



BRECKENRIDGE TOWN COUNCIL WORK SESSION

Tuesday, July 08, 2014; 3:00 PM

Town Hall Auditorium

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

3:00-3:15pm	I	<u>PLANNING COMMISSION DECISIONS</u>	2
3:15-3:30pm	II	<u>LEGISLATIVE REVIEW*</u>	
		Town Ethics Ordinance	18
		Maggie Point Deed Restriction Resolution	35
3:30-4:00pm	III	<u>MANAGERS REPORT</u>	
		Public Projects Update	62
		Housing/Childcare Update	Verbal
		Committee Reports	65
		Library Operating Hours	Verbal
4:00-6:00pm	IV	<u>OTHER</u>	
		Town-Owned Property Naming Policy	70
		Administrative Regulations - Amended Open Records Act Regulations	72
		Marijuana Zoning	80
	V	<u>PLANNING MATTERS</u>	
6:00-6:45pm	VI	<u>EXECUTIVE SESSION - PERSONNEL MATTERS</u>	

Note: Public hearings are not held during Town Council Work Sessions. The public is invited to attend the Work Session and listen to the Council's discussion. However, the Council is not required to take public comments during Work Sessions. At the discretion of the Council, public comment may be allowed if time permits and, if allowed, public comment may be limited. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item. The public will be excluded from any portion of the Work Session during which an Executive Session is held. Report of the Town Manager; Report of Mayor and Council members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items.

MEMORANDUM

To: Town Council

From: Peter Grosshuesch, Director of Community Development

Date: July 2, 2014

Re: Planning Commission Decisions of the June 17, 2014, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF June 17, 2014:

CLASS C APPLICATIONS:

1) Cottage 13, Shock Hill Cottages (SG) PC#2014046, 117 Regent Drive
Construct a new, single family residence with 5 bedrooms, 5 bathrooms, 3,496 sq. ft. of density and 4,092 sq. ft. of mass for a F.A.R. of 1:5.59. Approved.

2) Brownson Residence (MM) PC#2014052, 265 Southside Drive
Construct a new, single family residence with 3 bedrooms, 5.5 bathrooms, 5,899 sq. ft. of density and 7,249 sq. ft. of mass for a F.A.R. of 1:31.25. Approved.

CLASS B APPLICATIONS:

None.

CLASS A APPLICATIONS:

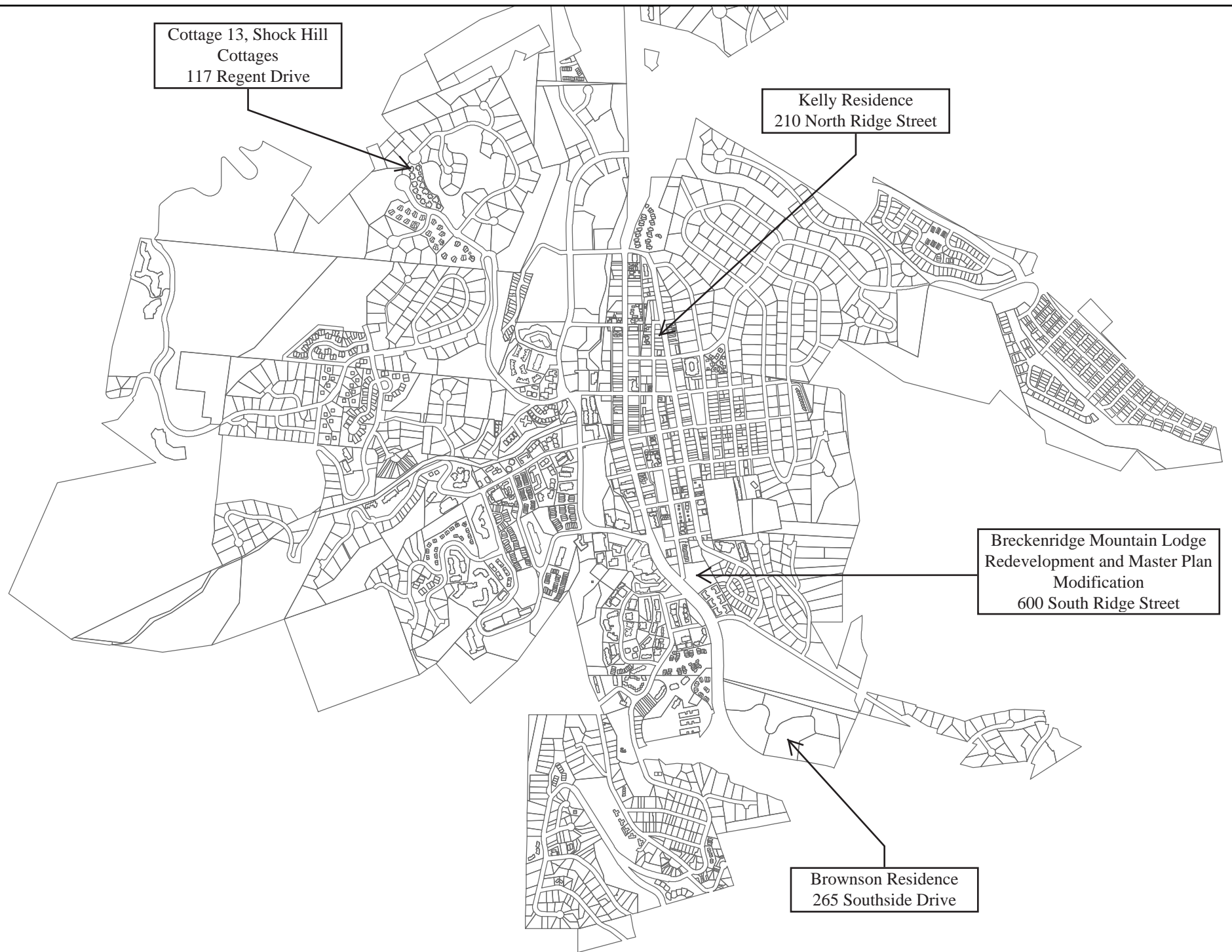
None.

TOWN PROJECT HEARINGS:

None.

OTHER:

None.

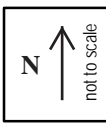


Cottage 13, Shock Hill
Cottages
117 Regent Drive

Kelly Residence
210 North Ridge Street

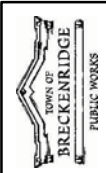
Breckenridge Mountain Lodge
Redevelopment and Master Plan
Modification
600 South Ridge Street

Brownson Residence
265 Southside Drive



Breckenridge South

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PLANNING COMMISSION MEETING

The meeting was called to order at 7:01pm

ROLL CALL

Jim Lamb Eric Mamula Kate Christopher
Gretchen Dudney Ron Schuman Dan Schroder arrived at 7:05pm
Dave Pringle arrived at 7:07pm
Eric Mamula was absent.
Ben Brewer, Town Council liaison arrived after the first preliminary hearing.

APPROVAL OF AGENDA

With no changes, the July 1, 2014, Planning Commission Agenda was approved as presented.

APPROVAL OF MINUTES

Mr. Pringle emailed Ms. Puester to request his correction: on page 5 of the minutes, under the Lincoln Park discussion, please change “the organic stepping bridge could be dangerous” to “the more formal bridge is necessary because the stepping stones add risk”.

With no other changes, the June 17, 2014, Planning Commission Minutes were approved as presented.

CONSENT CALENDAR:

- 1) Cottage 13, Shock Hill Cottages (SG) PC#2014046, 117 Regent Drive
- 2) Brownson Residence (MM) PC#2014052, 265 Southside Drive

With no requests for call up, the consent calendar was approved as presented.

TOWN COUNCIL REPORT:

(Heard after the first preliminary hearing.)

PRELIMINARY HEARINGS:

- 1) Kelly Residence (MM) PC#2013111, 210 North Ridge Street

Mr. Mosher presented a proposal to construct a new 2,242 square foot, 3-bedroom, 4.5-bathroom, single family home with an attached 2-car garage.

The Brown Hotel is being restored. The empty dirt lot to the north is going to be subdivided. This is the property furthest to the North, Lot 7B. This is a Preliminary Class B proposal. Staff had no concerns with colors. Those will be presented at the next hearing.

All traffic will be coming off of French Street. No issue with density. General talk about architecture. In historic district, pitches are steep, all natural materials. Proposed roof classically on historic buildings we will see shingle or metal. Rolled seam sheet metal is appropriate. This is not a historic structure. Staff would like to ask the Commission about the smooth sawn shingle rolled seam metal; Staff believes this qualifies as rolled seam metal. More or less a corrugated look. Would like comments on that. Looking at the garage. In the Historic District there is a module size. Average is 1,500; theirs is at 1,570. The house and garage meet this size and are separated by a connector link. The drawings show the house and garage is essentially the same material and painted the same colors. Applicants are adamant in that since they are abutting two different right of ways, the finishes of the house and garage should match. This has not yet been resolved. Per the Code, stain or paint in a color similar to natural wood is appropriate. Staff recommended switching body and accent colors on the garage to use a similar color scheme and differentiate between the house and garage. The proposed landscaping plan, with the addition of two trees, could be awarded positive two (+2) points; at this point they do not need them. Parking again is in the back, pedestrian access is on Ridge Street. Applicants

want to build a built-in barbeque; it will be wrapped in stone that matches the house. Staff felt since it is not located at the front facade, it would be acceptable. Staff saw no negative points incurred and felt they could get positive two for the landscaping.

Commissioner Questions / Comments:

- Mr. Lamb: Is the layout of the house and garage similar to the house catty corner to the post office? (Mr. Mosher: Yes.) That has a finish on the garage that is different than the house.
- Mr. Schroder: Garage and house being same materials? (Mr. Mosher: Not specifically; I don't have clear direction from the applicants yet. I think we are going to work to a compromise. Suggestion to swap accent and body colors to break up the modules more.)
- Mr. Lamb: We have that house across from the bed and breakfast on North French Street; they have two colors as well. (Mr. Mosher: I think it will make a difference on the general massing.)
- Ms. Dudney: To Mr. Lamb's point; there are two ROWs they didn't make an issue at this point. They designed it this way. But isn't it in conflict when we have two houses approved in the last two years that have followed this code?
- Mr. Schroder: There is a front and a back.
- Ms. Dudney: Yes. (Mr. Mosher: We would have them look at the two priority policies.)
- Mr. Lamb: So, you will bring this back? (Mr. Mosher: Yes.)
- Mr. Schroder: Landscaping; they are doing more to get the points when they don't need them? (Mr. Mosher: Yes; if the plans meet the criteria, positive points can be awarded whether the points are needed or not.)
- Ms. Dudney: You are saying they build the house on 7B and then whatever density is left is on 7A? (Mr. Mosher: All of the density on Lot 7 got put in one number. Lot 7B determines the remaining density for Lot 7A. Lot 7A has smaller building area. Physically you will see the difference.)

With this proposal falling within the recommendations of all associated Development Code policies, Staff finds the proposal meets all absolute policies and would qualify for positive two (+2) points under Policy 22R, Landscaping with the addition of two more spruce trees.

The applicant's agent has worked closely with Staff for this proposal. At this first review, we have no major concerns. Staff had the following questions for the Commission:

1. Did the Commission believe the planned front and side yards meet the intent of Design Standards for the Historic District?
2. Is the location for the enclosed BBQ area far enough back from the primary façade to not negatively impact the relationship of this house to others in the Historic District?
3. Staff believes that with the addition of two more spruce trees, the proposed sizes and quantities of the plantings warrant positive two (+2) points. Did the Commission concur?
4. Did the Commission believe the proposed metal roof conforms to Priority Policy 146?

Staff welcomed any additional comments. The Planning Department recommended this application return for final review.

Applicant Presentation:

Mark Provino Architect for the Applicant. The owner is the applicant and late today emailed me a statement they prepared pertaining to the application: "As owners of Lot 7B, Abbett Subdivision we have been informed of a water main through our property. This line was installed and exists without a legal easement and was not disclosed to anyone by the Town until two weeks ago. No legal easement for this line exists and therefore the responsibility & financial burden is not ours. Resolution for relocation of the line should move forward under the direction & cooperation of the Town Of Breckenridge and the Home Owners of Vista Ridge. John & Kelly Kelley." (Mr. Lamb does the water line go through the lot?) Smack dab through the middle of the lot. (Mr. Mosher: This is a unique situation. Applicant is cooperative with the town entities

needed to work this issue out.) The intent was to get their statement on the record. (Mr. Lamb: The Town and your clients will work this out.) I just had one other observation. This is a paragraph from the historic guidelines; it seems like this would fall under “supporting structure “so that could possibly have an impact on your decision on roofing if we make garage look like a barn or we don’t. It’s really not an outbuilding, that’s our perspective. Owners down the street chose to make theirs look old. This does not support and contribute historically. (Mr. Lamb: You heard this group; there is precedent to make this look like an outbuilding.) (Mr. Mosher: The Architect and the Staff will work on this.) Is this a good time to ask about points? (Mr. Mosher: Those will be presented as we work toward the final hearing.)

Mr. Lamb opened the hearing to public comment. There was no public comment, and the hearing was closed.

Commissioner Questions / Comments:

Mr. Schuman: 1) It does meet the intent. (All the Commissioners agreed on question 1.)

Mr. Lamb: The enclosed BBQ?

Mr. Schuman: 2) I support it.

Mr. Schroder: 2) I support it.

Ms. Christopher: 2) Yes.

Ms. Dudney: 2) Yes.

Mr. Pringle: 2) Yes.

Mr. Lamb: Positive two (+2) points for the landscaping? (All Commissioners agreed.)

Mr. Lamb: Metal roof? (Mr. Schuman, Ms. Christopher, Ms. Dudney said fine.)

Mr. Pringle: No, I don’t think it is appropriate for the Historic District. Basically a “pro-panel” roof; there is a difference.

Mr. Schroder: Coming into the meeting I don’t feel like I support it.

Mr. Pringle: If we have a different choice, I would prefer that.

Mr. Lamb: I am in agreement, but I can live with that.

Mr. Pringle: If we could look at a different material it’s not the end all. (Mr. Mosher: Per the code “rolled seam sheet metal” is called out separately than corrugated tin?) There’s a difference. (Mr. Mosher: This is not the standard profile.) If they have their roof materials that are rusted to a certain level, there’s just a grey painted metal roof, I’m not sure if that is appropriate.

Ms. Dudney: Code requires rolled seam sheet metal.

Ms. Christopher: I just Googled “rolled seam sheet metal”; it looked just like the proposal. (Mr. Mosher: This has a more complex profile.)

Mr. Pringle: There is a distinct difference between the standing seam and the rolled metal.

Ms. Dudney: What is the difference? (Mr. Mosher: Standing seam has a very sharp ridge and larger flat separation.) It does say outbuildings; this is not an outbuilding.

Ms. Christopher: It is the rolled wave.

Ms. Dudney: Are the roofing materials painted? (Mr. Mosher: They aren’t painted on site. They come pre-painted.)

Mr. Lamb: Sounds like the roof is an issue.

Mr. Pringle: Not a reason to deny.

Mr. Lamb: Any other comments?

Mr. Pringle: I appreciate the windows; this is a much more historic representation. I would insist the garage be any other color and material.

Mr. Lamb: Let’s see what they come up with.

Ms. Puester noted Mr. Brewer had arrived for the Town Council Report.

TOWN COUNCIL REPORT:

Mr. Brewer: Good meeting on Tuesday. We did pass the Triumph Development Agreement on second reading (6-1). We passed the Brown Hotel Landmarking.

Public Project Update: Harris Street, Arts District, Main Street improvements all on schedule. (Mr. Schroder: When are they finishing?) Harris Street late November, early December. Arts District is similar timing, soft opening late September early October. Main Street Improvements are all done; this was a 6 year, \$6 million project. Now it is fully completed. (Mr. Schroder: What about the park?) There is a little delay on the Main Street Park; the bid came back too high so we are still in negotiations. (Ms. Dudney: Can I ask about the development agreement for Triumph? Can you give me your thoughts as to why you went with this?) (Mr. Mosher: Actually will be better done through the application.) (Ms. Puester: Mr. Brewer, you can answer that since you will not be present for the presentation on the application.) I would say the benefits would be that a property that is pretty dilapidated will be rebuilt. It will be a Residence Inn and they are part of the Marriott marketing system, so presumably there will be a lot of new people coming to Town. (Ms. Dudney: Is that a hotel? Not a timeshare?) Yes, it is a hotel. I was the one person to vote against the proposal. I might not be the best to explain the merits; however, I stand behind every decision the council makes. I personally had 5-6 positive points and 7-8 concerns. The agreement transferred density to the site; they will be purchasing TDRs. Public benefit was \$20,000 total plus TDRs which come to the Town and are shared with the County. (Mr. Stais, Architect for the Triumph Development project: Roughly \$1.2 million.) (Mr. Lamb: What's a TDR running right now?) (Ms. Puester: Close to \$52,000.) Discussion of density at Main Street Junction.

Ms. Puester: One more item I would like Mr. Brewer to take back to Town Council. Planning Commissioners, a few months back we discussed revising LUDs 17 and 18 to remove duplex zoning. It is actually an extensive process, would have to notice all residents in those districts. Does the Commission feel like the removal of duplex structures is important to continue? There are only a few lots left out there. (Mr. Lamb: How many?) 3-4. (Mr. Pringle: I think we need to proceed cautiously.) (Mr. Schroder: Seems like a heck of a lot of effort for a very small return.) (Ms. Dudney: This came up in relation to a project that came to us in the past year? I don't remember asking the Staff to get rid of duplexes.) (Mr. Lamb: Did it have good massing, did it have appropriate module size?) (Ms. Dudney: I don't have an opinion.) (Ms. Christopher: I agree with Mr. Schroder; seems like large effort.) (Mr. Schuman: I agree.) (Mr. Schroder: It can be single families?) Yes, it can be single family or duplex. (Mr. Lamb: I agree a lot of effort.) (Mr. Pringle: We need to apply code clearly.)

Mr. Brewer: Pinewood II project (it was called Pence Miller): We have been looking at how to make that project work, how to fund it, what it would look like. We are leaning towards not only being the general, but the bank as well, because it saves a lot of money. We did target a lower income population. (Ms. Dudney: Rentals?) These would be rental units, yes. About 32-36 units. (Mr. Pringle: Are you contemplating any more Pinewood units?) Yes. (Ms. Dudney: Are you maximizing the density?) (Mr. Pringle: Well we gave them the density.) The subsidy was more than \$3 million; benefit of being the bank is we would have income coming back into the housing fund.

We discussed BOSAC helping to fund a project restoration of Blue River from Coyne Valley Road north. \$4 million project would restore the river near CMC where it goes under ground. Hopefully more meandering path and above ground. (Mr. Lamb: When would that start?) As early as the end of this year. Three year, three phase project. An awful lot of excavation and preparation. (Ms. Dudney: Between Coyne Valley and the Shores?) Exactly. Stan Miller did about a \$1 million restoration; it would bring up to that. BOSAC would pay 30%; the rest would come out of the general fund, since McCain was purchased with 30% open space funds. Expense that over longer period.

Recreation Department Annual Report: Amazing how many people use recreation. Cost recovery for the recreation center is looking better and better. We still subsidize, but it's looking better and better every year. (Mr. Lamb: What is the percentage?) Now you put me on the spot; we subsidize to the tune of \$2 million. We did not get to town naming policy, we were here until 11pm. (Mr. Schroder: I thought the names were in a bag somewhere, we just pull them out. But we don't!) Right, we reinvent the wheel every time something needs to be named.

(The Commission took a five minute break.)

PRELIMINARY HEARINGS (CONTINUED):

2) Breckenridge Mountain Lodge Redevelopment (MM) PC#2014034, 600 South Ridge Street

3) Breckenridge Mountain Lodge Master Plan Modification (MM) PC#2014033, 600 South Ridge Street

This will be quite detailed as there are a lot of the public here; there is a complex application and a complex development agreement. These two applications are entwined. This is a Class A Preliminary Hearing.

(Master Plan) Mr. Mosher presented a proposal to modify the existing 1998 Breckenridge Mountain Lodge Area Master Plan (PC#1998-059) for Parcel B in association with an application to redevelop the property for a hotel with a small portion of commercial use (PC#2014034).

Mr. Mosher introduced the Applicants: Michael O'Connor with Triumph Development, Mathew Jalazo with Urgo Hotels, Mary Hart with Mary Hart Design and Matt Stais, with Matt Stais Architect. (To the audience and Commission) - Everybody here is familiar with where this property is.

Development Agreement sets limits, and like a Master Plan, does not guarantee the Applicant will be able to get all these things. It is up to Planning Commission to review height, density, etc.

The applicants are seeking to modify the existing Breckenridge Mountain Lodge Area Master Plan in order to accommodate the design of a proposed hotel.

This is a proposal to redevelop Lot 3 of the Breckenridge Mountain Lodge Area for a hotel with a small portion of commercial use. Through an approved Development Agreement (June 24, 2014) with Town Council the applicants will be allowed to:

1. (Policy 2, Land Use Guidelines) Increase the allowed density on this parcel by up to a maximum of 25 Single family Equivalents (SFEs) via Transferred Development Rights (TDRs) through the Town/County TDR Program, with no negative points incurred for doing so.
2. (Policy 3, Density/Intensity) The SFE multiplier associated with Hotel use (1,380/SFE) will be utilized for the proposed development even though the proposed rooms will have small kitchens instead of SFEs associated with a Condo-hotel (1,200/SFE). Marriott has this kind of quality. Kitchens will be small and have a small fridge, microwave to pop popcorn, ability to boil water for tea, etc. Agreement gives them density via this policy.
3. (Policy 24, Social Community) Allow an increase in the allowed mass for amenities from 200% to up to no more than 400%. Our Code allows 1 square foot for every 35 square feet to be put into amenities; mass is everything above ground on this property.
4. (Off Street Parking Regulations) Decrease the required residential parking, if a written analysis prepared by a qualified parking consultant is found to be acceptable, to 0.74 parking spaces per hotel room. They have provided a parking study with this. Also would provide shuttle and valet service so impacts of peak days won't affect the property as much.

Benefits: Landscaping along the path and in the CDOT ROW would be enhanced.. Improvements and maintenance to trail are proposed. Total monies towards art and landscaping (\$20,000) along with the funds for the TDRs.

The Applicant chose to look at underlying density for this property. This property had density taken off of it with the original Master Plan and placed on abutting properties. Based on the commercial use here, the Land Use Guidelines would allow 74,740 square feet of residential density. At this time, the application shows 64,690. (Mr. Pringle: When you say that is less then allowed, we understood that the properties, that the density was transferred off. The density is there, just not on this property.) Correct.

The back building sits much in the same location as the current Lodge. The new structure is meeting all

setbacks per Policy 9/R. Plenty of space for landscaping along the west side.

With this modification to the Breckenridge Mountain Lodge Area Master Plan, the total *allowed* density and mass are proposed to be defined. The development will be reviewed against these totals defined in the Master Plan and the related Policies in the Development Code. Staff will review the Parking Study at a future meeting with the development application. Staff welcomed any Commissioner comments.

The Planning Department recommended this application return for a final review.

Commissioner Questions / Comments:

- Mr. Lamb: They have done this traffic study? (Mr. Mosher: Correct. Staff has not reviewed what will happen at peak times and any proposal from the applicant on how this will be mitigated. Applicant has proposed possibly having a shuttle, remote parking for cars, etc.)
- Mr. Pringle: The Village came through with another scenario to achieve lower parking counts.
- Ms. Dudney: Our discussion on condo-hotels; what is to prevent conversion? (Mr. Mosher: A covenant running with the land added as a Condition of Approval. Staff will come back with this discussion.)
- Mr. Lamb: Do we all like the covenant idea? (The Commissioners stated yes.)
- Mr. Pringle: Whatever is the strictest means possible.
- Mr. Lamb: Addressing the current concerns with Condo-Hotels (to the audience: We look at condo-hotels as having meeting rooms) and are the coming back to convert this common area to a new private condo. Council saw that if that's a benefit, we would like to see that.
- Mr. Pringle: Also economic benefit to developer; 1,380 square feet from 1,200 square feet. We don't want that to get reversed. (Mr. Mosher: We did not assign any negative or positive points as of yet.) Is the wording strong enough? I am fine with 1,380 square feet, but is wording strong enough to ensure we get the correct amount of density? (Mr. Mosher: At this point it's well below what LUDs could be.) I think as far as the Master Plan goes, we are fine; it will be when we get down to the development. The 1,380 square feet is fine; the Master Plan is fine; but I don't know how many SFEs there will be; none of those are guaranteed.
- Mr. Lamb: Approving this part does not mean we approve all of it.
- Ms. Christopher: I agree with Mr. Pringle.
- Mr. Schuman: This does not compare to Peak 8 parking. At Main Street Station the parking is underground which is a huge benefit. I worry that we will have all this parking full at all times of the year. The number may not be adequate.
- Ms. Christopher: Is the parking only for the use of this lot? This is not public parking? (Mr. Mosher: Correct, this will be for the residential, employees and for commercial use.)
- Mr. Schroder: Everything is written in Cool Whip at this point; I support what Staff has presented.
- Ms. Dudney: I agree if the Town Council have made the business deal and given us the zoning code to apply to this parcel, then it has to apply to all other aspects. Key to the parking will be the credibility of the study.
- Mr. Lamb: I agree these are the guidelines and now we go to the next step. I share Mr. Schuman's concern about the parking. If I have to park off site after paying for this; it cheapens the experience.

(Redevelopment) Mr. Mosher presented a proposal to redevelop Lot 3 of the Breckenridge Mountain Lodge Area for a 3-story, 130 room hotel with a small portion of commercial use. Parking would be located to the north and internal to the development with 101 spaces. Again, Class A Preliminary. (Mr. Mosher showed the Transition Area and outside the Transition Area on the site plan.)

Staff has been working closely with the applicant and agent for this first review. With the overall scope of such a complex development, Staff focused on the policies associated with the architecture, height and general site issues. Engineering Staff is currently working with the applicant on the site drainage details. We

are planning a site visit with the Commission with the next hearing to review the proposed development on this property. Ms. Mary Hart with Mary Hart Design is present to discuss some of the landscaping. I believe they are looking for positive four (+4) points for landscaping at final review.

Policy 5 addresses portion outside the Transition Area; Policy 24 addresses portion within the Transition Area. The design goals serve a purpose to preserve our Historic District. Any future development should reemphasize the reestablishment of a grid. South Main transition is Transition Area 14.

Placer Ridge Townhomes are directly to the north of this property. They abut the Historic Dipping Station and some of the very outskirts of the Historic District. This area is very much residential uses; the forms are broken up. Discussion of materials and finishes are probably concerns the public has. Roof forms, massing. The site doesn't support standard a grid that is perfectly parallel at the intersection of South Ridge and South Main Streets. The site curves. There is 130-foot building separation between Placer Ridge Townhomes and the proposed building.

The ski shop is currently on the south portion of the structure. Mr. Mosher showed the massing portion located within the Transition Area as opposed to the massing located outside. With Staff's direction, since we're at the edge, the larger massing gets further away from the sidewalk as it curves away from the building. Building steps up to the rear. Front at the west is 1.5 stories; rear is 3 stories.

Would the Commission prefer the stepping of height to occur outside the Transition Area? (Ms. Dudney: You didn't tell us how the Staff felt on that.) Still being evaluated, but we would like Commission interpretation of this policy. Staff believes that this mass may be far enough away that sense of pedestrian scale is preserved. The glass area has been reduced as far as solid to void since earlier submittals; roof forms, gables and shed elements, The roof forms are more broken up in the Transition Area. The ski shop definitely abides by this to a tee.

Policy 34: Enhance pedestrian experience. There are pedestrian sidewalks from the parking area as well as from the ski shop west area. Code asks to "Create areas that encourage pedestrian use". Ms. Hart will cover this more in her presentation. Building steps in an out continually around the structure. More in some locations than others. All of the proposed roofing material will be asphalt shingle. Exterior material is cementitious siding with some wood trim. Soffits are natural cedar. Colors will also visually break up the building massing. Currently the applicant's plan would provide any employee housing off the property. The amenities are comparable to other projects that were awarded positive three (+3) points. We classically have awarded positive points when applications exceed the minimum requirement. At this time and based on the current density for residential use, this application is required to have 1,860 square feet; showing 6,000 +/- square feet. Ski lockers, storage facilities, meeting area

Negative points will be incurred for the building height. Just shy of 38 feet; negative ten (-10) points. The building is U-shaped and steps down at the ends. Comparable in design to Grand Lodge at Peak 8 (Colorado Grand) which received positive one (+1) point for stepping down. However, this does not step down at the corners. At the west elevation: the top ridge is about ten feet higher than the building that is there now. With direction from CDOT, Engineering staff, Planning Staff requested the applicant eliminate the Main Street Highway 9 access and take the access off of Ridge Street. As a result, this access is the only means service trucks and customers will use to access the property. There are concerns with regard to circulation. There were also public concerns about the proximity of parking to Placer Ridge. The parking for Placer Ridge is one way in, one way out. Staff suggested adding a berm between the Placer Ridge property and the parking lot for the proposed building. (Ms. Dudney: What is the height of the Placer Ridge property?) 26-feet to the mean.

Although this is a Preliminary Hearing, there are 9 questions. Staff had the following questions for the Commission:

1. Did the Commission believe the portions south of the ski shop, which are further away from the sidewalk, convey an adequate sense of pedestrian scale in the Transition Area?
2. Did the Commission believe the solid-to-void ratio of the portions of the building in the Transition Area has been satisfied?
3. Did the building adequately provide a variety of setbacks?
4. Did the Commission believe the variety of architectural detail east and south elevations are too similar?
5. Did the Commission believe the Amenities warrant positive three (+3) points?
6. Did the Commission support the transition to taller building heights (over 2-story) inside the Transition Area boundary rather than outside the boundary?
7. Did the Commission believe the roof forms step down at the edges and warrant one positive (+1) point?
8. Did the Commission agree with Staff regarding increasing the landscaping for positive four (+4) points?
9. Staff recommended positive two (+2) points for screening most of the parking. Did the Commission concur?

Staff welcomed any additional comments. The Planning Department recommended this application return for a second preliminary hearing.

(Ms. Dudney: (To the audience) - The issue regarding height. In the LUD guidelines anything above 2-stories is discouraged. But you are allowed to go higher than that with negative points.) Correct. (Ms. Dudney: In Transition guidelines, I don't see anything Absolute about height. There are some illustrations in the Transition guidelines that give some examples. Those are meant to be samples of what would be good?) Yes.

Applicant Presentation:

Mr. Matt Stais, Matt Stais Architects: Representing our project team. Working with Mr. Mosher for about six months. Mr. Stais introduced again Mr. Michael O'Connor with Triumph Development, Mr. Mathew Jalazo with Urgo Hotels, Ms. Mary Hart with Mary Hart Design.

Mr. O'Connor will discuss the merits of the site.

Mr. Michael O'Connor from Triumph Development and Mr. Mathew Jalazo from Urgo Hotels: We are the co-sponsors on the project. One of concerns we have heard is our background, we will go through some of hospitality projects we have done elsewhere. What we are talking about is a customized product specifically for Breckenridge. The Willows is a Vail boutique condominium hotel. Tivoli Hotel Vail, Sonnenalp Hotel Phase 2 Vail, we added 43 keys and 6,000 square feet of amenities in that phase.

Mr. Mathew Jalazo, Urgo Hotels: 32 hotel portfolio; every one custom designed for the location. Mont Tremblant Residence Inn; 127 guest suites, ski in ski out. Homewood Suites, Mont Tremblant feel like it is a piece of the village. Whiteface Lodge is a property we manage in Lake Placid NY; it's a lodge style.

Mr. O'Connor: This site is one of very few sites that a hotel can be put on in Breckenridge. 2.6 acres is not big enough for full service hotel; perfect size for select service. Land Use District allows for project of this size; critical variable is there is existing development on site, so current water and sewer fees are paid for. Existing lodge in Town even though shuttered. Walking distance to Main Street and to skiing. In one of those spots you can come and stay at this hotel, you don't need to rent a car. The magic is that it is so close to Breckenridge's key amenities, Main Street. There are restaurants nearby; so, we don't need to build restaurants. Not a time share project. Not a condominium project. Even though we could go to 4- stories, we are keeping it to under 3- stories. Let's improve the aesthetic as you come into town. The original Master Plan was done in 1998 to facilitate the development of Main Street Junction. 18.2 allows 1:1 FAR for residential project. They significantly up-zoned the Main Street Junction portion of the Master Plan. They got 40 SFES.

What we are trying to do here, we could do 52.4 SFEs; but, we are proposing 48.9. (Ms. Dudney: Are you the owner and operator of the hotel under the Marriott flag?) We will be the owner; Urgo hotels will operate the hotel. (Ms. Dudney: Why did you pick Marriott Residence Inn?) The Marriott flag; the reservation system is extremely influential. The Marriott flag is powerful. Once you get under the Marriott flag, you have more restrictions. Their select service brand is more flexible. This one doesn't have a restaurant. The rooms themselves, they cater to people who are staying for 3-4 nights. Three 2- bedroom suites in the whole project. The rest are basically large one-room hotel rooms.

Mr. Stais: Quick overview of site issues. In terms of Historic District Transition Area; there is no grid along Ridge Street. The reason there is one Master Plan from Boreas Pass to the dipping station, historically there was one building that went this entire length, the Tonopah Shops; there was a big building on this site 100 years ago. 1/3 of our project is in the Transition Area. The closest historic building is several properties away. The surrounding properties are not historic. The original proposal was for both curb cuts, a west facing porte-cochere; that did not meet with Staff approval. When we reached Version 9, we pushed the bulk of the building closer to the street to engage the pedestrian and create yards. Added ski shop, maintained setbacks. Location of existing pool is about 30 feet above the street.

Ms Mary Hart: Landscape Architect for the project. Three priorities: first was respecting the Conservation District Standards; screening parking. Second, provide strong pedestrian connections, not only connecting to neighbors but to outdoor space. Looking at several pedestrian connections, and continuing the trail that currently ends at the hardscape. Last priority is landscaping and how it connects the design. Incorporation of more water efficiency in planting materials. With the next version you will see less lawn. We will revegetate and work with CDOT to approve the improvements. Will continue to work with neighbors to address solutions. Buffers that don't block views. Intend to continue to work with Staff to get to positive four (+4) points. Have guide of previous projects, most recent being Grand Vacations at Peak 8.

Matt Stais: Build design: we are trying to respect the Conservation District; step massing down, break up building mass, capture west views through hearth room. Main level ski shop, few amenities, garage back of house as building goes lower in ground due to grade change. First level rooms except for ski shop. Second level rooms and amenities including pool to mimic what was there. Third floor, units on south and east side of property. Few if any impacts on shading due to orientation of the building. Cementitious siding for entire building. Stone on base, two cementitious sidings. (Ms. Dudney: How much stone?) We initially had much more stone on faces and along the base, we had the whole first floor with stone, but we talked about less stone more of a wainscot. Around the corner running back toward trail, lower level in stone. Basically stone wainscot on the base of the exterior. The one piece of public art is in the CDOT right of way. We want to keep as much of that existing landscaping as we can. Our mean roof measurement is below Main Street Junction. Preliminary point analysis: we realize we are going to get negative points for height. Offset with amenities, screened parking, trash, landscaping, roof forms step, shuttle. Feel we are within range. (Ms. Christopher: Roof forms stepping down are you calling that two links?) My take on that is at the conservation district that is closer to the street, and also at the door we are open to input.

Mr. O'Connor: We have shown how the grade works, this corner (southwest) steps down. Relation to neighbors steps down.

Commissioner Questions / Comments:

Ms Dudney: Talk to me about the access road, single road in and out. How did you get reconciled? (Mr. Mosher: It was what the Historic Standards describe and wanted to see that the parking is not in the front, porte-cocheres are not historically accurate.) What about another access a tunnel through some way? (Mr. Jalazo: Everyone is arriving in the concealed porte-cochere portion of the site. People will be turning in but going to the entry, not stopping. There is not a restaurant, minimal deliveries to this property. We can coordinate those for times avoiding

- congestion times.) What about beeping of backing up truck. (Mr. Jalazo: We will have trash for the commercial would but no restaurant so less impact.) (Mr. Stais: We looked at coming off of Highway 9; that was just not going to work. Staff and CDOT looked at many options.)
- Mr. Schuman: You are familiar with site, moving it as far to the north, cars backing up. The congestion is going to be on Highway 9; you'll have some traffic. (Mr. Stais: You have the congestion on our property and you have the congestion on Ridge Street.) Which has been increased with one access now. (Mr. Stais: Breckenridge Mountain Lodge is not operating, but there are commercial uses as well as parking used for others.) Have you thought about balconies? (Mr. Stais: We did give consideration to the four main level units with private patios; there are no other balconies.)
- Mr. Pringle: 28,000 square feet of common area; can that be compressed? Seems like a lot. (Mr. Stais: Includes the garage. Three types of parking indoor parking is around 11,000 square feet. Covered parking. Digging out area. Going to bury the parking under our three story building on the east side. Includes the garage, stairways, hallways.) (Mr. O'Connor: 10-11000 square feet of garage; a lot of corridors. Plus the lobby has some common areas and back of house areas.) I didn't understand what all the common areas were.

Mr. Lamb opened the hearing to public comment. Ms Puester directed the public to please feel free to comment on both presentations. Master Plan and the Development.

Ms. Becky Roberts: I am the HOA President for Placer Ridge Townhomes; We had a list of comments. I appreciate the design presentation tonight. Big concern right now is traffic congestion along the right of way. Big difference between a few snow plows and several hundred vehicles a day coming into the property next to ours. Summarize where our concerns are, congestion on Ridge Street, light and noise to the south of us. Noise: you do have food service because you have breakfast area and bar area, there will be traffic for that as well. Thank you.

Ms. Holly Hatcher: I am a resident at Placer Ridge Townhomes. We are excited about this development; we have known about the potential redevelopment since we purchased our property. Concern is 10-foot separation space between the parking area and our property; that is 10 feet from our home and our property. There wasn't a year I wasn't in your offices talking about the snow removal there. They have damaged our sprinklers, they have damaged our lawns. We also have had pet issues. Will there be pets allowed? (Mr. O Connor: There may be.) (Mr. Jalazo: It will be very rare for guests to bring pets.) Our lawn is the "Official Pet Walking Area" for Breckenridge. The entrance to the north is right next to our driveway. We are not a historic property but we are a residential property. The redevelopment of Ridge Street has been tremendous over the past ten years. We are residents; we live there; I don't think you would want the congestion in your driveway. You will be responsible for the SFEs FARs LUDs but where will the snow be going? I trust you to watch our backs. One more question, several times you mentioned working with the neighbors, we have not been contacted, we got no mailed notice about this or any other hearing. We would like to have open conversation with you. Thank you.

Ms. Lynn Crowell, 113 Powder Ridge Drive: We have owned in the area for over 20 years, we were in the area when there were paddocks. The density shift that went to Main Street Junction with the original Master Plan took away a lot of our view; we are concerned, with this modification, this will take away the rest of it. The density issue has been addressed, the point I want to make is the density shift left the density at Breckenridge Mountain Lodge the way it is today. They are now almost doubling the density that is there today. This is going to be a big project. What they are not showing you, is what it is going to look like from our perspective and from Main Street Junction. What we are going to see is not what Breckenridge Mountain Lodge is today, a long skinny building, we are going to have what looks like two large buildings. Would like to see southeast perspective presented. (Mr. Stais showed the perspective.) That's what it's going to look like, row and rows and rows of windows looking at us every day. I am glad there are not going to be balconies, so

we don't have people outside yelling on balconies the way we have with Breckenridge Mountain Lodge. We are concerned with the height. Per the Lands Use Guidelines, it should be 2-stories; it's going to be 3. Can we compromise, have three stories but maybe lower portions into the ground further, maybe make floor-to-floor heights 10-feet, use the upper volumes of the roof spaces too? We have to question whether this is the density Breckenridge wants in this area? Surrounded by three residential developments, Main Street Junction, Main Street Station and Placer Ridge Townhomes. This is one of the larger ones, room wise, these developers have done. I saw 104. This is now 130; it's a big hotel. (Mr. Lamb: Were you noticed on this meeting?) Yes, I was. I did see a visual presentation by the applicant from one of my neighbors and I know why I don't have one; it's because it's not going to look good. District 18.2 is a transition between commercial and residential. Zone and Master Plan was transition between the two. You are talking about plopping a large hotel in the middle of three residential locations. Our opinion is that it should be smaller residential development. If you believe hotel is best use, we would like you to consider a smaller property; that would help resolve some of the issues discussed tonight, including the parking. Lastly we would like to offer that you take the sidewalk off of our site and it would be beneficial to see our perspective. Like Placer Ridge owners, there has not been a great effort to deal with some of the neighbors. I have other issues, but will save for next meeting. This meeting is on architecture and density. Façade is better but you can still see that long straight edge. (Mr. Lamb: This is not the only meeting we are going to have.) The trail is important issue. (Mr. Schuman: did you present your concerns to Town Council?) Yes.

Ms. Hatcher: Does the trail go behind Placer Ridge? (Mr. Grosshuesch: There is an easement back there.)

Mr. Dick Richardson, Homeowner and President of the HOA for Breckenridge Mountain Village east of the project: We are 34 homes. This is a little bigger than we would have liked. One of our main concerns is the trail, the Main Street trail starts at French Street and Boreas Pass Road. Right where it turns down, we have stair step access. Unimproved dirt now, so people walk down to the existing parking area pavement. What we want to see is all weather, all season access for the trail; I see paved and soft surface here, (indicated on site plan). That means no maintenance in the winter. (Ms. Hart: Is the trail plowed behind Main Street Junction?) No, it's not; we shovel our steps. The other thing is making a statement about the parking and traffic. I avoid the intersection now. The traffic is going to increase. Our board has been lobbying about some kind of a crosswalk across Highway 9. There is a lot of pedestrian traffic across; people running for their lives across the highway. We need some kind of crosswalk here; I don't know if a traffic light is a possibility.

Mr. John Listek, Attorney for Gallaghers and Weinsteins, they own Lots 2 and 3 Powder Ridge Subdivision, which are higher up than Ms. Crowell's property is. Composite picture shown was taken at my client's lot, seeing that perspective they are generally ok. Much like Ms. Crowell, not thrilled they will be looking in hotel windows from their lot, but feel landscaping can help. Lots 2 and 3 don't have a concern with blocking of their views as they are higher up. Both have concerns about parking impacts and about parking going around and into the parking lot. In busy times, people already are trying to park in our neighborhood illegally.

Mr. Mike Hatcher: I am married to Holly Hatcher and also reside at 520 South Ridge in Placer Ridge. Affecting not only Placer Ridge but other residents of the city here. Why the entrance on Main Street got nixed, maybe they didn't want to go against CDOT. There is a lot of noise there now. The Brewery deliveries are there at 7, 11, to 2 in the afternoon. As citizens, we need to be concerned. During busy times, people cut through the existing parking, including Red White and Blue to avoid the congestion at the highway intersection. The owner talked about being a hotel where guests will book 4 nights. Where are folks from Denver going to do? They will bring their cars up here. Folks staying four nights will want their cars. Will all employee parking be off site? How are they going to get there? For pedestrians, you showed the walkways. There is no sidewalk on our side, if you put the sidewalk to the north, all the people will walk into our private property, there is no sidewalk. The city needs to deal with the congestion. Ridge Street was never designed as a traffic street. In the past ten years we have had a lot of development in the city. Highway 9 is designed for the traffic. That is where all the traffic needs to go. I would challenge the Commission to send it back to staff

to redesign the way the professional had it originally. Thank you very much, I appreciate your service.

Ms. Crowell: As you can see there's been a lot of attention paid to the congestion and Highway 9. The building goes up three stories and you're going up in elevation. Not sure why three stories wasn't on highway 9 and then to two stories in the back to keep the building the same level.

Ms. Linda Craft, 84 Deep Powder Circle, Breckenridge Mountain Village, the residential home property behind the project: Presentation has been wonderful. Looks different on paper compared to a resident's point of view; I've been a resident and taxpayer in the city for 20 years. Roof line after roofline after roof line that shows a density problem. Parking off site at ice rink; that property is already overflowing all ski season long. Ski season is long and we are grateful for it, but if you are negotiating from the ice rink to the brewery you are taking your life into your hands. It sounds like the Town Council has already approved the project and now it gets handed off to the Planning Commission to do the final review. I ask the Planning Commission to take into consideration there are three residential homeowner areas immediately around this project. Thank you for all the work that you do. (Mr. Lamb: I like the idea of a site visit.) (Ms. Puester: We can do one for the next meeting.)

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

Mr. Stais: I'd like to talk about the congestion problem. I have heard there are issues with deliveries to the Breckenridge Brewery; with all due respect, we are not going to respond to the Breckenridge Brewery issues. As far as Red White and Blue cutting through, CDOT, Town Planning Staff, Town Engineering Staff stated the Highway 9 access absolutely that needs to be closed. Der Steirmark, Mi Casa, Village at Breckenridge had similar issues a few years ago. All of these are valid points, but some are beyond scope of what we addressed so far. As far as the trail goes, the Town of Breckenridge dedicated easement for the soft surface trail, can certainly talk to BOSAC about it. No getting around that the proposed buildings are taller than current building. (Mr. O'Connor: I think Mr. Stais can echo this as we have studied the site. Building height there is a substantial amount of grade change, rather than pushing back into the setback and being able to go three stories from there, we have intentionally pulled the building up and tried to work with the existing topography as much as possible to minimize the impact. The building height I know is a sensitive issue. Making additional setbacks along south and east and have building comply with the requirements. Parking we are going to discuss, the last person who wants to deal with a parking issue on site is me; I live here I will have to deal with guests who can't find parking. Is every person going to show up with a car, are most people? Yes. Is everyone? No. We have studied it, we are confident in our studies. Do we have to convince you? Yes. Have we proposed something in line with other projects? Yes. We have had to do some underground. How do we, as a community, come up with a plan that deals with the parking at critical times. Build the church for Easter Sunday? Parking is what we do not want to build too little of. You've got tools in the toolbox to use. (Ms. Puester: We are getting pretty detailed into the parking when we have not address it in this portion of the application. Focus on the issues in the Staff reports)

Commissioner Questions / Comments (Continued):

Ms. Dudney: Where do you stand with traffic light at Ridge and Highway 9? (Mr. O'Connor: We have been relegated to the one access point.) How about CDOT, Town Engineering? (Mr. O'Connor: We have gotten preliminary review from Engineering and Staff; that is what we are working with.) (Ms. Puester: At next hearing we can address this concern.)

Mr. Lamb: Questions that were posted, do we need to proceed to those? (Ms. Puester: Please note if any of public comment has related back to the Master Plan.)

Mr. Schroder: Our job is to take the Town Code and apply the Code. Architectural compatibility; is it ok we go from ski shop which is appropriate height and then step up outside the transition area? Is that acceptable? Is that absolute or is that relative? Given a preliminary hearing, Staff and Applicant have gotten a lot of good comments. I would support building height transition

within the Transition District.

Ms. Christopher: On that note, adequate pedestrian scale, I don't feel that there is adequate pedestrian scale.

Mr. Schroder: 1) Ski shop; is that actually within the Conservation District? Do we ever say it's ok? That pedestrian scale is ok because the path pulls away from the building or is it always bigger no matter how tall a person is? Can't answer that. 2) Solid to void is satisfied. 3) Setbacks are all met. 4) Architectural detail, are they too similar? It's a hotel, how dissimilar should it be? I think its ok. 5) Still hanging out on 3-points for the amenities. 6) Yes, support. 7) Roof, no, not one positive point because of Ms. Christopher's comments. The inner corners still seem to be pretty abrupt. 8) Probably is. 9) Pretty much would support.

Mr. Schuman: 1) Yes, they are adequate. 2) Good. 3) Yes. 4) Details are fine. 5) Does warrant three positive (+3) points. 6) Do support the transition to taller buildings inside transition area. 7) Roof forms do step down. 8) Not convinced they should get positive four (+4) points for landscaping yet; we give four points too easily sometimes. 9) Do support positive two (+2) for screening.

Mr. Pringle 1) Yes, adequately addresses only one component that does not work for sense of pedestrian scale elsewhere. If there is a way you can finesse it this iteration. Has stepping right at only one corner. 2) Elevation A301 shows solid to void ratio with three banks of windows and transoms above. Does not adequately reflect residential type of architecture; still trying to get residential feel. Need to look at in greater detail. 3) On front side probably does, on south side does a disservice to the neighbors, sympathetic to them with view of a wall of rooms, not sure how to address that. 4) I don't think so necessarily. 5) I guess that we would treat this in a similar way but I am still not sure what those amenities are. 6) I don't support the total height transition inside the Transition boundary; I would like to see a blend between the inside outside Transition Area. It works fine at ski shop; should continue deeper. At southwest corner immediately off Highway 9 they are looking at 3-story building that is as close to Highway 9 as this building gets; need to come down from the sidewalks. 8) If Ms. Hart says she can get 4 positive points, I think she will. 9) Are we talking about two positive points for public parking or are we talking about two positive points for screening parking? Not quite sure about that. Northwest perspective; problem I have is that taken from the top floor of Main Street Station. I would like to see perspective from street level right next to the building. This hotel is supposed to be guaranteed as a hotel in perpetuity; don't know if that's a Master Plan issue, but this is tremendously important. I am a little bit uneasy about the fact that all of the original density from this Master Plan is still within the projects and because a significant portion of it was transferred off of this lot to support other properties in this Master Plan doesn't mean we should be able to transfer in even more density. Because the density did not go away it just got redistributed. When you don't like it on paper you're likely not going to like it when it's built. Town Council granted too much density in the Agreement; we need to look at halving that. I know we need to add more density, but the amount added to it is excessive to the degree that this project can't be built. The community is concerned as well. We need to look at a significantly reducing the project. (Members of the public applauded these comments)

Ms. Dudney: General comments: An individual could have problem with density and problem with this as a hotel; Town Council has already addressed that in the Agreement. My job is to review this project to see if project is in compliance with the Development Code. I have some personal things about this if I might like to change it, but I am going through these questions. 1) Yes. 2) Yes because those windows Mr. Pringle points out are back from where side is. 4) Ok. 5) No. 6) Amenable to positive three (+3) points, yes. 7) Adequate transition has been made; designers have done a tremendous job getting this project onto this site. 8) Yes, one positive point (+1) personally love to see step down at southwest and southeast corners, but still give one positive point (+1). 9) Landscape; don't know enough but agree.

Ms. Christopher: 1) Ski shop is a good pedestrian scale; whole section might not be pedestrian scale. 2) Not

residential feel with big windows, but adequate points away from street. 3) I don't think north or south side has adequate stepping setbacks especially with the traffic there. 4) Pretty similar. 5) Positive three (+3) for amenities? If Staff feels precedent I agree, but only see swimming pool as the one amenity. 6) Maybe if we can increase the residential identity and character. 7) More step downs need to occur on the U shaped sections. 8) Could warrant positive points if significant landscaping on north side. 9) Screening parking; there's a lot of parking but a lot is hidden, positive two (+2). My biggest concern on 3-stories being so close to neighbors.

Mr. Lamb: 1) Agree that ski shop does convey sense of pedestrian scale. 2) Fine. 3) Fine. 4) With Mr. Schroder; would look funny if it didn't look somewhat similar. 5) Clear precedent for positive three (+3) points. 6) Ties to 1; forms could step down more, should step down more to get the points. 7) This needs a bang up job to buffer it because in fairly dense area; needs really good plan for positive four (+4) points. 8) Good precedent for positive two (+2) points for parking. 9) Under Development Code this works with flexible zoning now it comes to us for the fit test. We don't have to go with maximum density if we feel this project is too dense; we have the ability to bring this down to the level. We need to be Code wise.

Ms. Christopher: General comment: I am concerned about Ridge Street access and pedestrian safety; maybe Town Staff can look at pedestrian safety as well as vehicular safety.

Mr. Lamb: Thank you to the public for showing up and making comments. (Mr. Stais: In terms of our next hearing we will work with Staff on next steps?) (Mr. Grosshuesch: Yes.)

Mr. Lamb staff will look into notice issue.

Mr. O Connor: Is next hearing next preliminary to address other issues we did not discuss tonight? (Mr. Mosher: We will address what was brought up and maybe ask for some changes to plans to address Commission concerns.) Ideal scenario is to go through another preliminary to address the issues. (Mr. Grosshuesch: We have a pretty good method on how to work with these larger projects.) Are we continuing the preliminary hearing? (Mr. Lamb: At the next meeting we will talk about other issues, but we have given you direction this evening on what to work on with Staff.) Parking ratio is something we can study. (Mr. Lamb: Our understanding was they have the study but have not been able to evaluate it yet.) (Mr. Pringle: We can discuss shuttle question, are you going to shuttle during peak periods to external lots, is there a way to capture that?) We feel we have gotten 65% approval; I would like to go to 100% in a meeting not too far away from this one. (Mr. Pringle: I agree with you.) I feel like we have not gotten complete approval; I'd like to continue that dialogue. (Mr. Grosshuesch: Typically we will carve out 3-4 issues for each meeting to go through them for the necessary meetings to get to final.) I feel like I haven't gotten a complete set of answers. (Mr. Lamb: And you won't. Typically we will have a meeting like tonight with the first set of issues. You will go to the next meeting with the next set of issues.) (Ms Puester this is a process issue, Staff can assist with the next steps in the process.)

OTHER MATTERS:

None.

ADJOURNMENT:

The meeting was adjourned at 10:57 pm.

Jim Lamb, Chair

MEMO

TO: Town Council
FROM: Town Attorney
RE: Revised Ethics Ordinance
DATE: July 2, 2014 (for July 8th meeting)

The Town's current Ethics Ordinance was adopted in 1992. The Ethics Ordinance has been amended from time to time over the past 20+ years, but has never been completely revised.

From my perspective, the Town's Ethics Ordinance is one of its most important local laws. It establishes an agreed set of rules for the "ethical" operation of local government. The current ordinance has worked reasonably well over the past two plus decades. However, it is my belief that the ordinance needs updating so that it reflects this Council's view of what constitutes ethical local government.

The original 1992 Ethics Ordinance was based in large part upon what was then the new State Code of Ethics. While taking the position that the Town (by virtue of its home rule status) did not have to follow the State Code of Ethics, it was thought that the State statute provided a reasonably good framework for organizing and describing the Town's new ethical rules. Although the State Code of Ethics was the foundation for the 1992 ordinance, several unique rules were included in the Town's Ethics Ordinance to address local concerns and issues, and to truly make this Breckenridge's Ethics Ordinance .

Many months ago I reviewed a draft of proposed new Ethics Ordinance with the Council. At that time the Council directed me to make a number of revisions to the draft ordinance. Enclosed with this memo is a substantially revised draft of a proposed new Ethics Ordinance. The changes from both the prior draft and the Town's current Ethics Ordinance are such that it is not possible to create a blacklined version of the new ordinance. As a result, the Council will need to review the entire ordinance, but I will highlight for you what I believe are the key provisions of the revised ordinance.

As requested by the Council, I have changed the format of the new ordinance to track the format of the current Ethics Ordinance. By doing that I was able to shorten and simplify the draft that the old Council reviewed in late 2012.

Here are what I think are the most important substantive changes contained in the proposed new ordinance:

1. New language has been inserted in Section 1-16-3 to make it clear that the State's Code of Ethics, as well as the State Gift Reporting Statute and the State ethic's statute that is

applicable to statutory municipalities, do not apply to the Town. I recommend including this language to make it clear that the Town's ethical rules are set forth in Town law, not in state law.

2. New language has been added in Section 1-16-4(B) that says the Town Councilmembers will voluntarily file the periodic reports required by the State Gift Reporting Statute, even though it is the Town's position that the State Gift Reporting Statute does not apply to the Town.¹ As far as I've been able to determine, this is the approach taken by many Colorado home rule municipalities.

3. From time to time the Council has struggled with the issue of when a Councilmember has a conflict of interest on a matter the body is considering. Section 1-16-8 is the section of the new ordinance dealing specifically with conflict of interest in Town Council action. This section has been substantially revised and, hopefully, clarified. The key revisions to the current Council conflict-of-interest rule are as follows:

- The section begins with a reference to the Town Charter language that prohibits a Councilmember from voting or participating in the discussion with respect to any matter as to which he or she has a "substantial personal or financial interest." Because this language is in the Charter it must be followed. However, the term "substantial personal or financial interest" is not defined in the Charter, and both the current Ethics Ordinance and the proposed new Ethics Ordinance attempt to define this key term.
- Section (B) of Section 1-16-8 defines the Charter term "substantial personal or financial interest." This definition is critical to the Council's ability to decide when one of its members has a disqualifying conflict of interest. Attached to this memo is a summary sheet (entitled "Does A Councilmember Have A Conflict of Interest?"). The sheet outlines how the new ordinance defines "substantial and financial interest." Please review it along with this memo and the draft ordinance.
- You should note that I have omitted from the new ordinance the concept of a Councilmember having a conflict of interest based solely on an "appearance of impropriety." I did this in an effort to more objectively define when a conflict of interest exists, and to make the conflict determination more predictable.
- In Section 1-16-8 I have also clarified a number of procedural issues related to the issue of conflict of interest, including, the right of a Councilmember who may have a conflict to be heard by the Council before the issue is resolved (Section 1-16-8(E)); a declaration that the Council's decision as to whether a conflict of interest exists is final and conclusive, but a member determined to have a conflict of interest may request the Council to reconsider its determination for the purpose of presenting additional relevant facts; and a provision making it clear that the decision to reconsider a previous conflict of interest determination lies in the sound discretion of the Council (Section 1-16-8(F)).

¹ Briefly, the State Gift Reporting Statute is tied to Article XXIX of the Colorado Constitution that was adopted by the voters in 2007. The amendment deals with "Ethics in Government." By its terms, the amendment does not apply to home rule municipalities that have adopted their own ethical rules. I interpret this language as clearly providing that the amendment does not apply to the Town. It seems to me that if the amendment does not apply to the Town, neither should the Gift Reporting Statute. However, that issue has never been squarely decided, and I would prefer some other municipality to litigate the issue.

4. The language in Section 1-16-9(A)(5) prohibiting a Councilmember from obtaining employment or other favors for a family member has been tightened up as the Council requested.

5. Section 1-16-10 lists certain Councilmember conduct that is specifically determined not to be unethical or a violation of the ordinance. I have suggested a couple of changes here. First, I have added language (new Section B) making it clear that the ordinance does not prohibit a Councilmember from accepting campaign contributions reported as such in accordance with applicable law, or gifts that are reported on the State Gift Reporting form. Second, the current Ethics Ordinance allows a Councilmember to appear before the Council or a board or commission in such person's capacity "as a citizen." Since the original Ethics Ordinance has been adopted I have become convinced that a Councilmember should not appear before the Council as a citizen. I think that clearly runs afoul of the prohibition against a conflicted Councilmember attempting to influence the Council on the matter as to which a conflict exists. It also seems to me that allowing a Councilmember to address the Council as a citizen may raise questions among the public as to whether the remainder of Council might be inclined to give the conflicted Councilmember's perspective more weight simply because he or she is a fellow Councilmember. To me, clearly prohibiting Councilmember "citizen" comments is simply good public policy, and the revised Ethics Ordinance eliminates the current reference to a Councilmember appearing as a citizen before the Council or a Town board or commission.

6. Section 1-16-12 is a new section that deals with the "revolving door" problem of a former Town employee being hired to represent a client before the Town. The current Ethics Ordinance does not address this issue, and I think that omission should be corrected. As drafted, the new ordinance provides that for a period of one year after leaving Town employment a former employee cannot represent a client for compensation before the Council, any Town board or commission, any temporary Town board, or any Town department with respect to any matter that the former employee worked on while employed by the Town.

7. Section 1-16-15 deals with the issue of when the Town may properly contract with a member of the Town Council to provide goods or services. Because of the possibility of abuse, this practice is generally disfavored, or is at least severally limited by most local government ethics ordinances that I have seen. Sections (A), (B), and (C) of the ordinance are based on the State Code of Ethics. Sections (D) and (E) are new. You should note that Section (E) is stronger than the State Code because it provides categorically that a Councilmember may not vote to approve a contract in which he or she has a personal interest, even if his or her vote is necessary to obtain a quorum.

8. Lastly, you will notice that in Section 1-16-19, which deals with the distribution of the revised Ethics Ordinance, language has been inserted allowing the Town Clerk to provide a link to the ordinance on the Town's web site, instead of physically distributing hard copies of the new ordinance.

I look forward to speaking with you about this new ordinance next Tuesday.

1 ***FOR WORKSESSION/FIRST READING – JULY 8***

2
3 COUNCIL BILL NO. ____

4
5 Series 2014

6
7 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 16 OF
8 TITLE 1 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE
9 TOWN CODE OF ETHICS”

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

13
14 Section 1. Chapter 16 of Title 1 of the Breckenridge Town Code is repealed and
15 readopted with changes so as to read in its entirety as follows:

16
17 CHAPTER 16

18
19 TOWN CODE OF ETHICS

- 20
- 21 1-16-1: Citation
- 22 1-16-2: Declaration of Policy
- 23 1-16-3: Finding of Local Concern
- 24 1-16-4: Finding Concerning Article XXIX of the Colorado Constitution; Statutory Gift-
25 Reporting Form
- 26 1-16-5: Authority
- 27 1-16-6: Effect of Common Law
- 28 1-16-7: Definitions
- 29 1-16-8: Conflict of Interest - Town Officer
- 30 1-16-9: Prohibited Conduct - Town Officers and Employees
- 31 1-16-10: Exemptions - Town Officers and Employees
- 32 1-16-11: Restrictions on Appearance Before Town Bodies; Exceptions
- 33 1-16-12: Restriction on Representation After Leaving Town Employment
- 34 1-16-13: Prohibited Conduct - Temporary Boards
- 35 1-16-14: Prohibited Conduct - Town Contractors
- 36 1-16-15: Town Contracts
- 37 1-16-16: Enforcement
- 38 1-16-17: Penalties and Remedies
- 39 1-16-18: Authority of Town Attorney to Issue Opinions
- 40 1-16-19: Distribution Of Code Of Ethics

41
42 1-16-1: CITATION: This Chapter is to be known and may be cited as the “2014 TOWN OF
43 BRECKENRIDGE CODE OF ETHICS.”

44
2014 ETHICS ORDINANCE

1 1-16-2: DECLARATION OF POLICY:
2

3 A. The proper operation of democratic government requires that public officers and
4 employees be independent, impartial, and responsible to the people; that government decisions
5 and policy be made within the proper channels of the governmental structure; that public office
6 not be used for personal gain; and that the public have confidence in the integrity of its
7 government.

8 B. The purpose of this Chapter is to establish minimum ethical standards of conduct for
9 the members of the Town Council, the members of all Town boards and commissions, the
10 members of all temporary boards, all Town employees, and all Town contractors.

11 1-16-3: FINDING OF LOCAL CONCERN: The Town Council finds and determines that the
12 subject of ethical municipal government is a matter of local concern upon which home rule
13 municipalities in Colorado are fully empowered to legislate and to supersede conflicting state
14 statutes. Accordingly, this Chapter supersedes all conflicting state statutes, including, but not
15 limited to: (i) Article 18 of Title 24, C.R.S.; (ii) Section 24-6-203, C.R.S.; and (iii) Section 31-4-
16 404, C.R.S.

17
18 1-16-4: FINDING CONCERNING ARTICLE XXIX OF THE COLORADO CONSTITUTION;
19 STATUTORY GIFT-REPORTING FORM:
20

21 A. The Town Council finds, determines, and declares that this Chapter addresses the
22 matters covered by Article XXIX of the Colorado Constitution. Therefore, the provisions of
23 Article XXIX are inapplicable to the Town, the Town Council, all Town boards and
24 commissions, all temporary boards, all Town employees, and all Town contractors. As such, the
25 Independent Ethics Commission created by Section 5 of Article XXIX has no jurisdiction over
26 any member of the Town Council, any member of a Town board or commission, any member of
27 a temporary board, any Town employee, or any Town contractor.

28 B. Notwithstanding the inapplicability of Article XXIX of the Colorado Constitution
29 and Section 24-6-203, C.R.S., members of the Town Council shall file the periodic reports
30 required by Section 24-6-203(2), C.R.S.

31 1-16-5: AUTHORITY: The Town Council finds, determines, and declares that it has the power
32 to adopt this Chapter 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 1-16-6: EFFECT OF COMMON LAW: This Chapter supersedes and overrides the common law
36 as to the subject matter of this Chapter.
37

38 1-16-7: DEFINITIONS:
39

40 A. As used in this Chapter, unless the context otherwise requires:

BUSINESS: Any corporation, limited liability company or entity, limited or

general partnership, sole proprietorship, trust or foundation, or other organization operated for the purpose of attempting to make a profit. The term “business” includes any activity conducted primarily for the purpose of making a profit, including, but not limited to, any activity that substantially advances a person’s private monetary interest or position.

CONFIDENTIAL INFORMATION: All information, whether transmitted orally or in writing, that is of such a nature that it is not, at that time, a matter of public record or public knowledge.

EMPLOYEE (OR TOWN EMPLOYEE): Any person in an employer-employee relationship with the Town. The term “Town Employee” includes, but is not limited to, the Town Manager, Town Attorney, Municipal Judge, and Associate Municipal Judge(s), but does not include a Town officer, a member of a temporary board, or a Town contractor.

IMMEDIATE FAMILY: A Town officer’s or a Town employee’s spouse, domestic partner, or dependent child under the age of eighteen years.

OFFICIAL ACT (OR OFFICIAL ACTION): Any vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

TEMPORARY BOARD: Any temporary (non-permanent) board, commission, or advisory board created by the Town Council.

TOWN BOARD OR COMMISSION: The Town’s Planning Commission, Open Space Advisory Commission, and the Liquor Licensing Authority.

TOWN CONTRACTOR: An independent contractor as defined by state law who is under contract to perform work for the Town, or a person or business that has submitted a bid to do work for the Town as an independent contractor, which bid is still pending.

TOWN OFFICER: A member of the Town Council or the member of any Town board or commission.

1
2 B. Terms not defined in this Chapter or this Code are to be given their common meaning.

3 1-16-8: CONFLICT OF INTEREST – TOWN OFFICER:

4
5 A. A Town officer shall not vote on any question or participate in the discussion by the
6 body of which the Town officer is a member with respect to any question as to which the
7 member has a substantial personal or financial interest as determined by majority of the body.

1 B. For the purpose of this Section, and Section 5.7 of the Breckenridge Town Charter, a
2 Town officer has a “substantial personal or financial interest” with respect to a particular
3 question if a majority of the body determines that the body’s final decision on the question would
4 have a:

5 (a) reasonably foreseeable;

6 (b) material; and

7 (c) beneficial financial effect,

8 distinguishable from its effect on the public generally, on:

9
10 1. The Town officer, or his or her immediate family;

11 2. Any business in which the Town officer, or a member of his or her immediate
12 family, has an investment or owns a 10% or greater interest;

13 3. Any real property in which the Town officer, or a member of his or her immediate
14 family, has an interest;

15 4. Any source of income of the Town officer, or a member of his or her immediate
16 family; or

17 5. Any business of which the Town officer, or a member of his or her immediate
18 family, is a director, officer, partner, trustee, employee, independent contractor, or holds any
19 position of management.

20 C. A Town officer does not have a conflict of interest with respect to any matter
21 determined by the body to involve the common public interest. For members of the Town
22 Council, examples include the adoption of the Town’s budget, adoption of general land use
23 regulations, the formation of a special or local improvement district within which the Town
24 officer owns real property, the imposition of taxes, the authorization of bonds, and similar
25 actions.

26 D. A Town officer who may have a conflict of interest on a particular matter shall
27 disclose the potential conflict of interest to the body before it begins its consideration of the
28 matter. Any other member of the body who believes a Town officer may have a conflict of
29 interest may bring the issue to the attention of the body before it begins its consideration of the
30 matter.

31 E. A Town officer who may have a conflict of interest on a particular matter is entitled to
32 be heard by the body on the issue before the body determines whether a conflict of interest
33 exists; however, the Town officer may not vote with respect to the question of whether he or she
34 has a conflict of interest.

1 F. The body's determination of whether a conflict of interest exists is final and conclusive
2 for all purposes, but the affected Town officer may request the body to reconsider its
3 determination for the purpose of presenting additional relevant facts. Whether to reconsider its
4 determination lies in the sound discretion of the body.

5 G. If a Town officer is determined to have a conflict of interest on a particular matter:

- 6 1. The Town officer may not attempt to influence other members of the body in
7 connection with the matter;
- 8 2. Except as provided in Section 1-16-8(H), the Town officer may not vote upon the
9 matter; and
- 10 3. The Town officer shall leave the table during the body's discussion and action on the
11 matter, and may return only when the body has taken up the next agenda item.

12 H. Notwithstanding Section 1-16-8(G)(2), a Town officer may vote upon a matter as to
13 which he or she has a conflict of interest if:

- 14 1. His or her participation is necessary to obtain a quorum or to otherwise enable the
15 body to act; and
- 16 2. Not later than seventy two hours before voting the Town officer gives written notice
17 to both the Colorado Secretary of State and the body. The notice shall clearly state the
18 nature of his or her conflict of interest.

19 Exception: This subsection (H) shall not be applied to permit a Town Council member to vote to
20 approve a contract in which he or she has a personal interest.

21
22 1-16-9: PROHIBITED CONDUCT – TOWN OFFICERS AND EMPLOYEES.
23

24 A. A Town officer or Town employee shall not:

- 25 1. Disclose or use confidential information acquired in the course of the officer's or
26 employee's duties in order to further substantially his or her personal monetary
27 interests.
- 28 2. Disclose any confidential information acquired in the course of the officer's or
29 employee's duties to any person under circumstances where the officer or employee
30 knows, or reasonably should know, that the person to whom the confidential
31 information is disclosed will use the confidential information for a private business
32 purpose.
- 33 3. Solicit or accept a present or future gift, favor, loan, service, or thing of value from a
34 person under circumstances that would lead a reasonably prudent person to believe
35 that the gift, favor, loan, service, or thing of value was made or given primarily for
36 the purpose of influencing or attempting to influence the officer or employee in

1 connection with an official act, or as a reward for official action he or she has
2 previously taken.

3 4. Perform an official act directly and substantially affecting to its economic benefit any
4 business when the officer or employee, or a member of the officer's or employee's
5 immediate family: (i) is an employee of the business; (ii) owns a 10% or greater
6 interest in the business; or (iii) is a director, officer, partner, trustee, or holds any
7 management position in the business.

8 5. Affirmatively act to obtain employment for a member of his or her immediate family,
9 a gift of substantial value, or an economic benefit tantamount to a gift of substantial
10 value, from a person whom the officer or employee is in a position to reward with
11 official action, or has rewarded with official action in the past.

12 B. A Town officer shall not make or accept an ex parte communication or contact
13 concerning a quasi-judicial matter pending before the Town body of which he or she is a member
14 without making the contents of the communication or contact a part of the record of the public
15 hearing. This Section does not apply to a legislative or administrative matter.

16 C. A Town employee shall not:

17 1. Engage in a substantial financial transaction for the employee's private business
18 purposes with a person whom the employee inspects or supervises in the course of his
19 or her employment with the Town.

20 2. Perform an official act that directly and substantially affects to its economic detriment
21 a business in which the employee, or a member of the officer's or employee's
22 immediate family: (i) is an employee of a competing business, (ii) owns a 10% or
23 greater ownership interest in a competing business; or (iii) is a director, officer,
24 partner, trustee, or holds any management position in a competing business.

25 3. Acquire or hold an interest in any business that the employee has reason to believe
26 may be directly and substantially affected to its economic benefit by official action to
27 be taken by the Town department over which he or she has substantive authority.

28 1-16-10: EXEMPTIONS – TOWN OFFICERS AND EMPLOYEES:

29 A. Section 1-16-9 does not prohibit a Town officer or Town employee from:

30 1. Accepting or receiving a benefit as an indirect consequence of the performance of an
31 official act.

32 2. Taking official action when the Town officer or employee is similarly situated with
33 other Town residents, or generally acting when the matter involves the common
34 public interest.

35 3. Accepting gifts or loans that are:
36

- 1 (a) an occasional nonpecuniary gift, insignificant in value;
- 2 (b) a gift publicly presented to all members of the body of which a Town officer is a
3 member;
- 4 (c) a nonpecuniary award publicly presented by a nonprofit organization in
5 recognition of public service;
- 6 (d) payment of or reimbursement for actual and necessary expenditures for travel and
7 subsistence for attendance at a convention or other meeting at which the officer or
8 employee is scheduled to participate as a speaker or other contributor in his or her
9 official capacity if the paying or reimbursing party has no current or anticipated
10 business with the Town. Any honorarium or other monetary compensation
11 received by the officer or employee in connection with the convention or meeting
12 shall be turned over to the Town;
- 13 (e) reimbursement for or acceptance of an opportunity to participate in a social
14 function or meeting that is not extraordinary when viewed in light of the position
15 held by the officer or employee;
- 16 (f) items of perishable or nonpermanent value, including, but not limited to, meals
17 and tickets to sporting, recreational, educational, or cultural events, unless
18 prohibited by the body of which the Town official is a member, or by an
19 employee's departmental rules;
- 20 (g) payment for speeches, debates, or other public events, reported as honorariums to
21 the Town Manager; or
- 22 (h) a loan at a rate of interest that is not substantially lower than the commercial rate
23 then currently prevalent for similar loans within the Town.
- 24 4. Receiving compensation for his or her services to the Town as may be fixed by
25 ordinance, pay plan, budget, or other similar official Town action.
- 26 5. Personally contracting with a Town contractor for the performance of work so long as
27 the contract will not interfere with or delay the contractor's performance of any
28 contract with the Town, and the contractor is paid by the officer or employee at
29 substantially the generally prevailing market rate for the services within the Town.
30 Before entering into the contract the officer or employee shall notify the Town
31 Manager in writing.

32 B. Section 1-16-9 does not prohibit a Town Council member from accepting a campaign
33 contribution reported as required by law, or any gift reported as required by Section 1-16-4(B).

34 1-16-11: RESTRICTIONS ON APPEARANCE BEFORE TOWN BODIES; EXCEPTIONS:
35

1 A. Except as authorized by Section B of this Section, a Town officer shall not appear as
2 an applicant, witness, or party in interest with respect to any matter that comes before the Town
3 body of which he or she is a member, nor shall a Town officer appear before or address the body
4 of which he or she is a member in his or her capacity as a citizen.

5 B. Nothing in Section A of this Section prohibits a Town officer from appearing before
6 the Town Council or the Planning Commission in connection with a planning or development
7 matter pertaining to the Town officer's primary residence; provided that a Town Council
8 member appearing before the Town Council pursuant to this Section, or a Planning Commission
9 member appearing before Planning Commission, pursuant to this Section, shall be deemed to
10 have a conflict of interest with respect to such matter.

11 C. If a Town employee has a financial interest in an application that comes before the
12 Town Council or any Town board or commission, he or she shall not be involved in the Town
13 staff processing, analyzing, reporting, or presenting the application.

14 D. Except as provided in Section C of this Section, nothing in this Chapter prohibits a
15 Town employee from:

- 16 1. Appearing before the Town Council, any Town board or commission, any temporary
17 board, or the municipal court in the course of the performance of the employee's
18 duties for the Town; or
- 19 2. Appearing with respect to any matter of public concern before the Town Council,
20 Planning Commission, a Town board or commission, or any temporary board in his
21 or her capacity as a citizen.

22 E. A Town officer or Town employee shall not appear before the Town Council,
23 Planning Commission, a Town board or commission, or a temporary board, as counsel,
24 consultant, representative, or agent for any person or business.

25 1-16-12: RESTRICTION ON REPRESENTATION AFTER LEAVING TOWN
26 EMPLOYMENT: For a period of one (1) year after leaving Town employment no former Town
27 employee may personally represent a person for compensation before the Town Council, any
28 Town board or commission, any temporary board, or any Town department, with respect to any
29 matter that the former employee worked on while employed by the Town.

30
31 1-16-13: PROHIBITED CONDUCT - TEMPORARY BOARDS: A member of a temporary
32 board shall not perform an official act that would have a direct economic benefit on a business in
33 which he or she has a financial interest. Except as provided in this Section, the provisions of this
34 Chapter do not apply to the members of any temporary board.

35
36 1-16-14: PROHIBITED CONDUCT - TOWN CONTRACTORS:

37
38 A. A Town contractor may not offer or give to a Town officer or a Town employee a
39 present or future gift, favor, loan, service, or thing of value under circumstances that would lead

1 a reasonably prudent person to believe that the gift, favor, loan, service, or thing of value was
2 offered or given primarily for the purpose of influencing or attempting to influence the member
3 or employee in connection with an official act, or as a reward for official action the member or
4 employee has previously taken.

5 B. Nothing in this Chapter prevents a Town contractor who provides instructional
6 services to customers at a Town recreational facility from accepting tips or gratuities for services
7 provided by the contractor if the acceptance of tips or gratuities is authorized by the Town
8 contractor's contract, or by the Town Manager.

9 1-16-15: TOWN CONTRACTS:
10

11 A. Except as provided in subsection C of this Section, no Town officer or employee
12 may have an interest in any contract made by the Town.

13 B. Every contract made in violation of this Section is voidable at the request of any
14 party to the contract, except the Town officer or employee interested in such contract.

15 C. Section A of this Section does not apply to:

- 16 1. Contracts awarded to the lowest responsible bidder based on competitive bidding
17 procedures;
- 18 2. Merchandise sold to the highest bidder at public auction;
- 19 3. Investments or deposits in financial institutions that are in the business of loaning or
20 receiving monies;
- 21 4. A contract between the Town and a Town officer or employee if, because of
22 geographic restrictions, the Town could not otherwise reasonably afford itself of the
23 subject of contract. It is presumed that the Town could not otherwise reasonably
24 afford itself of the subject of a contract if the additional cost to the Town is greater
25 than ten percent (10%) of a contract with a Town officer or Town employee, or if the
26 contract is for services that will be performed within a limited time period and no
27 other contractor can provide those services within that time period. If the contract
28 involves a Town Council member, the member shall disclose his or her interest to the
29 Town Council before the contract is signed; or

30 D. In addition to the restrictions set forth in subsections (C)(1) through (C)(4) of this
31 section, before the Town enters into a contract with a member of the Town Council the Town
32 Council member must disclose a personal interest in the proposed contract, and either:

- 33 1. The Town Council itself (and not the Town Manager or other Town employee)
34 approves the contract at a public meeting; or
- 35 2. The Town Manager approves the contract; provided that prior to approving the
36 contract the Town Manager must notify the Town Council of the proposed contract

1 and explain how the proposed contract satisfies the requirements of subsections
2 (C)(1) through (C)(4) of this section.

3 E. Notwithstanding Section 1-16-8(H), a Town Council member shall not vote to
4 approve a contract in which he or she has a personal interest.

5 1-16-16: ENFORCEMENT:
6

7 A. The Town Manager has the responsibility for the enforcement of this Chapter as to
8 all Town employees, other than those Town employees appointed or hired by the Town Council.
9 The Town Manager may investigate any complaint, and direct the filing of appropriate legal
10 action against any person as to whom he or she has enforcement authority if the Town Manager
11 believes such action is appropriate. The Town Manager may exempt from the provisions of this
12 Chapter the conduct of any person as to whom he or she has enforcement authority upon the
13 finding that the enforcement of this Chapter with respect to the employee's conduct would not be
14 in the public interest.

15 B. The Town Council has the responsibility for the enforcement of this Chapter as to all
16 other persons who are subject to the provisions of this Chapter. The Town Council may
17 investigate any complaint, and direct the filing of appropriate legal action against any person as
18 to whom it has enforcement authority if the Town Council believes such action is appropriate.
19 The Town Council may exempt from the provisions of this Chapter the conduct of any person as
20 to whom it has enforcement authority upon the finding that the enforcement of this Chapter with
21 respect to such person's conduct would not be in the public interest.

22 C. The Town Manager or Town Council, as the case may be, may direct the Town
23 Attorney to investigate or prosecute any apparent violation of this Chapter, or the Town Manager
24 or Town Council may employ or appoint any qualified attorney to investigate or prosecute any
25 violation of this Chapter.

26 D. Any person who believes that a violation of this Chapter has occurred may file a
27 complaint with the Town Manager or Town Council, as the case may be, which complaint shall
28 be promptly investigated and such action taken thereon as the Town Manager or Town Council
29 determines to be appropriate.

30 1-16-17: PENALTIES AND REMEDIES:
31

32 A. It is unlawful and a misdemeanor offense for any person to knowingly violate any
33 provision of this Chapter. "Knowingly" has the meaning provided in Section 6-3-5 of this Code.

34 B. Any person convicted of violating any provision of this Chapter shall be punished as
35 provided in Chapter 4 of this Title. Additionally, upon conviction such person is liable to the
36 Town for such damages as may have been suffered or incurred as a result of the violation,
37 together with any costs (including, but not limited to, attorneys' fees and expert witness fees)
38 incurred by the Town in the investigation and prosecution of the violation.

1 1-16-18: AUTHORITY OF TOWN ATTORNEY TO ISSUE OPINIONS:

2
3 A. Notwithstanding anything contained in this Chapter to the contrary, no person who is
4 subject to the provisions of this Chapter may be convicted of violating this Chapter if, prior to
5 engaging in the conduct that would otherwise have resulted in a violation of this Chapter, such
6 person obtains a written opinion from the Town Attorney that the particular conduct in question
7 would not violate this Chapter, and such person acts in accordance with the opinion of the Town
8 Attorney.

9 B. The Town Attorney shall promptly render an opinion as to legality of proposed
10 conduct or action under this Chapter upon request.

11 C. The Town Attorney has no authority to finally determine whether a conflict of
12 interest exists with respect to any Town officer. Such determination may only be made by the
13 Town body of which the officer is a member.

14 1-16-19: DISTRIBUTION OF CODE OF ETHICS:

15
16 A. Within thirty days after the effective date of the ordinance adopting this Chapter, the
17 Town Clerk shall notify the following persons of the adoption of the ordinance and provide such
18 persons with a link to this Chapter on the Town's web site:

- 19 1. each current member of the Town Council;
- 20 2. each current member of all Town boards and commissions;
- 21 3. each current member of any temporary board; and
- 22 4. all current Town employees.

23 B. Within thirty days after they assume office the Town Clerk shall provide the
24 following persons with a link to this Chapter on the Town's web site:

- 25 1. each new member of the Town Council;
- 26 2. each new member of all Town boards and commissions; and
- 27 3. each new member of any temporary board.

28 C. Within thirty days after their appointment or hiring the Town Clerk shall provide
29 each newly hired Town employee with a link to this Chapter on the Town's web site.

30 D. Not later than the date a contractor's commences work for the Town, the Town Clerk
31 shall provide the Town contractor with a link to this Chapter on the Town's web site.

32 Section 2. Except as specifically amended by this ordinance, the Breckenridge Town
33 Code, and the various secondary codes adopted by reference therein, shall continue in full force

1 and effect.

2
3 Section 3. 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
8 Section 4. This ordinance shall be published and become effective as provided by
9 Section 5.9 of the Breckenridge Town Charter.

10
11 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
12 PUBLISHED IN FULL this ____ day of _____, 2014. A Public Hearing shall be held at the
13 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
14 _____, 2014, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
15 Town.

16
17 TOWN OF BRECKENRIDGE, a Colorado
18 municipal corporation

19
20
21 By _____
22 John G. Warner, Mayor

23 ATTEST:

24
25
26 _____
27 Helen Cospolich
28 Town Clerk

DOES A TOWN COUNCILMEMBER HAVE A CONFLICT OF INTEREST?

The key issue under the Town Charter: Does the Councilmember have a **substantial personal or financial interest** as determined by majority of the body?

The test for defining a **substantial personal or financial interest** as set forth in the Ethics Ordinance:

FIRST: Council must decide whether its final decision on the matter before it will have a:

1. **reasonably foreseeable**;
2. **material**; and
3. **beneficial financial effect**

ON ANY OF THE FOLLOWING PERSONS:

- The Town officer, or his or her immediate family¹?
- Any business in which the Town officer, or a member of his or her immediate family, has an investment or owns a 10% or greater interest?
- Any real property in which the Town officer, or a member of his or her immediate family, has an interest?
- Any source of income of the Town officer, or a member of his or her immediate family?
- Any business of which the Town officer, or a member of his or her immediate family, is a director, officer, partner, trustee, employee, independent contractor, or holds any position of management?

If the answer to all of these questions is “**NO**,” then the Councilmember **DOES NOT** have a conflict of interest on the matter.

SECOND: If the answer to any of the questions is “**YES**,” the Council must then consider whether the Councilmember’s interest involves “**the common public good**?” Examples of “the common public good” include the adoption of the Town’s budget, adoption of general land use regulations, the formation of a special or local improvement district within which the Town officer owns real property, the imposition of taxes, the authorization of bonds, and similar actions.

- If the answer is that the Councilmember’s interest **DOES INVOLVE** “the common public good”, then the Councilmember **DOES NOT** have a conflict of interest on the matter.
- If the answer is that the Councilmember’s interest **DOES NOT INVOLVE** “the common public good”, then the Councilmember **DOES** have a conflict of interest on the matter.

¹ Includes a spouse, domestic partner, or dependent child under the age of 18 years.



To: Breckenridge Town Council
From: Laurie Best Community Development Department
Date: July 2, 2014 (for July 8th meeting)
Re: Maggie Placer/Point Deed Restriction Resolution

A RESOLUTION APPROVING THE "RESIDENTIAL HOUSING RESTRICTIVE COVENANT FOR THE HOMES AT MAGGIE POINT"

Enclosed in your packet is a Resolution to approve the Residential Housing Restrictive Covenant for the Homes at Maggie Point. In September of 2013 the Council approved a modification to the Annexation Agreement for Maggie Placer, which is now being marketed as Maggie Point. That Annexation Agreement spells out the conditions for the development of nine market units and nine deed restricted units on the 1.82 acre site just north of Ski and Racquet. As a condition of the Annexation Agreement the developer is required to execute and file a Restrictive Covenant to encumber the units in perpetuity. The Covenant is attached for your review and it is consistent with the provisions that were established in the Annexation Agreement. Specifically, the Covenant restricts the ownership of the units, the occupancy and use of the units, the sale and resale provisions, and also establishes specific remedies for violation or breach of the Covenant. Staff has reviewed the Covenant and recommends approval of the Resolution/Covenant which will allow the development project to proceed. All nine of the deed restricted units are currently reserved. The Development Permit has been approved and building permits have been issued for all of the restricted units. The developer intends to begin construction immediately.

Staff will be available at your meeting to discuss this project and/or answer any questions. Thank you.

1 **FOR WORKSESSION/ADOPTION – JULY 8**

2
3 RESOLUTION NO. ____

4
5 SERIES 2014

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7 A RESOLUTION APPROVING THE “RESIDENTIAL HOUSING RESTRICTIVE
8 COVENANT FOR THE HOMES AT MAGGIE POINT”
9

10 WHEREAS, Maggie Placer, LLC, a Colorado limited liability company (“**Maggie**
11 **Placer**”), is the owner of that certain real property that is the subject of the “Second Amended
12 and Restated Annexation Agreement” with the Town of Breckenridge dated September 13, 2013
13 and recorded September 30, 2013 at Reception No. 1037903 of the records of the Clerk and
14 Recorder of Summit County, Colorado (“**Property**”); and

15 WHEREAS, Maggie Placer, acting as the declarant, intends to create a valid and
16 enforceable covenant running with the land that assures that nine of the eighteen homes to be
17 developed on the Property will be used solely by individuals who are both residents and eligible
18 households, subject to certain limited exceptions; and

19 WHEREAS, in furtherance of such intent Maggie Placer has prepared a proposed
20 “Residential Housing Restrictive Covenant For The Homes At Maggie Point, Town of
21 Breckenridge, Summit County, Colorado,” a copy of which marked **Exhibit “A”**, attached
22 hereto and incorporated herein by reference; and

23 WHEREAS, the Town Council has reviewed the proposed covenant, and finds and
24 determines that it should be approved.

25 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
26 BRECKENRIDGE, COLORADO, as follows:

27
28 Section 1. The “Residential Housing Restrictive Covenant For The Homes At Maggie
29 Point, Town of Breckenridge, Summit County, Colorado” (**Exhibit “A”** hereto) is approved.

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31 Section 2. This resolution is effective upon adoption.

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33 RESOLUTION APPROVED AND ADOPTED this ____ day of ____, 2014.

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35 TOWN OF BRECKENRIDGE

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

Helen Cospolich
Town Clerk

APPROVED IN FORM

Town Attorney Date

RESIDENTIAL HOUSING RESTRICTIVE COVENANT FOR THE HOMES AT MAGGIE POINT

This Residential Housing Restrictive Covenant for the Homes at Maggie Point (this "Restriction or Restrictive Covenant") is made this ____ day of _____, 2014, by **Maggie Placer, LLC** ("Maggie Placer"), a Colorado limited liability company.

RECITALS:

A. Maggie Placer is the owner of that certain real estate located in the County of Summit (the "County"), State of Colorado, and legally described in **Exhibit A** attached hereto and incorporated herein by this reference ("Property").

B. Maggie Placer, acting as the declarant, intends to create a valid and enforceable covenant running with the land that assures that nine of the eighteen Homes to be developed on the Property will be used solely by individuals who are both Residents and Eligible Households (as such terms are hereinafter defined), subject to limited exceptions provided for herein.

C. The Town of Breckenridge ("Town") has previously agreed to the Second Amended and Restated Annexation Agreement and to issue to Developer Development Permit No. PC 2013050 ("Development Permit") conditioned on approval of this Restriction. Under this Restriction Maggie Placer intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use of the Homes described and provided for herein shall be and are hereby made covenants running with the land and are intended to be and shall be binding upon Maggie Placer, any entity to whom Maggie Placer conveys the Property for the purpose of construction of the Homes (as hereafter defined), and all subsequent owners of such Homes, unless and until this Restriction is released and terminated in the manner hereafter described.

NOW, THEREFORE, in satisfaction of the conditions in the Annexation Agreement and Development Permit and in consideration of the issuance of the Development Permit, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Maggie Placer hereby declares that the Property shall hereafter be held, sold, and conveyed subject to the following covenants, restrictions, and conditions, which shall inure to the benefit of each Owner (as defined in Article 1) of a Home (as defined in Article 1) within the Property, the SCHA (as defined in Article 1), and Town.

1.

DEFINITIONS

1.1 **Definitions.** The following words, when used in this Restriction, shall have the following meanings and the use of capitalization or lower case letters in references to the following terms shall have no bearing on the meanings of the terms:

A. "Area Median Income" or "AMI" means the median annual income for the

County (or such next larger statistical area calculated by HUD that includes the County, if HUD does not calculate the area median income for the County on a distinct basis from other areas), as adjusted for household size using 1.5 persons per bedroom, that is calculated and published annually by HUD (or any successor index thereto acceptable to the Town, in its reasonable discretion). If AMI data pertaining to the date of sale of a Restricted Home is yet not available as of the date the sale price is calculated, then the most recent data published by HUD shall be used in its place.

B. "Authorized Lessee" means any tenant approved by the Town or its designee, who shall meet the definitions of both Resident and Eligible Household, and who shall lease a Restricted Home.

C. "Dependent" means a person, including a spouse of a child of, a step-child of, a child in the permanent legal custody of or a parent of, a Resident, in each case whose principal place of residence is in the same household as such Resident, and who is financially dependent upon the support of the Resident. Dependent shall also include any person included within the definition of "Familial Status" as defined in 42 U.S.C. §3602(k), as that act shall from time to time be amended.

D. "Director" means the Director of the Department of Community Development of the Town of Breckenridge, Colorado, or such person's designee.

E. "Eligible Household" means Households approved by the Town or its designee based on income qualification so as to allow for the execution by the Town or its designee of the form of Memorandum of Acceptance of Residential Housing Restrictive Covenant for the Homes at Maggie Point, Town of Breckenridge, Summit County, Colorado set forth in Exhibit E of this Restriction. The two (2) Homes identified on **Exhibit B** attached hereto and made a part hereof by this reference, shall be sold at a price which is affordable to Households earning eighty percent (80%) of the Area Median Income (an "80% HUD Household") and the seven (7) Homes identified on **Exhibit B** shall be sold at a price which is affordable to Households earning one hundred percent (100%) of the Area Median Income (a "100% HUD income Household"). Once a Home is designated as either an 80% HUD Household, or a 100% HUD income Household, it shall remain an 80% HUD income Household, or a 100% HUD income Household, unless otherwise approved by the Town. A Household's income for purposes of determining whether such household meets the income qualification shall be determined in accordance with the Town's rules and regulations at the time of purchase or, as the case may be, commencement of leasehold occupancy. A purchaser of an 80% HUD Household will be income tested at 90% or less of AMI; a purchaser of a 100% HUD Household will be income tested at 150% or less of AMI.

F. "First Mortgage" means a deed of trust or mortgage that is recorded senior to any other deeds of trust or liens against the Property to secure a loan used to purchase the Property made by a Mortgagee.

G. "Home" means a physical portion of the Property to be constructed for purposes of residential use only and to be created as a separate transferable real property interest by the

filing of subdivision or similar plat(s) or map(s) for some or all of the Property. There will be a total of eighteen (18) Homes built within the Property, with 9 Homes to be Restricted Homes and 9 Homes to be Unrestricted Homes. A home may also be referenced as a "Lot."

H. "Household" means one or more persons, but not more than 4 unrelated persons, who intend to live together in a Restricted Home as a single housekeeping home.

I. "HUD" means the U.S. Department of Housing and Urban Development.

J. "Key Employee" means a Resident that is also (i) an employee of a business physically located in and serving the Upper Blue River basin as defined from time to time in the Town's Development Code or other applicable land use regulations ("upper Blue Employee"); or (ii) an employee of a business, private organization, or governmental entity providing essential services in Summit County as determined by the Town, including, but not limited to: municipal employees, school district employees, and emergency and medical personnel.

K. "Maximum Resale Price" means the maximum Purchase Price that shall be paid by any purchaser of a Restricted Home, other than the initial purchaser who acquires the Property from Maggie Placer that is determined in accordance with the provisions of Section 8.3 of this Restriction. The Maximum Resale Price is not a guaranteed price, but merely the highest price an Owner may obtain for the sale of the Property.

L. "Mortgagee" means any bank, savings and loan association, or any other institutional lender that is licensed to engage in the business of providing purchase money mortgage financing for residential real property and that is the beneficiary of a deed of trust or mortgage encumbering any Home.

M. "Non-Qualified Transferee" means an Owner that is not a Qualified Owner.

N. "Owner" means the record owner at any time taking and holding fee simple title to a Home.

O. "Purchase Money Mortgage" means a First Mortgage given by an Owner to the extent that it is: (a) taken or retained by the seller of the Property to secure all or part of the payment of the Purchase Price; or (b) taken by a person who by making advances, by making a loan, or by incurring an obligation gives value to enable the Owner to acquire the Property if such value is in fact so used.

P. "Purchase Price" shall mean all consideration paid by the purchaser to the seller for a Home, but shall EXCLUDE any proration amounts, taxes, costs and expenses of obtaining financing, cost of furnishings or personal property, lenders fees, title insurance fees, closing costs, inspection fees, real estate purchase and/or sales commission(s) or other fees and costs related to the purchase of a Restricted Home but not paid directly to Seller.

Q. "Qualified Owner" means natural person(s) that meet(s) the definitions of both a

Resident and an Eligible Household, or non-qualified Owner under Section 5.1.B., qualified and approved by the Town or its designee, in such a manner as will allow the Town to execute the Memorandum of Acceptance of Residential Restrictive Covenant for the Homes at Maggie Point, Town of Breckenridge, Summit County, Colorado set forth in **Exhibit E** of this Restriction.

R. "Resident" means a person and his or her Dependents, if any, who (i) at all times during ownership or occupancy of the Restricted Home, earns his or her living from a business operating in and serving the County, by working in the County at such business an average of at least 30 hours per week on an annual basis. "Restricted Home" means those nine (9) Homes to be owned by Residents and Qualified Owners of Eligible Households and listed on Exhibit B and sold at an initial sales price calculated as provided in **Exhibit C** of this Restriction.

S. "Restricted Home" means those nine (9) Homes to be owned by Residents and Qualified Owners of Eligible Households and listed on Exhibit B and sold at an initial sales price calculated as provided in **Exhibit C** of this Restriction.

T. "SCHA" means the Summit Combined Housing Authority.

U. "Town Clerk" means the Town Clerk of the Town of Breckenridge, Colorado, or such person's designee.

V. "Town Council" means the Town Council of the Town of Breckenridge, Colorado.

W. "Transfer" or "transferred" means any sale, assignment, or transfer that is voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in a Home, including, but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, or any interest evidenced by a land contract by which possession of a Home is transferred and the Owner obtains title.

X. "Unrestricted Home" means the 9 residential Homes which are to be developed on the Property and are initially subject to this Restrictive Covenant, as listed on **Exhibit B** to this Restriction. The Town will allow development of Unrestricted Homes in accordance with the Development Permit, and release of this Restriction and sale of the Unrestricted Homes as provided in Article 4 below.

2. **PURPOSE**

2.1 The purpose of this Restriction is to restrict ownership, occupancy and sale of each Restricted Home in such a fashion as to provide, on a permanent basis, affordably priced housing for low to moderate income persons to be occupied by Qualified Owners or Authorized Lessees, which Qualified Owners or Authorized Lessees, because of their income, may not otherwise be

in a position to afford to purchase, own, occupy or lease other similar properties, and to help establish and preserve a supply of affordably priced housing to help meet the needs of the locally employed residents of the County.

3.

RESTRICTION AND AGREEMENT BINDS THE PROPERTY

3.1 This Restriction shall constitute covenants running with title to the Property as a burden thereon, for benefit of, and enforceable by, the Town, and its successors and assigns, including, without limitation the SCHA acting as Town's designee, and this Restriction shall bind Town and all subsequent Owners and occupants of a Home. Each Owner and Authorized Lessee, upon acceptance of a deed or lease to a Restricted Home, shall be personally obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during the Owner's period of ownership or Authorized Lessee's tenancy, as may be appropriate. Each and every Transfer or lease of a Restricted Home, for all purposes, shall be deemed to include and incorporate by this reference, the covenants contained in this Restriction, even without reference to this Restriction any document of conveyance.

4.

RELEASE OF UNRESTRICTED HOMES

4.1 Maggie Placer shall be entitled to the release from this Restriction of up to nine (9) Homes constructed or allowed to be constructed as a part of the Project on the basis of one (1) such Unrestricted Home to be released for each two (2) Restricted Homes completed and sold to Owners for prices within the price ranges set forth in **Exhibit C** attached hereto. Such releases to be executed by the Town shall be for lots created by the filing of a subdivision or resubdivision plat for the Property identified on **Exhibit A**, which future lots are expected to be numbered as set forth in **Exhibit B**. Developer may request such releases each time two (2) Restricted Homes have been completed and sold to Owners for prices within the price ranges set forth in **Exhibit C** or Maggie Placer may cumulate the right to such releases and request the release of a number of Unrestricted Homes determined by dividing the number of Restricted Homes completed and sold to Owners for prices within the price ranges set forth in **Exhibit C** by two (2) and rounding down to a whole number.

5.

OWNERSHIP RESTRICTIONS

5.1 Ownership and Occupancy Obligation.

Y. Ownership of a Restricted Home is hereby limited exclusively to a Qualified Owner, which shall include the parties described and approved as set forth in Section 5.1.B. In the event that a Restricted Home is occupied without compliance with this Restriction, the Town shall have the remedies set forth herein, including, but not limited to, the rights under Section 8.5. A Qualified Owner will occupy the Restricted Home as his or her principal place of residence unless otherwise permitted by this Restriction or the Town.

Z. Upon the written consent of the Town or its designee, which consent may be recorded, a non-qualifying natural person or entity that owns and/or operates a business located in and serving the County may purchase a Restricted Home; provided, however, that by taking title to a Restricted Home, such Owner shall be deemed to agree to the rental restrictions set forth herein, and further that any Owner who does not meet the definitions of both a Resident and an Eligible Household shall rent the Restricted Home to a natural person(s) who does meet the definitions of both a Resident and Eligible Household, and such non-Qualified Owner shall not occupy or use such Restricted Home for such Owner's own use or leave such Home vacant except as otherwise provided herein. Any occupancy of a Home pursuant to this Section 5.1.B shall not exceed two persons per bedroom, unless the Town approves otherwise.

5.2 Sale, Resale and Lease. In the event that a Restricted Home is Transferred or leased without compliance with this Restriction, the Town shall have the remedies set forth herein, including but not limited to, the rights set forth in Section 8.5. Except as otherwise provided herein, each and every Transfer or lease of a Restricted Home, for any and all purposes, shall be deemed to include and incorporate the terms and conditions of this Restriction.

5.3 Compliance. Along with the recorded instrument of conveyance evidencing a Transfer of a Restricted Home, any such Transfer of a Restricted Home shall include a completed copy of the " Memorandum of Acceptance of Residential Housing Restrictive Covenant for the Homes at Maggie Point, Town of Breckenridge, Summit County, Colorado" attached hereto as **Exhibit E**, which copy is executed by the transferee and acknowledged by the transferee before a notary public. The instrument of conveyance evidencing such Transfer, or some other instrument referencing the same shall bear the following language followed by the acknowledged signature of the mayor or authorized officer of the Town or its designee:

"The conveyance evidenced by or referenced in this instrument has been approved by the Summit Combined Housing Authority or Town as being in compliance with the Residential Housing Restrictive Covenant for the Homes at Maggie Point, Town of Breckenridge, Summit County, Colorado, recorded in the records of Summit County, Colorado, on the ____day of _____, 20__, at Reception No. _____."

Each sales contract, or lease as the case may be, for a Restricted Home shall also (a) recite that the proposed purchaser or lessee, as applicable, has read, understands and agrees to be bound by the terms of this Restriction, and (b) require the proposed purchaser and/or lessee to submit such information as may be required by the Town, under its rules and regulations or policies adopted for the purpose of ensuring compliance with this Restriction.

5.4 Refinance Restriction. An Owner shall not encumber a Home in a principal amount in excess of the Purchase Price.

5.5 Records and Inspection. An Owner's records with respect to the Owner's use and occupancy of a Home shall be subject to examination, inspection and copying by the Town, or their authorized agents, upon reasonable advance notice. The Town, or its authorized agent,

shall also have the right to enter into or upon a Home for the purpose of determining compliance with the provisions of this Restriction; provided, however, that the Town, or its agent, shall first attempt to secure the permission of any occupants of the Home prior to making entry. An Owner shall submit any information, documents or certificates requested from time to time by the Town with respect to the occupancy and use of the Owner's Home that the Town reasonably deems necessary to substantiate the Owner's continuing compliance with the provisions of this Restriction. Such information shall be submitted to the Town within such reasonable time period as the Town may establish. All lessees of a Home shall be bound by the terms of this Section 5.5 and shall cooperate with all requirements herein.

5.6 Relief In Extraordinary Circumstances. The Director may grant a variance, exception or waiver from the requirements of this Section 5 based upon the written request of the Owner or prospective Owner of a Home. Such variance, exception or waiver may be granted by the Director only upon a finding that: (i) the circumstances justifying the granting of the variance, exception or waiver are unique; (ii) a strict application of this Section 5 would result in an extraordinary hardship; and (iii) the variance, exception or waiver is consistent with the intent and purpose of this Restriction. No variance, exception or waiver shall be granted by the Director if its effect would be to nullify the intent and purpose of this Restriction. In granting a variance, exception or waiver of the provisions of this Section 5 the Director may impose specific conditions of approval, and shall fix the duration of the term of such variance, exception or waiver. Any Owner or prospective Owner of a Home who is dissatisfied with the decision of the Director with respect to a request for a variance, exception or waiver from the requirements of this Section 5 may appeal the Director's decision to the Town Council by submitting a written letter of appeal to the Town Clerk within ten (10) days of the date of the Director's decision. The Town Council shall make a final determination of such appeal within forty five (45) days after the Town Clerk's receipt of the letter of appeal.

6.

ORIGINAL SALE OF A HOME

6.1 Initial Purchase Price of Restricted Homes. Upon completion of construction of each Restricted Home by Maggie Placer, a Restricted Home shall be sold to a Qualified Owner at a Purchase Price that is affordable and determined in accordance with the formula set forth in **Exhibit C**. A Household's income shall be determined in accordance with the Town's rules and regulations, as adopted and amended from time to time. At the time of the initial sale and any subsequent resale, Key Employees will receive priority in the purchase of the Homes in accordance with the Town's rules, regulations policies and ordinances.

7.

RESTRICTED HOME USE RESTRICTIONS

7.1 Occupancy. Except as otherwise provided in this Restriction, each Restricted Home shall, at all times, be occupied as a sole place of residence by a Qualified Owner (along with Dependents), or as the case may be an Authorized Lessee (along with Dependents).

7.2 Rental. Except as permitted in Section 7.5, no Restricted Home be leased or rented for

any period of time without the prior written approval of the Town or its designee. In the event that any Restricted Home, or any portion thereof, is leased or rented without compliance with this Restriction, the Town shall have the remedies set forth herein, including but not limited to the rights set forth in Section 8.5. Any tenancy approved by the Town shall be to an Authorized Lessee.

7.3 Vacancy. In the event that a Qualified Owner ceases to occupy a Restricted Home as his or her principal place of residence for a period of ninety (90) consecutive days (as reasonably determined by the Town), or any non-qualified Owner permitted to purchase a Home as set forth in Section 5.1.B leaves a Home unoccupied by an Authorized Lessee for a period of ninety (90) consecutive days (as reasonably determined by the Town), the Town may, in its sole discretion and in addition to any other remedies the Town may have hereunder, determine that the Home shall be offered for sale pursuant to the provisions of Section 8.5 or require the Qualified Owner or non-qualified Owner to rent the Home to an Authorized Lessee.

7.4 Ownership Interest in Other Residential Property. Except with respect to a non-qualified Owner permitted to purchase a Restricted Home as set forth in Section 5.1.B, if at any time the Owner also owns any interest alone or in conjunction with others in any other developed residential property in the County, the Owner shall immediately list such other property interest for sale and sell his or her interest in such property. In the event said other property has not been sold by the Owner within one hundred twenty (120) days of its listing required hereunder, then the Owner shall immediately list his or her Restricted Home for sale pursuant to Section 8.5 of this Restriction. It is understood and agreed between the parties hereto that, in the case of an Owner whose business is the construction and sale of residential properties or the purchase and resale of such properties, the properties that constitute inventory in such Owner's business shall not constitute "other developed residential property" as that term is used in this Section 7.4.

7.5 Permitted Uses. It shall not be a violation of this Restrictive Covenant if:

A. Rooms within a Restricted Unit are rented to qualified occupant sharing the Restricted Unit with the Unit owner;

B. Restricted Unit is rented for use and occupancy to Authorized Lessee for a maximum cumulative total of 12 months during the time of ownership by a Unit owner;

C. Restricted Unit is owned or occupied by a person age 65 years or older who has owned and occupied the Unit and worked at paid employment in Summit County, Colorado at least 30 hours per week on an annual basis, for the previous 7 years, together with such person's spouse and minor children, if any;

D. Restricted Unit is owned or occupied by a person otherwise authorized to own or occupy the Restricted Unit pursuant to the Restrictive Covenant who becomes disabled after commencing ownership or occupancy of the Restricted Unit such that he or she cannot work the required number of hours each week required by the Restrictive Covenant, provided, however, that such person shall be permitted to own or rent the Restricted Unit for a maximum period of one year following the commencement of such person's disability unless a longer period of

ownership or occupancy is authorized by Town; and

- E. Guests visiting a qualified occupant and paying no rent or other consideration.

8.

RESALE OF A RESTRICTED HOME

8.1 Resale. No Restricted Home shall be Transferred subsequent to the original purchase from Maggie Placer except upon full compliance with the procedures set forth in this Article 8.

8.2 Notice. In the event that an Owner shall desire to Transfer a Restricted Home, or in the event that an Owner shall be required to Transfer such Restricted Home pursuant to the terms of this Restriction, the Owner shall notify the Town and the SCHA, or such other person or entity as may be designated by the Town, in writing of Owner's intention to Transfer such Restricted Home. The Restricted Home shall not, however, be Transferred to (i) any person, entity, or entities other than a Qualified Owner, and (ii) for consideration to be paid by such Qualified Owner that exceeds the Maximum Resale Price as such is determined pursuant to the provisions of this Article 8.

8.3 Maximum Resale Price.

A. Subsequent to the initial sale of a Restricted Home by the Owner, the total price for which such Restricted Home may be re-sold shall be determined as follows:

1. The selling owner's purchase price at the time of the acquisition of the Restricted Home, exclusive of any real estate commission paid at the time of acquisition, shall be the Base Price Limit.

2. The Base Price Limit shall be increased to reflect a cost of living adjustment. Such amount shall be the selling owner's "Adjusted Price Limit." The Adjusted Price Limit shall be the lesser of:

The Base Price Limit	X	0.0025	X	The number of whole months from the date of a Home Owner's purchase to the date of a Home Owner's sale of the Residential Home	+	The Base Price Limit ¹	=	ADJUSTED PRICE LIMIT
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OR

The Base Price Limit	X	$\frac{100\% \text{ of AMI most recently released prior to the selling owner's sale}}{100\% \text{ of AMI in effect at the time of the Selling owner's purchase of the Residential Home}^2}$	=	ADJUSTED PRICE LIMIT
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1 – The Base Price Limit multiplied by one quarter of one percent (0.25%) multiplied by the number of whole months from the date of a Home Owner's purchase to the date of a Home Owner's sale of the Residential Home plus the Base Price Limit.

2 – The Base Price Limit multiplied by a fraction the numerator of which is the 100% of AMI most recently released prior to a selling owner's sale and the denominator of which is the 100% of AMI in effect at the time of the selling owner's purchase of the Restricted Home.

3. The resale price of any Residential Home shall not exceed such Adjusted Price Limit except to allow the cost of eligible capital improvements made by the Owner in accordance with the Town's Affordable Housing Guidelines including Administrative Rules and Regulations promulgated by the Town.

4. Notwithstanding anything contained in the Restrictive Covenant to the contrary, the Adjusted Price Limit shall never be less than the purchase price actually paid by the selling owner for the Restricted Home.

5. If the owner of a Restricted Home sells the Restricted Home through the services of the Summit Housing Authority, a commission of not more than 2% of the Adjusted Price Limit may be paid to the Summit Housing Authority.

B. Each Owner shall be responsible for ensuring that at the Transfer of his or her Restricted Home, the same is clean, the appliances are in working order, and that there are no health or safety violations regarding such Restricted Home. During the period of the listing contract, the Town or its designee is authorized to take necessary actions and incur necessary expenses for bringing the relevant Restricted Home into saleable condition. Such actions and expenses include, but are not limited to, cleaning the Restricted Home and making necessary repairs to or replacements of appliances and/or Restricted Home fixtures, such as windows, doors, cabinets, countertops, carpets, flooring and lighting fixtures, and/or correcting any health or safety violations on such Restricted Home. Expenses incurred by the Town to bring a Restricted Home into a saleable condition shall be itemized and documented by the Town and deducted from Owner's proceeds at closing of the Transfer of such Restricted Home.

C. No Owner shall permit any prospective buyer to assume any or all of the Owner's customary closing costs.

D. Nothing in this Restriction represents or guarantees that a Restricted Home will be re-sold at an amount equal to the Maximum Resale Price. Depending upon conditions affecting the real estate market, the Home may be re-sold for less than the Maximum Resale Price.

8.4 Non-Qualified Transferees. In the event that title to a Restricted Home vests in a Non-Qualified Transferee by descent, by foreclosure and/or redemption by any lien or mortgage holder (except any holder of a HUD-insured First Mortgage), or by operation of law or any other event, the Town may elect to notify the Non-Qualified Transferee that it must sell the Restricted Home in accordance with Section 8.5. The Non-Qualified Transferee(s) shall not: (i) occupy a Restricted Home; (ii) rent all or any part of a Restricted Home, except in strict compliance with this Restriction; (iii) engage in any business activity on or in a Home; (iv) sell or otherwise Transfer a Restricted Home except in accordance with this Restriction; or (v) sell or otherwise

Transfer a Restricted Home for use in trade or business.

8.5 Sales to Preserve Restricted Home as Affordable Housing.

A. In the event a Restricted Home is occupied, used, transferred, leased, or rented in violation of this Restriction, or whenever the provisions of this Section 8.5 are expressly made applicable by any section or provision of this Restriction, the Town may, at its sole discretion, notify an Owner that it must immediately list the Home for sale (including the execution of a listing contract with, and the payment of the specified fees) by the SCHA. The highest bid by a Qualified Owner for not less than ninety-five percent (95%) of the Maximum Sale Price shall be accepted by the Owner; provided, however, if the Home is listed for a period of at least ninety (90) days and all bids are below ninety-five percent (95%) of the Maximum Sale Price, the Home shall be sold to a Qualified Owner that has made the highest offer for at least the appraised market value of the Home, as determined by the Town or its designee in its reasonable good faith judgment, after such ninety (90) day period.

B. If required by the Town, the Owner shall: (i) consent to any sale, conveyance or transfer of such Restricted Home to a Qualified Owner; (ii) execute any and all documents necessary to do so; and (iii) otherwise reasonably cooperate with the Town to take actions needed to accomplish such sale, conveyance or transfer of such Restricted Home. For this purpose Owner constitutes and appoints the Town its true and lawful attorney-in-fact with full power of substitution to complete or undertake any and all actions required under this Section 8.5.B. It is further understood and agreed that this power of attorney, which shall be deemed to be a power coupled with an interest, cannot be revoked. Owner specifically agrees that all power granted to the Town under this Restriction may be assigned by it to its successors or assigns.

C. In order to preserve the affordability of the Restricted Homes for persons of low to moderate income, the Town, or its respective successor, as applicable, shall also have and is hereby granted the right and option to purchase a Restricted Home, exercisable within a period of fifteen (15) calendar days after notice is sent by the Town to the Owner that requires the Owner to sell the Home pursuant to this Section 8.5. The Town shall complete the purchase of such Restricted Home within thirty (30) calendar days after exercising its option hereunder for a price equal to the lesser of the appraised market value of the Home, as determined by the Town in its reasonable good faith judgment, or the Maximum Sale Price. The Town may assign its option to purchase hereunder to an eligible purchaser that, for the purpose of this Section 8.5(c), shall be a Qualified Owner.

D. In all situations in which the provisions of this Section 8.5 apply, the Town may alternatively require the Owner to rent a Restricted Home to an Authorized Lessee in accordance with the requirements of this Restriction.

9.
FORECLOSURE

9.1 Release. Notwithstanding anything herein to the contrary, this Restriction shall be deemed released as to a Restricted Home in the event of (i) the issuance of a public trustee's

deed, sheriff's deed or similar conveyance of the Home in connection with a foreclosure by the holder of a HUD- insured First Mortgage, or (ii) the acceptance of a deed in lieu of foreclosure by the holder of a HUD-insured First Mortgage. This Restriction shall also automatically terminate and be released as to a Restricted Home upon the assignment to HUD of a HUD-insured mortgage encumbering a Restricted Home. The Town, in its sole discretion, may elect to release a Restricted Home from this Restriction in the event of (1) the issuance of a public trustee's deed, sheriff's deed or similar conveyance of the Restricted Home in connection with a foreclosure of the Town's Lien, as defined in Section 9.2, or (2) the acceptance of a deed in lieu of foreclosure by the Town in connection with the Town's Lien. If the Town chooses to terminate this Restriction with respect to a particular Restricted Home, the Town shall record a document referencing such termination in the real property records of the County. Any and all claims of the Town available hereunder against the Owner personally shall survive any release or termination of this Restriction.

9.2 Lien.

A. Appreciating Limiting Promissory Note and Deed of Trust. At the time of each sale of each Restricted Home, beginning with the first such sale by Maggie Placer to a Restricted Home Owner, the purchaser(s) of each Restricted Home shall execute an Appreciating Limiting Promissory Note in the form attached hereto as **Exhibit D**, or such other form as may be adopted from time to time by the Town which is consistent with the intent of this Restriction (“Note”), together with a form of Deed of Trust to a public trustee encumbering the Restricted Home to secure strict compliance with the terms of the Note. The deed of trust shall contain a strict due on sale provision and shall be in form and substance acceptable to the Town Attorney of the Town (“Deed of Trust”). At the time of each closing of the transfer of title to a Restricted Home, a new Note shall be executed by the purchaser(s) and delivered to the Town and a new Deed of Trust shall be executed by the purchaser(s) and recorded in the Summit County, Colorado real estate records. At the time of closing of each transfer of title to a Restricted Home subsequent to the first transfer by Maggie Placer, the Town shall determine whether the transfer complies with the requirements of this Restriction. If the transfer complies with the requirements of this Restriction, the Town shall mark the selling Owner’s Note as paid and execute a request for release of deed of trust upon verification to the Town, by the title company or other independent agent responsible for closing on the transfer of title to a Restricted Home, that the amount paid for the purchase of the Restricted Home does not exceed the Maximum Allowed Sale Price or that, if the price exceeds the Maximum Allowed Sale Price, the amount of such excess will be paid to the Town. If title to a Restricted Home is transferred without obtaining the release of a Deed of Trust securing a Note in favor of the Town, the Town, among other rights available to it, shall have the right to foreclose said Deed of Trust.

B. Recording of this Restriction constitutes record notice and perfection of the Town's Lien. No further recordation of any claim of lien is required. However, the Town may elect to prepare, and record in the office of the County Clerk and Recorder of the County, a written notice of lien. By virtue of the Town's Lien, the Town shall have all of the rights that a mortgage holder may have against a Home, including, but not limited to, the right to judicially foreclose upon a Home. The Town shall be entitled to file such notices and other information necessary to preserve its rights, as a lienor, to cure and redeem in foreclosure of a Home, as

provided by C.R.S. §38-38-101 et seq. In addition, unless otherwise instructed by the Town in writing, the Owner shall sign, acknowledge, and cooperate in the Town's recording in the County Clerk and Recorder's Office immediately subsequent to the recording of the First Mortgage, a notice of the Town's Lien, substantially in the form attached hereto as **Exhibit E**, in order to assure that the Town receives notice in the event of the foreclosure of the First Mortgage pursuant to this Article. The notice shall not alter the priority date of the Town's Lien as established herein.

C. The sale or other Transfer of a Restricted Home shall not affect the Town's Lien. No sale or deed in lieu of foreclosure shall relieve the Owner from continuing personal liability for payment of his or her obligations hereunder. The Town's Lien does not prohibit actions or suits to recover sums due pursuant to this Restriction, or to enforce the terms of this Restriction, or to prohibit the Town from taking a deed in lieu of foreclosure.

D. Upon request, the Town shall agree to subordinate the Town's Lien to a bona fide mortgage or deed of trust provided that the total principal indebtedness secured by those mortgages or deed of trust with priority over the Town's Lien shall not exceed one hundred percent (100%) of the current allowed Maximum Resale Price under this Restriction as of the date of subordination. To the extent that **Exhibit E** is inconsistent with this provision, the provisions of this Section 9.2.D. shall control.

9.3 Town's Option to Redeem.

E. Notice of Default to Town. Within ten (10) days after Owner's receipt of any notice of default from a Mortgagee or the home owner's association governing the Restricted Homes, the Owner shall give written notice of such default to the Town.

F. Foreclosure/Town's Option to Redeem. In the event of a foreclosure of a First Mortgage or the assessment lien of the home owner's association governing the Restricted Homes, the Town shall be entitled to receive notice of the foreclosure proceedings as is required by law to be given by the public trustee or the sheriff, as applicable, to lienors of a Restricted Home that are junior to the First Mortgage (as provided in C.R.S. §38-38-101 et seq., or any succeeding statute). The Town shall have a right of redemption, and such other rights as a lienor in foreclosure, as its interest appears, in accordance with Colorado law governing foreclosure. The Town's lien is created pursuant to Section 9.2.

G. Upon Exercising Option. In the event that the Town obtains title to a Restricted Home pursuant to this Article 9, the Town or its designee may sell such Restricted Home to a Qualified Owner, or rent such Restricted Home to an Authorized Lessee until such time that such Home can be sold to a Qualified Owner. In the Town's sole discretion, the Town's subsequent sale of such Home in these circumstances shall not be subject to the Maximum Sale Price restrictions set forth in Article 8 hereof.

9.4 Perpetuities Savings Clause. If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this Restriction shall be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision; (ii) the rule

restricting restraints on alienation; or (iii) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the shorter of (x) the term of this Restriction, or (y) the period of the lives of the current duly elected and seated members of the Town Council, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.

10. **ENFORCEMENT**

10.1. Enforcement of This Restriction. The Town and each Owner hereby grants and assigns to the Town the right to review and enforce compliance with this Restriction. Compliance may be enforced by the Town by any lawful means, including without limitation, seeking any equitable relief (including, without limitation, specific performance and other equitable relief as set forth in Section 10.2 below), as well as a suit for damages; provided, however, in the event a Home is financed by a HUD-insured First Mortgage and is sold in violation of Section 8.3 hereof, such enforcement shall not include:

- A. acceleration of a mortgage;
- B. voiding a conveyance by an Owner;
- C. terminating an Owner's interest in a Restricted Home, or
- D. subjecting an Owner to contractual liability.

Notwithstanding the foregoing, in no event shall the Town have any equitable remedies (including, but not limited to, the right to sue for specific performance or seek other equitable relief as set forth in Section 10.2) or the right to sue for damages if the Owner of a Restricted Home that was financed with a HUD-insured First Mortgage breaches or violates the terms, covenants and other provisions of Section 8.3 hereof and if to do so would violate any existing or future requirement of HUD, it being understood, however, that in such event, the Town shall retain all other rights and remedies hereunder for enforcement of any other terms and provisions hereof, including, without limitation: (i) the right to sue for damages to reimburse the Town, or its agents, for its enforcement costs and to require an Owner to repay with reasonable interest (not to exceed ten percent (10%) per annum) any assistance received in connection with the purchase of a Home; (ii) the right to prohibit an Owner from retaining sales or rental proceeds collected or received in violation of this Restriction; and (iii) the option to purchase granted to the Town in Section 8.5(c) hereof. Venue for a suit enforcing compliance shall be proper in the County and service may be made or notice given by posting such service or notice in a conspicuous place on the applicable Restricted Home. As part of any enforcement action on the part of the Town, the applicable Owner shall pay all court costs and reasonable legal fees incurred by the Town, or its agents, in connection with these claims, actions, liabilities or judgments, including an amount to pay for the time, if any, of the Town's, or its agents, attorney spent on such claims at the rates generally charged for similar services by private practitioners within the County.

10.2 Injunctive and other Equitable Relief. Each Owner agrees that in the event of his or her default under or non-compliance with the terms of this Restriction, the Town shall have the right to seek such equitable relief as it may deem necessary or proper, including, without limitation, the right to: (a) seek specific performance of this Restriction; (b) obtain a judgment from any court of competent jurisdiction granting a temporary restraining order, preliminary injunction and/or permanent injunction; and (c) set aside or rescind any sale of a Home made in violation of this Restriction. Any equitable relief provided for in this Section 10.2 may be sought singly or in combination with such legal remedies as the Town may be entitled to, either pursuant to this Restriction, under the laws of the State of Colorado or otherwise.

11. **GENERAL PROVISIONS**

11.1 Equal Housing Opportunity. Pursuant to the Fair Housing Act and the Town's public policy, the Town shall not discriminate on the basis of race, creed, color, sex, national origin, familial status, disability or sexual orientation in the lease, sale, use or occupancy of a Home.

11.2 Rules, Regulations, and Standards. The Town shall have the authority to promulgate and adopt such rules, regulations and standards as it may deem appropriate, from time to time, for the purpose of carrying out its obligations and responsibilities described herein.

11.3 Waiver of Exemptions. Every Owner, by taking title to a Restricted Home, shall be deemed to have subordinated to this Restriction any and all right of homestead and any other exemption in, or with respect to, such Property under state or federal law presently existing or hereafter enacted.

11.4 Severability. Invalidation of any one of the covenants or restrictions contained herein by judgment or Court order shall in no way affect any other provisions, it being the intent of the Town that such invalidated provision be severable.

11.5 Term. Subject to Section 9.4 and the other termination or release provisions contained herein, the restrictions contained herein shall run with the land and bind the land in perpetuity.

11.6 Amendment. This Restriction may be amended only by an instrument recorded in the records of the County executed by the Town and the then-Owner of a Restricted Home;. Provided however for so long as Maggie Placer owns any of the Property, Maggie Placer reserves the right to amend this Restriction without the approval or consent of any Owner or Mortgagee, but with consent of the Town, for the purpose of either: (a) making non-material changes (such as for correction of technical, typographical, or clerical errors), or for clarification of a statement; or (b) without regard to (a), if such amendment lessens the ownership, use, sales and lease restrictions placed upon the Owners as provided herein. After Maggie Placer no longer owns any of the Property, the Town may unilaterally execute and record such non-material or reduced restriction amendments at any time.

11.7 Successor to the SCHA. In the event that, at any time during the duration of this Restriction, the SCHA ceases to exist, all reference in this Restriction to SCHA shall, thereafter,

mean the Town, its successors, assigns, or any other entity designated by the Town to administer or enforce the provisions hereof, or to perform the functions of the SCHA as described herein.

11.8 No Third Party Beneficiaries. This Restriction is made and entered into for the sole protection and benefit of the Town, the SCHA and the Owner. Except as otherwise specifically provided for herein, no other person, persons, entity or entities, including without limitation prospective buyers of a Home, shall have any right of action with respect to this Restriction or right to claim any right or benefit from the terms provided in this Restriction or be deemed a third party beneficiary of this Restriction.

11.9 Non-Liability. The Town and its respective employees, members, officers and agents shall not be liable to any Owner or third party by virtue of the exercise of their rights or the performance of their obligations under this Restriction. The parties understand and agree that they are relying on, and do not waive or intend to waive by any provision of this Restriction, the monetary limitations or any other rights, immunities or protections afforded by the Governmental Immunity Act, C.R.S. §24-10-101, et seq., as they may be amended, or any other limitation, right, immunity or protection otherwise available to the parties.

11.10 Exhibits. All exhibits attached hereto are incorporated herein and by this reference made part hereof.

11.11 Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and use of the singular shall include the plural and vice versa.

11.12 Personal Liability. Each Owner shall be personally liable for any of the transactions contemplated herein, jointly and severally with his or her co-owners.

11.13 Further Actions. The Owner and Owner's successors and assigns agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Restriction or any agreement or document relating hereto or entered into in connection herewith.

11.14 Notices. Any notice, consent or approval that is required or permitted to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Restriction. Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Maggie Placer, LLC: Maggie Placer, LLC
 Attn: Deborah Linden
 P O Box 4653
 Breckenridge, CO 80424-4653

To an Owner: The address for an Owner shall be determined pursuant to the

Memorandum of Acceptance (as shown on
Exhibit E) recorded with respect to each transfer of a Home.

11.15 Choice of Law. This Restriction and each and every related document shall be governed and constructed in accordance with the laws of the State of Colorado, exclusive of its conflict of law rules.

11.16 Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

11.17 Headings. Article and Section headings within this Restriction are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

11.18 Signatures. Signatures to this Restriction may be in counterparts and by facsimile or scanned emailed document.

IN WITNESS WHEREOF, the undersigned has set its hand unto this Restriction this _____ day of _____, 20__.

MAGGIE PLACER, LLC

By: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ for Maggie Placer, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

LENDER CONSENT

The undersigned, being the holder of a lien encumbering the real property described on **Exhibit A**, hereby consents to the execution and recording of this Residential Housing Restrictive Covenant for the Homes at Maggie Point ("Restrictive Covenant"), and further agrees that the lien or encumbrance owned or possessed by the undersigned against the real property described on **Exhibit A** shall be subordinated and made junior and subject to this Restrictive Covenant. In the event of the foreclosure of the lien or encumbrance owned or possessed by the undersigned, this Restrictive Covenant shall be treated as a prior and superior encumbrance, and any foreclosure sale shall be made subject to this Restrictive Covenant.

LIEN HOLDER:

By _____

Title

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by _____ as _____ of _____.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A

Legal Description

A PARCEL OF LAND LOCATED IN THE MAGGIE PLACER, U.S.M.S. No. 1338, IN SEC. 6, TOWNSHIP 7 SOUTH, RANGE 77 WEST OF THE 6th P.M., COUNTY OF SUMMIT, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT COLORADO STATE HIGHWAY NO. 9 MONUMENT T.S. 80+50 ON THE WESTERLY R.O.W. OF SAID HIGHWAY NO. 9, WHICH POINT IS, IN FACT, THE TRUE POINT OF BEGINNING.

THENCE; S02°07'30"E, ALONG SAID WESTERLY R.O.W. A DISTANCE OF 311.40 FEET.

THENCE; 98.75 FEET ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 1030.00 FEET, A CHORD BEARING OF S10°48'45"E, AND A CHORD OF 98.71 FEET.

THENCE; S76°26'29"W, A DISTANCE OF 24.05 FEET.

THENCE; N23°31'59"W, A DISTANCE OF 32.00 FEET.

THENCE; 111.08 FEET ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 205.24 FEET, A CHORD BEARING OF N39°02'16"W, AND A CHORD OF 109.73 FEET.

THENCE; N54°32'30"W, A DISTANCE OF 172.17 FEET.

THENCE; 139.94 FEET ALONG THE ARC OF A CURVE TO THE RIGHT WITH A RADIUS OF 83.90 FEET, A CHORD BEARING OF N06°45'32"W, AND A CHORD OF 124.27 FEET.

THENCE N41°01'17"E, A DISTANCE OF 250.76 FEET.

THENCE; S89°04'00"E, A DISTANCE OF 67.32 FEET TO A POINT IN THE WESTERLY R.O.W. OF SAID COLORADO HIGHWAY No. 9,

THENCE; S00°56'00"W, ALONG SAID WESTERLY R.O.W. A DISTANCE OF 112.18 FEET TO THE TRUE POINT OF BEGINNING.

DESCRIBED PARCEL CONTAINING 1.82 ACRES, MORE OR LESS.

EXHIBIT B

80% HUD Households

Lot 2, 35 Maggie Placer Loop
Lot 18, 104 Maggie Placer Loop

100% HUD Households

Lot 1, 29 Maggie Placer Loop
Lot 3, 37 Maggie Placer Loop
Lot 4, 49 Maggie Placer Loop
Lot 5, 51 Maggie Placer Lane
Lot 6, 53 Maggie Placer Loop
Lot 16, 52 Maggie Placer Loop
Lot 17, 48, Maggie Placer Loop

Unrestricted Homes

Lot 7, 59 Maggie Placer Loop
Lot 8, 61 Maggie Placer Loop
Lot 9, 65 Maggie Placer Loop
Lot 10, 69 Maggie Placer Loop
Lot 11, 73 Maggie Placer Loop
Lot 12, 75 Maggie Placer Loop
Lot 13, 81 Maggie Placer Loop
Lot 14, 83 Maggie Placer Loop
Lot 15, 87 Maggie Placer Loop

One Unrestricted Lot may be released from the Restrictive Covenant for every two Restricted Lots which are sold at the agreed sales price.

EXHIBIT C

THE PURCHASE PRICE AFFORDABILITY SHALL BE CALCULATED AS FOLLOWS:

Then current Area Median Income based on 1.5 persons per bedroom determined by the US Dept. of Housing and Urban Development for Summit County, Colorado for fiscal year of Oct. 1-Sept. 30, or successor index, or if no successor index, such other generally accepted index selected by the Town, ("AMI") \$ _____

Multiplied by applicable AMI percentage (80% or 100%) \$ _____

Divided by number of months in year (12) \$ _____

Multiplied by 30% (amount available for housing cost) _____

Less \$350 (amount for taxes, insurance, HOA fees and private mortgage insurance) \$ _____

Subtotal (amount available for Mortgage Payment) \$ _____

Mortgage Amortization Calculation (from Amortization Table or calculator)

Amortization: 30 years

Interest Rate: 6.5%,

Mortgage Payment calculated above

Equals Mortgage Amount \$ _____

Divided by .90 (Mortgage Amount plus 10% down payment) equals Affordable Purchase Price \$ _____

EXHIBIT D

**Appreciation Limiting Promissory Note
(the "Note")**

FOR VALUE RECEIVED, _____^{Date} (the "Maker"), jointly and severally if more than one, promises to pay to the order of the TOWN OF BRECKENRIDGE, P.O. Box 168, Breckenridge, CO 80424 ("Town"), upon demand ("Due Date"), all sums that become due to Town from Maker after the date of this Note under the Residential Housing Restrictive Covenant for the Homes at Maggie Point, dated _____, 2014 and recorded _____, 2014 under Reception No. _____ of the records of the Clerk and Recorder of Summit County, Colorado.(the "Maggie Point Restrictive Covenant").

This Note shall not bear interest until the Due Date. If this Note is not paid on or before the Due Date, it shall thereafter bear interest at the rate of eighteen percent (18%) per annum from the Due Date until fully paid.

The Maker and any surety, guarantor and endorser of this Note, jointly and severally, hereby waive notice of, and consent to any and all extensions of this Note or any part thereof without notice and each hereby waives demand, presentment for payment, notice of nonpayment and protest, and any and all notice of whatever kind or nature.

The Maker agrees to pay all costs of collection, including reasonable attorney's fees, incurred by Holder in the collection of this Note or any part thereof. If the Deed of Trust securing this Note is foreclosed, the undersigned also agrees to pay all costs and attorney's fees as provided therein.

No waiver by the Holder of any one or more of the terms and conditions herein contained shall be deemed a waiver of the other terms and conditions herein contained; nor shall any such waiver be considered for any reason as continuing or perpetual in nature.

This Note is secured by a deed of trust on the Lot _____, Maggie Placer, according to the Plat thereof filed in the Summit County, Colorado Real Estate Records of the _____ day of _____, 20__ at Reception No. _____.

THE MAKER'S INITIAL PURCHASE PRICE FOR THE RESTRICTED HOME, AS DESCRIBED IN THE MAGGIE POINT RESTRICTIVE COVENANT, IS \$_____. SUCH SUM DOES NOT INCLUDE ANY REAL ESTATE COMMISSION PAID BY EITHER THE BUYER OR THE SELLER AT THE TIME OF MAKER'S PURCHASE OF THE RESIDENTIAL UNIT.

Maker

Maker

EXHIBIT E
MEMORANDUM OF ACCEPTANCE
OF
RESIDENTIAL HOUSING RESTRICTIVE COVENANT
FOR THE HOMES AT MAGGIE POINT
TOWN OF BRECKENRIDGE, SUMMIT COUNTY, COLORADO

WHEREAS, _____ [Buyer Name] _____, the "Buyer" is purchasing from _____ [Seller Name] _____, the "Seller," at a price of \$_____ [purchase price amount] _____, real property described as _____ [Legal Description] _____ according to the plat recorded under Reception No. _____, in the real property records of the County of Summit, Colorado (the "Home"); and

WHEREAS, the Seller of the Home is requiring, as a prerequisite to the sale transaction, that the Buyer acknowledge and agree to the terms, conditions and restrictions found in that certain instrument entitled "Residential Housing Restrictive Covenant for the Homes at Maggie Point, Summit County, Colorado," recorded on _____, 20__, under Reception No. _____, in the real property records of the County of Summit, Colorado (the "Restriction").

NOW, THEREFORE, as an inducement to the Seller to sell the Home, the Buyer:

1. Acknowledges that Buyer has carefully read the entire Restriction, has had the opportunity to consult with legal and financial counsel concerning the Restriction and fully understands the terms, conditions, provisions, and restrictions contained in the Restriction.

2. Agrees to be bound by and to comply with the terms, conditions and requirements of the Restriction.

3. Acknowledges that the Restriction creates a lien on the Home in favor of Maggie Placer, LLC, which may be foreclosed upon the occurrence of certain events, as more particularly described in the Restriction.

4. States that the Notice to Buyer should be sent to:

5. Directs that this memorandum be placed of record in the real estate records of the County of Summit, Colorado, and a copy provided to the Town of Breckenridge, Colorado.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the ____ day of _____, 20__.

BUYER(S):

By: _____

Printed Name: _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
20____, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Memorandum

TO: TOWN COUNCIL
FROM: Dale Stein, Assistant Town Engineer
DATE: July 2, 2014
RE: Public Projects Update

South Main Street Improvements 2014

Construction on the 2014 Main Street Improvements project has been substantially completed and is fully open to the public. Final clean-up, stone paver installation, and final landscaping were all completed this week. The only work remaining on Main Street is the installation of two electrical panels; these are scheduled to be installed next week and will not impact pedestrians or businesses.

Visitors to South Main Street can be seen in the pictures below enjoying the newly widened sidewalks, flagstone pavers, and landscaping improvements.



Asphalt Overlay and Concrete Replacement

The asphalt paving operations for the 2014 summer season are complete. Asphalt patching and general maintenance will continue throughout the summer.

The concrete replacements at various locations in the core of town are complete. Work outside the core will continue through July.

SH 9 Median and Roundabout Improvements

The construction plans for Phase 1 of the SH 9 roundabout and median improvements, south of Valley Brook Street, are complete and were advertised for bids in June. Bids are due back to the Town on July 9th, with construction anticipated to be done in September and October of this year.

Arts District Build Out

The project is moving forward with the buildings getting exterior paint and finishes. Site utility trenching is nearly completed and the sidewalks, parking lot finishes, and landscaping will follow in the coming months. The project is scheduled for completion in September.

Old Masonic Hall

The General Contractor, Base Building Solutions, is currently soliciting bids from subcontractors for the project. We hope to establish a Guaranteed Maximum Price (GMP), finalize the construction contract, and begin work on the building by the end of July.

Skate Park

Surveying and excavation work has begun at the site. A drywell has been installed and drainage lines were being installed the week of June 30. It is expected that concrete forms will begin being built by July 14 on site with pouring of concrete to begin the following week. Due to more than anticipated engineering for site drainage and a need for the drywell installation, as opposed to the original plan to drain the skatepark into the pond, the design was revisited to account for these higher costs for the drainage system. This resulted in shortening the street section of the design, though we do not feel that this change has significant impact on the project. It is currently anticipated that the new skatepark will officially open by the end of September.

Artificial Turf Field

Construction drawings for the new field were received on July 1st and were provided to the Town Engineering staff for review. At the time of writing this report, no issues with the plans have been identified. Excavation of the site is scheduled to begin by July 21, and the project is anticipated to be completed by September 2014.

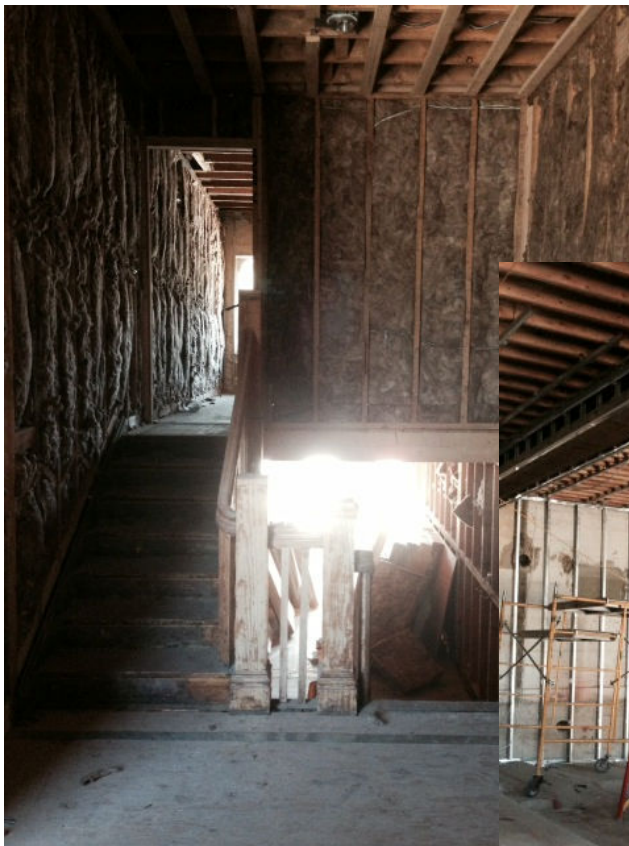
North Main Street Park

There is no new update since last Public Projects report. Staff is working to repackage the project for rebidding in an effort to meet budget requirements.

Breckenridge Grand Vacations Community Center

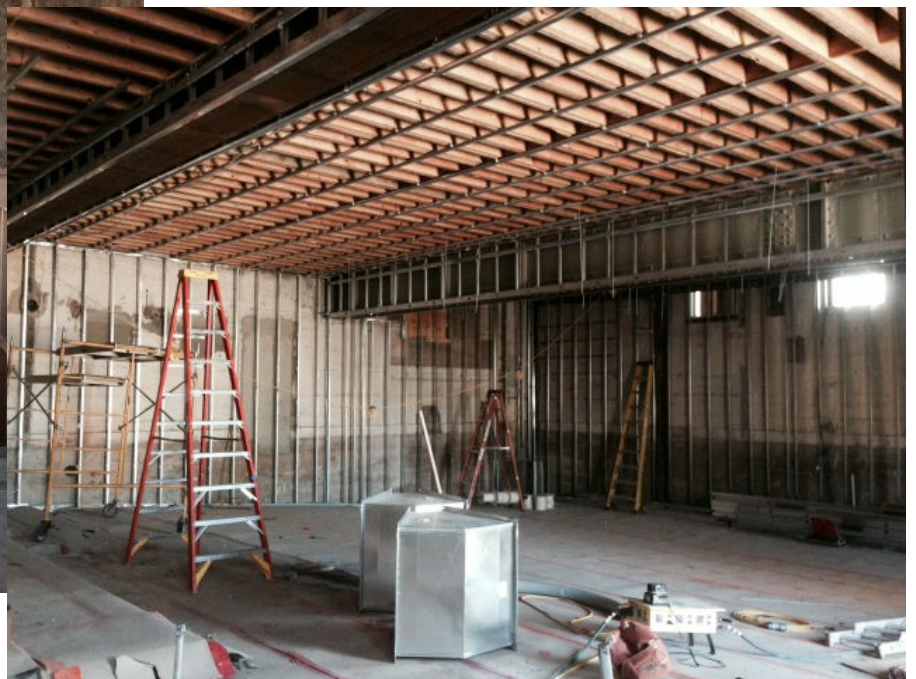
Work on the rehabilitation of the historic building continues with currently twenty plus subcontractors working simultaneously on various project construction items. The contractors are all sharing the space and working on items such as: masonry cleaning and repairs, exterior soffit painting, asphalt roofing preparation, roof gutters and down drains, site storm piping, interior wall framing, acoustical insulation, exterior wall foam insulation, electrical cabling, hot and cold water plumbing, baseboard heating infrastructure plumbing, heating and air handling controls, IT data cabling, drywall, fire suppression, camera security systems, electronic door hardware wiring, dumpster building rehabilitation and siding, and general interior framing and steel fabrication. Staff will provide to Council an update on the overall schedule at the July 22, 2014 work session.

Recently the Contractor completed the foundation work for the movie concessions building and began framing of the general concessions structure. Efforts also recently began on the rehabilitation of the parking lots and the building site. The demolition of the south parking lot is scheduled to be completed this week, with the regarding, form-setting and curb & gutter work anticipated to be completed over the next few weeks. Work placing the new storm drain system is ongoing, but is expected to be completed in July. Electrical and plumbing rough-in inspections were recently completed in the 1909 building allowing drywall work to be scheduled for the week of July 7th.



New acoustic insulation of the partition walls in the 1909 building, shown left.

New concrete floor and exterior wall framing of the movie theater, shown below.



MEMO

TO: Mayor & Town Council
FROM: Tim Gagen, Town Manager
DATE: July 3, 2014
SUBJECT: Committee Reports for 7-8-2014 Council Packet

I-70 Coalition **June 5, 2014** **Tim Gagen**

This report is included as a separate attachment.

Police Advisory Committee **July 2, 2014** **Chief Haynes**

The Police Advisory Committee (PAC) held its bimonthly meeting on July 2, 2014. The Chief and PAC members discussed the following:

- **Marijuana Sales on Main Street:** Chief Haynes spoke to the group about recent surveys regarding the sale of marijuana on Main Street, as well as the potential ballot initiative. The group had a lengthy discussion. The five committee members in attendance stated they were not in favor of marijuana sales on Main Street. The group favored a clearly stated ban and/or regulations that would effectively prohibit establishments from located on Main Street.

- **Liquor Licensing:** Officer Allen reported on the outcome of a recent investigation into liquor license violations by three local establishments. The liquor board has heard the cases and sanctioned the involved business.

Officer Allen provided the group with information on false IDs being used in alcohol and marijuana establishments by underage individuals. The group discussed the use and detection of fake IDs as well as the associated penalties.

- **Wildfire Mitigation:** Chief Haynes provided the group with debrief on the Emergency Planning Exercise held in May. Sergeant Collver discussed the Breckenridge wildfire mitigation and defensible space program. He provided the group with information on the Breckenridge incentive program, the County chipping program, and the option to utilize the slash and chip piles at the Satellite lot.

Committees	Representative	Report Status
CAST	Mayor Warner	Verbal Report
CDOT	Tim Gagen	No Meeting/Report
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	Included
Mayors, Managers & Commissions Meeting	Mayor Warner	Verbal Report
Liquor Licensing Authority*	Taryn Power	No Meeting/Report
Wildfire Council	Matt Thompson	No Meeting/Report
Public Art Commission*	Jenn Cram	No Meeting/Report
Summit Stage Advisory Board*	James Phelps	No Meeting/Report
Police Advisory Committee	Chief Haynes	Included
CMC Advisory Committee	Tim Gagen	No Meeting/Report

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

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

**I 70 Coalition
Strategic Retreat
June 5, 2014**

Meeting Summary

Overview

On June 5th, in Vail Colorado, the I-70 Coalition met for a strategic planning retreat. Almost all members were in attendance. The objectives of the retreat were to:

- Engage all members of the I-70 Coalition to reflect on success so far, and the strengths of the organization
- Renew and refine agreement for the mission and priorities of the Coalition as it enters its second decade
- Begin discussions of how to work through changes in membership and political administrations to maintain or expand the Coalition's influence on transportation policy in the Mountain Corridor

Action Items, Agreements and Conclusions

- The Coalition reaffirmed their commitment to implementing the Record of Decision for the I-70 Mountain Corridor PEIS, and for continuing to pursue multiple tracks for improving transportation flow, safety, quality of life and a strong economy in the Corridor.
- A subcommittee will be formed to focus on strategies for studying and advocating for an Advanced Guideway System (AGS). The first task of this group will be to develop a work plan which will require review and approval from the Coalition Board, as is true with all work plans.
- The efficacy of the Coalition can be improved by increased engagement, participation and sharing of tasks among the members of the Coalition. Recently board members have played the most active roles in Coalition initiatives. Ideally the workload can be shared by a broader range of the members to expand reach and capacity for work, and to utilize the resources and experience each representative brings
- The Coalition, with the Board taking the lead, will consider if more frequent legislative briefings in partnership with Colorado Department of Transportation (CDOT) are warranted.
- Voting rights, board seats and other privileges remain limited to the established Tier 1, 2 and 3 of membership.
- Interested parties and off-Corridor communities and businesses are always welcome to observe future Coalition meetings to determine if there is a role for their community or business. Tier 4 is an Associate Membership category where individuals, businesses and non-profit organizations can pay dues and play a more active role in the organization.
- The Coalition will continue discussions about the value of, and ways to, engage more businesses who operate in, or depend on, the I-70 Mountain Corridor

- Prior to and during the next Coalition quarterly meeting, there will be an analysis of all the work being done by different Coalition representatives and committees to determine their status and return on investment or “bang for buck”

Condensed Meeting Notes

Themes from pre-retreat Interviews

Facilitator Caelan McGee, from the Center for Collaborative Policy, interviewed approximately 30 representatives and support staff of the I-70 Coalition prior to the retreat, in order to identify key issues for discussion. The following themes emerged from the interviews, and were presented at the meeting:

- In approximately 9 years, the I-70 Coalition has successfully established itself as a key actor in transportation policy discussion in the Corridor. The Coalition enjoys direct access to CDOT for discussions and planning, and CDOT values “one stop shopping”, or the ability to engage the many Corridor communities and businesses in an efficient manner
- There are many new representatives to the I-70 Coalition. Many are still becoming familiar with the complexity of transportation planning in the Corridor, and are interested in becoming more engaged, including the desire of off-Corridor communities and businesses having input and access to Coalition initiatives
- Different Coalition members/representatives have different priorities for transportation improvements. Some heavily favor focusing on roadway improvements, while others see AGS as a critical part of the long-term solution. These differences have always existed within the Coalition and yet the Coalition has been able to operate effectively and with consensus decision making. It is worth noting that even those least interested in focusing on AGS advocacy believe that it is important to be prepared should an opportunity arise to fund AGS in the Corridor, and that the Coalition is the right group to keep the AGS discussion alive in Colorado.
- There are limited transportation funds available, and all improvements in the Corridor are resource intensive. There is some general agreement among Coalition members about what improvements are possible or likely in 5 years, with more uncertainty about longer timeframes
- When considering possible tradeoffs or opportunity costs for the Coalition to pursue roadway improvements and AGS simultaneously, the following were identified:
 - o Funding for roadway improvements likely come from different sources than would funding for an AGS
 - o Funding for AGS studies may compete for funding for roadway improvement studies and other policy initiatives
 - o The time and resources of the Coalition representatives and staff are limited, and therefore it is important to be strategic
 - o It is important that advocacy for any types of transportation improvements be strategic and attuned to the political and economic environment in Colorado so that

the Coalition maintains its credibility and influence over transportation planning and policy

The Evolution and History of the I-70 Coalition

Program Manager Margaret Bowes has developed a presentation and written timeline of the history of the I-70 Coalition. A lot of effort and review went into these documents, they are recognized as being accurate and useful to a wide audience, and are available from the Coalition

Strengths of the I-70 Coalition

In an exercise, members identified successes, strengths and opportunities for the Coalition. Some of the responses included:

- Successful implementation of many TDM measures, including the GoI70.com project.
- An effective working relationship with CDOT and other transportation planning agencies
- Advocacy, funding and support for the speedy implementation of twin tunnel widening and other roadway improvements
- The Coalition is organized and speaks with a unified voice for a diverse range of Corridor and Off-Corridor communities and businesses
- The Program Manager, Margaret Bowes, is very effective and productive and a true asset
- The Coalition is effective at sharing information among the members regarding transportation planning, economic development and environmental and community health in the Corridor
- Opportunities include playing a bigger role in legislation

Challenges to success of the Coalition

The members also identified existing and potential challenges which include:

- Limited state and federal funding in general for transportation improvements and additional limitations such as the Tax Payer Bill of Rights (TABOR amendment)
- The Coalition would benefit from greater representation from, or engagement with, businesses in the Corridor
- The Coalition and improvements in the Corridor could benefit from greater visibility and understanding of transportation needs in the Corridor statewide. Transportation needs on the Front Range will likely continue to eclipse some of the issues and efforts in the Corridor
- The Coalition itself is small, has limited funds, is limited to the time its representatives can dedicate, and so has a limited “bandwidth”
- Turnover of members, and especially the eventual retirement of long-standing members, presents a challenge for maintaining institutional memory and momentum

- The fee structure makes it difficult for some jurisdictions to participate as full members
- The Coalition would benefit from a greater presence in Washington D.C. to engage policy makers and transportation agencies

Strategies to invigorate and better utilize Coalition members

The group identified the following ways to better engage and support all Coalition members, and to share workloads more strategically

- Develop and conduct a program for orientation for new representatives which describes the history, purpose, initiatives and structure of the Coalition
- Develop an “organizational chart” of the different actors working on transportation policy in the Corridor and statewide
- More broadly promote the “ roadshow”, where Coalition staff or representatives travel around Colorado to increase the visibility of the Coalition and Corridor transportation needs

In Attendance

Tim Mauck
 Jill Ryan
 Casey Tighe
 Dan Gibbs
 Steve Skadron
 Virginia Egger
 Lynette Hailey
 Tim Gagen
 Glo Gaines
 Kevin Burns
 Tom Gosiorowski
 Peggy Smith
 Bill Efting
 Tom Hale
 Joe Behm
 Mary Jane Loevlie

Nicole Thompson
 Janet Hawkinson
 Rick Caldwell
 Ryan Hyland
 Stan Zemler Lee
 Fronapfel Steve
 Hurlbert Jean
 Mikulus Brendan
 McGuire Angie
 Drumm Steve
 Olson
 Ben Acimovic
 Miller Hudson
 Beth Potter
 Margaret Bowes

MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Assistant Town Manager
Date: June 14, 2014
Subject: Recommendation of a Naming Policy for Town-Owned Public Buildings, Properties, Parks and Recreational Facilities

Council recently expressed a desire to develop a more formalized process for the naming of Town-owned facilities and parks. Staff has conducted some research and found many examples of policies created for this purpose by other municipalities. A majority of these policies are enacted through the adoption of a resolution by the Council. The purpose of this memorandum is to provide some suggested guidelines and procedures for this resolution. Staff will be available to discuss this matter with the Council at the June 24th work session and receive your feedback.

The following is an outline of the recommended language that should be included as part of this proposed policy:

Purpose

The Breckenridge Town Council believes that the naming of public property such as buildings, structures, parks, or features within those properties, is a matter of great importance and deserves careful consideration. Special consideration should be given to names that help tell the story of Breckenridge and help preserve and honor the history, geographical location, and cultural background of our community. The Town Council, therefore, enacts this policy to establish a systematic and consistent methodology for the naming of Town-owned property.

The following types of Town-owned property are included within the scope of this policy:

1. Buildings and structures
2. Real property, including open space and parks
3. Major Feature (this would include a secondary component of a piece of property such as a tennis court located within a park or a ball field)
4. Amenities (park benches, small furnishings, tables)

The following types of property do not apply to this policy:

1. Historically registered properties for which a name has been indicated on a nomination form and accepted for use on a historic register.
2. Public Art naming responsibility will be approved and overseen through the Town's Cultural Arts partner organization.
3. Open Space Trails (owned by the Town of Breckenridge or co-owned with Summit County) naming responsibility will be overseen and approved through a partnership with the Open Space Advisory Boards of the Town and County. Guidelines for selection of names for trails will follow those outlined in this policy.

Policy

When considering the naming of any public building, structure, open space, park, or feature within those facilities, the Town Council may consider the following guidelines:

- Priority should be given to names carrying geographical, historical, or cultural significance to the area in which the property is located or to the Town of Breckenridge as a whole.
- Property may be named after an individual when the individual has a historical association with the property or the area in which it is located within the Town of Breckenridge.
- Property may be named after an individual, living or deceased, or an organization that has made significant financial or civic contributions to the Town of Breckenridge, or has made a significant financial contribution to the particular property being named. Consideration for the naming of a property honoring a deceased individual should not occur until the person has been deceased for at least five (5) years and that person's historical significance and good reputation have been secured in the history of the Town.
- Names should be chosen in a manner that avoids duplication, confusing similarity, or inappropriateness.
- Suggestions for names of property shall be solicited from organizations, residents, and individuals. Suggestions shall be prioritized based on these guidelines and submitted to the Town Council for consideration.
- The Town Council shall approve any naming of property by resolution
- The Town Council reserves the right to rename a property if the associated name turns out to be disreputable to the Town.

Amenities

The naming of small furnishings such as tables or park benches are reviewed and approved by the Town Manager and do not fall within the guidelines previously listed in this policy. The decision to approve or disapprove an amenity item on Town property will be made by the Town Manager after consideration of the following guidelines:

- An agreement must be entered into between the Town and a Contributor for the amenity property being requested.
- A contributor must pay the full cost, or at the Town Manager's discretion, a majority of the cost of the item being requested.
- Amenity items will only be placed in areas where it is deemed appropriate based on the use of the property and available space.

This policy is only a guide and nothing herein shall be construed so as to limit the Town Council's authority to use its discretion based on the facts and circumstances surrounding a particular issue.

Memo



To: Breckenridge Town Council Members
From: Helen Cospolich, Municipal Services Manager
CC: Tim Berry, Town Attorney
Date: 7/2/2014
Subject: Amended Open Records Act Regulations

The Colorado Open Records Act authorizes the Town's record custodian (the Town Clerk) to adopt and enforce administrative rules related to the Act. The Town has had such rules in place for a number of years. However, I am proposing to adopt amended Open Act rules and regulations. The proposed new rules are attached for your review.

The purpose of the Amended Administrative Rules and Regulations Concerning Public Records is to update the fee schedule and make other minor administrative changes to the Town's open record policy in order to comply with the new State Law HB 14-1193, which became effective July 1st, 2014, and a recent important Colorado court case interpreting the Act. HB 14-1193 requires that no research and retrieval fee be charged for the first hour spent on a request. Other minor changes to the Town's policy include removing references to "tapes" as a form of recording, and consolidating the types of document research and retrieval under fewer fee lines. The new rules also add a fee for the Town Attorney's time spent in reviewing documents to determine if any of them are subject to the attorney-client or other legal privilege before they are produced for public inspection.

As these are Administrative Rules and Regulations, no formal approval by Council is necessary, However, we welcome any Council comments on the new rules. Following our discussion next Tuesday I anticipate being able to issue the new rules.

Staff will be present at the meeting to answer any questions you may have.

1 AMENDED ADMINISTRATIVE RULES AND REGULATIONS
2 CONCERNING PUBLIC RECORDS UNDER THE “COLORADO OPEN
3 RECORDS ACT”
4

5 1. **Effective Date.** These amended administrative rules and regulations (“**Amended**
6 **Regulations**”) are effective _____, 2014.

7 2. **Authority; Finding.**

8 2.1 These Amended Regulations are promulgated by the Town Clerk of the
9 Town of Breckenridge pursuant to the authority granted by Section 24-72-
10 203(1)(a), C.R.S.

11 2.2 These Amended Regulations are reasonably necessary for the protection
12 of the Town’s records and the prevention of unnecessary interference with
13 the regular discharge of the Town Clerk’s duties or the Town Clerk’s
14 office.

15 3. **Adoption Procedures.** The procedures set forth in Chapter 18 of Title 1 of the
16 Breckenridge Town Code were followed in connection with the issuance of these
17 Amended Regulations. Notice of the adoption of these Amended Regulations was
18 given in accordance with the requirements set forth in Section 1-18-3 of the
19 Breckenridge Town Code.

20 4. **Definitions.** As used in these Amended Regulations the following words have
21 the following meanings:

Act: The Colorado Open Records Act, Part 2 of Article 72 of Title 24, C.R.S., as amended from time to time.

Criminal Justice Records Act: Part 3 of Article 72 of Title 24, C.R.S., as amended from time to time.

Extenuating Circumstances: Has the meaning described in Section 24-72-203(3)(b) of the Act.

Record or Public Record: Have the same meaning as “public records” as defined in Section 24-72-202(6) of the Act.

22 5. **Purposes.** The purposes of these Amended Regulations are:

- 23 (a) to set forth general policies and procedures for providing access to
24 public records maintained by the Town in compliance with the
25 standards and requirements of the Act; and

AMENDED OPEN RECORDS ACT REGULATIONS

1 (b) to establish reasonable and standardized fees for producing copies
2 of and information from Town-maintained records as authorized
3 by the Act.

4 6. **Interpretation and Construction of These Amended Regulations.**

5 6.1 These Amended Regulations are to be interpreted and applied a manner
6 that is consistent with the Act, and the judicial decisions interpreting the
7 Act.

8 6.2 It is not the intent of these Amended Regulations to expand or enlarge the
9 provisions of the Act in any way, or to make any writing a public record
10 subject to inspection that is not a public record under the Act.

11 6.3 If there is a conflict between these Amended Regulations and the Act, the
12 Act controls. If there is a conflict between these Amended Regulations and
13 a judicial decision interpreting the Act, the judicial decision controls.

14 6.4 Wherever applicable in these Amended Regulations the singular includes
15 the plural, and the plural includes the singular. Further, references in these
16 Amended Regulations to the female gender include the male gender.

17 6.5 Except as provided in Section 11.3 with respect to copyrighted records,
18 the right to inspect a record includes the right to obtain a copy of such
19 record upon payment of the applicable fee(s).

20 7. **Scope.** These Amended Regulations apply to all requests for inspection and
21 copying of Town records, except those records covered under the Criminal Justice
22 Records Act. Requests for inspection and copying of records subject to the
23 Criminal Justice Records Act are subject to any rules promulgated by the records
24 custodian of the Town of Breckenridge Police Department.

25 8. **General Statement of Policy.** It is the policy of the Town that public records are
26 open for inspection at reasonable times in accordance with and subject to the
27 limitations of the Act.

28 9. **Official Record Custodians Designated.**

29 9.1 The Town Clerk is the official custodian of all records maintained by the
30 Town, except for criminal justice records and Human Resource
31 Department records. The Town Clerk will coordinate with the other record
32 custodians when necessary to respond to a record request.

33 9.2 The Town Clerk may designate another person to perform the duties
34 required by these Amended Regulations. Unless otherwise stated, all
35 references in these Amended Regulations to the Town Clerk apply to the

1 any person designated by the Town Clerk to respond to a record request
2 under the Act.

3 10. **Procedures.**

4 10.1 Except as provided in Section 11, all public records of the Town shall be
5 open for inspection and copying in the office of the Town Clerk during
6 normal office hours observed by the Administrative Offices of the Town
7 of Breckenridge.

8 10.2 An informal inquiry about whether a particular record exists or does not
9 exist is not a formal request to inspect such record, and the Town Clerk is
10 not required to respond to such an informal request. A party making a
11 formal request to inspect or copy a record under the Act must provide an
12 appropriate written request for such record to the Town Clerk.

13 10.3 All requests to inspect or copy Town records received by the Town shall
14 immediately be forwarded to the Town Clerk. Only the Town Clerk or her
15 designee may respond to a request to inspect or copy Town records.

16 10.4 If the public record requested is not in the custody or control of the Town
17 Clerk, the requesting party may request a written statement explaining the
18 reason for the absence of the record from such custodian's custody or
19 control, its location, and what person then has custody or control of the
20 record.

21 10.5 Any record that has been deleted from the "Trash," "Deleted Items," or
22 similar folder of a Town employee's computer is no longer within the
23 care, custody and control of the Town and is not subject to inspection
24 under these Amended Regulations, if the deletion occurred prior to the
25 Town's receipt of the record request. In such circumstance, the Town is
26 not under any obligation to reconstruct an employee's computer
27 mailbox(es) to search for an e-mail or other document that has been
28 deleted.

29 10.6 If the public record requested is in the custody and control of the Town
30 Clerk, but is in active use or in storage and, therefore, not readily available
31 at the time an requesting party asks to examine it, the requesting party may
32 request a written statement to that effect. Upon written request of the
33 requesting party specifying exactly which document is being requested,
34 the Town Clerk shall set a date and hour at which time the record shall be
35 made available for inspection. Such date and time shall comply with
36 Section 10.7 of these Amended Regulations.

37 10.7 The date and hour set for the inspection of records not readily available at
38 the time of the request will be within a reasonable time after the Town

- 1 Clerk receives the request. A “reasonable time” is presumed to be within
 2 three working days or less; provided, however, such period may be
 3 extended for up to seven full working days after the Clerk receives the
 4 request by extenuating circumstances as described in Section 24-72-
 5 203(3)(b) of the Act.
- 6 10.8 All original Town records must remain in the possession, custody, and
 7 control of the Town Clerk at all times.
- 8 10.9 The Town Clerk will redact any private or confidential information
 9 contained in a public record before it is copied and released to a requesting
 10 party.
- 11 10.10 The Town Clerk is not under any duty to create a new public record in
 12 response to a record request.
- 13 11. **When Inspection of Public Records Will Be Denied or Limited.**
- 14 11.1 Inspection of a public record will not be permitted if, upon consultation
 15 with the Town Attorney, it is determined that inspection is not permitted
 16 by any provision of the Act.
- 17 11.2 Inspection of a public record will not be permitted if, in the opinion of the
 18 Town Clerk, disclosure of the contents of the record would be contrary to
 19 the public interest as provided in Section 24-72-204(2)(a) of the Act.
- 20 11.3 A record that is copyrighted, including, without limitation, a building or
 21 design document prepared by an architect, may be inspected but may not
 22 be copied.
- 23 11.4 Notwithstanding the fact that a particular record might otherwise be
 24 available for public inspection under the provisions of these Amended
 25 Regulations or the Act, the Town Clerk may deny access to such record in
 26 accordance with Section 24-72-204(6)(a), C.R.S. At the direction of the
 27 Town Council or the Town Manager the Town Attorney will apply to the
 28 Summit County District Court for an order permitting the Town Clerk to
 29 restrict such disclosure in accordance with Section 24-72-204(6)(a),
 30 C.R.S.
- 31 11.5 Communications with the Town Attorney, municipal prosecutor, or other
 32 special counsel of the Town will not be released to any individual other
 33 than those to whom the communication was directed without the consent
 34 of the attorney who wrote the communication, or the Town Attorney.
- 35 12. **Fees.**

- 1 12.1 The fees to be collected by the Town in connection with the production
2 and copying of records pursuant to these Amended Regulations are set
3 forth on the attached **Exhibit “A”**, which is incorporated into these
4 Amended Regulations by reference. Applicable mailing or delivery
5 charges, if any, will be added to the fees set forth in **Exhibit “A”**;
6 provided, however, no fee shall be charged for transmitting a record to a
7 requesting party by e-mail.
- 8 12.2 Upon request, the Town Clerk may reduce or waive a fee due under these
9 Amended Regulations if she determines that the requested record(s) is to
10 be used for a public purpose, including public agency program support,
11 nonprofit activities, journalism, and academic research. Fee reductions and
12 waiver will be uniformly applied among persons who are similarly
13 situated.
- 14 12.3 All fees set forth in **Exhibit “A”** are to be consistently applied. However,
15 periodically situations may arise concerning the charging of fees under
16 these Amended Regulations that will require flexibility and common
17 sense. To provide that flexibility, the Town Clerk may make decisions
18 concerning the fee to be charged to respond to a request to inspect or copy
19 records under the Act that is not specifically covered by these Amended
20 Regulations. The Town Clerk’s decisions will be made within the general
21 intent of these Amended Regulations and in the best interest of the Town.
- 22 12.4 Except as other provided in this Section 12 payment of all applicable fees
23 is due when the requested documents are delivered to the requesting party.
- 24 12.5 If the Town Clerk determines that a particular record request will likely
25 require more than one hour of staff time to complete the Town Clerk may
26 require the requesting party to make a reasonable deposit against the final
27 cost of complying with the record request. The amount of the deposit will
28 reflect the Town Clerk’s good faith estimate of all fees that will be
29 charged by the Town in connection with the Town’s response to the
30 particular record request. The deposit may be in such form as is acceptable
31 to the Town Clerk. The deposit must be paid to the Town Clerk before any
32 work on the request will be done, and the allowed time for the Town to
33 respond to the particular record request does not commence to run until
34 the full deposit is received by the Town Clerk. Once the final amount of
35 the fees and charges required to be paid in connection with the record
36 request is determined by the Town Clerk, the requesting party must pay
37 the balance of the fees to the Town Clerk when the requested documents
38 are delivered by the Town Clerk. If the amount of the deposit paid exceeds
39 the actual amount of the fees to be charged, the Town Clerk will refund
40 the overpayment to the requesting party.

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12.6 If the Town Clerk determines that a particular record request will likely require more than one hour of staff time to complete the Town Clerk may charge a retrieval fee for the time that will be expended in responding to the particular record request. The amount of the retrieval fee is set forth in **Exhibit “A”**. If the Town Clerk requires a deposit to be paid before commencing work on a particular record request the estimated amount of the retrieval fee may be included in the amount of the required deposit.

12.7 If the Town Clerk determines that it is necessary for the Town Attorney to review a particular record request to determine if the production of the requested document(s) would violate the attorney-client privilege that exists between the Town and the Town Attorney, or any other legal privilege prohibiting the public disclosure of such record, the Town Clerk may charge a privilege review fee in the amount set forth in **Exhibit “A”**. The privilege review fee also applies if the Town Attorney is requested or is required to prepare a privilege log describing any document withheld from production because the document is privileged. If the Town Clerk requires a deposit to be paid before commencing work on a particular record request the estimated amount of the privilege review fee may be included in the amount of the required deposit.

12.8 The fees described in **Exhibit “A”** may be changed by the Town Council as part of the adoption of the Town’s annual budget and, commencing April 1, 2015, the fees described in **Exhibit “A”** will automatically be adjusted by the Town Clerk to reflect the increase during the preceding calendar year (if any) in the Consumer Price Index for All Urban Consumers (CPI-U) for All Items for the Denver-Boulder, Colorado area produced by the Bureau of Labor Statistics, or any successor index. No adjustment described in the preceding sentence will operate to reduce the fees charged by the Town under these Amended Regulations. The Town Clerk will from time to time amend **Exhibit “A”** to reflect any changes in the fees without the necessity of readopting these Amended Regulations.

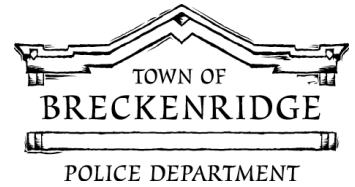
Helen Cospolich, Town Clerk
Town of Breckenridge, Colorado

Exhibit "A"

Fee Schedule

Audio Recordings	
Provided on CD or Flash Drive	\$10.00
Emailed	Free
Digital Reports and Information	
Printed	\$0.25
Provided on CD or Flash Drive	\$10.00
Emailed	Free
Computer reports requiring special programming services	\$75 per hour (after the first hour)
Document certification	\$1.25 per document
Photos	
Printed	\$5.00
Emailed	Free
Faxes (Local or long distance)	\$0.50 per page (must include a cover page)
Maps & Plans – Black and White	
8.5 x 11 inches	\$1.00
11 x 17 inches	\$1.00
24 x 36 inches	\$5.00
Provided on CD or Flash Drive	\$10.00
Emailed	Free
Maps & Plans – Color	
8.5 x 11 inches	\$5.00
11 x 17 inches	\$10.00
24 x 36 inches	\$25.00
36 x 48 inches	\$30.00
Emailed	Free
Photocopies – Black and White, up to 11x17 inches	\$0.25 per one-sided page
Research and Retrieval Fees	\$25 per hour for requests requiring more than one (1) hour of staff time
Town Code	
Town Code plus binder	\$175.00
Yearly supplements	Fee based on a proportional share of prior year's supplement cost
Code book binder only	\$35.00
Transcripts – pursuant to court order only	\$3.50 per page, or current contractor rate for transcription service
Privilege Review Fee/Create Privilege Log	\$25.00/hour

Exhibit "A"



MEMORANDUM

To: Mayor and Town Council
From: Shannon Haynes, Chief of Police
Date: July 2, 2014
Subject: Marijuana Establishments in the Downtown Overlay District

At Council's request staff has gathered information and public input relative to the sale of marijuana in the Downtown Overlay District. Staff has created a synopsis of that information and a variety of options specific to the Downtown Overlay District for Council consideration.

CAST Survey

A survey was distributed to other similar towns with a variety of questions related to the sale of marijuana in the core business district or historic district. We received fourteen responses. Of those, six allow retail sale and eight do not. Those that allow the sale are split evenly on the presence of marijuana sales within the core of town. Of those that do not allow the sale of marijuana, three are considering a change in that restriction. A summary of responses is below. The full document is attached.

No Retail Sale:

Winter Park, Mount Crested Butte, Grand Lake, Avon and Estes Park.

No Retail Sale currently, but may allow in the future:

- Vail has passed 3rd temporary ban on retail sale; ban may last through July 31, 2015.
- Snowmass will consider lifting ban after the next Presidential election.
- Ouray considering a change after a fall vote.

Allow Retail Sale with restrictions:

- Steamboat restricts proximity to schools and parks. Businesses have chosen not to locate in the core.
- Frisco has restricted retail establishments from operating in the core area.
- Dillon will allow retail sale beginning January 1, 2015; will restrict proximity to schools and parks; will preclude retail sale in the Town Center.
- Aspen restricts proximity to schools.

Allow retail sale and provided the following comments:

- Fraser allows retail sale, but not in the historic district.
- Durango will begin taking applications from current medical dispensaries for retail sale on July 1st, 2014. On January 1st, 2015 the City will take applications for new stores. Restrict proximity from schools, rehabilitation centers, and parks with playgrounds.

GoBreck Survey

GoBreck electronically distributed a survey monkey and sent Ambassadors to core businesses to ask for feedback related to the sale of marijuana in the Downtown Overlay District. GoBreck asked if the respondent was an employee, manager or business owner. They then asked, "Do you think this ordinance should change to allow marijuana dispensaries in the downtown area?" They received 90 responses. Of those, 37 came from business owners and 53 from employees/managers. Respondents were provided four potential responses. Those options and the number of responses for each are noted below.

- Neutral – 10
- No, Do Not Allow – 34
- Yes, with location number & restrictions – 25
- Yes, without restrictions – 21

Of the neutral responses, 80% were from employees/managers and 20% were from owners. Of the respondents that do not want retail marijuana sales in the Downtown Overlay district, 38% were employee/managers and 62% were business owners. The percentage split of respondents in favor of retail sales, with and without restrictions, was 70% employee/managers and 30% owners.

A few comments were included in the survey. These are as follows:

"I agree that the presence of marijuana shops (medical or retail; raw or edible) will detract from the authentic appeal of Breck; the town should focus on our wonderful connection with our history, love of year-round outdoor activities and multi-generational offerings. Additionally, the odor of dispensaries is distinct and pungent and will be a tourism deterrent, especially for families visiting Breck and wanting to spend the day strolling downtown."

"Are you kidding? Marijuana stores do not need to locate themselves on Main St. to be successful. They are unique, destination type shops. They will do nothing to enhance the look and feel of Breckenridge if they are on Main St. They will do just fine out of the downtown corridor, however. They are already having plenty of success on Airport Rd. where they remain out of sight and out of mind for the visitors who help sustain our town's economy."

"Vehemently oppose marijuana sales in downtown Breckenridge. Instead create a 'destination' neighborhood on Airport Road (where other stores currently reside) to expand potential retail space."

"Strict restrictions"

"One of the top 5 questions customers ask is where is the nearest pot shop."

"If you are banning this why do you not ban alcohol and tobacco, as well. Both are more harmful than marijuana and more attractive the young and uninformed youth. Far more people die from alcohol abuse (self-inflicted and auto accidents) and smoking (estimated

@ 500,000 per year in the US alone). Is the community vision to promote and support substances that are the cause of abuse and death? Logic, and human concern, would demand a focus on the most harmful of addictions, wouldn't you think?"

Engage Breckenridge Survey

A survey was distributed via Engage Breckenridge. The survey collected demographic data and asked two questions specific to retail marijuana sales in the downtown core. Staff received 215 survey responses and 35 comments. Respondents were broken down as follows: 164 full time residents, 43 business owners/managers, and 41 seasonal or second home owners.

Responses to the questions regarding retail of marijuana in the downtown core are detailed below and a copy of the report and comments are attached.

In your opinion, what effect does allowing for the sale of marijuana in the downtown core have on the Breckenridge Vision?

- Negative – 134
- Positive – 42
- No Effect – 39

Where do you side on allowing sales of marijuana in the downtown core?

- Do not allow it – 121
- Allow it with certain restrictions – 55
- Allow it without any restrictions – 35
- Neutral - 4

Respondent comments were varied with some strongly in favor and some strongly opposed. Common themes included:

- Allow the current shop to continue operating
- Regulate retail marijuana in the core the same as alcohol
- Allow additional shops to open in the core OR allow none to operate in the core
- Do not allow retail sales of marijuana in the core
- Opposition to a monopoly by one business

Below staff has provided a few comments related to the above themes.

"My wife owns and event planning business and I have owned a general contracting business for 14 years. Our office is located right behind the BCC and I see no issues with the store in its current location. We also own the real estate at this location. I think the current rules that are in place are effective and should remain in place."

"In 20 years, marijuana may be viewed as no different than alcohol by the mass majority. But, at present, it still has a negative connotation (which can only have a negative impact to tourism). Thus, in my opinion, it would be best to not have it in the downtown core."

“The only restrictions should mirror alcohol sales. Restricted time of day, controlled sale environment.”

“While I am not a pot user and have children, I do support having one pot shop on Main Street. I don’t think there have been issues with the Cannabis Club, and as I understand it, it has even helped other local businesses on Main Street. I do not believe the Council should allow more than one in the Core.”

“Either allow ALL recreational marijuana shops on Main Street or have them all moved out of the core. It’s not fair business to allow on shop to remain in the center of town, but force all other shops to set up businesses off Main Street”.

Additional Feedback

Additionally, staff received two email comments regarding the presence of retail marijuana in the core. The first opposes allowing retail sale in the core. The second, from a marijuana business owner, opposes allowing one business to have a “monopoly”. Copies of these emails are attached.

Options

Council has a number of options to consider with regard to retail and medical marijuana sales in the Downtown Overlay District. Options and considerations are outlined below.

Option 1: Require the one current retail marijuana establishment to vacate the Downtown Overlay District by September 1, 2014 as required by ordinance. Prohibit retail and medical marijuana establishments in the Downtown Overlay District.

Option 2: Allow only the Breckenridge Cannabis Club to continue operating within the Downtown Overlay District. Prohibit additional retail and medical marijuana establishments.

Option 3: Allow retail and medical marijuana establishments in the Downtown Overlay District without restrictions.

Option 4: Allow retail and medical marijuana establishments in the Downtown Overlay District with restrictions.

Restriction Considerations

Does Council want to cap the number of marijuana establishments in the Downtown Overlay District? If so, what is that number?

Does Council want to prohibit the location of marijuana establishments in the Downtown Overlay District as follows:

- Within five hundred feet (500’) of a licenses childcare facility?
- Within five hundred feet (500’) of any educational institution or school, college or university, either public or private?
- Within five hundred feet (500’) of any halfway house?

- Adjacent to property being used for a residential use; provided the restriction does not apply to an adjacent mixed use building containing both residential and commercial units?
- Within any building or structure that contains a residential unit?
- On the ground floor, if located within the downtown core; or on any floor immediately above and below the sidewalk fronting at street level of any split level structure within the downtown overlay district?
- Within 300 feet of another retail or medical marijuana establishment? Limit the number of establishments per block?

Does Council want to keep current signage and entryway requirements?

Does Council want to prohibit the displacement of residential in the Downtown Overlay district by retail or medical marijuana establishments?

Does Council want to specifically prohibit on sight growing, cultivation, or processing of marijuana on or within a licensed premise located within the Downtown Overlay District?

What other policy direction does the Council want to address regarding retail and medical marijuana operations in the Downtown Overlay District?

I will be present at the work session on July 8th to answer questions and discuss options.

CAST SURVEY FOR THE TOWN OF BRECKENRIDGE: RETAIL MARIJUANA

	MUNICIPALITY	RESPONDENT	QUESTION #1	QUESTION #2	QUESTION #3	QUESTION #4	QUESTION #5	QUESTION #6
			Do you allow retail marijuana businesses in your town?	If you do allow them, do you allow them to be located in your core business district or historic district?	you do allow retail marijuana in Town but not in the core, what were your reasons for not allowing them in the core?	If you do allow them in the core was there a pro/con debate about doing so and what were the pro/con arguments?	If you do allow them in the core have you had any issues with your visitors or locals about having them there?	If you do allow in your core, do you have any special restrictions on where they can be located?
1	Aspen	Linda Manning	Yes	They are allowed in the downtown core. We are currently amending our code that will allow retail in historic landmark buildings, this would include retail marijuana.		We consider retail marijuana as any other type of retail. The only restriction is on the distance to a school.	We have had several hoa's complain when a retail shop is moving in but that is between the hoa and the tenant/landlord. The lease must state that the nature of the business is medical or retail marijuana.	The only restriction we have is they must be located at least 500 feet from a school.
2	Aspen	Steve Barwick	Yes	Yes	N/A	Our experience with medical marijuana shops led us to believe that there would only be minimal issues with recreational sales.	A few people are still opposed to the existence of retail shops. Overall, there are very few issues with either locals or visitors on the subject.	Any retail location.
3	Avon	Virginia Egger	No	<i>Additional Comment: The Town Council prohibited retail marijuana businesses (and all other recreational marijuana businesses).</i>				
4	Dillon	Carri McDonnell	We will be January 1, 2015	The Town Center will not be included. They will be allowed in a portion of Dillon Ridge Marketplace and in one building in the Red Mountain Plaza on Anemone based on setback restrictions established by Council.	Setbacks to schools and parks prohibit them	N/A	N/A	N/A
5	Durango	Ron LeBlanc	Yes	Yes	N/A	Extensive debate. Some were concerned with the impact on "family" destination image (train, college, river, etc.). Others wanted Council to follow the wishes of the voters who approved Amendment 41.	No reaction from visitors yet. Ordinance will go into effect July 1. Existing Medical Centers (8) will be allowed to apply for retail licenses first. On January 1, City will take retail applications for new stores.	1,000 feet from schools and rehab centers, 250 from parks with playgrounds
6	Estes Park	Frank Lancaster	No					
7	Fraser	Jeff Durbin	Yes	Yes (don't have a hist dist)		Yes, but our biz district is much larger than our actual biz center. Our conversation was really more about should they be on "Main St" so they can be more successful (thus more revenue) or should they be located off "Main St" to preserve our "community character."	Don't have a retail shop just yet, expect to soon and it'll be just about a block off "Main St." The only issues we've had to date is NIMBY, put it in somebody else's neighborhood.	Just standard distance separation stuff.
8	Frisco	Bill Efting	Yes	No, they are not allowed on Main Street which is our core	We felt it didn't paint a good picture of downtown Frisco	N/A	N/A	N/A
9	Grand Lake	David Hook	No					
10	Mt. Crested Butte	Joseph Fitzpatrick	No					

11	Ouray	Patrick Rondinelli	No	The City of Ouray currently has a moratorium on retail marijuana business, pending a vote this fall. However, Council has directed us to work on a regulations in the event the voters do approve retail marijuana sales.				
12	Snowmass Village	Gary Suiter	No	Additional Comment: Moratorium until after next presidential election.				
13	Steamboat Springs	Debra Hinsvark	Yes	Only restrict their proximity to schools, parks. But we don't have any in the core by their choice.	N/A	We have a council that feels they should have the same criteria for location as liquor stores as the electorate intended.	None have located in the core.	
14	Vail	Andrew Daly	No	Additional Comment: We are currently reviewing our position so it is subject to change although our recent community survey would indicate that a very strong majority of respondents are against retail sales outlets within the town limits.				
15	Vail	George Ruther	No	No. Just last evening the Vail Town Council acknowledged an interest (7-0) in passing a third temporary ban on the operation of recreational marijuana retail sales in Town. The temporary ban will likely continue through July 31, 2015. In instructing staff to prepare an ordinance for the temporary ban, the Town Council cited an interest in allowing the trends (impacts to tourism, brand, image, compliance, licensing, location, revenue vs. cost, etc.) around retail marijuana to become more established in other resort communities before taking any action. They could find no reason to adopt any new regulations at this time. Given the results of the recently completed community-wide survey, the disparity between the Amendment 64 results and the survey results suggested that the community may have voted in favor of Amendment 64 but is not supportive of recreational marijuana sales in Vail.				
16	Winter Park	Drew Nelson	No					

Results

Council is reconsidering allowing retail sales of marijuana in the downtown core and would like your input.

Question 1

Which best describes your relationship to Breckenridge?

Full-time resident of Breckenridge	164 votes
Seasonal resident or second homeowner of Breckenridge	41 votes
Business owner or manager in Breckenridge	43 votes

Question 2

If you are a business owner or manager, what type of business?

Restaurant	7 votes
Other: Describe please See Idea Report	21 votes
Retail	27 votes
Lodging	15 votes
Professional Service	27 votes

Question 3

If you are a business owner or manager, is your business located within the downtown core?

Yes	61 votes
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No

31 votes

Question 4

In your opinion, what effect does allowing for the sale of marijuana in the downtown core have on the Breckenridge Vision?

Positive

42 votes

Negative

134 votes

No Effect

39 votes

Question 5

Where do you side on allowing sales of marijuana in the downtown core?

Allow it - without any restrictions (see list above)

35 votes

Allow it – with certain restrictions

55 votes

Do not allow it

121 votes

Neutral

4 votes

Submission

Comments

215

32



Survey: Downtown core - marijuana retail sales

Question: Which best describes your relationship to Breckenridge?

Full-time resident of Breckenridge : 164

Seasonal resident or second homeowner of Breckenridge : 41

Business owner or manager in Breckenridge : 43

Question: If you are a business owner or manager, what type of business?

Restaurant : 7

Other: Describe please : 21

Anyone who is considering legal sales of Marijuana in Breckenridge is too high to have any common sense !!! One sighting by a mother and father of a Marijuana sales shop will cause them to never return. I can't believe this is even a questionable issue !!

Commercial rental property

Dog Trainer

home business

I am a past owner of two restaurants in Summit County (I retired from that) and now work for an international organization with contacts in Eagle and Summit Counties....I bring my family up every weekend to ski from Colorado Springs and I also own two time shares in Breckenridge. I have been clean and sober for 24 years.

law enforcement

My wife owns an event planning business and I have owned a general contracting business for 14 years. Our office is located right behind the BCC and I see no issues with the store in its current location. We also own the real estate at this location. I think the current rules that are in place are effective and should remain in place.



One business in Frisco. Another Business in Littleton. I work from Home in Breckenridge.

Photographer, Writer

professional artist, art workshop instructor.

Property Maintenance & Snow Removal

Real Estate

Real Estate Investment Company

retired

Sales & service of services to businesses - I work out of my home, which is not near downtown & am not a storefront business.

ski and snowboard rental

ski shop

Spa

There is nowhere to add comments so I'll put it here. FYI, I am not a prude. I used to smoke weed. Have friends who still do, and I don't have a problem with it. Weed or booze...to each their own. However, there are many people that still have an attitude toward it. People that spend their vacation dollars here. Let's not flaunt it in their faces and get a reputaion as a stoner town. The tourists on a "pot" vacation will still find it if it's off Main Street.

Tour company

Vacation Planning

Retail : 27

Lodging : 15

Professional Service : 27



Question: If you are a business owner or manager, is your business located within the downtown core?

Yes : 61

No : 31

Question: In your opinion, what effect does allowing for the sale of marijuana in the downtown core have on the Breckenridge Vision?

Positive : 42

Negative : 134

No Effect : 39

Question: Where do you side on allowing sales of marijuana in the downtown core?

Allow it - without any restrictions (see list above) : 35

Allow it – with certain restrictions : 55

Do not allow it : 121

Neutral : 4

Comments

Number of Comments 35

Comment 1: The question at hand is going to open up further conversation if BCC is allowed the stay downtown. Then the question becomes a matter of a grandfathered clause vs. potential monopolistic activity. | By Jo S

Comment 2: Zach Y ...The purpose is to decide if the store can stay downtown per being grandfathered into the location, or if the town wants to have them leave main st/downtown to fit within the standards adopted by town council that does not allow for retail marijuana in the downtown corridor. So yes I understand the question quite clearly. Thanks. | By Jo S

Comment 3: It seems the town has a double standard in place saying marijuana is bad and alcohol is good. The two need to be treated the same in my opinion. Why is it all right to allow



over serving of alcohol at events such as Oktoberfest but not all right to have more marijuana shops in downtown? I don't think people should be allowed to smoke marijuana in public places either but allowing Oktoberfest and the various beer festivals definitely shows a double standard. | By Michael B

Comment 4: I believe in the normalization of cannabis consumption. By regulating pot shops in this way, while not liquor stores and bars, it demonstrates a clandestine belief that pot is still an illicit substance. | By Erica R

Comment 5: The Cannabis Club was not handed a favor with their downtown location. They chose it, just as 2 other stores did (MEDICINE MAN and THE LOFT) Those other stores couldn't compete and went out of business. Any stores who located on airport road CHOSE to do so and if they're having buyers remorse it is no ones fault but their own! Also the majority of recreational stores on airport road; especially ALPENGLOW, were opposed to legalization! Heck Alpenglow even commented last fall at town council about how bad it would be for town if marijuana stores existed downtown. Why then would Alpenglow want to take part in something that is bad for town? So as far as fairness goes should they even be allowed to sell retail marijuana after publicly asking voters to deny legalization? It would be nice if consumers would spend their money in stores that supported your right to buy marijuana legally like at Breck organic therapy or the BCC. Boycott Alpenglow! They're bad for the cause, bad at business and bad for Brecks brand!! | By brian R

Comment 6: Either allow ALL recreational marijuana shops on Main Street or have them all moved out of the core. It's not fair business to allow one shop to remain in the center of town, but force all other shops to set up business off Main Street. | By Renee B

Comment 7: What it is...

monopoly

: complete control of the entire supply of goods or of a service in a certain area or market

What it should be...

free enterprise

: a system in which private businesses are able to compete with each other with little control by the government

| By Cassie F

Comment 8: It seems to me that Jo S. and many others do not fully understand the issue at hand. Many people would want to add cannabis shops to the downtown core. Corporations from Denver have already acquired and are setting up cannabis business locations in Summit County. To me, either no shops should be allowed in the downtown core, or all should.



Permitting one business to utilize the financially beneficial aspects of a location, and represent the industry as a whole, while denying the opportunity to other business is wrong.

As other comments have said, Amendment 64 states that cannabis should be regulated like alcohol. While the implementation of this in practice has been obviously not equivalent, I think the spirit of that guideline should be supported whenever possible. In this sense, recreational or medical cannabis dispensaries should be allowed to seek locations and set up businesses anywhere that liquor stores and bars are allowed. | By Zach Y

Comment 9: We are talking about the whole industry here, not just one store. Should Breckenridge allow multiple shops in town to move to the downtown area, including business that are not based out of Breckenridge? Is it fair to allow one business to represent the whole industry, and receive a preferential advantage over all the rest of the MMJ business that are also contributing hundreds of thousands of tax dollars? | By Dan L

Comment 10: I find it a very powerful argument that many of the people on this thread opposed to a shop on Main Street, were unaware that one already exists and has been operating for retail sales since January 1. World travelers, teachers, lawyers, cancer patients, business executives and families alike are traveling to Breckenridge to be a part of a historical movement. Knowledge is power, and the knowledgeable, badged professionals at the BCC in the heart of Breckenridge are swaying the views of even the most skeptical tourists. Many people would never stop by if there was not a shop on Main St., and once they do they leave with new valuable knowledge not found in states run by propagated media. The BCC alone has brought the town hundreds of thousands of tax dollars since January 1, and their primary customers are far from the stereotypical "loafers" and "couch potatoes". In fact, most people are upper and middle class travelers who are between 45-65 years of age. Breckenridge has something to offer for every walk of life and is nestled in one of the most beautiful destinations in the country! Why focus on just one aspect of tourism such as family events? Obviously our beer festivals, free concerts, outdoor recreation, and now marijuana sales ALL play a vital roll in making Breck the tourist destination that it is. | By Lauren H

Comment 11: I propose that Breckenridge allow a limited number of retail cannabis shops in the town core. Although I agree that cannabis should ultimately be regulated like alcohol, I also understand that there is fear around a newly legalized product, and extra regulations will likely be necessary to quell those fears. I support the allowance of cannabis shops on Main Street with one very important contingency. The T.O.B. must allow competition. Giving a monopoly to the BCC for the entire Main Street market is... (and I hate to use this phrase for fear of not being taken seriously) un-American. The foundation of successful industries is healthy competition, and either way that the town chooses to move on this topic, the value of healthy business competition should not be compromised.

Additionally, I am sure the town would like to see licenses go to cannabis business that will be the most professional, compliant, respectful, and profitable. Therefore, they should not grant licenses or locational advantages through lotteries or by giving the existing businesses extra



advantages. As I am sure there are many bright entrepreneurs looking to enter the Breckenridge cannabis market, the town should accept BUSINESS PLANS from each prospect and grant licenses to the BEST PROPOSALS. It will undoubtedly be more upfront work reviewing business plans than just drawing from a lottery or restricting licenses to existing businesses, but the end result —having cannabis businesses in Breck, run by professional business owners who positively represent the industry and provide the town with the most tax revenue — is well worth the effort. | By Leah C

Comment 12: I propose that Breckenridge allow a limited number of retail cannabis shops in the town core. Although I agree that cannabis should ultimately be regulated like alcohol, I also understand that there is fear around a newly legalized product, and extra regulations will likely be necessary to quell those fears. I support allowing the BCC to remain on Main Street with one very important contingency. The T.O.B. must allow competition. Giving a monopoly to the BCC for the entire Main Street market is... (and I hate to use this phrase for fear of not being taken seriously) un-American. The foundation of successful industries is healthy competition, and either way that the town chooses to move on this topic, the value of healthy business competition should not be compromised.

Additionally, I am sure the town would like to see licenses go to cannabis business that will be the most professional, compliant, respectful, and profitable. Therefore, they should not grant licenses or locational advantages through lotteries or by giving the existing businesses extra advantages. As I am sure there are many bright entrepreneurs looking to enter the Breckenridge cannabis market, the town should accept BUSINESS PLANS from each prospect and grant licenses to the BEST PROPOSALS. It will undoubtedly be more upfront work reviewing business plans than just drawing from a lottery or restricting licenses to existing businesses, but the end result —having cannabis businesses in Breck, run by professional business owners who positively represent the industry and provide the town with the most tax revenue — is well worth the effort. | By Leah C

Comment 13: People who choose to perceive Breckenridge as "stoner" central are going to do that regardless of presence shops in town. Colorado is under the microscope right now. I tell people who ask around the country that very little has changed in our state...the transaction just comes with a receipt now. It's naive to think that the usage of marijuana has skyrocketed with legalization. We have laws regarding public consumption for both alcohol and MJ....this is what seems to bother guests. Let's work on that aspect. | By Melissa L

Comment 14: Existing marijuana businesses should not be forced out. But there is no need to add more shops. Breckenridge has enough marijuana shops, and anyone who wants it can get it. Downtown is not the place, but if a business went through the right process years ago to get established, they should not be forced out. Let the one on Main Street stay, but don't allow more. The image of Breckenridge could otherwise dramatically change. The Town has spent a lot of time, money and effort to get Main Street to look great, and it is paying off. Don't reverse that trend by bringing on more pot shops. But at least let the one operator on Main Street



remain in business. | By Chris N

Comment 15: We are not talking about opening more stores downtown! We are talking about whether or not to allow one shop to stay in the downtown corridor. I still find myself perplexed that nobody cares or even wants to compare alcohol to marijuana. They are both legal and are now on the same stage. Breckenridge is not "stoner central," and if you believe that then you may as well define the state of Colorado as a whole.

Michael is right. You either support legal drugs (alcohol, caffeine, marijuana, etc) or you don't. The presence of one store in the downtown corridor is not going to inherently define whether your child eventually decides to partake in LEGAL activity in the future and certainly is not going to define the town as a whole. Those casting judgement are not defining Breckenridge because of a store located downtown, but rather a community that embraces the statewide legalization.

If anything Breckenridge and Council have set a standard for other towns to follow. There is not a shop on every corner and smoking pot downtown is not embraced. For every person that won't visit Breckenridge because of marijuana legalization, someone will visit because of it. And please don't be so naive to think that a family on vacation won't be seeking out this new opportunity.

I believe it is important that there is marijuana representation (limited) somewhere downtown. We are a community that offers the ease of walking up and down Main St. to fulfill the needs of our visitors. We need to embrace that marijuana now is a driving contributor to our local and state economy. By forcing the only downtown location to leave, we are sending a message to everyone that they still need to feel as if there is negative connotation related to the purchase of a legal substance. Is this how we want our visitors to feel? Outcast-ed?!

| By Jo S

Comment 16: The voters of Breckenridge overwhelmingly approved Amendment 64 (I believe by about 74%). The intent of the amendment was to regulate marijuana like alcohol. There are at least two retail alcohol outlets, dozens of businesses serving alcohol and one that is GIVING OUT FREE SAMPLES of the drug in the downtown area! The Town Council has ignored the voters wishes on this issue. Marijuana should be regulated like alcohol.

Older conservatives who are concerned about the message or the opportunity marijuana outlets present to children should take an honest look at what they're saying. If they are opposed to all drugs - including alcohol, nicotine and even caffeine - then I understand. But most objectors are really saying that you can promote the drugs we like but not the one younger people like. The presence and even promotion of alcohol (a very destructive drug) is all-pervasive, a few marijuana outlets are insignificant. | By Michael G



Comment 17: Breck is a family town with lots of little kids, lets keep it that way. Many parents will not like the idea of this being so close to them and their children. Think about the ramifications of your actions before you implement | By Ken W

Comment 18: I am a fiscal conservative and social liberal at heart. That said, a number of my friends with kids have told me they will NOT buy property in Breck or visit here because they perceive Breckenridge as "Stoner Central". Make of that what you will... And while I may be subject to confirmation bias, I saw a lot more "Stoner" behavior on the slopes this March...
| By Leo H

Comment 19: Where you sell pot in Breck isn't going to change where people use it. We need more enforcement in the public areas, particularly on main street and in the ski resort where no one says anything and just grins and bears it as they inhale as they pass by, or are greeted by smoke from the chair in front of them on the way up the lift. What people do in the privacy of their own homes is their business, but when they use in public areas, it's everyone's business and impedes the rights of others.how about giving the general public (including the lifties) a hotline to call in abusers using in public areas? | By Kim R

Comment 20: Where you sell pot in Breck isn't going to change where people use it. We need more enforcement in the public areas, particularly in the resort where no one says anything and just grins and bears it as they inhale from the chair in front of them on the way up the lift. What people do in the privacy of their own homes is their business, but when they use in public areas, it's everyone's business and impedes the rights of others.how about giving the general public (including the lifties) a hotline to call in abusers using in public? | By Kim R

Comment 21: I have visited Breckenridge twice since the new laws were passed. Both times I saw individuals on Main Street smoking in public and smelling up the place...and yes, they looked stoned and acted stoned. Adding more pot shops on Main Street will only increase the number of folks hanging around and smoking. I hear the alcohol argument and can't disagree with you but because one group is already selling a product that causes people to act like idiots does that mean we should encourage the selling of another product that will influence the mood of others? I'm happy to drive to Airport Road to buy my alcohol too if that's what you want but we don't need more shops selling pot on Main Street. | By Craig B

Comment 22: I love the sign at the base of the mountain concerning the illegality of pot on federal lands. We need a second sign to say we do not, and have never enforced marijuana laws. Likewise if you buy, and use pot on main street, there will be no law enforcement.

Legalizing pot has expanded use. Increasing availability of pot on main street will expand use. Is this what we want for our kids? Our town? Our guests? | By Joseph L



Comment 23: I completely agree with Timothy F.. For a town the prides itself on events centered around alcohol, we sure are hypocritical when it comes to another legal substance. It's tiring listening to those with preconceived opinions that marijuana users fit this specific stereotype and will bring a particular visitor to Breckenridge. Let's face it, people aren't purchasing pot and heading outside to smoke it on the curb; it's no worse and definitely no different than a liquor store or a wine shop that finds itself downtown. The same laws and restrictions apply after purchase (oh wait, we turn our head to open containers during parades). We are at the forefront of a new LEGAL industry; it's ok to be uneasy, but let's not be judgmental.

If you polled our local Police and Sheriff, the number of alcohol related incidents would easily exceed that of marijuana incidents, both downtown and residential. Take a look at the new store that just opened next to the pot shop (wait for it... it's a kids store) on Main St... yes Jerry Z., there ALREADY is a shop in downtown Breckenridge and the world has not come to a halting end. I'd go so far as to say that our "off season" didn't even feel like an off season; the streets have been busy... obviously pot has not ruined Breckenridge and our tourist visits.

Let's keep it how it is. Allow the BCC to stay grandfathered in and let's look to continue to enable new shops to open within the restrictions we have already set. This should be seen as an opportunity and less as something so negative.

IMO

. | By Jo S

Comment 24: The old images of all marijuana users being hippies, slackers and loafers are fading away. At my restaurant i serve respectable people and I've never had to ask a person high on marijuana to leave. We have definitely kicked out a few drunks. There are a lot of bars all up and down Main Street, but we're not going to close them cause of a bar fight or two or even a man being murdered on halloween(maybe just that one bar). If Vail resorts thinks this will hurt their image then they should leave! The mountain will continue to be there and people will still go skiing. And from all the stories I've heard about this town(going back to the 60s 70s and 80s) it like trying to turn a brothel into a family fun park. People come to breckenridge, they like to be outside, they like to enjoy themselves. Main Street marijuana sales won't stop them from coming, if anything we may get more business. | By Alessandro L

Comment 25: I'm glad that Council is reconsidering this issue. We don't want tourists having to drive to Airport Road to get their cannabis. Having options in town is in keeping with the constitutional amendment (treating cannabis like alcohol). It appears that there have been no problems so far with BCC on Main Street, and in fact, it seems to be a tourist draw, with people taking their photo in front of their sign. It is appropriate to allow BCC to stay, and appropriate to



allow competition. I favor keeping the original medical marijuana regs in place with recreational dispensaries only allowed on second floors and no marijuana leaf on the sign. | By Leigh G

Comment 26: Turning the downtown district of Breckenridge into a Pot town will not discourage tourism. However, what kind of tourists do we want? Slackers and loafers?

The minute the first pot shop opens on Main St., there will be a hoard of newscasters broadcasting the Breckenridge image all over the world. Is that what Breckenridge should be known for? | By Jerry Z

Comment 27: There is a cannabis shop on Main Street now. | By Leah C

Comment 28: The town of Breckenridge is a brand. Vail Resorts uses the town's brand in its marketing to lure families to visit and vacation in the town. If this town council allows the existing Main Street marijuana storefront to operate past its lease expiration, or allows new retail stores to open on historic Main Street in the future, it will negatively impact the town's image and permanently damage the town's brand.

The town of Breckenridge is a resort community, that relies on a tourist based economy. If the tourists stop coming to Breckenridge, existing businesses in town may close or leave town.

The implications of this decision are far reaching and will negatively impact every single business already in town. | By Paul S

Comment 29: While I am not a pot user and have children, I do support having one pot shop on Main Street. I don't think there have been issues with the Cannabis Club, and as I understand it, it has even helped other local businesses on Main Street. I do not believe the Council should allow more than one in the Core. | By Sarah T

Comment 30: There are over 30 bars in the Breckenridge core. The idea that somehow marijuana sales are somehow less family friendly than alcohol sales is laughable. That is especially the case when you consider the numerous events like Ullr Fest, October Fest, and several beer festivals that encourage people drinking from open containers on the streets.

I think the economic benefits of pot tourism have the potential to far out way the potential losses. | By Timothy F

Comment 31: The Marijuana Division (and Liquor Division) of the Colorado Dept. of Revenue codes offer a substantial amount of control to local municipalities. Proactive towns like ours (in the sense that we seem to be dealing with this issue) can shape and tailor the environment in which this new industry operates. JB K brings up the great point that the north Airport Rd area is now somewhat defined by this industry operating in the only area possible for Breckenridge. That situation seems unfair for the residents and people who were there first. It may be unsavory in a free-market sense, but the TOB, if it wishes, can determine exactly where, how



many, what kind and how large these businesses can be. While the liquor committee (the body making recommendations to Town Council) takes a free-market view in granting liquor licenses, it has considered limiting liquor in some areas before. If we expand sales areas, TOB should consider a high level of regulation. Pun intended. | By Ken N

Comment 32: The end of ski season concerts at the base of Peak 8 was a great example of what the town would be like if the marijuana business was allowed to expand. There was so much pot smoke in the air, we have already decided to not attend them in the future. I am also concerned with the police department's ability to enforce existing marijuana laws. I would also expect some of the local tourist oriented shops being forced out by marijuana shops. | By Richard G

Comment 33: i think the traffic generated by those going to Breckenridge Cannabis Club has only been positive. You don't even know that shop is there. if you are concerned about families "seeing" the marijuana for sale, then restrict it to upper level businesses only but i am fine with it being on street level. we have so many sign restrictions as it so i don't think there will be an overwhelming presence. relegating marijuana sales to the end of airport road is unfair to both the businesses out there and the residents that live there. when my office was next to medicine man dispensary, there was never a single problem. the business was well run, quiet and a good neighbor. | By JB K

Comment 34: In my opinion, selling marijuana in the downtown core can only negatively impact tourism. Breckenridge is known as a family friendly environment. If visitors happen to see rowdy people, many will blame it on the marijuana being sold. In fact, anything that happens, naive visitors will blame it on the marijuana.

In 20 years, marijuana may be viewed as no different than alcohol by the mass majority. But, at present, it still has a negative connotation (which can only have a negative impact to tourism). Thus, in my opinion, it would be best to not have it in the downtown core. | By Richard H

Comment 35: The only restrictions should mirror alcohol sales. Restricted time of day, controlled sale environment. | By Hal V

Public Comments sent via email – Marijuana in downtown core

Monday, June 16, 2014

Dear Members of Town Council:

I have just completed the survey on Engage Breck dealing with the subject of reconsidering the 2009 measure that restricts the sale of marijuana to business locations outside of the downtown district.

I am disappointed that the measure is even being reconsidered. I totally agree with the original thought that these businesses will negatively impact desired tourism, have a negative impact on nearby businesses, and in no way supports our community vision.

No business in the downtown core should have to post a sign in their window that they are "not the marijuana store"

If we must have these business establishments, please keep the current restrictions in place, and away from the downtown core. Thank you.

Andrew B Lewis (sclabl@comcast.net)

June 19, 2014

Dear Breckenridge Town Council Members,

We understand that you are considering a change to your previous position requiring the Breckenridge Cannabis Club (BCC) to vacate their downtown location by September 1, 2014. The decision to allow the BCC to have a monopoly in the downtown area until September was based on Council's desire to be fair to the owners of the BCC and not force them out of business. While that decision allowed the BCC to thrive, it placed the rest of the Breckenridge marijuana businesses at a substantial competitive disadvantage.

We were opposed to that decision but felt that by utilizing best business practices and bringing a high quality product to the market at a reasonable price we could position ourselves as the outlet of choice for tourist and local consumers once we were allowed to do business on a level playing field. To that end, we have partnered with an investor and spent over \$500,000 to acquire real estate adjacent to our existing Breckenridge store and garden. We have also committed to spending an additional \$500,000 to add state of the art production capacity at this new location. These decisions were made based on the belief that the zoning restrictions for marijuana businesses would be uniform beginning in September.

It will be unjust for the Council to now reverse its previous decision and allow only BCC to retain such an advantageous location when others have made substantial business investment

decisions relying on the Council's stated position that no marijuana businesses would be allowed in the core area. BCC has an Airport Road location just like the rest of the marijuana businesses and has already been handed a major opportunity to generate the capital necessary to develop that location and to compete with the other businesses in this industry. With the Council's previous help, BCC should be well positioned to come to Airport Road and prosper.

We implore you to either stand by your decision requiring BCC to move from the core business area or allow the rest of us in. It will be wrong for the Council to pick winners and losers by allowing one business a monopoly over others who have put so much into developing a high quality presence in Breckenridge.

Sincerely,
Charles & Justin Williams, Owners
Alpenglow Botanicals
1805 Airport Road, Breckenridge, Colorado