



ABOR Observer OCTOBER 2011

A rundown of the government and business activity over the last month, with particular focus on issues and items that are important to the Real Estate community.

NAR —

Calls for Action

Congress Extends Flood Insurance until November 18, 2011

On Oct. 4, 2011, Congress extended National Flood Insurance Program (NFIP) authority as part of a broader stopgap government funding measure, the Continuing Appropriations Act (H.R. 2608). This latest extension will run through November 18, 2011. NAR is urging Congress to use the additional time to complete work on a 5-year NFIP re-authorization bill (H.R. 1309) to provide certainty and avoid further disruption to real estate markets. Select the Link Below to Take Action:

https://realtorparty.realtoractioncenter.com/site/Advocacy?cmd=display&page=UserAction&id=1669&utm_source=org&utm_medium=banner&utm_content=rac&utm_campaign=nfip2011

Ensure Your Clients Have Access to Affordable Mortgages – Select the Link Below to Take Action

On September 30, the cost of a mortgage could rise significantly. If this happens, many of your clients run the risk of being priced out of the American Dream of home ownership. Even worse, this could hold back the housing recovery. We need you to share your market expertise with Congress.

https://realtorparty.realtoractioncenter.com/site/Advocacy?cmd=display&page=UserAction&id=1653&utm_source=org&utm_medium=banner&utm_content=rac&utm_campaign=fha2011

CREC — Proposed Rule E-47 Competency Does Not Pass at Rule Making Hearing on Oct. 4, 2011

Many local Realtors were in attendance at the Rule Making Hearing Regarding Real Estate Broker Competency on Tuesday, October 4th in Denver during the CAR Convention. The rule did not pass. The purpose of the rule was to ensure that licensed real estate brokers do not agree to perform brokerage activities in a transaction where they lack the necessary training, experience, or education to fulfill the terms of the brokerage practice agreement, unless the licensed broker is assisted by another licensed real estate broker possessing the necessary competency. Marcia Waters, Director of DORA, stated that this rule did not pass, however, it may be reworked to become a position statement. To read the proposed rule, click on the link below.

<http://www.sos.state.co.us/CCR/Upload/NoticeOfRulemaking/ProposedRuleAttach2011-00593.PDF>

Aspen —

City Council puts hold on demolition of Little Annie's

City Council will review the Historic Preservation Commission's decision to allow demolition Little Annie's Restaurant before allowing it to proceed. Although HPC is the final authority on the demolition, council has the ability to "call up" the decision and reverse it if it finds that the HPC acted outside of its jurisdiction or abused its discretion.

Aspen Core Ventures is proposing a 31,739-square-foot building in place of the Benton Building and Little Annie's and the dirt parking lot on the corner of Hunter Street and Hyman Avenue.

Downsized Lift One back before Council

Developers of the proposed Lift One Lodge are before City Council this month, seeking permission to build a 77,000-square-foot lodge with 22 fractional units that can be broken off into 84 separate smaller rooms. The plan also calls for five free-market condos.

The latest iteration of the application, which was first submitted in 2006, has one restaurant instead of the two, and the size of the underground parking garage has been cut in half to 100 spaces. It includes relocation of the Skiers Chalet Lodge to Willoughby park, where it will serve as a ski history museum, and provides for right of way through the property so skiers and snowboarders can reach Deane Street.

The developers are seeking to exceed land use code caps on height for some portions of lodge.

Aspen drops suit to end yoga practice

Municipal Judge Brooke Peterson dismissed the case against Mike Kubasiewicz, owner of Dwell Pro Inc., at the request of the city, after Kubasiewicz agreed to stop allowing yoga instructors to conduct classes in his business.

Dwell Pro is located across Puppy Smith St. from Clarks in the 465 N. Mill St. building, which is zoned as Service-Commercial-Industrial. So-called SCI zoning is extremely restrictive, in that it permits a very limited number of local-serving businesses. Yoga is not currently allowed in the SCI zone district.

A citation against yoga instructor Richard Bird, accused of holding classes despite the city's warnings, was also dropped.

Locals sue city over hydroelectric plant

Saving Our Streams, a local nonprofit formed in February to challenge the city's assumptions and actions on a proposed hydroplant on Castle Creek, filed a lawsuit in state water court to determine whether the city of Aspen actually abandoned its right to use water from Castle and Maroon creeks for its proposed hydroelectric facility.

Aspen's electric utility has not operated a hydroelectric plant since the early 1960s, which is at the center of SOS's complaint. The project, if completed, would divert water from Maroon Creek to the Castle Creek facility.

In 2007, Aspen voters approved a \$5.5 million bond issue to initially fund the project. Opponents claim that the language in the referendum was vague and voters didn't know exactly what they were supporting.

Council hesitates on Burlingame

City Council isn't committing to Phase II of the Burlingame project just yet, instead asking potential buyers to go through the steps to prequalify on mortgages. Council members said that if 60 or 65 interested buyers are prequalified, they would be more comfortable starting construction next year on 82 units.

AACP rewrite in final stretch

Aspen City Council started its review of the Aspen Area Community Plan last month, and hopes to adopt a final version by the beginning of December. The Council's AACP review meetings are scheduled for Oct. 4, Nov. 4, Nov. 29, Dec. 5 and Dec. 6.

CDOT working to ease drive into Aspen

The Colorado Department of Transportation plans to install "loop detectors" at eight intersections in Aspen and along Highway 82 out to the airport. The loop detectors detect traffic and adjust the traffic signal cycles accordingly, eliminating unnecessary triggering of red lights. The project will be completed in late November.

Fire Department names Clapper as chief

The Aspen Fire Protection District created new volunteer fire chief and district executive officer positions last month, and Willard Clapper was voted in as volunteer chief. Ed Van Walraven is the new executive officer. The changes mark a return to the volunteer leadership model that served the department for most of its history

Myler heads state housing board

Local attorney David Myler has been named board chair for the Colorado Housing and Finance Authority. He was first appointed to authority's board of directors by former Gov. Bill Ritter in 2009. He will serve as board chair for the 2011-12 term. The board serves as the governing body of the organization and establishes policies to supports affordable housing and small business finance.

Snowmass Village —

Westin takes over management of Silvertree

The new owners of the Silvertree Hotel have tapped Westin International to run the facility, which will be renamed as the Westin Snowmass Resort.

David Wasserman, principal of the ownership group that bought the Silvertree, the Wildwood Lodge and the Snowmass Conference Center for \$42 million in June, expects the new brand to drive convention business and convince more tourists to stay in Snowmass.

The Wildwood Lodge will not be under the new corporate brand. It will likely be run as a boutique lodge, with reservations available through the Starwood Hotel reservation system.

Base Village foreclosure sale rescheduled, again

The Base Village foreclosure sale has been rescheduled for Nov. 16. The latest postponement will have no impact on day-to-day management of Base Village, including the Viceroy Snowmass Hotel, commercial operations, condominium sales, homeowner associations and special districts.

Pitkin County —

County ends building permit extensions

Pitkin County declined last month to extend permits on two approved projects that remain stalled by the economic downturn. Developers who face expiration on building permits are now required to reapply for development approvals, and comply with any changes to the land use code. The commissioners had previously extended all set-to-expire permits through Aug. 31, 2011.

Only five projects took advantage of the extensions before the Aug. 31 deadline. Fou were new single-family homes and one was a remodel.

Ashcroft cabins opposed by USFS, county open space

Plans for overnight rental cabins near the Pine Creek Cookhouse in the Upper Castle Creek Valley has drawn opposition sparked concern from the county Open Space and Trails Board and the U.S. Forest Service.

Forest Service district ranger Scott Snelson wrote to the county in January that he "has concerns about promoting additional development in this area ... and the potential effects to the natural resources and forest visitor experiences." County open space director Dale Will and board chairman Tim McFlynn meanwhile expressed concerns about the impact of adding overnight lodging.

Applicant John Wilcox, owner of Ashcroft Ski Touring and the Pine Creek Cookhouse, wants to convert two employee cabins into huts for tourists and build five new ones on 20 acres he owns within the White River National Forest. The cabins would be 500 to 800 square feet each. Winter access would be limited to skis or snowshoes. The cabins would have no kitchens, with meals provided at the restaurant.

County looking for land deals with housing money

Pitkin County has \$10 million in the bank for spending on affordable housing, and the county commissioners are eager to start spending it.

The commissioners would prefer to buy land between Aspen and Basalt and develop it themselves, although housing policy allows development within the county's urban growth boundaries as far as Carbondale. Partnering with private developers is not an ideal strategy, they agreed, because the county would give up control of a project and possibly run into conflicts of interest with the builders.

Lenado suit against county snowmobile policy before judge

Lenado homeowners Daniel Delano and Frank Peters are asking a district court judge to rule the county cannot allow snowmobile parking on the upper portions of Woody Creek Road.

The suit has been making its way through pre-trial and preliminary court matters for nearly two years, since the county first adopted an ordinance allowing snowmobilers to park their trucks and trailers along the side of the road.

The plaintiffs claim the commissioners exceeded their authority in designating the parking along the county road that cuts through their land. The county road uses an easement created in 1954, which the suit claims does not allow any parking or snowmobile staging.

Pitkin commissioners rumble with Garfield commissioners over water rights

The county commissioners of Garfield and Pitkin counties are on opposite sides of a dispute over undeveloped water rights in the Crystal River drainage that are related to the West Divide Project, a proposed system of dams and water diversions conceived in the 1950s but never built.

Pitkin County is opposing efforts by the West Divide Water Conservancy District and the Colorado River Water Conservancy District to preserve unused water rights connected to the recently-killed Osgood Reservoir and other unbuilt diversion facilities that would carry water from Pitkin County to the Divide Creek and Mamm Creek drainages in Garfield County.

Garfield County is crafting a statement of support for the water districts' effort to hold on to the water rights associated with the original project.

County rejects Marilyn Marks

Pitkin County is struggling to fill volunteer vacancies on its 18 citizen advisory boards, but elected officials nevertheless decided they can do without the help of Aspen resident Marilyn Marks.

Marks applied for a post on the county's six-member financial advisory board, which has three openings. She met resistance at her interview with the BOCC from Commissioner Michael Owsley, who cited her involvement with controversial matters ranging from video-taping Aspen City Council meetings against city wishes to public dust-ups over instant runoff voting and alleged improper influence over the city's election commission. He called them her "baggage."

Rachel Richards and Jack Hatfield joined Owsley in opposing Marks, while Rob Ittner and George Newman supported seating her. Ittner argued that the county is controversial by nature, and should not nix Marks as a volunteer based on her public spats.

Commissioners overrule staff on Stranahan driveway

Pitkin County commissioners approved a 675-foot-long driveway off of Woody Creek Road on a steeper slope than code permits, overturning a staff denial.

The driveway accesses 63-acres owned by George Stranahan's family trust, which has not been developed but is approved for a new home. Six different driveway alignments were offered to the commissioners, all in violation of the code. The commissioners choose one they believe will have the least impact on the area's elk herds.

Thompson Divide Coalition calls for action

The Thompson Divide Coalition is asking supporters to let Congress know they support the effort to protect 221,490 acres north and west of Carbondale from gas and oil exploration. The coalition maintains that other values, wildlife habitat, recreational uses, grazing and clean air and water outweigh the economic benefits of energy development.

The Thompson Divide area stretches from just south of Glenwood Springs past Carbondale to the south of McClure Pass. It includes the vast roadless area west of Highway 133.

About 75,500 acres of federal lands, mostly national forest, has already been leased to energy companies, but there has not yet been much development. That could change in the near future. SG Interests, a privately held firm based in Houston, has applied to the Bureau of Land Management to lump 16 leases it owns in the heart of Thompson Divide into a single unit and submit a drilling master plan for an area of roughly 36,000 acres.

County sales tax collections up more than expected

Strong sales tax collections for the first half of this year have led Pitkin County officials to adjust local economic forecasts upward. County sales tax collections were up 7 percent through June. The financial advisory board bumped its projected rise in sales tax collections for all of this year to 4 percent, up from the previous forecast of 1.2 percent.

Cross tabbed to run Buttermilk.

The Aspen Skiing Co. has named Susan Cross as the mountain manager at Buttermilk. Cross has been with the company since 1992, as director of guest services since 1995. As mountain manager, Cross will oversee all day-to-day operations at Buttermilk, working closely with lifts, patrol, ski school, trails and guest services, as well as ESPN as they prepare for the X Games.

BASALT —

Arbany Barn to be Basalt's first museum

The Basalt Regional Heritage Society has spent 10 years raising the roughly \$200,000 needed to restore and remodel the 100-year-old Arbany Barn. With work nearly complete, it will now be home to a living history display and a variety of revolving exhibits on ranching and mining and railroads.

The log structure was used as a horse barn by the Emery Arbaney family, which acquired the land in 1909. The family sold the property in 1973 and the barn ended up on land that became Arbaney Park.

Property values still declining in Eagle County

Officials with the Eagle County assessor's office say their analysis shows that property values in the mid-valley have yet to hit bottom. The Roaring Fork Valley experienced more dramatic increases than the rest of the county in the boom years, and as a result more drastic decreases since the recession hit.

The assessor cited high inventory for the persistent low prices throughout Eagle County.

Permaculture Institute turns 25

The Central Rocky Mountain Permaculture Institute is celebrating its 25th year. The institute is the creation of Jerome Osentowski, who has been involved in growing food in one way or another for three decades. The 1,800-square-foot Phoenix greenhouse, is considered an amazing accomplishment, that makes visitors feel like they're in a tropical jungle.

Basalt sales tax revenues increase in July

Basalt sales tax revenues in July were up 2 percent over the 2010. The town collected \$331,309 in July, compared to \$324,805 the same month last year. For the town's fiscal year to date, December through July, sales tax revenues are down 1.23 percent.

Paper or plastic? Cost to be the same

Basalt Town Council voted 6-1 to impose a fee of 20 cents on plastic and paper bags used at grocery stores, beginning in May 2012. The council took action after the Aspen City Council delayed a vote on the fee to consider an outright ban.

Representatives from Aspen, Basalt and Carbondale had agreed earlier this year on guidelines for instituting a fee, and elected officials in Basalt saw Aspen's delay as violation of those guidelines.

Downvalley —

Garfield County to decide on 366-unit Cattle Creek development

The Garfield Board of County Commissioners will begin review of a proposal to build 366 residential units at the confluence of Cattle Creek and the Roaring Fork River, at what is now being called River Edge.

The Garfield County Planning Commission recommended approval of a portion of the former Sanders Ranch property. Carbondale Investments LLC proposes to use 160 acres of the larger 280-acre ranch to create a mix of single- and multi-family residential units. The land is located between Highway 82 and the Roaring Fork River.

The development would include no more than 30,000 square feet of commercial space. Developers have requested, and the planning commission agreed in its recommendation, to allow the preliminary plan to remain valid for three years before the next stage of development approvals are sought. The county usually only allows one year.

Documents are available on the Garfield County website, www.garfield-county.com.

Wallison development in Carbondale nears approval

An annexation and development plan by developer Frieda Wallison that calls for 45 houses on the 10-acre site along State Highway 133 would include dedication of the 123-year-old Holland-Thompson family farmhouse and about one acre of land as a public museum and park. The house was one of the first structures in the Carbondale area.

Town trustees directed town staff to prepare final documents for approval of the annexation and residential zoning plan.

Carbondale Community Oven grand opening set for Oct. 7

The Carbondale Community Oven project, envisioned two years ago by Mount Sopris Historical Society Director Linda Criswell, has been completed at the town's new park next to Third Street Center. A grand opening celebration, including baked goodies from the oven, is being planned for Friday, Oct. 7.

The oven is an outdoor, wood-fired brick hearth oven in a public place to be shared by members of the community who want to bake bread, biscuits, pizza, cookies, muffin or whatever. It's the same kind of oven used in professional bakeries all over the world.

Grand Avenue Bridge may be replaced or remodeled

The Grand Avenue Bridge in Glenwood Springs has been on the state's list of "functionally obsolete" structures for years because of its narrow driving surface. So a team has been appointed by the Colorado Department of Transportation to determine whether the bridge can be redesigned and remodeled, or needs to be replaced entirely. Actual work on a replacement or redesign is not likely to begin until at least 2014.

Glenwood set to decide chicken policy

Glenwood Springs City Council will decide whether residents can keep chickens in their backyards later this month or next. Every other town in Garfield County permits residents to keep chickens on their private property, under a variety of conditions. Jennifer Vanian, a Glenwood Springs resident recently ticketed for raising chickens in her backyard, asked the council to change the law.

Local organizations point to biomass energy alternative

The Roaring Fork Biomass Consortium, comprised of five local nonprofits, is making the case to use beetle-killed pine trees, food waste, construction waste and other sources of biomass as a potential energy source for this region.

The consortium, formed in May 2010, examined local availability of biomass, available technologies to convert biomass into energy — heat, electricity or both — and whether it can be used locally without doing more harm than good. The goal is a net reduction in greenhouse gases and a net gain in energy production. According to the consortium's findings, biomass makes sense as a heat source, but there isn't enough supply available locally to generate electricity.

Land use reviews trip up bus expansion

Local transportation officials are warning that the lengthy process of local government approvals may delay launch of the Roaring Fork Valley's bus rapid transit (BRT) system beyond its fall 2013 goal. RFTA has yet to obtain approval from Eagle County, the town of Basalt and Pitkin County to build some new stations and park and ride lots through the valley. RFTA also is still working on acquiring land for a handful of their planned BRT stations.

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