. Mr. Gagen will proceed with Grant Awards as recommended by committee.

**IX REPORT OF MAYOR AND COUNCILMEMBERS**

**A. CAST/MMC (MAYOR WARNER)**

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Sent CAST and MMC reports via email to Council for review.

- B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. BREWER)  
No report.
- C. BRC (MR. BURKE)  
No report.
- D. MARKETING COMMITTEE (MR. DUDICK)  
No report.
- E. SUMMIT COMBINED HOUSING AUTHORITY (MS. WOLFE)  
No report.
- F. BRECKENRIDGE HERITAGE ALLIANCE (MR. BREWER)  
Mr. Brewer stated the BHA is submitting a proposal for an Archive Room in Harris Building. Mostly locals, 500 people, took place in the Mine Madhouse on Halloween. Donations up in October.
- G. WATER TASK FORCE (MR. GALLAGHER)  
No report.
- H. LANDFILL TASK FORCE (MS. WOLFE)  
Ms Wolfe stated they are working on a ballot measure for Nov. 2013. Working to reduce the cost per household. Discussion about single stream recycling and container size.
- I. PUBLIC ART COMMISSION (MR. GALLAGHER)  
Mr. Gallagher sent an email with minutes from Public Art Commission meeting. Only thing to add is a staff letter to Frankie Hood recommending a meeting with Chris Willard, Frankie Hood and TOB staff.

**X OTHER MATTERS**

Mr. Dudick asked about tunnel closures in March. How can we ask for an extension on time? Mr. Gagen stated VR is arranging meeting with CDOT. Other communities are trying to address it as well. We need to start communicating with guests now.

Ms. McAtamney stated we used to plow the bike path from Justice Center to Valley Brook. Mr. Gagen stated it was cut due to underuse.

Mayor Warner stated Shock Hill sidewalks were not part of development agreement, but done as part of planning. Engage Breckenridge discussions about McCain property purchase and High Country Furniture. Interest has been shown, council has not made any decisions at this point. Discussion regarding when to open up acquisitions from Executive Session to the public, how to educate the public on the process and decisions. Mr. Gagen offered next steps for public process on service/commercial.

Mayor Warner asked Mr. Berry about the Passage of Amendment 64. Mr. Berry stated we are waiting to hear what is the federal position is going to be. Need to understand federal position. State is beginning process of how to legislate and determine administrative rules. State is going to begin figuring out licensing process. Amendment allows each town to regulate with its own ordinances, number and location of businesses. State agency is understaffed. Mr. Gagen stated there are 2 parts to discussion: 1) limited plant growing, 2) purchasing. Discussion regarding grow enforcement and how to move forward as a Town.

Mr. Gallagher stated he believes it's the right time to go out with an RFP for the F Lot as part of the Riverwalk process. Discussion around the need to define the RFP process, specific needs/parameters, costs. Mr. Gagen recommended working with a TOB owner's representative to determine feasibility of the RFP.

Mr. Brewer wanted to revisit the Wellington Neighborhood bus service. Mr. Gagen stated they talked to David O'Neil and have not heard anything.

Discussion regarding vesting/multipliers for development agreements.

**XI SCHEDULED MEETINGS**

**XII MEMO ONLY ITEMS [MISC. DOCS/NON-DISCUSSION ITEMS]**

- A. FOLLOW UP REPORT TO BUDGET RETREAT

**XII EXECUTIVE SESSION**

**XIV ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 10:30pm.  
Submitted by Helen Cospolich, Administrative Services

ATTEST:

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Helen Cospolich, Deputy Town Clerk

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John G. Warner, Mayor

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**TO:** MAYOR AND TOWN COUNCIL  
**FROM:** FINANCE AND MUNICIPAL SERVICES DEPARTMENT  
**SUBJECT:** 2013 MILL LEVY  
**DATE:** 11/19/2012  
**CC:** TIM GAGEN, RICK HOLMAN

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The attached Council Bill establishing the 2013 Property Tax Mill Levy at the rate of 6.95 mills per dollar of assessed valuation of property within the limits of the Town of Breckenridge is hereby submitted to the Council for second reading. There is no change from the 2012 rate of 6.95 mills.

Of the 6.95 mills, 5.07 mills are for the purpose of defraying the expenses of the General fund. There is an additional assessment of 1.88 mills to meet the Town's general obligation indebtedness described in Ordinance No. 35, Series 1998, which is due and payable in fiscal year 2013.

There are no changes proposed to ordinance from first reading.

**FOR WORKSESSION/SECOND READING-NOV 27**

**NO CHANGES FROM FIRST READING**

COUNCIL BILL NO. 31

Series 2012

AN ORDINANCE SETTING THE MILL LEVY WITHIN THE  
TOWN OF BRECKENRIDGE FOR 2013

WHEREAS, the Town Council of the Town of Breckenridge has determined that a mill levy of 6.95 mills upon each dollar of the assessed valuation of all taxable property within the Town of Breckenridge is needed to balance the 2013 Town budget;

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

Section 1. For the purposes of defraying the expense of the General Fund of Breckenridge, Colorado for the fiscal year 2013, there is hereby levied a tax of 5.07 mills upon each dollar of assessed valuation for all taxable property within the Town of Breckenridge.

Section 2. In addition to the General Fund mill levy described in Section 1 of this ordinance, there is levied an additional 1.88 mill upon each dollar of assessed valuation of all taxable property within the Town of Breckenridge. Such additional levy is imposed pursuant to the authority granted by the electors to the Town Council by Ordinance No. 35, Series 1998. The revenues generated by such additional mill levy shall be applied toward the installment of the Town's general obligation indebtedness described in Ordinance No. 35, Series 1998, which is due and payable in fiscal year 2013.

Section 3. The Town Clerk is authorized and directed, after adoption of the budget by the Town Council, to certify to the Board of County Commissioners of Summit County, Colorado, the total tax levy for the Town of Breckenridge, Colorado as herein set forth.

Section 4. 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 13th day of November, 2012. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 27<sup>th</sup> day of November, 2012, at 7:30 P.M. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE

\_\_\_\_\_  
Linda Coxen, Town Clerk

\_\_\_\_\_  
John G. Warner, Mayor

**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 32 (2013 Water Rate & Miscellaneous Water Amendments Ordinance)

DATE: November 19, 2012 (for November 27<sup>th</sup> meeting)

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The second reading of the ordinance fixing the 2013 water rates and making miscellaneous amendments to the Town's Water Ordinance is scheduled for your meeting on November 27<sup>th</sup>. There are no changes proposed to ordinance from first reading.

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



1 ***FOR WORKSESSION/SECOND READING – NOV. 27***

2  
3 ***NO CHANGE FROM FIRST READING***

4  
5 Additions To The Current Breckenridge Town Code Are  
6 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

7  
8 COUNCIL BILL NO. 32

9  
10 Series 2012

11  
12 AN ORDINANCE PROVIDING FOR AN INCREASE IN MUNICIPAL WATER USER FEES  
13 EFFECTIVE JANUARY 1, 2013; AND MAKING MISCELLANEOUS AMENDMENTS TO  
14 TITLE 12 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “TOWN OF  
15 BRECKENRIDGE WATER ORDINANCE”

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

19  
20 Section 1. The Town Council of the Town of Breckenridge finds and determines as  
21 follows:

22  
23 A. The Town of Breckenridge is a home rule municipal corporation organized and  
24 existing pursuant to Article XX of the Colorado Constitution.

25  
26 B. The Town owns and operates a municipal water utility pursuant to the authority  
27 granted by Section 13.1 of the Breckenridge Town Charter and §31-35-402(1)(b), C.R.S.

28  
29 C. Section 13.3 of the Breckenridge Town Charter provides that “(t)he council shall by  
30 ordinance establish rates for services provided by municipality-owned utilities.”

31  
32 D. The rates, fees, tolls and charges imposed in connection with the operation of a  
33 municipal water system should raise revenue required to construct, operate, repair and replace  
34 the water works, meet bonded indebtedness requirements, pay the overhead and other costs of  
35 providing service. Such rates, fees, tolls and charges may also recover an acceptable rate of  
36 return on investment. The rates, fees, tolls and charges imposed by this ordinance accomplish the  
37 Town’s goals and objectives of raising revenue required to construct, operate, repair and replace  
38 the Town’s water works and to service the bonded indebtedness of the Town’s enterprise water  
39 fund.  
40

1 E. The action of the Town Council in setting the rates, fees, tolls, and charges to be  
2 charged and collected by the Town in connection with the operation of its municipal water  
3 system is a legislative matter.  
4

5 Section 2. Effective January 1, 2013, Section 12-4-11 of the Breckenridge Town Code  
6 is amended so as to read in its entirety as follows:  
7

8 12-4-11: WATER USER FEES; RESIDENTIAL:  
9

10 A. The in town base rate user fee for all residential water users, regardless of the  
11 size of the water meter, includes a usage allowance of not to exceed twelve  
12 thousand (12,000) gallons of water per SFE per billing cycle, and shall be  
13 computed according to the following table:  
14

<u>Water Use Date</u>	<u>Base User Fee</u>
Effective January 1, 2012	\$30.64 per billing cycle per SFE
<b><u>Effective January 1, 2013</u></b>	<b><u>\$30.95 per billing cycle per SFE</u></b>

15 B. In addition to the base user fee set forth in subsection A of this section, each in  
16 town residential water user shall pay an excess use charge for each one thousand  
17 (1,000) gallons of metered water, or fraction thereof, used per SFE per billing  
18 cycle in excess of the usage allowance of twelve thousand (12,000) gallons of  
19 water per SFE per billing cycle. The amount of the excess use charge shall be  
20 computed according to the following table:  
21  
22

<u>Water Use Date</u>	<u>Excess Use Charge</u>
Effective January 1, 2012	\$3.05
<b><u>Effective January 1, 2013</u></b>	<b><u>\$3.08</u></b>

23  
24 Section 3. Effective January 1, 2013, Section 12-4-12(A) of the Breckenridge Town  
25 Code is amended so as to read in its entirety as follows:  
26

27 12-4-12: WATER USER FEES; NONRESIDENTIAL:  
28

29 A. The in town base rate user fee per SFE per billing cycle and the usage  
30 allowance per SFE per billing cycle for all nonresidential water users shall be  
31 determined based upon the size of the water meter which connects the water  
32 using property to the water system, as follows:  
33

34 For water used commencing January 1, ~~2013~~ **2013**  
35

<u>Meter Size</u>	<u>Base Water Fee</u> <u>Per Account</u>	<u>Usage Allowance</u> <u>Per Account (Gallons)</u>
-------------------	---------------------------------------------	--------------------------------------------------------

1			
2	Less than 1 inch	\$ <del>35.09</del>	13,000
3		<u>\$ 35.44</u>	
4	1 inch	<del>52.64</del>	20,000
5		<u>53.16</u>	
6	1 1/2 inch	<del>91.84</del>	35,000
7		<u>92.76</u>	
8	2 inch	<del>144.61</del>	54,000
9		<u>146.06</u>	
10	3 inch	<del>278.06</del>	105,000
11		<u>280.84</u>	
12	4 inch	<del>429.84</del>	162,000
13		<u>434.14</u>	
14	6 inch	<del>844.55</del>	318,000
15		<u>853.00</u>	
16			

17        Section 4.    Effective January 1, 2013, Section 12-4-13 of the Breckenridge Town Code  
18 is amended so as to read in its entirety as follows:

19  
20            12-4-13: WATER USER FEES; MIXED USE:

21  
22            The in town base rate user fee and the usage allowance per billing cycle for all  
23 mixed use water using properties shall be calculated based upon the predominant  
24 use of the water using property as determined by the finance director. In addition  
25 to the base user fee, each in town mixed use water user shall pay an excess use  
26 charge of three dollars five cents (~~\$3.05~~3.08) per one thousand (1,000) gallons of  
27 metered water, or fraction thereof, used per billing cycle in excess of the  
28 applicable usage allowance.  
29

30        Section 5.    Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the  
31 addition of a new Section 12-1-17, entitled “No Guarantee of Pressure or Continuous Flow,”  
32 which shall read in its entirety as follows:

33  
34            **12-1-17: NO GUARANTEE OF PRESSURE OR CONTINUOUS FLOW:**  
35 **The Town is not responsible or liable for damage from any cause whatsoever**  
36 **to service connections, fixtures, and water using appliances, and no person is**  
37 **entitled to damages or payment of refunds, by reason of temporary or**  
38 **permanent pressure changes or stoppage of the flow of water through the**  
39 **Water System. Dirt and debris can enter the water lines for any number of**  
40 **reasons under normal operations of the Water System, and no person is**  
41 **entitled to damages by reason of dirt or debris entering a such person’s**  
42 **service line or connection.**  
43

44        Section 6.    Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the  
45 addition of a new Section 12-1-18, entitled “Variations in Operations,” which shall read in its  
46 entirety as follows:

1  
2 **12- 1-18: VARIATIONS IN OPERATION: Water pressure and water flow**  
3 **in a main may vary as part of the normal operations of the Water System.**  
4 **The Town reserves the right at any time, without notice, to modify water**  
5 **pressure or shut off the water in a main as part of its operation, repair,**  
6 **replacement, modification, and maintenance of the Water System. The Town**  
7 **is not responsible for damage resulting from pressure changes or stoppage of**  
8 **the flow of water through the Water System, regardless of how the pressure**  
9 **change or stoppage was caused.**

10  
11 Section 7. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the  
12 addition of a new Section 12-1-19, entitled “Damages To Water System,” which shall read in its  
13 entirety as follows:

14  
15 **12-1-19: DAMAGES TO WATER SYSTEM: Any person who damages the**  
16 **Water System is liable to the Town for the actual and necessary costs**  
17 **incurred by the Town in repairing such damages.**

18  
19 Section 8. Chapter 1 of Title 12 of the Breckenridge Town Code is amended by the  
20 addition of a new Section 12-1-20, entitled “Required Indemnification Against Third Party  
21 Claims,” which shall read in its entirety as follows:

22  
23 **12-1-20: REQUIRED INDEMNIFICATION AGAINST THIRD PARTY**  
24 **CLAIMS: To the fullest extent permitted by law, any person who, as a result**  
25 **of his or her negligent, intentional, or willful wrongful act, causes any**  
26 **damage to any user of the Water System shall indemnify, hold harmless, and**  
27 **defend the Town with respect to such damage; except to the extent such**  
28 **damage results from the negligent, intentional, or willful wrongful act of the**  
29 **Town, its officers, employees, or agents. “Damage” means each and every**  
30 **injury, wound, wrong, hurt, harm, fee, damage, cost, outlay, expenditure, or**  
31 **loss of any and every nature, including, but not limited to: (i) injury or**  
32 **damage to any property or right; (ii) injury, damage, or death to any person**  
33 **or entity; (iii) attorneys’ fees, witness fees, expert witness fees, and expenses;**  
34 **and (iv) all other costs and expenses of litigation. This indemnity provision is**  
35 **to be interpreted to require a person to indemnify, hold harmless, and defend**  
36 **the Town only to the extent of the proportionate share of negligence or fault**  
37 **attributable to such person.**

38  
39 Section 9. Except as specifically amended hereby, the Breckenridge Town Code, and  
40 the various secondary codes adopted by reference therein, shall continue in full force and effect.

41  
42 Section 10. The Town Council hereby finds, determines and declares that it has the  
43 power to adopt this ordinance pursuant to the provisions of Section 31-35-402(1)(f), C.R.S., and  
44 the powers possessed by home rule municipalities in Colorado.



**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 33 (Approving Welk Resort Group Development Agreement)

DATE: November 19, 2012 (for November 27, 2012 meeting)

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The second reading of the ordinance approving the proposed Development Agreement with Welk Resort Group, Inc. is scheduled for your meeting on November 27<sup>th</sup>.

No changes are proposed to the ordinance from first reading. However, there are two changes proposed to Development Agreement:

1. In Recital A of the agreement (on page 1), the legal description of the property that is the subject of the agreement has been amended to add a small parcel (Tract D-3, The Shores at the Highlands) that was omitted from the prior version of the Development Agreement. Staff will have a plat showing Tract D-3 available for your review on Tuesday.

2. In Section 1 of the agreement (on page 2) additional language has been added providing that if the Harris Street Building project is not undertaken by the Town, Welk's \$50,000 payment may be used for such other purpose as the Town Council may determine.

At the time the ordinance was approved on first reading, Mr. Dudick asked whether the recitals in the agreement stating that Braddock Properties, LLC (and not Welk Resort Group, Inc.) was the current owner of the subject property was correct. I have confirmed that Braddock recently purchased the property from a bank that had acquired it through foreclosure (this was the transaction that Jack Wolfe was involved in). Braddock currently owns the property, and has contracted to sell it to Welk. As a result, the recitals in the Development Agreement are correct and do not need to be changed.

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

1                   ***FOR WORKSESSION/SECOND READING – NOV. 27***

2  
3                   ***NO CHANGE TO ORDINANCE FROM FIRST READING***

4  
5                                           COUNCIL BILL NO. 33

6  
7                                           Series 2012

8  
9                                   AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH  
10                                   WELK RESORT GROUP, INC., A CALIFORNIA CORPORATION

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

14  
15                   Section 1. Findings. The Town Council of the Town of Breckenridge finds and  
16 determines as follows:

17  
18                   A. Pursuant to Chapter 9 of Title 9 the Breckenridge Town Code the Town Council has  
19 the authority to enter into a development agreement.

20  
21                   B. Welk Resort Group, Inc., a California corporation (“**WRG**”) has submitted to the  
22 Town a completed application for a development agreement.

23  
24                   C. A proposed development agreement between the Town and WRG has been prepared,  
25 a copy of which is marked **Exhibit “A”**, attached hereto and incorporated herein by reference  
26 (“**Development Agreement**”).

27  
28                   D. The Town Council had a preliminary discussion of WRG’s application and the  
29 proposed Development Agreement as required by Section 9-9-10(A) of the Breckenridge Town  
30 Code.

31  
32                   E. The Town Council determined that WRG’s request for a development agreement  
33 need not be referred to the Breckenridge Planning Commission for its review and  
34 recommendation.

35  
36                   F. The Town Council has reviewed the Development Agreement.

37  
38                   G. The approval of the Development Agreement is warranted in light of all relevant  
39 circumstances.

40  
41                   H. The procedures to be used to review and approve a development agreement are  
42 provided in Chapter 9 of Title 9 of the Breckenridge Town Code. The requirements of such  
43 Chapter have substantially been met or waived in connection with the approval of the  
44 Development Agreement and the adoption of this ordinance.  
45

1 Section 2. Approval of Development Agreement. The Development Agreement between  
2 the Town and Welk Resort Group, Inc., a California corporation (**Exhibit “A”** hereto) is  
3 approved, and the Town Manager is authorized, empowered, and directed to execute such  
4 agreement for and on behalf of the Town of Breckenridge.

5  
6 Section 3. Notice of Approval. The Development Agreement must contain a notice in the  
7 form provided in Section 9-9-13 of the Breckenridge Town Code. In addition, a notice in  
8 compliance with the requirements of Section 9-9-13 of the Breckenridge Town Code must be  
9 published by the Town Clerk one time in a newspaper of general circulation in the Town within  
10 fourteen days after the adoption of this ordinance. Such notice shall satisfy the requirement of  
11 Section 24-68-103, C.R.S.

12  
13 Section 4. Police Power Finding. The Town Council finds, determines, and declares that  
14 this ordinance is necessary and proper to provide for the safety, preserve the health, promote the  
15 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and  
16 the inhabitants thereof.

17  
18 Section 5. Authority. The Town Council finds, determines, and declares that it has the  
19 power to adopt this ordinance pursuant to the authority granted to home rule municipalities by  
20 Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town  
21 Charter.

22  
23 Section 6. Effective Date. This ordinance shall be published and become effective as  
24 provided by Section 5.9 of the Breckenridge Town Charter.

25  
26 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
27 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2012. A Public Hearing shall be held at the  
28 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_\_ day of  
29 \_\_\_\_\_, 2012, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
30 Town.

31  
32 TOWN OF BRECKENRIDGE

33  
34  
35 By \_\_\_\_\_  
36 John G. Warner, Mayor

37  
38 ATTEST:

39  
40  
41  
42 \_\_\_\_\_  
43 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”) and WELK RESORT GROUP, INC., a California corporation (“Welk”).

Recitals

A. Welk has a contract with Braddock Properties LLC, a Colorado limited liability company (“Braddock”) for the purchase of Tracts C-1 and C-2, The Shores at the Highlands, according to the replat of Tract C, The Shores at the Highlands recorded August 12, 2011 at Reception No. 972933, Summit County, Colorado [and Tract D-3, The Shores at the Highlands, according to A Resubdivision Plat of Tract A, The Shores at the Highlands, Filing No. 2 recorded October 2, 2012 at Reception No. 1004529](#) (“Property”).

B. Braddock, as the owner of the Property, has consented in writing to Welk’s application to the Town for this Agreement and a copy of such written consent has been provided to the Town.

C. Welk has filed an application for a Development Permit with the Town for the development of the Property, and as of the result of such application, Welk and the Town have identified circumstances or conditions of the Property and features of the proposed development that make it extremely difficult, if not impossible, to obtain the density permitted for the Property without obtaining relief from provisions of the Town’s Development Code through this Agreement.

D. As the result of the following circumstances or conditions, the mass, but not the density, of the development of the Property as proposed by Welk will exceed the mass allowed under the Development Code: (i) improvements on the Property cannot be constructed substantially below grade where they would not count as mass because there is water as close as 18 inches to the surface of the Property; and (ii) Welk’s proposed development currently includes a little over 14,000 square feet of amenity space critical to the success of the development that is substantially in excess of the amount of amenity space authorized under subsection 9-1-19:24 (Relative):D of the Development Code.

E. Pursuant to Chapter 9 of the Breckenridge Town Code the Town Council has the authority to enter into a development agreement.

F. In connection with the future development of the Property as proposed by Welk, authorization to increase the 200% multiplier for amenity space as provided for in Subsection 9-

1-19:24 (Relative): D of the Development Code to 700% would allow for meeting and conference facilities or recreation and leisure amenities on the Property.

G. 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, Welk has proposed a payment to the Town of \$50,000 for the Harris Street Building project.

H. 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 a Class A Development Permit for the Property acceptable to Welk (the "Permit"); and (b) the passage of any time periods within which any referendums, appeals or other challenges to such approval must be brought, without any such referendums, appeals or other challenges having been filed, commenced or asserted, Welk shall pay \$50,000 to the Town to be applied to the Harris Street Building project, or, if such project is not undertaken by the Town, for such other uses as the Town Council may determine, with a payment of \$16,667 due within 30 days after final approval of the Permit; a second payment of \$16,667 due 1 year after final approval of the Permit; and a third and final payment of \$16,666 due 2 years after final approval of the Permit, provided that no certificate of occupancy for the first phase of the development will be issued until the first and second payments have been made and no certificate of occupancy for the full development will be issued until full payment has been made.

2. The provisions of subsection 9-1-19:24 (Relative):D of the Breckenridge Town Code notwithstanding, in connection with the development of the Property as proposed by Welk, 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 the development proposed by Welk provided that: (a) the facilities or amenities are legally guaranteed to remain as meeting and conference facilities or recreation and leisure amenities; and (b) the total of all such meeting, conference, recreation, leisure facilities do not equal more than 700% of the area required under said subsection 9-1-19:24 (Absolute) of the Development Code.

3. 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 and the Permit shall be done in compliance with the then-current laws of the Town.

4. 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.

5. This Agreement shall be binding upon and inure to the benefit of Town and Welk, their successors and assigns.

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

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

8. Welk 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 Welk; any subcontractor of Welk, or any officer, employee, representative, or agent of Welk or of any subcontractor of Welk, or which arise out of any worker's compensation claim of any employee of Welk, or of any employee of any subcontractor of Welk; 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. Welk 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 Welk. Welk also agrees to bear all other costs and expenses related thereto, including court costs and attorney's fees.

9. 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.

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

11. 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 Welk; 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 Welk or the acceptance of any improvements.

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

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

14. 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. Welk expressly waives its right to bring such action in or to remove such action to any other court, whether state or federal.

15. 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 Welk: Welk Resort Group, Inc.  
300 Rancheros Drive, Suite 450  
San Marcos, CA 92069

With A Copy (which shall not constitute notice) to: Mary Obidinski, Esq.  
Welk Resort Group, Inc.  
300 Rancheros Drive, Suite 450  
San Marcos, CA 92069

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.

16. 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.

17. 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



**MEMO**

**TO: Town Council**

**FROM: Laurie Best**

**RE: First Reading-Ordinance Placing Recently Annexed Property (MBJ/Wedge) in Land Use District 1**

**DATE: November 19, 2012 (for November 27<sup>th</sup> meeting)**

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The Town recently annexed the MBJ and Wedge parcels which are located off Ski Hill Road at the top of Cucumber Gulch. According to Colorado Statute (Section 31-12-115 2), the Town is required to formally zone the parcels (by placing them in a Land Use District) by December 31, 2012 which is 90 days after annexation. Staff and the Planning Commission have both recommended that the properties be placed in Land Use District 1. These properties were acquired by the Town for open space and to protect important wetlands and wildlife habitat. Land Use District 1 provides the most protection. An ordinance has been prepared and is scheduled for first reading on November 27<sup>th</sup>. The ordinance also formally places the properties in the Cucumber Creek Overlay District.

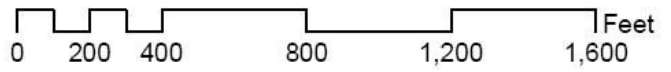
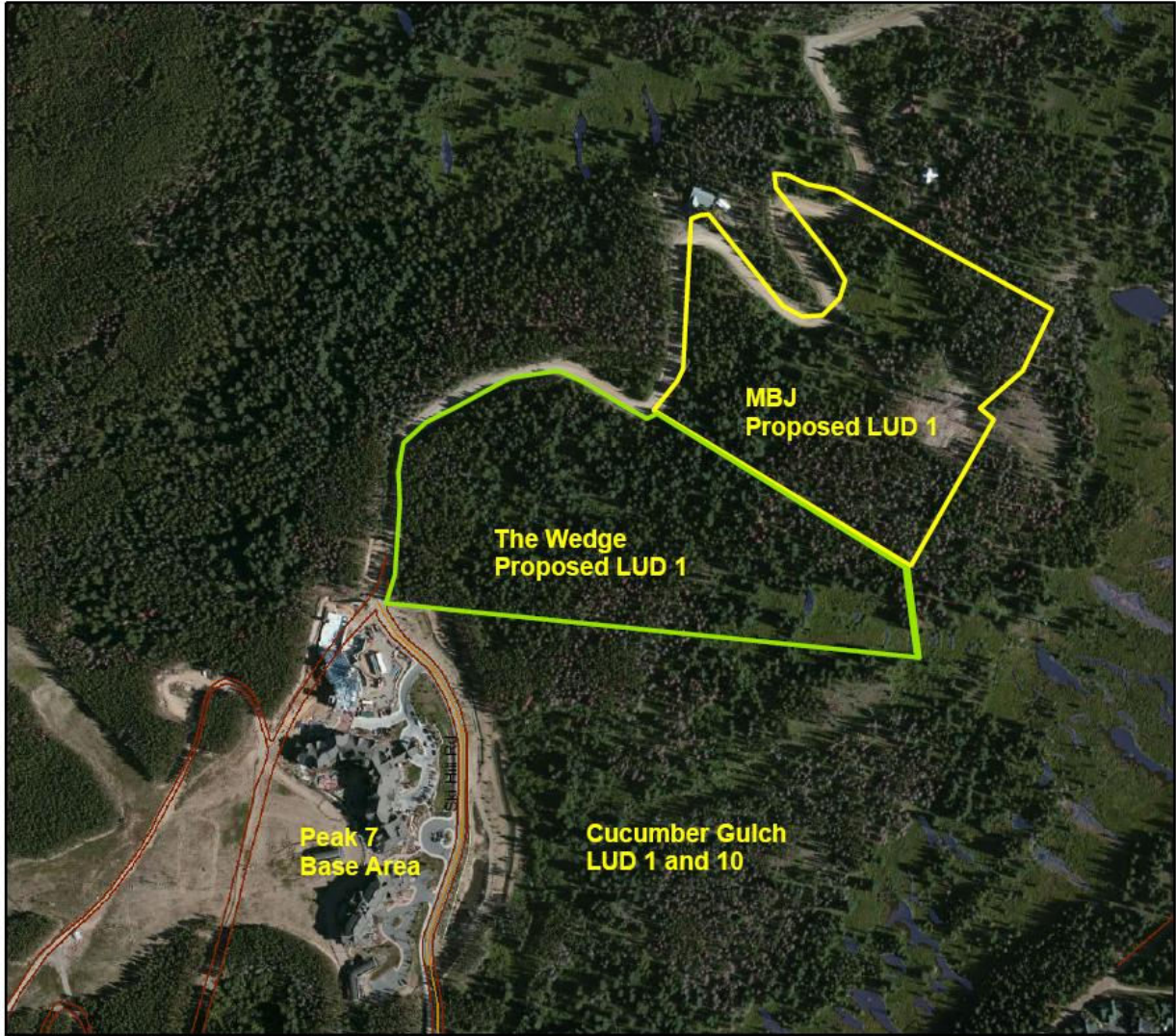
The parcels equal 34.026 acres and would be allowed 3.4026 SFES in Land Use District 1. Placing the property in Land Use District 1 could be viewed as an upzoning since the maximum density that was permitted prior to the annexation was 1 SFE under the County zoning. Upzonings, even in the context of annexations, are inconsistent with the density reduction policies of the Joint Upper Blue Master Plan (JUBMP). To insure that the zoning is consistent with JUBMP, the ordinance also includes language that further restricts the permitted uses on these parcels to only those uses that are exempt in the JUBMP. It is staff's understanding that the Council may also intend to extinguish all of the density off of these parcels. Staff would like to confirm if that is Council's intent as we may slightly modify the language in the ordinance.

**Recommendation:**

Staff recommends that the Ordinance that has been presented that places the property in Land Use District 1 be approved on first reading.

Staff would also like Council to confirm if your intent is to extinguish all of the density from these parcels.

Thank you.





1 **FOR WORKSESSION/FIRST READING – NOV. 27**

2  
3 COUNCIL BILL NO. \_\_\_\_

4  
5 Series 2012

6  
7 AN ORDINANCE PLACING RECENTLY ANNEXED  
8 PROPERTY IN LAND USE DISTRICT 1  
9 (Wedge & MBJ Parcels - 34.026 acres)

10  
11 WHEREAS, the Town owns the real property described in Section 1 of this ordinance;  
12 and

13  
14 WHEREAS, by Ordinance No. 28, Series 2012, adopted August 28, 2012, the real  
15 property described in Section 1 of this ordinance was annexed into and made a part of the Town  
16 in accordance with the Municipal Annexation Act of 1965 (Part 1 of Article 12 of Title 31,  
17 C.R.S.); and

18  
19 WHEREAS, the Town is required by Section 31-12-115(2), C.R.S., to zone all newly  
20 annexed areas within ninety (90) days of the effective date of the annexation ordinance; and

21  
22 WHEREAS, the Town’s Planning Commission has recommended that the recently  
23 annexed parcel be placed within Land Use District 1; and

24  
25 WHEREAS, the Town’s Annexation Plan adopted pursuant to Section 31-12-105(1)(e),  
26 C.R.S., indicates that the property should be placed in Land Use District 1; and

27  
28 WHEREAS, to implement the Joint Upper Blue Master Plan the Town Council finds and  
29 determines that it is necessary and appropriate to place special restrictions on the density located  
30 on the real property described in Section 1 of this ordinance.

31  
32 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF  
33 BRECKENRIDGE, COLORADO:

34  
35 Section 1. The following described real property:

36 A TRACT OF LAND BEING PORTIONS OF THE NUGGET PLACER, U.S.  
37 MINERAL SURVEY NO. 20873, THE GROUND HOG NUMBERS 1, 2, AND  
38 3, U.S.M.S. 15733, AND THE WILDCAT NUMBERS 1, 2, 3, 4 AND 5,  
39 U.S.M.S. NO. 15733, LOCATED IN THE NORTHWEST ONE-QUARTER OF  
40 SECTION 36, TOWNSHIP 6 SOUTH, RANGE 78 WEST OF THE SIXTH  
41 PRINCIPAL MERIDIAN, COUNTY OF SUMMIT, STATE OF COLORADO,  
42 AND DESCRIBED AS FOLLOWS:  
43

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

- 11
- 12 1.) N34°43'55"E A DISTANCE OF 50.26 FEET;
- 13 2.) 66.99 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A  
14 RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 29°31'26";
- 15 3.) N05°12'29"E A DISTANCE OF 305.90 FEET;
- 16 4.) 58.25 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A  
17 RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 47°40'31";
- 18 5.) N52°53'00"E A DISTANCE OF 206.18 FEET;
- 19 6.) 29.83 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A  
20 RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 24°25'05";
- 21 7.) N77°18'05"E A DISTANCE OF 196.67 FEET;
- 22 8.) 56.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A  
23 RADIUS OF 70.00 FEET AND A CENTRAL ANGLE OF 45°55'41";
- 24 9.) S56°46'14"E A DISTANCE OF 137.57 FEET;
- 25 10.) 134.29 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A  
26 RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 59°11'05";
- 27 11.) N64°02'41"E A DISTANCE OF 4.85 FEET;
- 28 12.) 176.23 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A  
29 RADIUS OF 160.00 FEET AND A CENTRAL ANGLE OF 63°06'25";
- 30 13.) N00°56'16"E A DISTANCE OF 299.33 FEET;
- 31 14.) 71.35 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A  
32 RADIUS OF 30.00 FEET AND A CENTRAL ANGLE OF 136°16'40";
- 33 15.) S42°47'04"E A DISTANCE OF 334.12 FEET;
- 34 16.) 314.16 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A  
35 RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 180°00'00";
- 36 17.) N42°47'04"W A DISTANCE OF 277.08 FEET;
- 37 18.) 54.33 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A  
38 RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 155°38'17";
- 39 19.) S67°08'47"E A DISTANCE OF 89.50 FEET;
- 40 20.) 238.47 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A  
41 RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 105°06'08" TO A  
42 POINT BEING THE SOUTHWEST CORNER OF THE ZEPPELIN  
43 SUBDIVISION, AS RECORDED UNDER RECEPTION NUMBER 361076 IN  
44 THE COUNTY RECORDS;
- 45

1 THENCE ALONG THE SOUTH LINE OF SAID ZEPPELIN SUBDIVISION  
2 S60°42'35``E A DISTANCE OF 662.72 FEET TO THE SOUTHEAST  
3 CORNER; THENCE S64°32'38``E A DISTANCE OF 24.56 FEET TO A POINT  
4 ON THE 5-4 LINE OF THE SNIDER MILL SITE, M.S. 3537-B; THENCE  
5 S29°12'00``W, ALONG THE 2-3 LINE OF SAID GROUND HOG NO. 1, A  
6 DISTANCE OF 254.61 FEET; THENCE S45°17'00``W A DISTANCE OF  
7 180.11 FEET; THENCE S41°21'55``E A DISTANCE OF 11.82 FEET; THENCE  
8 S45°33'10``E A DISTANCE OF 39.91 FEET TO A POINT ON SAID 2-3 LINE  
9 OF GROUND HOG NO. 1, ALSO BEING THE NORTHWEST CORNER OF  
10 TRACT R, SHOCK HILL SUBDIVISION, ACCORDING TO THE PLAT  
11 RECORDED AT RECEPTION NUMBER 598532 IN THE COUNTY  
12 RECORDS; THENCE ALONG THE WEST LINE OF SAID TRACT R FOR  
13 THE FOLLOWING TWO (2) COURSES:  
14

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

22  
23 THENCE N84°36'58``W ALONG SAID LINE A DISTANCE OF 1,599.04  
24 FEET TO THE POINT OF BEGINNING, CONTAINING 34.026 ACRES,  
25 MORE OR LESS.  
26

27 is placed in Breckenridge Land Use District 1. The Town staff is directed to change the Town's  
28 Land Use District Map to indicate that the abovedescribed property has been annexed and placed  
29 within Land Use District 1.  
30

31 Section 2. The density on the real property described in Section 1 may not be transferred  
32 off of such property. Further, such density may only be used for those uses specifically  
33 described in Goal B – Policy/Action 1 of the Joint Upper Blue Master Plan as adopted by the  
34 Town, which uses include as of the date of the adoption of this ordinance community facilities,  
35 institutional uses, and affordable workforce housing. The Town Council finds and determines  
36 that the density restrictions imposed by this Section 2 comply with and implement the Joint  
37 Upper Blue Master Plan as adopted by the Town.

38 Section 3. The real property described in Section 1 of this ordinance shall also be  
39 included within the boundaries of the Cucumber Gulch Overlay Protection District (but not the  
40 Preventive Management Area [PMA] portion of said District). The Town staff shall also change  
41 the Town's Cucumber Gulch Overlay Protection District Map to indicate that the property  
42 described in Section 1 of this ordinance is included within the boundaries of the Cucumber  
43 Gulch Overlay Protection District.

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

5            Section 5. The Town Council finds, determines, and declares that it has the power to  
6 adopt this ordinance pursuant to: (i) Section 31-12-115(2), C.R.S.; (ii) the Local Government  
7 Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (iii) Part 3 of Article 23 of Title  
8 31, C.R.S. (concerning municipal zoning powers); (iv) Section 31-15-103, C.R.S. (concerning  
9 municipal police powers); (v) Section 31-15-401, C.R.S. (concerning municipal police powers);  
10 (vi) the authority granted to home rule municipalities by Article XX of the Colorado  
11 Constitution; and (vii) the powers contained in the Breckenridge Town Charter.

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

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

19  
20                                                  TOWN OF BRECKENRIDGE, a Colorado  
21                                                  municipal corporation

22  
23  
24  
25                                                  By \_\_\_\_\_  
26                                                  John G. Warner, Mayor

27  
28            ATTEST:

29  
30  
31  
32            \_\_\_\_\_  
33            Town Clerk

## MEMORANDUM

TO: Mayor and Council

FROM: Finance and Municipal Services Division

DATE: October 29, 2012

RE: 2013 Budget Resolution

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The attached resolution has been prepared to adopt the 2013 budget and the 2013-2017 Capital Improvement Plan. Adoption of the budget also includes changes to certain fees and charges that will become effective January 1, 2013.

Council is asked to review the summary sheets together with the bound version of the 2013 proposed budget. Council is also asked to hold a public hearing and to be prepared to vote on the budget resolution during the November 27th Council meeting.

1 **FOR WORKSESSION/ADOPTION – NOV. 27**

2  
3 RESOLUTION NO. 26

4  
5 SERIES 2012

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8 A RESOLUTION ADOPTING THE 2013 BUDGET  
9 AND MAKING APPROPRIATIONS THEREFOR

10  
11 WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt an  
12 operating budget for each fiscal year; and

13  
14 WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt a  
15 five-year Capital Improvement Plan.

16  
17 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
18 BRECKENRIDGE, COLORADO:

19  
20 Section 1. The proposed operating budget for 2013 based on certain fee changes, as  
21 revised by Town Council and maintained on file by the Town Clerk, is adopted and  
22 appropriations are made to the various programs as shown therein.

23  
24 Section 2. The 2013-2017 Capital Improvement Plan, as proposed by the Town  
25 Manager and as amended by the Town Council, is approved.

26  
27 Section 3. All fees and charges contained in the 2013 operating budget are approved  
28 and adopted. Such fees shall become effective January 1, 2013. Further, the Town  
29 Manager may implement any of the other fees and charges contained in the 2013  
30 operating budget prior to January 1, 2013 if the Town Manager determines, in his  
31 judgment, that such early implementation is necessary or appropriate.

32  
33 Section 4. This Resolution is effective upon adoption.

34  
35 RESOLUTION ADOPTED AND APPROVED this 27th day of November, 2012.

36  
37 ATTEST:

TOWN OF BRECKENRIDGE

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Linda Coxen, Town Clerk

\_\_\_\_\_

43  
44 APPROVED IN FORM

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46  
47  
48 \_\_\_\_\_  
Town Attorney

\_\_\_\_\_

**MEMORANDUM**

**To:** Town Council

**From:** Peter Grosshuesch, Director of Community Development

**Date:** November 21, 2012

**Re:** Town Council Consent Calendar from the Planning Commission Decisions of the November 20, 2012, Meeting.

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***DECISIONS FROM THE PLANNING COMMISSION AGENDA OF November 20, 2012:***

**CLASS C APPLICATIONS:**

- 1) Young Residence (MGT) PC#2012093; 882 Preston Way  
New single family residence with 4 bedrooms, 4 bathrooms, 3,902 sq. ft. of density and 4,693 sq. ft. of mass for a F.A.R. of 1:16.55. Approved.
- 2) Jost Residence (MGT) PC#2012094; 757 Highfield Trail  
New single family residence with 3 bedrooms, 3.5 bathrooms, 4,179 sq. ft. of density and 5,271 sq. ft. of mass for a F.A.R. of 1:8.60. Approved.
- 3) Lot 26, Corkscrew Flats (MM) PC#2012092; 396 Corkscrew Drive  
New single family residence with 3 bedrooms, 3.5 bathrooms, 2,910 sq. ft. of density and 3,568 sq. ft. of mass for a F.A.R. of 1:5.13.

**CLASS B APPLICATIONS:**

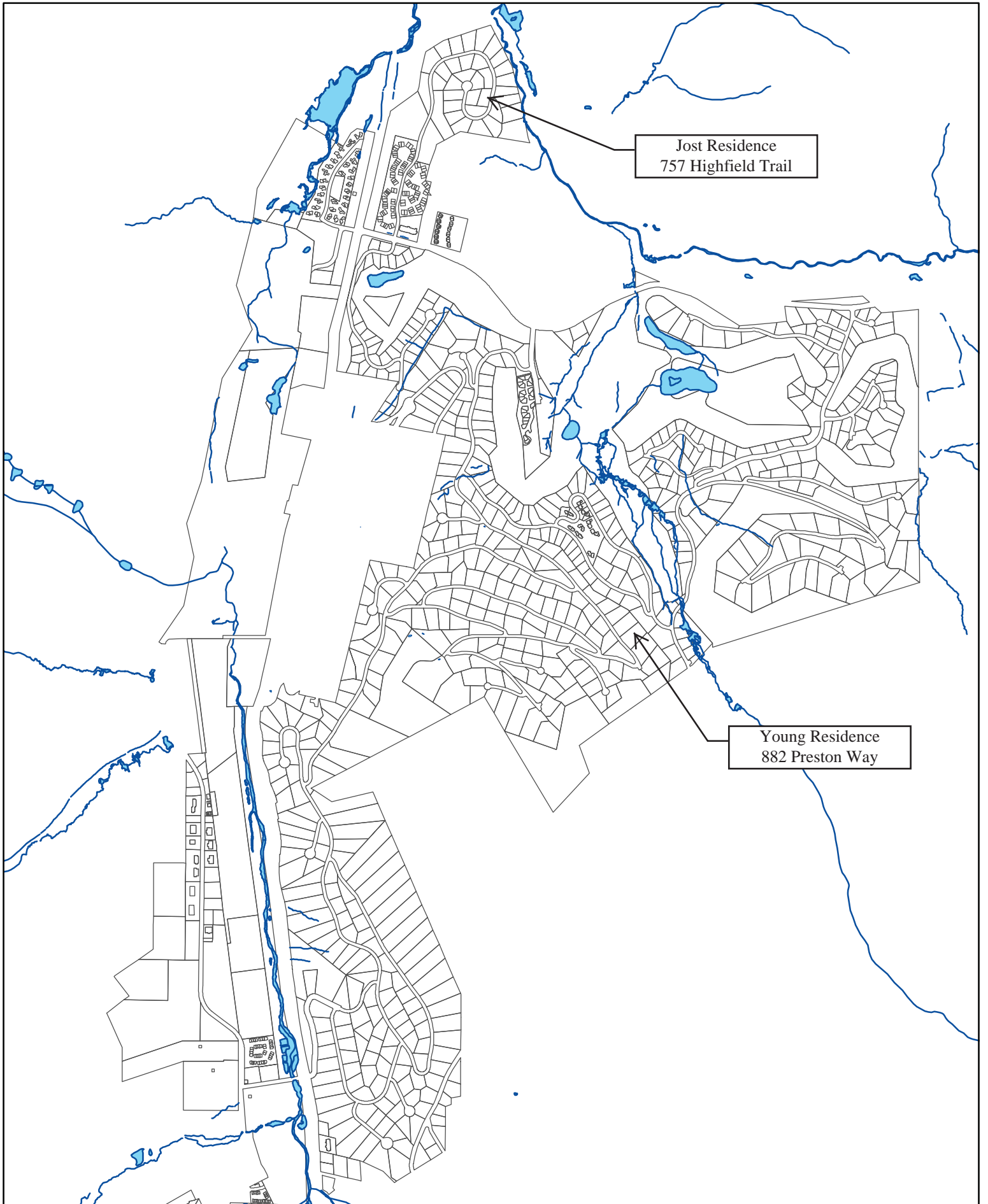
- 1) Jones Residence Restoration, Rehabilitation and Addition (MM) PC#2012043; 203 South High Street  
Restoration, rehabilitation and addition to existing single family residence to create a total of 1,070 sq. ft. of above ground density and 1,834 sq. ft. of mass for a F.A.R. of 1:3.00. Approved.

**CLASS A APPLICATIONS:**

None.

**PLANNING COMMISSION RECOMMENDATIONS:**

- 1) Motion to Approve Placing Recently Annexed Property in Land Use District 1 (Wedge and MBJ Parcels). Approved.
- 2) Motion to Recommend the Town Council Adopt an Ordinance to Landmark the Historic Structure for the Jones Residence Restoration, Rehabilitation, Addition and Landmarking, PC#2012043, 203 South High Street. Approved.



Jost Residence  
757 Highfield Trail

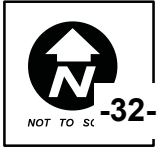
Young Residence  
882 Preston Way



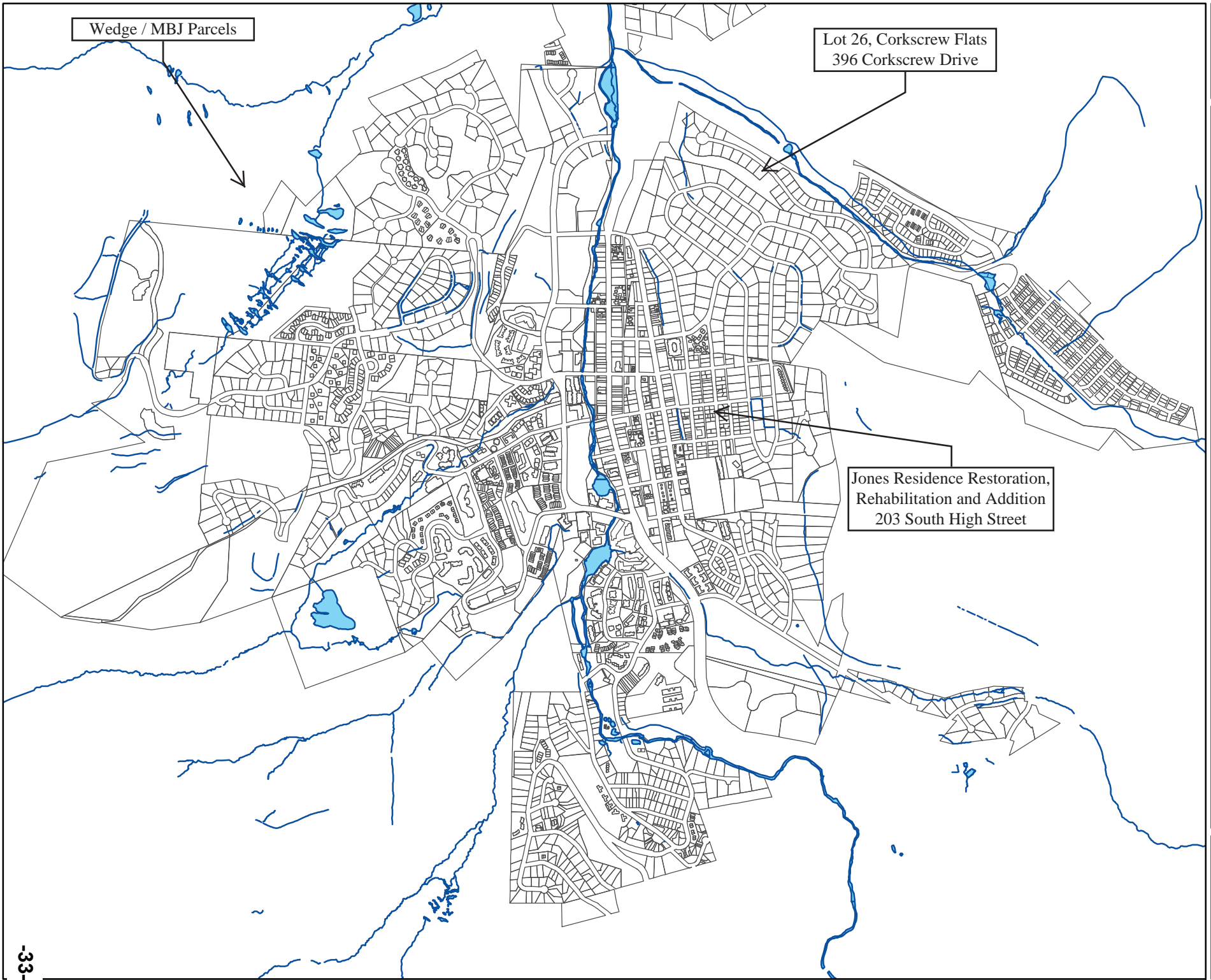
**Breckenridge North**

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

*printed 4/12/2011*







Wedge / MBJ Parcels

Lot 26, Corkscrew Flats  
396 Corkscrew Drive

Jones Residence Restoration,  
Rehabilitation and Addition  
203 South High Street

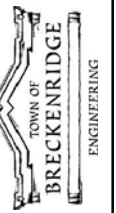


NOT TO SCALE

printed 4/12/2011

# Breckenridge South

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



## PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

### ROLL CALL

Jim Lamb                      Trip Butler                      Dan Schroder  
Gretchen Dudney              Eric Mamula                      David Pringle  
Kate Christopher and Gary Gallagher, Town Council Liaison, were absent

### APPROVAL OF AGENDA

With no changes, the November 20, 2012 Planning Commission meeting agenda was approved unanimously (6-0).

### APPROVAL OF MINUTES

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

### CONSENT CALENDAR:

1. Young Residence (MGT) PC#2012093; 882 Preston Way
2. Jost Residence (MGT) PC#2012094; 757 Highfield Trail
3. Lot 26, Corkscrew Flats (MM) PC#2012092; 396 Corkscrew Drive

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

### WORKSESSIONS:

1. Motion to Approve Placing Recently Annexed Property in Land Use District 1 (Wedge and MBJ Parcels) (LB)

Ms. Best presented. The Town recently annexed the MBJ and Wedge parcels which are located off Ski Hill Road at the top of Cucumber Gulch. According to Colorado Statute (Section 31-12-115 (2)) the Town is required to formally zone the parcels by placing them in a Land Use District by December 31, 2012 which is 90 days after annexation. The properties were acquired by the Town for open space and to protect important wetlands and wildlife, and therefore, the Council has indicated that the properties should be placed in Land Use District 1. An Ordinance has been prepared and is scheduled for first reading on November 27<sup>th</sup>. Staff requested that the Planning Commission review this zoning and forward a recommendation to the Council.

Because the properties were acquired for open space and they contain environmentally sensitive areas, Staff supported placing both properties entirely within Land Use District 1. It should also be noted that the Joint Upper Blue Master Plan (JUBMP) recommends that the initial zoning on annexed properties be the lower of the Town master plan or the County zoning prior to annexation. This is intended to prevent ‘upzonings’. The Council intends to comply with the JUBMP policy by extinguishing all of the density on these parcels. The parcels will also formally be placed in the Cucumber Gulch Overlay District.

### Recommendation:

Staff is recommending that the Planning Commission adopt a motion recommending these parcels be placed in Land Use District 1.

### *Commissioner Questions / Comments:*

Mr. Mamula:      Wonderful idea .  
Mr. Pringle:      It’s taken a long time to come to this point.

Mr. Schroder made a motion to approve placing the recently annexed Wedge and MJB parcels into Land Use District 1. Mr. Mamula seconded, and the motion was carried unanimously (6-0).

2. Certified Local Government (CLG) Presentation (Dan Corson, History Colorado)

Ms. Cram introduced Dan Corson from History Colorado. Mr. Corson presented to the Commission on the responsibilities of being Planning Commissioners for a Certified Local Government.

3. Solar Panels in the Historic District (JP/CN)

Ms. Puester presented. Solar panels in the Conservation District became a topic of discussion with a recent application to install solar panels on a flat roof within the District which mounting structure would be visible from Ridge Street. At the November 13<sup>th</sup> joint Town Council/Planning Commission meeting, it was directed to have staff return to the Planning Commission for more discussion on direction for a potential modification to Policy 5 Architectural Compatibility regarding solar panels in the Conservation District. Policy language regulating solar panel installations was originally adopted in 2008 with subsequent modifications in 2009.

Changes were made following concerns over vague language in the existing policies regarding the assignment of points, increased interest in solar applications, desire to assist in renewable energy production and following the adoption of the Green Building Code. These modifications were discussed with no objections from the Architect at the State Historic Preservation Office and National Park Service. Prior to the language modifications there was little direction on point assignments and acceptable solar panel locations and design for the applicant and Planning Commission to utilize.

During the joint Town Council/Planning Commission, two primary issues arose. One issue was that panels should not be too large or out of character with the Conservation District. The second issue was limiting how visible from the public rights of way an array should be. Staff was interested to hear the Commission's discussion on whether the main concern is how visible the array is or the size of the array (in some cases the array may not be readily visible from the public right of way). Another question pertaining to flat roof buildings is whether solar array mounting systems are more detrimental to the District than other types of existing mechanical systems such as roof top HVAC systems. Was the concern having arrays on all types of flat roofs or from unscreened flat roofs with no setback or parapet?

Lastly, the *Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines on Sustainability* recommend on site solar technology after all appropriate treatments to improve energy efficiency of the building have been implemented. Currently, the Development Code has an optional relative policy under Policy 33R for positive points which an energy audit would be conducted to obtain a HERS index or commercial energy analysis. Would the Commission be supportive of property owners in the Conservation District being required to conduct an energy audit and associated improvements prior to applying for a development permit for a solar array?

Questions for the Commission:

1. Did the Commission feel that modifications are needed to the policy?
2. Should preference (f) "*highly visible from the public right of way*" be removed in its entirety to prohibit highly visible solar panels? Are there additional modifications desired in the preference order?
3. Should the existing language "*Solar devices shall be set back from the edge of a flat roof to minimize visibility and may be set at a pitch and elevation if not highly visible from a public right of way*" be revised with additional guidelines or revised to not permit pitched solar arrays on flat roofs?
4. Does the size of the array need to be addressed?
5. Should an energy audit be required of the property owner as well as improvements made prior to submitting a development application for a solar array?

Staff welcomed input from the Commission on the direction we should head with this policy, and if any changes are needed.

*Commissioner Questions / Comments:*

Mr. Schroder: Listening to Town Council last week, thought they were against visible solar panels in the District. This could speak more to energy conservation, and our willingness to get off of our oil addiction. We're ok with HVAC systems and stoplights, but not with solar panels. It sounds like the Secretary of Interior wants us to look at all energy conservation things first. Would be in favor of an energy audit first.

Mr. Pringle: I think that Mayor Warner liked solar panels; it's not a question of whether or not you like them; it's how they interact with our historic district guidelines and how we blend the two. The Council erred on the side of the Historic District rather than the wholesale adoption of solar panels. Not to be totally prohibited.

Mr. Lamb: I think that it was left somewhat open, depending on how the questions were phrased; there are some places in the historic district that have them right on their roof and you wouldn't know it unless you flew over the house. What I heard was, should they be obvious? No. Is there a place on a historic structure for solar? Maybe. Define right of way; what constitutes a right of way?

Ms. Dudney: I didn't hear opposition to solar; just opposition to visibility from a public right of way; they didn't want it visible at all from a public right of way. I heard Ms. Wolfe specifically that it was fine for it to be in residential areas where it was not visible from a public right of way. I didn't think that it should be prohibited. A backyard or side roof might be appropriate. What is our goal here?

Mr. Butler: I do recall a couple of votes that indicated that they wouldn't have them at all, there was a split. Isn't that part of the reason for the solar garden? I only remember two who indicated that; that's a short term answer, solar is a great solution. Maybe solar panels just don't visually work in every spot.

Mr. Mamula: We thought about one instance in this policy; there are multiple levels of this thing. We have a lot of flat roofs in the historic district; the HVAC thing is a valid point, but they aren't as high of a profile potential as solar systems are. I believe all rights of ways are rights of ways, including alleys. I know that we don't talk about backs of buildings, but think that is a mistake. I am fine with solar panels in the historic district as long as we can make them integrate with the character. One of our problems is that we don't let people replace their historic windows, yet we are okay with letting you slap solar panels on the roof. I agree with Mr. Schroder; button up everything else. Make sure that an applicant has done everything possible prior to solar panels. We need to have multiple sized buildings with different regulations. Now we are talking about a complex policy. We have a sea of roofs on Main Street, and if people put large solar panel arrays- tall, slanted, long, they will start affecting views. (Mr. Grosshuesch: Discussion around the original design of the ordinance, and how it didn't bring flat roofs to the top of the conversation. Arrays need to be bigger than we thought for people to make it work. Maybe just some tweaking to the gable roof settings; add regs for flat roofs. Go through the energy audit first so that if you have some obvious energy problems first, and then go to solar last. The payback on the fixing inefficient heating, leaks in the building is much bigger than solar. The tough part is the flat roof buildings. Options from may be banning them, to putting some complex regulations about how they can be set up on the roof tops. We have to address them. A number of jurisdictions use 'sketch up' to see 3-D views from various locations so that you can visualize what they will look like. Maybe we require applicants to provide that. I think therein lie a range of options.)

- Mr. Schroder: Should we have a non-historic commercial section within this policy that is different than residential?
- Ms. Dudney: The current policy doesn't prohibit it at all. (Mr. Grosshuesch: I think that we're on the right track with our standards; and I didn't get that sense from the Council.)
- Mr. Pringle: That was the gist of the whole conversation; when we have to lift them up and it changes the whole context of the story. (Mr. Grosshuesch: Mr. Eric Westerman, Innovative Energy, tells us that you need a 30% pitch.)
- Ms. Dudney: Does everyone agree with energy audit first?
- Mr. Schroder: Yes.
- Mr. Pringle: It would be another requirement. I understand why that would be a nice thing to encourage people to do; if people are energy conscious, they will do it anyway. I don't think that people put the solar up just because it is a sexy thing to do.
- Mr. Lamb: I'm with Dave on this. It's a great idea, but to require it I'm struggling with that. Someone who is going to install a solar cell is really unlikely to not perform an energy audit. In a way, I worry that if we require it, it will discourage people from doing it.
- Mr. Mamula: We are talking about historic homes and solar is the easy out; you're talking about degrading the home by allowing solar panels on it and not forcing people to do what we materially look at that won't affect the historic aspect of the home. That's why I think the audit is important. Solar is easy and sexy. And it's not sexy to re-insulate, take newspaper out of the walls, and you get no credit. I don't have a problem with you putting solar panels on a gabled roof that is not a historic structure. I care about the degradation of the historic structure.
- Ms. Dudney: I think some people consider it unsightly to the character of the area regardless of whether or not it is historic. I don't think that there is a problem requiring an energy audit for non-historic too. Do we need to all agree to what you should be changing this ordinance to?
- Mr. Lamb: Something that would help is to find out how much the energy audit costs. I was under the impression that it was \$2,000. (Ms. Puester: A HERS is expensive, but an energy audit is more in the range of a couple hundred dollars for a home. They do the blower door test for leaks, infrared camera, alot less detail.)
- Mr. Pringle: How are we going to measure all of the improvements that might be done before we allow solar panels? (Mr. Grosshuesch: I think that you just want to increase homeowners' awareness; it's not implied that we make them do any of that stuff. You could make them do the top three; pick a system.)
- Ms. Dudney: Should we change the visibility aspect in the ordinance? Should we say it is not allowed to be visible? And define "right away"?
- Mr. Schroder: Given the conversation, I think removing the last preference option would ease people's feelings about solar in the historic district. I always thought that we were concerned about the front of the building but I guess the right of way should be defined.
- Mr. Pringle: I'm not ready to rule on that. What's visible or highly visible depends upon who is viewing it and from where.
- Mr. Lamb: Something that is highly visible, clearly.
- Ms. Dudney: Isn't the point, is that it harms the appearance of the historic nature of the downtown? It's not the point that your neighbor may just not like a dark panel on your roof. I am still thinking that we should be allowed to have solar panels as long as they are not visible.
- Mr. Lamb: We aren't going to be putting up large arrays; it's what is reasonable. We will know it when we see it; case by case basis. To write an ordinance to cover every single situation is going to be difficult and we should give the Planning Commission some leeway. (Mr. Grosshuesch: It's not just the individual structures and their compliance; it's the setting that they are in. We are looking at new buildings coming in, and we have nonhistoric buildings that predated Nori's standards. For the surviving historic structures to not be blown away

and scaled by a new building, we protect the setting. All new buildings need to be oriented the same way on the blocks, same size, no satellite dishes; we have a problem with solar panels on flat roofs, double-stacked.)

Ms. Dudney: Wouldn't that be taken care of by saying that they aren't to be visible from a right of way? (Mr. Grosshuesch: The other one is the freestanding poles in the backyard, I've never come to terms with that one. We need to preserve the context.)

Mr. Pringle: We need to highlight the third sentence in the policy: there may be instances wherein the solar panels are inappropriate. We have the teeth to say that a solar array is not a good idea. Also, now you can shift people to the gardens.

Ms. Dudney: Once that is sold, though, they are gone. It is not unlimited over time.

Mr. Pringle: I think that the Town should subsidize to make it fly, but maybe they can give up their right to panels in the array so that individual homeowners within the historic district can buy them.

Mr. Butler: The character issue is what kills that Dudick building. And that's the view and right down the street. Technology is changing so quickly though, believe these arrays are going to be a thing of the past anyway.

Mr. Mamula: Things are progressing but not as fast as we would like them; my issue with the right of way discussion is there are multiple places in the code where it says "its potential impact on neighboring properties as a whole", etc. I disagree that because its solar panels it's okay. If I'm sitting in Hearthstone's picture window upstairs and I look out at a sea of roof top solar, I don't think that's okay. I don't like to use that public right of way language. There is more to the blocking views, blocking light. The Fatty's example is the perfect one. Rather than having an argument about right of way, I'd rather focus on its impact to the neighborhood views.

Ms. Dudney: And have it somewhat flexible for the Planning Commission to decide.

Mr. Mamula: The minute I have to get those 3 feet off of the roof, that blocks someone view and is detrimental to the historic district, I have a problem. (Mr. Grosshuesch: Just to clarify: Should there be a difference between flat roofs and gabled roofs?) (All Commissioners said yes.)

Mr. Butler: An examination rather than formal audit might be a good thing to include. (Mr. Grosshuesch: On the gabled roof; is it your feeling that the standards need to be tweaked and maybe we look at rewording freestanding pole mounted?)

Ms. Dudney: I agree with that.

Mr. Pringle: We have a new building on Main Street where the panels are integrated with the roof line. I think that they don't negatively define the building. The solar panels on the recreation center are horrible; they change and redefine the whole roof of that building. We need to move freestanding arrays down the list for people.

Ms. Dudney: I think all of this is in the context of the historic district and outside property rights tend to make a presence. I wouldn't like us to mandate property owners outside historic districts.

Mr. Pringle: I would. (Mr. Grosshuesch: To summarize, look at right of way definition, flat roofs and gable roofs are different sections, remove the last preference, homes verses large buildings, energy examination, move pole mounted down the preference line.)

#### **TOWN COUNCIL REPORT:**

None.

#### **FINAL 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.

Changes since the August 7, 2012, Preliminary Review.

1. Slight modifications in the square footage.
2. Shed roof over master bedroom changed to gable roof.
3. Slight modifications to window openings.

Staff believes that the local landmarking criteria have been met with this application and the house can be recommended for local landmarking. Staff suggested 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.

Staff recommended negative nine (-9) points as reflected in the final point Analysis.

- 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 were shown in the final Point Analysis.
- Policy 24/R (+9 points) for the restoration/rehabilitation efforts.

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

At the meeting, the applicant and agent informed Mr. Mosher that the false shutter/doors were removed from the north elevation of the master bedroom addition. Hence, this question to the Commission was eliminated. Mr. Mosher also stated that the project can pass with the positive 9 points; twelve were not needed for a passing score.

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. Staff had the following question:

1. Did the Commission support awarding positive nine (+9) points for the restoration efforts?

Mr. Pringle: If this application was to be completely restored it to the original condition, it couldn't achieve positive 15 points, because it is on a legally subdivided place? (Mr. Mosher: Correct; the site has been compromised.)

Ms. Dudney: So if a 10-acre parcel with one house that was subdivided 100 years ago, it couldn't obtain positive 15 points? (Mr. Mosher: If it were subdivided 100 years ago, it would fall into the Town's period of significance and would be historic. Hence it could obtain the points.) I still have a problem with punishing people for something completely beyond their control. (Mr. Mosher: It is unfortunate, not punishment. The context of the original site, as stated in the policy, has been compromised.)

Janet Sutterley, Architect - Agent for Mr. Jones:

Thanks to Mr. Mosher; Staff has done a great job working with us. I have just one thing on my list. I disagree with Staff about the 9 positive points. In terms of the lot being split, it's my opinion that the Code takes care of the impacts by restricting the amount of density that you're allowed to put on that lot. We can only allow the amount of square footage that is supported by this having to become a half lot. We are doing exactly what the Code is asking for. This is a complex plan. There are like 26 corners in this house to achieve these lengths Set forth in the Code. My question is: someone could come in with this house and not take that thing off the

south end and put bevel lap on, and do a nice job but leave the form of the house the way it is; would that also be a 9 point project? What I am trying to convince people to do is to take off the non-historic pieces, and that wouldn't necessarily be what everyone would agree to do. My problem is that we are doing above and beyond; the problem I have is with 'we don't need the 12 pts'. Of the three projects that were listed in the report as precedent, the Strobel residence was in the same boat, we didn't need 12 points to pass; it was a double dip. We received negative points for moving the historic house and less points because of it. To me, that project, for someone to come in and take that roof off and make it what it was, but I still feel like it was a 12 point project. I am going to ask the Planning Commission again to consider 12 points for this project. (Mr. Grosshuesch: We've talked about this at length; with 9 points we are handsomely rewarding the applicant for the efforts. 12 points requires that restoration or preservation efforts bring it back to a period of time. Anytime you add on to a building you cannot meet this definition.)

Ms. Dudney opened the hearing to public comment. There was no public comment, and the hearing was closed.

*Commissioner Questions / Comments:*

- Ms. Dudney: It doesn't say for 12 points no additions, just 15 points. (Mr. Grosshuesch: When we wrote the policy, to get to 12 points, that is what the verbiage means. 15 points is almost unattainable.)
- Mr. Lamb: Wouldn't the Barney Ford be a 15 point?
- Mr. Pringle: 15 point was put out there for the absolute 'love' dollars; for a museum.
- Ms. Dudney: So, you would be in favor of the 9 points because of the additions, not the subdividing of the property. (Mr. Grosshuesch: I can't get past the additions.) (Mr. Mosher: The site is still compromised with the subdivision and associated impacts.)
- Mr. Mamula: I think it's an awesome project; it has its own character, and I am fine with everything as presented.
- Mr. Butler: I'm fine with everything as presented.
- Ms. Dudney: I am too, with Mr. Grosshuesch's explanation; if there are any additions, then you can't qualify for 12 points.
- Mr. Lamb: I think it's a great project, with all due respect it's currently the ugliest house on High Street, and you're doing a great job and I support the 9 points. Very nice restoration.
- Mr. Pringle: I was going to make the comment that we should not ever say I won't give you 12 points because you don't need them. 9 will get you to pass on any policy based on what you need to pass. Ms. Sutterley, I will have to agree with Mr. Grosshuesch's assessment that you have done an absolutely wonderful job on this and you've exceeded the minimum threshold to achieve 9 points.
- Mr. Schroder: Yes.

Mr. Butler made a motion to approve the point analysis for the Jones Residence Restoration, Rehabilitation and Addition, PC#2012043, 203 South High Street. Mr. Mamula seconded, and the motion was carried unanimously (6-0).

Mr. Butler made a motion to approve the Jones Residence Restoration, Rehabilitation and Addition, PC#2012043, 203 South High Street, with the presented findings and conditions. Mr. Mamula seconded, and the motion was carried unanimously (6-0).

Mr. Butler made a motion to recommend that the Town Council adopt an ordinance to Landmark the historic structure for the Jones Residence Restoration, Rehabilitation, Addition and Landmarking, PC#2012043, 203 South High Street, based on proposed restoration efforts and the fulfillment of criteria for architectural significance as stated in Section 9-11-4 of the Landmarking Ordinance. Mr. Mamula seconded, and the motion was carried unanimously (6-0).



**OTHER MATTERS:**

None.

**ADJOURNMENT:**

The meeting was adjourned at 9:10 p.m.

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Gretchen Dudney, Chair



## Scheduled Meetings, Important Dates and Events

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

*The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them. All Council Meetings are held in the Council Chambers, 150 Ski Hill Road, Breckenridge, unless otherwise noted.*

### **NOVEMBER 2012**

Tuesday, November 27; 3:00/7:30 p.m. Second Meeting of the Month

### **DECEMBER 2012**

Tuesday, December 11, 2012; 3:00/7:30 p.m. First Meeting of the Month

Friday, December 21, 2012; 8:00-9:00am; Columbine Cafe Coffee Talk

Tuesday, December 25, 2012; 3:00/7:30 p.m. **CANCELLED**

### **JANUARY 2013**

Tuesday, January 8, 2013; 3:00/7:30 p.m. First Meeting of the Month

Tuesday, January 22, 2013; 3:00/7:30 p.m. Second Meeting of the Month

### **OTHER MEETINGS**

1 <sup>st</sup> & 3 <sup>rd</sup> Tuesday of the Month; 7:00 p.m.	Planning Commission; Council Chambers
1 <sup>st</sup> Wednesday of the Month; 4:00 p.m.	Public Art Commission; 3 <sup>rd</sup> floor Conf Room
2 <sup>nd</sup> & 4 <sup>th</sup> Tuesday of the Month; 1:30 p.m.	Board of County Commissioners; County
2 <sup>nd</sup> Thursday of every other month (Dec, Feb, Apr, June, Aug, Oct) 12:00 noon	Breckenridge Heritage Alliance
2 <sup>nd</sup> & 4 <sup>th</sup> Tuesday of the month; 2:00 p.m.	Housing/Childcare Committee
2 <sup>nd</sup> Thursday of the Month; 5:30 p.m.	Sanitation District
3 <sup>rd</sup> Monday of the Month; 5:30 p.m.	BOSAC; 3 <sup>rd</sup> floor Conf Room
3 <sup>rd</sup> Tuesday of the Month; 9:00 a.m.	Liquor Licensing Authority; Council Chambers
4 <sup>th</sup> Wednesday of the Month; 9:00 a.m.	Summit Combined Housing Authority
4 <sup>th</sup> Wednesday of the Month; 8:30 a.m.	Breckenridge Resort Chamber; BRC Offices
4 <sup>th</sup> Thursday of the Month; 7:00 a.m.	Red White and Blue; Main Fire Station
3 <sup>rd</sup> Monday of the Month; 1:00 p.m.	Breckenridge Marketing Advisory Committee; Breck PD Training Room

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

## MEMORANDUM

TO: Town Council

FROM: Mark Truckey, Assistant Director of Community Development

DATE: November 16, 2012

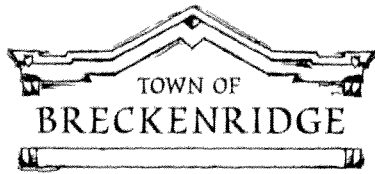
SUBJECT: County Referrals for V3 Ranch PUD and Barton Ridge Preliminary Plat

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Summit County recently sent referrals on two proposed developments to the Town of Breckenridge for comments. The first is the V3 Ranch PUD, a proposal for four single-family homesites located on the south end of Sallie Barber Road. The property contains a number of important trails, including Sallie Barber, Barney Ford, and the V3 trail. The second project is the Barton Ridge Preliminary Plat, a proposal for subdividing 25 single-family homesites on one of the last large parcels of private land in the Peak 7 neighborhood.

Attached are the response letters staff has submitted to Summit County on each of these projects. The Council has previously commented on both of these projects (older comment letters are also attached). Staff feels both projects as now submitted are improved and take into account some of the Town's previous comments. There are still a few issues and suggestions that we have identified.

Staff is available should the Council have any questions or suggestions regarding our comments on either of these projects. Public hearings will be scheduled in the future on these projects, so there is still opportunity should the Council wish to discuss these projects in more depth.



November 14, 2012

Kristin Dean  
Summit County Planning Department  
PO Box 5660  
Frisco, CO 80443

Dear Ms. Dean:

Thank you for the opportunity to comment on the referral for the proposed V3 Ranch PUD application. The Town previously submitted comments on the application in a March 21, 2012 letter. I have attached those earlier referral comments to this letter, as most of the points are still applicable and we would like to have them considered as the PUD and associated applications (master plan revision, amendment to TDR map) are reviewed. Particularly, we would like to re-emphasize our previous comments regarding our appreciation for Mr. Vincze's cooperation with trail easements and the Town's overall support for the project given the considerable public benefit provided by these easements. In addition, we have the following comments that pertain primarily to issues that have changed since the previous application:

- We appreciate the more concerted effort towards clustering the four units and minimizing the visual impacts of the development through use of shared driveways and additional open space.
- We are pleased to see that the proposed guest homes in the previous application have been removed.
- We support the additional parking spaces proposed to be provided at the Barney Ford trailhead.

We have the following suggestions that we feel would improve the project:

- The applicant is proposing an Upper Blue Master Plan revision from a Rural 20 to Rural 5 land use designation. Although we support the density as proposed in the PUD, we are not supportive of the Rural 5 designation, which could result in up to nine units being developed on the property. We understand the applicant's proposal is for only four units, but unforeseen circumstances could result in sale of the land, etc., and a future owner could have the right to request up to nine units on the site. If the County intends to go to the effort of amending the master plan, why not add a "Rural 10" land use designation as part of that amendment instead of re-designating the property Rural 5? The Rural 10 designation would provide the density needed for the proposed project without leaving additional density on the table.
- The proposed access to lots 3 and 4 will require paving of a section of Sallie Barber Road, which appears to be over 400 feet in length. This will have a negative impact on users of the road, which is one of the primary recreational routes in the Upper Blue Basin. This will

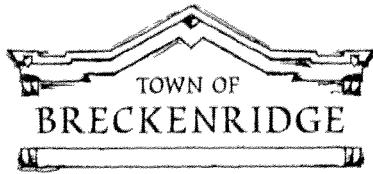
particularly impact winter users who will no longer be able to ski, snowshoe, or use other over-snow means, as we presume the road will be plowed. We suggest that the County and applicant re-evaluate this access and consider using the existing driveway to also access lots 3 and 4, thus negating the need to further impact Sallie Barber Road. The applicant has indicated that they are willing to pursue this, as noted in their narrative: "If this use of Sallie Barber is deemed unacceptable, we will commit to designing an alternative driveway alignment for Lots 3 and 4 with minimal impact".

- We suggest that the proposed 24 acre open space tract be considered to be dedicated as public open space, as opposed to private open space. Long term it would probably be in the public's best interest if the property is publicly held. If acceptance of the entire tract is not desired by the County, we suggest that at a minimum all areas with trails (e.g., V3, upper Barney Ford) be added to the existing three acre public open space tract to be dedicated to the County.
- We appreciate the reduction in size of disturbance envelopes, but feel they still could be further reduced in size to minimize impacts (see our previous comments).
- The V3 trail is currently under a temporary easement. The dedication of a permanent trail easement for V3 should be a condition of the PUD approval.
- The County and Mr. Vincze currently have essentially a standstill agreement on the use of Sallie Barber Road. We suggest that the agreement on this use be formalized as part of the PUD process.
- Provision of fencing is allowed for in the PUD proposal. We suggest that this be conditioned so the fencing is approved by CDOW as being "wildlife-friendly".

Thanks for your consideration of our comments. Mark



Mark Truckey, AICP  
Assistant Director of Community Development



November 9, 2012

Brian Potts  
Summit County Planning Department  
PO Box 5660  
Frisco, CO 80443

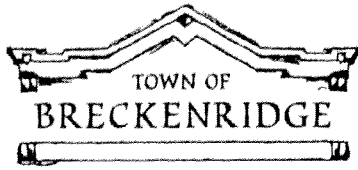
Dear Mr. Potts:

Thank you for the opportunity to comment on the referral for the proposed Barton Ridge preliminary plat application. The Town previously submitted comments on the application in an October 21, 2009 letter. I have attached those earlier referral comments to this letter, as most of the points are still applicable and we would like to have them considered as the preliminary plat is reviewed. In addition, we would like to note the following:

- We are pleased to see that the southeast portion of the property has been preserved as an open space tract and the proposed development site (old lot 10) has been removed.
- We also support the opportunities provided for public trailhead and trails in Tract A. This would provide a needed connection for Peak 7 residents to the large national forest parcel to the south. However, we would suggest that the narrowly-defined trailhead and trail easement as shown on the plat be revised to allow the flexibility to locate the trail and trailhead wherever they fit best on Tract A, preferably on higher ground away from the wetlands.

Thanks for your consideration of our comments. Mark

  
Mark Truckey, AICP  
Assistant Director of Community Development



March 21, 2012

Kristin Dean  
Summit County Planning Department  
PO Box 5660  
Frisco, CO 80443

Dear Ms. Dean:

Thank you for the opportunity to comment on the proposed V3 Ranch PUD. The Town Council had an opportunity to discuss the project at its March 13 meeting. I have included the Town's comments below, grouped under topic headings.

First, we would like to acknowledge the owner, John Vincze, for the cooperative approach he has taken with the Town and County regarding trails that cross his property. The dedication of easements for the Barney Ford, Country Boy, and V3 trails is much appreciated and ensures the use of these popular trails for future generations.

#### Public Benefits and Density

When the Town reviews development proposals, one of the things that we often consider is the public benefits that the applicant is offering. If the public benefits are significant enough, some normal code requirements may be relaxed, assuming the project results in an overall positive benefit to the community. At the Town, this is typically accomplished through a master plan (akin to the County's PUD process) and a development agreement.

In the particular case of the V3 Ranch PUD proposal, we believe that the public benefits that the property owner has made in the past (trail easements on the Barney Ford, Country Boy, and new "V3" trails), along with the proposed open space land dedication to the County, warrant special consideration. The Barney Ford trail is one of the most heavily travelled routes in the entire Upper Blue trail system and with completion of the V3 trail construction we anticipate that V3 and Country Boy trails will see similar heavy levels of use because of their close proximity to Town neighborhoods. The easements recently dedicated by Mr. Vincze for V3 and Country Boy have allowed the Town and County to avoid land acquisition costs of over one million dollars, which would have been otherwise necessary to complete the missing public trail connection from French Gulch to the Barney Ford Trail. This trail connection has been a top priority of the Town.

Given the above considerations, the Town is supportive of the increased density on the property, despite its inconsistency with existing zoning and the Upper Blue Basin Master Plan. This does not mean that the Town would support similar increases in density on other properties in the vicinity. We think that the particular aspects of the V3 property, with several high priority public trails located on it and dedicated as public easements, distinguish it from adjacent properties. As such, we suggest that if the

County approves the V3 Ranch PUD proposal, that one of the findings of approval indicate the uniqueness of the parcel and the public benefits, and that the upzoning should not be used as precedent for future development applications in the vicinity.

It appears that the Narrative states that home sizes on the undeveloped lots will be consistent with the County's TDR conversion rates, which allow 4,356 square feet for a single family residence. We feel this is an appropriate maximum size limitation that should be established for each of the lots.

The Town Council has also discussed the guest houses proposed on each of the lots in the PUD. Allowing the guest houses would further increase the density on the property (beyond the additional two lots proposed) and the Town does not support allowing the guest houses.

### Site Design

- We recommend the applicant maximize the visual buffer between the proposed home sites and Sallie Barber Road and Barney Ford Trail to afford privacy for the homeowner and screening for the recreational users.
- According to the Upper Blue Basin Master Plan Visually Important Lands Map, the property is in one of the higher visibility categories as viewed from public locations. Thus, efforts should be undertaken in site planning to minimize visual impacts. The proposed site disturbance envelopes of one acre in size seem excessive and we suggest these envelopes be reduced to minimize disturbance and visual impacts. The Town typically establishes disturbance envelopes on new lots of one quarter acre in size or less (a 100' by 100' envelope is typical). We suggest a similar disturbance envelope be established and if it is not sufficient to accommodate a leach field, that only a minimal additional allowance be provided for such purposes.

### Open Space and Trails

- Previously, the applicant has voluntarily dedicated trail easements for the Barney Ford (2010) and V3 Trails (December, 2011). We agree with the applicant that both of these trails should also be included in the site plan and consideration should be given to the applicant's previous voluntary donations for public benefit.
- The 3.61 acres of dedicated open space is an additional public benefit and should explicitly include access along CR 565 (Country Boy Road) along the extent of the property. This parcel and access easement dedication would be an extension of existing National Forest lands and Town of Breckenridge/Summit County open space lands. The 3.61 open space dedication assists with administrative and public recreational access, and should be considered a public benefit in conjunction with the trail dedications described above.
- This PUD process presents the opportunity to reiterate and memorialize the current "standstill" use agreement for Sallie Barber Road. Although it may be redundant, the existing agreement between the applicant and Summit County Government pertaining to this route could be memorialized or referenced via this PUD process.
- This PUD process also presents the opportunity to consider possible expansion of the previously dedicated parking area at the junction of Alphabet Lane and Sallie Barber Road. Given that the 3-4 parking spaces that were previously donated are consistently utilized, would the County be interested in accepting and managing additional parking in the area to improve overall parking in the Baldy area?



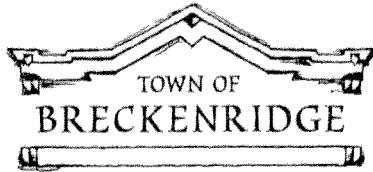
Thanks for your consideration of our comments.



Mark Truckey, AICP  
Assistant Director of Community Development

Cc: Peter Grosshuesch, Community Development Director  
Breckenridge Town Council

Older comment letter



October 21, 2009

Suzy Smoyer  
Summit County Planning Department  
PO Box 5660  
Frisco, CO 80443

Dear Ms. Smoyer:

Thank you for the opportunity to comment on the referral for the proposed Barton Ridge preliminary plat application. I have included the Town's initial comments below. Please be advised that we have not yet been able to discuss the proposal with the Town Council. Thus, the Town may supplement the comments provided here at a later date.

#### Site Layout and Protection of Open Space, Wildlife Habitat, and Wetlands

Although the development application includes some Division of Wildlife mapping, it does not appear to contain a wildlife report or any analysis of the importance of the area from a wildlife habitat perspective. Because of the property's adjacency to national forest land and the riparian values of South Barton Creek, we would expect wildlife use of the site. These national forest lands extend south and tie into locations such as Cucumber Gulch, which is considered an important habitat area. If open space tracts were preserved on the property in locations important to wildlife (e.g., near South Barton Creek), then continued movement and use of the area by wildlife could be optimized. For example, the removal of development from the proposed Lot 10 would seem preferable from an open space/wildlife perspective, and it would also avoid the proposed impacts to wetlands. We would suggest looking at alternative development patterns (e.g., clustered lots) that would enable preservation of larger open space tracts and contiguous habitat.

#### Trails

In the previous application regarding this property (PLN08-135) the sketch master plan (dated 12/13/08) outlined several public trails to help retain and improve the existing trail network in the Peak 7 area. The Town supports the public trail network outlined in the previous application and encourages the current applicant to consider dedication of two public trails to benefit the residents of this and surrounding subdivisions. We also recommend that the applicant work cooperatively with Summit County Government and the adjacent landowner to the southwest (High Country Lodge LLC) to secure public access for the small portion of the trail network that crosses that property (to avoid the wetlands). If that proves untenable, we recommend the applicant realign and construct a trail/boardwalk to create a functioning trail network within the Barton Ridge boundaries to provide the continuous access to the National Forest for the area homeowners. If the trails are dedicated by the applicant, the Town is willing

work closely with the U.S. Forest Service personnel to help secure legal, public trail access from the area subdivisions to the Peaks Trail and other trails to the west of the subdivision.

Thanks for your consideration of our comments. Mark

Mark Truckey, AICP  
Assistant Director of Community Development

## Town of Breckenridge Executive Summary

### Economic Indicators

(Published November 19, 2012)

#### Indicator Monitoring System

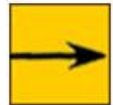
Up and down arrow symbols are used to show whether the indicator appears to be getting better, appears stable, or is getting worse. We have also designated the color green, yellow or red to display if the indicator is currently good, fair or poor.




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#### Unemployment: Local (September 2012)

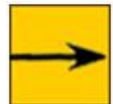
Summit County's September unemployment rate of 7.5% is lower than the September 2011 rate of 7.6% and September 2010 rate of 8.1%. Summit's September rate is higher than Pitkin County (7%) but lower than Eagle County (7.7%), however our rate is still considered relatively high for the time of year (prior to 2008, the August unemployment rate typically did not rise above 3.7%). *(Note that the arrow follows the KEY for all of the indicators. In this case, the arrow pointing up meaning that the unemployment rate has dropped and is 'getting better' and yellow indicates the condition as "fair".)* (Source: BLS)




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#### Unemployment: State (September 2012)

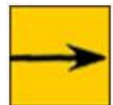
The State of Colorado unemployment rate dropped by two tenths of a percent in September to 8% continuing an incremental trend which started in January. This September is also slightly lower than the September 2011 rate of 8.3% (Source: State of Colorado)




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#### Unemployment: National (Sept.-Oct. 2012)

National unemployment rate increased one tenth of a percent to 7.9% for October. Since January, we have seen the national rate hover between 8.1 and 8.3% until September broke through that barrier. October 2012 has seen a notable drop from last October's rate of 9% and October's 2010 rate of 9.7%. (Source: BLS)



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**Destination Lodging Reservations Activity (October 2012)** Occupancy rates saw an increase of 11.9% for the month of October over October 2011 while the Average Daily Rate saw a slight increase of 1.8% for the month. (Source: MTrip)



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**6 Month Projected YTD Occupancy (November-April 2012/2013)**

Future bookings for the upcoming November-April 2012 period overall continues to show an increase of 15.8% in projected occupancy rate over the corresponding period last year. December however is projected to be down. The Average Daily Rate shows a decrease coming in at 5.3%. (Source: MTrip)



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**Traffic Counts and Sales Trend (October 2012)**

September average daily traffic count in town on Highway 9 at Tiger Road was 15,317 total vehicles. As the traffic count is below 20,000, we expect to see lower sales tax revenues for October. *(Note: There is a strong correlation between high net taxable sales and traffic once a 20,000 vehicle count has been reached. Please see detailed report on website for chart.)* (Source: CDOT and Town of Breckenridge Finance)



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**Traffic Count at Eisenhower Tunnel and Highway 9 (October 2012)**

During the month of October, the traffic count at the Eisenhower tunnel (westbound) was down 3% over October 2011. Further, data showed October traffic coming into town on Highway 9 dropped by 15% from October 2011. Traffic flows indicate that the Town lost relative capture rate coming from the tunnel in October however, this is the first month in years that this has been the case. (Source: CDOT)



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**Consumer Confidence Index-CCI (October 2012)**

The Consumer Confidence Index (CCI), saw another significant bump this month of 5.5% from to September to October coming in at 72.2 (1985=100). This is considered significant as consumers continue to be more optimistic about job opportunities. It remains in the range that most economists consider a “good” level of consumer confidence. Based on the index level continuing to be in a state of flux, we expect that real estate transfer tax revenues will also lag over the same period until the index sees consistent improvement. (Source: CCB)



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**Mountain Communities Sales Tax Comparisons (September 2012)**

The amount of taxable sales in Town for September 2012 was up 11% from September 2011 levels. With this increase, Breckenridge holds the top spot (out of 8) of the mountain communities for sales tax collected for the month in comparison to last year’s September numbers. All of the communities showed increased sales with the exception of Aspen and Steamboat Springs. (Source: Steamboat Springs Finance Dept., Breckenridge Finance Dept.)



### **Standard & Poor's 500 Index and Town Real Estate Transfer Tax (October 2012)**

The S&P 500 average monthly adjusted closing price saw a slight decrease after four consecutive months of positive gains. Subsequently, lagging behind, we saw our RETT receipts increase a drastic 85% compared to Town collections in October 2011. We believe that in general the RETT will continue to lag any growth rates that the S&P 500 achieves for the near future. A prolonged positive change in RETT will likely require a long sustained recovery in the S&P 500 index, with an increase in the wealth effect. *See website for detailed chart and additional information.* (Source: S&P 500 and Town Finance)



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### **Town of Breckenridge RETT Collection (October 2012)**

October 2012 RETT collection (\$387,028) is 85% higher than October 2011 (\$208,831) collections and 30% higher compared to October 2010 (\$297,583). (Source: Town Finance)



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### **Real Estate Sales (September 2012)**

For the third month in a row, September Summit county real estate continued to climb with a 10% increase in \$ volume with a 2% decrease in the number of transactions compared to September 2011. Of that, Breckenridge took in 44% of the \$ volume and 38% of the transactions countywide for this month. Year to date, \$ volume in Summit county is up 4%. (Source: Land Title)



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### **Foreclosure Stressed Properties (September 2012)**

Breckenridge properties (excluding timeshares) which have started the foreclosure process are at 28% (53 properties) of the total units within Summit County in 2012 YTD. These are considered distressed properties which may or may not undergo the foreclosure process. Should these properties actually undergo foreclosure, these properties may sell at an accelerated rate and lower price per square foot in the short term. (Source: Land Title)



**If you have any questions or comments, please contact Julia Puester at (970) 453-3174 or [juliap@townofbreckenridge.com](mailto:juliap@townofbreckenridge.com).**