



BRECKENRIDGE TOWN COUNCIL REGULAR MEETING

Tuesday, May 14, 2013; 7:30 PM

Town Hall Auditorium

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

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	C. BRC (MR. BURKE)	
	D. MARKETING COMMITTEE (MS. WOLFE)	
	E. SUMMIT COMBINED HOUSING AUTHORITY (MR. DUDICK)	
	F. BRECKENRIDGE HERITAGE ALLIANCE (MR. DUDICK)	
	G. WATER TASK FORCE (MR. GALLAGHER)	
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*Report of the Town Manager, Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item.

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CALL TO ORDER, ROLL CALL

Mayor Warner called the meeting of April 23, 2013 to order at 7:30pm. The following members answered roll call: Mr. Gallagher, Ms. McAtamney, Ms. Wolfe, Mr. Brewer, Mr. Burke and Mayor Warner. Mr. Dudick was absent.

APPROVAL OF MINUTES - APRIL 9, 2013

With no changes or corrections to the meeting minutes of April 9, 2013, Mayor Warner declared they would stand approved as submitted.

APPROVAL OF AGENDA

Mr. Tim Gagen, Town Manager, reported there were no changes to the agenda. Mayor Warner declared the agenda would stand approved as submitted.

COMMUNICATIONS TO COUNCIL

- A. Citizen's Comment - (Non-Agenda Items ONLY: 3-minute limit please)
Mayor Warner opened public comment.

Gary Martinez, Board Member of the Breckenridge Festival of Film, gave an update to Council about the 2013 Film Festival. Mr. Martinez introduced the new Executive Director, Janice Kurbjun, for the Festival of Film, and thanked Council for its support.

With no further comments Citizen's Comments was closed.

- B. Breckenridge Resort Chamber Update
John McMahon, Executive Director of the Breckenridge Resort Chamber, updated Council on summer lodging bookings pacing, a new summer marketing campaign, the winter market share gain, the 2013 outhouse races moving to North Main Street, the growth of Oktoberfest, and Mountain Travel Symposium coming to Breckenridge next year.

CONTINUED BUSINESS

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

NEW BUSINESS

- A. First Reading of Council Bills, Series 2013
1. COUNCIL BILL NO. 11, SERIES 2013 - AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE (Wakefield Property, Phase 1 - 5.179 acres)
Mayor Warner read the title into the minutes. Mr. Berry stated this ordinance would annex part of the Town-owned Wakefield property.

Mr. Gallagher moved to approve COUNCIL BILL NO. 11, SERIES 2013 - AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE (Wakefield Property, Phase 1 - 5.179 acres). Ms. McAtamney seconded the motion.
The motion passed 6-0. Mr. Dudick was absent.

2. COUNCIL BILL NO. 12, SERIES 2013 - AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE (Wakefield Property, Phase II - 12.307 acres)
Mayor Warner read the title into the minutes. Mr. Berry stated this is the second part of the Wakefield property scheduled for annexation.

Mr. Brewer moved to approve COUNCIL BILL NO. 12, SERIES 2013 - AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE (Wakefield Property, Phase II - 12.307 acres). Ms. Wolfe seconded the motion.
The motion passed 6-0. Mr. Dudick was absent.

3. COUNCIL BILL NO. 13, SERIES 2013 - AN ORDINANCE APPROVING A LEASE WITH OPTION TO PURCHASE WITH THE BRECKENRIDGE OUTDOOR EDUCATION CENTER, A COLORADO NON-PROFIT CORPORATION (524 Wellington Road)

Mayor Warner read the title into the minutes. Mr. Gagen stated this ordinance would approve a new lease with the BOEC. He further stated the new agreement extends the lease and gives the option to purchase.

Ms. McAtamney moved to approve COUNCIL BILL NO. 13, SERIES 2013 - AN ORDINANCE APPROVING A LEASE WITH OPTION TO PURCHASE WITH THE BRECKENRIDGE OUTDOOR EDUCATION CENTER, A COLORADO NON-PROFIT CORPORATION (524 Wellington Road). Mr. Gallagher seconded the motion.
The motion passed 6-0. Mr. Dudick was absent.

4. COUNCIL BILL NO. 14 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE" CONCERNING MOVING HISTORIC STRUCTURES

Mayor Warner read the title into the minutes. Mr. Berry stated this ordinance amends the Town's policy regarding moving historic structures.

Mr. Gallagher moved to approve COUNCIL BILL NO. 14 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE" CONCERNING MOVING HISTORIC STRUCTURES. Mr. Burke seconded the motion.

The motion passed 6-0. Mr. Dudick was absent.

B. Resolutions, Series 2013

1. A RESOLUTION APPROVING A GRANT AGREEMENT WITH THE STATE OF COLORADO ACTING BY AND THROUGH THE STATE HISTORICAL SOCIETY (National Register Nomination for Valley Brook Cemetery)

Mayor Warner read the title into the minutes. Mr. Berry stated that in order for the Town to be awarded a grant through the State Historical Society, the Town is required to pass a resolution to approve a grant agreement.

Ms. McAtamney moved to approve A RESOLUTION APPROVING A GRANT AGREEMENT WITH THE STATE OF COLORADO ACTING BY AND THROUGH THE STATE HISTORICAL SOCIETY (National Register Nomination for Valley Brook Cemetery). Ms. Wolfe seconded the motion.

The motion passed 6-0. Mr. Dudick was absent.

C. Other

PLANNING MATTERS

A. Planning Commission Decisions

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

B. Planning Commission Report (Ms. McAtamney)

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Ms. McAtamney stated there was no report.

- C. Class D Permit Renewals - Business on Town Streets (2 renewals: Horse & Carriage and Bike Bus)

Mr. Gagen explained this is part of the new call-up procedure and the vote by Council is intended to approve the project.
All Council Members voted in favor to approve the Class D Permit Renewal - Business on Town Streets, Horse & Carriage.
All Council Members voted in favor to approve the Class D Permit Renewal - Business on Town Streets, Bike Bus.

- D. Town Project - Breckenridge Arts District

All Council Members voted in favor to approve the Town Project - Breckenridge Arts District.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen stated in Iceland there are geothermal pools as part of outdoor aquatic centers. He further stated it might be interesting to look into geothermal pools for Recreation Center improvements.

REPORT OF MAYOR AND COUNCILMEMBERS

- A. Cast/MMC (Mayor Warner)
Mayor Warner stated there was no report.
- B. Breckenridge Open Space Advisory Committee (Mr. Brewer)
Mr. Brewer stated he sent an update via email regarding winter access gates on County roads. The County is anticipating some pushback from certain user groups as a result of enforcement of current winter restrictions by use of the gates.
- C. BRC (Mr. Burke)
Mr. Burke stated there was no report.
- D. Marketing Committee (Ms. Wolfe)
Ms. Wolfe stated there was no report.
- E. Summit Combined Housing Authority (Mr. Dudick)
Mr. Dudick was not present for a report.
- F. Breckenridge Heritage Alliance (Mr. Dudick)
Mr. Dudick was not present for a report.
- G. Water Task Force (Mr. Gallagher)
Mr. Gallagher stated the engineers and consultants are continuing to work on this project.
- H. Landfill Task Force (Ms. Wolfe)
Ms. Wolfe stated there was no report.
- I. Public Art Commission (Mr. Gallagher)
Mr. Gallagher stated there was no report.

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OTHER MATTERS

Ms. Wolfe stated the Harris Street Building/Heritage Alliance received a grant for \$100,000 from Climax Molybdenum. Ms. Wolfe further explained some of the fundraising strategies for the project and the intent for community use.

Mr. Gagen stated the Department of Local Affairs grant, for which the Harris Street Building has applied, will be awarded either this spring or in the fall.

Mr. Brewer asked about the technical upgrades to the Riverwalk Center and how they might impact the Film Festival.

Ms. McAtamney referenced a recent childcare article in the Summit Daily News.

Ms. McAtamney presented the Julia Butterfly Hill Individual Achievement Award to the Town Council and the Sustainable Business Task Force on behalf of the High Country Conservation Association in response to the Disposable Bag Fee Ordinance that was recently passed.

Mayor Warner stated the Colorado Municipal League conference is June 19-21, the National Repertory Organization Gala is June 21, and the Breckenridge Music Festival Gala is July 26.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 8:30pm. Submitted by Helen Cospolich, Town Clerk, Municipal Services.

ATTEST:

John Warner, Mayor

MEMO

To: Breckenridge Town Council

From: Laurie Best-Community Development Department

Date: May 7, 2013 (for May 14th meeting)

Re: AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE
CERTAIN REAL PROPERTY OWNED BY THE TOWN OF
BRECKENRIDGE (Wakefield Property, Phase I - 5.179 acres)
and
AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE
CERTAIN REAL PROPERTY OWNED BY THE TOWN OF
BRECKENRIDGE (Wakefield Property, Phase II-12.307 acres)

On April 23, 2013 the Town approved the first reading of these two Ordinances to annex the Town-owned Wakefield property. These Ordinances are scheduled for second reading on May 14th. There has been one minor change to the Phase I Ordinance to correct a typo in the legal description (see page 3 line 16). The correct version is attached to this memo and included in your packet. It is important to consider these Ordinance in the correct sequence as the Phase I annexation creates the contiguity that is necessary for the Phase II annexation. Staff supports annexation of the property and recommends approval of the Ordinances as presented. Staff will be available on May 14th to answer any questions.

1 ***FOR WORKSESSION/SECOND READING – MAY 14***

2
3 Additions To The Ordinance As Approved on First Reading Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. 11

7
8 SERIES 2013

9
10 AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL
11 PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE
12 (Wakefield Property, Phase I - 5.179 acres)

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

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

19
20 WHEREAS, Section 31-12-106(3), C.R.S., provides that a municipality may annex by
21 ordinance municipally-owned real property without notice and hearing upon the determination
22 that the property is eligible for annexation under Section 30(1)(c) of Article II of the Colorado
23 Constitution, and Sections 31-12-104(1)(a) and 31-12-105 of the “Municipal Annexation Act of
24 1965”, Part 1 of Article 12 of Title 31, C.R.S.; and

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

28
29 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
30 BRECKENRIDGE, COLORADO:

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

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

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

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

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

13 A PART OF GOVERNMENT LOT 68, LOCATED IN THE SOUTHWEST
14 QUARTER OF SECTION 5, TOWNSHIP 7 SOUTH RANGE 77 WEST OF
15 THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO,
16 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

17 COMMENCING AT CORNER 19 OF THE LIZZIE LODGE M.S. 6349,
18 COMMON WITH CORNER 54 OF THE T.H. FULLER PLACER M.S. 86,
19 BEING ALSO AN ANGLE POINT IN THE SOUTHERLY LINE OF LOT 6,
20 BROOKS HILL SUBDIVISION AS DEPICTED ON THE PLAT THEREOF
21 RECORDED SEPTEMBER 19, 1986 AT RECEPTION NUMBER 324524,
22 SUMMIT COUNTY , COLORADO;

23 THENCE S 38°43'00" W, 112.62 FEET ALONG THE 19-20 LINE OF SAID
24 LIZZIE LODGE M.S. 6349 TO THE WESTERNMOST POINT OF THAT
25 TRACT OF LAND, A PART OF GOVERNMENT LOT 68, DESCRIBED AS
26 PARCEL 6 ON THAT INTERCHANGE DEED RECORDED APRIL 25, 1986
27 AT RECEPTION NUMBER 316179 WHICH POINT IS THE POINT OF
28 BEGINNING;

29 THENCE ALONG THE SOUTHERLY BOUNDARY OF THAT SAID
30 PARCEL 6 FOR THE FOLLOWING ELEVEN COURSES:

- 31 1) 90.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING
32 A CENTRAL ANGLE OF 18°56'22", A RADIUS OF 272.59 FEET AND A
33 CHORD WHICH BEARS S 17°10'16" E, 89.70 FEET;
- 34 2) S 07°42'06" E, 172.81 FEET;
- 35 3) N 82°17'54" E, 10.00 FEET;
- 36 4) S 07°42'06" E, 85.41 FEET;
- 37 5) 99.31 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A
38 CENTRAL ANGLE OF 21°53'06", A RADIUS OF 260.00 FEET AND A
39 CHORD WHICH BEARS S 18°38'43" E, 98.71 FEET;
- 40
- 41
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- 45

1 6) N 60°24'47" E, 10.00 FEET;
2 7) 83.33 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A
3 CENTRAL ANGLE OF 19°05'54", A RADIUS OF 250.00 FEET AND A
4 CHORD WHICH BEARS S 39°08'11" E, 82.95 FEET;
5 8) N 41°18'52" E, 20.00 FEET;
6 9) 115.00 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A
7 CENTRAL ANGLE OF 28°38'51", A RADIUS OF 230.00 FEET AND A
8 CHORD WHICH BEARS S 63°00'36" E, 113.81 FEET;
9 10) S 12°39'57" W, 20.00 FEET;
10 11) 249.93 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING
11 A CENTRAL ANGLE OF 57°16'43", A RADIUS OF 250.00 FEET AND A
12 CHORD WHICH BEARS N 74°01'35" E, 239.65 FEET TO A POINT ON THE
13 6-5 LINE OF THE LITTLE CALLY LODE M.S. 5654;

14
15 THENCE S 17°48'36" W, 330.87 FEET ALONG THE 6-5 LINE OF SAID
16 LITTLE ~~CALLEY~~ CALLY LODE M.S. 5654 TO THE INTERSECTION WITH
17 THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654;

18
19 THENCE S 48°02'00" W, 527.33 FEET ALONG THE 12-11 LINE OF THE
20 HANNIBAL & ST. JOE LODE M.S. 5654 TO THE INTERSECTION WITH
21 THE SECTION LINE BETWEEN SECTIONS 5 AND 6, TOWNSHIP 7
22 SOUTH, RANGE 77 WEST of the 6th PRINCIPAL MERIDIAN;

23
24 THENCE N 00°50'00" W, 1144.02 FEET ALONG SAID SECTION LINE
25 BETWEEN SECTIONS 5 AND 6, BEING ALSO THE WESTERN
26 BOUNDARY OF GOVERNMENT LOT 68, TO THE INTERSECTION WITH
27 THE 20-19 LINE OF SAID LIZZIE LODE M.S. 6349;

28
29 THENCE N 38°43'00" E, 9.11 FEET ALONG THE 20-19 LINE OF THE
30 LIZZIE LODE TO THE POINT OF BEGINNING.

31
32 CONTAINING 225,586 square feet or 5.179 acres more or less

33
34 Section 4. Within thirty (30) days after the effective date of this ordinance, the Town
35 Clerk is authorized and directed to:

- 36
37 A. File one copy of the annexation map with the original of the annexation
38 ordinance in the office of the Town Clerk of the Town of Breckenridge,
39 Colorado; and
40
41 B. File for recording three certified copies of the annexation ordinance and
42 map of the area annexed containing a legal description of such area with
43 the Summit County Clerk and Recorder.
44

45 Section 5. This ordinance shall be published and become effective as provided in Section
46 5.9 of the Breckenridge Town Charter.

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

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich
Town Clerk

ANNEXATION MAP

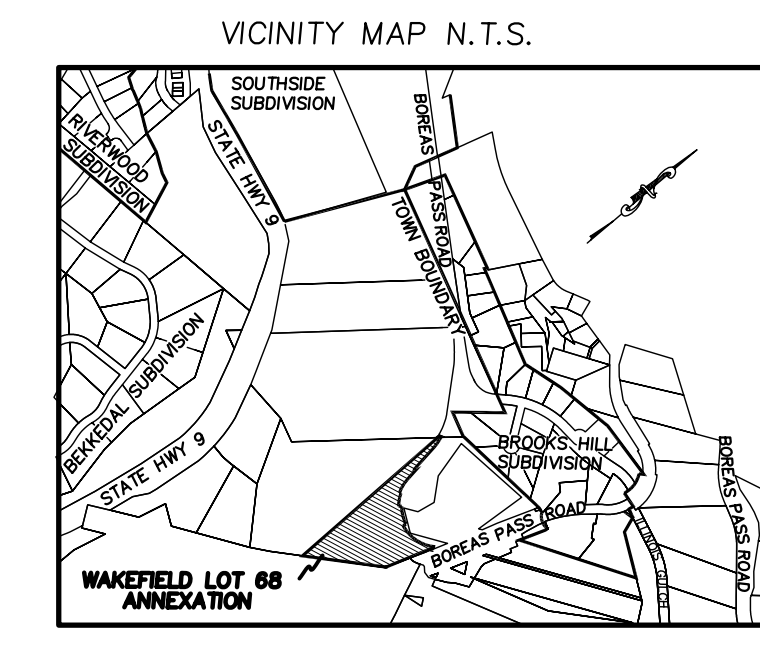
WAKEFIELD PROPERTY, PHASE I

TOWN OF BRECKENRIDGE

A PART OF GOVERNMENT LOT 68

SECTION 5 TOWNSHIP 7 SOUTH RANGE 77 WEST 6th P.M.

SUMMIT COUNTY, COLORADO

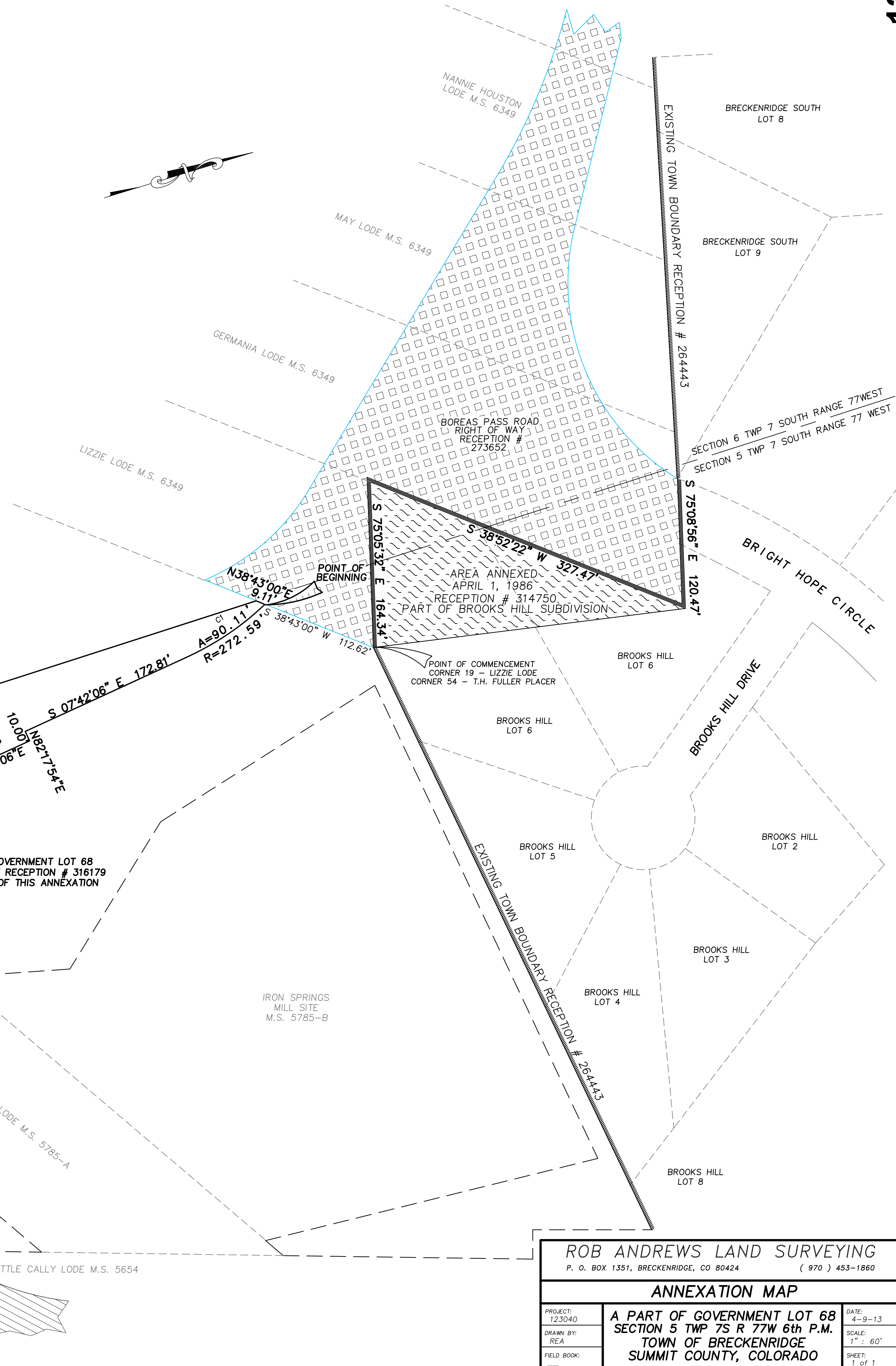


LEGEND FOR LINE TYPE AND HATCH PATTERNS

	LINE TYPE FOR EXISTING TOWN BOUNDARY NOT USED FOR CALCULATION OF CONTIGUITY
	LINE TYPE FOR EXISTING TOWN BOUNDARY USED FOR CALCULATION OF CONTIGUITY
	HATCH PATTERN FOR PORTION OF BROOKS HILL SUBDIVISION ANNEXED APRIL 1, 1986
	HATCH PATTERN FOR BOREAS PASS ROAD RIGHT OF WAY DEFINED AT RECEPTION NUMBER 274382
	HATCH PATTERN FOR BOREAS PASS ROAD RIGHT OF WAY DEFINED AT RECEPTION NUMBER 273652

LEGAL DESCRIPTION

A PART OF GOVERNMENT LOT 68, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT CORNER 19 OF THE LIZZIE LODE M.S. 6349, COMMON WITH CORNER 54 OF THE T.H. FULLER PLACER M.S. 86, BEING ALSO AN ANGLE POINT IN THE SOUTHERLY LINE OF LOT 6, BROOKS HILL SUBDIVISION AS DEPICTED ON THE PLAT THEREOF RECORDED SEPTEMBER 19, 1986 AT RECEPTION NUMBER 324524, SUMMIT COUNTY, COLORADO;
 THENCE S 38°43'00" W, 112.62 FEET ALONG THE 19-20 LINE OF SAID LIZZIE LODE M.S. 6349 TO THE WESTERMOST POINT OF THAT TRACT OF LAND, A PART OF GOVERNMENT LOT 68, DESCRIBED AS PARCEL 6 ON THAT INTERCHANGE DEED RECORDED APRIL 25, 1986 AT RECEPTION NUMBER 316179 WHICH POINT IS THE POINT OF BEGINNING;
 THENCE ALONG THE SOUTHERLY BOUNDARY OF THAT SAID PARCEL 6 FOR THE FOLLOWING ELEVEN COURSES:
 1) 90.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 18°56'22", A RADIUS OF 272.59 FEET AND A CHORD WHICH BEARS S 17°01'01" E, 89.70 FEET;
 2) S 07°42'06" E, 172.81 FEET;
 3) N 82°17'54" E, 10.00 FEET;
 4) S 07°42'06" E, 85.41 FEET;
 5) 99.31 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 21°53'06", A RADIUS OF 260.00 FEET AND A CHORD WHICH BEARS S 18°38'43" E, 98.71 FEET;
 6) N 60°24'47" E, 10.00 FEET;
 7) 83.33 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 19°05'54", A RADIUS OF 250.00 FEET AND A CHORD WHICH BEARS S 39°08'11" E, 82.95 FEET;
 8) N 41°18'52" E, 20.00 FEET;
 9) 115.00 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 28°38'51", A RADIUS OF 230.00 FEET AND A CHORD WHICH BEARS S 63°00'36" E, 113.81 FEET;
 10) S 12°39'57" W, 20.00 FEET;
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 THENCE S 17°48'36" W, 330.87 FEET ALONG THE 6-5 LINE OF SAID LITTLE CALLY LODE M.S. 5654 TO THE INTERSECTION WITH THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654;
 THENCE S 48°02'00" W, 527.33 FEET ALONG THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654 TO THE INTERSECTION WITH THE SECTION LINE BETWEEN SECTIONS 5 AND 6, TOWNSHIP 7 SOUTH, RANGE 77 WEST OF THE 6th PRINCIPAL MERIDIAN;
 THENCE N 00°50'00" W, 1144.02 FEET ALONG SAID SECTION LINE BETWEEN SECTIONS 5 AND 6, BEING ALSO THE WESTERN BOUNDARY OF GOVERNMENT LOT 68, TO THE INTERSECTION WITH THE 20-19 LINE OF SAID LIZZIE LODE M.S. 6349;
 THENCE N 38°43'00" E, 9.11 FEET ALONG THE 20-19 LINE OF THE LIZZIE LODE TO THE POINT OF BEGINNING.
 CONTAINING 225,586 square feet or 5.179 acres more or less



WAKEFIELD PROPERTY, PHASE I
 A PART OF GOVERNMENT LOT 68
 SECTION 5 TOWNSHIP 7 SOUTH RANGE 77 WEST 6th P.M.
 612.28' = EXISTING CONTIGUITY
 3,673.7' = MAXIMUM LENGTH OF WAKEFIELD PROPERTY, PHASE I ANNEXATION PERIMETER
 2,967.2' = LENGTH OF WAKEFIELD PROPERTY, PHASE I ANNEXATION PERIMETER
 AREA OF ANNEXATION
 225,586 Square Feet
 5.179 Acres

BOUNDARY CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	272.59	90.11	89.70	S 17°01'01" E	18°56'22"
C2	260.00	99.31	98.71	S 18°38'43" E	21°53'06"
C3	250.00	83.33	82.95	S 39°08'11" E	19°05'54"
C4	230.00	115.00	113.81	S 63°00'36" E	28°38'51"
C5	250.00	249.93	239.65	N 74°01'35" E	57°16'43"



ROB ANDREWS LAND SURVEYING
 P. O. BOX 1351, BRECKENRIDGE, CO 80424 (970) 453-1860

ANNEXATION MAP

PROJECT: 123040	A PART OF GOVERNMENT LOT 68 SECTION 5 TWP 7S R 77W 6th P.M. TOWN OF BRECKENRIDGE SUMMIT COUNTY, COLORADO	DATE: 4-9-13
DRAWN BY: REA		SCALE: 1" = 60'
FIELD BOOK:		SHEET: 1 of 1

NOTICE: UNDER COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION ATTACHED HEREON.

MEMO

To: Breckenridge Town Council

From: Laurie Best-Community Development Department

Date: May 7, 2013 (for May 14th meeting)

Re: AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE
CERTAIN REAL PROPERTY OWNED BY THE TOWN OF
BRECKENRIDGE (Wakefield Property, Phase I - 5.179 acres)
and
AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE
CERTAIN REAL PROPERTY OWNED BY THE TOWN OF
BRECKENRIDGE (Wakefield Property, Phase II-12.307 acres)

On April 23, 2013 the Town approved the first reading of these two Ordinances to annex the Town-owned Wakefield property. These Ordinances are scheduled for second reading on May 14th. There has been one minor change to the Phase I Ordinance to correct a typo in the legal description (see page 3 line 16). The correct version is attached to this memo and included in your packet. It is important to consider these Ordinance in the correct sequence as the Phase I annexation creates the contiguity that is necessary for the Phase II annexation. Staff supports annexation of the property and recommends approval of the Ordinances as presented. Staff will be available on May 14th to answer any questions.

1
2 **FOR WORKSESSION/FIRST READING – MAY 14**

3
4 **NO CHANGE FROM FIRST READING**

5
6 COUNCIL BILL NO. 12

7
8 SERIES 2013

9
10 AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL
11 PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE
12 (Wakefield Property, Phase II - 12.307 acres)

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

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

19
20 WHEREAS, Section 31-12-106(3), C.R.S., provides that a municipality may annex by
21 ordinance municipally-owned real property without notice and hearing upon the determination
22 that the property is eligible for annexation under Section 30(1)(c) of Article II of the Colorado
23 Constitution, and Sections 31-12-104(1)(a) and 31-12-105 of the “Municipal Annexation Act of
24 1965”, Part 1 of Article 12 of Title 31, C.R.S.; and

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

28
29 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
30 BRECKENRIDGE, COLORADO:

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

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

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

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

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

GOVERNMENT LOT 32, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST SECTION LINE OF SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE 6th P.M. AND THE 20-19 LINE OF THE LIZZIE LODE M.S. 6349 FROM WHICH POINT CORNER 19 OF THE LIZZIE LODE M.S. 6349, COMMON WITH CORNER 54 OF THE T.H. FULLER PLACER M.S. 86, BEARS N 38°43'00" E, 121.73 FEET;

THENCE S 00°50'00" E, 1144.02 FEET ALONG THE EAST SECTION LINE OF SECTION 6 TO THE INTERSECTION WITH THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654;

THENCE S 48°02'00" W, 340.56 FEET ALONG THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODE M.S. 5654 TO CORNER 11 OF THE HANNIBAL & ST. JOE LODE M.S. 5654, COMMON WITH CORNER 24 OF THE NELLIE PLACER LOT 2 M.S. 7108;

THENCE N 44°25'12" W, 829.88 FEET ALONG THE 24-23 LINE OF THE NELLIE PLACER LOT 2 M.S. 7108 TO CORNER 23 OF THE NELLIE PLACER LOT 2 M.S. 7108, COMMON WITH CORNER 15 OF THE GERMANIA LODE M.S. 6349 AND ALSO COMMON WITH CORNER 17 OF THE LIZZIE LODE M.S. 6349;

THENCE S 75°48'00" E, 165.54 FEET ALONG THE 17-20 LINE OF THE LIZZIE LODE M.S. 6349 TO CORNER 20 OF THE LIZZIE LODE M.S. 6349;

THENCE N 38°43'00" E, 1,050.32 FEET ALONG THE 20-19 LINE OF THE

1 LIZZIE LODGE M.S. 6349 TO THE POINT OF BEGINNING.

2
3 CONTAINING 536,090 square feet or 12.307 acres more or less

4
5
6
7 Section 4. Within thirty (30) days after the effective date of this ordinance, the Town
8 Clerk is authorized and directed to:

- 9
- 10 A. File one copy of the annexation map with the original of the annexation
- 11 ordinance in the office of the Town Clerk of the Town of Breckenridge,
- 12 Colorado; and
- 13
- 14 B. File for recording three certified copies of the annexation ordinance and
- 15 map of the area annexed containing a legal description of such area with
- 16 the Summit County Clerk and Recorder.
- 17

18 Section 5. This ordinance shall be published and become effective as provided in Section
19 5.9 of the Breckenridge Town Charter.

20
21 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
22 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be
23 held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the
24 ____ day of _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the
25 Municipal Building of the Town.

26
27 TOWN OF BRECKENRIDGE, a Colorado
28 municipal corporation

29
30
31
32 By _____
33 John G. Warner, Mayor

34
35 ATTEST:

36
37
38
39 _____
40 Helen Cospolich
41 Town Clerk

**ANNEXATION MAP
WAKEFIELD PROPERTY, PHASE II
TOWN OF BRECKENRIDGE
GOVERNMENT LOT 32
SECTION 6 TOWNSHIP 7 SOUTH RANGE 77 WEST 6th P.M.
SUMMIT COUNTY, COLORADO**

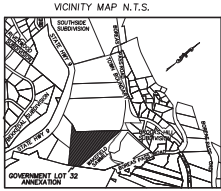
NELLE PLACER LOT 2 M.S. 7108

N 44°29'12" W 829.88'

S 75°48'00" E 163.54'

GERMANIA LODGE M.S. 6349

LIZZIE LODGE M.S. 6349



MAY LODGE M.S. 6349

GERMANIA LODGE M.S. 6349

LIZZIE LODGE M.S. 6349

N 38°43'00" E 121.73'

GOVERNMENT LOT 32 ANNEXATION

1144.02' = EXISTING CONTIGUITY
6,864.12' = MAXIMUM LENGTH OF WAKEFIELD PROPERTY, PHASE II ANNEXATION PERIMETER
3,530.32' = LENGTH OF WAKEFIELD PROPERTY, PHASE II ANNEXATION PERIMETER
AREA OF ANNEXATION
536,090 Square Feet
12.307 Acres

S 00°50'00" E 1144.02'

WAKEFIELD PROPERTY, PHASE I ANNEXATION

S 48°02'00" W 340.06'

SECTION 6 TWP 7 SOUTH RANGE 77 WEST
SECTION 5 TWP 7 SOUTH RANGE 77 WEST

HANNIBAL & ST. JOE LODGE M.S. 5654

HANNIBAL & ST. JOE LODGE M.S. 5654

GOVERNMENT LOT 34



SECTION 6 TWP 7 SOUTH RANGE 77 WEST
SECTION 5 TWP 7 SOUTH RANGE 77 WEST

CORNER 19 M.S. 6349
CORNER 54 M.S. 86

LEGAL DESCRIPTION

GOVERNMENT LOT 32, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE INTERSECTION OF THE EAST SECTION LINE OF SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE 6th P.M. AND THE 20-19 LINE OF THE LIZZIE LODGE M.S. 6349 FROM WHICH POINT CORNER 19 OF THE LIZZIE LODGE M.S. 6349, COMMON WITH CORNER 54 OF THE T.J. FULLER PLACER M.S. 86, BEARS N 38°43'00" E, 121.73 FEET;
THENCE S 00°50'00" E, 1144.02 FEET ALONG THE EAST SECTION LINE OF SECTION 6 TO THE INTERSECTION WITH THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODGE M.S. 5654;
THENCE S 48°02'00" W, 340.06 FEET ALONG THE 12-11 LINE OF THE HANNIBAL & ST. JOE LODGE M.S. 5654 TO CORNER 23 OF THE HANNIBAL & ST. JOE LODGE M.S. 5654, COMMON WITH CORNER 24 OF THE NELLE PLACER LOT 2 M.S. 7108;
THENCE N 44°29'12" W, 829.88 FEET ALONG THE 24-23 LINE OF THE NELLE PLACER LOT 2 M.S. 7108 TO CORNER 23 OF THE NELLE PLACER LOT 2 M.S. 7108, COMMON WITH CORNER 19 OF THE GERMANIA LODGE M.S. 6349 AND ALSO COMMON WITH CORNER 17 OF THE LIZZIE LODGE M.S. 6349;
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THENCE N 38°43'00" E, 121.73 FEET ALONG THE 20-19 LINE OF THE LIZZIE LODGE M.S. 6349 TO THE POINT OF BEGINNING.
CONTAINING 536,090 square feet or 12.307 acres more or less.

LEGEND FOR LINE TYPE AND HATCH PATTERNS

-  LINE TYPE FOR EXISTING TOWN BOUNDARY USED FOR CALCULATION OF CONTIGUITY
-  HATCH PATTERN FOR BOREAS PASS ROAD RIGHT OF WAY REFINED AT RECEPTION NUMBER 278621



NOTICE: UNDER COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION ATTACHED HEREBY.

ROB ANDREWS LAND SURVEYING P. O. BOX 1351, BRECKENRIDGE, CO 80424 (970) 453-1880		
ANNEXATION MAP		
PROJECT: 123040	DATE: 6-8-13	SHEET: 7 of 1
DRAWN BY: REA	SCALE: 1" = 60'	
FIELD BOOK: ---		
GOVERNMENT LOT 32 SECTION 6 TWP 7S R 77W 6th P.M. TOWN OF BRECKENRIDGE SUMMIT COUNTY, COLORADO		



MEMORANDUM

To: Mayor & Town Council
From: Tim Gagen, Town Manager
Date: April 17, 2013
Subject: *BOEC Lease for Old Sanitation District Building*

BACKGROUND

The Town owns the old Sanitation District building on Wellington Road and for a number of years has leased the building and property to the BOEC for its administrative offices. The BOEC has done some long range planning and would like to perform some renovations to the building with a possible expansion. They have approached the Town about redoing the lease to extend and add an option to purchase the building and property. The Council has previously discussed these concepts and given directions to Staff to renegotiate the lease to substantially extend the term of the lease while including a purchase option if that scenario works to the benefit of the BOEC for future funding opportunities. The purchase option is now included in the lease agreement for \$500,000. The new lease uses the framework of the existing lease with the addition of the longer term and the purchase option. By utilizing the original framework of the lease, the same conditions for the lease and now the purchase option are maintained; in particular that the benefits of the lease are specific to the BOEC and its non-profit operation.

The BOEC Board has reviewed the new lease and is agreeable to its terms.

Staff believes we have captured the direction of Council and if the Council agrees, the lease is ready for first reading and staff recommends its approval.

1 ***FOR WORKSESSION/SECOND READING – MAY 14***

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

4
5 COUNCIL BILL NO. 13

6
7 Series 2013

8
9 AN ORDINANCE APPROVING A LEASE WITH OPTION TO PURCHASE WITH THE
10 BRECKENRIDGE OUTDOOR EDUCATION CENTER, A COLORADO NON-PROFIT
11 CORPORATION
12 (524 Wellington Road)

13
14 WHEREAS, the Town of Breckenridge owns the real property at 524 Wellington Road in
15 Breckenridge, Colorado; and

16
17 WHEREAS, the Town Council has agreed to enter into a long-term lease for the
18 property at 524 Wellington Road with the Breckenridge Outdoor Education Center, a Colorado
19 non-profit corporation (“**BOEC**”); and

20
21 WHEREAS, the Town Council is also willing to grant the BOEC an option to purchase
22 the property at 524 Wellington Road upon certain terms and conditions; and

23
24 WHEREAS, a proposed “Lease With Option to Purchase” between the Town and the
25 BOEC has been negotiated by the parties and reviewed by the Town Council; and

26
27 WHEREAS, Section 15.4 of the Breckenridge Town Charter provides:

28
29 The council may lease, for such time as council shall determine, any real or
30 personal property to or from any person, firm, corporation, public and private,
31 governmental or otherwise.

32
33 and;

34
35 WHEREAS, the term of the proposed Lease With Option to Purchase with the BOEC
36 exceeds one year in length; and

37
38 WHEREAS, Section 1-11-4 of the Breckenridge Town Code requires that any real estate
39 lease entered into by the Town that exceeds one year in length must be approved by ordinance.

40
41 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
42 BRECKENRIDGE, COLORADO:

43

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LEASE WITH OPTION TO PURCHASE

BETWEEN

TOWN OF BRECKENRIDGE,
a Colorado municipal corporation
(“the Landlord”)

and

BRECKENRIDGE OUTDOOR EDUCATION CENTER,
a Colorado non-profit corporation
(“the Tenant”)

1 LEASE WITH OPTION TO PURCHASE

2
3 THIS LEASE (“Lease”) is dated _____, 2013, and is between the
4 TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“the Landlord”) and
5 BRECKENRIDGE OUTDOOR EDUCATION CENTER, a Colorado non-profit corporation
6 (“the Tenant”). The Landlord and the Tenant are sometimes individually referred to in this
7 Lease as a “Party”, and are collectively referred to in this Lease as the “Parties.”
8

9 ARTICLE 1 - BASIC LEASE PROVISIONS

10 1.1 Leased Premises. In consideration of the Tenant’s payment of rent and the
11 keeping of the promises, covenants, and conditions required of the Tenant by this Lease, the
12 Landlord leases to the Tenant, and the Tenant leases from the Landlord, for the term and upon
13 the conditions of this Lease, the real property described on the attached Exhibit “A” (“Leased
14 Premises”). The Leased Premises includes a building that is referred to in this Lease as the
15 “Building,” as well as a small storage shed.

16 1.1 Use Of Leased Premises. The Tenant will use the Leased Premises only for:

- 17 (i) the operation of its administrative and program offices;
- 18 (ii) storage and maintenance of the Tenant’s equipment and vehicles;
- 19 (iii) “outfitting” associated with the Tenant’s programs; and
- 20 (iv) ancillary administrative functions, such as staff meetings and training, Board of
21 Director meetings, instructional classes, social functions, and other administrative activities
22 directly related to the carrying out of the Tenant’s non-profit mission statement.

23 Any overnight lodging by the Tenant at the Leased Premises will be done only with the
24 prior written approval of the Landlord.

25 The Tenant will not use the Leased Premises for any other purpose without the
26 Landlord’s prior written consent.

27 1.2 Term. Subject to earlier termination as hereafter provided, the term of this
28 Lease (“Term”) will be for a period of 50 years, commencing July 1, 2013 and terminating June
29 30, 2063. Nothing in this Lease permits the Tenant to use or occupy the Leased Premises after
30 the expiration of the Term or any earlier termination of this Lease. If the Tenant continues to
31 occupy the Leased Premises after such expiration or termination, such occupancy will (unless the
32 Parties otherwise agree in writing) be an extension of this Lease on a month-to-month basis only,
33 and such occupancy will be subject to all of the terms and conditions of this Lease.

34 1.3 Surrender of Leased Premises.

1 (a) Upon the expiration or earlier termination of this Lease the Tenant will surrender
2 the Leased Premises to the Landlord in good condition, ordinary wear and tear excepted. Not
3 later than the last day of the Term, the Tenant will remove its personal property and fixtures
4 (including, but not limited to, trade fixtures) from the Leased Premises. The cost of such removal
5 will be borne by the Tenant, and the Tenant will repair all injury or damage done to the Leased
6 Premises in connection with the installation or removal of the Tenant's personal property and
7 trade fixtures. All of the Tenant's fixtures (including, but not limited to trade fixtures) that are so
8 attached to the Leased Premises that they cannot be removed without material injury to the
9 Leased Premises will, at the Landlord's option, become the property of the Landlord upon
10 installation and remain with the Leased Premises upon surrender.

11 (b) The Landlord may retain or dispose of any personal property, fixtures (including,
12 but not limited to, trade fixtures), alterations, or improvements left remaining by the Tenant at or
13 upon the Leased Premises following the expiration or earlier termination of this Lease, and the
14 Landlord is not accountable to the Tenant for any damages for the loss or destruction thereof, or
15 for any part of the proceeds of sale, if any, realized by the Landlord. The Tenant waives all
16 claims against the Landlord for any damages suffered by the Tenant resulting from the
17 Landlord's retention or disposition of such personal property, fixtures (including, but not limited
18 to, trade fixtures), alterations or improvements. The Tenant is liable to the Landlord for the
19 Landlord's costs for storing, removing and disposing of any such personal property, fixtures
20 (including trade fixtures) or alterations.

21 1.4 **Obligation To Meet and Confer.** Throughout the Term the Parties will meet and
22 confer at least annually for the purpose of determining whether changed circumstances require
23 the amendment to this Lease. The Parties will act reasonably and in good faith to determine if
24 changed circumstances require the amendment to this Lease and, if so, will execute appropriate
25 documentation amending this Lease.

26 1.5 **Governmental Powers of the Landlord.** The Tenant acknowledges that
27 throughout the Term the Landlord has, and will continue to have, those governmental rights,
28 powers, and authority provided by applicable law, including, but not limited to, the *Breckenridge*
29 *Town Charter* and the ordinances of the Town of Breckenridge, all as amended from time to
30 time. The Tenant further acknowledges that the provisions of this Lease do not limit or restrict
31 such rights, powers, and authority of the Landlord with respect to the Leased Premises when the
32 Landlord is acting in its governmental capacity as a home-rule municipality under Colorado law.

33 1.6 **Density.** If requested by the Tenant either: (i) during the Term of this Lease, or
34 (ii) at any time after Closing (if Tenant exercise the option to purchase the Leased Premises
35 provided in Article 14 of this Lease), the Landlord will authorize the transfer to the Leased
36 Premises of a maximum of 3,000 square feet of the unused density from the property known as
37 the "Breckenridge Nordic Center Site" located at 9 Grandview Drive in Breckenridge, Colorado
38 (the "**Density**"). The Landlord is not obligated to authorize such transfer unless the Tenant
39 requests the transfer of such Density before any subsequent transfer of the Leased Premises by
40 the Tenant. The Tenant may not request that the Landlord transfer the Density to the Leased
41 Premises at any time when the Tenant is in default under this Lease or under the Promissory

1 Note or Deed of Trust described in Section 14.8 and Section 14.9. If the Tenant does not request
2 transfer of the Density, or if the Parties agree that all of the Density need not be transferred to the
3 Leased Premises, there will be no adjustment to the Purchase Price (or the Promissory Note). So
4 long as the Tenant owns the Leased Premises, the Density can only be used on the Leased
5 Premises in connection with the Tenant's non-profit operations, and may not be transferred from
6 the Leased Premises, or used for a purpose unrelated to the Tenant's non-profit operations,
7 without the Landlord's prior written permission, which permission may be granted, withheld or
8 conditionally approved in the Landlord's sole and absolute discretion. The provisions of this
9 Section 1.6 will be subject to the provisions of Section 14.20 of this Lease, and will be
10 incorporated into the deed to the Leased Premises as provided in Section 14.20.

11 **ARTICLE 2 - RENT**

12 2.1 **Rent.** The total rent to be paid by the Tenant for the full Term is \$10.00, the
13 receipt and sufficiency of which is acknowledged by the Landlord.

14 2.2 **“Additional Rent” Defined.** Any amount due to the Landlord from the Tenant
15 under this Lease that is not specifically identified as “rent” is additional rent.

16 2.3 **Interest On Past Due Amounts.** The Tenant will pay interest to the Landlord on
17 any sum due to the Landlord under this Lease that is 30 days or more past due at the rate of 12%
18 per annum from the date due until the date such payment is fully paid.

19 2.4 **Place And Manner Of Payments.** All payments due to the Landlord under this
20 Lease will be made to:

21 Town of Breckenridge
22 Clerk & Finance Division
23 Attn: Accounts Receivable
24 P. O. Box 168
25 Breckenridge, CO 80424
26

27 or at such other place as the Town Manager of the Town of Breckenridge (“**Town Manager**”)
28 may hereafter designate by written notice provided to the Tenant in accordance with Section 16.2
29 of this Lease. All sums will be made in legal tender of the United States. Any check given to the
30 Landlord will be received subject to collection, and the Tenant agrees to pay any charges, fees or
31 costs incurred by the Landlord for the collection, including reasonable attorney's fees.
32

33 2.5 **Landlord's Lien and Security Interest.** The Landlord has a first security
34 interest and a lien for all rent and other sums of money becoming due hereunder from the Tenant
35 upon all goods, wares, equipment, fixtures, furniture, inventory and other personal property of
36 the Tenant situated in or located upon the Leased Premises, and such property may not be
37 removed from the Leased Premises without the express written consent of the Landlord until all
38 arrearages in rent and other sums of money then due to the Landlord hereunder have first been
39 paid. Upon the occurrence of any event of default by the Tenant, the Landlord may foreclose the

1 security interest and lien in the manner provided by law. The Landlord may file a financing
2 statement (and necessary extensions, renewals or replacements thereof throughout the Term) in a
3 form legally sufficient to perfect its security interest and lien granted pursuant to this Section. the
4 Tenant will execute such documents as may be required during the Term to maintain the validity
5 and priority of the security interest and lien provided for in this Section.

6 **ARTICLE 3 - LANDLORD'S DISCLAIMERS AND EXCULPATORY PROVISIONS**

7 3.1 **“As Is” Condition of Leased Premises.** The Tenant acknowledges that it is
8 aware of the condition of the Leased Premises pursuant to the prior Lease between the Parties
9 described in Section 16.9. Accordingly, the Leased Premises is leased **“AS IS,” “WHERE IS”**
10 and **“WITH ALL FAULTS”**, and the Landlord does not warrant or make any representations,
11 express or implied, relating to the **MERCHANTABILITY**, quantity, quality, condition,
12 suitability or **FITNESS FOR ANY PURPOSE WHATSOEVER** of the Leased Premises or any
13 portion thereof. Except as expressly provided in this Lease, the Landlord has no liability
14 whatsoever to undertake any repairs, alterations, removal, remedial actions, or other work of any
15 kind with respect to any portion of the Leased Premises, or any portion thereof.

16 3.2 **Landlord's Non-liability.** As a material part of the consideration to be received
17 by the Landlord under this Lease, the Tenant assumes all risk of damage to property or injury to
18 persons in or upon the Leased Premises from any cause other than the Landlord's gross
19 negligence or intentional act, and the Tenant waives all claims in respect thereof against the
20 Landlord.

21 3.3 **Limitation of Remedies.** The Landlord is not liable for any indirect, special, or
22 consequential damages, including, but not limited to, loss of anticipated profits, revenue or
23 savings, business interruption, or any similar claim arising from the Landlord's breach of this
24 Lease, even if the Landlord has been advised of the possibility of such damages. This limitation
25 applies notwithstanding the failure of an essential purpose of any limited remedy.

26 **ARTICLE 4 - TENANT'S AFFIRMATIVE OBLIGATIONS**

27 4.1 **Tenant Liable For Costs to Prepare Leased Premises For Use By the Tenant.**
28 The Tenant is solely responsible for all work required to be done, and costs incurred in
29 connection with, the preparation of the Leased Premises for the Tenant's use.

30 4.2 **Taxes.**

31 (a) As used in this Section, the term **“Taxes”** means all personal property and real
32 property taxes levied, assessed or imposed by any taxing authority arising out of the Tenant's
33 occupancy and use of the Leased Premises pursuant to this Lease.

34 (b) Pursuant to Section 39-3-105, C.R.S., all real or personal property owned by the
35 Landlord is exempt from taxation. However, the Parties acknowledge that the Tenant's

1 occupancy and use of the Leased Premises pursuant to this Lease may be deemed to be a
2 “taxable possessory interest” pursuant to Section 39-1-103(17)(a), C.R.S.

3 (c) The Tenant will pay all Taxes lawfully assessed arising from its occupancy and
4 use of the Leased Premises pursuant to this Lease, and will indemnify and defend the Landlord
5 from any such Taxes. The Tenant will pay all Taxes in a timely manner. Upon the Landlord’s
6 written request the Tenant will provide to the Landlord a photostatic copy of the receipt(s) or
7 cancelled check(s) showing payment of the Taxes. the Tenant may pay any Taxes in installments
8 if permitted by law.

9 (d) If the Tenant is liable for the payment of any Taxes arising from the Tenant’s
10 occupancy and use of the Leased Premises pursuant to this Lease, the Tenant may, at its sole
11 expense, contest such Taxes by the commencement and prosecution, in good faith and with due
12 diligence, of appropriate legal proceedings. The Tenant will make timely payment of such Taxes
13 if the Tenant loses the contest. The Tenant will advise the Landlord prior to instituting any such
14 contest and will as a condition of exercising such right provide the Landlord such reasonable
15 assurance as it may request that such contest will be in compliance with the provisions of this
16 Section. The Landlord, at the Tenant’s sole cost and expense, will reasonably cooperate with the
17 Tenant in any such contest; may join in the contest; and will execute and deliver such documents
18 and instruments as may be necessary or appropriate for prosecuting an effective contest.

19 4.3 **Compliance With Laws.** The Tenant, at its sole cost and expense, will comply
20 with all laws, ordinances, orders, and regulations of all governmental authorities with respect to
21 the use of the Leased Premises, as amended from time to time throughout the Term. A judgment
22 of any court or the admission of the Tenant in any action or proceeding against the Tenant,
23 whether the Landlord is a Party thereto or not, that the Tenant has violated any law, ordinance,
24 requirement or order in the use of the Leased Premises will be conclusive of the fact as between
25 the Landlord and the Tenant.

26 4.4 **Non-Discrimination.** The Tenant:

27 (i) will not discriminate against any employee or applicant for employment to work
28 at the Leased Premises because of race, color, creed, sex, sexual orientation, religion, national
29 origin, or disability;

30 (ii) will insure that applicants who are to work at the Leased Premises are employed
31 and that employees are treated during employment without regard to their race, color, creed, sex,
32 sexual orientation, religion, national origin, or disability;

33 (iii) will in all solicitations or advertisements for employees to be engaged in the
34 performance of work at the Leased Premises state that all qualified applicants will receive
35 consideration for employment without regard to race, color, creed, sex, sexual orientation,
36 religion, national original or disability; and

1 (iv) will comply with all applicable federal, state, and local laws, rules and
2 regulations. Without limiting the generality of the foregoing, the Tenant will comply with the
3 applicable provisions of the Americans With Disabilities Act, 42 U.S.C. §12101, et seq. (Public
4 Law 101-336), and all applicable regulations and rules promulgated thereunder by any regulatory
5 agency.

6 The indemnification and termination provisions of this Lease apply to the Tenant's
7 failure to comply with all applicable laws or regulations.

8 4.5 **Tenant To Pay Certain Charges.** In addition to the payment of Taxes as
9 required by Section 4.2, the Tenant covenants and agrees to pay, or cause to be paid, before any
10 fine, penalty, interest or cost may be added thereto, all governmental charges that are levied,
11 assessed, imposed, or that could become a lien upon the Leased Premises.

12 **ARTICLE 5 - TENANT'S NEGATIVE OBLIGATIONS**

13 **5.1 Improvement.**

14 (a) As used in this Article 5, "**Improvement**" means any physical improvement
15 made, or proposed to be made, to either the Leased Premises or the Building.

16 (b) No Improvement may be made to the Leased Premises by the Tenant except
17 under the following conditions:

18 (i) No Improvement may be undertaken until the Tenant has obtained approval of
19 plans and specifications for such Improvement from the Landlord, acting in its capacity as owner
20 of the Leased Premises (and not in its governmental capacity). In connection therewith, the
21 Landlord has the right to review and approve a proposed Improvement in its sole and absolute
22 discretion.

23 (ii) The Tenant must also obtain a "Development Permit" from the Landlord, acting
24 in the Landlord's governmental capacity.

25 (iii) An Improvement must be constructed under the supervision of an architect or
26 engineer licensed in the State of Colorado, selected and paid by the Tenant.

27 (iv) All work done in connection with the construction of an Improvement must be
28 done in a good and workmanlike manner and in material conformity with the plans and
29 specifications that are approved by the Landlord.

30 (v) The construction of an approved Improvement must be prosecuted with
31 reasonable dispatch, subject to delays caused by Force Majeure Events (See Section 16.12).
32 before any work begins. the Tenant must procure or cause the contractor for the work to procure
33 insurance in accordance with Article 7 of this Lease, including worker's compensation insurance
34 covering all persons employed in connection with the work.

1 5.2 **Landscaping.** No landscaping may be installed by the Tenant at the Leased
2 Premises without the Landlord’s prior, written consent. Once installed, all landscaping will be
3 maintained by the Tenant in accordance with the approved landscaping plan for the Leased
4 Premises.

5 5.3 **Subletting.** The Leased Premises has been leased to the Tenant with the
6 expectation and hope that during the Term the Tenant will sublet a portion of the Building to
7 other non-profit entities acceptable to the Landlord. Throughout the Term, the Tenant will use
8 its best efforts to identify other non-profit entities whose anticipated space needs and use of the
9 Building would be compatible with those of the Tenant. The Tenant may propose to the
10 Landlord:

- 11 (i) the portion(s) of the Building that will be sublet;
- 12 (ii) the identity of the subtenants; and
- 13 (iii) the terms and conditions under which the Leased Premises or the Building will be
14 sublet.

15 However, the Tenant will not finally sublet any part of the Leased Premises or the Building
16 without, in each case, first obtaining the prior written consent of the Landlord.

17 5.4 **Assignment.** The Tenant may not assign or transfer any of its rights under this
18 Lease without the prior written consent of the Landlord. If the Tenant attempts to make any
19 assignment or subletting without the requisite consent of the Landlord, or attempts to grant a
20 license to use the Leased Premises, such assignment, subletting, or license will be void and, at
21 the option of the Landlord, will terminate this Lease. Any consent by the Landlord to any
22 assignment of this Lease or any consent by the Landlord to any sublease or license of the Leased
23 Premises will not be a waiver by the Landlord of the provisions of this Section as to subsequent
24 transactions of the same or similar nature. In the event of any permitted assignment, sublease, or
25 license, the Landlord may, but is not required to, release the Tenant from its obligations
26 hereunder for the remainder of the Term. If the Landlord consents to an assignment, sublease, or
27 license the Tenant may be required, as a condition of granting consent, to pay the Landlord’s
28 reasonable costs incurred in considering the proposed assignment, sublease, or license including,
29 but not limited to, legal fees and credit checks.

30 5.5 **Assignment By Operation of Law.** Neither this Lease nor any interest in this
31 Lease is assignable or transferable by operation of law. If:

- 32 (i) any proceeding under the Bankruptcy Code, or any amendment thereto, is
33 commenced by or against the Tenant;
- 34 (ii) the Tenant is adjudged insolvent;
- 35 (iii) the Tenant makes an assignment for the benefit of creditors;

1 (iv) a post-judgment writ of attachment or execution is levied on the leasehold estate
2 created by this Lease and not released or satisfied within 30 days thereafter; or

3 (v) a receiver is appointed for the Tenant with authority to take possession or control
4 of the Leased Premises or the business conducted therein by the Tenant,

5 then this Lease, at the option of the Landlord, will immediately terminate and will not be treated
6 as an asset of the Tenant.

7 5.6 **Waste or Nuisance.** The Tenant will not commit or permit to be committed on
8 the Leased Premises any waste, any public or private nuisance, or any other act or thing
9 prohibited by law.

10 5.7 **Mechanic's Liens.**

11 (a) In connection with the construction of any Improvements, the Tenant will cause
12 the payment of all proper and valid invoices and charges of all contractors, subcontractors,
13 suppliers, materialmen and similar parties who furnish services or materials in connection with
14 the construction process. In the event any person ever records a mechanic's lien to enforce any
15 claim for services or materials alleged to have been provided in connection with the Leased
16 Premises, the Tenant will cause the same to be released of record within 60 days after the
17 recordation thereof, and the Tenant will be liable to satisfy and cause a discharge of any such
18 mechanic's lien claim. Notwithstanding the foregoing, the Tenant may contest any such
19 mechanic's lien claim, provided that the Tenant conducts such contest in a timely manner and
20 with due diligence, and that the Tenant provides the Landlord with such security in connection
21 therewith as the Landlord may reasonably require. In connection with any such contest, the
22 Landlord may join and participate in any such contest, at the Tenant's expense (with
23 participation to include, without limitation, the execution and filing of pleadings and the
24 provision and gathering of testimony and other evidence). In the event the Tenant loses any such
25 contest, with all further rights of appeal having expired, the Tenant must satisfy the mechanic's
26 lien claim in full prior to any foreclosure sale or other disposition of the Leased Premises which
27 is made for the purpose of satisfying the claim.

28 (b) Prior to commencement of construction of any Improvements, the Tenant will
29 deliver notices to all contractors and subcontractors and post notices in accordance with Section
30 38-22-105, C.R.S. (as it may be amended or in accordance with similar statutes that may be
31 substituted therefor in the future), in locations that will be visible by parties performing any
32 work, which notices will state that the Landlord is not responsible for the payment of such work
33 and setting forth such other information as may be reasonably required pursuant to such statutory
34 provisions.

35 **ARTICLE 6 - UTILITIES, TRASH REMOVAL AND MAINTENANCE**

36 6.1 **Utilities.** The Tenant will pay or cause to be paid, before any notice of
37 delinquency, at its sole cost and expense, all charges for water, gas, heat, electricity, power,

1 telephone, internet, or any other communications services, sewer service charges, and any other
2 utilities charged or attributable to Tenant's use of the Leased Premises, and all other charges for
3 services or utilities of any kind or nature used in, upon, or about the Leased Premises by the
4 Tenant, including the cost of installing or moving meters for such utility charges.
5 Notwithstanding the foregoing, the Tenant may contest any such charges so long as the Tenant
6 diligently prosecutes the same pursuant to appropriate legal proceedings. If any such charge
7 leads to a mechanic's or other lien claim against the Leased Premises, such contest will also be
8 conducted in conformity with the standards hereof for contesting mechanic's lien claims. The
9 Tenant will contract in its sole name for and promptly pay for such utility charges.

10 **6.2 Trash Removal.** The Landlord will arrange for a trash dumpster to be provided
11 for the use of the Tenant and any subtenants at the Leased Premises or, at the Tenant's option,
12 the Tenant and all subtenants may use "roll away" trash containers so long as such containers are
13 stored inside and are not used or maintained in such a manner as to cause a nuisance or a health
14 threat. The Tenant will pay the cost of the periodic trash removal.

15 **6.3 All Maintenance Is Tenant's Responsibility.** The Tenant will at all times during
16 the Term keep, operate, and maintain all portion of he Building and Leased Premises in good
17 order, condition and repair. Without limiting the generality of the preceding sentence, it is the
18 Tenants sole responsibility to provide any required maintenance, upkeep, repair, or replacement
19 of the following portions of the Building and the Leased Premises:

20 (i) the structural portions of the Building, including, without limitation, the roofs and
21 the exterior walls;

22 (ii) all non-structural portions of the Building including, without limitation, the
23 entrances, windows, partitions, doors, lighting, and plumbing fixtures, and heating and
24 ventilation systems;

25 (iii) the grounds of the Leased Premises;

26 (iv) all landscaping, the paving, if any, and other hardscape surfaces; and

27 (v) all fixtures, equipment and appurtenances relating to the Leased Premises and/or
28 the Building.

29 This Section 6.3 is to be interpreted so as to absolve the Landlord from any obligation to
30 provide any required maintenance, upkeep, repair, or replacement whatsoever of any portions of
31 the Building and the Leased Premises excepting only the Head-End Property and the IT
32 Building, as hereafter defined. Notwithstanding anything contained in this Section 6.3 to the
33 contrary, Landlord shall be solely responsible for the maintenance, upkeep, repair and
34 replacement of all improvements on the Head-End Property and the IT Building, as hereafter
35 defined.

36 .

1 insuring the payment of compensation to all its employees engaged in the performance of work
2 at the Leased Premises.

3 **7.3 Additional Insurance Provisions.** Every insurance policy required by this
4 Article 7 will be primary insurance, and any insurance carried by the Landlord, its officers, or its
5 employees, or carried by or provided through any insurance pool of which the Landlord is a
6 member, will be excess and not contributory insurance to that provided by the Tenant. The
7 Tenant is solely responsible for any deductible losses under its required insurance policies.

8 **7.4 Insurance Criteria.** Insurance policies required by this Lease will:

9 (i) be issued by insurance companies licensed to do business in the State of Colorado
10 with general policyholder's ratings of at least A and a financial rating of at least XI in the most
11 current *Best's Insurance Reports* available at the time such insurance is to be procured; and

12 (ii) provide that the insurance cannot be cancelled or materially changed in the scope
13 or amount of coverage unless 15 days' advance notice is given to the Landlord.

14 **7.5 Evidence of Insurance.** Prior to the commencement of this Lease, and on each
15 subsequent renewal or replacement of the required insurance policies, the Tenant must provide
16 to the Landlord a certificate of insurance evidencing compliance with the requirements of this
17 Section. All required insurance policies will be renewed or replaced and maintained by the
18 Tenant throughout the Term to assure continuous coverage. If the Tenant fails to give the
19 required insurance certificate within 10 days after notice or demand for it, such action will
20 constitute a default under this Lease, and the Landlord may then proceed as provided in Article
21 10 of this Lease, and/or the Landlord may obtain and pay for that insurance and receive
22 reimbursement from the Tenant, together with interest thereon at the rate of 12% per annum.

23 **7.6 Landlord's Building Insurance.** Throughout the Term the Landlord will, at its
24 expense, keep the Building insured against damage and destruction by fire, earthquake,
25 vandalism, and other perils in the amount of the full replacement value of the Building, as the
26 value may exist from time to time. The Tenant will reimburse the Landlord, as Additional
27 Rent, for any deductible loss paid by the Landlord arising from any loss to the Building caused
28 by the negligence or intentional act of the Tenant, or its agents, employees, contractors,
29 subcontractors or invitees, subtenants.

30 **ARTICLE 8 - INDEMNIFICATION**

31 **8.1 Indemnification By Tenant.** The Tenant will indemnify and defend the
32 Landlord, its officers, employees, insurers, and self-insurance pool from all liability, claims, and
33 demands, on account of injury, loss, or damage, including, without limitation, claims arising
34 from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any
35 other loss of any kind whatsoever, arising out of or in any manner connected with this Lease or
36 the Tenant's use or possession of the Leased Premises pursuant to this Lease, except to the extent
37 that such liability, claim, or demand arises through the gross negligence or intentional wrongful

1 act of the Landlord, its officers, employees, or agents, or the Landlord's breach of this Lease. If
2 indemnification is required under this Section, the Tenant will investigate, handle, respond to,
3 and to provide defense for and defend against, any such liability, claims, or demands at its
4 expense, and bear all other costs and expenses related thereto, including court costs and attorney
5 fees. Tenant's indemnity obligation under this Section 8.1 does not apply to any incident
6 occurring on either the Head-End Property and the IT Building, as hereafter defined or elsewhere
7 on the Leased Property if caused by any users of the Head-End Property or the IT Building or the
8 guests or invitees of such users

9 8.2 **Survival.** All of Tenant's indemnity obligations under this Lease will survive the
10 expiration or termination of this Lease, and will be fully enforceable by the Landlord thereafter.

11 **ARTICLE 9 - EMINENT DOMAIN**

12 9.1 **Eminent Domain.**

13 (a) The terms "**eminent domain**," "**condemnation**," and "**taken**" and related terms
14 as used in this Section include any taking for public or quasi-public use and private purchases in
15 lieu of condemnation by any authority authorized by applicable law to exercise the power of
16 eminent domain.

17 (b) If the entire Leased Premises are taken by eminent domain, this Lease will
18 automatically end on the earlier of:

19 (i) the date title vests; or

20 (ii) the date the Tenant is dispossessed by the condemning authority.

21 (c) If the taking of a part of the Leased Premises materially interferes with the
22 Tenant's ability to continue its business operations in substantially the same manner then the
23 Tenant may terminate this Lease on the earlier of:

24 (i) the date when title vests;

25 (ii) the date the Tenant is dispossessed by the condemning authority; or

26 (iii) 60 days following notice to the Tenant of the date when vesting or dispossession
27 is to occur.

28 (d) Any compensation or damages paid by a condemning authority will be divided
29 between the Landlord and the Tenant as follows:

30 (i) the Tenant is entitled to that portion of the compensation or damages that
31 represents the amount of the Tenant's moving expenses, business dislocation damages, the
32 Tenant's personal property and fixtures, and the unamortized costs of leasehold improvements
33 paid for by the Tenant; and

1 (ii) the balance of such compensation or damages belongs to the Landlord.

2 **ARTICLE 10 - DEFAULT**

3 10.1 **Default By Tenant.** The occurrence of any one or more of the following events
4 will constitute a default and breach of the Lease by the Tenant:

5 (a) The vacating or abandonment of the Leased Premises by the Tenant.

6 (b) The failure by the Tenant to make any payment of rent, additional rent, or any
7 other payment required to be made by the Tenant hereunder, as and when due, when such failure
8 continues for a period of 10 days after service of written notice thereof by the Landlord to the
9 Tenant.

10 (c) The failure by the Tenant to observe or perform any of the other covenants,
11 conditions, or provisions of this Lease to be observed or performed by the Tenant, or to obey
12 rules promulgated by the Landlord, within 10 days after service of written notice thereof by the
13 Landlord to the Tenant. In the event of a non-monetary default that is not capable of being
14 corrected within 10 days, the Tenant will not be default if it commences correcting the default
15 within 10 days of service of a demand for compliance notice and thereafter corrects the default
16 with due diligence.

17 (d) The making by the Tenant of any general assignment or general arrangement for
18 the benefit of creditors; the filing by or against the Tenant of a petition to have the Tenant
19 adjudged bankrupt, or a petition or reorganization or arrangement under any law relating to
20 bankruptcy; the appointment of a trustee or a receiver to take possession of substantially all of
21 the Tenant's assets located at the Leased Premises or of the Tenant's interest in this Lease; or the
22 attachment, execution or other judicial seizure of substantially all of the Tenant's interest in this
23 Lease.

24 10.2 **Landlord's Remedies Upon Default.** If the Tenant is in default under this
25 Lease, the Landlord has all of the remedies provided for in such circumstances by Colorado law.

26 10.3 **Default By Landlord.** The Landlord will be in default under this Lease if the
27 Landlord fails to comply with any of the terms, provisions, or covenants of this Lease within 10
28 days following service of written notice thereof by the Tenant. In the event of a non-monetary
29 default that is not capable of being corrected within 10 days, the Landlord will not be default if
30 the Landlord commences correcting the default within 10 days of receipt of notification thereof
31 and thereafter corrects the default with due diligence.

32 10.4 **Tenant's Remedies Upon Default.** If the Landlord is in default under this Lease,
33 the Tenant has all of the remedies provided for in such circumstances by Colorado law.

34 **ARTICLE 11 - NONDISTURBANCE**

LEASE WITH OPTION TO PURCHASE

1 11.1 **Quiet Enjoyment.** Subject to the terms and conditions of this Lease, the
2 Landlord covenants that so long as there is no default in any of the covenants, conditions, or
3 provisions of this Lease to be performed, observed, or kept by the Tenant, the Tenant will
4 peaceably and quietly hold and enjoy the Leased Premises for the entire Term.

5 **ARTICLE 12 - LANDLORD’S RULES**

6 12.1 **Rules.** The Tenant will faithfully observe and comply with any rules and
7 regulations promulgated by the Landlord with respect to the Leased Premises. The Landlord’s
8 rules and regulations must be reasonable, and may not unilaterally change or significantly alter
9 the material terms and conditions of this Lease. The rules and regulations, and any amendments
10 thereto, will be binding upon the Tenant upon delivery to the Tenant.

11 **ARTICLE 13 - HAZARDOUS MATERIALS**

12 13.1 **Hazardous Materials - Defined.** As used in this Section, the term “**Hazardous**
13 **Materials**” means any chemical, material, substance or waste:

14 (i) exposure to which is prohibited, limited, or regulated by any federal, state,
15 county, regional or local authority, or other governmental authority of any nature; or

16 (ii) that, even if not so regulated, may or could pose a hazard to the health or safety of
17 the occupants of the Leased Premises including, without limitation, any petroleum, crude oil (any
18 fraction thereof), natural gas, natural gas liquids, and those substances defined as “hazardous
19 substances”, “hazardous materials”, “hazardous wastes” or other similar designations in the
20 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended,
21 42 U.S.C. Section 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section
22 1801 et seq., and any other governmental statutes, laws, ordinances, rules, regulations, and
23 precautions.

24 13.2 **Hazardous Materials - Prohibited.** The Tenant will full comply with all statutes,
25 laws, ordinances, rules, regulations, and precautions now or hereafter mandated or advised by
26 any federal, state, local, or other governmental agency with respect to the use, generation,
27 storage, or disposal of Hazardous Materials. The Tenant will not cause, or allow anyone else to
28 cause, any Hazardous Materials to be used, generated, stored, or disposed of on or about the
29 Leased Premises without the prior written consent of the Landlord, which consent may be
30 revoked at any time. The Tenant’s indemnification of the Landlord pursuant to this Lease
31 extends to all liability, including all foreseeable and unforeseeable consequential damages,
32 directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous
33 Materials at the Leased Premises by the Tenant, or any person claiming under the Tenant,
34 including, without limitation, the cost of any required or necessary repair, cleanup, or
35 detoxification and the preparation of any closure or other required plans, whether such action is
36 required or necessary prior to or following the termination of this Lease, to the full extent that
37 such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of
38 Hazardous Materials by the Tenant or any person claiming under the Tenant; provided, however,

1 the written consent by the Landlord to the use, generation, storage, or disposal of Hazardous
2 Materials will excuse the Tenant from the Tenant's obligation of indemnification. In the event
3 the Tenant is in breach of the covenants herein, after notice to the Tenant and the expiration of
4 the earlier of:

5 (i) the cure period provided in Section 10.1(c);

6 (ii) the cure period permitted under applicable law, regulation, or order,

7 then the Landlord may, in its sole discretion, declare a default under this Lease and/or cause the
8 Leased Premises to be freed from the Hazardous Material and the cost thereof will be deemed
9 additional rent hereunder and will immediately be due and payable from the Tenant. The
10 obligations of the Tenant under this Section 13.2 will survive the expiration or termination of this
11 Lease.

12 **ARTICLE 14 - TENANT'S OPTION TO PURCHASE**

13 14.1 **Seller and Buyer Defined.** As used in this Article 14 the Landlord is the
14 "Seller" and the Tenant is the "Buyer."

15 14.2 **Grant of Option To Purchase.** The Seller grants to the Buyer the exclusive,
16 irrevocable right and option to purchase the Leased Premises, together with: (a) all minerals
17 and mineral rights, if any, that are appurtenant to the Leased Premises; and (b) all rights-of-
18 way and easements, if any, that are appurtenant to the Leased Premises (the "**Option**"). There
19 are no water or water rights, ditch or ditch rights, well permits, or water storage rights
20 appurtenant to the Leased Premises, and no water and water rights, ditch and ditch rights, well
21 permits, or storage rights will be conveyed by the Seller to the Buyer in the event the Buyer
22 exercises the Option. The Option is subject to the terms, conditions, and requirements of this
23 Article 14.

24 14.3 **Term and Exercise of Option.** The Buyer must exercise the Option by giving
25 written notice to the Seller not later than 5 years from the date of this Lease, unless otherwise
26 mutually agreed by the Seller and the Buyer; provided, however, that the Buyer may not
27 exercise the Option if, at the time of attempted exercise of the Option, the Buyer is in default
28 under this Lease. To exercise the Option, the Buyer must deliver written notice to the Seller in
29 accordance with Section 16.2. The Buyer may give notice of the exercise of the Option only
30 once. By mutual agreement, the Parties may extend the deadline for the Buyer to exercise the
31 Option.

32 14.4 **If Timely Notice of Exercise of The Option Is Given.** Upon the timely giving
33 of notice of the exercise of the Option, the remaining provisions of this Article 14 will govern
34 the closing of the sale and purchase of the Leased Premises. Such sale and purchase is hereafter
35 referred to as the "**Closing**."

1 14.5 **If Timely Notice of The Exercise of The Option Is Not Given.** Time is of the
2 essence of this Article 14. Accordingly, it is agreed that if the Buyer fails, for any reason, to
3 give timely notice of the exercise of the Option prior to the date specified in Section 14.3 the
4 Option will terminate and each Party will be released from any further obligations under this
5 Article 14. The termination of the Option will not affect the remainder of this Lease.

6 14.6 **Purchase and Sale of the Leased Premises.** On the Closing Date (as later
7 defined in this Article 14) the Buyer will purchase the Leased Premises from the Seller, and the
8 Seller will sell and convey the Leased Premises to the Buyer, all in accordance with and
9 subject to the terms and conditions contained in this Article 14.

10 14.7 **Purchase Price.** The purchase price to be paid by the Buyer to the Seller for the
11 Leased Premises (the "**Purchase Price**") will be \$500,000.00.

12 14.8 **Payment of Purchase Price.** The Purchase Price will be paid to the Seller by
13 the Buyer at Closing as follows:

14 (a) \$450,000.00 in the form of the execution of and delivery of the Buyer's
15 Promissory Note to the Seller (the "**Promissory Note**"). The Promissory Note will be secured by
16 a Deed of Trust (the "**Deed of Trust**") encumbering the Leased Premises.

17 (b) The balance of the Purchase Price will be paid in good funds as defined by
18 Colorado law.

19 14.9 **The Note and Deed of Trust.**

20 (a) The Promissory Note will bear interest at the rate of 3.5% per annum if the Option
21 is exercised within 5 years from the date of this Lease. If the Option is, by mutual agreement as
22 described in Section 14.3, exercised more than 5 years from the date of this Lease, the Seller and
23 the Buyer at such time must negotiate a mutually acceptable interest rate for the Promissory
24 Note.

25 (b) The Promissory Note will be payable by the Buyer to the Seller as follows:

26 (i) annual interest-only payments will be paid to the Seller, without demand, on the
27 first, second, third, fourth, and fifth anniversaries of the date of the Promissory Note; then

28 (ii) the entire unpaid principal balance of the Promissory Note will be amortized on
29 the basis of a thirty year loan. Commencing 6 years after the date of the Promissory Note, and
30 continuing annually thereafter on the same calendar date, the Buyer will make equal amortized
31 payments to the Seller (each payment including principal and interest); and

32 (iii) the entire unpaid balance of the Promissory Note, both principal and interest, will
33 be due and payable without demand in **ONE BALLOON PAYMENT** 12 years after the date of
34 the Promissory Note. The Seller is under no obligation to refinance or extend the balloon
35 payment.

1 (c) The default interest rate on the Promissory Note will be 12% per annum.

2 (d) The Promissory Note may be prepaid in whole or part at any time without
3 penalty. Any partial prepayment of principal will be credited against the next maturing
4 installment or installments due under the Promissory Note.

5 (e) The Deed of Trust will be a first and prior lien on the Leased Premises, subject
6 only to:

7 (i) the lien of the general property taxes for the year of Closing; and

8 (ii) the Permitted Exceptions (as later defined in this Article 14).

9 The Seller is not obligated to subordinate the Deed of Trust to any lien or encumbrance.

10 (f) The Buyer will not be in default under the Promissory Note and Deed of Trust
11 until 30 days after written notice of default has been given to the Buyer specifically setting forth
12 the claimed default, and such default remains uncured at the expiration of such 30 day period.

13 (g) The Deed of Trust will contain a “due on sale clause” pursuant to which the entire
14 unpaid balance of the Promissory Note will immediately become due and payable if the Leased
15 Premises, or any portion thereof, is sold or transferred by the Buyer without the Promissory Note
16 having been paid in full.

17 14.10 **Closing Date.** The sale of the Leased Premises to the Buyer will be closed at the
18 offices of Land Title Guarantee Company – Breckenridge office (“**Title Company**”), 200 North
19 Ridge Street, Breckenridge, Colorado, on or before the expiration of 60 days after the timely
20 exercise of the Option by the Buyer (the “**Closing Date**”). The Parties will mutually agree on the
21 Closing Date and time of Closing, but if the Parties are unable to agree, the Closing Date and
22 time of Closing will be established by the Title Company. The Closing Date may be extended by
23 mutual agreement of the Parties.

24 14.11 **Closing Costs.** At Closing, the Buyer will pay the cost of recording the deed
25 conveying the Leased Premises to it. The Seller will pay the cost of the title insurance premium,
26 and tax certificate. Each Party will pay one-half of the reasonable cost of closing services
27 charged by the Title Company. Otherwise, each Party will pay the usual and customary closing
28 costs.

29 14.12 **No Tax Apportionment.** The Leased Premises have been tax-exempt while
30 owned by the Seller. Accordingly, no apportionment of real property taxes will be made at
31 Closing. The Buyer will pay at Closing any taxes lawfully levied against its use of the Leased
32 Premises based upon this Lease (if the Lease is determined by the Summit County Assessor to be
33 a taxable possessory interest under state law.)

34 14.13 **Title Insurance.**

1 (a) Within 30 days from the date of the Buyer's timely notice of the exercise of the
2 Option the Seller will obtain and deliver to the Buyer, at the Seller's expense, a certificate of
3 taxes due on the Leased Premises and a current title insurance commitment ("**Commitment**")
4 issued by the Title Company. The Commitment will include legible copies of all instruments
5 referred to in the Commitment. The Commitment will not provide for the deletion of all standard
6 printed exceptions of Schedule B-2 thereof.

7 (b) All items on the Commitment will be permitted title exceptions ("**Permitted**
8 **Exceptions**") unless the Buyer notifies the Seller within 20 days of receipt of the Commitment
9 of any particular item(s) to which the Buyer objects. If the Buyer gives the Seller timely notice of
10 a title objection then the Seller will have 15 days within which to remove such exceptions, or to
11 notify the Buyer that it is unable or unwilling to remove such exceptions, in which case the
12 Buyer may elect to terminate the Option, or accept such exceptions and proceed to close the
13 transaction.

14 (c) After Closing, the Seller will obtain and deliver to the Buyer, at the Seller's
15 expense, a title insurance policy for the Leased Premises in the amount of the Purchase Price
16 showing fee simple absolute title being vested in the Buyer, subject only to the Permitted
17 Exceptions.

18 14.14 **Survey.** Prior to Closing Buyer will obtain a monumented boundary survey of
19 the Leased Premises (including the Potential Resubdivision Parcel as defined below) from a
20 registered land surveyor in Colorado acceptable to both Seller and Buyer. The survey will be a
21 document of title and will be subject to the provisions of Section 14.13 of this Contract. At
22 Closing, the Buyer and Seller will each pay one-half (1/2) of the actual cost of the survey. If, for
23 any reason, Closing does not occur then Seller will pay the entire cost of the survey and will be
24 entitled to retain as its sole property the survey plat and any other documents prepared by the
25 surveyor in connection with the preparation of the survey.

26 14.15 **Conveyance of the Leased Premises.** On the Closing Date, the Seller will
27 convey to the Buyer marketable fee simple absolute title to the Leased Premises, subject only to
28 the Permitted Exceptions. Such conveyance will be by special warranty deed.

29 14.16 **Comcast Lease.**

30 (a) The Parties acknowledge that as of the date of this Lease a portion of the Leased
31 Premises (consisting of approximately 0.02 acres, more or less, and consisting of a shed
32 approximately 24 feet by 32 feet in size) (the "**Head-End Property**") is subject to that Lease
33 between the Seller and Universal Cable Communications Inc. d/b/a Classic Cable (now
34 "Comcast") dated September 7, 1999 (the "**Existing Comcast Lease**"). The term of the Existing
35 Comcast Lease will expire during the Term, and it is anticipated by the Parties that a new lease
36 agreement for the Head-End Property will be negotiated as part of the Seller's renewal of the
37 Comcast cable television franchise (the "**New Comcast Lease**"). Regardless of whether the
38 Buyer has exercised the Option and acquired the Leased Premises before the New Comcast
39 Lease is negotiated, the Buyer acknowledges that it is important to the Seller that the Seller has

1 both the right to negotiate and control the terms under which the Head-End Property is leased to
2 Comcast.

3 Accordingly, in order to clarify the Parties' rights and responsibilities under both the
4 Existing Comcast Lease and the potential New Comcast Lease, the Parties agree as follows:

5 (i) **Rent Collected Under Existing Comcast Lease.** The following provisions apply
6 to rent collected under the Existing Comcast Lease:

7 (A) Rent collected under the Existing Comcast Lease prior to the conveyance of the
8 Leased Premises to the Buyer will be the sole property of the Seller.

9 (B) Rent collected under the Existing Comcast Lease after the conveyance of the
10 Leased Premises to the Buyer will be the sole property of the Buyer; provided, however, Buyer
11 will use the rent collected from the Existing Comcast Lease for the programming of its activities.
12 If the amount of the monthly rent payable under the Existing Comcast Lease is increased without
13 a New Comcast Lease being executed, the first \$1,500.00 of monthly rent will be the sole
14 property of the Buyer and any remaining amount of monthly rent will be the sole property of the
15 Seller.

16 (ii) **Terms and Conditions of New Comcast Lease.** The following provisions apply to
17 the terms and conditions of the New Comcast Lease:

18 (A) If the New Comcast Lease is negotiated while the Seller owns the Leased
19 Premises, the Seller will consult with the Buyer before entering into the New Comcast Lease;
20 however, the Seller will have the sole right and authority to negotiate the terms and conditions of
21 the New Comcast Lease, including, but not limited to, the amount of rent to be paid by Comcast
22 under the New Comcast Lease. Notwithstanding the preceding sentence, however, the Seller will
23 use its best efforts to attempt to negotiate a monthly rent under the New Comcast Lease that will
24 not be less than the monthly rent payable under the Existing Comcast Lease.

25 (B) If the New Comcast Lease is negotiated after the Buyer acquires the Leased
26 Premises pursuant to this Article 14, the Buyer will not enter into the New Comcast Lease
27 without the prior, written consent of the Seller. The requirements of the preceding sentence are
28 specifically enforceable. It is the intent of this subsection that notwithstanding the conveyance of
29 the Leased Premises to the Buyer pursuant to this Contract, the Seller will have the sole right and
30 authority to negotiate the substantive terms and conditions of the New Comcast Lease, including,
31 but not limited to, the amount of rent to be paid by Comcast under the New Comcast Lease.
32 Notwithstanding the preceding sentence, however, the Parties will use their best efforts to
33 attempt to negotiate a monthly rent under the New Comcast Lease that will not be less than the
34 monthly rent payable under the Existing Comcast Lease. If the New Comcast Lease is negotiated
35 by Seller after the Buyer acquires the Leased Premises, the Buyer will sign the New Comcast
36 Lease when requested to do so by the Seller.

37 (iii) **Rent Collected Under New Comcast Lease.** The following provisions apply to

1 rent collected under the New Comcast Lease:

2 (A) During the time that the Seller owns the Leased Premises, all of the rent collected
3 under the New Comcast Lease will be the property of the Seller.

4 (B) If during the term of the New Comcast Lease Buyer acquires title to the Leased
5 Premises pursuant to this Article 14, any monthly rent collected during the term of the New
6 Comcast Lease, not to exceed the sum of \$1,500.00 each month, will be the property of the
7 Buyer to be used by Buyer for the programming of its activities. The remainder of the monthly
8 rent (if any) will be the property of the Seller. Buyer will remit to Seller any amount of monthly
9 rent collected under the New Comcast Lease that is in excess of \$1,500.00.

10 (C) If the New Comcast Lease is not successfully negotiated, the provisions of this
11 Subsection (iii) will be null, void, and of no effect.

12
13 *Acceptance of Title Subject to Lease.* The Buyer will accept title to the Leased Premises subject
14 to the Existing Comcast Lease, or the New Comcast Lease, whichever is applicable.
15

16 14.17 **Seller's Right to Resubdivided Leased Premises.** If Buyer gives timely notice
17 of the exercise of the Option, Seller, at its sole option and election, may resubdivide the Leased
18 Premises prior to Closing to create a separate legal parcel consisting of: (i) the Head-End
19 Property; (ii) the separate building in which is located Seller's information technology equipment
20 and certain telephone company equipment ("**Seller's IT Building**"); (iii) and a reasonable
21 curtilage area around the Head-End Property and the Seller's IT Building sufficient to allow
22 Seller to access the Head-End Property and the Seller's IT Building for maintenance purposes
23 (collectively, the "**Potential Resubdivision Parcel**"). The approximate legal boundaries of the
24 Potential Resubdivision Parcel are set forth on Exhibit "B", but will be more accurately
25 described in connection with the preparation of the survey described in Section 14.14. The
26 resubdivision plat will also reserve for Seller's benefit: (i) a perpetual non-exclusive easement
27 providing Seller with the right of ingress and egress to and from the Potential Resubdivision
28 Parcel over and across the access driveway for the Leased Premises; and (ii) easements for the
29 utilities that serve the Head-End Parcel and the IT Building. The resubdivision plat will be
30 subject to the reasonable approval of Buyer's attorney. Closing will be extended to allow Seller a
31 reasonable amount of time to complete the resubdivision of the Potential Resubdivision Parcel.
32 Seller will pay all costs associated with such resubdivision. If the Leased Premises is
33 resubdivided as provided in this Section: (i) the Potential Resubdivision Parcel will be excluded
34 from the Option; (ii) the Potential Resubdivision Parcel will not be conveyed to Buyer pursuant
35 to this Contract; and (iii) there will be no adjustment to the Purchase Price. Provided, however,
36 that if the Potential Resubdivision Parcel is subdivided and excluded from the Option any
37 monthly rent collected by Seller during the term of the New Comcast Lease, not to exceed the
38 sum of \$1,500.00 each month, will be the property of the Buyer and when collected will be paid
39 by Seller to Buyer to be used by Buyer for the programming of its activities. The remainder of
40 the monthly rent (if any) will be the property of the Seller.

1 14.18 **Seller’s General Disclaimer.** The Buyer acknowledges that the Leased
2 Premises will be conveyed and transferred at Closing “AS IS”, “WHERE IS”, and “WITH
3 ALL FAULTS”, and that the Seller does not warrant or make any representations, express or
4 implied, relating to the **MERCHANTABILITY**, quality, condition, suitability, or **FITNESS**
5 **FOR ANY PURPOSE WHATSOEVER** of the Leased Premises. The Seller will have no
6 liability to undertake any repairs, alterations, removal, remedial actions, or other work of any
7 kind with respect to any portion of the Leased Premises. The Buyer also acknowledges and
8 agrees that by virtue of its possession of the Leased Premises pursuant to this Lease (as well as
9 the prior Lease described in Section 16.9), the Buyer is able to make the Buyer’s own
10 determination concerning the merchantability, quality, condition, and suitability, or fitness for
11 any purpose of the Leased Premises.

12 14.19 **Environmental Condition of the Leased Premises.**

13 (a) **Seller’s Environmental Disclaimer.** In connection with the sale of the Leased
14 Premises the Seller will make no warranty or representation concerning the environmental
15 condition of the Leased Premises (including, without limitation, land, surface water, ground
16 water, air, and any improvements). Without limiting the generality of the preceding sentence, the
17 Seller will specifically disclaim any and all warranties or representations with respect to the
18 location or presence on the Leased Premises of:

19 (i) any “hazardous water”, “underground storage tanks”, “petroleum”, “regulated
20 substance”, or “used oil” as defined by the Resource Conservation and Recovery Act of 1976 (42
21 U.S.C. §§6901, et seq.), as amended, or by any regulations promulgated thereunder;

22 (ii) any “hazardous substance” as defined by the Comprehensive Environmental
23 Response, Compensation and Liability Act of 1980 (42 U.S.C. §§9601, et seq.), as amended, or
24 by any regulations promulgated thereunder (including, but not limited to, asbestos and radon);

25 (iii) any “petroleum” and “fuel products”, as defined by Section 25-15-101 et seq.,
26 C.R.S., as amended, or by any regulations promulgated thereunder;

27 (iv) any “hazardous waste” as defined by the Colorado Hazardous Waste Act, Section
28 25-15-101, et seq., C.R.S., or by any regulations promulgated thereunder;

29 (v) any substance the presence of which on, in or under the Leased Premises is
30 prohibited or regulated by any law similar to those set forth above; and

31 (vi) any other substance that by law, regulation or ordinance requires special handling
32 in its collection, storage, treatment or disposal.

33 (b) **Buyer’s Waiver of Environmental Claims Against the Seller.** At Closing the
34 Buyer will execute and deliver to the Seller a written waiver of any claims that the Buyer may
35 have or in the future acquire against the Seller with respect to the known or unknown
36 environmental condition of the Leased Premises, including, without limitation, claims arising

1 under federal and state statutory law, and claims under the common law, including, without
2 limitation, claims for fraud or misrepresentation with respect to the environmental condition of
3 the Leased Premises. The form of such wavier will be subject to the reasonable approval of the
4 Seller's counsel. The execution and delivery of such documentation will be a condition precedent
5 to the Seller's obligations to convey the Leased Premises to the Buyer.

6 **14.20 Special Restrictive Covenants To Be Contained In Deed For Leased**

7 **Premises.** In addition to those provisions contained in Section 1.6 and Article 15 of this Lease,
8 the Seller's deed conveying the Leased Premises to the Buyer will contain the special restrictive
9 covenants contained in this Section. Each restrictive covenant will run with the land, and will be
10 specifically enforceable by the Seller. The form of the restrictive covenant will be subject to the
11 reasonable approval of counsel for both the Seller and the Buyer. The special restrictive
12 covenants to be contained in the deed are as follows:

13 (i) throughout its ownership of the Leased Premises the Buyer will continue to use its
14 best efforts to identify other non-profit entities whose anticipated space needs and the use of the
15 Leased Premises would be compatible with the Buyer's use of the Leased Premises, and to
16 considering leasing portions of the Leased Premises to such entities.

17 (ii) at the Seller's option and election, the Seller may continue to occupy and use its
18 existing IT Building pursuant to a written lease to be executed by the Buyer and the Seller that
19 provides that the Seller may continue to use the IT Building without payment of rent or other
20 cost.

21 (iii) for a period of 10 years after Closing, if the Buyer moves its principal office to a
22 location outside the corporate limits of the Town of Breckenridge, Colorado the Buyer will,
23 within 30 days after such relocation, offer to sell the Leased Premises to the Seller in accordance
24 with Article 15 of this Lease. The price at which the Leased Premises will be offered to the
25 Seller will be equal to:

26 (A) the Purchase Price paid by the Seller to the Buyer, plus;

27 (B) an amount calculated by multiplying the Purchase Price times the increase (if any)
28 in the Consumer Price Index for All Urban Consumers (CPI-U) for All Items for the Denver-
29 Boulder, Colorado area produced by the Bureau of Labor Statistics, or any successor index, from
30 the date of Closing until the date of the offer, plus

31 (C) the actual cost of physical improvements made to the Leased Premises during
32 such time period.

33 **14.21 Termination of Existing Lease.** At Closing, the Parties will execute a
34 document in recordable form sufficient to terminate the existing Lease for the Leased Premises
35 described in Section 16.9.

1 14.22 **New Access Easement.** At Closing Seller will grant to Buyer a new access
2 easement across the Seller’s property known as Tract C, Revett’s Subdivision, such new access
3 to be in a location mutually acceptable to both Seller and Buyer. At Seller’s option, the Seller’s
4 reversed access easement described in Section 14.17 may be over and across such new access
5 easement.

6 **ARTICLE 15 - RIGHT OF FIRST OFFER**

7 15.1 **Seller and the Buyer Defined.** As used in this Article 15 the Landlord is the
8 “**Seller**” and the Tenant is the “**Buyer.**”

9 15.2 **Applicability; Reference in Deed.** This Article will apply only if the Buyer has
10 acquired the Leased Premises pursuant to Article 14. The provisions of this Article 15 will be
11 included in the Seller’s deed conveying the Leased Premises to the Buyer.

12 15.3 **Leased Premises – Defined.** As used in this Article 15, the “**Leased**
13 **Premises**” includes all or any portion of the Leased Premises.

14 15.4 **Right of First Offer.** The Buyer will not sell the Leased Premises without first
15 offering the Leased Premises to the Seller provided in this Article 15. This Article 15 creates a
16 specifically enforceable right of first offer to repurchase the Leased Premises in favor of the
17 Seller.

18 15.5 **Procedure to Comply With Right of First Offer.** The right of first offer
19 created by this Article 15 will be honored by the Buyer and exercised by the Seller in the
20 following manner:

21 (i) If the Buyer desires to sell the Leased Premises, the Buyer will first send a written
22 offer (“**Offer**”) to the Seller by certified mail, return receipt requested, addressed to P.O. Box
23 168, Breckenridge, Colorado 80424, or at any other mailing address for the Seller then shown on
24 the Town of Breckenridge website (<http://www.townofbreckenridge.com>). Alternatively, the
25 Offer may be personally delivered to the Town Manager. The Offer will have been properly
26 served on the Seller in accordance with this Article 15 when it is delivered to the Town Manager,
27 or upon the Seller’s receipt of the Offer if the Offer is served by mail, whichever is applicable.

28 (ii) An Offer must describe the portion of the Leased Premises proposed to be sold,
29 and state a specified price and all principal terms and conditions of the proposed sale. The Offer
30 must also set forth the Buyer’s then-current mailing address to which any notice of acceptance of
31 the Offer may be delivered.

32 (iii) If the Seller desires to accept the Offer, the Seller must notify the Buyer in writing
33 of such acceptance within 30 days of the date of service of the Offer upon the Seller. Notice of
34 the Seller’s acceptance of the Offer must either be personally delivered to the Buyer, or sent by
35 certified mail, return receipt requested, to the Buyer at the mailing address set forth in the Offer.
36 A notice of acceptance is valid and effective when personally delivered to the Buyer, or when

1 mailed to the Buyer at the mailing address set forth in the Offer, whichever is applicable.

2 (iv) If the Seller fails give timely written notice of acceptance of the Offer within the
3 30 day period, the Buyer may, within 180 days after the expiration of the 30 day period
4 described above, sell the Leased Premises upon terms and conditions that are substantially
5 similar to those in the Offer, but not for a price that is less than 100% of the sale price described
6 in the Offer. Such sale may be made free and clear of the right of first offer provided for in this
7 Article 15; provided, however, that the contract between the Seller and the purchaser must
8 include language mutually agreeable to both the Buyer herein and the Seller limiting the use of
9 the Leased Premises to uses that are compatible with the adjoining neighborhood's primary
10 residential character. In this regard, the Parties agree to work together in good faith so as to serve
11 the Seller's valid planning interests without impairing the Buyer's ability to realize financial gain
12 commensurate with the then-prevailing market conditions. If the Leased Premises are not sold
13 within such 180-day period, any subsequent sale of the Leased Premises is subject to the
14 requirement that a new Offer be given to the Seller in accordance with this Article 15.

15 (v) If the Seller accepts the Offer, then the Buyer and the Seller will negotiate in good
16 faith and attempt to reach a commercially reasonable contract for the purchase and sale of the
17 Leased Premises. At Seller's option, such contract may provide for the payment of the purchase
18 price to Buyer in cash, instead of any financing provided in the Offer. If the Seller and the Buyer
19 sign a contract for the purchase and sale of the Leased Premises, the rights and responsibilities of
20 the Parties will be as set forth in the contract. If the Seller and the Buyer have not signed a bona
21 fide contract for the sale and purchase of the Leased Premises within 30 days after the giving of
22 timely notice of acceptance of the Offer by the Seller, the Buyer may sell the Leased Premises to
23 any Party upon terms and conditions that are substantially similar to those in the Offer, but not
24 for a price that is less than 100% of the Offer. Such sale may be made free and clear of the right
25 of first offer provided for in this Article 15.

26 (vi) The provisions of this Article 15 are specifically enforceable by the Seller.

27 **ARTICLE 16 - MISCELLANEOUS**

28 16.1 **Attorneys Fees/Costs.** If any action is brought in a court of law by either Party
29 to this Lease concerning the enforcement, interpretation, or construction of this Lease, the
30 prevailing Party, either at trial or upon appeal, will be entitled to reasonable attorney's fees, as
31 well as costs, including expert witness' fees, incurred in the prosecution or defense of such
32 action.

33 16.2 **Notices.** All notices required or permitted under this Lease must be given by
34 registered or certified mail, return receipt requested, postage prepaid, or by hand or commercial
35 carrier delivery, or by telecopies directed as follows:

36 If intended for the Landlord to:

37

38 Town of Breckenridge

1 P.O. Box 168
2 150 Ski Hill Road
3 Breckenridge, Colorado 80424
4 Attn: Town Manager
5 Telecopier number: (970)547-3104
6 Telephone number: (970)453-2251
7

8 with a copy in each case (that will not constitute notice) to:
9

10 Timothy H. Berry, Esq.
11 Timothy H. Berry, P.C.
12 131 West 5th Street
13 P. O. Box 2
14 Leadville, Colorado 80461
15 Telecopier number: (719)486-3039
16 Telephone number: (719)486-1889
17

18 If intended for the Tenant, to:
19

20 Breckenridge Outdoor Education Center
21 P.O. Box 697
22 Breckenridge, CO 80424
23 Telecopier number: (970)453-4676
24 Telephone number: (970)453-6422
25

26 Any notice delivered by mail in accordance with this Section will be effective on the second
27 business day after the same is deposited in any post office or postal box regularly maintained by
28 the United States postal service. Any notice delivered by telecopier in accordance with this
29 Section will be effective upon receipt if concurrently with sending by telecopier receipt is
30 confirmed orally by telephone and a copy of said notice is sent by certified mail, return receipt
31 requested, on the same day to that intended recipient. Any notice delivered by hand or
32 commercial carrier will be effective upon actual receipt. Either Party, by notice given as above,
33 may change the address to which future notices may be sent.
34

35 16.3 **Incorporation of Exhibits.** The attached **Exhibit "A"** and **Exhibit "B"** (and
36 subexhibit "B-1" are incorporated into this Lease by reference.

37 16.4 **Warning Concerning Special Taxing Districts.** SPECIAL TAXING DISTRICTS
38 MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES
39 PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS.
40 LEASED PREMISES OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED
41 MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT
42 WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO
43 DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. THE BUYER

LEASE WITH OPTION TO PURCHASE

1 SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL
2 OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT
3 SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL
4 LEVIES.

5 16.5 **Additional Instruments.** The Parties will deliver or caused to be delivered
6 upon request such additional documents and instruments as may be required to accomplish the
7 intent of this Lease.

8 16.6 **Waiver.** The failure of either Party to exercise any of its rights under this
9 Agreement is not a waiver of those rights. A Party waives only those rights specified in writing
10 and signed by the Party waiving such rights.

11 16.7 **Time of the Essence.** Time is of the essence under this Lease for the
12 performance and observance of all obligations of the Landlord and the Tenant hereunder, and
13 all provisions of this Lease are to be strictly construed.

14 16.8 **Severability.** If any provision of this Lease are held invalid or unenforceable,
15 the remainder of this Lease will not be affected thereby, it being the intent of the Parties that
16 the provisions of this Lease will be enforceable to the fullest extent permitted by law. There
17 will be substituted for any invalid or unenforceable provision a valid and enforceable provision
18 as similar as possible to the invalid provision.

19 16.9 **Integration.** This Lease constitutes the entire agreement between the Parties
20 with regard to the Leased Premises, and any extrinsic covenants, agreements, representations,
21 warranties, conditions, or terms are superseded hereby and are no force or effect. Without
22 limiting the generality of the preceding sentence, within 30 days of the date of this Lease the
23 Parties agree to execute and record with the Summit County Clerk and Recorder appropriate
24 documentation terminating: (a) the Lease for the Leased Premises dated July 10, 2001 and
25 recorded November 9, 2001 at Reception No. 667684 of the records of the Clerk and Recorder
26 of Summit County, Colorado (as amended by that Amendment to Lease dated August 28,
27 2001 and recorded November 9, 2001 at Reception No. 667685 of the records of the Clerk and
28 Recorder of Summit County, Colorado); and (b) the Option Agreement pertaining to the
29 Leased Premises recorded March 25, 2011 at Reception No. 962971 of the records of the Clerk
30 and Recorder of Summit County, Colorado.

31 16.10 **Brokerage Commission.** The Landlord and the Tenant mutually warrant and
32 represent to one another that neither of them has incurred any liability arising by, through, or
33 under that Party for the payment of any brokerage fee or commission in connection with the
34 transaction contemplated herein. If either of the Parties breaches the foregoing warranty and
35 representation, it will be liable to the other Party for any damage, liability, loss, claim or
36 expense, including attorneys' fees, suffered by the other Party as a result of such breach. The
37 liable Party will pay to the other Party such sums as are due and owing pursuant to the
38 foregoing within 30 days after demand by the other Party.

1 16.11 **Authority.** The person signing this Lease for the Landlord represents and
2 warrants to the Tenant that the Landlord has all inherent legal power and authority requisite to
3 entering into this Lease; has taken all action necessary to authorize the execution of this Lease
4 and to perform and satisfy the transactions and obligations contained herein; and has duly
5 authorized the signatory to execute and deliver this Lease on behalf of the Landlord. The
6 person signing this Lease for the Tenant represents and warrants to the Landlord that the
7 Tenant has all inherent legal power and authority requisite to entering into this Lease; has taken
8 all actions necessary to authorize the execution and delivery of this Lease and to perform and
9 satisfy the transactions and obligations contained herein; and has duly authorized the signatory
10 to execute and deliver this Lease on behalf of the Tenant.

11 16.12 **Force Majeure Events.** Except to the extent otherwise expressly provided by
12 this Lease, if either the Landlord or the Tenant is delayed in the performance of any act
13 required under this Lease by reason of strikes, boycotts, labor dispute, embargoes, shortages of
14 materials, acts of God, acts of the public enemy, acts of superior governmental authority,
15 weather conditions, floods, riots, rebellion, terrorism, sabotage, or any other circumstance for
16 which such Party is not responsible or that is not in its power to control, the time for the
17 performance of any such act will be extended for a period equivalent to the period of such
18 delay. Notwithstanding any indications to the contrary contained in the foregoing, Force
19 Majeure Events do not include: (a) any financial incapacities or burdens suffered by either
20 Party; (b) the effect of laws and regulations or the application and enforcement of the same by
21 any governmental entity, or (c) a failure of timely performance by an agent or contractor of
22 either Party. The application of Force Majeure Events is subject to the express limitations
23 thereon contained in the other provisions of this Lease.

24 16.13 **Recording.** A fully signed copy of this Lease **MAY** be recorded in the real
25 property records of the Clerk and Recorder of Summit County, Colorado.

26 16.14 **“Day” Defined.** Unless otherwise indicated, the term “day” means a calendar day
27 (and not a business day).

28 16.15 **“Will” or “Will Not” Defined.** “Will” or “will not” indicates a mandatory
29 obligation to act or to refrain from acting as specifically indicated in the context of the sentence
30 in which such word is used.

31 16.16 **Amendment.** This Lease may not be modified except by a written Lease signed
32 by both the Landlord and the Tenant. Oral modifications of this Lease are not permitted.

33 16.17 **Captions.** The headings of the sections and paragraphs contained in this Lease are
34 for convenience only and do not define, limit, or construe the contents of the articles, sections
35 and paragraphs.

36 16.18 **Advances By the Landlord For the Tenant.** If the Tenant fails to do anything
37 required to be done by it under the terms of this Lease (other than a failure to make the payments
38 to the Landlord herein required) the Landlord may, at its sole option, but without any obligation

1 to do so, do or perform such act or thing on behalf of the Tenant, and in doing so the Landlord
2 will not be deemed to be a volunteer; provided, however, that before exercising its rights under
3 this Section the Landlord must give notice to the Tenant as provided in Section 16.2, and afford
4 the Tenant not less than 5 days from the giving of such notice within which to do or perform the
5 act required by the Tenant. Upon notification to the Tenant of the costs incurred by the Landlord
6 the Tenant will promptly pay to the Landlord the full amount of costs and/or expenses incurred
7 by the Landlord pursuant to this Section, together with interest thereon at the rate of 12% per
8 annum.

9 **16.19 Governmental Immunity.** In entering into this Lease the Landlord is relying on,
10 and does not waive or intend to waive by any provision of this Lease, the monetary limitations or
11 any other rights, immunities, and protections provided by the Act, as from time to time amended,
12 or any other limitation, right, immunity or protection otherwise available to the Landlord, its
13 officers, or its employees.

14 **16.20 No Adverse Construction Based On Authorship.** Each of the Parties stipulate
15 and agree that it had the opportunity to participate in the drafting of this Lease. This Lease is not
16 to be construed against either Party by virtue of such Party having drafted this Lease.

17 **16.21 Landlord's Consent.** Except as otherwise expressly provided to the contrary in
18 this Lease, wherever in this Lease it is provided that some act requires the Landlord's prior
19 consent, such consent will not be unreasonably withheld by the Landlord.

20 **16.22 Third Parties.** There are no third party beneficiaries of this Lease.

21 **16.23 Governing Laws; Venue; Waiver of Jury Trial.** The laws of the State of
22 Colorado will govern the interpretation, validity, performance, and enforcement of this Lease.
23 Any litigation brought to interpret or enforce this Lease will be commenced in Summit County,
24 Colorado. **BOTH PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ACTION TO ENFORCE,**
25 **INTERPRET, OR CONSTRUE THIS AGREEMENT.**

26 **16.24 No Partnership.** The Landlord is not a partner, associate, or joint venturer of the
27 Tenant in the conduct of the Tenant's business at the Leased Premises. The Tenant is an
28 independent contractor without the right or authority to impose tort or contractual liability upon
29 the Landlord.

30 **16.25 Annual Appropriation.** Notwithstanding anything herein contained to the
31 contrary, the Landlord's financial obligations under this Lease are subject to an annual
32 appropriation being made by the Town Council of the Town of Breckenridge, Colorado in an
33 amount sufficient to allow the Landlord to perform its obligations hereunder. If sufficient funds
34 are not appropriated, this Lease may be terminated by either Party without penalty. The
35 Landlord's obligations under this Lease do not constitute a general obligation indebtedness or
36 multiple year direct or indirect debt or other financial obligation whatsoever within the meaning
37 of the Constitution or laws of the State of Colorado.

1 16.26 **Binding Effect.** This Lease extends to and is binding upon the successors and
2 permitted assigns of the respective Parties. The terms, covenants, agreements, and conditions in
3 this Lease will be construed as covenants running with the Leased Premises.

4 16.27 **Approval By Ordinance.** The execution of this Lease was authorized by
5 Ordinance No. _____, Series 2013, adopted by the Town Council of the Town of Breckenridge on
6 _____, 2013.

7 LANDLORD:

8
9 TOWN OF BRECKENRIDGE, a Colorado
10 municipal corporation

11
12
13
14 By _____
15 Timothy J. Gagen, Town Manager

16
17 ATTEST:

18
19
20 _____
21 Helen Cospolich, Town Clerk

22
23 TENANT:

24
25 BRECKENRIDGE OUTDOOR EDUCATION
26 CENTER, a Colorado non-profit corporation

27
28
29
30 By: _____

31 Title: _____

32
33
34
35
36 ATTEST:

37
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39
40 _____
41 It's Secretary

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STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by Timothy J. Gagen, Town Manager, and Helen Cospolich, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, as President and _____, as Secretary, of Breckenridge Outdoor Education Center, a Colorado non-profit corporation.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

Exhibit "A"

LEGAL DESCRIPTION OF LEASED PREMISES

Tract B, Revett's Landing Subdivision, according to the plat thereof recorded August 13, 2001 under Reception No. 659673 of the records of the Clerk and Recorder of Summit County, Colorado

Exhibit "A"

Exhibit "B"

POTENTIAL RESUBDIVISION PARCEL

That portion of the Leased Premises labeled as the "Potential Resubdivision Parcel" on the attached **Exhibit B-1**, which property is generally described as follows:

Using the eastern most property line on the plat for Revett's Landing, recorded with the Summit County Clerk and Recorder's office under reception number 659673, as the basis of bearing and assuming a bearing of S 01°05'55"E for that line the following describes the subject property.

Beginning at the property corner at the south end of the above described basis of bearing, bear N15°46'07"W a distance of 319.49 feet to the point of beginning. Thence bear N56°46'45"W a distance of 65 feet, thence N31°13'15"E a distance of 45 feet, thence S56°46'45"E a distance of 65 feet, thence S31°13' 15"W a distance of 45 feet to the point of beginning.

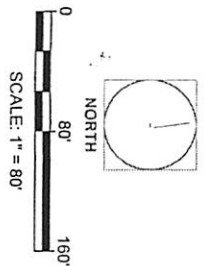
Total area of the property is approximately 2,925 square feet or 0.07 acres.

IF THE BUYER GIVES TIMELY NOTICE OF THE EXERCISE OF THE OPTION, AND IF SELLER ELECTS TO RESUBDIVIDE THE POTENTIAL RESUBDIVISION PARCEL AS AUTHORIZED BY SECTION 14.16(B), THE SURVEY DESCRIBED IN SECTION 14.14 WILL INCLUDE A DEPICTION AND ACCURATE LEGAL DESCRIPTION OF THE POTENTIAL RESUBDIVISION PARCEL.

EXHIBIT "B-1"



5.1.13



POTENTIAL RESUBDIVISION PARCEL

MEMO

TO: Town Council
FROM: Town Attorney
RE: Council Bill No. 14 (Ordinance Concerning the Moving of Historic Structures)
DATE: April 29, 2013 (for May 14th meeting)

The second reading of the ordinance amending the Development Code concerning the moving of historic structures is scheduled for your meeting on May 14th. There are no changes proposed to ordinance from first reading.

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

1 ***FOR WORKSESSION/SECOND READING – MAY 14***

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

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

7
8 COUNCIL BILL NO. 14

9
10 Series 2013

11
12 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE
13 TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE,”
14 CONCERNING MOVING HISTORIC STRUCTURES

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

18
19 Section 1. Section 9-1-5 of the Breckenridge Town Code is amended by the addition of
20 the following two definitions:

PRIMARY STRUCTURES:

The main buildings or structures on a lot which gives the site its unique character, and were historically the most important buildings on the site. In most cases, the primary structures shall be the largest structures on the property, and generally were located near the front portion of the lot, closer to the street. Primary structures are generally more ornate with more architectural detail. Examples of primary structures include the main residence, or main commercial building, as opposed to sheds, outhouses, and barns which are secondary structures in most instances.

SECONDARY STRUCTURES:

Buildings whose uses were historically ancillary to the primary use of the site. These include storage buildings such as sheds, outhouses and barns, which were typically smaller than the primary structure

MOVING HISTORIC STRUCTURES ORDINANCE

and usually located at the rear of the lot. These buildings were usually simpler in design than primary structures, were often not painted and were clad in lower quality materials.

1
2 Section 2. Subsection (B) of Section 9-1-19-5A of the Breckenridge Town Code, entitled
3 “Policy 5 (Absolute) Architectural Compatibility” is repealed.

4 Section 3. Section 9-1-195R of the Breckenridge Town Code, entitled “Policy 5
5 (Relative) Architectural Compatibility”, is amended to read in its entirety as follows:

6 9-1-19-5R: POLICY 5 (RELATIVE) ARCHITECTURAL COMPATIBILITY:
7

8 The town hereby finds that excessive similarity, dissimilarity, or poor quality
9 design of any building adversely affects the desirability of the immediate area and
10 the community as a whole, and by so doing impairs the benefits of existing
11 property owners, the stability and value of real property, produces degeneration of
12 property with attendant deterioration of conditions affecting health, safety, and
13 general welfare of the community, and destroys a proper relationship between the
14 taxable value of real property and the cost of municipal services provided
15 therefor. Features of design include, but are not limited to, size, shape, scale,
16 proportions, solid to void ratios, texture, pattern and color of materials, and
17 architectural elements and details.
18

19 3 x (-2/+2) A. General Architectural And Aesthetic Compatibility: All proposed
20 new developments, alterations, or additions are strongly encouraged to be
21 architecturally compatible with the general design criteria specified in the land
22 use guidelines. It is strongly encouraged that cut and fill slopes be kept to a
23 minimum, and that the site, when viewed from adjacent properties, be integrated
24 into its natural surroundings as much as possible. In addition, excessive similarity
25 or dissimilarity to other structures existing, or for which a permit has been issued,
26 or to any other structure included in the same permit application, facing upon the
27 same or intersecting streets within the same or adjacent land use districts is
28 discouraged. This **sub**section **A** only applies to areas outside of the historic
29 district.
30

31 Exterior building materials and colors should not unduly contrast with the site’s
32 background. The use of natural materials, such as logs, timbers, wood siding and
33 stone, are strongly encouraged because they weather well and reflect the area’s
34 indigenous architecture. Brick is an acceptable building material on smaller
35 building elements, provided an earth tone color is selected. Stucco is an
36 acceptable building material so long as an earth tone color is selected, but its use

MOVING HISTORIC STRUCTURES ORDINANCE

1 is discouraged and negative points shall be assessed if the application exceeds
2 twenty five percent (25%) on any elevation as measured from the bottom of the
3 fascia board to finished grade. Such measurement shall include column elements,
4 windows and chimneys, but shall not include decks and railing elements. Fiber
5 cement siding may be used without the assignment of negative points only if there
6 are natural materials on each elevation of the structure (such as accents or a
7 natural stone base) and the fiber cement siding is compatible with the general
8 design criteria listed in the land use guidelines. Roof materials should be
9 nonreflective and blend into the site's backdrop as much as possible.
10 Inappropriate exterior building materials include, but are not limited to,
11 untextured exposed concrete, untextured or unfinished unit masonry, highly
12 reflective glass, reflective metal roof, and unpainted aluminum window frames.
13 This subsection A applies only to areas outside of the historic conservation
14 district, but does not apply to the Cucumber Gulch overlay protection district (see
15 section 9-1-19-5A, "Policy 5 (Absolute) Architectural Compatibility", subsection
16 D, of this chapter).

17
18 ~~5-x (5/0) B. Conservation District: Within the conservation district, which~~
19 ~~area contains the historic district and the transition character areas, compatibility~~
20 ~~of a proposed project with the surrounding area and the district as a whole is of~~
21 ~~the highest priority. Within this district, the preservation and rehabilitation of any~~
22 ~~historic structure or any "town designated landmark" or "federally designated~~
23 ~~landmark" on the site (as defined in chapter 11 of this title) is the primary goal.~~
24 ~~Any action which is in conflict with this primary goal or the "handbook of design~~
25 ~~standards" is strongly discouraged, while the preservation of the town's historic~~
26 ~~fiber and compliance with the historic district design standards is strongly~~
27 ~~encouraged. Applications concerning development adjacent to Main Street are the~~
28 ~~most critical under this policy.~~

29
30 **B. Historic and Conservation Districts: For all projects within the Historic or**
31 **Conservation Districts, see Policy 24 (Absolute) The Social Community and**
32 **Policy 24 (Relative) The Social Community.**

33
34 **C. Historic District:**

35
36 (1) ~~Within the Main Street residential/commercial, south end residential, and~~
37 ~~South Main Street character areas, a maximum of nine (9) units per acre of~~
38 ~~aboveground density is recommended. In connection with projects that exceed the~~
39 ~~recommended nine (9) units per acre and meet all of the design criteria outlined in~~
40 ~~the character area design standards, points shall be assessed based on the~~
41 ~~following table:~~

<u>Aboveground Density (UPA)</u>	<u>Point Deductions</u>
9.01 – 9.50	3
9.51 – 10.00	6
10.01 – 10.50	9
10.51 – 11.00	12
11.01 – 11.50	15
11.51 – 12.00	18
12.01 or more	See section 9-1-19-A, “Policy 5 (Absolute) Architectural Compatibility”, of this chapter

(2) In connection with permit applications for projects within those character areas of the historic district specified below which involve “preserving”, “restoring”, or “rehabilitating” a “landmark structure”, “contributing building”, or “contributing building with qualifications” (as those terms are defined in the “Handbook Of Design Standards For The Historic And Conservation Districts”), or “historic structure” or “landmark” as defined in this code, and in connection with permit applications for projects within the North Main residential, north end residential, and the east side residential character areas that exceed the recommended nine (9) units per acre of aboveground density, points shall be assessed based on the following table:

<u>Aboveground Density (UPA)</u>	<u>Point Deductions</u>
9.01 – 9.50	3
9.51 – 10.00	6
10.01 – 10.50	See section 9-1-19-5A, Policy 5 (Absolute) Architectural Compatibility”, of this chapter

C. Above Ground Density in Historic District: (See Policy 24 Absolute) The Social Community, B. Historic District.

Section 4. Section 9-1-19-24A, “Policy 24 (Absolute) The Social Community”, of the Breckenridge Town Code is amended to read in its entirety as follows:

9-1-19-24A: POLICY 24 (ABSOLUTE) THE SOCIAL COMMUNITY:

1 A. Meeting And Conference Rooms: All condominium/hotels, hotels, lodges, and
2 inns shall provide meeting areas or recreation and leisure amenities, at a ratio of
3 one square foot of meeting or recreation and leisure amenity area for every thirty
4 five (35) square feet of gross dwelling area.

5
6 B. Historic and Conservation District: Within the conservation district, which
7 area contains the historic district (see special areas map¹) substantial
8 compliance with both the design standards contained in the "Handbook Of
9 Design Standards" and all specific individual standards for the transition or
10 character area within which the project is located is required to promote the
11 educational, cultural, economic and general welfare of the community through
12 the protection, enhancement and use of the district structures, sites and objects
13 significant to its history, architectural and cultural values.

14
15 (1) Within the historic or conservation district, no historic structure shall be altered,
16 moved, or demolished without first obtaining a class A or class B development
17 permit from the town. Accompanying such approval to alter, move or demolish
18 any historic structure shall be an application for a class A or class B
19 development permit as required by code to authorize any proposed new
20 development which shall take the place of a moved or demolished historic
21 structure. The issuance of building permits for altering, moving, or demolishing
22 a historic structure and the construction of a replacement structure shall be
23 issued concurrently and shall not be issued separately. Moving a historic
24 structure from its historic lot or parcel to another lot or parcel is prohibited.

25
26 (2) In addition to the procedural requirements of this chapter, an application for
27 alteration, demolition, or moving of an historic structure shall be accompanied
28 by a cultural survey prepared by a qualified person when required by the town.

29
30 (3) Within the Main Street Residential/Commercial, South End Residential, and
31 South Main Street character areas, a maximum of nine (9) units per acre of
32 aboveground density is recommended. In connection with projects that exceed
33 the recommended nine (9) units per acre and meet all of the design criteria
34 outlined in the character area design standards, points shall be assessed based
35 on the following table:

36
37

<u>Aboveground Density (UPA)</u>	<u>Point Deductions</u>
<u>9.01-9.50</u>	<u>-3</u>
<u>9.51-10.00</u>	<u>-6</u>
<u>10.01-10.50</u>	<u>-9</u>
<u>10.51-11.00</u>	<u>-12</u>

38
39
40
41

¹ See section 9-1-20 of this chapter.

<u>11.01-11.50</u>	<u>-15</u>
<u>11.51-12.00</u>	<u>-18</u>
<u>12.01 or more</u>	<u>See policy 5 (absolute) of this chapter</u>

(4) In connection with permit applications for projects within those character areas of the historic district specified below which involve "preserving", "restoring", or "rehabilitating" a "landmark structure", "contributing building", or "contributing building with qualifications" (as those terms are defined in the "Handbook of Design Standards for the Historic and Conservation Districts"), or "historic structure" or "landmark" as defined in this code, and in connection with permit applications for projects within the North Main Residential, North End Residential, and the East Side Residential character areas that exceed the recommended nine (9) units per acre of aboveground density, points shall be assessed based on the following table:

<u>Aboveground Density (UPA)</u>	<u>Point Deductions</u>
<u>9.01-9.50</u>	<u>-3</u>
<u>9.51-10.00</u>	<u>-6</u>
<u>10.01 or more</u>	<u>See Policy 5 (absolute) of this chapter</u>

Section 5. Subsection E of Section 9-1-19-24R, "Policy 24 (Relative) The Social Community", of the Breckenridge Town Code is amended to read in its entirety as follows:

~~3 x (0/+5)~~ 3 x (-5/+5) E. ~~Historic Preservation And Restoration~~ Conservation District:

Within the conservation district, which contains the historic district, compatibility of a proposed project with the surrounding area and the district as a whole is of the highest priority. Within this district, the preservation and rehabilitation of any historic structure or any town designated landmark or federally designated landmark on the site (as defined in chapter 11 of this title) is the primary goal. Any action which is in conflict with this primary goal or the "Handbook Of Design Standards" is strongly discouraged, while the preservation of the town's historic fiber and compliance with the historic district design standards is strongly encouraged. Applications concerning development adjacent to Main Street are the most critical under this policy.

The preservation and restoration of historic structures, town designated landmark, federally designated landmark, landmark sites, or cultural landscape districts within the town is a priority. Additional on-site preservation and restoration

MOVING HISTORIC STRUCTURES ORDINANCE

1 efforts beyond the requirements of the historic district guidelines for historic
2 structures and sites as defined in chapter 11 of this title are strongly encouraged.

3
4 Positive points shall be awarded according to the following point schedule for on
5 site historic preservation, or restoration efforts, in direct relation to the scope of
6 the project, subject to approval by the planning commission. **Positive points**
7 **below are applied to a development permit as a whole and shall not be**
8 **awarded separately if multiple structures are proposed for preservation or**
9 **restoration under the same development permit. Positive points may be**
10 **awarded to both primary structures and secondary structures.**

11
12 **A final point allocation shall be made by the planning commission based on**
13 **the historic significance of the structure, its visibility and size.** The
14 construction of a structure or addition, or the failure to remove noncontributing
15 features of a historic structure may result in the allocation of fewer positive
16 points:

17
18 **Primary Structures:**

19
20 **+3 +1** On site historic preservation/restoration effort of minimal public
21 benefit.

22
23 Examples²: Restoration of historic window and door openings,
24 preservation of historic roof materials, siding, windows, doors and
25 architectural details.

26
27 **+6 +3** On site historic preservation/restoration effort of average public
28 benefit.

29
30 Examples: ~~Preservation of, or the installation of a new foundation, _____~~
31 ~~structural stabilization, complete restoration of secondary _____~~
32 ~~structures.~~ **Restoration of historic window and door openings,**
33 **preservation of historic roof materials, siding, windows, doors and**
34 **architectural details, plus structural stabilization and installation of a**
35 **new foundation.**

36
37 **+9 +6** On site historic preservation/restoration effort of above average
38 public benefit.

² Examples set forth in this policy are for purpose of illustration only, and are not binding upon the planning commission. The ultimate allocation of points shall be made by the planning commission pursuant to section 9-1-17-3 of this chapter.

1
2 Examples: Restoration/preservation efforts for windows, doors,
3 roofs, siding, foundation, architectural details, substantial
4 permanent electrical, plumbing, and/or mechanical system
5 upgrades, **plus** structural stabilization **and installation of a full**
6 **foundation**, ~~or restoration of secondary structures,~~ which fall short of
7 bringing the historic structure or site back to its appearance at a particular
8 moment in time within the town's period of significance by reproducing a
9 pure style.

10
11 ~~+12~~ **+9** On site historic preservation/restoration effort with a significant
12 public benefit.

13
14 Example: Restoration/preservation efforts which bring a historic
15 structure or site back to its appearance at a particular moment in
16 time within the town's period of significance by reproducing a pure
17 style and respecting the historic context of the site that fall
18 short of a pristine restoration. **Projects in this category will remove non-**
19 **contributing features of the exterior of the structure, and will not**
20 **include any above ground additions.**

21
22 ~~+15~~ **+12** On site historic preservation/restoration effort with a very
23 significant public benefit.

24
25 Example: Restoration/preservation efforts to a historic structure or
26 site which bring the historic structure or site back to its appearance
27 at a particular moment in time within the town's period of
28 significance by reproducing a pure style and respecting the historic
29 context of the site with no new structures or additions and the
30 removal of all noncontributing features of a historic structure or
31 site. Such restoration/preservation efforts will be considered
32 pristine.

33
34 **Secondary Structures:**

35
36 **+1 On-site historic preservation/restoration of minimal public**
37 **benefit.**

38
39 **Examples: Structural stabilization of walls, roof trusses and**
40 **repairing damaged or missing roofing.**

41
42 **+2 On-site historic preservation of average public benefit.**

1
2 Examples: Structural stabilization of walls, roof trusses and
3 repairing roofs, plus full restoration of damaged or missing
4 siding, doors, windows, and trim.

5
6 +3 On-site historic preservation of above average public benefit.

7
8 Examples: Complete restoration of the structure, including
9 structural stabilization of walls, roof trusses and repairing
10 roof, full restoration of damaged or missing siding, doors,
11 windows and trim, plus installation of a full foundation.

12 Secondary structures that encroach over a property line or
13 easement shall be brought fully onto the applicant's property
14 and outside of any easements or encroachments to qualify for
15 this point allocation.

16
17 Section 6. Section 9-1-19-24R, "Policy 24 (Relative) The Social Community", of the
18 Breckenridge Town Code is amended by the addition of a new subsection F, entitled "Moving
19 Historic Structures", which shall read in its entirety as follows:

20 **F. Moving Historic Structures:**

21
22 A structure derives part of its historic significance from its setting, which includes
23 the property itself, associated landscaping, view corridors, and other buildings. The
24 manner in which a building relates to its site, how it is oriented on the property and
25 its view orientation are all aspects of the building context that enrich our ability to
26 understand the life ways that the historic district conveys. Removing a building
27 from its historic setting, relocating a building on its historic site or altering its
28 orientation diminishes our ability to interpret the history of the district and its
29 historic structures to the fullest extent possible and therefore should be avoided.
30 Instead, the preferred method is to preserve historic buildings in their existing
31 locations.

32
33 The degree to which historic structures are moved on their site, or moved to another
34 site, shall be considered in the allocation of negative points. Structures that are
35 moved off the property to another site shall receive the greatest number of negative
36 points. These moves alter the ability to interpret the history of a site and the historic
37 structure. Every effort shall be made to preserve historic structures in their historic
38 locations. When moving of structures is necessary, they shall be relocated in a
39 manner which preserves the original context of the site and structure as much as
40 possible. Structures shall not be moved any more than necessary to achieve
41 reasonable use of the land.

1 Changes that improve the ability to preserve any historic structure or to improve
2 public safety shall be considered in the allocation of points under this section. The
3 following is a guideline for the assignment of points for moving historic structures.
4 The final allocation of points shall be made by the planning commission pursuant to
5 Section 9-1-17-3 of this chapter. Negative points below shall be for the development
6 permit application as a whole, and shall not be awarded separately if multiple
7 structures are proposed for moving or relocating under the same development
8 permit. Negative points may be awarded to both primary and secondary structures.
9

10 No structure shall be moved unless the structure is also fully restored in its new
11 location with structural stabilization, a full foundation, repairs to siding, windows,
12 doors and architectural details, and roof repairs to provide water protection.
13

14 Moving Primary Structures:

15
16 0 points: Relocating of historic primary structures in order to bring them into
17 compliance with required codes and/or setbacks and for correcting property
18 encroachments, but keeping the structure on its original lot, and maintaining the
19 historic context of the structure and site.
20

21 -3 points: Relocating of historic primary structures less than five (5) feet from its
22 current or original location, keeping the structure on its original site, and
23 maintaining the historic orientation and context of the structure and lot.
24

25 -10 points: Relocating a historic primary structure between five (5) feet and ten (10)
26 feet from its current or original location, but keeping the structure on its original lot
27 and maintaining the historic orientation and context.
28

29 -15 points: Relocating a historic primary structure more than ten (10) feet from its
30 current or original location.
31

32 Secondary Structures:

33
34 0 points: Relocating of historic secondary structures in order to bring them into
35 compliance with required codes and/or setbacks and for correcting property
36 encroachments, but keeping the structure on its original lot, and maintaining the
37 historic context of the structure and site.
38

39 -1 point: Relocating a historic secondary structure less than five (5) feet from its
40 current or original location, keeping the structure on its original lot, and
41 maintaining the historic orientation and context of the structure and site.
42

1 -2 points: Relocating a historic secondary structure between (5) feet and ten (10) feet
2 from its current or original location, but keeping the structure on its original lot and
3 maintaining the historic orientation and context of the structure and site.

4
5 -3 points: Relocating a historic secondary structure more than ten (10) feet from its
6 current or original location, but keeping the structure on its original lot.

7
8 -15 points: Relocating a historic secondary structure to a site off the original lot.

9
10 Other Negative Points:

11
12 Any proposal for changing the historic orientation of a historic structure shall
13 receive additional negative points based on the degree to which the change in
14 orientation affects the ability to interpret the use and history of the site or structure.
15 In general, the following points shall be assigned, unless a different point allocation
16 is determined by the Planning Commission:

17
18 -2 points: Changing the historic orientation of a secondary structure

19 -10 points: Changing the historic orientation of a primary structure

20
21 Structures Not in Historic Location:

22
23 On occasion, historic structures have been moved to new locations within the town.
24 The moving of these structures (which were previously moved to new locations after
25 the Town's historic Period of Significance, after 1942) are not subject to the
26 allocation of negative points if the final location and configuration of the building is
27 consistent with the policies and intent of the "Handbook of Design Standards for the
28 Historic and Conservation Districts", and so long as the building is structurally
29 stabilized and placed on a permanent foundation at the receiving site. Also, the
30 receiving site shall be an appropriate context for the structure, as determined by the
31 structure's original use and site.

32
33 Structures that were previously moved during the Town's Period of Significance (in
34 1942 or earlier) have achieved historical significance in their new or current
35 location. In these cases, moving these structures again is discouraged and negative
36 points shall be allocated by the Planning Commission in direct relation to the scope
37 of the change in location and context, pursuant to the provisions of this chapter.

38
39 Returning Structures to their Historic Location:

40
41 It is the goal of the Town to encourage the return of historic structures back to their
42 original, historic locations, in those cases where historic structures were previously

1 moved off their historic location. Positive points shall be assigned according to the
2 following point schedule:

3
4 +2 points: Relocation of a historic structure back to its historic location.

5
6 +5 points: Relocation of a historic structure back to its historic location and
7 returning the site to its appearance at a particular moment in time within the
8 Town's Period of Significance.

9
10 Section 7. Except as specifically amended hereby, the Breckenridge Town Code, and the
11 various secondary codes adopted by reference therein, shall continue in full force and effect.

12 Section 8. The Town Council hereby finds, determines and declares that this ordinance is
13 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
14 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
15 thereof.

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

23 Section 10. This ordinance shall be published and become effective as provided by
24 Section 5.9 of the Breckenridge Town Charter.

25 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
26 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
27 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
28 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
29 Town.

30
31 TOWN OF BRECKENRIDGE, a Colorado
32 municipal corporation

33
34
35
36 By _____
37 John G. Warner, Mayor
38
39

MOVING HISTORIC STRUCTURES ORDINANCE

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ATTEST:

Helen Cospolich
Town Clerk

500-343\Moving Historic Structures Ordinance_2 (04-29-13)(Second Reading)

MOVING HISTORIC STRUCTURES ORDINANCE

MEMO

To: Breckenridge Town Council

From: Laurie Best-Community Development Department

Date: May 7, 2013 (for May 14th meeting)

Re: Wakefield Property Initial Zoning (Wakefield Property, Phase I and Wakefield Property, Phase II)

The Council is scheduled to consider the second reading of two **Annexation Ordinances** (Council Bills 11 and 12, Series 2013) at your May 14th meeting. The property described in those Annexation Ordinances is the Town-owned property commonly referred to as the Wakefield Property. The property is being annexed in two phases (Phase I and Phase II). Staff has recommended approval of those Annexation Ordinances.

Pursuant to State Statute the Town is required to zone all newly annexed areas within ninety (90) days after the effective date of the annexation ordinance (s). Because the Wakefield Property is Town-owned and because the Breckenridge Heritage Alliance is proposing development of an interpretive site on the Wakefield property as early as this summer, staff is recommending that the Town begin the process to zone the Wakefield property as soon as the annexations are approved. In order to be consistent in regard to the legal description of the annexed property, two **Initial Zoning Ordinances** have been prepared to place the Phase I and Phase II Wakefield property in Town Land Use District (s). These Ordinances are scheduled for first reading on May 14th and they can be considered after the Council acts on the second reading of the Annexation Ordinances.

Land Use District Recommendation

In establishing the initial zoning for a recently annexed property, the Town must first consider the Joint Upper Blue Master Plan (JUBMP) which includes policies intended to cap development. Specifically in regard to vacant land annexations, the JUBMP policy is:

Vacant land annexations should restrict development levels to the density established by the applicable County zoning, Town of Blue River zoning, or the Town of Breckenridge Land Use Guidelines whichever is less, unless additional density is transferred to the site.

It should be noted that the County zoning in place prior to annexation allowed no density and the property is designated as an inappropriate site for either sending or receiving density on the Upper Blue Sending/Receiving Map. Therefore, in order to comply with the goals of JUBMP, there should be no density assigned to the Wakefield property as part of this initial zoning. In similar cases, where Forest Service parcels were annexed and zoned (MBJ/Wedge, Claimjumper, etc.) staff included special findings in the initial zoning ordinances to strip the density and to only allow uses which are specifically exempted from the density cap of the JUBMP. It is staff's recommendation that the same process be applied in the initial zoning of the

Wakefield Property. We have included these special findings in Sections 3 and 4 of the proposed Initial Zoning Ordinances.

In addition to satisfying the policies of the JUBMP, the Town is required to place recently annexed property in the Land Use District that is designated on the Town's Land Use District Map/Master Plan. In this case, the current land use designations are Land Use Districts 1, 41, and 42 as shown on the attached map. Land Use District 1 is a district that generally discourages development, while both Land Use District 41 and 42 provides for low density, low intensity residential development at 1 UPA and 2 UPA, respectively. While the Town has the ability to rezone a property by changing the Town's Master Plan/Land Use District Map, a rezoning is a time-consuming process. In this case, staff does not believe a rezoning is necessary or prudent because the property is owned and controlled by the Town, the Town's intended use for the Wakefield property is open space and historic interpretation, the density will be stripped from the property, and the Town is not subject to the Development Code (Land Use Designation). Therefore, it is staff's recommendation that the property be placed in the currently designated Land Use Districts (s). Staff anticipates that the Breckenridge Heritage Alliance will submit plans for the historic interpretive site for the Town Council to review within the next few weeks, and then, if the Council is comfortable with the plans, a Town Public Improvement Project will be submitted.

Summary

In summary, it is staff's recommendation that the Wakefield property be placed in the land use districts as shown on the Town's Land Use District/Master Plan (LUD 1, 41, 42). Furthermore, in order to comply with the JUBMP policies, provisions have been included in the Initial Zoning Ordinance to clarify that there is no density is assigned to the Wakefield property. Both Planning Commission and staff support the Initial Zoning Ordinances as presented and recommend approval. Staff will be available at your meeting on May 14th to answer questions.

1 ***FOR WORKSESSION/FIRST READING – MAY 14***

2
3 COUNCIL BILL NO. 15

4
5 Series 2013

6
7 AN ORDINANCE PLACING RECENTLY ANNEXED
8 PROPERTY IN LAND USE DISTRICT 1, LAND USE
9 DISTRICT 41, AND LAND USE DISTRICT 42
10 (Wakefield Property, Phase I - 5.179 acres)

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

14
15 WHEREAS, by Ordinance No. ____, Series 2013, adopted May 14, 2013, the real
16 property described in Section 1 of this ordinance was annexed into and made a part of the Town
17 in accordance with the Municipal Annexation Act of 1965 (Part 1 of Article 12 of Title 31,
18 C.R.S.); and

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

22
23 WHEREAS, the Town’s Planning Commission has recommended that the recently
24 annexed parcel be placed within Land Use District 1, Land Use District 41, and Land Use
25 District 42; and

26
27 WHEREAS, the Town’s Annexation Plan adopted pursuant to Section 31-12-105(1)(e),
28 C.R.S., indicates that the property should be placed in Land Use District 1, Land Use District 41,
29 and Land Use District 42; and

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

34
35 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
36 BRECKENRIDGE, COLORADO:

37
38 Section 1. The following described real property:

39
40 A PART OF GOVERNMENT LOT 68, LOCATED IN THE SOUTHWEST
41 QUARTER OF SECTION 5, TOWNSHIP 7 SOUTH RANGE 77 WEST OF
42 THE SIXTH PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO,
43 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

44
45 COMMENCING AT CORNER 19 OF THE LIZZIE LODGE M.S. 6349,

1 COMMON WITH CORNER 54 OF THE T.H. FULLER PLACER M.S. 86,
2 BEING ALSO AN ANGLE POINT IN THE SOUTHERLY LINE OF LOT 6,
3 BROOKS HILL SUBDIVISION AS DEPICTED ON THE PLAT THEREOF
4 RECORDED SEPTEMBER 19, 1986 AT RECEPTION NUMBER 324524,
5 SUMMIT COUNTY , COLORADO;
6

7 THENCE S 38°43'00" W, 112.62 FEET ALONG THE 19-20 LINE OF SAID
8 LIZZIE LODGE M.S. 6349 TO THE WESTERNMOST POINT OF THAT
9 TRACT OF LAND, A PART OF GOVERNMENT LOT 68, DESCRIBED AS
10 PARCEL 6 ON THAT INTERCHANGE DEED RECORDED APRIL 25, 1986
11 AT RECEPTION NUMBER 316179 WHICH POINT IS THE POINT OF
12 BEGINNING;
13

14 THENCE ALONG THE SOUTHERLY BOUNDARY OF THAT SAID
15 PARCEL 6 FOR THE FOLLOWING ELEVEN COURSES:
16

- 17 1) 90.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING
18 A CENTRAL ANGLE OF 18°56'22", A RADIUS OF 272.59 FEET AND A
19 CHORD WHICH BEARS S 17°10'16" E, 89.70 FEET;
- 20 2) S 07°42'06" E, 172.81 FEET;
- 21 3) N 82°17'54" E, 10.00 FEET;
- 22 4) S 07°42'06" E, 85.41 FEET;
- 23 5) 99.31 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A
24 CENTRAL ANGLE OF 21°53'06", A RADIUS OF 260.00 FEET AND A
25 CHORD WHICH BEARS S 18°38'43" E, 98.71 FEET;
- 26 6) N 60°24'47" E, 10.00 FEET;
- 27 7) 83.33 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A
28 CENTRAL ANGLE OF 19°05'54", A RADIUS OF 250.00 FEET AND A
29 CHORD WHICH BEARS S 39°08'11" E, 82.95 FEET;
- 30 8) N 41°18'52" E, 20.00 FEET;
- 31 9) 115.00 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A
32 CENTRAL ANGLE OF 28°38'51", A RADIUS OF 230.00 FEET AND A
33 CHORD WHICH BEARS S 63°00'36" E, 113.81 FEET;
- 34 10) S 12°39'57" W, 20.00 FEET;
- 35 11) 249.93 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING
36 A CENTRAL ANGLE OF 57°16'43", A RADIUS OF 250.00 FEET AND A
37 CHORD WHICH BEARS N 74°01'35" E, 239.65 FEET TO A POINT ON THE
38 6-5 LINE OF THE LITTLE CALLY LODGE M.S. 5654;

39
40 THENCE S 17°48'36" W, 330.87 FEET ALONG THE 6-5 LINE OF SAID
41 LITTLE CALLY LODGE M.S. 5654 TO THE INTERSECTION WITH THE 12-
42 11 LINE OF THE HANNIBAL & ST. JOE LODGE M.S. 5654;
43

44 THENCE S 48°02'00" W, 527.33 FEET ALONG THE 12-11 LINE OF THE
45 HANNIBAL & ST. JOE LODGE M.S. 5654 TO THE INTERSECTION WITH

1 THE SECTION LINE BETWEEN SECTIONS 5 AND 6, TOWNSHIP 7
2 SOUTH, RANGE 77 WEST of the 6th PRINCIPAL MERIDIAN;

3
4 THENCE N 00°50'00" W, 1144.02 FEET ALONG SAID SECTION LINE
5 BETWEEN SECTIONS 5 AND 6, BEING ALSO THE WESTERN
6 BOUNDARY OF GOVERNMENT LOT 68, TO THE INTERSECTION WITH
7 THE 20-19 LINE OF SAID LIZZIE LODGE M.S. 6349;

8
9 THENCE N 38°43'00" E, 9.11 FEET ALONG THE 20-19 LINE OF THE
10 LIZZIE LODGE TO THE POINT OF BEGINNING.

11
12 CONTAINING 225,586 square feet or 5.179 acres more or less

13
14 is placed in Breckenridge Land Use District 1, Land Use District 41, and Land Use District 42.
15 The Town staff is directed to change the Town's Land Use District Map to indicate that the
16 abovedescribed property has been annexed and placed within Land Use District 1, Land Use
17 District 41, and Land Use District 42.

18
19 Section 2. The general boundaries of Land Use District 1, Land Use District 41, and
20 Land Use District 42 within the real property described in Section 1 of this ordinance are shown
21 on **Exhibit "A"**, which is attached to and incorporated into this ordinance. The exact boundaries
22 Land Use District 1, Land Use District 41, and Land Use District 42 within the real property
23 described in Section 1 of this ordinance shall be determined by the Town in connection with a
24 site specific development permit application to develop such real property, or in connection with
25 a public improvement project to be undertaken by the Town as described in Chapter 14 of Title 9
26 of this Code.

27 Section 3. Under the Town's Land Use Guidelines, the Town would normally be
28 required to place .20716 SFEs of density on that portion of the real property described in Section
29 1 that has been placed in Land Use District 1 [2.0716 acres of Land Use District 1 land at one
30 SFE per 10 acres = .20716 SFEs of Land Use District 1 density]; 1.81265 SFEs of density on
31 that portion of the real property described in Section 1 that has been placed in Land Use District
32 41 [1.81265 acres of Land Use District 41 land at one unit of density per acre = 1.81265 SFEs of
33 Land Use District 41 density]; and 2.5895 SFEs of density on that portion of the real property
34 described in Section 1 that has been placed in Land Use District 42 [1.29475 acres of Land Use
35 District 42 land at two units of density per acre = 2.5895 SFEs of Land Use District 42 density] .
36 However, there was no density on the real property described in Section 1 of this ordinance prior
37 to annexation, and the Town Council finds and determines that to comply with the Joint Upper
38 Blue Master Plan no density should be placed on such property after annexation. Accordingly, no
39 density is placed on the real property described in Section 1 of this ordinance.

40 Section 4. Unless a developer brings additional density to the property, the density on the
41 real property described in Section 1 of this ordinance may only be used for those uses
42 specifically described in Goal B – Policy/Action 1 of the Joint Upper Blue Master Plan as
43 adopted by the Town, which uses include as of the date of the adoption of this ordinance
44 community facilities, institutional uses, and affordable workforce housing. The Town Council

1 finds and determines that the density restrictions imposed by this Section 4 comply with and
2 implement the Joint Upper Blue Master Plan as adopted by the Town.

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

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

14 Section 7. This ordinance shall be published and become effective as provided by
15 Section 5.9 of the Breckenridge Town Charter.

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

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

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

29 ATTEST:

30
31
32 _____
33 Town Clerk
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Wakefield Property LUD



LEGEND:
Land Use District 1-Green (1 unit per 10 acres)
Land Use District 41-Blue (1 unit per acre)
Land Use District 42-Red (2 units per acre)

MEMO

To: Breckenridge Town Council

From: Laurie Best-Community Development Department

Date: May 7, 2013 (for May 14th meeting)

Re: Wakefield Property Initial Zoning (Wakefield Property, Phase I and Wakefield Property, Phase II)

The Council is scheduled to consider the second reading of two **Annexation Ordinances** (Council Bills 11 and 12, Series 2013) at your May 14th meeting. The property described in those Annexation Ordinances is the Town-owned property commonly referred to as the Wakefield Property. The property is being annexed in two phases (Phase I and Phase II). Staff has recommended approval of those Annexation Ordinances.

Pursuant to State Statute the Town is required to zone all newly annexed areas within ninety (90) days after the effective date of the annexation ordinance (s). Because the Wakefield Property is Town-owned and because the Breckenridge Heritage Alliance is proposing development of an interpretive site on the Wakefield property as early as this summer, staff is recommending that the Town begin the process to zone the Wakefield property as soon as the annexations are approved. In order to be consistent in regard to the legal description of the annexed property, two **Initial Zoning Ordinances** have been prepared to place the Phase I and Phase II Wakefield property in Town Land Use District (s). These Ordinances are scheduled for first reading on May 14th and they can be considered after the Council acts on the second reading of the Annexation Ordinances.

Land Use District Recommendation

In establishing the initial zoning for a recently annexed property, the Town must first consider the Joint Upper Blue Master Plan (JUBMP) which includes policies intended to cap development. Specifically in regard to vacant land annexations, the JUBMP policy is:

Vacant land annexations should restrict development levels to the density established by the applicable County zoning, Town of Blue River zoning, or the Town of Breckenridge Land Use Guidelines whichever is less, unless additional density is transferred to the site.

It should be noted that the County zoning in place prior to annexation allowed no density and the property is designated as an inappropriate site for either sending or receiving density on the Upper Blue Sending/Receiving Map. Therefore, in order to comply with the goals of JUBMP, there should be no density assigned to the Wakefield property as part of this initial zoning. In similar cases, where Forest Service parcels were annexed and zoned (MBJ/Wedge, Claimjumper, etc.) staff included special findings in the initial zoning ordinances to strip the density and to only allow uses which are specifically exempted from the density cap of the JUBMP. It is staff's recommendation that the same process be applied in the initial zoning of the

Wakefield Property. We have included these special findings in Sections 3 and 4 of the proposed Initial Zoning Ordinances.

In addition to satisfying the policies of the JUBMP, the Town is required to place recently annexed property in the Land Use District that is designated on the Town's Land Use District Map/Master Plan. In this case, the current land use designations are Land Use Districts 1, 41, and 42 as shown on the attached map. Land Use District 1 is a district that generally discourages development, while both Land Use District 41 and 42 provides for low density, low intensity residential development at 1 UPA and 2 UPA, respectively. While the Town has the ability to rezone a property by changing the Town's Master Plan/Land Use District Map, a rezoning is a time-consuming process. In this case, staff does not believe a rezoning is necessary or prudent because the property is owned and controlled by the Town, the Town's intended use for the Wakefield property is open space and historic interpretation, the density will be stripped from the property, and the Town is not subject to the Development Code (Land Use Designation). Therefore, it is staff's recommendation that the property be placed in the currently designated Land Use Districts (s). Staff anticipates that the Breckenridge Heritage Alliance will submit plans for the historic interpretive site for the Town Council to review within the next few weeks, and then, if the Council is comfortable with the plans, a Town Public Improvement Project will be submitted.

Summary

In summary, it is staff's recommendation that the Wakefield property be placed in the land use districts as shown on the Town's Land Use District/Master Plan (LUD 1, 41, 42). Furthermore, in order to comply with the JUBMP policies, provisions have been included in the Initial Zoning Ordinance to clarify that there is no density is assigned to the Wakefield property. Both Planning Commission and staff support the Initial Zoning Ordinances as presented and recommend approval. Staff will be available at your meeting on May 14th to answer questions.

1 ***FOR WORKSESSION/FIRST READING – MAY 14***

2
3 COUNCIL BILL NO. 16

4
5 Series 2013

6
7 AN ORDINANCE PLACING RECENTLY ANNEXED
8 PROPERTY IN LAND USE DISTRICT 1 AND LAND USE
9 DISTRICT 41
10 (Wakefield Property, Phase II - 12.307 acres)

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

14
15 WHEREAS, by Ordinance No. ____, Series 2013, adopted May 14, 2013, the real
16 property described in Section 1 of this ordinance was annexed into and made a part of the Town
17 in accordance with the Municipal Annexation Act of 1965 (Part 1 of Article 12 of Title 31,
18 C.R.S.); and

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

22
23 WHEREAS, the Town's Planning Commission has recommended that the recently
24 annexed parcel be placed within Land Use District 1 and Land Use District 41; and

25
26 WHEREAS, the Town's Annexation Plan adopted pursuant to Section 31-12-105(1)(e),
27 C.R.S., indicates that the property should be placed in Land Use District 1 and Land Use District
28 41; and

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

33
34 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
35 BRECKENRIDGE, COLORADO:

36
37 Section 1. The following described real property:

38
39 GOVERNMENT LOT 32, LOCATED IN THE SOUTHEAST QUARTER OF
40 SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE SIXTH
41 PRINCIPAL MERIDIAN, SUMMIT COUNTY COLORADO, BEING MORE
42 PARTICULARLY DESCRIBED AS FOLLOWS:

43
44 BEGINNING AT THE INTERSECTION OF THE EAST SECTION LINE OF
45 SECTION 6, TOWNSHIP 7 SOUTH RANGE 77 WEST OF THE 6th P.M. AND

1 THE 20-19 LINE OF THE LIZZIE LODGE M.S. 6349 FROM WHICH POINT
2 CORNER 19 OF THE LIZZIE LODGE M.S. 6349, COMMON WITH CORNER
3 54 OF THE T.H. FULLER PLACER M.S. 86,
4 BEARS N 38°43'00" E, 121.73 FEET;

5
6 THENCE S 00°50'00" E, 1144.02 FEET ALONG THE EAST SECTION LINE
7 OF SECTION 6 TO THE INTERSECTION WITH THE 12-11 LINE OF THE
8 HANNIBAL & ST. JOE LODGE M.S. 5654;

9
10 THENCE S 48°02'00" W, 340.56 FEET ALONG THE 12-11 LINE OF THE
11 HANNIBAL & ST. JOE LODGE M.S. 5654 TO CORNER 11 OF THE
12 HANNIBAL & ST. JOE LODGE M.S. 5654, COMMON WITH CORNER 24 OF
13 THE NELLIE PLACER LOT 2 M.S. 7108;

14
15 THENCE N 44°25'12" W, 829.88 FEET ALONG THE 24-23 LINE OF THE
16 NELLIE PLACER LOT 2 M.S. 7108 TO CORNER 23 OF THE NELLIE
17 PLACER LOT 2 M.S. 7108, COMMON WITH CORNER 15 OF THE
18 GERMANIA LODGE M.S. 6349 AND ALSO COMMON WITH CORNER 17 OF
19 THE LIZZIE LODGE M.S. 6349;

20
21 THENCE S 75°48'00" E, 165.54 FEET ALONG THE 17-20 LINE OF THE
22 LIZZIE LODGE M.S. 6349 TO CORNER 20 OF THE LIZZIE LODGE M.S. 6349;

23
24 THENCE N 38°43'00" E, 1,050.32 FEET ALONG THE 20-19 LINE OF THE
25 LIZZIE LODGE M.S. 6349 TO THE POINT OF BEGINNING.

26
27 CONTAINING 536,090 square feet or 12.307 acres more or less

28
29 is placed in Breckenridge Land Use District 1 and Land Use District 41. The Town staff is
30 directed to change the Town's Land Use District Map to indicate that the abovedescribed
31 property has been annexed and placed within Land Use District 1 and Land Use District 41.

32
33 Section 2. The general boundaries of Land Use District 1 and Land Use District 41
34 within the real property described in Section 1 of this ordinance are shown on Exhibit "A",
35 which is attached to and incorporated into this ordinance. The exact boundaries Land Use
36 District 1 and Land Use District 41 within the real property described in Section 1 of this
37 ordinance shall be determined by the Town in connection with a site specific development permit
38 application to develop such real property, or in connection with a public improvement project to
39 be undertaken by the Town as described in Chapter 14 of Title 9 of this Code.

40
41 Section 3. Under the Town's Land Use Guidelines, the Town would normally be
42 required to place 1.2057 SFEs of density on that portion of the real property described in Section
43 1 that has been placed in Land Use District 1 [12.057 acres of Land Use District 1 land at SFE
44 per 10 acres = 1.2057 SFEs of Land Use District 1 density] and .25 SFEs of density on that
45 portion of the real property described in Section 1 that has been placed in Land Use District 41
[.25 acres of Land Use District 41 land at one unit of density per acre = .25 SFEs of Land Use

1 District 41 density]. However, there was no density on the real property described in Section 1 of
2 this ordinance prior to annexation, and the Town Council finds and determines that to comply
3 with the Joint Upper Blue Master Plan no density should be placed on such property after
4 annexation. Accordingly, no density is placed on the real property described in Section 1 of this
5 ordinance.

6 Section 4. Unless a developer brings additional density to the property, the density on the
7 real property described in Section 1 of this ordinance may only be used for those uses
8 specifically described in Goal B – Policy/Action 1 of the Joint Upper Blue Master Plan as
9 adopted by the Town, which uses include as of the date of the adoption of this ordinance
10 community facilities, institutional uses, and affordable workforce housing. The Town Council
11 finds and determines that the density restrictions imposed by this Section 4 comply with and
12 implement the Joint Upper Blue Master Plan as adopted by the Town.

13 Section 5. The Town Council finds, determines, and declares that this ordinance is
14 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
15 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
16 thereof.

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

24 Section 7. This ordinance shall be published and become effective as provided by
25 Section 5.9 of the Breckenridge Town Charter.

26 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
27 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
28 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
29 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
30 Town.

31
32 TOWN OF BRECKENRIDGE, a Colorado
33 municipal corporation

34
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36 By _____
37 John G. Warner, Mayor
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ATTEST:

Town Clerk

1300-62\Phase II New Zone Ordinance_2 (05-01-12)

Wakefield Property LUD



LEGEND:
Land Use District 1-Green (1 unit per 10 acres)
Land Use District 41-Blue (1 unit per acre)
Land Use District 42-Red (2 units per acre)



MEMORANDUM

TO: Town Council

FROM: Michael Mosher, Planner III

DATE: April 26, 2013 for meeting of May 14, 2013

SUBJECT: First Reading: Landmarking the Giller Residence, 306 South Ridge Street

Enclosed with this memo is a landmarking ordinance at first reading for Giller Residence located at 306 South Ridge Street. The ordinance is:

An Ordinance Designating Certain Real Property
As A Landmark Under Chapter 11 Of Title 9 Of The Breckenridge Town Code
(Lots 25 and 26, Block 9, Abbetts Addition)

The Town Council approved the Giller Residence (PC#2011054) on May 22, 2012. Landmarking the structures was a condition of Development Permit approval, which included the restoration the historic building. The Planning Commission approved this project on May 15, 2012 and recommended that the Town Council adopt this structure as a local landmark. This ordinance will fulfill the landmarking condition of approval for the Development Permit.

Staff notes this property fulfilled seven of the three required criteria for locally landmarking. Staff will be available at the meeting for questions.

1 ***FOR WORKSESSION/FIRST READING – MAY 14, 2013***

2
3 COUNCIL BILL NO. 17

4
5 Series 2013

6
7 AN ORDINANCE DESIGNATING CERTAIN REAL PROPERTY AS A LANDMARK
8 UNDER CHAPTER 11 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE
9 (Lots 25 and 26, Block 9, Abbetts Addition)

10
11 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
12 COLORADO:

13
14 Section 1. Findings. The Town Council of the Town of Breckenridge finds and
15 determines as follows:

16
17 A. Michael Giller and Jennifer Giller own the hereinafter described real
18 property. Such real property is located within the corporate limits of the Town of
19 Breckenridge, County of Summit and State of Colorado.

20
21 B. Michael Giller and Jennifer Giller filed an application with the Town
22 pursuant to Chapter 11 of Title 9 of the Breckenridge Town Code seeking to have the
23 Town designate the hereinafter described real property as a landmark (“**Application**”).
24

25 C. The Town followed all of procedural requirements of Chapter 11 of Title 9 of
26 the Breckenridge Town Code in connection with the processing of the Application.
27

28 D. The improvements located on hereinafter described real property are more
29 than fifty (50) years old.
30

31 E. The hereinafter described real property meets the “architectural” designation
32 criteria for a landmark as set forth in Section 9-11-4(A)(1)(a) of the Breckenridge Town
33 Code because the property:
34

- 35 (i) exemplifies specific elements of architectural style or period;
36 (ii) exemplifies style particularly associated with the Breckenridge area;
37 (iii) represents a built environment of a group of people in an era of history;
38 (iv) represents a built environment of a group of people in an era of history;
39 and
40 (v) is a significant historic remodel.

41
42 F. The hereinafter described real property meets the “social” designation criteria
43 for a landmark as set forth in Section 9-11-4(A)(1)(b) of the Breckenridge Town Code
44 because the property is associated with a notable person or the work of a notable person.
45

1 G. The hereinafter described real property meets the “physical integrity” criteria
2 for a landmark as set forth in Section 9-11-4(A)(3) of the Breckenridge Town Code
3 because:

- 4
- 5 (i) the property shows character, interest or value as part of the development,
6 heritage or cultural characteristics of the community, region, state or
7 nation and;
- 8 (ii) the property retains original design features, materials or character
9

10 H. In accordance with the requirements of Section 9-11-3(B)(3) of the
11 Breckenridge Town Code, on May 15, 2012 the Application was reviewed by the
12 Breckenridge Planning Commission. On such date the Planning Commission
13 recommended to the Town Council that the Application be granted.
14

15 I. The Application meets the applicable requirements of Chapter 11 of Title 9 of
16 the Breckenridge Town Code, and should be granted without conditions.
17

18 J. Section 9-11-3(B)(4) of the Breckenridge Town Code requires that final
19 approval of an application for landmark designation under Chapter 11 of Title 9 of the
20 Breckenridge Town Code be made by ordinance duly adopted by the Town Council.
21

22 Section 2. Designation of Property as Landmark. The following described real
23 property:

24
25 Lots 25 and 26, Block 9, Abbetts Addition to the Town of Breckenridge;
26 commonly known and described as 306 South Ridge Street, Breckenridge,
27 Colorado 80424
28

29 is designated as a landmark pursuant to Chapter 11 of Title 9 of the Breckenridge Town
30 Code.
31

32 Section 3. Police Power Finding. The Town Council finds, determines and declares that
33 this ordinance is necessary and proper to provide for the safety, preserve the health, promote the
34 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and
35 the inhabitants thereof.
36

37 Section 4. Town Authority. The Town Council finds, determines and declares that it has
38 the power to adopt this ordinance pursuant to the authority granted to home rule municipalities
39 by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town
40 Charter.
41

42 Section 5. Effective Date. This ordinance shall be published and become effective as
43 provided by Section 5.9 of the Breckenridge Town Charter.
44

45 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
46 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the

1 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
2 ____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
3 Town.

4
5 TOWN OF BRECKENRIDGE, a Colorado
6 municipal corporation
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10 By _____
11 John G. Warner, Mayor
12

13 ATTEST:
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17 _____
18 Helen Cospolich
19 Town Clerk
20

MEMORANDUM

To: Mayor and Town Council
From: Town Manager's Office
Date: May 6, 2013
Subject: Ordinance for Extension of Comcast Franchise Agreement

At the May 14th Town Council worksession, staff will be presenting an ordinance that will formalize the extension of the Town's Franchise Agreement with Comcast. The current Franchise Agreement is due to expire on June 15, 2013. This ordinance will allow the current agreement to be extended until June 15, 2014. The Town Manager has been working with other jurisdictions and Comcast management to address future needs and common interests. All parties feel it is in everyone's best interest to extend the current agreement for another year and allow ample time to develop the new document.

1 ***FOR WORKSESSION/FIRST READING – MAY 14***

2
3 COUNCIL BILL NO. 18

4
5 Series 2013

6
7 AN ORDINANCE APPROVING THE SECOND AMENDMENT TO THE TOWN’S CABLE
8 TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF
9 CALIFORNIA/COLORADO/WASHING, LP

10
11 WHEREAS, the Town entered into a cable franchise agreement with Universal Cable
12 Communications, Inc. d/b/a Classic Cable (“**Classic Cable**”) dated November 15, 1995
13 (“**Franchise Agreement**”); and

14
15 WHEREAS, by Resolution No. 45, Series 2001, adopted October 23, 2001, the Town
16 approved the assignment of the Franchise Agreement from Classic Cable to TCI Cable Partners
17 of St. Louis, L.P. (“**TCI**”); and

18
19 WHEREAS, Comcast of California/Colorado/Washington, LP (“**Comcast**”) is the
20 successor to TCI and currently holds a cable franchise with the Town pursuant to Resolution No.
21 30, Series 2002, adopted June 11, 2002; and

22
23 WHEREAS, Ordinance No. 27, Series 2005 extended the term of the Franchise
24 Agreement to June 15, 2008; and

25
26 WHEREAS, by Ordinance No. 26, Series 2007, the Town Council approved a “First
27 Amendment To Franchise Agreement” (“**First Amendment**”) that, among other things,
28 extended the term of the Franchise Agreement until June 15, 2013; and

29
30 WHEREAS, Comcast has preserved its rights by timely filing a request with the Town to
31 activate the formal process for renewing the Franchise Agreement pursuant to the Cable
32 Communications Policy Act of 1984 (“**Cable Act**”); and

33
34 WHEREAS, the parties have agreed to extend the Franchise Agreement for an additional
35 period of one (1) year (until June 15, 2014), as more fully set forth in the proposed “Second
36 Amendment to Franchise Agreement Between the Town of Breckenridge, Colorado and Comcast
37 of California/Colorado/Washington, LP” (“**Second Amendment**”), a copy of which is marked
38 **Exhibit “A”**, attached to this ordinance and incorporated into this ordinance by reference; and

39
40 WHEREAS, the Town Council has revised the proposed Second Amendment, and finds
41 and determines that its approval would be in the best interest of the Town and its citizens.

42
43 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
44 BRECKENRIDGE, COLORADO:

1 Section 1. The Second Amendment to Franchise Agreement Between the Town of
2 Breckenridge, Colorado and Comcast of California/Colorado/Washington, LP is approved, and
3 the Mayor is authorized, empowered, and directed to execute such document for and on behalf of
4 the Town of Breckenridge. The Franchise Agreement, as amended by the First Amendment and
5 the Second Amendment, shall remain in effect, pursuant to the terms and conditions contained
6 therein, until the new expiration date, until a new agreement is entered into between the parties,
7 or until the Franchise Agreement is terminated pursuant to its terms.
8

9 Section 2. Neither the Town nor Comcast waive any right they have under law as a result
10 of agreeing to extend the Franchise Agreement as provided in the Second Amendment, and
11 Comcast shall not be required to file any additional request or document in order to preserve its
12 rights under Section 626 of the Cable Act.
13

14 Section 3. If any portion of this ordinance is held to be unconstitutional or invalid for any
15 reason, such decision shall not affect the constitutionality or validity of the remaining portions of
16 this ordinance. The Town Council declares that it would have passed this ordinance and each
17 part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.
18

19 Section 4. All other ordinances or portions thereof inconsistent or conflicting with this
20 ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or
21 conflict.
22

23 Section 5. The Town Council finds, determines, and declares that it has the power to
24 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
25 of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.
26

27 Section 6. This ordinance shall be published and become effective as provided by
28 Section 5.9 of the Breckenridge Town Charter.
29

30 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
31 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
32 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
33 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
34 Town.
35

36 TOWN OF BRECKENRIDGE, a Colorado
37 municipal corporation
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41 By _____
42 John G. Warner, Mayor
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1 ATTEST:

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Helen Cospolich,
Town Clerk

**SECOND AMENDMENT TO THE CABLE TELEVISION FRANCHISE
BETWEEN THE TOWN OF BRECKENRIDGE, COLORADO
AND COMCAST OF CALIFORNIA/COLORADO/WASHINGTON, LP**

This Second Amendment to the Cable Television Franchise Agreement is made and entered into as of _____, 2013, such day being the effective date of Town of Breckenridge Ordinance No. _____, Series 2013, and amends the Cable Television Franchise Agreement (“Franchise Agreement”) by and between the Town of Breckenridge, Colorado, (“Town”) and Comcast of California/Colorado/Washington, LP (“Comcast”).

WHEREAS in 1995, the Town Council approved the grant of a nonexclusive Franchise Agreement to Universal Cable Communications, Inc., effective October 24, 1995, for its construction and operation of a cable television system within the Town; and,

WHEREAS, Comcast of California/Colorado/Washington, LP, is the successor in interest to Universal Cable Communications, Inc.; and,

WHEREAS, on November 13, 2007, the parties previously agreed to extend the Franchise Agreement to June 15, 2013; and,

WHEREAS, Comcast has preserved its rights by timely filing a request with the Town to activate the formal process for renewing the Franchise Agreement pursuant to the provisions of the Cable Communications Policy Act of 1984 (“Cable Act”); and,

WHEREAS, the Franchise Agreement was set to expire on June 15, 2013, and,

WHEREAS, Town staff and Comcast representatives have discussed the renewal of the Franchise Agreement and both parties have agreed that their respective interests will be served by a formal extension of the existing Franchise Agreement to a date certain; and,

WHEREAS, the Town Council is agreeable to extending the existing term of the Franchise Agreement until June 15, 2014.

NOW, THEREFORE, the present Franchise Agreement is hereby amended by the following:

1. Section V of the Franchise Agreement – Term is hereby deleted and replaced with the following:

V. Term

In accordance with Ordinance No. [REDACTED], Series 2013, the term of the Franchise shall be extended an additional one (1) year and shall terminate on June 15, 2014, unless terminated sooner as hereinafter provided.

2. Except as specifically modified hereby, the Franchise Agreement shall remain in full force and effect.

3. Neither party waives any right which it enjoys under law as a result of agreeing to this Franchise extension, and Comcast shall not be required to file any additional request or document in order to preserve its right of renewal under Section 626 of the Cable Act.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

TOWN OF BRECKENRIDGE, COLORADO

By: _____
Mayor

Date: _____

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

**COMCAST OF CALIFORNIA/COLORADO/
WASHINGTON, LP**

By: _____
Richard C. Jennings

Title: Regional Senior Vice President
Cable Management

Date: _____



MEMORANDUM

TO: Town Council
FROM: Scott Reid, Open Space and Trails Planner
DATE: May 1, 2013 (for the May 14, 2013 agenda)
SUBJECT: Morning Star/Romance Claims Property Dedication Ratification Ordinance

Attached, please find an ordinance to ratify Town Manager Tim Gagen’s signature of a Bargain and Sale Deed, conveying a portion of landlocked property to Mr. Glenn Gallop as part of the Romance Claims open space purchase.

Background

In January 2012, the Town and Summit County open space programs jointly acquired a set of mining lode claims collectively referred to as the “Romance Claims”. One of the nine individual mining claims, the “Morning Star Lode”, included an isolated .24-acre fragment separated from the remaining Romance Claim properties by the historical overlaying of other mining claims. This .24-acre parcel is surrounded entirely by property owned by Mr. Glenn Gallop (the Burnsides, Kiowa, and Bacon Lodes etc.).

As a condition of the Romance Claims acquisition, the Town and County agreed to vacate the lines on the fragment parcel so that it could be merged with Mr. Gallop’s property. This agreement reflected a previous understanding between the seller (Mr. Danny Middleton) and Mr. Gallop. This action will not create an additional lot or unit of density.

Attached is a map of the subject parcel, a copy of the deed, executed on April 3, 2013, and an ordinance ratifying Tim Gagen’s signature.

I will be available on May 14th to answer any questions.

1 *FOR WORKSESSION/FIRST READING – MAY 14*

2
3 COUNCIL BILL NO. 19

4
5 Series 2012

6
7 AN ORDINANCE RATIFYING AND CONFIRMING THE SIGNING OF A DEED
8 CONVEYING THE TOWN’S INTEREST IN CERTAIN REAL PROPERTY
9 (Part of the Morning Star Lode, M.S. 6811)

10
11 WHEREAS, Section 15.3 of the Breckenridge Town Charter requires that the conveyance
12 of Town-owned real property be authorized either by ordinance or by election; and

13
14 WHEREAS, the Town Manager has previously executed, acknowledged, and delivered a
15 deed conveying the Town’s interest in certain real property, and it necessary and appropriate for
16 the Town Council to ratify such acts.

17
18 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
19 BRECKENRIDGE, COLORADO:

20
21 Section 1. The Town Manager’s previous execution, acknowledgment, and delivery of
22 that Bargain and Sale Deed between the Board of County Commissioners of Summit County,
23 Colorado and the Town of Breckenridge, as grantors, and Glenn Gallop, as grantee, dated April
24 3, 2013 and recorded April 3, 2013 under Reception No. 1022780 is ratified, confirmed, and
25 approved.

26
27 Section 2. This ordinance shall be published and become effective as provided by
Section 5.9 of the Breckenridge Town Charter.

28 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
29 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
30 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ___ day of
31 _____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
32 Town.

33
34 TOWN OF BRECKENRIDGE, a Colorado
35 municipal corporation

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39 By _____
40 John G. Warner, Mayor
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1 ATTEST:

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Helen Cospolich
Town Clerk



BARGAIN AND SALE DEED

THIS DEED, made this 3rd day of April, 2013, between

**THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO AND
THE TOWN OF BRECKENRIDGE, A COLORADO MUNICIPAL CORPORATION, COLLECTIVELY
"GRANTOR"**

for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, GRANTOR hereby sells and conveys to:

GLENN GALLOP "GRANTEE"

whose street address is 1806 Driskill Drive, Irving, Texas, 75038-5954, County of Dallas, State of Texas, all the right, title, interest, claim, and demand which GRANTOR has in and to the real property situate, lying, and being in the County of Summit and the State of Colorado, described as follows:

A part of the MORNING STAR LODE MS 6811, as described on the Subdivision Exemption Plat recorded at Reception No. 1022779 on April 3rd, 2013 ("PROPERTY")

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, interest, and claim whatsoever, of the GRANTOR to such Property, either in law or equity, to the use and benefit of the GRANTEE, and the GRANTEE'S heirs, successors, and assigns forever.

PROVIDED, THIS DEED is not intended to convey or create a separate parcel to GRANTEE; by accepting this Deed, GRANTEE agrees and covenants that any interest of the GRANTOR in the Property shall be immediately merged into the existing adjacent estate of the GRANTEE in Mineral Survey #6187, as described in the deed recorded at Reception #873247 in the Office of the Summit County Clerk and Recorder, a/k/a Assessor's Schedule #6514205 ("Assessor's Schedule #6514205"), and GRANTEE therefore covenants and agrees on behalf of himself, his successors and assigns forever that the merged estate consisting of the Property and Assessor's Schedule #6514205 may never be subdivided without the express subdivision approval from the governmental entity with jurisdiction.

GRANTOR:

BOARD OF COUNTY COMMISSIONERS
SUMMIT COUNTY, COLORADO

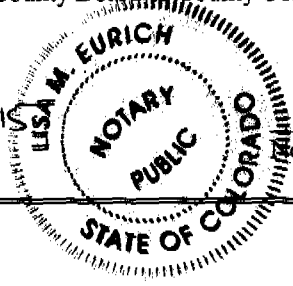
Thomas C. Davidson, Chair

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged, subscribed and sworn to before me this 1st day of April, 2013 by Thomas C. Davidson, as Chair of the Summit County Board of County Commissioners.

Witness my Hand and Official Seal

My commission expires: August 31, 2015



Notary Public

GRANTOR:

TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: _____

Timothy J. Gagen, Town Manager

ATTEST:

Helen Cospolich, Town Clerk

STATE OF COLORADO)

)

) ss.

COUNTY OF SUMMIT)

)

The foregoing instrument was acknowledged, subscribed and sworn to before me this 3rd day of April, 2013 by Timothy J. Gagen, as Town Manager, and Helen Cospolich, as Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

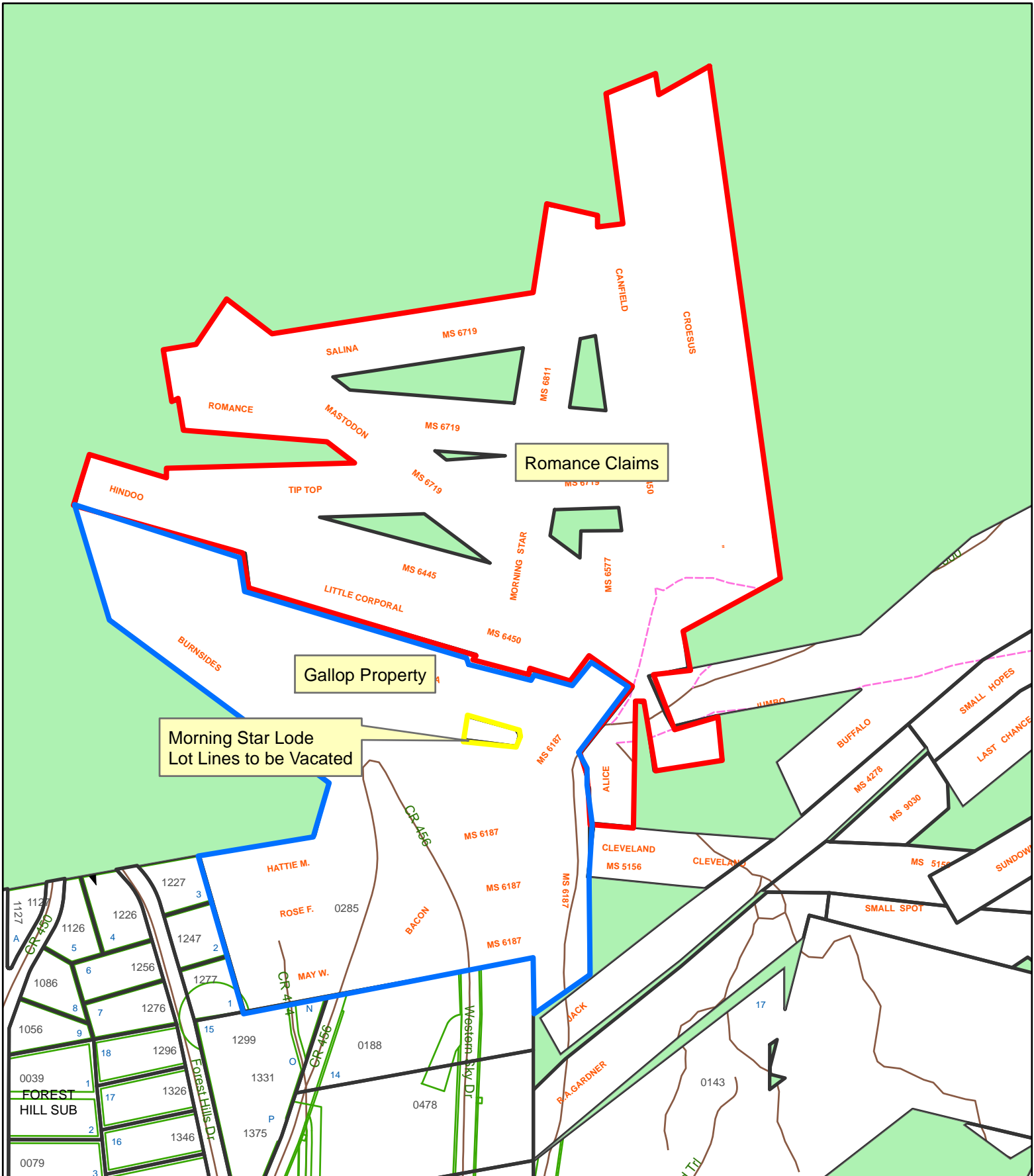
Witness my Hand and Official Seal

My commission expires: 10/10/2015

Notary Public

NICOLE LaROCHELLE
STATE OF COLORADO
NOTARY PUBLIC
Comm. No. 20114065225
My Commission Expires October 10, 2015





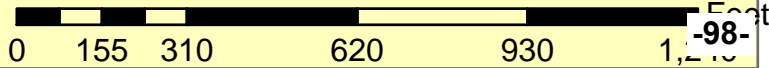
Project: PLN11-100 and PLN11-101
 Morning Star Lode
 General Subdivision Exemption
 and
 Lot Line Vacation

Map Prepared by:
 Kristin Dean

Planning Department
 kristind@co.summit.co.us
 (970) 668-4207



This map is for display purposes only.
 Do not use for legal conveyance.
 Not necessarily accurate by surveying
 standards, and does not comply with
 National Mapping Accuracy Standards.
 © 2010 Summit County Government



TO: BRECKENRIDGE TOWN COUNCIL
FROM: BRIAN WALDES, FINANCIAL SERVICES MANAGER
SUBJECT: SALES TAX ORDINANCE ADMINISTRATIVE RULES
DATE: 5/3/13
CC: TIM GAGEN, RICK HOLMAN

Staff is submitting for first reading an ordinance that will give the Town Manager the ability to promulgate administrative rules pertaining to Chapter 1 of Title 3 of the Breckenridge Town Code (the Code) entitled "Sales Tax".

This authority is given to specific subject areas of the Code. However, this authority does not currently exist for Title 3. Staff is seeking this authority for the Town Manager in order to facilitate the issuance of administrative regulations pertaining to Taxation.

1 ***FOR WORKSESSION/FIRST READING – MAY 14***

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

5
6 COUNCIL BILL NO. 20

7
8 Series 2013

9
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 3 OF THE BRECKENRIDGE
11 TOWN CODE, CONCERNING THE TOWN OF BRECKENRIDGE SALES TAX, BY
12 AUTHORIZING THE TOWN MANAGER TO PROMULGATE ADMINISTRATIVE RULES
13 AND REGULATIONS REQUIRED FOR THE PROPER ADMINISTRATION OF SUCH TAX

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

17
18 Section 1. Chapter 1 of Title 3 of the Breckenridge Town Code is amended by the
19 addition of a new Section 3-1-40, to be entitled “Rules and Regulations”, which shall read in its
20 entirety as follows:

21
22 **3-1-40: RULES AND REGULATIONS: The Town Manager may from time**
23 **to time adopt, amend, alter, and repeal administrative rules and regulations**
24 **as may be necessary for the proper administration of this Chapter. Such**
25 **regulations shall be adopted in accordance with the procedures established**
26 **by Chapter 18, Title 1 of this Code.**

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

30
31 Section 3. The Town Council finds, determines, and declares that it has the power to
32 adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX
33 of the Colorado Constitution, and the powers contained in the Breckenridge Town Charter.

34
35 Section 4. This ordinance shall be published and become effective as provided by
36 Section 5.9 of the Breckenridge Town Charter.

37
38 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
39 PUBLISHED IN FULL this ____ day of _____, 2013. A Public Hearing shall be held at the
40 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
41 ____, 2013, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
42 Town.
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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Helen Cospolich,
Town Clerk



PROCLAMATION

Public Works Week 2013

WHEREAS, the many services provided by Public Works to our community are an integral part of our citizen's everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water treatment and distribution, streets maintenance, public buildings and facility maintenance, engineering of infrastructure enhancements, parks and landscaping, transit and fleet maintenance and operations; and

WHEREAS, the health, safety, economic vitality and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the quality and effectiveness of these services, as well as their planning, design, and construction of public facilities and utilities, is vitally dependent upon the efforts and skills of public works representatives; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff Public Works Departments is materially influenced by the public's attitude and understanding of the importance of the work they perform,

NOW, THEREFORE, I, Mayor John Warner, on behalf of the Town Council and the Town of Breckenridge, do hereby proclaim the week of May 19 – 25, 2013 as "National Public Works Week" in the Town of Breckenridge, and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing quality Public Works services and to recognize the contributions which Public Works representatives make every day to our health, safety, comfort, and quality of life, not only this week but throughout the year.

Adopted this 14th day of May, 2013.

Mayor John Warner (SEAL)

Attest:

Helen Cospolich, Town Clerk

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: May 8, 2013

Re: Planning Commission Decisions of the May 7, 2013, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF May 7, 2013:

CLASS C APPLICATIONS:

- 1) Niernberg Residence (MGT) PC#2013031; 123 Windwood Circle
Construct a new, single family residence with 5 bedrooms, 4.5 bathrooms, 4,826 sq. ft. of density and 5,945 sq. ft. of mass for a F.A.R. of 1:3.70. Approved.
- 2) Schuman Garage (JP) PC#2013032; 11 Willow Green
Construct a new, 2-car garage / bonus room with 430 sq. ft. of new density and 550 sq. ft. of new mass for a F.A.R. of 1:2.52. Approved.
- 3) Rallo Residence (JP) PC#2013033; 1030 Four O’Clock Road
Construct a new, single family residence with 9 bedrooms, 9 bathrooms, 6,904 sq. ft. of density and 8,036 sq. ft. of mass for a F.A.R. of 1:3.31. Approved.

CLASS B APPLICATIONS:

None.

CLASS A APPLICATIONS:

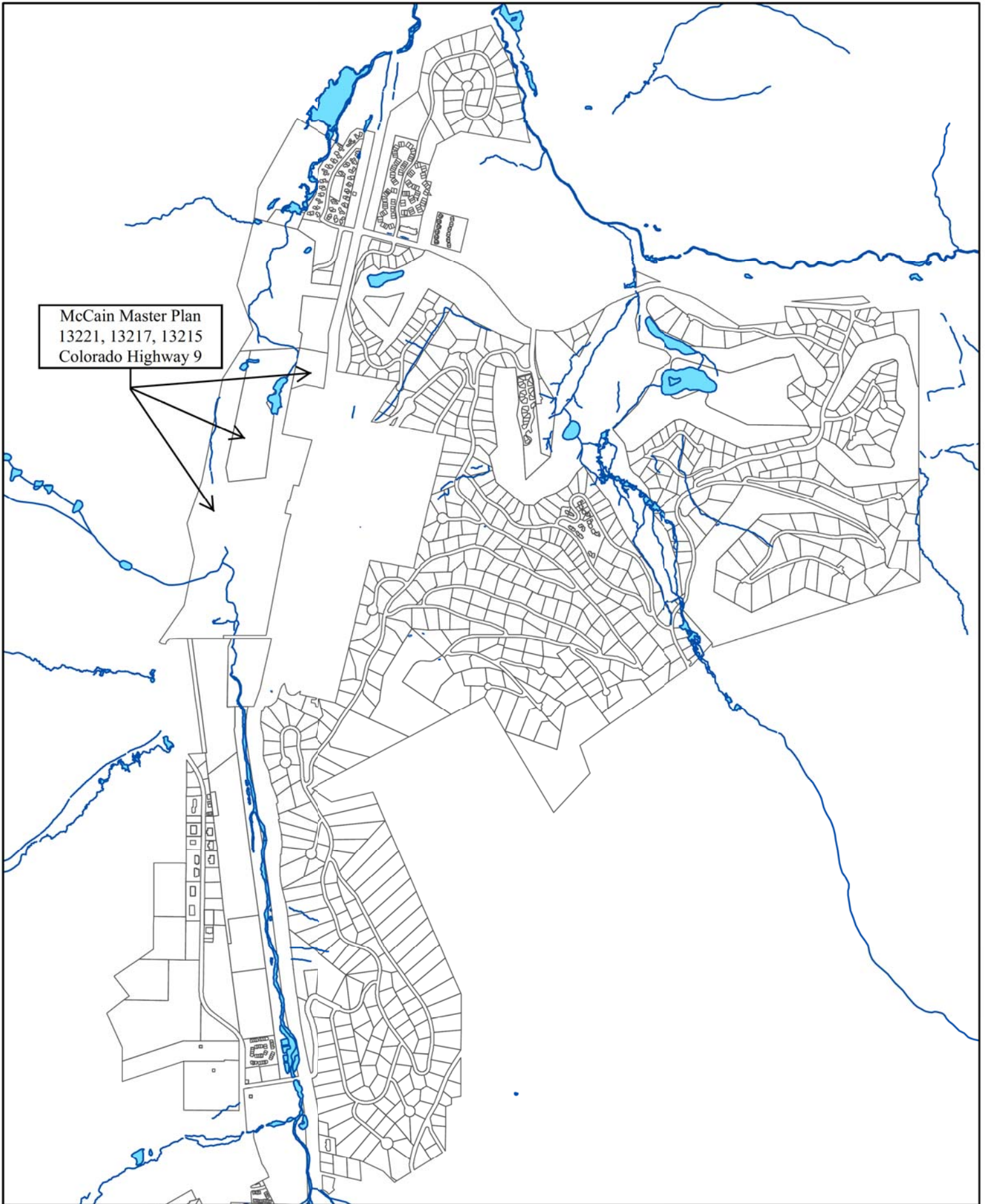
None.

PUBLIC IMPROVEMENT PROJECT HEARINGS:

- 1) McCain Master Plan (JP) PC#2013035; 13221, 13217 and 13215 Colorado Highway 9
Master plan for the property known as the McCain property, identifying and distributing density and uses into two tract (one designated as open space and the second designated for open space and governmental uses, which may include (but are not limited to) solar gardens, overflow parking, water treatment facility, water storage / reservoir, recycling center, snow storage and public works storage). Approved. The Planning Commission also made a Recommendation that the Town Council approve the McCain Master Plan.

OTHER:

- 1) Wakefield Land Use District Recommendation (LB)
Recommendation that the Town Council place the Wakefield property in the land use districts as shown on the Town’s Master Plan (LUD 1, 41, 42) and that the Ordinances clarify that there is no density assigned to the property. Approved.



McCain Master Plan
 13221, 13217, 13215
 Colorado Highway 9

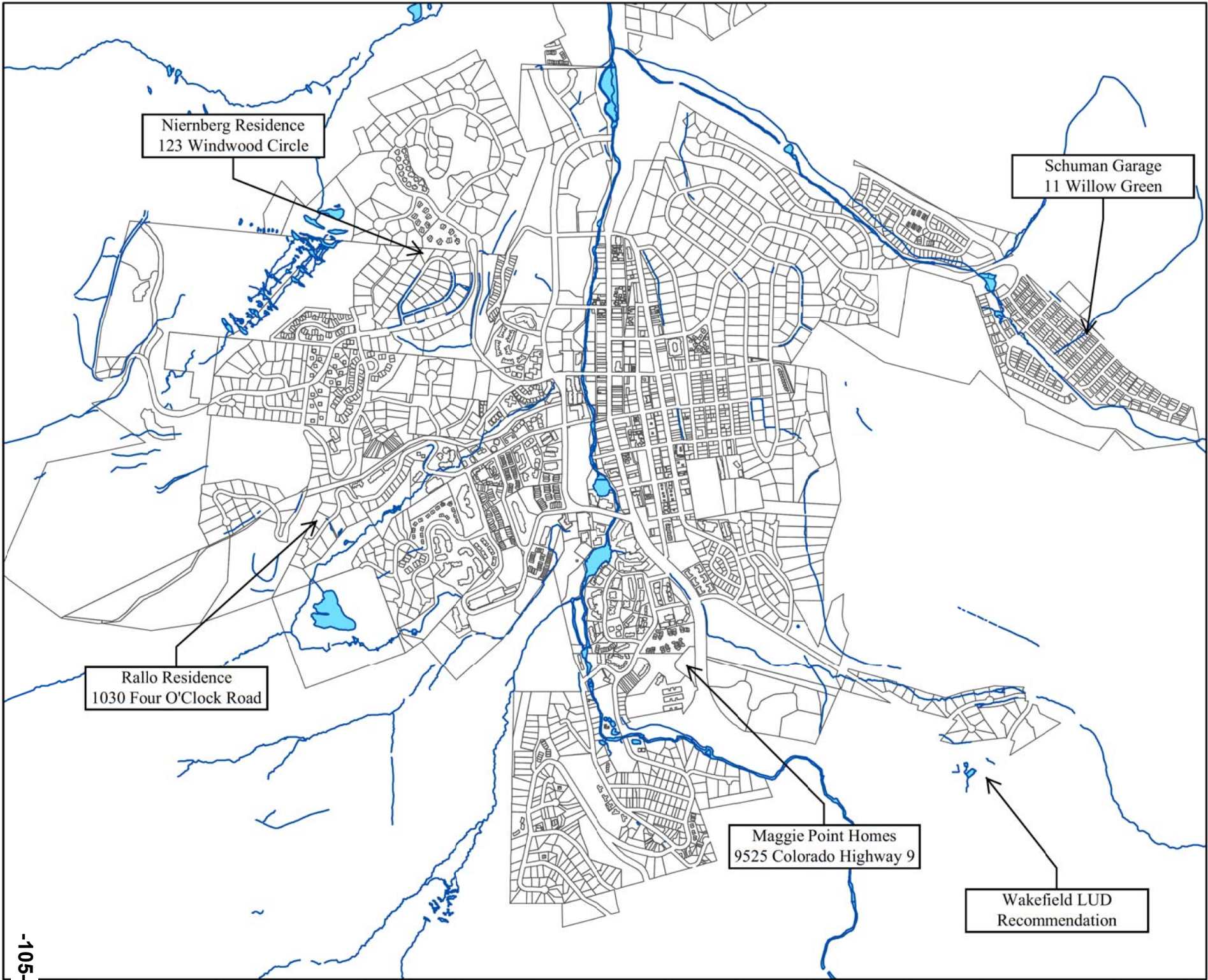


Town of Breckenridge and Summit County governments
 assume no responsibility for the accuracy of the data, and
 use of the product for any purpose is at user's sole risk.

Breckenridge North

printed 4/12/2011





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 Gretchen Dudney
Jim Lamb Dan Schroder Eric Mamula
Dave Pringle
Jennifer McAtamney, Town Council Liaison, was absent

APPROVAL OF AGENDA

Mr. Mosher noted that with the Town Council Liaison being absent, there would be no Town Council Report. With no other changes, the May 7, 2013 Planning Commission meeting agenda was approved unanimously (7-0).

APPROVAL OF MINUTES

With no changes, the April 16, 2013 Planning Commission meeting minutes were approved unanimously (7-0).

CONSENT CALENDAR:

1. Niernberg Residence (MGT) PC#2013031; 123 Windwood Circle
2. Schuman Garage (JP) PC#2013032; 11 Willow Green
3. Rallo Residence (JP) PC#2013033; 1030 Four O'Clock Road

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

WORKSESSIONS:

1. Maggie Point Homes (MM) PC#2013004; 9525 Highway 9
Mr. Butler: The company I am associated with, Creative Cabinetry, has an opportunity to bid this project; I do not have a problem with it, but is it a potential conflict of interest?
Mr. Mamula: I don't think it matters if it is a worksession or not. It may still be a concern.
Ms. Dudney: I would think that you might have an incentive to see it approved.
Mr. Butler: Removed himself from the worksession related to Maggie Point Homes.

Mr. Mosher presented a plan for the review of a fit test for this property. The Town Council is considering a modification to the existing annexation agreement for Maggie Point, but before they act on that request, they asked that Planning Commission to review the plan, and provide a preliminary assessment/point analysis against the Development Code. The input from the Planning Commission is an important consideration in the Council's decision prior to any modification of the agreement. The project was approved, after a lengthy process on August 19, 2009 with a new design of 21 townhomes in the form of nine duplexes and one triplex. Four of the units were market-rate and 17 were affordable housing. This represented the 80/20 ratio of affordable to market units the Town Council seeks with all raw land annexations. There were 16 three-bedroom units and five two-bedroom units. Each unit had at least a one-car garage (some had two-car garages).

The management of Maggie Placer LLC changed after the 2009 plan was approved, the development permit expired, and the project was never constructed. The new management of the LLC approached the Town in 2012 to modify the agreement again, and after some discussion the Council agreed to the following substantive changes/contingencies:

- 1) elimination of one unit for a maximum of 20 units total with 10 deed restricted and 10 market (50/50 ratio)
- 2) lowered AMI targets from 115-140% AMI to 80-95% AMI
- 3) use of local labor/suppliers
- 4) commencement of development by June 2013
- 5) approval of an amended development permit by June 2013 (to supersede the approved 2009 plan)

It was Staffs' understanding that the elimination of one unit (as requested by Town Council) would reduce the intensity of the development on the site plan that had been approved in 2009 and would mitigate some of the earlier concerns about site disturbance. However, the owner began a significant redesign of the project with a new architect and, as a result of new market information and construction feasibility analysis, a very different plan was ultimately presented to staff in early 2013. While the new plan is preferable in some ways (stick-built as opposed to modular), the modification to the size and configuration of the units did little to improve the impacts to the site plan. Staff expressed concerns about the fit and the livability of the units to the applicant and architect. The applicant has met with the Town's Housing Committee who also expressed concerns about the intensity of the development as it related to the Development Code and the site impacts.

In order to construct the plan as submitted the owner will need the Council to approve additional modifications to the agreement, specifically to:

- 1) eliminate one additional unit-down to 19 (9 market and 10 deed restricted)
- 2) increase AMI targets slightly to 80-100% AMI
- 3) eliminate 3 bedroom units (deed restricted units)
- 4) add more time for development review/entitlements, etc.

Before the Council considers these modifications to the annexation agreement, we are seeking input from the Planning Commission regarding the site plan and specifically whether the proposed plan is likely to pass a point analysis.

An initial point analysis shows the following:

Negative points:

- -4 points under Policy 7, Site and Environmental Design / Site Buffering
- -2 points under Policy 7, Site and Environmental Design / Site Privacy
- -4 points under Policy 9, Placement of Structures/ Snow Storage (still under review and need Commission input)

This brings the total to negative six (-6) or negative ten (-10) points.

Positive ten (+10) points are typically awarded under Policy 24 for the affordable housing, however the Council has already discussed that the maximum award in this case should be +7. This is due to the Council's concession on the standard 50/50 ratio for deed restricted to market units.

Staff is seeking input from the Commission on the suggested point assignments as outlined above. This information is important to the Council as they consider the applicant's current annexation agreement request.

Commissioner Questions / Comments:

Ms. Dudney: Site buffering; would that portion of the code be intended to address its buffering within the property? Not just around it?

Ms. Christopher: What was it on the employee housing in Valley Brook?

Mr. Schroder: How many reiterations have been drawn?

Mr. Bobby Craig, Arapahoe Architects:

I'd like to introduce Ms. Diane Yost, the owner's rep, Mr. Jim Schlegal, Realtor, and Mr. Tim Crane of Compass Homes.

We have one similarity with the past application which is the loop road. We didn't feel like there were any other options. Additionally, Tim Crane and myself have done these loop roads before. Other than that, everything is totally different. The last one was a stack-a-shack; lower end units; we realized that we have to make this a seamless market rate project. We can't let the affordable units appear to look as if they are affordable or we will hurt the market rates. Firstly, the duplexes allow us to manipulate the site; we can break them up. Vertically we can step them with the site, less fill, saves us money and makes the site less of an over lot grade and running with the top. We can angle them, turn them towards views. We have 20-40 feet plus of separation. They are not all uniform. That allows landscape pockets along the sides. We think it's a much higher end unit. We wanted to stay at the exact same square footage as before, so we stacked everything. That results in 25% less building footprint with the same square footage. We also reduced asphalt which gives us snow stack and landscaping. The annexation amendment needs to change; the date that we start needs to change. As far as the rest of it, we can modify and come back. With experience from Mr. Mosher, Ms. Best and the Housing Committee, they advised a different mix. If we don't extend the start date, we have to up the price point of these units. Regarding architecture: natural materials, rock based, wood garage doors, lots of gables, shed roofs, covered porches. Which of these two are the affordable? The point that I'm trying to make is, when you look at the elevations, the more bland elevation is actually the market rate unit. The affordable units have better road presence. We didn't want the affordable units to be the cheap end of this thing. So we made quantitative changes to open up this site.

Commissioner Questions / Comments:

- Mr. Mamula: Which ones are the market rates? (Mr. Craig: Pointed out market rate and affordable units.)
- Ms. Dudney: Was there not a middle ground between the long structure on the previous application and making a four-plex? Attach two buildings instead of three to increase open space on the site? (Mr. Craig: We could do that except it will fight other things that we are trying to do; grading, we would have to square up all of the buildings where as now we have everything angled. We feel that the duplex design is a better product and warrants a higher price point.) Could you go around the plan and give us the distance eave to eave please?
- Mr. Mamula: And please clarify distance to the surrounding off-site neighbors as well please. (Mr. Craig: Gave clarifications.)
- Ms. Christopher: What is the distance between Allaire Timbers and Building #5? (Mr. Craig: Measured distances for that and between buildings inside the project.) Do you think that is between 9 and 8 feet?
- Ms. Dudney: Probably more like 8-10 feet. You're not concerned about windows on the units looking directly into other windows or snow stack against the exterior walls of the buildings or landscaping growing in the narrow areas between buildings? (Mr. Craig: We will have grass, but no trees or shrubs will fit in the space. There aren't many windows looking directly into other windows. Our buildings are staggered.)
- Mr. Schroder: For instance, Building #9, would there be a window underneath that gable? (Mr. Craig: Yes. The worst ones are duplex units 7, 8 and 9 and those are market units.) Does it meet setbacks, meet code? These are still quite tight. If there was a way we could pull out another building it might loosen up with this unit design. As far as required percentage of snow storage on each property, there are little slivers that add up to a total and I wonder how functional this "adding of snow storage zones" is realistic. Do you think you meet the code for functional snow stacking? (Mr. Craig: Yes.) (Mr. Mosher: Noted to the Commission the previous approved project has expired; this is a new review with a new Commission, we aren't going to compare the past approval to today's request.) (Mr. Craig: Clarified the snow stacking strips. We are 25% over the required number for on-site snow storage. We have more

functional snow stack than the past approval.) Would the plow have to drag snow backwards? I'm looking at the access to the front door on some units having to get past a stack of snow. It looks awfully close; for example between 8 and 9.

Mr. Pringle: Ms. Best, if we had a property owner who wanted to accept the original density on this property, would we allow a 50/50 ratio for affordable housing versus market rate? (Ms. Best: I think that we could consider it based on different variables for Council to decide.) I thought that it was supposed to be 80/20; is the Council looking for our guidance on this also? (Mr. Mosher: We are only seeking how you interpret this proposal with the Development Code; we have half market and half deed restricted through an agreement the applicant has made with the Town Council.) The question that I asked is do we have an 80/20 standard? (Ms. Best: Yes that is the Council's general standard.) (Mr. Mosher: The Council is the only one that can make the change to a 50/50 ratio.)

Mr. Butler: Clarified that the deal was made with Council and that the project may lose positive three (+3) points for housing as a result.

Mr. Pringle: I understand that Council made the decision; I'm trying to figure out how we came up with that prorated point analysis. You're asking us if we would suggest more or less points for that? (Mr. Mosher: No, we have some flexibility on the negative points; eliminate snow stacking. As far as the positive points, you may not see a positive 10 points; you may see a positive 7 points, which is a business deal with the Council.) Would there be a better design solution offered? Maybe more of an apartment type thing? I don't want to point towards Ski and Racquet as a model, but as a multifamily building it has a lot less pressure on the lot. I think that the market conditions are going towards that type of unit, as opposed to the stand alone duplex or single family house. Isn't there a better model to look for here? This would solve a lot of our privacy, buffering, etc.

Ms. Dudney: Mr. Pringle, I think we need to address the Development Code related snow stacking, buffering and landscaping; they could come in with a plan for Multiplan, but that isn't up to us.

Ms. Dudney opened the work session to public comment. Staff noted that the Commission has received email comment from a citizen who could not attend. It was place before you before the meeting.

Mr. Chuck Seibold, 10-year owner in Woods Manor and on the Board of Directors for the HOA: I have a large concern over the setbacks. Our property line to a deck on the west facing building is almost underneath that deck; this is their living room for their people. The biggest concern is Building 5; the topographical lines are difficult for you to realize, but I'm about 10-feet back (illustrating by standing away from the table) from the property line. These topographical lines are, to give you a visual indication, the height of this room and slopes down to here (again illustrating by standing near the front row of seats). The first time we walked this with Mr. Mosher, we realized that this is a long way down from the site above; the submitted drawings in your packet have side views and literally they're sticking out straight down. The setbacks were intended originally to buffer. The timber that you are removing from the site, and the resulting "presentation of the entrance to Breckenridge", is poor. We are glad that the bright colors are gone, this is an improvement from that, but this whole subdivision slopes from left to right. If you understand this, how you're going to move snow uphill? This is a real challenge for any snow plower. This is not an easy one except if, in my opinion, Building 5 were pulled back, causing big changes. Also, the possible RV parking on this project is another thing, and if you look at Ski and Racquet's RV parking, we've gone to the tactic of not allowing RV parking because of the small amount of parking. Thank you for your time. (Ms. Dudney: I didn't understand what you meant about RV parking.) Recreational vehicles that the owners want to store onsite. How do you find the guy with the trailer when the plow is coming around? I agree that the loop is the only challenge, I don't know if the applicant has considered the turnaround be sufficient for fire trucks either.

There was no further public comment and the work session was closed.

Commissioner Questions / Comments:

- Mr. Mamula: Whenever you get a project with negative points that are all coming from snow stack, buffering or landscaping, there is simply too much product on the site. Unless you can work through these negative points, this will fail. I don't know that I'm necessarily buying your snow storage argument. It is not efficient. Your three points shy of passing, at a first blush. It's just too dense. I would like to know from Council if we have the ability to go less than 7 points for the housing. I don't know that we've ever had the Council put a point total for Planning before. (Mr. Grosshuesch: The Housing Committee did not believe they should get the full 10 points because the project didn't meet the 80/20 rule.) I would feel more comfortable with a point range; if the Council wants to know what we think, it would be nice to have some flexibility. The architecture is all great; better than before, but it just doesn't fit on the site.
- Ms. Christopher: I'm going to echo what Mr. Mamula said; the architecture is a great improvement from 2009; this appears more neighborly. However, the buildings are way too close. A 20-foot separation should be a standard in this neighborhood as well.
- Ms. Dudney: I share the same concerns. I also concur with what Mr. Mosher recommended in the Staff report for negative points.
- Mr. Lamb: It's looking really tight and I agree with what everyone has said. It is at minus ten points, maybe minus seven; right now it flunks. It might be massaged into something workable, but it would be a better project with a small reduction in the massing. I have plowed a little bit of snow, you put all of your snow in one place and it will take forever with little pockets of snow. On paper the snow storage is there but in real life it won't work.
- Mr. Schroder: My first impression is that there is no way I would want to live there; the lack of building separation. Mr. Craig, if you could take a look at this development as a prospective resident, what would you do differently? It appears to meet the Code but it just doesn't seem applicable in the real world. So much focus on proximity, shadow between buildings, usability of space. I would like to see something different or maybe yank a building.
- Mr. Pringle: The only thing that I want to talk about is what we can't talk about, but that is that this is a crappy deal for the Town. (Please write this down verbatim.) They need to re-look at this, and then they get 75% of the allowable points. The Town really needs to take a look at this. There is no buffering between units, snow stack is a number you have to meet but as far as the actual ability to do it, it doesn't work, and the windows might have a 2-3 degree difference but a lot of the windows are looking right into each other. I agree with Mr. Schroder: it doesn't look like a place anyone would want to live in.

TOWN PROJECT HEARINGS:

1. McCain Master Plan (JP) PC#2013035; 13221, 13217 and 13215 Colorado Highway 9

Ms. Puester presented a proposal to Master Plan for the property known as the McCain property, identifying and distributing density and uses into two tracts. One tract is designated for open space. The second tract for open space and governmental uses which may include (but are not limited to) solar gardens, overflow parking, water treatment facility, water storage/reservoir, recycling center, snow storage and public works storage.

With the Town's annexation of this parcel, the property was incorporated into Land Use District 43 in 2003 which allows for existing residential and service commercial, recreational, open space, and governmental land uses, and mining.

The Planning Commission held a public hearing on December 4th and recommended a continuance of the

master plan application. At its December 11th work session, the Town Council withdrew the McCain Master Plan application from the planning process to allow the Council to further discuss it without it being an active application. The Town Council held a public input session on the draft Plan at their February 26th meeting. On April 9th, the Town Council finalized the desired land uses to be incorporated in the McCain Master Plan.

Changes since the December 4, 2012 meeting

- Service commercial and commercial retail uses have been removed as permitted land uses.
- Density allowed has been reduced to a maximum density of 6.39 SFEs on the entire parcel.
- The Master Plan notes have been refined and are attached in this report.
- Overall goal moving forward with land use configuration resulting in the most contiguous open space possible.

This Master Plan has not presented any negative concerns to Staff. There will be further detailed review of any development on this property with each individual application for development. Any proposal will follow the density allocations and design standards per the Development Code. This is a Town Project pursuant to the recently adopted ordinance amending the Town Projects Process (Council Bill No. 1, Series 2013), effective April 12, 2013. As a result, the Planning Commission is asked to identify any code issues they may have with this application and to make a recommendation to the Town Council. Staff provided an overview of land uses and density proposed in the Master Plan for the audience and Planning Commission.

Staff recommends that the Planning Commission accept the point analysis as prepared by staff and recommend approval of the McCain Master Plan, PC#2013035, to the Town Council, with the presented Findings.

Commissioner Questions / Comments:

- Mr. Schroder: What about trailhead parking? (Ms. Puester: We have contemplated some preliminary sketches how that may play out; there could be limited parking spaces near the park, bike path or utilize overflow parking. We are really just looking at the general land uses with this application.) (Mr. Grosshuesch: The Council will be getting answers to questions like that in the next 12 to 18 months when more specific detail about the plan is developed.)
- Ms. Dudney: What about the existing commercial uses? (Ms. Puester: Council has voiced that the existing service and commercial businesses will stay on their leases with the town; one day those leases will go away when the Town is ready to move forward with other uses in the Master Plan. Council can grandfather them and when the town is ready to go forward with the Master Plan, those uses will be discontinued and replaced with open space and/or governmental uses. The land uses including the Bear commercial retail store, the Alpine Rock and Alpine Rock storage, and three outdoor contractor storage yards there are what we are referring to.) What about the rodeo? (Mr. Grosshuesch: Some Council members are very interested in moving the rodeo to this site after this upcoming season.) This Master Plan doesn't preclude that? (Mr. Grosshuesch: It falls under governmental uses.) So under governmental uses, the Town can just lease to someone else? (Mr. Grosshuesch: Yes, they will deal with this more specifically in the next year.) I just didn't know how what we are doing would affect what they are going to do in the future. (Mr. Grosshuesch: These are general land uses.)
- Mr. Mamula: Why is the 150 foot stretch down Highway 9 not in District 4? We don't have it listed anywhere as District 4. (Mr. Grosshuesch: The Master Plan supersedes the underlining Land use District; it's called a setback in the Master Plan and carries over; it will accomplish the same thing.)
- Mr. Pringle: We keep talking about the reservoir down there and I ask myself, when we talk about it is like it's a benign part of this property but it will be a big aspect requiring a huge dam and

what would that do to downstream properties? Any risk there because now they are below a reservoir? When we say reservoir, we picture a lake, but it's more like a dam there. (Ms. Puester: A reservoir is not a definite; it could be lesser storage ponds, more aesthetic in nature. That is being worked on.)

Mr. Mamula: The chance of it ever being there is probably less than a chance of you still being here in 30 years. It's a placeholder, and I pushed for it every meeting at Council and it got enough traction for it to be a bookmark at least. If we actually have to install it, it will be the most expensive reservoir in the State of Colorado. There are other solutions to our water problems right now be worked on. Maybe one day we will need it as the western water rights wars get worse. To preclude it because of potential danger to downstream occupants would be a mistake; it's just a bookmark.

Ms. Dudney: And you know whenever anything comes up that is specific it will be its own development plan.

Ms. Dudney opened the hearing to public comment.

Mr. Kermit Miller, President of Stan Miller Inc. and adjacent land owner: I'm here representing the future of my 12 year old. My big concern tonight is that we did a lot of river restoration on the Stan Miller property that we donated; it's been getting flooded out since because of McCain. The McCain placer stuff is a bit out of control and I'm taking the brunt of it. I ask that you push forward with those efforts and as you begin to develop, take our subdivision into consideration on the buffer zone.

Mr. Forest Rowser, Resident 281 Fairview: One of the things, I've watched this for years, since 2002, it caught my attention that the Mayor at that time said what a great opportunity to put a reservoir in. That was just about the time we were in a drought. I'm reflecting on what he was saying. Being a homeowner above here, I have a vested interest. We had all this snow a couple of years ago, but when you live out there, I was looking at the reflection of the trees in the water, and I was thinking, what would you want to see there? I like the feeling of the wood at the Bear store. You look across that and think this is what kind of town we have. I think it also reflects on the people that we have here. I just want to say, I've spoken with a lot of homeowners, it's just my comment.

Mrs. Allison Palmer, Owner Breck Bears: Just wanted to say thanks. It's been a long six months but on December 4, you made a big decision and I'm really proud of our elected officials. Not many people are here because they are comfortable with the direction. I left my family at home to do homework to come here and say thank you. I really appreciate Ms. Puester's patience and all of the parties involved; everywhere I turn people say to us, "we are so glad that you're back". I'm really glad that we get to stay; for those of you that you don't know, John was trying to purchase the property from McCain before the Town purchased it to control his destiny, but we appreciate all of the time that you've put into this. We are happy and this makes us feel safe and secure, as the Council indicated that they wanted us to feel. Thank you, and come on down. We have new staff and new product and using aspen and the pine.

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

Commissioner Questions / Comments:

Mr. Pringle: I think that this is fine but we haven't seen the last of it so stay tuned. I would like to say that I like the idea of the open space on the 89 acres but the Town has some urgent needs in the future and I don't want to see those precluded. One of those is parking; one of these days we are going to have to provide real parking for real events and real amenities not just a mud flap. People parked there will also need restroom facilities and a place to put their trash, and real parking and the town needs to think about the long term needs out there. I wonder if we

are not by default starting to put in some access and egress in right now that will need to be addressed later. I am a little disappointed that we haven't looked at service commercial that the Town will need, and that we sort of just give that service commercial product away to the north of the county. Good place for it. We already have the Building Center that will have two more buildings; Kermit has a new subdivision out there with commercial uses and others (Tatro and Snowbridge) that are immediately adjacent that we don't have any control over. I'm not sure what their future plans will be, and I think that we don't want to cut off what the Town has going on in the future. I don't think that people should get the idea that it is all open space. It is in a holding pattern for needs and we've not yet seen the end result.

Mr. Schroder: I would support the point analysis recommended by Staff and the Plan.

Mr. Lamb: Like that there is money allocated to study needs and we will get clarity soon. We should focus on getting the river under control first and foremost. Remember that the Blue blew out Coyne Valley Road. We have some obligations to make sure that river can stay in its banks.

Ms. Dudney: This has evolved, and I am pleased that this plan really represents what the people want.

Mr. Butler: I agree; it has evolved. I'm surprised that people aren't more concerned about what the properties in the County are doing. It is ratty looking there.

Ms. Christopher: In support, I have no code issues. I would echo Jim in that the number one priority is to restore the river corridor area.

Mr. Mamula: I agree; this has gone in the right direction. I disagree with Mr. Pringle and on his service commercial comments. Glad that water storage is bookmarked here. Water wars in the west will be the defining event in the future. I would much rather come back in the future and change some of this language than call it blanket governmental use. There is a danger using that term to throw everything under. I would rather we just spell out those uses.

Ms. Christopher made a motion to approve the point analysis for the McCain Master Plan, PC#2013035, 13221, 13217, 13215 Colorado Highway 9. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

Ms. Christopher made a motion to approve the point analysis for the McCain Master Plan, PC#2013035, 13221, 13217, 13215 Colorado Highway 9. Mr. Mamula seconded, and the motion was carried unanimously (7-0).

COMBINED HEARINGS:

1. McCain Master Plan (JP) (Withdrawn – Presented as a Town Project Hearing)

OTHER MATTERS:

1. Wakefield Land Use District Recommendation

Ms. Best presented a memo regarding the upcoming annexation of the Town-owned Wakefield property (approximately 17 acres located off Boreas Pass Road) and the recommended Land Use District. In establishing the initial zoning for a recently annexed property the Town has a couple of options, either place the property in the anticipated Land Use District as shown on the Town's Land Use Guidelines map or modify the Town's Land Use Guidelines to establish a new Land Use District designation for the property. The current Land Use Guidelines show the Wakefield property in Land Use Districts 1, 41, and 42. Land Use District (LUD) 1 allows one unit per 10 acres, LUD 41 allows one unit per acre, and LUD 42 allows two units per acre. While it might be preferable to place the entire property in Land Use District 1 to best preserve open space and historic values, it is Staff's recommendation that, since the property is owned and controlled by the Town, it be placed in the Districts that are currently recommended in the Land Use Guidelines.

In summary, it is Staff's recommendation that the property be placed in the land use districts as shown on the Town's Master Plan (LUD 1, 41, 42) and that the Ordinances clarify that there is no density assigned to the

property. Staff is seeking support from the Planning Commission so that the Ordinances can be referred to the Town Council for consideration.

Commissioner Questions / Comments:

- Mr. Mamula: The property just east of this, is that part of this annexation/zoning? There is a large old boiler at the top of that trail. (Mr. Grosshuesch: That is off the Wakefield property.)
- Mr. Pringle: Is there no density on this property? (Ms. Best: This property is designated not to receive any density. Adding density to this site would be inconsistent with the JUBMP and the Sending/Receiving Map.) But is it prohibited? (Ms. Best: We could probably add verbiage to the zoning ordinance to clarify that it is not a receiving site and no density is intended.) Anyway to cement that. All I know is sometimes things change. (Ms. Best: We can make that change in the second reading of the ordinance.)

Mr. Mamula made a motion that the Town Council approve placing the Wakefield property in the land use districts as shown on the Town's Master Plan (LUD 1, 41, 42) and that the Ordinances clarify that there is no density assigned to the property (with an edit to the ordinance to prevent density from being added). Ms. Christopher seconded, and the motion was carried unanimously (7-0).

2. Other:

- Mr. Mamula: I noticed a lot of store front signs starting to pop up that we didn't used to allow; like Subway with their specials; I know that things are in flux, but it is slowly creeping up and now there's a bunch of stuff we don't allow. (Mr. Grosshuesch: Point taken; we are working with community service and as we hear about things we go out and find them.) There are some neon open signs.
- Ms. Dudney: What about the joint Town Council meeting? (Mr. Grosshuesch: We don't currently have one scheduled; we need to come up with a good solid list of things that we want to talk to the Council about and at the end of the next meeting schedule a work session and figure out if we have an agenda.)
- Mr. Mamula: Why are the street lights turned off on French Street? (Mr. Grossheusch: There was a selective reduction of street lights and that was one of the areas. We can check into it. It was part of the reset.)

ADJOURNMENT:

The meeting was adjourned at 9:07 pm.

Gretchen Dudney, Chair



MEMORANDUM

TO: Town Council
FROM: Julia Puester, AICP, Planner II
DATE: May 8, 2013 (For Meeting May 14, 2013)
SUBJECT: McCain Master Plan Town Project Approval

The McCain Master Plan is being reviewed as a Town Project. All public noticing requirements for the approval of a Town Project have been fulfilled as required under the recently adopted Town Projects Ordinance amendment (by Council Bill No. 1, Series 2013).

The proposed Master Plan identifies and distributes density and uses into two tracts. One tract for the sole use of open space. The second tract for open space and governmental uses which may include (but are not limited to) solar garden, overflow parking, water treatment facility, water storage/reservoir, recycling center, snow storage and public works storage.

The Plan has been designed to meet the Town's Land Use Guidelines and Land Use District designations as well as the Development Code. The project meets all absolute policies in the Development Code. No positive or negative points have been recommended at this time however those would be evaluated as any development or improvements come forward.

The Planning Commission held a public hearing May 7 and recommends approval of the McCain Master Plan and point analysis as presented.

Attached to this memo is a complete staff report, substantially the same as presented to the Planning Commission and attachments including Master Plan Map with Notes.

Staff will be available at the meeting to present the project and answer any questions.

Town Council Staff Report-Town Project

- Subject:** McCain Master Plan, Town Project, (PC#2013035)
- Proposal:** The Town is proposing a Master Plan for the property known as the McCain property, identifying and distributing density and uses into two tracts. One tract for the sole use of open space. The second tract for open space and governmental uses which may include (but are not limited to) solar garden, overflow parking, water treatment facility, water storage/reservoir, recycling center, snow storage and public works storage.
- Date:** May 7, 2013 (For meeting of May 14, 2013)
- Project Manager:** Julia Puester, AICP, Planner II
- Applicant/Owner:** Town of Breckenridge
- Address:** 13221, 13215, 13217 Colorado State Highway 9
- Legal Description:** McCain Annexation Phase I Reception No. 714272, 67.6 acres (excluding Tract A, Reception No. 491971, 9.9 acres), McCain Annexation Phase II Reception No. 714274, 35.2 acres including Alpine Rock Company 25 acres reception No. 703129
- Site Area:** 127.8 acres (102 acres owned by the Town and 25 acres owned by Alpine Rock)
- Land Use District:** LUD 43: Existing Residential and Service Commercial; Recreational, Open Space, and Governmental Land Uses; Mining. 1 unit per 20 acres (unless workforce housing).
- Site Conditions:** The property was dredge-mined in the early 1900's, and has been impacted by historic mining activities that included extensive dredging along the Blue River. Most of the dredged rock piles are currently being extracted, or have been removed leaving significant portions of the sites barren. More recently, Alpine Rock operations have occupied the property for years. Currently, the Blue River bisects this property from south to north along the westerly edge of the mined area. The area to the west of the current river was not dredged but still lacks any notable vegetation. The property to the east of the current river is used for Alpine Rock operations including mining, gravel storage, material processing and storage, and temporary office trailers. There are portions at the eastern property border with mature trees along the bike path and CDOT right of way.
- Adjacent Uses:** North: Stan Miller Residential Master Planned residential area, Breckenridge Building Center commercial retail site
East: Highway 9, Silver Shekel Subdivision, Highlands at Breckenridge
South: Coyne Valley Road, Colorado Mountain College
West: Red Tail Ranch Subdivision, Blue River
- Density Allowed:** LUD 43-127.8 Acres @ 1:20 UPA **6.39 SFEs**

Proposed:

Lot	Area	SFEs	Use
Tract 1	89.8 acres	6.39 SFEs (Governmental Uses are exempt from density requirements.)	<ul style="list-style-type: none"> • Open Space; and • Governmental Uses (may include, but are not limited to:) <ul style="list-style-type: none"> ➤ Solar Gardens ➤ Trails ➤ Snow Storage ➤ Overflow Parking ➤ Recycling Center ➤ Water Treatment Facility ➤ Water Storage/Reservoir ➤ Public Works Storage
Tract 2	38 acres	0 SFEs	<ul style="list-style-type: none"> • Open Space • Trails

Height: Recommended per LUD 43- Generally, building heights in excess of two (2) stories are discouraged. Exceptions may include related mining operation facilities.

Parking: Required: Per the Town’s Development Code

Item History

With the Town’s annexation of this parcel, the property was incorporated into Land Use District 43 in 2003 which allows for existing residential and service commercial, recreational, open space, and governmental land uses, and mining.

Since 2003, the Council has been considering what might be the best use(s) for this 127 acre parcel. Many uses have been discussed in previous programming exercises and previous Councils have prioritized uses based on community need. There are many uses, such as Housing, Golf, Motorized Sports, Railroad, Nordic Skiing, etc., that were considered at one time, but have been eliminated because there have been higher priority uses for this site identified.

The Planning Commission held a public hearing on December 4th and recommended a continuance of the master plan application. At its December 11th work session, the Town Council withdrew the McCain Master Plan application from the planning process to allow the Council to further discuss the master plan without it being an active application.

The Town Council held a public input session on the draft Plan at their February 26th meeting. On April 9th, the Town Council finalized the desired land uses to be incorporated in the McCain Master Plan.

The Planning Commission held a Public Hearing on the Master Plan May 7th.

Changes Made per Town Council April 9th

- Service commercial and commercial retail uses have been removed as permitted land uses.
- Density allowed has been reduced to a maximum density of 6.39 SFEs.
- The notes included in the Master Plan have been refined to reflect land use changes.
- Overall goal moving forward with land use placement to have the most contiguous open space possible.

Staff Review

Since this is a Master Plan proposal for general land uses and is to be reviewed under the Town Project ordinance, this report will cover only those policies relevant to this application and the proposed scope of development. Those policies not included with this review will be reviewed as appropriate under a separate Town Project process or development permit (as appropriate) at a future date.

Land Use (Policies 2/A & 2/R): This property is located within Land Use District 43. The proposed Blue River corridor within the 38-acre Open Space area is proposed for passive recreational use. The proposed uses of open space and governmental uses are consistent with the proposed Land Use Guidelines (LUGs) and compatible with the adjacent developed areas.

The Town has planned for the McCain property to serve several community needs. Those needs include the uses listed below per the attached Master Plan. However, *these uses may change over time* in conjunction with future community needs and Council direction. The Town Council plans to determine final uses and placement of those uses next year. Explanations of these potential governmental uses follow in the list below.

Solar Garden: The Town plans to lease a portion of the McCain parcel to Clean Energy Collective for the purpose of a 500 kilowatt community solar garden. The solar garden would be available to Town and County residents for the purchase of renewable electric energy. This would accomplish one of the action items in the SustainableBreck Plan.

Open Space: 30% of the funds (\$300,000) to purchase the property came from the open space fund. The Town will ensure that 30% of the land area, or 31 acres, which is most valuable to wildlife and the open space program be kept as open space. This land area is located around the river corridor. (101 acres were purchased from the McCain's. The additional 25 acres included in this plan are from the Alpine Rock property which the Town is currently in negotiations to purchase and will use general funds to do so.) The area shown on the plan as open space is approximately 37% of the acquired property.

Part of the Town's efforts which would further the open space values is to restore the Blue River in conjunction with the Army Corps of Engineers. The Town (as the applicant) plans to restore the Blue River (in accordance with the Town's Blue River Restoration Master Plan) by relocating the river along the westerly boundary of the property. The reclaimed river will be vegetated with natural landscaping and public access and trails will be created. The river and trails will be located within a 38-acre corridor as open space. Timing of the river reclamation will be scheduled per the Army Corps of Engineers project timeline, which is currently on hold.

Trails: The Town plans for public trails through the property. Trail easements would allow public access through the property to the Blue River. This land area is not included in the open space calculations above and would result in additional open space area.

Snow Storage: A future need for Town snow storage has been identified. The Town currently utilizes land for snow storage on Block 11. However, Block 11 has been master planned to allow for attainable workforce housing when future market demands exist and will eventually be built out. This use would accommodate snow removal operations of the Town public roads, sidewalks and public facilities.

Parking: The Town has an agreement with the Breckenridge Ski Resort (originating from development of the gondola) to provide 500 skier parking spaces in Town. Currently this parking is accommodated on Block 11. However, we anticipate a need for additional overflow parking that may need to be accommodated at the McCain site should Block 11 be built out in accordance with the Block 11 Master Plan. This overflow area would also be used for event parking such as snow sculptures or July 4th. The Town Council has identified this as a need however, there has not been a consensus on where to provide for the overflow parking within Town at this time.

Recycling Center: A joint County/Town recycling facility has been identified as a need to replace the existing facility on County Road 450. The new facility is planned to also include a well designed structure for office and community use space.

Water Treatment Facility: The Town is currently conducting a study with a consultant to determine the community need for an additional water treatment facility. The consultants are looking at the feasibility of a water treatment facility located on the property.

Water Storage/Reservoir: The Town, as a senior water right holder, loses some of its water down the Blue River due to lack of water storage capacity. A reservoir site on the McCain property has been discussed by previous Town Councils, and is listed as a permitted use on the Master Plan. A reservoir could also be an aesthetic addition to the open space at this site.

Staff understands that there are residential subdivisions including Silver Shekel and Red Tail Ranch which look onto this site from above. However, the proposed uses are low impact and staff does not foresee any substantial impact to the area based on the land uses proposed in the Master Plan. Staff has no concerns with the proposed uses. These uses have been included as a Master Plan note.

Density/Intensity (3/A & 3/R) / Mass (4/R): The density permitted for the 127.8 acre site consists of 6.39 SFEs. This has been included as a Master Plan note.

Governmental uses shown on Tract 1 (i.e. potential water treatment facility or recycling center) do not require the allocation of density or mass. The Joint Upper Blue Master Plan, VI. Land Use, Policy/Action 4 states “...*Exceptions to the transfer requirements include community facilities and institutional uses and affordable housing...*”

Architectural Compatibility (5/A & 5/R): The Master Plan Notes reference the Development Code for architectural compatibility. The following language has been supplied by staff for architectural guidelines to appear as Master Plan notes and are partially taken from the Land Use Guidelines for District 43:

Architecture should be sensitive to the District’s scenic function. Due to high visibility of the District, architectural design is of great importance and should incorporate low profile designs and non-contrasting colors.

The color of exterior structure materials must generally be subdued. Earth tones are encouraged although accent colors which are used judiciously and with restraint may be permitted.

Since the proposed architectural guidelines closely follow the applicable policies and must meet the Development Code, Staff has no concerns. These guidelines will be added on the final mylar Master Plan.

Building Height (6/A and 6/R): LUD 43-The suggested building height is two-story except for mining related structures which have no height limitation. The Master Plan does not propose any change to this. Staff has no concerns. This has been included as a Master Plan note.

Site and Environmental Design (7/R): All of the developed area is to occur on the portions of the site disturbed by previous dredging or currently developed. Except for the partial reclamation of the Blue River, those portions that are in a natural state shall remain.

The existing river channel does not support year round flows and supports little vegetation due to the historic dredge mining operations up-stream. Areas surrounding the channel often experience shallow flooding during spring run-off and the channel is not capable of handling a 100-year flood.

The proposed river restoration plan will introduce a new channel that contains the 100 year flood, and is capable of supporting year round flows. The project will re-introduce to this stretch of the Blue River, riparian vegetation and aquatic habitats that have been lost since the early 1900's. All development is restricted to an area east of the new river. The Town will be required to obtain a 404 permit from the Army Corps of Engineers prior to any river restoration work.

Placement Of Structures (9/A & 9/R): Per the Land Use Guidelines, setbacks from Highway 9 shall be 150 feet. The only site that this setback should affect is the portion of Tract 1 which front Highway 9. No change is proposed which would alter this requirement. As specific uses are identified, a site plan would come before the Planning Commission for review in detail at that time. Staff has no concerns. This has been shown on the Master Plan Map and included as a note.

Internal Circulation (16/A) and External Circulation (17/A): Internal circulation is unknown at this time until potential uses are identified and sited. External vehicular access points have been shown on the Master Plan Map. When specific uses come in for site plan applications, final circulation patterns will be established including bike and pedestrian trail locations as well as any vehicular circulation.

Parking (18/A & 18/R): Parking required for any uses will be reviewed with site plan applications. Overflow parking has been identified as a potential use to address future needs for event and skier overflow parking if or when Block 11 is developed per the Block 11 Master Plan (primarily workforce housing). See the above discussion on parking under Land Uses (Policy 2A/2B).

Landscaping (22/A and 22/R): There are very few existing trees on the development site except for sections along the Blue River and sections along the bike path/CDOT right way. These trees will be preserved and expanded via a landscaped berm to assist in providing an effective buffer from Highway 9 to the site.

Besides the buffer along Highway 9, no specific landscaping is being identified with this Master Plan as the applicant intends for the brunt of the landscaping needs to be addressed during the applicable development planning process s specific locations for uses are determined. Staff has no concerns.

Social Community (24/R): This Master Plan is planned to fulfill numerous community needs identified by the Town Council including open space along the river corridor in Tract 2 as well as additional open space on Tract 1, potential water storage/reservoir, potential water treatment facility, and County recycling facility. Positive points may be awarded under this policy at a site plan level as future projects are submitted.

Utilities (28/A): The Town has plans to bury the existing overhead utility line along the highway at a future date. This would be consistent with the Stan Miller master planned land to the north. All new power/utility lines will be buried underground. Staff has no concerns.

Master Plan (39/A): There are no specific design criteria identified for this Master Plan. All development will be subject to the applicable sections of the Development Code and Master Plan Notes.

Point Analysis (Section: 9-1-17-3): Per code section 9-14-3, Staff has prepared a point analysis on the Town Project. Staff has found that the application passes all Absolute Policies in the Development Code. No positive points have been recommended at this time however Development Code Policies would be evaluated as any development or improvements come forward.

This Master Plan has not presented any concerns to Staff. There will be further detailed review of the development on this property with each individual application for development. Any proposal will follow the density allocations and design standards per the Development Code.

Planning Commission Recommendation

This is a Town Project pursuant to the recently adopted ordinance amending the Town Projects Process (Council Bill No. 1, Series 2013), effective April 12, 2013. As a result, the Planning Commission was asked to identify any concerns with this project, and any code issues.

The Planning Commission recommends approval of the McCain Master Plan, PC#2013035 with the attached point analysis and findings.

McCain Master Plan

McCain Master Plan Notes

Density and Uses:

Tract	Area	Density	Tract Uses
Tract 1	89.8 acres	6.39 SFEs (Governmental Uses are exempt from density requirements.)	Open Space; and Governmental Uses (may include, but not limited to): Solar Gardens Trails Snow Storage Overflow Parking Recycling Center Water Treatment Facility Water Storage/Reservoir Public Works Storage
Tract 2	38 acres	0 SFEs	Open Space Trails

Building Height:

Building heights in excess of two (2) stories are discouraged. Temporary mining operation facilities are exempt from height requirements.

Architecture:

- This Master Plan is not within the Breckenridge Conservation District boundary and does not seek to replicate Breckenridge's historic architecture. Architecture should be sensitive to this District's scenic function. Due to high visibility of this District, architectural design is of great importance and should incorporate low profile designs and non-contrasting colors.
- The color of exterior structure materials must generally be subdued. Earth tones are encouraged although accent colors which are used judiciously and with restraint may be permitted.
- Architectural detail and design will meet all applicable Town Codes.

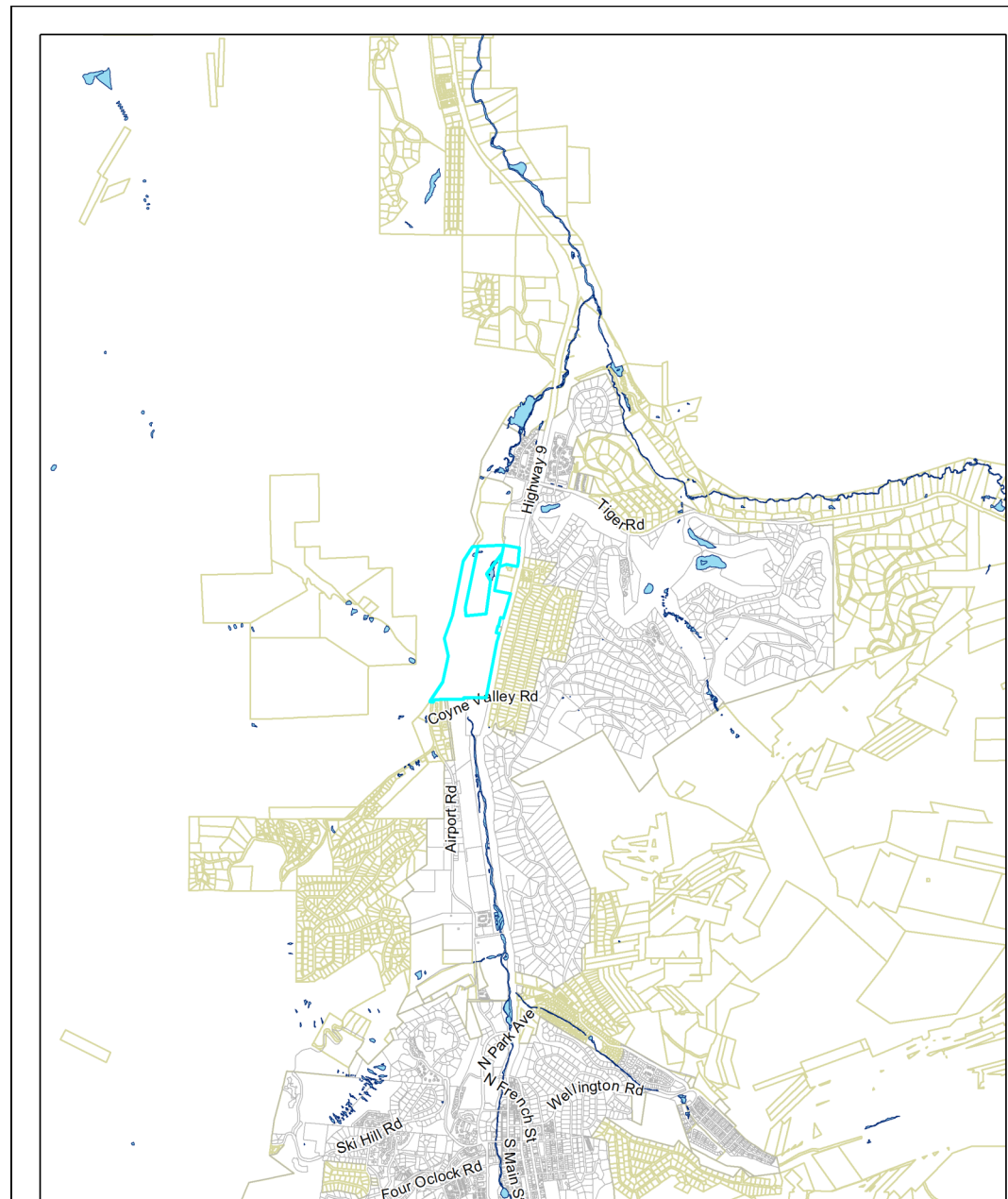
Setbacks:

Setbacks from Highway 9 will be 150-feet on Tract 1. No structures shall be allowed within the 150 foot setback.

Landscaping:

All plantings shall comply with the Town of Breckenridge's Development Code. Existing trees along the Blue River and along sections of the recreation path/CDOT right way will be preserved to the greatest effort possible.

Landscaping along the eastern property boundary adjacent to the Highway 9 right of way should be enhanced as reasonably possible to assist in providing an effective buffer from Highway 9 to the site.



McCain Master Plan

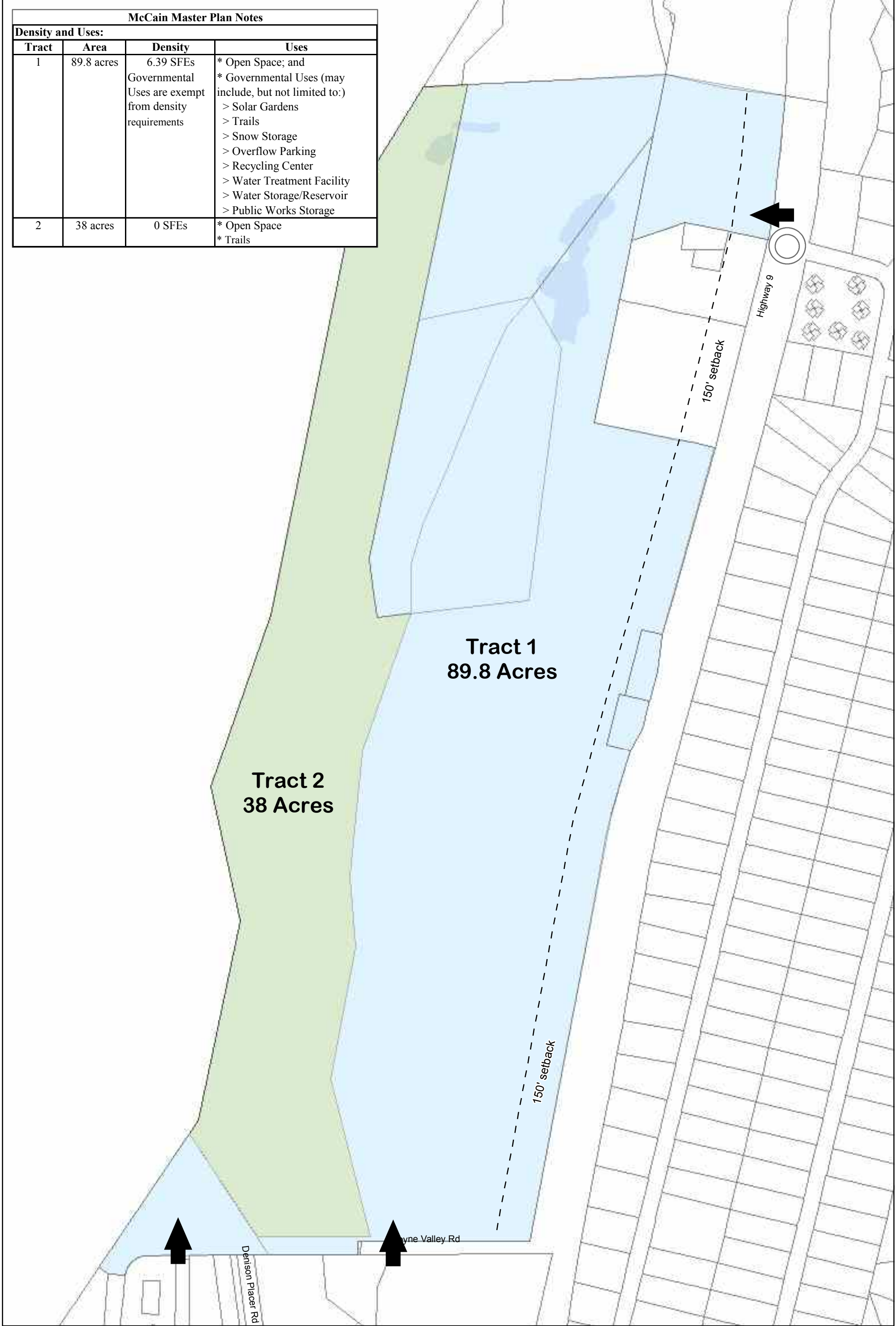
Town of Breckenridge and Summit County governments assume no responsibility for the accuracy of the data, and use of the product for any purpose is at user's sole risk.



McCain Master Plan Notes

Density and Uses:

Tract	Area	Density	Uses
1	89.8 acres	6.39 SFEs Governmental Uses are exempt from density requirements	* Open Space; and * Governmental Uses (may include, but not limited to:) > Solar Gardens > Trails > Snow Storage > Overflow Parking > Recycling Center > Water Treatment Facility > Water Storage/Reservoir > Public Works Storage
2	38 acres	0 SFEs	* Open Space * Trails





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.

MAY 2013

Friday, May 10, 2013; 8:00-9:00 am; Park & Main Coffee Talk

Tuesday, May 14, 2013; 3:00/7:30 pm First Meeting of the Month

Tuesday, May 28, 2013; 3:00/7:30 pm Second Meeting of the Month

JUNE 2013

Tuesday, June 11, 2013; 3:00/7:30 pm First Meeting of the Month

Friday, June 14, 2013; 8:00-9:00 am; TBD Coffee Talk

Tuesday, June 25, 2013; 3:00/7:30 pm Second Meeting of the Month

JULY 2013

Tuesday, July 4, 2013; 9:00 am Fourth of July Parade/Firecracker 50 Bike Race

Thursday, July 6, 2013; 10:00 am Harris Street Building Groundbreaking Ceremony

Tuesday, July 9, 2013; 3:00/7:30 pm First Meeting of the Month

Friday, July 19, 2013; 8:00-9:00 am; TBD Coffee Talk

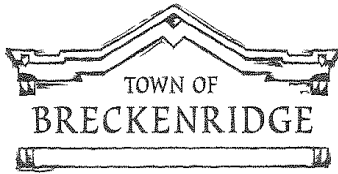
Tuesday, July 23, 2013; 3:00/7:30 pm Second Meeting of the Month

Wednesday, July 24, 2013; 7:30 pm; Riverwalk Center Town Board/Commission Recognition NRO Concert

OTHER MEETINGS

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

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



MEMORANDUM

TO: Town Council

FROM: Laurie Best, Community Development Department

DATE: May 7, 2013

SUBJECT: **Memo Only**-Maggie Point (formally Maggie Placer) Annexation Agreement Modification

A workforce housing project on this 1.82 acre site has been in the works since the first Annexation Agreement was approved in 2007. That Agreement was modified in August of 2012 to reduce the maximum number of units down from 22 units to 20 units, to allow a 50/50 ratio of deed restricted to market units, and to target lower AMIs. There were several other conditions associated with that 2012 modification including use of local labor/suppliers, a construction start by June 1, 2013, and a requirement for 6 three bedroom units. After redesigning the project from modular construction to stick built and after evaluating the current market, the applicant approached the Town to discuss additional changes to the Agreement, primarily to extend the start date, to eliminate the 3 bedroom units, and to make a minor adjust to the initial price points.

The request to modify the Annexation Agreement has been discussed with the Housing/Childcare Committee who referred the plan to the Planning Commission for a fit test. The applicant had originally planned to discuss the specifics of the Annexation Agreement modification with the Town Council on May 14th after the Planning Commission review on May 7th. However, on May 7th the Planning Commission determined that the plan would likely fail a point analysis because of issues related to the intensity of development (snow stack, privacy, buffering, etc.). Based on the Planning Commission input, the applicant is reworking the plan.

The Town Council discussion regarding the Annexation Agreement that was scheduled for May 14th will be deferred while the applicant reworks the plan. This revision will likely include elimination of a unit as well as reconfiguration of the building types. It is staffs understanding that the applicant would still like to start construction this summer, and that a revised site plan will be presented to the Planning Commission as soon as possible. After this fit test exercise, the Annexation Agreement modifications will be scheduled for Town Council consideration.