



TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, JUNE 14, 2016
TOWN COUNCIL RETREAT BEGINS AT NOON – 140 WEST BEAVER CREEK BOULEVARD
AVON LIQUOR AUTHORITY MEETING BEGINS AT 5:00 PM
REGULAR MEETING BEGINS AT 5:05 PM
AVON TOWN HALL, ONE LAKE STREET

TOWN COUNCIL RETREAT BEGINS AT NOON

AVON LIQUOR LICENSING AUTHORITY MEETING BEGINS AT 5:00 PM (SEE SEPARATE AGENDA PAGE 3)

REGULAR MEETING BEGINS AT 5:05 PM

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT – COMMENTS ARE WELCOME ON ITEMS NOT LISTED ON THE FOLLOWING AGENDA**
- 4. WORK SESSION**
 - 4.1 DESTIMETRICS PRESENTATION (RALF GARRISON, PRESIDENT, DESTIMETRICS)
- 5. ACTION ITEMS**
 - 5.1. FIRST READING ORDINANCE 16-13, APPROVING REZONING OF LOTS 1, 2A, 2B, 2C, 3 AND 5, MOUNTAIN VISTA RESORT SUBDIVISION, FROM PUD TO TOWN CENTER ZONE DISTRICT (PLANNING DIRECTOR MATT PIELSTICKER)
 - 5.2. FIRST READING ORDINANCE 16-14, APPROVING REZONING LOT 4, MOUNTAIN VISTA RESORT SUBDIVISION, FROM PUD TO PUBLIC FACILITIES ZONE DISTRICT (PLANNING DIRECTOR MATT PIELSTICKER)
 - 5.3. FIRST READING ORDINANCE 16-11, AMENDING AVON MUNICIPAL CODE SECTIONS 5.12.090, 110, AND 120 CONCERNING VEHICLE IMPOUNDMENT (TOWN ATTORNEY ERIC HEIL)
 - 5.4. FIRST READING ORDINANCE 16-12, AMENDING AVON MUNICIPAL CODE TITLE 15 TO REQUIRE CERTAIN INFORMATION PROVIDED TO THE TOWN PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY OR CERTIFICATE OF COMPLIANCE (ASSISTANT TOWN MANAGER SCOTT WRIGHT)
 - 5.5. **PUBLIC HEARING** AND MOTION TO CONTINUE RESOLUTION 16-16, APPROVING THE MEZA PUD AMENDMENT FOR LOT 110, BLOCK 1, WILDRIDGE SUBDIVISION TO JUNE 28, 2016 - CONTINUED FROM THE MAY 24, 2016 COUNCIL MEETING (PLANNING DIRECTOR MATT PIELSTICKER)
 - 5.6. **PUBLIC HEARING** SECOND READING OF ORDINANCE 16-10 AUTHORIZING THE ACQUISITION OF A REAL PROPERTY INTEREST IN LOT 1B, BUCK CREEK SUBDIVISION, TOWN OF AVON (TOWN ATTORNEY ERIC HEIL)
 - 5.7. MINUTES FROM MAY 24, 2016 (DEPUTY TOWN CLERK BRENDA TORRES)

MEETING AGENDAS & PACKETS ARE FOUND AT: [HTTP://WWW.AVON.ORG](http://www.avon.org)
AGENDAS ARE POSTED AT AVON TOWN HALL, RECREATION CENTER, AVON PUBLIC LIBRARY & AVON ELEMENTARY SCHOOL
IF YOU HAVE ANY SPECIAL ACCOMMODATION NEEDS, PLEASE, IN ADVANCE OF THE MEETING,
CALL TOWN CLERK DEBBIE HOPPE AT 970-748-4001 OR EMAIL DHOPPE@AVON.ORG WITH ANY SPECIAL REQUESTS.



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6. WORK SESSION

6.1. REVIEW OF COMMUNITY GRANTS POLICY & PROCEDURES FOR SOLICITATION, EVALUATION & FUNDING
(EXECUTIVE ASSISTANT TO THE TOWN MANAGER PRESTON NEILL)

7. WRITTEN REPORTS

8. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR

8.1. AFFORDABLE HOUSING BOARD (COUNCILOR MEGAN BURCH)

9. MAYOR & COUNCIL COMMENTS

10. EXECUTIVE SESSION: PURSUANT TO COLORADO REVISED STATUTE 24-6-402(4)(F) FOR THE PURPOSE OF DISCUSSING PERSONNEL MATTERS RELATED TO THE ANNUAL PERFORMANCE REVIEW OF THE TOWN MANAGER

11. ADJOURNMENT

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TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, JUNE 14, 2016
AVON LIQUOR AUTHORITY MEETING BEGINS AT 5:00 PM
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF AGENDA

3. PUBLIC COMMENT

4. RENEWAL OF LIQUOR LICENSES

- 4.1. APPLICANT: YERF, LLC D/B/A TICINO ITALIAN RESTAURANT
LOCATION: 100 W. BEAVER CREEK BLVD. #127
TYPE: HOTEL & RESTAURANT
MANAGER: CHARLES FREY

5. PUBLIC HEARING SPECIAL EVENTS PERMIT

- 5.1. APPLICANT NAME: TEAM EVERGREEN BICYCLING CLUB
EVENT NAME: TRIPLE BYPASS BICYCLE RIDE
EVENT DATES: JULY 9, 2016; 11:00 A.M. UNTIL 8:00 P.M.
LOCATION: NOTTINGHAM LAKE PARK – UPPER SOCCER FIELD
EVENT MANAGER: JENNIFER ANDERSON
PERMIT TYPE: MALT, VINOUS & SPIRITUOUS LIQUOR

- 5.2. APPLICANT NAME: BRIGHT FUTURE FOUNDATION FOR EAGLE COUNTY
EVENT NAME: COVER ROCK MUSIC FESTIVAL
EVENT DATES: JUNE 25 & 26, 2016; 10:00 A.M. UNTIL 11:00 P.M.
LOCATION: NOTTINGHAM LAKE PARK
EVENT MANAGER: CASEY ANGEL
PERMIT TYPE: MALT, VINOUS & SPIRITUOUS LIQUOR

- 5.3. APPLICANT NAME: SAMANTHA REMINGTON ANGEL HEART FOUNDATION
EVENT NAME: REDS, WHITES & BREWS
EVENT DATES: JUNE 17, 2016; 6:00 PM UNTIL 8:00 PM
JUNE 18, 2016; 2:00 PM UNTIL 7:00 PM
LOCATION: NOTTINGHAM PARK
EVENT MANAGER: JEN RADUEG
PERMIT TYPE: MALT, VINOUS & SPIRITUOUS LIQUOR

6. MINUTES FROM MAY 24, 2016

7. ADJOURNMENT

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REPORT TO AVON LIQUOR LICENSING AUTHORITY

To: Avon Liquor Licensing Authority
From: Debbie Hoppe, Town Clerk
Date: June 14, 2016
Agenda topic: Renewal Application–Ticino Italian Restaurant

The Town Council serving as the Avon Liquor Licensing Authority will consider the following Liquor License Application for renewal at its Board meeting next week:

RENEWAL OF LIQUOR LICENSE

Applicant: YERF, LLC d/b/a Ticino Italian Restaurant
Location: 100 W. Beaver Creek Blvd. #127
Type: Hotel & Restaurant
Manager: Charles Frey

Colorado Liquor Code, 12-47-302, provides for guidelines related to liquor licensing renewals; applications for the renewal of an existing license shall be made to the local licensing authority. The Town Clerk, Town Attorney, and Police Department have reviewed the application submitted and referenced above and the materials are in order. The Police Report results show the following information:

YERF, LLC d/b/a Ticino Italian Restaurant:
There have been no concerns or violations during the past year.

The owner/manager has been invited to attend the Liquor Board meeting.

During the liquor license renewal process, the Liquor Authority has broad discretion to consider any character issues related to the licensee holder at renewal in the same manner as granting a license. If there have been various types of behavior, such as failure to pay taxes and fraud, the courts have held these behaviors as a valid reason to find the applicant does not possess character. The Colorado Liquor Code §12-47-302 sets forth the local authority's ability to hold a hearing on the application for renewal. It is also noted that a "yes or no action" only is required on renewals; there are no conditions that can be mandated in this process.

Attachments:

- ✓ State of Colorado Renewal Application Form
- ✓ Avon Police Department Summary Reports

**RETAIL LIQUOR OR 3.2 BEER
 LICENSE RENEWAL APPLICATION**

TICINO ITALIAN RESTAURANT
 PO BOX 749
 AVON CO 81620-0749

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

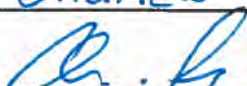
RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name YERF LLC		DBA TICINO ITALIAN RESTAURANT		
Liquor License # 42929280000	License Type Hotel & Restaurant (city)	Sales Tax License # 42929280000	Expiration Date 08/10/2016	Due Date 06/26/2016
Operating Manager Charles Frey	Date of Birth [REDACTED]	Home Address 1000 Homestead Tr. #30, Edwards CO 81632		
Manager Phone Number 970-331-9536	Email Address ticino.italian@gmail.com			
Street Address 100 W BEAVER CREEK BLVD UNIT 127 AVON CO 81620				Phone Number 9703319536 970-748-6792
Mailing Address PO BOX 749 AVON CO 81620-0749				

- Do you have legal possession of the premises at the street address above? YES NO
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease **May 31, 2019**
139. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO

AFFIRMATION & CONSENT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Charles Frey	Title Owner
Signature 	Date 5-14-2016

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For Town of Avon	Date
Signature	Title
	Attest

**Avon Police Department
Liquor License Application**

Individual Name(s): Charles Frey

Name of Business: YERF, LLC d/b/a Ticino Italian Restaurant

Type of License: Hotel & Restaurant
 Special Event Permit

Event Name:
Date of Event:

Location of Business: 100 W Beaver Creek Blvd #127
Avon, Colorado 81620

Date Received: 06/02/2016

Photographs/Fingerprints: On File
 Special Event – N/A

Investigation by:
 Detective Sergeant Jonathan Lovins
 Detective Jeremy Holmstrom

Date: 06/02/2016

CBI Criminal Investigation (attached): Clear

Local Criminal Investigation: No Problems

Comments: No negative contacts in the last 12 months.

Liquor Code Violations in the past calendar year: Yes No

If yes, explain: _____

Smoking violation in the past calendar year: Yes No

If yes, explain: _____

Background investigation conducted with no problems and or areas of concern.

N.C.I.C. database not accessed on this applicant.

Investigation Time: 2 hours.

Administration Time: 1 hour.



REPORT FOR AVON LIQUOR LICENSING AUTHORITY

To: Avon Liquor Licensing Authority
From: Debbie Hoppe, Town Clerk
Date: June 14, 2016
Agenda topic: SPECIAL EVENTS PERMIT APPLICATION – PUBLIC HEARING

ACTION BEFORE COUNCIL

The Town Council serving as the Local Liquor Licensing Authority will consider a Special Events Permit Application for the upcoming Triple Bypass Bicycle Ride. A public hearing is required before final action is taken.

Applicant Name: Team Evergreen Bicycling Club
Event Name: Triple Bypass Bicycle Ride
Event Dates: July 9, 2016; 11:00 am until 8:00 pm
Location: Nottingham Lake Park – Upper Soccer Field
Event Manager: Jennifer Anderson
Permit Type: Malt, Vinous & Spirituous Liquor

PROPOSED MOTION

I move to approve or deny the Special Events Permit application for the upcoming Triple Bypass event.

SUMMARY

The applicant has submitted the appropriate materials required by the State of Colorado Liquor Enforcement Division and all materials are in order. Team Evergreen Bicycling Club is applying for malt, vinous, spirituous liquor permit to serve/sell beverages at the Triple Bypass Bicycle Ride on May 23, 2016. The Nottingham Park premise has been posted with notice of the public hearing for this application. The event manager will be present to answer question about the application. There are local liquor licensing fees associated with the special event permit; the applicant has submitted the appropriate local fees.

BACKGROUND

Special Events permits are issued by the Liquor Enforcement Division and the Local Licensing Authority to allow particular types of organizations, municipalities, and political candidates to sell, serve or distribute alcohol beverages in connection with public events. Because of their temporary nature, needs and desires (reasonable requirements of the neighborhood) are not considered by the licensing authorities as a condition of issuance. Applications are made directly with the local licensing authority having jurisdictions over the place of the event. Article 48 of Title 12 regulates the issuance of special events permits. Note that these permits may only be issued for prescribed hours during the day and for not more than 15 days in any one calendar year.

SPECIAL EVENTS PERMIT APPLICATIONS ATTACHMENTS:

The applicants for the special events permit have submitted the following materials:

- ✓ Application for a Special Events Permits (State form DR 8439)
- ✓ Alcohol Management Plan
- ✓ Diagram where liquor will be served
- ✓ Certificate of Good Standing
- ✓ Proof of Insurance
- ✓ Police Report on Background Checks

COLORADO DEPARTMENT OF REVENUE
LIQUOR ENFORCEMENT DIVISION
1375 SHERMAN STREET
DENVER CO 80261
(303) 205-2300

APPLICATION FOR A SPECIAL EVENTS PERMIT

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT
AND ONE OF THE FOLLOWING (See back for details.)

- | | | |
|------------------------------------|--|--|
| <input type="checkbox"/> SOCIAL | <input checked="" type="checkbox"/> ATHLETIC | <input type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER | <input type="checkbox"/> POLITICAL CANDIDATE |
| <input type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION | |

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:
 2110 MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY
 2170 FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY

DO NOT WRITE IN THIS SPACE

LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE
Team Evergreen Cycling - Triple Bypass Bicycle Ride

State Sales Tax Number (Required)
26-15435

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE
(include street, city/town and ZIP)
Team Evergreen Cycling
PO Box 3804, Evergreen CO 80437

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT
(include street, city/town and ZIP)

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE Brian Weiss		450 E 17 Ave, #400 Denver, CO 80203	3039171451
5. EVENT MANAGER Jennifer Anderson		2095 Urban Drive, Lakewood CO 80215	3038988900

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?
 NO YES HOW MANY DAYS? _____

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?
 NO YES TO WHOM? _____

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? Yes No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Hours	From	To	a.m.	p.m.
7/9/2016	11	8			

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE <i>Jennifer Anderson</i>	TITLE <i>Triple Bypass Ride Director</i>	DATE <i>6/3/16</i>
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REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY) <i>Town of Avon</i>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK <i>(970) 748-4001</i>
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SIGNATURE	TITLE	DATE
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DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

LIABILITY INFORMATION

License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$.

(Instructions on Reverse Side)



TEAM EVERGREEN
CYCLING

TRIPLE BYPASS BICYCLE TOUR ALCOHOL MANAGEMENT PLAN SATURDAY JULY 9, 2016

This is Team Evergreen Bicycle Club's Signature event. Following the 120 mile ride, riders may enjoy a Finish Line Feast and a cold beer. This is included in their registration fee. We have 3,500 registered riders for Saturdays Triple Bypass. Food and beer will be available from 12:00pm – 8:00pm.

The finish line is on the upper soccer field at Nottingham Park in Avon. There will be three access points onto the field, with will be fenced off by Town of Avon using their barricade. Volunteers will be stationed at the access points to ensure no alcohol leaves the fence perimeter. Access points will also have "NO ALCOHOL BEYOND THIS POINT" signs.

Staff will include approximately 30 individuals, comprised of volunteers from Eagle Valley Humane Society, Team Evergreen Bicycle Club and Footer Catering. Approximately 5-9 people will be serving beer, checking ID's. Volunteers at the beer tent will be TIPS trained. The remainder of the volunteers and staff will be monitoring the participants in the infield.

2016 Triple Bypass Sponsors included:

- Primal Wear
- Clif Bar
- Bicycle Outfitters
- Optimize Endurance Services
- BikeSource
- Beaver Creek Resorts
- Prestige Imports
- Epic Mountain Gear
- Town of Avon

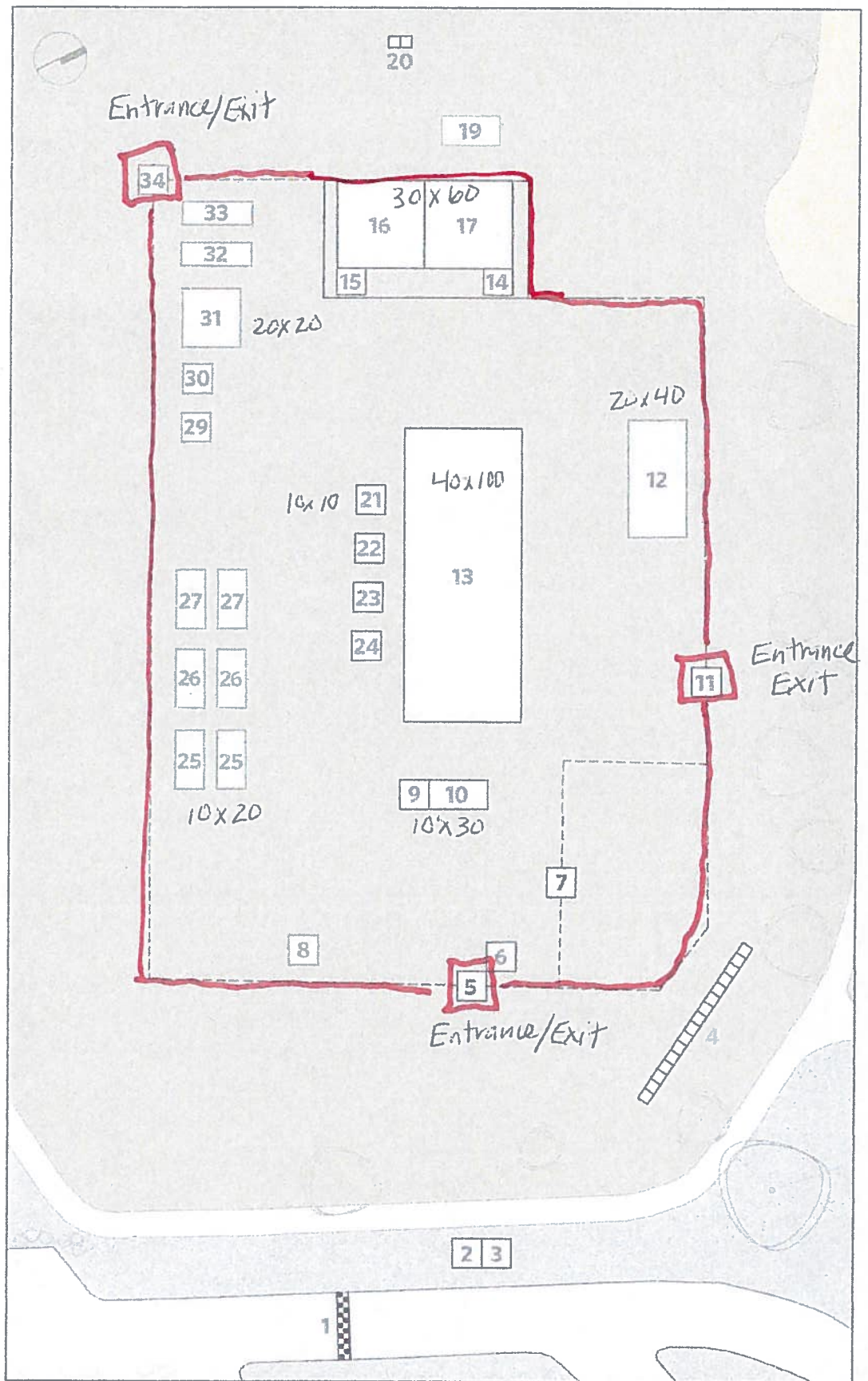
Team Evergreen Cycling is a non-profit organization. Over \$1.8 Million have been donated to local charities and towns from proceeds of the Triple Bypass.

Ride Director Contact information:

Jenny Anderson
PO Box 3804
Evergreen, CO 80437
Email: triple@triplebypass.org
Website: www.triplebypass.org

Office 720 560-2545
Cell 303 898-8900

- 1 Finish
- 2 Medals
- 3 Medals
- 4 Port-O-Lets
- 5 Entrance
- 6 Medical
- 7 Bike Lock-up
- 8 DJ
- 9 Triple Bypass
- 10 Triple Bypass
- 11 Entrance
- 12 Massage
- 13 Seating
- 14 Food Exit
- 15 Food Entrance
- 16 Footers Food
- 17 Footers Food
- 19 Footers Prep
- 20 Port-O-Lets
- 21 Ice Cream
- 22 Sponsor
- 23 Sponsor
- 24 Sponsor
- 25 Primal
- 26 Beer
- 27 Prestige
- 29 Changing Area
- 30 Double Bags
- 31 Luggage
- 32 Luggage Truck
- 33 Double Bags Truck
- 34 Entrance



OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF TRADE NAME

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office, a Statement of Trade Name for:

Team Evergreen Cycling

(Entity ID # 20131017824)

was filed in this office on 01/08/2013 with an effective date of 01/08/2013 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 05/11/2016 that have been posted, and by documents delivered to this office electronically through 05/13/2016 @ 11:18:30 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 05/13/2016 @ 11:18:30 in accordance with applicable law. This certificate is assigned Confirmation Number 9648873 .



A handwritten signature in blue ink that reads "Wayne W. Williams".

Secretary of State of the State of Colorado

*****End of Certificate*****
Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/hiz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/24/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER McKay Insurance Agency, Inc. 106 East Main Street P O Box 151 Knoxville IA 50138		CONTACT NAME: Terri Van Ryswyk PHONE (A/C No. Ext): (641) 842-2135 FAX (A/C No.): (641) 828-2013 E-MAIL ADDRESS: tvanryswyk@mckayinsagency.com	
INSURED Team Evergreen Cycling, DBA: Triple Bypass PO Box 3804 Evergreen CO 80437-3804		INSURER(S) AFFORDING COVERAGE INSURER A New Hampshire Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:CL1652446752** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	87083230	5/20/2016	1/1/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 Sexual Abuse - Occurence \$ 25,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> Physical Damage		01-CA-048194632-0/000 Comprehensive Ded 100 Collision Ded 1000	5/20/2016	1/1/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Limit \$ 100,000
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Liquor Liability CG2151-Scheduled Activities		87083230	5/20/2016	1/1/2017	Limit of Coverage 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
For the Triple Bypass Bike Ride, July 9-10, 2016. Town of Avon and its employees and officers are listed as an Additional Insured but only in regard to the liability arising out of the operations of the above named insured.

CERTIFICATE HOLDER Town of Avon PO Box 975 Avon, CO 81620	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Scott Ziller/TERRI
---	--

**Avon Police Department
Liquor License Application**

Individual Name(s): Jennifer Anderson
Brian Weiss

Name of Business: Team Evergreen Bicycling Club

Type of License: Hotel & Restaurant
 Special Event Permit

Event Name: Triple Bypass Bicycle Ride
Date of Event: July 11, 2015

Location of Business: Nottingham Lake Park - Upper Soccer Field
Avon, Colorado 81620

Date Received: 06/02/2016

Photographs/Fingerprints: On File
 Special Event - N/A

Investigation by: Detective Sergeant Jonathan Lovins
 Detective Jeremy Holmstrom

Date: 06/02/2016

CBI Criminal Investigation (attached): Clear

Local Criminal Investigation: No Problems.

Comments:

Liquor Code Violations in the past calendar year: Yes No

If yes, explain: _____

Smoking violation in the past calendar year: Yes No

If yes, explain: _____

Background investigation conducted with no problems and or areas of concern.

N.C.I.C. database not accessed on this applicant.

Investigation Time: 2 hours.

Administration Time: 1 hour.





LIQUOR LICENSING AUTHORITY REPORT

To: Avon Liquor Licensing Authority
From: Debbie Hoppe, Town Clerk
Meeting Date: June 14, 2016
Agenda topic: SPECIAL EVENTS PERMIT APPLICATION – PUBLIC HEARING

ACTION BEFORE COUNCIL

The Town Council serving as the Local Liquor Licensing Authority will consider a Special Events Permit Application for the upcoming Cover Rock Music Festival. A public hearing is required before final action is taken.

Applicant Name: Bright Future Foundation for Eagle County
Event Name: Cover Rock Music Festival
Event Dates: June 25 & 26, 2016; 10:00 am until 11:00 pm
Location: Nottingham Park
Event Manager: Casey Angel
Permit Type: Malt, Vinous & Spirituous Liquor

PROPOSED MOTION

I move to approve or deny the Special Events Permit application for the upcoming Cover Rock Music Festival event.

SUMMARY

The applicant has submitted the appropriate materials required by the State of Colorado Liquor Enforcement Division and all materials are in order. Bright Future Foundation for Eagle County is applying for malt, vinous, spirituous liquor permit to serve/sell beverages at the Cover Rock Music Festival on July 25 & 26, 2016. The Nottingham park premise has been posted with notice of the public hearing for this application. The event manager will be present to answer question about the application. There are local liquor licensing fees associated with the special event permit; the applicant has submitted the appropriate local fees.

BACKGROUND

Special Events permits are issued by the Liquor Enforcement Division and the Local Licensing Authority to allow particular types of organizations, municipalities, and political candidates to sell, serve or distribute alcohol beverages in connection with public events. Because of their temporary nature, needs and desires (reasonable requirements of the neighborhood) are not considered by the licensing authorities as a condition of issuance. Applications are made directly with the local licensing authority having jurisdictions over the place of the event. Article 48 of Title 12 regulates the issuance of special events permits. Note that these permits may only be issued for prescribed hours during the day and for not more than 15 days in any one calendar year.

SPECIAL EVENTS PERMIT APPLICATIONS ATTACHMENTS:

The applicants for the special events permit have submitted the following materials:

- ✓ Application for a Special Events Permits (State form DR 8439)
- ✓ Alcohol Management Plan
- ✓ Diagram where liquor will be served
- ✓ Certificate of Good Standing
- ✓ Proof of Insurance
- ✓ Police Report on Background Checks

APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

**IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT
AND ONE OF THE FOLLOWING (See back for details.)**

- | | | |
|------------------------------------|--|---|
| <input type="checkbox"/> SOCIAL | <input type="checkbox"/> ATHLETIC | <input checked="" type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER | <input type="checkbox"/> POLITICAL CANDIDATE |
| <input type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION | |

LIAB	TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:
2110 <input checked="" type="checkbox"/>	MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY
2170 <input type="checkbox"/>	FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY

DO NOT WRITE IN THIS SPACE

LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE Bright Future Foundation for Eagle County	State Sales Tax Number (Required) 84-0938374
--	--

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE
(include street, city/town and ZIP)

**PO Box 2558
Avon, CO 81620**

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT
(include street, city/town and ZIP)

**Nottingham Park
Avon, CO 81620**

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE Dr. Casey Angel, Psy D.		1060 W. Beaver Creek Blvd Suite 201, Av	970-949-7097
5. EVENT MANAGER Dr. Casey Angel, Psy D.		1060 W. Beaver Creek Blvd Suite 201, Av	970-949-7097

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?
 NO YES HOW MANY DAYS? **2**

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?
 NO YES TO WHOM? _____

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? Yes No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Hours	From	To
6/25/2016	10:00A	11:00P	
6/26/2016	10:00A	11:00P	

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE 	TITLE Clinical Director	DATE 5/11/16
---------------	-----------------------------------	------------------------

REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY) Town of Avon	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK (970) 748-4001
SIGNATURE	TITLE	DATE

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

LIABILITY INFORMATION			
License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$

Cover Rock Music Festival
Alcohol Management Plan

Submitted May 12, 2016

Event Dates – June 25 & 26

Event Overview:

On June 25th & 26th, Nottingham Park will host the first annual Cover Rock Music Festival. Taking place on Saturday and Sunday, from 10:00pm-11:00pm, Nottingham Park will host live music, food vendors and multiple bar tents.

Optimum Events, a nationally recognized concessionaire will be managing on behalf of the Bright Future Foundation a number of bar locations.

Who We Are:

True Local Radio, LLC – True Local Radio, LLC is a local Avon, Colorado based events company which is looking to make Cover Rock and annual event in Avon.

Bright Future Foundation – Mission Statement - Empower individuals and families affected by domestic violence and sexual assault to lead safe, productive lives through prevention services, advocacy, crisis intervention and recovery services.

Values Statement- Bright Future Foundation **empowers** survivors through:

- E** - Evidenced-based education
- M** - Multicultural Awareness
- P** - Prioritizing prevention
- O** - Outreach
- W** - Willingness to Listen
- E** - Encouragement
- R** - Respect
- S** - Safety, Security, and Self-sufficiency

Optimum Events & Entertainment – Optimum is an Eagle, Colorado based company which has been contracted to assist in the alcohol management of the Cover Rock Music Festival. Optimum has facilitated alcohol at similar events and on a national level for both music festivals and sporting events.

Licensed Premise:

Please see attached map – Special Event Liquor boundary outlined in the blue dotted line.

Entrance / Exits:

The venue will have one main entrance/exit with three additional “blow-out” exit points in the case of emergency.

Bar Staff Experience:

All bar staff working at the bar service location will be TIPS or Serve Safe Certified and all certification cards will be on file with Optimum should TOA ever want or need to see the physical credentials.

Control of Premise:

At all times during the service of alcohol and, or the presence of alcoholic beverages, there will be three licensed security personnel in the venue. The main focus of security will be to make sure no outside alcohol is brought into the license perimeter and that no alcohol sold by the event concessions leaves the venue.

Optimum will be checking ID’s for all persons who appear to be under the age of 30 years old. Upon a positive ID check, all attendees wishing to purchase alcoholic beverages will be issued a highly visible wristband which will show that they have been ID checked and are approved to buy and consume alcoholic beverages. Anyone who has a wristband but appears to be under the age of 25 will be ID checked again at the time of purchase.

The sale of alcoholic beverages whether beer, wine or spirits will be limited to two beverages per person and the service vessel will be no larger than 16oz.

All onsite bar tenders and Optimum staff as well as security reserve the right to refuse alcohol service for any reason including but not limited to any person who seems intoxicated, any person who cannot validate their age by the presence of a current state driver's license or state I.D. Other acceptable forms of I.D. include a valid US or other countries passport or valid military I.D.

Days and Hours of Operation:

Saturday – June 25, 2016 – Hours of Alcohol Service – 10:00AM – 11:00PM

Sunday – June 26, 2016 – Hours of Alcohol Service – 10:00AM – 11:00PM



Fencing

Porta Potties

ENTRANCE

Bike Racks

Box office/Merch

EMS

Water Id Check

ATM Medical

Mad Man

Hippie campsite

Food Trucks

Apollo Moon Landing Kid Zone

Beer

VIP TENT

VIP Area

VIP Deck

Bar

ADA Sound Board

Beer

-VW Bus

Avon Soccer Field Upper (East)

Harry A Nottingham Park

Lake St

Lake St

W Bench St

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Bright Future Foundation for Eagle County

is a

Nonprofit Corporation

formed or registered on 02/24/1984 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19871559077 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 05/13/2016 that have been posted, and by documents delivered to this office electronically through 05/16/2016 @ 11:38:50 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 05/16/2016 @ 11:38:50 in accordance with applicable law. This certificate is assigned Confirmation Number 9651341 .



A handwritten signature in blue ink that reads "Wayne W. Williams".

Secretary of State of the State of Colorado

*****End of Certificate*****
Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/19/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER		CONTACT NAME: Mike Koenig	
Rocky Mountain Ins & Financial		PHONE (A/C, No, Ext): (970) 926-7315	FAX (A/C, No): (970) 926-7364
PO Box 548		E-MAIL ADDRESS: mike@rmif.org	
Edwards		INSURER(S) AFFORDING COVERAGE	
CO 81632		INSURER A: LLOYDS	
		INSURER B: OHIO SECURITY INSURANCE COMPANY	
		INSURER C: TOKIO MARINE SPECIALTY INSURANCE	
		INSURER D: PINNACOL ASSURANCE	
		INSURER E:	
		INSURER F:	
INSURED		NAIC #	
Optimum Events & Entertainment		524210	
P.O. BOX 1644		24082	
Eagle		23850	
CO 81631		41190	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	17LB1035	07/18/2015	07/18/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 Liquor Liability \$ 1,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS	Y	BAS56629701	04/10/2016	04/10/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ 0	Y	PUB509460	07/18/2015	07/18/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 PR/COMP OPS AGG \$ 5,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	4179577	01/01/2016	01/01/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Coverstock Music Festival June 25th & 26th, 2016 ONLY

Additional Insured:

Town of Avon - it's elected officials, officers and employees as additional insured.

One Lake Street

Avon, CO 81620

CERTIFICATE HOLDER**CANCELLATION**

Town of Avon

One Lake Street

Avon

CO 81620

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2014 ACORD CORPORATION. All rights reserved.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/19/2016

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PRODUCER		CONTACT NAME: Mike Koenig	
Rocky Mountain Ins & Financial PO Box 548		PHONE (A/C, No, Ext): (970) 926-7315	FAX (A/C, No): (970) 926-7364
Edwards CO 81632		E-MAIL ADDRESS: mike@rmif.org	
INSURED		INSURER(S) AFFORDING COVERAGE	
Optimum Events & Entertainment P.O. BOX 1644		INSURER A: LLOYDS	NAIC # 524210
Eagle CO 81631		INSURER B: OHIO SECURITY INSURANCE COMPANY	24082
		INSURER C: TOKIO MARINE SPECIALTY INSURANCE	23850
		INSURER D: PINNACOL ASSURANCE	41190
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

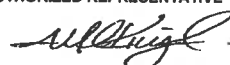
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	17LB1035	07/18/2015	07/18/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 Liquor Liability \$ 1,000,000
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y	BAS56629701	04/10/2016	04/10/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0	Y	PUB509460	07/18/2015	07/18/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 PR/COMP OPS AGG \$ 5,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	4179577	01/01/2016	01/01/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Coverstock Music Festival June 25th & 26th, 2016 ONLY

Additional Insured:
 Bright Future Foundation
 1060 W. Beaver Creek Blvd. Suite 201
 Avon, CO 81620

CERTIFICATE HOLDER **CANCELLATION**

Bright Future Foundation 1060 W. Beaver Creek Blvd. Suite 201 Avon CO 81620	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

© 1988-2014 ACORD CORPORATION. All rights reserved.

**Avon Police Department
Liquor License Application**

Individual Name(s): Casey Angel

Name of Business: Bright Future Foundation for Eagle County

Type of License: Hotel & Restaurant
 Special Event Permit

Event Name: Cover Rock Music Festival
Date of Event: June 25th & 26th 2016, 11:00A.M. to 8:00P.M.

Location of Business: Nottingham Lake Park
Avon, Colorado 81620

Date Received: 06/02/2016

Photographs/Fingerprints: On File
 Special Event – N/A

Investigation by:
 Detective Sergeant Jonathan Lovins
 Detective Jeremy Holmstrom

Date: 06/02/2016

CBI Criminal Investigation (attached): Clear

Local Criminal Investigation: No Problems

Comments:

Liquor Code Violations in the past calendar year: Yes No

If yes, explain: _____

Smoking violation in the past calendar year: Yes No

If yes, explain: _____

Background investigation conducted with no problems and or areas of concern.

N.C.I.C. database not accessed on this applicant.

Investigation Time: 2 hours.

Administration Time: 1 hour.





LIQUOR LICENSING AUTHORITY REPORT

To: Avon Liquor Licensing Authority
From: Debbie Hoppe, Town Clerk
Meeting Date: June 14, 2016
Agenda topic: SPECIAL EVENTS PERMIT APPLICATION – PUBLIC HEARING

ACTION BEFORE COUNCIL

The Town Council serving as the Local Liquor Licensing Authority will consider a Special Events Permit Application for the upcoming Reds, Whites & Brews event. A public hearing is required before final action is taken.

Applicant Name: Samantha Remington Angel Heart Foundation
Event Name: Reds, Whites & Brews
Event Dates: June 17, 2016; 6:00 pm until 8:00 pm
June 18, 2016; 2:00 pm until 7:00 pm
Location: Nottingham Park
Event Manager: Jen Radueg
Permit Type: Malt, Vinous & Spirituous Liquor

PROPOSED MOTION

I move to approve or deny the Special Events Permit application for the upcoming Reds, Whites & Brews event.

SUMMARY

The applicant has submitted the appropriate materials required by the State of Colorado Liquor Enforcement Division and all materials are in order. Samantha Remington Angel Heart Foundation is applying for malt, vinous, spirituous liquor permit to serve/sell beverages at the Reds, Whites & Brews event on June 17 & 18, 2016. The Nottingham park premise has been posted with notice of the public hearing for this application. The event manager will be present to answer question about the application. There are local liquor licensing fees associated with the special event permit; the applicant has submitted the appropriate local fees.

BACKGROUND

Special Events permits are issued by the Liquor Enforcement Division and the Local Licensing Authority to allow particular types of organizations, municipalities, and political candidates to sell, serve or distribute alcohol beverages in connection with public events. Because of their temporary nature, needs and desires (reasonable requirements of the neighborhood) are not considered by the licensing authorities as a condition of issuance. Applications are made directly with the local licensing authority having jurisdictions over the place of the event. Article 48 of Title 12 regulates the issuance of special events permits. Note that these permits may only be issued for prescribed hours during the day and for not more than 15 days in any one calendar year.

SPECIAL EVENTS PERMIT APPLICATIONS ATTACHMENTS:

The applicants for the special events permit have submitted the following materials:

- ✓ Application for a Special Events Permits (State form DR 8439)
- ✓ Alcohol Management Plan
- ✓ Diagram where liquor will be served
- ✓ Certificate of Good Standing
- ✓ Proof of Insurance
- ✓ Police Report on Background Checks

APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT AND ONE OF THE FOLLOWING (See back for details.)

- | | | |
|------------------------------------|--|---|
| <input type="checkbox"/> SOCIAL | <input type="checkbox"/> ATHLETIC | <input checked="" type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER | <input type="checkbox"/> POLITICAL CANDIDATE |
| <input type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION | |

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:	DO NOT WRITE IN THIS SPACE
2110 <input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY	LIQUOR PERMIT NUMBER
2170 <input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY	

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE Samantha Remington Angel Heart Foundation	State Sales Tax Number (Required) 20101385252
--	---

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP) 1625 Larimer St. #2307 Denver, CO 80202	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP) Harry A Nottingham Park 1 Lake St. Avon, CO 81620
--	--

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE Kyle Clardy		12542 W. Mississippi Ave., Lakewood, CO	406-690-7227
5. EVENT MANAGER Jen Radueg		3921 W. Byron Pl, Denver, CO 80212	970-485-1811
6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES HOW MANY DAYS? 1		7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____	

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? Yes No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Hours From	To	Date	Hours From	To	Date	Hours From	To	Date	Hours From	To
6/17/16	6 p	8 p	6/18/16	2 p	7 p						

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE 	TITLE Vice President	DATE 5/1/16
---------------	--------------------------------	-----------------------

REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY) Town of Avon	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK (970) 748-4001
SIGNATURE	TITLE	DATE

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

LIABILITY INFORMATION			
License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$.



ALCOHOL MANAGEMENT PLAN

Submitted May 10, 2016

Event Date – June 17-18, 2016

THE EVENT OVERVIEW

Event Overview: This will be the 5th Annual Reds, Whites, and Brews festival held in Avon, Colorado. The event is designed to provide an evening of music with food and alcohol available for purchase on Friday, June 17th and then a daytime event on Saturday, June 18th where adults can gather, listen to great live music, enjoy food from local vendors, and taste a range of beers and wines in the confines of beautiful Harry A. Nottingham Park in Avon, CO. Proceeds from the event will benefit the Samantha Remington Angel Heart Foundation, an organization that provides grants to families with children undergoing serious or life-threatening medical care which imposes serious financial burden on the family. The event also benefits the Vail Valley Charitable Fund, an organization that provides assistance to locals in medical crisis.

Friday Venue:

The venue area will include the back patio area of the stage with one food vendor & and a bar selling alcohol to over 21 guests. The bar will be staffed by TIPS certified volunteers from Samantha Remington Angel Heart Foundation. The area will be set up for seating for up to 250 people and will feature a “Writers in the Round” format with 3 singer songwriters from 6 – 8 p.m. Guests can purchase food and alcohol during the event.

Saturday Venue:

The venue area will include a main stage, up to 6 food vendors & up to 20 retail vendors set up within the soccer field as noted on the attached map and approximately up to 60 different wine and beer vendors around the park where alcohol is available. The event is designed to handle up to 1,500 people.

EXPERIENCE

Radiate Live Events, is the producer of this event. Radiate Live has over 10 years of experience organizing events of this size and scope with the most relevant being the

Breckenridge Beer Festivals held in Breckenridge, CO which draw over 3000 people each year per event.

LICENSED PREMISE

See attached map - perimeter outlined. This map is from the 2015 event. The liquor perimeter will expand this year to include the backstage patio area on Friday, June 17. The entire park including the stage & backstage area will be included in the liquor license perimeter for Saturday, June 18.

ENTRANCE / EXITS

Friday:

There will be one entrance & exit for festival patrons located at the east corner of the backstage area. Guests will be ID'd for over 21 by TIPS trained personnel and volunteers and staff will watch the crowd for issues.

Saturday:

There will be one entrance & exit for festival patrons located at the southeast corner of the park. Security, will-call, first aid and an information booth will be located at the southeast corner as well. All access points will be staffed by trained security with volunteer assistance. Local law enforcement will be hired to assist in the security, if deemed necessary by the Town of Avon. The amount of security will be determined prior to the event based on ticket sales and an acceptable ratio to the Town of Avon. At the entrance signs will be posted stating no alcohol out or in through the gate as well as our right to refuse service.

STAFFING

Friday:

TIPS trained personnel will check ID's. Bartenders will be hired to sell beer and wine. Food will be sold as well by a local restaurant. There will be a minimum of 2 people ID'ing, 4 staff and 2 bartenders. The max capacity for Friday is 250 guests.

Saturday:

Staffing will be adjusted according to ticket sales. There will be three event managers and one assistant event manager that will be on site to provide general oversight of the event, and volunteer coordination. Local law enforcement will be hired to assist in parking and pedestrian traffic movement, if deemed necessary by the Town of Avon, plus at least 20 volunteers and TIPS trained pourers.

EDUCATION/TRAINING

Anyone pouring alcohol will be certified by a State of Colorado accredited program, such as TIPS or similar. For Saturday, we will also have on site, 4 Volunteers will have TIPS certifications and 4 event staff. Security personnel as well as officers from the Town of Avon Police Department have been thoroughly trained in Level I Alcohol Control Training.

CONTROL OF THE PREMISES

Friday:

The backstage will be cordoned off with fencing to fill in areas and control people leaving or entering with alcohol. A bag check will be conducted for anyone entering with a bag.

Saturday:

Secured fencing, controlled access points, well lit signage and employee education will deal with the issue of controlling the flow of alcohol on and moving off the property. During the event we will have 6 security personnel positioned at the entrance points and around the perimeter. In addition, the Avon Police Department can be contracted to provide further security assistance as per their requirements. The ID checking station will be staffed with trained security personnel from Citadel Security. Red "BEER" stamps will be applied to each patron 21 and over upon inspection/approval of ID. ID checking staff will be trained to recognize false ID's and will contact an event manager to assist on questionable ID's. No one without a red "BEER" stamp will be served alcohol. Pourers will be trained to ID anyone that looks questionable whether or not they have a wristband.

Over 21 stamps will be distributed to persons that have government-issued identification that proves that they are twenty-one (21) years or older. We will request identification from anyone wanting a stamp regardless of how old they appear to be. The red BEER stamp will be required to consume and even hold alcohol. There will be a zero-tolerance policy for underage drinking and underage drinkers that are encountered by security personnel will be turned over to local law enforcement personnel for processing.

Personnel serving alcoholic beverages have the right to refuse service to any patron. In such cases it is recommended that the patron's wristband be removed and that a black "X" is placed on the top of each hand in permanent marker to prevent the patron from attempting to gain entrance again. Security personnel are also empowered to determine that a patron may not consume any more alcohol and to take the aforementioned actions. Patrons refusing to comply with the refusal of service or acting in contravention of a refusal of service may be subject to ejection from the event.

Security will be positioned around the perimeter and will be patrolling the venue constantly, monitoring the customers. Security will be equipped with radios to keep in constant contact with each other, servers and management.

If we deem someone has had too much to drink we will take the following steps: STOP SERVING the person, contact management, offer free food and water, determine if the patron is driving, find them a friend that can safely take care of them and/or a ride home via bus or taxi, and alert local authorities.

DAYS AND HOURS OF OPERATION

Alcohol will be served on Friday, June 17th from 6-8 p.m. and Saturday, June 18th from 2 pm - 7pm

FOOD SERVICE

Friday:

One approved and licensed Eagle County food vendor will be selling food from 6-8 p.m.

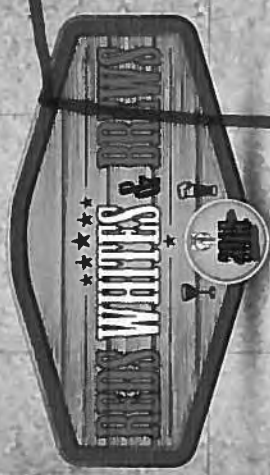
Saturday:

Up to 6 approved and licensed Eagle County food vendors will be onsite to sell food and provide meals during the events.

INSURANCE

Local carrier Home Loan Insurance Company (based in Grand Junction, CO) will insure the event. Proof of liability insurance is attached.

Liquor License Boundary



FESTIVAL

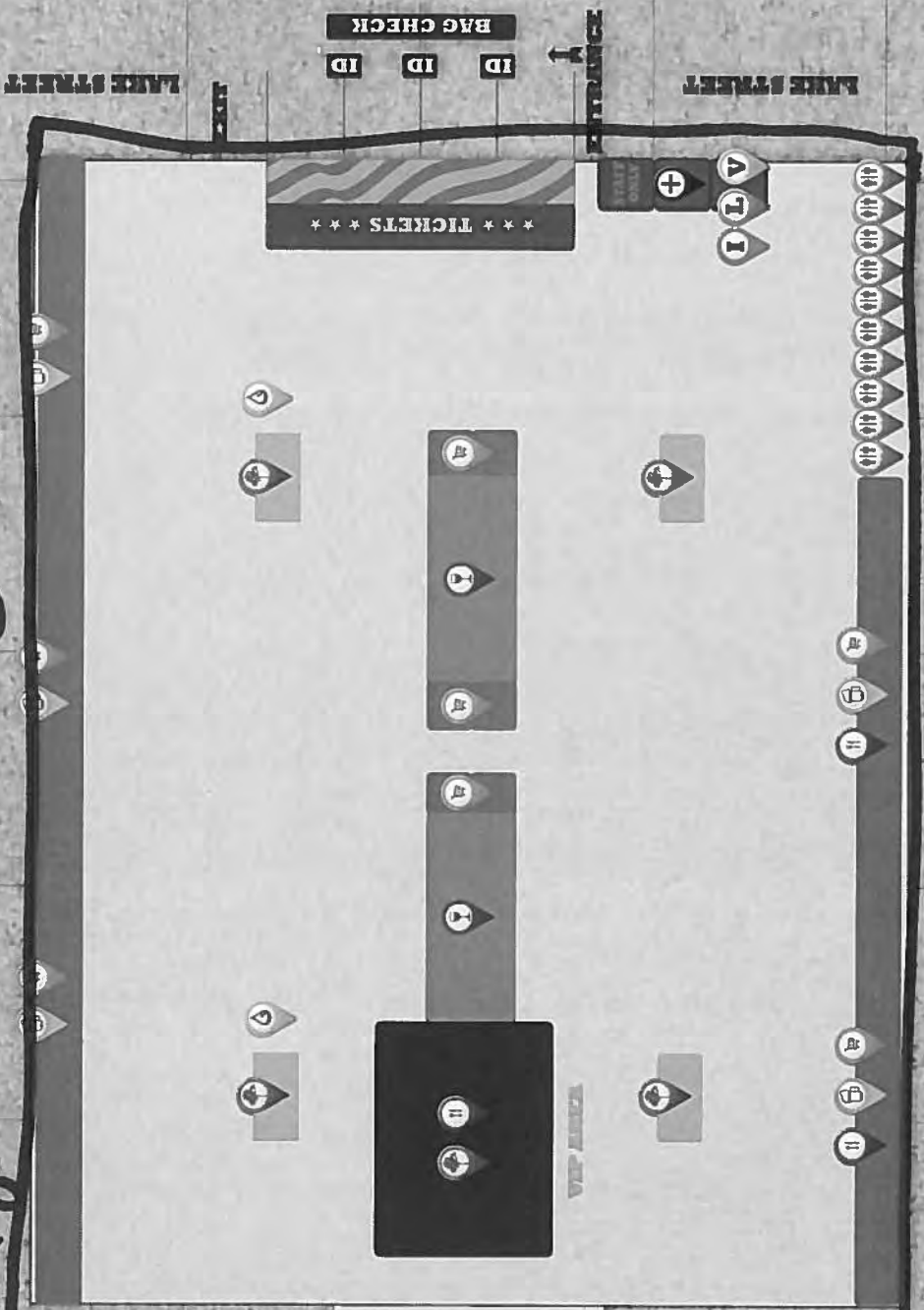
SPRING JUNE

Harry A. Nottingham
Avon, Colorado

EVENT PARKING



THIS IS A "SOBER MOVEMENT" BY THE PEOPLE
FOR THE PEOPLE, PLEASE DRINK RESPONSIBLY.

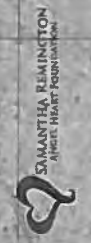


LEGEND

- 📄 **RESERVED SEATING**
- 📄 **RESTROOMS**
- 📄 **WALKERS**
- 📄 **INFORMATION**
- 📄 **FIRST AID**
- 📄 **LOST & FOUND**
- 📄 **FOOD VENDORS**
- 📄 **FREE WATER STATION**
- 📄 **RETAIL VENDORS**
- 📄 **SHADE TENTS**
- 📄 **VOLUNTEER CHECK-IN**

NO PETS, NO OUTSIDE ALCOHOL OR FOOD ALLOWED

Benefit for:



SUBJECT TO CHANGE

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

The Samantha Remington Angel Heart Foundation

is a

Nonprofit Corporation

formed or registered on 07/09/2010 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20101385252 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 05/11/2016 that have been posted, and by documents delivered to this office electronically through 05/12/2016 @ 16:14:53 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 05/12/2016 @ 16:14:53 in accordance with applicable law. This certificate is assigned Confirmation Number 9647878



A handwritten signature in blue ink that reads "Wayne W. Williams".

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/13/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Home Loan & Investment Company 205 North 4th Street Grand Junction, CO 81501	CONTACT NAME: Ann Heide PHONE (A/C, No, Ext): E-MAIL ADDRESS: annh@hlic.com FAX (A/C, No): (970) 243-3914														
INSURED Samantha Remington Angel Heart Foundation 4915 S. Vine Street Englewood, CO 80113	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Secura Insurance Company</td> <td style="text-align: center;">22543</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Secura Insurance Company	22543	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																								
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Owner's & Contractor GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		CP 3236429	04/28/2016	04/28/2017	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$ 100,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$ Excluded</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$ 3,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$ 3,000,000</td></tr> <tr><td>LIQUOR LIABILIT</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>BODILY INJURY (Per person)</td><td style="text-align: right;">\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000	MED EXP (Any one person)	\$ Excluded	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 3,000,000	PRODUCTS - COMP/OP AGG	\$ 3,000,000	LIQUOR LIABILIT	\$ 1,000,000	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$
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	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">PER STATUTE</td> <td style="text-align: center;">OTH-ER</td> <td></td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td></td><td style="text-align: right;">\$</td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td></td><td style="text-align: right;">\$</td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td></td><td style="text-align: right;">\$</td></tr> </table>	PER STATUTE	OTH-ER		E.L. EACH ACCIDENT		\$	E.L. DISEASE - EA EMPLOYEE		\$	E.L. DISEASE - POLICY LIMIT		\$												
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E.L. DISEASE - POLICY LIMIT		\$																													

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Red White and Brews - Friday, June 17 - Saturday, June 18th- The Town of Avon, it's elected officials, officers and employees are named as additional insured. A 30 day notice of cancellation applies, 10 days for non-payment of premium.

CERTIFICATE HOLDER**CANCELLATION**

Town of Avoni t's elected officials, officers and employees
 PO Box 975
 Avon, CO 81620

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

James D. Hamilton

**Avon Police Department
Liquor License Application**

Individual Name(s): Jen Radueg
Krista Benedetti

Name of Business: Samantha Remington Angel Heart Foundation

Type of License: Hotel & Restaurant
 Special Event Permit

Event Name: Reds, Whites & Brews
Date of Event: June 17th 2016 6:00PM to 8:00PM
June 18th 2016 2:00PM to 7:00PM

Location of Business: Nottingham Park
Avon, Colorado 81620

Date Received: 06/02/2016

Photographs/Fingerprints: On File
 Special Event – N/A

Investigation by: Detective Sergeant Jonathan Lovins
 Detective Jeremy Holmstrom

Date: 06/02/2016

CBI Criminal Investigation (attached): No Problems

Local Criminal Investigation: No problems

Comments:

Liquor Code Violations in the past calendar year: Yes No

If yes, explain: _____

Smoking violation in the past calendar year: Yes No

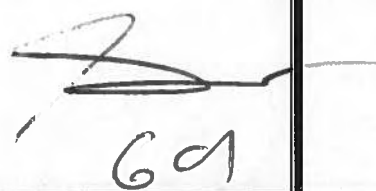
If yes, explain: _____

Background investigation conducted with no problems and or areas of concern.

N.C.I.C. database not accessed on this applicant.

Investigation Time: 2 hours.

Administration Time: 1 hour.


601



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, MAY 24, 2016
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER AND ROLL CALL

Chairman Fancher called the meeting to order at 5:00 p.m. A roll call was taken and Board members present were Sarah Smith Hymes, Scott Prince, Megan Burch, and Matt Gennett. Buz Reynolds and Jake Wolf were absent. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Interim Police Chief Greg Daly, Executive Assistant to the Town Manager Preston Neill and Deputy Town Clerk Brenda Torres.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENT – COMMENTS ARE WELCOME ON TOPICS NOT ON THE AGENDA

No public comments made.

4. RENEWAL OF LIQUOR LICENSES

4.1. APPLICANT: TCF 1, LLC D/B/A CASTLE PEAK GRILL

LOCATION: 0101 FAWCETT ROAD #100

TYPE: HOTEL & RESTAURANT

MANAGER: DAN LEARY

Board member Prince moved to approve the renewal application for TCF1, LLC d/b/a Castle Peak Grill; Board member Chairman Gennett seconded the motion and it passed unanimously by those present. Board member Reynolds and Vice Chairman Wolf were absent.

5. PUBLIC HEARING SPECIAL EVENTS PERMIT

5.1. APPLICANT NAME: EAGLE VALLEY HUMANE SOCIETY

EVENT NAME: SALUTE TO U.S.A.

EVENT DATES: JULY 3, 2016; 4:00 PM UNTIL 10:30 PM

LOCATION: NOTTINGHAM LAKE

EVENT MANAGER: CHAR GONSENICA

PERMIT TYPE: MALT, VINOUS & SPIRITUOUS LIQUOR

The application was presented with no concerns. Chairman Fancher opened the public hearing and no comments were made. Board member Smith Hymes moved to approve the Special Event Permit for the Salute to U.S.A. event; Board member Burch seconded the motion and it passes unanimously by those present. Board member Reynolds and Vice Chairman Wolf were absent.

5.2. APPLICANT NAME: WALKING MOUNTAINS SCIENCE CENTER

EVENT NAME: TASTE OF NATURE GALA

EVENT DATES: JULY 6, 2016; 5:00 PM UNTIL 11:00 PM

LOCATION: WALKING MOUNTAINS SCIENCE CENTER

EVENT MANAGER: TERRI SCALES

The application was presented with no concerns. Chairman Fancher opened the public hearing and no



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, MAY 24, 2016
AVON TOWN HALL, ONE LAKE STREET

comments were made. Board member Smith Hymes moved to approve the Special Event Permit for the Taste of Nature Galat; Board member Burch seconded the motion and it passes unanimously by those present. Board member Reynolds and Vice Chairman Wolf were absent.

6. REPORT OF CHANGE - TRADE NAME

- 6.1. APPLICANT: MONTANA’S CANTINA & GRILL, LLC D/B/A MONTANA’S CANTINA & GRILL
NEW TRADE NAME: MONTANA’S SMOKEHOUSE
LOCATION: 82 E. BEAVER CREEK BLVD
TYPE: HOTEL AND RESTAURANT LICENSE
MANAGER: TOM BEAVER

Board member Gennett moved to approve the report of change – trade name for Montana’s Cantina & Grill, LLC d/b/a Montana’s Cantina & Grill; Board member Smith Hymes seconded the motion and it passed unanimously by those present. Board member Reynolds and Vice Chairman Wolf were absent.

7. MINUTES FROM MAY 10, 2016

Board member Gennett moved to approve the Minutes from May 10, 2016; Board member Burch seconded the motion and it passed unanimously by those present. Board member Reynolds and Vice Chairman Wolf were absent.

8. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 5:08 p.m.

RESPECTFULLY SUBMITTED:

Brenda Torres, Town Clerk

APPROVED:

- Jennie Fancher
Jake Wolf
Matt Gennett
Megan Burch
Albert “Buz” Reynolds
Scott Prince
Sarah Smith Hymes



DestiMetricsTM LLC
Resort Intelligence.

Avon Town Council

June 14, 2016

Presented by Katie Barnes

Agenda

- DestiMetrics: Who we are and what we do
 - Winter 15/16 Performance
 - Summer 2016 (as of 4/30/16)

Lodging



DMX

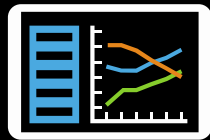
Market Data

Avon Data Submitters

- Ascent Residences
- Beaver Creek West
- Beaver Creek Resort Properties
- Christie Lodge
- Comfort Inn
- Falcon Point
- Westin Riverfront Mountain Villas
- Westin Riverfront Resort
- Wyndham Beaver Creek Resort (pending)



Industry Wide
Aggregate Reports



Destination Wide
Lodging
Performance
Reports

Reports

Lodging



DMX SYSTEM

Market Data

Destination Travel Newsletter
Travel News Talker
Econometrics
Market Briefing
Quarterly Webinars



Industry Data Submitters

- Aspen
- Avon, Colorado
- Big Sky
- Breckenridge
- Beaver Creek
- Copper Mountain
- Gunnison/Crested Butte
- Keystone
- Mt Bachelor
- Mammoth Lakes
- Jackson Hole
- North Lake Tahoe
- Park City Area
- Snowmass
- Steamboat
- Summit County, CO
- Telluride
- Vail
- Winter Park

In
Aggr

Reports

Winter 2015/16 Avon Performance



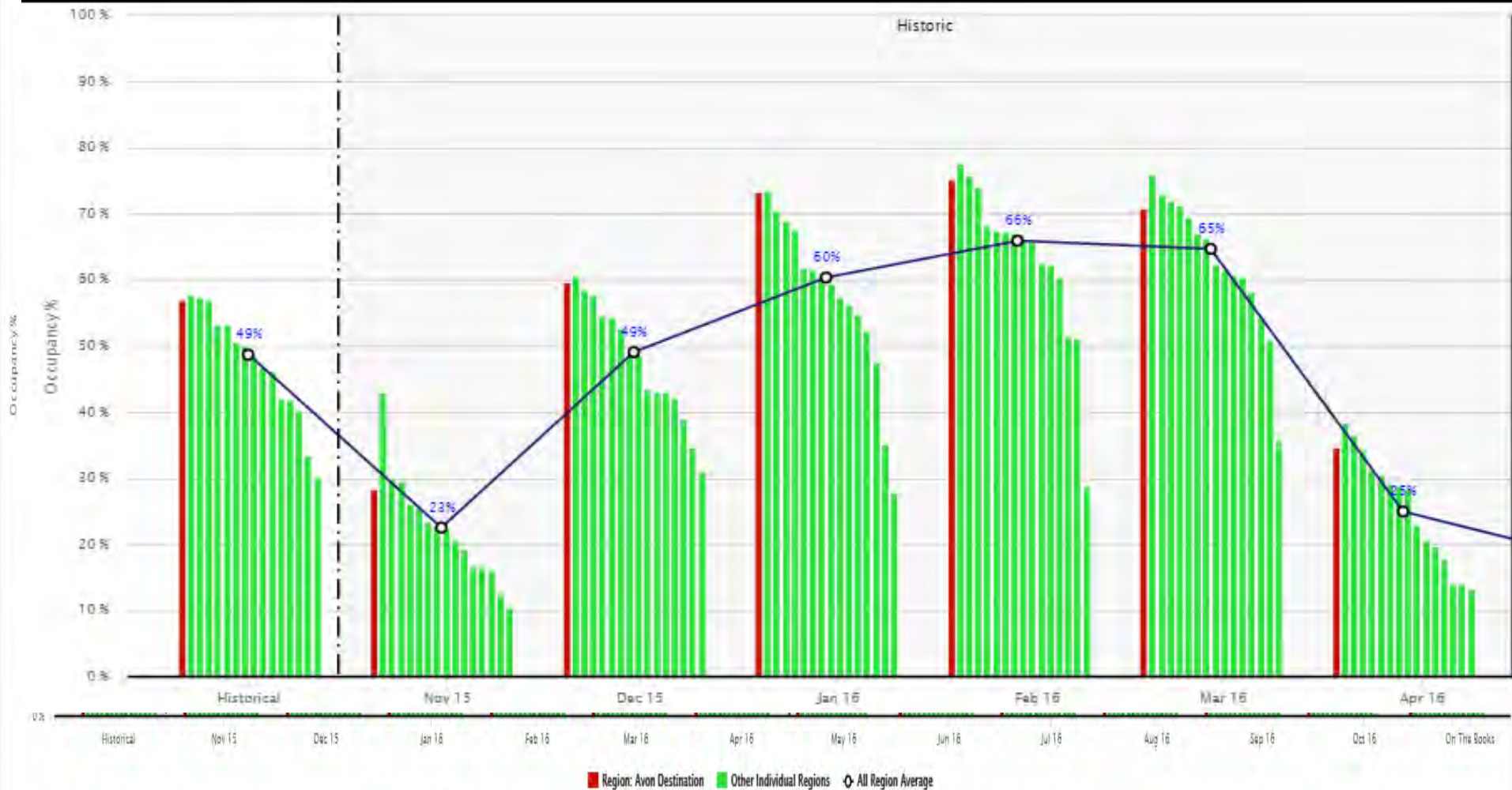
DestiMetrics^{LLC}

	2015/16	2014/15	YOY % Change
Occupancy	57%	54%	+6%
Rate	\$233	\$246	-5%

Winter 2015/16 Avon vs. Industry - Occupancy



DestiMetrics^{LLC}



Winter 2015/16 Avon vs. Industry - Rate



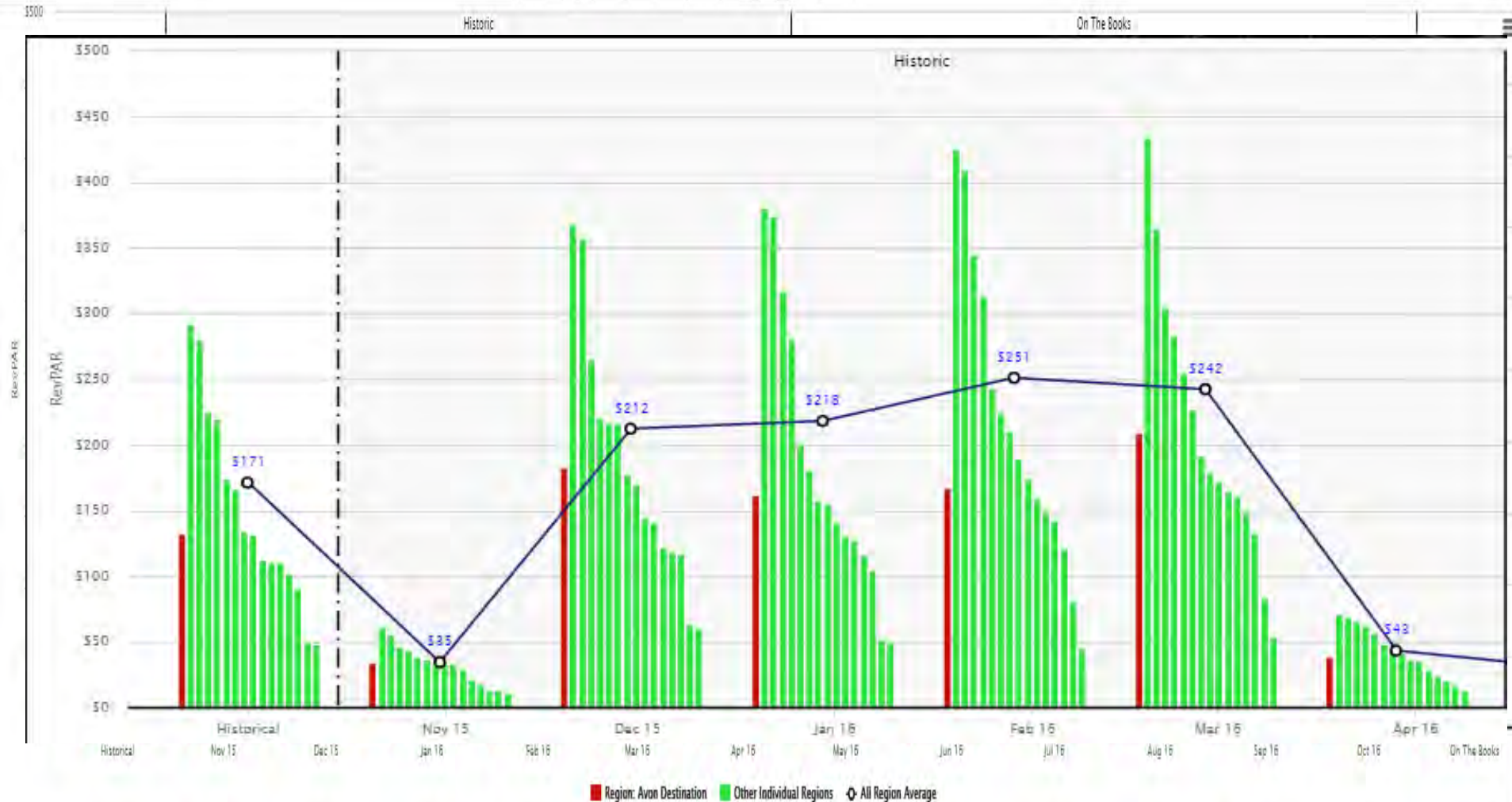
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Winter 2015/16 Avon vs. Industry - RevPAR



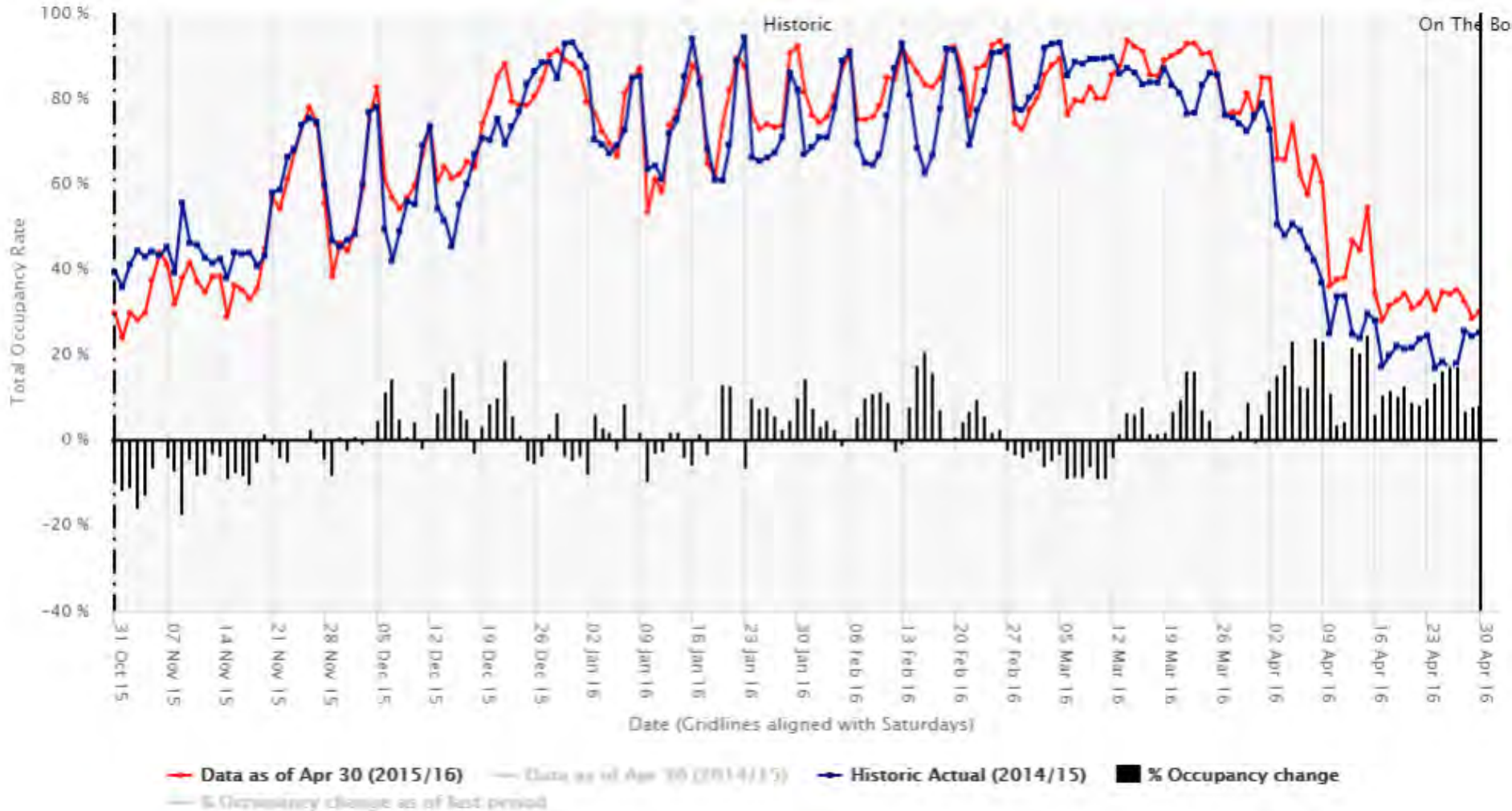
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Winter 2015/16 Daily Occupancy



DestiMetrics^{LLC}



Summer 2016 Avon Performance as of 4/30/16



DestiMetrics^{LLC}

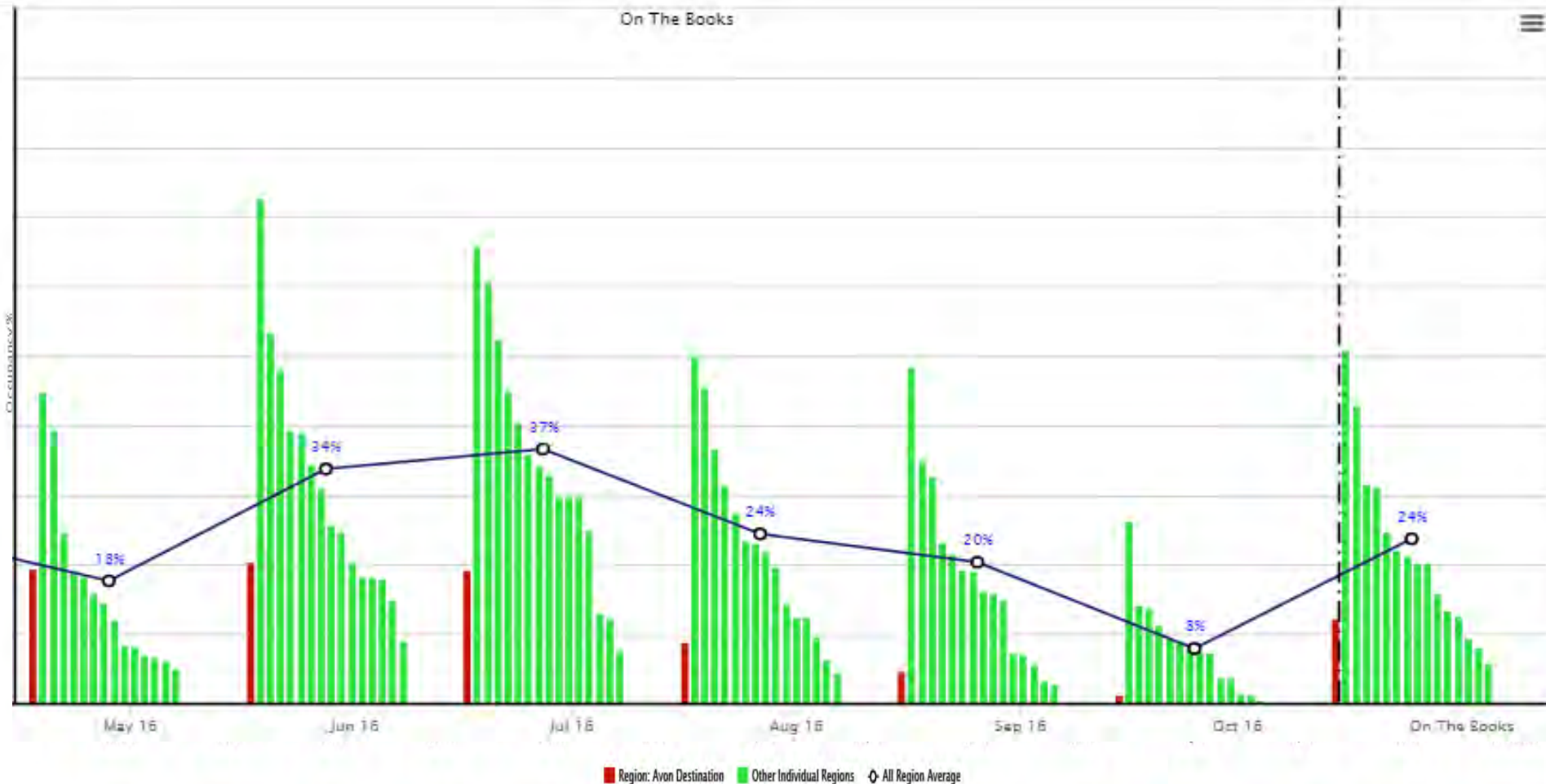
	2016	2015	YOY % Change
Occupancy	12%	10%	+24%
Rate	\$160	\$154	+4%

Summer 2016 Avon vs. Industry – Occupancy

As of 4/30/16



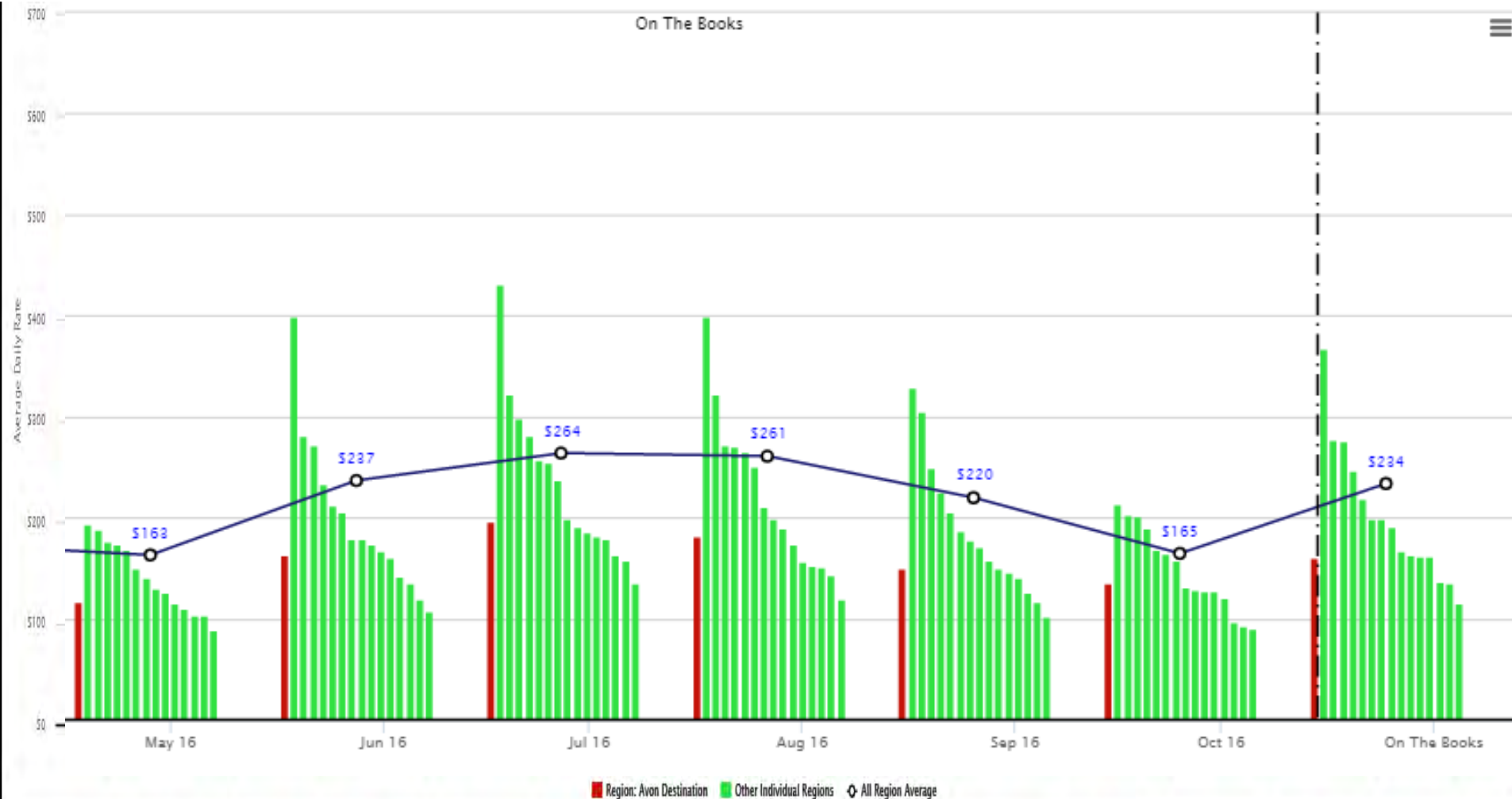
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Summer 2016 Avon vs. Industry - Rate As of 4/30/16



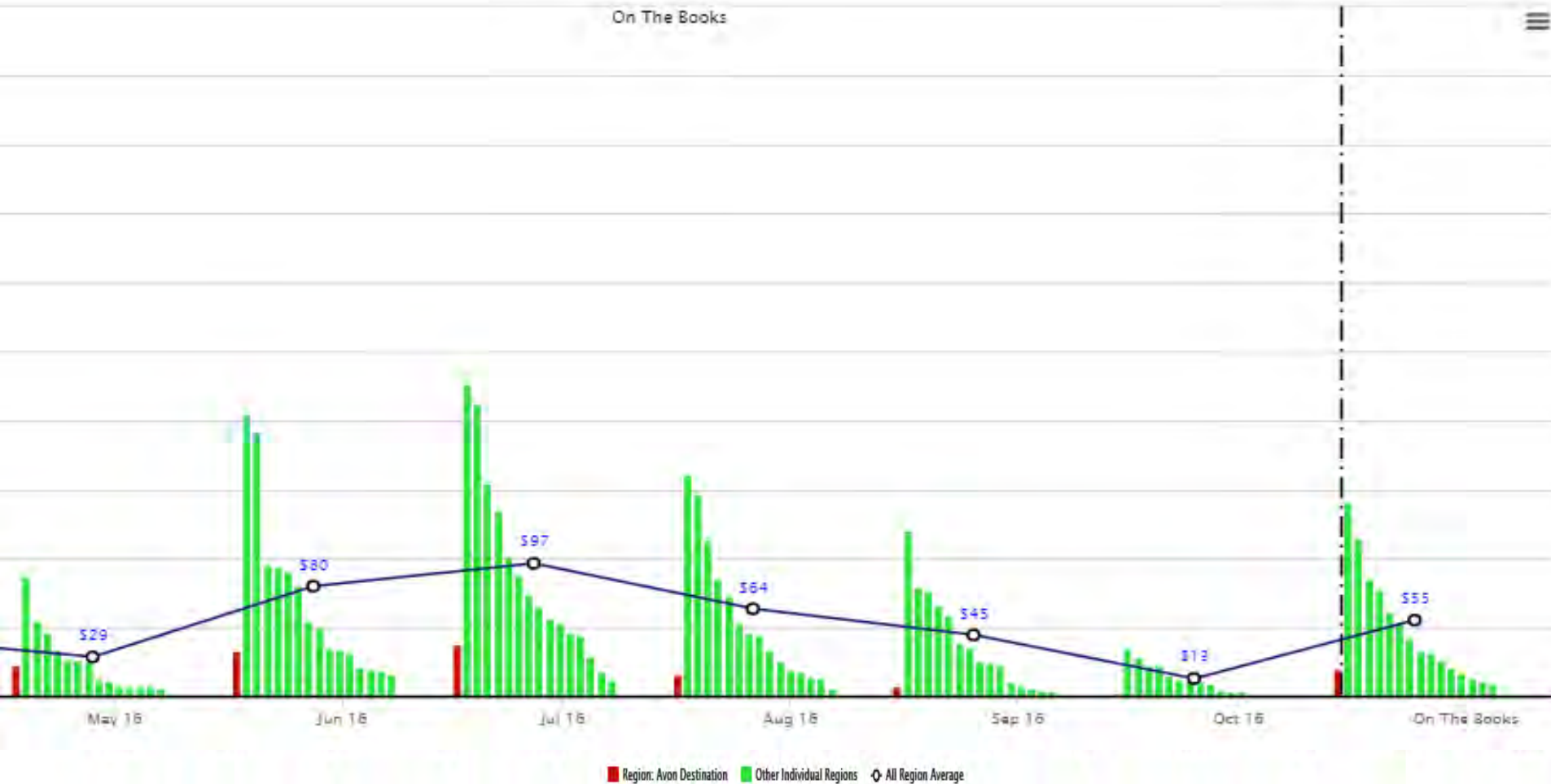
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Summer 2016 Avon vs. Industry - RevPAR As of 4/30/16



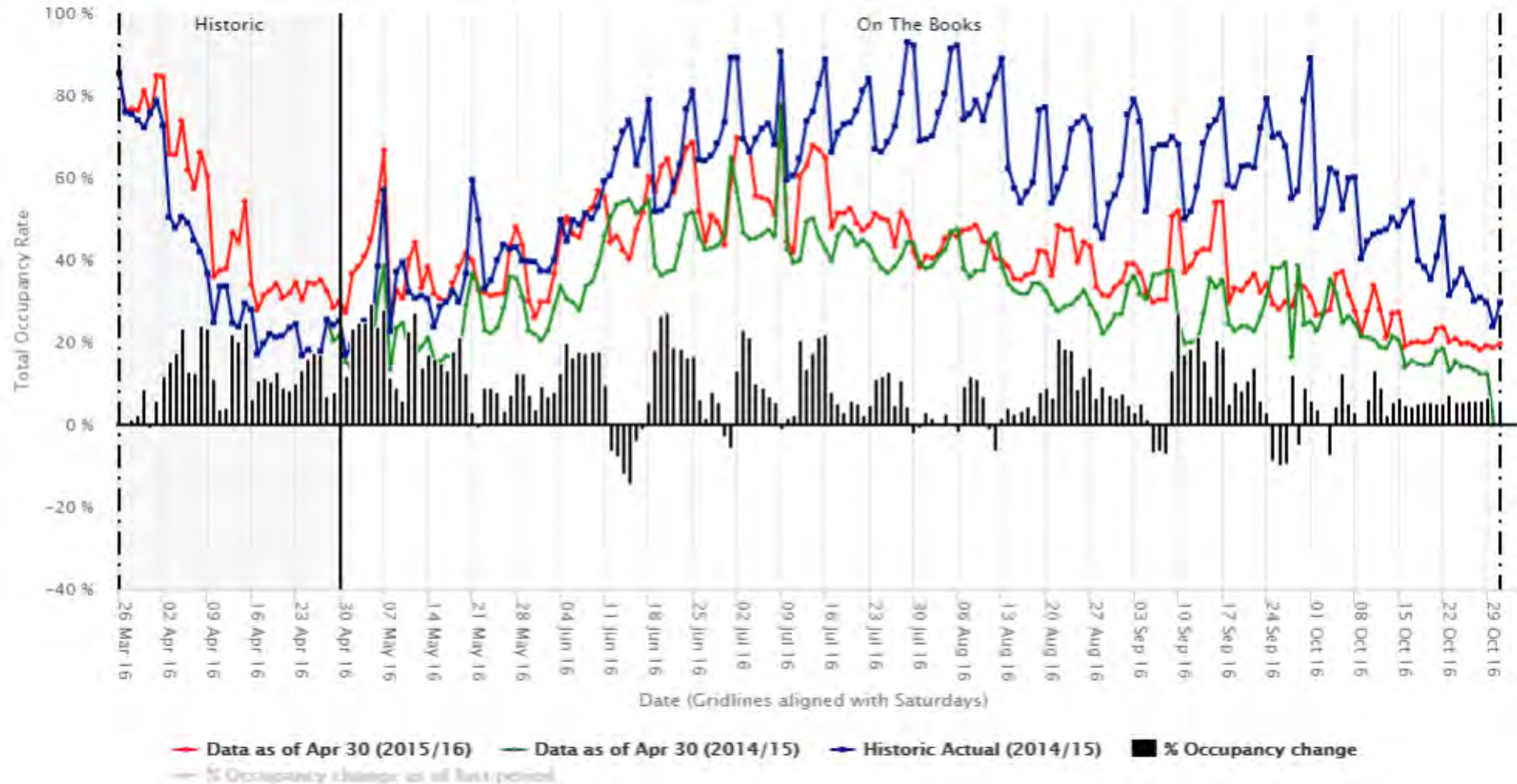
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Summer 2016 Avon Daily Occupancy As of 4/30/16



DestiMetrics^{LLC}





DestiMetricsTM LLC
Resort Intelligence.

Thank you!



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Matt Pielsticker, AICP, Planning Director

Meeting Date: June 14, 2016 Meeting

Agenda Topic: First Reading of Ordinance 2016-13, An Ordinance Approving the Rezoning of Lots 1, 2A, 2B, 2C, 3, and 5, Mountain Vista Resort Subdivision from Planned Unit Development to Town Center

ACTION BEFORE COUNCIL

Vote on an Ordinance that changes the zoning of multiple parcels that are partially developed from the Planned Unit Development (PUD) to Town Center (TC) zone district.

PROPOSED MOTION

*"I move to approve Ordinance 2016-13 (**Exhibit A**), thereby first reading of an application to rezone Lots 1, 2A, 2B, 2C, 3 and 5, Mountain Vista Resort Subdivision, from PUD to TC zone district."*

PZC REVIEW

The Planning and Zoning Commission (PZC) reviewed the Application at their June 7, 2016 meeting, where they made a unanimous recommendation for approval (**Exhibit B**) to the Town Council. PZC found that the Application provided consistency in zoning with adjacent properties that are also located in *District 1: West Town Center District*, Avon Comprehensive Plan. Additionally, PZC cited conformity in the future administration of development review and standards for the properties. The PZC decision was based partly on the review and acceptance of staff's report (**Exhibit C**), which includes analysis of the review criteria. The same review criteria will be considered by Town Council in their decision.

APPLICATION

The application materials (**Exhibit D**) are attached to this report. The materials include a project background as well as a narrative responding to the criteria.

FISCAL IMPACT ANALYSIS

At the request of staff, a Fiscal Impact Analysis was prepared to evaluate the impacts of a timeshare development instead of the currently approved hotel zoning for portions of the future buildout. Points of Colorado contracted with Stan Bernstein and Associates to complete that study. Scott Wright has provided comments on the Fiscal Impact Analysis for your consideration (**Exhibit E**).

ATTACHMENTS

Exhibit A: Ordinance 2016-13

Exhibit B: PZC Record of Decision, approved June 7, 2016

Exhibit C: PZC Report, dated June 3, 2016

Exhibit D: Application Materials

Exhibit E: Fiscal impact Analysis – Sheraton Mountain Vista (Lot C)



**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-13**

**REZONING LOTS 1, 2A, 2B, 2C, 3 AND 5, MOUNTAIN VISTA RESORT
SUBDIVISION, AVON, COLORADO FROM PLANNED UNIT
DEVELOPMENT TO TOWN CENTER**

WHEREAS, the Town of Avon (“**Town**”) is a home rule municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

WHEREAS, Points of Colorado, Inc., (“**Applicant**”) submitted an application to rezone Lots 1, 2A, 2B, 2C, 3 and 5, Mountain Vista Resort Subdivision, Avon, Colorado (“**Property**”) from Planned Unit Development to Town Center zone district; and

WHEREAS, according to the Avon Municipal Code (“**AMC**”) §7.20.080(c), the TC district is intended to provide sites for a variety of uses such as hotels, commercial establishments, offices and some residential uses in a predominately pedestrian environment. The Town Center should be distinguished from other areas in the Town and serve as the focal point for social, business and cultural activities. This district contains the highest intensity of uses and should serve as the major transit destination as well as provide high levels of pedestrian accessibility. The TC district implements the mixed-use classification of the Avon Future Land Use Plan; and

WHEREAS, the Town’s Planning & Zoning Commission (“**PZC**”), after publishing and posting notice as required by law, held a public hearing on June 7, 2016; and prior to formulating a recommendation to the Town Council considered all comments, testimony, evidence and Town Staff reports; and then took action to adopt Findings of Fact and a Record of Decision in accordance with AMC §7.16.020(f), making a recommendation to the Town Council to approve the Application; and

WHEREAS, the Town Council of the Town of Avon, after publishing and posting notice in accordance with the requirements of AMC §7.16.020(d), *Step 4: Notice*, held public hearings on June 14, 2016, and June 28, 2016 and prior to taking final action considered all comments, testimony, evidence and Town Staff reports; and then took action by approving this Ordinance; and

WHEREAS, in accordance with AMC §7.12.020, *Town Council*, and in addition to other authority granted by the Town Charter, its ordinances or State of Colorado law, the Town Council has application review and decision-making authority to approve, approve with conditions or deny the Application; and

WHEREAS, pursuant to AMC §7.16.050(c), *Review Criteria*, the Town Council has considered the applicable review criteria for rezoning and finds that the criteria are met in

accordance with the town staff report, dated June 3, 2016 and in accordance with the Findings of Fact; and

WHEREAS, the Property is located in **District 1: West Town Center District**, an area that is designated as a High Priority District in the Avon Comprehensive Plan that “will be an intensely developed mixed use, pedestrian-oriented area that serves as the primary focus for residential and lodging development within the overall Town Center”; and

WHEREAS, the Town Council finds that the rezoning from Planned Unit Development to the Town Center district will promote the Avon Comprehensive Plan for District 1, promote uniformity of zoning regulations in the Town Core area, and will thereby promote the health, safety and welfare of the Avon community; and

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm the Town Council desires to comply with the requirements of the *Avon Home Rule Charter* by setting a Public Hearing in order to provide the public an opportunity to present testimony and evidence regarding the application, and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this Ordinance.

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

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Rezoning. Lots 1, 2A, 2B, 2C, 3 and 5, Mountain Vista Resort Subdivision, Avon, Colorado, are hereby rezoned from Planned Unit Development to the Town Center district.

Section 3. Amendment of Development Agreement. The Town Council hereby approves the amendment of the *Development Agreement Confluence and Tract C*, dated October 27, 1998, as amended by the *Amendment to Development Agreement for Confluence and Tract C*, executed by Town on May 17, 2000, to terminate and delete the provisions applicable to Lots 1, 2A, 2B, 2C, 3, 4 and 5, Mountain Vista Resort Subdivision, subject to the conditions in this Ordinance.

Section 4. Condition of Recreation Amenities Fee. As a condition of this rezoning, the Applicant consents to the imposition of a recreation amenity fee on time-share use that shall be imposed in a manner similar to other time-share projects in Avon or as may be codified in the Avon Municipal Code and amended from time to time.

Section 5. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared

to be severable. The Town Council hereby declares that it has passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 6. Effective Date. This Ordinance shall in no event take effect sooner than thirty (30) days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 7. Safety Clause. The Town Council hereby finds, determines and declares this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public and this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 8. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 9. Correction of Errors. Town Staff is authorized to insert proper dates, references to recording information and make similar changes, and to correct any typographical, grammatical, cross-reference, or other errors which may be discovered in any documents associated with this Ordinance and documents approved by this Ordinance provided that such corrections do not change the substantive terms and provisions of such documents.

Section 10. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

[EXECUTION PAGE FOLLOWS]

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on June 14, 2016 and setting such public hearing for June 28, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on June 28, 2015.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Town Attorney

**PLANNING AND ZONING COMMISSION
FINDINGS OF FACT AND RECORD OF DECISION**



DATE OF DECISION: June 7, 2016
TYPE OF APPLICATION: Rezoning from PUD to Town Center (TC) Zone District
FILE NUMBER: #REZ16001
PROPERTY LOCATION: Lot 1, 2A, 2B, 2C, 3 & 5, Mountain Vista Resort Subdivision
ADDRESS: 160 West Beaver Creek Boulevard
APPLICANT/OWNER: Points of Colorado

These findings of fact and record of decision is made in accordance with the Avon Development Code ("Development Code") §7.16.020(f):

DECISION: Recommend Approval to Town Council. Approved with 6-0 vote.

FINDINGS:

1. The Application promotes the health, safety, and welfare of the Avon community by provides assurances with respect to building form, development standards, and allowed uses consistent and in scale with adjacent neighboring Town Center (TC) properties.
2. The Application was reviewed in accordance §7.16.050, *Rezoning*, Avon Development Code, and is found to be in substantial compliance with the review criteria as outlined in the staff report dated June 3, 2016 by Matt Pielsticker.
3. The Application implements the general land use goals and policies of the Avon Comprehensive Plan including the Land Use Map designations, and planning principles of the *Town Center West District*.
4. The Application is substantially compliant with the purpose statements of the Development Code by providing for the orderly, efficient use of the Property, while at the same time conserving the value of the investments of owners of property in Town.

THESE FINDINGS OF FACT AND RECORD OF DECISION ARE HEREBY APPROVED:


BY: 

 Jim Clancy, Chairperson

DATE: 6/2/16

Staff Report – Rezoning
June 7, 2016 Planning & Zoning Commission Meeting



Report date	June 3, 2016
Project file	Case #REZ16001
Legal description	Lot 1, 2A, 2B, 2C, 3, & 5, Mountain Vista Resort Subdivision
Current Zoning	Planned Unit Development (PUD)
Proposed Zoning	Town Center (TC)
Address	140-160 West Beaver Creek Boulevard
Prepared By	Matt Pielsticker, Planning Director 

Introduction

The Applicant, Points of Colorado, Inc., has submitted a Rezoning application (the “Application”). The request would rezone the majority of what is commonly referred to as “Lot C” from the Planned Unit Development (“PUD”) designation to the Town Center (“TC”) zone district. The proposed TC zone district would allow for the future development of the site for timeshare, along with other customary uses enumerated in Table 7.24-1, *Allowed Uses*, Avon Development Code (“ADC”). A narrative from the Applicant and a map depicted the area of rezoning is attached to this report.

The Planning and Zoning Commission (“PZC”) will review the Application and conduct a public hearing on June 7, 2016. After reviewing the Application materials, Staff’s analysis, and considering public input, the PZC will forward a recommendation to the Town Council for action.

Process

The review process first requires a noticed public hearing with PZC. After conducting a public hearing, PZC will forward a recommendation to Town Council. Subsequently, final action is taken on the Application by Town Council after conducting public hearings and either approval by Ordinance or denial by motion.



Property Background

Originally, the property was part of Lots 47-54, Block 2, Benchmark at Beaver Creek Subdivision and zoned Specially Planned Area (SPA). The properties included a number of “Commercial / Condominium / Apartment” unit allocations, and the Plat included a broad definition for permitted Commercial land uses; building heights up to eighty (80) feet were granted by right.

The properties were later re-platted as Lots A, B, and C in the general layout that exists today with: Lot A (now Lodge at Avon Center), Lot B, and Lot C (Sheraton Mountain Vista PUD). The project was originally envisioned as a phased project with Lot A being Phase I, Lot B as Phase II, and Lot C as Phase III. Ultimately the Avon Center developed and Lot C was rezoned to PUD to advance the Sheraton Mountain Vista Development Plan.

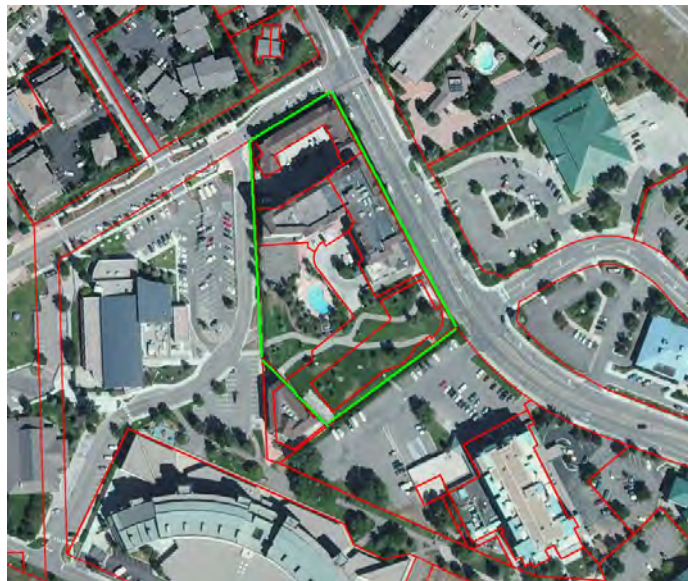
The Lot C PUD was approved in 2000 as a mixed-use project that includes residential, office and commercial land uses. The developed portion of the project includes 81 two-bedroom timeshare units, 20 employee-housing units, and ground level office/retail space. The undeveloped but approved uses include additional timeshare units, additional office/retail, and a 125-room hotel.

As currently approved, the build-out of the project occurs in three phases: Phases 1A, 1B, and 1C. As mentioned, the portion of the timeshare and commercial space along with the employee housing has been built in accordance with Phase 1A and 1B, with the majority of ground level retail and hotel/restaurant space occurring in the last phase (Phase 1C). This rezoning request applies to the entire property, minus Lot 4 (New Town Hall). Phase 1C is currently entitled 48 timeshare units, 5,500 square feet of commercial/retail, 4,800 square feet of restaurant, and a 125-room hotel.

Property Description

Lot C is a 3.24 acre property that is composed of several parcels: Lot 1, 2A, 2B, 2C, 3, 4, and 5. The area proposed for rezoning with this application includes all lots except Lot 4 which is the new Town Hall property. That leaves approximately 3 acres of land changing from PUD to Town Center zoning. The land itself is gently sloping downhill from West Beaver Creek Boulevard toward Main Street Pedestrian Mall. Minor landscaping improvements are in place with the anticipation of future development phase(s). The area between Lots B and C include drainage infrastructure and easements for both properties to bring drainage around Lot 4 and into a drainage detention structure.

The Property is bounded on the south by the Pedestrian Mall; north by West Beaver Creek Boulevard and Lake Street; west by Tract G and Mikaela Way; and east by Lot B and a potential site for a hotel development. All of the areas surround the development are hard surfaces with little landscape area in the form of surface parking areas, sidewalks, and/or roadways.



Application Summary

The proposal is to modify the Town’s Zoning Map for Lot C from PUD to the TC zone district. This Application includes a narrative and map of the area changing to TC. If approved, the following dimensional standards would apply to any future development:

Table 7.20-9 Dimensions for the Town Center District							
Min. Lot Size (acres or sq. ft.)	Min. Lot Width (feet)	Max. Lot Coverage (%)	Min. Landscape Area (%)	Max. Front Setback (feet)	Min. Side Setback (feet)	Min. Rear Setback (feet)	Max. Building Height (feet)
n/a	n/a	50 [5]	20	0 [1, 4]	7.5 [2]	10 [3]	80
<p>[1] Infill development shall match the smallest setback of existing, adjacent structures.</p> <p>[2] TC abutting a residential district shall match the side yard setback standards of that district.</p> <p>[3] When abutting a public street, alley, or public right-of-way. The rear setback for TC abutting a residential district shall be twenty (20) feet, regardless of the location of any street, alley, or ROW.</p> <p>[4] Non-residential development that incorporates public space such as a plaza or courtyard into the building design may increase the front setback by up to twenty (20) feet to accommodate that area up to forty percent (40%) of the front building line.</p> <p>[5] May be increased to eighty percent (80%) if employee housing mitigation is provided in accordance with §7.20.100.</p>							

This represents a reduction in height from that currently allowed (107’) down to 80’ as permitted in the TC zone district. Noted is the requirement to match the smallest setback of existing, adjacent structures for future infill development. All of the current planning for West Beaver Creek Boulevard encourage future development and additions to front the street when possible to help create a more inviting pedestrian experience.

Rezoning Review Criteria Analysis

As outlined in Sec. 7.20.080(e), the Purpose of the Town Center District is as follows:

“The TC district is intended to provide sites for a variety of uses such as hotels, commercial establishments, offices and some residential uses in a predominately pedestrian environment. The Town Center should be distinguished from other areas in the Town and serve as the focal point for social, business, and cultural activities. This district contains the highest intensity of uses and should serve as the major transit destination as well as provide high levels of pedestrian accessibility. The TC district implements the mixed-use classification of the Avon Future Land Use Plan.”

The review process and review criteria for zoning amendments are governed by AMC §7.16.050, Rezoning. PZC shall use the criteria below as the basis for a recommendation on the Rezoning application. Staff responses to each review criteria are provided.

(1) Evidence of substantial compliance with the purpose of the Development Code;

Staff Response: The Application is substantially compliant with the purpose statements of the Development Code by providing for the orderly, efficient use of the Property, while at the same time conserving the value of the investments of owners of property in Town.

The Application promotes the health, safety, and welfare of the Avon community by providing assurances with respect to building form, development standards, and allowed uses consistent and in scale with adjacent neighboring Town Center (TC) properties. The proposed land use also appears to be in substantial compliance with the purpose of TC zone district as outlined below. The entire Purpose statement section from the Development Code (Section 7.04.030 - *Development Code Purposes*) is outlined for reference:

- (a) *Divide the Town into zones, restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; regulate the intensity of the use of lot areas; regulate and determine the area of open spaces surrounding such buildings; establish building lines and locations of buildings designed for specified industrial, commercial, residential and other uses within such areas; establish standards to which buildings or structures shall conform; establish standards for use of areas adjoining such buildings or structures;*
- (b) *Implement the goals and policies of the Avon Comprehensive Plan and other applicable planning documents of the Town;*
- (c) *Comply with the purposes stated in state and federal regulations which authorize the regulations in this Development Code;*
- (d) *Avoid undue traffic congestion and degradation of the level of service provided by streets and roadways, promote effective and economical mass transportation and enhance effective, attractive and economical pedestrian opportunities;*
- (e) *Promote adequate light, air, landscaping and open space and avoid undue concentration or sprawl of population;*
- (f) *Provide a planned and orderly use of land, protection of the environment and preservation of viability, all to conserve the value of the investments of the people of the Avon community and encourage a high quality of life and the most appropriate use of land throughout the municipality;*
- (g) *Prevent the inefficient use of land; avoid increased demands on public services and facilities which exceed capacity or degrade the level of service for existing residents; provide for phased development of government services and facilities which maximizes efficiency and optimizes costs to taxpayers and users; and promote sufficient, economical and high-quality provision of all public services and public facilities, including but not limited to water, sewage, schools, libraries, police, parks, recreation, open space and medical facilities;*
- (h) *Minimize the risk of damage and injury to people, structures and public infrastructure created by wild fire, avalanche, unstable slopes, rock fall, mudslides, flood danger and other natural hazards;*
- (i) *Achieve or exceed federal clean air standards;*

(j) Sustain water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources;

(k) Maintain the natural scenic beauty of the Eagle River Valley in order to preserve areas of historical and archaeological importance, provide for adequate open spaces, preserve scenic views, provide recreational opportunities, sustain the tourist-based economy and preserve property values;

(l) Promote architectural design which is compatible, functional, practical and complimentary to Avon's sub-alpine environment;

(m) Achieve innovation and advancement in design of the built environment to improve efficiency, reduce energy consumption, reduce emission of pollutants, reduce consumption of non-renewable natural resources and attain sustainability;

(n) Achieve a diverse range of attainable housing which meets the housing needs created by jobs in the Town, provides a range of housing types and price points to serve a complete range of life stages and promotes a balanced, diverse and stable full time residential community which is balanced with the visitor economy;

(o) Promote quality real estate investments which conserve property values by disclosing risks, taxes and fees; by incorporating practical and comprehensible legal arrangements; and by promoting accuracy in investment expectations; and

(p) Promote the health, safety and welfare of the Avon community.

(2) Consistency with the Avon Comprehensive Plan;

Staff Response: The rezoning application will provide consistency with the Comprehensive Plan and supporting documents. The existing/future land use maps contained in the Comprehensive Plan call for “Mixed-Use” designation. The Comprehensive Plan defines the intent of the “Mixed-Use” as follows:

Mixed Use– The intent of the mixed-use designation is to create an area providing commercial retail and service uses with a supporting mix of office, residential, lodging, and entertainment uses in an urbanized, pedestrian-oriented environment. A high proportion of lodging and other residential uses should be achieved in order to create the needed critical mass of population and activity to energize the Town Center District. Building should be vertically mixed, with retail, restaurants, and other commercial services located on the lower levels in order to encourage a high level of interest and pedestrian activity. Building design, siting, and orientation, as well as shared parking facilities and public gathering spaces create an environment that is appealing and inviting for pedestrians and vehicles.

This definition dovetails nicely with the intent and purpose of the proposed TC zone district as it “contains the highest intensity of uses ...and the TC district implements the mixed-use classification of the Avon Future Land Use Plan”. A continued movement to creating critical mass where it is most appropriately located in the Town Core area with other Town Center zoned properties is highly supported.

Specific Goals and Policies supportive of this rezoning application include the following:

- **Policy B.1.5:** Require that development within the Town Center Districts is readily accessible to and otherwise integrated with existing retail areas and transit service routes for both pedestrians and vehicles.
- **Policy B.1.8:** Locate uses that generate traffic to areas near transit facilities or shared parking facilities to minimize automobile travel and “re-parking” within the same area.
- **Goal C.1:** Provide a balance of land uses that offers a range of housing options, diverse commercial and employment opportunities, inviting guest accommodations, and high quality civic and recreational facilities, working in concert to strengthen Avon’s identity as both a year-round residential community and as a commercial, tourism and economic center.
- **Policy C.1.3:** Focus lodging and guest accommodation in the Town Center Districts to take advantage of the proximity to retail, commercial and other community services.
- **Goal E.3:** Increase the number of visitors to Avon by enhancing our attractiveness as a destination resort community.

The Comprehensive Plan includes the Property in the middle of the **West Town Center District**.



The **West Town Center District** shows a series of Public Plazas and the opportunity for redevelopment of the Pedestrian Mall area, both of which took place in 2014. The role of the **West Town Center District** is to serve as the heart of the community. The district acts as “the common ground between the full-time residents, part-time residents, and destination guests through diverse retail and entertainment

opportunities.” The surrounding public gathering spaces and pedestrian connections are essential in forming the fabric of a successful town center. The West Town Center also benefits greatly with the Pavilion and other entertainment oriented land uses which connect with lodging properties in the area.

(3) Physical suitability of the land for the proposed development or subdivision;

Staff Response: The Property is centrally located with access off West Beaver Creek Boulevard, and an additional shared access with the adjoining Lot B. The property size and relative flatness provide for a physically suitable piece of land for future infill development in conformance with Town Center (TC) zoning and development standards.

(4) Compatibility with surrounding land uses;

Staff Response: The area surrounding Lot C presents a wide mix of lodging, retail, eating and dining establishments, professional office, residential, financial, educational, government, recreation, and public park uses. Short term rental and nightly rentals fit well in high density commercial areas where guests can walk to amenities or utilize public transit. Connections to pedestrian networks, direct access to Avon Station, and the Gondola are positive attributes of the property.

Compatibility with neighboring existing and planned development goes beyond use itself; the final design (i.e. architectural, setbacks, etc.) will be paramount to evaluating future project(s) on Lot C. The standards of the TC zone district are in sync with the neighboring development patterns with generally taller building heights and reduced building setbacks. How the development ‘fronts’ Beaver Creek boulevard and Mikaela way will be important factors to consider with forthcoming development plan(s) submittal(s).

(5) Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned

Staff Response: Noted in the Application are changes in the corporate structure and management of the Sheraton Mountain Vista. Reverting back to the TC zone district is in the character of the area and supported by the Comprehensive Plan documents. The Application makes proper mention of the TC zoning requirements and how they will help to create a more appropriate building massing consistent with other properties in the vicinity.

(6) Whether there are adequate facilities available to serve development for the type and scope suggested by the proposed zone compared to the existing zoning, while maintaining adequate levels of service to existing development;

Staff Response: The type and scope of any project permitted in the TC zone district can be supported by existing infrastructure. A more detailed analysis would take place at Development Plan review.

(7) Whether the rezoning is consistent with the stated purpose of the proposed zoning district(s);

Staff Response: The TC zone district is well suited for a timeshare project. The TC district is “intended to provide sites for a variety of uses such as hotels, commercial establishments, offices and some residential uses in a predominately pedestrian environment.”

(8) That, compared to the existing zoning, the rezoning is not likely to result in adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;

Staff Response: Moving to a standard zone district has several distinct advantages, in that there can be no exceptions to the Development Code standards put in place as can with a PUD classification. If zoned TC, the impacts would be minimized and managed due to the codified regulations enacted to protect things like air quality, water, stormwater, etc. All facets of the Development Code would apply including but not limited to: Landscaping, Building Height, Setbacks, Mobility and Connectivity, Screening, and Natural Resource Protection.

All of the stormwater management and related infrastructure was sized and constructed as part of the original PUD development; it is therefore able to accommodate a less intensive development scenario that could be developed with TC zoning.

(9) That, compared to the existing zoning, the rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract;

Staff Response: No significant impacts to other properties in the vicinity are envisioned with a TC land use designation. The most affected property will be Lot B and the developers of Lot B have coordinated their development plans with Points of Colorado. Impacts and compatibility of a development plan submittal would be reviewed through the public process.

(10) For rezoning within an existing PUD, consistency with the relevant PUD Master Plan as reflected in the approval of the applicable PUD; and,

Staff Response: The rezoning would supersede and void the existing PUD Development Plan documents.

(11) Adequate mitigation is required for zoning amendment applications which result in greater intensity of land use or increased demands on public facilities and infrastructure.

Staff Response: While the exact density or intensity of uses is unknown at this time, previous entitlements for the property included substantial commercial and lodging uses. Detailed mitigation measures will be reviewed when a development plan is developed.

Staff Recommendation

Staff recommends approval of the Application. PZC shall direct Staff to prepare a formal Findings of Fact, Record of Decision, and Recommendation to Council pursuant to Section 7.16.020(f)(3), *Findings*.

Recommended Motions and Findings:

“I move to recommend that Town Council approve Case #REZ16001, an application to rezone Lots 1, 2A, 2B, 2C, 3, & 5, Mountain Vista Resort Subdivision, from PUD to TC, together with the findings of fact listed in Staff’s Report.”

The Following Findings May be Applied Should the PZC recommend approval of the Application to the Avon Town Council:

1. The Application promotes the health, safety, and welfare of the Avon community by provides assurances with respect to building form, development standards, and allowed uses consistent and in scale with adjacent neighboring Town Center (TC) properties.
2. The Application was reviewed in accordance §7.16.050, *Rezoning*, Avon Development Code, and is found to be in substantial compliance with the review criteria as outlined in the staff report dated June 3, 2016 by Matt Pielsticker.
3. The Application implements the general land use goals and policies of the Avon Comprehensive Plan including the Land Use Map designations, and planning principles of the *Town Center West District*.
4. The Application is substantially compliant with the purpose statements of the Development Code by providing for the orderly, efficient use of the Property, while at the same time conserving the value of the investments of owners of property in Town.

Attachment
Application



SHERATON MOUNTAIN VISTA

REZONING APPLICATION TO THE TOWN OF AVON

Ruth Borne | Borne Law | May 10, 2016

A. INTRODUCTION

Points of Colorado, Inc. is seeking re-zoning for the remaining portion of property of the Sheraton Mountain Vista from PUD to Town Center ("TC").

PUD zoning for Sheraton Mountain Vista was created by the Town in the Development Plan and Development Agreement for Lot C, Mountain Resort Subdivision, Town of Avon, Eagle County, Colorado over fifteen (15) years ago by Series 2000, Ordinance 00-02 in accordance with the requirements of the Avon Municipal Code, Section 17.20.110. The vesting for Sheraton Mountain Vista PUD ("SMV") expired on February 22, 2012.

SMV was a three-phased PUD approval consisting of:

Phase 1-A: 50 Time-Share Units; 20 Deed Restricted Employee Units and 5,800 sq. ft. GLFA of ground floor commercial space.

Phase 1-B: 35 Time-Share Units; 15,750 sq. ft. GLFA three-story freestanding commercial building (at least 5,250 sf GLFA on the ground level retail and 10,500 sf GLFA of the second and third floors office/retail).

Phase 1-C: 48 Time-Share Units; 125-unit Hotel with a minimum of 5,500 sf GLFA ground-level commercial area suitable for retail use and 4,800 sf GLFA of restaurant space in the hotel.

Phase 1A and 1B were completed in 2002 by Points of Colorado, Inc. Since that time, the economy changed significantly and the managing entity, Starwood Vacation Ownership is in transition to become Vistana Signature Experiences. With this management change, Points of Colorado, Inc. has evaluated its options and is seeking to downzone the SMV PUD to TC Zoning.

Town Center (TC) zoning is defined in the ADC, Section 17.16.80(c):

The TC district is intended to provide sites for a variety of uses such as hotels, commercial establishments, offices and some residential uses in a predominately pedestrian environment. The Town Center should be distinguished from other areas in the Town and highest intensity of uses and should serve as the major transit destination as well as provide high levels of pedestrian accessibility. The TC district implements the mixed-use classification of the Avon Future Land Use Plan.

The Town Center zone district allows multiple family dwellings and timeshare units as a permitted use as well as providing flexibility for development in this area of Town.

The most notable impact of this zoning change will be the height limitation. Currently, the SMV PUD allows for 103' ft. height limitation. By approving this re-zoning application, the height of SMV will now be limited to 80' ft. in accordance with TC zoning.

B. REZONING CRITERIA

The requirements for re-zoning are set forth in ADC, Section 7.16.050. Re-zoning is not to relieve particular hardships nor to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the Town. Downzoning SMV from PUD to TC certainly complies with the purpose for rezoning. The benefit of this downzoning will create more consistent zoning particularly with reducing the overall height requirement from a maximum of 103 feet to the 80 feet height limitation required in the TC Zone District. Recently, Wyndham and Lot B have rezoned to TC zoning.

The following review criteria is provided as the basis for the rezoning application:

1) Evidence of substantial compliance with the purpose of the Development Code;

The purpose of the Development Code is provided in Section, 7.04.030 of the Avon Development:

The Development Code is intended to promote and achieve the following goals and purposes for the Avon community, including the residents, property owners, business owners and visitors:

- a) Divide the Town into zones, restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; regulate the intensity of the use of lot areas; regulate and determine the area of open spaces surrounding such buildings; establish building lines and locations of buildings designed for specified industrial, commercial, residential and other uses within such areas; establish standards to which buildings or structures shall conform; establish standards for use of areas adjoining such buildings or structures;

- b) Implement the goals and policies of the Avon Comprehensive Plan and other applicable planning documents of the Town;
- c) Comply with the purposes stated in state and federal regulations which authorize the regulations in this Development Code;
- d) Avoid undue traffic congestion and degradation of the level of service provided by streets and roadways, promote effective and economical mass transportation and enhance effective, attractive and economical pedestrian opportunities;
- e) Promote adequate light, air, landscaping and open space and avoid undue concentration or sprawl of population;
- f) Provide a planned and orderly use of land, protection of the environment and preservation of viability, all to conserve the value of the investments of the people of the Avon community and encourage a high quality of life and the most appropriate use of land throughout the municipality;
- g) Prevent the inefficient use of land; avoid increased demands on public services and facilities which exceed capacity or degrade the level of service for existing residents; provide for phased development of government services and facilities which maximizes efficiency and optimizes costs to taxpayers and users; and promote sufficient, economical and high-quality provision of all public services and public facilities, including but not limited to water, sewage, schools, libraries, police, parks, recreation, open space and medical facilities;
- h) Minimize the risk of damage and injury to people, structures and public infrastructure created by wild fire, avalanche, unstable slopes, rock fall, mudslides, flood danger and other natural hazards;
- i) Achieve or exceed federal clean air standards;
- j) Sustain water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources;
- k) Maintain the natural scenic beauty of the Eagle River Valley in order to preserve areas of historical and archaeological importance, provide for adequate open spaces, preserve scenic views, provide recreational opportunities, sustain the tourist-based economy and preserve property values;
- l) Promote architectural design which is compatible, functional, practical and complimentary checking to Avon's sub-alpine environment;
- m) Achieve innovation and advancement in design of the built environment to improve efficiency, reduce energy consumption, reduce emission of pollutants, reduce consumption of non-renewable natural resources and attain sustainability;
- n) Achieve a diverse range of attainable housing which meets the housing needs created by jobs in the Town, provides a range of housing types and

price points to serve a complete range of life stages and promotes a balanced, diverse and stable full time residential community which is balanced with the visitor economy;

- o) Promote quality real estate investments which conserve property values by disclosing risks, taxes and fees; by incorporating practical and comprehensible legal arrangements; and by promoting accuracy in investment expectations;
- p) Promote the health, safety and welfare of the Avon community

This rezoning proposal is consistent with and in substantial compliance with the purpose of the Development Code.

2) Consistency with the Avon Comprehensive Plan;

Development in this area of Town is reviewed for consistency with the Avon Comprehensive Plan, and more specifically, the Avon West Town Center District Investment Plan adopted in August 2007. The Avon West Town Center District Plan specifically identified concerns with the overall massing of buildings and “does not reflect the desired character of the district”. This rezoning provides an opportunity for the Town to create more appropriate massing and character consistent with TC zoning.

3) Physical suitability of the land for the proposed development or subdivision;

The remaining portions of the SMV PUD property are suitable for development and re-zoning to TC.

4) Compatibility with surrounding land uses;

As aforementioned, the surrounding property has now been zoned TC, and the zoning of this property will become consistent with the adjacent developments.

5) Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned;

Since the approval of the SMV PUD in 2000, the Town of Avon has revised, adopted and developed plans, policies and guidelines to ensure proper development in Town Center. Resort development and the management of the Sheraton Mountain Vista has changed and is now owned and operated by a timeshare company seeking to downzone the parcel to Town Center.

- 6) **Whether there are adequate facilities available to serve development for the type and scope suggested by the proposed zone compared to the existing zoning, while maintaining adequate levels of service to existing development;**

The existing SMV PUD has adequate facilities. When the SMV PUD was approved in 2000, infrastructure and related facilities for full build out were constructed, including 20 employee housing units.

- 7) **Whether the rezoning is consistent with the stated purpose of the proposed zoning district;**

Re-zoning is not to relieve particular hardships nor to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the Town. Downzoning SMV from PUD to TC certainly complies with the purpose for rezoning. The benefit of this downzoning will create more consistent zoning particularly with respect to the overall height requirement that is consistent with the TC Zone District. Similarly, Wyndham and Lot B have rezoned to TC zoning.

- 8) **That, compared to the existing zoning, the rezoning is not likely to result in adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife and vegetation, or such impacts will be substantially mitigated;**

The rezoning will result in an overall reduction in density as a result of the limitations of the development standards for TC zoning. SMV has been designed and constructed with the requirements of full build out of the existing SMV PUD, including Stormwater, water and related utilities.

- 9) **That, compared to the existing zoning, the rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract;**

The reduction in height and ability of the Town to control the overall massing under TC zoning will result in reducing the overall impacts of the existing zoning.

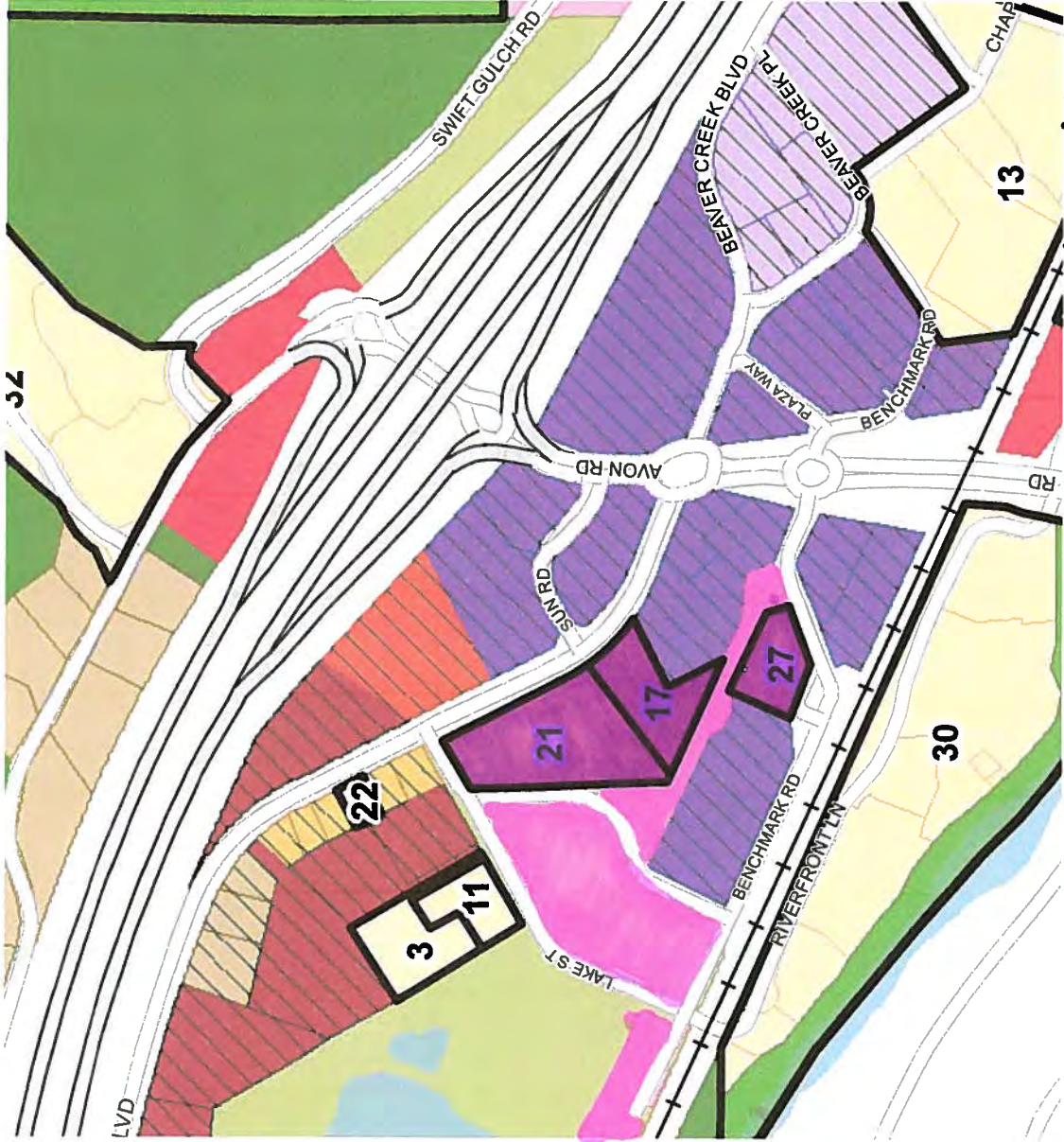
- 10) **Adequate mitigation is required for rezoning applications which result in greater intensity of land use or increased demands on public facilities and infrastructure.**

This application will decrease the demands on public facilities and infrastructure. Points of Colorado, Inc. has retained Stan Bernstein & Associates, Inc. to prepare a fiscal analysis which is attached hereto and imported herein.

C. CONCLUSION

Points of Colorado, Inc. has worked closely with staff and evaluated the scope of this rezoning application from PUD to TC. The ability of the Town to have such a significant property consistent with the overall Town Center zoning and design parameters is a benefit and warrants approval.





LOT C, Sheraton Mountain Vista
REZONING TO TOWN CENTER



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council

From: Scott Wright, Asst. Town Manager

Date: June 14, 2016

Topic: Fiscal Analysis of Rezoning – Sheraton Mountain Vista

Amy Greer of Stan Bernstein and Associates has prepared a fiscal impact analysis as part of the application for the rezoning of Lot C. The purpose of the fiscal analysis was to identify incremental changes to both revenues and expenditures for the Town's various funds.

I have reviewed the current fiscal impact analysis and compared it to the PUD application and development agreement from 1998 and the amendment to the development agreement in 2000. The following are comments and remaining unanswered questions that I have after my review.

With the exception of the Wyndham Hotel, Town revenues associated with existing time-share properties in Avon are based on the concept of deeded time-share units, including lock-off or accommodation units. These revenues are as follows:

- Property taxes – assessed at a residential rate of 7.96%.
- Real estate transfer tax – levied at a rate of 2% based on the transfer of a deeded time-share unit.
- Time-share amenity fee – levied at a CPI adjusted rate of \$25 annually per deeded time-share unit.
- Sales and accommodation taxes – levied at a rate of 4% each for the rental rate paid for a nightly rental.

Property Taxes. In general, compared to a hotel with the same number of units and commercial retail space, time-share properties typically generate less property tax revenue because of the reduced assessment ratio (7.96% for residential vs. 29% for commercial).

- One item to note – the Sheraton Mountain Vista is located within the Town Center Urban Renewal Plan area. That means that incremental property taxes from the project would be credited to the URA not the Town. Based on the development schedule contained within the fiscal analysis the sale of the initial units occurs in 2020. This indicates then that the tax increment would only be available to the URA for the next ten years based upon the 25 year life of the TIF district.

- Based on this information, the developer should be encouraged through either incentives or disincentives to begin the project earlier than contemplated in the fiscal analysis.

Real Estate Transfer Taxes. In general, time-share properties typically generate a great deal more in RETT than commercial hotels. Transfer taxes have historically been based upon the sale of a deeded time-share unit. Beginning with the development of the Wyndham property, which is based upon a vacation ownership point system, the calculation of real estate transfer taxes has become much more complicated. In the case of the Wyndham, the RETT originally projected by the developer has been greatly under-realized, causing staff to question that we fully understand the transactions occurring and have have captured the taxation of these transactions successfully.

- It has recently come to my understanding that the Sheraton Mountain Vista will also be using a vacation ownership point system similar to the Wyndham. It is my opinion that the Town needs to discuss this with the developer and possibly will need to amend the development agreement to accommodate this system. It is also important that the Town understand what that means to the existing deeded time-share units and if the developer is planning on converting those units to a point system as well.

Time-share Amenity Fee. Because time-share owners do not pay Avon sales and accommodation taxes for occupying their deeded unit, the time-share amenity fee has been included in Town development agreements with time-share properties as a means to offset municipal services specifically related to the Avon Recreation Center and the Avon Skier Shuttle. Similar to the real estate transfer tax, the calculation of the timeshare amenity fee has historically been based upon a fee per deeded time-share unit. With the vacation ownership point system the calculation of the amenity fee has become much more complicated and is based upon the developer identifying the total amount of points available to be sold at the property and then associating one vacation ownership point with the associated fee.

- Like the real estate transfer tax, the point system will require an amendment to the existing development agreement to accommodate these calculations. In addition, the developer will need to establish an initial amount of vacation ownership points available to be sold.
- An advantage of time-share amenity fees is that the payment and collection of the fee is not subject to the ups and downs of the economy and tourism, unlike sales and accommodation taxes.

Sales and Accommodation Taxes. Time-share units that are not occupied by owners are subject to the Town's sales and accommodation taxes. Obviously the amount of taxes collected on room rentals are less than that of a commercial hotel.

Guest nights. Guest nights based upon the assumptions in the analysis are very similar. In this case, either type of project will bring approximately 100,000 new guests to the Town, which will have a significant positive impact on economic commerce within the Town (restaurant

and retail sales, ski and bike rentals, etc.) , not to mention indirect sales tax revenues to the Town government.

Summary. In summary, the time-share rezoning application from a fiscal impact point-of-view appear reasonable and appropriately incremental compared to the original hotel concept. However, several details regarding the vacation point system and related real estate transfer taxes and time-share amenity fees need to be discussed and worked out with the developer prior to a final approval of the application.

Scott

Fiscal Impact Analysis – Sheraton Mountain Vista (Lot C)

May 5, 2016

Prepared by:

Stan Bernstein and Associates, Inc.

Stan Bernstein and Associates, Inc.

Financial Planners and Consultants

For Local Governments, Municipal Bond Underwriters, and Real Estate Developers

PO Box 5342

Vail, Colorado 81658

amy.bernstein.greer@gmail.com 970-390-9162

May 5, 2016

Ms. Virginia Egger, Town Manager
Mr. Scott Wright, Treasurer & Assistant Town Manager
Mr. Matt Pielsticker, Planning Director
Avon Town Council

Dear Ms. Egger, Mr. Wright, Mr. Pielsticker, and Avon Town Council:

Background

Stan Bernstein and Associates, Inc. ("SBA") has assembled an analysis of the fiscal impacts to the Town of Avon ("Town"), associated with Points of Colorado, Inc.'s ("The Developer") request for rezoning of Lot C. The SBA analysis measures expected revenues from sales and accommodation taxes, property taxes, real estate transfer taxes, and various fees, and expected incremental costs to the Town. The purpose of the analysis is to identify incremental revenues, expenditures, and fund balances for the Town's General Fund, Capital Projects Fund, Debt Service Fund, and Water Fund as a result of real estate development proposed on Lot C.

Highlights of Findings

Upon completion of our analysis of the fiscal impacts to the Town of Avon associated with the most current Points of Colorado, Inc. development plan we have identified the following key findings:

- Impacts to the Town's General Fund Balance show a \$350,000 annual surplus.
- The development is expected to generate assessed valuation of approximately \$2.7 million at full buildout and generate \$24,000 annually in property tax revenues to the Town.
- The development is expected to generate over \$82,000 in annual accommodations tax revenue to the Town.
- The development is expected to generate over \$99,000 in annual sales tax revenue to the Town (on a conservative basis).
- The development is expected to generate over \$230,000 in annual recreation amenities fee revenue to the Town.
- Impacts to the Town's Capital Projects Fund show \$2.98 million in revenues generated from real estate transfer taxes.

Ms. Virginia Eggers
 May 5, 2016
 Page 2 of 6

Land use assumptions were provided by Points of Colorado, Inc., and include a total of 82 vacation ownership units and 1,500 square feet of commercial space. Development is expected to be completed during years 2020 through 2022 as presented below.

	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Totals</u>
Vacation Ownership Units	44	0	38	82
Commercial (Sq. Ft.)	0	0	1500	1,500

The Revenue and Expenditure Impact analysis is expressed in constant 2016 dollars (i.e., it does not include any inflation because inflation is assumed to impact revenues and costs equally). Key financial planning assumptions include annual occupancy rates, average annual ADR (average daily rates), the number of persons occupying units, daily guest spending subject to the Town's sales tax, and sales and market values associated with vacation ownership units.

Summary of Incremental Fund Balances (Including General and Capital Projects Fund)

Incremental Fund Balances at full buildout, and aggregate Incremental Fund Balances during years 2018 through 2027 are presented in the following chart.

	<u>@ Full Buildout</u>	<u>2016 – 2027</u>
General Fund Balances	\$ 354,138	\$ 2,098,192
Capital Projects Fund (RETT) ¹	0	2,984,800

¹ Assumes 44 units in 2020 generate \$1,601,600 in RETT Revenue and 38 units in 2020 generate \$1,383,200

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 May 5, 2016
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Summary of Selected Incremental Revenues

Incremental Revenues at full buildout are presented in the following chart.

Selected Revenue Sources @ Full Buildout		
Sales and Accommodation Taxes (from Short-Term Rentals)	Annual	\$ 82,529
Property Tax Revenues (Based on AV of \$2.83 M)	Annual	24,191
RETT Revenues (Initial Sales, Excluding Purchase Price of Land)	One-time	2,984,800
RETT Revenues (Secondary Sales)	Annual	0
Water Tap Fees	One-time	656,000
Construction Permits	One-time	331,410
Recreation Amenities Fees	Annual	230,320

Summary of Incremental General Fund (Including Transit) Operating Expenditures

Incremental General Fund (including Transit) at full buildout are presented in the following chart.

Incremental General Fund Operating Expenditures (at full buildout)		
Department	Annual	Source, Assumption
Police Department	\$35,115	13 Mills X Assessed Value
Public Works	\$58,333	Estimate per Town (may need to be revised)
Transit System	\$43,250	Skier guest nights X \$1.40 per rider (per Jane Burden, Transit Director, Town of Avon) cost to town for Skier Shuttle.
Administration	\$ 10,252	7.5% of combined incremental Police, Public Works, and Transit System costs.
Community Development	\$ 0	During Construction it is assumed that Incremental Community Development costs will be funded from 75% of building related fees and permits. It is assumed that 25% of building related fees and permits will provide net revenue for the General Fund.

Assumptions

The following assumptions are those we believe to be most significant in terms of projecting

Ms. Virginia Eggers
 May 5, 2016
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incremental revenues and expenditures as they relate to proposed development as provided by the Developer.

One of the most important assumptions is that there will be a very active and aggressive short-term rental program implemented, with respect to the vacation ownership units. These short-term rental occupancy assumptions are important because they determine revenues that could be generated from the Town's 4% Accommodation Tax and the Town's 4% Sales Tax. They also determine how many incremental guest nights the development could generate, which determines (i) potential incremental guest spending in retail and food and beverage establishments, and (ii) incremental transit system service hours and related operating costs. Rental occupancy rates are estimated at 24%. This is based on 5 year historical rental occupancy rates at the existing Sheraton Mountain Vista property. Please keep in mind that if guest nights are less than estimated, incremental Town Accommodation Tax and Sales Tax revenues will be lower than projected, but incremental Transit System costs should also be less than projected.

Vacation ownership Units

- Average sales price per week of ownership is assumed to be \$35,000 – each unit is assumed to have a lock off unit.
- 44 units are sold in 2020, 38 units are sold in 2022.
- It is assumed that until the units are sold, they are owned by the developer and 100% are placed in the rental pool.
- Owner Occupancy is assumed to be 46%.
- Rental Occupancy is assumed to be 24%.
- Owner Occupants are assumed to have 4.5 guests per unit
- Rental Occupants are assumed to have 4.0 guests per unit.
- ADR is assumed to be \$144/night.

Based upon the above assumptions incremental guest nights at full buildout are projected to be 90,014, and 4% Town sales taxes generated from short-term lodging rentals and 4% Town accommodation taxes are projected to total \$82,526 annually.

Incremental Sales Tax Generation from Retail, Restaurant and Groceries Guest Spending

- In their March 24, 2005 report, *Analysis of Fiscal Impacts of the Sheraton Mountain Vista Resort*, PricewaterhouseCoopers L.L.P. conducted a survey of daily guest spending which would be subject to the Town's 4% Sales Tax. This survey identified daily guest spending subject to the Town's sales tax at \$26 per day. Based upon this survey, and adjusting for increased prices since 2005, we have assumed average daily guest spending of \$27.50. At full buildout, and based upon 90,014 incremental annual guest nights, approximately \$2.48 million of taxable sales would be generated which would result in \$99,016 of incremental Town sales tax revenues.

Incremental Property Tax Revenues

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- Incremental assessed valuation at full-buildout is projected to be \$2,701,144 and, based upon a continuation of the Town's current 8.956 mill levy, is projected to generate \$24,191 of property tax revenues and an additional \$968 of specific ownership revenues on an annual basis. This assumes an average residential sales price of \$267 per square foot, and an average net rental income of at least \$200 per square foot generated from the commercial space.

Incremental Real Estate Transfer Tax Revenues

- Incremental 2% Real Estate Transfer Tax Revenues from initial sales of vacation ownership units are projected to be \$2,984,800 based upon initial sales volume of \$149,240,000. It is expected that these sales will occur between 2020 through 2022. Incremental 2% Real Estate Transfer Tax Revenues from initial sales of vacation ownership units are based upon an average weekly sale of \$35,000.
- RETT Revenues generated from secondary sales are assumed to be zero as the vacation ownership units will be held by Points of Colorado, Inc. and ownership will be points based.

Other Incremental Revenue Sources Include:

- Recreation Amenities Fee revenues are based upon an annual assessment of \$36.01 for each vacation ownership week and assumes that all units contain a separate lock-off unit.
- Other Town revenue sources include County Road and Bridge Funds, Franchise and Utility Fees, State Shared revenues, and the County Sales Tax Rebate. These revenue sources appear on Exhibit I and revenue generation is based upon an analysis of information contained in the Town's 2016 Budget.
- Construction permits are roughly estimated to be 1.0% of the assumed value of all units, but this amount should be calculated by the Town's Building Department.
- Water Tap fees are based upon a \$4,000 one-time charge. Each vacation ownership unit is assumed to have 2 keys and therefore generate 2 taps per unit. Water user fees are based on a \$39 annual charge for each vacation ownership unit.

Expenditure Assumptions

- Police Department incremental expenses are estimated based upon applying 13.0 mills to the assessed valuation and are projected to be \$35,115 at full buildout – this methodology has historically been accepted by the Town as a reasonable method for estimating incremental police department related costs.
- Incremental Transit costs total approximately \$43,250. The Town of Avon estimates that each ride on the Skier Shuttle costs \$1.40. Assuming 66% of guests ski and that 50% of those skiers will ride the Skier Shuttle (round trip or multiplied by 2), we can use calculated

Ms. Virginia Eggers

May 5, 2016

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guest nights during ski season to estimate ridership and incremental transit costs.

- Incremental Public Works costs have also been studied by the Town's Public Works Director and are estimated to be approximately \$58,333 annually. These costs would include snow removal on the public right-of-way and assume sufficient setbacks (i.e., 10-foot snow easements) are provided on-site to allow for snow storage along surrounding street frontages. This amount should be reviewed by the town as it may need to be revised.
- Incremental Administration costs are projected to be 7.5% of the sum of the incremental Police, Transit and Public Works costs, and are projected to be \$10,252 at full buildout.
- Incremental Community Development costs are assumed to be offset by 75% the projected incremental construction permit revenue. The additional 25% will be used to offset other General Fund expenditures.

Other Assumptions

- All Real Estate Transfer Tax revenues are assumed to be collected by the Town's Capital Project Fund and used to fund future capital improvements.
- All Water Tap and User Fee revenues are assumed to be collected by the Town's Water Fund.
- All Property Tax revenues generated from the Town's debt service mill levy are assumed to be collected by the Town's Debt Service Fund.

Sheraton Mountain Vista Fiscal Impact Analysis (Final Phase)

<u>Comparison of Original PUD Application and Current Application</u>		
	Original PUD Projections¹	Current Projections²
Assessed Valuation	\$4.52M	\$2.7M
Annual Guest Nights	105,293	90,014
Real Estate Transfer Tax Revenue from Initial Sales	\$873,600 ³	\$2,984,800
Annual Revenues to Town of Avon		
Annual Property Tax Revenue (8.956 TOA mill levy)	\$40,000	\$24,000
Annual Recreation Amenities Fees	\$134,821	\$230,320
Annual Sales and Accommodations Tax Revenue	\$230,917	\$82,526
Annual Sales Tax Revenue (Sales outside SMV but within TOA)	<u>\$113,263</u>	<u>\$99,016</u>
Subtotal Annual Revenues to Town of Avon	<u>\$519,001</u>	<u>\$435,862</u>

¹ Final phase of the Original PUD assumes 125 unit hotel room, 48 fractional units, and 10,300 square feet of commercial space.

² Final phase of Current Application assumes 82 fractional units and 1,500 square feet of commercial space.

³ Assumed a 50/50 split of RETT revenues from initial sales between the Town and Developer.



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Matt Pielsticker, AICP, Planning Director

Meeting Date: June 14, 2016 Meeting

Agenda Topic: First Reading of Ordinance 2016-14, An Ordinance Approving the Rezoning of Lot 4, Mountain Vista Resort Subdivision, from Planned Unit Development (PUD) to Public Facilities (PF)

ACTION BEFORE COUNCIL

Vote on an Ordinance that changes the zoning of the new Town Hall parcel from Planned Unit Development (PUD) to Public Facilities (PF) zone district.

PROPOSED MOTION

*"I move to approve Ordinance 2016-14 (**Exhibit A**), thereby approving first reading of an Ordinance that would rezone Lots 4, Mountain Vista Resort Subdivision, from PUD to PF."*

PZC REVIEW

This Application was reviewed by the Planning and Zoning Commission (PZC) at their June 7, 2016 meeting. They provided a recommendation for approval to the Town Council, a copy of which is attached (**Exhibit B**). PZC cited conformance with the review criteria and found that the PF zone district was most appropriate for its intended use as a Town Hall with supporting community uses. The PZC decision followed a public hearing and review of staff's report (**Exhibit C**), which includes analysis of the rezoning review criteria.

ATTACHMENTS

Exhibit A: Ordinance 2016-14

Exhibit B: PZC Record of Decision, approved June 7, 2016

Exhibit C: PZC Report, dated June 2, 2016



**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-14**

**REZONING LOT 4, MOUNTAIN VISTA RESORT SUBDIVISION, AVON,
COLORADO FROM PLANNED UNIT DEVELOPMENT TO PUBLIC
FACILITIES**

WHEREAS, the Town of Avon (“**Town**”) is a home rule municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

WHEREAS, the Town of Avon (“**Applicant**”) submitted an application to rezone Lot 4, Mountain Vista Resort Subdivision, Avon, Colorado (“**Property**”) from Planned Unit Development to Public Facilities zone district; and

WHEREAS, according to the Avon Municipal Code (“**AMC**”) §7.20.080(c), the PF district is intended to provide sites for public uses such as community centers, police and fire stations and governmental facilities; and

WHEREAS, the Town’s Planning & Zoning Commission (“**PZC**”), after publishing and posting notice as required by law, held a public hearing on June 7, 2016; and prior to formulating a recommendation to the Town Council considered all comments, testimony, evidence and Town Staff reports; and then took action to adopt Findings of Fact and a Record of Decision in accordance with AMC §7.16.020(f), making a recommendation to the Town Council to approve the Application; and

WHEREAS, the Town Council of the Town of Avon, after publishing and posting notice in accordance with the requirements of AMC §7.16.020(d), *Step 4: Notice*, held public hearings on June 14, 2016, and June 28, 2016 and prior to taking final action considered all comments, testimony, evidence and Town Staff reports; and then took action by approving this Ordinance; and

WHEREAS, in accordance with AMC §7.12.020, *Town Council*, and in addition to other authority granted by the Town Charter, its ordinances or State of Colorado law, the Town Council has application review and decision-making authority to approve, approve with conditions or deny the Application; and

WHEREAS, pursuant to AMC §7.16.050(c), *Review Criteria*, the Town Council has considered the applicable review criteria for rezoning and finds that the criteria are met in accordance with the town staff report, dated June 3, 2016 and in accordance with the Findings of Fact; and

WHEREAS, the Property is located adjacent to property owned by the Town of Avon which is currently zoned PF district and the Property is intended for use a Town Hall and government facilities; and

WHEREAS, the Town Council finds that the rezoning from Planned Unit Development to the Public Facilities district will promote the Avon Comprehensive Plan for District 1, promote uniformity of zoning regulations in the Town Core area, and will thereby promote the health, safety and welfare of the Avon community; and

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm the Town Council desires to comply with the requirements of the *Avon Home Rule Charter* by setting a Public Hearing in order to provide the public an opportunity to present testimony and evidence regarding the application, and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this Ordinance.

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

Section 1. **Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. **Rezoning.** Lots 4, Mountain Vista Resort Subdivision, Avon, Colorado, is hereby rezoned from Planned Unit Development to the Public Facilities district.

Section 3. **Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it has passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 4. **Effective Date.** This Ordinance shall in no event take effect sooner than thirty (30) days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 5. **Safety Clause.** The Town Council hereby finds, determines and declares this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public and this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 7. Correction of Errors. Town Staff is authorized to insert proper dates, references to recording information and make similar changes, and to correct any typographical, grammatical, cross-reference, or other errors which may be discovered in any documents associated with this Ordinance and documents approved by this Ordinance provided that such corrections do not change the substantive terms and provisions of such documents.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

[EXECUTION PAGE FOLLOWS]

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on June 14, 2016 and setting such public hearing for June 28, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on June 28, 2015.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Town Attorney

**PLANNING AND ZONING COMMISSION
FINDINGS OF FACT AND RECORD OF DECISION**



DATE OF DECISION: June 7, 2016
TYPE OF APPLICATION: Rezoning from PUD to Public Facility Zone District
FILE NUMBER: #REZ16002
PROPERTY LOCATION: Lot 4, Mountain Vista Resort Subdivision
ADDRESS: 140 Benchmark Road
APPLICANT/OWNER: Town of Avon

These findings of fact and record of decision is made in accordance with the Avon Development Code ("Development Code") §7.16.020(f):

DECISION: Recommend Approval to Town Council. Approved with 5-1 vote.

FINDINGS:

1. The Application was reviewed in accordance §7.16.050, Rezoning, Avon Development Code, and is found to be in substantial compliance with the review criteria as outlined in the staff report dated June 2, 2016 by Matt Pielsticker.
2. The Application promotes the health, safety, and welfare of the Avon community by provides assurances with respect to building form, development standards, and allowed uses consistent and in scale with adjacent neighboring existing and planned land uses.
3. The Application is substantially compliant with the purpose statements of the Development Code by providing for the orderly, efficient use of the Property, while at the same time conserving the value of the investments of owners of property in Town.


THESE FINDINGS OF FACT AND RECORD OF DECISION ARE HEREBY APPROVED:

BY: 
 Jim Clancy, Chairperson

DATE: 6/9/16

Staff Report – Rezoning
June 7, 2016 Planning & Zoning Commission Meeting



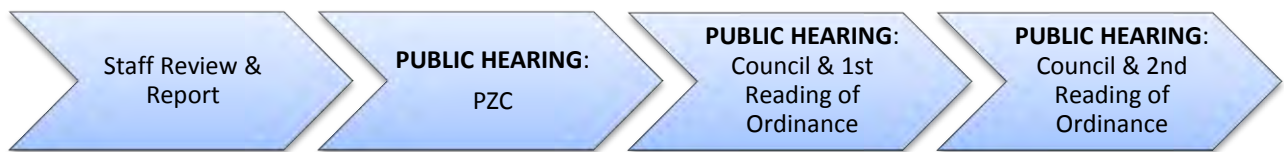
Report date	June 2, 2016
Project file	Case #REZ16002
Legal description	Lot 4, Mountain Vista Resort Subdivision
Current Zoning	Planned Unit Development (PUD)
Proposed Zoning	Public Facilities
Address	140 Benchmark Road
Prepared By	Matt Pielsticker, Planning Director 

Introduction

The Avon Town Council authorized processing a Rezoning application (the “Application”) for the newly acquired Town Hall property at their May 24, 2016. The Application would rezone the property from the current Planned Unit Development (“PUD”) designation to the Public Facilities (“PF”) zone district. The proposed use as a Town Hall, with supporting community uses, is consistent with the intent of the PF zone district. The Planning and Zoning Commission (“PZC”) will review the Application and conduct a public hearing on June 7, 2016. After reviewing Staff’s analysis and considering public input, PZC will forward a recommendation to the Town Council for final action.

Process

The review process first requires a noticed public hearing with PZC. After conducting a public hearing, PZC will forward a recommendation to Town Council. Subsequently, final action is taken on the Application by Town Council after conducting public hearings and either approval by Ordinance or denial by motion.



Property Background

The Property is currently part of the Sheraton Mountain Vista PUD and originally slated for retail/restaurant on the first level, and office on second and third floors. It was platted and constructed as part of the initial PUD development phases.

Property Description

Lot 4 is approximately a 1/4 acre in size and is currently surrounded by parking lots and undeveloped portions of the Mountain Vista development project. The lot itself is covered mostly with the vacant office building footprint and concrete surrounding.

The Property is bounded on the west by Tract G and surface parking; south by the Main Street



Pedestrian Mall; on the north by the partially developed Sheraton Mountain Vista PUD, and on the east by Lot B and potential future site of a hotel.

Application Summary

The proposal is to modify the Town’s Zoning Map for Lot 4 from PUD to the Public Facilities zone district. Unless otherwise set forth in the Avon Comprehensive Plan, the following dimensional standards would apply to any future alterations or development on the property:

Max Density units/acre)	Min. Lot Size (acres or sq. ft.)	Min. Lot Width (feet)	Max. Lot Coverage (%)	Min. Front Setback (feet)	Min. Side Setback (feet)	Min. Rear Setback (feet)	Max. Building Height (feet)	Max. Units/Lot
n/a	n/a	40	60	20	20	20	40	n/a

Rezoning Review Criteria Analysis

As outlined in Sec. 7.20.080(e), the Public Facilities “is intended to provide sites for public uses such as community centers, police and fire stations, and governmental facilities.” The review process and review criteria for zoning amendments are governed by AMC §7.16.050, Rezoning. PZC shall use the criteria below as the basis for a recommendation on the Rezoning application. Staff responses to each review criteria are provided.

(1) Evidence of substantial compliance with the purpose of the Development Code;

The entire Purpose statement section from the Development Code (Section 7.04.030 - Development Code Purposes) is outlined for reference:

- (a) Divide the Town into zones, restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; regulate the intensity of the use of lot areas; regulate and determine the area of open spaces surrounding such buildings; establish building lines and locations of buildings designed for specified industrial, commercial, residential and other uses within such areas; establish standards to which buildings or structures shall conform; establish standards for use of areas adjoining such buildings or structures;
- (b) Implement the goals and policies of the Avon Comprehensive Plan and other applicable planning documents of the Town;
- (c) Comply with the purposes stated in state and federal regulations which authorize the regulations in this Development Code;
- (d) Avoid undue traffic congestion and degradation of the level of service provided by streets and roadways, promote effective and economical mass transportation and enhance effective, attractive and economical pedestrian opportunities;
- (e) Promote adequate light, air, landscaping and open space and avoid undue concentration or sprawl of population;
- (f) Provide a planned and orderly use of land, protection of the environment and preservation of viability, all to conserve the value of the investments of the people of the Avon community and encourage a high quality of life and the most appropriate use of land throughout the municipality;
- (g) Prevent the inefficient use of land; avoid increased demands on public services and facilities which exceed capacity or degrade the level of service for existing residents; provide for phased development of government services and facilities which maximizes efficiency and optimizes costs to taxpayers and users; and promote sufficient, economical and high-quality provision of all public services and public facilities, including but not limited to water, sewage, schools, libraries, police, parks, recreation, open space and medical facilities;
- (h) Minimize the risk of damage and injury to people, structures and public infrastructure created by wild fire, avalanche, unstable slopes, rock fall, mudslides, flood danger and other natural hazards;
- (i) Achieve or exceed federal clean air standards;

(j) Sustain water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources;

(k) Maintain the natural scenic beauty of the Eagle River Valley in order to preserve areas of historical and archaeological importance, provide for adequate open spaces, preserve scenic views, provide recreational opportunities, sustain the tourist-based economy and preserve property values;

(l) Promote architectural design which is compatible, functional, practical and complimentary to Avon's sub-alpine environment;

(m) Achieve innovation and advancement in design of the built environment to improve efficiency, reduce energy consumption, reduce emission of pollutants, reduce consumption of non-renewable natural resources and attain sustainability;

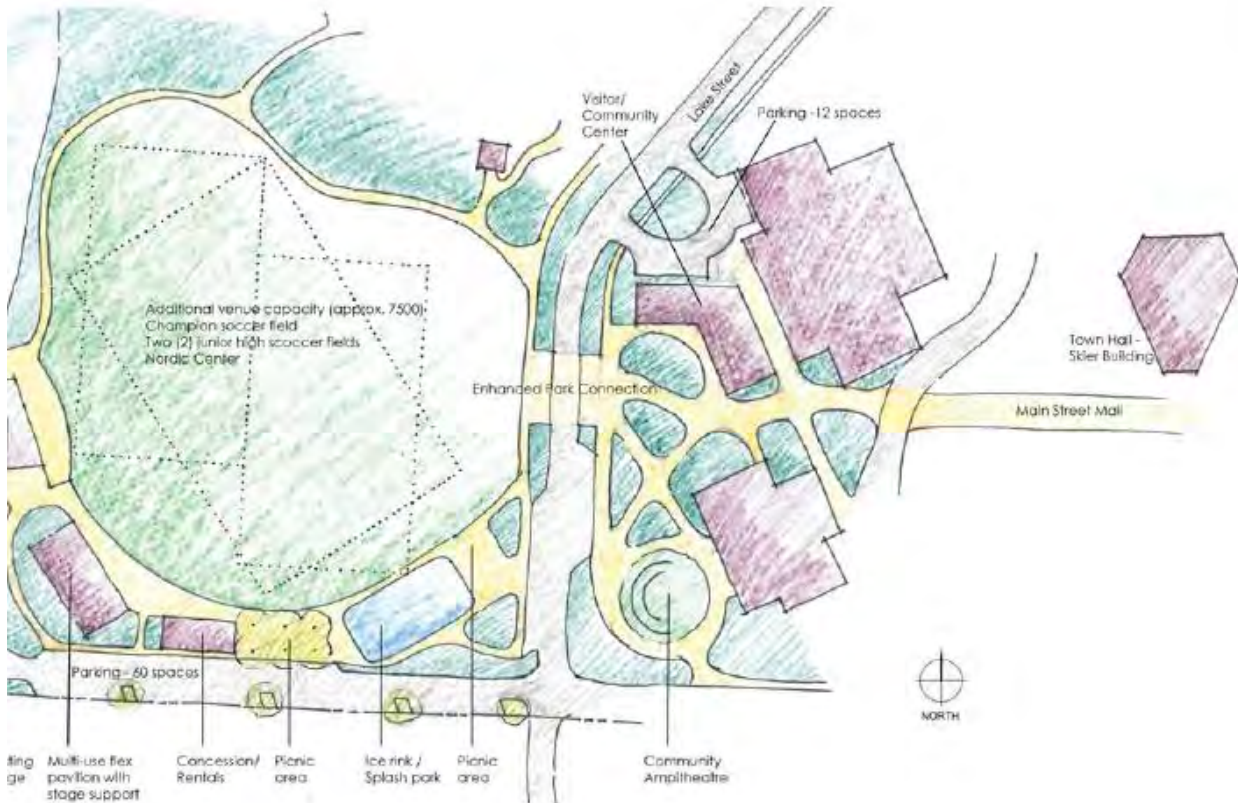
(n) Achieve a diverse range of attainable housing which meets the housing needs created by jobs in the Town, provides a range of housing types and price points to serve a complete range of life stages and promotes a balanced, diverse and stable full time residential community which is balanced with the visitor economy;

(o) Promote quality real estate investments which conserve property values by disclosing risks, taxes and fees; by incorporating practical and comprehensible legal arrangements; and by promoting accuracy in investment expectations; and

(p) Promote the health, safety and welfare of the Avon community.

Staff Response: The Application is substantially compliant with the purpose statements of the Development Code by providing for the orderly, efficient use of the Property, while at the same time considering adjacent land uses and compatibility of land uses in the vicinity. The Application complies with the goals and policies of the Avon Comprehensive Plan and other applicable planning documents. Two planning study documents were completed in 2015 that support the rezoning and final use of the building as a Town Hall. The *Avon Town Hall Facility Assessment and Space Needs Analysis* was completed by SHE, consultant to the Town. In addition to looking at space requirements and condition of the existing Town Hall, the study identified Lot 4 as the preferred option for a new Town Hall.

Further support for this rezoning was documented with the *Planning Services Review and Update of Nottingham Park Master Plan, Swift Gulch Master Plan, and Lot 5 Development Plan*, completed in November, 2015 by Stan Clauson Associates, consultants to the Town. That planning study looked at three alternatives for Town Hall, with the preferred option being a relocation to the Sheraton Mountain Vista Office Building (Lot 4).



(2) Consistency with the Avon Comprehensive Plan;

Staff Response: The rezoning application will provide consistency with the Comprehensive Plan, and supporting planning documents listed above. Specific goals and policies that support the rezoning include:

- Policy C.1.6:** Include sufficient land for public uses such as schools, recreation, community facilities (such as childcare), and government services near the people who use them
- Goal J.2:** Ensure cost effective provision and development of public facilities and services.
- Policy J.2.2:** Locate schools, parks, and other civic facilities, along trails, sidewalks, and transit facilities.
- Goal J.3.1:** Encourage the broad participation of citizens in planning efforts and decision-making.

The *West Town Center Investment Plan* also supports moving public offices from their current location to accommodate other potential uses in its current footprint. The area between the Recreation Center and New Town Hall property is still envisioned to accommodate an expansion to the Recreation Center as well as a possible parking structure with employee housing and limited retail space on the Pedestrian Mall.

(3) Physical suitability of the land for the proposed development or subdivision;

Staff Response: The Property is physically suitable for the proposed development as a Town Hall. A design and development process is already underway for the envisioned land use.

(4) Compatibility with surrounding land uses;

Staff Response: Governmental offices, with supportive community and related uses fit well between the park, Recreation Center, and library, with transition to the Pedestrian Mall and lodging activities that surround. The permitted uses in the PF zone District include the following:

- Art Gallery or Museums
- Community Centers
- Libraries
- Government Services, Offices, and Facilities
- Education
- Transit Facilities
- Medical
- Recycling Centers

Public uses are concentrated in this area of Town at the edge of Nottingham Park and appear to be compatible with surrounding residential, commercial, and lodging land uses. The interface of Lot 4 with the surrounding uses (both existing and proposed) will be studied in more detail with the completion of the Main Street Pedestrian Mall.

(5) Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned

Staff Response: As identified with updated planning studies conditions have changed in the area of Tract G with the construction of the construction of the Pavilion. Additionally, ballot issues passed for the police and fire departments for the relocation to the north side of Interstate 70.

(6) Whether there are adequate facilities available to serve development for the type and scope suggested by the proposed zone compared to the existing zoning, while maintaining adequate levels of service to existing development;

Staff Response: Adequate facilities are available to serve the development type and scope.

(7) Whether the rezoning is consistent with the stated purpose of the proposed zoning district(s);

Staff Response: The PF zone district is appropriate for the Lot's intended uses. The Public Facilities district "is intended to provide sites for public uses such as community centers, police and fire stations, and governmental facilities." Staff analyzed other potential zone districts, however, the PF district fit best with the planned use.

(8) That, compared to the existing zoning, the rezoning is not likely to result in adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;

Staff Response: Staff does not anticipate any adverse impacts upon the natural environment, compared to the existing zoning (office/retail).

(9) That, compared to the existing zoning, the rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract;

Staff Response: No significant impacts to other properties in the vicinity are envisioned with a PF land use designation. All of the neighboring properties are aware of the proposed rezoning and intended use of the property; some neighboring property owners intend to perform additional improvements to create additional vibrancy in the area.

(10) For rezoning within an existing PUD, consistency with the relevant PUD Master Plan as reflected in the approval of the applicable PUD; and,

Staff Response: The rezoning would supersede and void the existing PUD Development Plan documents.

(11) Adequate mitigation is required for zoning amendment applications which result in greater intensity of land use or increased demands on public facilities and infrastructure.

Staff Response: The intensity of use is comparable to existing zoning and possible uses of the property.

Staff Recommendation

Staff recommends approval of the Application. PZC shall direct Staff to prepare a formal Findings of Fact, Record of Decision, and Recommendation to Council pursuant to Section 7.16.020(f)(3), *Findings*, to be presented to the Council for final action.

Recommended Motions and Findings:

"I move to recommend Town Council approval of Case #REZ16002, an application for rezoning of Lot 4, Mountain Vista Resort Subdivision together with the findings of fact."

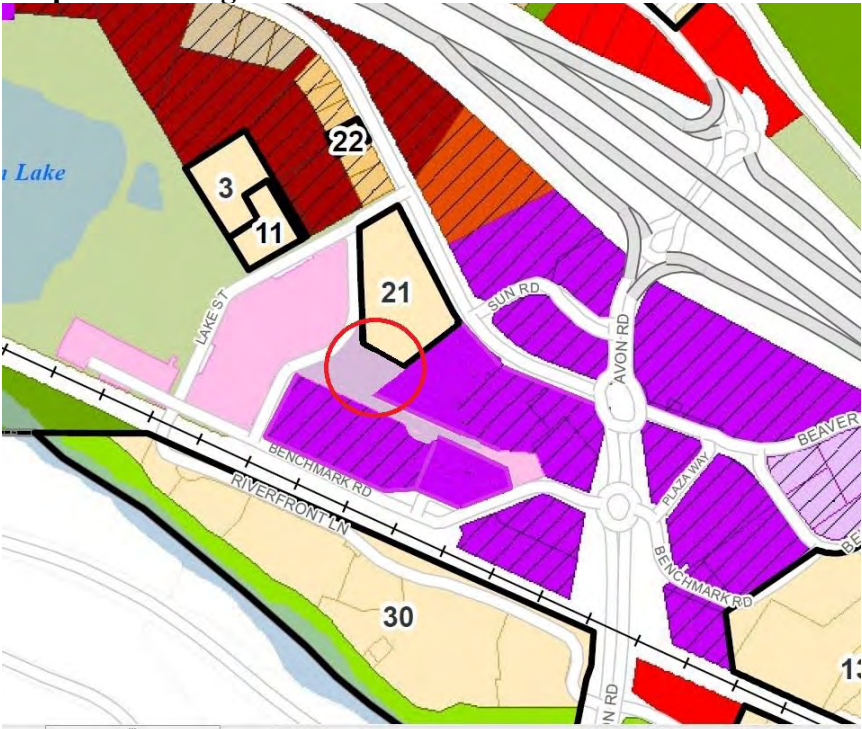
The Following Findings May be Applied Should the PZC recommend approval of the Application to the Avon Town Council:

1. The Application was reviewed in accordance §7.16.050, *Rezoning*, Avon Development Code, and is found to be in substantial compliance with the review criteria as outlined in the staff report dated June 2, 2016 by Matt Pielsticker.
2. The Application promotes the health, safety, and welfare of the Avon community by provides assurances with respect to building form, development standards, and allowed uses consistent and in scale with adjacent neighboring existing and planned land uses.
3. The Application is substantially compliant with the purpose statements of the Development Code by providing for the orderly, efficient use of the Property, while at the same time conserving the value of the investments of owners of property in Town.

Existing Zoning



Proposed Zoning



TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Ord No. 16-11 Amending Avon Municipal Code Sections 5.12.090, 110 and 120
Concerning Vehicle Impoundment
DATE: June 6, 2016

SUMMARY: Ordinance No. 16-11 is presented to Council for first reading to amend sections of the Avon Municipal Code concerning vehicle impoundment and immobilization. The proposed amendments implement revisions requested by the Avon Interim Police Chief and the Avon Municipal Judge.

PROPOSED MOTION: "I move to approve Ordinance No. 16-11 Amending Avon Municipal Code Sections 5.12.090, 110 and 120 Concerning Vehicle Impoundment."

BACKGROUND: In 2009 the Avon Town Council considered whether to regulate private companies that immobilize vehicles by "booting". Consideration was given to the legalities, practices in other communities, and the public interest. The Colorado Attorney General's office and the District Attorney both found vehicles owners have the right to due process if their vehicles are immobilized or towed. The AG and DA letters are included with this memorandum. There was substantial research into laws and practices of other states concerning the regulation of private booting companies.

The Town Council adopted Ordinance No. 2009-1 to enact regulations for private booting companies, referred to as Parking Enforcement Companies. After several years of Parking Enforcement Company operations in Avon, the following revisions have been requested by the Avon Police Chief and Avon Municipal Judge:

1. Permit payment by credit card in addition to payment by cash.
2. Clarify grounds for finding a lack of "moral character" that would justify suspending or revoking a license.
3. Change the standard to uphold a vehicle immobilization from "probable cause" to actual violation of parking rules and compliance with all vehicle impoundment rules.
4. Change the minimum hearing cost from \$100 to an amount to be determined by the municipal court.
5. Permit the municipal court discretion to reverse or reduce an immobilization fee.

RECOMMENDATION: Payment by credit card was proposed in 2010 but not enacted. This revision is recommended. The revisions to clarify the finding of lack of "moral character" are recommended. The municipal court has requested greater discretion in overseeing and ruling on post-seizure hearings because the required findings and amounts in the current code do not allow for greater consideration of the particular facts and circumstances and do not allow the Municipal Judge to make rulings that are more equitable in the courts view. The proposed amendments would make it easier and less onerous for someone to challenge a booting fee and conversely, more difficult for a Parking Enforcement Company to receive revenues. This is a policy decision for the Town Council and no recommendation is offered.

Thank you, Eric

ATTACHMENTS: Ordinance No. 16-11
AG Opinion re Booting – February 19, 2009
Heil/Conboy Memo – March 5, 2009
District Attorney Opinion re: Booting – March 20, 2009



**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-11**

**AMENDING AVON MUNICIPAL CODE SECTIONS 5.12.090, 110, AND
120 CONCERNING VEHICLE IMPOUNDMENT**

WHEREAS, the Avon Town Council adopted Ordinance No. 09-10 and Ordinance No. 10-11 which enacted and amended regulations concerning booting of vehicles on private property and the Town of Avon recently reviewed various aspects of existing booting regulations to determine if amendments would improve the effectiveness of booting regulations; and

WHEREAS, the use of booting by private parking enforcement companies is not currently regulated by the State of Colorado and the District Attorney for the Fifth Judicial District in the State of Colorado has issued an advisory opinion that booting of a vehicle by a private party without the consent of the vehicle owner constitutes Second Degree Criminal Tampering pursuant to C.R.S. §18-4-506 and criminal motor vehicle tampering pursuant to C.R.S. §42-5-03; and

WHEREAS, pursuant to C.R.S. §31-15-103 and §31-15-104, and pursuant to the home rule powers of the Town of Avon (the "Town"), the Town Council has the power to adopt ordinances for promotion and preservation of public health, safety, and welfare, including the authority to regulate parking enforcement companies that immobilize and boot motor vehicles without the consent of the owner of the motor vehicle within the municipal limits of the Town; and

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Amendment to Avon Municipal Code Section 5.04.020 Definitions. Avon Municipal Code Sections 5.12.090, 110 and 120 are hereby amended, with ~~strike-out~~ indicating words which are deleted and underline indicating words which are added, to read as set forth in **Exhibit A: Amendments to Avon Municipal Code Sections 5.12.090, 110 and 120**, attached hereto.

Section 3. Codification Amendments. The codifier of the Town’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on June 14, 2016 and setting such public hearing for June 28, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on June 28, 2016.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Town Attorney

EXHIBIT A: AMENDMENTS TO AVON MUNICIPAL CODE SECTIONS 5.12.090, 110 AND 120.

5.12.080 - Rules and regulations.

The Chief shall, within seven (7) days after the enactment of the ordinance codified in this Chapter, set forth in writing such rules and regulations governing the conduct of wreckers or parking enforcement companies as are deemed necessary to ensure the inhabitants of and other persons within the Town safe, efficient and dependable towing or parking enforcement service. These rules shall include, but not be limited to, the following:

- (1) **Equipment.** The Chief shall specify equipment at least the equivalent of that required by the rules and regulations of the Colorado Public Utilities Commission governing towing carriers for wreckers and such other necessary equipment as determined by the Chief. Parking enforcement company vehicles are required to be clearly marked with the business name and Avon license number and must have a blinking amber light on the top of or above the vehicle when engaged in booting operations, and the operators are required to wear reflective traffic safety vests.
- (2) **Records.** The Chief shall require sufficient recordkeeping to ensure compliance with the terms of this Chapter and the rules and regulations as promulgated.
- (3) **Personnel.** The rules shall specify such steps as are necessary to determine that the operators and employees of the wrecker or parking enforcement company are of good character and otherwise fit to participate in towing or booting operations within the Town, which shall be determined according to the same standards for applicants set forth in Section 5.12.030 above. Employees engaged in parking enforcement shall display a picture identification card containing: the employee's picture, the employee's name, the employer's name and the Avon business license number.
- (4) **Rates.** Rates shall be determined by the following procedures and requirements:
 - a. A schedule of reasonable rates to be charged by wreckers operating on the Town's towing list shall be established by the Town Manager, and it is unlawful for any wrecker to charge rates other than as set forth in said schedule whenever such wrecker provides towing service in response to a call from the Police Department. The schedule of rates shall be set forth as a part of the rules and regulations governing wreckers, provided that such rates shall not be less than the permissible rates published by the Public Utilities Commission as may be amended from time to time. The Town Manager shall annually review the rate schedule to determine its adequacy and appropriateness and shall make such changes as he or she deems necessary. In setting or revising rates, the Town Manager shall give consideration to the rates charged for similar services in the County. The rate schedule as set forth in the rules and regulations shall not apply to towing services conducted by a wrecker when his or her services are not rendered as a result of a request by the Police Department.
 - b. A wrecker shall not charge rates higher than what is allowed by the Colorado Public Utilities Commission for nonconsensual tows. A parking enforcement company shall not charge a boot removal fee higher than seventy-five percent (75%) of the rate allowed by the Colorado Public Utilities Commission for the nonconsensual tow of a motor vehicle with a GVWR of less than ten thousand (10,000) pounds when requested to remove the boot.

- c. If the owner, authorized operator or authorized agent of the owner of a motor vehicle that is parked without the authorization of the property owner attempts to retrieve the motor vehicle while the wrecker or booting operator is still with the vehicle, a "drop charge" shall not be higher than what is established by the Colorado Public Utilities Commission.
- d. There shall not be any boot removal fee assessed if the boot cannot be removed within ninety (90) minutes from the time of the request for removal by the vehicle owner or vehicle owner's designee. Any dispute regarding the time frame proscribed herein may be refuted based on the phone records for the parking enforcement company. A boot applied at the direction of a Town police officer shall be released at the direction of a Town police officer.
- e. The parking enforcement company shall accept payment by credit card of the boot removal fee in addition to accepting payment in cash or by other means. The parking enforcement company shall obtain, carry and maintain in working order such portable credit card payment equipment as may be necessary to accept payment by credit card at the location of the placement and removal of a boot.

(5) Authority of Chief. The Chief shall from time to time formulate, publish and promulgate such other rules and regulations as are reasonably necessary to effectuate the purpose of this Chapter, including but not limited to the type of security required at the vehicle storage location, the hours during which the vehicle storage location will be open for the redemption of vehicles by their owners, the persons to whom towed vehicles may be released and the procedures to be followed in connection with the release of towed vehicles and the payment of fines, towing fees and storage charges. Any rules and regulations promulgated by the Chief shall not conflict with or materially change any provision of this Chapter. The Chief may initiate a request for proposal and select a designated wrecker service or parking enforcement company to provide service for police-requested impounds. The Chief shall post notice of any proposed rules in the official places of posting notices adopted by the Town, shall post notice on the Town's website and shall mail notice to all licensed wrecking and parking enforcement companies at least twenty (20) days prior to adoption of such proposed rule or regulation by the Chief, and the Chief shall consider all comments received on the proposed rules and regulations prior to taking any action to adopt the proposed rules and regulations. The Chief shall provide written notice of adoption of any rules and regulations to all persons who provide comments in writing, along with a copy of the adopted rules or regulations and a statement that persons with standing (defined as residents, property owners or business owners in Avon) may appeal the decision to adopt the rule or regulation to the Town Council. Any person with standing may appeal the decision of the Chief to adopt a rule or regulation by providing a request to appeal the decision in writing to the Town Clerk within ten (10) days of the date of adoption of the rule or regulation by the Chief. Failure to provide a request (defined as received by the Town) to appeal a rule or regulation adopted by the Chief within ten (10) days shall be deemed a forfeiture and waiver of all rights to appeal such decision to the Town Council. The Town Council shall consider all appeals of the decision of the Chief to adopt a rule or regulation which are properly and timely provided to the Town, and the Town Council's action shall be final. During the pendency of an appeal, the proposed rule or regulation shall not take effect.

5.12.090 - Suspension or revocation—procedure.

Upon a showing that a wrecker or parking enforcement company has violated the provisions of this Chapter, a Hearing Officer's order or the rules and regulations provided for in Section 5.12.080 above, the Town Council may suspend for a period of up to six (6) months or revoke the license of any wrecker or parking enforcement company. Prior to taking any action to suspend or revoke a wrecker or parking enforcement company license, the Town shall provide at least ten (10) days' prior written notice to the licensee stating the grounds and allegations for any action to suspend or revoke a license, and the Town Council shall conduct a hearing thereon. Service of the notice shall be by personal service upon the wrecker or parking enforcement company or his or her agent or by certified mail, return receipt requested, sent to the business address of the operator as shown on his or her license. A decision to suspend or revoke the license shall be based on a finding of violation of the provisions of this Chapter, including non-compliance with the minimum requirements in Section 5.12.030, or a finding that the owner, operator or an employee of a parking enforcement company has exhibited a lack of moral character, including but not limited to acts of hostility, intimidation and deceit in the conduct of the parking enforcement company operations. The decision of the Town Council shall be final.

5.12.110 - Written notice of tow/immobilization—rates and hours.

- (a) Notwithstanding any other provision of this Chapter, a licensed wrecker shall receive a written authorization from the person authorizing a tow prior to the commencement of a tow originating within the Town, which authorization shall list the services offered and the rates and charges required therefor. A copy of such authorization shall be furnished to the person authorizing the tow. Such copy shall list the name, address and telephone number of the wrecker's business and the days and hours the business is open for the release of vehicles. Such copy shall also be signed by the towing vehicle operator performing the authorized service.
- (b) After a boot is placed on any vehicle, the parking enforcement company shall:
 - (1) Provide a notice affixed to the vehicle in a conspicuous and obvious manner containing the name, address, telephone number and license number of the parking enforcement company that placed the boot on the vehicle, the amount of the boot removal fee, the right to have the boot removed within ninety (90) minutes of contacting the parking enforcement company, the name and telephone number of the property owner or manager authorizing the boot, the signature of the parking enforcement company operator or designee and a description of the right to request a post-seizure hearing under this Chapter;
 - (2) Maintain personnel authorized to remove any boot and release any vehicle to its owner or driver upon the payment of any boot removal fee during such times as required in this Chapter; ~~and~~
 - (3) Accept payment by cash and by credit card; and
 - ~~(3)~~(4) Provide a receipt upon payment to the individual making the payment for removal of the boot or release of the vehicle, listing the fees and advisement of the right to request a post-seizure hearing for vehicle immobilization per Section 5.12.120 below.
- (c) A parking enforcement company or wrecker shall not charge fees in excess of the fees as listed in the fee schedule for booting or towing a vehicle.
- (d) A parking enforcement company or wrecker shall not charge any fee related to the impoundment of a vehicle that is not listed in the fee schedule.
- (e) Charges for damages to booting equipment shall not be governed by this Section and shall not prevent the vehicle's release if scheduled fees are satisfied. Damages or loss to parking enforcement

equipment will be investigated using other municipal and state statutes related to theft or criminal injury to property.

- (f) The Town is authorized to audit the fees charged by a parking enforcement company or wrecker licensed to do business in the Town upon reasonable notice and at reasonable times for the purpose of verifying compliance with this Chapter.

5.12.120 - Post-seizure hearing.

- (a) The owner of a vehicle that has been immobilized pursuant to this Chapter has a right to a "post-seizure" administrative hearing in accordance with this Section to determine whether ~~there was probable cause to impound the vehicle~~ the vehicle was in violation of parking rules and regulations and whether the parking enforcement company complied with all applicable rules and regulations.
 - (1) The hearing shall be petitioned and conducted in the same manner as outlined in Title 10 of this Code.
 - (2) The parking enforcement company shall have the burden to establish that ~~there was probable cause to impound or immobilize the vehicle~~ there was a violation of the parking rules and regulations and that the parking enforcement company complied with all applicable rules and regulations.
 - (3) The losing party ~~shall~~ may be assessed ~~a minimum~~ hearing costs as determined by the municipal court of one hundred dollars (\$100.00) and ~~shall~~ may be required to pay for translation services, if used during the hearing. The Hearing Officer has the discretion to waive court costs.
 - (4) The municipal court may reverse or reduce the immobilization fee in the court's discretion depending upon the circumstances. The parking enforcement company shall have five (5) days from the decision of the municipal court to refund any immobilization fee that is reversed or reduced by the municipal court.
- (b) When a vehicle is immobilized by a parking enforcement company, the vehicle owner or driver shall be informed of his or her right to a post-seizure hearing with the following written statement:

"The vehicle was booted by the property owner for a private property parking violation as outlined in Avon Municipal Code, Title 5. The Town of Avon was not involved in the action. The owner or operator of the vehicle may request a hearing by one of the following methods:

"(1) By providing a written request to the Municipal Court Clerk for a post-seizure hearing to contest the booting within ten (10) days of the date the vehicle was booted; or

"(2) By appearing in person at the Municipal Court within a ten-calendar-day period from the date on which the boot was placed on the vehicle and requesting an initial appearance before a Hearing Officer.

The losing party may be assessed hearing costs as determined by the municipal court. The immobilization fee may be reduced or reversed in its entirety by the municipal court."



JOHN W. SUTHERS
Attorney General

CYNTHIA H. COFFMAN
Chief Deputy Attorney General

DANIEL D. DOMENICO
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street - 7th Floor
Denver, Colorado 80203
Phone (303) 866-4500

February 19, 2009

Mark Hurlbert
District Attorney
Fifth Judicial District
P.O. Box 488
Breckenridge CO 80424

RE: Private entities "booting" cars on private property

Dear Mark:

We have reviewed the materials you sent on this issue and agree with the analyses provided in the opinions from California and Colorado Springs. Vehicle owners must be afforded due process if their vehicles are to be immobilized or towed. As such, private property owners are entitled to call the police to have improperly parked vehicles ticketed and/or booted or towed. Since private "booting" companies perform a function similar to that of tow truck drivers, it is appropriate that they be held to similar standards; private property owners should therefore follow similar procedures before immobilizing vehicles that are allegedly parked illegally on private property.

Sincerely,

FOR THE ATTORNEY GENERAL

THOMAS RAYNES
Deputy Attorney General
Criminal Justice Section
303-866-2375



WIDNER MICHOW & COX^{LLP}
ATTORNEYS AT LAW

MEMORANDUM

TO: Honorable Mayor Wolfe and Town Council Members
CC: Larry Brooks, Town Manager; Chief Brian N. Kozak, Avon Police Department
FROM: Mary Conboy, Associate Attorney
THROUGH: Eric Heil, Town Attorney
DATE: March 5, 2009
SUBJECT: Private Booting of Vehicles

SUMMARY: This memorandum discusses the legality of booting vehicles parked on private property, applicable state statutes, and vehicle booting laws from other jurisdictions. To date, neither the Colorado courts nor the Attorney General have addressed the legality of booting vehicles on private property. Unlike towing companies, private booting companies are not regulated by the Public Utilities Commission.

Other jurisdictions are split on whether private booting constitutes illegal tampering of a motor vehicle or justified self-help for the protection of private property from trespass. The states of Utah, New York and North Carolina have examined the issue of private booting and have issued decisions that the booting of private vehicles on private property constitutes justified protection of private property. The California Attorney General has issued a formal opinion that booting vehicles on private property constitutes criminal vehicle tampering. Some states, such as Washington, have enacted legislation that specifically prohibits and criminalizes booting of vehicles on private property by private companies.

PROTECTION OF PRIVATE PROPERTY: Several states have held that vehicle booting on private property is justified and reasonable protection of property rights.

North Carolina: The North Carolina Supreme Court recently ruled on whether private booting of vehicles constitutes justified protection of private property in the case of *Kirschbaum v. McLaurin Parking Co.*, 656 S.E. 2d 683, (North Carolina 2008). In *Kirschbaum*, the Plaintiff had a boot affixed to his vehicle after he illegally parked it in a private lot. The Plaintiff raised a claim that the Defendants committed “trespass to chattel” by placing a boot on his vehicle. The Court in *Kirschbaum* considered the application the two state statutes, the first stating that it is unlawful for an unauthorized person to park in a private parking space provided that the private parking lot contains certain signage (N.C. Gen.Stat. §20-219.2 (2005)) and the second stating that tampering with a vehicle without the owner’s consent is a Class 2 misdemeanor (N.C. Gen.Stat. §20-107 (2005)). The Court reconciled these statutes by recognizing the principle that:

“[O]ne is privileged to commit an act which would otherwise be a trespass to a chattel or a conversion if the act is, or is reasonably believed to be, necessary to protect the actor's land or chattels or his possession of them, and the harm inflicted is not unreasonable as compared with the harm threatened.”

Restatement (Second) of Torts § 260(1) (1965)

The Court in *Kirschbaum* dismissed the vehicle owner's claims holding that the application of a boot may be an interference with the property of a trespasser; however, the owner of the real property is privileged to protect their right to exclusive possession of their property by such application.¹ Interestingly, *Kirschbaum* went on to recognize limits to a property owner's rights to protect their property, stating that rightful possession to property cannot be vindicated by a bludgeon, but must be determined by a resort to legal proceedings. The Court in *Kirschbaum* noted that the private towing company provided a telephone number for removal of the boot as well as an appeals process for improper booting.

Utah: The Utah Attorney General's Office issued an opinion on August 26, 2008, stating that local regulations enacted by Logan City which authorized private booting with limitations were legally permissible. In Logan City, Utah individuals who did not have a proper permit and improperly parked on private property within the City limits were subject to having their vehicles booted by a private parking enforcement company contracted by the property owner. The individual was required to pay a fee to the booting company to have the boot removed.

Logan City adopted an ordinance to regulate the booting practices of private property owners within the City's limits. The legality of the ordinance was questioned as citizens were concerned that the private vehicle booting violated Utah law. The Attorney General took the position that Logan City's regulation of the practice of booting did not expand a property owner's right to enforce parking, but limited the owner's existing right to contract with a private company to immobilize vehicles which trespass on a private parking lot. The opinion recognized that Utah law allows the owner of real property to regulate the use of their property when the owner allows use by the public for motor vehicle travel. §41-6a-215. The Attorney General indicated that this statute “would include the action of private owners, upon proper notice to the public, assuring compliance with its rules prohibiting unauthorized parking by “non-residents” by vigorous use of traditional common law remedies,” such as private vehicle booting.

In its discussion of the issue the Attorney General cited the holding in the New York case of *Forest Hills Gardens Corp. v. Baroth*, 147 Misc. 2d 404 and to the holding in *Kirschbaum*. In *Forest Hills* the New York court evaluated the issue of whether a corporate owner of a private residential development area had the legal right to apply an immobilizing boot on unauthorized vehicles parked on its property. The Court held that there was little difference between booting a vehicle versus towing and impoundment and that booting, compared to towing, was a preferable option.

The Utah Attorney General's opinion concludes by stating Logan City's ordinance neither conflicted with nor violated any provision of Utah law.

¹ The North Carolina General Assembly has specifically authorized private parking lot owners in certain counties to boot unauthorized vehicles.

ILLEGAL VEHICLE TAMPERING: The California Attorney General's Office issued an official opinion regarding the legality of private vehicle booting that was contrary to the opinion of the Utah Attorney General. The California Attorney General concluded that placing a boot on a vehicle's wheel in order to immobilize the vehicle would constitute tampering in violation of the California Vehicle Code and in violation of state law. The California Vehicle Code provides that, "no person shall either individually or in association with one or more other persons, willfully injure or tamper with any vehicle or the contents thereof or break or remove any part of a vehicle without the consent of the owner." The Attorney General opined that since the state had enacted several statutes to provide a legal means for preventing the impermissible parking of vehicles on private property, the booting of vehicles parked on private lots by private companies violated California law.

STATE AND MUNICIPAL REGULATION OF BOOTING: The unregulated nature of private booting companies has led to abusive practices and some states have passed legislation to prohibit booting. The Attorney General for the State of Connecticut proposed regulations that would require a booting company to notify the police when booting, prohibit the charging of a customer for storage for any time prior to the notification of the police, delegate rate regulation to the Connecticut Department of Motor Vehicles and allow reasonable access to recover the vehicle.

The State of Washington passed a bill specifically prohibiting booting. The law makes immobilizing a vehicle with a boot a misdemeanor that could lead to a year in jail. This legislation was passed after attorneys for the Washington Department of Licensing argued that immobilizing a vehicle with a boot was an illegal impoundment and officials won a permanent injunction against a booting company for such illegal practices.

The City Council of the City of Minneapolis, Minnesota unanimously voted to ban the practice of booting last June in connection with a City report on abusive and predatory booting practices. Booting companies were observed booting without adequate signage and without proper authorization. Several companies also charged unauthorized fees, used intimidating behavior and threatened to have cars towed if booting fees were not paid immediately.

The City of Logan Utah, as discussed above, adopted an ordinance to regulate private vehicle booting on private property within the City's limits.

COLORADO STATUTES APPLICABLE TO BOOTING: Like California, Colorado also has a motor vehicle tampering provision in addition to a criminal tampering provision. The language of Colorado's tampering provision is slightly different from that of California. Colorado Revised Statutes §42-5-103(1)(a) provides that any person who with criminal intent, "Tightens or loosens any bolt, bracket, wire, screw, or other fastening contained in, on, or forming a part of such motor vehicle," or takes these actions against, "any part, equipment, attachment, accessory, or appurtenance contained in or forming a part [of the motor vehicle] without the knowledge and consent of the owner of such motor vehicle commits tampering with a motor vehicle." Colorado's criminal tampering provision contained in §18-4-506, C.R.S., provides that a person commits the crime of second degree criminal tampering if he tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another.

The action enumerated in both the tampering and criminal tampering statutes clearly applies to the act of placing a boot on a vehicle's wheel. Moreover, it is arguable that the criminal intent element of the statutes is also met based on the details of the complaints received by the Avon Police Department.

The Office of the Colorado Attorney General recently provided an unofficial opinion to the Eagle County District Attorney which stated that the owners of vehicles that are booted on private property should be afforded due process, such as a post deprivation hearing and ability to appeal the private booting action and protest the boot removal charges.

PUC REGULATION OF TOWING COMPANIES: Towing companies in Colorado are strictly regulated by the Colorado Public Utilities Commission ("PUC") as provided by §40-13-01(3)(a)(b), C.R.S. They are required to be licensed, inspected and audited. Pursuant to §40-13-107(1)(d), C.R.S., the PUC has the duty to prescribe rules and regulations covering the operations of towing carriers which includes, but is not limited to, the circumstances under which a towing carrier may tow a motor vehicle without the express consent of the owner. The regulations specifically state that the towing company shall release a vehicle upon demand by the vehicle's owner, during normal business hours, for a non-consensual tow.

Towing carrier's fees are regulated by the PUC so that they are not allowed to charge unreasonable amounts for towing. §40-13-107(2), C.R.S., provides that the PUC may set maximum towing rates to be collected for the towing of motor vehicles and for storage of the same. Disputes about the legality of tows are reviewed by the commission and an independent judge. If a filed complaint proves valid, the PUC has the authority to suspend or revoke a towing carrier's permit and assess civil penalties pursuant to §40-13-109, C.R.S.

Private booting companies, unlike towing companies, are not regulated in the State of Colorado. Therefore, private booting companies are not subject to oversight or regulation governing the circumstances when a boot may be placed on a vehicle and the maximum fees that may be charged for such booting. Moreover, there is neither a mechanism for the filing of grievances nor any legal remedy for those aggrieved by the industry's practices.

AVON'S AUTHORITY TO REGULATE PRIVATE VEHICLE BOOTING: Since Colorado has not regulated the industry of private vehicle booting, the Town is not restricted from regulating private vehicle booting under its general police powers and home rule authority. The Town may consider adopting regulations to govern the operation of private booting companies, which could include the following elements:

- 1) require booting companies to obtain a license to conduct booting within the Town;
- 2) limit the circumstances under which a company may boot a motor vehicle without the owner's consent;
- 3) require police notification prior to booting;
- 4) provide remedies for parties who have their cars illegally booted (i.e. by requiring immediate removal of the boot);
- 5) impose liability such as revocation or suspension of the company's license and impose fines for failure to comply with the Town's regulations;

Legality of Private Vehicle Booting

March 5, 2009

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- 6) impose specific signage requirements to notify the public when booting may occur;
- 7) impose maximum fees that may be charged for booting;
- 8) require notice be affixed to the vehicle stating who to contact to remove the boot and the cost;
- 9) require the booting company to maintain personnel at all times who are available to remove the boot; and,
- 10) require private booting companies to provide an appeals process for alleged improper booting.

The Town could also decide to prohibit (i.e. criminalize) private booting activities altogether.

The Town's obligation is to enforce the Town's municipal code and if the Town chooses to regulate the practice of booting then it will become the Town's duty to advise private property owners and private businesses under which circumstances the practice of booting is legally permissible and to prosecute any violations. Alternatively, the Town could choose not to act on the issue locally and leave the matter to the vehicle owners, private property owners, and the District Attorney. If the Town chooses this option, then an opinion should be obtained from the District Attorney regarding whether booting is a violation of a state criminal statute(s). Once a determination is made, the District's Attorney's Office would be responsible for prosecuting booting offenses. If the District Attorney determines that booting is a violation of a criminal statute it is not the Town's duty to advise private property owners and private businesses that private booting is illegal.

CONCLUSION: The State of Colorado does not regulate the industry or the practice of vehicle booting by private companies and Colorado courts have not ruled on whether private vehicle booting constitutes unlawful trespass to chattel or illegal vehicle tamper or if such activities are authorized and reasonable means for protection of private property. The Town has the authority to regulate private booting companies pursuant to its general police powers and home rule authority. We are not aware of any municipalities in Colorado that have adopted local regulations concerning vehicle booting by private companies.



**Office of the District Attorney
Fifth Judicial District**

Serving Summit, Lake, Clear Creek, and Eagle Counties
Mark D. Hurlbert, District Attorney

March 10, 2009

Chief Brian Kozak
Avon Police Department

RE: Private Booting of Cars

Chief Kozak:

Thank you for writing to me about this. After careful consideration, including consultation with the Attorney General's Office and reading the memorandum from Avon Town Attorneys Eric Heil and Mary Conboy, I have come to the conclusion that at this time it is potentially criminal for private entities to boot illegally parked cars.

Under C.R.S. 18-4-506, Second Degree Criminal Tampering, a person commits such a crime "if he tampers with property of another with intent to cause injury, inconvenience, or annoyance to that person." Second Degree Criminal Tampering is a class two misdemeanor. C.R.S. 42-5-03, Tampering with a motor vehicle is when a "person who with criminal intent does any of the following to a motor vehicle or to any part, equipment, attachment, accessory, or appurtenance contained in or forming a part thereof without the knowledge and consent of the owner of such a motor vehicle commits tampering with a motor vehicle: (a) Tightens or loosens any bolt bracket, wire, screw, or other fastening contained in, contained on, or forming a part of such motor vehicle."

Either of these charges could potentially apply to the situation regarding private booting of cars in Avon. Should you file such a case we will review it and should we be able to prove the case beyond a reasonable doubt, we will prosecute. Should ordinances in Avon change, I can re-evaluate my position.

Again, thank you for your consideration. If you or anyone else has any questions about this, you can call or e-mail me.

Sincerely,

Mark Hurlbert
District Attorney
Fifth Judicial District

From: Jeff Lineback [avonmgmt@gmx.com]

Sent: Monday, June 6, 2016 11:04 AM

To: Virginia Egger <vegger@avon.org>

Cc: Jennie Fancher <jfancher@avon.org>; Jake Wolf <jwolf@avon.org>; Preston Neill <pneill@avon.org>

Subject: RE: Auto Booting Update

Good Morning Virginia,

Thanks for taking the time to update and include me on your booting recommendations. As you may know, I manage LiftView and Sunridge Condominiums and they have contracted AAA Booting to manage their parking lots for the past seven years.

In an effort to provide you and the council as much information as possible, I would like to inject LiftView and Sunridge's experience in this area:

Eight years ago, our parking lots were a much different scenario. They would fill up every night by 10 pm and many residents that worked late nights were unable to find parking. I would receive 10-20 calls per night by angry residents that could not find a parking spot. This was extremely problematic with over 50 spots being used by outside vehicles within each complex.

The only option we had for enforcement was using one of the Eagle/Gypsum towing companies. As you can imagine, this was a very unpopular program that caused an enormous amount of stress and financial hardship on the person whose vehicle was towed to Eagle. The cost was \$280 for the first day and they had to somehow find a ride to Eagle to retrieve their car. There was also the risk of damaging the towed vehicle, which is not uncommon. They also added a \$35 per day storage fee if they vehicle was not picked up within 24 hours.

Because of the extreme hardship and costs of towing, the HOA's looked into booting as a means of protecting their parking lot. The costs were at least half of that from towing, with the vehicle not relocated 40 miles away and no chance of damage. This program has proven to be extremely successful in keeping the lots available for our residents and guests. As a matter of fact, it has allowed both complexes to have the most liberal guest parking of any complex in the valley. We make it very easy for any of our residents to have multiple overnight guests anytime of the year and routinely have 20-30 overnight guests at each complex.

We have found a very nice balance in keeping the lot open with minimal booting occurrences. AAA Booting only comes out an average of 7-10 times per year. Granted, I cringe every time they come out, because I will be getting angry calls. However, I have learned that this is a necessary evil that has allowed these complexes' the ability to provide parking for all residents and their guests, 24/7.

As I look at your 5 recommendations, I understand and appreciate your desire to address any abusive or predatory booting. Our main concern is that #1 and #4 may make it very difficult, if not impossible, for a booting company to remain in business in Avon. Requiring a private company to take credit cards seems very strange to me, but maybe I am missing something. From what I understand, The Town of Avon does not take credit cards as a form of payments for citations and I assume it is because most people will immediately contest the charges with their credit card company, making it very difficult and more expensive for the booting companies. Is the Town of Avon prepared to reimburse the booting

companies for any disputed charge that was determined to be valid? This may be an unintended consequence of making this requirement.

In regards to #4, it is not clear on who would be covering the cost of the judge reducing the charge: the booting company or the town? Either way seems to be a very slippery slope that may make it very difficult to do business in Avon. The cost for booting is \$129 (the \$140 the council has been referring to is from the original documents and was reduced to \$129, based on the State's towing guidelines for mountain areas) and reflects the total cost involved with this process. Please note that AAA Booting spends a lot of time managing the parking lot that does not involve a boot or collecting money. There are also times that they come out and do not put any boots on (which we love to hear) but does not make them any money. Having a judge randomly reduce your income can make it very difficult to run a business. Imagine if the town's 2% transfer fee was subject to judicial approval. Would you be able to effectively run your budget?

We are very concerned that any more regulations or changes to the ordinance will either require the booting companies to boot more to make up for the extra costs or simply just leave the town. As you may know, Avon is the only town in Colorado with a booting ordinance for PRIVATE property. This is also very strange to me.

I guess the main point I would like to relay to the Town is this:

Sunridge and LiftView will have to protect their parking lot one way or another, the preferred method has been booting, but the default method of towing is always available and will be the only option left if booting is not. If you think the very small percentage of rule violators that are angry about being booted now, wait until they are towed to Eagle.

Please remember that the Town of Avon and multiple condominium complexes worked very hard and spent over \$40,000 combined to come up with the current ordinance, which have been very effective from our stand point.

I greatly appreciate your time and would be happy to further discuss anytime.

Sincerely,

Jeff Lineback
Avon Property Management
970-949-7916

From: Virginia Egger [<mailto:vegger@avon.org>]

Sent: Thursday, June 2, 2016 7:36 AM

To: avonmgmt@gmx.com

Cc: Jennie Fancher <jfancher@avon.org>; Jake Wolf <jwolf@avon.org>; Preston Neill <pneill@avon.org>

Subject: RE: Auto Booting Update

Good morning Jeff,

I want to update you on how we are moving forward to address the abuses of private booting in Avon. I met May 4th, with the Avon's Town Attorney, Town Judge and Police Chief, to review concerns and other activity around booting. As staff to the Town Council, we will be making several recommendations to amend the booting ordinance, including but not limited to:

1. Require booting company to accept payment by credit card in addition to cash;
2. Shift burden of proving violation towards booting company (i.e. from showing probable cause to showing actual violation);
3. Allow court discretion to determine costs to be paid by the losing party rather than \$100 minimum fine;
4. Evaluate \$140 booting fee, and method for judge to reduce; and
5. Define moral character to better assess revocation.

We expect the changes to support those booted greater access to the court, without a significant financial payment, and to provide the Judge far greater discretion in cases. The changes are proposed for readings before Council on June 14th and 28th. Please feel welcome to join the meetings or provide comment to the Council by email or letter. If you will check in with my assistant Preston Neill as the dates near, he can provide you the estimated times of discussion and proposed changes. He is copied on this email.

Let me know if I can provide anything more at this time.

Best regards,
Virginia



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Scott Wright, Asst. Town Manager
Date: June 14, 2016
Topic: Ordinance No. 16-12, Amending Avon Municipal Code Title 15 Building and Construction to Enact Section 15.03 Required Supplier Information

Action Before Council

Action on Ordinance No. 16-12, Amending Avon Municipal Code Title 15 Building and Construction to Enact Section 15.03 Required Supplier Information.

Proposed Motion

"I moved to approve Ordinance No. 16-12, Amending Avon Municipal Code Title 15 Building and Construction to Enact Section 15.03 Required Supplier Information

Summary

In addition to the proposed ordinance hereby attached to this memorandum and presented to Council for first reading tonight, the following are efforts made by Town staff in both the Finance and Community Development Departments to increase the efficiency of the administration and collection of sales tax on construction materials, and in communicating these requirements to contractors and suppliers.

Contractor Information Packet

A Contractor Information Packet (Packet) has been created that includes a Letter to Contractor/Project Manager, Instructions on how to register a business online through Munirevs, and a writeable Supplier Verification Form (example Packet is attached).

- The Packet was made available to Community Development for distribution as needed on March 23.
- The Packet has been added to TOA's website in several different areas including: the Quick Links Tab, the Building Department page under Contractor Information, a new section under the Finance Department entitled Contractor Information with a link to the Contractor Information Packet.
- The Town's IT Administrator has written an excel script that the Finance Manager can run in order to run reports on building permits issued. This tool enables the Finance Department to be able to review which contractors have pulled building permits and verify that they have also obtained a business license.

- Effective April 18, the town's Building Official began requiring a contractors to have an active business license prior to pulling a building permit.

Supplier Verification Form

The Supplier Verification Form has been updated to request additional information – email, phone #, address of contractor, etc. The intent of the Supplier Verification Form is to provide adequate information to the Finance Department in order to ensure that suppliers and subcontractors (1) have an active business license, (2) are aware of the Town's sales tax requirements and (3) so Finance can determine the nature of the work and whether or not it is subject to taxation. The information provided on the form is confidential.

In addition, the Building Official has added the Business License# to the Building Permit application check off list.

Code Revision to Require Furnishing the Supplier Verification Form Prior to Certificate of Occupancy

The proposed code revision requiring the furnishing of a Supplier Verification Form arises from the difficulty in obtaining this information after a project has been completed. Holding out the Certificate of Occupancy is the leverage that is sometimes necessary in order to gain compliance.

The contractor is not responsible for ensuring that all sales taxes have been collected and remitted to the Town, but is responsible for reporting who the suppliers and subcontractors are so that the Finance Department can follow-up to ensure compliance with the sales tax and business licensing codes. Once this process becomes institutionalized through the permitting and CO process, compliance will become standard and customary and the process will become much less burdensome on Town staff.

Attachments:

- A - Town of Avon Ordinance No. 16-12
- B - Contractor information Packet



**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-12**

**AMENDING AVON MUNICIPAL CODE TITLE 15 BUILDING AND
CONSTRUCTION TO ENACT SECTION 15.03 REQUIRED SUPPLIER
INFORMATION**

WHEREAS, pursuant to C.R.S. §31-15-103, §31-15-104, and §31-20-105 and pursuant to the home rule powers of the Town of Avon (“Town”), the Town Council has the power to adopt building code regulations, to provide penalties for violations of adopted building codes, to elect to collect delinquent charges and assessments by certifying such amounts to the Eagle County treasurer, and make and publish ordinances necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of its inhabitants; and

WHEREAS, the Town of Avon has adopted the 2015 International Building Codes by and through adoption of Ordinance No. 15-09; and,

WHEREAS, in order to assist the Town in the enforcement of its Sales Tax regulations, Chapter 3.08 of the Avon Municipal Code, and its business license regulations, Chapter 5.04 of the Avon Municipal Code, the Town Council finds and determines that prior to the Town’s issuance of a certificate of occupancy or a certificate of compliance the person to whom the building permit was issued should be required to provide information to the Town concerning those contractors and suppliers who provided materials in connection with the work for which the certificate of occupancy or certificate of compliance is to be issued; and,

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Avon Municipal Code Section 15.03 Requiring Supplier Information. Avon Municipal Code Section 15.03 Required Supplier Information is enacted to read as follows:

“15.03 Required Supplier Information. Prior to the issuance of a certificate of occupancy or certificate of compliance under any building code adopted in this Title 15, the person to who the

building permit was issued shall provide to the Finance Director of the Town, on forms provided by the Town, a written statement setting forth the name, business address, and telephone number, if known to the person submitting the statement or if readily available from such person's business records pertaining to the project for which the building permit was issued, of each contractor, subcontractor and supplier who provided materials in connection with the work for which the certificate of occupancy or certificate of compliance is to be issued, together with such other information as may be reasonably required by the Finance Director in connection with the collection of the sales tax due to the Town. In connection with the filing of the required statement, the person submitting the statement may lawfully include only such information as shall be in the actual possession of such person, and shall not be required to make inquiry of any contractor, subcontractor or other person who supplied materials in connection with the project for which the building permit was issued. The Building Official shall not issue a certificate of occupancy or certificate of compliance until the required information is provided, but shall promptly issue the certificate of occupancy or certificate of compliance (subject to the project's compliance with other provisions of this Title and other applicable regulations) once such information is provided. Once a statement is properly filed with the Finance Director, it may be amended or supplemented at any time without penalty."

Section 3. Codification Amendments. The codifier of the Town's Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on June 14, 2016 and setting such public hearing for June 28, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on June 28, 2016.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Town Attorney



RE: Sales Tax on Construction Materials

Dear Contractor and/or Project Manager:

Thank you for choosing Avon for your project. In order to promote a smooth project the Town of Avon (“Avon”) is providing this letter to inform you of the Town’s policies and procedures for the imposition of sales tax on construction materials. **All construction materials sold and delivered to a job site within Avon are subject to Avon’s 4% sales tax, including construction materials sold by merchants with business locations outside of Avon’s town boundaries.** Avon also charges sales tax on all tangible personal property and construction materials installed on a jobsite in Avon by a “Retailer-Contractor”. A “Retailer-Contractor” is contractor who purchases tangible personal property at wholesale and then installs the tangible personal property on a property in Avon.

- **Bids and cost estimates for your project should include Avon’s 4% sales tax for both construction materials purchased from merchants in Avon and for those materials which are purchased outside of Avon and delivered to a job site in Avon.**
- **Merchants selling construction building supplies delivered into Avon must have a Town of Avon sales tax license.**

It is important that you, as the Contractor and/or Project Manager, convey this information to all subcontractors and their respective merchants. Avon requires the submittal of an initial list of subcontractors and suppliers on a **Supplier Verification Form** as a condition of issuing a building permit. The **Supplier Verification Form** is used by Avon to promote awareness, compliance, consistency and fairness among all merchants selling and delivering construction materials in Avon. The **Supplier Verification Form** must be updated periodically during your project and must be updated prior to scheduling a final inspection when all subcontractors and suppliers for your project are finally known.

For additional information you may review Avon’s Municipal Code on-line at www.avon.org. Avon’s electronic Contractor Information Packet can be obtained at www.avon.org/contractorinfo and can be forwarded to your sub-contractors and suppliers. Please contact Desiree Spinks at salestax@avon.org or via phone at (970) 748-4019 with any questions concerning compliance with Avon’s business licensing, sales tax licensing or sales tax regulations.

Scott Wright,
Assistant Town Manager and Finance Director

1/11/2016 3:23:12 PM

Thank you for choosing the Town of Avon for your new business!
To register your business, begin by going to our website: www.avon.org
Look for the Online Payments button at the bottom left on the main screen



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Welcome to Avon, Colorado

Avon, the "Heart of the Valley," is a great place for residents and visitors. Located at the base of Beaver Creek Resort and eight miles from Vail, Avon offers a variety of events, recreational activities, and great shopping and dining opportunities. [Read More](#)

Special Events
Festivals

NEW!
Music, art, theater
and more!
Discover local
talent.



Online Payments



Employment



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Transportation



Visitor Info

1/11/2016 3:29:12 PM

Choose "GO" under New User

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Welcome to MUNIRevs

MUNIRevs allows you to manage your municipal taxes & licensing 24x7! To begin, please register or login below. If you need assistance, see the [FAQ](#)

New Users

Register



Existing Users

Log In



1/11/2016 3:35:06 PM

Enter your email address, continue and follow the instructions
You will need to confirm your email
Then you will receive an email from MUNIREvs with further instructions to complete your User Profile.
If you need assistance contact MUNIREvs Support at support@munirevs.com or (888)751-1911

Welcome | Log In



Register

Validate Email

User Info

Business Li

To register for MUNIREvs, please complete the three quick steps:

1. Verify your email address.
2. Complete a User Profile.
3. Locate and verify your Business Profile.

Email Address

Email Address (Required)

Continue



Registration Instructions for Online Sales Tax and Licensing

Go to <https://avon.munirevs.com>

1. Click "Go" to Register

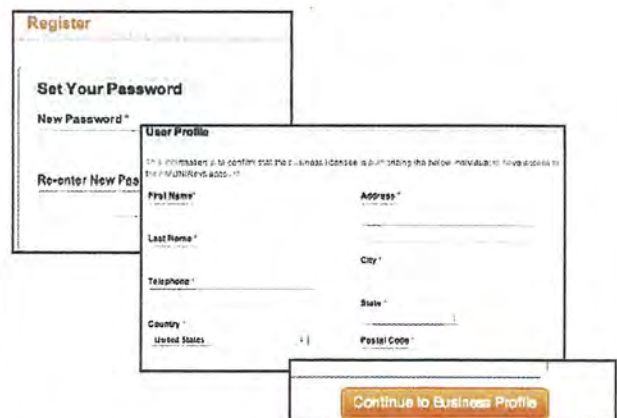


New Users
Register

Confirm E-mail
Enter your e-mail address and follow the instructions in the e-mail you will receive.

If you do not receive the e-mail immediately, be sure to check your junk mail, quarantine services (i.e. Postini, Spam Assassin) and add info@munirevs.com and support@munirevs.com as safe senders. After you have done this, enter your e-mail address above again. Contact MUNIREvs support for assistance.

2. Create User Profile



Register

Set Your Password

New Password *

Re-enter New Pas

User Profile

First Name *

Last Name *

Telephone *

Country *

United States

Address *

City *

State *

Postal Code *

Continue to Business Profile



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Matt Pielsticker, Planning Director
Meeting Date: June 14, 2016
Agenda Topic: Motion to Continue the Public Hearing and Resolution No. 2016-16 – A Resolution Approving the Meza PUD Amendment for Lot 110, Block 1, Wildridge

I respectfully ask that the Public Hearing and Resolution No. 2016-16 – A Resolution Approving a Minor PUD Amendment application for Lot 110, Block 1, Wildridge Subdivision, be continued. The applicant has a pre-existing conflict in meeting appearances for June 14, 2016 and requested that the item be heard by Council on June 28, 2016. The Planning and Zoning took action at their June 7, 2016 meeting to recommend approval of the application. Thank you.

PROPOSED MOTION

I move to continue the Public Hearing and Resolution No. 2016-16 – A Resolution Approving the Meza PUD Amendment application for Lot 110, Block 1, Wildridge Subdivision, to the June 28, 2016, Town Council meeting.

TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Ordinance No. 16-10 Acquiring a Real Estate Interest in Lot 1B, Buck Creek Subdivision, Town of Avon
DATE: June 9, 2016

Summary: Ordinance No. 16-10 Authorizing the Acquisition of a Real Property Interest in Lot 1B, Buck Creek Subdivision, Town of Avon is presented to Council for second and final reading. This Ordinance is one of several required actions and pre-requisites to issuing bond financing for Avon to commence construction of the police station portion of the joint public safety building. The conveyance of the property interest is an undivided interest in Lot 1B, Buck Creek Subdivision, Town of Avon ("Lot 1B"), by Special Warranty Deed, with Avon having a 45% undivided interest and the Eagle River Fire Protection District ("Fire District") having a 55% undivided interest and each party's interest to be further subject to and defined by a new intergovernmental agreement ("2016 IGA"). A complete intergovernmental agreement is presented with Ordinance No. 16-10 for second reading and the public hearing.

PLEASE NOTE: The attached intergovernmental agreement is a draft that is under review by the Fire District, bond counsel, and town staff. Details concerning construction cooperation, utilities, maintenance of common areas, and definition of ownership for each party may be subject to additional revision. For second reading, Ordinance No. 2016-10 has been revised to add the following authorization to Section 2. *"The Town Council hereby authorizes the Town Manager to negotiate, amend and finalize the terms of the Intergovernmental Agreement Concerning the Ownership, Construction, Operation and Maintenance of the Joint Fire-Police Station Facility Between the Town of Avon and the Eagle River Fire Protection District, subject to review and approval by the Town Attorney."*

Proposed Motion: "I move to approve Ordinance No. 16-10 Authorizing the Acquisition of a Real Property Interest in Lot 1B, Buck Creek Subdivision, Town of Avon on second and final reading."

Acquisition Price: The Town agreed to pay \$852,042.33 for the Town's portion of Lot 1B. The Town also provided "Temporary Financing" in the amount of \$718,988.95 pursuant to the original IGA. The terms of the IGA with the Fire District allowed the Town to apply a credit to the purchase price for the Town's portion of Lot 1B in the amount of the outstanding balance of the promissory note for the Temporary Financing. As of June 1, 2016, the Fire District will have made two payments in accordance with the schedule in the promissory note (\$102,988.85 on 12/01/15 and \$75,000.00 on 6/1/2016) leaving a balance of \$540,000.00 due to the Town. Applying that balance as a credit reduces the acquisition price of Lot 1B to \$312,042.33.

Terms of a New IGA: The 2016 IGA includes the following terms:

- It replaces the 2015 IGA, including the 4 amendments. The terms of the 2015 IGA that are still relevant have been carried forward into the 2016 IGA, including Apportioned Costs; waiver of sales tax; waiver of Water Tap Fees, Building Fees and Fire District Fees and termination of Wildridge and Avon Fire Station leases.
- The conditions of the conveyance of a real property interest included because the IGA will be signed before the closing or will be conditioned upon the conveyance meeting these conditions.

- A section to address Construction cooperation is included. This is intended to coordinate with the Construction Manager contract, including the Guaranteed Maximum Price. For the most part, the Construction Manager contract is a traditional AIA document with the "Owner" defined as both Town of Avon and Fire District. This IGA attempts to address how Avon and Fire District will coordinate to act as the Owner in a unified manner. The Construction Manager contracts and the IGA limit each Party's payment obligation to the "Apportioned Cost" of the Guaranteed Maximum Price.
- Use and Occupancy is similar to condominium declarations and states that each Party shall have the exclusive use of their respective "Unit" as well as non-exclusive use of the Common Elements. The use of the Units is limited to the uses permitted in the Public Facility zone district.
- Operation and Maintenance addresses the responsibilities and cost allocation for operation, maintenance, repair and replacement of the Common Elements. It is expected that this section will become more refined with input from the Architect and Construction Manager. It is also expected that the details for Operation and Maintenance will become better understood once the building is complete and once the building has been operated for a year. This section includes the development of a Facility Management Plan that will be reviewed on an annual basis. This approach is similar to the intergovernmental with Eagle County ECO for bus rental in the transit facility. Insurance provisions reflect CIRSA's preference to have one party designated to insure the Common Elements.
- A First Right of Refusal is included in the event that many years down the road one of the Parties desires to sell its interest in the Property.
- The Default and Remedies section sets forth a standard section applicable to contracts and does not grant either Party any advantage in enforcing terms. NOTE that this is different than the traditional condominium approach that allows for the imposition of assessments, fines and liens in the event of failure to pay.

Second Reading and Effective Date: The effective date of Ordinance No. 16-10 will be July 13, 2016 (30 days after adoption). Bond closing is scheduled for mid to late July, so the timeframe for authorizing the conveyance of the real estate interest is important to stay on schedule for an August 1, 2016 construction start date.

Thank you, Eric

ATTACHMENTS: Ordinance No. 16-10
Form of Special Warranty Deed
Intergovernmental Agreement



**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-10**

**AUTHORIZING THE ACQUISITION OF A REAL PROPERTY INTEREST IN
LOT 1B, BUCK CREEK SUBDIVISION, TOWN OF AVON**

WHEREAS, Section 2.1 of the Avon Home Rule Charter provides that the Town Council may accept conveyances of real property to the Town; and

WHEREAS, the Eagle River Fire Protection District and the Town of Avon entered into a INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT (“**IGA**”) and a Second Amendment to the IGA which set forth the intentions, terms and purchase price for the Town of Avon to acquire an interest in Lot 1B, Buck Creek Subdivision, Avon, Colorado (“**Property**”) in order to construct a joint facility comprised of a regional fire station and a municipal police station on the Property (“**Joint Public Safety Facility**”); and,

WHEREAS, in accordance with the terms of the IGA, the Eagle River Fire Protection District and the Town of Avon each referred ballot measures to authorize the financing of each party’s respective portion of the Joint Public Safety Facility and both ballot measures were approved by the voters for each party’s respective jurisdictions on May 3, 2016; and,

WHEREAS, the outstanding balance of the Eagle River Fire Protection District promissory note to the Town of Avon after June 1, 2016 is \$540,000.00, and pursuant to the IGA, the Town of Avon may apply the outstanding balance of the promissory note as a credit against the purchase price of a real estate interest in the Property, thereby reducing the cash to be paid to \$312,042.33; and,

WHEREAS, the Avon Town Council finds that the ownership, construction, occupancy, operation and maintenance of the Town’s portion of the Joint Public Safety Facility will establish a better location for emergency response, will provide a modern facility that is appropriately sized to meet the needs of the Avon Police Department for the next forty years and more, will achieve economies of scale and reduce costs by constructing with the Eagle River Fire Protection District, will promote enhanced coordination of emergency response between the Avon police and Eagle River Fire Protection District due to the shared Property location, and will thereby promote the health, safety and general welfare of the Avon community; and,

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding this Ordinance and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Property Acquisition Authorized. The Town Council hereby authorizes the acquisition of an undivided interest in Lot 1B, Buck Creek Subdivision, Town of Avon, Colorado. The form of the Special Warranty Deed attached as **Exhibit A: Special Warranty Deed** conveying an undivided interest in the Property is hereby approved by the Town. The Town Council hereby authorizes the Mayor, Manager and Town Clerk to pay consideration and related closing costs, execute and sign any documents related to the closing and conveyance of a real estate interest in the Property to the Town, including but not limited to extinguishment of the Eagle River Fire Protection District promissory note, dated June 8, 2015, subject to review of all documents by the Town Attorney. The Town Council hereby authorizes the Town Manager to negotiate, amend and finalize the terms of the Intergovernmental Agreement Concerning the Ownership, Construction, Operation and Maintenance of the Joint Fire-Police Station Facility Between the Town of Avon and the Eagle River Fire Protection District, subject to review and approval by the Town Attorney.

Section 3. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 5. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

[EXECUTION PAGE FOLLOWS]

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on May 24, 2016 and setting such public hearing for June 14, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on June 14, 2016.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Town Attorney

SPECIAL WARRANTY DEED
[Lot 1B, Buck Creek Subdivision, Town of Avon, Colorado]

[STATUTORY FORM – C.R.S. § 38-30-115]

EAGLE RIVER FIRE PROTECTION DISTRICT, a Colorado Title 32 Special District (“**Grantor**”), whose street address is White River Center, 90 Benchmark Road, Suite 101, Avon, CO 81620, State of Colorado, for the consideration of EIGHT HUNDRED FIFTY TWO THOUSAND FORTY TWO AND 33/100 DOLLARS (\$852,042.33) and other good and valuable consideration (in hand paid as follows: \$540,000.00 credit for extinguishment of an Eagle River Fire Protection District promissory note to the Town of Avon, dated June 8, 2015, as defined in the Intergovernmental Agreement for a Joint Fire-Police Station Facility between the Town of Avon and the Eagle River Fire Protection District, dated April 28, 2015, for Temporary Financing as defined in such agreement and \$312,042.33 cash) hereby sells and conveys to THE TOWN OF AVON, a home rule municipal corporation of the State of Colorado (“**Grantee**”), whose street address is P.O. Box 975, One Lake Street, Avon, Colorado 81620, County of Eagle, State of Colorado (“**Grantees**”), an undivided interest in Lot 1B, Buck Creek Subdivision, Town of Avon, Colorado (“**Property**”), such that the Eagle River Fire Protection District and the Town of Avon shall own the Property as a Tenancy in Common with the Eagle River Fire Protection District owning a 55% undivided interest and the Town of Avon owning a 45% undivided interest in the Property, subject to the rights, obligations and terms of the **INTERGOVERNMENTAL AGREEMENT BETWEEN THE EAGLE RIVER FIRE PROTECTION DISTRICT AND THE TOWN OF AVON CONCERNING THE CONSTRUCTION, OCCUPANCY, OPERATION AND MAINTENANCE OF THE AVON JOINT PUBLIC SAFETY FACILITY**, as may be amended from time to time, and attached hereto as **Exhibit A**.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto Grantee, and Grantee's heirs, successors and assigns forever. Grantor, for itself and its heirs, successors and assigns, does covenant and agree that Grantor shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of Grantee, and Grantee's heirs, successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantor, subject to the matters set forth on **Exhibit B** attached hereto and made a part hereof.

Eagle River Fire Protection District

By: _____
Clint Janssen, Chairperson

STATE OF COLORADO)
) ss:
COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me on _____, 2016, by Clint Janssen as Chairperson of the Board of Directors of the Eagle River Fire Protection District.

Witness my hand and official seal. My commission expires: _____

Notary Public

EXHIBIT B
TO SPECIAL WARRANTY DEED

TITLE EXCEPTIONS

**INTERGOVERNMENTAL AGREEMENT
CONCERNING THE OWNERSHIP, CONSTRUCTION, OPERATION AND
MAINTENANCE OF THE JOINT FIRE-POLICE STATION FACILITY
BETWEEN THE TOWN OF AVON AND
THE EAGLE RIVER FIRE PROTECTION DISTRICT**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into on July _____, 2016, (“**Effective Date**”) by the Town of Avon, a home rule municipal corporation of the State of Colorado (“**Avon**”) and the Eagle River Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado organized under Title 32 of the Colorado Revised Statutes (“**Fire District**”) (collectively, the “**Parties,**” and each individually a “**Party**”).

RECITALS

WHEREAS, the Fire District is under contract to acquire Lot 1B, Buck Creek PUD, as described and defined in the Plat recorded December 30, 2009, Reception No. 200927819, County of Eagle, State of Colorado (“**Lot 1B**”) with the intent to design, finance and construct a joint regional fire station and Town of Avon police station on Lot 1B (“**Joint Public Safety Facility**”); and,

WHEREAS, the Parties entered into an INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT, dated April 28, 2015; which was amended by the MEMORANDUM OF AGREEMENT REGARDING COST SHARING FOR PROGRAMMING, DESIGN AND PRE-CONSTRUCTION MANAGEMENT OF A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT, dated June 9, 2015; and amended by SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT, dated January 11, 2016; and amended by the THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND EAGLE RIVER FIRE PROTECTION DISTRICT, dated January 26, 2016; and amended by the FOURTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND EAGLE RIVER FIRE PROTECTION DISTRICT, dated February 2, 2016 (collectively referred to as the “**2015 IGA**”); and,

WHEREAS, in accordance with the terms of the 2015 IGA, the Parties each referred a ballot measure concerning construction financing to their respective electorates for consideration on May 3, 2016 and the respective voters for each Party approved the referred ballot measures; and,

WHEREAS, the Parties desire to proceed with construction of a Joint Public Safety Facility and thereby desire to replace and supercede the 2015 IGA with this new Agreement to address various matters, including but not limited to conveyance of an undivided interest in Lot 1B to the Town of Avon, closing on construction financing, orderly and efficient cooperation of a

Construction Manager contract and Architectural Services contract, use and occupancy, operation and maintenance, and such other matters concerning each Party's rights and obligations in the Joint Public Safety Facility; and,

WHEREAS, the Parties acknowledge that each Party must close on its respective bond financing as a condition of proceeding with construction of the Joint Public Safety Facility and that the closing of each Party's bond financing will necessarily require satisfaction of many pre-requisites, which the Parties desire to identify in this Agreement in order to promote the timely and orderly coordination of each Party's efforts to facilitate closing of the bond financing and commencement of construction; and

WHEREAS, this Agreement is authorized pursuant to §29-1-201 and §30-11-101, Colorado Revised Statutes, as amended, and Article XIV, Section 18, of the Colorado Constitution.

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

1. Recitals Incorporated. The Parties agree that the recitals stated above are hereby incorporated into the terms of this Agreement.

2. Definitions.

- a. **Architect** shall mean Davis Partnership Architects, P.C.
- b. **Common Elements** shall mean any property which is part of the Property and not included in Unit A or Unit B. Avon and Fire District shall each have non-exclusive access and right to use and enjoy the the Common Elements as defined in this Agreement.
- c. **Construction Contracts** means all contracts entered into by Avon and the Fire District related to the design and construction of the Joint Public Safety Facility, including but not limited to, the agreement for architectural services with Davis Partnership Architects, P.C. (AIA Document B101-2007, dated May 18, 2015) and the agreement for construction manager services (AIA Document A133-2009, dated _____) ("**Construction Contracts**").
- d. **Construction Manager** shall mean Evans Chaffee Construction Group.
- e. **Construction Manager Contract** shall mean the AIA Document A133-2009, AIA Document A201-2007, including any documents referenced therein, and any addendum, Change Orders or amendments to such documents.
- f. **Coordinated Unit Maintenance** shall mean those elements of the individual Units which should be repaired simultaneously, including but not limited to the exterior walls of the Facility Structure.
- g. **Effective Date** shall mean the date stated in the first paragraph of this Agreement.

- h. ***Facility Structure*** shall mean the Joint Public Safety Facility building occupying Lot 1B, but not including driveways, drive aprons, parking areas, retaining walls, landscape and other portions of the Lot 1B outside of the footprint of the building as construction, as is specifically described in **Exhibit XX: Joint Public Safety Facility Plat** attached to and made a part of this Agreement.
- i. ***Lot 1B*** shall mean Lot 1B, Buck Creek Subdivision, Avon, Colorado as described in the subdivision plat recorded by reception number _____ and including the area of the Reconveyance Parcel as defined herein.
- j. ***Lot 1B Closing*** shall mean the date that the Fire District conveys an undivided interest in Lot 1B to the Town of Avon.
- k. ***Property*** shall mean Lot 1B, Buck Creek Subdivision, Filing No. 2, Avon, Colorado, dated _____ and recorded in the Eagle County Clerk and Recorder's Office, Reception No. _____.
- l. ***Reconveyance Parcel*** shall mean the portion of Lot 1A, Buck Creek Subdivision, Filing No. 1, Avon, Colorado, in the amount of 4,479.00 square feet, more or less, as described in the Memorandum of Agreement, Lot 1A, Buck Creek Subdivision, Filing No. 1, dated June 8, 2015, and recorded in the Eagle County Clerk and Recorder's Office, Reception No. 201510241 ("**June 8, 2015 MOA**").
- m. ***Unit*** shall mean the physical portion or individual air space of the Facility Structure and Property designated for separate and exclusive use by a Party, the boundaries of which are defined in **Exhibit XX: Joint Public Safety Facility Plat**.

3. **Amendment and Replacement of Prior IGAs.** The 2015 IGA, as defined in the Recitals, is hereby amended and replaced in its entirety by this Agreement.

4. **Conveyance of Real Property Interest.**

- a. ***Terms and Pre-Conditions.*** Fire District and Avon acknowledge that an undivided interest in Lot 1B must be conveyed to Avon as a pre-requisite to Avon closing on bond financing.
- b. ***Inclusion of Reconveyance Parcel.*** Lot 1B shall include the Reconveyance Parcel. Fire District agrees to diligently pursue conveyance of the Reconveyance Parcel prior to Lot 1B Closing in accordance with the terms of the June 8, 2015 MOA.
- c. ***Subdivision Replat.*** The Parties acknowledge that a subdivision replat shall be required to reflect the conveyance of the Reconveyance Parcel from Lot 1A, Buck Creek Subdivision, Filing No. 1, to Lot 1B. Fire District agrees to commission Gore Range Surveying LLC, or other surveyor, to prepare a replat of Lots 1A and 1B to reflect the conveyance of the Reconveyance Parcel to Lot 1B and agrees to provide an updated title insurance commitment. The Town agrees to prepare other subdivision application information and promptly review the subdivision application. Town agrees that it will not charge the Fire District or Avon MOB LLC (the owner of Lot 1A, Buck Creek

Subdivision, Filing No. 1) application fees or costs for the subdivision replat application. Town anticipates that the subdivision application will be subject to administrative review and approval.

- d. **Special Warranty Deed.** The Fire District agrees to convey an undivided interest in Lot 1B to the Town of Avon in materially the same form as the special warranty attached hereto as **Exhibit XX: Form of Special Warranty Deed**, such that the Eagle River Fire Protection District and the Town of Avon shall own the Property as a Tenancy in Common with the Eagle River Fire Protection District owning a 55% undivided interest and the Town of Avon owning a 45% undivided interest in the Property, subject to the rights, obligations and terms of this Agreement, for such consideration and with such credits as is defined in the 2015 IGA.
- e. **Extinguishment of Promissory Note.** Simultaneously with the conveyance of the undivided interest in Lot 1B to the Town of Avon, Avon agrees that the Annual Appropriation Note, dated June 8, 2015, shall be satisfied in full and shall be released and terminated by Avon and the original of such Annual Appropriation Note shall be returned to the Fire District.

5. **Construction Financing.** Avon and Fire District each represent to the other that each Party is using best efforts to proceed to closing on each Party's respective bond financing on or prior to July 28, 2016, in order to enable construction to commence on August 1, 2016.

6. **Sales Tax on Construction Materials.** Avon agrees that construction materials purchased, delivered and used on buildings owned by local, state and federal governmental entities are exemption from the Town's sales tax, and therefore agrees that no Town sales tax shall be imposed on construction materials used for the Fire District portion of the construction, Common Elements or Facility Structure.

7. **Waiver of Water Tap and Building Permit Fees.** As summarized in **Exhibit XX**, Avon agrees to waive building permit planning review fees in an amount not to exceed \$93,209 and the Fire District agrees to waive fire sprinkler fees, fire alarm fees and fire impact fees in an amount not to exceed \$13,604.40 related to the construction of the Facility Structure and Common Elements on the Property.

8. **Construction.**

- a. **Cooperation.** Each Party agrees to cooperate in good faith and coordinate with the other Party to perform in a timely manner as the Owner in the Construction Contracts, and further agrees to promptly notify the other Party of any circumstance or situation which may delay or affect the ability of such Party to perform in a timely manner as the Owner.
- b. **Apportionment of Costs.** The apportionment of costs for construction of the Joint Public Safety Facility, including but not limited to architectural services, pre-construction management services, and the Construction Manager Contract and other related pre-construction services which arise from contracts entered into by both Avon and the Fire District and the apportionment of construction costs, including but not limited to the

agreement for architectural services with are based on **Exhibit XX: Apportioned Cost** (“**Apportioned Cost**”) which shall be in accordance with **Exhibit B** with respect to various identified portions of the project until adjusted pursuant to the terms of this Agreement.

- c. Payment Responsibility.** All Contracts to which this Agreement is applicable shall state that Avon and the Fire District are each responsible and liable for payment and costs under such contracts only to the extent of each Party’s respective Apportioned Cost and that the Parties are not jointly and severally liable for the entire cost of Construction Contracts.
- d. Guaranteed Maximum Price.** The Parties agree to review a Guaranteed Maximum Price proposal from the Construction Manager in accordance with §2.2 of A133 Agreement with the Construction Manager. Provided that the Apportioned Cost of the Guaranteed Maximum Price does not exceed the amount of funds each Party has appropriated, each Party agrees that acceptance of the Guaranteed Maximum Price proposal shall not be unreasonably withheld.
- e. Payments.** The Parties each agree to receive, process and make payment in accordance with the terms of the Construction Contracts, provided that each Party’s payment shall be in the amount of the Apportioned Cost. The Parties agree that the Construction Manager Contract shall require the Construction Manager’s pay applications to include a cover sheet with a cost allocation of the portion of Work completed for each Party’s portion of the Joint Public Safety Facility. In the event either Party disputes a pay application or requests additional information or testing, such Party shall promptly notify the other Party.
- f. Change Orders.** The Parties agree that the Construction Manager Contract shall require the Construction Manager to provide a cost allocation to each Party for every Change Order and that every Change Order will require the signature of the Construction Manager, the Architect, Town of Avon and Eagle River Fire Protection District. The Party not requesting a Change Order may object to a Change Order requested by the other Party if **(1)** such Change Order increases cost of construction or projected operation and maintenance costs for the non-requesting Party or if **(2)** the Change Order would result in delay of the completion of construction; otherwise, each Party’s approval and signature of Changes Orders shall not be unreasonably withheld.
- g. Adjustment to Apportionment of Costs.** The Parties agree that the Apportioned Cost shall be adjusted when the actual designs for the Joint Public Safety Facility indicate a different square footage and different ratio of shared space, police department and fire department space. Such adjustment shall be applied to work performed from the date of adoption of a replacement Exhibit A-(x): Apportioned Cost, unless another method of allocation is mutually determined appropriate. The updated replacement Exhibit A-(x): Apportioned Cost shall automatically replace and supercede any previously adopted Exhibit A-(x): Apportioned Cost and shall automatically become a part of this Agreement. Any updated replacement Exhibit A-(x): Apportioned Cost shall be number sequentially to denote the most updated version (e.g. A-1, A-2). The Parties agree to

work cooperatively in good faith to consider the equitable allocation of cost to each Party for any change in the design, which may be based on square footage as depicted in Exhibit A-1: Apportioned Cost or may be based on another method or formula as mutually determined appropriate to achieve the purpose of this Agreement. The Parties agree that any additional cost resulting from a change order or amendment to any Construction Contracts which is requested by, and which primarily concerns, one Party shall be paid for by such Party and shall not change or affect the Apportioned Cost for the remainder of the Construction Contracts unless the Parties mutually agree that another method or formula is appropriate.

9. Termination of Tenancy and Vacation of the Wildridge Station. Avon may terminate the District's tenancy of the Wildridge Fire Station 90 days after the earlier to occur of Avon issuing a Temporary Certificate of Occupancy or issuing a Final Certificate of Occupancy to the District for the Regional Avon Fire Station. The Parties agree that this Second Amendment and the issuance of Temporary Certificate of Occupancy or Final Certificate shall serve as all required legal notice. The District agrees to remove all personal property from the premises not owned by the Avon and to clean the premises to commercial reasonable standards prior to vacating the premises.

10. Termination of Lease and Vacation of the Avon Fire Station. Avon may terminate its existing lease with the District for the Avon Fire Station District 90 days after the earlier to occur of Avon issuing a Temporary Certificate of Occupancy or issuing a Final Certificate of Occupancy to the District for the Regional Avon Fire Station. The Parties agree that this Second Amendment and the issuance of Temporary Certificate of Occupancy or Final Certificate shall serve as all required notice under the applicable lease. The District agrees to remove all personal property from the premises not owned by the Avon and to clean the premises to commercial reasonable standards prior to vacating the premises.

11. Use and Occupancy of Units.

- a. Unit Description.** The Facility Structure is divided in to Unit A, Unit B, and Common Elements, as described in **Exhibit XX: Joint Public Safety Facility Plat.**
- b. Use and Occupancy of Units.** The Fire District shall have the exclusive use and enjoyment of Unit A and Avon shall have the exclusive use and enjoyment of Unit B, subject to the terms of the Agreement. Each Party's rights include the right to access the Unit, the right to use, access and enjoy the Common Elements, subject to the terms of this Agreement. The use of each Unit shall be in compliance with the Public Facility zone district regulations of the Town of Avon and other applicable local, state and federal regulations.
- c. Partition of Units.** No Party may partition, subdivide or in any manner divide a Unit into two or more units without the approval of the other Party, which may be granted or withheld in such Party's sole discretion, and which shall be subject to approval by the Town of Avon in accordance with the Town's development, land use, building and other applicable regulations.

- d. **Lease or Sublet.** Each Party shall have the right to lease or sublet all or any portion of the Party's assigned Unit provided that the use of such Unit is (1) in compliance with the terms of this Agreement, (2) in compliance with applicable local, state and federal regulations, and (3) is in compliance with the terms of any financing that creates an encumbrance on the Unit. Each Party shall remain responsible for any loss, damage or destruction which occurs during any such lease or sublet period as if such Party were occupying the assigned Unit. Nothing herein shall limit the ability of such Party from asserting claims against such tenants or other third parties who may be responsible to the Party leasing or subletting an assigned Unit.

12. **Operation and Maintenance.**

- a. **No Impairment of Structural Soundness.** Neither Party shall perform or permit any act or work that would impair the structural soundness or integrity of the Facility Structure or impair an easement, utility or Common Element.
- b. **Maintenance and Repair of Unit.** Each Party agrees to maintain and repair its Unit as may be reasonably necessary to prevent damage to the other Unit.
- c. **Payment.** Each Party shall agree to make payment within thirty (30) days of receipt of an invoice for an operation, maintenance, repair or replacement expense that is divided between the Parties per the Apportioned Cost, unless the Parties mutually agree to a shorter timeframe as may be required for certain work or services.
- d. **General Maintenance, Repair and Replacement.** For any Common Elements the Parties agree that all improvements shall be maintained, promptly repaired, and replaced when deteriorated beyond repair. The Parties shall consult and mutually agree on the timing, scope and budgeting of maintenance, repairs and replacement. The Parties agree that damage or breakage which negatively impacts the use of a Unit or has the potential to result in additional damage to a Unit if not corrected shall be repaired or addressed as soon as practical.
- e. **Facility Management Plan.** The Parties agree to meet on an annual basis to review the operation, maintenance, repair and replacement of the Common Elements and Coordinated Unit Maintenance and agree to develop a Facility Management Plan. The Facility Management Plan may address any aspect of the operation, maintenance, repair and replacement of the Common Elements and Coordinated Unit Maintenance and may include agreements to establish funds for operation and maintenance and capital reserve funds for replacement.
- f. **Utilities.**
 - i. **Water.** Water service for the Property shall be in the name of _____. The Parties shall be jointly responsible for the repair and maintenance of the water line from the point of connection with the water main to the point of the water meters and such cost shall be allocated between the Parties per the Apportioned Cost. The outdoor landscaping shall utilize the Avon water meter. Outdoor landscaping water

use shall be determined by subtracting the average water use during billing cycles without any outdoor irrigation use from the billing cycles with outdoor irrigation water use. The Parties shall be responsible for payment of outdoor irrigation water use per the Apportioned Costs. Each Party shall be responsible for its own water indoor water billing.

- ii. **Sewer.** Sewer service for the Property shall be in the name of _____. The Parties shall be jointly responsible for the repair and maintenance of the sewer line from the point of designated in the Joint Public Facilities Plat to the sewer main and such costs shall be allocated between the Parties per the Apportioned Cost. Each Party shall be responsible for its share of sewer billing based on its share of indoor water use.
- iii. **Gas.** Gas service for the Property shall be in the name of _____. The Parties shall be jointly responsible for the repair and maintenance of the gas line from the point of connection with the gas main to the point of the gas meters with such cost to be allocated between the Parties per the Apportioned Cost. Each Party shall be responsible for its own metered gas billing.
- iv. **Electric.** Electric service for each Unit shall be in the name of the owner of the Unit. The Parties shall be jointly responsible for the repair and maintenance of the electric line from the point of connection with the electric transmission line to the point of the electric meters with such cost to be allocated between the Parties per the Apportioned Cost. Each Party shall be responsible for its own metered electric billing.
- v. **Telephone.** Each Party shall be responsible for its own telephone service.
- vi. **Trash.** Each Party shall be responsible for its own trash service.
- g. **Insurance.** Each Party agrees to carry building insurance coverage for the Unit it owns in an amount that is not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal. _____ shall maintain property insurance on the Common Elements in an amount that is not less than the full insurable replacement cost of the Common Elements less applicable deductibles at the time the insurance is purchased and at each renewal. _____ shall maintain general liability insurance on the Common Elements in the amount of at least \$1,000,000 per occurrence and \$1,000,000 aggregate. The cost of building insurance and general liability insurance for the Common Elements shall be divided between the Parties based upon the Apportioned Cost.

13. **Additions, Expansions and Remodels.**

- a. **Additions and Expansions.** Any proposed addition or expansion by a Party shall be subject to review and approval of the other Party.
- b. **Remodels.** Each Party shall have the right to redecorate, remodel or reconstruct the interior of such Party's assigned Unit, provided that no reconstruction, redecoration or remodeling shall be made without prior written consent of the other Party if it would

affect structural members, Common Elements, or the exterior appearance of the Facility Structure. Each Party is responsible for securing all required governmental plan and permit approvals.

14. Mechanics Liens. Subsequent to completion of the Facility Structure, no labor performed or materials furnished and incorporated into a Unit with the consent or request of the Unit owner shall be the basis for filing of a lien against the other Unit or the Common Elements, except as to the undivided interest of the Unit for which such labor or materials shall have been furnished.

15. Encumbrances. Each Party shall have the right to subject the respective Party's Unit interest to encumbrances as may be reasonably required to use such Unit as a security interest for financing, including but not limited to certificate of participation financing, subject to the following limitation and terms:

- a. The Party seeking to subject its Unit to an encumbrance for financing purposes shall provide written notice to the other Party at least forty-five (45) days in advance of the closing on the financing.
- b. The Party seeking financing shall provide copies of all financing documents to the other Party upon receipt of written request. Such copies shall be provided with a reasonable time for review, which shall not be less than five (5) business days.
- c. The terms of financing shall incorporate and be subject to the Right of First Refusal set forth in Section 11 below.

16. Sale or Disposition – Right of First Refusal. Each Party shall have a Right of First Refusal (“**ROFR**”) on the sale or disposition of the other Party's undivided property interest. The transferring Party (“**Transferring Party**”) shall not transfer, assign, gift, sell, encumber or otherwise dispose (collectively “**Transfer**”) its undivided interest in the Property unless the Transferring Party complies in all respects with the provisions of this Section 11 and its subsections.

- a. ***Notice of a Bona Fide Offer.*** In the event that the Transferring Party desires to Transfer its undivided interest, or any portion thereof, in the Property to any third party (the “**Intended Transferee**”), then the Transferring Party shall give to the other Party (“**Non-Transferring Party**”) the first right to acquire such property interest on essentially the same written terms as agreed by such Intended Transferee. The Transferring Party shall first provide a written notice to the Non-Transferring Party of its intent to transfer its undivided interest in the Property, and shall include the written agreement between the Transferring Party and the Intended Transferee that includes all details of the proposed transfer, including description of property to be transferred, amount of consideration and any terms for payment, form of deed, title exceptions, closing date, and any contingencies.
- b. ***Acceptance of ROFR.*** The Non-Transferring Party may elect to exercise the ROFR by tendering written notice on or before the ninetieth (90th) day after the date of receipt of

the written notice and a complete written agreement defining terms for the transfer of a property interest. For the purpose of calculating the timeliness of Non-Transferring Party's written notice to elect to exercise the ROFR, if the last day for such notice is on a Saturday, Sunday or legal holiday, then the last day for Non-Transferring Party to provide notice shall be the next business day.

- c. ***Transfer Terms.*** For the purposes of this section 11, the term “**Transfer Terms**” shall mean: (i) in the case of sale, the price at which and the terms on which the Transferring Party desires to sell its interest in the Property to the Intended Transferee (provided however, if such terms and conditions include non-price terms not acceptable to the Non-Transferring Party, the Non-Transferring Party may elect to pay cash equivalents in case at the closing); and (ii) in the case of any Transfer other than a sale, a price equal to the fair market value of the interest in the Property, or portion thereof, to be transferred, as determined by a real estate appraiser selected by mutual agreement of the Parties. If the Parties are not able to mutually select an appraiser, then the Parties shall each select one appraiser and the selected appraisers shall select a third appraiser who shall determine the fair market value of the interest in the Property, or portion thereof, to be transferred.
- d. ***Closing.*** Notwithstanding the schedule stated in any written agreement executed by the Transferring Party to transfer such Party's interest, or any portion thereof, in the Property to an Intended Transferee, the Non-Transferring Party shall have the right to close on the transfer of the Property, or portion thereof, on a date not sooner than one hundred and eighty (180) days after the date of providing written notice of election to exercise the ROFR. For the purpose of calculating the last date for closing hereunder, if the 180th day is on a Saturday, Sunday or legal holiday, then the last day for the Non-Transferring Party to close shall be the next business day.
- e. ***Disclosure of ROFR.*** Each Party agrees to disclose this ROFR and reference this Agreement and specifically the ROFR set forth in this section 11 in any agreement to transfer its undivided interest in the Property, or any portion thereof.

17. **Default, Remedies.**

- a. ***Default.*** A “breach” or “default” shall be defined as a failure to timely fulfill or perform a material obligation of this Agreement.
- b. ***Notice of Default.*** In the event of a default by a Party, the non-defaulting Party shall deliver written notice to the defaulting Party of such default, at the address specified for notices, and the defaulting Party shall have thirty (30) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such 30-day period and the defaulting Party gives written notice to the non-defaulting Party within such 30-day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time (not to exceed an additional one hundred fifty (150) additional days) given the nature of the default following the end of such 30-day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure.

- c. **Remedies.** In the event the default is not cured, the non-defaulting Party shall have the right to enforce the defaulting Party's obligations by an action for any equitable remedy and/or action to recover damages. Each remedy is cumulative and in addition to every other remedy provided for in this Agreement, or otherwise existing in law, inequity or by statute.

18. Miscellaneous.

- a. **Term.** This Agreement shall continue in perpetuity until amended or terminated by mutual written agreement of the Parties.
- b. **No Third Party Beneficiaries.** Nothing herein expressed or implied is intended or should be construed to confer or give to any person or corporation or governmental entity other than the Fire District and the Town, any right, remedy or claim under or by reason hereof or by reason of any covenant or condition herein contained, nor limit in any way the powers and responsibilities of the Town, the Fire District, or any other entity not a party hereto.
- c. **Severability.** If any portion of this Intergovernmental Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either Party or as to both Parties, such portion shall be deemed severable and its invalidity or its unenforceability shall not affect the remaining provisions; such remaining provisions shall be fully severable and this Agreement shall be construed and enforced as if such invalid provisions had never been inserted into this Agreement.
- d. **Amendments.** This Agreement may be amended from time to time by a written agreement duly authorized and executed by both Parties to this Agreement.
- e. **Survival of Terms.** The Parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.
- f. **Assignment.** The Parties agree that neither Party hereto can assign this Agreement, or any right or obligation contained herein, to another party without the express written consent of the other Party and any attempt to do so shall be void and ineffective, with the exception that this sub-section shall not restrict a Party's ability to encumber that Party's Unit and pledge the Unit for security in accordance with Section 15. Encumbrances.
- g. **Complete Agreement.** This Agreement represents the full and complete understanding of the Parties, and supersedes any prior agreements, discussions, negotiations, representations or understandings of the Parties with respect to the subject matter contained herein.
- h. **Governing Law, Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue for any District Court action shall be in Eagle County, Colorado.

- i. Indemnification.** Avon, its officers and employees, shall not be deemed to assume any liability for intentional or negligent acts, errors, or omissions of the Fire District or of any officer or employee thereof. Likewise, the Fire District, its officers and employees, shall not be deemed to assume any liability for intentional or negligent acts, errors or omissions of Avon or by any officer or employee thereof. Avon agrees to indemnify, defend and hold harmless to the extent allowed by law, the Fire District, its respective agents, officers, servants and employees of and from any and all loss, costs, damage, injury, liability, claims, liens, demands, action and causes of action whatsoever, arising out of or related to the Avon's intentional or negligent acts, errors or omissions or that of its agents, officers, servants, and employees, whether contractual or otherwise. Likewise, the Fire District agrees to indemnify, defend and hold harmless to the extent allowed by law, Avon, its respective agents, officers, servants and employees of and from any and all loss, costs, damage, injury, liability, claims, liens, demands, action and causes of action whatsoever arising out of or related to the Fire District's intentional or negligent acts, errors or omissions or that of its agents, officers, servants and employees, whether contractual or otherwise.
- j. No Waiver of Governmental Immunity.** Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to either Party, its officials, employees, contractors, or agents, or any other person acting on behalf of a Party and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
- k. Notices.** All notices, requests, demands, consents and other communications hereunder shall be transmitted in writing and shall be deemed to have been duly given when hand-delivered or sent by certified, United States mail, postage prepaid, with return receipt requested, or sent via electronic transmission provided that such transmission is acknowledged by the receiving Party, addressed to the Parties as follows:

TO ERFPD:

The Eagle River Fire Protection District
351 Benchmark Road
Post Office Box 7980
Avon, CO 81620
Attn: Fire District Chief
E-Mail: kbauer@eagleriverfire.org

with copy to:

James P. Collins
Collins, Cockrel & Cole
390 Union Boulevard, Suite 400
Denver, CO 80228-1556
E-Mail: jcollins@cccfirm.com

TO AVON:

Town of Avon
One Lake Street
Post Office Box 975
Avon, CO 81620
Attn: Town Manager
E-Mail: vegger@avon.org

with copy to:

Avon Town Attorney
One Lake Street
Post Office Box 975
Avon, CO 81620
E-Mail: eric@heillaw.com

[EXECUTION PAGE FOLLOWS]

EXECUTED as of the date first written above.

TOWN OF AVON, COLORADO

BY:

ATTEST:

Jenny Fancher, Mayor

Debbie Hoppe: Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Esq., Avon Town Attorney

EXECUTED as of the date first written above.

EAGLE RIVER FIRE PROTECTION DISTRICT

BY:

ATTEST:

, Chairperson

, Secretary

APPROVED AS TO FORM:

James P. Collins, Esq.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, MAY 24, 2016
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER & ROLL CALL

Mayor Fancher called the meeting to order at 5:08 p.m. A roll call was taken and Council members present were Megan Burch, Matt Gennett, Sarah Smith Hymes and Scott Prince. Buz Reynolds and Jake Wolf were absent. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Interim Police Chief Greg Daly, Planning Director Matt Pielsticker, Town Engineer Justin Hildreth, Executive Assistant to the Town Manager Preston Neill and Deputy Town Clerk Brenda Torres.

2. APPROVAL OF AGENDA

Mayor Fancher made a motion to allow Mayor Pro Tem Wolf to participate via Skype. Councilor Gennett seconded the motion and it passed unanimously by those present.

Mayor Fancher made a motion to appoint the Town Manger as the Town’s representative at the Upper Eagle Regional Water Authority Meeting on May 26, 2016. Councilor Gennett seconded the motion and it passed unanimously by those present.

3. PUBLIC COMMENT

Kathy Ryan commented.

4. WORK SESSION

START TIME 00:23:16

4.1 YOUTHPower365 PRESENTATION (MELISA REWOLD-THUON & CARRIE BENWAY)

5. ACTION ITEMS

START TIME 00:38:12

5.1 **PUBLIC HEARING** AND MOTION ON RESOLUTION 16-16, APPROVING THE MEZA PUD AMENDMENT FOR LOT 110, BLOCK 1, WILDRIDGE SUBDIVISION TO THE JUNE 14, 2016 MEETING, CONTINUED FROM THE MAY 10, 2016 COUNCIL MEETING (PLANNING DIRECTOR MATT PIELSTICKER)

Mayor Fancher opened the Public Hearing and no comments were made. Councilor Gennett moved to continue the Public Hearing and Resolution No. 2016-16 – A Resolution Approving the Meza PUD Amendment application for Lot 110, Block 1, Wildridge Subdivision, to the June 14, 2016, Town Council Meeting; Councilor Smith Hymes seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf and Councilor Reynolds were absent.

5.2 **PUBLIC HEARING** SECOND READING OF ORDINANCE 16-09, APPROVING AN AMENDMENT TO THE AVON COMPREHENSIVE PLAN; DISTRICT 13: NOTTINGHAM ROAD COMMERCIAL DISTRICT (PLANNING DIRECTOR MATT PIELSTICKER)

Mayor Fancher opened the Public Hearing and no comments were made. Councilor Burch moved to approve Second and Final Reading of Ordinance No. 16-09, An Ordinance Amending the Comprehensive Plan for District 13: *Nottingham Road Commercial District*; Councilor Gennett seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf and Councilor Reynolds were absent.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, MAY 24, 2016
AVON TOWN HALL, ONE LAKE STREET

5.3 FIRST READING OF ORDINANCE 16-10 AUTHORIZING THE ACQUISITION OF A REAL PROPERTY INTEREST IN LOT 1B, BUCK CREEK SUBDIVISION, TOWN OF AVON (TOWN ATTORNEY ERIC HEIL)

Councilor Prince moved to approve Ordinance No. 16-10 Authorizing the Acquisition of a Real Property Interest in Lot 1B, Buck Creek Subdivision, Town of Avon on first reading and to set a public hearing for June 14, 2016; Councilor Burch seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf and Councilor Reynolds were absent.

5.4 REVIEW AND ACTION ON DRAINAGE DETENTION FACILITY AGREEMENT WITH POINTS OF COLORADO AND THE TOWN OF AVON (TOWN ATTORNEY ERIC HEIL)

Councilor Smith Hymes moved to approve the Termination of the Agreement Governing Design, Construction, and Management of Stormwater Detention and Pollution Control Facilities subject to verification by the Town Engineer that the facility is structurally sound; Councilor Burch seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf and Councilor Reynolds were absent.

5.5 AUTHORIZATION FOR STAFF TO FILE A REZONING APPLICATION FOR LOT 4, SHERATON MOUNTAIN VISTA SUBDIVISION, CHANGING THE ZONING CLASSIFICATION FROM PUD TO THE PUBLIC FACILITIES ZONE DISTRICT (PLANNING DIRECTOR MATT PIELSTICKER)

Councilor Prince move to authorize staff to file an application to rezone Lot 4, Sheraton Mountain Vista Subdivision, to change the zoning classification from PUD to the Public Facilities (PF) Zone District; Councilor Gennett seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf and Councilor Reynolds were absent.

5.6 DIRECTION REGARDING VEHICULAR AND PEDESTRIAN TREATMENT PLAN FOR WEST AND EAST BEAVER CREEK BOULEVARD AND MIKAELA WAY: MAY THROUGH NOVEMBER 2016 (ENGINEER JUSTIN HILDRETH AND PLANNING DIRECTOR MATT PIELSTICKER)

5.7 REVIEW AND ACTION FOR THE ADOPTION OF TOWN OF AVON MARKETING PLAN (EXECUTIVE ASSISTANT TO THE TOWN MANAGER PRESTON NEILL)

Councilor Burch moved to adopt the *Town of Avon Marketing Plan*; Councilor Smith Hymes seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf and Councilor Reynolds were absent.

5.8 APPROVAL OF THE MINUTES FROM MAY 10, 2016 MEETING (TOWN CLERK DEBBIE HOPPE)

Councilor Burch moved to approve the minutes from the May 10, 2016 meeting; Councilor Smith Hymes seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf and Councilor Reynolds were absent.

6. WRITTEN REPORTS

6.1. MONTHLY FINANCIAL REPORT (BUDGET ANALYST KELLY HUITT)



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, MAY 24, 2016
AVON TOWN HALL, ONE LAKE STREET

7. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR

START TIME 01:58:50

7.1. ECRTA (MAYOR PRO TEM JAKE WOLF)

7.2. PUBLIC ACCESS TELEVISION CHANNEL 5 (MAYOR PRO TEM JAKE WOLF)

8. MAYOR & COUNCIL COMMENTS

9. ADJOURNMENT

There being no further business to come before the Council, the regular meeting adjourned at 7:37 p.m.

RESPECTFULLY SUBMITTED:

Brenda Torres, Deputy Town Clerk

APPROVED:

Jennie Fancher

Jake Wolf

Matt Gennett

Megan Burch

Albert "Buz" Reynolds

Scott Prince

Sarah Smith Hymes



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Preston Neill, Executive Assistant to the Town Manager
Meeting Date: June 14, 2016
Agenda Topic: Review of Community Grants Policy and Procedures for Solicitation, Evaluation and Funding

SUMMARY:

In preparation for the release of the 2017 *Town of Avon Community Grant Program* materials next month, Council is asked to review the Town's current procedures for solicitation, evaluation and funding, as well as summaries of the community grant programs of several other municipalities. Council is asked at Tuesday's meeting to provide direction in order to solidify the Town of Avon's entire community grant process for 2017.

Town of Avon Community Grant Program

In July 2015, the 2016 application materials for community grant requests, found in Exhibit A, were advertised for a thirty-five (35) day period. The advertisement was posted on the Town's website, accompanied by a press release. Past recipients were also notified of the application process. Over the course of soliciting requests, the Town received twenty-nine (29) requests.

Once all of the submittals were received, an "Ad Hoc Review Committee," comprised of the individuals listed below, met to review the applications.

Ad Hoc Review Committee:

Danita Dempsey, Director of Festivals & Special Events
Duncan Horner, Vail Valley Foundation
Matt Pielsticker, Planning Director
Phil Struve, Former Avon Planning & Zoning Commissioner
Preston Neill, Executive Assistant to the Town Manager
Ronda Niederhauser, Columbine Bakery
Virginia Egger, Town Manager

All received applications were dispersed to the committee members on September 2, 2016. The committee met on September 9, 2016 for a four hour period to collectively review the funding requests and formulate recommendations. The review focused on the review criteria and rating system included in the application materials. Points were weighted to organizations that provided the most public benefit to Avon residents and visitors, as well as programs that fell in line with the Program Overview and the Avon Brand Platform. The points were only one of the key indicators to determine the funding recommendation. Past funding levels, available funds, potential for on-going requests, filling a funding or service gap and general priorities for all applications were also considered in the funding level recommendation.

The Town of Avon received 27 applications for community grant funding in 2016, totaling \$354,740 in cash requests and \$93,268 for in-kind contributions. The Ad Hoc Review Committee recommended funding in the total amount of \$179,650 in cash and \$46,018 for in-kind contributions. Council was

provided the collection of 2016 applications from outside agencies, with a summary sheet for each application that provided the Ad Hoc Review Committee's recommendation for funding (both cash contributions and in-kind requests), conditions of funding, if any, and supporting information.

Representatives from each requesting organization were notified about the September 22, 2015 Town Council meeting and each was allocated five (5) minutes to summarize the request and answer questions. Applicants presented in alphabetical order.

Subsequently, the Council awarded funding for 2016 in the amount of \$205,150 in cash and \$79,018 for in-kind contributions. It's worth noting that awarded cash funding in 2015 totaled \$197,850.

Other Community Grant Programs

Staff researched the community grant programs of several other municipalities, including the city of Aspen, and the towns of Breckenridge, Estes Park, Telluride and Vail. Summary sheets of their programs are attached as Exhibits C through G. A summary sheet of the Town of Avon's Community Grant Program is attached as Exhibit B in order to compare against the programs of the other municipalities.

STAFF RECOMMENDATION:

Between the Town of Avon's program and the programs of the other municipalities that were examined, there are many similarities. While none of the programs mirror each other, the majority of them utilize some sort of ad hoc committee to review submitted applications and make funding recommendations. A primary difference is that in the other researched municipalities, the recommendation of the committee is advanced to the budget for approval. The other municipalities do not have the entire Council hear the community grant requests. I could not find that applying organizations have an "appeal" beyond the ad hoc committee recommendation.

Staff, who has overseen the community grant process since 2014, believes Avon's process has been highly successful, but does, respectively, find the presentations before Council to be unnecessary beyond the ad hoc committee's work. As a result, we recommend the Town continue to follow the process as defined above with the following refinements:

- The Town Council sets a maximum amount of money for community funding that the ad hoc committee's funding recommendations shall not exceed.
- Rather than holding presentations from all applicants at a Town Council meeting, funding recommendations from the ad hoc committee will be incorporated into the annual proposed budget and subject to approval during the annual budget process.

ATTACHMENTS:

Exhibit A: 2016 Town of Avon Community Grants – Application Guidelines

Exhibit B: Town of Avon Summary Sheet

Exhibit C: City of Aspen Summary Sheet

Exhibit D: Town of Breckenridge Summary Sheet

Exhibit E: Town of Estes Park Summary Sheet

Exhibit F: Town of Telluride Summary Sheet

Exhibit G: Town of Vail Summary Sheet



EXHIBIT A

POST OFFICE BOX 975
ONE LAKE STREET
AVON, CO 81620

July 24, 2015

RE: 2016 Town of Avon Community Grants

Dear Potential Applicant:

The Town of Avon welcomes applications from organizations who are seeking grants for programs, projects, special events and/or activities which preserve or enrich the social and economic welfare, and the education and health of the Avon community. This packet includes important information to help your organization meet the goals of Town funding, the application submission requirements, review criteria and schedule for application presentations to the Avon Town Council.

AVAILABILITY OF FUNDS: The Town of Avon looks at every opportunity for advancing the partnerships with organizations in Avon. The demands on Town resources, however, must be understood. In Fiscal Year 2015, the Town Council approved \$197,850 in funding for community grants. This funding level is anticipated to again be available. Funding, however, is not guaranteed and is in the complete discretion of the Avon Town Council.

Monies to outside agencies are prioritized with all the other requests, services and facility needs of the Town of Avon and its revenue projections. Funding, if any, will be based upon the organization's written application and, if requested, a presentation to Town Council. The Town Council is scheduled to review all applications at their September 22, 2015 regular meeting. The following materials include all information you should need to prepare a grant request:

- GRANTS: MEETING ESTABLISHED TOWN GOALS (INCLUDING PROGRAM OVERVIEW, ELIGIBILITY CRITERIA, REVIEW CRITERIA AND REVIEW PROCESS)
- APPLICATION REQUIREMENTS & SUBMITTAL GUIDELINES
- AVON BRAND PLATFORM

If you have any questions on materials to be submitted, please do not hesitate to contact Preston Neill at 970-748-4404 or pneill@avon.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Preston Neill".

Preston Neill
Executive Assistant to the Town Manager

GRANTS: MEETING ESTABLISHED TOWN GOALS

Program Overview:

The Town Council will evaluate the various proposals based upon direct benefit to the Avon community, including its residents, visitors and businesses. Community organizations may receive grants, if funds are available, or in-kind support (including land, buildings, equipment, and services) which support, preserve, or enrich the social and economic welfare, and the education and health of the Avon community. The Town has presented the following overview in support of funding:

The Town of Avon, surrounded by natural beauty, is today a strong community that will build on its strengths to become a nationally and internationally recognized year-round mountain resort community. Committed to providing a high level of municipal services for our citizens and visitors, and the stewardship of our natural resources, Avon will expand its cultural, recreational and educational offerings in partnership with our broader community and regional public and private sector agencies, thereby ensuring sustained economic vitality and a vibrant community experience.

The importance of vibrancy and activity within the Town will be supported by attracting an array of new and diverse cultural and recreational events to Avon which are in concert with the values of our community and serve to nurture a cohesive sense of place and public.

It is the Town of Avon's elected officials and staff commitment to fiduciary responsibility, effectiveness and efficiency in providing government services and a practiced belief in open and transparent governance that will lead the successful implementation of this vision for the growth and development of Avon.

Applicants are encouraged to review the *Avon Brand Platform* to ensure programs, activities and special events are in support of the document. Applicants should indicate any services or programming an organization or program can provide to the Town of Avon in support of the *Avon Brand Platform*.

Eligibility Criteria:

1. Non-profit applicants may apply as a 501(c)(3) or under the umbrella of a 501(c)(3) with a letter of agreement between the applicant and the umbrella 501(c)(3).
2. For-profit business applications as a general practice are not accepted except for signature events. Applicants, who are interested in "seeding" a special event in Avon, are, however, eligible, when a non-profit is included as a beneficiary of some or all of the proceeds of the proposal. At a minimum, the applicant must include a description of the corporate organizational structure and plan for determining total "seed" needs and terms.
3. Applications will be accepted from organizations and for events that provide educational, cultural, athletic and entertainment opportunities, which directly benefit the Town of Avon residents, businesses and visitors.
4. Special event and festival applicants must identify a specific calendar date which is compatible with other events in the Town of Avon, and when applicable, in the Vail Valley.
5. Funding will not be provided for capital improvements.

Review Criteria:

1. Community and Citizen Benefit (Quality of Life):

Points: 0-10

- How many people benefit this event/program/organization?
- Does this event/program/organization have the potential to contribute to Avon's sense of community?

2. Program Overview & Avon Brand Platform (Established Policies/Priorities):

Points: 0-20

- Is the event/program/organization supported by the Program Overview and the Avon Brand Platform?
- Is it associated with one or more of the following priorities: Economic Development; Special Events?
- Does this event/program/organization have the potential to expand Avon's cultural, recreational, and/or educational offerings?

3. Feasibility & Implementation Risk:

Points: 0-10

- Are there significant obstacles or unknown factors that may prevent the event/program/organization from being completed?
- What happens if the event/program/organization is delayed or denied?

4. Business Vitality:

Points: 0-10

- Does this event/program/organization have the potential to benefit Avon's restaurants, hotels, and retail establishments and does it promote visitors intent to return?
- Does this event/program/organization reinforce the Town's goal of sustained economic vitality?

5. Partnership with the Town of Avon (programs or organizations only):

Points: 0-10

Can or does the program/organization provide programming or other services to the Town of Avon?

6. Special Events Only:

Points: 0-20

- Does this event have the potential to contribute to Avon's long term sustainable special events strategy?
- What is the growth potential for this event? Does it have the potential to be an annual event and grow within Avon?
- How does this event contribute to a balanced annual calendar of events? (www.avon.org)
- Does the producer of this event have the ability to produce an event compatible with the image of Avon as a cultural attraction?

Review Process & Schedule:

July 24 th	2016 Town of Avon Community Grants Open for Application
August 28 th	Deadline for Applications
Week of September 14 th	Funding Recommendation by Community Grants Committee Distributed to Council & Applicants
September 22 nd	Applicant Presentations to Council Avon Town Hall, 5:30 p.m. (subject to change)
December 8 th	Notification of Awards

APPLICATION REQUIREMENTS & SUBMITTAL GUIDELINES FOR COMMUNITY ORGANIZATIONS

THE DEADLINE FOR RECEIPT OF THIS APPLICATION IS 5:00 P.M. ON FRIDAY, AUGUST 28, 2015

Application Requirements (Please Do Not Exceed Three Pages):

1. Contact Information:
 - a. Name of organization
 - b. Mailing address
 - c. Contact person
 - d. Telephone number
 - e. Email address
2. If your organization received funding from the Town of Avon in 2015, it is mandatory that you provide a progress or final report on the funded activity, program and /or event. The report must include revenues and expenditures, including other outside revenue support. Please address all conditions stated in the Town of Avon Letter of Agreement you received, which announced your funding award.
3. Description and Purpose of the Organization/Mission Statement (If representing a tax exempt organization, please provide a copy of the determination letter from the Internal Revenue Service recognizing your tax-exempt status under IRS 501(c)(3). If applying under the umbrella of a 501(c)(3), please provide letter of agreement.)
4. Detailed description of the event or program and its activities. Identify if this is a new program, organization or event.
5. Explanation of funding needs and amount of funds requested from the Town of Avon. Include when funds are needed for payment.
6. Amount of funds requested and/or provided from other agencies, organizations or companies (i.e. other funding committed).
7. Anticipated line item budget for the organization or event.
8. 2014 final actual profit and loss statement.
9. Explain how the event or organization benefits the Avon community.
10. If applicable, explain what marketing efforts will be made for this event or program and how it will benefit the Town.
11. Include a description of any "in-kind" contributions and related costs that the Town of Avon provides to your organization, including but not limited to, land, buildings, and facilities and/or services.
12. Please note that no additional materials will be accepted. Do not send newspaper clippings, letters of support or promotional materials.

Application Submittal Guidelines:

1. Submit, by email, a PDF of the full application to pneill@avon.org.
2. Number each item in the application to correspond to the Application Requirements stated above.
3. Only one application may be submitted per organization.
4. **Incomplete or late applications will not be considered.**

Disclosures to all applicants:

1. Funds will not be available until after January 1, 2016, and may be dispersed in installments, if awarded.
2. Notification of awards will be sent after the Council approves the final budget currently scheduled for December 8, 2015.

Town of Avon Community Grant Program

Policy

The Town of Avon welcomes applications from organizations who are seeking grants for programs, projects, special events and/or activities which preserve or enrich the social and economic welfare, and the education and health of the Avon community. Included in the Town’s application for community grants are sections titled Program Overview, Eligibility Criteria and Review Criteria. The Town of Avon has not adopted a formal policy regarding funding requests.

Solicitation Process

In July 2015, the 2016 application materials for community grant requests were advertised for a thirty-five day period. The advertisement was posted on the Town’s website, accompanied by a press release. Past recipients were also notified of the application process.

Review Process

Once all of the submittals are received, an “Ad Hoc Review Committee” meets to review the recommendations. The committee that reviewed applications for FY 2016 was comprised of the individuals listed below.

- Ad Hoc Review Committee:
- Danita Dempsey, Director of Festivals & Special Events
 - Duncan Horner, Vail Valley Foundation
 - Matt Pielsticker, Planning Director
 - Phil Struve, Former Avon Planning & Zoning Commissioner
 - Preston Neill, Executive Assistant to the Town Manager
 - Ronda Niederhauser, Columbine Bakery
 - Virginia Egger, Town Manager

The committee makes a funding recommendation to Council, including conditions, if any, and supporting information. At a Town Council Meeting, representatives from each requesting organization are allocated five (5) minutes to summarize their request and answer questions. The Town Council then makes a decision on each application.

Schedule:

<i>Late July</i>	<i>Application made available</i>
<i>Late August</i>	<i>Application deadline</i>
<i>Mid-September</i>	<i>Funding recommendations by committee distributed to Council and applicants</i>
<i>2nd Council Meeting in September</i>	<i>Applicant Presentations to Council</i>
<i>December</i>	<i>After budget is adopted, notifications of awards are sent out</i>

Types of Grants:

1. Cash
2. In-Kind

Funding History

2013	Cash – \$163,575	
2014	Cash – \$213,250	
2015	Cash – \$197,850	
2016	Cash - \$205,150	In-Kind – \$79,018

City of Aspen

Funding Requests

Policy

The City of Aspen has not adopted a formal policy regarding funding requests.

Solicitation Process

2017 Grant Applications were made available in May 2016 and are due to the City of Aspen on August 3, 2016 for 2017 grant funding.

Review Process

City of Aspen staff screens each application for completeness. Accepted applications are forwarded to the Citizen Grant Review Committee, which is a volunteer citizen board, appointed by the City Council. The Citizen Grant Review Committee evaluates each non-profit grant request in terms of demonstrated financial need, fiscal viability, and adherence to the goals and values of the City of Aspen and value added to the community. Non-profit applicants may be requested to complete a fifteen (15) minute interview with the Citizen Grant Review Committee prior to the committee making recommendations to the City Council. This is the non-profit's opportunity to present their funding request and explain how it will benefit the community. The committee also has an opportunity to ask any questions regarding the application. The Citizen Grant Review Committee has the option to forego interviews with select non-profits, if deemed appropriate.

Schedule:

<i>May</i>	<i>Application made available</i>
<i>August</i>	<i>Application deadline</i>
<i>September / October</i>	<i>Application Review and Interviews by Committee</i>
<i>End of October</i>	<i>Committee Makes Recommendations to City Council</i>
<i>November</i>	<i>City Council will consider the funding recommendations during the City's Annual Budget Process</i>
<i>November / December</i>	<i>City of Aspen Budget Approved</i>
<i>December / January</i>	<i>2016 Grant Contracts Mailed to Approved Non-Profits</i>
<i>April 15, 2017</i>	<i>2017 Grant Checks Mailed</i>

Types of Grants:

1. Cash
2. In-Kind

Funding History

2011	Cash – \$1,139,400	In-Kind – \$56,750
2012	Cash – \$1,095,200	In-Kind – \$94,500
2013	Cash – \$1,090,100	In-Kind – \$95,250
2014	Cash – \$1,118,900	In-Kind – \$98,100
2015	Cash – \$1,120,878	In-Kind – \$96,200
2016	Cash - \$1,111,003	In-Kind – \$53,900

Town of Breckenridge Grants Program

EXHIBIT D

Policy

In June 2015, the Town of Breckenridge formalized its grant process by adopting a document titled "Town of Breckenridge Grants Program". The document includes an overview, guidelines and policies for both the cash and in-kind programs.

Solicitation Process

The Town announces its grant process in late June/early July through the Summit Daily News and via electronic media, including the town's website, www.townofbreckenridge.com. The guidelines and grant applications are generally available at least eight weeks prior to the grant deadline and can be located on the Town's website under "I Want to Apply". Notices are not sent to past funding recipients as they believe it is the responsibility of the organization to monitor when the guidelines and applications are available.

Review Process

Cash and/or In-Kind grant application are submitted electronically by the deadline set annually (typically mid-August). The application is the sole source for requesting funding. Presentations are not part of the process. Staff screens applications for completeness. Accepted applications for Cash grants are forwarded to the Grants/Scholarship Committee, comprised of two Town Council members, for review and recommendation. Accepted applications for In-Kind are first relayed to affected departments for review and recommendation, and then forwarded to the Grants/Scholarship Committee for review and recommendation. Recommendations from the Grants/Scholarship Committee are submitted to the Breckenridge Town Council for final approval as part of the annual budget process.

Schedule:

<i>Late June/ Early July</i>	<i>Application made available</i>
<i>Mid-August</i>	<i>Application deadline</i>
<i>Early December</i>	<i>All applicants notified of funding decisions</i>
<i>January</i>	<i>Awards presented at a public Grant Awards Ceremony</i>

Types of Grants

1. Cash
2. In-Kind

Funding History

2013	Cash – \$309,500
2014	Cash – \$282,600
2015	Cash – \$299,580
2016	Cash - \$332,890

Total values of in-kind grants were not provided.

Town of Estes Park

Community Service Grants

Policy

The Town of Estes Park continues to support various community services by providing grant-type funding to non-profit community organizations. Organizations are funded under five general categories: Human Services, Education, Youth, and Housing. The Town has not adopted a formal policy.

Solicitation Process

For the 2016 grant cycle, the Community Service Grant Application was made available on August 11, 2015. Completed applications were due on September 11, 2015. The Town typically puts out a press release announcing the release of the application. In addition, the Town lets a local non-profit resource center know that the application is available.

Review Process

Completed submissions are reviewed by a three person committee, comprised of two Town Board members and one Town staff member, using a comprehensive matrix of scoring criteria. The committee makes a funding recommendation to the Town Board, which is subject to approval during the annual budget process.

Schedule:

<i>Beginning of August</i>	<i>Application made available</i>
<i>Beginning of September</i>	<i>Application deadline</i>

Types of Grants:

1. Cash
2. In-Kind

Funding History

2014	Cash – \$229,822
2015	Cash – \$366,286
2016	Cash – \$157,325

Total values of in-kind grants were not provided.

Town of Telluride

Community Support Grant Process

Policy

In 2005, the Telluride Town Council established the Commission for Community Assistance, Arts and Special Events (CCAASE). The Commission, comprised of volunteers appointed by the Town Council to serve selected terms of office, is charged with reviewing and recommending funding for non-profit arts organizations and special events, as well as non-profit community programs for citizen welfare and education. CCAASE releases updated grant guidelines each year.

Solicitation Process

For the 2016 grant cycle, an email was sent to all 2015 CCAASE grant applicants on August 7, 2015 notifying them that the solicitation was open. The solicitation was open for about seven (7) weeks and it closed on September 28, 2015. A few ads were placed in the local newspaper, the info was placed in the Community Calendar section of the local newspaper and an announcement ran on the local radio station. A public forum to discuss the grant process and application occurred at the regular CCAASE meeting on September 2, 2015.

Review Process

CCAASE selects and notifies applicants for random interviews each year for updates on the organizations. If selected, applicants are required to have a representative present at the determined CCAASE meeting. CCAASE recommends annual funding allocations to the Town Council.

Schedule:

<i>Beginning of August</i>	<i>Application made available</i>
<i>Beginning of September</i>	<i>Public form held to discuss grant process and application</i>
<i>End of September</i>	<i>Application deadline</i>
<i>October</i>	<i>CCAASE reviews applications, holds interviews and makes recommendations for funding</i>

Types of Grants

Cash for:

1. Arts and Special Events Organizations (non-profit arts organizations and special events)
2. Community Support Organizations (non-profit community programs for citizen welfare and education)

Funding History

2011	Cash - \$215,000
2012	Cash – \$237,500
2013	Cash – \$237,500
2014	Cash – \$228,125
2015	Cash – \$239,750

Town of Vail Community Grants

Policy

The Town of Vail has a “Contributions Policy” that outlines the application and review processes for community grants. In 2013, the Vail Town Council approved a re-structuring of funding categories with the objective of simplifying the process and establishing parameters around funding criteria. The result was the creation of funding “Tiers” to define the various categories eligible for funding.

Solicitation Process

For the 2016 grant cycle, applications needed to be requested from the Town of Vail prior to May 29, 2015. Completed submissions were due on June 30, 2015.

Review Process

Funding is determined solely from the application. In-person interviews or presentations are not held. If the Town Council has questions about an application, the applicant is contacted by a staff member. Notifications of awards are sent after the Vail Town Council approves the final budget in November each year.

Schedule:

<i>May</i>	<i>Application made available</i>
<i>Late June</i>	<i>Application deadline</i>
<i>November/December</i>	<i>Notifications of awards sent</i>

Types of Grants:

1. Tier 1 – Vail Brand Events
2. Tier 2 – Extraordinary Events
3. Tier 3 – Services/Expertise
4. Tier 4 – Life-Long Learning
5. In-Kind Requests

Funding History

2015	Council Approved Cash – \$2,501,780	Staff Approved In-Kind – \$301,654
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