



**TOWN OF
BRECKENRIDGE**

Town Council Regular Meeting
Tuesday, March 26, 2024, 7:00 PM
Town Hall Council Chambers
150 Ski Hill Road
Breckenridge, Colorado

THE TOWN OF BRECKENRIDGE CONDUCTS HYBRID MEETINGS. This meeting will be held in person at Breckenridge Town Hall and will also be broadcast live over Zoom. Login information is available in the calendar section of our website: www.townofbreckenridge.com. If you will need special assistance in order to attend any of the Town's public meetings, please notify the Town Clerk's Office at (970) 547-3127, at least 72 hours in advance of the meeting.

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF MINUTES

A. TOWN COUNCIL MINUTES - MARCH 12, 2024

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS TO COUNCIL

A. PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

B. BRECKENRIDGE TOURISM OFFICE UPDATE

V. CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2024

VI. NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2024

1. *COUNCIL BILL NO. 7, SERIES 2024 - A BILL FOR AN ORDINANCE AMENDING THE DEVELOPMENT CODE TO CREATE DEFENSIBLE SPACE FOR MITIGATION OF WILDFIRE*

2. *COUNCIL BILL NO. 9, SERIES 2024 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF BRECKENRIDGE AND GONDOLA PROPERTIES, LLC, A COLORADO LIMITED LIABILITY COMPANY ("GONDOLA PROPERTIES"), BGV PARTNERS ENTRADA LLC, A COLORADO LIMITED LIABILITY COMPANY ("BGV ENTRADA"); VAIL SUMMIT RESORTS, INC., A COLORADO CORPORATION ("VSRI"); AND LC BRECKENRIDGE HOLDCO, LLC, A DELAWARE LIMITED LIABILITY COMPANY ("LC BRECKENRIDGE")*

3. *COUNCIL BILL NO. 10, SERIES 2024 - A BILL FOR AN ORDINANCE APPROVING*

AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY KNOWN AS THE ENTRADA PROPERTY AND IN CONNECTION THEREWITH APPROVING AN ANNEXATION AND DEVELOPMENT AGREEMENT FOR THE ENTRADA PROPERTY

4. *COUNCIL BILL NO. 11, SERIES 2024 - A BILL FOR AN ORDINANCE PLACING THE ENTRADA PROPERTY THAT HAS BEEN ANNEXED TO THE TOWN OF BRECKENRIDGE INTO LAND USE DISTRICT 5*

B. RESOLUTIONS, SERIES 2024

1. *RESOLUTION NO. 10, SERIES 2024 - A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN AND THE SUMMIT COUNTY COMBINED HOUSING AUTHORITY PERTAINING TO THE REIMBURSEMENT FOR SERVICES OF THE SCHA EXECUTIVE DIRECTOR*

C. OTHER

VII. PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

B. TOWN PROJECT PUBLIC HEARING - TIGER DREDGE F&B DELIVERY SERVICE PILOT TEMPORARY STRUCTURE

VIII. REPORT OF TOWN MANAGER AND STAFF

IX. REPORT OF MAYOR AND COUNCIL MEMBERS

A. CAST/MMC (Town Manager)

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (Bergeron)

C. BRECKENRIDGE TOURISM OFFICE (Carleton)

D. BRECKENRIDGE HISTORY (Saade)

E. BRECKENRIDGE CREATIVE ARTS (Rankin)

F. CML ADVISORY BOARD UPDATE (Saade)

G. SOCIAL EQUITY ADVISORY COMMISSION (Saade)

H. ARTS & CULTURE MASTER PLAN STEERING COMMITTEE (Beckerman)

X. OTHER MATTERS

XI. SCHEDULED MEETINGS

A. SCHEDULED MEETINGS FOR MARCH, APRIL AND MAY

XII. ADJOURNMENT

I) CALL TO ORDER, ROLL CALL

Mayor Pro Tem Owens called the meeting of March 12, 2024, to order at 7:00pm. The following members answered roll call: Carol Saade, Todd Rankin, Jeffrey Bergeron, Dick Carleton, Jay Beckerman, and Mayor Pro Tem Kelly Owens.

II) APPROVAL OF MINUTES

A) TOWN COUNCIL MINUTES – February 27, 2024

With no changes or corrections to the meeting minutes of February 27, Mayor Pro Tem Owens declared they would stand approved as presented.

III) APPROVAL OF AGENDA

Town Manager Shannon Haynes stated there were no changes to the agenda. Mayor Pro Tem Owens declared the agenda approved as presented.

IV) COMMUNICATIONS TO COUNCIL

A) PUBLIC COMMENT (NON-AGENDA ITEMS ONLY; 3-MINUTE TIME LIMIT PLEASE)

Mayor Pro Tem Owens opened Public Comment.

Richard Himmelstein, a Breckenridge resident, stated he would like to speak about traffic issues on Ski Hill Road and Park Avenue. He stated he would be in favor of a traffic circle in that location. He further stated he would like the Town to do an independent traffic study, and he would like to analyze the needs of workforce housing with the new development.

Jon DeSimone, a Breckenridge resident, agreed with Himmelstein's comments and stated the line up Ski Hill Road went to Shock Hill last weekend and he is concerned about the increasing traffic on Ski Hill Road in general. He further stated he would like to voice support for the diagonal crossing pattern at Ski Hill Road and Park Avenue.

Town Attorney Kirsten Crawford pointed out that all comments related to the Breckenridge Grand Vacations Development project be brought back to the project hearing, which will occur at a later date.

With no additional comments Mayor Pro Tem Owens closed public comment.

VI) CONTINUED BUSINESS

A) SECOND READING OF COUNCIL BILLS, SERIES 2024

1) COUNCIL BILL NO. 5, SERIES 2024 - A BILL FOR AN ORDINANCE APPROVING A SUBORDINATION AGREEMENT WITH FIRST BANK PERTAINING TO STABLES VILLAGE HOMES LLC FINANCING FOR THE STABLES VILLAGE PROJECT

Mayor Pro Tem Owens read the title into the minutes. Town Attorney Kirsten Crawford stated there were no changes to this ordinance from first reading.

Council Member Bergeron asked if the purpose of this agreement is achieving better rates and Crawford stated yes, that is her understanding.

Mayor Pro Tem Owens opened the public hearing.
There were no public comments, and the hearing was closed.

Council Member Bergeron moved to approve COUNCIL BILL NO. 5, SERIES 2024 - A BILL FOR AN ORDINANCE APPROVING A SUBORDINATION AGREEMENT WITH FIRST BANK PERTAINING TO STABLES VILLAGE HOMES LLC FINANCING FOR THE STABLES VILLAGE PROJECT. Council Member Beckerman seconded the motion.

The motion passed 6-0.

2) COUNCIL BILL NO. 6, SERIES 2024 - A BILL FOR AN ORDINANCE AMENDING THE CODE PERTAINING TO WATER SERVICE CHARGES

Mayor Pro Tem Owens read the title into the minutes. Public Works Director James Phelps stated there were no changes to this ordinance from first reading.

Mayor Pro Tem Owens opened the public hearing.
There were no public comments, and the hearing was closed.

Council Member Bergeron moved to approve COUNCIL BILL NO. 6, SERIES 2024 - A BILL FOR AN ORDINANCE AMENDING THE CODE PERTAINING TO WATER SERVICE CHARGES. Council Member Saade seconded the motion.

The motion passed 6-0.

VII) NEW BUSINESS

- A) FIRST READING OF COUNCIL BILLS, SERIES 2024
 - 1) COUNCIL BILL NO. 7, SERIES 2024 - A BILL FOR AN ORDINANCE AMENDING THE DEVELOPMENT CODE TO CREATE DEFENSIBLE SPACE FOR MITIGATION OF WILDFIRE
This ordinance was pulled prior to the meeting as the result of a work session discussion.
 - 2) COUNCIL BILL NO. 8, SERIES 2024 - A BILL FOR AN ORDINANCE ESTABLISHING CRITERIA FOR DETERIORATION OF LANDMARKS AND HISTORIC STRUCTURES IN A MANNER THAT CONSTITUTES DEMOLITION BY NEGLECT
This ordinance was pulled prior to the meeting as the result of a work session discussion.
 - 3) COUNCIL BILL NO. 9, SERIES 2024 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF BRECKENRIDGE AND GONDOLA PROPERTIES, LLC, A COLORADO LIMITED LIABILITY COMPANY (“GONDOLA PROPERTIES”), BGV PARTNERS ENTRADA LLC, A COLORADO LIMITED LIABILITY COMPANY (“BGV ENTRADA”); VAIL SUMMIT RESORTS, INC., A COLORADO CORPORATION (“VSRI”); AND LC BRECKENRIDGE HOLDCO, LLC, A DELAWARE LIMITED LIABILITY COMPANY (“LC BRECKENRIDGE”)
This ordinance was pulled prior to the meeting as the result of a work session discussion.
- B) RESOLUTIONS, SERIES 2024
 - 1) RESOLUTION NO. 9, SERIES 2024 - A RESOLUTION ADOPTING THE TOWN OF BRECKENRIDGE COMPREHENSIVE PLAN AND LAND USE GUIDELINES AS THE TOWN'S ANNEXATION PLAN
Mayor Pro Tem Owens read the title into the minutes. Mark Truckey, Community Development Director, stated this resolution would adopt the Town’s Three-Mile Plan that is required annually by State statute.

Council Member Bergeron moved to approve RESOLUTION NO. 9, SERIES 2024 - A RESOLUTION ADOPTING THE TOWN OF BRECKENRIDGE COMPREHENSIVE PLAN AND LAND USE GUIDELINES AS THE TOWN'S ANNEXATION PLAN. Council Member Saade seconded the motion.

The motion passed 6-0.

- C) OTHER

VIII) PLANNING MATTERS

- A) PLANNING COMMISSION DECISIONS
Mayor Pro Tem Owens declared the Planning Commission Decisions would stand approved as presented.

IX) REPORT OF TOWN MANAGER AND STAFF

Town Manager Shannon Haynes stated she will be gone starting tomorrow, but she will be available if things are needed. She also stated Xcel let us know they are looking at other private property parcels for their storage tanks. Town Manager Haynes stated the Ski Resort is hosting a Peak 9 “Evolution Tour” to talk about development, and when we confirm the day and time staff will let Council know.

X) REPORT OF MAYOR AND COUNCIL MEMBERS

- A. CAST/MMC

Mayor Pro Tem Owens stated CAST was down in Denver, and most of the time was taken discussing legislation. She stated there is interest from many of the CAST members to pursue real estate transfer tax and we are unique in that we already have that in Breckenridge. She also stated it was clear that the Governor wasn't well-versed in that bill. Mayor Pro Tem Owens also stated the property tax bill was pulled and there is an understanding that it will be reintroduced as something totally different so there isn't a reason for the Town to weigh in about that bill right now. She also stated the general tourism sentiment is up this year.

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMISSION
No update.

C. BRECKENRIDGE TOURISM OFFICE
No update.

D. BRECKENRIDGE HISTORY
Council Member Saade stated she wanted to highlight that Breck History is working on an updated resource management plan and prioritizing needs and projects.

E. BRECKENRIDGE CREATIVE ARTS
Council Member Rankin stated March 22 is a talk on Climate Justice as a partnership with HC3.

F. CML ADVISORY BOARD UPDATE
No update.

G. CHILD CARE ADVISORY COMMITTEE
Council Member Beckerman stated this committee will be suspended as the County will be administering funds and the centers and all Towns are working well together. Mayor Pro Tem Owens stated there is still a need for an infant/toddler center so hopefully staff can work on that.

H. SOCIAL EQUITY ADVISORY COMMISSION
No update.

I. ARTS AND CULTURAL MASTER PLAN STEERING COMMITTEE
No update.

XI) OTHER MATTERS

Council Member Bergeron stated that for all of these new developments we should be pushing the use of Allo, and Town Manager Haynes stated President Biden is pushing the FCC to prohibit bulk deals. Council Member Bergeron stated Allo is amazing, and Council Member Carleton stated they have been horrible for him on the commercial side.

Council Member Beckerman thanked Brooke Attebery, Helen Cospolich and Chris Luberto for the launch of the new website, and stated they did a good job launching the site.

XII) SCHEDULED MEETINGS

A) SCHEDULED MEETINGS FOR MARCH, APRIL AND MAY

XIII) ADJOURNMENT

With no further business to discuss, the meeting adjourned at 7:22 pm. Submitted by Helen Cospolich, CMC, Town Clerk.

ATTEST:

Helen Cospolich, CMC, Town Clerk

Kelly Owens, Mayor Pro Tem



Memo

To: Town Council
From: Clif Cross, Planner II
Date: March 20, 2024 (for meeting of March 26, 2024)
Subject: First Reading: Defensible Space

During the last Town Council meeting, staff received feedback on the proposed code amendments to *Policy 22A: Landscaping* and *Policy 48A: Voluntary Defensible Space*. Staff has since worked with community partners and referenced additional state and federal resources to strike the balance between implementing mandatory and voluntary defensible space while protecting the Town's scenic backdrop and community character of a historic mountain town. These code changes better align our defensible space policies with our community partners by refining our Development Code to adhere to both intentions. Flexibility is purposely given to the downtown core area which has a different type of fire risk (e.g. structure to structure spread versus tree canopy).

Structure to structure wildfire risk can be addressed, should the Council direct staff, at a future work session with discussions regarding building materials for structure hardening. However, staff deem it important to proceed with the landscape code changes as we enter the summer season.

Summary of Town Council comments from the March 12 meeting and staff's response:

1. Immediate Zone: Staff has added the following language to the Immediate Zone (0-5') standards regarding the removal of vegetation within the first five feet (5') extending from the structure.

d. All flammable vegetation, such as trees and shrubs, shall be removed from the first five feet (5') extending from the edge of the structure, eaves, decks, and other architectural features, however, properties defined by 9-1-19-22A(C)(2) shall be given special consideration to allow for site buffers and screening to be created, maintained, and protected while still meeting the intent of reducing wildfire fuels.

Staff Comment: Staff notes that 9-1-19-22A(C)(2) refers to the Downtown Core. Further clarification was needed for properties located outside of the Downtown Core in regard to the removal of flammable vegetation within the Immediate Zone (0-5') as Council recommended. However, within the Downtown Core, which is mainly comprised of the National Registered Historic District, staff needs the flexibility to review properties on a case-by-case basis to comply with the preservation of the historic character and aesthetic buffer while implementing defensible space for fire protection. Considering the tight development pattern, minimal setbacks from property lines, and contributing characteristics to our Historic District, staff believes this strikes the balance of the two intentions. Staff has worked with Matt Benedict from Red, White and Blue (RWB) to ensure their comfort with the language. We believe the implementation of this language, and the previously proposed implementation of a non-combustible layer, achieves a higher mark of defensible space than previously allowed.

2. Intergovernmental Agreement Requirements: Staff has removed the last sentence in Section 9-1-19-48A(K) regarding personnel being trained in preserving visual buffers and required landscaping. Staff believes the intent of the policy and language in other sections of the existing code capture the intent of the sentence. Additionally, if an Intergovernmental Agreement were to be drafted in the future, the Town's goals of preserving buffers and required landscaping materials would be embedded within the agreement.

3. Downtown Core Map:

L. Downtown Core Map

Properties that have been identified within the Downtown Core Map feature different fire risk characteristics compared to areas outside of the commercial core. Due to the existing tight urban development pattern and character defining aesthetics encompassed by the National Register Historic District, further consideration must be given to best comply with the intent of the standards outlined above. For example, a limited number of plantings within the Immediate Zone would be able to be installed, maintained, and preserved within this delineated area if the full extent of the standards were applied.

Staff Comment: Staff has worked with RWB to understand their concerns and revise the section to remove the reference to fire breaks from roadways and hard surfaces in the downtown core. RWB staff confirmed their agreement with the revised language.

Staff Recommendation:

Staff recommends the Town Council approve the proposed Code amendments to Policy 22A and Policy 48A at first reading.

Staff will be available at the worksession to answer any questions.

1 COUNCIL BILL NO. ____

2
3 Series 2024

4
5 **A BILL FOR AN ORDINANCE AMENDING THE DEVELOPMENT CODE**
6 **TO CREATE DEFENSIBLE SPACE FOR MITIGATION OF WILDFIRE.**

7
8 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF**
9 **BRECKENRIDGE, COLORADO:**

10
11 **Section 1.** That a new definition be added to section 9-1-5, underlined to read
12 as follows:

13 DOWNTOWN CORE: A delineated land area of the Town established by the Downtown
14 Core Map located in Policy 22A and Policy 48A used to distinguish properties that
15 require additional consideration of the site in regard to the implementation of Defensible
16 Space.

17 **Section 2.** That beginning at subsection C., entitled Required Wildfire Mitigation,
18 of section 9-1-19-22A: Policy 22 (Absolute) Landscaping, the section be amended by
19 deleting the language stricken and adding the language underlined to read as follows:

20 C. Required Wildfire Mitigation:

21 1. The creation of defensible space around structures is required for all new
22 construction and for major remodels¹ that affect the exterior of a structure and/or a
23 structures footprint.

24 2. Properties that are located within the ~~conservation district~~, Downtown Core, and
25 those master planned properties with approved setbacks smaller than the setbacks
26 described in section 9-1-19-9A, "Policy 9 (Absolute) Placement Of Structures", of
27 this chapter, shall be given special consideration to allow for site buffers and
28 screening to be created ~~and~~, maintained, and protected while still meeting the intent
29 of reducing wildfire fuels.

30 3. The following standards shall apply to the creation of defensible space around a
31 structure:

1 a. The property shall be divided into ~~three (3)~~ four (4) zones shown in the table
 2 below. The zones shall measure from the eaves of the building or structure
 3 including attached structures or protrusions, such as a deck on the property.
 4 ~~Zone one shall be measured thirty feet (30') from the eaves of the building or~~
 5 ~~structure including attached structures or protrusions, such as a deck on the~~
 6 ~~property. Zone two shall be measured seventy five feet (75') or greater from the~~
 7 ~~eaves of the building or structure including attached structures or protrusions,~~
 8 ~~such as a deck on the property, depending on slope from the eaves of the~~
 9 ~~building or structure on the property, and shall exclude the portion of the~~
 10 ~~property located within zone one. Zone three shall extend beyond zone two to~~
 11 ~~the property boundary.~~

<u>Zone</u>	<u>Distance</u>
<u>Immediate Zone</u>	<u>0' to 5'</u>
<u>Intermediate Zone</u>	<u>5' to 30'</u>
<u>Extended Zone 1</u>	<u>30' to 60'</u>
<u>Extended Zone 2</u>	<u>60' and greater</u>

12

13 b. Except as may be required to comply with the requirements of title [5](#),
 14 chapter [11](#) of this code concerning mountain pine beetle infested trees, no
 15 portion of any property may be "clear cut" in order to achieve defensible space.

16 c. Except as may be required to comply with the requirements of title [5](#),
 17 chapter [11](#) of this code concerning mountain pine beetle infested trees, no more
 18 trees shall be allowed to be removed than are necessary in order for the
 19 landowner to create defensible space around his or her property.

20 d. Both the horizontal clearance between aerial fuels, such as the outside edge
 21 of the tree crowns or high brush, as well as the vertical clearance between lower

1 limbs of aerial fuels and the nearest surface fuels and grass/weeds, shall be
2 considered when determining compliance with the defensible space
3 requirements of this policy.

4 e. Each property shall be reviewed individually, and the location and other
5 physical characteristics of the property shall be considered. Without limiting the
6 generality of the preceding provisions, the planning commission shall consider
7 the property's proximity to a roadway, parking lot, and other similar areas that
8 create fuel firebreaks. Similarly, large tracts of open space and forest service
9 land that may require larger buffers shall be considered.

10 4. Immediate Zone: The following specific standards apply to the creation of
11 defensible space within the immediate zone ~~one~~ (0-5'):

12 a. All dead and diseased trees, shrubs, and other landscaping materials shall
13 be removed.

14 b. All vegetation and combustible and flammable material shall be removed
15 from under all eaves, decks, and other architectural features. This includes, but is
16 not limited to, mulch, combustible ground debris, flammable plants, leaf and needle
17 clutter, and firewood piles.

18 c. All grasses and ground cover shall be kept under six inches (6") in height;
19 provided, however, plantings in irrigated planting beds, wildflowers or native grasses
20 may exceed six inches (6") during the time the irrigation system is operable only. All
21 plantings in irrigated planting beds must be cut when the irrigation system in no
22 longer operable.

23 d. All flammable vegetation, such as trees and shrubs, shall be removed from the
24 first five feet (5') extending from the edge of the structure, eaves, decks, and other
25 architectural features, however, properties defined by 9-1-19-22A(C)(2) shall be
26 given special consideration to allow for site buffers and screening to be created,
27 maintained, and protected while still meeting the intent of reducing wildfire fuels.

1 e. Additional Firewise landscaping material is encouraged and may be authorized
2 by the development permit.

3 5. Intermediate Zone: The following specific standards apply to the creation of
4 defensible space within the intermediate zone (5' -30'):

5 a. Healthy trees, shrubs, and other landscaping materials that provide visual
6 buffers shall be preserved if they are well spaced so as to reduce the risk of a
7 fire spreading to other vegetation or structures, but shall be pruned to remove
8 dead branches.

9 b. Healthy trees, shrubs, and other landscaping material required by an
10 existing approved landscape plan shall be preserved if they are well spaced so
11 as to reduce the risk of a fire spreading to other vegetation or structures, but
12 shall be pruned to remove dead branches.

13 c. Other healthy firewise trees, shrubs, and other landscaping material shall be
14 preserved if they are well spaced so as to reduce the risk of a fire spreading to
15 other vegetation or structures, but shall be pruned to remove dead branches.

16 d. Irrigated trees, shrubs, and other landscaping material may be preserved if
17 they are pruned to remove dead branches and well spaced to reduce the risk of
18 a fire spreading to other vegetation or structures.

19 e. All dead and diseased trees, shrubs, and other landscaping material shall
20 be removed.

21 ~~f. All vegetation and combustible material shall be removed from under all~~
22 ~~eaves and decks.~~

23 g. All leaf clutter, dead branches, and dead standing trees shall be removed
24 from the property. Dead branches on living trees shall be trimmed to a minimum
25 height of six feet (6') and a maximum height of ten feet (10') above the ground.

26 ~~hg. All grasses and ground cover shall be kept under six inches (6") in height.~~

1 ~~Exception: Plantings located in an irrigated planting bed, and wildflowers or~~
2 ~~native grasses; however, wildflowers and native grasses shall be cut back to~~
3 ~~under six inches (6") in height in the fall of each year once they go to seed. All~~
4 ~~grasses and ground cover shall be kept under six inches (6") in height;~~
5 ~~provided, however, plantings in irrigated planting beds, wildflowers or native~~
6 ~~grasses may exceed six inches (6") during the time the irrigation system is~~
7 ~~operable only. All plantings in irrigated planting beds must be cut when the~~
8 ~~irrigation system is no longer operable.~~

9 ih. All leaf and needle clutter and combustible ground debris shall be removed.
10 Mulch within landscape beds that are irrigated may be maintained at a
11 maximum depth of three inches (3").

12 ii. All firewood shall be removed unless covered by a canvas tarp, or as
13 approved by the fire district.

14 56. Extended Zone One: The following specific standards apply to the creation of
15 defensible space within the extended zone two-one (30'-60'):

16 a. Healthy trees, shrubs, and other landscaping material required by an
17 approved landscape plan shall be preserved.

18 b. Healthy trees, shrubs, and other landscaping material that provide visual
19 buffers shall be preserved if they are well spaced so as to reduce the risk of a
20 fire spreading to other vegetation or structures, but shall be pruned to remove
21 dead branches.

22 c. Other healthy firewise trees, shrubs, and other landscaping material shall be
23 preserved if they are well spaced so as to reduce the risk of a fire spreading to
24 other vegetation or structures, but shall be pruned to remove dead branches.

25 d. Irrigated trees, shrubs and other landscaping material may be preserved if
26 they are pruned to remove dead branches and are well spaced to reduce the
27 risk of a fire spreading to other vegetation or structures.

1 e. All dead and diseased trees, shrubs, and other landscaping material shall
2 be removed. However, one snag per acre may be preserved for wildlife habitat if
3 it is well spaced to avoid the spread of fire to other vegetation or structures.

4 f. Trees shall be thinned to open up crown spacing to a minimum of ~~ten~~ twelve
5 feet (102') between the widest portion of individual crowns of the trees.

6 g. Groups of trees with a minimum of ~~ten~~ twelve feet (102') between the edges
7 of the widest portions of crowns of each grouping shall be preserved to allow
8 buffers to remain and to prevent wind throw.

9 h. Firewood may be maintained if an adequate buffer around the firewood is
10 determined to exist by the fire district.

11 67. Extended Zone Two: The following specific standards apply to the creation of
12 defensible space within the extended zone three two (60' and greater):

13 a. All dead and diseased trees, shrubs, and other landscaping material shall
14 be removed. However, one snag per acre may be preserved for wildlife habitat if
15 it is well spaced to avoid the spread of fire to other vegetation or structures.

16 78. New landscaping installed on a property shall comply with the requirements of
17 subsections C(4), C(5) ~~and~~, C(6), and C(7) of this section.

18 9. The director has the authority from time to time to adopt, amend, alter and repeal
19 administrative rules and regulations as necessary for the proper administration of
20 this policy. Such regulations shall be adopted in accordance with the procedures
21 established by title 1, chapter 18 of this code. The director's administrative rules
22 may include, without limitation, spacing guidelines for trees, shrubs, and other
23 vegetation and, if adopted, shall provide that the allowed distances between
24 vegetation will depend on slopes, vegetation size, vegetation type (trees, shrubs,
25 grass), and other fuel characteristics (including, but not limited to, fuel compaction
26 and chemical content). In the event there is a conflict between these rules and
27 regulations and the ordinance, the ordinance shall control.

1 10. Trees, shrubs, and other landscaping authorized by the director to be removed
2 by the landowner in order to achieve the required defensible space shall be clearly
3 identified in the field and photographed or located by global positioning satellite
4 software by the director.

5 11. Prior to issuing a development permit authorizing the creation of defensible
6 space Town staff shall conduct a physical inspection of each building, structure, or
7 property that is the subject of the application.

8 12. Downtown Core Map

9 Properties that have been identified within the Downtown Core Map feature different
10 fire risk characteristics compared to areas outside of the commercial core. Due to
11 the existing tight urban development pattern and character defining aesthetics
12 encompassed by the National Register Historic District, further consideration must
13 be given to best comply with the intent of the standards outlined above. For
14 example, a limited number of plantings within the Immediate Zone would be able to
15 be installed, maintained, and preserved within this delineated area.

16 **Section 3.** That beginning at subsection C. of section 9-1-19-48A: Policy 48
17 (Absolute) Voluntary Defensible Space, the code be amended by deleting the language
18 stricken and adding the language underlined to read as follows:
19

20 C. Properties that are located within the Downtown Core, and those master
21 planned properties with approved setbacks smaller than the setbacks described in
22 section [9-1-19-9A](#), "Policy 9 (Absolute) Placement Of Structures", of this chapter,
23 shall be given special consideration to allow for site buffers and screening to be
24 created, maintained, and protected while still meeting the intent of reducing wildfire
25 fuels.

26 D. The following standards shall apply to an application for the voluntary creation of
27 defensible space:

1 1. The property shall be divided into ~~three~~ four (34) zones shown in the table
 2 below. The zones shall measure from the eaves of the building or structure
 3 including attached structures or protrusions, such as a deck on the property. Zone
 4 one shall be measured thirty feet (30') from the eaves of the building or structure
 5 including attached structures or protrusions, such as a deck on the property. Zone
 6 two shall be measured seventy five feet (75') or greater from the eaves of the
 7 building or structure including attached structures or protrusions, such as a deck on
 8 the property, depending on slope from the eaves of the building or structure on the
 9 property, and shall exclude the portion of the property located within zone one. Zone
 10 three shall extend beyond zone two to the property boundary.

<u>Zone</u>	<u>Distance</u>
<u>Immediate Zone</u>	<u>0' to 5'</u>
<u>Intermediate Zone</u>	<u>5' to 30'</u>
<u>Extended Zone 1</u>	<u>30' to 60'</u>
<u>Extended Zone 2</u>	<u>60' and greater</u>

11

12 2. Except as may be required to comply with the requirements of title [5](#), chapter [11](#)
 13 of this code concerning mountain pine beetle infested trees, no portion of any
 14 property may be "clear cut" in order to achieve defensible space.

15 3. Except as may be required to comply with the requirements of title [5](#), chapter [11](#)
 16 of this code concerning mountain pine beetle infested trees, no more trees shall be
 17 allowed to be removed than are necessary in order for the landowner to create
 18 defensible space around his or her property.

19 4. In reviewing an application for the voluntary creation of defensible space the
 20 director shall consider both the horizontal clearance between aerial fuels, such as
 21 the outside edge of the tree crowns or high brush, as well as the vertical clearance
 22 between lower limbs of aerial fuels and the nearest surface fuels and grass/weeds.

23 5. Each property that is the subject of an application for the voluntary creation of
 24 defensible space shall be reviewed individually, and the location and other physical
 25 characteristics of the property shall be considered. Without limiting the generality of

1 the preceding provisions, the director shall consider the property's proximity to a
2 roadway, parking lot, and other similar areas that create fuel firebreaks. Similarly,
3 large tracts of open space and forest service land that may require larger buffers
4 shall be considered.

5 DE. Immediate Zone: The following specific standards apply to the creation of
6 defensible space within the Immediate zone one (0'-5'):

7 1. All dead and diseased trees, shrubs, and other landscaping materials shall be
8 removed.

9 2. All vegetation and combustible and flammable material shall be removed from
10 under all eaves, decks, and other architectural features. This includes, but is not
11 limited to, mulch, combustible ground debris, flammable plants, leaf and needle
12 clutter, and firewood piles.

13 3. All grasses and ground cover shall be kept under six inches (6") in height;
14 provided, however, plantings in irrigated planting beds, wildflowers or native
15 grasses may exceed six inches (6") during the time the irrigation system is
16 operable only. All plantings in irrigated planting beds must be cut when the
17 irrigation system is no longer operable.

18 4. All flammable vegetation, such as trees and shrubs, shall be removed from the
19 first five feet (5') extending from the edge of the structure, eaves, decks, and
20 other architectural features, however, properties defined by 9-1-19-22A(C)(2)
21 shall be given special consideration to allow for site buffers and screening to be
22 created, maintained, and protected while still meeting the intent of reducing
23 wildfire fuels.

24 5. Additional firewise landscaping material is encouraged and may be authorized
25 by the development permit.

26 6. To prevent fire spreading by coming in direct contact with structures, a non-
27 combustible, horizontal layer, known as a rock dripline, may be implemented.
28 The follow specific standards apply:

29 a. Properties located within the Downtown Core:

1 A. It is encouraged that structures implement a horizontal clearance
2 area starting at the structure's siding and extending the distance of
3 the eave overhang, or a maximum of three feet (3') to reduce
4 structural ignitability. The clearance area should utilize non-
5 combustible material, such as rock, gravel, sand, cement, or
6 stone/concrete pavers.

7 b. Properties located outside of the Downtown Core

8 A. It is encouraged that structures implement a horizontal clearance
9 area starting at the structure's siding and extending the distance of
10 the eave overhang, or a maximum of five feet (5') to reduce
11 structural ignitability. The clearance area should utilize non-
12 combustible material, such as rock, gravel, sand, cement, or
13 stone/concrete pavers.

14 F. Intermediate Zone: The following specific standards apply to the create of
15 defensible space within the Intermediate zone (5'-30'):

- 16 1. Healthy trees, shrubs, and other landscaping materials that provide visual
17 buffers shall be preserved if they are well spaced so as to reduce the risk of a fire
18 spreading to other vegetation or structures, but shall be pruned to remove dead
19 branches.
- 20 2. Healthy trees, shrubs, and other landscaping material required by a town
21 approved landscape plan shall be preserved if they are well spaced so as to reduce
22 the risk of a fire spreading to other vegetation or structures, but shall be pruned to
23 remove dead branches.
- 24 3. Other healthy firewise trees, shrubs, and other landscaping material shall be
25 preserved if they are well spaced so as to reduce the risk of a fire spreading to other
26 vegetation or structures, but shall be pruned to remove dead branches.
- 27 4. Irrigated trees, shrubs, and other landscaping material may be preserved if they
28 are pruned to remove dead branches and well spaced to reduce the risk of a fire
29 spreading to other vegetation or structures.
- 30 5. All dead and diseased trees, shrubs, and other landscaping material shall be
31 removed.

1 ~~6. All vegetation and combustible material shall be removed from under all eaves~~
2 ~~and decks.~~

3 7. All leaf clutter, dead branches, and dead standing trees shall be removed from
4 the property. Dead branches on living trees shall be trimmed to a minimum height of
5 six feet (6') and a maximum height of ten feet (10') above the ground.

6 ~~87. All grasses and ground cover shall be kept under six inches (6") in height.~~

7 ~~Exception: Plantings located in an irrigated planting bed, and wildflowers or native~~
8 ~~grasses; however, wildflowers and native grasses shall be cut back to under six~~
9 ~~inches (6") in height in the fall of each year once they go to seed. All grasses and~~
10 ~~ground cover shall be kept under six inches (6") in height; provided, however,~~
11 ~~plantings in irrigated planting beds, wildflowers or native grasses may exceed six~~
12 ~~inches (6") during the time the irrigation system is operable only. All plantings in~~
13 ~~irrigated planting beds must be cut when the irrigation system is no longer operable.~~

14 ~~98. All leaf and needle clutter and combustible ground debris shall be removed.~~
15 ~~Mulch within landscape beds that are irrigated may be maintained at a maximum~~
16 ~~depth of three inches (3").~~

17 ~~109. All firewood shall be removed unless covered by a canvas tarp, or as~~
18 ~~approved by the fire district.~~

19 ~~140. Additional firewise landscaping material is encouraged and may be~~
20 ~~authorized by the development permit.~~

21 ~~EG. Extended Zone One: The following specific standards apply to the creation of~~
22 ~~defensible space within the extended zone two one (0'-5'30'-60'):~~

23 1. Healthy trees, shrubs, and other landscaping material required by a town
24 approved landscape plan shall be preserved.

25 2. Healthy trees, shrubs, and other landscaping material that provide visual buffers
26 shall be preserved if they are well spaced so as to reduce the risk of a fire spreading
27 to other vegetation or structures, but shall be pruned to remove dead branches.

28 3. Other healthy firewise trees, shrubs, and other landscaping material shall be
29 preserved if they are well spaced so as to reduce the risk of a fire spreading to other
30 vegetation or structures, but shall be pruned to remove dead branches.

1 4. Irrigated trees, shrubs and other landscaping material may be preserved if they
2 are pruned to remove dead branches and are well spaced to reduce the risk of a fire
3 spreading to other vegetation or structures.

4 5. All dead and diseased trees, shrubs, and other landscaping material shall be
5 removed. However, one snag per acre may be preserved for wildlife habitat if it is
6 well spaced to avoid the spread of fire to other vegetation or structures.

7 6. Trees shall be thinned to open up crown spacing to a minimum of ~~ten~~ twelve
8 feet (~~10~~12') between the widest portion of individual crowns of the trees.

9 7. Groups of trees with a minimum of ~~ten~~ twelve feet (~~10~~12') between the edges of
10 the widest portions of crowns of each grouping shall be preserved to allow buffers to
11 remain and to prevent wind throw.

12 8. Firewood may be maintained if an adequate buffer around the firewood is
13 determined to exist by the fire district.

14 9. Additional firewise landscaping material is encouraged and may be authorized
15 by the development permit.

16 FH. Extended Zone Two: The following specific standards apply to the creation of
17 defensible space within the Extended zone three two (60' and greater):

18 1. All dead and diseased trees, shrubs, and other landscaping material shall be
19 removed. However, one snag per acre may be preserved for wildlife habitat if it is
20 well spaced to avoid the spread of fire to other vegetation or structures.

21 2. Additional firewise landscaping material is encouraged and may be authorized
22 by the development permit.

23 G. The director has the authority from time to time to adopt, amend, alter and repeal
24 administrative rules and regulations as necessary for the proper administration of this
25 policy. Such regulations shall be adopted in accordance with the procedures
26 established by title 1, chapter 18 of this code. The director's administrative rules may
27 include, without limitation, spacing guidelines for trees, shrubs, and other vegetation
28 and, if adopted, shall provide that the allowed distances between vegetation will depend
29 on slopes, vegetation size, vegetation type (trees, shrubs, grass), and other fuel
30 characteristics (including, but not limited to, fuel compaction and chemical content). In

1 the event there is a conflict between these rules and regulations and the ordinance, the
2 ordinance shall control.

3 ~~H. For the purpose of attempting to make certain that tree removal contractors working~~
4 ~~within the town are familiar with the goals of this policy, but not to regulate the means,~~
5 ~~methods, training, equipment, or business practices of tree removal contractors, the~~
6 ~~director shall maintain a list of town approved tree removal contractors. The town makes~~
7 ~~no guarantees or representations whatsoever concerning the qualifications, experience,~~
8 ~~ability, competence, or business practices of any town approved tree removal~~
9 ~~contractor. The town has no liability to any person with respect to the work or business~~
10 ~~practices of a town approved tree removal contractor, and no action at law or in equity~~
11 ~~shall lie against the town as a result of a person being placed on or removed from the~~
12 ~~director's list of town approved tree removal contractors. The director may provide in his~~
13 ~~rules and regulations for the removal of a contractor from the list of town approved~~
14 ~~contractors.~~

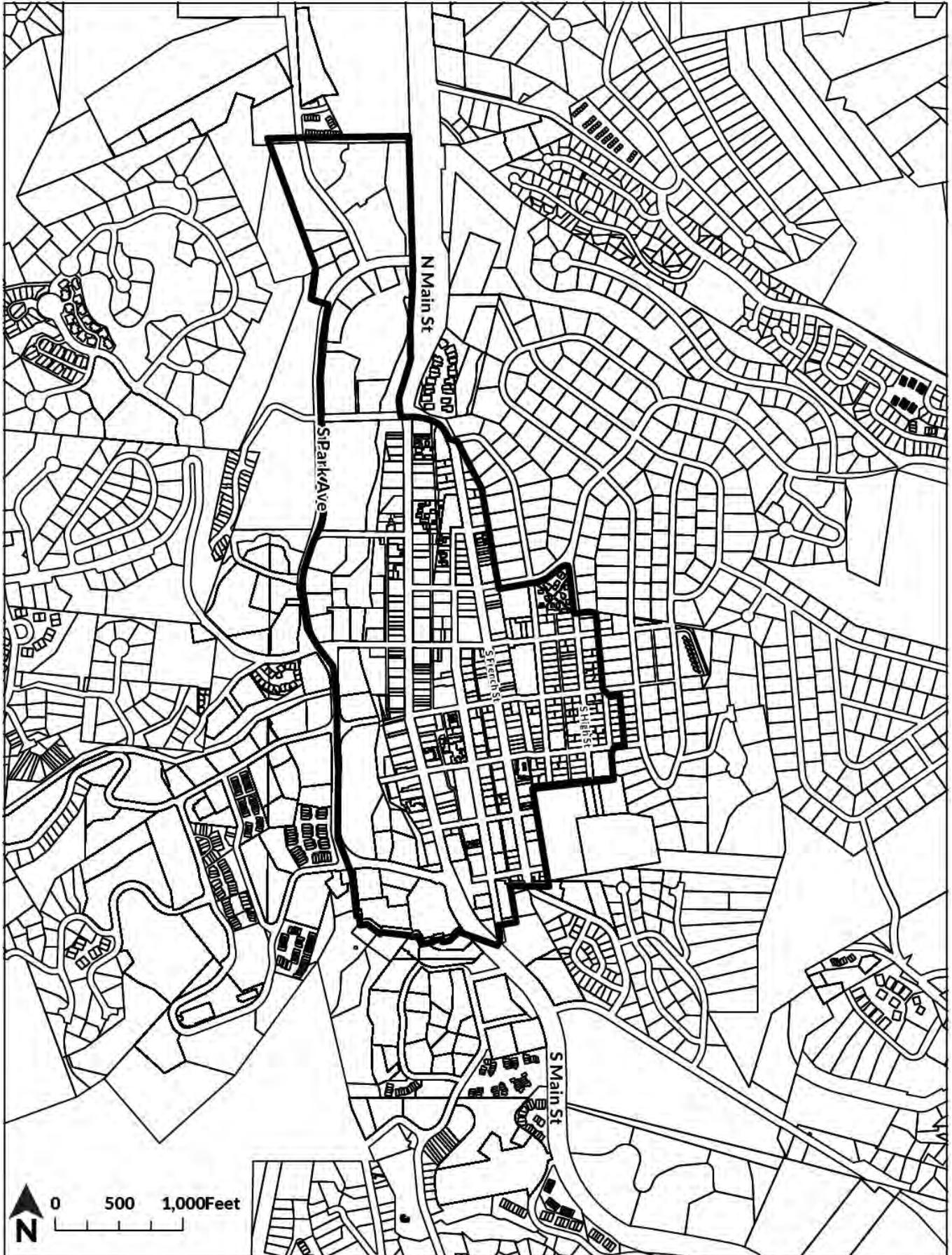
15 ~~IJ. Trees, shrubs, and other landscaping authorized by the director to be voluntarily~~
16 ~~removed by the landowner in order to achieve the required defensible space shall be~~
17 ~~clearly identified in the field and photographed or located by global positioning satellite~~
18 ~~software by the director.~~

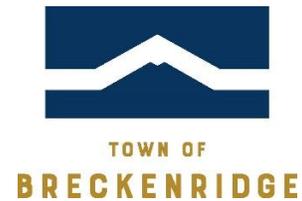
19 ~~JK. The fire district may assist the director in administering this policy if authorized by~~
20 ~~an intergovernmental agreement with the town. The intergovernmental agreement shall~~
21 ~~be consistent with the provisions of this policy Development Code. All personnel~~
22 ~~involved in the enforcement of this policy shall be trained by the director to make sure~~
23 ~~that they are aware of the town's goals of preserving buffers and required landscape~~
24 ~~materials while creating defensible space.~~

25 L. Downtown Core Map

26 Properties that have been identified within the Downtown Core Map feature different fire
27 risk characteristics compared to areas outside of the commercial core. Due to the
28 existing tight urban development pattern and character defining aesthetics
29 encompassed by the National Register Historic District, further consideration must be
30 given to best comply with the intent of the standards outlined above. For example, a
31 limited number of plantings within the Immediate Zone would be able to be installed,
32 maintained, and preserved within this delineated area.

Downtown Core Map





Memo

To: Town Council
From: Planning Staff
Date: March 20, 2024, for the meeting of March 26, 2024
Subject: BGV Peak 8/ Gold Rush Lot Draft Development Agreement (First Reading)

Included in the packet is a Development Agreement for First Reading for the Peak 8/ Gold Rush Lots/ Entrada Sites, collectively Parcels 1-7. Staff, representing the Planning, Engineering and Housing Divisions, finds the proposed Development Agreement is consistent with the direction of the thirteen previous worksessions held between June 2023 and March 2024 and supports its adoption as drafted.

Changes Since the March 12, 2024 Development Agreement Worksession

Based on feedback from the Council's review of the Development Agreement at the March 12th worksession, the applicant has worked with Town staff to revise the Development Agreement in preparation of this First Reading. For ease of comparison, a redlined version of the Development Agreement is included in the packet with the Council Bill and the Clean version of the Development Agreement. Noteworthy changes to the Development Agreement are listed below.

- No Vertical Construction on Parcel 1 – (Page 7, Section 2.3) – This section was amended to eliminate the last sentence “Nothing in this Agreement precludes the Landowner of Parcel 1 and the Town from jointly agreeing through a future agreement process to a different use on Parcel 1”.
- Infrastructure Contribution – (Page 8, Section 2.5) – The applicant worked with the Town Engineer to specifically list the scope of improvements for the Ski Hill Road and Park Avenue intersection the applicant is required to construct without a cap on expenses.
- Parcel 1 Improvement Timing – (Page 12, Section 5.3) – The Parcel 1 improvements are now required to be completed within one year of the first certificate of occupancy on Parcel 2.
- Town and Lessor to Establish Baseline Rents at Three-Year Intervals – (Pages 13 and 14, Section 6.1 (b) (iii), (iv) and (v)) – The applicant met with housing staff to create language that protects long-term affordability of the workforce units while creating a mechanism to review allowances for uncontrollable expenses such as property insurance. The additional language provides for a review by the Town and Lessor every three years and includes review topics to include then current 60% AMI, rents, market conditions, the change in AMI over the three-year period, and uncontrollable expenses such as insurance.
- NRO Lease – (Page 14, Section 6.1 (b) (vi)) – The proposed language is substantially like the previous draft from March 12.
- CDOT Completion Bond – (Page 14, Section 6.1 (d)) – Clarifying language was added that only allows a bond to be utilized in lieu of completion of the roundabout only in cases that are beyond the applicant's control.
- BOEC Commitment - (Page 18, Section 8.1 (b)) – This section was revised to include a commitment of approximately 1,500 sq. ft. of ADA accessible space, as well as an ADA route from the indoor garage to the Peak 8 base.

- BOEC Indoor Parking – (Page 18, Section 8.1 (c)) – This section was revised to require the six dedicated oversized parking spaces to the BOEC are located indoors with ADA access to snow as noted in Section 8.1 (b).
- Parcel 4 Employee Housing Mitigation Terms – (Page 19, Section 8.1 (e) (ii)) – If Parcel 7 is not annexed into the Town, the required employee housing shall be in the Upper Blue Basin, as that term is used in Section 9-1-19-24A.E.2 of the Town Code, and in close proximity to transit.
- REMP Mitigation Prioritization - (Page 20, Section 8.2 (f) (i)) – This section was revised to provide clarification of the Town’s preferred order of priority of the three-step process.
- Parcel 4 Temporary Structures - (Page 20, Section 8.2 (g)) – This section was revised to limit the amount of temporary space to approximately 6,000 sq. ft., the same amount as is obligated to Vail Resorts for administration and guest service in the proposed Parcel 4 building.
- Suitability for Applicant, VSRI and Town – (Page 24, Section 11.2) – The Town is now listed as a party in this section.
- Parcel 1 Lighting - (Exhibit 9) - Additional lighting was added to the Parcel 1 diagram.

Requests from Council that Cannot be Accommodated.

- Diligence of Both Parties to Work towards Entrada Annexation – (Page 24, Section 11.3) – The Town cannot agree to this proposed statement because it shows prejudice on the part of the Town.

Staff and the applicant will be available to answer any questions at the meeting, including any provisions of the Development Agreement that are not highlighted in this memo.

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF BRECKENRIDGE AND GONDOLA PROPERTIES, LLC, A COLORADO LIMITED LIABILITY COMPANY (“GONDOLA PROPERTIES”), BGV PARTNERS ENTRADA LLC, A COLORADO LIMITED LIABILITY COMPANY (“BGV ENTRADA”); VAIL SUMMIT RESORTS, INC., A COLORADO CORPORATION (“VSRI”); AND LC BRECKENRIDGE HOLDCO, LLC, A DELAWARE LIMITED LIABILITY COMPANY (“LC BRECKENRIDGE”).

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

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

A. Gondola Properties is the owner of real property in the Town legally described below and in Exhibit 1 (“Parcel 1”).

LOT 4, GONDOLA LOTS, FILING NO. 2 - AMENDED, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 25, 2023 UNDER RECEPTION NO. 1319752, COUNTY OF SUMMIT, STATE OF COLORADO.

B. VSRI is the owner of real property in the Town legally described below and in Exhibit 2 (“Parcel 2”).

LOT 1B, BLOCK 4, A RESUBDIVISION OF LOT 1, BLOCK 4, PARKWAY CENTER SUBDIVISION FILING NO. 1 AMENDED & TRACT Q, SHOCK HILL SUBDIVISION, ACCORDING TO THE PLAT FILED NOVEMBER 30, 2005 UNDER RECEPTION NO. 807735 COUNTY OF SUMMIT, STATE OF COLORADO.

C. Gondola Properties is the owner of real property in the Town legally described below and in Exhibit 3 (“Parcel 3”).

LOT 1 AND LOT 3, GONDOLA LOTS, FILING NO. 1 - AMENDED, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 25, 2023 UNDER RECEPTION NO. 1319751, COUNTY OF SUMMIT, STATE OF COLORADO.

D. LC Breckenridge is the is the owner of real property in the Town legally described below and in Exhibit 4 (“Parcel 4”).

LOT 4, FOURTH RESUBDIVISION THE REMAINDER OF TRACT C, PEAK 8 SUBDIVISION FILING NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 20, 2018 UNDER RECEPTION NO. 1187721,COUNTY OF SUMMIT, STATE OF COLORADO.

1 E. VSRI is the owner of real property in the Town legally described below
2 and in Exhibit 5 ("Parcel 5").
3

4 A PARCEL OF LAND LOCATED IN A PORTION OF THE REMAINDER OF
5 TRACT C, PEAK 8 SUBDIVISION FILING No. 1 IN SECTION 1, T7S, R78W
6 AND SECTION 36, T6S, R78W OF THE 6th P.M., SUMMIT COUNTY,
7 COLORADO.

8 SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
9 BEGINNING AT THE SOUTHWEST CORNER OF LOT 4, PEAK 8
10 SUBDIVISION FILING No. 1, RECORDED IN THE OFFICE OF THE SUMMIT
11 COUNTY CLERK AND RECORDER UNDER RECEPTION No. 1187721,
12 THENCE ALONG THE EAST LINE OF SAID REMAINDER OF TRACT C
13 S05°36'59"W, 348.85 FEET, THENCE ALONG THE FOLLOWING THREE (3)
14 COURSES AND DISTANCES:

- 15 1. S81°32'31"W, 37.65 FEET S81°32'31"W, 37.65 FEET
- 16 2. N22°54'12"W, 407.45 FEET N22°54'12"W, 407.45 FEET
- 17 3. S84°23'01"E, 231.06 FEET BACK TO THE POINT OF BEGINNING.
- 18 S84°23'01"E, 231.06 FEET BACK TO THE POINT OF BEGINNING.
- 19

20 F. VSRI is the owner of real property in the Town legally described below
21 and in Exhibit 6 ("Parcel 6").
22

23 A PARCEL OF LAND LOCATED IN A PORTION OF THE REMAINDER OF
24 TRACT C, PEAK 8 SUBDIVISION FILING No. 1, A PORTION OF THE ADA
25 PLACER (MS 13744) AND A PORTION OF THE TYRA PLACER (MS 13343),
26 IN SECTION 1, T7S, R78W AND SECTION 36, T6S, R78W OF THE 6th P.M.,
27 SUMMIT COUNTY, COLORADO. SAID PARCEL BEING MORE
28 PARTICULARLY DESCRIBED AS FOLLOWS:

29 BEGINNING AT THE SOUTHEAST CORNER OF TRACT C, PEAK 8
30 SUBDIVISION FILING No. 1, RECORDED IN THE OFFICE OF THE SUMMIT
31 COUNTY CLERK AND RECORDER UNDER RECEPTION No. 1187721,
32 THENCE ALONG THE SOUTH LINE OF TIMBER TRAIL SUB. RECORDED
33 UNDER REC. No. 730224 AND FILED IN THE OFFICE OF THE SUMMIT
34 COUNTY CLERK AND RECORDER THE FOLLOWING THREE (3) COURSES
35 AND DISTANCES:

- 36 1. N63°32'19"E, 141.01 FEET N63°32'19"E, 141.01 FEET
- 37 2. N67°05'19"E, 148.45 FEET N67°05'19"E, 148.45 FEET
- 38 3. N56°47'38"E, 25.66 FEET, N56°47'38"E, 25.66 FEET,
39 THENCE DEPARTING SAID SOUTH LINE THE FOLLOWING TEN (10)
40 COURSES AND DISTANCES:
41 1. S20°08'31"E, 66.15 FEET S20°08'31"E, 66.15 FEET
42 2. 185.78 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A
43 RADIUS OF 200.00 FEET, 185.78 FEET ALONG THE ARC OF A CURVE TO
44 THE RIGHT, HAVING A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF
45 53°13'18" AND A CHORD WHICH BEARS S06°28'08"W, 179.17 FEET.
46 3. S33°04'47"W, 45.55 FEET S33°04'47"W, 45.55 FEET
47 4. S16°15'16"E, 343.70 FEET S16°15'16"E, 343.70 FEET
48 5. S04°00'43"E, 86.48 FEET S04°00'43"E, 86.48 FEET
49 6. S36°33'26"E, 132.68 FEET S36°33'26"E, 132.68 FEET

1 **7. S78°51'48"W, 172.09 FEET S78°51'48"W, 172.09 FEET**
2 **8. N78°33'09"W, 673.06 FEET N78°33'09"W, 673.06 FEET**
3 **9. N12°32'17"W, 219.71 FEET N12°32'17"W, 219.71 FEET**
4 **10. N39°22'25"E, 750.61 FEET TO A POINT ON THE EAST LINE OF SAID**
5 **TRACT C. N39°22'25"E, 750.61 FEET TO A POINT ON THE EAST LINE OF**
6 **SAID TRACT C.**
7 **THENCE ALONG SAID EAST LINE S26°38'02"E, 255.76 FEET BACK TO THE**
8 **POINT OF BEGINNING.**

9
10 G. BGV Entrada is the owner of real property in Summit County (the "County")
11 legally described below and in Exhibit 7 ("Parcel 7").

12
13 **TRACT A2, A REPLAT OF LOTS A1, B1 AND C, ENTRADA AT**
14 **BRECKENRIDGE, ACCORDING TO THE PLAT FILED JULY 24, 2017 UNDER**
15 **RECEPTION NO. 1146781, COUNTY OF SUMMIT, STATE OF COLORADO.**

16
17 H. The owners of Parcels 1, 2, 3, 4, 5, 6, and, 7 (collectively the "Properties") have
18 completed an application and all required submittals for a development agreement, had
19 preliminary discussions of the application and the term of this proposed development
20 agreement, and the Town has determined that it should commence proceedings for the
21 approval of this Development Agreement.

22 I. Section 9-9-5 of the Breckenridge Town Code states the Town Council has the
23 authority to enter into a development agreement.

24 J. Per Section 9-1-17-12: A of the Breckenridge Town Code, a transfer of density
25 from one lot or parcel within the Town to another lot or parcel within the Town may be approved
26 by the Town Council only in connection with the approval of a development agreement and,
27 therefore, a development agreement provides a means for such an approval and transfer.

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

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

36
37 **Section 2.** The Town Council of the Town of Breckenridge hereby approves the
38 Development Agreement, **Att. A** and **Exs. 1** through 11, attached hereto and incorporated by
39 reference.

40
41 **Section 3.** The Development Agreement shall contain a notice in the form provided in
42 Section 9-9-13 of the Breckenridge Town Code. In addition, a notice in compliance with the
43 requirements of Section 9-9-13 of the Breckenridge Town Code shall be published by the Town
44 Clerk one time in a newspaper of general circulation in the Town within fourteen days after the
45 adoption of this ordinance. Such notice shall satisfy the requirement of Section 24-68-103,
46 C.R.S.

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 26th day of March, 2024. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of _____, 2024, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

TOWN OF BRECKENRIDGE

Helen Cospolich, CMC, Town Clerk

Kelly Owens, Mayor Pro Tem

APPROVED IN FORM

Town Attorney

APPROVAL OF THIS DEVELOPMENT AGREEMENT CONSTITUTES A VESTED
PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED
STATUTES AS AMENDED

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is made as of this ____ day of _____, 202__, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the “**Town**”), GONDOLA PROPERTIES, LLC, a Colorado limited liability company (“**Gondola Properties**”), BGV PARTNERS ENTRADA LLC, a Colorado limited liability company (“**BGV Entrada**”); Vail Summit Resorts, Inc., a Colorado corporation (“**VSRI**”); and LC Breckenridge Holdco, LLC, a Delaware limited liability company (“**LC Breckenridge**”). The Town, Gondola Properties, BGV Entrada, VSRI, and LC Breckenridge may collectively be referred to herein as the “**Parties**” and each individually as a “**Party**”.

RECITALS

A. Gondola Properties is the owner of real property in the Town legally described in Exhibit 1 (“**Parcel 1**”).

B. VSRI is the owner of real property in the Town legally described in Exhibit 2 (“**Parcel 2**”).

C. Gondola Properties is the owner of real property in the Town legally described in Exhibit 3 (“**Parcel 3**”).

D. LC Breckenridge is the is the owner of real property in the Town legally described in Exhibit 4 (“**Parcel 4**”).

E. VSRI is the owner of real property in the Town legally described in Exhibit 5 (“**Parcel 5**”).

F. VSRI is the owner of real property in the Town legally described in Exhibit 6 (“**Parcel 6**” and collectively with Parcels 1, 2, 3, 4, and 5, the “**Properties**,” each individually a “**Property**”).

G. BGV Entrada is the owner of real property in Summit County (the “**County**”) legally described in Exhibit 7 (“**Parcel 7**”).

H. Parcels 1, 2, and 3 are subject to and controlled by the Breckenridge Grand Vacations Gondola Lot Master Plan (PL-2021-0052) (the “**Gondola Lot Master Plan**”).

I. Parcels 4, 5, and 6 are subject to and controlled by the Eighth Amendment to the Amended Peak 7 & 8 Master Plan PL-2018-0546 (an amendment to PERMIT #2000155) (the “**Peak 7 & 8 Master Plan**”).

J. The current “**Density**” as that term is used in Section 9-1-19-3A of the Breckenridge Town Code (the “**Town Code**”) and reflected as “**SFEs**” as that term is defined in

Section 9-1-5 of the Town Code, existing in the Gondola Lot Master Plan, the Peak 7 & 8 Master Plan, and Parcel 7 is as follows:

- (1) Gondola Lot Master Plan: 143.0 SFEs;
- (2) Peak 7 & 8 Master Plan: 145.8 SFEs; and
- (3) Parcel 7 (Per Land Use District 5): 14.2 SFEs.

K. BGV Entrada has submitted a petition for annexation to annex Parcel 7 (the “**Annexation**”), and upon the annexation of Parcel 7, BGV Entrada and the Town anticipate setting the terms of the Annexation and the development of Parcel 7 by separate agreement.

L. The Parties desire to articulate a comprehensive and coordinated approach to guide the Properties’ use and development.

M. To that end, the Parties further desire to provide for the following general plan of development for the Properties (collectively, the “**Project**”):

(1) With respect to Parcel 1: To preserve the existing parking lot and improve it with limited grading, drainage and water quality, lighting, and landscaping improvements, and to confirm that the historic, 610 parking-space capacity for winter recreational visitors will be credited toward the 1,560 spaces required under that certain Parking Agreement dated November 11, 2003 and recorded on June 29, 2004 in the records of the Summit County Clerk and Recorder (the “**Records**”) at Reception No. 760358 (the “**Parking Agreement**”) irrespective of any reductions resulting from grading, drainage and water quality, lighting, and landscaping improvements or roundabout improvements, on the understanding that a parking attendant will be provided during the winter recreational season to ensure effective parking utilization;

(2) With respect to Parcel 2: To establish a site for employee housing, on privately owned property, as well as the provision of a minimum of 400 parking spaces, as a continuation of historical use of Parcel 2 for overflow parking, plus any required parking for approved employee housing, for winter recreational visitors that will be credited toward the 1,560 spaces required under the Parking Agreement;

(3) With respect to Parcel 3: To allow up to sixteen (16) duplex units distributed in eight (8) buildings;

(4) With respect to Parcel 4: To provide for development of condominium, hotel, and lock-off units and associated uses (including whole and/or fractional ownership), while preserving and/or providing space for VSRI administrative services and the Breckenridge Outdoor Education Center (“**BOEC**”);

(5) With respect to Parcel 5: To create two (2) lots for single-family residential development;

(6) With respect to Parcel 6: To establish a single-family residential subdivision with up to fourteen (14) homesites;

(7) With respect to Parcel 7: If the Annexation occurs, to allow for development of employee housing on Parcel 7 and to authorize the transfer of Density required to accommodate that employee housing; and

(8) With respect to the Gondola Lot Master Plan and Peak 7 & 8 Master Plan: to accommodate the parcel-specific development contemplated above and to provide for the Density transfers necessary to accomplish that development.

(9) With respect to the intersection of North French Street and Park Avenue: to provide for the construction of a roundabout and certain pedestrian improvements as currently contemplated in the Gondola Lot Master Plan, subject to Colorado Department of Transportation (“CDOT”) review and approval.

(10) With respect to all of the foregoing: the Parties currently anticipate phasing the completion of all vertical and horizontal elements on the Properties and Parcel 7 as follows. The improvements on Parcel 1 will occur on the schedule set forth in Section 5.3. The development of Parcels 2 and 3, the construction of a roundabout and associated pedestrian improvements, and the horizontal infrastructure associated with Parcels 5 and 6 will occur in the first phase; the concurrent development of Parcels 4 and 7 will occur in the second phase. This Subsection 10 reflects the Parties’ present, nonbinding intentions, which are subject to change.

N. The Parties acknowledge that Parcels 4 and 5 will include “accommodation units” as that term is defined in Section 4-6-1 of the Town Code (as the same may be amended from time to time) and more commonly known as “Short-Term Rentals.”

O. In connection with the Project, the Parties anticipate that Density will be transferred to and from the Gondola Lot Master Plan to the Properties, resulting in the following total Density-allocations to each Property:

- (1) Parcel 1: 0.0 SFEs;
- (2) Parcel 2: Up to 21.7 SFEs (with up to 13.9 to be provided by the Town);
- (3) Parcel 3: Up to 30.0 SFEs;
- (4) Parcel 4: Up to 220.0 SFEs;
- (5) Parcel 5: Up to 2.0 SFEs;
- (6) Parcel 6: Up to 14.0 SFEs; and
- (7) Parcel 7: Up to 29.2 SFEs.

P. To provide for the Project’s development, Gondola Properties (including its successors and assigns, “**Applicant**”) anticipates submitting one or more Development Applications to (1) amend the Gondola Lot Master Plan (the “**Gondola Lot Amendment**”); (2) amend the Peak 7 & 8 Master Plan (the “**Peak 7 & 8 Amendment**” and collectively with the Gondola Lots Amendment, the “**Master Plan Amendments**”); (3) provide for the development of one or more of the Properties upon the approval of the Master Plan Amendments. The term “**Development Application**” includes, without limitation, any application for any of the development permits described in Section 9-1-18 of the Town Code as well as any subdivision application under Section 9-2-3 of the Town Code.

Q. To guide the Project and to achieve public benefits desired by the Town, the Town and Applicant desire to establish (1) the commitments Applicant will include in its Development Application(s) and (2) the terms upon which the Town will review and approve Applicant’s Development Application(s) that includes those commitments.

R. The Town Council of the Town of Breckenridge (the “**Town Council**”) is the governing body of the Town, with the legal authority to enter into development agreements conferring “**Vested Property Rights**” as defined in and pursuant to, *inter alia*, C.R.S. §§ 24-68-101 *et seq.* (the “**Vested Property Rights Act**”) and ARTICLE 12 of this Agreement.

S. Pursuant to Section 103 of the Vested Property Rights Act, its legislative authority, and Section 9-1-17-11K of the Town Code, and notwithstanding any provision to the contrary set forth in the Town Code, the Town Council intends that this Agreement will be designated as a “**Site Specific Development Plan**” as that term is defined in the Vested Property Rights Act.

T. Pursuant to Chapter 9 of Title 9 of the Town Code, the Town Council has the authority to enter into a development agreement. Section 9-1-17-12A of the Code requires a development agreement to transfer Density within the Town and between master plans. The Town finds that a development agreement is appropriate to accommodate the Density transfers described below. Section 9-17-11K of the Code further authorizes development agreements to extend vested rights beyond the standard three-year vesting period when “warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles and market conditions.” The Town finds that all of the relevant circumstances support a vesting period beyond the standard three years.

U. Section 9-1-19-39A.L.5 of the Town Code allows the Town Council to authorize the Planning Commission to review and approve (subject to compliance with all other applicable development policies of the town) an amendment to an approved master plan which is not in compliance with the then current Land use District Guidelines (the “**Guidelines**”). The Town finds that the authorizations described below are warranted under the circumstances.

V. The commitments encouraged to be made in connection with an application for a development agreement in accordance with Section 9-9-4 of the Town Code are as hereafter set forth in this Agreement.

W. The Town Council has received a complete application and all required submittals for a development agreement, has had preliminary discussions of the application and this Agreement, determined that it should commence proceedings for the approval of this Agreement and, in accordance with the procedures set forth in Section 9-9-10C of the Town Code, desires to approve this Agreement by ordinance.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, mutual covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto, the Parties agree as follows:

ARTICLE 1 GENERAL PROVISIONS

1.1 Incorporation of Recitals. The foregoing Recitals are incorporated into and made substantive provisions of this Agreement.

1.2 Effective Date. The rights and obligations of the Parties under this Agreement shall commence on the Effective Date as defined in this Section 1.2, except as otherwise set forth herein. The “**Effective Date**” shall be the date upon which the Town Council, by ordinance or otherwise, approves the Agreement.

1.3 Nature of Agreement. As further provided in ARTICLE 12, as between the Parties, this Agreement is a Site Specific Development Plan as that term is defined in Section 102 of the Vested Property Rights Act and constitutes a development agreement granting and establishing Vested Property Rights for a period consistent with Section 12.3 in accordance with Section 104(2) of the Vested Property Rights Act.

1.4 Relationship to Previous Agreements. This Agreement replaces, supersedes and effects the termination of the following agreements, which shall be of no further force and effect with respect to the Properties:

(a) Amended and Restated Development Agreement between the Town and Gondola Lot Properties LLC dated June 12, 2023, and recorded in the Records on June 14, 2023, at Reception No. 1312523;

(b) Development Agreement between the Town and Gondola Lot Properties LLC dated April 14, 2023, and recorded in the Records at Reception No. 1309020 on April 14, 2023.

(c) Amended and Restated Development Agreement between the Town and LH Mountain Ventures, LLC dated July 19, 2019, and recorded in the Records on January 8, 2020, at Reception No. 1217695; and

(d) Development Agreement between the Town and Lionheart BGV Ventures, LLC, dated August 15, 2018, and recorded in the Records on September 28, 2018, at Reception No. 1181305;

1.5 Landowner Cooperation and Consent.

(a) “**Landowner**” shall mean the owner of a legal or equitable interest in any Property, and includes the heirs, successors, and assigns of such ownership interests.

(b) Each Landowner hereby covenants and agrees to reasonably cooperate and consent to Applicant’s preparation, submittal, and pursuit of any Development Application(s) contemplated under this Agreement and the Town’s approval of the same, subject to such Landowner’s prompt prior review and approval of the applicable Development Application, which shall not be unreasonably withheld. In connection with every Development Application contemplated under this Agreement where Applicant and Landowner are not the same person or entity, the Parties acknowledge and agree that Applicant shall be considered Landowner’s “representative” within the meaning of Section 24-68-102(4)(a) of the Vested Property Rights Act, solely with respect to submission to the Town of this Agreement and any Development Application approved pursuant to this Section 1.5(b).

(c) Each Landowner hereby covenants and agrees to reasonably cooperate in the creation, amendment, and/or execution of such further agreements as may be required to effectuate the provisions of this Agreement. By way of example but not limitation, every Landowner shall, if necessary, execute a Density Transfer Covenant to accomplish the Density transfers contemplated in this Agreement, as more particularly set forth in Section 1.6. Notwithstanding the foregoing, VSRI’s obligation to execute Density Transfer Covenants shall be limited to the transfer of 58.0 SFEs from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan, and VSRI shall have no further obligation to transfer Density or execute any Density Transfer Covenant following the successful transfer of the same.

1.6 Density Transfer Covenants. This Agreement contemplates the Town’s authorization of various Density transfers. Pursuant to Section 9-1-17-12 of the Town Code, Density transfers must be evidenced by a written covenant (a “**Density Transfer Covenant**”). For all Density transfers contemplated under this Agreement, the following terms shall apply:

(a) The Density Transfer Covenant shall be in a form substantially similar to that attached hereto as Exhibit 8.

(b) All Parties necessary for any Density transfer contemplated under this Agreement shall execute a Density Transfer Covenant within thirty-five (35) days of the Final, Non-Appealable Approval of a master plan amendment or other Development Application authorizing the Density transfer. (“**Final, Non-Appealable Approval**” shall mean the passage of any time periods within which any referendum, administrative appeal, or request for review of such approval pursuant to C.R.C.P. 106(a)(4) must be brought, without any such referendum, administrative appeal or C.R.C.P. 106(a)(4) action having been filed, commenced or asserted, or, if filed, commenced or asserted, after any such referendum, administrative appeal or C.R.C.P. 106(a)(4) action is resolved with affirmation that such approval is effective.) The first sentence of this Section 1.6(b) shall not apply to any Density transfer contemplated or authorized for Parcel 7, which Density transfer shall

be accomplished as soon as practicable following the Annexation, if the Annexation is approved.

ARTICLE 2 COMMITMENTS (PUBLIC BENEFITS)

In exchange for the development rights conferred by this Agreement, the Town determines that it is in the public interest to recognize and memorialize the public benefits that the Project will provide as set forth below and more fully in this Agreement.

2.1 Density Relocation. The Town acknowledges and agrees that the Density transfers contemplated in this Agreement will relocate Density from the Town core to the Peak 8 base area, which is a more appropriate development location. The Town further acknowledges that the contemplated transfers will relocate approximately seventy-four (74) percent of the currently available Density away from Town core (approximately sixty-three [63] percent to the Peak 8 base area, and approximately eleven [11] percent to Parcel 7), and, after all density transfers occur, Density within Gondola Lot Master Plan will be reduced by approximately sixty-four (64) percent.

2.2 Development Intensity Reduction. The Gondola Lots Master Plan protects and provides for Density to be used in the Town core under an earlier version of the Town Code. The Town acknowledges and agrees that as the result of later modifications to the Town Code that will apply to development contemplated under this Agreement, the Density contemplated in this Agreement is anticipated to reduce development intensity as compared to the existing approved Gondola Lot Master Plan by approximately 90,000 square feet.

2.3 No Vertical Construction Proposed on Parcel 1; Parking Improved on Parcel 2. Upon approval of the Development Application(s) contemplated in this Agreement, Parcel 1 will remain as a surface parking lot for winter recreational visitors. Drainage and water quality, landscaping, and lighting will all be improved as set forth in ARTICLE 5, and, as more particularly set forth in ARTICLE 6, no parking structure will be erected on Parcel 2 and the existing surface parking lot on Parcel 2 will also be improved by Applicant.

2.4 Employee Housing. The Town acknowledges and agrees that the Agreement:

(a) Provides for, on private property, critically needed employee housing for the community beyond the employee housing that would be required by the Town Code;

(b) Does not require any construction costs to be incurred by the Town for any of the employee housing contemplated in this Agreement;

(c) Obligates Applicant to provide up to 7.8 SFEs of market-rate Density on Parcel 2, which reduces the need for Town-transferred Density for employee housing on that parcel; and.

(d) For Parcel 4, requires Applicant to provide employee housing in compliance with the Town Code on Parcel 7, if the Annexation is successful, or elsewhere if it is not. Additionally, if the Annexation is successful and Applicant constructs employee housing on Parcel 7, any housing constructed beyond that required to satisfy the employee housing

requirements for the development of Parcel 4 shall not be “banked” or “reserved” to satisfy the employee housing obligations of future developments and shall instead represent a public benefit.

2.5 Infrastructure Contribution. Subject to CDOT review and approval and provided circumstances beyond Applicant’s control do not prevent Applicant from complying with the timing set forth herein, prior to issuance of any certificate of occupancy for Parcel 3, Applicant shall design and construct Park Avenue and Ski Hill Road intersection improvements, which shall be limited to signage, ADA compliant pedestrian facilities (e.g., ramps and push buttons), and turn-lane restriping for eastbound and westbound movements as described in the East Peak 8 Traffic Impact Study Update (July 2023).

2.6 Sol Center Contribution. Applicant shall, within a reasonable time following the Family & Intercultural Resource Center’s (“FIRC”) written request, contribute \$2.0 million toward the FIRC/Building Hope capital fundraising campaign for use toward the Sol Center.

2.7 Cucumber Gulch Improvements.

(a) Prior to issuance of any certificate of occupancy for any building on Parcel 4, Applicant will establish with the Town an environmental improvement fund dedicated to ecosystem and habitat improvements to protect Cucumber Gulch funded by a fee of \$2/rental room per night in perpetuity.

(b) Prior to issuance of any certificate of occupancy for any building on Parcel 4, Applicant shall make a one-time \$125,000 contribution to the Town for constructed improvements or other management or conservation expenses in Cucumber Gulch.

2.8 Vehicle Trips. As set forth more particularly in ARTICLE 8, vehicle trips on Ski Hill Road will be reduced through the construction of the required employee housing for Parcel 4 on Parcel 7 or otherwise off-site as allowed by Absolute Policy 24/Social Community subsection F.1.a.(iv).

ARTICLE 3 GONDOLA LOT MASTER PLAN AMENDMENT

Upon and from Applicant’s submission of a complete Development Application for the Gondola Lot Amendment, the Town covenants and agrees that the Town shall:

3.1 Recognize that 143 SFEs of Density exist under the Gondola Lot Master Plan. The 143 SFEs do not include the fifty-eight (58) SFEs of Density to be transferred by VSRI, including up to two (2) SFEs to be used as commercial SFEs, that were intended to be transferred to Parcel 4 but for which no Density Transfer Covenant was ever entered into or recorded.

3.2 Specify total proposed Density and allocate Density to the Properties as follows:

(a) Parcel 1: 0.0 SFEs

(b) Parcel 2: Up to 21.7 SFEs (provided that the Town transfers 13.9 SFEs of Town Density as more fully set forth in Section 6.1(a)); and

(c) Parcel 3: Up to 30.0 SFEs.

3.3 Authorize the transfer of Density from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan, allow any new Density transfer into the Gondola Lot Master Plan for the construction of employee housing on Parcel 2, and specify total overall Density for the Gondola Lot Master Plan without the assignment of negative points under any “**Relative Policy**” or the failure of an “**Absolute Policy**” as those terms are defined in Section 9-1-5 of the Town Code. This includes, but is not limited to, a waiver from Absolute Policy 39/Master Plans 9-1-19-39A subsection I regarding Density and acknowledgment that no modification to any of the underlying Guidelines is necessary.

3.4 Require separate Density Transfer Covenant(s) for the transferred Density.

3.5 Grant a waiver from Absolute Policy 39/Master Plans 9-1-19-39A. subsection L.3 that requires a master plan to be brought into compliance with the current development policies of the Town when amended to the extent necessary to accommodate the more particular provisions set forth in this Agreement.

3.6 Recognize and carry forward the existing applicable Gondola Lot Master Plan Point Analysis, as reflected in PL-2021-0052, as allowed by Development Code Section 9-1-17-3.5 Duration of Point Assignments.

3.7 As authorized by Section 9-1-17-11K of the Town Code, establish a vesting period of five years for the Gondola Lot Master Plan, beginning from the date the Gondola Lot Amendment becomes effective.

ARTICLE 4 PEAK 7 & 8 MASTER PLAN AMENDMENT

Upon and from Applicant’s submission of a complete Development Application for the Peak 7 & 8 Amendment, the Town covenants and agrees that the Town shall:

4.1 Acknowledge that a total of 145.8 SFEs exist in the Peak 7 & 8 Master Plan. This includes the total remaining entitled Density for the Peak 8 Base Area of the Peak 7 & 8 Master Plan of 71.6 Residential SFEs, 9.0 Commercial SFEs, and 7.2 Guest Service Facilities SFEs and the fifty-eight (58) SFEs, including up to two (2) SFEs to be used as commercial SFEs, to be transferred from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan as currently reflected in those master plans, and as reflected in Staff Reports PL-2018-0576 and PL-2018-0546.

4.2 Authorize a Density transfer into the Peak 7 & 8 Master Plan area, from the Gondola Lot Master Plan, in excess of the existing Peak 7 & 8 Master Plan allowance and

underlying Guidelines without the assignment of negative points under any Relative Policy, the failure of an Absolute Policy, or need to modify the underlying Guidelines. This also includes a waiver from Absolute Policy 39/Master Plan, 9-1-19-39A subsection I regarding Density.

4.3 Concurrently process a Development Application or Applications for the subdivision of Parcels 5 and 6 to create individual residential lots, provided that the application(s) are complete and comply with the provisions of Chapter 2 of Title 9 of the Town Code (“**Subdivision Standards**”) and on the condition that a restrictive covenant (the “**Restrictive Covenant and Deed Restriction**”) will be recorded in title to the further subdivided lots so established on Parcels 5 and 6 (each, a “**Lot**”, and collectively, the “**Lots**”) providing as follows:

(a) Applicant shall designate a minimum of eight (8) of the Lots as restricted lots (each, a “**Restricted Lot**” and collectively, the “**Restricted Lots**”) that cannot be sold or conveyed to a third party until (i) the Town issues a temporary or final certificate of occupancy for the employee housing contemplated on Parcel 2; and (ii) CDOT accepts the roundabout improvements or Applicant posts the security contemplated in Section 6.1(d) (the “**Restricted Lot Release Conditions**”).

(b) Applicant shall have the right, from time to time in its sole discretion, and with written notice to the Town but without the requirement of further consent or action by the Town, to designate or redesignate any of the Lots a Restricted Lot, so long as a minimum of eight (8) of the Lots remain Restricted Lots until the Restricted Lot Release Conditions are satisfied.

(c) Upon satisfaction of the Restricted Lot Release Conditions, the Town shall promptly terminate the Restrictive Covenant and Deed Restriction by recording an instrument evidencing such termination. The Town’s Community Development Director is authorized to execute and record such termination upon confirmation that the Restricted Lot Release Conditions have been satisfied.

4.4 Specify total proposed Density, including the previous fifty-eight (58) SFEs of Density with up to two (2) SFEs to be used as commercial SFEs, and allocate Density to the Peak 7 & 8 Master Plan’s planning areas and/or specific sites in the Peak 7 & 8 Master Plan as follows:

- (a) Parcel 4: Up to 220 SFEs
- (b) Parcel 5: Up to two (2) SFEs; and
- (c) Parcel 6: Up to fourteen (14) SFEs.

4.5 Require separate Density Transfer Covenant(s) for the transferred Density.

4.6 Provided the Peak 7 & 8 Amendment includes a sufficiently specific request for the following, create new development locations in the Peak 7 & 8 Master Plan’s Planning Areas with Density and use assignments, without the assignment of any negative points, failure of an Absolute Policy, or the need to modify the underlying Guidelines, for the following:

- (a) Parcel 5; and

(b) Parcel 6.

4.7 Recognize and find that (a) the Peak 7 & 8 Master Plan was first adopted prior to October 17, 1994; (b) the Peak 7 & 8 Master Plan contains provisions which are materially inconsistent with the current Guidelines; (c) a legal and factual basis exists for the assertion the Landowners of Parcels 4, 5, and 6 have vested property rights under the existing master plan; and (d) there are significant public benefits which will result from the approval of the amendment to the master plan without requiring compliance with the current Guidelines, and that therefore, pursuant to Absolute Policy 39/Master Plans 9-1-19-39A subsection L.5, the Peak 7 & 8 Master Plan may be amended without requiring compliance with the then current Guidelines.

4.8 Grant a waiver from Absolute Policy 39/Master Plans 9-1-19-39A subsection L.3, which requires master plans to brought into compliance with the Town's then current development policies and master plan, to allow existing provisions of the Peak 7 & 8 Master Plan to be carried forward.

4.9 Recognize and find that the Peak 7 & 8 Master Plan is located in two (2) or more land use districts and that Absolute Policy 39/Master Plans 9-1-19-39A subsection I.2 therefore allows density to be reallocated notwithstanding Section 9-1-17-12's density transfer requirements, and acknowledge that no modification to the underlying Guidelines is necessary.

4.10 Per 9-1-17-3.5, Duration of Point Assignments, recognize and continue to apply the Amended Peak 7 & 8 Master Plan Point Analyses from the original Permit #2000155. By way of example but not limitation, the Town shall use the point analysis from the Seventh Amendment to the Peak 7 & 8 Master Plan (PL-2017-0697, Class A, Combined Hearing - A Modification to PERMIT #2000155) and the point assignments set forth therein.

4.11 Extend vesting of the Peak 7 & 8 Master Plan from November 8, 2025, to November 8, 2032 as allowed by 9-1-17-11K of the Town Code.

ARTICLE 5 PARCEL 1

5.1 With respect to Parcel 1, any Development Application shall comply with the following terms:

(a) The configuration of the proposed use and improvements shall be similar to the DTJ Design conceptual plan reviewed and endorsed by the Town Council on November 28, 2023, updated on March 12, 2024, and attached hereto as Exhibit 9 (the "**Parcel 1 Concept Plan**").

(b) Stormwater facilities and practices will be designed, constructed, and/or implemented pursuant to the standards set forth in Chapter 6 of the Town's Engineering Design and Construction Specifications.

(c) A limited amount of landscaping will be provided to the extent compatible with snow storage locations and stormwater and/or water quality improvements. Subject

to staff design suggestions, additional landscaping will be installed on the northern and eastern portion of Parcel 1 as requested by the Town Council.

(d) A limited amount of Dark-Sky lighting will be provided to the extent required for pedestrian safety. Over-lighting the site is discouraged, and lighting shall be kept to a minimum that still allows for pedestrian safety.

(e) A parking attendant shall be provided on-site while Breckenridge Ski Resort is open to the public for lift-accessed skiing to facilitate vehicle parking on the lot from opening to 3:00 p.m., or until the lot is filled, whichever is first to occur.

5.2 Upon and from Applicant's submission of a Development Application or Applications consistent with the provisions of Section 5.1, the Town covenants and agrees that the Town shall:

(a) Consistent with definition of "Development" and Town Council's discretion under Section 9-1-5C of the Town Code, and in recognition that no Density will be required, refrain from considering improvements depicted on the Parcel 1 Concept Plan and/or described in Section 5.1(a)-(d) (collectively, the "**Parcel 1 Improvements**") as, "Development"; refrain from assigning any negative points under a Relative Policy or the failure of an Absolute Policy; and not apply the Town's Off-Street Parking Regulations.

(b) Acknowledge that no modification to the underlying Guidelines is required.

(c) Acknowledge and agree that Parcel 1 has historically provided, and following the construction of the Parcel 1 Improvements, will, with the support of the required attendant, continue to provide 610 vehicle parking spaces toward the 1,560 parking spaces required under Section 1.G of the Parking Agreement. None of the Parcel 1 Improvements shall be construed as diminishing this acknowledged and agreed 610-space capacity.

(d) Include all terms concerning the contemplated Parcel 1 Improvements, as set forth in the above Section 5.1 in the amended Gondola Lot Master Plan, including without limitation recognition of the 610 qualifying spaces.

5.3 Following Final, Non-Appealable Approval of the Gondola Lot Amendment upon the terms set forth in Section 5.2, Applicant shall submit to the Town a site plan application for approval of the Parcel 1 Improvements, in substantially the form depicted on the Parcel 1 Concept Plan, with the addition of the Town Council-requested improvements. This site plan application shall be independent of any other site plan application(s) in the Gondola Lot Master Plan boundaries and the Town's conditional obligations set forth in Section 5.2 shall continue to apply in connection with its consideration of such site plan application. The Parcel 1 Improvements will be implemented by Applicant in stages and shall be substantially completed within one year following the issuance of a final certificate of occupancy for all improvements on Parcel 2 or within six (6) years from the Effective Date, whichever is earlier.

ARTICLE 6
PARCEL 2

6.1 With respect to Parcel 2, any Development Application shall comply with the following terms:

(a) Applicant and the Town will make available to Parcel 2 Density sufficient to construct employee housing beyond that required by the Town Code as follows:

(i) Applicant will provide up to 7.8 SFEs of Density; and

(ii) The Town will provide up to 13.9 SFEs of Density upon or before issuance of a building permit for the employee housing contemplated for Parcel 2.

(iii) A separate Density Transfer Covenant shall be required to transfer the Town-supplied Density.

(b) Applicant shall cause to be constructed forty-eight (48) bedrooms of employee housing in eight (8), six-plex dorm-style units with each bedroom to include its own bathroom, or in such other format as Applicant and the Town may in writing agree upon, per Absolute Policy 24/Social Community, and shall provide an executed covenant consistent with Policy 24 and the Town’s Administrative Housing Rules and Regulations as follows:

(i) **Minimum Lease Term:** When rental of an employee housing unit is authorized, the owner/master lessor (“**Lessor**”) shall be authorized to set the length of the lease, provided that no unit shall be used as an Accommodation Unit, as that term is defined under the Town Code. Any such tenancy approved by the Town shall be to a person meeting the definition of a Qualified Occupant under the Town Code. Unrelated roommates must all be Qualified Occupants;

(ii) **Short-Term Rentals Prohibited:** Rental units shall not be used for or be eligible for Short-Term Rental as defined in Title 4 of the Town Code;

(iii) **Rent:** Rent shall include electric, gas, water, sewer, trash, snow removal costs, and property insurance (collectively, “**Rent**”). Subject to Section 6.1(b)(v), Rent for all Town and Applicant provided Density will be limited to approximately 85% of a 60% Area Median Income (“**AMI**”) studio unit rental rates per bedroom for dormitory style units as specified in the Summit County Housing Authority 2023 Summit County Area Median Income (AMI) Table. The Parties acknowledge and agree that this equates to a Rent of \$989.40 per bedroom per month as of the Effective Date;

(iv) **Annual Rent Increase:** Beginning from the Effective Date, Rent will escalate at 2.0% annually until construction is completed and the improvements on Parcel 2 receive a final certificate of occupancy, at which point Rent will escalate at a maximum of 3.0% annually for the next three (3) years;

(v) **Baseline Rent Review:** Beginning three (3) years from the issuance of a final certificate of occupancy for the improvements on Parcel 2, and every three (3) years thereafter, the Town and Lessor will confer and establish the baseline Rent for the next three-year period, which shall be set at a rate not less than the Rent charged on the final day of the three-year period preceding the conferral. To preserve affordability while allowing reasonable cost recovery for Lessor, in establishing the new mutually acceptable baseline rent, the Town and Lessor shall take into account the following: (a) the general target of 85% of a 60% AMI studio unit rental rate per bedroom; (b) the then-current 60% AMI, then-current Rent, market conditions, and the change in AMI over the last three (3) year period; and (c) changes in uncontrollable expenses such as property insurance. Following establishment of the new baseline Rent, Rent shall continue increase in accordance with Section 6.1(b)(iv) until the Town and Lessor establish a new baseline Rent as required under this Section 6.1(b)(v); and

(vi) **Seasonal Vacancy:** Lessor will offer any seasonal vacancy to local community non-profit organizations for use pending availability and subject to Lessor's reasonable discretion.

(c) To facilitate a safe Park Avenue crossing for winter recreational parking lot users, upon the issuance of a final certificate of occupancy for the improvements contemplated on Parcel 2, Applicant shall provide an electric shuttle connection from the contemplated Parcel 2 parking area to the BreckConnect Gondola and/or Breckenridge Station transit center on Watson Avenue when the parking lot is open to winter recreational visitors. Subject to CDOT review and approval, no later than two years after the Town's and CDOT's approval of the same, Applicant shall install Park Avenue/French Street pedestrian improvements, such as at-grade crosswalk striping, push buttons, signage, pedestrian refuge islands, or barriers in Park Avenue to the extent permitted by the Town, CDOT, and any other applicable regulatory entity.

(d) Subject to CDOT approval, Applicant will complete a roundabout at the intersection of North French Street and Park Avenue and prior to the issuance of a final certificate of occupancy for the employee housing contemplated in Section 6.1(b), or, if, for reasons beyond Applicant's control, Applicant is unable to complete the roundabout prior to the issuance of such certificate of occupancy, Applicant shall post a completion bond in an amount sufficient to guarantee the roundabout's completion. Notwithstanding any provision to the contrary in this Agreement, the Parties acknowledge and agree that Applicant's obligation to complete the roundabout contemplated in this Section shall not be considered a public benefit and shall be eligible for an award of positive points.

(e) Stormwater facilities and practices will be designed, constructed, and/or implemented pursuant to the standards set forth in Chapter 6 of the Town's Engineering Design and Construction Specifications.

6.2 Upon and from Applicant's submission of a Development Application or Applications consistent with the provisions of Section 6.1, the Town covenants and agrees that the Town shall:

(a) Permit the Density transfers contemplated in Section 6.1(a) in excess of the existing Gondola Lot Master Plan Density and underlying Guidelines without the assignment of negative points under any Relative Policy or the failure of any Absolute Policy arising from such transfers at the time of master plan amendment and/or site plan review, or the need to amend the underlying Guidelines to accomplish such transfers.

(b) Acknowledge and agree that the 400 winter recreational parking spaces on Parcel 2 (or other proposed and approved amount) will count towards the overall 1,560 total parking space requirement of Section 1.G of the Parking Agreement.

(c) In recognition of the historical and proposed vehicle parking, consistent with the Parking Agreement, grant waivers from Absolute Policy 2/Land Use District Guidelines and Relative Policy 2/Land Use District Guidelines for the parking lot use.

(d) Not award negative points under Relative Policy 5/ Architectural Compatibility (Town Code Sections 9-1-19-5R.A and 9-1-19-5R.B) for use of modular construction of the building(s) and the use of non-natural materials to reduce maintenance and increase longevity of the building(s), provided that fiber cement siding is used on building elevations and windows are trimmed in natural wood as allowed by Relative Policy 5.

(e) Grant a waiver from Relative Policy 7/Site and Environmental Design and its multiple subsections, including, but not limited to: Site Design and Grading for site disturbance associated with constructing a parking lot and employee housing building(s) into the hillside; under Retaining Walls for the use of retaining walls and for walls that exceed four (4) feet in height; and Site Buffering, and from Relative Policy 22/Landscaping relating to the tree buffer adjacent to Park Avenue, to accommodate the effort to preserve the trees along Park Avenue and provide revegetation efforts consistent with the conceptual plan prepared by DTJ Design, reviewed by the Town Council on December 12, 2023, and updated on March 12, 2024 (the “**Parcel 2 Concept Plan**” attached hereto as Exhibit 10). The Parcel 2 Concept Plan, or a plan substantially similar thereto, shall be incorporated into the design of Parcel 2 in order for these waivers to become effective.

(f) Grant waivers from Absolute Policy 22/Landscaping subsection B.8 requiring six (6) percent of the interior area of a parking lot to be landscaped and Section 9-3-9J. of the Off-Street Parking Standards requiring landscaping equal to twenty-five (25) feet per parking stall based on the nature of the recreation skier parking lot use and needed snowplowing operations.

(g) Grant a waiver from Relative Policy 13/Snow Storage, provided that Applicant accommodates snow storage at a minimum ten (10) percent of the plowable area.

(h) With considerations for public safety, grant waivers for up to two private accesses on Woods Drive, private accesses radius and geometry, private accesses spacing, road slope connections for private accesses, private accesses cross-slopes, and design to accommodate a 30’ bus shuttle service to serve the winter recreational visitor parking

spaces on the site. These waivers are from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Sections 5.10.2.1 and 5.10.2.2 for up to two accesses; 5.10.7.2 and Table 5.11 for the driveway/private access radius; 5.10.8.2 for the access geometry; 5.10.8.1 for the cross-slopes; and 5.10.5 and Table 5.10 for spacing); Off-Street Parking Regulations (Section 9-3-9.A compliance with codes); and associated Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure of the Town Code.

(i) Permit a limited amount of Dark Sky compliant lighting to be provided on-site for pedestrian safety and waivers from Absolute Policy 46/Exterior Lighting, Title 9, Chapter 12 Exterior Lighting Regulations, and Title 9, Chapter 3 of the Town Code as over-lighting the site is discouraged. Timers, motion sensors, or other devices are encouraged to keep the lighting at a minimum for safety.

(j) Acknowledge that the construction and maintenance of an overpass or underpass traversing Park Avenue is unnecessary based upon the proposed residential uses and limited use of the winter recreational parking lot, and provision of shuttle service and other improvements as set forth in Section 6.1(c).

(k) To the extent Applicant is required to install barriers in or adjacent to Park Avenue as contemplated in Section 6.1(c), grant a waiver from Absolute Policy 47/Fences, Gates and Gateway Entrance Monuments.

ARTICLE 7 PARCEL 3

7.1 With respect to Parcel 3, any Development Application shall comply with the following terms:

(a) If the Town identifies any wetland impacts beyond those identified in that certain The Gold Rush Lots Wetland Technical Report prepared by Alpine Ecological Resources dated October 26, 2023 (attached hereto as Exhibit 11, the “**Wetlands Report**”), the impacted wetland area shall be replaced at a rate of 2:1 through an in-lieu fee program assumed by Applicant substantially similar to the Colorado Western Slope In-Lieu Fee Program identified in the Wetlands Report.

(b) No certificate of occupancy for any improvements on Parcel 3 shall be issued until a certificate of occupancy is issued for the employee housing contemplated on Parcel 2, as more particularly set forth in ARTICLE 6.

7.2 Upon and from Applicant’s submission of a Development Application or Applications consistent with the provisions of Section 7.1, the Town covenants and agrees that the Town shall:

(a) Acknowledge that the impact to the wetlands on Parcel 3 is as reflected in the Wetlands Report and the mitigation proposed therein is sufficient to grant the waivers set forth in this Section 7.2.

(b) Grant waivers from Town Code Section 10-2-4-3 Setbacks of the Engineering Process and Regulations, Section 7.6.1 Setbacks of the Engineering Design Standards and Construction Specifications, and Title 10 of the Engineering Process and Regulations regarding mitigation for the limited purpose of site grading, drainage and water quality improvements.

(c) Grant waivers from Policy 7/R Site and Environmental Design and all its subsections, and from Relative Policy 22/Landscaping relating to the tree buffer adjacent to Park Avenue, to accommodate the effort to preserve the trees along Park Avenue and provide revegetation efforts consistent with conceptual plan prepared by DTJ Design and reviewed and approved by the Town Council on November 14, 2023 (the “**Parcel 3 Concept Plan**”), or a plan substantially similar thereto.

(d) If the Town identifies any wetland impacts beyond those identified in the Report and Applicant mitigates the newly identified impacts consistent with Section 7.1(a), the Town shall grant any needed waivers from any Engineering Process and Regulations and Engineering Design Standards and Construction Specifications, and the Town Code policies related to such impacts and replacement, including but not limited to Absolute Policy 31/Water Quality.

(e) With considerations for public safety, grant waivers for multiple private accesses on Woods Drive, private accesses spacing, road slope connections for private accesses, and private accesses cross-slopes. These waivers are from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Sections 5.10.2.1 and 5.10.2.2 for the multiple accesses; 5.10.5 and Table 5.10 for spacing; and 5.10.8.1 for the cross-slopes); Off-Street Parking Regulations (Section 9-3-9.A compliance with codes and 9-3-9.F for grades); and the corresponding Absolute Town Code Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure.

(f) Grant a waiver from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.1), Off-Street Parking Regulations (Section 9-3-9.A), and the corresponding Absolute Development Code Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure, allowing more than four units to be served by a private access, provided that Applicant shall construct and maintain any such access in perpetuity.

(g) To the extent Applicant is required to install barriers in or adjacent to Park Avenue as contemplated in Section 6.1(c), grant a waiver from Absolute Policy 47/Fences, Gates and Gateway Entrance Monuments.

(h) Provide for the Parcel 3’s subdivision into duplex lots or footprint lots in accordance with the Town’s Subdivision Standards.

ARTICLE 8
PARCEL 4

8.1 With respect to Parcel 4, any Development Application shall comply with the following terms:

(a) The Peak 7 & 8 Master Plan shall be amended to transfer Density into the master plan and assign additional Density to Parcel 4, in excess of the Density currently allowed by the master plan and underlying Guidelines, without the assignment of negative points under any Relative Policy or failure of any Absolute Policy, or the need to modify the underlying Guidelines, as follows: up to 74.2 SFES shall be transferred to the Peak 7 & 8 Master Plan from the Gondola Lot Master Plan for Parcel 4 and fifty-eight (58) SFEs, including up to two (2) SFEs to be used as commercial SFEs, will be transferred from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan. The Town acknowledges and agrees that such fifty-eight (58) SFE transfer is reflected in the now-existing versions of the Gondola Lot Master Plan and the Peak 7 & 8 Master Plan, but no Density Transfer Covenant was ever entered into or recorded.

(b) Prior to the issuance of a final certificate of occupancy for the primary building on Parcel 4, Applicant shall make an approximately 1,500 square-foot space, as well as an ADA-compliant route, with elevator access, from an indoor garage parking area to the Peak 8 Base snow surface, available to the BOEC. Notwithstanding any provision to the contrary in this Agreement, the Parties acknowledge and agree that Applicant's obligation to make space available to the BOEC as contemplated in this Section shall not be considered a public benefit and shall be eligible for an award of positive points.

(c) In addition to the parking spaces required to be provided by the Peak 7 & 8 Master Plan at the time of site plan review, Applicant shall provide, and reserve in perpetuity, up to thirty-five (35) parking spaces for VSRI on-site employees and six (6) oversized/ADA indoor garage parking stalls for use by the BOEC. The VSRI parking spaces may not be used by the general public or for any other use but for parking for on-site VSRI employees and the BOEC parking spaces may not be used by the general public or for any other use other than parking for BOEC activities. The provisions of this Section 8.1(b) shall be included in the Peak 7 & 8 Master Plan.

(d) Building Height

(i) The maximum height of any building proposed for Parcel 4 shall not exceed the elevation of the existing east cross gable of One Ski Hill Place, as specified in the Peak 7 & 8 Master Plan and its attachments. This maximum height will serve as an "Absolute" policy under the Town Code.

(ii) Relative Policy 6 "Building Height" shall apply to the Town's review of a site plan application. Pursuant to the Peak 7 & 8 Master Plan, for the purpose for assessing or awarding points under Relative Policy 6 the heights of the buildings to be constructed on Parcel 4 shall be evaluated against the height

requirements of the Town Code and the recommended heights for Land Use District 39 as they were in effect on February 26, 2013.

(iii) Pursuant to the Peak 7 & 8 Master Plan, the height of buildings at the Peak 8 base area only (including Parcel 4) are to be measured “to the proposed finished grade elevation at the exterior wall below,” and not to natural grade, which generally does not exist in the area, provided that such proposed finished grades shall not include artificial appearing berming or fill. Artificial appearing berming or fill is characterized by excessive rise and steep grades in the vicinity of building foundations. (Emphasis added.) The height of the building on Parcel 4 shall be established in accordance with the Town Code and Land Use District 39 of the Guidelines, in effect on the Effective Date, provided, however, that the Town and Applicant shall establish a method for determining the finished grades above which heights shall be measured in order to account for the lack of natural grades and the anticipated filling of the lowered and generally flat grades currently existing at the Peak 8 base area.

(e) Employee housing will be provided subject to the following terms:

(i) Applicant shall comply with Absolute Policy 24/Employee Housing and will relinquish any rights to provide such housing in connection with the development of Parcel 4 upon any different terms that may have been identified in any earlier agreement or approval.

(ii) If Parcel 7 has been annexed into the Town, Applicant shall cause all required employee housing to be provided on Parcel 7 prior to the issuance of a certificate of occupancy for Parcel 4, unless it is not feasible to construct all required units on Parcel 7, in which case Applicant shall provide the balance of any required units through any alternative means permitted under the Town Code. If Parcel 7 has not been annexed into the Town, Applicant’s obligation to provide employee housing under the Town Code shall remain unchanged, and it shall be Applicant’s responsibility to provide the required employee housing through any alternative means permitted under the Town Code. Such housing shall be located in the Upper Blue Basin, as that term is used in Section 9-1-19-24A.E.2 of the Town Code, and in close proximity to transit. In no event shall Applicant provide employee housing required for Parcel 4 through conversion of housing units in Breckenridge Terrace.

(f) Upon issuance of the final certificate of occupancy for all buildings on Parcel 4 Applicant shall deliver to the Town documentation sufficient to demonstrate that any right of access to Parcel 4 via Saw Mill Run Road has been abandoned.

8.2 Upon and from Applicant’s submission of a Development Application or Applications consistent with the provisions of Section 8.1, the Town covenants and agrees that the Town shall:

(a) Grant a waiver from Absolute and Relative Policy 3/Density for the underground parking area square footage.

(b) Permit amendment of the Peak 7 & 8 Master Plan that reflects that maximizing the buffer distance to Parcel 4's eastern property line is more important than designing any building to step down to the east, provided that the eastern edge of a building's footprint may not be located any further to the east than that shown on the DTJ Design plans reviewed and approved by the Town Council during the November 14, 2023 work session (the "**Parcel 4 Concept Plan**").

(c) Not assign negative points under Relative Policy 7/Site and Environmental Design – Retaining Walls, in recognition that the site has been previously disturbed and that retaining walls will be used in an effort to retain slopes as called for by Policy 7.

(d) Grant waivers from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Sections 5.10.2.1 and 5.10.2.2), Off-Street Parking Regulations (Section 9-3-9A), and corresponding Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, 26/Infrastructure for two (2) accesses onto Parcel 4 – for deliveries/loading and for public/guests, and for loading area backout movements onto Ski Hill Road.

(e) Acknowledge and agree that constructing the required employee housing on Parcel 7 or otherwise off-site will reduce vehicle trips up/down Ski Hill Road meeting Absolute Policy 24/Social Community subsection F.1.a.(iv).

(f) Acknowledge and agree that outdoor heated sidewalks, pools/spas impacts, etc. will be minimized to the extent practicable but that Applicant cannot mitigate all required impacts on-site due to elevation, current technology, and roof design/size. The Town shall allow off-site mitigation of the Renewable Energy Mitigation Program ("**REMP**") upon the following terms:

(i) REMP mitigation will be provided via a three-step approach, which reflects the Town's preferred order of priority: (1) solar on-site; (2) off-site within the Town on properties controlled by Applicant; and (3) fee in lieu based on the current REMP policy and calculator if offset energy is not provided prior to Certificate of Occupancy for Parcel 4. Applicant consents to the Town's review and approval of all mitigation via the applicable development review process(es). Applicant may submit, and the Town will process, an application meeting Town Code requirements for off-site solar mitigation improvements for credit to the Town for review and approval upon execution of this Development Agreement due to the construction lead time for Parcel 4 credit.

(ii) Applicant will provide a third-party analysis, in a form acceptable to the Town, of the required amount of solar offset.

(iii) The Town staff shall determine the extent of emergency egress and pedestrian circulation safety to be exempt from REMP and Absolute and Relative Policy 33/Energy Conservation during site plan review.

(g) Issue, upon application for the same, such permit(s) as may be required by the Town to allow one or more Applicant-provided temporary structures accommodating VSRI's administration functions necessary or appropriate for the operation of the Breckenridge Ski Resort, as well as Applicant's pre-operation functions on Parcel 4, up to approximately 6,000 square feet, to be placed on Parcel 4, or other location(s) suitable to the Town and VSRI and Applicant, and maintained in such location(s) until Applicant constructs guest services spaces for VSRI's use and occupancy; provided, however, that all approved temporary structures shall be removed by Applicant no later than sixty (60) days after the issuance of any final certificate of occupancy for all structures on Parcel 4. The Town shall also grant such waivers including, without limitation, from Absolute Policy 36/Temporary Structures as may be necessary to effectuate the terms of this section.

(h) Allow the parking garage contemplated on Parcel 4 to be used as temporary construction parking while the on-site building(s) is under construction.

(i) Permit Condominium, Condominium/Hotel, and/or Hotel/Lodging/Inn uses, and Timeshare Interests, whether by way of whole or fractional ownership, as those capitalized terms are defined in Section 9-1-5 of the Town Code, and associated commercial, guest services facilities, and other amenities.

8.3 Following Final, Non-Appealable Approval of the Development Application(s) contemplated under Section 8.1 and prior to issuance of the final certificate of occupancy for the improvements on Parcel 4, Applicant shall enter into such agreement as the Town reasonably may require that provides for the following:

(a) At the end of the first year after issuance of the final certificate of occupancy and every year thereafter for the first five (5) years after issuance of such final certificate of occupancy, Applicant will provide a trip report to the Town. Trips will be defined as the number of trips into the garage anticipated to be constructed on Parcel 4 plus the number of trips out of that garage on a daily basis.

(b) If during any single calendar month of each of such five (5) years the number of trips exceeds an average of 1,600 trips per day, for every 100 trips in excess of 1,600, Applicant will acquire and transfer one additional electric shuttle van to the Breckenridge Mountain Master Association ("BMMA"). Until such time as the threshold described in the preceding sentence has been reached the residents and guests of the anticipated development shall have access to the transportation (van) system operated by the BMMA in the same manner as is provided to other properties located within the boundaries of the BMMA. A letter from the BMMA confirming the same shall be provided to the Town.

8.4 If the Annexation has not been approved at or before the time the obligation to provide employee housing under Absolute Policy 24/Social Community in connection with the development of Parcel 4 is due, the Town shall allow Applicant to transfer up to 15.0 SFEs for employee housing mitigation to other properties within the Town to satisfy the employee housing mitigation requirements. Nothing in this Section 8.4 shall be construed as limiting the alternative

means of delivering employee housing to satisfy Absolute Policy 24/Social Community as permitted under the Town Code.

**ARTICLE 9
PARCEL 5**

9.1 With respect to Parcel 5, any Development Application shall comply with the following terms:

(a) The Peak 7 & 8 Master Plan shall be amended to create a Parcel 5 Planning Area, allow single-family residential uses, and assign Density to this area without the assignment of any negative points under any Relative Policy or the failure of an Absolute Policy, or the need to modify the underlying Guidelines;

(b) Applicant shall construct and maintain private driveways on Parcel 5 serving the two homesites from Four O’Clock Run Road;

(c) Applicant shall include a plat note on the final plat indicating that the future homes on the lots will be limited to a total of 7,500 square feet of Density per lot;

(d) Applicant shall include a plat note on the final plat stating that a Plant Investment Fee (“**PIF**”) equal to 1.25 of the in-Town PIF rate shall be assessed at the time of building permit for each single-family residence.

(e) Applicant shall cause BMMA shuttles to serve each completed home.

9.2 Upon and from Applicant’s submission of a Development Application or Applications consistent with the provisions of Section 9.1, the Town covenants and agrees that the Town shall:

(a) Allow for the transfer of Density contemplated in Section 8.1(a) without the assignment of negative points under any Relative Policy or the failure of an Absolute Policy and acknowledge that no modification of the underlying Guidelines is necessary.

(b) Grant waivers allowing the private driveways’ grade to exceed, up to a maximum grade of ten (10) percent, the requirements set forth in Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.8.1), Off-Street Parking Regulations (Sections 9-3-9.A and 9-3-9.F), and corresponding Development Code Absolute Development Code Policies 16/Internal Circulation, 17/External Circulation, 18/Parking and 26/Infrastructure.

(c) Grant relief from the Subdivision Standards Sections 9-2-4-5C.2 and 9-2-4-5C.7.b.4 related to the depth and widths of lots and shape of disturbance envelopes.

**ARTICLE 10
PARCEL 6**

10.1 With respect to Parcel 6, any Development Application shall comply with the following terms:

- (a) The Peak 7 & 8 Master Plan shall be amended to create a new Parcel 6 Planning Area, allow the single-family residential uses, and assign Density to this area without the assignment of negative points under any Relative Policy or the failure of an Absolute Policy, and no modification of the underlying Guidelines is necessary.
- (b) Each proposed single-family lot on Parcel 6 shall be a minimum of .60 acres.
- (c) Applicant shall include a plat note indicating that the future single-family homes will be limited to 7,500 square feet of Density.
- (d) Applicant shall include a plat note stating that a PIF equal to 1.25 of the in-Town PIF rate shall be assessed at the time of building permit for each single-family residence.
- (e) Applicant shall cause BMMA shuttles to serve completed homes on Parcel 6.

10.2 Upon and from Applicant's submission of a Development Application or Applications consistent with the provisions of Section 10.1, the Town covenants and agrees that the Town shall:

- (a) Allow for the transfer of Density contemplated in Section 10.1(a) without the assignment of negative points under any Relative Policy or the failure of an Absolute Policy and acknowledge that no modification of the underlying Guidelines is necessary.
- (b) Grant waivers from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.6.3.2), Off-Street Parking Regulations (Section 9-3-9.A), and corresponding Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure that requires the Engineering Regulations to be met for the length of the Timber Trail Drive extension and grade during the subdivision review process, on the condition that all International Fire Code requirements are met and an emergency turn-around, fire hydrants, and the future homes are equipped with individual automatic sprinkler systems (via a plat note on the subdivision plat) will be provided, as previously allowed for the Timber Trail subdivision. The maximum grade shall be 6.5% unless a greater grade is reviewed and approved by the Town.
- (c) Grant waivers for the private driveways' grades during the subdivision and site plan review processes from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.8.1), Off-Street Parking Regulations (Sections 9-3-9.A and 9-3-9.F), and corresponding Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure that requires the Engineering regulations to be met.

(d) Grant waivers from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.1), Off-Street Parking Regulations (Section 9-3-9.A), and corresponding Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure allowing two private accesses to serve more than four (4) lots as applicable during the subdivision and site plan review processes, provided that Applicant shall construct and maintain any such accesses in perpetuity.

(e) Grant waivers from the Subdivision Standards Sections 9-2-4-5.C.2, 9-2-4-5.C.3 and 9-2-4-5.C.7.b.4 related to the depth and width of lots and shape of disturbance envelopes.

ARTICLE 11 PARCEL 7

11.1 Development Upon Annexation. If the Annexation is approved, Applicant or BGV Entrada shall be entitled to submit Development Applications for the development of employee housing on Parcel 7, subject to the terms of any annexation and development agreement executed by the Town and BGV Entrada with respect to Parcel 7. To provide for that development, the Town authorizes the following, subject to the execution of any required Density Transfer Covenant: The transfer of up to fifteen (15) SFEs from the Gondola Lot Master Plan to Parcel 7, which shall in addition to the existing 14.2 SFEs on Parcel 7 as allowed by Land Use District 5, result in a total of up to 29.2 SFEs on Parcel 7.

11.2 If the Annexation is not successful, Applicant is authorized, upon written notice to the Town, to transfer up to fifteen (15) SFEs from the Gondola Lot Master Plan to another property in the Town suitable to the Town, Applicant and VSRI for the purpose of providing deed restricted workforce housing. Provided that the receiving property complies with the locational requirements set forth in Section 8.1(e)(ii), such transfer shall be deemed approved by operation of this Agreement. Compliance with Section 1.6(b) shall be determined from the date the written notice required under this Section 11.2 is delivered to the Town.

11.3 If the Annexation has not been approved within one (1) year of the Effective Date, this Agreement shall terminate and be of no further force and effect with respect to Parcel 7 alone.

11.4 If any additional employee housing square footage is built upon Parcel 7 beyond that which is required for Parcel 4 compliance with Absolute Policy 24/Social Community, such additional square footage shall not be eligible to satisfy employee housing requirements for future developments.

ARTICLE 12 VESTED PROPERTY RIGHTS

12.1 Establishment of Vested Property Rights. This Agreement shall constitute a Site Specific Development Plan. All of Applicants' and Landowners' rights, and the Town's obligations, under this Agreement shall be Vested Property Rights. Applicant and Landowners shall have a Vested Property Right to undertake and complete development and use of the Properties as provided in this Agreement, and the Vested Property Rights will be effective against

any other governmental entities and their respective governing bodies that subsequently obtain or assert jurisdiction over the Properties or any portion thereof. The rights and obligations under this Agreement shall vest in Applicant and Landowners, which terms, by their definitions, include successors, and assigns. The Vested Property Rights described in this Agreement shall constitute benefits and burdens to the land and shall run with title to the land.

12.2 Rights Which are Vested. By way of illustration, the Vested Property Rights include, but are not limited to, the following:

(a) Processing of Applications. The right to submit and for the Town to process Development Applications in accordance with the procedures and upon such terms set forth in this Agreement, or to the extent not addressed herein, the procedures set forth in the Town Code (as the same was in effect on the Effective Date). In the event that any amendment to the Town Code approved after the Effective Date creates generally applicable submittal requirements, procedural requirements, or approval criteria which conflict with or are in addition to the terms and conditions of this Agreement, Applicant may choose whether the Town Code or the terms of this Agreement will apply to the Development Application.

(b) Use and Development Standards. The right to be protected against the Town or any citizen initiating any action to apply any less-favorable use and development standards to any Property or the Project, including, but not limited to, any reduction in the maximum allowed Density, the development intensity allowed under that Density, or total area of the Project. In the event that any amendment to the Town Code approved after the Effective Date creates generally applicable use or development standards that conflict with or are in addition to the terms and conditions of this Agreement, Applicant, and VSRI, in the event the affected Property is owned by VSRI, may choose whether the Town Code or the terms of this Agreement will apply to the affected Property or Properties, or the Project.

(c) Uniformity of Requirements. The right to continue and complete development of the Properties with conditions, standards, dedications, and requirements that are no more onerous than those then being imposed by the Town on other properties within the Town's municipal boundaries on a reasonably uniform and consistent basis, except to the extent such conditions, standards, dedications, and requirements conflict with the terms and conditions of this Agreement, in which case the terms and conditions of this Agreement shall control except as otherwise set forth herein.

12.3 Term. In recognition of the complexity of the development contemplated by this Agreement, the time required to complete development, and the possible impact of economic cycles and varying market conditions during the course of development, the Town has concluded and hereby agrees that the Vested Property Rights, including those identified in Section 12.1 of this Agreement, shall continue and have a duration until **SEVEN (7) YEARS** from the Effective Date (the "**Term**"). The rights and obligations set forth in this Agreement shall survive the termination of the Term, the effect of which shall be limited to eliminating the protections set forth in the Vested Property Rights Act.

12.4 Compliance with General Regulations. The establishment of the rights vested under this Agreement shall not preclude the application of Town regulations of general applicability including, but not limited to, the application of local improvement districts, building, fire, plumbing, engineering, electrical and mechanical codes, or the application of regional, state or federal regulations, as all of the foregoing exist on the Effective Date or may be enacted or amended after the date hereof, except as otherwise provided herein, as against the Properties and the Project. Landowners do not waive their rights to oppose adoption of any such regulations.

ARTICLE 13 DEFAULT AND REMEDIES

13.1 Default by the Town. A “breach” or “default” by the Town Council or the Town under this Agreement will be defined as the Town Council’s or the Town’s failure to fulfill or perform any express material obligation of the Town Council or the Town stated in this Agreement. Consistent with Sections 105(1)(a) and (b) of the Vested Property Rights Act, the Parties acknowledge and expressly intend that the Vested Property Rights preclude any zoning or land use action by a local government or pursuant to any initiated measure which would materially alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development of the Project or the use of the Properties as set forth in this Agreement, except that such rights may be divested only (a) with the consent of the owner of the affected portion of the Properties; or (b) upon the discovery of natural or manmade hazards on, or in the immediate vicinity of, the Properties, which hazards could not have been reasonably discovered at the time of approval of this Agreement, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare. Such natural or manmade hazards may include, but are not limited to, acts of God or other *force majeure*, or failure(s) of Town utilities necessary to serve the Properties or Project. Accordingly, subject to the exceptions listed in clauses (a) and (b) above, any of the foregoing zoning or land use actions by the Town Council or the Town would impermissibly divest Applicant and/or Landowners of the benefits of the Vested Property Rights, would constitute a breach or default under the Vested Property Rights Act and would entitle Landowners to the specific and limited remedies set forth herein.

(a) No Responsibility or Remedy. The Town shall not be responsible for and Applicant and Landowners shall have no remedy against the Town if development of the Property is prevented or delayed for reasons beyond the control of the Town.

(b) No Personal Responsibility. No official or employee of the Town shall be personally responsible for any actual or alleged breach of this Agreement by the Town.

13.2 Remedies.

(a) Generally. Except to the extent this Agreement expressly states otherwise, the Party asserting the default will have the right to pursue and be entitled to enforce specific performance of the defaulting Party’s obligations under this Agreement, which will be the sole remedy under this Agreement; provided, however, if there is a final judicial determination that a Party is in default under this Agreement but the court determines specific performance is not available or will not be granted as a remedy for such default: (i) Applicant or Landowners will be entitled to the contingent remedy described in

Section 13.2(c); and (ii) if Applicant or Landowners are determined in a final judicial judgment to have failed to abide by the terms of this Agreement, the Town Council and the Town will be entitled such remedies as may be available at law or in equity, subject to the limitations set forth in Section 13.2(b), and, additionally, to enforce the forfeiture of the Vested Property Rights.

(b) Vested Property Rights; Mutual Waivers. Although the Vested Property Rights Act provides for the payment of certain monetary damages upon a deprivation, impairment, violation or other divestment of the Vested Property Rights, the Town desires not to be subject to liability for monetary damages pursuant to the Vested Property Rights Act as a remedy for breach or default with respect to the Vested Property Rights. Accordingly, Applicants and Landowners hereby knowingly, intentionally, voluntarily and irrevocably waive, for themselves and for their successors and assigns, any remedial right they may have pursuant to Section 105(1)(c) of the Vested Property Rights Act to be paid money damages as just compensation upon a deprivation, impairment, violation or other divestment of the Vested Property Rights; and the Town Council hereby knowingly, intentionally, voluntarily and irrevocably waives, for itself and for its successors and assigns, any right the Town Council or the Town may have pursuant to Section 105(1)(c) of the Vested Property Rights Act to pay money damages to Landowners and/or their successor(s) and assign(s) as just compensation upon a deprivation, impairment, violation or other divestment of the Vested Property Rights. The Parties have executed and entered into the foregoing mutual waivers with the express intent that such waivers will be mutually binding and enforceable as to each of them and their respective successors and assigns, having been given in consideration of the mutual benefits accruing to each of them as a result of such mutual waivers and otherwise accruing to each of them pursuant to this Agreement, and with the intent and mutual understanding that the effect of such mutual waivers will be that the Town Council and the Town are precluded from divesting, depriving, impairing or violating the Vested Property Rights under any circumstances other than those stated in Section 13.1.

(c) Contingent Remedy. Only if, notwithstanding the foregoing mutual waivers and the Parties' express intent as to the enforceability and remedial effect of such waivers, it is judicially determined that the terms and conditions (either in whole or in part) set forth in this ARTICLE 13 will not be enforced against the Town Council and the Town as written, Applicant and/or Landowners will be entitled to pursue and be awarded just compensation pursuant to Section 105(1)(c) of the Vested Property Rights Act to the extent the Town Council or the Town takes any action which has the effect of divesting, depriving, impairing or violating the Vested Property Rights and such action constitutes a compensable action under the Vested Property Rights Act.

**ARTICLE 14
RESPONSIBILITIES OF THE TOWN**

14.1 Processing of Applications. The Town shall process all applications received in connection with the development of the Project, in accordance with the Town Code and any other applicable laws, ordinances, and regulations.

14.2 Infrastructure Permit. The Town shall, upon Applicant's request at any point following the approval of any Development Application contemplated in this Agreement, issue to Applicant at least one infrastructure permit for the Property subject to the Development Application approval that will allow for infrastructure and site work related to the approved Development Application, including deep utilities, grading, construction of storm water management systems, and mass excavation, to commence prior to issuance of a building permit, subject to approval by the Town Engineering Department. Each property with an approved Development Permit, as that term is defined in Section 9-1-5 of the Town Code, may be issued an infrastructure permit.

14.3 Building Permits. The Town shall issue all necessary building permits for the Project, in accordance with the Town Code and any other applicable laws, ordinances, and regulations.

14.4 Consent. The Town will not unreasonably withhold its consent or approval when such consent or approval is required hereunder.

**ARTICLE 15
MANDATORY PROVISIONS**

Pursuant to Section 9-9-12 of the Town Code, the following mandatory provisions shall apply:

15.1 Nothing in the agreement shall preclude or otherwise limit the lawful authority of the Town to adopt or amend any Town law, including, but not limited to, the Town's: 1) Development Code, 2) land use guidelines, 3) master plan, and 4) subdivision ordinance.

15.2 Successors and Assigns; Binding Effect; Recording.

(a) **Recording.** Within five (5) business days of the Effective Date, the Parties shall deliver original copies of their signature pages and the signature pages of any lienholder or lender on their respective Property to the Town. This Agreement shall be recorded in the Records as against every Property and Parcel 7.

(b) **Successors and Assigns of Applicant.** Applicant may, in its sole discretion, assign its rights and obligations under this Agreement in whole and in part. Upon any such assignment and delivery of written notice to the Town along with a copy of the instrument of assignment, Applicant shall be released from its obligations and responsibilities hereunder to the extent so assigned and the Town shall recognize the rights and obligations of such assignee as so assigned.

(c) Successors and Assigns of Landowner. This Agreement shall be binding upon and inure to the benefit of Landowners and their respective successors and assigns. For avoidance of doubt, the Agreement shall run with the title to the land and benefit and burden the Properties. Any Party bound by obligations of Landowner in this Agreement shall be released from its obligations and responsibilities hereunder upon the valid conveyance of its interest herein to its successor pursuant to the terms and conditions of such conveyance, if any.

15.3 If a Party defaults in the performance of its obligations under this Agreement, the Party(ies) asserting the default will deliver notice of the asserted default to the Party alleged to be in default, with copies to any other non-defaulting Parties. The Party alleged to be in default will have sixty (60) days from and after receipt of the notice to cure the default without liability for the default. If the default is not of a type which can be cured within such period and the Party alleged to be in default gives written notice to the Party(ies) who asserted the default within such 60-day period that it is actively and diligently pursuing a cure, the Party alleged to be in default will have a reasonable period of time given the nature of the default following the end of the 60-day period to cure the default, provided that the Party alleged to be in default is at all times within the additional time period actively and diligently pursuing the cure. Notwithstanding the foregoing cure period, the Party asserting that the Town Council and/or the Town is in default will have the right to include a claim for breach of this Agreement and/or of the Vested Property Rights Act in any claim brought under C.R.C.P. 106(a)(4) if the Party reasonably believes that failure to include such claim could jeopardize the Party's ability to exercise its remedies under this Agreement or under the Vested Property Rights Act at a later date. Any claim for breach of this Agreement or the Vested Property Rights Act that is brought before the expiration of the applicable cure period will not be prosecuted by the Party asserting such claim until expiration of the applicable cure period, and will be dismissed by the Party if the default is cured in accordance with this Section 15.3.

15.4 The Town shall not be responsible for and Applicant shall have no remedy against the Town if development of the real property which is the subject of this Agreement is prevented or delayed for reasons beyond the control of the Town.

15.5 Actual development of the real property which is the subject of this Agreement shall require the issuance of such other and further permits and approvals by the Town as may be required from time to time by applicable Town ordinances.

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

15.7 Applicant shall agree to indemnify and hold the Town, its officers, employees, insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligence or intentional act or omission of Applicant, any subcontractor of Applicant, or any officer, employee, representative, or agent of Applicant or of any subcontractor of Applicant, or

which arise out of any workers' compensation claim of any employee of Applicant, or of any employee of any subcontractor of Applicant; except to the extent such liability, claim or demand arises through the negligence or intentional act or omission of the Town, its officers, employees, or agents. Applicant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at the sole expense of Applicant. Applicant also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees.

15.8 If any provision of this Agreement shall be invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of the remaining provisions of the agreement.

15.9 In connection with an application for a development permit to develop the real property that is the subject of this Agreement the application shall not receive an award of positive points under the Town Code for any commitment offered to the Town by Applicant pursuant to Section 9-9-4, or any other obligation or requirement of Applicant under this Agreement.

ARTICLE 16 MISCELLANEOUS

16.1 Amendments. This Agreement may be amended or terminated only with the prior written consent and approval of the Town, Applicant, and the Landowner of the Property(ies) or portion of the Property(ies) to which the amendment applies, following public notice and public hearings as required for Development Agreements.

16.2 Notices. In order to be deemed delivered and effective, any notice required or permitted pursuant to this Agreement must be in writing, and must be given either personally or by registered or certified mail, return receipt requested, in either case to the applicable Party(ies) at their addresses set forth below:

If to the Town:

Town of Breckenridge
Shannon Haynes, Town Manager
150 Ski Hill Road, P.O. Box 168
Breckenridge, CO 80424
shannonh@townofbreckenridge.com

With a required copy to:

Kirsten J. Crawford
Town Attorney, Town of Breckenridge
150 Ski Hill Road, P.O. Box 168
Breckenridge, CO 80424
kirstenc@townofbreckenridge.com

If to Gondola Properties:

Gondola Properties LLC
c/o Breckenridge Grand Vacations
100 South Main Street, P.O. Box 6879
Breckenridge, Colorado 80424
Attention: Graham Frank, Chief Development Officer

With a required copy to:

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Attention: Andrew L.W. Peters
apeters@ottenjohnson.com

If to BGV Entrada:

BGV Partners Entrada, LLC
c/o Breckenridge Grand Vacations
100 South Main Street, P.O. Box 6879
Breckenridge, Colorado 80424
Attention: Graham Frank, Chief Development Officer

With a required copy to:

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Attention: Andrew L.W. Peters
apeters@ottenjohnson.com

If to VSRI:

Vail Resorts, Inc.
390 Interlocken Crescent #100
Broomfield, CO 80021
Attention: Legal Department
legalnotices@vailresorts.com

If to LC Breckenridge:

LC Breckenridge
c/o Leste
1450 Brickell Avenue, Suite 2600
Miami, Florida 33131
Attention: Jordan Suppan
Jordan.Suppan@leste.com

With required copy to:

Carlton Fields
2 Miami Central
700 NW 1st Avenue, Suite 1200
Miami, Florida 33136-4118
Attention: Matthew H Jacobson
MJacobson@carltonfields.com

Notices will be deemed delivered and effective as follows: (i) if given personally, when delivered to the Party to whom it is addressed; or (ii) if given by registered or certified mail, on the first to occur of (A) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (B) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Any Party may at any time, by giving notice as provided in this Section, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given.

16.3 Entire Agreement. This Agreement constitutes the entire and final understanding between the Parties with respect to the subject matter hereof. This Agreement supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof, which shall be of no further force and effect. For the avoidance of doubt, the Parking Agreement is not an agreement or understanding subject to this Section 16.3 and remains in full force and effect.

16.4 No Implied Representations. No representations, warranties, or certifications, express or implied, shall exist as between the Parties except as stated herein.

16.5 Waivers and Modifications in Writing. No waivers or modifications hereof shall be made or deemed to have been made unless in writing executed by the Party to be bound thereby.

16.6 Conflict with Other Provisions of the Town Code. In the event any provision of this Agreement or the application thereof conflicts with any provision of the Town Code, this Agreement shall control the determination of the rights and obligations of the Parties with respect to such conflicting matter. When adopted by the Town pursuant to ordinance, this Agreement shall be deemed to be an amendment of any such conflicting provision of the Town Code with respect to the subject matter thereof.

16.7 Adoption of Agreement Deemed to be a Legislative and Administrative Act; Referendum. As set forth in and expressly authorized by Section 104(2) of the Vested Property Rights Act, this Agreement and the Vested Property Rights conferred hereby are adopted as a legislative act pursuant to such authority conferred upon the Town Council by the Vested Property Rights Act. If and to the extent the Vested Property Rights Act subjects the Town Council's establishment of the Vested Property Rights pursuant to this Agreement to referendum, and any referendum succeeds in overturning the Town Council's establishment of the Vested Property Rights pursuant to this Agreement, such result will not be construed as overturning, negating or otherwise affecting the Council's approval of this Agreement.

16.8 Covenant of General Cooperation. The Parties covenant and agree to cooperate in good faith with one another in the performance of their respective rights and obligations hereunder in order that each may reasonably realize their respective benefits hereunder. The Parties further agree to cooperate in good faith with one another in the event of any third-party legal action, initiative, or referendum challenging the approval(s) of any Development Application contemplated in this Agreement.

16.9 No Third-Party Beneficiaries. Except as otherwise provided herein, none of the terms, conditions, or covenants contained in this Agreement shall be deemed to be for the benefit of any person not a Party hereto, and no such person shall be entitled to rely hereon in any manner.

16.10 Counterparts; Electronic Delivery. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement. Executed copies hereof may be delivered by telecopier or e-mail (pdf) and upon receipt will be deemed originals and binding upon the Parties, regardless of whether originals are delivered thereafter.

16.11 Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

16.12 Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado.

16.13 Venue and Choice of Law; Waiver of Right to Jury Trial; Construction. Venue will be in the district court for the State of Colorado, Summit County, Colorado. To reduce the cost of and to expedite the resolution of disputes under this Agreement, each Party hereby waives any and all right to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. In the event of ambiguity in this Agreement, any rule of construction which favors a Party's interpretation as a non-drafting party will not apply, and the ambiguous provision will be interpreted as though no specific party was the drafter.

[SIGNATURE PAGES TO FOLLOW]

Exhibit 1
[Parcel 1 Legal Description]

LOT 4, GONDOLA LOTS, FILING NO. 2 - AMENDED, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 25, 2023 UNDER RECEPTION NO. 1319752, COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 2

[Parcel 2 Legal Description]

LOT 1B, BLOCK 4, A RESUBDIVISION OF LOT 1, BLOCK 4, PARKWAY CENTER
SUBDIVISION FILING NO. 1 AMENDED & TRACT Q, SHOCK HILL SUBDIVISION,
ACCORDING TO THE PLAT FILED NOVEMBER 30, 2005 UNDER RECEPTION NO.
807735 COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 3
[Parcel 3 Legal Description]

LOT 1 AND LOT 3, GONDOLA LOTS, FILING NO. 1 - AMENDED, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 25, 2023 UNDER RECEPTION NO. 1319751, COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 4
[Parcel 4 Legal Description]

LOT 4, FOURTH RESUBDIVISION THE REMAINDER OF TRACT C, PEAK 8
SUBDIVISION FILING NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED
DECEMBER 20, 2018 UNDER RECEPTION NO. 1187721, COUNTY OF SUMMIT, STATE
OF COLORADO.

Exhibit 5
[Parcel 5 Legal Description]

A PARCEL OF LAND LOCATED IN A PORTION OF THE REMAINDER OF TRACT C, PEAK 8 SUBDIVISION FILING No. 1 IN SECTION 1, T7S, R78W AND SECTION 36, T6S, R78W OF THE 6th P.M., SUMMIT COUNTY, COLORADO.

SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4, PEAK 8 SUBDIVISION FILING No. 1, RECORDED IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER UNDER RECEPTION No. 1187721, THENCE ALONG THE EAST LINE OF SAID REMAINDER OF TRACT C S05°36'59"W, 348.85 FEET, THENCE ALONG THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. S81°32'31"W, 37.65 FEET S81°32'31"W, 37.65 FEET
2. N22°54'12"W, 407.45 FEET N22°54'12"W, 407.45 FEET
3. S84°23'01"E, 231.06 FEET BACK TO THE POINT OF BEGINNING. S84°23'01"E, 231.06 FEET BACK TO THE POINT OF BEGINNING.

Exhibit 6
[Parcel 6 Legal Description]

A PARCEL OF LAND LOCATED IN A PORTION OF THE REMAINDER OF TRACT C, PEAK 8 SUBDIVISION FILING No. 1, A PORTION OF THE ADA PLACER (MS 13744) AND A PORTION OF THE TYRA PLACER (MS 13343), IN SECTION 1, T7S, R78W AND SECTION 36, T6S, R78W OF THE 6th P.M., SUMMIT COUNTY, COLORADO.

SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF TRACT C, PEAK 8 SUBDIVISION FILING No. 1, RECORDED IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER UNDER RECEPTION No. 1187721, THENCE ALONG THE SOUTH LINE OF TIMBER TRAIL SUB. RECORDED UNDER REC. No. 730224 AND FILED IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. N63°32'19"E, 141.01 FEET N63°32'19"E, 141.01 FEET
2. N67°05'19"E, 148.45 FEET N67°05'19"E, 148.45 FEET
3. N56°47'38"E, 25.66 FEET, N56°47'38"E, 25.66 FEET,

THENCE DEPARTING SAID SOUTH LINE THE FOLLOWING TEN (10) COURSES AND DISTANCES:

1. S20°08'31"E, 66.15 FEET S20°08'31"E, 66.15 FEET
2. 185.78 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, 185.78 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF 53°13'18" AND A CHORD WHICH BEARS S06°28'08"W, 179.17 FEET.
3. S33°04'47"W, 45.55 FEET S33°04'47"W, 45.55 FEET
4. S16°15'16"E, 343.70 FEET S16°15'16"E, 343.70 FEET
5. S04°00'43"E, 86.48 FEET S04°00'43"E, 86.48 FEET
6. S36°33'26"E, 132.68 FEET S36°33'26"E, 132.68 FEET
7. S78°51'48"W, 172.09 FEET S78°51'48"W, 172.09 FEET
8. N78°33'09"W, 673.06 FEET N78°33'09"W, 673.06 FEET
9. N12°32'17"W, 219.71 FEET N12°32'17"W, 219.71 FEET
10. N39°22'25"E, 750.61 FEET TO A POINT ON THE EAST LINE OF SAID TRACT C. N39°22'25"E, 750.61 FEET TO A POINT ON THE EAST LINE OF SAID TRACT C.

THENCE ALONG SAID EAST LINE S26°38'02"E, 255.76 FEET BACK TO THE POINT OF BEGINNING.

Exhibit 7
[Parcel 7 Legal Description]

TRACT A2, A REPLAT OF LOTS A1, B1 AND C, ENTRADA AT BRECKENRIDGE,
ACCORDING TO THE PLAT FILED JULY 24, 2017 UNDER RECEPTION NO. 1146781,
COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 8
[Form Density Transfer Covenant]

DENSITY TRANSFER AGREEMENT AND COVENANT

This Density Transfer Agreement And Covenant (“**Agreement**”) is made and entered into at Breckenridge, Colorado this ___ day of _____, 2024, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Town**”), and _____ (“**XXXX**”).

RECITALS

A. WHEREAS, _____ is the owner of real property located in the Town of Breckenridge, Summit County, Colorado more particularly described on Exhibit “A”, which real property is hereafter referred to in this Agreement as the “**Sending Parcel**”.

B. WHEREAS, _____ is the owner of real property located in the Town of Breckenridge, Summit County, Colorado more particularly described on Exhibit “B”, which real property is hereafter referred to in this Agreement as the “**Receiving Site**”.

C. WHEREAS, pursuant to the Development Agreement between the Town and _____ dated _____ and recorded _____ at Reception No. _____ of the real property records of the Clerk and Recorder of Summit County, Colorado (“**Development Agreement**”) _____ is authorized, without further approval from the Town, to transfer density from the Sending Parcel to the Receiving Site; and

D. WHEREAS, this Agreement is executed and recorded in the real property records of the Clerk and Recorder of Summit County, Colorado to effectuate and memorialize the density transfer described in this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree as follows:

1. Town and _____ hereby agree that XXXX (XX) SFEs of the density heretofore allocated to the Sending Parcel shall be and hereby are transferred to the Receiving Site. As used in this Agreement, “**SFE**” means a single-family equivalent of density as defined from time to time in the Town’s land use regulations.

2. _____ acknowledges and agrees that following the transfer of the XXX (XX) SFEs of density to the Receiving Site as described in Section 1, above, there shall remain XXX (XX) SFEs of density upon the Sending Parcel.

3. Town and _____ further acknowledge and agree that following the transfer of XXX (XX) SFEs of density to the Receiving Site as described in Section 1, above, the Receiving Site shall then have a total of XXX (XX) SFEs of residential and commercial density, which density may only be used in connection with a development approved by Town pursuant to the Town’s applicable land use ordinances, policies, and codes. Nothing in this Agreement shall constitute a site specific development plan for the development of the Sending Parcel or the Receiving Site, nor shall this Agreement give rise to the creation of any vested rights with respect to the

development of the Sending Parcel or the Receiving Site (without limiting ARTICLE 12 of the Development Agreement).

4. The agreements and covenants contained in this Agreement shall: (i) run with the land; (ii) burden the Sending Parcel and benefit the Receiving Site; and (iii) be binding upon the Town and XXXX and their successors and assigns, and all persons who hereafter acquire any interest in either the Sending Parcel or the Receiving Site.

5. This Agreement shall be recorded in the real property records of the Clerk and Recorder of Summit County, Colorado, to place prospective purchasers and other interested parties on notice as to the terms, conditions, and limitations contained herein.

6. This Agreement and the exhibits hereto represent the entire understanding between the parties with respect to the subject matter of this Agreement.

7. This Agreement may be executed in several counterparts and/or signature pages and all counterparts and signature pages so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties are not signatories to the original or the same counterpart or signature page.

IN WITNESS WHEREOF, the parties hereto have executed this Density Transfer Agreement And Covenant effective as of date above.

[SIGNATURE AND ACKNOWLEDGEMENT PAGES FOLLOW]

Exhibit "A" [to Ex. 8 Form Density Transfer Covenant]

Legal Description of the Sending Parcel

Exhibit “B” [to Ex. 8 Form Density Transfer Covenant]

Legal Description of the Receiving Site

Exhibit 9
[Parcel 1 Concept Plan]

LANDSCAPE LEGEND	
	PROPERTY LINE
	SETBACK LINE
	LOT SUBDIVISION LINE
	ASSUMED EXISTING TREES LOCATION

TREE LEGEND	
SYMBOL	TYPE
	NARROW LEAF COTTONWOOD
	QUAKING ASPEN
	RIVER BIRCH
	COLORADO SPRUCE
	DOUGLAS FIR

TREE REMOVAL AND REPLACEMENT LEGEND	
SYMBOL	CATEGORY
	EXISTING TREE TO BE PRESERVED
	EXISTING TREE TO BE REMOVED
	TREE REPLACEMENT/ADDED
TOTAL PRESERVED	
TOTAL REMOVED	
TOTAL REPLACE/ADD	

NOTES

ALL EXISTING TREE LOCATIONS AND QUANTITIES REPRESENTED IN THIS EXHIBIT ARE ASSUMED. TREE LOCATIONS AND QUANTITY ASSUMPTIONS ARE BASED ON DETAILED AERIAL PHOTOGRAPHIC ANALYSIS AND PROVIDED HISTORIC SURVEY INFORMATION. ACTUAL TREE LOCATIONS AND QUANTITIES, ARE TO BE VERIFIED IN FUTURE DEVELOPMENT AND DESIGN UTILIZING A CERTIFIED TREE SURVEY PROVIDED BY A PROFESSIONAL SURVEYING ENTITY.



Drawing: UA\2019026_Breckenridge-Gondola Lot Dev\05_CAD\Sheets\00-Exhibits-Coordination\04_GRS+CRN+NGL_PlantingPlan_Exhibits.dwg
 Last Saved: March 15, 2024 11:37:29 AM by Zeehart
 Last Plotted: 3/15/2024 11:41:57 AM
 COPYRIGHT © ALL RIGHTS RESERVED DTJ DESIGN, INC. 2022

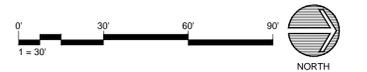


Exhibit 10
[Parcel 2 Concept Plan]

NOT FOR
CONSTRUCTION

DRAWN BY: ZET/J
CHECKED BY: DTJ
PROJECT NO.: 2019026
ISSUE DATE: 03/15/2024
REVISIONS:

SHEET TITLE:
GOLD RUSH
NORTH
SITE+PLANTING
PLAN

SHEET NUMBER:

L302

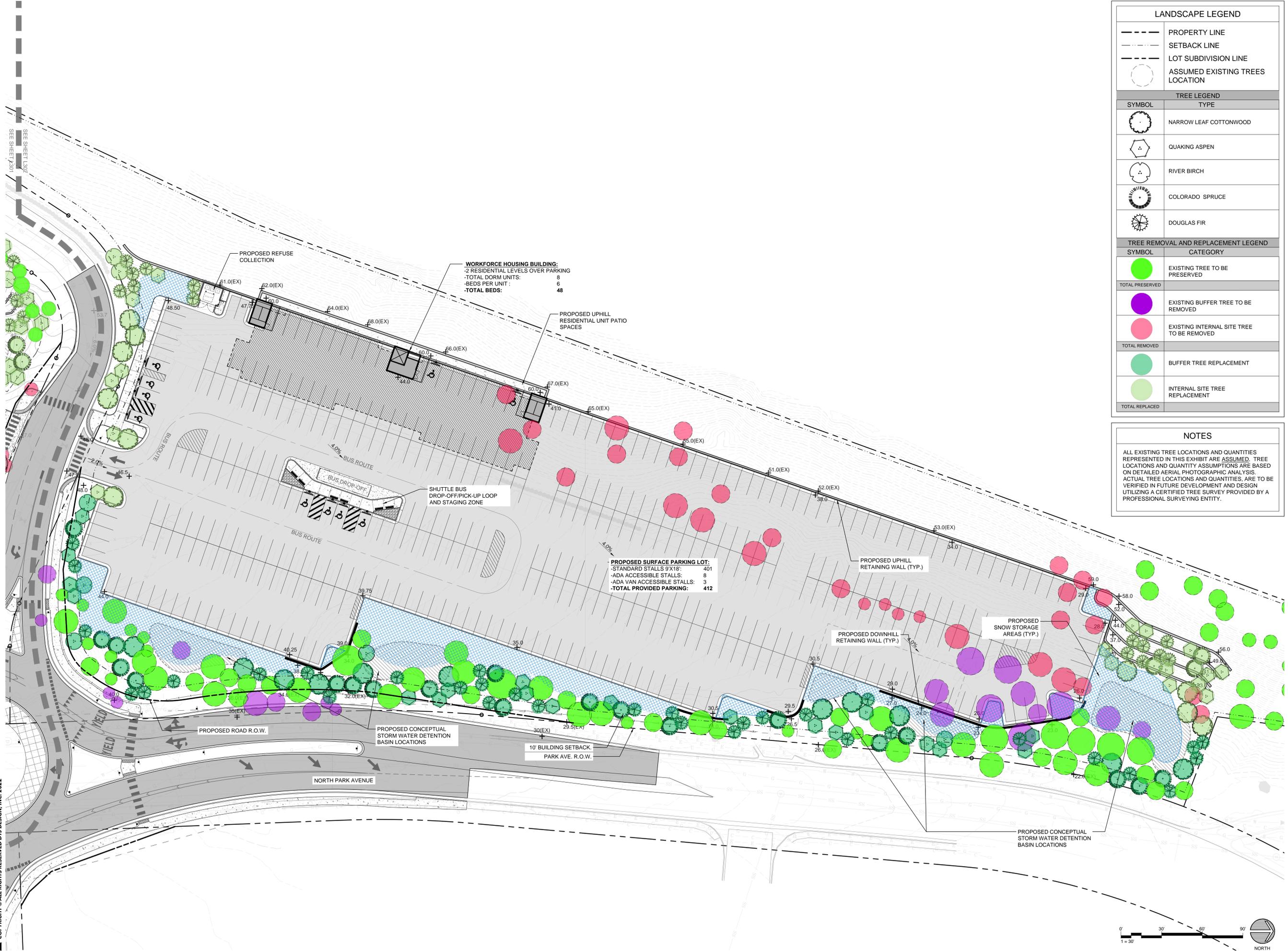
LANDSCAPE LEGEND	
	PROPERTY LINE
	SETBACK LINE
	LOT SUBDIVISION LINE
	ASSUMED EXISTING TREES LOCATION

TREE LEGEND	
SYMBOL	TYPE
	NARROW LEAF COTTONWOOD
	QUAKING ASPEN
	RIVER BIRCH
	COLORADO SPRUCE
	DOUGLAS FIR

TREE REMOVAL AND REPLACEMENT LEGEND	
SYMBOL	CATEGORY
	EXISTING TREE TO BE PRESERVED
TOTAL PRESERVED	
	EXISTING BUFFER TREE TO BE REMOVED
	EXISTING INTERNAL SITE TREE TO BE REMOVED
TOTAL REMOVED	
	BUFFER TREE REPLACEMENT
	INTERNAL SITE TREE REPLACEMENT
TOTAL REPLACED	

NOTES

ALL EXISTING TREE LOCATIONS AND QUANTITIES REPRESENTED IN THIS EXHIBIT ARE ASSUMED. TREE LOCATIONS AND QUANTITY ASSUMPTIONS ARE BASED ON DETAILED AERIAL PHOTOGRAPHIC ANALYSIS. ACTUAL TREE LOCATIONS AND QUANTITIES, ARE TO BE VERIFIED IN FUTURE DEVELOPMENT AND DESIGN UTILIZING A CERTIFIED TREE SURVEY PROVIDED BY A PROFESSIONAL SURVEYING ENTITY.



Drawing: UA\2019026_Breckenridge-Gondola Lot Dev\05_CAD\Sheets\000_Exhibits-Coordination\04_GRS+CRN+NGL_PlantingPlan_Exhibits.dwg
 Last Saved: March 15, 2024 11:42:39 AM by Zeehart
 Last Plotted: 3/15/2024 11:49:01 AM
 COPYRIGHT © ALL RIGHTS RESERVED DTJ DESIGN, INC. 2022

Exhibit 11
[Wetlands Report]

Alpine Ecological Resources, LLC

Gold Rush Lots Wetland Technical Report

Breckenridge, Colorado

*Prepared for: Breckenridge Grand Vacations
October 26, 2023*



Andy Herb, Ecologist/Owner
andy@alpine-eco.com
www.alpine-eco.com

Gold Rush Lots

Wetland Technical Report

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Gold Rush Lots

Wetland Technical Report

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Abbreviations and Acronyms

FAC	Facultative
FACW	Facultative Wetland
FACWet	Functional Assessment of Colorado Wetlands
FACU	Facultative Upland
FGDC	Federal Geographic Data Committee
HGM	Hydrogeomorphic Method
HUC	Hydrologic Unit Code
ILF	In-Lieu Fee
NFF	National Forest Foundation
NRCS	Natural Resources Conservation Service
NWPL	National Wetland Plant List
OBL	Obligate
PEM	Palustrine Emergent
PSS	Palustrine Scrub/Shrub
UPL	Upland
USACE	US Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
WGS	World Geodetic System

Gold Rush Lots

Wetland Technical Report

1.0 Introduction

1.1 Purpose of This Report

This report formally documents the wetlands and other water features present in the study area. The primary reason for this documentation is to assist with project planning and design, which is intended to maximize avoidance of these features wherever practicable. The wetland and other water features described in this report include all those present, regardless of their jurisdiction under Section 404 of the Clean Water Act.

This report also documents the proposed impacts to wetlands and other water features, and any proposed compensatory mitigation measures.

1.2 Project Description

The project involves the construction of residential duplex/townhomes and the supporting roadway and other infrastructure components.

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Wetland Technical Report

2.0 Site Description

The 16.1-acre study area is in Summit County, in the Town of Breckenridge, Colorado (**Figure 1**) and is immediately west of Park Avenue under the Breck Connect Gondola. The site can be found on the United States Geological Survey 7.5-minute series *Breckenridge, Colorado* quadrangle and includes land in both Township 6S, Range 77W, Section 31 and Township 6S, Range 78W, Section 36. The study area centroid has the following approximate coordinates (datum is WGS84):

- Universal Transversal Mercator: 409729E, 4371267N
- Latitude/Longitude: 39.486276°N, -106.049696°W

The study area is approximately 9,575 feet above mean sea level and is flanked by commercial development to the north and east, and residential development to the west and south. The northern portion of the site is mostly developed and consists of large parking lots. The southern portion is mostly comprised of natural habitats, including a mix of willow (*Salix* spp.)-dominated wetlands, associated riparian habitat, and some mixed conifer and Quaking Aspen (*Populus tremuloides*) wooded areas.

The site is in the Sedimentary Subalpine Forests Ecoregion, which is characterized by glaciated mountains with steep slopes and high-gradient perennial streams between 8,500 and 10,000 feet above mean sea level (Chapman, et al. 2006). Vegetation in the ecoregion is generally Engelmann's Spruce/Fir (*Picea engelmannii*/*Abies lasiocarpa*) forest interspersed with Quaking Aspen groves and meadows. Land uses include timber harvest, mining, hunting and other recreation, and some seasonal grazing.

The site is also in the Southern Rocky Mountain Forest and Range Land Resource Region (NRCS 2006). This Land Resource Region is characterized by rugged mountains with some broad valleys and remnants of high plateaus. Precipitation ranges from 7 to 63 inches per year, and the primary soil resource concerns are erosion by wind and water and maintaining the productivity of the soils. The majority of land in this region is federally owned.

The hydrologic unit code (HUC) is 14010002 (Blue).

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Wetland Technical Report

3.0 Methods

3.1 Literature Review

Prior to conducting the field survey, numerous sources of data were reviewed to gain a general understanding of the ecology of the study area. These sources included aerial photographs and topographic maps, *Wetlands Mapper* website (USFWS 2023), *Web Soil Survey* (NRCS 2023a), *National Wetland Plant List (NWPL)* (USACE 2020), other state and federal agency websites, and other relevant data.

3.2 Field Data Collection

Andy Herb (senior ecologist) originally identified wetlands and other water features in a portion of the study area in August 2016 and returned in July 2020 to update those boundaries and examine the rest of the study area. All features were delineated within the defined study area using procedures outlined in the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region* (USACE 2010), which involved a detailed examination of plants, soils, and hydrologic indicators present.

Generally, the detailed examination of each wetland involves the collection of vegetation, soil, and hydrology data at paired data points. These paired points include one point within the suspected wetland and one point in the adjacent upland. However, if numerous wetlands are in close proximity and surrounded by the same or similar upland plant community, then upland data points of nearby sites are often utilized, rather than creating a new upland data point for each wetland area.

During field examinations, all plants considered dominant in wetlands or otherwise commonly observed were identified. A list of dominant plants was documented for each potential wetland area and was compared to the NWPL to determine the “wetland indicator status” of each species. Generally, if at least 50 percent of those species had an indicator status of facultative (FAC) or wetter, the potential wetland area would satisfy the US Army Corps of Engineers (USACE) criterion for wetland vegetation. The botanical nomenclature presented in this report follows the NWPL and is followed by the NWPL indicator status for the Western Mountains, Valleys, and Coast Region. If a species is not listed in the NWPL, then the nomenclature follows the *PLANTS Database* (NRCS 2023b).

Soils were examined at various locations throughout the study area to identify the presence of hydric soil indicators. If indicators were found, multiple pits may have been dug along the gradient to identify the extent of hydric soils.

While recording plant species and identifying soil characteristics, potential wetlands within the study area were assessed for evidence and potential sources of wetland hydrology. This evidence included primary indicators such as the presence of surface water and saturation, and secondary indicators like drainage patterns and geomorphic position.

Most surrounding uplands were not formally sampled or recorded on data forms, and were generally examined while attempting to identify wetland areas. Those uplands examined in more detail or recorded on data forms typically exhibited evidence of at least one wetland indicator (hydrophytic vegetation, hydric soils, or wetland hydrology). Data collected for all areas investigated and deemed non-wetland are not necessarily included in this report.

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Wetland Technical Report

3.3 Mapping

After determining the approximate extent of the wetlands based on the presence of hydric soils, hydrophytic vegetation, and wetland hydrology, the wetland boundary was flagged and surveyed using a global positioning system device. This equipment provides accuracy of less than one meter.

3.4 Wetland Classification

Wetlands in the study area were classified in accordance with the *Hydrogeomorphic Method* (HGM) (Brinson 1993) and the Federal Geographic Data Committee (FGDC) *Classification of Wetlands and Deepwater Habitats of the United States* (FDGC 2013).

The “slope” wetland classification is the only HGM type applicable to wetlands in the study area. Slope wetlands are those that are generally not on floodplains and that have groundwater as their primary water source.

The FGDC classification scheme includes two wetland types that apply to wetlands in the study area: palustrine emergent (PEM) and palustrine scrub-shrub (PSS). PEM wetlands are those dominated by herbaceous vegetation (grasses, grass-like, and forbs). PSS wetlands are those dominated by shrubs or trees less than 20 feet tall.

3.5 Wetland Functional Assessment

Wetland functions were generally assessed using the concepts presented in the *Functional Assessment of Colorado Wetlands* (FACWet) Method (Johnson, et al. 2013), although a complete assessment was not conducted. FACWet is a rapid assessment method that provides a reliable and consistent approach to rating the condition of wetlands relative to their natural potential by focusing on the presence of stressors. Stressors are human-caused changes to a wetland or adjacent lands that alter a wetland’s ability to perform ecological functions and processes.

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Wetland Technical Report

4.0 Wetlands

The 16.1-acre study area contains 5.7 acres of mostly PSS slope wetlands that include small pockets of PEM wetlands in the wettest areas. They are shown on **Figure 2** and briefly described in the following sections. *Wetland Determination Data Forms* are in **Appendix A** and photos are in **Appendix B**.

4.1 Vegetation

Most of the wetland area is dominated by willows (**Photo 1 in Appendix B**), with an understory comprised mostly of Bluejoint (*Calamagrostis canadensis*-FACW) and Tall Fringe Bluebells (*Mertensia ciliata*-FACW) in drier wetlands, and Northwest Territory Sedge (*Carex utriculata*-OBL) and Leafy Tussock Sedge (*Carex aquatilis*-OBL) in wetter areas. The most common willows present are Drummond's Willow (*Salix drummondiana*-FACW), Geyer's Willow (*S. geyreriana*-FACW), and Park Willow (*S. monticola*-OBL).

The vegetation along the wetland boundary is generally characterized by a subtle transition away from the hydrophytes mentioned above, to an increasing density of dead and/or dying willow with an understory of more mesic grasses and forbs like Fringed Brome (*Bromus ciliatus*-FAC), Common Yarrow (*Achillea millefolium*-FACU), Meadow Thistle (*Cirsium scariosum*-FAC), and Virginia Strawberry (*Fragaria virginiana*-FACU) (**Photos 2 and 3 in Appendix B**). These areas also often contain scattered mesic and upland trees and shrubs, including Quaking Aspen (FACU), Lodgepole Pine (*Pinus contorta*-FAC), Common Juniper (*Juniperus communis*-UPL), Golden-Hardhack (*Dasiphora fruticosa*-FAC), and Four-Line Honeysuckle (*Lonicera involucrata*-FAC).

4.2 Hydrology

The wetlands are mainly supported by seasonally high groundwater associated with snowmelt. The southwest and west portions of the wetlands are wettest and wetland hydrology in these areas are supplemented by perennial surface water inputs from the adjacent developed areas (see *Section 5.0 Other Water Features*). The remainder of the wetlands (especially the east and north sides) appear to be drier than they were historically, as evidenced by the extensive dead and dying willow, relatively low cover of herbaceous hydrophytes, and limited evidence of recent standing or flowing water. This drying seems to be a result of development up-gradient of the wetland (outside the study area) interrupting surface and/or groundwater flows, as well as the presence of a ditch at the north end that directs surface flows (and some groundwater) out of the wetland area, which then quickly infiltrates into the upland area to the north.

Much of the wetland area (especially the western half) was saturated to the surface during fieldwork and some areas had surface water present (up to 6 inches deep). The wetland hydrology indicators observed in the study area include Surface Water (A1), Saturation (A3), Drainage Patterns (B10), Geomorphic Position (D2), and FAC-Neutral Test (D5).

4.3 Soils

According to the *Web Soil Survey* (NRCS 2023a), the soil in the study area is Grenadier gravelly loam, 0 to 6 percent slopes. This soil is not considered hydric but it is known to have both cumulic cryaquolls and hystic cryaquolls as minor components (20%) in swales, both of

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which are listed as hydric. The Grenadier gravelly loam is found on fans and at mountain bases, and is derived from glacial drift. It is generally well drained and has a normal depth to water table of more than 80 inches. The typical profile is gravelly loam from 0 to 3 inches and gravelly sandy clay loam from 3 to 16 inches. A total of five soil pits were excavated in and near the wetlands (**Figure 2**), and they generally confirmed the presence of this soil type. Soil observed in the various pits were variable, with sand, silty and sandy loams, and gravel observed within 16 inches of the surface (see data forms in **Appendix A**). The only hydric soil indicator observed in the soil pits was Depleted Matrix (F3).

4.4 Wetland Functional Condition

Based on the concepts presented in the *FACWet Method* (Johnson, et al. 2013), the general condition of the wetlands in study area is Functioning to Functioning Impaired (letter grade of "C" to "D"). This is a result of the great loss of historical wetlands in and adjacent to the study area, and the presence of several major ecological stressors. The most severe stressors include: 1) altered water source and distribution caused by upgradient developments (outside the study area), as well as on-site morphological modifications to the wetland itself (ditching and old railroad bed); and 2) modifications to the contributing area, namely the extensive development in the immediate watershed.

The highest functioning part of the wetland is the west side where there appears to be more appropriate wetland hydrology. This part of the wetland is supplemented by surface flows from the two tributaries entering from the west (see *Section 5.0 Other Water Features*) and generally contains the expected vegetation zones. The lower functioning wetlands on the east and north are partially dewatered by adjacent land uses and ditching, which has had a profound impact on the vegetation complexity and overall functional condition.

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Wetland Technical Report

5.0 Other Water Features

While there are no other water features in the study area (no channels with a defined bed and bank), surface water flows certainly enter the site and influence the wetlands present. **Figure 2** shows the surface water inputs to the site and the direction of flow, which is typically observable during snowmelt as shallow groundwater flow and/or sheet flow. There are three main surface water inputs:

- **Tributary 1** enters the study area from the south through a small culvert (approximately 18 inches in diameter) and appears to be drainage from the residential development to the south – perhaps from foundation drains or other sources of water more reliable than stormwater since it has been observed flowing during site visits in spring, summer, and fall (**Photo 4 in Appendix B**). The flow path of this tributary is mostly covered with wetland vegetation.
- **Tributary 2** is an unnamed topographic swale that enters the study area from the southwest through a large culvert (approximately 36-inch) under the walking path at the end of Woods Drive (**Photo 5 in Appendix B**). It appears to carry snowmelt and other stormwater flows into the site and has been observed dry during the summer and fall. While some large flows enter through this tributary, as evidenced by recent sediment and rafted debris, it does not contain a defined channel within the study area. Water entering the site sheet flows into the larger wetland area.
- **Tributary 3** appears to be drainage from the residential development to the west, along Woods Drive. Water drains from a retaining wall into a small pond (out of the study area) and sheet flows into the site below the pond (**Photo 6 in Appendix B**). Similar to Tributary 1, this tributary has been observed flowing during site visits in spring, summer, and fall, so it may also originate from foundation drains.

While much of the wetland stays relatively wet throughout the growing season, no surface flows appear to leave the property. During snowmelt, when surface flows are typically at their peak, water can flow out of the large wetland area into a narrow part of the wetland that is an excavated ditch with a vegetated bottom (no channel). This ditch was historically excavated in an apparent attempt to drain the larger wetland and directs water northeast where it can leave the wetland via sheet flow and into a topographic swale. If it makes it that far, it continues north through the swale into a culvert under Woods Drive and into a small upland stormwater pond. There is no channel between the wetland and this pond (**Photo 7 in Appendix B**). The pond is strictly a topographic depression in uplands and does not contain wetlands or a channel. The pond outlets to an elevated wooden box with an opening to an underground stormwater pipe that appears to run east along the north side of French Street approximately 600 feet to the Blue River. The entrance to this pipe is perched above the ground surface and shows no signs of recent or regular flow (**Photos 8 and 9 in Appendix B**). Other than this outlet, there are no other culverts or surface water connections to off-site habitats.

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6.0 Proposed Impacts

The proposed project would result in the permanent loss of 0.10 acre of wetlands for the construction of the residential development and the widening of North Park Avenue (**Table 1**). The drawings in **Appendix C** show the overall site plan and the impacted wetlands.

Table 1: Permanent Wetland Impacts

Project Feature	Permanent Impacts (acres)	Notes
Residential Development	0.067	Includes grading for buildings and associated features; 0.198 acre of adjacent wetland setback area also permanently lost
North Park Avenue	0.033	Includes grading for road widening and associated features; wetland setback impacts temporary
Total	0.100	-

The wetlands impacted for residential development are those associated with the historically excavated ditch at the north end and are the lowest quality wetlands in the study area. The wetlands impacted for the widening of North Park Avenue are on the extreme eastern edge of the wetland where substantial evidence of drying was observed. These wetlands are also some of the lowest functioning wetlands in the study area.

Permanent impacts to the wetland setback (25-foot buffer around the wetlands) include 0.198 acre associated with the wetlands impacted by the residential development. The setback where the wetlands would be impacted by the widening of North Park Avenue are expected to be temporarily impacted during construction but will not be permanently lost.

Gold Rush Lots

Wetland Technical Report

7.0 Proposed Mitigation

7.1 Wetland Mitigation

The proposed project would permanently fill 0.10 acre of existing wetlands as a result of the construction of the residential duplex/townhomes and supporting roadway and other infrastructure components. The wetlands were determined to be non-jurisdictional under the Clean Water Act on August 31, 2021 by the USACE. Regardless, the project proponent has worked diligently to avoid and minimize impacts to wetlands to the maximum extent practicable by redesigning the project multiple times to keep the project footprint as small as possible and orienting the proposed improvements to maximize the use of upland areas. Since wetlands encompass a large portion of the property (5.7 of the 16.1 acres), there is no feasible alternative to disturbing some wetlands and still meet the project purpose of providing residential housing within the density set forth by the Town of Breckenridge (Town) approved masterplan, meeting local fire code access requirements to the residential units, while simultaneously preserving mature existing trees and vegetation on site as required for Town approval of the project.

The 0.10 acre of wetlands lost have been compensated for by purchasing 0.2 credits (2:1 ratio) from the recently approved Colorado Western Slope In-Lieu Fee (ILF) Program, which is sponsored by the National Forest Foundation (NFF) and approved for use in Summit County by the USACE. The ILF was formally approved in 2020 and began releasing credits for projects seeking compensatory wetland mitigation credits in Summit County in 2022.

Additional information about the program can be found on the Corps' Regulatory In-Lieu Fee and Bank Tracking Information System website:

https://ribits.ops.usace.army.mil/ords/f?p=107:378::NO::P378_PROGRAM_ID:2808.

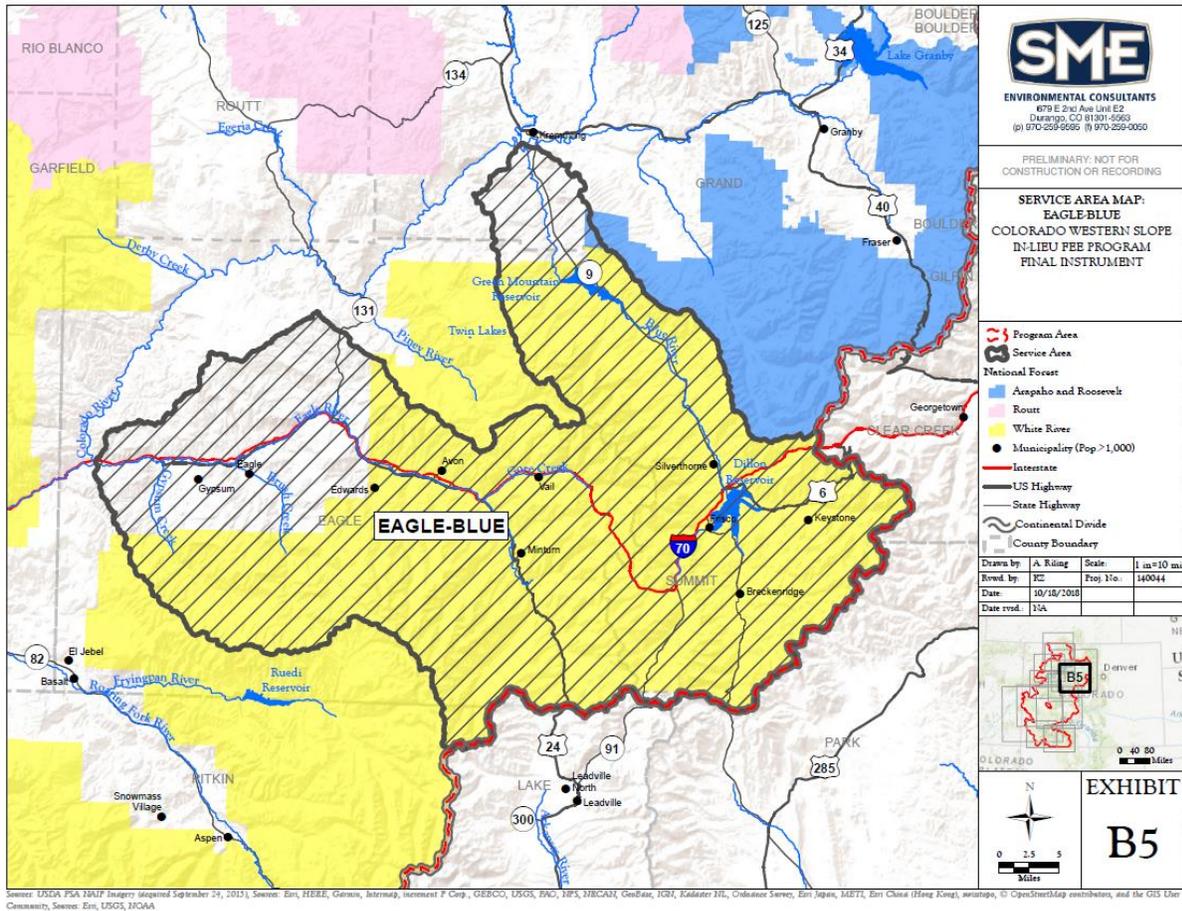
The mitigation credits will be debited from the Program's Blue-Eagle Service Area, which encompasses hydrologic unit code 1401000201 and includes the Town of Breckenridge (see **Figure B5** from the program instrument below). As such, a formal wetland mitigation plan will not be prepared for the project. Details of the wetlands to be used for the ILF Program are available from the NFF by contacting Mr. Marcus Selig (NFF Chief Conservation Officer) at 720.437.0290 or mseelig@nationalforests.org.

7.2 Wetland Setback Mitigation

The project would permanently impact 0.198 acre of wetland setback. The compensation for this setback area includes the purchase of surplus credits from the ILF (0.2 credits instead of the required 0.1 credit), as well as the revegetation of areas around the new residential facilities, including the proposed stormwater detention basin.

The project would also temporarily impact a portion of the wetland setback adjacent to the wetlands impacted by the widening of North Park Avenue. This setback area will be revegetated with a native seed mix after construction.

Gold Rush Lots Wetland Technical Report



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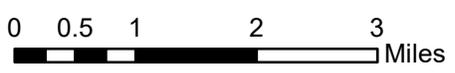
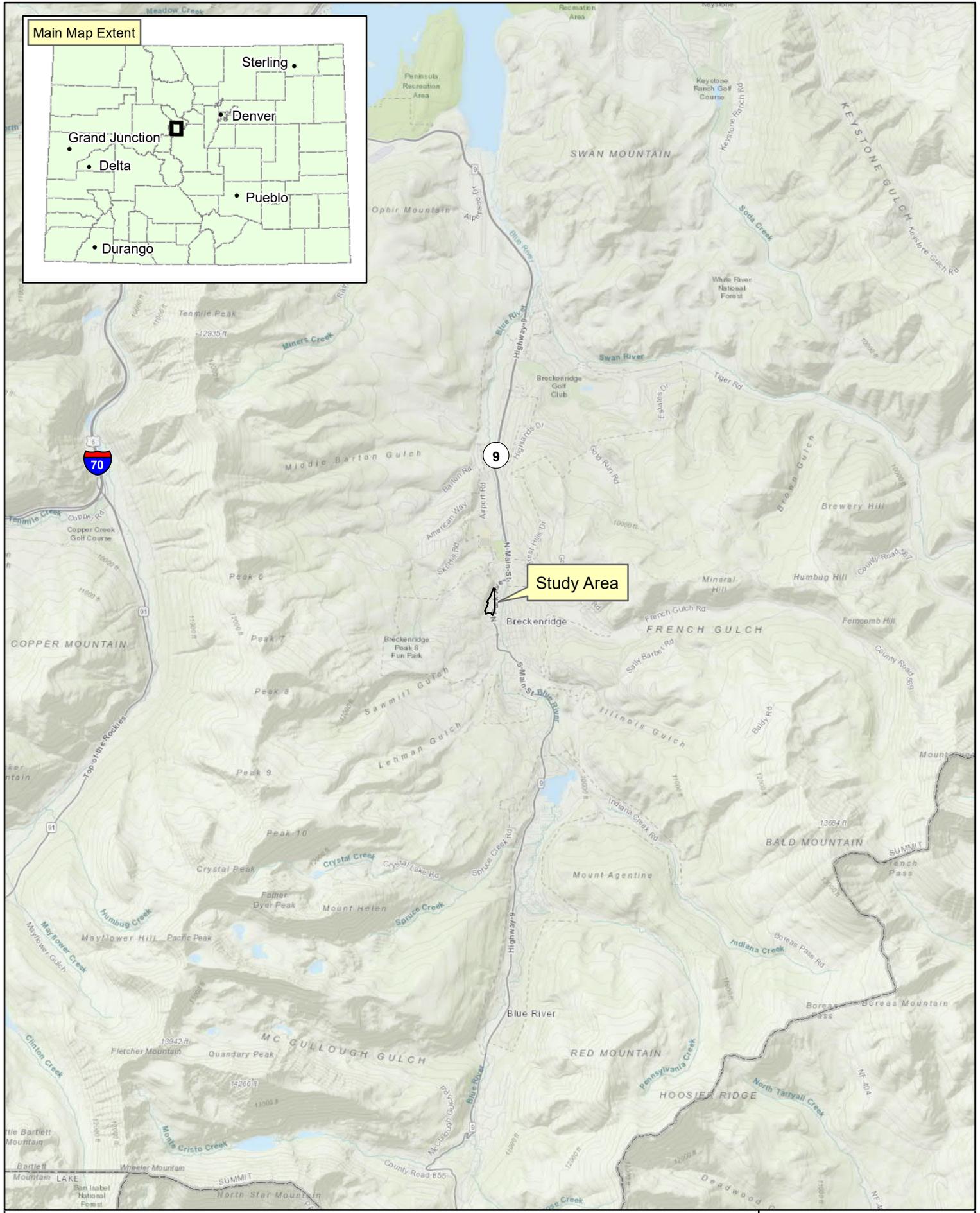
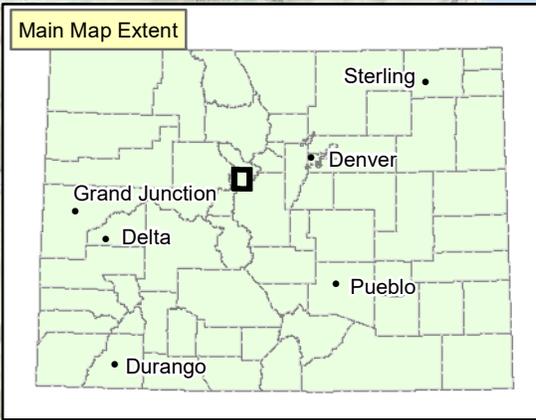
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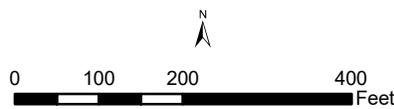
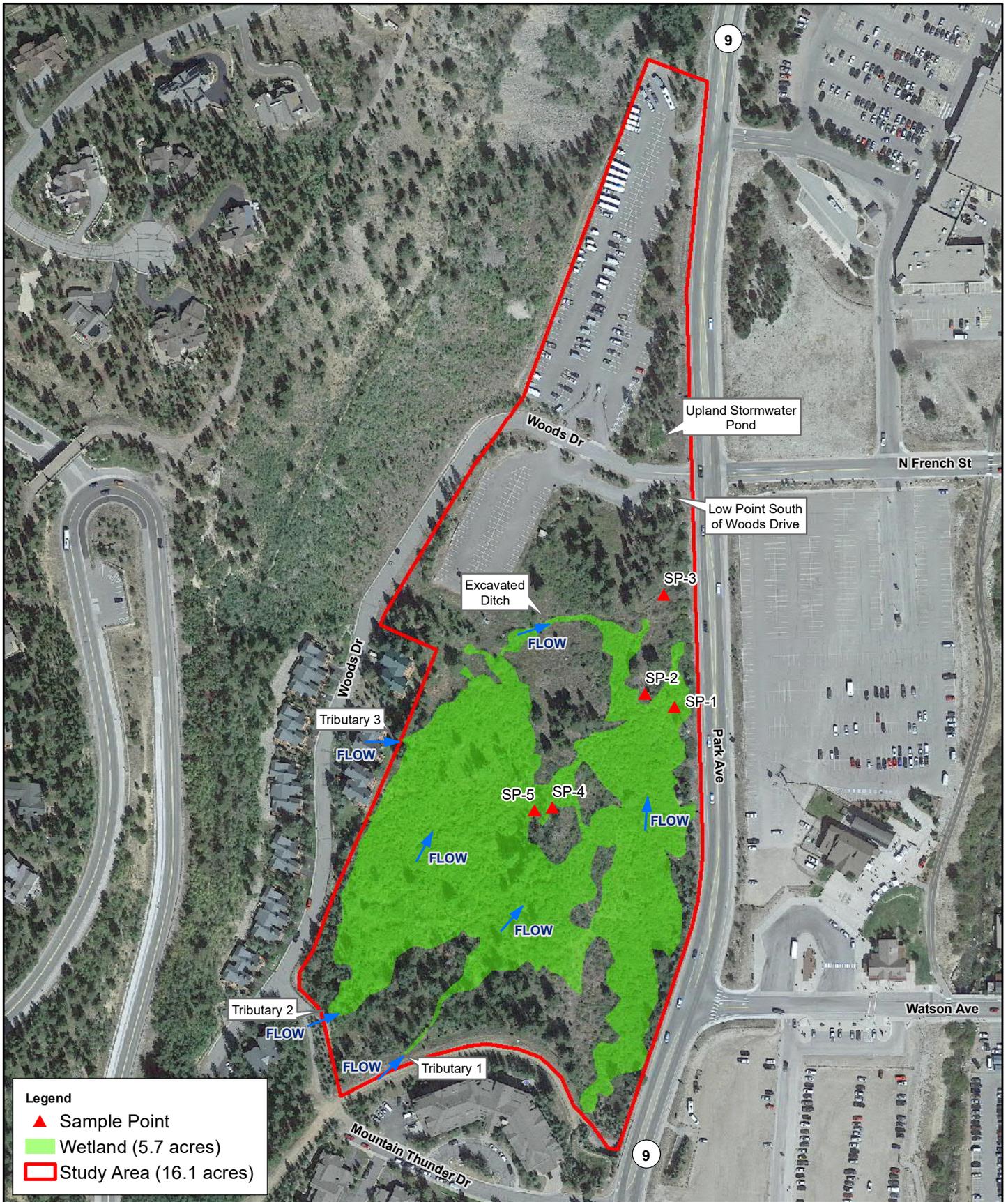
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Gold Rush Parking Lot

Figure 1
Site Location Map 100

07/19/2021



08/13/2020

Gold Rush Parking Lot

Figure 2
Wetlands and Other
Water Features

Appendix A
Wetland Determination Data Forms

Project/Site: Gold Rush Lots City/County: Breckenridge/Summit Sampling Date: 8/17/16
 Applicant/Owner: Breckenridge Grand Vacations State: CO Sampling Point: SP1
 Investigator(s): Andy Herb Section, Township, Range: S31, T7S, R77W
 Landform (hillside, terrace, etc.): Slope Local relief (concave, convex, none): concave Slope (%): 1 to 2
 Subregion (LRR): LRR E, MLRA 48A Lat: 39.485950 Long: -106.048847 Datum: WGS84
 Soil Map Unit Name: Grenadier gravelly loam, 0 to 6 percent slopes NWI classification: PSS
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No (If no, explain in Remarks.)
 Are Vegetation , Soil , or Hydrology significantly disturbed? Are "Normal Circumstances" present? Yes X No
 Are Vegetation , Soil , or Hydrology naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u> Hydric Soil Present? Yes <u>X</u> No <u> </u> Wetland Hydrology Present? Yes <u>X</u> No <u> </u>	Is the Sampled Area within a Wetland? Yes <u>X</u> No <u> </u>
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Remarks:
 Dense willow area with mesic understory; appears to be drier than historically but still meets the wetland criteria; possibly part of a relict beaver pond complex; original data collected in August 2016 but verified in July 2020

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: <u>30-ft radius</u>)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. _____	_____	_____	_____	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>6</u> (A) Total Number of Dominant Species Across All Strata: <u>6</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
_____ =Total Cover	_____	_____	_____																	
Sapling/Shrub Stratum (Plot size: <u>15-ft radius</u>)				Prevalence Index worksheet: <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Total % Cover of:</td> <td style="width: 50%;">Multiply by:</td> </tr> <tr> <td>OBL species <u>10</u></td> <td>x 1 = <u>10</u></td> </tr> <tr> <td>FACW species <u>30</u></td> <td>x 2 = <u>60</u></td> </tr> <tr> <td>FAC species <u>45</u></td> <td>x 3 = <u>135</u></td> </tr> <tr> <td>FACU species <u>5</u></td> <td>x 4 = <u>20</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x 5 = <u>0</u></td> </tr> <tr> <td>Column Totals: <u>90</u> (A)</td> <td><u>225</u> (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = <u>2.50</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>10</u>	x 1 = <u>10</u>	FACW species <u>30</u>	x 2 = <u>60</u>	FAC species <u>45</u>	x 3 = <u>135</u>	FACU species <u>5</u>	x 4 = <u>20</u>	UPL species <u>0</u>	x 5 = <u>0</u>	Column Totals: <u>90</u> (A)	<u>225</u> (B)	Prevalence Index = B/A = <u>2.50</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>10</u>	x 1 = <u>10</u>																			
FACW species <u>30</u>	x 2 = <u>60</u>																			
FAC species <u>45</u>	x 3 = <u>135</u>																			
FACU species <u>5</u>	x 4 = <u>20</u>																			
UPL species <u>0</u>	x 5 = <u>0</u>																			
Column Totals: <u>90</u> (A)	<u>225</u> (B)																			
Prevalence Index = B/A = <u>2.50</u>																				
1. <u>Salix drummondiana</u>	<u>10</u>	<u>Yes</u>	<u>FACW</u>																	
2. <u>Salix monticola</u>	<u>10</u>	<u>Yes</u>	<u>OBL</u>																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
_____ =Total Cover	<u>20</u>	_____	_____																	
Herb Stratum (Plot size: <u>1x3 meter</u>)				Hydrophytic Vegetation Indicators: <u> </u> 1 - Rapid Test for Hydrophytic Vegetation <u>X</u> 2 - Dominance Test is >50% <u>X</u> 3 - Prevalence Index is ≤3.0 ¹ <u> </u> 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> 5 - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
1. <u>Mertensia ciliata</u>	<u>20</u>	<u>Yes</u>	<u>FACW</u>																	
2. <u>Agrostis gigantea</u>	<u>15</u>	<u>Yes</u>	<u>FAC</u>																	
3. <u>Poa pratensis</u>	<u>15</u>	<u>Yes</u>	<u>FAC</u>																	
4. <u>Elymus trachycaulus</u>	<u>15</u>	<u>Yes</u>	<u>FAC</u>																	
5. <u>Taraxacum officinale</u>	<u>5</u>	<u>No</u>	<u>FACU</u>																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
_____ =Total Cover	<u>70</u>	_____	_____																	
Woody Vine Stratum (Plot size: <u>1x3 meter</u>)				Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u>																
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
_____ =Total Cover	_____	_____	_____																	
% Bare Ground in Herb Stratum <u>25</u>																				

Remarks:
 Lots of partially dead or dying willow; overall dense willow with relatively mesic understory

SOIL

Sampling Point: SP1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-2	10YR 2/2	100					Loamy/Clayey	silty clay loam
2-6	10YR 4/2	85	10YR 4/6	15	C	M	Loamy/Clayey	sandy loam
6-16	10YR 4/4	100					Sandy	sand and gravel

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)			Indicators for Problematic Hydric Soils ³ :		
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> 2 cm Muck (A10) (LRR A, E)			
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR D)			
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (F21)			
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (F22)			
<input type="checkbox"/> 1 cm Muck (A9) (LRR D, G)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (Explain in Remarks)			
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input checked="" type="checkbox"/> Depleted Matrix (F3)				
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)				
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)				
<input type="checkbox"/> 2.5 cm Mucky Peat or Peat (S2) (LRR G)	<input type="checkbox"/> Redox Depressions (F8)				

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes <input checked="" type="checkbox"/> No _____
---	--

Remarks:
All layers dry

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one is required; check all that apply)	Secondary Indicators (2 or more required)	
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input checked="" type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input checked="" type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input checked="" type="checkbox"/> FAC-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations: Surface Water Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ Water Table Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ Saturation Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No _____
---	--

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
Small channels present throughout the area; appears to be relict beaver pond area; currently dry and generally seems to be drier than historically; main source of hydrology is seasonally high groundwater associated with snowmelt

Project/Site: Gold Rush Lots City/County: Breckenridge/Summit Sampling Date: 8/17/16
 Applicant/Owner: Breckenridge Grand Vacations State: CO Sampling Point: SP2
 Investigator(s): Andy Herb Section, Township, Range: S31, T7S, R77W
 Landform (hillside, terrace, etc.): Slope Local relief (concave, convex, none): concave Slope (%): 1 to 2
 Subregion (LRR): LRR E, MLRA 48A Lat: 39.486027 Long: -106.049056 Datum: WGS84
 Soil Map Unit Name: Grenadier gravelly loam, 0 to 6 percent slopes NWI classification: PSS
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No (If no, explain in Remarks.)
 Are Vegetation , Soil , or Hydrology significantly disturbed? Are "Normal Circumstances" present? Yes X No
 Are Vegetation , Soil , or Hydrology naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u> Hydric Soil Present? Yes <u> </u> No <u>X</u> Wetland Hydrology Present? Yes <u> </u> No <u>X</u>	Is the Sampled Area within a Wetland? Yes <u> </u> No <u>X</u>
Remarks: Open shrubby area dominated by mesic vegetation; meets vegetation criterion but no evidence of hydrology or hydric soils	

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: <u>30-ft radius</u>)	Absolute % Cover	Dominant Species?	Indicator Status	Dominance Test worksheet:																
1. _____	_____	_____	_____	Number of Dominant Species That Are OBL, FACW, or FAC: <u>5</u> (A) Total Number of Dominant Species Across All Strata: <u>6</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>83.3%</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
=Total Cover																				
Sapling/Shrub Stratum (Plot size: <u>15-ft radius</u>)				Prevalence Index worksheet: <table style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">Total % Cover of:</td> <td style="text-align: center;">Multiply by:</td> </tr> <tr> <td>OBL species <u>0</u></td> <td>x 1 = <u>0</u></td> </tr> <tr> <td>FACW species <u>15</u></td> <td>x 2 = <u>30</u></td> </tr> <tr> <td>FAC species <u>75</u></td> <td>x 3 = <u>225</u></td> </tr> <tr> <td>FACU species <u>27</u></td> <td>x 4 = <u>108</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x 5 = <u>0</u></td> </tr> <tr> <td>Column Totals: <u>117</u> (A)</td> <td><u>363</u> (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = <u>3.10</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>0</u>	x 1 = <u>0</u>	FACW species <u>15</u>	x 2 = <u>30</u>	FAC species <u>75</u>	x 3 = <u>225</u>	FACU species <u>27</u>	x 4 = <u>108</u>	UPL species <u>0</u>	x 5 = <u>0</u>	Column Totals: <u>117</u> (A)	<u>363</u> (B)	Prevalence Index = B/A = <u>3.10</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>0</u>	x 1 = <u>0</u>																			
FACW species <u>15</u>	x 2 = <u>30</u>																			
FAC species <u>75</u>	x 3 = <u>225</u>																			
FACU species <u>27</u>	x 4 = <u>108</u>																			
UPL species <u>0</u>	x 5 = <u>0</u>																			
Column Totals: <u>117</u> (A)	<u>363</u> (B)																			
Prevalence Index = B/A = <u>3.10</u>																				
1. <u>Dasiphora fruticosa</u>	<u>10</u>	Yes	FAC																	
2. <u>Salix drummondiana</u>	<u>5</u>	Yes	FACW																	
3. <u>Lonicera involucrata</u>	<u>5</u>	Yes	FAC																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
=Total Cover																				
Herb Stratum (Plot size: <u>1x3 meter</u>)				Hydrophytic Vegetation Indicators: <u> </u> 1 - Rapid Test for Hydrophytic Vegetation <u>X</u> <u>2</u> - Dominance Test is >50% <u> </u> 3 - Prevalence Index is ≤3.0 ¹ <u> </u> 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> 5 - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
1. <u>Agrostis scabra</u>	<u>25</u>	Yes	FAC																	
2. <u>Achillea millefolium</u>	<u>20</u>	Yes	FACU																	
3. <u>Cirsium scariosum</u>	<u>10</u>	No	FAC																	
4. <u>Carex praegracilis</u>	<u>10</u>	No	FACW																	
5. <u>Taraxacum officinale</u>	<u>5</u>	No	FACU																	
6. <u>Penstemon procerus</u>	<u>20</u>	Yes	FAC																	
7. <u>Potentilla gracilis</u>	<u>5</u>	No	FAC																	
8. <u>Taraxacum officinale</u>	<u>2</u>	No	FACU																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
=Total Cover																				
Woody Vine Stratum (Plot size: <u>1x3 meter</u>)				Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u>																
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
=Total Cover																				
% Bare Ground in Herb Stratum <u>0</u>																				

Remarks:
 Relatively open area with mesic shrub cover; scattered Pinus contorta nearby

SOIL

Sampling Point: SP2

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-3	10YR 2/2	100					Loamy/Clayey	sandy loam; lots of roots
3-16	10YR 4/4	100					Sandy	sand with gravel

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)			Indicators for Problematic Hydric Soils ³ :		
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> 2 cm Muck (A10) (LRR A, E)			
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR D)			
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (F21)			
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (F22)			
<input type="checkbox"/> 1 cm Muck (A9) (LRR D, G)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (Explain in Remarks)			
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)				
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)				
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)				
<input type="checkbox"/> 2.5 cm Mucky Peat or Peat (S2) (LRR G)	<input type="checkbox"/> Redox Depressions (F8)				

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes _____ No <u>X</u>
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Remarks:
All layers dry

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input type="checkbox"/> FAC-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations: Surface Water Present? Yes _____ No <u>X</u> Depth (inches): _____ Water Table Present? Yes _____ No <u>X</u> Depth (inches): _____ Saturation Present? Yes _____ No <u>X</u> Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <u>X</u>
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Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No evidence of hydrology; sample point approximately 20 feet from SP1 and about the same elevation

Project/Site: Gold Rush Lots City/County: Breckenridge/Summit Sampling Date: 8/17/16
 Applicant/Owner: Breckenridge Grand Vacations State: CO Sampling Point: SP3
 Investigator(s): Andy Herb Section, Township, Range: S31, T7S, R77W
 Landform (hillside, terrace, etc.): Slope Local relief (concave, convex, none): concave Slope (%): 1 to 2
 Subregion (LRR): LRR E, MLRA 48A Lat: 39.486486 Long: -106.048944 Datum: WGS84
 Soil Map Unit Name: Grenadier gravelly loam, 0 to 6 percent slopes NWI classification: PSS
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No (If no, explain in Remarks.)
 Are Vegetation , Soil , or Hydrology significantly disturbed? Are "Normal Circumstances" present? Yes X No
 Are Vegetation , Soil , or Hydrology naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u> Hydric Soil Present? Yes <u> </u> No <u>X</u> Wetland Hydrology Present? Yes <u> </u> No <u>X</u>	Is the Sampled Area within a Wetland? Yes <u> </u> No <u>X</u>
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Remarks:
 Swale down-gradient of main wetland area; small pocket of hydrophytes where water must be present during snowmelt/runoff; meets hydrophytic vegetation criterion but no evidence of hydric soils or wetland hydrology.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: <u>30-ft radius</u>)	Absolute % Cover	Dominant Species?	Indicator Status	Dominance Test worksheet:																																
1. _____	_____	_____	_____	Number of Dominant Species That Are OBL, FACW, or FAC: <u>3</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																																
2. _____	_____	_____	_____																																	
3. _____	_____	_____	_____																																	
4. _____	_____	_____	_____																																	
_____ =Total Cover																																				
Sapling/Shrub Stratum (Plot size: <u>15-ft radius</u>)				Prevalence Index worksheet: <table style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">Total % Cover of:</td> <td style="text-align: center;">_____</td> <td style="text-align: right;">Multiply by:</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>OBL species</td> <td style="text-align: center;"><u>0</u></td> <td>x 1 =</td> <td style="text-align: center;"><u>0</u></td> </tr> <tr> <td>FACW species</td> <td style="text-align: center;"><u>80</u></td> <td>x 2 =</td> <td style="text-align: center;"><u>160</u></td> </tr> <tr> <td>FAC species</td> <td style="text-align: center;"><u>10</u></td> <td>x 3 =</td> <td style="text-align: center;"><u>30</u></td> </tr> <tr> <td>FACU species</td> <td style="text-align: center;"><u>10</u></td> <td>x 4 =</td> <td style="text-align: center;"><u>40</u></td> </tr> <tr> <td>UPL species</td> <td style="text-align: center;"><u>5</u></td> <td>x 5 =</td> <td style="text-align: center;"><u>25</u></td> </tr> <tr> <td>Column Totals:</td> <td style="text-align: center;"><u>105</u> (A)</td> <td></td> <td style="text-align: center;"><u>255</u> (B)</td> </tr> <tr> <td colspan="4">Prevalence Index = B/A = <u>2.43</u></td> </tr> </table>	Total % Cover of:	_____	Multiply by:	_____	OBL species	<u>0</u>	x 1 =	<u>0</u>	FACW species	<u>80</u>	x 2 =	<u>160</u>	FAC species	<u>10</u>	x 3 =	<u>30</u>	FACU species	<u>10</u>	x 4 =	<u>40</u>	UPL species	<u>5</u>	x 5 =	<u>25</u>	Column Totals:	<u>105</u> (A)		<u>255</u> (B)	Prevalence Index = B/A = <u>2.43</u>			
Total % Cover of:	_____	Multiply by:	_____																																	
OBL species	<u>0</u>	x 1 =	<u>0</u>																																	
FACW species	<u>80</u>	x 2 =	<u>160</u>																																	
FAC species	<u>10</u>	x 3 =	<u>30</u>																																	
FACU species	<u>10</u>	x 4 =	<u>40</u>																																	
UPL species	<u>5</u>	x 5 =	<u>25</u>																																	
Column Totals:	<u>105</u> (A)		<u>255</u> (B)																																	
Prevalence Index = B/A = <u>2.43</u>																																				
1. <u>Salix drummondiana</u>	<u>10</u>	Yes	FACW																																	
2. _____	_____	_____	_____																																	
3. _____	_____	_____	_____																																	
4. _____	_____	_____	_____																																	
5. _____	_____	_____	_____																																	
_____ =Total Cover																																				
Herb Stratum (Plot size: <u>1x3 meter</u>)				Hydrophytic Vegetation Indicators: <u> </u> 1 - Rapid Test for Hydrophytic Vegetation <u>X</u> <u> </u> 2 - Dominance Test is >50% <u> </u> 3 - Prevalence Index is ≤3.0 ¹ <u> </u> 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> 5 - Wetland Non-Vascular Plants ¹ <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																																
1. <u>Calamagrostis canadensis</u>	<u>40</u>	Yes	FACW																																	
2. <u>Mertensia ciliata</u>	<u>30</u>	Yes	FACW																																	
3. <u>Achillea millefolium</u>	<u>10</u>	No	FACU																																	
4. <u>Potentilla gracilis</u>	<u>5</u>	No	FAC																																	
5. <u>Chamerion angustifolia</u>	<u>5</u>	No	UPL																																	
6. <u>Cirsium arvense</u>	<u>5</u>	No	FAC																																	
7. _____	_____	_____	_____																																	
8. _____	_____	_____	_____																																	
9. _____	_____	_____	_____																																	
10. _____	_____	_____	_____																																	
11. _____	_____	_____	_____																																	
_____ =Total Cover																																				
Woody Vine Stratum (Plot size: <u>1x3 meter</u>)																																				
1. _____	_____	_____	_____																																	
2. _____	_____	_____	_____																																	
_____ =Total Cover																																				
% Bare Ground in Herb Stratum <u>5</u>																																				

Remarks:
 Small pocket of hydrophytes (approx. 100 square feet) on edge of broad swale below main wetland

SOIL

Sampling Point: SP3

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
0-6	10YR 2/2	100					Loamy/Clayey	silty clay loam
6-7	10YR 4/2	90	10YR 4/6	10	C	M	Loamy/Clayey	silty clay loam
7-16	10YR 4/4	100	10YR 4/4				Sandy	sand with gravel

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)			Indicators for Problematic Hydric Soils ³ :		
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> 2 cm Muck (A10) (LRR A, E)			
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR D)			
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (F21)			
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (except MLRA 1)	<input type="checkbox"/> Very Shallow Dark Surface (F22)			
<input type="checkbox"/> 1 cm Muck (A9) (LRR D, G)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Other (Explain in Remarks)			
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)				
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)				
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)				
<input type="checkbox"/> 2.5 cm Mucky Peat or Peat (S2) (LRR G)	<input type="checkbox"/> Redox Depressions (F8)				

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric Soil Present? Yes _____ No <u>X</u>
---	---

Remarks:
All layers dry

HYDROLOGY

Wetland Hydrology Indicators:		
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (2 or more required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9) (except MLRA 1, 2, 4A, and 4B)	<input type="checkbox"/> Water-Stained Leaves (B9) (MLRA 1, 2, 4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Salt Crust (B11)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input checked="" type="checkbox"/> FAC-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Stunted or Stressed Plants (D1) (LRR A)	<input type="checkbox"/> Raised Ant Mounds (D6) (LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Other (Explain in Remarks)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)		

Field Observations: Surface Water Present? Yes _____ No <u>X</u> Depth (inches): _____ Water Table Present? Yes _____ No <u>X</u> Depth (inches): _____ Saturation Present? Yes _____ No <u>X</u> Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <u>X</u>
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No evidence of hydrology; sample point in lowest part of swale where it would be wettest; likely receives occasional snowmelt/runoff

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Gold Rush Lots City/County: Breckenridge/Summit Sampling Date: 7/22/20
 Applicant/Owner: Breckenridge Grand Vacations State: CO Sampling Point: SP4
 Investigator(s): Andy Herb Section, Township, Range: S31, T7S, R77W
 Landform (hillslope, terrace, etc.): Slope Local relief (concave, convex, none): None Slope (%): 1 to 2
 Subregion (LRR): Southern Rocky Mountain Forest and Range Land Lat.: 39.485524 -106 Datum: WGS84
 Soil Map Unit Name: Grenadier gravelly loam, 0 to 6 percent slopes NWI Classification: PSS

Are climatic/hydrologic conditions of the site typical for this time of the year Y (If no, explain in remarks)
 Are vegetation , soil , or hydrology significantly disturbed? Are "normal circumstances" present? Y
 Are vegetation , soil , or hydrology naturally problematic? (If needed, explain any answers in remarks)

SUMMARY OF FINDINGS - Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic vegetation present?	<u>Y</u>	Is the sampled area within a wetland?	<u> </u>
Hydric soil present?	<u>N</u>		
Indicators of wetland hydrology present	<u>N</u>		
If yes, optional wetland site ID: <u> </u>			

Remarks: (Explain alternative procedures here or in a separate report.)

Edge of vegetatively diverse mesic meadow; appears to be relic wetland area from when the site was wetter; presence of willows meets the hydrophytic vegetation criterion but no indicators of hydrology or hydric soils

VEGETATION - Use scientific names of plants

Tree Stratum	Plot Size (30' radius)	Absolute % Cover	Dominant Species	Indicator Status																																																																															
1	<u>Populus tremuloides</u>	<u>20</u>	<u>Y</u>	<u>FACU</u>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td>50/20 Thresholds</td> <td style="text-align: center;">20%</td> <td style="text-align: center;">50%</td> </tr> <tr> <td>Tree Stratum</td> <td style="text-align: center;">4</td> <td style="text-align: center;">10</td> </tr> <tr> <td>Sapling/Shrub Stratum</td> <td style="text-align: center;">6</td> <td style="text-align: center;">15</td> </tr> <tr> <td>Herb Stratum</td> <td style="text-align: center;">19</td> <td style="text-align: center;">49</td> </tr> <tr> <td>Woody Vine Stratum</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> </tr> <tr> <td colspan="3">Dominance Test Worksheet</td> </tr> <tr> <td colspan="3">Number of Dominant Species that are OBL, FACW, or FAC: <u> </u> (A)</td> </tr> <tr> <td colspan="3">Total Number of Dominant Species Across all Strata: <u> </u> (B)</td> </tr> <tr> <td colspan="3">Percent of Dominant Species that are OBL, FACW, or FAC: <u>55.56%</u> (A/B)</td> </tr> <tr> <td colspan="3">Prevalence Index Worksheet</td> </tr> <tr> <td colspan="3">Total % Cover of: <input type="checkbox"/></td> </tr> <tr> <td>OBL species</td> <td style="text-align: center;"><u>5</u> x 1 = <u>5</u></td> <td></td> </tr> <tr> <td>FACW species</td> <td style="text-align: center;"><u>20</u> x 2 = <u>40</u></td> <td></td> </tr> <tr> <td>FAC species</td> <td style="text-align: center;"><u>40</u> x 3 = <u>120</u></td> <td></td> </tr> <tr> <td>FACU species</td> <td style="text-align: center;"><u>67</u> x 4 = <u>268</u></td> <td></td> </tr> <tr> <td>UPL species</td> <td style="text-align: center;"><u>0</u> x 5 = <u>0</u></td> <td></td> </tr> <tr> <td>Column totals</td> <td style="text-align: center;"><u>132</u> (A)</td> <td style="text-align: center;"><u>433</u> (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A =</td> <td style="text-align: center;"><u>3.28</u></td> </tr> <tr> <td colspan="3">Hydrophytic Vegetation Indicators:</td> </tr> <tr> <td colspan="3">Rapid test for hydrophytic vegetation</td> </tr> <tr> <td colspan="3"><input checked="" type="checkbox"/> Dominance test is >50%</td> </tr> <tr> <td colspan="3"><input type="checkbox"/> Prevalence index is ≤3.0*</td> </tr> <tr> <td colspan="3">Morphological adaptations* (provide supporting data in Remarks or on a separate sheet)</td> </tr> <tr> <td colspan="3"><input type="checkbox"/> Problematic hydrophytic vegetation* (explain)</td> </tr> <tr> <td colspan="3">*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic</td> </tr> <tr> <td colspan="3" style="text-align: center;">Hydrophytic vegetation present? <u>Y</u></td> </tr> </table>	50/20 Thresholds	20%	50%	Tree Stratum	4	10	Sapling/Shrub Stratum	6	15	Herb Stratum	19	49	Woody Vine Stratum	0	0	Dominance Test Worksheet			Number of Dominant Species that are OBL, FACW, or FAC: <u> </u> (A)			Total Number of Dominant Species Across all Strata: <u> </u> (B)			Percent of Dominant Species that are OBL, FACW, or FAC: <u>55.56%</u> (A/B)			Prevalence Index Worksheet			Total % Cover of: <input type="checkbox"/>			OBL species	<u>5</u> x 1 = <u>5</u>		FACW species	<u>20</u> x 2 = <u>40</u>		FAC species	<u>40</u> x 3 = <u>120</u>		FACU species	<u>67</u> x 4 = <u>268</u>		UPL species	<u>0</u> x 5 = <u>0</u>		Column totals	<u>132</u> (A)	<u>433</u> (B)	Prevalence Index = B/A =		<u>3.28</u>	Hydrophytic Vegetation Indicators:			Rapid test for hydrophytic vegetation			<input checked="" type="checkbox"/> Dominance test is >50%			<input type="checkbox"/> Prevalence index is ≤3.0*			Morphological adaptations* (provide supporting data in Remarks or on a separate sheet)			<input type="checkbox"/> Problematic hydrophytic vegetation* (explain)			*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic			Hydrophytic vegetation present? <u>Y</u>		
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4	_____	_____	_____	_____																																																																															
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Sapling/Shrub Stratum	Plot Size (15' radius)	Absolute % Cover	Dominant Species	Indicator Status																																																																															
1	<u>Salix geyeriana</u>	<u>15</u>	<u>Y</u>	<u>FACW</u>																																																																															
2	<u>Dasiphora fruticosa</u>	<u>10</u>	<u>Y</u>	<u>FAC</u>																																																																															
3	<u>Salix monticola</u>	<u>5</u>	<u>N</u>	<u>OBL</u>																																																																															
4	_____	_____	_____	_____																																																																															
5	_____	_____	_____	_____																																																																															
		<u>30</u> =	Total Cover																																																																																
Herb Stratum	Plot Size (5' radius)	Absolute % Cover	Dominant Species	Indicator Status																																																																															
1	<u>Fragaria virginiana</u>	<u>25</u>	<u>Y</u>	<u>FACU</u>																																																																															
2	<u>Achillea millefolium</u>	<u>20</u>	<u>Y</u>	<u>FACU</u>																																																																															
3	<u>Phleum pratense</u>	<u>10</u>	<u>Y</u>	<u>FAC</u>																																																																															
4	<u>Poa pratensis</u>	<u>10</u>	<u>Y</u>	<u>FAC</u>																																																																															
5	<u>Bromus ciliatus</u>	<u>10</u>	<u>Y</u>	<u>FAC</u>																																																																															
6	<u>Lupinus</u>	<u>10</u>	<u>Y</u>	_____																																																																															
7	<u>Festuca</u>	<u>5</u>	<u>N</u>	_____																																																																															
8	<u>Carex praegracilis</u>	<u>5</u>	<u>N</u>	<u>FACW</u>																																																																															
9	<u>Gallium boreale</u>	<u>2</u>	<u>N</u>	<u>FACU</u>																																																																															
10	_____	_____	_____	_____																																																																															
11	_____	_____	_____	_____																																																																															
		<u>97</u> =	Total Cover																																																																																
Woody Vine Stratum	Plot Size (N/A)	Absolute % Cover	Dominant Species	Indicator Status																																																																															
1	<u>N/A</u>	_____	_____	_____																																																																															
2	_____	_____	_____	_____																																																																															
		<u>0</u> =	Total Cover																																																																																
% Bare Ground in Herb Stratum: <u>3</u>																																																																																			

Remarks:

Edge of open meadow area; possibly relic wetland area

Project Site: Gold Rush Lots

SOIL

Sampling Point:

SP4

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type*	Loc**		
0-16	10YR3/3	100	N/A				Sandy loam	some small gravel throughout

*Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains **Location: PL=Pore Lining, M=Matrix

Hydric Soil Indicators:		Indicators for Problematic Hydric Soils:	
<input type="checkbox"/> Histisol (A1)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> 2 cm Muck (A10) (LRR K, L, MLRA 149B)	
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Loamy Mucky Mineral (F1) (LRR K, L)	<input type="checkbox"/> Red Parent Material (TF2)	
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)	
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input checked="" type="checkbox"/> Depleted Matrix (F3)	<input type="checkbox"/> Other (Explain in Remarks)	
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Redox Dark Surface (F6)		
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Depleted Dark Surface (F7)		
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Redox Depressions (F8)		
<input type="checkbox"/> Sandy Gleyed Matrix (S4)			
<input type="checkbox"/> Sandy Redox (S5)			

*Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric soil present? <u>Y</u>
Remarks: Recent gopher activity, soil dry	

HYDROLOGY

Primary Indicators (minimum of one is required; check all that apply)	Secondary Indicators (minimum of two required)
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9) (except MLRA 1,2,4A, and 4B)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Shallow Aquitard (D3)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> FAC-Neutral Test (D5)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Raised Ant Mounds (D6)(LRR A)
<input type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Frost-Heave Hummocks (D7)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7) (B8)	<input type="checkbox"/> Other (Explain in Remarks)

Field Observations:	Indicators of wetland hydrology present? <u>N</u>
Surface water present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): _____	
Water table present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): _____	
Saturation present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): _____ (includes capillary fringe)	

Describe recorded data (stream gauge, monitoring well, aerial photos, previous inspections), if available:
None

Remarks: Sample point approx. 2.5'(V) above wetland area; likely seasonally wet from snowmelt but no hydrologic indicators obs.

WETLAND DETERMINATION DATA FORM - Western Mountains, Valleys, and Coast Region

Project/Site: Gold Rush Lots City/County: Breckenridge/Summit Sampling Date: 7/22/20
 Applicant/Owner: Breckenridge Grand Vacations State: CO Sampling Point: SP5
 Investigator(s): Andy Herb Section, Township, Range: S31, T7S, R77W
 Landform (hillslope, terrace, etc.): Slope Local relief (concave, convex, none): None Slope (%): 1 to 2
 Subregion (LRR): Southern Rocky Mountain Forest and Range Land Lat.: 39.485559 -106 Datum: WGS84
 Soil Map Unit Name: Grenadier gravelly loam, 0 to 6 percent slopes NWI Classification: PSS

Are climatic/hydrologic conditions of the site typical for this time of the year Y (If no, explain in remarks)
 Are vegetation , soil , or hydrology significantly disturbed? Are "normal circumstances" present? Y
 Are vegetation , soil , or hydrology naturally problematic? (If needed, explain any answers in remarks)

SUMMARY OF FINDINGS - Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic vegetation present? <u>Y</u>	Is the sampled area within a wetland? <u>Y</u>
Hydric soil present? <u>Y</u>	
Indicators of wetland hydrology present <u>Y</u>	

If yes, optional wetland site ID: _____

Remarks: (Explain alternative procedures here or in a separate report.)

PSS wetland in swale along edge of mesic meadow; includes smaller pockets of PEM wetland. A current flow path for seasonal high water (snowmelt).

VEGETATION - Use scientific names of plants

Tree Stratum	Plot Size (30' radius)	Absolute % Cover	Dominant Species	Indicator Status
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____
4	_____	_____	_____	_____
		0 =	Total Cover	
Sapling/Shrub Stratum	Plot Size (15' radius)	Absolute % Cover	Dominant Species	Indicator Status
1	<u>Salix geyeriana</u>	40	Y	FACW
2	_____	_____	_____	_____
3	_____	_____	_____	_____
4	_____	_____	_____	_____
5	_____	_____	_____	_____
		30 =	Total Cover	
Herb Stratum	Plot Size (5' radius)	Absolute % Cover	Dominant Species	Indicator Status
1	<u>Carex aquatilis</u>	65	Y	OBL
2	<u>Geum macrophyllum</u>	15	N	FAC
3	<u>Equisetum arvense</u>	10	N	FAC
4	<u>Poa palustris</u>	5	N	FAC
5	<u>Phleum pratense</u>	2	N	FAC
6	_____	_____	_____	_____
7	_____	_____	_____	_____
8	_____	_____	_____	_____
9	_____	_____	_____	_____
10	_____	_____	_____	_____
11	_____	_____	_____	_____
		97 =	Total Cover	
Woody Vine Stratum	Plot Size (N/A)	Absolute % Cover	Dominant Species	Indicator Status
1	<u>N/A</u>	_____	_____	_____
2	_____	_____	_____	_____
		0 =	Total Cover	

% Bare Ground in Herb Stratum: 3

50/20 Thresholds	20%	50%
Tree Stratum	0	0
Sapling/Shrub Stratum	6	15
Herb Stratum	19	49
Woody Vine Stratum	0	0
Dominance Test Worksheet		
Number of Dominant Species that are OBL, FACW, or FAC: <u>2</u> (A)		
Total Number of Dominant Species Across all Strata: <u>2</u> (B)		
Percent of Dominant Species that are OBL, FACW, or FAC: <u>100.00%</u> (A/B)		
Prevalence Index Worksheet		
Total % Cover of: <input type="checkbox"/>		
OBL species	65 x 1 =	65
FACW species	40 x 2 =	80
FAC species	32 x 3 =	96
FACU species	0 x 4 =	0
UPL species	0 x 5 =	0
Column totals	<u>137</u> (A)	<u>241</u> (B)
Prevalence Index = B/A =	1.76	
Hydrophytic Vegetation Indicators:		
Rapid test for hydrophytic vegetation		
<input checked="" type="checkbox"/> Dominance test is >50%		
<input checked="" type="checkbox"/> Prevalence index is ≤3.0*		
Morphological adaptations* (provide supporting data in Remarks or on a separate sheet)		
Problematic hydrophytic vegetation* (explain)		
*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic		

Hydrophytic vegetation present? Y

Remarks:
 Willow-dominated area in shallow swale on edge of mesic meadow

Project Site: Gold Rush Lots

SOIL

Sampling Point:

SP5

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type*	Loc**		
0-2	10YR2/1	100	N/A				Silty clay	
2-9	10YR4/2	98	10YR4/6	2	C	M	Silty clay	
9+	-	100					Gravel/cobble.	

*Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains **Location: PL=Pore Lining, M=Matrix

Hydric Soil Indicators:

- Histisol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Loamy Mucky Mineral (F1) (LRR K, L)
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)

Indicators for Problematic Hydric Soils:

- 2 cm Muck (A10) (LRR K, L, MLRA 149B)
- Red Parent Material (TF2)
- Very Shallow Dark Surface (TF12)
- Other (Explain in Remarks)

*Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic

Restrictive Layer (if observed): Type: _____ Depth (inches): _____	Hydric soil present? <u>Y</u>
Remarks: All layers saturated	

HYDROLOGY

<p>Primary Indicators (minimum of one is required; check all that apply)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Surface Water (A1) <input type="checkbox"/> High Water Table (A2) <input checked="" type="checkbox"/> Saturation (A3) <input type="checkbox"/> Water Marks (B1) <input type="checkbox"/> Sediment Deposits (B2) <input type="checkbox"/> Drift Deposits (B3) <input type="checkbox"/> Algal Mat or Crust (B4) <input type="checkbox"/> Iron Deposits (B5) <input type="checkbox"/> Surface Soil Cracks (B6) <input type="checkbox"/> Inundation Visible on Aerial Imagery (B7) <input type="checkbox"/> (B8) <input type="checkbox"/> Water-Stained Leaves (B9) (except MLRA 1,2,4A, and 4B) <input type="checkbox"/> Salt Crust (B11) <input type="checkbox"/> Aquatic Invertebrates (B13) <input type="checkbox"/> Hydrogen Sulfide Odor (C1) <input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3) <input type="checkbox"/> Presence of Reduced Iron (C4) <input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6) <input type="checkbox"/> Stunted or Stressed Plants (D1)(LRR A) <input type="checkbox"/> Other (Explain in Remarks) 	<p>Secondary Indicators (minimum of two required)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Water-Stained Leaves (B9) (except MLRA 1,2,4A, and 4B) <input checked="" type="checkbox"/> Drainage Patterns (B10) <input type="checkbox"/> Dry-Season Water Table (C2) <input type="checkbox"/> Saturation Visible on Aerial Imagery (C9) <input checked="" type="checkbox"/> Geomorphic Position (D2) <input type="checkbox"/> Shallow Aquitard (D3) <input checked="" type="checkbox"/> FAC-Neutral Test (D5) <input type="checkbox"/> Raised Ant Mounds (D6)(LRR A) <input type="checkbox"/> Frost-Heave Hummocks (D7)
---	---

<p>Field Observations:</p> <p>Surface water present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): _____</p> <p>Water table present? Yes <input type="checkbox"/> No <input type="checkbox"/> Depth (inches): _____</p> <p>Saturation present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Depth (inches): <u>0</u></p> <p>(includes capillary fringe)</p>	<p>Indicators of wetland hydrology present? <u>Y</u></p>
--	---

Describe recorded data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks: Main source of hydrology is high groundwater, especially during snowmelt

Appendix B

Site Photographs



Photo 1 – Typical PSS wetland (July 22, 2020)



Photo 2 – Typical wetland boundary, notice dead and dying willows (July 22, 2020)



Photo 3 – Dead and dying willow along the wetland boundary (July 22, 2020)



Photo 4 – Tributary 1, looking north where it enters the site (July 13, 2020)



Photo 5 – Tributary 2, looking northeast where it enters the site (July 19, 2021)



Photo 6 – Tributary 3, looking southwest where it enters the site from a small pond, which is off the property (July 13, 2020)



Photo 7 - Looking north at the vegetated (non-wetland) entrance to the culvert under Woods Drive (July 19, 2021)



Photo 8 - Looking south at the culvert (black plastic) outlet under Woods Drive, with wooden outlet box to the stormwater system (July 19, 2021)



Photo 9 - Close up view of the outlet box showing no signs of flow, looking south (July 20, 2021)

Appendix C
Site Plan and Wetland Disturbance



Drawing: IA\2019026\Breckenridge-Gondola Lot\Dev\05-CAD\X-Res\01-GOLD-RUSH-SOUTH\HARDGRADE-GOLD-RUSH-SOUTH_1_8DUPLEX.dwg
 Last Saved: October 25, 2023 10:52:48 AM by Zeanhart
 Last Plotted: 10/25/2023 11:01:38 AM
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NOT FOR CONSTRUCTION

DRAWN BY:	ZE/TJ
CHECKED BY:	DTJ
PROJECT NO.:	2019026
ISSUE DATE:	10/20/2023
REVISIONS:	

SHEET TITLE:
GOLD RUSH SOUTH SITE PLAN

SHEET NUMBER:

L201

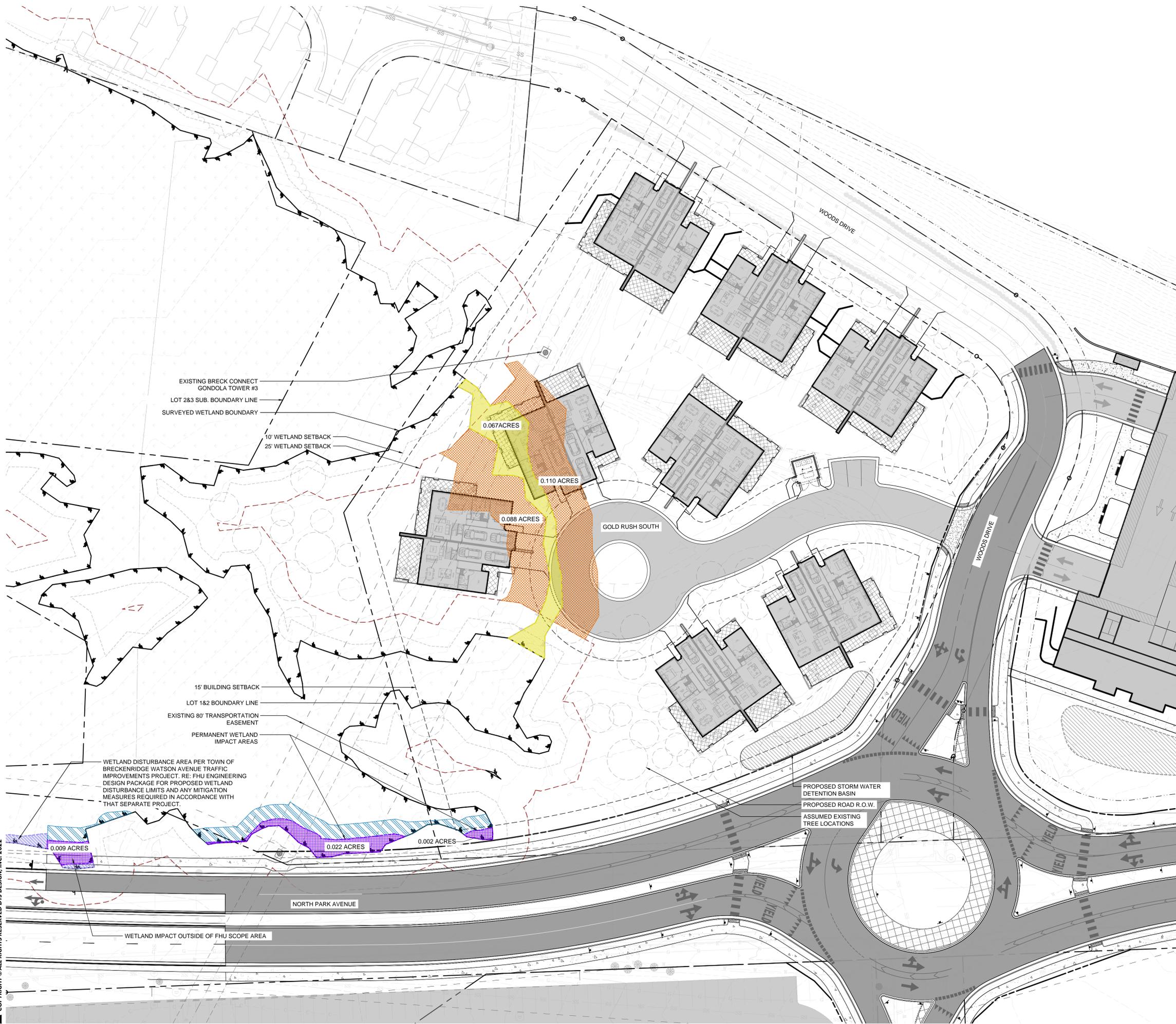


WETLAND DISTURBANCES DIAGRAM LEGEND

- PREVIOUSLY EXEMPTED MAPPED WETLAND ZONES
- PREVIOUSLY EXEMPTED MAPPED WETLAND BUFFER
- PROPOSED WETLAND DISTURBANCE ZONES
- TEMPORARY WETLAND DISTURBANCE ZONES

WETLAND DISTURBANCE TABULATIONS	
CATEGORY	AREA (acres)
PREVIOUSLY EXEMPTED MAPPED WETLAND ZONES	
Exempted Wetland Zones	0.067
Exempted 25' Wetland Buffer Zones	0.198
PROPOSED WETLAND DISTURBANCE ZONES	
Total Permanent Wetland Disturbance Zones	0.033

- NOTE:**
1. EXEMPTED WETLAND, AND 25' WETLAND BUFFER AREAS, HAVE BEEN DETERMINED BY BRECKENRIDGE TOWN ENGINEERING DEPARTMENT BASED ON ANALYSIS REPORT PROVIDED BY WETLAND/ENVIRONMENTAL CONSULTANT DURING THE MASTER PLAN REVIEW PROCESS. THE AGGREGATE OF THESE AREAS ARE NOW EXEMPT FROM WETLAND DISTURBANCE CLASSIFICATION FOR DEVELOPMENT REVIEW. BASED ON THESE DETERMINATIONS, THESE AREAS ARE SHOWN FOR CONTEXTUAL REFERENCE ONLY.
 2. AREAS CALCULATED ARE BASED ON PROPOSED AND EXISTING PLATTED LOT BOUNDARIES.
 3. FINAL DISTURBANCE ZONES TO BE DETERMINED IN FINAL DEVELOPMENT PLAN SUBMITTAL WHEN DETAILED GRADING DESIGN PLANS ARE FINALIZED, AND DISTURBANCE AREAS ARE FURTHER DEFINED.



EXISTING BRECK CONNECT GONDOLA TOWER #3
LOT 2&3 SUB. BOUNDARY LINE
SURVEYED WETLAND BOUNDARY
10' WETLAND SETBACK
25' WETLAND SETBACK

15' BUILDING SETBACK
LOT 1&2 BOUNDARY LINE
EXISTING 80' TRANSPORTATION EASEMENT
PERMANENT WETLAND IMPACT AREAS

WETLAND DISTURBANCE AREA PER TOWN OF BRECKENRIDGE WATSON AVENUE TRAFFIC IMPROVEMENTS PROJECT. RE: FHU ENGINEERING DESIGN PACKAGE FOR PROPOSED WETLAND DISTURBANCE LIMITS AND ANY MITIGATION MEASURES REQUIRED IN ACCORDANCE WITH THAT SEPARATE PROJECT.

PROPOSED STORM WATER DETENTION BASIN
PROPOSED ROAD R.O.W.
ASSUMED EXISTING TREE LOCATIONS

WETLAND IMPACT OUTSIDE OF FHU SCOPE AREA

Drawing: IA-2019026-Breckenridge-Gondola Lot Dev05-CAD/Sheets00-Exhibits-Coordination/06_GRS_SiteDiagrams-Wetland-Dist.dwg
 Last Saved: October 25, 2023 10:57:50 AM by Zeanhart
 Last Plotted: 10/25/2023 11:00:33 AM
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APPROVAL OF THIS DEVELOPMENT AGREEMENT CONSTITUTES A VESTED
PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED
STATUTES AS AMENDED

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is made as of this ____ day of _____, 202__, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the “**Town**”), GONDOLA PROPERTIES, LLC, a Colorado limited liability company (“**Gondola Properties**”), BGV PARTNERS ENTRADA LLC, a Colorado limited liability company (“**BGV Entrada**”); Vail Summit Resorts, Inc., a Colorado corporation (“**VSRI**”); and LC Breckenridge Holdco, LLC, a Delaware limited liability company (“**LC Breckenridge**”). The Town, Gondola Properties, BGV Entrada, VSRI, and LC Breckenridge may collectively be referred to herein as the “**Parties**” and each individually as a “**Party**”.

RECITALS

A. Gondola Properties is the owner of real property in the Town legally described in Exhibit 1 (“**Parcel 1**”).

B. VSRI is the owner of real property in the Town legally described in Exhibit 2 (“**Parcel 2**”).

C. Gondola Properties is the owner of real property in the Town legally described in Exhibit 3 (“**Parcel 3**”).

D. LC Breckenridge is the is the owner of real property in the Town legally described in Exhibit 4 (“**Parcel 4**”).

E. VSRI is the owner of real property in the Town legally described in Exhibit 5 (“**Parcel 5**”).

F. VSRI is the owner of real property in the Town legally described in Exhibit 6 (“**Parcel 6**” and collectively with Parcels 1, 2, 3, 4, and 5, the “**Properties**,” each individually a “**Property**”).

G. BGV Entrada is the owner of real property in Summit County (the “**County**”) legally described in Exhibit 7 (“**Parcel 7**”).

H. Parcels 1, 2, and 3 are subject to and controlled by the Breckenridge Grand Vacations Gondola Lot Master Plan (PL-2021-0052) (the “**Gondola Lot Master Plan**”).

I. Parcels 4, 5, and 6 are subject to and controlled by the Eighth Amendment to the Amended Peak 7 & 8 Master Plan PL-2018-0546 (an amendment to PERMIT #2000155) (the “**Peak 7 & 8 Master Plan**”).

J. The current “**Density**” as that term is used in Section 9-1-19-3A of the Breckenridge Town Code (the “**Town Code**”) and reflected as “**SFEs**” as that term is defined in

Section 9-1-5 of the Town Code, existing in the Gondola Lot Master Plan, the Peak 7 & 8 Master Plan, and Parcel 7 is as follows:

- (1) Gondola Lot Master Plan: 143.0 SFEs;
- (2) Peak 7 & 8 Master Plan: 145.8 SFEs; and
- (3) Parcel 7 (Per Land Use District 5): 14.2 SFEs.

K. BGV Entrada has submitted a petition for annexation to annex Parcel 7 (the “**Annexation**”), and upon the annexation of Parcel 7, BGV Entrada and the Town anticipate setting the terms of the Annexation and the development of Parcel 7 by separate agreement.

L. The Parties desire to articulate a comprehensive and coordinated approach to guide the Properties’ use and development.

M. To that end, the Parties further desire to provide for the following general plan of development for the Properties (collectively, the “**Project**”):

(1) With respect to Parcel 1: To preserve the existing parking lot and improve it with limited grading, drainage and water quality, lighting, and landscaping improvements, and to confirm that the historic, 610 parking-space capacity for winter recreational visitors will be credited toward the 1,560 spaces required under that certain Parking Agreement dated November 11, 2003 and recorded on June 29, 2004 in the records of the Summit County Clerk and Recorder (the “**Records**”) at Reception No. 760358 (the “**Parking Agreement**”) irrespective of any reductions resulting from grading, drainage and water quality, lighting, and landscaping improvements or roundabout improvements, on the understanding that a parking attendant will be provided during the winter recreational season to ensure effective parking utilization;

(2) With respect to Parcel 2: To establish a site for employee housing, on privately owned property, as well as the provision of a minimum of 400 parking spaces, as a continuation of historical use of Parcel 2 for overflow parking, plus any required parking for approved employee housing, for winter recreational visitors that will be credited toward the 1,560 spaces required under the Parking Agreement;

(3) With respect to Parcel 3: To allow up to sixteen (16) duplex units distributed in eight (8) buildings;

(4) With respect to Parcel 4: To provide for development of condominium, hotel, and lock-off units and associated uses (including whole and/or fractional ownership), while preserving and/or providing space for VSRI administrative services and the Breckenridge Outdoor Education Center (“**BOEC**”);

(5) With respect to Parcel 5: To create two (2) lots for single-family residential development;

(6) With respect to Parcel 6: To establish a single-family residential subdivision with up to fourteen (14) homesites;

(7) With respect to Parcel 7: If the Annexation occurs, to allow for development of employee housing on Parcel 7 and to authorize the transfer of Density required to accommodate that employee housing; and

(8) With respect to the Gondola Lot Master Plan and Peak 7 & 8 Master Plan: to accommodate the parcel-specific development contemplated above and to provide for the Density transfers necessary to accomplish that development.

(9) With respect to the intersection of North French Street and Park Avenue: to provide for the construction of a roundabout and certain pedestrian improvements as currently contemplated in the Gondola Lot Master Plan, subject to Colorado Department of Transportation (“CDOT”) review and approval.

(10) With respect to all of the foregoing: the Parties currently anticipate phasing the completion of all vertical and horizontal elements on the Properties and Parcel 7 as follows. The improvements on Parcel 1 will occur on the schedule set forth in Section 5.3. The development of Parcels 2 and 3, the construction of a roundabout and associated pedestrian improvements, and the horizontal infrastructure associated with Parcels 5 and 6 will occur in the first phase; the concurrent development of Parcels 4 and 7 will occur in the second phase. This Subsection 10 reflects the Parties’ present, nonbinding intentions, which are subject to change.

N. The Parties acknowledge that Parcels 4 and 5 will include “accommodation units” as that term is defined in Section 4-6-1 of the Town Code (as the same may be amended from time to time) and more commonly known as “Short-Term Rentals.”

O. In connection with the Project, the Parties anticipate that Density will be transferred to and from the Gondola Lot Master Plan to the Properties, resulting in the following total Density-allocations to each Property:

- (1) Parcel 1: 0.0 SFEs;
- (2) Parcel 2: Up to 21.7 SFEs (with up to 13.9 to be provided by the Town);
- (3) Parcel 3: Up to 30.0 SFEs;
- (4) Parcel 4: Up to 220.0 SFEs;
- (5) Parcel 5: Up to 2.0 SFEs;
- (6) Parcel 6: Up to 14.0 SFEs; and
- (7) Parcel 7: Up to 29.2 SFEs.

P. To provide for the Project's development, Gondola Properties (including its successors and assigns, "**Applicant**") anticipates submitting one or more Development Applications to (1) amend the Gondola Lot Master Plan (the "**Gondola Lot Amendment**"); (2) amend the Peak 7 & 8 Master Plan (the "**Peak 7 & 8 Amendment**" and collectively with the Gondola Lots Amendment, the "**Master Plan Amendments**"); (3) provide for the development of one or more of the Properties upon the approval of the Master Plan Amendments. The term "**Development Application**" includes, without limitation, any application for any of the development permits described in Section 9-1-18 of the Town Code as well as any subdivision application under Section 9-2-3 of the Town Code.

Q. To guide the Project and to achieve public benefits desired by the Town, the Town and Applicant desire to establish (1) the commitments Applicant will include in its Development Application(s) and (2) the terms upon which the Town will review and approve Applicant's Development Application(s) that includes those commitments.

R. The Town Council of the Town of Breckenridge (the "**Town Council**") is the governing body of the Town, with the legal authority to enter into development agreements conferring "**Vested Property Rights**" as defined in and pursuant to, *inter alia*, C.R.S. §§ 24-68-101 *et seq.* (the "**Vested Property Rights Act**") and ARTICLE 12 of this Agreement.

S. Pursuant to Section 103 of the Vested Property Rights Act, its legislative authority, and Section 9-1-17-11K of the Town Code, and notwithstanding any provision to the contrary set forth in the Town Code, the Town Council intends that this Agreement will be designated as a "**Site Specific Development Plan**" as that term is defined in the Vested Property Rights Act.

T. Pursuant to Chapter 9 of Title 9 of the Town Code, the Town Council has the authority to enter into a development agreement. Section 9-1-17-12A of the Code requires a development agreement to transfer Density within the Town and between master plans. The Town finds that a development agreement is appropriate to accommodate the Density transfers described below. Section 9-17-11K of the Code further authorizes development agreements to extend vested rights beyond the standard three-year vesting period when "warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles and market conditions." The Town finds that all of the relevant circumstances support a vesting period beyond the standard three years.

U. Section 9-1-19-39A.L.5 of the Town Code allows the Town Council to authorize the Planning Commission to review and approve (subject to compliance with all other applicable development policies of the town) an amendment to an approved master plan which is not in compliance with the then current Land use District Guidelines (the "**Guidelines**"). The Town finds that the authorizations described below are warranted under the circumstances.

V. The commitments encouraged to be made in connection with an application for a development agreement in accordance with Section 9-9-4 of the Town Code are as hereafter set forth in this Agreement.

W. The Town Council has received a complete application and all required submittals for a development agreement, has had preliminary discussions of the application and this Agreement, determined that it should commence proceedings for the approval of this Agreement and, in accordance with the procedures set forth in Section 9-9-10C of the Town Code, desires to approve this Agreement by ordinance.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, mutual covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto, the Parties agree as follows:

ARTICLE 1 GENERAL PROVISIONS

1.1 Incorporation of Recitals. The foregoing Recitals are incorporated into and made substantive provisions of this Agreement.

1.2 Effective Date. The rights and obligations of the Parties under this Agreement shall commence on the Effective Date as defined in this Section 1.2, except as otherwise set forth herein. The “**Effective Date**” shall be the date upon which the Town Council, by ordinance or otherwise, approves the Agreement.

1.3 Nature of Agreement. As further provided in ARTICLE 12, as between the Parties, this Agreement is a Site Specific Development Plan as that term is defined in Section 102 of the Vested Property Rights Act and constitutes a development agreement granting and establishing Vested Property Rights for a period consistent with Section 12.3 in accordance with Section 104(2) of the Vested Property Rights Act.

1.4 Relationship to Previous Agreements. This Agreement replaces, supersedes and effects the termination of the following agreements, which shall be of no further force and effect with respect to the Properties:

(a) Amended and Restated Development Agreement between the Town and Gondola Lot Properties LLC dated June 12, 2023, and recorded in the Records on June 14, 2023, at Reception No. 1312523;

(b) Development Agreement between the Town and Gondola Lot Properties LLC dated April 14, 2023, and recorded in the Records at Reception No. 1309020 on April 14, 2023.

(c) Amended and Restated Development Agreement between the Town and LH Mountain Ventures, LLC dated July 19, 2019, and recorded in the Records on January 8, 2020, at Reception No. 1217695; and

(d) Development Agreement between the Town and Lionheart BGV Ventures, LLC, dated August 15, 2018, and recorded in the Records on September 28, 2018, at Reception No. 1181305;

1.5 Landowner Cooperation and Consent.

(a) “**Landowner**” shall mean the owner of a legal or equitable interest in any Property, and includes the heirs, successors, and assigns of such ownership interests.

(b) Each Landowner hereby covenants and agrees to reasonably cooperate and consent to Applicant’s preparation, submittal, and pursuit of any Development Application(s) contemplated under this Agreement and the Town’s approval of the same, subject to such Landowner’s prompt prior review and approval of the applicable Development Application, which shall not be unreasonably withheld. In connection with every Development Application contemplated under this Agreement where Applicant and Landowner are not the same person or entity, the Parties acknowledge and agree that Applicant shall be considered Landowner’s “representative” within the meaning of Section 24-68-102(4)(a) of the Vested Property Rights Act, solely with respect to submission to the Town of this Agreement and any Development Application approved pursuant to this Section 1.5(b).

(c) Each Landowner hereby covenants and agrees to reasonably cooperate in the creation, amendment, and/or execution of such further agreements as may be required to effectuate the provisions of this Agreement. By way of example but not limitation, every Landowner shall, if necessary, execute a Density Transfer Covenant to accomplish the Density transfers contemplated in this Agreement, as more particularly set forth in Section 1.6. Notwithstanding the foregoing, VSRI’s obligation to execute Density Transfer Covenants shall be limited to the transfer of 58.0 SFEs from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan, and VSRI shall have no further obligation to transfer Density or execute any Density Transfer Covenant following the successful transfer of the same.

1.6 Density Transfer Covenants. This Agreement contemplates the Town’s authorization of various Density transfers. Pursuant to Section 9-1-17-12 of the Town Code, Density transfers must be evidenced by a written covenant (a “**Density Transfer Covenant**”). For all Density transfers contemplated under this Agreement, the following terms shall apply:

(a) The Density Transfer Covenant shall be in a form substantially similar to that attached hereto as Exhibit 8.

(b) All Parties necessary for any Density transfer contemplated under this Agreement shall execute a Density Transfer Covenant within thirty-five (35) days of the Final, Non-Appealable Approval of a master plan amendment or other Development Application authorizing the Density transfer. (“**Final, Non-Appealable Approval**” shall mean the passage of any time periods within which any referendum, administrative appeal, or request for review of such approval pursuant to C.R.C.P. 106(a)(4) must be brought, without any such referendum, administrative appeal or C.R.C.P. 106(a)(4) action having been filed, commenced or asserted, or, if filed, commenced or asserted, after any such referendum, administrative appeal or C.R.C.P. 106(a)(4) action is resolved with affirmation that such approval is effective.) The first sentence of this Section 1.6(b) shall not apply to any Density transfer contemplated or authorized for Parcel 7, which Density transfer shall

be accomplished as soon as practicable following the Annexation, if the Annexation is approved.

ARTICLE 2 COMMITMENTS (PUBLIC BENEFITS)

In exchange for the development rights conferred by this Agreement, the Town determines that it is in the public interest to recognize and memorialize the public benefits that the Project will provide as set forth below and more fully in this Agreement.

2.1 Density Relocation. The Town acknowledges and agrees that the Density transfers contemplated in this Agreement will relocate Density from the Town core to the Peak 8 base area, which is a more appropriate development location. The Town further acknowledges that the contemplated transfers will relocate approximately seventy-four (74) percent of the currently available Density away from Town core (approximately sixty-three [63] percent to the Peak 8 base area, and approximately eleven [11] percent to Parcel 7), and, after all density transfers occur, Density within Gondola Lot Master Plan will be reduced by approximately sixty-four (64) percent.

2.2 Development Intensity Reduction. The Gondola Lots Master Plan protects and provides for Density to be used in the Town core under an earlier version of the Town Code. The Town acknowledges and agrees that as the result of later modifications to the Town Code that will apply to development contemplated under this Agreement, the Density contemplated in this Agreement is anticipated to reduce development intensity as compared to the existing approved Gondola Lot Master Plan by approximately 90,000 square feet.

2.3 No Vertical Construction Proposed on Parcel 1; Parking Improved on Parcel 2. Upon approval of the Development Application(s) contemplated in this Agreement, Parcel 1 will remain as a surface parking lot for winter recreational visitors. Drainage and water quality, landscaping, and lighting will all be improved as set forth in ARTICLE 5, and, as more particularly set forth in ARTICLE 6, no parking structure will be erected on Parcel 2 and the existing surface parking lot on Parcel 2 will also be improved by Applicant. ~~Nothing in this Agreement precludes the Landowner of Parcel 1 and the Town from jointly agreeing through a future development agreement process to a different use on Parcel 1.~~

2.4 Employee Housing. The Town acknowledges and agrees that the Agreement:

- (a) Provides for, on private property, critically needed employee housing for the community beyond the employee housing that would be required by the Town Code;
- (b) Does not require any construction costs to be incurred by the Town for any of the employee housing contemplated in this Agreement;
- (c) Obligates Applicant to provide up to 7.8 SFEs of market-rate Density on Parcel 2, which reduces the need for Town-transferred Density for employee housing on that parcel; and.
- (d) For Parcel 4, requires Applicant to provide employee housing in compliance with the Town Code on Parcel 7, if the Annexation is successful, or elsewhere if it is not.

Additionally, if the Annexation is successful and Applicant constructs employee housing on Parcel 7, any housing constructed beyond that required to satisfy the employee housing requirements for the development of Parcel 4 shall not be “banked” or “reserved” to satisfy the employee housing obligations of future developments and shall instead represent a public benefit.

2.5 Infrastructure Contribution. Subject to CDOT review and approval and provided circumstances beyond Applicant’s control do not prevent Applicant from complying with the timing set forth herein, prior to issuance of any certificate of occupancy for Parcel 3, Applicant shall design and construct Park Avenue and Ski Hill Road intersection improvements ~~including such improvements as, which shall be limited to~~ signage, ADA compliant pedestrian facilities (e.g., ramps and push buttons), and turn-lane restriping for eastbound and westbound movements as described in the East Peak 8 Traffic Impact Study Update (July 2023) ~~up to \$500,000 of design and construction costs.~~

2.6 Sol Center Contribution. Applicant shall, within a reasonable time following the Family & Intercultural Resource Center’s (“FIRC”) written request, contribute \$2.0 million toward the FIRC/Building Hope capital fundraising campaign for use toward the Sol Center.

2.7 Cucumber Gulch Improvements.

(a) Prior to issuance of any certificate of occupancy for any building on Parcel 4, Applicant will establish with the Town an environmental improvement fund dedicated to ecosystem and habitat improvements to protect Cucumber Gulch funded by a fee of \$2/rental room per night in perpetuity.

(b) Prior to issuance of any certificate of occupancy for any building on Parcel 4, Applicant shall make a one-time \$125,000 contribution to the Town for constructed improvements or other management or conservation expenses in Cucumber Gulch.

2.8 Vehicle Trips. As set forth more particularly in ARTICLE 8, vehicle trips on Ski Hill Road will be reduced through the construction of the required employee housing for Parcel 4 on Parcel 7 or otherwise off-site as allowed by Absolute Policy 24/Social Community subsection F.1.a.(iv).

**ARTICLE 3
GONDOLA LOT MASTER PLAN AMENDMENT**

Upon and from Applicant’s submission of a complete Development Application for the Gondola Lot Amendment, the Town covenants and agrees that the Town shall:

3.1 Recognize that 143 SFEs of Density exist under the Gondola Lot Master Plan. The 143 SFEs do not include the fifty-eight (58) SFEs of Density to be transferred by VSRI, including up to two (2) SFEs to be used as commercial SFEs, that were intended to be transferred to Parcel 4 but for which no Density Transfer Covenant was ever entered into or recorded.

3.2 Specify total proposed Density and allocate Density to the Properties as follows:

(a) Parcel 1: 0.0 SFEs

(b) Parcel 2: Up to 21.7 SFEs (provided that the Town transfers 13.9 SFEs of Town Density as more fully set forth in Section 6.1(a)); and

(c) Parcel 3: Up to 30.0 SFEs.

3.3 Authorize the transfer of Density from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan, allow any new Density transfer into the Gondola Lot Master Plan for the construction of employee housing on Parcel 2, and specify total overall Density for the Gondola Lot Master Plan without the assignment of negative points under any “**Relative Policy**” or the failure of an “**Absolute Policy**” as those terms are defined in Section 9-1-5 of the Town Code. This includes, but is not limited to, a waiver from Absolute Policy 39/Master Plans 9-1-19-39A subsection I regarding Density and acknowledgment that no modification to any of the underlying Guidelines is necessary.

3.4 Require separate Density Transfer Covenant(s) for the transferred Density.

3.5 Grant a waiver from Absolute Policy 39/Master Plans 9-1-19-39A. subsection L.3 that requires a master plan to be brought into compliance with the current development policies of the Town when amended to the extent necessary to accommodate the more particular provisions set forth in this Agreement.

3.6 Recognize and carry forward the existing applicable Gondola Lot Master Plan Point Analysis, as reflected in PL-2021-0052, as allowed by Development Code Section 9-1-17-3.5 Duration of Point Assignments.

3.7 As authorized by Section 9-1-17-11K of the Town Code, establish a vesting period of five years for the Gondola Lot Master Plan, beginning from the date the Gondola Lot Amendment becomes effective.

ARTICLE 4 PEAK 7 & 8 MASTER PLAN AMENDMENT

Upon and from Applicant’s submission of a complete Development Application for the Peak 7 & 8 Amendment, the Town covenants and agrees that the Town shall:

4.1 Acknowledge that a total of 145.8 SFEs exist in the Peak 7 & 8 Master Plan. This includes the total remaining entitled Density for the Peak 8 Base Area of the Peak 7 & 8 Master Plan of 71.6 Residential SFEs, 9.0 Commercial SFEs, and 7.2 Guest Service Facilities SFEs and the fifty-eight (58) SFEs, including up to two (2) SFEs to be used as commercial SFEs, to be transferred from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan as currently reflected in those master plans, and as reflected in Staff Reports PL-2018-0576 and PL-2018-0546.

4.2 Authorize a Density transfer into the Peak 7 & 8 Master Plan area, from the Gondola Lot Master Plan, in excess of the existing Peak 7 & 8 Master Plan allowance and

underlying Guidelines without the assignment of negative points under any Relative Policy, the failure of an Absolute Policy, or need to modify the underlying Guidelines. This also includes a waiver from Absolute Policy 39/Master Plan, 9-1-19-39A subsection I regarding Density.

4.3 Concurrently process a Development Application or Applications for the subdivision of Parcels 5 and 6 to create individual residential lots, provided that the application(s) are complete and comply with the provisions of Chapter 2 of Title 9 of the Town Code (“**Subdivision Standards**”) and on the condition that a restrictive covenant (the “**Restrictive Covenant and Deed Restriction**”) will be recorded in title to the further subdivided lots so established on Parcels 5 and 6 (each, a “**Lot**”, and collectively, the “**Lots**”) providing as follows:

(a) Applicant shall designate a minimum of eight (8) of the Lots as restricted lots (each, a “**Restricted Lot**” and collectively, the “**Restricted Lots**”) that cannot be sold or conveyed to a third party until (i) the Town issues a temporary or final certificate of occupancy for the employee housing contemplated on Parcel 2; and (ii) CDOT accepts the roundabout improvements or Applicant posts the security contemplated in Section 6.1(d) (the “**Restricted Lot Release Conditions**”).

(b) Applicant shall have the right, from time to time in its sole discretion, and with written notice to the Town but without the requirement of further consent or action by the Town, to designate or redesignate any of the Lots a Restricted Lot, so long as a minimum of eight (8) of the Lots remain Restricted Lots until the Restricted Lot Release Conditions are satisfied.

(c) Upon satisfaction of the Restricted Lot Release Conditions, the Town shall promptly terminate the Restrictive Covenant and Deed Restriction by recording an instrument evidencing such termination. The Town’s Community Development Director is authorized to execute and record such termination upon confirmation that the Restricted Lot Release Conditions have been satisfied.

4.4 Specify total proposed Density, including the previous fifty-eight (58) SFEs of Density with up to two (2) SFEs to be used as commercial SFEs, and allocate Density to the Peak 7 & 8 Master Plan’s planning areas and/or specific sites in the Peak 7 & 8 Master Plan as follows:

- (a) Parcel 4: Up to 220 SFEs
- (b) Parcel 5: Up to two (2) SFEs; and
- (c) Parcel 6: Up to fourteen (14) SFEs.

4.5 Require separate Density Transfer Covenant(s) for the transferred Density.

4.6 Provided the Peak 7 & 8 Amendment includes a sufficiently specific request for the following, create new development locations in the Peak 7 & 8 Master Plan’s Planning Areas with Density and use assignments, without the assignment of any negative points, failure of an Absolute Policy, or the need to modify the underlying Guidelines, for the following:

- (a) Parcel 5; and

(b) Parcel 6.

4.7 Recognize and find that (a) the Peak 7 & 8 Master Plan was first adopted prior to October 17, 1994; (b) the Peak 7 & 8 Master Plan contains provisions which are materially inconsistent with the current Guidelines; (c) a legal and factual basis exists for the assertion the Landowners of Parcels 4, 5, and 6 have vested property rights under the existing master plan; and (d) there are significant public benefits which will result from the approval of the amendment to the master plan without requiring compliance with the current Guidelines, and that therefore, pursuant to Absolute Policy 39/Master Plans 9-1-19-39A subsection L.5, the Peak 7 & 8 Master Plan may be amended without requiring compliance with the then current Guidelines.

4.8 Grant a waiver from Absolute Policy 39/Master Plans 9-1-19-39A subsection L.3, which requires master plans to brought into compliance with the Town's then current development policies and master plan, to allow existing provisions of the Peak 7 & 8 Master Plan to be carried forward.

4.9 Recognize and find that the Peak 7 & 8 Master Plan is located in two (2) or more land use districts and that Absolute Policy 39/Master Plans 9-1-19-39A subsection I.2 therefore allows density to be reallocated notwithstanding Section 9-1-17-12's density transfer requirements, and acknowledge that no modification to the underlying Guidelines is necessary.

4.10 Per 9-1-17-3.5, Duration of Point Assignments, recognize and continue to apply the Amended Peak 7 & 8 Master Plan Point Analyses from the original Permit #2000155. By way of example but not limitation, the Town shall use the point analysis from the Seventh Amendment to the Peak 7 & 8 Master Plan (PL-2017-0697, Class A, Combined Hearing - A Modification to PERMIT #2000155) and the point assignments set forth therein.

4.11 Extend vesting of the Peak 7 & 8 Master Plan from November 8, 2025, to November 8, 2032 as allowed by 9-1-17-11K of the Town Code.

ARTICLE 5 PARCEL 1

5.1 With respect to Parcel 1, any Development Application shall comply with the following terms:

(a) The configuration of the proposed use and improvements shall be similar to the DTJ Design conceptual plan reviewed and endorsed by the Town Council on November 28, 2023, [updated on March 12, 2024](#), and attached hereto as [Exhibit 9](#) (the "**Parcel 1 Concept Plan**").

(b) Stormwater facilities and practices will be designed, constructed, and/or implemented pursuant to the standards set forth in Chapter 6 of the Town's Engineering Design and Construction Specifications.

(c) A limited amount of landscaping will be provided to the extent compatible with snow storage locations and stormwater and/or water quality improvements. Subject

to staff design suggestions, additional landscaping will be installed on the northern and eastern portion of Parcel 1 as requested by the Town Council.

(d) A limited amount of Dark-Sky lighting will be provided to the extent required for pedestrian safety. Over-lighting the site is discouraged, and lighting shall be kept to a minimum that still allows for pedestrian safety.

(e) A parking attendant shall be provided on-site while Breckenridge Ski Resort is open to the public for lift-accessed skiing to facilitate vehicle parking on the lot from opening to 3:00 p.m., or until the lot is filled, whichever is first to occur.

5.2 Upon and from Applicant's submission of a Development Application or Applications consistent with the provisions of Section 5.1, the Town covenants and agrees that the Town shall:

(a) Consistent with definition of "Development" and Town Council's discretion under Section 9-1-5C of the Town Code, and in recognition that no Density will be required, refrain from considering improvements depicted on the Parcel 1 Concept Plan and/or described in Section 5.1(a)-(d) (collectively, the "**Parcel 1 Improvements**") as, "Development"; refrain from assigning any negative points under a Relative Policy or the failure of an Absolute Policy; and not apply the Town's Off-Street Parking Regulations.

(b) Acknowledge that no modification to the underlying Guidelines is required.

(c) Acknowledge and agree that Parcel 1 has historically provided, and following the construction of the Parcel 1 Improvements, will, with the support of the required attendant, continue to provide 610 vehicle parking spaces toward the 1,560 parking spaces required under Section 1.G of the Parking Agreement. None of the Parcel 1 Improvements shall be construed as diminishing this acknowledged and agreed 610-space capacity.

(d) Include all terms concerning the contemplated Parcel 1 Improvements, as set forth in the above Section 5.1 in the amended Gondola Lot Master Plan, including without limitation recognition of the 610 qualifying spaces.

5.3 Following Final, Non-Appealable Approval of the Gondola Lot Amendment upon the terms set forth in Section 5.2, Applicant shall submit to the Town a site plan application for approval of the Parcel 1 Improvements, in substantially the form depicted on the Parcel 1 Concept Plan, with the addition of the Town Council-requested improvements. This site plan application shall be independent of any other site plan application(s) in the Gondola Lot Master Plan boundaries and the Town's conditional obligations set forth in Section 5.2 shall continue to apply in connection with its consideration of such site plan application. The Parcel 1 Improvements will be implemented by Applicant in stages and shall be substantially completed ~~either upon~~ within one year following the issuance of a final certificate of occupancy for all improvements on Parcel ~~4~~2 or within six (6) years from the Effective Date, whichever is earlier.

ARTICLE 6
PARCEL 2

6.1 With respect to Parcel 2, any Development Application shall comply with the following terms:

(a) Applicant and the Town will make available to Parcel 2 Density sufficient to construct employee housing beyond that required by the Town Code as follows:

(i) Applicant will provide up to 7.8 SFEs of Density; and

(ii) The Town will provide up to 13.9 SFEs of Density upon or before issuance of a building permit for the employee housing contemplated for Parcel 2.

(iii) A separate Density Transfer Covenant shall be required to transfer the Town-supplied Density.

(b) Applicant shall cause to be constructed forty-eight (48) bedrooms of employee housing in eight (8), six-plex dorm-style units with each bedroom to include its own bathroom, or in such other format as Applicant and the Town may in writing agree upon, per Absolute Policy 24/Social Community, and shall provide an executed covenant consistent with Policy 24 and the Town’s Administrative Housing Rules and Regulations as follows:

(i) Minimum Lease Term: When rental of an affordable workforce/employee housing unit is authorized, the owner/master lessor (“Lessor”) shall be authorized to set the length of the lease, provided that no unit shall be used as an Accommodation Unit, as that term is defined under the Town Code. Any such tenancy approved by the Town shall be to a person meeting the definition of a Qualified Occupant under the Town Code. Unrelated roommates must all be Qualified Occupants;

~~(ii) The Town will establish a maximum rental rate for each rental unit based on factors including the market conditions, the type of development and/or the AMI targets as further specified below;~~

~~(iii)(ii) Short-Term Rentals Prohibited:~~ Rental units shall not be used for or be eligible for Short-Term Rental as defined in Title 4 of the Town Code;

~~(iv)(iii) All-Rent:~~ Rent shall include electric, gas, water, sewer, trash, snow removal costs, and property insurance (collectively, “Rent”). Subject to Section 6.1(b)(v), Rent for all Town and Applicant provided Density will be limited to approximately 85% of a 60% Area Median Income (“AMI”) studio unit rental rates per bedroom for dormitory style units as specified in the Summit County Housing Authority 2023 Summit County Area Median Income (AMI) Table ~~as baseline rents. This. The Parties acknowledge and agree that this~~ equates to a Rent of \$989.40 per bedroom per month as of the Effective Date. ~~Rents shall include electric, gas, water, sewer, trash, and snow removal costs.;~~

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~~(iv)~~ (iv) Annual Rent Increase: Beginning from the Effective Date, ~~initial rates~~ Rent will escalate at 2.0% annually until construction is completed and the improvements on Parcel 2 receive a final certificate of occupancy, at which point ~~annual rents~~ Rent will escalate at a maximum of 3.0% annually in perpetuity for the next three (3) years; and

(v) Baseline Rent Review: Beginning three (3) years from the issuance of a final certificate of occupancy for the improvements on Parcel 2, and every three (3) years thereafter, the Town and Lessor will confer and establish the baseline Rent for the next three-year period, which shall be set at a rate not less than the Rent charged on the final day of the three-year period preceding the conferral. To preserve affordability while allowing reasonable cost recovery for Lessor, in establishing the new mutually acceptable baseline rent, the Town and Lessor shall take into account the following: (a) the general target of 85% of a 60% AMI studio unit rental rate per bedroom; (b) the then-current 60% AMI, then-current Rent, market conditions, and the change in AMI over the last three (3) year period; and (c) changes in uncontrollable expenses such as property insurance. Following establishment of the new baseline Rent, Rent shall continue increase in accordance with Section 6.1(b)(iv) until the Town and Lessor establish a new baseline Rent as required under this Section 6.1(b)(v); and

~~(vi) Any owner/master lessor of the provided employee housing on Parcel 2~~ Seasonal Vacancy: Lessor will offer any seasonal vacancy to local community non-profit organizations for use pending availability and subject to ~~the owner/master lessor's~~ Lessor's reasonable discretion.

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(c) To facilitate a safe Park Avenue crossing for winter recreational parking lot users, upon the issuance of a final certificate of occupancy for the improvements contemplated on Parcel 2, Applicant shall provide an electric shuttle connection from the contemplated Parcel 2 parking area to the BreckConnect Gondola and/or Breckenridge Station transit center on Watson Avenue when the parking lot is open to winter recreational visitors. Subject to CDOT review and approval, no later than two years after the Town's and CDOT's approval of the same, Applicant shall install Park Avenue/French Street pedestrian improvements, such as at-grade crosswalk striping, push buttons, signage, pedestrian refuge islands, or barriers in Park Avenue to the extent permitted by the Town, CDOT, and any other applicable regulatory entity.

(d) Subject to CDOT approval, Applicant will complete a roundabout at the intersection of North French Street and Park Avenue and prior to the issuance of a final certificate of occupancy for the employee housing contemplated in Section 6.1(b), or, if, for reasons beyond Applicant's control, Applicant is unable to complete the roundabout prior to the issuance of such certificate of occupancy, Applicant shall post a completion bond in an amount sufficient to guarantee the roundabout's completion. Notwithstanding any provision to the contrary in this Agreement, the Parties acknowledge and agree that Applicant's obligation to complete the roundabout contemplated in this Section shall not be considered a public benefit and shall be eligible for an award of positive points.

(e) Stormwater facilities and practices will be designed, constructed, and/or implemented pursuant to the standards set forth in Chapter 6 of the Town's Engineering Design and Construction Specifications.

6.2 Upon and from Applicant's submission of a Development Application or Applications consistent with the provisions of Section 6.1, the Town covenants and agrees that the Town shall:

(a) Permit the Density transfers contemplated in Section 6.1(a) in excess of the existing Gondola Lot Master Plan Density and underlying Guidelines without the assignment of negative points under any Relative Policy or the failure of any Absolute Policy arising from such transfers at the time of master plan amendment and/or site plan review, or the need to amend the underlying Guidelines to accomplish such transfers.

(b) Acknowledge and agree that the 400 winter recreational parking spaces on Parcel 2 (or other proposed and approved amount) will count towards the overall 1,560 total parking space requirement of Section 1.G of the Parking Agreement.

(c) In recognition of the historical and proposed vehicle parking, consistent with the Parking Agreement, grant waivers from Absolute Policy 2/Land Use District Guidelines and Relative Policy 2/Land Use District Guidelines for the parking lot use.

(d) Not award negative points under Relative Policy 5/ Architectural Compatibility (Town Code Sections 9-1-19-5R.A and 9-1-19-5R.B) for use of modular construction of the building(s) and the use of non-natural materials to reduce maintenance and increase longevity of the building(s), provided that fiber cement siding is used on building elevations and windows are trimmed in natural wood as allowed by Relative Policy 5.

(e) Grant a waiver from Relative Policy 7/Site and Environmental Design and its multiple subsections, including, but not limited to: Site Design and Grading for site disturbance associated with constructing a parking lot and employee housing building(s) into the hillside; under Retaining Walls for the use of retaining walls and for walls that exceed four (4) feet in height; and Site Buffering, and from Relative Policy 22/Landscaping relating to the tree buffer adjacent to Park Avenue, to accommodate the effort to preserve the trees along Park Avenue and provide revegetation efforts consistent with [the](#) conceptual plan prepared by DTJ Design ~~and~~, reviewed by the Town Council on December 12, 2023, [and updated on March 12, 2024](#) (the "**Parcel 2 Concept Plan**") attached hereto as [Exhibit 10](#)). The Parcel 2 Concept Plan, or a plan substantially similar thereto, shall be incorporated into the design of Parcel 2 in order for these waivers to become effective.

(f) Grant waivers from Absolute Policy 22/Landscaping subsection B.8 requiring six (6) percent of the interior area of a parking lot to be landscaped and Section 9-3-9J. of the Off-Street Parking Standards requiring landscaping equal to twenty-five (25) feet per parking stall based on the nature of the recreation skier parking lot use and needed snowplowing operations.

(g) Grant a waiver from Relative Policy 13/Snow Storage, provided that Applicant accommodates snow storage at a minimum ten (10) percent of the plowable area.

(h) With considerations for public safety, grant waivers for up to two private accesses on Woods Drive, private accesses radius and geometry, private accesses spacing, road slope connections for private accesses, private accesses cross-slopes, and design to accommodate a 30' bus shuttle service to serve the winter recreational visitor parking spaces on the site. These waivers are from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Sections 5.10.2.1 and 5.10.2.2 for up to two accesses; 5.10.7.2 and Table 5.11 for the driveway/private access radius; 5.10.8.2 for the access geometry; 5.10.8.1 for the cross-slopes; and 5.10.5 and Table 5.10 for spacing); Off-Street Parking Regulations (Section 9-3-9.A compliance with codes); and associated Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure of the Town Code.

(i) Permit a limited amount of Dark Sky compliant lighting to be provided on-site for pedestrian safety and waivers from Absolute Policy 46/Exterior Lighting, Title 9, Chapter 12 Exterior Lighting Regulations, and Title 9, Chapter 3 of the Town Code as over-lighting the site is discouraged. Timers, motion sensors, or other devices are encouraged to keep the lighting at a minimum for safety.

(j) Acknowledge that the construction and maintenance of an overpass or underpass traversing Park Avenue is unnecessary based upon the proposed residential uses and limited use of the winter recreational parking lot, and provision of shuttle service and other improvements as set forth in Section 6.1(c).

(k) To the extent Applicant is required to install barriers in or adjacent to Park Avenue as contemplated in Section 6.1(c), grant a waiver from Absolute Policy 47/Fences, Gates and Gateway Entrance Monuments.

ARTICLE 7 PARCEL 3

7.1 With respect to Parcel 3, any Development Application shall comply with the following terms:

(a) If the Town identifies any wetland impacts beyond those identified in that certain The Gold Rush Lots Wetland Technical Report prepared by Alpine Ecological Resources dated October 26, 2023 (attached hereto as Exhibit 11, the “**Wetlands Report**”), the impacted wetland area shall be replaced at a rate of 2:1 through an in-lieu fee program assumed by Applicant substantially similar to the Colorado Western Slope In-Lieu Fee Program identified in the Wetlands Report.

(b) No certificate of occupancy for any improvements on Parcel 3 shall be issued until a certificate of occupancy is issued for the employee housing contemplated on Parcel 2, as more particularly set forth in ARTICLE 6.

7.2 Upon and from Applicant's submission of a Development Application or Applications consistent with the provisions of Section 7.1, the Town covenants and agrees that the Town shall:

(a) Acknowledge that the impact to the wetlands on Parcel 3 is as reflected in the Wetlands Report and the mitigation proposed therein is sufficient to grant the waivers set forth in this Section 7.2.

(b) Grant waivers from Town Code Section 10-2-4-3 Setbacks of the Engineering Process and Regulations, Section 7.6.1 Setbacks of the Engineering Design Standards and Construction Specifications, and Title 10 of the Engineering Process and Regulations regarding mitigation for the limited purposed of site grading, drainage and water quality improvements.

(c) Grant waivers from Policy 7/R Site and Environmental Design and all its subsections, and from Relative Policy 22/Landscaping relating to the tree buffer adjacent to Park Avenue, to accommodate the effort to preserve the trees along Park Avenue and provide revegetation efforts consistent with conceptual plan prepared by DTJ Design and reviewed and approved by the Town Council on November 14, ~~2003~~2023 (the "**Parcel 3 Concept Plan**"), or a plan substantially similar thereto.

(d) If the Town identifies any wetland impacts beyond those identified in the Report and Applicant mitigates the newly identified impacts consistent with Section 7.1(a), the Town shall grant any needed waivers from any Engineering Process and Regulations and Engineering Design Standards and Construction Specifications, and the Town Code policies related to such impacts and replacement, including but not limited to Absolute Policy 31/Water Quality.

(e) With considerations for public safety, grant waivers for multiple private accesses on Woods Drive, private accesses spacing, road slope connections for private accesses, and private accesses cross-slopes. These waivers are from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Sections 5.10.2.1 and 5.10.2.2 for the multiple accesses; 5.10.5 and Table 5.10 for spacing; and 5.10.8.1 for the cross-slopes); Off-Street Parking Regulations (Section 9-3-9.A compliance with codes and 9-3-9.F for grades); and the corresponding Absolute Town Code Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure.

(f) Grant a waiver from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.1), Off-Street Parking Regulations (Section 9-3-9.A), and the corresponding Absolute Development Code Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure, allowing more than four units to be served by a private access, provided that Applicant shall construct and maintain any such access in perpetuity.

(g) To the extent Applicant is required to install barriers in or adjacent to Park Avenue as contemplated in Section 6.1(c), grant a waiver from Absolute Policy 47/Fences, Gates and Gateway Entrance Monuments.

(h) Provide for the Parcel 3's subdivision into duplex lots or footprint lots in accordance with the Town's Subdivision Standards.

ARTICLE 8 PARCEL 4

8.1 With respect to Parcel 4, any Development Application shall comply with the following terms:

(a) The Peak 7 & 8 Master Plan shall be amended to transfer Density into the master plan and assign additional Density to Parcel 4, in excess of the Density currently allowed by the master plan and underlying Guidelines, without the assignment of negative points under any Relative Policy or failure of any Absolute Policy, or the need to modify the underlying Guidelines, as follows: up to 74.2 SFES shall be transferred to the Peak 7 & 8 Master Plan from the Gondola Lot Master Plan for Parcel 4 and fifty-eight (58) SFES, including up to two (2) SFES to be used as commercial SFES, will be transferred from the Gondola Lot Master Plan to the Peak 7 & 8 Master Plan. The Town acknowledges and agrees that such fifty-eight (58) SFE transfer is reflected in the now-existing versions of the Gondola Lot Master Plan and the Peak 7 & 8 Master Plan, but no Density Transfer Covenant was ever entered into or recorded.

(b) Prior to the issuance of a final certificate of occupancy for ~~any~~the primary building(s) on Parcel 4, Applicant shall make ~~space~~an approximately 1,500 square-foot space, as well as an ADA-compliant route, with elevator access, from an indoor garage parking area to the Peak 8 Base snow surface, available to the BOEC. Notwithstanding any provision to the contrary in this Agreement, the Parties acknowledge and agree that Applicant's obligation to make space available to the BOEC as contemplated in this Section shall not be considered a public benefit and shall be eligible for an award of positive points.

(c) In addition to the parking spaces required to be provided by the Peak 7 & 8 Master Plan at the time of site plan review, Applicant shall provide, and reserve in perpetuity, up to thirty-five (35) parking spaces for VSRI on-site employees and six (6) oversized/ADA indoor garage parking stalls for use by the BOEC. The VSRI parking spaces may not be used by the general public or for any other use but for parking for on-site VSRI employees and the BOEC parking spaces may not be used by the general public or for any other use other than parking for BOEC activities. The provisions of this Section 8.1(b) shall be included in the Peak 7 & 8 Master Plan.

(d) Building Height

(i) The maximum height of any building proposed for Parcel 4 shall not exceed the elevation of the existing east cross gable of One Ski Hill Place, as specified in the Peak 7 & 8 Master Plan and its attachments. This maximum height will serve as an "Absolute" policy under the Town Code.

(ii) Relative Policy 6 “Building Height” shall apply to the Town’s review of a site plan application. Pursuant to the Peak 7 & 8 Master Plan, for the purpose for assessing or awarding points under Relative Policy 6 the heights of the buildings to be constructed on Parcel 4 shall be evaluated against the height requirements of the Town Code and the recommended heights for Land Use District 39 as they were in effect on February 26, 2013.

(iii) Pursuant to the Peak 7 & 8 Master Plan, the height of buildings at the Peak 8 base area only (including Parcel 4) are to be measured “to the proposed finished grade elevation at the exterior wall below,” and not to natural grade, which generally does not exist in the area, provided that such proposed finished grades shall not include artificial appearing berming or fill. Artificial appearing berming or fill is characterized by excessive rise and steep grades in the vicinity of building foundations. (Emphasis added.) The height of the building on Parcel 4 shall be established in accordance with the Town Code and Land Use District 39 of the Guidelines, in effect on the Effective Date, provided, however, that the Town and Applicant shall establish a method for determining the finished grades above which heights shall be measured in order to account for the lack of natural grades and the anticipated filling of the lowered and generally flat grades currently existing at the Peak 8 base area.

(e) Employee housing will be provided subject to the following terms:

(i) Applicant shall comply with Absolute Policy 24/Employee Housing and will relinquish any rights to provide such housing in connection with the development of Parcel 4 upon any different terms that may have been identified in any earlier agreement or approval.

(ii) If Parcel 7 has been annexed into the Town, Applicant shall cause all required employee housing to be provided on Parcel 7 prior to the issuance of a certificate of occupancy for Parcel 4, unless it is not feasible to construct all required units on Parcel 7, in which case Applicant shall provide the balance of any required units through any alternative means permitted under the Town Code. If Parcel 7 has not been annexed into the Town, Applicant’s obligation to provide employee housing under the Town Code shall remain unchanged, and it shall be Applicant’s responsibility to provide the required employee housing through any alternative means permitted under the Town Code. Such housing shall be located in the Upper Blue Basin, as that term is used in Section 9-1-19-24A.E.2 of the Town Code, and in close proximity to transit. In no event shall Applicant provide employee housing required for Parcel 4 through conversion of housing units in Breckenridge Terrace.

(f) Upon issuance of the final certificate of occupancy for all buildings on Parcel 4 Applicant shall deliver to the Town documentation sufficient to demonstrate that any right of access to Parcel 4 via Saw Mill Run Road has been abandoned.

8.2 Upon and from Applicant’s submission of a Development Application or Applications consistent with the provisions of Section 8.1, the Town covenants and agrees that the Town shall:

(a) Grant a waiver from Absolute and Relative Policy 3/Density for the underground parking area square footage.

(b) Permit amendment of the Peak 7 & 8 Master Plan that reflects that maximizing the buffer distance to Parcel 4’s eastern property line is more important than designing any building to step down to the east, provided that the eastern edge of a building’s footprint may not be located any further to the east than that shown on the DTJ Design plans reviewed and approved by the Town Council during the November 14, 2023 work session (the “**Parcel 4 Concept Plan**”).

(c) Not assign negative points under Relative Policy 7/Site and Environmental Design – Retaining Walls, in recognition that the site has been previously disturbed and that retaining walls will be used in an effort to retain slopes as called for by Policy 7.

(d) Grant waivers from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Sections 5.10.2.1 and 5.10.2.2), Off-Street Parking Regulations (Section 9-3-9A), and corresponding Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, 26/Infrastructure for two (2) accesses onto Parcel 4 – for deliveries/loading and for public/guests, and for loading area backout movements onto Ski Hill Road.

(e) Acknowledge and agree that constructing the required employee housing on Parcel 7 or otherwise off-site will reduce vehicle trips up/down Ski Hill Road meeting Absolute Policy 24/Social Community subsection F.1.a.(iv).

(f) Acknowledge and agree that outdoor heated sidewalks, pools/spas impacts, etc. will be minimized to the extent practicable but that Applicant cannot mitigate all required impacts on-site due to elevation, current technology, and roof design/size. The Town shall allow off-site mitigation of the Renewable Energy Mitigation Program (“**REMP**”) upon the following terms:

(i) REMP mitigation will be provided via a three-step approach, which reflects the Town’s preferred order of priority: (1) solar on-site; (2) off-site within the Town on properties controlled by Applicant; and (3) fee in lieu based on the current REMP policy and calculator if offset energy is not provided prior to Certificate of Occupancy for Parcel 4. Applicant consents to the Town’s review and approval of all mitigation via the applicable development review process(es). Applicant may submit, and the Town will process, an application meeting Town Code requirements for off-site solar mitigation improvements for credit to the Town for review and approval upon execution of this Development Agreement due to the construction lead time for Parcel 4 credit.

(ii) Applicant will provide a third-party analysis, in a form acceptable to the Town, of the required amount of solar offset.

(iii) The Town staff shall determine the extent of emergency egress and pedestrian circulation safety to be exempt from REMP and Absolute and Relative Policy 33/Energy Conservation during site plan review.

(g) Issue, upon application for the same, such permit(s) as may be required by the Town to allow one or more Applicant-provided temporary structures accommodating VSRI's administration functions necessary or appropriate for the operation of the Breckenridge Ski Resort, as well as Applicant's pre-operation functions on Parcel 4, up to approximately 6,000 square feet, to be placed on Parcel 4, or other location(s) suitable to the Town and VSRI and Applicant, and maintained in such location(s) until Applicant constructs guest services spaces for VSRI's use and occupancy; provided, however, that all approved temporary structures shall be removed by Applicant no later than sixty (60) days after the issuance of any final certificate of occupancy for all structures on Parcel 4. The Town shall also grant such waivers including, without limitation, from Absolute Policy 36/Temporary Structures as may be necessary to effectuate the terms of this section.

(h) Allow the parking garage contemplated on Parcel 4 to be used as temporary construction parking while the on-site building(s) is under construction.

(i) Permit Condominium, Condominium/Hotel, and/or Hotel/Lodging/Inn uses, and Timeshare Interests, whether by way of whole or fractional ownership, as those capitalized terms are defined in Section 9-1-5 of the Town Code, and associated commercial, guest services facilities, and other amenities.

8.3 Following Final, Non-Appealable Approval of the Development Application(s) contemplated under Section 8.1 and prior to issuance of the final certificate of occupancy for the improvements on Parcel 4, Applicant shall enter into such agreement as the Town reasonably may require that provides for the following:

(a) At the end of the first year after issuance of the final certificate of occupancy and every year thereafter for the first five (5) years after issuance of such final certificate of occupancy, Applicant will provide a trip report to the Town. Trips will be defined as the number of trips into the garage anticipated to be constructed on Parcel 4 plus the number of trips out of that garage on a daily basis.

(b) If during any single calendar month of each of such five (5) years the number of trips exceeds an average of 1,600 trips per day, for every 100 trips in excess of 1,600, Applicant will acquire and transfer one additional electric shuttle van to the Breckenridge Mountain Master Association ("BMMA"). Until such time as the threshold described in the preceding sentence has been reached the residents and guests of the anticipated development shall have access to the transportation (van) system operated by the BMMA in the same manner as is provided to other properties located within the boundaries of the BMMA. A letter from the BMMA confirming the same shall be provided to the Town.

8.4 If the Annexation has not been approved at or before the time the obligation to provide employee housing under Absolute Policy 24/Social Community in connection with the

development of Parcel 4 is due, the Town shall allow Applicant to transfer up to 15.0 SFEs for employee housing mitigation to other properties within the Town to satisfy the employee housing mitigation requirements. Nothing in this Section 8.4 shall be construed as limiting the alternative means of delivering employee housing to satisfy Absolute Policy 24/Social Community as permitted under the Town Code.

ARTICLE 9
PARCEL 5

9.1 With respect to Parcel 5, any Development Application shall comply with the following terms:

- (a) The Peak 7 & 8 Master Plan shall be amended to create a Parcel 5 Planning Area, allow single-family residential uses, and assign Density to this area without the assignment of any negative points under any Relative Policy or the failure of an Absolute Policy, or the need to modify the underlying Guidelines;
- (b) Applicant shall construct and maintain private driveways on Parcel 5 serving the two homesites from Four O’Clock Run Road;
- (c) Applicant shall include a plat note on the final plat indicating that the future homes on the lots will be limited to a total of 7,500 square feet of Density per lot;
- (d) Applicant shall include a plat note on the final plat stating that a Plant Investment Fee (“**PIF**”) equal to 1.25 of the in-Town PIF rate shall be assessed at the time of building permit for each single-family residence.
- (e) Applicant shall cause BMMA shuttles to serve each completed home.

9.2 Upon and from Applicant’s submission of a Development Application or Applications consistent with the provisions of Section 9.1, the Town covenants and agrees that the Town shall:

- (a) Allow for the transfer of Density contemplated in Section 8.1(a) without the assignment of negative points under any Relative Policy or the failure of an Absolute Policy and acknowledge that no modification of the underlying Guidelines is necessary.
- (b) Grant waivers allowing the private driveways’ grade to exceed, up to a maximum grade of ten (10) percent, the requirements set forth in Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.8.1), Off-Street Parking Regulations (Sections 9-3-9.A and 9-3-9.F), and corresponding Development Code Absolute Development Code Policies 16/Internal Circulation, 17/External Circulation, 18/Parking and 26/Infrastructure.
- (c) Grant relief from the Subdivision Standards Sections 9-2-4-5C.2 and 9-2-4-5C.7.b.4 related to the depth and widths of lots and shape of disturbance envelopes.

**ARTICLE 10
PARCEL 6**

10.1 With respect to Parcel 6, any Development Application shall comply with the following terms:

- (a) The Peak 7 & 8 Master Plan shall be amended to create a new Parcel 6 Planning Area, allow the single-family residential uses, and assign Density to this area without the assignment of negative points under any Relative Policy or the failure of an Absolute Policy, and no modification of the underlying Guidelines is necessary.
- (b) Each proposed single-family lot on Parcel 6 shall be a minimum of .60 acres.
- (c) Applicant shall include a plat note indicating that the future single-family homes will be limited to 7,500 square feet of Density.
- (d) Applicant shall include a plat note stating that a PIF equal to 1.25 of the in-Town PIF rate shall be assessed at the time of building permit for each single-family residence.
- (e) Applicant shall cause BMMA shuttles to serve completed homes on Parcel 6.

10.2 Upon and from Applicant's submission of a Development Application or Applications consistent with the provisions of Section 10.1, the Town covenants and agrees that the Town shall:

- (a) Allow for the transfer of Density contemplated in Section 10.1(a) without the assignment of negative points under any Relative Policy or the failure of an Absolute Policy and acknowledge that no modification of the underlying Guidelines is necessary.
- (b) Grant waivers from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.6.3.2), Off-Street Parking Regulations (Section 9-3-9.A), and corresponding Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure that requires the Engineering Regulations to be met for the length of the Timber Trail Drive extension and grade during the subdivision review process, on the condition that all International Fire Code requirements are met and an emergency turn-around, fire hydrants, and the future homes are equipped with individual automatic sprinkler systems (via a plat note on the subdivision plat) will be provided, as previously allowed for the Timber Trail subdivision. The maximum grade shall be 6.5% unless a greater grade is reviewed and approved by the Town.
- (c) Grant waivers for the private driveways' grades during the subdivision and site plan review processes from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.8.1), Off-Street Parking Regulations (Sections 9-3-9.A and 9-3-9.F), and corresponding

Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure that requires the Engineering regulations to be met.

(d) Grant waivers from the Engineering Process and Regulations, Chapter 5 of the Engineering Design Standards and Construction Specifications (Section 5.10.1), Off-Street Parking Regulations (Section 9-3-9.A), and corresponding Development Code Absolute Policies 16/Internal Circulation, 17/External Circulation, 18/Parking, and 26/Infrastructure allowing two private accesses to serve more than four (4) lots as applicable during the subdivision and site plan review processes, provided that Applicant shall construct and maintain any such accesses in perpetuity.

(e) Grant waivers from the Subdivision Standards Sections 9-2-4-5.C.2, 9-2-4-5.C.3 and 9-2-4-5.C.7.b.4 related to the depth and width of lots and shape of disturbance envelopes.

ARTICLE 11 PARCEL 7

11.1 Development Upon Annexation. If the Annexation is approved, Applicant or BGV Entrada shall be entitled to submit Development Applications for the development of employee housing on Parcel 7, subject to the terms of any annexation and development agreement executed by the Town and BGV Entrada with respect to Parcel 7. To provide for that development, the Town authorizes the following, subject to the execution of any required Density Transfer Covenant: The transfer of up to fifteen (15) SFEs from the Gondola Lot Master Plan to Parcel 7, which shall in addition to the existing 14.2 SFEs on Parcel 7 as allowed by Land Use District 5, result in a total of up to 29.2 SFEs on Parcel 7.

11.2 If the Annexation is not successful, Applicant is authorized, upon written notice to the Town, to transfer up to fifteen (15) SFEs from the Gondola Lot Master Plan to another property in the Town suitable to the Town, Applicant and VSRI for the purpose of providing deed restricted workforce housing. [Provided that the receiving property complies with the locational requirements set forth in Section 8.1\(e\)\(ii\), such transfer shall be deemed approved by operation of this Agreement.](#) Compliance with Section 1.6(b) shall be determined from the date the written notice required under this Section 11.2 is delivered to the Town.

11.3 If the Annexation has not been approved within one (1) year of the Effective Date, this Agreement shall terminate and be of no further force and effect with respect to Parcel 7 alone.

11.4 If any additional employee housing square footage is built upon Parcel 7 beyond that which is required for Parcel 4 compliance with Absolute Policy 24/Social Community, such additional square footage shall not be eligible to satisfy employee housing requirements for future developments.

ARTICLE 12 VESTED PROPERTY RIGHTS

12.1 Establishment of Vested Property Rights. This Agreement shall constitute a Site Specific Development Plan. All of Applicants' and Landowners' rights, and the Town's

obligations, under this Agreement shall be Vested Property Rights. Applicant and Landowners shall have a Vested Property Right to undertake and complete development and use of the Properties as provided in this Agreement, and the Vested Property Rights will be effective against any other governmental entities and their respective governing bodies that subsequently obtain or assert jurisdiction over the Properties or any portion thereof. The rights and obligations under this Agreement shall vest in Applicant and Landowners, which terms, by their definitions, include successors, and assigns. The Vested Property Rights described in this Agreement shall constitute benefits and burdens to the land and shall run with title to the land.

12.2 Rights Which are Vested. By way of illustration, the Vested Property Rights include, but are not limited to, the following:

(a) Processing of Applications. The right to submit and for the Town to process Development Applications in accordance with the procedures and upon such terms set forth in this Agreement, or to the extent not addressed herein, the procedures set forth in the Town Code (as the same was in effect on the Effective Date). In the event that any amendment to the Town Code approved after the Effective Date creates generally applicable submittal requirements, procedural requirements, or approval criteria which conflict with or are in addition to the terms and conditions of this Agreement, Applicant may choose whether the Town Code or the terms of this Agreement will apply to the Development Application.

(b) Use and Development Standards. The right to be protected against the Town or any citizen initiating any action to apply any less-favorable use and development standards to any Property or the Project, including, but not limited to, any reduction in the maximum allowed Density, the development intensity allowed under that Density, or total area of the Project. In the event that any amendment to the Town Code approved after the Effective Date creates generally applicable use or development standards that conflict with or are in addition to the terms and conditions of this Agreement, Applicant, and VSRI, in the event the affected Property is owned by VSRI, may choose whether the Town Code or the terms of this Agreement will apply to the affected Property or Properties, or the Project.

(c) Uniformity of Requirements. The right to continue and complete development of the Properties with conditions, standards, dedications, and requirements that are no more onerous than those then being imposed by the Town on other properties within the Town's municipal boundaries on a reasonably uniform and consistent basis, except to the extent such conditions, standards, dedications, and requirements conflict with the terms and conditions of this Agreement, in which case the terms and conditions of this Agreement shall control except as otherwise set forth herein.

12.3 Term. In recognition of the complexity of the development contemplated by this Agreement, the time required to complete development, and the possible impact of economic cycles and varying market conditions during the course of development, the Town has concluded and hereby agrees that the Vested Property Rights, including those identified in Section 12.1 of this Agreement, shall continue and have a duration until **SEVEN (7) YEARS** from the Effective Date (the "**Term**"). The rights and obligations set forth in this Agreement shall survive the

termination of the Term, the effect of which shall be limited to eliminating the protections set forth in the Vested Property Rights Act.

12.4 Compliance with General Regulations. The establishment of the rights vested under this Agreement shall not preclude the application of Town regulations of general applicability including, but not limited to, the application of local improvement districts, building, fire, plumbing, engineering, electrical and mechanical codes, or the application of regional, state or federal regulations, as all of the foregoing exist on the Effective Date or may be enacted or amended after the date hereof, except as otherwise provided herein, as against the Properties and the Project. Landowners do not waive their rights to oppose adoption of any such regulations.

ARTICLE 13 DEFAULT AND REMEDIES

13.1 Default by the Town. A “breach” or “default” by the Town Council or the Town under this Agreement will be defined as the Town Council’s or the Town’s failure to fulfill or perform any express material obligation of the Town Council or the Town stated in this Agreement. Consistent with Sections 105(1)(a) and (b) of the Vested Property Rights Act, the Parties acknowledge and expressly intend that the Vested Property Rights preclude any zoning or land use action by a local government or pursuant to any initiated measure which would materially alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development of the Project or the use of the Properties as set forth in this Agreement, except that such rights may be divested only (a) with the consent of the owner of the affected portion of the Properties; or (b) upon the discovery of natural or manmade hazards on, or in the immediate vicinity of, the Properties, which hazards could not have been reasonably discovered at the time of approval of this Agreement, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare. Such natural or manmade hazards may include, but are not limited to, acts of God or other *force majeure*, or failure(s) of Town utilities necessary to serve the Properties or Project. Accordingly, subject to the exceptions listed in clauses (a) and (b) above, any of the foregoing zoning or land use actions by the Town Council or the Town would impermissibly divest Applicant and/or Landowners of the benefits of the Vested Property Rights, would constitute a breach or default under the Vested Property Rights Act and would entitle Landowners to the specific and limited remedies set forth herein.

(a) **No Responsibility or Remedy.** The Town shall not be responsible for and Applicant and Landowners shall have no remedy against the Town if development of the Property is prevented or delayed for reasons beyond the control of the Town.

(b) **No Personal Responsibility.** No official or employee of the Town shall be personally responsible for any actual or alleged breach of this Agreement by the Town.

13.2 Remedies.

(a) **Generally.** Except to the extent this Agreement expressly states otherwise, the Party asserting the default will have the right to pursue and be entitled to enforce specific performance of the defaulting Party’s obligations under this Agreement, which will be the sole remedy under this Agreement; provided, however, if there is a final judicial

determination that a Party is in default under this Agreement but the court determines specific performance is not available or will not be granted as a remedy for such default: (i) Applicant or Landowners will be entitled to the contingent remedy described in Section 13.2(c); and (ii) if Applicant or Landowners are determined in a final judicial judgment to have failed to abide by the terms of this Agreement, the Town Council and the Town will be entitled such remedies as may be available at law or in equity, subject to the limitations set forth in Section 13.2(b), and, additionally, to enforce the forfeiture of the Vested Property Rights.

(b) Vested Property Rights; Mutual Waivers. Although the Vested Property Rights Act provides for the payment of certain monetary damages upon a deprivation, impairment, violation or other divestment of the Vested Property Rights, the Town desires not to be subject to liability for monetary damages pursuant to the Vested Property Rights Act as a remedy for breach or default with respect to the Vested Property Rights. Accordingly, Applicants and Landowners hereby knowingly, intentionally, voluntarily and irrevocably waive, for themselves and for their successors and assigns, any remedial right they may have pursuant to Section 105(1)(c) of the Vested Property Rights Act to be paid money damages as just compensation upon a deprivation, impairment, violation or other divestment of the Vested Property Rights; and the Town Council hereby knowingly, intentionally, voluntarily and irrevocably waives, for itself and for its successors and assigns, any right the Town Council or the Town may have pursuant to Section 105(1)(c) of the Vested Property Rights Act to pay money damages to Landowners and/or their successor(s) and assign(s) as just compensation upon a deprivation, impairment, violation or other divestment of the Vested Property Rights. The Parties have executed and entered into the foregoing mutual waivers with the express intent that such waivers will be mutually binding and enforceable as to each of them and their respective successors and assigns, having been given in consideration of the mutual benefits accruing to each of them as a result of such mutual waivers and otherwise accruing to each of them pursuant to this Agreement, and with the intent and mutual understanding that the effect of such mutual waivers will be that the Town Council and the Town are precluded from divesting, depriving, impairing or violating the Vested Property Rights under any circumstances other than those stated in Section 13.1.

(c) Contingent Remedy. Only if, notwithstanding the foregoing mutual waivers and the Parties' express intent as to the enforceability and remedial effect of such waivers, it is judicially determined that the terms and conditions (either in whole or in part) set forth in this ARTICLE 13 will not be enforced against the Town Council and the Town as written, Applicant and/or Landowners will be entitled to pursue and be awarded just compensation pursuant to Section 105(1)(c) of the Vested Property Rights Act to the extent the Town Council or the Town takes any action which has the effect of divesting, depriving, impairing or violating the Vested Property Rights and such action constitutes a compensable action under the Vested Property Rights Act.

**ARTICLE 14
RESPONSIBILITIES OF THE TOWN**

14.1 Processing of Applications. The Town shall process all applications received in connection with the development of the Project, in accordance with the Town Code and any other applicable laws, ordinances, and regulations.

14.2 Infrastructure Permit. The Town shall, upon Applicant's request at any point following the approval of any Development Application contemplated in this Agreement, issue to Applicant at least one infrastructure permit for the Property subject to the Development Application approval that will allow for infrastructure and site work related to the approved Development Application, including deep utilities, grading, construction of storm water management systems, and mass excavation, to commence prior to issuance of a building permit, subject to approval by the Town Engineering Department. Each property with an approved Development Permit, as that term is defined in Section 9-1-5 of the Town Code, may be issued an infrastructure permit.

14.3 Building Permits. The Town shall issue all necessary building permits for the Project, in accordance with the Town Code and any other applicable laws, ordinances, and regulations.

14.4 Consent. The Town will not unreasonably withhold its consent or approval when such consent or approval is required hereunder.

**ARTICLE 15
MANDATORY PROVISIONS**

Pursuant to Section 9-9-12 of the Town Code, the following mandatory provisions shall apply:

15.1 Nothing in the agreement shall preclude or otherwise limit the lawful authority of the Town to adopt or amend any Town law, including, but not limited to, the Town's: 1) Development Code, 2) land use guidelines, 3) master plan, and 4) subdivision ordinance.

15.2 Successors and Assigns; Binding Effect; Recording.

(a) Recording. Within five (5) business days of the Effective Date, the Parties shall deliver original copies of their signature pages and the signature pages of any lienholder or lender on their respective Property to the Town. This Agreement shall be recorded in the Records as against every Property and Parcel 7.

(b) Successors and Assigns of Applicant. Applicant may, in its sole discretion, assign its rights and obligations under this Agreement in whole and in part. Upon any such assignment and delivery of written notice to the Town along with a copy of the instrument of assignment, Applicant shall be released from its obligations and responsibilities hereunder to the extent so assigned and the Town shall recognize the rights and obligations of such assignee as so assigned.

(c) Successors and Assigns of Landowner. This Agreement shall be binding upon and inure to the benefit of Landowners and their respective successors and assigns. For avoidance of doubt, the Agreement shall run with the title to the land and benefit and burden the Properties. Any Party bound by obligations of Landowner in this Agreement shall be released from its obligations and responsibilities hereunder upon the valid conveyance of its interest herein to its successor pursuant to the terms and conditions of such conveyance, if any.

15.3 If a Party defaults in the performance of its obligations under this Agreement, the Party(ies) asserting the default will deliver notice of the asserted default to the Party alleged to be in default, with copies to any other non-defaulting Parties. The Party alleged to be in default will have sixty (60) days from and after receipt of the notice to cure the default without liability for the default. If the default is not of a type which can be cured within such period and the Party alleged to be in default gives written notice to the Party(ies) who asserted the default within such 60-day period that it is actively and diligently pursuing a cure, the Party alleged to be in default will have a reasonable period of time given the nature of the default following the end of the 60-day period to cure the default, provided that the Party alleged to be in default is at all times within the additional time period actively and diligently pursuing the cure. Notwithstanding the foregoing cure period, the Party asserting that the Town Council and/or the Town is in default will have the right to include a claim for breach of this Agreement and/or of the Vested Property Rights Act in any claim brought under C.R.C.P. 106(a)(4) if the Party reasonably believes that failure to include such claim could jeopardize the Party's ability to exercise its remedies under this Agreement or under the Vested Property Rights Act at a later date. Any claim for breach of this Agreement or the Vested Property Rights Act that is brought before the expiration of the applicable cure period will not be prosecuted by the Party asserting such claim until expiration of the applicable cure period, and will be dismissed by the Party if the default is cured in accordance with this Section 15.3.

15.4 The Town shall not be responsible for and Applicant shall have no remedy against the Town if development of the real property which is the subject of this Agreement is prevented or delayed for reasons beyond the control of the Town.

15.5 Actual development of the real property which is the subject of this Agreement shall require the issuance of such other and further permits and approvals by the Town as may be required from time to time by applicable Town ordinances.

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

15.7 Applicant shall agree to indemnify and hold the Town, its officers, employees, insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligence or intentional act or omission of Applicant, any subcontractor of Applicant, or any officer, employee, representative, or agent of Applicant or of any subcontractor of Applicant, or

which arise out of any workers' compensation claim of any employee of Applicant, or of any employee of any subcontractor of Applicant; except to the extent such liability, claim or demand arises through the negligence or intentional act or omission of the Town, its officers, employees, or agents. Applicant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at the sole expense of Applicant. Applicant also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees.

15.8 If any provision of this Agreement shall be invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of the remaining provisions of the agreement.

15.9 In connection with an application for a development permit to develop the real property that is the subject of this Agreement the application shall not receive an award of positive points under the Town Code for any commitment offered to the Town by Applicant pursuant to Section 9-9-4, or any other obligation or requirement of Applicant under this Agreement.

ARTICLE 16 MISCELLANEOUS

16.1 Amendments. This Agreement may be amended or terminated only with the prior written consent and approval of the Town, Applicant, and the Landowner of the Property(ies) or portion of the Property(ies) to which the amendment applies, following public notice and public hearings as required for Development Agreements.

16.2 Notices. In order to be deemed delivered and effective, any notice required or permitted pursuant to this Agreement must be in writing, and must be given either personally or by registered or certified mail, return receipt requested, in either case to the applicable Party(ies) at their addresses set forth below:

If to the Town:

Town of Breckenridge
Shannon Haynes, Town Manager
150 Ski Hill Road, P.O. Box 168
Breckenridge, CO 80424
shannonh@townofbreckenridge.com

With a required copy to:

Kirsten J. Crawford
Town Attorney, Town of Breckenridge
150 Ski Hill Road, P.O. Box 168
Breckenridge, CO 80424
kirstenc@townofbreckenridge.com

If to Gondola Properties:

Gondola Properties LLC
c/o Breckenridge Grand Vacations
100 South Main Street, P.O. Box 6879
Breckenridge, Colorado 80424
Attention: Graham Frank, Chief Development Officer

With a required copy to:

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Attention: Andrew L.W. Peters
apeters@ottenjohnson.com

If to BGV Entrada:

BGV Partners Entrada, LLC
c/o Breckenridge Grand Vacations
100 South Main Street, P.O. Box 6879
Breckenridge, Colorado 80424
Attention: Graham Frank, Chief Development Officer

With a required copy to:

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Attention: Andrew L.W. Peters
apeters@ottenjohnson.com

If to VSRI:

Vail Resorts, Inc.
390 Interlocken Crescent #100
Broomfield, CO 80021
Attention: Legal Department
legalnotices@vailresorts.com

If to LC Breckenridge:

LC Breckenridge
c/o Leste
1450 Brickell Avenue, Suite 2600
Miami, Florida 33131
Attention: Jordan Suppan
Jordan.Suppan@leste.com

With required copy to:

Carlton Fields
2 Miami Central
700 NW 1st Avenue, Suite 1200
Miami, Florida 33136-4118
Attention: Matthew H Jacobson
MJacobson@carltonfields.com

Notices will be deemed delivered and effective as follows: (i) if given personally, when delivered to the Party to whom it is addressed; or (ii) if given by registered or certified mail, on the first to occur of (A) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (B) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Any Party may at any time, by giving notice as provided in this Section, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given.

16.3 Entire Agreement. This Agreement constitutes the entire and final understanding between the Parties with respect to the subject matter hereof. This Agreement supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof, which shall be of no further force and effect. For the avoidance of doubt, the Parking Agreement is not an agreement or understanding subject to this Section 16.3 and remains in full force and effect.

16.4 No Implied Representations. No representations, warranties, or certifications, express or implied, shall exist as between the Parties except as stated herein.

16.5 Waivers and Modifications in Writing. No waivers or modifications hereof shall be made or deemed to have been made unless in writing executed by the Party to be bound thereby.

16.6 Conflict with Other Provisions of the Town Code. In the event any provision of this Agreement or the application thereof conflicts with any provision of the Town Code, this Agreement shall control the determination of the rights and obligations of the Parties with respect to such conflicting matter. When adopted by the Town pursuant to ordinance, this Agreement shall be deemed to be an amendment of any such conflicting provision of the Town Code with respect to the subject matter thereof.

16.7 Adoption of Agreement Deemed to be a Legislative and Administrative Act; Referendum. As set forth in and expressly authorized by Section 104(2) of the Vested Property Rights Act, this Agreement and the Vested Property Rights conferred hereby are adopted as a legislative act pursuant to such authority conferred upon the Town Council by the Vested Property Rights Act. If and to the extent the Vested Property Rights Act subjects the Town Council's establishment of the Vested Property Rights pursuant to this Agreement to referendum, and any referendum succeeds in overturning the Town Council's establishment of the Vested Property Rights pursuant to this Agreement, such result will not be construed as overturning, negating or otherwise affecting the Council's approval of this Agreement.

16.8 Covenant of General Cooperation. The Parties covenant and agree to cooperate in good faith with one another in the performance of their respective rights and obligations hereunder in order that each may reasonably realize their respective benefits hereunder. The Parties further agree to cooperate in good faith with one another in the event of any third-party legal action, initiative, or referendum challenging the approval(s) of any Development Application contemplated in this Agreement.

16.9 No Third-Party Beneficiaries. Except as otherwise provided herein, none of the terms, conditions, or covenants contained in this Agreement shall be deemed to be for the benefit of any person not a Party hereto, and no such person shall be entitled to rely hereon in any manner.

16.10 Counterparts; Electronic Delivery. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement. Executed copies hereof may be delivered by telecopier or e-mail (pdf) and upon receipt will be deemed originals and binding upon the Parties, regardless of whether originals are delivered thereafter.

16.11 Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

16.12 Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado.

16.13 Venue and Choice of Law; Waiver of Right to Jury Trial; Construction. Venue will be in the district court for the State of Colorado, Summit County, Colorado. To reduce the cost of and to expedite the resolution of disputes under this Agreement, each Party hereby waives any and all right to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. In the event of ambiguity in this Agreement, any rule of construction which favors a Party's interpretation as a non-drafting party will not apply, and the ambiguous provision will be interpreted as though no specific party was the drafter.

[SIGNATURE PAGES TO FOLLOW]

Exhibit 1
[Parcel 1 Legal Description]

LOT 4, GONDOLA LOTS, FILING NO. 2 - AMENDED, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 25, 2023 UNDER RECEPTION NO. 1319752, COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 1
Page 1

| [9977527-362977527.40](#)

Exhibit 2
[Parcel 2 Legal Description]

LOT 1B, BLOCK 4, A RESUBDIVISION OF LOT 1, BLOCK 4, PARKWAY CENTER
SUBDIVISION FILING NO. 1 AMENDED & TRACT Q, SHOCK HILL SUBDIVISION,
ACCORDING TO THE PLAT FILED NOVEMBER 30, 2005 UNDER RECEPTION NO.
807735 COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 2
Page 1

| [89773527-362977527.40](#)

Exhibit 3
[Parcel 3 Legal Description]

LOT 1 AND LOT 3, GONDOLA LOTS, FILING NO. 1 - AMENDED, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 25, 2023 UNDER RECEPTION NO. 1319751, COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 3
Page 1

| [9977527-362977527.40](#)

Exhibit 4
[Parcel 4 Legal Description]

LOT 4, FOURTH RESUBDIVISION THE REMAINDER OF TRACT C, PEAK 8
SUBDIVISION FILING NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED
DECEMBER 20, 2018 UNDER RECEPTION NO. 1187721,COUNTY OF SUMMIT, STATE
OF COLORADO.

Exhibit 4
Page 1

| [9977527-362977527_40](#)

Exhibit 5
[Parcel 5 Legal Description]

A PARCEL OF LAND LOCATED IN A PORTION OF THE REMAINDER OF TRACT C, PEAK 8 SUBDIVISION FILING No. 1 IN SECTION 1, T7S, R78W AND SECTION 36, T6S, R78W OF THE 6th P.M., SUMMIT COUNTY, COLORADO.

SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4, PEAK 8 SUBDIVISION FILING No. 1, RECORDED IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER UNDER RECEPTION No. 1187721, THENCE ALONG THE EAST LINE OF SAID REMAINDER OF TRACT C S05°36'59"W, 348.85 FEET, THENCE ALONG THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. S81°32'31"W, 37.65 FEET S81°32'31"W, 37.65 FEET
2. N22°54'12"W, 407.45 FEET N22°54'12"W, 407.45 FEET
3. S84°23'01"E, 231.06 FEET BACK TO THE POINT OF BEGINNING. S84°23'01"E, 231.06 FEET BACK TO THE POINT OF BEGINNING.

Exhibit 6
[Parcel 6 Legal Description]

A PARCEL OF LAND LOCATED IN A PORTION OF THE REMAINDER OF TRACT C, PEAK 8 SUBDIVISION FILING No. 1, A PORTION OF THE ADA PLACER (MS 13744) AND A PORTION OF THE TYRA PLACER (MS 13343), IN SECTION 1, T7S, R78W AND SECTION 36, T6S, R78W OF THE 6th P.M., SUMMIT COUNTY, COLORADO.

SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF TRACT C, PEAK 8 SUBDIVISION FILING No. 1, RECORDED IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER UNDER RECEPTION No. 1187721, THENCE ALONG THE SOUTH LINE OF TIMBER TRAIL SUB. RECORDED UNDER REC. No. 730224 AND FILED IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. N63°32'19"E, 141.01 FEET N63°32'19"E, 141.01 FEET
2. N67°05'19"E, 148.45 FEET N67°05'19"E, 148.45 FEET
3. N56°47'38"E, 25.66 FEET, N56°47'38"E, 25.66 FEET,

THENCE DEPARTING SAID SOUTH LINE THE FOLLOWING TEN (10) COURSES AND DISTANCES:

1. S20°08'31"E, 66.15 FEET S20°08'31"E, 66.15 FEET
2. 185.78 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, 185.78 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF 53°13'18" AND A CHORD WHICH BEARS S06°28'08"W, 179.17 FEET.
3. S33°04'47"W, 45.55 FEET S33°04'47"W, 45.55 FEET
4. S16°15'16"E, 343.70 FEET S16°15'16"E, 343.70 FEET
5. S04°00'43"E, 86.48 FEET S04°00'43"E, 86.48 FEET
6. S36°33'26"E, 132.68 FEET S36°33'26"E, 132.68 FEET
7. S78°51'48"W, 172.09 FEET S78°51'48"W, 172.09 FEET
8. N78°33'09"W, 673.06 FEET N78°33'09"W, 673.06 FEET
9. N12°32'17"W, 219.71 FEET N12°32'17"W, 219.71 FEET
10. N39°22'25"E, 750.61 FEET TO A POINT ON THE EAST LINE OF SAID TRACT C. N39°22'25"E, 750.61 FEET TO A POINT ON THE EAST LINE OF SAID TRACT C.

Exhibit 6
Page 1

[9977527-362977527_40](#)

THENCE ALONG SAID EAST LINE S26°38'02"E, 255.76 FEET BACK TO THE POINT OF BEGINNING.

Exhibit 6
Page 2

| [9977527-362977527.40](#)

Exhibit 7
[Parcel 7 Legal Description]

TRACT A2, A REPLAT OF LOTS A1, B1 AND C, ENTRADA AT BRECKENRIDGE,
ACCORDING TO THE PLAT FILED JULY 24, 2017 UNDER RECEPTION NO. 1146781,
COUNTY OF SUMMIT, STATE OF COLORADO.

Exhibit 7
Page 1

| [9977527-362977527.40](#)

Exhibit 8
[Form Density Transfer Covenant]

DENSITY TRANSFER AGREEMENT AND COVENANT

This Density Transfer Agreement And Covenant (“**Agreement**”) is made and entered into at Breckenridge, Colorado this ___ day of _____, 2024, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“**Town**”), and _____ (“**XXXX**”).

RECITALS

A. WHEREAS, _____ is the owner of real property located in the Town of Breckenridge, Summit County, Colorado more particularly described on Exhibit “A”, which real property is hereafter referred to in this Agreement as the “**Sending Parcel**”.

B. WHEREAS, _____ is the owner of real property located in the Town of Breckenridge, Summit County, Colorado more particularly described on Exhibit “B”, which real property is hereafter referred to in this Agreement as the “**Receiving Site**”.

C. WHEREAS, pursuant to the Development Agreement between the Town and _____ dated _____ and recorded _____ at Reception No. _____ of the real property records of the Clerk and Recorder of Summit County, Colorado (“**Development Agreement**”) _____ is authorized, without further approval from the Town, to transfer density from the Sending Parcel to the Receiving Site; and

D. WHEREAS, this Agreement is executed and recorded in the real property records of the Clerk and Recorder of Summit County, Colorado to effectuate and memorialize the density transfer described in this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree as follows:

1. Town and _____ hereby agree that XXXX (XX) SFEs of the density heretofore allocated to the Sending Parcel shall be and hereby are transferred to the Receiving Site. As used in this Agreement, “**SFE**” means a single-family equivalent of density as defined from time to time in the Town’s land use regulations.

2. _____ acknowledges and agrees that following the transfer of the XXX (XX) SFEs of density to the Receiving Site as described in Section 1, above, there shall remain XXX (XX) SFEs of density upon the Sending Parcel.

3. Town and _____ further acknowledge and agree that following the transfer of XXX (XX) SFEs of density to the Receiving Site as described in Section 1, above, the Receiving Site shall then have a total of XXX (XX) SFEs of residential and commercial density, which density may only be used in connection with a development approved by Town pursuant to the Town’s applicable land use ordinances, policies, and codes. Nothing in this Agreement shall constitute a site specific development plan for the development of the Sending Parcel or the Receiving Site, nor shall this Agreement give rise to the creation of any vested rights with respect to the

development of the Sending Parcel or the Receiving Site (without limiting ARTICLE 12 of the Development Agreement).

4. The agreements and covenants contained in this Agreement shall: (i) run with the land; (ii) burden the Sending Parcel and benefit the Receiving Site; and (iii) be binding upon the Town and XXXX and their successors and assigns, and all persons who hereafter acquire any interest in either the Sending Parcel or the Receiving Site.

5. This Agreement shall be recorded in the real property records of the Clerk and Recorder of Summit County, Colorado, to place prospective purchasers and other interested parties on notice as to the terms, conditions, and limitations contained herein.

6. This Agreement and the exhibits hereto represent the entire understanding between the parties with respect to the subject matter of this Agreement.

7. This Agreement may be executed in several counterparts and/or signature pages and all counterparts and signature pages so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties are not signatories to the original or the same counterpart or signature page.

IN WITNESS WHEREOF, the parties hereto have executed this Density Transfer Agreement And Covenant effective as of date above.

[SIGNATURE AND ACKNOWLEDGEMENT PAGES FOLLOW]

Exhibit "A" [to Ex. 8 Form Density Transfer Covenant]

Legal Description of the Sending Parcel

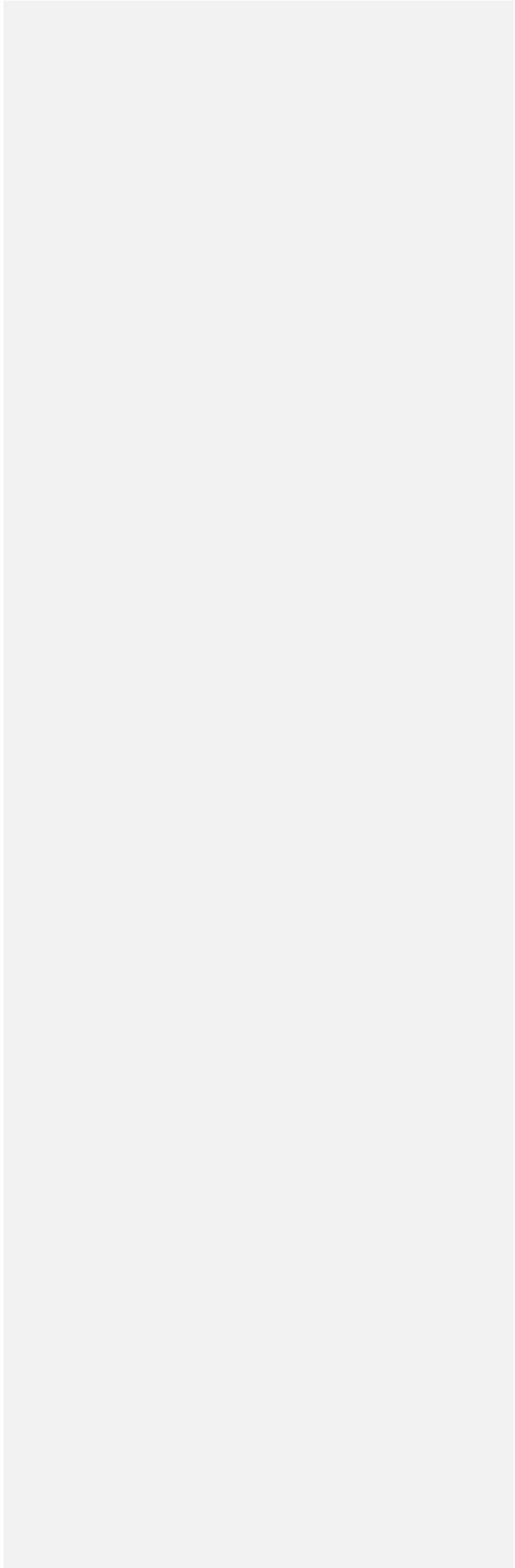


Exhibit 8
Page 5

| [9977527-362977527.40](#)

Exhibit "B" [to Ex. 8 Form Density Transfer Covenant]

Legal Description of the Receiving Site

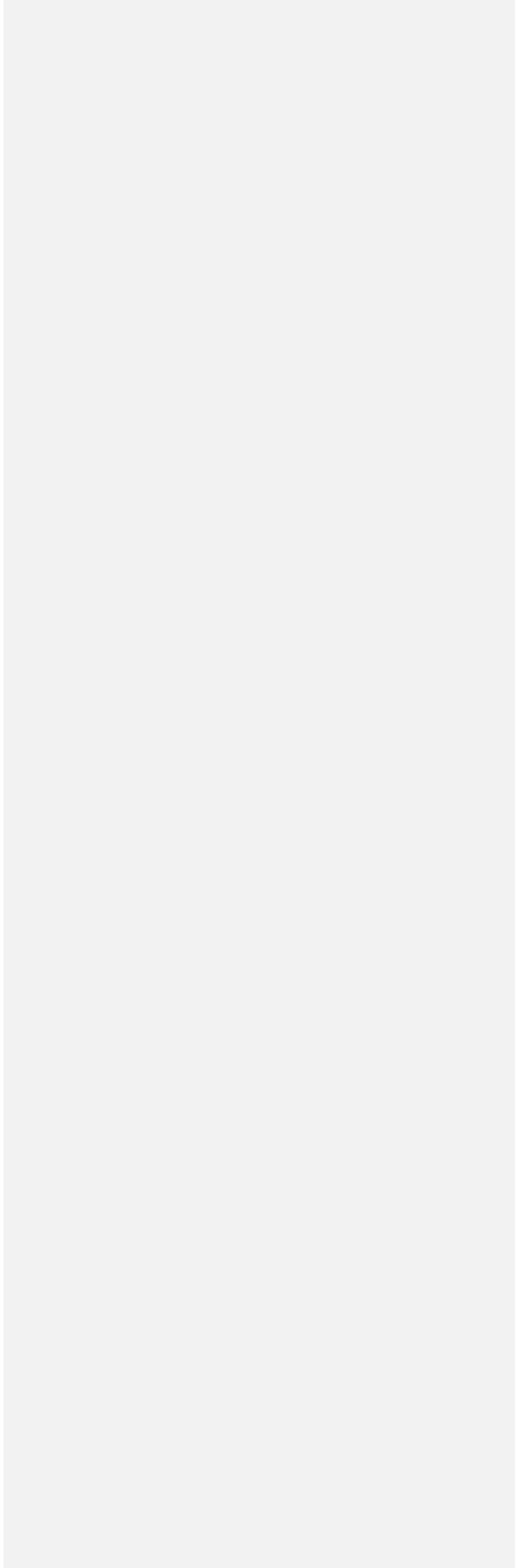


Exhibit 8
Page 6

| [9977527-362977527.40](#)

Exhibit 9
[Parcel 1 Concept Plan]

Exhibit 9
Page 1

| [9977527-362977527_40](#)

Exhibit 10
[Parcel 2 Concept Plan]

Exhibit 10
Page 1

| [2977527-362977527.40](#)

Exhibit 11
[Wetlands Report]

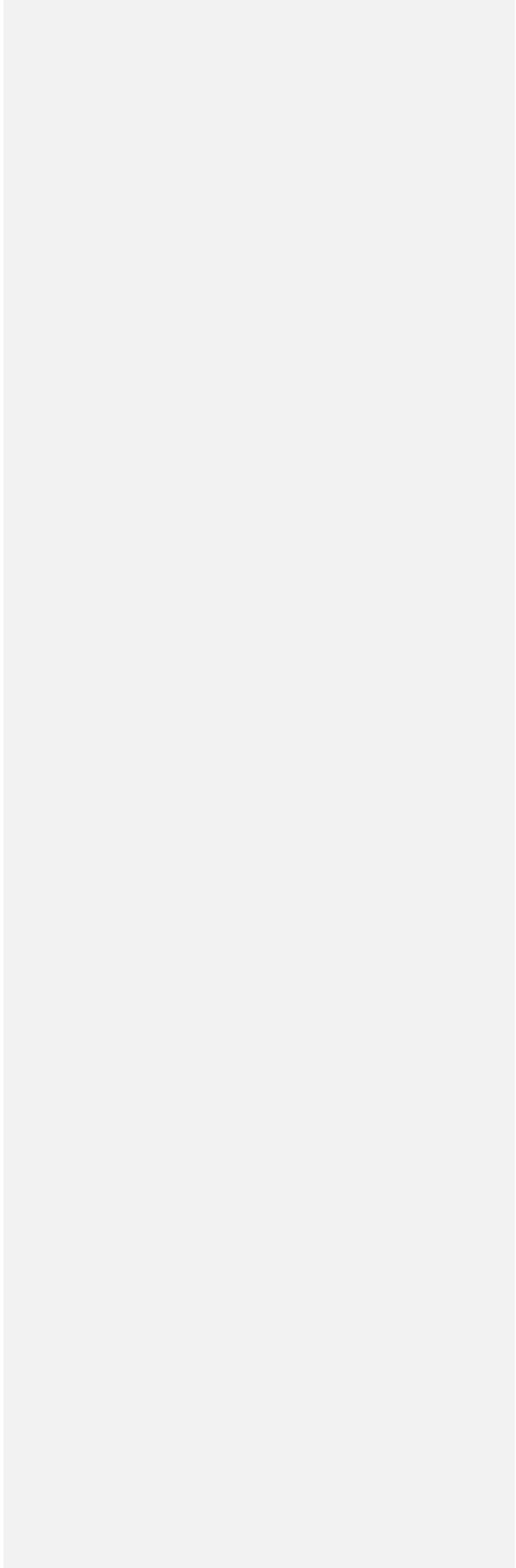
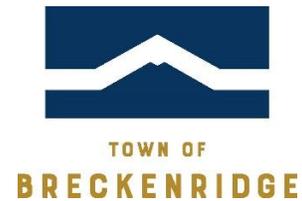


Exhibit 11
Page 1

[2977527-362977527_40](#)

Summary report:	
Litera Compare for Word 11.6.0.100 Document comparison done on 3/18/2024 7:03:23 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS: iw://ottenjohnson.cloudimanager.com/DOCS/2977527/36	
Modified DMS: iw://ottenjohnson.cloudimanager.com/DOCS/2977527/40	
Changes:	
Add	59
Delete	46
Move From	1
Move To	1
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	107



Memo

To: Town Council
From: Mark Truckey, Community Development Director
Chris Kulick, Planning Manager
Date: March 15, 2024 for the meeting of March 26, 2024
Subject: Entrada Annexation and Development Agreement First Reading

At the March 12, 2024 Council meeting, the Council weighed in on the remaining outstanding issues related to approval of an Entrada Annexation and Development Agreement, which is attached. Deal points agreed to on March 12 are included below.

Deal Points Agreed to at the March 12, 2024 Town Council Work Session

Policy 3R/Density

The applicant will be allowed a waiver from negative points under Policy 3R for going beyond the recommended density in Land Use District 5.

Policy 6R/Building Height

The applicant will be allowed a waiver from negative points under Policy 6R for going beyond the recommended building height. The resulting building that is constructed will be substantially the same in appearance height-wise as the visual renderings provided at the March 12, 2024 Town Council work session, showing a two story building on the south, increasing to a three story building on the north of the site. The Development Agreement language confirms this intent to have a building that appears two stories on the south and two and one half to three stories on the north.

The applicant will be allowed a waiver from negative points being assigned under Policy 6R for an unbroken roof ridgeline longer than 50 feet, provided the unbroken ridgeline does not exceed 60 feet in length.

Engineering and Development Code Waivers for Access and Detention/Subsurface Infiltration

The following Engineering Standards and related Development Code policies will be waived by the Town Engineer.

- Waiver from the Engineering Standard requiring a maximum of one access per lot.
- Waiver from access width requirements.
- Waiver for the proposed detention and subsurface infiltration facilities.

Policy 7R/Site and Environmental Design

The applicant will be allowed a waiver from negative points under Policy 7R for adequacy of privacy buffering along the eastern and northern property lines.

Is Council comfortable with the above-described deal points?

Public Commitments (Benefits)

The Council reviewed the proposed public benefits at the March 12 meeting and agreed they were appropriate and sufficient to allow for the Code waivers that the Annexation and Development Agreement will provide.

Outstanding Issues

Policy 5R/Architectural Compatibility

The applicant has committed to meeting Policy 5R in terms of providing wood trim on each building elevation along with fiber cement siding. The applicant has requested that this waiver of points still be included, because of concerns that Policy 5R could be amended in the future prior to construction of the Entrada building. Staff is comfortable with this proposal, as it meets the current Development Code provisions.

Rent

Sections 6.2.2.4 and 6.2.2.5 of the Development Agreement have been modified to reflect conversations that Mike Dudick and Housing Manager Laurie Best have had regarding future rents and potential for unforeseen operation cost increases (e.g., property insurance). The language allows the Town and the building Lessor to meet every three years after CO to determine the rental rates for the upcoming three years, considering changes in AMI, market conditions, and unexpected changes in property insurance. Laurie Best has reviewed the language and is comfortable with the language.

Is Council comfortable with allowing for the waiver from points for Policy 5R?

Council Action

Council is asked to weigh in on the above blue italicized questions to confirm their support. Staff recommends the Council approve the attached Annexation and Development Agreement on First Reading.

1
2
3 ORDINANCE NO.
4

5 SERIES 2024
6

7 A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE
8 ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY KNOWN
9 AS THE ENTRADA PROPERTY AND IN CONNECTION THEREWITH
10 APPROVING AN ANNEXATION AND DEVELOPMENT AGREEMENT FOR THE
11 ENTRADA PROPERTY.
12

13 WHEREAS, pursuant to the laws of the State of Colorado, on August 29, 2022, there
14 was presented to and filed with the Town Clerk of the Town of Breckenridge, Colorado, a written
15 petition for annexation (the "Annexation Petition") of that property described in the attached
16 **Exhibit A** (the "Property"), being contiguous unincorporated territory situated, lying, and being in
17 the County of Summit, State of Colorado;

18 WHEREAS, the Town Council of the Town of Breckenridge found and determined that
19 the Annexation Petition is in substantial compliance with the requirements of Section 31-12-
20 107(1), C.R.S by Resolution No. 18, Series 2022, dated September 27, 2022;

21 WHEREAS the Town Council of the Town of Breckenridge conducted a properly noticed
22 public hearing on November 8, 2022, as required by law, to determine the eligibility of the
23 Property to be annexed to the Town and found and determined the Property eligible to be
24 annexed by Resolution No. 20, Series 2022, and conformance of the proposed annexation to
25 the applicable law and the annexation policy of the Town of Breckenridge;

26 WHEREAS the Town Council held work sessions on January 25, 2022, July 26, 2022,
27 and October 25, 2022, to discuss the specifics of the terms of the annexation;

28 WHEREAS the Town Council discussions regarding the annexation were put on hold in
29 December 2022 to allow the petitioner/applicant to focus on a new development proposal for the
30 North Gondola and Gold Rush Lots and Peaks 7 and 8;

31 WHEREAS the Town Council discussions on the proposed annexation of the Property
32 resumed at work sessions on February 27, 2024, and March 13, 2024, and the Town Council
33 and petitioner/applicant have reached agreement on the terms of the annexation;

34 WHEREAS the Town Council desires to promote the development of Employee Housing
35 as defined in the Breckenridge Town Code;

1 WHEREAS petitioner/applicant and the Town desire to set forth in an Annexation and
2 Development Agreement, attached hereto as **Exhibit B** (hereinafter referred to as the
3 “Agreement”), certain terms and conditions for the annexation and future use or development of
4 the Property as Employee Housing;

5 WHEREAS, pursuant to Section 24-68-102.5, C.R.S. and title 9 of the Breckenridge
6 Development Code, the Town and petitioner/applicant intend that development of the Property
7 will, during the vesting periods set forth in the Agreement, be governed by the Town Code as in
8 effect on the submittal date, except as expressly stated otherwise in the Agreement;

9 WHEREAS, contemporaneously filed with this Ordinance, is “A Bill For An Ordinance
10 Placing The Entrada Property That Has Been Annexed To The Town Of Breckenridge Into Land
11 Use District 5.”

12 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
13 BRECKNERIDGE, COLORADO, THAT:

14 **Section 1.** Considering all of the foregoing, and based on the conviction that
15 annexation of the Property to the Town of Breckenridge will serve the best interests of the Town
16 and the petitioner/applicant, said annexation is hereby approved and the Property is hereby
17 annexed to the Town of Breckenridge, Colorado.

18 **Section 2.** The Agreement is hereby approved and adopted and the Town Manager
19 of the Town of Breckenridge is hereby authorized and directed to sign the Agreement on behalf
20 of the Town.

21 **Section 3.** The Town Clerk shall file for recording three (3) certified copies of the
22 Annexation Ordinance and three (3) certified copies of the Annexation Map for the Property with
23 the Summit County Clerk and Recorder.

24 **Section 4.** The Annexation Map showing the boundaries of the newly annexed
25 territory, as above described, shall be kept on file in the office of the Summit County Clerk and
26 Recorder.

27 **Section 5.** Safety Clause. The Town Council hereby finds, determines and declares
28 that this Ordinance is promulgated under the general police power of the Town of Breckenridge,
29 that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is
30 necessary for the preservation of health and safety and for the protection of public convenience
31 and welfare. The Town Council further determines that the Ordinance bears a rational relation to
32 the proper legislative object sought to be obtained.

1 **Section 6.** Severability. If any clause, sentence, paragraph or part of this Ordinance
2 or the application thereof to any person or circumstances shall for any reason be adjudged by a
3 court of competent jurisdiction invalid, such judgment shall not affect the remaining portions of
4 this Ordinance.

5 **Section 7.** This Ordinance shall become effective as provided in Section 5.9 of the
6 Breckenridge Town Charter. Upon the effective date of annexation, the Property shall become
7 subject to the municipal laws of the State of Colorado pertaining to cities and to the Charter,
8 ordinances, resolutions, rules and regulations of the Town of Breckenridge.

9
10 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
11 PUBLISHED IN FULL this 26th day of March 2024. A Public Hearing shall be held at the
12 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 9th day of
13 April, 2024, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the
14 Town.

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____
Kelly Owens, Mayor Pro Tem

ATTEST:

Helen Cospolich, CMC,
Town Clerk

APPROVAL OF THIS AGREEMENT CREATES A VESTED PROPERTY RIGHT
PURSUANT TO C.R.S. § 24-68-103, AS AMENDED
TRACT A2, ENTRADA AT BRECKENRIDGE

ANNEXATION AND DEVELOPMENT AGREEMENT

THIS ANNEXATION AND DEVELOPMENT AGREEMENT (this “**Agreement**”) is made as of this ____ day of _____, 2024 (the “**Approval Date**”), by and between TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the “**Town**”), and BGV PARTNERS ENTRADA LLC, a Colorado limited liability company (“**BGV Entrada**”). The Town and BGV Entrada are collectively referred to herein as the “**Parties**” and each individually referred to herein as a “**Party**”.

RECITALS

A. BGV Entrada owns all of that certain real property located in unincorporated Summit County, Colorado, legally described on Exhibit A attached hereto (the “**Property**”).

B. The Town Council of the Town of Breckenridge (the “**Council**”) is the governing body of the Town, with the legal authority to approve annexations of property into the Town and to impose terms and conditions upon such annexations, which terms and conditions are set forth in their entirety herein, pursuant to, *inter alia*, the Colorado Municipal Annexation Act, C.R.S. §§ 31-12-101, *et seq.* (the “**Annexation Act**”), and to enter into development agreements conferring “**Vested Property Rights**” as defined in and pursuant to, *inter alia*, C.R.S. §§ 24-68-101 *et seq.* (the “**Vested Property Rights Act**”) and Article VII of this Agreement.

C. BGV Entrada has executed and filed with the Town Clerk a Petition for Annexation of the Property into the Town (the “**Petition**”), which Petition was found by the Council to be in substantial compliance with the requirements of Section 107 of the Annexation Act, and the Property was found by the Council to be eligible for annexation under Section 104 of the Annexation Act.

D. Pursuant to Section 103 of the Vested Property Rights Act, its legislative authority, and Section 9-1-17-11K of the Breckenridge Town Code (the “**Town Code**”), and notwithstanding any provision to the contrary set forth in the Town Code, the Council intends that this Agreement will be designated as a “**Site Specific Development Plan**” as that term is defined in the Vested Property Rights Act.

E. The Town, GONDOLA PROPERTIES, LLC, a Colorado limited liability company, BGV Entrada, Vail Summit Resorts, Inc., a Colorado corporation, and LC Breckenridge Holdco, LLC, a Delaware limited liability company, entered into that certain Development Agreement dated _____, 2024 (the “**Development Agreement**”), recorded on _____, 2024, at Reception No. _____, in the real property records for Summit County, Colorado (the “**Records**”), which Development Agreement provides, *inter alia*, that if the Property is annexed to the Town, BGV Entrada or an affiliate may develop Employee Housing on the Property in order to satisfy Absolute Policy 24/Social Community Employee Housing requirements for Lot 4, Peak 8 Subdivision Filing No. 1, and the Town will authorize a transfer of “**Density**” as that term is used in Section 9-1-19-3A of the Town Code, to accommodate that Employee Housing.

F. BGV Entrada proposes to develop on the Property a building or buildings containing multi-family housing units (each, a “**Unit**”), which Units will be deed-restricted for use as “**Employee Housing**,” as that term is defined in the Town Code (the “**Project**”).

G. To facilitate development of the Project and to promote the provision of Employee Housing, the Town desires to waive the Class A Development Permit and building permit fees, and waive certain development regulations or negative points associated with review of a Class A Development Permit for the Project (the “**Development Permit**”) under the Town Code.

H. Without this Agreement, certain elements of the Project would deviate from applicable allowances or requirements in the Town Code or otherwise deviate from applicable Town Policies, Land Use Guidelines, Engineering Design Standards and Construction Specifications.

I. Contemporaneously with the ordinance to approve the annexation of the Property into the Town (the “**Annexation**”) and this Agreement, is a proposed ordinance placing Property into Land Use District 5 (the “**LUD 5**”, and the initial zoning of the Property into the LUD 5, the “**Zoning**”), the approval of the Development Permit with waivers as set forth in Section 6.3, and the development of the Project will provide material public benefits to the Town in the form of BGV Entrada’s commitments to provide Public Improvements (as that term is defined in Section 4.1 below) and Employee Housing beyond that required by the Town Code (as referenced in Section 4.3 below), in accordance with Section 9-9-4 of the Town Code.

J. As of the Approval Date, the Council has approved Ordinance No. [REDACTED], annexing the Property into the Town (the “**Annexation Ordinance**”) and has approved Ordinance No. [REDACTED] establishing the Zoning (the “**Zoning Ordinance**”).

K. BGV Entrada and the Town desire to set forth in this Agreement certain agreements relative to the Annexation, Zoning, and future use of the Property and the Project.

L. The Council has received a complete application and all required submittals for a development agreement, had a preliminary discussion of the application and this Agreement, determined that it should commence proceedings for the approval of this Agreement and, in accordance with the procedures set forth in Subsection 9-9-10C of the Town Code, desires to approve this Agreement by ordinance.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, mutual covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto, the Parties agree as follows:

ARTICLE I GENERAL PROVISIONS

1.1 Incorporation of Recitals. The foregoing Recitals are incorporated into and made substantive provisions of this Agreement.

1.2 Nature of Agreement. As further provided in Article VII, as between the Parties, this Agreement is a Site Specific Development Plan as that term is defined in Section 102 of the Vested Property Rights Act and constitutes a development agreement granting and establishing Vested Property Rights for a period consistent with Section 7.3 in accordance with Section 104(2) of the Vested Property Rights Act.

1.3 References to BGV Entrada. As of the Effective Date, BGV Entrada is the owner of the Property and the developer of the Project. Any successor(s) in interest to BGV Entrada, as owner of any or all portions of the Property, shall be deemed to have assumed all rights and obligations of BGV Entrada as set forth in this Agreement with respect to any portion(s) of the Property to which such successor(s) in interest have assumed ownership, and, as of the date of BGV Entrada's transfer of any or all portions of the Property to such successor(s), BGV Entrada will be deemed relieved of such rights and obligations unless expressly agreed to by BGV Entrada.

1.4 Relationship to Previous Agreements. Except as set forth in this Section 1.4 and the Development Agreement, this Agreement terminates and supersedes any previous agreements between the Parties or their predecessors-in-interest regarding the Property, including, without limitation, the Out of Town Water Service Agreement by and between the Town and Spring Creek Interest, LLC, a Colorado limited liability company ("**Spring Creek**"), dated July 11, 2017, and recorded in the Records on July 18, 2017, at Reception No. 1146441, and the Pre-Annexation Agreement by and between the Town and Spring Creek, dated February 8, 2021, and recorded in the Records on February 8, 2021, at Reception No. 1249314. Notwithstanding the foregoing, the Entrada at Breckenridge Planned Unit Development (PUD) Sign Program recorded in the Records on March 10, 2014, at Reception No. 1050117 (the "**Sign Program**") shall continue in full force and effect with regard to the existing Tenant Directory Sign on the southwest corner of the Property (the "**Sign**"), and following the Effective Date, the Town shall have the authority to enforce the Sign Program.

1.5 Approval Date and Effective Date. The rights and obligations of the Parties under this Agreement shall commence on the Approval Date, unless such rights and obligations commence on the Effective Date, as set forth in this Section 1.5. The rights and obligations of the Parties that commence on the Approval Date include, without limitation, those set forth in Section 2.1 regarding Conditions Precedent (as defined therein) and those set forth in Section 6.1 regarding Development Permit acceptance. The "**Effective Date**" shall be the date upon which the latest of (a) the Annexation, (b) the Zoning, and (c) this Agreement becomes final and non-appealable in any form of Legal Challenge (as defined below in Section 2.1). Upon the Effective Date, the term for the Vested Property Rights, as set forth in Section 7.3, and BGV Entrada's obligations under Article IV shall commence.

ARTICLE II ANNEXATION

2.1 Conditions Precedent. The Annexation will not be legally effective unless and until the conditions precedent set forth in this Section 2.1 have been satisfied or waived in writing by BGV Entrada, which satisfaction or waiver are absolute conditions precedent to the annexation of the Property becoming effective as a matter of law. The Town and BGV Entrada will cooperate in good faith to obtain final, non-appealable approval of the following, upon terms mutually agreeable to both Parties:

- 2.1.1 The Zoning Ordinance; and
- 2.1.2 This Agreement.

The foregoing are together referred to herein as the “**Conditions Precedent.**”

Pending the Town’s satisfaction or BGV Entrada’s waiver of the Conditions Precedent, BGV Entrada reserves the right to withdraw the Annexation Petition, and cause the Annexation to be of no force or effect, at any time prior to recordation of the instruments described in Section 113(2)(a)(II)(A) of the Annexation Act, if: (a) a Legal Challenge (as defined below) occurs; or (b) the Town fails to perform any of its obligations under this Agreement between the Approval Date and the Effective Date. Accordingly, unless and until each of the Conditions Precedent have been satisfied or waived by BGV Entrada and any Legal Challenge has been resolved in a manner satisfactory to BGV Entrada, neither BGV Entrada nor the Town will record or cause to be recorded the instruments described in Section 113(2)(a)(II)(A) of the Annexation Act, or any of the instruments described in Sections 2.1.1 and 2.1.2 (or any memorandum thereof), it being the Parties’ intent that the Annexation will not be legally effective unless and until such recording of the instruments described in Section 113(2)(a)(II)(A) of the Annexation Act occurs, and that the Parties will cause such recordings to occur promptly after satisfaction or BGV Entrada’s waiver of the Conditions Precedent and/or a satisfactory resolution of all Legal Challenges. As used in this Agreement, “**Legal Challenge**” means either: (y) any third party commences any judicial proceeding or other action that directly or indirectly challenges this Agreement, the Annexation, the Zoning, or any of the Town’s resolutions or ordinances approving the Annexation, this Agreement, or the Zoning; or (z) any third party submits a petition for a referendum or initiative seeking to reverse or nullify any of such ordinances.

2.2 Effective Date of Annexation. The Annexation as described in the Annexation Petition shall be effective upon the Effective Date.

ARTICLE III UTILITIES AND INFRASTRUCTURE

3.1 Extensions of Utility Service and Infrastructure. BGV Entrada shall cause to be constructed, prior to the issuance of certificates of occupancy for any structures which will receive such service, all extensions of existing utility service lines, facilities, and appurtenances within the Property necessary to provide utility service to the Property. BGV Entrada shall dedicate or otherwise convey from or over the Property to the applicable utility provider such easements and rights-of-way for the installation, operation, maintenance, repair and replacement of such utility service lines, facilities and appurtenances as are reasonably necessary in order for the utility provider to provide utility service to the Property. Nothing in this Agreement shall be construed as requiring BGV Entrada to obtain fee ownership, easements, rights-of-way, or licenses over any real property other than the Property.

3.2 Town Provision of Services. The Town shall provide municipal services, including but not limited to water and emergency services, to the Property to the same extent as those services are provided by the Town throughout the remainder of the Town.

ARTICLE IV
COMMITMENTS (PUBLIC BENEFITS)

4.1 Public Improvements. The Parties acknowledge and agree that the Project will also provide substantial public benefits to the Town due to BGV Entrada's provision of off-site improvements (the "**Public Improvements**"). Subject to applicable governmental approval, including but not limited to such entities as the Colorado Department of Transportation, Summit County Government, and the Town, prior to the issuance of any certificate of occupancy for the Project, BGV Entrada shall:

4.1.1 Improve the current crossings at the intersection of State Highway 9 and County Road 450 (the "**Intersection**") by constructing two directional Americans with Disabilities Act-compliant curb ramps to meet current standards, enlarging the pedestrian refuge area to accommodate both pedestrians and bicyclists, installing thermoplastic crosswalk striping, and depending upon the final design of the subject improvements, if necessary, modifying the location of the accessible pedestrian signal and push buttons as needed to meet current standards and guidance;

4.1.2 Extend the sidewalk located along County Road 450, adjacent to the Property, eliminating the existing ninety-degree turn and straightening out the path near the intersection;

4.1.3 Extend the sidewalk located along State Highway 9 from County Road 450 to the northwest corner of the Property to allow access to the transit stop;

4.1.4 Install, as soon as is practicable following approval by the Colorado Department of Transportation, a "Turning Vehicles Yield to Pedestrians" sign on the traffic signal mast arm for the westbound right-turn movement at the Intersection;

4.1.5 Install pedestrian lighting meeting Town Standards along State Highway 9 and County Road 450 adjacent to the Property;

4.1.6 Install and connect to the Town's preferred fiber provider, Town Fiber 9600 from County Road 450 to the Project; and

4.1.7 Pursuant to a drainage report, repair, replace, or improve drainage facilities and drainage infrastructure on the Property or the portions of right-of-way that abut the Property.

4.2 If BGV Entrada is unable to complete the intersection improvements prior to the issuance of any certificate of occupancy for the Project, BGV Entrada shall post a completion bond in an amount sufficient to guarantee the completion of the intersection improvements.

4.3 Employee Housing; Public Benefits. The Parties acknowledge and agree that depending upon the final design of the Project, additional Employee Housing may be delivered beyond that required to meet Absolute Policy 24/Social Community of the Town Code which will provide a public benefit to the Town. Any additional housing shall not be eligible to satisfy employee housing requirements for future developments.

**ARTICLE V
DENSITY TRANSFER**

5.1 Available Density. The Parties acknowledge and agree that Land Use District 5, as applied to the Property, makes available 14.2 “SFEs” of “Density,” as those terms are respectively defined in used in Section 9-1-5 and 9-19-3A of the Town Code, to the Property.

5.2 Density Transfer. For convenience, and without altering the rights and obligations set forth in the Development Agreement, the Parties desire to restate in this Agreement certain of the Development Agreement’s provisions with respect to the transfer of Density to the Property as follows: To provide for the Project, the Town authorizes the transfer of up to fifteen (15) SFEs from the Breckenridge Grand Vacations Gondola Lot Master Plan (PL-2021-0052) (the “**Gondola Lot Master Plan**”) to the Property, subject to the execution of a Density Transfer Covenant, pursuant to Section 9-1-17-12 of the Town Code. The Parties acknowledge and agree that transfer of up to fifteen (15) SFEs from the Gondola Lot Master Plan to Property shall in addition to the 14.2 SFEs identified in Section 5.1, result in a total of up to 29.2 SFEs on the Property.

**ARTICLE VI
FUTURE APPROVALS**

6.1 Permits and Approvals. Actual development of the Property shall require the issuance of such other and further permits and approvals by the Town as may be required from time to time by applicable Town ordinances, including the issuance of the Development Permit pursuant to Section 9-1-18-1 of the Town Code. Notwithstanding anything to the contrary in Section 9-1-15-1E of the Town Code, the Town shall accept the Development Permit application prior to the Effective Date. BGV Entrada expressly acknowledges and agrees that it shall not receive final approval of the Development Permit unless and until the Town approves the Annexation Ordinance and Zoning Ordinance. BGV Entrada expressly acknowledges and agrees that any informal review of the Development Permit Application conducted by the Town prior to the Town’s approval of the Annexation Ordinance and Zoning Ordinance is at BGV Entrada’s own risk.

6.2 Development Permit. BGV Entrada may seek a Development Permit for the Project upon the following terms:

6.2.1 The Project may include approximately forty (40) one-bedroom Employee Housing Units.

6.2.2 Restrictive Covenant. BGV Entrada shall, prior to the issuance of the certificate of occupancy for the Project, and in accordance with Section 9-1-19-24A.H of the Town Code and the Town’s Administrative Housing Rules and Regulations, provide an executed covenant (the “**Covenant**”) upon the following terms:

6.2.2.1 Minimum Lease Term: When rental of an employee housing unit is authorized, the owner/master lessor (“**Lessor**”) shall be authorized to set the length of the lease, provided that no unit shall be used as an Accommodation Unit, as that term is defined under the Town Code. Any such tenancy approved by the Town shall be to a person meeting the definition of a Qualified Occupant under the Town Code. Unrelated roommates must all be Qualified Occupants;

6.2.2.2 Short-Term Rentals Prohibited: Rental units shall not be used for or be eligible for Short-Term Rental as defined in Title 4 of the Town Code;

6.2.2.3 Rent: Rent shall include electric, gas, water, sewer, trash, snow removal costs, and property insurance (collectively, “**Rent**”). Subject to Section 6.2.2.5, the average Rent (across all units constructed in the Project) will be set at a level affordable to households earning 100% of the area median income for Summit County (“**AMI**”), as determined by the U.S. Department of Housing and Urban Development. The Parties acknowledge and agree that this equates to an average Rent of \$2078.75 per unit per month as of the Effective Date;

6.2.2.4 Annual Rent Increase: Beginning from the Effective Date, average Rent will escalate at 2.0% annually until construction is completed and the improvements on Parcel 2 receive a final certificate of occupancy, at which point average Rent will escalate at a maximum of 3.0% annually for the next three (3) years; and

6.2.2.5 Baseline Rent Review: Beginning three (3) years from the issuance of a final certificate of occupancy for the Project, and every three (3) years thereafter, the Town and Lessor will confer and establish the average baseline Rent for the next three-year period, which shall be set at a rate not less than the average Rent charged on the final day of the three-year period preceding the conferral. To preserve affordability while allowing reasonable cost recovery for Lessor, in establishing the new average baseline rent, the Town and Lessor shall take into account the following: (a) the general target of 100% AMI; (b) the then-current 100% AMI, then-current Rent, market conditions, and the change in AMI over the last three (3) year period; and (c) changes in uncontrollable expenses such as property insurance. Following establishment of the new average baseline Rent, average Rent shall continue increase in accordance with Section 6.2.2.4 until the Town and Lessor establish a new average baseline Rent as required under this Section 6.2.2.5.

6.2.3 Construction Standards. The design of all Units shall meet the definition of “Employee Housing” contained within Title 9 of the Town Code.

6.3 Development Permit. Upon and from the Applicant’s submission of a Development Application consistent with Section 6.2, the Town covenants and agrees that the Town shall:

6.3.1 Relative Policy 2/Land Use Guidelines (9-1-19-2R). Acknowledge and agree that the Employee Housing use on the Property complies with in the allowed uses for LUD 5.

6.3.2 Relative Policy 3/Density (9-1-19-3R). Waive negative forty (40) points for the Project being over the allowed density by over 40.01% but less than 50%. The final size of the building must fall within this range in order for the waiver to become effective.

6.3.3 Absolute Policy 5/Architectural Compatibility/Solar Devices (9-1-19-5A.E(3)(a)). Acknowledge and agree that solar panels on the primary structure’s roof meets Absolute Policy 5 location ranking preference.

6.3.4 Relative Policy 5/Architectural Compatibility (9-1-19-5R). Acknowledge and agree that negative points shall not be awarded under Policy 5/Architectural Compatibility (Town Code Sections 9-1-19-5R.A and 9-1-19-5R.B) for use of modular construction of the building(s) and

the use of non-natural materials to reduce maintenance and increase longevity of the building(s), provided that fiber cement siding is used on building elevations and windows are trimmed in natural wood as allowed by Relative Policy 5.

6.3.5 Relative Policy 6/Building Height (9-1-19-6R). Waive negative fifteen (15) points for the building(s) being one (1) story over the LUD 5 Guideline's recommended height, but no more than one and one-half (1 ½) stories over the recommended height, in recognition of the Property's unique, sloping topography, provided that BGV Entrada makes reasonable efforts to design the Project such that the south end of the Project presents as a two-story structure, while the north end of the Project presents as a two-and-a-half or three-story structure.

6.3.6 Relative Policy 6/Building Height. Waive negative one (1) point for the length of any ridgeline exceeding fifty (50) feet due to the modular construction of the building, provided that no ridgeline exceeds sixty (60) feet.

6.3.7 Relative Policy 7/Site and Environmental Design/Site Buffering (9-1-19-7R.B). Waive negative points for the lack of northern (side) and eastern (rear) buffers in recognition of the site's layout and the provision of an emergency services access travel lane around the northern and eastern sides of the building(s), provided that a berm, shrubs, and/or fencing shall be provided along the northern Property line. If BGV Entrada elects to use fencing, the Town shall waive Absolute Policy 9-1-19-47A/Fences, Gates and Gateway Entrance Monuments to provide site buffering along the northern Property line, without a limitation on the length of the fence, provided that the fence is limited to six feet (6') in height, is constructed of natural materials, and is designed with a maximum solid to void ratio of one to three (1:3) solid material for every three inches of opening.

6.3.8 Absolute Policy 18/Parking (9-1-19-18A) and Off-Street Parking Regulations (9-3-8-13). Waive to allow one (1) parking space to be provided rather than the two (2) parking space minimum for any on-site management office area within the Project, consistent with Town precedent.

6.3.9 Engineering Design Standards and Construction Specifications. Waive to accommodate the two (2) existing access points to the Property (Sections 5.10.2.1 and 5.10.2.2), access widths (Section 5.10.6), and for the detention and subsurface infiltration facilities (Section 6.9 and Section 5 of the Fact Sheet on Subsurface Infiltration Facilities attached as Appendix D attached to Chapter 6 regarding drywell locations), provided Section 6.10 regarding permanent water quality and treatment facilities will be met instead and an Operations and Maintenance Plan in accordance with Section 6.95 shall be prepared and submitted to the Town for review and approval prior to issuance of any building permits.

6.3.10 Absolute Policies 16/Internal Circulation, 17/External Circulation, and 26/Infrastructure and Off-Street Parking Regulations (Section 9-3-9.A.). Waive the associated Absolute Policies and Off-Street Parking Regulations for the two (2) existing curb cuts and driveway width Engineering waivers.

6.3.11 Absolute policies 27/Drainage and 31/Water Quality and Off-Street Parking Regulations (Sections 9-1-9.A. Compliance with Codes and 9-3-9.H. Drainage). Waive the Associated Absolute Policies and Off-Street Parking Regulations for the detention and subsurface infiltration facilities Engineering waivers.

6.3.12 Relative Policy 21/Open Space (9-1-19-21R). Waive negative three (3) points, provided that a minimum of 20% of the Policy's 30% open space recommendation for residential uses is provided on-site.

6.3.13 Absolute Policy 24/Social Community/Employee Housing (9-1-19-24A.C.2). In recognition that the contemplated building(s) will contain only deed restricted Employee Housing, acknowledge and agree that BGV may provide 500 square feet of Employee Housing in satisfaction of this policy's Employee Housing mitigation requirements related to the employee generation of this Project.

6.4 Fees. The Town shall waive all application and permit fees required to construct the Project and other improvements on the Property, including, without limitation, the zoning application fee, impact fees, and any fees associated with the Development Permit, infrastructure permit, and building permits.

6.5 Condominiums. Notwithstanding any future amendments to the Town Code, nothing in this Agreement shall preclude BGV Entrada from seeking and obtaining Town approval of a condominium map pursuant to C.R.S. §§ 38-33.3-101 *et seq.*, and converting any portion of the Project to for-sale multi-unit housing. In the event that any Unit is sold, such Unit will remain subject to the Deed Restriction, which will require that any occupant be a person eighteen (18) years of age or older who, during the entire period of their occupancy, earns their living by working for a business located in and serving in Summit County, Colorado, an average of at least thirty (30) hours per week, together with such person's spouse, partner, and/or minor children, if any, and the provisions of the above Covenant.

6.6 Signage. Except as set forth in Section 1.4, all signs on the Property shall be subject to signage requirements set forth in Chapter 9, Section 15 of the Town Code (the "**Sign Code**"). The Sign shall not be counted toward the total number of signs or maximum sign area allowed on the Property. Under the Sign Code and the Sign Program, a change to the copy, text, or message of the Sign, shall not require Town approval, unless such change necessitates a change in the structure of the Sign. For avoidance of doubt, any alteration to or total replacement of the Sign that is allowable under the Sign Program shall be governed by the Sign Program and not the Sign Code.

ARTICLE VII VESTED PROPERTY RIGHTS

7.1 Establishment of Vested Property Rights. This Agreement shall constitute a Site Specific Development Plan. All of BGV Entrada's rights, and the Town's obligations, under this Agreement shall be Vested Property Rights. BGV Entrada shall have a Vested Property Right to undertake and complete development and use of the Property as provided in this Agreement, and the Vested Property Rights will be effective against any other governmental entities and their respective governing bodies that subsequently obtain or assert jurisdiction over the Property or any portion thereof. The rights and obligations under this Agreement shall vest in BGV Entrada and its successors and assigns, which terms, by their definitions, include successors, and assigns. The Vested Property Rights described in this Agreement shall constitute benefits and burdens to the land and shall run with title to the land.

7.2 Rights Which are Vested. By way of illustration, the Vested Property Rights include, but are not limited to, the following:

7.2.1 Processing of Applications. The right to submit and for the Town to process Development Applications in accordance with the procedures and upon such terms set forth in this Agreement, or to the extent not addressed herein, the procedures set forth in the Town Code (as the same was in effect on the Effective Date). In the event that any amendment to the Town Code approved after the Effective Date creates generally applicable submittal requirements, procedural requirements, or approval criteria which conflict with or are in addition to the terms and conditions of this Agreement, BGV Entrada may choose whether the Town Code or the terms of this Agreement will apply to the Development Application.

7.2.2 Use and Development Standards. The right to be protected against the Town or any citizen initiating any action to apply any less-favorable use and development standards to any Property or the Project, including, but not limited to, any reduction in the maximum allowed Density, the development intensity allowed under that Density, or total area of the Project. In the event that any amendment to the Town Code approved after the Effective Date creates generally applicable use or development standards that conflict with or are in addition to the terms and conditions of this Agreement, BGV Entrada may choose whether the Town Code or the terms of this Agreement will apply to the affected Property, or the Project.

7.2.3 Uniformity of Requirements. The right to continue and complete development of the Property with conditions, standards, dedications, and requirements that are no more onerous than those then being imposed by the Town on other properties within the Town's municipal boundaries on a reasonably uniform and consistent basis, except to the extent such conditions, standards, dedications, and requirements conflict with the terms and conditions of this Agreement, in which case the terms and conditions of this Agreement shall control, except as otherwise set forth in Sections 7.2.1 and 7.2.2 above.

7.3 Term. In recognition of the complexity of the development contemplated by this Agreement, the time required to complete development, and the possible impact of economic cycles and varying market conditions during the course of development, and consistent with the terms of the Development Agreement, the Town has concluded and hereby agrees that the Vested Property Rights, including those identified in Section 7.2 of this Agreement, shall continue and have a duration until **November 8, 2032** (the "**Term**").

7.4 Expiration of Term. After expiration of the Term, the Property shall continue to be subject otherwise to the charter, ordinances, and rules and regulations of the Town, and the Vested Property Rights established by this Agreement shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect any common-law vested property rights obtained prior to such termination, or any right, whether characterized as vested or otherwise, arising from this Agreement, a plat, a public improvements agreement, or from Town permits, approvals or other entitlements for the Property which were granted or approved subsequent to or in conjunction with the approval of this Agreement. The termination of the Vested Property Rights shall not affect any equitable right or entitlement, including without limitation, common law vested property rights, which BGV Entrada may have to complete the development of the Project.

7.5 Compliance with General Regulations. The establishment of the rights vested under this Agreement shall not preclude the application of Town regulations of general applicability including, but not limited to, the application of local improvement districts, building, fire, plumbing, engineering, electrical and mechanical codes, or the application of regional, state or federal regulations, as all of the foregoing exist on the Effective Date or may be enacted or amended after the date hereof, except as otherwise provided herein, as against the Property and the Project. BGV Entrada does not waive its rights to oppose adoption of any such regulations.

ARTICLE VIII DEFAULT AND REMEDIES

8.1 Default by the Town. A “breach” or “default” by the Town Council or the Town under this Agreement will be defined as the Town Council’s or the Town’s failure to fulfill or perform any express material obligation of the Town Council or the Town stated in this Agreement. Consistent with Sections 105(1)(a) and (b) of the Vested Property Rights Act, the Parties acknowledge and expressly intend that the Vested Property Rights preclude any zoning or land use action by a local government or pursuant to any initiated measure which would materially alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development of the Project or the use of the Property as set forth in this Agreement, except that such rights may be divested only (a) with the consent of the owner of the affected portion of the Property; or (b) upon the discovery of natural or manmade hazards on, or in the immediate vicinity of, the Property, which hazards could not have been reasonably discovered at the time of approval of this Agreement, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare. Such natural or manmade hazards may include, but are not limited to, acts of God or other *force majeure*, or failure(s) of Town utilities necessary to serve the Property or Project. Accordingly, subject to the exceptions listed in clauses (a) and (b) above, any of the foregoing zoning or land use actions by the Town Council or the Town would impermissibly divest BGV Entrada of the benefits of the Vested Property Rights, would constitute a breach or default under the Vested Property Rights Act and would entitle BGV Entrada to the specific and limited remedies set forth herein.

8.1.1 No Responsibility or Remedy. The Town shall not be responsible for and BGV Entrada shall have no remedy against the Town if development of the Property is prevented or delayed for reasons beyond the control of the Town.

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

8.2 Obligation to Provide Notice and Opportunity to Cure. If a Party defaults in the performance of its obligations under this Agreement, the Party(ies) asserting the default will deliver notice of the asserted default to the Party alleged to be in default, with copies to any other non-defaulting Parties. The Party alleged to be in default will have sixty (60) days from and after receipt of the notice to cure the default without liability for the default. If the default is not of a type which can be cured within such period and the Party alleged to be in default gives written notice to the Party(ies) who asserted the default within such 60-day period that it is actively and diligently pursuing a cure, the Party alleged to be in default will have a reasonable period of time given the nature of the default following the end of the 60-day period to cure the default, provided that the Party alleged to be in default is at all times within the additional time period actively and diligently pursuing the cure. Notwithstanding the

foregoing cure period, the Party asserting that the Council and/or the Town is in default will have the right to include a claim for breach of this Agreement and/or of the Vested Property Rights Act in any claim brought under C.R.C.P. 106(a)(4) if the Party reasonably believes that failure to include such claim could jeopardize the Party's ability to exercise its remedies under this Agreement or under the Vested Property Rights Act at a later date. Any claim for breach of this Agreement or the Vested Property Rights Act that is brought before the expiration of the applicable cure period will not be prosecuted by the Party asserting such claim until expiration of the applicable cure period, and will be dismissed by the Party if the default is cured in accordance with this Section 8.2.

8.3 Remedies.

8.3.1 Generally. Except to the extent this Agreement expressly states otherwise, the Party asserting the default will have the right to pursue and be entitled to enforce specific performance of the defaulting Party's obligations under this Agreement, which will be the sole remedy under this Agreement; provided, however, if there is a final judicial determination that a Party is in default under this Agreement but the court determines specific performance is not available or will not be granted as a remedy for such default: (i) BGV Entrada will be entitled to the contingent remedy described in Section 8.3.3.; and (ii) if BGV Entrada is determined in a final judicial judgment to have failed to abide by the terms of this Agreement, the Town Council and the Town will be entitled such remedies as may be available at law or in equity, subject to the limitations set forth in Section 8.3.2, and, additionally, to enforce the forfeiture of the Vested Property Rights.

8.3.2 Vested Property Rights; Mutual Waivers. Although the Vested Property Rights Act provides for the payment of certain monetary damages upon a deprivation, impairment, violation or other divestment of the Vested Property Rights, the Town desires not to be subject to liability for monetary damages pursuant to the Vested Property Rights Act as a remedy for breach or default with respect to the Vested Property Rights. Accordingly, BGV Entrada hereby knowingly, intentionally, voluntarily and irrevocably waive, for itself and for its successors and assigns, any remedial right it may have pursuant to Section 105(1)(c) of the Vested Property Rights Act to be paid money damages as just compensation upon a deprivation, impairment, violation or other divestment of the Vested Property Rights; and the Town Council hereby knowingly, intentionally, voluntarily and irrevocably waives, for itself and for its successors and assigns, any right the Town Council or the Town may have pursuant to Section 105(1)(c) of the Vested Property Rights Act to pay money damages to BGV Entrada and/or its successor(s) and assign(s) as just compensation upon a deprivation, impairment, violation or other divestment of the Vested Property Rights. The Parties have executed and entered into the foregoing mutual waivers with the express intent that such waivers will be mutually binding and enforceable as to each of them and their respective successors and assigns, having been given in consideration of the mutual benefits accruing to each of them as a result of such mutual waivers and otherwise accruing to each of them pursuant to this Agreement, and with the intent and mutual understanding that the effect of such mutual waivers will be that the Town Council and the Town are precluded from divesting, depriving, impairing or violating the Vested Property Rights under any circumstances other than those stated in Section 8.1

8.3.3 Contingent Remedy. Only if, notwithstanding the foregoing mutual waivers and the Parties' express intent as to the enforceability and remedial effect of such waivers, it is judicially determined that the terms and conditions (either in whole or in part) set forth in this Article 8 will not

be enforced against the Town Council and the Town as written, BGV Entrada will be entitled to pursue and be awarded just compensation pursuant to Section 105(1)(c) of the Vested Property Rights Act to the extent the Town Council or the Town takes any action which has the effect of divesting, depriving, impairing or violating the Vested Property Rights and such action constitutes a compensable action under the Vested Property Rights Act.

ARTICLE IX RESPONSIBILITIES OF THE TOWN

9.1 Processing of Applications. The Town shall process all applications received in connection with the development of the Project, in accordance with the Town Code and any other applicable laws, ordinances, and regulations.

9.2 Infrastructure Permit. The Town shall, upon BGV Entrada's request at any point following the approval of the Development Permit, issue to BGV Entrada at least one infrastructure permit for the Property that will allow for infrastructure and site work related to the Project and/or the Public Improvements, including deep utilities, grading, construction of storm water management systems, and mass excavation, to commence prior to issuance of a building permit, subject to approval by the Town Engineering Department.

9.3 Building Permits. The Town shall issue to BGV Entrada all necessary building permits for the Project, in accordance with the Town Code and any other applicable laws, ordinances, and regulations.

9.4 Right-of-Way Acquisition. The Town will, under the terms set forth in this Agreement and as permitted by law, use its best efforts to secure required right-of-way construction and maintenance easements from governmental or private entities in order to allow BGV Entrada to fulfill its obligations under this Agreement and to proceed with development of its Project.

9.5 Consent. The Town will not unreasonably withhold its consent or approval when such consent or approval is required hereunder.

9.6 Maintenance. Except as otherwise provided in this Agreement, the Town will assume maintenance responsibilities for the Public Improvements and any right-of-way assumed by the Town in accordance with the procedures set forth in the Town Code, as it may be amended from time to time, and the Town's regulations for dedication and acceptance of the Public Improvements, as it may be amended from time to time. Any drainage facility located on the Property shall be maintained by BGV Entrada.

ARTICLE X MANDATORY PROVISIONS

Pursuant to Section 9-9-12 of the Town Code, the following mandatory provisions shall apply:

10.1 Nothing in the agreement shall preclude or otherwise limit the lawful authority of the Town to adopt or amend any Town law, including, but not limited to, the Town's: 1) Development Code, 2) land use guidelines, 3) master plan, and 4) subdivision ordinance.

10.2 Successors and Assigns; Binding Effect.

10.2.1 Where used herein, the term “BGV Entrada” shall also mean any of the transferees, successors, successors-in-title or assigns of BGV Entrada, and all such parties shall have the right to enforce and be enforced under the terms of this Agreement as if they were the original Parties hereto. Any party bound by obligations of BGV Entrada in this Agreement shall be released from its obligations and responsibilities hereunder upon the valid conveyance of its interest herein to its successor pursuant to the terms and conditions of such conveyance, if any.

10.2.2 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

10.3 If a Party defaults in the performance of its obligations under this Agreement, the Party(ies) asserting the default will deliver notice of the asserted default to the Party alleged to be in default, with copies to any other non-defaulting Parties. The Party alleged to be in default will have sixty (60) days from and after receipt of the notice to cure the default without liability for the default. If the default is not of a type which can be cured within such period and the Party alleged to be in default gives written notice to the Party(ies) who asserted the default within such 60-day period that it is actively and diligently pursuing a cure, the Party alleged to be in default will have a reasonable period of time given the nature of the default following the end of the 60-day period to cure the default, provided that the Party alleged to be in default is at all times within the additional time period actively and diligently pursuing the cure. Notwithstanding the foregoing cure period, the Party asserting that the Council and/or the Town is in default will have the right to include a claim for breach of this Agreement and/or of the Vested Property Rights Act in any claim brought under C.R.C.P. 106(a)(4) if the Party reasonably believes that failure to include such claim could jeopardize the Party’s ability to exercise its remedies under this Agreement or under the Vested Property Rights Act at a later date. Any claim for breach of this Agreement or the Vested Property Rights Act that is brought before the expiration of the applicable cure period will not be prosecuted by the Party asserting such claim until expiration of the applicable cure period, and will be dismissed by the Party if the default is cured in accordance with this Section 10.3.

10.4 The Town shall not be responsible for and BGV Entrada shall have no remedy against the Town if development of the real property which is the subject of this Agreement is prevented or delayed for reasons beyond the control of the Town.

10.5 Actual development of the real property which is the subject of this Agreement shall require the issuance of such other and further permits and approvals by the Town as may be required from time to time by applicable Town ordinances.

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

10.7 BGV Entrada shall agree to indemnify and hold the Town, its officers, employees, insurers, and self-insurance pool, harmless from and against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss,

or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligence or intentional act or omission of BGV Entrada, any subcontractor of BGV Entrada, or any officer, employee, representative, or agent of BGV Entrada or of any subcontractor of BGV Entrada, or which arise out of any workers' compensation claim of any employee of BGV Entrada, or of any employee of any subcontractor of BGV Entrada; except to the extent such liability, claim or demand arises through the negligence or intentional act or omission of the Town, its officers, employees, or agents. BGV Entrada agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at the sole expense of BGV Entrada. BGV Entrada also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees.

10.8 If any provision of this Agreement shall be invalid, illegal, or unenforceable, it shall not affect or impair the validity, legality, or enforceability of the remaining provisions of the agreement.

10.9 In connection with an application for a development permit to develop the real property that is the subject of this Agreement the application shall not receive an award of positive points under the Town Code for any commitment (public benefits) offered to the Town by BGV Entrada pursuant to Section 9-9-4, or any other obligation or requirement of BGV Entrada under this Agreement.

ARTICLE XI MISCELLANEOUS

11.1 Amendments. This Agreement may be amended or terminated only with the prior written consent and approval of each of the Parties hereto following public notice and public hearings as required for Annexation and Development Agreements. This Agreement may be amended by the Town with the mutual consent of any subsequent owner of any portion of the Property without the consent of other subsequent owners of other portions of the Property so long as such amendment affects only the amending owner's portion of the Property. Any such amendment shall be recorded in the Records and shall be a covenant running with the land and shall be binding upon all persons or entities now or hereafter having an interest in the Property subject to the amendment unless otherwise specified in the amendment.

11.2 Notices. In order to be deemed delivered and effective, any notice required or permitted pursuant to this Agreement must be in writing, and must be given either personally or by registered or certified mail, return receipt requested, in either case to the applicable Party(ies) at their addresses set forth below:

If to the Town:

Town of Breckenridge
Shannon Haynes, Town Manager
150 Ski Hill Road, P.O. Box 168
Breckenridge, CO 80424
shannonh@townofbreckenridge.com

With a required copy to:

Kirsten J. Crawford

Town Attorney, Town of Breckenridge
150 Ski Hill Road, P.O. Box 168
Breckenridge, CO 80424
kirstenc@townofbreckenridge.com

If to BGV Entrada:

BGV Partners Entrada, LLC
c/o Breckenridge Grand Vacations
100 South Main Street, P.O. Box 6879
Breckenridge, Colorado 80424
Attention: Graham Frank, Chief Development Officer

With a required copy to:

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.
950 Seventeenth Street, Suite 1600
Denver, Colorado 80202
Attention: Andrew L.W. Peters
apeters@ottenjohnson.com

Notices will be deemed delivered and effective as follows: (i) if given personally, when delivered to the Party to whom it is addressed; or (ii) if given by registered or certified mail, on the first to occur of (A) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (B) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Any Party may at any time, by giving notice as provided in this Section, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given.

11.3 Entire Agreement. Except for the Development Agreement, this Agreement constitutes the entire and final understanding between the Parties with respect to the subject matter hereof. Except for the Development Agreement, this Agreement supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof, which shall be of no further force and effect.

11.4 No Implied Representations. No representations, warranties or certifications, express or implied, shall exist as between the Parties except as stated herein.

11.5 Waivers and Modifications in Writing. No waivers or modifications hereof shall be made or deemed to have been made unless in writing executed by the Party to be bound thereby.

11.6 Conflict with Other Provisions of the Town Code. In the event any provision of this Agreement or the application thereof conflicts with any provision of the Town Code, this Agreement shall control the determination of the rights and obligations of the Parties with respect to such conflicting matter, (except as set forth in Sections 7.2.1 and 7.2.2). When adopted by the Town pursuant to ordinance, this Agreement shall be deemed to be an amendment of any such conflicting provision of the Town Code with respect to the subject matter thereof.

11.7 Adoption of Agreement Deemed to be a Legislative and Administrative Act; Referendum. As set forth in and expressly authorized by Section 104(2) of the Vested Property Rights Act, this Agreement and the Vested Property Rights conferred hereby are adopted as a legislative act pursuant to such authority conferred upon the Council by the Vested Property Rights Act. If and to the extent the Vested Property Rights Act subjects the Council's establishment of the Vested Property Rights pursuant to this Agreement to referendum, and any referendum succeeds in overturning the Council's establishment of the Vested Property Rights pursuant to this Agreement, such result will not be construed as overturning, negating or otherwise affecting the Council's approval of this Agreement (which will, subject to Section 10.8, remain in effect and binding on the Parties), the Annexation, and the Zoning.

11.8 Covenant of General Cooperation. The Parties covenant and agree to cooperate in good faith with one another in the performance of their respective rights and obligations hereunder in order that each may reasonably realize their respective benefits hereunder. The Parties further agree to cooperate in good faith with one another in the event of any Legal Challenge or other third-party legal action, initiative, or referendum challenging the approval(s) of any Development Application contemplated in this Agreement.

11.9 No Third Party Beneficiaries. Except as otherwise provided herein, none of the terms, conditions, or covenants contained in this Agreement shall be deemed to be for the benefit of any person not a Party hereto, and no such person shall be entitled to rely hereon in any manner.

11.10 Counterparts; Electronic Delivery. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement. Executed copies hereof may be delivered by telecopier or e-mail (pdf) and upon receipt will be deemed originals and binding upon the Parties, regardless of whether originals are delivered thereafter.

11.11 Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

11.12 Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado.

11.13 Venue and Choice of Law; Waiver of Right to Jury Trial; Construction. Venue will be in the district court for the State of Colorado, Summit County, Colorado. To reduce the cost of and to expedite the resolution of disputes under this Agreement, each Party hereby waives any and all right to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. In the event of ambiguity in this Agreement, any rule of construction which favors a Party's interpretation as a non-drafting party will not apply, and the ambiguous provision will be interpreted as though no specific party was the drafter.

[Signatures on Following Pages]

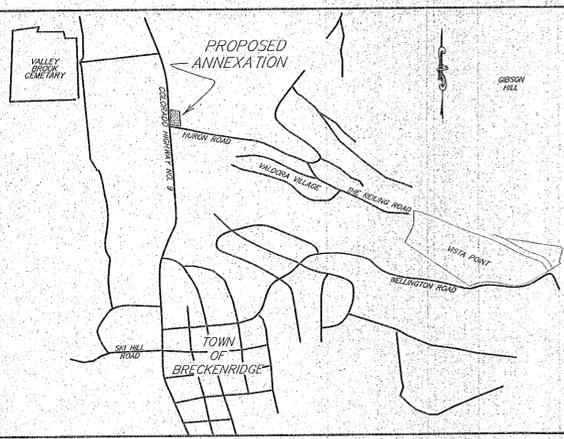
EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

TRACT A2, A REPLAT OF LOTS A1, B1 AND C, ENTRADA AT BRECKENRIDGE, ACCORDING TO THE PLAT FILED JULY 24, 2017 UNDER RECEPTION NO. 1146781, COUNTY OF SUMMIT, STATE OF COLORADO.

AN ANNEXATION MAP TO THE TOWN OF BRECKENRIDGE
TRACT A2, ENTRADA AT BRECKENRIDGE
SUMMIT COUNTY, COLORADO

"Exhibit A"



VICINITY MAP

TOTAL AREA TO BE ANNEXED=1.718 ACRES
PERIPHERY OF AREA TO BE ANNEXED=1,129.45'
1/6 OF TOTAL PERIPHERY=188.24'
CONTIGUOUS BOUNDARY OF ANNEXATION PARCEL=786.09'

LEGEND

- EXISTING TOWN BOUNDARY
- ANNEXATION BOUNDARY
- FOUND REBAR & STEEL CAP (ILLEGIBLE)
- FOUND REBAR & PLASTIC CAP (PLS 9939)
- ⊙ FOUND REBAR & PLASTIC CAP (PLS 27924)
- FOUND REBAR & PLASTIC CAP (ILLEGIBLE)
- FOUND #4 REBAR
- FOUND REBAR & PLASTIC CAP (PLS 23901)

PROPERTY DESCRIPTION:

TRACT A2, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781, CONTAINING A TOTAL OF 61,655 SQUARE FEET OR 1.415 ACRES.

TRACT D, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781, CONTAINING A TOTAL OF 255 SQUARE FEET OR 0.006 ACRE.

A PORTION OF TRACT C, ENTRADA AT BRECKENRIDGE, A REPLAT OF TRACTS A1, B1 & C, ENTRADA AT BRECKENRIDGE, SUMMIT COUNTY, COLORADO ACCORDING TO THE PLAT RECORDED UNDER RECEPTION NO. 1146781, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST PROPERTY CORNER OF TRACT A2, ENTRADA AT BRECKENRIDGE; THENCE S21°49'20" W A DISTANCE OF 14.17 FEET; THENCE N77°04'50" W A DISTANCE OF 211.57 FEET; THENCE 25.30 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 14.00 FEET, A CENTRAL ANGLE OF 103°32'52" AND A CHORD WHICH BEARS N51°08'42" E 22.00 FEET DISTANT; THENCE S77°04'50" E A DISTANCE OF 149.62 FEET; THENCE 12.24 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 62.00 FEET, A CENTRAL ANGLE OF 11°18'36" AND A CHORD WHICH BEARS S71°59'52" E 12.22 FEET DISTANT; THENCE S65°46'14" E A DISTANCE OF 19.70 FEET; THENCE 9.61 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A CENTRAL ANGLE OF 11°28'05" AND A CHORD WHICH BEARS S71°30'16" E 9.59 FEET DISTANT; THENCE S77°04'50" E A DISTANCE OF 20.77 FEET TO THE POINT OF BEGINNING, CONTAINING 4,047 SQUARE FEET, OR 0.093 ACRE MORE OR LESS.

A PORTION OF HURON ROAD, CO. RD. NO. 450, SUMMIT COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST PROPERTY CORNER OF TRACT A2, ENTRADA AT BRECKENRIDGE; THENCE S 71°59'52" W A DISTANCE OF 14.17 FEET TO THE POINT OF BEGINNING; THENCE S 21°49'20" W A DISTANCE OF 43.23 FEET; THENCE N77°04'50" W A DISTANCE OF 189.05 FEET; THENCE N18°50'53" W A DISTANCE OF 50.82 FEET; THENCE N77°04'50" W A DISTANCE OF 211.57 FEET TO THE POINT OF BEGINNING, CONTAINING 8,891 SQUARE FEET OR 0.204 ACRE MORE OR LESS.

TOWN OF BRECKENRIDGE CERTIFICATE:

THIS MAP IS APPROVED THIS _____ DAY OF _____ 2022.

BY: _____
DIRECTOR, DEPARTMENT OF COMMUNITY DEVELOPMENT

NOTICE:
PUBLIC NOTICE IS HEREBY GIVEN THAT THE TOWN OF BRECKENRIDGE HEREBY ACCEPTS ALL OF THE OFFERS OF DEDICATION MADE BY THIS MAP. HOWEVER, SUCH ACCEPTANCE DOES NOT CONSTITUTE AN ACCEPTANCE OF THE ROADS AND RIGHT OF WAY REFLECTED HEREON FOR MAINTENANCE BY THE TOWN.

UNTIL SUCH ROADS AND RIGHT OF WAY MEET TOWN ROAD SPECIFICATIONS AND ARE SPECIFICALLY ACCEPTED BY THE TOWN, THE MAINTENANCE, CONSTRUCTION, AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING SAID ROADS AND RIGHT OF WAY ARE THE SOLE RESPONSIBILITY OF THE OWNERS OF THE LAND EMERGED WITHIN THIS MAP.

SURVEYOR'S CERTIFICATE:

I, ROBERT R. JOHNS, A COLORADO REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME AND UNDER MY SUPERVISION, AND THAT BOTH THIS MAP AND THE SURVEY ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THE MONUMENTS WERE PLACED PURSUANT TO CRS 38-51-105.

DATED THIS 24th DAY OF August, 2022, A.D., 2022.

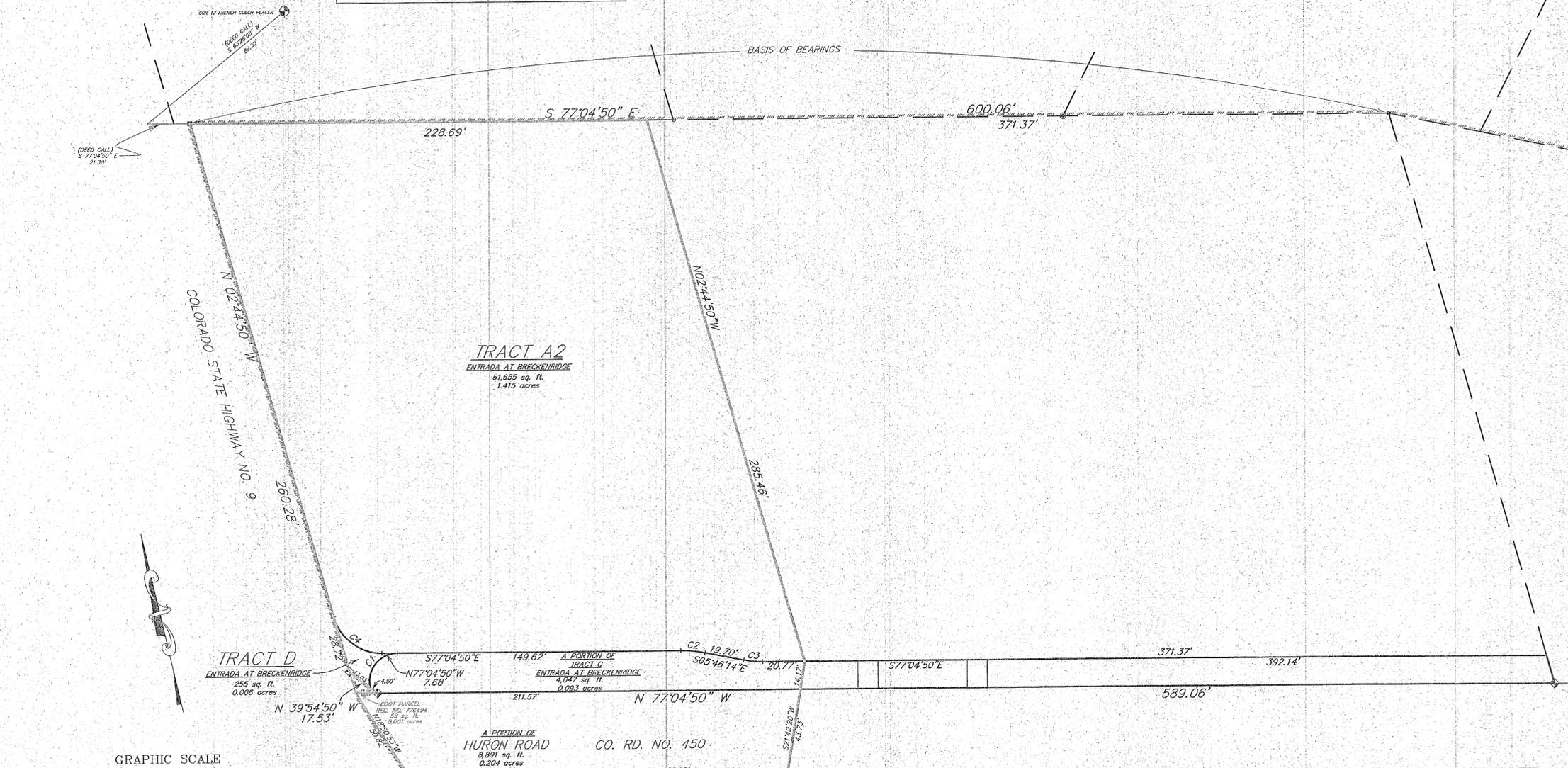
Robert R. Johns
ROBERT R. JOHNS, P.L.S. NO. 26292



CLERK AND RECORDER'S CERTIFICATE:

STATE OF COLORADO)
COUNTY OF SUMMIT)
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O'CLOCK, _____ M., THIS _____ DAY OF _____, 20____, AND FILED UNDER RECEPTION NUMBER _____

SUMMIT COUNTY CLERK AND RECORDER



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	25.30'	14.00'	103°32'52"	N51°08'42" E	22.00'
C2	12.24'	62.00'	11°18'36"	S71°59'52" E	12.22'
C3	9.61'	48.00'	11°28'05"	S71°30'16" E	9.59'
C4	32.41'	25.00'	74°20'00"	S39°54'50" E	30.21'
C5	69.58'	59.01'	66°35'30"	S53°19'59" W	64.79'
C6	41.14'	70.00'	33°40'24"	N60°14'38" W	40.55'
C7	51.14'	114.03'	25°41'38"	S59°53'02" E	50.77'
C8	71.37'	55.00'	74°20'53"	N39°25'17" W	66.47'

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

Drawn RW/LK Dwg ANNEXPLAT_A2 Project 17324
Checked RW Date 08/24/2022 Sheet 1 of 1

RANGEWEST
ENGINEERS & SURVEYORS INC.

P.O. Box 589
Silverthorne, CO 80498 970-468-6281



Memo

To: Town Council
From: Planning Staff
Date: March 20, 2024, for the meeting of March 26, 2024
Subject: Entada Zoning Ordinance (First Reading)

The Town is in the process of annexing the Entrada property for the purpose of workforce housing. The annexation is expected to be finalized after second reading of the annexation ordinance(s) on April 9th. The Town is required to formally zone the parcels by placing them in a Land Use District within 90 days of annexation. However, this may be done sooner and the applicant has requested the property be zoned concurrently with annexation. Prior to the Council considering this zoning ordinance, the Planning Commission provided a formal recommendation to place the Entrada parcel, once annexed, into Land Use District #5 and associated Land Use Guidelines.

The Town's Three Mile Annexation Plan identifies the Entada property to be within Land Use District 5 if annexed. The Land Use Guidelines for this District 5 (attached) recommend Service Commercial use at 1:5 Floor Area Ratio (FAR) and Lodging use at 10 Units Per Acre (UPA), and discourage other types of residential development, with workforce housing listed as a possible exception. The anticipated use of deed restricted employee housing on this site complies with Land Use District 5's allowance for workforce housing. Staff has confirmed this interpretation with the Town Attorney.

Staff supports the adoption of the Entrada Zoning Ordinance at first reading.

Attachments:

- Exhibit A: Parcel Map
- Current LUD Map
- Land Use District Guidelines

COUNCIL BILL NO. ____

Series 2024

A BILL FOR AN ORDINANCE PLACING THE ENTRADA PROPERTY THAT HAS BEEN ANNEXED TO THE TOWN OF BRECKENRIDGE INTO LAND USE DISTRICT 5.

WHEREAS, Ordinance No. __ Series 2024, approved and annexed to the Town of Breckenridge the real property described in **Exhibit A** (the “Property”) in accordance with the Municipal Annexation Act of 1965 (Part 1 of Article 12 of Title 31, C.R.S.), and approved and adopted an Annexation and Development Agreement establishing terms and conditions for the annexation and future use or development of the Property as Employee Housing as defined in the Breckenridge Town Code;

WHEREAS, the Town previously approved and adopted Resolution No. 19, Series 2022, entitled “A Resolution Adopting the Town Of Breckenridge Comprehensive Plan And Land Use Guidelines as The Town's Annexation Plan Pursuant To Section 31-12-105(1)(E), C.R.S.”;

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

WHEREAS, on October 18, 2022, the Town Planning Commission reviewed the proposed zoning for the Property and unanimously recommended that the Town Council place the Property in Land Use District 5;

WHEREAS, the Town's Annexation Plan adopted pursuant to Section 31-12-105(1)(e), C.R.S., indicates that the Property should be placed in Land Use District 5;

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

Section 1. That the Property described in **Exhibit A** is placed in Land Use District 5. The Town Staff is directed to change the Town's Land Use District Map to indicate that the Property has been annexed to the Town and placed within Land Use District 5.

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

Section 3. The Town Council finds, determines, and declares that it has the power to adopt this ordinance pursuant to: (i) Section 31-12-115(2), C.R.S.; (ii) the Local Government

1 Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (iii) Part 3 of Article 23 of Title 31,
2 C.R.S. (concerning municipal zoning powers); (iv) Section 31-15-103, C.R.S. (concerning
3 municipal police powers); (v) Section 31-15-401, C.R.S.(concerning municipal police powers);
4 (vi) the authority granted to home rule municipalities by Article XX of the Colorado Constitution;
5 and (vii) the powers contained in the Breckenridge Town Charter.

6 **Section 4.** This Ordinance shall be published and become effective as provided by
7 Section 5.9 of the Breckenridge Town Charter.

8 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
9 PUBLISHED IN FULL this 26th day of March 2024. A Public Hearing shall be held at the regular
10 meeting of the Town Council of the Town of Breckenridge, Colorado on the _____ day of April
11 2024, at 7:00 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

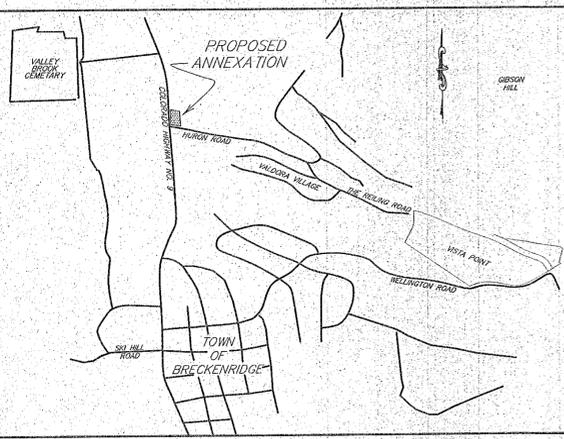
12 TOWN OF BRECKENRIDGE, a Colorado
13 municipal corporation
14
15

16
17 By _____
18 Kelly Owens, Mayor Pro Tem
19

20 ATTEST:
21
22
23
24 _____
25 Town Clerk
26
27

**AN ANNEXATION MAP TO THE TOWN OF BRECKENRIDGE
TRACT A2, ENTRADA AT BRECKENRIDGE
SUMMIT COUNTY, COLORADO**

"Exhibit A"



VICINITY MAP

LEGEND

- EXISTING TOWN BOUNDARY
- ANNEXATION BOUNDARY
- FOUND REBAR & STEEL CAP (ILLEGIBLE)
- FOUND REBAR & PLASTIC CAP (PLS 9939)
- ⊙ FOUND REBAR & PLASTIC CAP (PLS 27924)
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THIS MAP IS APPROVED THIS _____ DAY OF _____ 2022.

BY: _____
DIRECTOR, DEPARTMENT OF COMMUNITY DEVELOPMENT

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DATED THIS 24th DAY OF August, 2022, A.D., 2022.

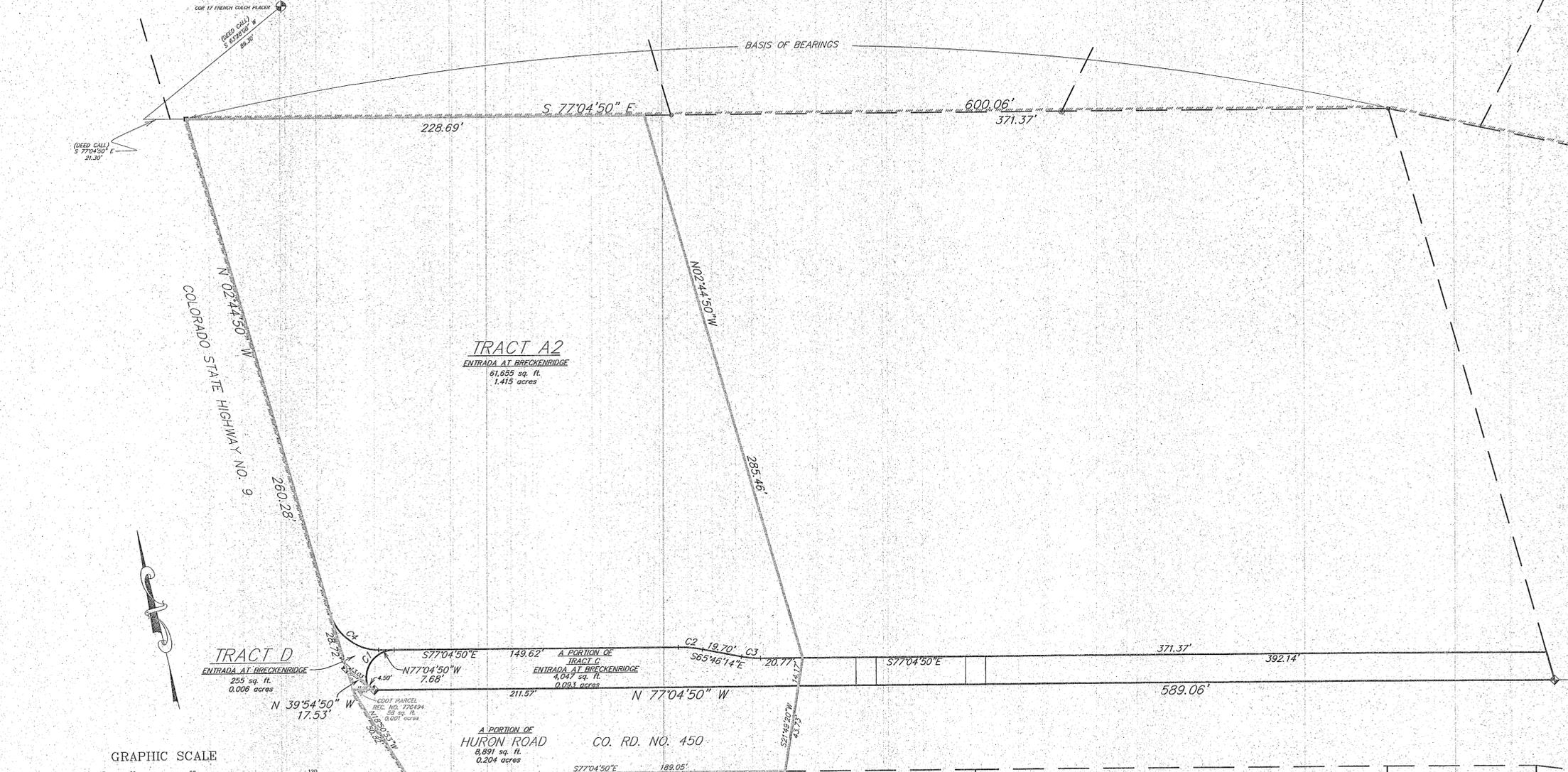
Robert R. Johns
ROBERT R. JOHNS, P.L.S. NO. 26292



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) ss
COUNTY OF SUMMIT)
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M., THIS _____ DAY OF _____, 20____, AND FILED UNDER RECEPTION
NUMBER _____

SUMMIT COUNTY CLERK AND RECORDER

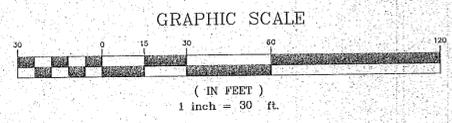


TRACT A2
ENTRADA AT BRECKENRIDGE
61,655 sq. ft.
1.415 acres

TRACT D
ENTRADA AT BRECKENRIDGE
255 sq. ft.
0.006 acres

A PORTION OF
HURON ROAD
8,891 sq. ft.
0.204 acres

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Drawn RW/LK Dwg ANNEXPLAT_A2 Project 17324
Checked RW Date 08/24/2022 Sheet 1 of 1

RANGEWEST
ENGINEERS & SURVEYORS INC.

P.O. Box 589
Silverthorne, CO 80498 970-468-6281

BRECKENRIDGE LAND USE GUIDELINES

DISTRICT #5

Desired Character and Function

District 5 is located due east of Kingdom Park on the east side of Highway 9 at County Road 450 at the entrance to the French Creek at Breckenridge Subdivision. The primary function of District 5 is to provide a centralized area for the development of service commercial uses. These uses should meet the needs of both the permanent population as well as the short term visitor, while also providing an appropriate entrance to Town. This District is a prime location for service commercial uses which are vehicular oriented.

Small hotel/motel lodging facilities are also appropriate, but are not considered the primary and best use for this District.

Acceptable Land Uses and Intensities

Land Use Type:	Service Commercial
Intensity of Use:	1:5 Floor Area Ratio
Structural Type:	Special Review

Service commercial activities, similar to those currently found within the District, are acceptable. They are generally identifiable by their need for relatively large storage or parking areas, direct vehicular access, and minimal pedestrian activity. Service commercial uses shall be restricted to very low noise and low air polluting activities. Proposed development should not produce any major short or long term adverse effects to the immediate environment or the existing users. Positive visual impacts should be obtained through proper screening and natural buffering. The proposed intensity level in this District for service commercial development is one square foot of structural floor area to every five square feet of lot area.

Land Use Type:	Lodging
Intensity of Use:	10 Units per Acre
Structural Type:	Special Review

Hotel and motel lodging is also an appropriate use for the area. All lodging proposals will be reviewed for their compatibility and appropriateness to the existing activities in the District. Negative impacts from surrounding service commercial developments affecting the proper function of any proposed lodging activities should be mitigated. Proper buffering between incompatible uses is necessary. Although lodging is acceptable, other types of residential development in this District are strongly discouraged. One possible exception is the construction of employee housing within individual developments. The proposed intensity level for lodging in this District is ten dwelling units per acre of land.

The highway frontage portions of the District may be best suited for both lodging and highway oriented commercial uses; non-highway oriented activities are encouraged to develop internally to the District. The determination of structural types will be subject to special review by staff and Planning Commission. However, this District does constitute a part of the northern entrance to the community, therefore, all development proposals should reflect this function by being compatible with the surrounding environment while providing an appropriate statement for the entrance to the historic downtown area of Breckenridge.

General Design Criteria

Architectural Treatment

District 5 is an extremely visible area and is considered the northern front door to the Breckenridge downtown area. It is important that this District make an architectural statement that is appropriate for this function. The architectural design should not only compliment the flavor of Breckenridge, but it should be compatible with the surrounding neighborhood as well. Contemporary architecture which reflects the small town and its historic character utilizing natural finishing materials is encouraged.

Due to the close proximity of development and the high visibility of the entire District, it is necessary to maintain continuity in all new development. A special character shall be created and maintained in this District through the use of similar architecture, structural type, and building heights in all new development.

Building Heights

Buildings in excess of two stories are discouraged. The determination of acceptable building heights shall be made by special review according to the Development Code process, however, it is encouraged that building heights of new structures be compatible with the scale of the surrounding neighborhood.

Building Setbacks

Required building setbacks shall be as outlined in the Development Code. Greater setbacks than those required are encouraged, and the determination of appropriate setbacks will be made during the development review process. It is encouraged that a form of landscaped buffer be provided along both the Highway 9 and County Road 450 frontages. Strip-type landscaping and development is discouraged.

Pedestrian Circulation

The existing and anticipated generation of pedestrian activity is relatively low within this District. Therefore, no major pedestrian improvements are planned at this time. However, due to the development potential of this District and of Districts 6 and 7, subsequent

plans which provide for a pedestrian walkway and bike path to more centralized business and recreational areas are encouraged.

Vehicular Circulation

County Road 450 currently serves as the main arterial for this District. The location and frequency of new driveways and secondary access onto County Road 450 must be limited in order to insure the safe and efficient movement of traffic along this primary arterial. Shared access and parking areas should be provided whenever feasible. All proposals which impair the capacity and efficiency of County Road 450 shall be required to mitigate any adverse effects through improvements to County Road 450 or provision of a secondary primary access.

Public Transit Accommodations. Currently, public transit does not service any portion of this District. Future public transit should be provided as the build out of the District dictates. The location of future bus stop pull-offs for the loading and unloading of passengers should be in close proximity to areas of major activity. All new bus stops should be integrated with residential and commercial developments and major vehicular and pedestrian networks.

Until the time that public transit does serve this District, it is encouraged that areas of dense development provide shuttle vans for the transportation of its occupants to major activity areas.

Special Considerations. Off Street parking shall be provided in accordance with the Town's Parking Ordinance, as well as the Development Code requirements. Shared parking areas are encouraged whenever possible.

District Improvements

Utility Improvements

Water Facilities. Distribution lines presently do not exist within this District. The existing system in the adjacent French Creek at Breckenridge Subdivision is not adequate to service this area. New distribution lines shall be constructed according to the Breckenridge Water Master Plan and proper easements provided.

Sanitation Facilities. Twelve inch and 15 inch collector lines exist within this District and are adequate to serve its full development potential. Extension of these lines may be necessary depending on intensity of development. Proper easements shall be provided for all new sewer lines. Special consideration shall be taken to alleviate the phosphorus impacts that development in this District may have on Lake Dillon.

Natural Gas, Electricity, Telephone, Cable Television. Distribution lines for natural gas, electricity, telephone and cable television service exists within this District and are adequate to service its full development potential. Extensions and improvements of existing lines may be necessary. It is required that all new utility lines be installed underground and meet specifications set by individual utility companies. Appropriate easements will be provided for all new lines.

Capital Improvements

Capital Improvement Projects. At this time, none of the projects described in the Capital Improvements Program are associated with this District.

Drainage Improvements

Given the District's acceptable uses and intensities, a surface drainage plan should be prepared prior to further development of an extensive nature. Potential effects on adjacent properties and Districts should be specifically reviewed, and developers shall be required to participate in any needed improvements.

All construction activities will be controlled in such a manner as to minimize soil disruption. Erosion control measures shall be required.

Relationships to Other Districts

District 5 lies adjacent to Districts 4, 6 and 7. The recommended service commercial and lodging uses for this District may possibly conflict with the residential uses of surrounding Districts. Because this District is in such close proximity with residential areas, it is critical that all proposals for District 5 look at District compatibility and appropriate buffering.

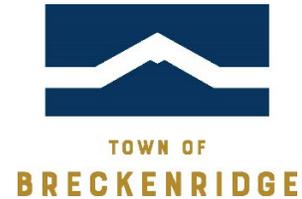
Land Exchange Policy

Exchange of Federal land within this District would be conducive to the desired character and function of this District, and therefore, is recommended. The exchange would not necessarily promote efficiency in the development of land patterns, but would facilitate efficiency in land management. Approximately 0.5 acres of Federal land exists within District 5.

Annexation Suitability

This District is located in an apparent path of growth and community expansion. It provides a partially established infrastructure, and is 58% built out. Municipal services to this District would be very cost effective, however the condition of its water system should be carefully examined and expansion of existing lines may be necessary. The uses recommended in this District are of major need to the Town's function.

A portion of this District presently exists within Town boundaries. The remaining portions of this District not yet in Town are highly suitable and of a high priority for immediate annexation.



Memo

To: Breckenridge Town Council Members
From: Shannon Haynes, Town Manager
Date: 3/20/2024 (for 3/26/24 work session)
Subject: Resolution to approve Intergovernmental Agreement (IGA) with Summit Combined Housing Authority (SCHA) for reimbursement of Executive Director Services

Overview

On February 28, 2024, the Summit Combined Housing Authority (SCHA) Executive Director position was posted. The posting was open for fourteen (14) days and, after interviewing four candidates, the SCHA board selected Corrie Burr to serve as the Executive Director. Ms. Burr will serve in this capacity while remaining an employee of the Town of Breckenridge.

On March 20, 2024, the SCHA Board approved, by resolution, the IGA with the Town of Breckenridge for the Executive Director services. The Board agreed that Ms. Burr will remain a Town employee while serving this function, and SCHA will reimburse the Town for these services.

Agreement Highlights

- The effective date of the agreement is March 25, and the term is one year. The agreement may be amended in writing by both parties and may be terminated with 30 days' prior written notice.
- Ms. Burr will continue to work for the Town Housing Department on an interim basis one day a week until May 31st to assist with the transition of her prior duties.
- The total cost for wages and benefits is \$188,505.00 and the Town will be reimbursed \$15,708.75 per month.
- This agreement supersedes the previous IGA established in September 2023 between the Town and SCHA. The previous agreement addressed the assistance Town provided to SCHA and the required monthly reimbursement amount. At the time of that agreement, SCHA was without an Executive Director and were struggling with staffing the organization.
- The scope of the services to be provided is detailed in Exhibit A (Scope of Services).

Staff will be available at the March 26th work session to answer any questions.

1 RESOLUTION NO. ____

2
3 Series 2024

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5 **A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT**
6 **BETWEEN THE TOWN AND THE SUMMIT COUNTY COMBINED HOUSING**
7 **AUTHORITY PERTAINING TO THE REIMBURSEMENT FOR SERVICES OF**
8 **THE SCHA EXECUTIVE DIRECTOR.**

9 WHEREAS, the Towns of Breckenridge, Dillon, Frisco, Montezuma and Silverthorne,
10 Colorado, have entered into a Third Amended and Restated Intergovernmental Agreement
11 (hereinafter "IGA") to provide for the establishment of the "Summit Combined Housing Authority"
12 ("SCHA") as a multijurisdictional housing authority pursuant to Section 29-1-204.5, Colorado
13 Revised;

14 WHEREAS, per Section 7(a) of the IGA, the SCHA Board shall annually select and
15 appoint the Executive Director;

16 WHEREAS, on February 28, 2024, the SCHA posted the opening for the position of the
17 SCHA Executive Director, which remained open for a period of 14 days, and on March 13,
18 2024, the SCHA Board selected Corrie Burr to serve as the Executive Director;

19 WHEREAS, Corrie Burr will serve in the capacity of the Executive Director while
20 maintaining her status as an at-will employee for the Town of Breckenridge;

21 WHEREAS, the Town has entered into an agreement with SCHA to continue the
22 employment of Corrie Burr with the Town with the understanding that she shall serve as the
23 Executive Director of the SCHA; provided, however, the SCHA shall reimburse the Town on a
24 monthly basis for such services under the terms and conditions set forth in the attached Exhibit
25 A, entitled "Intergovernmental Agreement between the Town and the SCHA for Services of the
26 Executive Director."

27 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
28 BRECKENRIDGE, COLORADO:

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30 **Section 1.** That the Town Council hereby approves the Intergovernmental Agreement
31 between the Town and the SCHA for services of the Executive Director, attached hereto as
32 **Exhibit A.**

33 **Section 2.** This resolution is effective upon adoption.

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RESOLUTION APPROVED AND ADOPTED this ___ day of ___, 2024.

TOWN OF BRECKENRIDGE

By: _____
Kelly Owens, Mayor Pro Tem

ATTEST:

Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM

Town Attorney Date

**Intergovernmental Agreement Between the Town and the SCHA for
Services of the Executive Director**

WHEREAS, the Towns of Breckenridge, Dillon, Frisco, Montezuma and Silverthorne, Colorado, have entered into a Third Amended and Restated Intergovernmental Agreement (hereinafter "IGA") to provide for the establishment of the "Summit Combined Housing Authority" ("SCHA") as a multijurisdictional housing authority pursuant to Section 29-1-204.5, Colorado Revised;

WHEREAS, per Section 7(a) of the IGA, the SCHA Board shall annually select and appoint the Executive Director;

WHEREAS, on February 28, 2024, the SCHA posted the opening for the position of the SCHA Executive Director, which remained open for a period of 14 days, and on March 13, 2024, the SCHA Board selected Corrie Burr to serve as the Executive Director;

WHEREAS, Corrie Burr will serve in the capacity of the Executive Director while maintaining her status as an at-will employee for the Town of Breckenridge effective March 25, 2024;

WHEREAS, Corrie Burr will be under the direct supervision of Board Member Shannon Haynes or as otherwise determined by the Board; and,

WHEREAS, Corrie Burr will continue to work for the Town of Breckenridge Housing Department on an interim basis one day a week until May 31, 2024 in order to assist in the transition of her prior duties as the Housing Program Manager.

NOW THEREFORE, in consideration the fee established herein and upon the mutual covenants, conditions, and promises contained herein, and other good and valuable consideration, the parties hereto agree as follows:

1. **Scope of Services.** Per the IGA, Section 7(f), the Executive Director shall serve as the chief executive officer of the Authority, shall supervise the activities of the Authority, shall see that all policies, directions and orders of the Board are carried out and shall, under the supervision of the Board, have such other authority, powers or duties as may be prescribed by the Board. The attached Scope of Services, set forth in **Exhibit A** and incorporated herein by reference, sets forth the primary duties to be performed by the Executive Director, which may be amended from time to time by the Board.

2. **Term And Termination.** This Agreement shall take effect upon its execution by the Parties and shall continue for a period of one year unless otherwise agreed to in writing by both parties. Either Party may terminate its participation in this Agreement with or without cause upon 30 days prior written notice. The Executive Director may resign or may be removed in accordance with Section 7(g) of the IGA.

3. **Reimbursement to Town for Executive Director Compensation.** The SCHA shall compensate the Executive Director in the amount of \$188,505.00, which shall be paid by the Town as total compensation; provided, however, the SCHA shall reimburse the Town on a monthly basis on or before the 15th of the month in the amount of \$15,708.75. Such fee is inclusive of all costs to the Town under this Agreement, including but not limited to the insurance required under Section 8 below.

4. **Limitation of Liability.**

a. The Town, its officers and employees, shall not be deemed to assume any liability for intentional or negligent acts, errors, or omissions of the Authority, or for any such acts committed by any officer, employee, or agent of the Authority.

b. The SCHA shall also not be deemed to assume any liability for intentional or negligent acts, errors, or omissions of the Town or by an officer, employee, or agent thereof, except for the individual actions of the Executive Director while such employee is providing services to the SCHA under the terms and conditions of this Agreement.

c. The Parties agree that in the event any claim or suit is brought against any Party by any third party as a result of the operation of this Agreement, the involved Parties will cooperate with each other, and with the involved parties' insuring entities, in defending such claim or suit.

5. **No Authority to Bind.** While performing services for the SCHA, the Executive Director shall have no authority to act on behalf of the Town, bind the Town in any contract, or make representations to the public or in private on behalf of the Town.

6. **Independent Contractor Status.** The parties are independent contractors for purposes of this agreement and shall have no authority to act for or represent or in any way be deemed to be an agent of one another.

7. **Employment Status of Town Employees.** Nothing in this agreement shall be interpreted as altering the terms and conditions of the at-will employment status of the Town employee for purposes of their employment with the Town, including performance and disciplinary matters, and/or with respect to health and retirement benefits, workers' compensation insurance, unemployment insurance, and employee liability insurance.

8. **Insurance.** The Parties shall, at their own expense, keep in full force and effect during the term of this Agreement, sufficient General Liability Insurance, Comprehensive Automotive Liability Insurance, and Worker's Compensation Insurance, or adequate self-insurance funds covering the same.

9. **Records.** All records of the Town are kept in accordance with the Colorado Open Records Act and may be subject to disclosure under the Act. In the event the Executive Director makes or maintains records on behalf of a member jurisdiction, such records shall be treated in accordance with the laws, policies and practices of that member jurisdiction.

10. **Confidential Information.** The Parties, for themselves, their agents, employees and representatives, agree that they will not divulge any confidential or proprietary information they receive from the other Parties or to which they may otherwise have access, except as may be required by law.

11. **General Provisions.**

a. **Notices.** All notices, requests, consents, approvals, reports, or other communications by the parties under this Agreement shall be in writing and shall be deemed to have been given or served to the parties as follows:

If to Town:

Shannon Haynes

With Copy to Kirsten Crawford

If to Authority:

Shannon Haynes

With Copy to Karl Hanlon

b. **Third Parties.** This Agreement does not and shall not be deemed to confer upon or grant to any third party any right to claim damages or to bring any lawsuit, action, or other proceedings against either the Town or the Authority because of any breach hereof, or because of any terms, covenants, agreements or conditions contained herein.

c. **Modifications.** No modification or waiver of this Agreement or any provision contained therein shall be valid unless in writing and duly executed by the parties.

d. **Agreement.** This written agreement supersedes any previous agreements, including the Intergovernmental Cooperative Agreement for Services dated September 18, 2023 and embodies the entire agreement between the parties hereto and there are no inducements, promises, terms, conditions, or other obligations made or entered into by either the Town or the Authority other than those contained herein.

e. **Assignment.** Neither party may assign its rights or obligations under this Agreement to any party.

f. **Severability.** All provisions set forth herein are severable and in the event that this Agreement or any part thereof is held invalid by a court of competent jurisdiction, all other provisions not invalidated shall remain in full force and effect.

g. **Ability to Contract.** The SCHA has represented to the Town and the Town has likewise represented that it has the legal ability and authorization to enter into this Agreement.

h. **Governmental Immunity.** The Parties intend that nothing herein shall be deemed or construed as a waiver by any Party of any rights, immunities, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (§ 24-10-101, C.R.S., et seq.) as now or hereafter amended or otherwise available at law or equity.

i. **Applicable Law.** At all times during the performance of this Agreement, the Parties herein shall comply with all applicable federal, state, and local laws, rules, and regulations that have been or may hereafter be established. This Agreement shall be interpreted in all respects in accordance with the laws of the State of Colorado. Venue shall only be proper in Summit County, Colorado.

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

BY:

TOWN OF BRECKENRIDGE:

SUMMIT COMBINED HOUSING AUTHORITY:

Kelly Owens, Mayor Pro Tem

Shannon Haynes, Chair

DRAFT



**Intergovernmental Cooperative Agreement for Services
Exhibit A
Scope of Services – Executive Director – Corrie Burr**

Primary Duties

Policy and Strategy Development:

- Advising and consulting on the development of the vision, values, goals and strategic objectives of the Summit County Housing Authority (SCHA);
- Cultivating relationships and collaborating with housing related entities within and around Summit County, as well as engaging with local businesses, all Summit County municipalities, and non-profits to understand the needs of community members;
- Implementing organization policies and priorities; determining appropriate levels of service and staffing; allocating resources accordingly, preparing recommendations for the Board on policy matters, administrative practices and program performance; ensuring that the Board is kept up to date on relevant regulations, funding sources and program and policy changes;
- Continuously monitoring and evaluating the efficiency and effectiveness of the service delivery methods and procedures; assessing the workload, administrative and support systems; internal and external reporting relationships; opportunities for improvement and directing the implementation of changes.

Financial Responsibility:

- The SCHA Executive Director prepares and administers the annual Authority budget. This includes working with the SCHA Board and service providers to develop the budget; working with SCHA staff to integrate new project pro formas into the budget; overseeing cash management strategies and accounting systems; coordinating with SCHA staff in the preparation of the annual budget; recommending strategies for increasing revenues and decreasing expenses and assisting in the development and implementation of procurement and contracting policies. The Executive Director apprises the SCHA Board of significant fluctuations in budget projections and prepares regular budget reviews for the Board.
- Plan, direct and coordinate, through management staff, the Authority's work plans including a strategic plan and a five-year financial plan for the agency; meet with management staff to identify and resolve problems; assign projects and programmatic areas of responsibility; review and evaluate work methods and procedures.
- Manage and participate in the development and administration of the Authority budget; direct the monitoring and approve expenditures; direct the preparation of and implement budgetary adjustments. Ensure that the budget process is developed with the input of all staff and the Board and report in a transparent manner.
- Direct the analysis of community affordable housing needs; work with jurisdictions to plan and implement service programs to meet the identified needs; partner with public, non-profit and profit groups with varying sources of funding.
- Identify and secure opportunities for funding from Federal, State and local agencies; guide staff to prepare and submit required documents in response to proposals for funding.



Local, State, and National Representation:

- The SCHA Executive Director represents the Authority in local, state and national meetings regarding housing issues. The Executive Director is expected to interact with housing entities across the state that support and encourage public resources to be allocated to affordable housing and to bring these resources to projects within the SCHA member entities.
- The Executive Director will provide staff assistance to the SCHA Board and, on occasion, to the specific jurisdictional staff and elected officials to prepare and present professional staff reports and other necessary correspondence; prepare packets with background information ahead of and for Board meetings; attend all Board meetings as required; attend jurisdiction Town Council/Board meetings upon request; supervise the taking, recording and maintaining of minutes and other official documents.
- Participate on a variety of appropriate industry related boards and commissions as appropriate for the programs of the SCHA; attend and participate in professional group meetings; stay abreast of new trends, innovations, program requirements and regulations in the field of housing.
- Represent the Housing Authority to Summit County municipalities, other public agencies, elected officials and outside agencies; explain, promote and support Housing Authority programs, policies and activities; meet with community and resident groups; negotiate and resolve sensitive community member inquiries and complaints.

Supervision:

- The SCHA Executive Director performs supervisory functions for Housing Authority staff including hiring, orientation, establishing performance goals, delegating authority, problem-solving, training, evaluating employee performance and, if necessary, discipline. Initiates and manages on time performance-based reviews of employees and programs. Identifies measurable benchmarks and realistic projections for all functions of the department.
- The Executive Director will evaluate and manage employees and personnel actions shall be in accordance with the Summit County employee handbook, and the Town of Breckenridge employee policies and procedures, and Town of Breckenridge Core Values.
- Assure that the Authority and staff follow applicable local, state and federal regulations and Housing Authority policies.

Program Oversight:

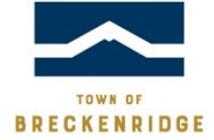
- The SCHA Executive Director oversees all activities of the department including operations, policy development, implementation, and budget. The Executive Director is responsible for initiating and managing specific studies and analyses as requested by the Board. The Executive Director coordinates legal matters for the Authority with the assigned or contracted attorney for the Authority.
- The SCHA Executive Director has full administrative responsibility for the day to day operation of the Authority, which includes but is not limited to: all Housing Authority services and activities including customer service (the SCHA maintains a physical resource customer service center open to the public 5 days/week); business management services;

administrative services; fiscal services; data and information resource gathering, clearinghouse of housing resources and availability; maintenance of studies that inform local housing needs and resources; appropriate marketing for SCHA products and resources; coordinate quarterly meetings with staff of each Authority member to review policies, best practices and ongoing activities; community outreach.

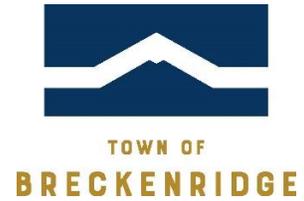
- The SCHA Executive Director oversees programs that may include: housing assistance and education including down payment assistance programs, loan payoffs and servicing; housing for sale programs including master deed restricted inventory and housing eligibility qualifications; deed restricted resale calculations; real estate tracking and lotteries; deed restricted property monitoring and audits; expanded property management services; housing for rent programs including rental inventory assistance, master lease programs and rental qualifications and administration. Program administration includes implementation and oversight of necessary technological solutions.
- The SCHA Executive Director will develop the following programs: development of housing incentives; one-stop-shop for inquiries regarding rental and for-sale properties; marketing and re-branding initiative; and the creation of Housing Navigator position(s) to assist the public in finding workforce housing. Program administration includes implementation and oversight of necessary technological solutions.
- In the long term, the SCHA Executive Director, with guidance from the Board and individual jurisdictions may develop cross jurisdictional and market impact projections and developer/owner rep services for jurisdictions; develop financial strategies/owner rep services for jurisdictions; and may create a SCHA division to assist with workforce housing construction management for jurisdictions.
- Ensure appropriate program monitoring, evaluation, disbursement of funds and fiscal control; oversee program compliance with related legislation including but not limited to proper grant management. Review, interpret and oversee implementation of HUD, DOH and other Federal and State policies and regulations.
- Establish and maintain effective working relationships with those contacted in the course of work including employees, participants in programs, residents of developments, government officials, community groups and the public and media representatives.
- Establish, lead, guide and work with the SCHA Advisory Group including establishing and overseeing project specific work groups (such as alternatives to AMI in resale calculations and/or development of a “universal” deed restriction) and recruiting members of the Advisory Group.

Public Relations:

- The SCHA Executive Director attends public meetings and collaborates with community groups, developers, municipalities, and governmental agencies to advocate for housing projects, develop housing policy and implement housing programs. The director creates presentations for informational meetings as well as formal public hearings; provides technical assistance as needed and maintains a current knowledge of applicable local, state and federal laws.
- Promote a harmonious relationship between SCHA and the constituent population by



demonstrating courteous and cooperative behavior when interacting with clients, visitors and the SCHA staff. Must conduct an annual survey or use any other customer service assessment tool to gauge resident satisfaction with the SCHA.



Memo

To: Breckenridge Town Council Members
From: Mark Truckey, Director of Community Development
Date: March 20, 2024
Subject: Planning Commission Decisions of the March 19, 2024 Meeting

DECISIONS FROM THE PLANNING COMMISSION MEETING, MARCH 19, 2024:

CLASS A APPLICATIONS: None.

CLASS B APPLICATIONS: None.

CLASS C APPLICATIONS: None.

TOWN PROJECT HEARINGS:

1. Tiger Dredge F&B Delivery Service Pilot Temporary Structure, 150 W. Adams Ave., PL-2024-0045
A proposal to construct a temporary sprung structure and temporary office to house the Town's pilot food and beverage delivery service program. *Approval recommended to Council.*

OTHER: None.



Tiger Dredge Delivery Service
Temporary Sprung Structure,
150 W Adams Ave (Tiger
Dredge Parking Lot)

PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 pm by Chair Leas.

ROLL CALL

Mike Giller	Mark Leas	Allen Frechter	Susan Propper
Ethan Guerra	Steve Gerard	Elaine Gort	

APPROVAL OF MINUTES

With no changes, the March 5, 2024 Planning Commission Minutes were approved.

APPROVAL OF AGENDA

With no changes, the March 19, 2024 Planning Commission Agenda was approved.

PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

TOWN PROJECTS:

1. Tiger Dredge F&B Delivery Service Pilot Temporary Structure (SVC), 150 W Adams Ave.; PL-2024-0045

Ms. Crump gave an overview of a proposal to construct a temporary sprung structure and temporary office to house the Town's pilot food and beverage delivery service program. The sprung structure will be located in the southern horseshoe of the Tiger Dredge surface parking lot. The pilot delivery service will manage food and beverage delivery logistics in the core of downtown for participating businesses using smaller all-electric delivery vehicles. The pilot program aims to reduce emissions and congestion from oversized delivery vehicles while increasing pedestrian and bicycle safety and efficiency of product distribution.

Commissioner Questions / Comments:

- Ms. Gort: Are those docks also for the electric vehicles? (Town Engineer [Shannon Smith]: The six locations are for the delivery vehicles. It is a cross dock, when the electric vehicles are across from the large delivery vehicles and the goods are passed across the dock.)
- Ms. Gort: How do the electric vehicles transport to buildings, where do they come out of the building? And will there be additional paving? (Ms. Smith: The electric vehicles will come out from the same docks. There may be some paving necessary after grading.)
- Mr. Frechter: How will the hours of operation for tractor trailer delivery be enforced? (Ms. Smith: This will be operated by 106 West. 5am to 10am as they currently operate in Vail. We are assuming we can have similar delivery window.) So, there is no way that a tractor trailer would arrive at 7pm as people are arriving at the Riverwalk Center. (Ms. Smith: Correct, that would be highly unusual. We would have to let them dock but I think we would only need to accommodate something like that due to a highway closure.) Does the trailer have plumbing? (Ms. Smith: We are unsure at this time, we are trying to limit water utilities at the site; I don't want to run water and sewer; we believe the restrooms at the Riverwalk Center can accommodate staff and water tanks on the site interior could be used for any needed interior cleaning.)
- Mr. Frechter: Is there a timeline for this to end and everything to be restored? (Ms. Smith: We are directed to run this pilot for up to two years. If successful, we would move to a permanent structure, either at this location or a new location.) I know that Town Council was concerned about the sprung structure at the previous Vail Resorts property. It seems a little bit of a double standard. (Ms. Smith: Understood.)

- Ms. Gort: What other sites did you consider for putting this? (Ms. Smith: Airport Road, Schoonover Building, Public Works Yard, F Lot, and Tiger Dredge lot. This lot became the top choice considering the proximity to the businesses and the change in elevation that help to hide the temporary structure.) I am curious about the traffic circulation, could you go over that? (Ms. Smith: Most of the large trucks do this already; moving down Adams and through the lot to Park Ave. The vehicle shown with turning radius, that is not something that we typically see. That is a 56' foot sleeper cabin tractor trailer, we do not anticipate this size truck. Smaller trucks can come in from Park Ave. We are looking at the dimensions of the roundabout. We do not think that changes can be made to support these large vehicles.) Will the delivery cars be on the streets? (Ms. Crump: The electric vehicles are much smaller, sized similar to a large golfcart.) (Ms. Smith: Most will use the ally system and use alternative routes and are not on the street as much as possible. We are told they can handle winter conditions. The Club Car is the vehicle and used for the Swedish Postal Service. This is a pilot program. We will be able to adjust as we go.) What stops it at two years? (Mr. Kulick: It would be the Town Council that would have the authority to set their own timing parameters.) So it could be there forever? (Ms. Puester: This structure is not designed or rated to be installed forever.) (Ms. Smith: It is not a concern I have with Town Council given the potential to redevelop this Riverwalk site in the future and produce a more permanent solution.)
- Mr. Gerard: In the infrastructure policy, where it discusses a temporary water service. It discusses cleaning the delivery vehicles. Just to confirm, this is just cleaning the electric delivery vehicles, not the tractor trailers? (Ms. Smith: Yes, it would just be to support cleaning of the electric, small, delivery vehicles.)
- Mr. Frechter: There is a picture of the vehicles on 106 West's website for an example photo of the electric vehicles. I think this picture would be beneficial.
- Mr. Gerard: Are the trees too large to transplant and move to a new location? (Ms. Crump: They are probably too large to transplant.) A comment on the traffic flow, will they be able to leave through the roundabout? (Ms. Smith: That is the plan and that is currently how it goes.) Is there a second site that was preferred, a commenter requested a "Ridgeway" location? (Ms. Crump: I spoke with that commentor over the phone, I am not aware of the location that she describes in her comments.)
- Mr. Guerra: Others already asked my questions and they answered.
- Mr. Giller: Interesting project. How will this be communicated to the public that speaks to the need of the project? That there is a benefit from the project? (Ms. Crump: There was an extensive public notice for this hearing and the Council hearing that will occur next week. I hope at the Town Council meeting, the public benefit of this project is further outlined. It meets two of the Council's yearly goals. There have been many work sessions leading up to this hearing. We are hoping that this meets the necessary outreach, showing it is a strong public benefit project. It is not something just derived from the Council.) Would they allow an interpretive panel that helps explain why we have this? (Ms. Crump: I think that's a good idea.)
- Ms. Propper: This is going to be deliveries for restaurants and bars, have these businesses already signed up for this service? How is that going to work? (Ms. Smith: The restaurant community is very excited about this project. The delivery vendors are the ones who actually contract with 106 West. The delivery service makes the relationship with 106 West, not the restaurants. 106 West will take the products from the truck and take the products to all of the businesses that had an order on that truck.) There are some delivery services that express concerns with the chain of custody of the products. It is not a mandatory program at this time.) We will still have some trucks? (Yes. We are hoping to get 6-10 vendors to sign up for the first year.) I was going to ask if there was

a threshold for making this viable and worthwhile. (Ms. Smith: The return on investment is the safety factor. The Blue River Pathways project has a goal of improving safety and this is part of that. From the cost perspective, it doesn't pan out. That is why this is a public project. That a truck, instead of going to many separate businesses, it is only making one stop. They save a lot of time. This provides advantages for the vendors.) The deliveries in Vail happen between 5am to 10am, is there a way to provide public parking when there is a down time outside of that period? (Ms. Crump: There would only be approximately five (5) spaces remaining when trucks are not there. It is best to keep this area clear from public access to avoid conflict.) (Ms. Smith: This entire corridor is filled with parking. We did a public survey for the Riverwalk Project, and numbers 1, 2 and 3 were safety and there were no comments about parking from participants.)

Mr. Leas: What is the cost of this program? (Ms. Smith: The first annual operation budget is \$2.1 million, with nearly half of that investment the docking system and building.) And the cost once that \$2.1 million expenditure is done, the cost of the program is going to be? (Ms. Smith: The cost will be to the Town. We are assessing a docking fee to each vendor. In the first year, the docking fee would bring in about \$50,000-\$60,000 annually. This is not a project to save money, this is about safety.) Mr. Leas: That's a big bill. Are the restaurants supporting the cost? (Ms. Smith: The local businesses do not pay for this at this point in time. The vendors will pay the docking fee. We haven't brought the docking fee structure to the Council at this time.) These vendors will pay 5% and the Town will pay 95%? (Ms. Smith: That has not been determined yet.) (Mr. Kulick: While interesting, the recommendation from you would be based on the development code.) I understand but I think the questions on cost vs. benefit should be heard by Commissioners as well as the public. I think the questions are appropriate considering the decision to be made. You mentioned other sites that were evaluated? Is there on-going discussion about that? (Ms. Smith: We have not had discussions about the permanent structure, we are starting with the pilot program.) I think it is very interesting that we are putting money into a temporary program with no idea what we're going to do if we're successful. Can you elaborate on the potential redevelopment of this area you mentioned? (Ms. Smith: The Riverwalk Center redevelopment is part of the CIP and an ongoing project, that's what I was referring to.) I'm trying to understand how the redevelopment of the parking lot would impact the decision being made tonight. (Ms. Smith: I am not going to speculate about future redevelopment decisions the Council might make.) Is alcohol delivery going to be included? (Ms. Smith: Yes, this will include food and beverage including alcohol.)

Mr. Gort: Why do we have so many docks if we are only doing five to six restaurants? (Ms. Smith: It's actually 5-6 delivery vendors, which will serve 70+ restaurants.) It seems like a lot of docks. (Ms. Crump: The several docks are to accommodate trucks of different sizes.) (Ms. Smith: We expect to add up to 30 vendors although we're starting with about 6.)

Mr. Frechter: The delivery time for tractor trailers is limited, but the electric vehicles could be running all day? (Ms. Smith: Correct. The electric vehicles will be on the alleys and roads all day. We are also looking to include refuse/recycling collection in year two.)

Public Comment:

Christina Stanley, Cimmaron, 305 S Park Avenue: I did miss the start. Has there been an impact analysis or a statement made on the traffic along Park Avenue? (Ms. Smith: We have not done a traffic impact study for this project, however the amount of traffic increase on Highway 9 would be negligible.) How many trucks do envision coming in each morning? (Ms. Smith: At the start, 6-10 daily.) The earlier will be better, things get busy when people are in town. (Ms. Smith: Target time is between 5AM to 10AM.)

Will it be aesthetically pleasing? In keeping with the town's appearance? The Town did a nice job with the parking structure making it appear to fit the Town's architecture. (Ms. Crump: The canvas is going to brown. The project is receiving the maximum negative points for the lack of aesthetic and architectural compatibility with other structures in Town. The public benefit outweighs the negative aesthetics in this instance.) Is it a like a tent? (Ms. Crump: Yes, it is a sprung structure with heavy canvas stretched over.) I think it is important because it is in the center of town.

There were no further comments and the public comment period was closed.

Ms. Crump: There were additional comments made by the public that were emailed into the Community Development Office after the packet was published, these were given to the Commission at the beginning of the meeting.

Commissioner Questions / Comments:

Ms. Propper: No further comment.

Mr. Giller: It is a curious project. Vail does quite well with this. I do recommend the Town have further public outreach that speaks to the benefits of the project and connect this to the Riverwalk project that will improve safety. I support the project and I appreciate the good work. Thanks.

Mr. Guerra: I too support this project. With this being a pilot program, I think this allows us to see what this can become. In the meantime, I am supportive of this project. I do want to reiterate that our role here as the Commission should be to review this under the development code and that the Town Council will make the decision.

Mr. Gerard: I support the project, I think it has many collateral benefits. Anyone who sees the diesel semis idling and moving about the town, can understand the benefits of cleaner air, safer streets for pedestrians and bikers. I think the public should bear in mind that I don't think this is going to be a permanent installation in this parking lot. In the time being, it will be something we lose a few parking spaces over. I think the Planning Department has taken the necessary standards into consideration and assigned the maximum negative points that is still outweighed by the public benefit.

Ms. Gort: I think this is great and am excited that we are doing this. I do not want this to be a permanent location. Ideally, in the future the large trucks would unload out of Town and the small vehicles bring it into downtown.

Mr. Frechter: Is this a first hearing, or what is the process now? (Mr. Kulick: This will go to a Town Project hearing with the Town Council next week. Tonight the Commission would recommend it be approved by Council rather than approve the project like normal.) I want to state that we are judges and make sure that projects meet the Town development code. Anyone watching, this is not the forum for us to address your concerns outside of the development code. I am concerned. I would say the Council is setting precedent using a sprung structure. Considering they have raised concerns about these being used by private ownership particularly at Peak 8. I do support this overall; large trucks can be a nuisance. More permanently I would consider a different location not within the middle of downtown. The Town should promote this more and the benefits. I think that will help in relation to how they want to redevelop the whole area.

Mr. Leas: I think this is a really interesting project. I hope this works out successfully. I do have concerns. My biggest concern is that we are putting this structure in the middle of town. Town is telling us this is a temporary structure, but do not know the location of the permanent structure and this building will be there for a longer period of time than we are led on to believe. But I am still supportive of the project.

Mr. Gerard made a motion to recommend approval of the Tiger Dredge F&B Service Pilot Temporary Structure to the Town Council, seconded by Ms. Propper. The motion passed 7 to 0.

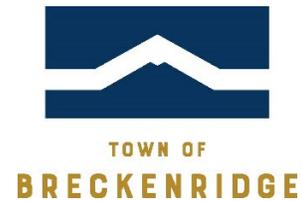
OTHER MATTERS:

1. Town Council Summary

ADJOURNMENT:

The meeting was adjourned at 6:45 pm.

Mark Leas, Chair



Memo

To: Town Council
From: Sarah Crump, AICP, Planner III
Date: March 20, 2024, for meeting of March 26, 2024
Subject: Town Project Hearing – Tiger Dredge Temporary Delivery Sprung Structure, PL-2024-0045

The Tiger Dredge Temporary Delivery Sprung Structure, which will house the Town’s food and beverage delivery service pilot program, is being reviewed as a Town Project, as per the Development Code’s town project requirements. All public notice requirements have been fulfilled as required.

The Tiger Dredge Temporary Delivery Sprung Structure is to be located in the southern horseshoe of the Tiger Dredge surface parking lot; a centralized location to serve as the initial drop-off for the Town’s food and beverage delivery pilot program. The pilot program aims to reduce emissions and large vehicle traffic on downtown streets by utilizing smaller all-electric delivery carts for last-mile delivery service. The structure will consist of a front sprung structure portion covered with brown canvas and with an open steel foundation. The structure will be 22’ tall with six loading docks on the north façade to accommodate large delivery vehicles. A separate office trailer will be connected to the sprung structure at the south façade. Together these temporary structures will total 2,386 square feet. Construction of the temporary structure will require some minimal grading and will close the horseshoe to public parking during the pilot program. A total of 36 parking spaces from the horseshoe and approximately 8 parking spaces from West Adams Avenue will be removed from use. Accommodations to allow for employee parking removed from the horseshoe will be made in other Town owned parking lots. There will be a negligible change to the amount of open space on the 6.5-acre Riverwalk Center parcel.

The Planning Commission held a public hearing on March 19, 2024, in which the Commission voted 7-0 to recommend approval of the Tiger Dredge Temporary Delivery Structure with a passing point analysis of zero (0) points under the Development Code. The Planning Commission recognizes that the structure fails absolute Policy 36, Temporary Structures, but that Chapter 1 of the Development Code does not apply to Town Projects. Commissioners shared comments regarding their desire for this structure to be truly temporary and not a prolonged solution for the delivery program, noting the Town’s former opposition to similar temporary structures on private property. One Commissioner suggested educational signage at the entrance to the site which would display the public benefits and environmental goals of the Council that would be reached through the delivery service pilot program.

Planning Commission meeting minutes are included in the Town Council packet and attached to this memo is a complete staff report, substantially the same as presented to the Planning Commission, and attachments including the proposed Sprung Structure site plan, elevations, and dimensions, and the Commission’s recommended Findings and Conditions.

If the Council agrees with the Planning Commission’s recommendation for approval after the public hearing at the evening meeting, a motion for approval is provided below.

“I make a motion to approve the Tiger Dredge Temporary Delivery Sprung Structure Town Project, PL-2024-0045, located at 150 W Adams Avenue, the project having a passing point analysis of zero (0) points under the Development Code’s Relative Policies, and failing the Temporary Structure Absolute Policy 36 of the Development Code’s Absolute Policies.”

Town Council Town Project Staff Report

- Subject:** Tiger Dredge Temporary Delivery Sprung Structure
(Town Project Hearing – PL-2024-0045)
- Proposal:** Construct a temporary sprung structure and temporary office to house the Town’s pilot food and beverage delivery service program. The sprung structure will be located in the southern horseshoe of the Tiger Dredge surface parking lot. The pilot delivery service will manage food and beverage delivery logistics in the core of downtown for participating businesses using smaller electric delivery vehicles. The pilot program aims to reduce emissions and congestion from oversized delivery vehicles while increasing pedestrian and bicycle safety and efficiency of product distribution.
- Date:** March 20, 2024 (For meeting of March 26, 2024)
- Planner:** Sarah Crump, AICP, Planner III
- Applicant:** Shannon Smith, Town Engineer, Town of Breckenridge
- Contractors:** 106 West Logistics, Dockzilla
- Owner:** Town of Breckenridge
- Address:** 150 W Adams Avenue (91 W Adams will be the newly assigned address when constructed.)
- Legal Description:** Tract F Four Seasons Village Sub #2
- Land Use District:** 23: Residential (multi-family, lodge, hotel) 20 UPA, or Commercial (special review) 1:3 FAR
- Site Area:** 6.51 acres (283,575 square feet)
- Site Conditions:** The site area for the sprung structure is within the southern horseshoe of the existing Tiger Dredge surface parking lot. The site is accessed from West Adams Avenue and slopes gently uphill to the west. It currently serves as an existing paved surface parking lot with 36 marked spaces, primarily for employee parking but also for events at the Riverwalk Center and public parking during specified times. There is an existing trash enclosure at the Adams Avenue western end.
- Adjacent Uses:** North: Riverwalk Center, Washington Avenue right-of-way, Blazing Saddles (mixed-use commercial)
South: F-Lot public parking, Park Avenue right-of-way, Village at Breckenridge (mixed-use commercial)
East: Blue River, historic downtown (mixed-use commercial)
West: Park Avenue right-of-way, Cimmaron, and Park Place (multi-family residential)

Density:	Existing: 16,728 sq.ft. (16.73 SFEs) Additional Proposed: 2,386 sq. ft. (2.39 SFEs) Total: 19,114 sq.ft. (19.11 SFEs)
F.A.R.:	Allowed: 1:3 Existing: 1:17 Proposed: 1:15
Lot Coverage:	~1.5 acres of Open Space. No change proposed.
Height:	Recommended: 26’0” (2 stories to mean) Proposed: 21’10” overall
Parking:	Required: 3 spaces (warehouse use) Proposed: 5+ spaces (to remain in lower horseshoe)
Snow stack:	Proposed: ~880 sq.ft. additional snow storage area
Setbacks:	Required Commercial Setbacks: 1ft Proposed North: ~450 ft South: ~100 ft East: ~85 ft West: ~130 ft

Item Background

The Breckenridge Town Council is looking to innovate the logistics of food and beverage deliveries to the downtown core in a way that decreases large vehicle trips and as a result reduces emissions and congestion on the Town’s narrow downtown alleys and roadways. The Council also desires to prioritize pedestrian and bicycle safety downtown while not disrupting the timeliness of food and beverage deliveries. The Council instructed the Public Works Department to transmit a Request for Proposals (RFP) in January 2024 for the development of a pilot program that would re-think food and beverage deliveries to the core of town.

The proposal from applicant 106 West Logistics and their sub-contractor Dockzilla was selected through the RFP process. In subsequent discussions with Town Council, Public Works, and 106 West Logistics, the Tiger Dredge surface public parking area was selected as the best location for the temporary pilot delivery program. This site was selected for the pilot program because of its close proximity to participating businesses, access to utilities, and ability to be screened from view by the grade change from Park Avenue. If successful, the pilot delivery program could be expanded to include additional participants in an expanded delivery service area, as well as for future applications such as trash and recycling handling. Pending the success of the pilot, a permanent location for the delivery program has not yet been selected.

The Planning Commission held a public hearing on March 19, 2024, in which the Commission voted 7-0 to recommend approval of the Tiger Dredge Temporary Delivery Structure with a passing point analysis of zero (0) points under the Development Code. The Planning Commission recognizes that the structure fails absolute Policy 36, Temporary Structures, but that Chapter 1 of the Development Code does not apply to Town Projects. Commissioners shared comments regarding their desire for this structure to be truly temporary and not a prolonged solution for the delivery program, noting the Town’s former opposition to similar temporary structures on private property. One Commissioner suggested educational signage at the entrance to the site which would display the public benefits and environmental goals of the Council that would be reached through the delivery service pilot program.

Staff Comments

Land Use (Policies 2/A & 2/R): The property is currently used as a surface parking lot. The proposed use is acceptable under the Land Use District 23 Guidelines (LUGs) which allow for commercial operations. Staff and the Commission have no concerns.

Density/Intensity (3/A & 3/R): The temporary sprung structure and office trailer will total 2,386 sq. ft. or 2.39 SFEs. The new total density on site will be 19,114 sq. ft. or 19.11 SFEs. This is equivalent to a Floor Area Ratio (FAR) of 1:15 which is less than the allowed FAR of 1:3 for commercial development in the land use district. Additionally, this is a temporary structure for municipal/institutional use, therefore it does not count as density under 9-1-19-3-A: Policy 3 (Absolute) Density/Intensity. Section F. Exemption for Community Facilities and Institutional Uses and no density would be required to be transferred to the site to account for this additional density if the site were over density. Staff and the Commission have no concerns regarding the proposed total density of the site.

Architectural Compatibility (Policies 5/A & 5/R): The proposed structures will be temporary in nature, comprised of a sprung steel structure with a stretched canvas covering placed on a raised steel foundation platform. A separate temporary office trailer will be connected to the sprung structure at the south elevation. Six loading docks will span the north elevation. The office trailer to the south of the sprung structure will be sided with white painted metal with 6 double-hung window openings.

Brown colored textured canvas has been selected for the sprung structure covering. The structure will be elevated on a steel foundation to efficiently reach the standard loading dock height. The steel foundation will not be skirted and will remain open to provide sufficient drainage to the site. Three man-doors, one on each east and west side and one on the rear, will have steel staircases and landings to reach the elevated structure.



Various non-natural materials are contemplated in Policy 5/R for the assignment of negative points. Canvas fabric material, because it is typically used for temporary structures, is not a material discussed within the subsection on “non-natural materials” but would be discouraged for permanent construction under Policy 5/R because it is not architecturally or aesthetically compatible with other developments within the land use district. Nor is the open steel foundation design architecturally compatible, especially given the project’s close proximity to the historic district.

Per the LUGs, “*Contemporary architectural design compatible with the existing architecture of the surrounding neighborhood is preferred. However, some portions of this District could act as a buffer to the Historic District, and the Historic District Guidelines should be applied in these instances.*” The parcel is adjacent to the River Park Corridor Transition Area.

Permanent construction utilizing canvas fabric or metal siding would cause the project to be assigned the maximum number of negative six (-6) points. The temporary nature of the project necessitates a cost-effective material that is easily dismantled after the pilot period has ended. Despite the temporary nature, staff and the Commission recommend the assignment of the maximum negative six (-6) points for the temporary canvas sprung structure with an open steel foundation and for the metal sided office trailer due to architectural incompatibility with the surrounding land use district and nearby historic district.

Building Height (Policies 6/A & 6R): In Land Use District 23, building heights greater than 2-stories are discouraged but the LUGs also state, “*determination of acceptable building heights will be made during the development review process.*” Per the Development Code, the first two stories are counted as 13-feet tall each and subsequent stories are counted at 12-feet tall each. Hence, a 2-story building has a height of 26 feet as measured from the mean (mid-point between ridge and eave) of the roof to the finished grade below. Staff has no concerns about the overall height of the proposed temporary structure of 21 feet and 10 inches (21’10”). Staff and the Commission are recommending the assignment of negative one (-1) points for an unbroken ridgeline of greater than 50 feet. The main ridge of the temporary structure will be approximately 72 feet in length from east to west.

Site And Environmental Design (7/A & 7/R): The existing site is utilized as a paved surface parking lot which is fairly flat in grade. There is minimal vegetation within the center of the parking horseshoe which will be lost to the installation of the temporary structure. Minimal grading and excavation of the paved surface parking will take place to prepare the site for the installation of the sprung structure steel foundation and docking system. As the area is already disturbed and utilized as a surface parking lot, staff and the Commission do not find that the proposed site disturbance rises to the level that would necessitate negative points. Staff and the Commission have no concerns.

Signs (12/A): Signage, if any is desired by the delivery contractor, will be approved under a separate Town Project application approved at the staff level. Commercial signage of up to 20 sq. ft. may be allowed at the front entrance to the temporary structure. No signage is proposed nor will be approved as part of the canvas structure covering. One Commissioner suggested that the Town take advantage of this structure as an educational opportunity and choose an area to display signage that promotes the health and wellness, sustainability, and environmental goals of the project. Staff and the Commission have no concerns.

Snow Removal and Storage (13/A & 13/R): The parking spaces within the horseshoe to the east and west of the temporary structure will be closed to public parking and can be utilized as new snow storage area while the structure is in place, resulting in greater snow storage area than currently exists on the site. As this property is Town owned, should there be any need to remove snow, the Public Works Department

will remove the snow to Town-owned overflow snow storage areas on the periphery of Town. Staff and the Commission have no concerns.

Refuse (15/A & 15/R): There will be access to the Town maintained trash and recycling enclosure near the structure to the west. Staff and the Commission have no concerns.

Internal Circulation (16/A & 16/R): The location of the temporary sprung structure will require the elimination of the existing 36 parking spaces within the southern horseshoe and thus there will be no need for public access to the site. Pedestrians will still be able to traverse around the site via the public sidewalks and bike trails that connect the F-lot surface parking area to the public sidewalk along West Adams Avenue and downtown. The delivery schedule for large trucks will mostly occur in early morning hours that are off set from the heaviest time of use for the northern portion of the Tiger Dredge public parking lot, which will remain open for public parking during the pilot period. This timing difference will avoid most conflicts between backing delivery vehicles and pedestrians in the surface lot. This will concentrate delivery vehicles in this area rather than trucks making backing movements in many roadway and alley locations across the downtown as they do currently. Overall, the plan does an adequate job of separating pedestrian activity from motor vehicle traffic. Staff and the Commission have no concerns.

External Circulation (17/A & 17/R): The vehicular entrance and exit to the temporary delivery sprung structure for large commercial delivery vehicles will be from the east via West Adams Avenue. The largest delivery vehicles (greater than 35' in length) will be required to travel south down Main Street and turn right on West Adams Avenue to enter the site. The largest delivery vehicles currently take this route to access existing delivery sites on West Adams. An alternative entrance to the site from the roundabout at Park Avenue and 4 O'Clock Road was considered but ultimately eliminated because longer trucks cannot easily complete the turn within the roundabout and subsequent turn into the Tiger Dredge lot due to existing curbs.

The Town Engineer has been working with the contractor 106 West Logistics to tweak the circulation plan that is shown so that no parking spaces in the northern portion of the Tiger Dredge lot are lost to the space requirements for transfer truck turning and backing movements. Staff and the Commission have no concerns.

Parking (18/A & 18/R): The project will close 36 surface parking spaces within the southern horseshoe of the Tiger Dredge surface parking lot. These spaces are primarily used for employee parking. Approximately eight public parallel parking spaces along the one-way portion of West Adams Avenue right-of-way will also be eliminated to accommodate the turning movements required for large trucks. Accommodations for the elimination of the 36 surface employee parking spaces are being made to allow for employee parking within other Town owned surface lots, such as the nearby F-lot. Staff anticipates minimal negative impacts from the displaced public parking spaces, which can be accommodated in other public parking reservoirs nearby. Warehouse uses require one parking space per 1000 sq. ft. of floor area requiring three spaces for employees working within the temporary structure. While closed to outside employee parking, at least five parking spaces will remain accessible to the delivery contractors on the site. Staff and the Commission have no concerns.

Open Space (21/R): There will be minimal change to the site's existing Open Space area. The temporary sprung structure and office will primarily exist over the current paved surface parking area. Staff has calculated the existing open space to be at least 1.5 acres on the 6.5-acre parcel (approximately 23 percent) which would exceed the 15 percent requirement for non-residential uses. The landscaping island in the center of the horseshoe, an approximately 200 sq.ft. area, will be covered by the temporary structure. This is a negligible area considering the overall parcel size of 6.5 acres. Staff and the Commission have no concerns.

Landscaping (22/A & 22/R): The temporary structure will necessitate the removal of six mature Aspen trees from the center landscape island of the horseshoe. The temporary structure will be screened by existing mature trees and shrubs. This mature vegetation will remain undisturbed around the outer perimeter of the horseshoe. No additional landscaping is proposed with this project. This project site will continue to meet Open Space requirements and the required Policy 22/A landscaping for surface parking. Areas of “not less than six percent (6%) of the interior area of a parking lot shall be landscaped” will continue to be met on other portions of the Tiger Dredge surface lot. Staff and the Commission have no concerns.

Social Community (24/A & 24/R):

24/A B. Employee Housing Impact Mitigation:

New development or changes of intensity of use must mitigate the impact on available employee housing by supplying deed-restricted units for at least 35 percent of new employees generated by the project. This is a Town project and proposed for institutional uses. Under the written 24/A policy Section B. 3. States, “this policy does not apply to institutional uses.” Were this a private project, it would generate 5.7 new employees, requiring employee housing mitigation for 2 employees or 700 square feet of deed-restricted housing.

24/R B. Community Needs:

3 (0/+2)	x	B. <i>Community Needs: Developments which address specific needs of the community which have been identified in the yearly goals and objectives reports within the three (3) year period preceding the date of the application are encouraged. Positive points shall be awarded under this subsection only for development activities which occur on the applicant's property. (Ord. 1, Series 2014)</i>
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The 2023 Council Goals include:

Goal: More Boots and Bikes, Less Cars

Goal: Leading Environmental Stewardship

This project will help to achieve the above-identified Council goals by concentrating deliveries in a central location and pulling large polluting delivery vehicles away from heavy pedestrian and bike use areas in downtown. This will improve safety for pedestrians and cyclists, further encouraging their use in the downtown core. The project also seeks to reduce emissions by contracting with partners who use zero-emission electric vehicles for “last mile” deliveries. This pilot program seeks to emulate successful delivery programs in other Colorado mountain communities, but these types of electric delivery services have not been widely adopted, making the project a sustainable innovation, and meeting the Breckenridge Council goal to be a leader of the environmental stewardship movement. Given the temporary nature of the pilot program, staff and the Commission recommend positive three (+3) points under this policy.

Projects which have received positive three (+3) points for meeting a Council Goal in the recent past:

2023- BGV Gondola Lots Master Plan, French Street roundabout construction (+3)

2017- Recreation Center Tennis Building (+3)

2016- Huron Landing workforce housing apartments (+3)

Infrastructure (26/A & 26/R):

4 x (-B. 2/+2)	<i>Capital Improvements: The implementation of capital improvement needs listed in the land use guidelines or town's capital improvements five (5) year program is encouraged; while any action to impede the implementation of any of these items is discouraged. (Ord. 19, Series 1988)</i>
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The Town’s current capital improvement program specifically identifies the need for a centralized food and beverage delivery service in the downtown core. Staff and the Commission suggest positive four (+4) points under this policy for the proposed improvements.

Past projects that have received positive four (+4) points for completing a project identified in the Town’s Capital Improvements 5-year Program are:

- 2023- BGV Gondola Lots Master Plan, French Street roundabout construction (+4)
- 2017- Recreation Center Tennis Building (+4)
- 2015- Pinewood Village 2 affordable workforce apartments (+4)

Power and water utilities will be run to the temporary sprung structure and office trailer but not sewer. Water will be used for cleaning the work area and for cleaning the all-electric delivery vehicles. Employees of the contractor will have access to public restrooms nearby at the adjacent Riverwalk Center. Staff and the Commission have no concerns.

Drainage (27/A & 27/R): The Town Engineering Department is acting as the applicant for this project and has worked extensively with the contracted design team to ensure optimal drainage is achieved. Staff and the Commission are supportive of the proposed open drainage design beneath the proposed temporary structure, which will function similarly to the existing drainage on the existing surface parking lot and has no concerns.

Temporary Structures (36/A): Temporary structures are not allowed within the Conservation District and are discouraged outside the Conservation District. This structure will be placed outside and directly to the west of the Conservation District. The temporary structure regulation is intended to allow for substitution of an existing structure while under repair or a new permanent structure is under construction. While intended to be a pilot program and precursor to a future permanent downtown food and beverage delivery solution, this structure does not meet the spirit of the regulation and therefore fails this provision of the absolute policy. However, the Town Council feels the public benefits provided from the delivery service pilot program will outweigh any negative aesthetic or viewshed impacts of allowing a temporary structure for an extended period. The temporary structure ordinance requires revegetation of any disturbed area following the removal of a temporary structure. As a Town project, staff has worked to ensure the project is mostly in compliance with the requirements of the Development Code and the Town will be held accountable for removal of the structure after the pilot program has ended and reclamation and restoration of the site. Commissioners expressed their desire to limit the prolonged use of the temporary structure and for the Town to work toward a permanent home for the program if it is successful.

Exterior Lighting (46/A): There is no proposed exterior lighting associated with the temporary structures. If exterior lighting is needed in the future a Town Project D-minor equivalent will be required and any exterior lighting must be compliant with the Town’s lighting standards found in Title 9, Chapter 12, Exterior Lighting Regulations. Staff and the Commission have no concerns.

Point Analysis (Section: 9-1-17-3): Staff and the Commission acknowledge that this temporary structure fails an Absolute Policy, 36/A, regarding temporary structures which are only meant to substitute for existing structures while a permanent replacement is constructed. However, this is a Town project and the Council desires its construction. Staff and the Commission find that the public benefits and need for this project supersede the Development Code for this application considering the temporary nature of the pilot program. With the exception of failing Absolute Policy 36/A, Temporary Structures, staff and the Commission recommend a point analysis of negative seven (-7) points and positive seven (+7) points, which results in a passing score of zero (0) points total.

Negative Points (-7)

- Policy 5/R Architectural Compatibility: maximum negative six (-6) points for non-natural materials (canvas fabric and open steel foundation) exceeding 25 percent of any façade.
- Policy 6/R Building Height: unbroken ridgeline greater than 50 feet; negative one (-1) point.

Positive Points (+7)

- Policy 24/R Social Community: positive three (+3) points; the project addresses a specific need of the community which was identified in the 2023 yearly Council goals.
- Policy 26/R Infrastructure: positive four (+4) points for completing a Town Capital Improvement Project.

Planning Commission Recommendation

This is a Town Project pursuant to the ordinance amending the Town Projects Process (Council Bill No. 1, Series 2013). As a result, the Planning Commission has recommended the point analysis listed directly above and has identified any other code issues or general concerns with the proposed project.

The Planning Commission recommends the Town Council approve the Tiger Dredge Temporary Delivery Pilot Program Sprung Structure to the Town Council, PL-2024-0045, located at 150 W Adams Avenue with the attached Point Analysis and Findings and Conditions by a 7-0 vote.

TOWN OF BRECKENRIDGE

**Tiger Dredge Temporary Delivery Sprung Structure
Tract F Four Seasons Village Sub #2
150 W Adams Avenue
PL-2024-0045**

FINDINGS

1. This project is “Town Project” as defined in Section 9-4-1 of the Breckenridge Town Code because it involves the planning and design of a public project.
2. The process for the review and approval of a Town Project as described in Section 9-14-4 of the Breckenridge Town Code was followed in connection with the approval of this Town Project.
3. In connection with its review of this Town Project, the Planning Commission scheduled and held a public hearing on March 19, 2024, notice of which was published on the Town’s website for at least five (5) days prior to the hearing as required by Section 9-14-4(2) of the Breckenridge Town Code. At the conclusion of its public hearing, the Planning Commission recommended approval of this Town Project to the Town Council.
4. The Town Council’s final decision with respect to this Town Project was made at the regular meeting of the Town Council that was held on March 26, 2024. This Town Project was listed on the Town Council’s agenda for the March 26, 2024 meeting that was posted in advance of the meeting on the Town’s website. Before making its final decision with respect to this Town Project, the Town Council accepted and considered any public comment that was offered.
5. Before approving this Town Project the Town Council received from the Director of the Department of Community Development, and gave due consideration to, a point analysis for the Town Project in the same manner as a point analysis is prepared for a final hearing on a Class A development permit application under the Town’s Development Code (Chapter 1 of Title 9 of the Breckenridge Town Code).
6. The Town Council finds and determines that the Town Project is necessary or advisable for the public good, and that the Town Project shall be undertaken by the Town.
7. Per Town Code Section 9-14-2 *Town Council Authority Over Town Projects*, the Town Council has the authority, in its sole discretion, and final authority to determine all aspects of the town project, including but not limited to, its location and design. **Chapter 1 of the Breckenridge Development Code and Breckenridge land use guidelines do not apply to town projects.** As such, the Town Council finds and determines that the provision of the temporary structure regulation, as regulated per Town Code Section 9-1-19-36A, which only allows for temporary structures as a substitute for existing structures under repair or reconstruction does not apply to this project and the public benefits and services for the allowance of this temporary structure outweigh any negative visual impacts that may occur for the duration of this project.

CONDITIONS

PRIOR TO ISSUANCE OF BUILDING PERMIT

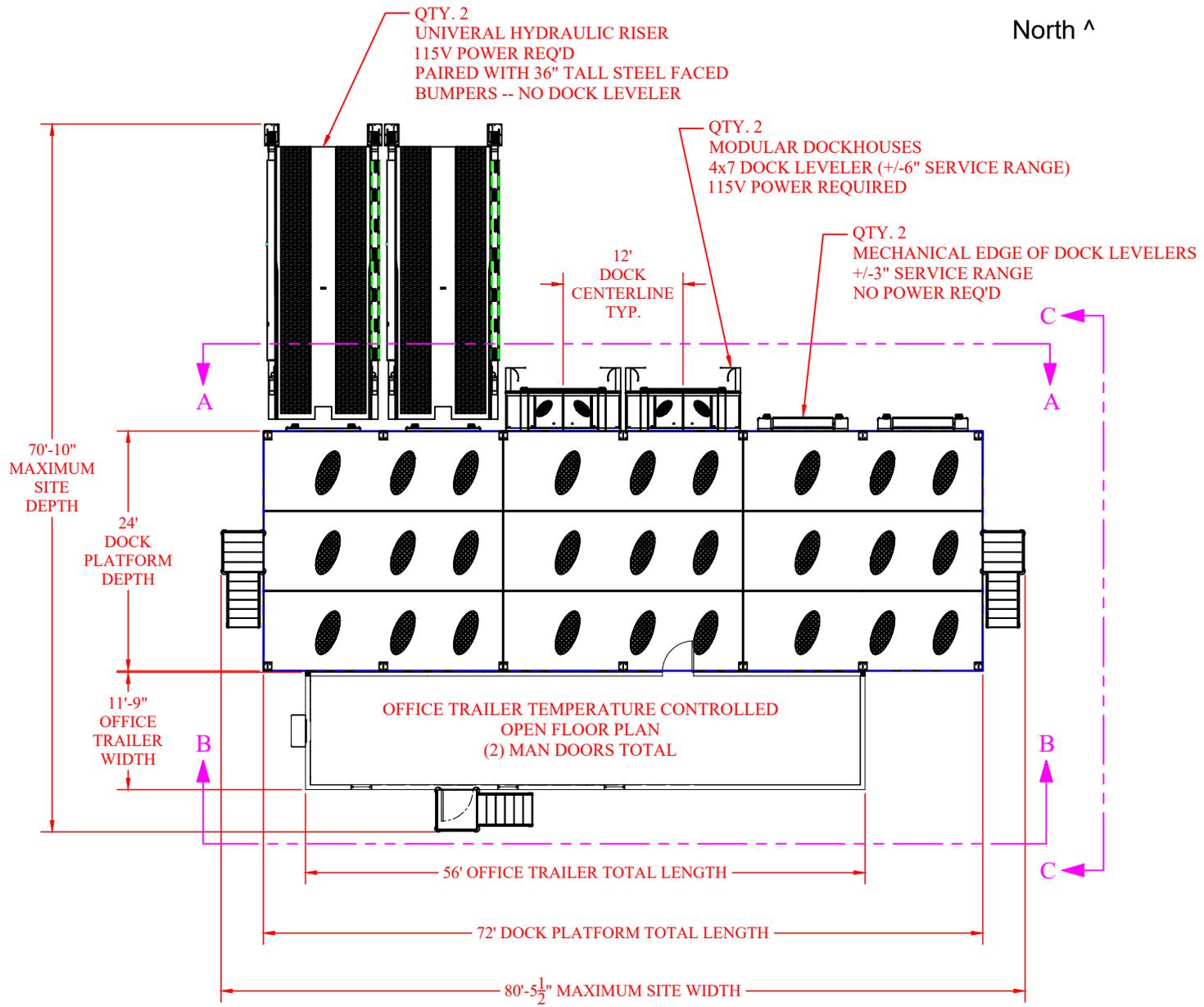
- 9. Contractor shall submit and receive approval for a final circulation and drainage plan by the Town Engineer.**
- 10. Per the absolute temporary structure policy, 9-1-19-36A, revegetation of any disturbed area will be required after removal of the temporary structure.**
- 11. The contractor shall submit and receive Planning Department approval of any exterior lighting proposed.**
- 12. The contractor shall submit and receive Planning Department approval for any signage proposed. Any signage will be limited to a maximum of 20 square feet. No signage shall be displayed on or integrated into the canvas covering of the structure.**

Town Project Hearing Impact Analysis				
Project:	Tiger Dredge Temporary Delivery Sprung Structure	Positive Points	+7	
PL:	PL-2024-0045			
Date:	3/20/2024	Negative Points	- 7	
Staff:	Sarah Crump, AICP, Planner III			
		Total Allocation:	0	
Items left blank are either not applicable or have no comment				
Sect.	Policy	Range	Points	Comments
1/A	Codes, Correlative Documents & Plat Notes	Complies		
2/A	Land Use Guidelines	Complies		Surface parking is an existing and commercial use is allowed use on the property.
2/R	Land Use Guidelines - Uses	4x(-3/+2)		
2/R	Land Use Guidelines - Relationship To Other Districts	2x(-2/0)		
2/R	Land Use Guidelines - Nuisances	3x(-2/0)		
3/A	Density/Intensity	Complies		
3/R	Density/ Intensity Guidelines	5x (-2>-20)		
4/R	Mass	5x (-2>-20)		
5/A	Architectural Compatibility	Complies		
5/R	Architectural Compatibility - Aesthetics	3x(-2/+2)	- 6	Non-natural material that covers more than 75 percent of any façade.
6/A	Building Height	Complies		21'10" overall, complies
6/R	Relative Building Height - General Provisions	1X(-2,+2)		
	For all structures except Single Family and Duplex Units outside the Historic District			
6/R	Building Height Inside H.D. - 23 feet	(-1>-3)		
6/R	Building Height Inside H.D. - 25 feet	(-1>-5)		
6/R	Building Height Outside H.D. / Stories	(-5>-20)		
6/R	Density in roof structure	1x(+1/-1)		
6/R	Broken, interesting roof forms that step down at the edges	1x(+1/-1)		
	For all Single Family and Duplex/Multi-family Units outside the Conservation District			
6/R	Density in roof structure	1x(+1/-1)		
6/R	Broken, interesting roof forms that step down at the edges	1x(+1/-1)	- 1	Greater than 50' unbroken ridgeline.
6/R	Minimum pitch of eight in twelve (8:12)	1x(0/+1)		
7/R	Site and Environmental Design - General Provisions	2X(-2/+2)		
7/R	Site and Environmental Design / Site Design and Grading	2X(-2/+2)		
7/R	Site and Environmental Design / Site Buffering	4X(-2/+2)		
7/R	Site and Environmental Design / Retaining Walls	2X(-2/+2)		
7/R	Site and Environmental Design / Driveways and Site Circulation Systems	4X(-2/+2)		
7/R	Site and Environmental Design / Site Privacy	2X(-1/+1)		
7/R	Site and Environmental Design / Wetlands	2X(0/+2)		
7/R	Site and Environmental Design / Significant Natural Features	2X(-2/+2)		
8/A	Ridgeline and Hillside Development	Complies		
9/A	Placement of Structures	Complies		
9/R	Placement of Structures - Public Safety	2x(-2/+2)		
9/R	Placement of Structures - Adverse Effects	3x(-2/0)		
9/R	Placement of Structures - Public Snow Storage	4x(-2/0)		
9/R	Placement of Structures - Setbacks	3x(0/-3)		
12/A	Signs	Complies		
13/A	Snow Removal/Storage	Complies		
13/R	Snow Removal/Storage - Snow Storage Area	4x(-2/+2)		
14/A	Storage	Complies		
14/R	Storage	2x(-2/0)		
15/A	Refuse	Complies		
15/R	Refuse - Dumpster enclosure incorporated in principal structure	1x(+1)		
15/R	Refuse - Rehabilitated historic shed as trash enclosure	1x(+2)		
15/R	Refuse - Dumpster sharing with neighboring property (on site)	1x(+2)		
16/A	Internal Circulation	Complies		
16/R	Internal Circulation / Accessibility	3x(-2/+2)		
16/R	Internal Circulation - Drive Through Operations	3x(-2/0)		
17/A	External Circulation	Complies		
18/A	Parking	Complies		
18/R	Parking - General Requirements	1x(-2/+2)		
18/R	Parking-Public View/Usage	2x(-2/+2)		
18/R	Parking - Joint Parking Facilities	1x(+1)		

18/R	Parking - Common Driveways	1x(+1)		
18/R	Parking - Downtown Service Area	2x(-2+2)		
19/A	Loading	Complies		
20/R	Recreation Facilities	3x(-2/+2)		
21/R	Open Space - Private Open Space	3x(-2/+2)		
21/R	Open Space - Public Open Space	3x(0/+2)		
22/A	Landscaping	Complies		
22/R	Landscaping	2x(-1/+3)		
24/A	Social Community	Complies		
24/A	Social Community / Above Ground Density 12 UPA	(-3>-18)		
24/A	Social Community / Above Ground Density 10 UPA	(-3>-6)		
24/R	Social Community - Employee Housing	1x(-10/+10)		
24/R	Social Community - Community Need	3x(0/+2)	+3	Addresses two of the 2023 Council Goals.
24/R	Social Community - Social Services	4x(-2/+2)		
24/R	Social Community - Meeting and Conference Rooms	3x(0/+2)		
5/R	Social Community - Conservation District	3x(-5/0)		
24/R	Social Community - Historic Preservation	3x(0/+5)		
24/R	Social Community - Primary Structures - Historic Preservation/Restoration - Benefit	+1/3/6/9/12		
24/R	Social Community - Secondary Structures - Historic Preservation/Restoration - Benefit	+1/2/3		
24/R	Social Community - Moving Primary Structures	-3/10/15		
24/R	Social Community - Moving Secondary Structures	-3/10/15		
24/R	Social Community - Changing Orientation Primary Structures	-10		
24/R	Social Community - Changing Orientation Secondary Structures	-2		
24/R	Social Community - Returning Structures To Their Historic Location	+2 or +5		
25/R	Transit	4x(-2/+2)		
26/A	Infrastructure	Complies		
26/R	Infrastructure - Capital Improvements	4x(-2/+2)	+4	In Capital Improvements Plan 2023
27/A	Drainage	Complies		Preliminary drainage plan approved by Engineering.
27/R	Drainage - Municipal Drainage System	3x(0/+2)		
28/A	Utilities - Power lines	Complies		
29/A	Construction Activities	Complies		
30/A	Air Quality	Complies		
30/R	Air Quality - wood-burning appliance in restaurant/bar	-2		
30/R	Beyond the provisions of Policy 30/A	2x(0/+2)		
31/A	Water Quality	Complies		
31/R	Water Quality - Water Criteria	3x(0/+2)		
32/A	Water Conservation	Complies		
33/R	Energy Conservation			
	HERS index for Residential Buildings			
33/R	Obtaining a HERS index	+1		
33/R	HERS rating = 61-80	+2		
33/R	HERS rating = 41-60	+3		
33/R	HERS rating = 19-40	+4		
33/R	HERS rating = 1-20	+5		
33/R	HERS rating = 0	+6		
	Commercial Buildings - % energy saved beyond the IECC minimum standards			
33/R	Savings of 10%-19%	+1		
33/R	Savings of 20%-29%	+3		
33/R	Savings of 30%-39%	+4		
33/R	Savings of 40%-49%	+5		
33/R	Savings of 50%-59%	+6		
33/R	Savings of 60%-69%	+7		
33/R	Savings of 70%-79%	+8		
33/R	Savings of 80% +	+9		
33/R	Heated driveway, sidewalk, plaza, etc.	1X(-3/0)		
33/R	Outdoor commercial or common space residential gas fireplace (per fireplace)	1X(-1/0)		
33/R	Large Outdoor Water Feature	1X(-1/0)		
	Other Design Feature	1X(-4/+4)		
34/A	Hazardous Conditions	Complies		
34/R	Hazardous Conditions - Floodway Improvements	3x(0/+2)		
35/A	Subdivision	Complies		

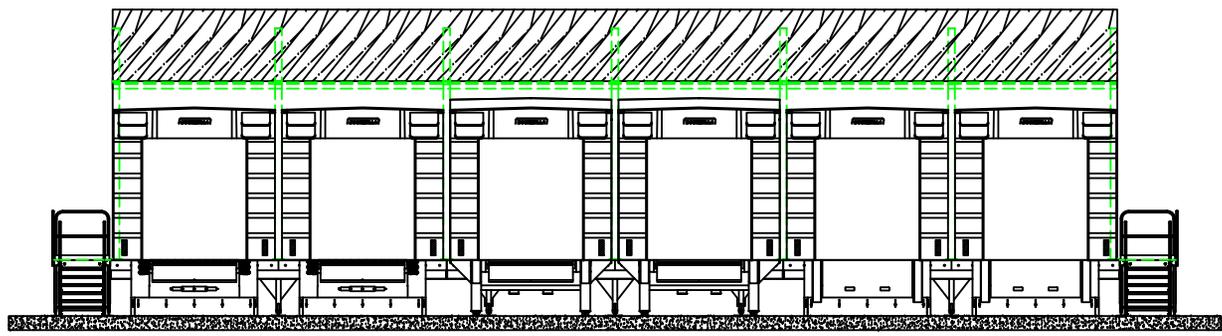
36/A	Temporary Structures	Complies	Fails	Fails policy; temporary structure does not replace an existing structure that is under repair or reconstruction.
37/A	Special Areas	Complies		
37/R	Special Areas - Community Entrance	4x(-2/0)		
37/R	Special Areas - Individual Sites	3x(-2/+2)		
37/R	Special Areas - Blue River	2x(0/+2)		
37R	Special Areas - Cucumber Gulch/Setbacks	2x(0/+2)		
37R	Special Areas - Cucumber Gulch/Impervious Surfaces	1x(0/-2)		
38/A	Home Occupation	Complies		
38.5/A	Home Childcare Businesses	Complies		
39/A	Master Plan	Complies		
40/A	Chalet House	Complies		
41/A	Satellite Earth Station Antennas	Complies		
42/A	Exterior Loudspeakers	Complies		
43/A	Public Art	Complies		
43/R	Public Art	1x(0/+1)		
44/A	Radio Broadcasts	Complies		
45/A	Special Commercial Events	Complies		
46/A	Exterior Lighting	Complies		
47/A	Fences, Gates And Gateway Entrance Monuments	Complies		
48/A	Voluntary Defensible Space	Complies		
49/A	Vendor Carts	Complies		
50/A	Wireless Communications Facilities	Complies		

North ^

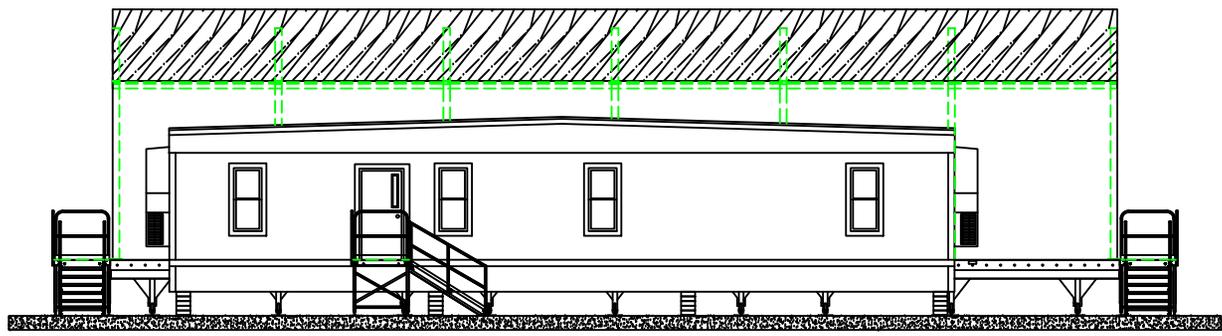


MATERIAL:		WEIGHT:	
ALL DIMENSIONS IN INCHES TOLERANCES UNLESS OTHERWISE SPECIFIED: .X = ± .125 .XX = ± .062 .XXX = ± .031 .XXXX = ± .016 ANGLES = ± 1.0°		DO NOT SCALE DRAWING DATE: MM-DD-YYYY 03/07/24 DRAWN BY: C. BAKEMAN CHECKED BY: _____ APPROVED BY: _____	
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THIRD ANGLE PROJECTION 		SCALE: N/A	SIZE: A
		SHEET: 1 of 3	REV: --

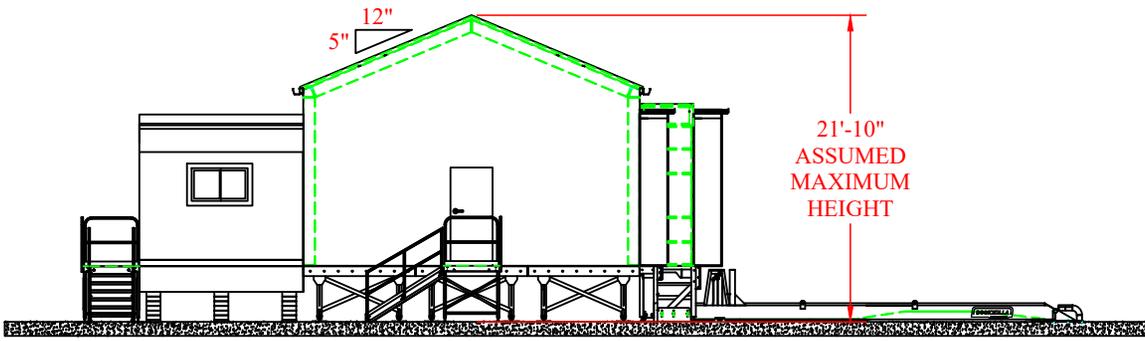
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SECTION A:A North Elevation



SECTION B:B South Elevation

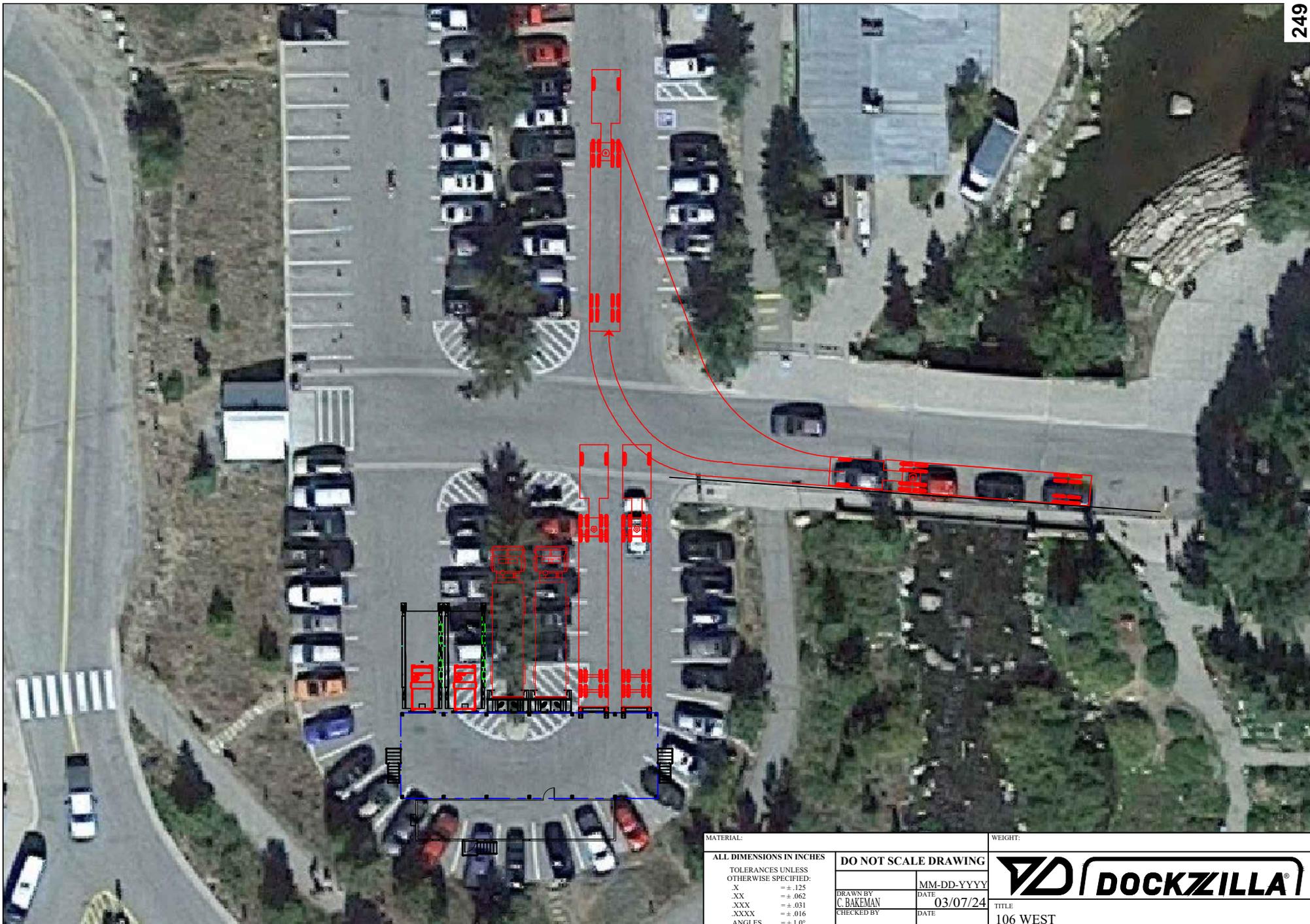


SECTION C:C East Elevation

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MATERIAL:		WEIGHT:	
ALL DIMENSIONS IN INCHES TOLERANCES UNLESS OTHERWISE SPECIFIED: .X = ± .125 .XX = ± .062 .XXX = ± .031 .XXXX = ± .016 ANGLES = ± 1.0°		DO NOT SCALE DRAWING	
DRAWN BY C. BAKEMAN		MM-DD-YYYY DATE 03/07/24	
CHECKED BY		DATE	
APPROVED BY		DATE	
THIRD ANGLE PROJECTION			
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TITLE 106 WEST BRECKENRIDGE, CO PRELIMINARY DRAWINGS			
DWG NO DZS 22129			
SCALE N/A	SIZE A	SHEET 2 of 3	REV --



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MATERIAL:		WEIGHT:	
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APPROVED BY: DATE:		THIRD ANGLE PROJECTION 	
SCALE: N/A	SIZE: A	SHEET: 3 of 3	REV: --

Sarah Crump

From: Kathleen Sullivan <kathleenasullivan@icloud.com>
Sent: Thursday, March 14, 2024 11:47 AM
To: sarahc@townofbreckenridge.com.
Subject: Sprung structure

<p style='margin:0in;font-size:15px;font-family:"Calibri",sans-serif;'>External Message - Please confirm you know the sender!</p>

Sarah,

Thank you for taking the time to talk to me. I think the placement of the “sprung “structure is absolutely wrong. This lot is used by residents to attend performances at the Riverwalk Center, to shop in town, and for functions, such as the ice sculptures.

The lot is aesthetically in sync with the Riverwalk Center but this structure will be hideous.

The resulting traffic to Park and the roundabout will be a nightmare.

PLEASE do not put any structure in this lot. Put it on Ridgeway, since the deliveries will be going there.

Kathleen A. Sullivan
B-203 PP
901-336-0778
Sent from my iPhone

From: [Henning Falster](#)
To: [Sarah Crump](#)
Subject: Tiger Dredge Delivery Service Temporary Sprung Structure
Date: Tuesday, March 19, 2024 10:24:30 AM

External Message - Please confirm you know the sender!

Breckenridge Planning Commission!

As a homeowner and taxpayer in Summit County, I received a notice in reference to the Subject matter above. It is understandable that the town remains vigilant about traffic congestion as it relates to both cars and commercial vehicles. However, it baffles me that the Planning Commission is looking to erect a transfer station structure within the downtown area and in the process lose 41 prime parking spaces. Every effort should be made to keep commercial traffic from the downtown area and out on Airport Road where many commercial businesses already exist. I believe the town already owns the Breckenridge Parking Lot on Airport Road. Why isn't that location being recommended which will keep most trucks away from the downtown area. It would be a minor inconvenience for the smaller local electric trucks/vans to transfer goods from there to town businesses.

This parking lot is quite large and losing about 40 parking spots shouldn't present a big problem, especially in comparison to losing 41 prime location spots in town.

It looks to me that the Planning Commission should investigate other and better options than the current location that is being considered.

Respectfully,

Henning Falster
Trails End #306
908-616-4746



TOWN OF BRECKENRIDGE
TOWN COUNCIL

Scheduled Meetings

Shading indicates Council required attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them.

March 2024

Tuesday, March 26th, 2024	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm
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April 2024

Tuesday, April 9th, 2024	Council Chambers	First Meeting of the Month	3:00 pm / 7:00 pm
Tuesday, April 23rd, 2024	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm

May 2024

Tuesday, May 14th, 2024	Council Chambers	First Meeting of the Month	3:00 pm / 7:00 pm
Tuesday, May 28th, 2024	Council Chambers	Second Meeting of the Month	3:00 pm / 7:00 pm

Other Meetings

March 25th, 2024	Open Space & Trails Meeting	5:30pm
March 26th, 2024	Board of County Commissioners Meeting	9:00am / 1:30pm
March 28th, 2024	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	NWCCOG Board Meeting	10:00am
	RW&B Board Meeting	3:00pm
	Breck Create	3:30pm
April 2nd, 2024	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
April 3rd, 2024	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	3:00pm
April 9th, 2024	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
April 11th, 2024	Upper Blue Sanitation District	5:30pm
April 15th, 2024	Social Equity Advisory Commission	7:30am
	Summit Combined Housing Authority	9:00am
April 16th, 2024	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
April 22nd, 2024	Open Space & Trails Meeting	5:30pm
April 23rd, 2024	Board of County Commissioners Meeting	9:00am / 1:30pm



Scheduled Meetings

Shading indicates Council required attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them.

April 25th, 2024	Summit Stage Transit Board Meeting	8:15am
	Breckenridge Tourism Office Board Meeting	8:30am
	NWCCOG Board Meeting	10:00am
	RW&B Board Meeting	3:00pm
May 1st, 2024	Police Advisory Committee	7:30am
	Breckenridge Events Committee	9:00am
	Childcare Advisory Committee	10:00am
	I-70 Coalition	11:30am
May 7th, 2024	Board of County Commissioners Meeting	9:00am
	Planning Commission Meeting	5:30pm
May 8th, 2024	Breckenridge History	Noon
May 9th, 2024	Upper Blue Sanitation District	5:30pm
May 14th, 2024	Board of County Commissioners Meeting	9:00am / 1:30pm
	Workforce Housing Committee	10:30am
May 20th, 2024	Social Equity Advisory Commission	7:30am
	Summit Combined Housing Authority	1:00pm
May 21st, 2024	Board of County Commissioners Meeting	9:00am
	Liquor & Marijuana Licensing Authority	9:00am
	Planning Commission Meeting	5:30pm
June 13th, 2024	QQ - Quality and Quantity - Water District	10:00am
June 27th, 2024	Breck Create	3:30pm
July 10th, 2024	Breckenridge History	Noon
TBD	Tourism Overlay District Advisory Committee Meeting	10:30am
	Transit Advisory Council Meeting	8:00am
	Water Task Force Meeting	9:30am