

## TOWN OF BRECKENRIDGE

### NOTICE OF PUBLIC HEARING ON PROPOSED DEVELOPMENT AGREEMENT

**NOTICE IS HEREBY GIVEN** that a public hearing will be held before the Town Council of the Town of Breckenridge on Tuesday, June 26, 2018 at 7:00 P.M., or as soon thereafter as the matter may be heard, in the Town Council Chambers, 150 Ski Hill Road, Breckenridge, Colorado, for the purpose of considering the adoption of Council Bill No. 14, Series 2018, entitled "An Ordinance Approving a Development Agreement With M. K. Development Corporation, a Colorado Corporation." If adopted, Council Bill No. 14, Series 2018 will approve and authorize the Town to enter into a Development Agreement with M. K. Development Corporation, a Colorado Corporation.

The proposed Development Agreement authorizes the Planning Commission to review, and if appropriate approve (subject to compliance with all other applicable development policies of the Town) an application for a development permit to construct a total of thirty (32) rental apartments on Lot 2B, Block 10, Breckenridge Airport Subdivision, Town of Breckenridge, County of Summit and State of Colorado; also known as 1910 Airport Road, Breckenridge, Colorado 80424.

If approved, the Development Agreement will provide as follows:

The Town will: (i) not assess any negative points under Section 9-1-19-3A, "Policy 3 (Relative) Density/Intensity" of the Town of Breckenridge Development Code (Chapter 1 of Title 9 of the Breckenridge Town Code) for up to 24,000 square feet of density (15,300 square feet of density is currently allowed); (ii) not assess any negative points under Section 9-1-19-4A, "Policy 4 (Relative) Mass" of the Town of Breckenridge Development Code for up to 27,000 square feet of mass (15,828 square feet of mass is currently allowed); (iii) measure the building height for the development from finished grade rather than existing grade (prior to fill); (iv) waive Town permit fees and water plant investment fees (PIFs) for all thirty two (32) rental apartments; (v) convey to M. K. Development Corporation Town-owned real property described as Lot 1, Denison Placer Subdivision, Town of Breckenridge, County of Summit and State of Colorado; also known as 1930 Airport Road, Breckenridge, Colorado 80424, for use in connection with the development of the thirty two (32) rental apartments; (vi) provide the density (through transferable development rights owned by the Town) to offset the density overage of 8,700 square feet for the deed restricted units to be constructed by M. K. Development Corporation (see below); and (vii) allow fill and site work to occur for the housing project prior to issuance of the building permit subject to approval by the Town Engineer.

In return, M. K. Development Corporation will: (i) deed restrict all thirty two (32) rental apartments to be constructed by it – (a) sixteen (16) of the rental apartments will be priced affordable to 85% AMI (Area Median Income) and occupancy of such apartments will be restricted to local employees; and (b) sixteen (16) of the rental apartments will be restricted by preventing the short term rental (less than 3 months) of such apartments; (ii) comply with all other applicable policies of the Town of Breckenridge Development Code; (iii) execute a First Right of Refusal Agreement whereby the Town will have the right to acquire the all of the land upon which the thirty two (32) rental apartments will be constructed if M. K. Development Corporation sells such property; and (iv) enter into a restrictive covenant for the benefit of the Town of Breckenridge prohibiting the conversion of any of the thirty two (32) rental apartments to 'for sale' condominiums.

The summary description of the propose Development Agreement set forth in this Notice is not intended to be complete or comprehensive; there are other provisions of the Development Agreement. Interested parties should obtain and review the full text of the proposed Development Agreement to ascertain the complete substance of the proposed agreement. Copies of the ordinance and the proposed Development Agreement are available for inspection and copying at the Town Clerk's office, 150 Ski Hill Road, Breckenridge, Colorado during normal business hours, Monday through Friday. Inquiries concerning the proposed ordinance and Development Agreement may be directed to Laurie Best, Senior Planner, in the Town's Department Community Development at (970)547-3112. Interested parties are urged to attend the public hearing.

GIVEN PURSUANT TO SECTION 9-9-10(D) OF THE BRECKENRIDGE TOWN CODE.

By: Helen Cospolich, CMC,  
Town Clerk

**AS APPROVED ON FIRST READING – JUNE 5**

COUNCIL BILL NO. 14

Series 2018

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH  
M. K. DEVELOPMENT CORPORATION, A COLORADO CORPORATION

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

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

A. The Developer owns or controls Lot 2B, Block 10, Breckenridge Airport Subdivision, Town of Breckenridge, County of Summit and State of Colorado; also known as 1910 Airport Road, Breckenridge, Colorado 80424 (the “**Developer’s Property**”).

B. The Town owns Lot 1, Denison Placer Subdivision, Town of Breckenridge, County of Summit and State of Colorado; also known as 1910 Airport Road, Breckenridge, Colorado 80424 (the “**Town’s Property**”).

C. The Town’s Property is located immediately adjacent to the Developer’s Property.

D. The Developer proposes to develop a total of thirty two (32) rental apartments on a site that consists of both the Developer’s Property and the Town’s Property (the “**Development Parcel**”).

E. The Developer’s proposed thirty two (32) rental apartments are to be located in two (s) buildings of three (3) stories each.

F. The total density and mass of the Developer’s proposed development exceeds the allowed density and mass under the Town’s land use regulations. Also, the height of the Developer’s proposed development is taller than is allowed under the Town’s land use regulations.

G. Without a development agreement the Developer’s proposed development is not possible because of the density, mass, and proposed height of the proposed apartment buildings.

H. Pursuant to Chapter 9 of Title 9 of the Breckenridge Town Code the Town Council has the authority to enter into a development agreement.

I. As the commitments encouraged to be made in connection with an application for a development agreement pursuant to Section 9-9-4 of the Breckenridge Town Code, the Developer has agreed to impose significant rental and occupancy restrictions on the apartments to be located within the proposed development, all as more fully set forth in the proposed Development Agreement (the “**Development Agreement**”).

J. Subject to the requirements of the proposed Development Agreement, the Town has

agreed to convey the Town Property to the Developer for use in the construction of the Developer's proposed development.

K. The Town Council finds and determines that there is a substantial public benefit that will accrue from the construction of the Developer's proposed housing project as provided in the proposed Development Agreement, namely, that the private sector (and not the Town) will construct a minimum of sixteen (16) rental apartments that: (i) are perpetually committed to being rented at a monthly rental rate not greater than eighty five percent (85%) of the Area Median Income (AMI); and (ii) are further restricted in perpetuity to being occupied by persons actually employed in Summit County. The Developer's proposal will result in the construction of at least twice the number of restricted beds that could have been accommodated had the Town developed the Town Property as it had contemplated. Further, under the proposed Development Agreement it is reasonably possible that the total number of perpetually rent and occupancy restricted apartments may increase to a total of thirty two (32) apartments. Finally, the construction of the restricted apartments by the Developer will relieve the Town of the substantial financial and administrative burdens of constructing the affordable, restricted rental apartments that are agreed to be constructed by the Developer as described in the proposed Development Agreement.

L. The Town Council has: (i) received a completed application and all required submittals for a development agreement; (ii) reviewed the proposed Development Agreement; (iii) conducted a preliminary discussion of the application and the proposed Development Agreement; (iv) determined that the proposed Development Agreement need not be referred to the Breckenridge Planning Commission for its review and recommendation; and (v) further determined that it should commence proceedings for the approval of the proposed Development Agreement.

M. The approval of the proposed Development Agreement is warranted in light of all relevant circumstances.

N. The procedures to be used to review and approve a development agreement are provided in Chapter 9 of Title 9 of the Breckenridge Town Code. The requirements of such Chapter have substantially been met or waived in connection with the approval of the proposed Development Agreement and the adoption of this ordinance.

O. Section 15.3 of the Breckenridge Town Charter provides that the Town Council may lawfully authorize the conveyance of Town-owned real property by ordinance.

Section 2. Approval of Development Agreement. The Development Agreement between the Town and M. K. Development Corporation, a Colorado corporation (**Exhibit "A"** hereto), is approved, and the Town Manager is authorized, empowered, and directed to execute such agreement for and on behalf of the Town of Breckenridge.

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

