

ORDINANCE NO. 9

Series 2022

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE TOWN AND SYNERGY VENTURES, INC. ("OWNER") AND MARC AND MARILYN HOGAN ("BUYERS")

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

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

A. Owner owns the following described real property in the Town of Breckenridge, Summit County, Colorado:

A condominium unit located at 160 E. Adams Ave., Big Sky Condominiums Unit G(A), according to the Plat thereof recorded June 28, 2013 at Reception No. 1030335, Summit County, Colorado (hereinafter "Property").

B. Buyers intend to submit a Development Permit application to the Town proposing to change the approved use of the Property from commercial office use to residential condominium use.

C. The Town's Community Development Department has determined the proposed change of use would increase the density of the Property by 0.68 SFEs in excess of what is recommended by the Land Use District Guidelines. The excess density warrants negative points under Breckenridge Town Code section 9-1-19-3R and necessitates a transfer of density to the Property. The Property is located within the Town's Historic District. Section 9-1-17-12:A of the Breckenridge Town Code prohibits the transfer of density to the Historic District.

D. Buyers have requested Town approval for exemptions from Breckenridge Town Code Section 9-1-19-3R regarding excess density and Section 9-1-17-12 regarding transfer of density into the Historic District. Buyers have requested that the Town thereafter transfer density to the Property.

E. The Town finds no new square footage is proposed to be constructed in the Historic District to accomplish the change of use.

F. Section 9-9-5 of the Breckenridge Town Code states the Town Council has the authority to enter into a Development Agreement. Further, there is no process in the Town's Development Code for approval of a transfer of density to the Historic District. Per Section 9-1-17-12: A of the Breckenridge Town Code, a transfer of density from one lot or parcel within the Town to another lot or parcel within the Town may be approved by the Town Council only in connection with the approval of a Development Agreement and, therefore, a Development Agreement provides a means for such an approval and transfer.

G. As the commitment encouraged to be made in connection with an application for a development agreement in accordance with Section 9-9-4 of the Breckenridge Town Code, Owners and Buyers have proposed recording a Restrictive Covenant and Agreement on the Property restricting the unit for employee housing and prohibiting short term rental in the form and substance attached hereto as **Exhibit A**.

H. The Town has received a completed application and all required submittals for a Development Agreement, had a preliminary discussion of the application and the term of this proposed Development Agreement, determined that it should commence proceedings for the approval of this Development Agreement.

Section 2. Approval of Development Agreement. The Development Agreement between the Town and Synergy Ventures, Inc. and Marc and Marilyn Hogan is attached to this Ordinance as **Exhibit 1**, Development Agreement with attachments A- Restrictive Covenant and Agreement and B – Written Covenant, is approved, and the Town Manager is authorized, empowered, and directed to execute such agreement for and on behalf of the Town of Breckenridge.

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

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

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

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

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 22nd day of March, 2022.

This ordinance was published in full on the Town of Breckenridge website on March 25, March 26, March 27, March 28 and March 29, 2022.

A public hearing on this ordinance was held on April 12, 2022.

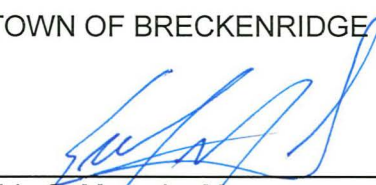
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 12th day of April, 2022. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE



Helen Cospolich, CMC, Town Clerk



Eric S. Mamula, Mayor

APPROVED IN FORM



Town Attorney


Date

This Ordinance was published on the Town of Breckenridge website on April 14, April 15, April 16, April 17 and April 18, 2022. This ordinance shall become effective on May 18, 2022.