

## 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 arrived at 7:05pm.  
Gary Gallagher, Town Council Liaison

### APPROVAL OF MINUTES

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

### APPROVAL OF AGENDA

With no changes, the February 19, 2013 Planning Commission meeting agenda was approved unanimously (7-0).

### CONSENT CALENDAR:

1. Swanson Homestead (MGT) PC#2013010; 678 Tiger Road
2. Rocky Mountain Lodge (MGT) PC#2013011; 152 North Woods Drive

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

### WORKSESSIONS:

1. Moving Historic Structures (CN)

Mr. Neubecker presented. Staff last presented on the topic of moving historic structures during the Planning Commission meeting of January 2, 2013. At that time, Staff heard support for the following changes:

- Moving historic structures to another lot should be allowed by variance only.
- Moving historic structures should require restoration and preservation of the structure.
- Points for primary and secondary structures should be allocated separately, but no more than +15 points should be possible for restoration of a primary and secondary structure combined.

There was no consensus on requiring both a variance and assigning negative points for moving a historic structure to another lot. A modified policy on moving historic structures was presented. The key changes to the policy from January 2<sup>nd</sup> included:

- Require restoration / preservation for any structure that is moved.
- Reducing the negative point allocations for moving historic secondary structures (on-site) to a maximum of negative three (-3) points. (Previously negative five (-5) points were possible.)
- Separating the positive points for restoring historic primary and secondary structures (on-site).
- Reducing the positive point increments for restoring primary structures, with a maximum of +12 points.
- Positive points for restoring secondary structures allowed up to +3 points.
- Clarifying that the points are allocated per Development Permit. (Example: If there are 2 primary structures on site, and both are approved under the same permit, the points are assigned only once. Similarly, negative points are allocated only once.)
- Changing the word “site” to “lot” to clarify that structures should remain on their existing legal parcel.

Staff believed that these changes meet the goals of the Commission; however, Staff welcomed Commission input and questions. After this meeting, Staff would like to take this item to Town Council and begin the

ordinance process.

*Commissioner Questions / Comments:*

- Mr. Mamula: Are we thinking now that if you don't have a secondary structure that you are probably only going to get +9 points now, since +12 points seem to be... Are we limiting people who don't have a secondary structure? Under B1 of the proposed policy we have language about moving structures being prohibited, but in Moving Historic Structures, it is ok. (Mr. Neubecker: The intent was that we prohibit it with an absolute policy, and if it gets approved with a variance they would still get the negative 15 points.) What keeps somebody from demolishing? (Mr. Neubecker: It would violate historic code and lower the rating of the structures, which violates and Absolute policy ; there is a possibility for demolition if there is no other option for saving it, or moving it, or restoring it.)
- Mr. Pringle: I have to agree with Mr. Mamula; it seems like there is a big difference in getting the +6 points and the +9 points; I wasn't quite sure what had changed there. I also agreed with Mr. Mamula about the fuzzy language about demolishing and wondered whether someone could get a limited number of points if they don't have a secondary structure. (Mr. Neubecker: Most of the properties that we have seen have secondary structures on them; most of these are restoring both primary and secondary structures. In order to make this more flexible, it might make sense to separate them out.) I can understand the concern.
- Ms. Dudney: As I remember it, we had applications come in where there were no positive points for the secondary structure and there were for the primary, and we gave you advice to separate them out. But you raised rightly the possibility of incorrectly assessing points. At the last meeting, Mr. Pringle recognized that and you said maybe it should just be more subjective.
- Mr. Pringle: If you're going to move it, preserve it. But it's so complicated now, I can hardly recognize it.
- Ms. Dudney: The Staff felt like there were too many positive points for the primary; the max you can get is +6 points now.
- Mr. Pringle: What if you preserved the project as it was originally, and you got +15 points for the primary and there was a secondary structure restored as well perfectly, all you would get is a pat on the back. (Mr. Neubecker: There are ways that you can get negative points even though you are doing a perfect restoration on a property; change of use, etc.) But would changing the use be allowed? (Mr. Neubecker: Yes. It's a relative policy.) Do we feel that the Barney Ford Museum is a wonderful preservation effort? It's not the same use as it was when it was originally constructed. (Mr. Neubecker: You could potentially get some uses or see impacts that would negatively affect the point assessment.) You're right, but our code only addresses the exterior. The concern with too many positive points if it doesn't relate well to other policies in the code is that they can be used to offset other points. (Mr. Grosshuesch: If someone is going to get +12, it will be a museum; we maybe need to ratchet this back into something that we are more likely to see. If you get a lot of positive points we won't have the flexibility anymore in the other relative policies (like setbacks and building heights etc). We can score these however you want; we wanted to recognize the need for separate point analyses for secondary and primary structures. If you left it the way it is, you would be flooding the point analysis with more positive points. The assumption is that there will be a secondary structure on every project you see which we know is not the case.) With your first assertion, that's the beauty of the code. I think people have had to fight for every point that they received. I go back to my premise, if we left the code alone and if they want to move a secondary structure on the lot, there would be no negative points given and they have to preserve it.
- Mr. Mamula: My question was more about a precedent going forward; something we used to give +12 for, we now give +9.

- Ms. Dudney: I agree with you, Mr. Mamula. (Mr. Neubecker: We are taking out the requirement of the secondary structure for the positive points. It's no longer in the requirement for +12 points)
- Mr. Mamula: If you don't have a secondary structure it doesn't matter to you anyway. If you just want to fix up your house, and your capability is only +9 because you don't have one, that's my point. (Mr. Grosshuesch: We just added another way to get more points through the energy conservation policy.)
- Ms. Dudney: One other factor: in all of the applications that we have seen, people have moved that secondary structure which achieves negative points. I worry that there may be unintended consequences. I don't mind eliminating the +15, but I do mind only having +6; I'm afraid that our prior applications wouldn't have passed. (Mr. Neubecker: The quickest way to get a project approved is to not accumulate negative points.) (Mr. Grosshuesch: Keep in mind, you only have to get to zero to pass a point analysis; so far we haven't denied anyone; it isn't like there aren't enough ways to accumulate positive points. When you get into +12 and +15 points, that is a rich opportunity to earn positive points.)
- Mr. Schroder: Great discussion but it seems right to me; I like the way the whole lot would be looked at collectively. Ultimately I think that the Staff has done a good job of blending the two and they made it work. Now we have one policy for a lot in the Historic District, which was part of our prior discussion. If you don't have a secondary structure on your property, that's what you have to work with and this isn't relevant, so I think it works.
- Mr. Lamb: I think it works; my opinion is that we have over-rewarded for positive points in the past and we are never going to write an ordinance that will take everything into consideration.
- Mr. Butler: I can live with it too, I think that our prior applications were accumulating negative points for building on the property line, etc, and they renovated it to eliminate the negative points. We should still be discouraging changing the orientation; our intent should be to remind people of historically what was here in Breckenridge.
- Ms. Christopher: At first glance the points are a little confusing but we've talked about it and I've got a handle on it; I think that the applicants are not going to move without some sort of positive points; the way Staff has it, it encourages historic preservation.
- Ms. Dudney: Four of the commissioners like this as written; I would make the modification that you could get +9 points even with an addition.
- Mr. Mamula: I don't know that I would change anything. I'm on the fence. My concern is that it is not enough points to get someone to do a good job. If people are still going to renovate and make it livable and it is worth the money to buy it, put in a basement, then I'm okay with this. Once we start hearing that people can't make it work with this point system, then we should fine tune it, I'm fine with this and interested to see where we go.
- Mr. Pringle: I still think we should have left this with the original point analysis. It's too complicated now.
- Mr. Gallagher: On the one hand I can understand that not awarding enough points to encourage a great restoration and on the other hand it causes the Applicant to go back and forth with Staff. I'm okay with the points; it bothers me to penalize the addition. The Council wanted to encourage 'life' activity, and that would be the only place we are penalizing too much. But we shall see. The proof is in the pudding.

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

The Commission was in agreement the policy was ready to move forward to Town Council for adoption of a formal ordinance.

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

Mr. Gallagher:

Firstly, next Tuesday at Council, we will have a public comment session regarding the McCain property. It will be at 6:00pm for people to make known their thoughts. Secondly, for over 10 months now, there has been a landfill task force meeting trying to get their hands around a funding discussion with respect to landfill/recycle. Right now the County has to subsidize it and the County is leaning towards a real estate tax on the ballot. Council was brought up to date and we discussed it and Council asked Wendy Wolf to go back to the Landfill Task Force to let them know the Council is not in favor of a real estate tax because the value of one's home has nothing to do with trash or recycling that you are going to generate. We would prefer a "pay as you throw", as opposed to laying it on real estate tax. More things are going to be driven down to the local level, and we will see more of this.

Regarding the rodeo, Council extended from 5 weekends to 11 weekends. The promoter requested if he could bring livestock on a Friday afternoon; Council agreed. Promoter asked for two additional bull riding events (in July and around Labor Day); Council agreed. Promoter asked for a Children's rodeo from 12-2pm on Saturdays. Council felt that having two events on same day wasn't fair to the people who live and work along Airport Road (due to the increased traffic). However, if he could do a children's program just prior to the adult program, we would be open minded to that scenario. Council also decided we really need another venue for the rodeo. In 2014 if the rodeo business model continues to be successful, we need to locate this somewhere on the McCain property.

#### **COMBINED HEARINGS:**

1. Peak 7 and 8 Master Plan 5<sup>th</sup> Amendment (MM) PC#2013006; Ski Hill Road

Mr. Neubecker presented on behalf of Mr. Mosher. Pursuant to the terms of the approved Development Agreement between the Town of Breckenridge, Vail Summit Resorts, Inc. (VSRI) and Peak 8 Properties, LLC ("Properties") VSRI proposes to modify the Amended Peak 7 & 8 Master Plan with the following:

- Residential density at Peak 8 is to be increased by 11.5 SFEs
- Commercial density at Peak 8 is to be increase by 5.0 SFEs
- The definition of Guest Services Facilities is to be amended
- The amenities multiplier allowed in Section 9-1-19:24 of the Development Code is to be increased for the Master Plan from 200% to 600%
- The parking required for the residential units in the Peak 8 Properties development (PC#2012075) may be reduced from that required by the Town's Off-Street Parking Regulations and the Parking Study for Breckenridge Ski Resort Amended Peaks 7 & 8 Master Plan dated August 1, 2001

*And for clarification to the Master Plan Notes:*

- The description of the heights of buildings is to be revised to make it clearer that the LUD 39 heights are recommended and not absolute.

To date there have been four previous amendments to the Peak 7 & 8 Master Plan. In summary:

- 2000155 – The major amendment to the old 1984 original Breckenridge Ski Resort Master Plan (which was also amended in 1986).
- 2005105 – Modify the 2000155 amendment to transfer 48 Single Family Equivalent (SFEs) of density to Peak 7 (41.5 residential SFEs and 6.5 commercial SFEs). Also a reallocation of 9 SFEs of Skier Services density from Peak 7 to Peak 8.
- 2006131 – Modify to the 2005105 amendment to convert 2.0 SFEs of commercial density to 2.0 SFEs of residential density.
- 2008033 – Modify the 2006131 amendment to purchase 2.80 Single Family Equivalent (SFEs) from the TDR program and place them within the Peak 7 Master Plan area. The density was used at the Grand Lodge on Peak 7 to convert the existing employee housing units into market-rate units. (The required employee housing was relocated per the Code requirements.)

There have also been several Density Transfer Agreements and Development Agreements related to the Master Plan.

Portions of this proposal are related to the active development review for the Breckenridge Grand Vacations Lodge at Peak 8 (PC# 2012075). The last public hearing for that development was heard by the Planning Commission on December 4, 2012.

This master plan amendment is essentially a housekeeping matter to reflect changes already approved by the Development Agreement between the Town, VSRI, and Peak 8 Properties, LLC. There are no substantive changes to the master site plan, architectural character or circulation. This amendment will simply clarify on the plan the density transfers, amenity bonus and parking issues approved in the Development Agreement. As part of this amendment, a clarification is also proposed to the master plan language on height measurement.

Pursuant to the terms of the Development Agreement among the Town, Vail Summit Resorts, Inc. ("VSRI"), and Peak 8 Properties, LLC ("Properties") dated August 14, 2012 and recorded January 8, 2013 at Reception No. 1013548, Summit County, Colorado, VSRI proposes the following amendments to the Peaks 7 & 8 Master Plan:

1. Residential density is to be increased by 11.5 SFEs to accommodate the larger size units that are proposed with the Grand Vacations Lodge at Peak 8 (PC# 2012075).
2. Commercial density is to be increased by 5.0 SFEs to accommodate a small restaurant (approximately 1,500 square feet), a spa (approximately 3,000 square feet) and a sundries store (approximately 500 square feet) that are proposed with the Grand Vacations Lodge at Peak 8 (PC# 2012075).
  - a. The additional 16.5 SFEs (11.5 residential and 5 commercial) that are proposed to be added to the density may only be allowed after a development permit for a project including such density is approved and the density is provided from transferable development rights (TDR) pursuant to the Intergovernmental Agreement between the Town and Summit County.
3. The definition of Guest Services Facilities is to be amended, first, to delete lockers for employees, restrooms, storage areas not used for recreational equipment for sale or rent, and lift and lift personnel facilities and, second, to provide for those four categories of uses to be defined as "Support Facilities" and for Support Facilities not to be assessed against density or mass provided that the Support Facilities areas are legally guaranteed to be used only for those limited uses and do not exceed 17,594 square feet.
4. The amenities multiplier allowed in section 9-1-19:24 of the Development Code is to be increased for the Peak 8 portion of the Master Plan from 200% to 600%.
5. The parking required for each unit for the Grand Vacations Lodge at Peak 8 (PC# 2012075) may be reduced from the one space per unit to 0.77 spaces per unit. (This has been factually supported by a written analysis prepared by a qualified parking consultant (Felsburg, Holt, and Ullevig) as required by the Development Agreement.)
6. For clarification only, the description of the heights of buildings is to be revised to make it clearer that the LUD 39 heights are recommended and not absolute height limitations, grade is to be measured from proposed grade (with more detailed description) and that the provisions of the Development Code in effect in 2003 providing for negative points to be assessed for heights in excess of the heights provided for in the applicable LUD apply to the approval of buildings proposed within the Master Plan area.

Staff views this application as fulfilling the conditions of the 2012 Development Agreement between the Town of Breckenridge, Vail Summit Resorts, Inc., and Peak 8 Properties, LLC. It also provides an opportunity to add detail to the methods of review and point assessment for measuring building height in the Master Plan notes. Staff welcomed any additional comments.

*Commissioner Questions / Comments:*

- Ms. Dudney: On Page 48; do I understand correctly that there were Master Plans in 94, 96, 05, 06, 08 and 2012; this is going all of the way back to 1994? (Mr. Neubecker: The plans in 1994/96 were completely different than our current Master Plans. This was the plan prior to Vail Resorts owning the ski resorts. The town and Vail Resorts agreed that we didn't want to see that project built. Gross violation of new wetlands understandings, which was why from 2000-03, we redesigned the Master Plan. The 05, 06, 08 were virtually identical to those, with some changes to density.)
- Mr. Pringle: There are elements that are specific to Grand Vacation Lodge and then some to the whole Peak 8 base. (Mr. Neubecker: Only the Peak 8 base is what we are considering tonight, except for the transfer of the density going to that site.)

Applicant Presentation: Randy May, Vail Resorts Development Company (VRDC):

As Mr. Neubecker indicated, the changes to the Master Plan that we are looking at tonight are related to the Development Agreement approved by Town Council. While there is some overlap into the Grand Vacation Project, it is appropriate to keep my comments associated with the Amendment that you are looking at tonight. There are six items tonight including density increases, change in the amount of square footage per unit, guest services, clarifications of methodology in measuring heights, for those three buildings and going back to the 2003 Master Plan, which took 6 ½ years to accomplish. Very little else is being changed to the Master Plan. There is no change in the height requirements. The parking is strictly with the project being proposed and that's related to the parking study accomplished and submitted to the Town. There have been two or three fit tests associated with Master Plan Amendments in the past that showed proposed locations uses and heights of buildings. As time goes on, all of those items in the fit test need to be adjusted to market demands and Breckenridge Ski Area operations are changing with the guests wants and needs. During the time required to build out Peak 8, there will be changes and there will be Amendments. In 2003 there were some basic agreements that everyone bought into. There was going to be major development, there would be large buildings and we need to bring our ski facilities up to what the public was demanding. As we go along and develop, those are the types of things we are trying to accommodate. As demands change, those facilities are going to change; however, the basic agreements are still in place. There has been a lot of information out there about both the Master Plan Amendment and the proposed Grand Vacations Project. A lot of the information has some erroneous information being distributed. I think we are happy to answer questions associated with that information but the Master Plan that we are looking at this evening is pretty straightforward. We are trying to incorporate our prior agreements into the Master Plan.

*Commissioner Questions / Comments:*

- Ms. Dudney: In the transfer of the 11.5 SFEs to Grand Vacation, I didn't see anything in the language that it was just going to be larger units. Can you use these SFEs however you wish? (Mr. May: Those are specific to that site and that development typically looks at 1,350 square feet, which is more than what Vail Resorts have looked at in the past. That increase in density is associated with that development and associated with that project specifically. I will tell you, previous Master Plans fit test on that site had about the same number of units just less square footage than what is being proposed in that development. The last fit test that was done, there were some estimates of the height of those buildings. We've probably done 15 or 20 of those fit tests.)
- Mr. Pringle: Is this Development Agreement with Vail Resorts or Breckenridge Grand Vacations? (Mr. May: Both.) If Breckenridge Grand Vacations decides to not pursue this, does the development agreement go forward? (Mr. Stephen C. West, West, Brown, Huntley & Hunter, P.C.: I think that they would stay in place, but would be hard to use because the density transfer refers back to the development agreement and is contingent upon a building permit on a site being issued by the Planning Commission. Mr. May referred to some of the information out there; the changes to the height in here, looking back at the way we wrote

and the way we approved the height restriction left some room for confusion, so we came up with some clarification language. The buildings were always going to be taller than the 5 story height.)

Ms. Dudney opened the hearing to public comment.

Roger Koenig, One Ski Hill Place  
Prepared statement:

Issues regarding Master Plan: I request that my written comments be included in the minutes of this meeting. This meeting is a public hearing called in compliance with the Breckenridge Town Code. “Prior to adoption of this plan, the Town Council shall hold a hearing.”

These comments are addressed to the Town Council: As we know, Town Council has the sole authority to adopt Master Plan Amendments. Please accept the letter attached to this written statement and the email correspondence between Chris Neubecker and myself. It is a plain English summary of the Peak 7 and Peak 8 Amendment. Clearly the building proposal counts 7 stories as shown on the December 4<sup>th</sup> east elevation view; unfortunately I could not find any such summary into tonight’s package. I respect that Town Council not accept these changes in this public hearing. It will far exceed our acceptable densities, parking, etc. This is against 2005 Master Plan; I see no reason for Council to vote against its citizens. The limits of 2005 Master Plan should not be violated.

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

*Commissioner Questions / Comments:*

Mr. Lamb: Is the Development Agreement a legally binding document? We are just cleaning up the language? (Mr. Neubecker: You could call it that; it still requires that the Master Plan be changed. When the Council reviews an agreement they do not do a point analysis. It is up to the Planning Commission to do point analysis. On March 5<sup>th</sup>, our meeting will deal with architectural standards for the Peak 8 Breckenridge Grand Vacations building. At that time this project needs to pass on its own merit for point analysis.)

Mr. Schroder: The code 6/R is building height; it is a relative policy. If we were to exceed 5 stories up to 7 stories and obtain negative 20 points which could be remedied with positive points from other elements in the project.

Mr. Mamula: I did not expect anyone to be here tonight; we assumed that this (development proposal) would happen. Council has made their decision on the density transfer, 600% amenities increase, so there is nothing in here that is shocking to me. The real discussion is at site specific permitting, which is when we decide if this stuff even fits. I don’t see that we have any leeway other than to vote yes, being a quasi-judicial body like we are.

Mr. Lamb: I agree with what Mr. Mamula said.

Mr. Pringle: Mr. May is right; this is where the Town intended to put large buildings. Hopefully no one is too surprised by this, there will be many flexible changes that will be approved or applied for over time through the Master Plan and other buildings coming along. Thank you very much for attending. The real meeting will be coming in the future. This is a housekeeping effort on our part.

Mr. Pringle made a motion to approve the Point Analysis for the Peak 7 & 8 5<sup>th</sup> Amended Master Plan, PC#2013006, Ski Hill Road. Ms. Christopher seconded, and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Peak 7 & 8 5<sup>th</sup> Amended Master Plan, PC#2013006, Ski Hill Road. Ms. Christopher seconded, and the motion was carried unanimously (7-0).

**PRELIMINARY HEARINGS:**

1. Maggie Point Homes (MM) PC#2013004; 9523 Highway 9 (*Withdrawn at the request of the Applicant.*)

**OTHER MATTERS:**

Mr. Mamula: A citizen asked me about a new home building across from Little Red Schoolhouse, and the dark sky policy and what the issue with the lighting. I haven't paid attention to it at night. (Mr. Neubecker: We believe the fixtures do meet the dark sky policy. There is a solid fixture containing the light source, and there is a glass element that is lower than the fixture; the light is contained within a solid piece and that is the element that needs to meet the code. The light has to be contained above in a horizontal plane through which the light passes, and it is.)

**ADJOURNMENT:**

The meeting was adjourned at 8:37 p.m.

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Gretchen Dudney, Chair