



**BRECKENRIDGE TOWN COUNCIL REGULAR MEETING**

Tuesday, February 12, 2013; 7:30 PM  
Town Hall Auditorium

<b>I</b>	<b>CALL TO ORDER, ROLL CALL</b>	
<b>II</b>	<b>APPROVAL OF MINUTES – JANUARY 22, 2013</b>	<b>2</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 SKI AREA UPDATE	
	C. RED, WHITE AND BLUE FIRE DISTRICT UPDATE	
<b>V</b>	<b>CONTINUED BUSINESS</b>	
	A. SECOND READING OF COUNCILS BILLS, SERIES 2013 - PUBLIC HEARINGS	
	1. COUNCIL BILL NO. 1, SERIES 2013 - AN ORDINANCE ADOPTING CHAPTER 14 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING TOWN PROJECTS	<b>7</b>
<b>VI</b>	<b>NEW BUSINESS</b>	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2013 - NONE	
	B. RESOLUTIONS, SERIES 2013 - NONE	
	C. OTHER	
<b>VII</b>	<b>PLANNING MATTERS</b>	
	A. PLANNING COMMISSION DECISIONS	<b>17</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 (MS. WOLFE)	
	E. SUMMIT COMBINED HOUSING AUTHORITY (MR. DUDICK)	
	F. BRECKENRIDGE HERITAGE ALLIANCE (MR. BREWER)	
	G. WATER TASK FORCE (MR. GALLAGHER)	
	H. LANDFILL TASK FORCE (MS. WOLFE)	
	I. PUBLIC ART COMMISSION (MR. GALLAGHER)	
<b>X</b>	<b>OTHER MATTERS</b>	
<b>XI</b>	<b>SCHEDULED MEETINGS</b>	<b>31</b>
<b>XII</b>	<b>ADJOURNMENT</b>	

\*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.

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**CALL TO ORDER, ROLL CALL**

Council was called to order at 7:30 PM and roll call was taken.  
All council members were present.

**APPROVAL OF MINUTES - JANUARY 8, 2013 7:36 PM**

Mr. Gallaher noted a change to page 2 of the 8<sup>th</sup> minutes under his report concerning the Arts Council – The minutes should reflect that there is a need for expanding the seating capacity. Mr. Dudick would like the discussion on page 4 to reflect Hoosier Bike Path; Minutes were approved as amended.

**APPROVAL OF AGENDA**

**COMMUNICATIONS TO COUNCIL**

A. Citizen's Comment - (Non-Agenda Items ONLY: 3-min limit)

B. Breckenridge Resort Chamber Update 7:48 PM

John McMahon, President of the Breckenridge Resort Chamber stated the Budweiser International Snow Sculpture Event received 45 applications of which 15 were selected. The Marketing Committee is in the process of selecting a firm to market our message. Ullr Fest activities at the River Walk Center reported approximately 500 attendees. The BRC is excited about 2013.

Mr. Dudick asked about the marketing focus and what will our Brand look like and how are we researching successful Brands' and their possible impacts. What is the new message? What is our current rate of return on our investment so it can be measured against the new agency.

Ms. Wolfe – the state just released their marketing research numbers through smart marketing.

Mr. Brewer how are we connecting to the International Market. E-Media is primary tool.

C. Breckenridge Ski Resort Update 8:01PM

Pat Campbell - Dew Tour: 750 Rooms comps were provided and Allied purchased an additional 1250 rooms. 1.6 K Facebook posts, 32K tweets, 11 hrs TV, 60K international hits, Nielson ratings were flat. We saw a 7% increase in the number of guests visiting over last year. Snow making started out slow due to weather, thank you to the town and staff for the use of the tarn water. Shawn White was in town with the USA freestyle team. The 15th resort report released indicated the holiday visitors were up. A transit survey is being prepared for President's Day weekend so we'll have a year over year comparison.

Mr. Gallagher - Is it possible to use dirt to fill in some of the mountain sites? The half pipe is an excellent opportunity for using some of the dirt that will be available with construction projects, for example.

- D. Red White and Blue Fire District Update  
Not in attendance.

**CONTINUED BUSINESS**

- A. Second Reading of Councils Bills, Series 2013 - Public Hearings -  
None

**NEW BUSINESS**

- A. First Reading of Council Bills, Series 2013
1. COUNCIL BILL NO. 1, SERIES 2013 - AN ORDINANCE ADOPTING CHAPTER 14 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING TOWN PROJECTS  
Town Attorney Tim Berry - The staff would like to have the ordinance approved on first reading with the thought that we would come back and address the council's concerns. Providing additional information and clarification as to how this process is different from the development process. Perhaps the council could consider approving the bill with the understanding that staff will provide additional information and clarification for council.

Motion made to Approve First Reading of Council Bill No. 1, Series 2013 made by Mr. Gallagher and seconded by Ms Wolfe.  
Passed - For: 5; Against: 2; Abstain: 0; Absent: 0  
Mr. Dudick and Ms. McAtamney dissented.

8:03 PM

- B. Resolutions, Series 2013 8:07 PM
1. RESOLUTION NO. 1, SERIES 2013 - A RESOLUTION APPROVING A LOAN AGREEMENT WITH BRECKENRIDGE VILLAGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY  
Mr. Gagen presenting. This is a bridge loan that will allow the Breckenridge Village Apts. to do pursue and secure refinancing at today's low interest rates.

Motion made to Approve RESOLUTION NO. 1, SERIES 2013 - A RESOLUTION APPROVING A LOAN AGREEMENT WITH BRECKENRIDGE VILLAGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY made by Mr. Gallagher and seconded by Ms. McAtamney.  
Passed For: 7; Against: 0; Abstain: 0; Absent: 0

Mr. Casey is present. Mr. Brewer when will you receive approval for the HUD refinancing? Mr. Casey commented that interest rates are low. ADA issues need to be resolved. Their current financing is at 7%, a historically low rate.

2. **RESOLUTION NO. 2, SERIES 2013 - A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2012 TOWN BUDGET**

Mr. Gagen The codification of the budget is recognizing grants that may have been received along with the corresponding expenditures.  
8:13 PM

Motion made to Approve Motion to Approve 2. RESOLUTION NO. 2, SERIES 2013 - A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2012 TOWN BUDGET made by Mr. Brewer and seconded by Mr. Burke.  
Passed For: 7; Against: 0; Abstain: 0; Absent: 0

3. **RESOLUTION NO. 3, SERIES 2013 - A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2013 TOWN BUDGET FOR PROJECTS NOT COMPLETED IN BUDGET YEAR 2012**

Mr. Gagen This is the "Roll Over" budget where projects were not completed in 2012 and moved into 2013.  
8:15 PM

Motion made to Approve Motion to Approve 3. RESOLUTION NO. 3, SERIES 2013 - A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2013 TOWN BUDGET FOR PROJECTS NOT COMPLETED IN BUDGET YEAR 2012 made by Ms. McAtamney and seconded by Ms Wolfe.  
Passed For: 7; Against: 0; Abstain: 0; Absent: 0

C. **Other**

**PLANNING MATTERS**

A. **Planning Commission Decisions**

Mr. Gallagher - we may see some things related to this town project where the private sector may feel they need to be involved.  
8:18 PM

B. **Planning Commission Report (Mr. Gallagher)**

Mr. Gallagher – Our discussion during the work session covered my report.

**REPORT OF TOWN MANAGER AND STAFF**

Staff reported that John Jones just resigned as the director of the Summit Stage.  
8:19 PM

**REPORT OF MAYOR AND COUNCILMEMBERS**

- A. Cast/MMC (Mayor Warner)
- B. Breckenridge Open Space Advisory Committee (Mr. Brewer)  
Mr. Burke - What happens to the resources when the acquisition is complete. Mr. Gagen - We would see a shift to administrative expenses.  
7:25 PM  
  
Ms. Wolfe – Will the Houser Bike Path expansion be discussed at the next work session?  
7:26 PM  
  
Mr. Gagen – In the next couple year, trails and their maintenance are being reviewed. Scott will be meshing a report for parcel matching, listing, and their sale price. March is when we expect a report to be presented to council which will include an open space plan. Mr. Dudick, Will a ballot initiative for land purchases need to be reviewed as it original description was 16 years ago in our Open Space Plan. Mr. Gagen – The plan was last updated in 2006 and the updates are encouraging development in our populated areas rather than in remote areas.  
7:33 PM
- C. BRC (Mr. Burke)
- D. Marketing Committee (Ms. Wolfe)  
Ms. Wolfe - What is a central reservation system's purpose? There are numbers being attributed to the BRC verses Central Reservation Systems. This is a complicated place to book. Is this information being attributed to the booking originator? Topics for BMAC to consider: 1). Diversified concerts, 2). We need an analysis on our events - strategic value related to residual income.  
  
Ms. Wolfe - F Lot development. Can a 4 star hotel be sustainable and can the 3 star hotels continue to exist? Marketing /Demand study to understand consumer behavior.  
8:20 PM
- E. Summit Combined Housing Authority (Mr. Dudick)  
We are meeting next Wed; 8:56 PM
- F. Breckenridge Heritage Alliance (Mr. Brewer)  
We received a grant to seek National Historic Landmark designation for the Valley Brook Cemetery.  
8:58 PM
- G. Water Task Force (Mr. Gallagher)  
Continuing to make progress with Colorado Springs.  
8:58 PM
- H. Landfill Task Force (Ms. Wolfe)  
Ms. Wolfe - Have not reconvened. We need to continue to discuss the

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recycling area. Mr. Gagen - We have a lease with the County.  
7:22 PM

**I. Public Art Commission (Mr. Gallagher)**

No meeting since our last. First Wednesday in Feb. Mr. Gallagher volunteered to be the representative to the Art Council. Mr. Gagen indicated that our staff representative will be Kim. Council agreed to have Mr. Gallagher be the appointee. 9:05 PM

**OTHER MATTERS**

Mr. Dudick - Can we look at parking lot options? Extended investing, subsidizing, private partnership? Mr. Gagen - Public financed projects are tax exempt and carry a lower rate, assume a 1 to 1.5 % in rate values. Mr. Gagen - Do you want to own parking structures?

Ms. Wolfe - Abbey Hall would be a nice option to be included.  
9:13 PM

**SCHEDULED MEETINGS**

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 9:42pm. Submitted by Linda Coxen, Municipal Services.

ATTEST:

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Linda Coxen, CMC, Town Clerk

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John Warner, Mayor

1            *FOR WORKSESSION/SECOND READING – FEB. 12*

2  
3            Additions To The Current Breckenridge Town Code Are  
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5  
6            Additions To The Ordinance As Adopted on First Reading Are  
7 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

8  
9            COUNCIL BILL NO. 1

10  
11            Series 2013

12  
13            AN ORDINANCE ADOPTING CHAPTER 14 OF TITLE 9 OF THE BRECKENRIDGE  
14            TOWN CODE CONCERNING TOWN PROJECTS

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

18  
19            Section 1. Section 9-1-27 of the Breckenridge Town Code is repealed.

20            Section 2. The definition of “Attainable Work Force Housing Project” in Section 9-1-5  
21 of the Breckenridge Town Code is repealed.

22            Section 3. Title 9 of the Breckenridge Town Code is amended by the addition of a new  
23 Chapter 14, to be entitled “Town Projects”, which shall read as follows:

24            CHAPTER 14

25            TOWN PROJECTS

26  
27 SECTION:

- 28  
29 9-14-1:     Definitions  
30 9-14-2:     Town Council Authority Over Town Projects  
31 9-14-3:     Town Projects To Be Designed And Constructed In  
32            Accordance With Applicable Town Standards  
33 9-14-4:     Process For Review And Approval Of A Town Project  
34 9-14-5:     Town Projects Not Requiring Planning Commission Review

35 9-14-1: DEFINITIONS: As used in this Chapter, unless the context clearly requires otherwise,  
36 the following words have the following meanings:

          ATTAINABLE WORK FORCE  
          HOUSING PROJECT:

          A development project in which ownership,  
          occupancy, and sale of the property to be  
          developed, **or the lease or rental of the**  
          **property to be developed**, is restricted in

such a fashion as to provide on a permanent basis moderately priced **or affordable** housing to be occupied only by qualified persons meeting specific criteria that may include income test(s) and employment requirements as described in the project documents. The purpose of an affordable or attainable work force housing project is to help establish and preserve a supply of moderately priced housing to help meet the needs of locally employed residents of the Town by providing housing to persons who, because of their income, may not otherwise be in a position to afford to purchase, own, and occupy, **or to lease or rent,** suitable housing.

TOWN PROJECT:

A project involving **either**: 1) the **planning, design, construction, erection, repair, maintenance, replacement, relocation, or improvement of any building, structure, facility, recreational field, street, road, path, public way, bridge, excavation or any other public project or work of any kind undertaken and paid for** by the Town; **2) the planning, design, construction, erection, repair, maintenance, replacement, relocation, or improvement of any building, structure, facility, excavation or any other project or work of any kind undertaken with the consent of the Town Council on Town-owned real property by a non-profit entity and or** 23) the **planning, design,** construction, erection, repair, maintenance, replacement, relocation or improvement of an attainable work force housing project on Town-owned, leased, or controlled real property, regardless of whether the attainable work force housing project will be operated by the Town or some other person.

1 **9-14-2: TOWN COUNCIL AUTHORITY OVER TOWN PROJECTS: The Town**  
2 **Council, in its sole discretion, shall determine whether a Town project is necessary or**  
3 **advisable for the public good, and whether the project shall be undertaken. If a Town**  
4 **project is to be undertaken, the Town Council, in its sole discretion, has the sole and final**



1 authority to determine all aspects of the Town project, including, but not limited to, its  
2 location and design. Chapter 1 of this Title and the Town of Breckenridge Land Use  
3 Guidelines do not apply to Town projects, but Town projects shall be processed instead in  
4 accordance with the provisions of this Chapter.

5 9-14-3: TOWN PROJECTS TO BE DESIGNED AND CONSTRUCTED IN  
6 ACCORDANCE WITH APPLICABLE TOWN STANDARDS: Unless otherwise  
7 determined by the Town Council, in its discretion all Town projects shall conform to the  
8 Town's master plan, ordinances, and building and technical codes insofar as practical.  
9 Prior to the Town Council's final decision with respect to a proposed Town project the  
10 Director of the Department of Community Development shall prepare a point analysis for  
11 the proposed Town project in the same manner as a point analysis is prepared for a final  
12 hearing on a Class A development permit application under Chapter 1 of this Title. The  
13 point analysis is for the Town Council's information only, and the final decision with  
14 respect to a proposed Town project shall be made by the Town Council as provided in  
15 Section 9-14-2.

16 9-14-4: PROCESS FOR REVIEW AND APPROVAL OF A TOWN PROJECT: Unless a  
17 particular Town project is exempt from the requirements of this Section is not required to be  
18 considered by the Planning Commission pursuant to by Section 9-14-5, the following procedure  
19 shall be followed in connection with the review and approval of a Town project:

- 20 1. Prior to the commencement of any Town project, the Town Council shall consult with  
21 and seek the advice and recommendations of the Planning Commission.
- 22 2. Prior to seeking the advice and recommendations of the Planning Commission  
23 the Town Council may, but is not required to, hold one or more public input  
24 sessions to allow the public to comment on the proposed Town project. Notice of  
25 a public input session on a proposed Town project shall be published on the  
26 Town's website for at least five (5) days prior to the public input session. In  
27 deciding whether to hold a public input session, the Town Council shall consider  
28 the size, scope and nature of the proposed Town project.
- 29 3. In connection with its review of a proposed Town project, the Planning Commission  
30 shall schedule and hold one or more public hearing, notice of which shall be  
31 published at least once in a newspaper of general circulation at least three (3) days  
32 prior to the hearing on the Town's website for at least five (5) days prior to the  
33 hearing. Because the process of reviewing and approving a Town project is  
34 discretionary and administrative, and not quasi-judicial, any member of the  
35 Town Council may properly attend the Planning Commissions public hearing(s)  
36 and deliberations with respect to a proposed Town project.
- 37 4. Following the conclusion of the public hearing(s), the Planning Commission shall  
38 submit to the Town Council its recommendations and advice concerning the proposed  
39 Town project.
- 40 5. Failure of the Planning Commission to submit its advice and recommendations to the

1 Town Council within sixty (60) days after the submission to it of the proposed Town  
2 project shall be deemed to be a recommendation of approval of the project as  
3 submitted.

4 **6. The final decision with respect to a proposed Town project shall be made by the**  
5 **Town Council at a regular or special meeting. The proposed Town project shall**  
6 **be listed on the Town Council's agenda that is posted in advance of the meeting**  
7 **on the Town's website. The Town Council shall accept and consider any public**  
8 **comment offered prior to its final determination to proceed with a proposed**  
9 **Town project.**

10 9-14-5: TOWN PROJECTS NOT REQUIRING PLANNING COMMISSION REVIEW:

11 A. ~~Notwithstanding Section 9-14-4~~ **The Planning Commission is not required to**  
12 **review and provide a recommendation with respect to** the following categories of  
13 Town projects:

- 14 1. public road or alley improvements;
- 15 2. the installation or replacement of **the Town's** public utilities and structures associated  
16 with the operation of **the Town's** public utilities;
- 17 3. the erection or improvement of surface public parking facilities;
- 18 4. minor repairs to any public facility; or
- 19 5. ~~any work that would be classified as a Class C or Class D development under the~~  
20 **Town's Development Code;**
- 21 6. any other proposed Town project that the Town Council determines need not be  
22 reviewed by the Planning Commission.

23 B. All exempt projects **described in subsection A of this Section** may be undertaken by  
24 the Town Council without Planning Commission review, **and without formal Town**  
25 **Council approval.**

26 C. Nothing in this Section limits the discretionary authority of the Town Council to have  
27 any of the exempted Town projects reviewed by the Planning Commission if the  
28 Council determines that such review would be beneficial.

29 Section 4. Except as specifically amended hereby, the Breckenridge Town Code, and the  
30 various secondary codes adopted by reference therein, shall continue in full force and effect.

31 Section 5. The Town Council hereby finds, determines and declares that this ordinance is  
32 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and  
33 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants  
34 thereof.

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

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

11           Section 8. This ordinance shall be published and become effective as provided by  
12 Section 5.9 of the Breckenridge Town Charter.

13           INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED  
14 PUBLISHED IN FULL this \_\_\_\_ day of \_\_\_\_\_, 2013. A Public Hearing shall be held at the  
15 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the \_\_ day of  
16 \_\_\_\_\_, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the  
17 Town.

18  
19    TOWN OF BRECKENRIDGE, a Colorado  
20    municipal corporation

21  
22  
23  
24    By \_\_\_\_\_  
25    John G. Warner, Mayor

26  
27          ATTEST:  
28  
29  
30  
31  
32          \_\_\_\_\_  
33          Town Clerk

**MEMO**

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 1 (Amending “Town Projects Ordinance”)

DATE: February 6, 2013 (for February 12<sup>th</sup> meeting)

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The second reading of the ordinance amending the “Town Projects Ordinance” is scheduled for your meeting on February 12<sup>th</sup>. As I indicated to you when the ordinance was adopted on first reading, before second reading I want to give you a history of the Town Projects Ordinance, as well as a more detailed analysis of each of the changes that are being proposed to the current Town Projects Ordinance by Council Bill No.1.

In 1984 the Colorado Supreme Court made it clear that a municipal zoning/land use ordinance normally applies to the development activities of the municipality itself. However, the Supreme Court also stated that a municipality may lawfully exempt itself from its zoning and land use ordinances.

The Town Projects Ordinance was adopted by the Town Council in 1998. Prior to the adoption of the Town Projects Ordinance the Development Code policies and procedures applied to all “development” undertaken by the Town, including minor street and water line projects as well as the Town’s major construction projects like the Recreation Center.<sup>1</sup> However, in adopting the Town Projects Ordinance the Town Council recognized (and found in the adopting ordinance) that:

(T)he procedures set forth in the Breckenridge Development Code . . . do not work well with respect to the review and approval of the Town’s public improvement projects.

Based upon this determination, the Council created a new, separate (i.e., non-Development Code) process for the review and approval of Town projects.

The purposes of the Town Projects Ordinance were twofold: (1) to specifically exempt the Town’s construction and development projects from the Town’s Development Code policies and procedures as authorized by the 1984 Colorado Supreme Court decision; and (2) to establish a separate non-Development Code process for the Town Council to review and approve projects to be paid for by the Town and undertaken on Town-owned property. The discretionary, non-Development Code process was designed to avoid the potential problem of the ultimate decision maker in a quasi-judicial process also being the applicant for the permit.

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<sup>1</sup> As you know, the seminal issue in a Development Code application is: does the application pass all relevant absolute polices and get a score of zero or higher on all relevant relative policies? If so, the application must be approved; if not the application must be denied.

As part of the ordinance initially adopting the Town Projects Ordinance, the Town Council found and determined that:

the alternative procedures established by this Ordinance provide adequate opportunity for the review of designated Town public improvement projects by the Planning Commission and the public, and will thereby materially assist the Town Council in the development of public improvement projects of a high quality.

There has only been one amendment made to the Town Project Ordinance since it was adopted in 1998. In 2008, the ordinance was amended to bring the construction of an attainable work force housing project on Town-owned, leased, or controlled property within the purview of the ordinance. Some of you will remember that the Valley Brook housing project was reviewed and approved using the process outlined in the Town Projects Ordinance.

The Town Projects Ordinance has worked well since 1998. However, recently (in connection with the McCain Parcel Master Plan) the staff noticed that while the Town Projects Ordinance would apply to the physical construction of development on that Town property, the conceptual planning of the McCain Parcel did not fall under the Town Projects Ordinance. As a result, the planning of the McCain Parcel was handled under the Development Code process which, at least to some, created problems due to the quasi-judicial nature of that process.

Council Bill No. 1 was initially intended to simply bring the conceptual planning and design of Town-owned property under the Town Projects Ordinance so that all aspects of a Town project – from conceptual design to actual development – would be controlled by the same process and standards. However, as we began looking at the Town Projects Ordinance we thought the ordinance could perhaps be improved in other ways too.

Enclosed with this memo is the revised Town Project Ordinance marked for second reading next Tuesday. Please note that I have blacklined the ordinance differently from the way I normally blackline an ordinance for you. The blacklining from first reading (using the bold + double underline method of blacklining) has been left in, and additional blacklining (in the form of highlighting) has been added for changes proposed to the ordinance for second reading. I hope this method of blacklining is not confusing to you.

Here is an explanation of the changes to the Town Projects Ordinance proposed by Council Bill No. 1. General section references (Section 1, Section 2, etc.) are to the Sections of the enclosed version of the Town Projects Ordinance. Section references beginning with **9-14** (i.e., **9-14-1**) refer to the specific sections of the revised Town Projects Ordinance contained in Section 3 of Council Bill No.1.

**Section 1** – As I was working on Council Bill No. 1 it occurred to me that it did not make sense to have a process embedded in the Development Code that established a special non-Development Code review process for Town projects. As a result, I have proposed moving the Town Projects Ordinance from the Development Code into its own Chapter of the Town Code.

Section 1 of the ordinance repeals the current Town Projects Ordinance provisions in the Development Code in connection with the movement of the Town Projects Ordinance into its own Chapter of the Town Code.

**Section 2** – This section repeals the current definition of “Attainable Work Force Housing Project” in the Development Code. The defined term is used only in the current Town Projects portion of the Development Code, and with the relocation of the Town Projects Ordinance into its own Chapter of the Town Code the definition in the Development Code is no longer necessary. Note that the definition of “Attainable Work Force Housing Project” is contained in the “new” Town Projects chapter adopted by Section 3 of Council Bill No. 1.

**Section 3** – This section contains the text of the revised Town Projects Ordinance that would be inserted as a new Chapter 14 of Title 9 of the Town Code. The individual sections of the revised Town Projects Ordinance are as follows:

**9-14-1** – This section provides the two definitions that apply to the Town Projects Ordinance.

- Changes are proposed to the definition of “Attainable Work Force Housing Project” to deal with the possibility of an attainable work force housing project involving rental, not just “for sale” units. Changes are also proposed to the (important) definition of the term “Town Project.” These changes will bring the planning and design of a project to be undertaken and paid for by the Town under the Town Projects Ordinance. This will address the problem staff noted with the master planning of the McCain Parcel.
- In addition, the definition of “Town Project” is proposed to be amended to bring within the scope of the Town Projects Ordinance a project undertaken with the consent of the Town Council on Town-owned real property by a non-profit entity. Note that a project undertaken on Town-owned real property by a **for**-profit developer would **not** meet the definition of a “Town Project”, and would be reviewed under the normal Development Code process (as was done several years ago with respect to the proposed Pellet Plant on the Town’s McCain property.)

**9-14-2** – This section clarifies that the decision with respect to the approval of a Town project is discretionary with the Town Council, and that the Town Council has sole and final say over all aspects of a Town project. This section clearly states that the Development Code and the Land Use Guidelines do not apply to Town projects.

**9-14-3** – This section provides that even though the Development Code does not govern Town projects, the staff is to do a point analysis for the Council prior to the Council being asked to give final approval to a Town project. By doing this, the Council can determine the extent to which a Town project complies with the relevant Development Code policies, and make an informed decision with respect to the project.

**9-14-4** – This section outlines the process to be followed for the review and approval of Town projects in lieu of the normal Development Code review process.

1. Subsection 1 provides that with respect to most Town projects the Council will consult with the Planning Commission prior to deciding whether to proceed with the project.

2. Subsection 2 is new from first reading. It provides that before seeking the advice and recommendations of the Planning Commission with respect to a Town project, the Council may – but is not required to – hold one or more “public input sessions.” Although not defined, the term “public input session” is intended to cover both input sessions held at a Town Council meeting or worksession, and a separate “open house” type of public meeting. The thought here was that allowing public input before a proposed Town project is sent to the Planning Commission would allow for timely comments from the public before the particulars of a proposed Town project are sent to the Planning Commission for its review, advice and ultimate recommendation, thereby allowing the Planning Commission to provide better advice and recommendations with respect to the proposed project. The Council can hold a public input session without specific ordinance authorization. However, we thought that including a reference to a possible public input session in the ordinance would serve as a reminder for both the staff and the Council of the need to consider whether a public input session was appropriate for a particular proposed Town project.

3. Subsection 3 outlines the procedure to be followed by the Planning Commission in formulating its advice and recommendation with respect to a Town project. Note that the subsection requires the Planning Commission to hold a public hearing before formulating its advice and recommendation. Also note the provision permitting a member of the Town Council to attend the Planning Commission proceedings on a proposed Town project. This provision is based on the fact that the Town project process is discretionary – not quasi-judicial – and thus the Town Council members are not restricted from viewing the Planning Commission process in the way they are with respect to the normal Development Code process.

4. Subsection 4 requires the Planning Commission to submit its advice and recommendations with respect to a proposed Town project to the Town Council. Subsection 5 provides that if the Planning Commission does not submit its advice and recommendations to the Council within 60 days such inaction is treated as a recommendation of approval of the proposed Town project.

5. Subsection 6 provides that the Town Council’s decision with respect to a proposed Town project is to be made at a regular or special Town Council meeting, and that the matter must be listed on the Town Council’s agenda so that the public is notified that the Council will be making a decision with respect to the proposed project at that meeting. New language has been added to this subsection for second reading providing that the Council will accept and consider any public comment that is offered prior to the Council’s final decision on the proposed public project.

**9-14-5** – This section acknowledges that certain kinds of Town projects do not require Planning Commission review. The categories of Town projects that do not require Planning

Commission review are listed, but note that the list has been pared down by eliminating the reference to “any work that would be classified as a Class C or Class D development under the Development Code.” The Town projects not requiring Planning Commission review can be undertaken by the staff without the formal Town Council approval process described in Section 9-14-4(6) once budgetary approval has been obtained in the normal course.

Sections 4 – 8 of the ordinance are the Town’s normal boilerplate ordinance provisions for land use regulations.

In summary, the fundamental premise of the Town Projects Ordinance is that Town projects are unique and should be reviewed and approved in a way that is different from private-sector projects. The ordinance provides a process for the review and approval of Town projects that is an alternative to the normal Development Code process. Because Town projects involve Town property, and are primarily Town-funded and Town-undertaken projects, the Town Projects process involves a discretionary decision by the Town Council. The normal Development Code quasi-judicial process and standards for approval do not apply to a Town project, although before deciding to proceed with a Town project the Council must receive and review a point analysis so that the degree to which a proposed Town project complies with the Development Code polices can be determined. For most Town projects, the Planning Commission must provide its advice and recommendation before the Council decides whether to proceed with the proposed project. The public is invited to participate throughout the Town projects process.

I hope this memo has been helpful. When deciding how to proceed on this proposed ordinance, please keep in mind that it would be possible to revise or eliminate any particularly problematic section of the ordinance prior to the final vote on the ordinance.

I look forward to discussing this ordinance with you on Tuesday.



**MEMORANDUM**

**To:** Town Council

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

**Date:** February 6, 2013

**Re:** Town Council Consent Calendar from the Planning Commission Decisions of the February 5, 2013, Meeting.

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***DECISIONS FROM THE PLANNING COMMISSION AGENDA OF February 5, 2013:***

**CLASS C APPLICATIONS:**

1) Kaltenbach Garage, PC#2013005, 4 Raindrop Green

Construct a new, 576 square foot, 2 car garage. Approved.

2) Tannenbaum by the River Exterior Remodel, PC#2013003, 805 Columbine Road

Exterior remodel of existing condominium complex to consist of new horizontal 1x10 rough sawn wood, new accent cementitious lap siding, new 2x6 on 2x12 rough sawn eave/rake, new 2x cedar corner boards, new cementitious trim, new painted finish on existing exposed concrete, new real wood 10x10 timber column, new 6x12 timber beams, new 3x8 wood rafters, new wood newels, and a new real rock veneer. Approved.

3) Purbrick Residence, PC#2013008, 970 Forest Hills Drive

Construct a new, single family residence with 4 bedrooms, 5 bathrooms, 4,012 sq. ft. of density and 4,794 sq. ft. of mass for a F.A.R. of 1:10.36. Approved.

4) Payne Residence, PC#2013007, 220 Cottonwood Circle

Construct a new, single family residence with 4 bedrooms, 5 bathrooms, 4,792 sq. ft. of density and 5,562 sq. ft. of mass for a F.A.R. of 1:4.10. Approved.

**CLASS B APPLICATIONS:** None.

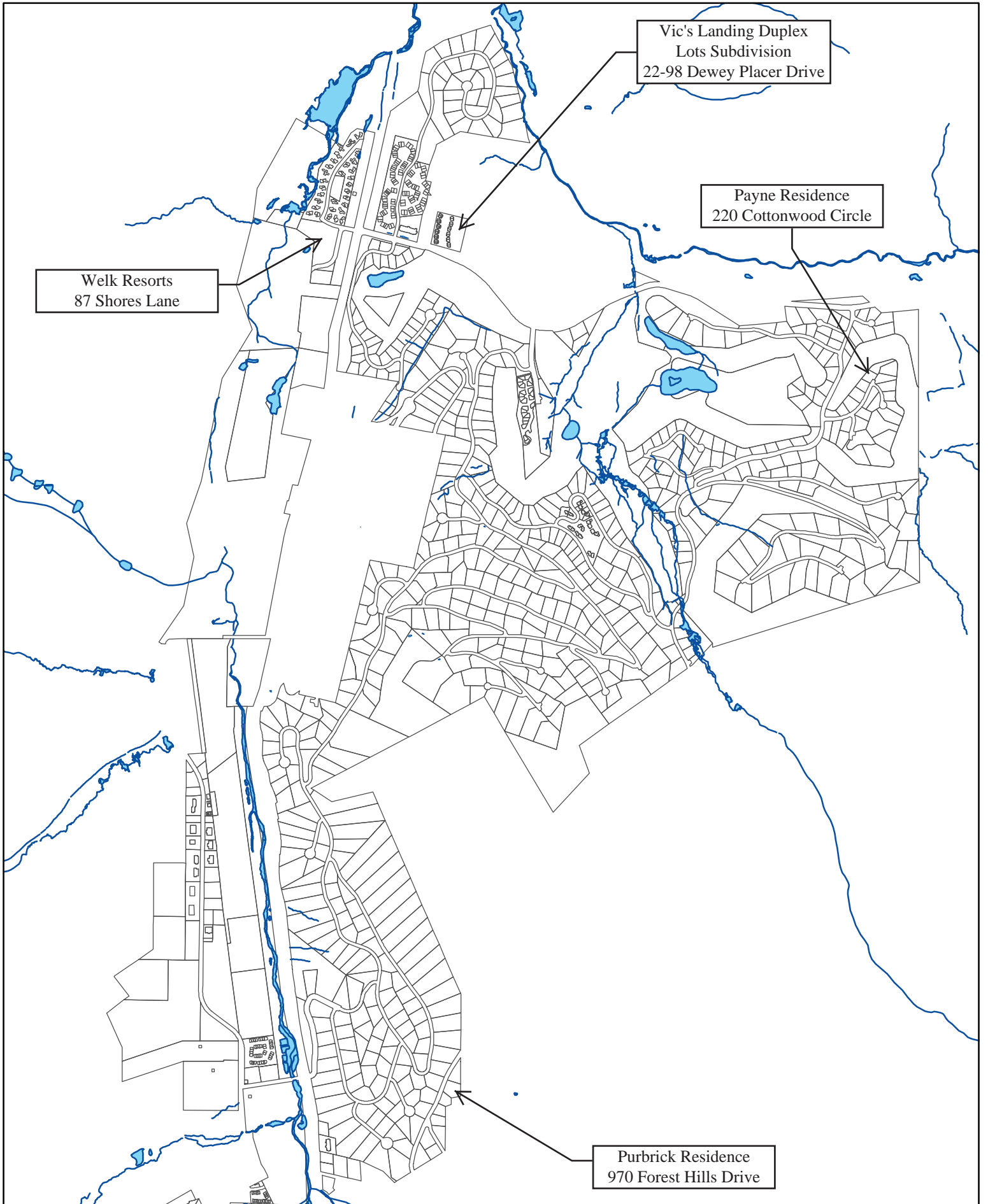
**CLASS A APPLICATIONS:**

1) Gondola Lots Master Plan Permit Extension, PC#2009010, 320 North Park Avenue

Renew the existing development permit for PC#2009010 for 3 years. No other changes are proposed. (A master plan is proposed for the north and south parking lots surrounding the town gondola terminal with a condo-hotel, townhomes, commercial uses, mixed use building, new skier service facilities, new transit facilities, and two parking structures. The proposal also includes development on portions Wellington parking lot and the East Sawmill parking lot, plus modifications to the Blue River, all of which are owned by the Town of Breckenridge. This proposal includes the transfer of 93 SFEs of density from the Gold Rush parking lot to the north and south gondola parking lots.) Approved.

2) Vic's Landing Duplex Lots Subdivision, PC#2013001, 22-98 Dewey Placer Drive

Resubdivide Tract 2 of the Vic's Landing First Amendment Condominium Map (Rec# 891469) into seven salable lots. The use and density associated with Tract 2 remain the same as the approved Vic's Landing Development (PC#2005104) for twelve duplexes. Approved.



Welk Resorts  
87 Shores Lane

Vic's Landing Duplex  
Lots Subdivision  
22-98 Dewey Placer Drive

Payne Residence  
220 Cottonwood Circle

Purbrick Residence  
970 Forest Hills Drive

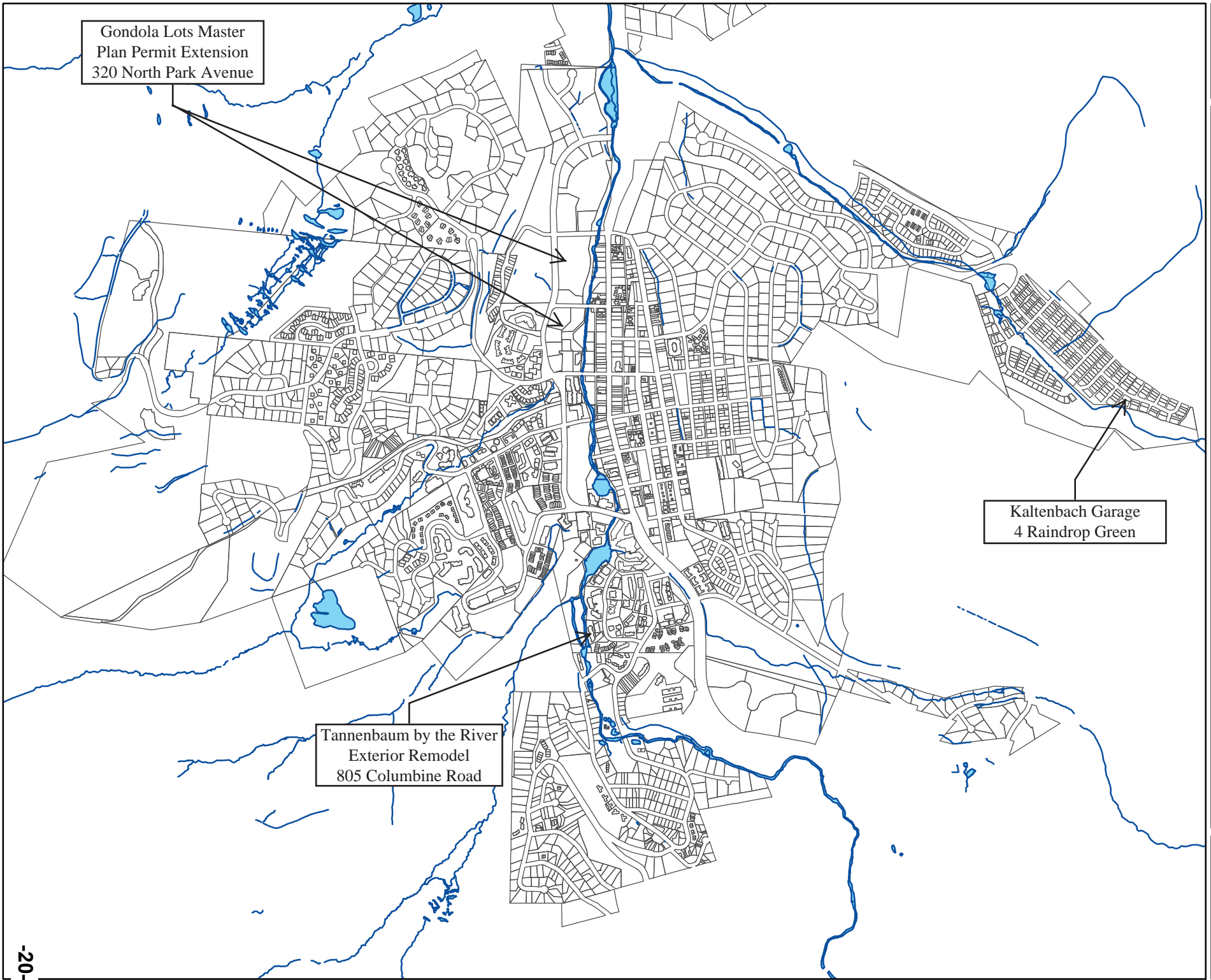
# Breckenridge North

printed 4/12/2011



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.





Gondola Lots Master  
Plan Permit Extension  
320 North Park Avenue

Tannenbaum by the River  
Exterior Remodel  
805 Columbine Road

Kaltenbach Garage  
4 Raindrop Green



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

Kate Christopher	Trip Butler	Dan Schroder
Gretchen Dudney	Jim Lamb	Eric Mamula
Dave Pringle		
Gary Gallagher, Town Council Liaison		

### APPROVAL OF MINUTES

Mr. Mamula: On Page 2 of the minutes (first comments at the top of Page 2): I meant to say that “sometimes a master plan is subject to interpretation”. I wasn’t talking about code based issues but about the Master Plan itself. I wanted to make sure that the Council doesn’t read that as “I think whatever I say is right”.

With the one change, the January 15, 2013 Planning Commission meeting minutes were approved unanimously (7-0).

### APPROVAL OF AGENDA

With no changes, the February 5, 2013 Planning Commission meeting agenda was approved unanimously (7-0).

### CONSENT CALENDAR:

1. Kaltenbach Garage (MM) PC#2013005; 4 Raindrop Green
2. Tannenbaum by the River Exterior Remodel (MGT) PC#2013003; 805 Columbine Road
3. Purbrick Residence (MGT) PC#2013008; 970 Forest Hills Drive
4. Payne Residence (MGT) PC#2013007; 220 Cottonwood Circle

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

### WORKSESSIONS:

1. Solar Panels in the Conservation District (JP)

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. Staff brought a draft policy to the Planning Commission on January 2<sup>nd</sup>, 2013. The Town Council reviewed the Planning Commission meeting minutes at the January 8<sup>th</sup> Town Council Worksession, and agreed with the general direction of the Commission’s recommendations:

- Sloped Roofs: Flush mounted panels on sloped roofs should be allowed. Panels *may* be visible from a public right of way, defined as including streets and alleys; however, reduced visibility is a goal.
- Flat Roofs: Solar devices should be allowed on flat roofs if they are *not* visible from a public right of way. (Define “visibility”.)
- Detached arrays should be allowed only if they are *not* visible from a public right of way with the same definition of “visibility”.
- Solar devices in the Conservation District must be approved through the Planning Commission process. Staff did add some submittal requirements as well.

Staff researched the amount of roof coverage on existing installations within the Conservation District. (Percentages represent the amount of panels covering the roof plane on which they were installed, rather than the entire roof area of the structure.)

- 205 South French Street (Abbett Placer Inn) 70%
- 106 North Ridge Street (Summit County Buildings) 50% and 88%
- 203.5 South High Street (Edman Residence) 40%
- 117 South Main Street (Haney Building) 23%
- 107 North Harris Street (Longbranch Condominiums) 85%, 28% and 82%

The percentages show a range of coverage on existing installations. Two options include:

1. No limitation on roof coverage with solar panels. We would look to the preference list to address the issue of if an application is too highly visible.
2. Limit percentage of roof coverage with solar devices. This could have some unintended consequences

Detached solar arrays were suggested by the Commission to be permitted if not visible from any public street or alley. Staff has concerns with allowing detached arrays in the district. The small size of lots in the District could make this option problematic to effectively screen and not impact the area if permitted. Could leave a door open similar to the issue with flat roofs we saw with the last application.

*Commissioner Questions / Comments:*

Ms. Dudney: On the flat roof...is it prohibited if its visible? (Ms. Puester: Visible from any public street or alley in the historic district.) I would prefer to use our definition of “visible” to be based on the photos that are submitted in the 400’ or 1 block radius, rather than have someone come back later and say that we shouldn’t have approved it if they can see panels from somewhere. It should be a concrete definition. Secondly, the way that I read this it’s somewhat subjective in terms of whether or not an application could be considered to result in detrimental character. So that comes first to us, and then we would give our personal opinions. (Ms. Puester: If Staff was concerned a rating would be in jeopardy, we would send it first to the State Historic Preservation Office for feedback. We also base all recommendations on precedent). We would vote and then it would go to Council and then they could call it up to approve or not, right? (Ms. Puester: That is correct.) The subjectivity is different; there will be different opinions, and I think that this is a good piece of legislation. The Council would get our opinion and they could decide for themselves. Lastly, in the preferences order list, should the historic structure be included in those preferences? Or did you think about that? (Ms. Puester: We could list that separately further down in the preference line. I wouldn’t want to see panels on a historic structure before these other options. A photovoltaic device will most likely be on a historic structure.) (Mr. Neubecker: We could tweak this to add that extra language.) I’m not saying that you should, you might just think about it.

Mr. Mamula: The preference list was originally needed when we allowed everything; I think this is part of the older language that doesn’t belong anymore. Now that we have a black and white policy, we determine whether it belongs in historic district or not. The preference list doesn’t mean anything except give the list of our preferences without “legal ease”. This is clunking it up quite a bit.

Ms. Dudney: Doesn’t it give the Planning Commission some basis to deny an application?

Mr. Mamula: I think you have that anyway. It is so site specific what we are going to be doing, it doesn’t make sense. (Mr. Neubecker: I think that the preference list is helpful to the Applicants. When you have several different structures on one site, it is helpful to the Applicant to see where we would prefer to locate panel. In some cases, the preferred location will be less energy efficient, but better than us just saying ‘no’. Giving the Applicant some direction is helpful.) It may be more helpful to the applicant but harder to legislate.

Ms. Dudney: There is something about this that bothers me too. It is all rather subjective, and yet we have these preferences; I view them as more of a guide. Consider Abbett Placer Inn: if I apply this

to that property, it would be allowed because it was not visible from the street. The County Buildings, probably not allowed. South High Street examples could be allowed and so could the North Harris examples. South Main Street example in packet could be allowed. It would all fall to the interpretation of the Planning Commission and to the Council. (Mr. Grosshuesch: We would also use past precedent.)

Mr. Pringle: That's how we are supposed to vote; we are following precedent and changing precedent at the same time. (Mr. Neubecker: Consider that the Application that led to this discussion isn't on the table at this time. Since it was never approved, it is not precedent.)

Ms. Dudney: I still think this is better than before because it is clearer; if they hone in on the term 'visible' than that gives the Applicant more to go on and the rest is more subjective.

Mr. Schroder: I appreciate the visibility note; we were given photos last time and we talked about peaks. I was appreciative of moving into the conservation district and it put us into a particular target. That works for me. Then it's a matter of visibility; people could lean around the corner to see a panel, but this is that kind of nebulous.

Ms. Dudney: If all we are given are photos from one block away, how do we know if you can see it from two blocks away? Shouldn't we give this a better definition?

Ms. Christopher: I think "visibility" should be defined as an amount or anywhere in the conservation district at the street level. (Mr. Grosshuesch: We were struggling with that as well; how much proof are we going to require an Applicant to provide? If we want them to take photos from every angle in the conservation district, that's too onerous; then we settled for the 400-foot rule. That's the balance.)

Ms. Dudney: I think that you should match the two, so not visible from 400 feet.

Mr. Schroder: I am in favor of matching. (Mr. Neubecker: Reference to 400-foot is a based on one city block.)

Mr. Pringle: After years of scrutinizing with the historic district, this whole discussion is based upon being able to see a contemporary solar panel put on a historic building; maybe we need to discuss whether or not we want solar panels in the historic district at all. If solar garden arrays are available in the future, maybe people can participate in those. I sometimes wonder what we are really doing here. Visible means if it can be seen per the Webster's Dictionary. If you do not want to see it, then don't allow it. I can see you can just about see it from some place within reason. Years ago, we wanted to allow solar panels in the district, and we even wanted to encourage it and we are seeing the impacts from that.

Ms. Dudney: The history of this was that the Council voted "no" on all solar panels in the historic district. Then we voted by majority on some recommendations to allow for them, that Council's interpretation was too harsh and should be more subjective. Flat roof is not okay, but generally on a sloped roof it might be okay as long as it wasn't highly visible. It went back to the Council and they said to us 'we like that, keep going in that direction'. I think that staff has accomplished what we asked for. Now we need to find the level of proof as to how visible we amiable to. Dave, are you looking to forbid them on flat roofs entirely (Dave-Yes).

Questions for the Commission:

1. Did the Commission find that the amount of roof area covered by solar devices needs to be addressed? If so, did the Commission have a recommendation on the maximum percentage?
2. Did the Commission find that detached arrays should be permitted in the district?
3. Did the Commission feel that other modifications were needed to the policy?

*Commission Answers to Questions:*

Ms. Christopher:

1. No, I don't think that we need to put a percentage limit to it; could be subjective depends on the

application.

2. Allow, not visible from public right of way; the same definition, 400 feet, street or alley level and from a neighbor's.

3. No.

Mr. Butler:

1. No, a lot of good detail in here. I don't think that we need to put a percentage on the amount.

2. Detached arrays should be permitted.

Ms. Dudney:

1. Don't need to specify a percentage.

2. Detached arrays should be permitted as long as the neighbors don't object.

3. I think you need to specify what is the proof we will require for not being "visible".

Mr. Lamb:

1. No, I think alot of these roofs look better with solar panels covering the entirety roof.

2. We should allow detached arrays, but they should not be visible from a street or alley and should not be detrimental to the neighbor.

(Ms. Christopher and Ms. Dudney agreed with this verbiage.)

Mr. Schroder:

1. No, I wouldn't put a percentage limit on the roof.

2. I appreciate the language on the preferences; it specifically states how a detached array is last option and it works.

Mr. Pringle:

My earlier comments stand; all of the years we've tried to protect these buildings but we are past that.

1. Go ahead and put these on the roof, but I don't think we should limit the percentage. Based on individual situation.

2. The detached arrays should be permitted; I don't think that neighbors should have veto power on each other's project. It should pass code or not.

Mr. Mamula:

1. I'm okay with percentage but it has to be less than 100%; we need some kind of setback from all four edges including the top near the ridge, so that it doesn't project over the roof edges. (Julia- Does the rest of the Commission agree? All of the rest of the Commissioners agreed.)

2. I think detached arrays are a mistake; unfair to a neighbor. It is patently unfair to put a pole array in a yard where the yards are small. So different here than in the Highlands where the lots are large. It will affect your neighbor here regardless.

3. The preference language is clunky and difficult to use.

*Other Commissioner Comments:*

Mr. Pringle: I don't know that we want to forbid detached arrays, but really there are only a couple of lots where this might be applicable.

Ms. Christopher: What I meant was not that the neighbor has veto power, but we need to put ourselves in their shoes.

Mr. Mamula: It doesn't say that here though. You can't really deny someone from putting array up without that language.

Ms. Christopher: Would like to see the language added.

Mr. Mamula: We are creating a situation that doesn't work. What's "detrimental" to the neighbor?

Mr. Pringle: It should be allowed but probably not going to happen.

Mr. Gallagher: I am hopeful when the discussions of solar farms come up again, Council will be able to encourage people to not put solar panels in the historic district perhaps with an incentive and get them out on Airport Road instead. If it were my druthers, I would say no to detached arrays in historic district.

Ms. Christopher: On Mr. Gallagher's note, is there any way that we can add to the policy that if at all possible,

purchase in the solar farm as a first preference? (Ms. Puester: As Staff, we can direct applicants to the solar farm route, but I have concerns about putting that in code. The solar garden will have limited space, it's a temporary solution. It is not wholly owned by the Town.) (Mr. Neubecker: We can direct applicants to the solar garden however, there are limitations to that.)

Ms. Dudney opened the worksession to public comment:

Mr. Lee Edwards: I really appreciate the Commission's comments in the former meeting. Is the Commission going to see this again? If it is brought again, could we have a map of both historic and conservation districts? When you say that only a few sites could have detached, then I'm thinking that Briar Rose area might be one of them. I appreciate that you dropped alleys out of the definition of visible in the conservation districts. (Ms. Dudney: Alleys is included, but is secondary priority.) (Ms. Puester: On sloped roofs, they can be visible from street or alley; but flat roof and detached arrays not visible from street or alley.) Good, a nice flush mounted solar panel there is entirely appropriate. Alleys are where we put our storage, cars, and trash in the district anyways.

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

The Planning Commission decided that Staff was ready to go to Town Council after making some changes regarding adjacent properties, and including a setback on a sloped roof.

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

Mr. Gallagher:

1. Since our last meeting the Council has selected a consultant for the hotel study on the F Lot: Lowe Enterprises. Without being told, they really understood what work really needed to be done. It has to be looked at in the context of what is going on elsewhere (Riverwalk, Tiger Dredge Lot, etc.). They put a team together that provided both an owner's perspective, architectural site plan perspective and how it might integrate with the surrounding properties as well as the perspective of the data generators determining market feasibility and doing a 10 year pro-forma. The other two consultants probably could have done a pretty good job but they didn't pull all three pieces together. References checks and contracts are being negotiated by Staff. 90 days from now we should see market feasibility reports.
2. The Riverwalk Center: The site planners and landscape architects that are working on the center provided 4 options for the Riverwalk Center, and a plan with respect to the Blue River Plaza. The Council only focused on the Blue River Plaza due to a lack of time; the Council was generally happy with the suggestions, as well as ideas to increase the usefulness of the Blue River Plaza. They want to open it up so that you can see the Riverwalk Center uninterrupted as well as the mountain (from Main Street). Council was supportive of the goals that they had identified. Consultants suggested moving the Christmas tree. Some felt pro and others con on that idea. The Council will need to focus on the Riverwalk Center both in terms of interior and exterior with parking. Keep in mind we have the F Lot Study and the Riverwalk Center Study going, and there is a little bit of a balancing act going on between the two. You will be seeing both of those fairly soon.

#### **PRELIMINARY HEARINGS:**

1. Welk Resorts (MM) PC#2012044; 87 Shores Lane

Mr. Mosher presented a proposal to construct a 123-unit time-share/condo-hotel at Tract W and D-3 of the Shores at the Highlands Subdivision.

Changes from the June 6, 2012, Worksession:



- A Development Agreement was approved on November 27, 2012, by the Town Council. *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.* (This essentially allows the increase in the mass allowance for amenities.)
- Density and Mass square footage numbers have been adjusted and provided.
- Elevations show height and grading.
- Revisions to exterior elevations.
- Additional details on materials and colors provided for the elevations.
- Updated Landscaping Plan.

Staff noted that just prior to the meeting the applicants and agent modified the site plan to move the Meeting Facilities building at an angle from the north property line and have proposed to add a dedicated driveway to the Maintenance Building for refuse and service that is separate from the guest parking area.

Staff has been working closely with the applicants and agents. As with other applications of this nature, there is a lot to review and design. There has been good direction provided by the Commission and the applicants are responding well. We anticipate the height overage will be resolved and presented at the next meeting.

*Commissioner Questions / Comments:*

Ms. Dudney: I need some guidance. Normally the architectural style would not be part of the Code but in this Master Plan there are two references: “Fishing Cottage” and “Mining, Ranching” and “American West” architecture should be encouraged. (Mr. Mosher: Policy 5 in Development Code will address any detail not identified in the Master Plan. As for the “Fishing Cottage” reference, the Applicants for the Master Plan intended this style to be associated with the single-family or duplex (smaller) units.)

Mr. Mamula: Where did the amenity space get eaten up? Is the timeshare sales office counted separately as commercial? (Mr. Mosher: Yes.) Explain the conference use space. (Mr. Mosher: The sales offices represent the 0.3 SFEs of commercial use. (Noted the areas of the amenities on the site plan.)) (The Agent said he would explain in more detail.)

*Applicant Presentation:*

Richard Hulbert, The Hulbert Group, Architecture, Planning, Communication:

We were gratified by the comments provided by you last time; and we have moved forward. Welk is a ‘club environment’ with a portfolio of properties in various locations. With purchased “points”, our guests can enjoy any of the many locations. It is a very “family values” type of environment which is why a lot of family events occur at these resorts which is part of the reason for the facilities location. Welk gives lots of flexibility to the design team so we are trying to respect the past history of the Breckenridge area. Our narrative is, let’s imagine that there was a mining mogul that fell in love with the area, mined the area then built a homestead close to the Blue River and had guests at his home for refreshments and lodging. He built a barn, a bunkhouse and now all we have is a ‘found’ site. We are renovating that site. We are trying to establish a village, a residential neighborhood.

Ms. Dudney opened the hearing to public comment.

Suzanne Allen-Guerra, Team Member of Shores Development Group developing the property to the north of this property.

We really appreciate the proposed revisions that we have received; the Meeting Facilities building is our main issue. We are concerned with the overall mass, scale and the uninterrupted massing. It's blocking our solar access and is a detriment to our property values. I think that we could suggest some changes; we wouldn't mind a little parking lot between us and this project and would prefer it to the large building; we could build a berm to increase the buffer; we feel the plantings will grow better without a 40-foot high building to the south. Another thing that we noticed was that the meeting facility plate height. The drawings show a 12-foot plate height and if you look at the building it has the appearance and mass of a three-story building. If you pulled that roof plate down almost a full story, I think that he could accommodate that upper floor in that vaulted roof space above. In effect that wall is 24-25 feet high. We at the Shores are required to have a maximum overall height of 30-feet as part of that "fishing village" concept that we worked together with Don Nilsson on the Master Plan back in 2007. We agreed to keep our buildings very low scale under 30-feet high from that existing grade and the submitted drawings are basically proposing that these buildings are built up 4-5 feet higher than their existing grade, and this will cast a shadow on our lots which is a serious negative to our property values. That building needs to be pulled away a lot more from the property line. I think that the 6:12 roof pitch is great.

Mr. Lee Edwards:

Is this the second time that you've seen this proposal? (Mr. Mosher: Yes.) When this came through for the Master Plan review with Don Nilsson, was anybody here on the Commission or the Council and have a memory of what was presented then? My concern was this started out as three parcels; I can only imagine that it would be more sellable with three parcels and also that we would have three separate buildings. There is one massive structure proposed out there. Was it subdivided as two parcels when it was brought originally? (Mr. Mosher: No, the site was designated as multi-family lodge type use. The previous application that was approved was for a condo-hotel in nearly the same configuration as we are seeing tonight.) As you come into Town, what am I going to see of this structure? This wall/face that faces the highway is going to make the BBC look small, and pale in comparison; as you turn on the corner you are going to see this sucker. It's going to be huge; it's not the fault of the developer; this is radically going to change what we are looking at; we haven't allowed this kind of reaction since the late 1980's. I agree with the comment: don't cheapen the project by lowering the pitch. If you have a lot of parking needs, please look at being creative with parking other than so much asphalt.

Mr. Loren Girch, Partner / Developer at the Shores Duplexes:

Our Lot 22 is undeveloped; we are not bringing the building to the boundary line. There will be an easement and another path that gives access to the river. With what we have the ability to do in terms of buffering, the parking would be much preferred rather than this building. If you moved the building away, put more parking against the boundaries. This is a business and evaluation issue, and we've never seen the Commission make decisions based on business. They make things look right together. Your project will be a very nice project and hope it is successful; we are proud of the product we've built to the north. We think that the building along this edge doesn't belong there; we think some of the suggestions Ms. Allen-Guerra offered are good and agree with all of Mr. Mosher's comments and concerns in the Staff report. Regardless of whether or not the building is rotated, lowering, moving it to another side, 90 degrees, the way it sits now, whatever we plant, it won't grow the way the site is currently presented. We appreciate that you are willing to look at different options.

Mr. Marc Hogan:

I think that the use is fabulous for this piece of property; please remember in the original Highlands Master Plan we've lost all of the hotel and multifamily on the east side and this would be a great benefit for the Town.

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

Questions for the Commission:

1. Did the Commission have any comments regarding the “glazed balcony railing” (essentially tempered glass instead of newels) for the deck railing system?
2. Did the Commission have any comments on the massing, colors and materials shown for the project?
3. Did the Commission have any comments regarding the setbacks, scale and design of the Meeting Facilities Building?
4. Did the Commission support awarding positive six (+6) points for the provision of meeting and conference facilities or recreation and leisure amenities well over the required amount?
5. At this review, and based on the larger quantity and sizes called out, would the Commission support awarding positive four (+4) points for the landscaping plan?
6. Did the Commission believe negative points are warranted under Policy 7/R, Site and Environmental Design, for the buffering along the north edge of the property to the Meeting Facilities building?
7. Would the Commission support positive points for site circulation and separation of systems under Policy 16, Internal Circulation?

*Commission Answers to Questions:*

Mr. Schroder:

1. As for the tempered glass “railing”; thinking of the code, I don’t know what would prohibit it and I like the way it looks.
2. I agree with comments regarding the barn/community building; massing seems to be unbroken; I would like to see it more broken and maybe continue to massage the issue of moving the building.
3. See above.
4. Appreciate providing additional amenities and I support positive points.
5. It was noted that our landscape planner hasn’t looked at it yet. Will wait for staff recommendation.
6. I’m not sure the buffering is there just yet; drawing looks beautiful. I don’t know if that is the reality; I would like to see what you are going to do with it before assessing points.
7. I would support positive points; I like the way that the separation is and the various parking lots and potential garbage enclosure and the way that the soft goods are dealt with away from the guests.

Mr. Pringle:

1. I’m not sure that I have objection; I prefer a non-reflective glass, smoked or colored rather than any reflective. (Mr. Neubecker: Stated the code Policy 5/R indicating highly reflective glass is not recommended.)
2. I’m going to wait until further along the line with that; engineered wood is changing to natural, etc.
3. Massing: It’s a lot of building there and I have concerns that you’re going to have a lot of road noise and anyway that you can soften that road noise by moving the entire development back or further south and increase the buffer from the road to your proposal might be good. As far as where you are setting the buildings I would think that maybe you would want to bring the parking lot closer to the building; maybe you don’t need all of that green space between you and the highway. It seems that most of the people that try and build multi-family projects don’t need all of the parking that Code requires and we end up going down to something that is less than 1/unit. More people are using ground transportation. I don’t think that you need that much parking and I’d like you to revisit that.
4. The design of meeting facility could probably get smaller. If you can cut down the size of that, then maybe you don’t need a full wall to wall 12-foot height and the space and you can massage that to fit your needs. If we’re talking about a Colorado barn, I don’t think that this represents one.
5. Whatever the Staff thinks is appropriate. I’m hoping that whatever you do out there, you’re not going to be looking for separate uses out there.
6. Well worth it but the case has been made that you show a wonderful landscaping product that might not be achievable; might take a look at what is going to work.
7. Yes I think negative points for the meeting facility building because there isn’t enough setback for that

size. You might want to tighten up that parking and give yourself some relief from that north property boundary. I think, again, that you should be concerned about buffering that noise from the highway and reduce the height of that building to reduce the negative points. I'm not sure that it will be a radical change to that end but I think that it will change the way that we look at the town.

Mr. Lamb:

I appreciate the fact that you're working with your neighbors which will get you a better project.

1. I can see that this railing will get you in trouble with the snow; just in the pictures, it looks a little too modern. You could argue that our Development Code basically doesn't allow that.
2. Colors and materials are fine; massing is too high but it sounds like this is still a work in progress.
3. See #6.
4. Yes.
5. Landscape plan looks fine; I would like to see Ms. Cram look at it; lots of trees, nice zones.
6. Definitely negative points there; seem likes you're heading into a conversation with your neighbors where there is still a possibility for that to get redesigned.
7. Site circulation looks good on this property; people can see the river but not endangering the native grasses on the property.

Ms. Dudney:

This should be a great asset to Breckenridge

1. I'm not sure code says no on the glass railing; I personally think it will get you in trouble and don't like it.
2. Mass and colors are fine.
3. I am sympathetic to your neighbors so that it doesn't shadow their lot.
4. I support the 6 points.
5. Go with Staff.
6. Go with Staff.
7. Go with Staff.

Mr. Butler:

Great project and asset.

1. I like the glazed balcony railing but I think that you'll run into trouble with it.
2. I like massing and colors.
3. The massing is wrong for the Meeting Facilities building; sure if you need that much parking?
4. I support the 6 points.
5. I know you'll get to 4 points on landscaping.
6. I believe you'll reach a good conclusion on points.
7. You'll reach a conclusion on site circulation.

Ms. Christopher:

1. I don't like the railing because it doesn't work well up here; other than that it is not a natural material; it's not mining theme. Maybe a wire railing instead.
2. Massing and colors; you've changed the color board already.
3. I'm sure it will be fine.
4. Setbacks: I feel like working with your neighbors, you might lose the "corral theme" for the parking lot.
5. Yes on positive points on landscaping.
6. Yes, what Staff thinks.
7. Yes, what Staff thinks.

Mr. Mamula:

1. The vernacular of the glass doesn't fit into the Master Plan design guidelines.
2. The vernacular of the architecture doesn't fit into the Master Plan; in particular, the main entry building looks like a Howard Johnsons to me. It doesn't fit into Town character. I like the fireplace, the skylight but I don't understand why that would fit into the Master Plan criteria.
3. The vernacular is wrong with the neighbors; there is no mountain vernacular on this building at all as the Master Plan describes. I am at a loss as to why this is okay in its current form. For the last 10 years, every

consultant has told us why we don't need this much parking and you insist that you need all these spaces. You could lose 15 spaces next to the meeting building and pick up another 10 feet buffering there.

4. I know that there was a deal struck to pay for the 700% amenity mass bonus in the Development Agreement, but to award positive 6 points is a "double dip". I'm not saying yes or no at this point; we've had this kind of thing before.
5. Can't comment on landscaping; like the way the architect has drawn it but I want Ms. Cram to say it will grow.
6. Buffering will be worked out.
7. Circulation is great; it's this problem with the Master Plan.

**COMBINED HEARINGS:**

1. Gondola Lots Master Plan Permit Extension (CN) PC#2009010; 320 North Park Avenue  
Mr. Neubecker presented a proposal to renew the existing development permit for PC#2009010 for three years. No other changes were proposed. A master plan is proposed for the north and south parking lots surrounding the town gondola terminal with a condo-hotel, townhomes, commercial uses, mixed use building, new skier service facilities, new transit facilities, and two parking structures. The proposal also includes development on portions Wellington parking lot and the East Sawmill parking lot, plus modifications to the Blue River, all of which are owned by the Town of Breckenridge. This proposal includes the transfer of 93 SFEs of density from the Gold Rush parking lot to the north and south gondola parking lots.

The Applicant requested that the Planning Commission renew the existing Development Permit for three years. During review of an application like this, the Commission should focus on code changes that have happened subsequent to the original permit approval. In this case, staff has found no relevant code changes that affect this application. As a result, no changes are proposed to the Point Analysis; however, since there are some new Planning Commissioners that were not involved in the initial review of this application, Staff included all relevant information on the project in the report.

The visioning process for the site was a collaborative effort between Vail Resorts Development Company and the Town of Breckenridge. The design drivers for the project included: compatibility with Breckenridge, authentic story, integration with the fabric of the Town, balance of transit / transportation issues, world class visitor / resident experience, and sustainability.

**Point analysis:**

Policy 6 (Building Height)	-20 points for buildings up to 5 stories
Policy 16 (Internal Circulation)	+3 points for good vehicle and pedestrian circulation
Policy 18 (Parking-View)	+4 points for providing parking underground or in a structure
Policy 18 (Parking-Joint Facilities)	+1 point for making parking available to the public
Policy 18 (Parking-Shared Access)	+1 point for shared driveway access
Policy 24 (Social Community)	+4 points for providing 6.51% of density as employee housing
Policy 24 (Social Community)	+3 points for Council Goals, including transportation enhancements, economic sustainability and environmental sustainability
Policy 25 (Transit)	+4 points for improved transit circulation, improved facilities and reduced vehicle and pedestrian conflicts

The result is a passing score of zero (0) points.

Staff recommended approval of this permit renewal with the presented Point Analysis and Findings and Conditions. This application was advertised as a Combined Preliminary and Final Hearing, and the application may be approved by the Commission tonight. Since there have been no code changes in the past three years that would affect this project, Staff had no concerns.

There are still several issues which were not finalized for this application, that have been included as Conditions of Approval. These issues are primarily business issues (i.e. property lines, ownership and construction of public amenities, loss of parking, and construction of the river improvements, etc.) that are not addressed in the Development Code, and need to be approved by Town Council.

Applicant presentation: Mr. Alex Iskenderian, Vail Resorts Development Corporation and Mr. Bill Campie, DTJ Design: Nothing to add; Mr. Neubecker did a great job presenting.

Ms. Dudney opened the hearing to public comment. Mr. Lee Edwards requested to view the documents and Mr. Neubecker presented them. There was no public comment, and the hearing was closed.

*Commissioner Questions / Comments:*  
None.

Mr. Pringle made a motion to approve the point analysis for the Gondola Lots Master Plan Permit Extension, PC#2009010, 320 North Park Avenue. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Gondola Lots Master Plan Permit Extension, PC#2009010, 320 North Park Avenue, with the presented Findings and Conditions. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

2. Vic's Landing Duplex Lots Subdivision (MM) PC#2013001; 22-98 Dewey Placer Drive  
Mr. Mosher presented a proposal to resubdivide Tract 2 of Vic's Landing First Amendment Condominium Map (Reception #891469) into seven saleable lots. The use and density associated with this tract remain the same as the approved Vic's Landing Development (PC#2005104) for twelve duplexes.

This application has been advertised as a combined Preliminary and Final Hearing. Staff believes all of the issues relating to this subdivision have been adequately addressed. Staff recommended the Vic's Landing Second Amended Subdivision, PC#2013001, be approved with the presented Findings and Conditions.

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

*Commissioner Questions / Comments:*  
Mr. Pringle: When this was approved weren't the duplexes part of the original proposal? Are these open lots for sale?

Mr. Pringle made a motion to approve the Vic's Landing Duplex Lots Subdivision, PC#2013001, 22-98 Dewey Placer Drive, with the presented Findings and Conditions. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

**OTHER MATTERS:**  
None.

**ADJOURNMENT:**  
The meeting was adjourned at 10:20 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.*

### FEBRUARY 2013

Tuesday, February 12, 2013; 3:00/7:30 p.m.	First Meeting of the Month
Friday, February 22, 2013; 8:00-9:00am; Mug Shot Cafe	Coffee Talk
Tuesday, February 26, 2013; 3:00/7:30 p.m.	Second Meeting of the Month

### MARCH 2013

Tuesday, March 12, 2013; 3:00/7:30 p.m.	First Meeting of the Month
Friday, March 8, 2013; 8:00-9:00am; TBD	Coffee Talk
Tuesday, March 26, 2013; 3:00/7:30 p.m.	Second Meeting of the Month

### APRIL 2013

Tuesday, April 9, 2013; 3:00/7:30 p.m.	First Meeting of the Month
Friday, April 19, 2013; 8:00-9:00am; TBD	Coffee Talk
Tuesday, April 23, 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