



ABOR Observer

MARCH 2012

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.

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CAR and NAR Updates – The Capitol Connection

CAR and NAR Updates—

CAR Opposes Bill To Prohibit the Use of Credit Information By Employers

[SB-003](#), Concerning the Permissible Use of Credit Information by Employers, sponsored by Senator Morgan Carroll (D-Aurora) and Rep. Randy Fischer (D-Ft.Collins), recently passed the Senate. However, the Senate removed language that would have exempted the financial services sector from the prohibition on the use of credit information as part of their consideration when hiring employees. As currently written the prohibition would extend to the real estate industry, meaning no employing brokers would be permitted to use credit information in their hiring process. A person who believes they have been injured by a violation of the prohibition may bring a civil action in court for injunctive relief, damages, or both. REALTORS® informed CAR they believe that using credit information can be beneficial when hiring certain employees, and do not believe government should dictate whether this information is used to hire employees.

Podcast: Get Ready to Rally

NAR Treasurer Bill Armstrong provides highlights of the latest quarterly commercial forecast from NAR. Plus, he discusses a new study on a proposed lease accounting rule that demonstrates the negative impact it would have on the entire economy. Finally, Bill explains that the REALTOR® Rally taking place in D.C. on May 17 isn't just about housing; REALTORS® are also there to remind Congress about how vital commercial real estate is to the economy. [Click here](#) for the full podcast.

HUD Announces Proposed Rule to Reduce Permitted Seller Concessions

This week the US Department of Housing and Urban Development announced a [proposed rule on permitted seller concessions](#) for loans insured by the Federal Housing Administration. This proposed rule is one of three initiatives HUD is undertaking to contribute to the restoration of the Mutual Mortgage Insurance Fund. [Click here](#) to read more.

Colorado Hill Visits at 2012 MidYear Meeting Registration

Registration for NAR's annual MidYear Meeting opened on February 14, 2012. Please make sure you register right away and get your hotel room arranged, as hotels go quite quickly. More information, including how to register, is available on [REALTOR.org](#).

Aspen —

Council set to revise downtown development rules

City Council is in consensus that new regulations are needed to govern the size and mass of new buildings in the downtown core. But that wasn't enough to pass an emergency ordinance that would have significantly lowered building height limits.

Council voted 3-2 on an emergency ordinance to cap building heights downtown at 32 feet, bar construction of new free-market condominiums and increase set back requirements. Four votes are necessary to pass an emergency ordinance, so the measure failed.

Councilmen Derek Johnson and Adam Frisch said they support changes but wanted to use the traditional process for code amendments, with review and recommendation by the planning and zoning commission before they come to City Council.

Feds see habitat protection as main hurdle for hydro plant

A Feb. 10 letter from Federal Energy Regulatory Commission's director of hydropower licensing says the agency did not foresee many complications with the city of Aspen's application to build a new hydroelectric power plant on Castle Creek.

"Based on staff's review, the only significant resource issue associated with this proposal is how changing existing operations to divert more flow for the proposed project would affect Castle and Maroon creeks, including the fishery and stream habitat," the letter states.

In the letter, the agency agreed to an expedited licensing process in reviewing the city of Aspen's proposed hydroelectric plant. The decision allows the city to use materials and studies that have already been submitted.

Little Annie's, Benton Building saved in deal with Aspen Core Ventures

Aspen City Council approved a plan to preserve Little Annie's and the Benton Building in exchange for incentives for a new, mixed use building at the corner of Hyman and Hunter.

Aspen Core Ventures received permission to build a 6,900 square foot penthouse, well in excess of the 2,500 square feet allowed in the land use code, as well as a significant cut in the amount of affordable housing it is required to build. In exchange both buildings will be designated as historic.

The Little Annie's building will be deed-restricted as an "affordable restaurant," meaning he would have to find a similar tenant if the eatery ever left. The Benton Building will be restored to its original form.

Dancing Bear owner to focus on selling Phase One

Randall Bone, chief operating officer of Sunrise Co. that now owns the Dancing Bear across from Wagner Park, says the plan is to market 33 unsold fractional interests in the completed Phase One building. Sales there will determine how soon the company moves to complete Phase Two, the 11-unit, half-finished building on the site of the former Chart House restaurant.

In other news at the Dancing Bear, the homeowners association at the Dancing Bear dropped a lawsuit against the developer and the new owner.

Fox Crossing homes, lots on the auction bloc

Two spec homes and at least one vacant lot in the Fox Crossing subdivision in East Aspen will be sold at auction on March 17. The homes, owned by Fox Crossing Properties, LLC of Alamo, Calif., have never been occupied. One at 5,677 square feet and another at 5,078 square feet are currently listed at \$4.99 million and \$4.29 million, respectively. For more information on the sale, visit www.auctionaspen.com.

Mason Morse building seeks penthouse, historic designation

The owner of the Hyman Avenue building that is home to Coldwell Banker Mason Morse Real Estate wants to add a third-story penthouse to the 41-year-old building in exchange for voluntary historic designation.

The 1971 modernist-style building was designed by Aspen architect Robin Molny, who trained under Frank Lloyd Wright. Owner Mason and Morse, Inc. is proposing to restore the building's facade to its original form with funds raised through

the sale of a 1,900-square-foot penthouse.

A public hearing is scheduled for March 12.

City approves Aspen Walk after more than three years

City Council approved 14 affordable housing units and 12 free market condominiums for the Aspen Walk development, ending a review process that has stretched out for more than three years. The 38,000-square-foot project will be spread between three buildings on two lots, at 404 Park Avenue and 414 Park Circle.

Aspen economy improving

Aspen's economy has strengthened significantly over the last year, according to an analysis of sales taxes receipts. Overall sales tax collections in Aspen were up 7 percent in 2011 compared with 2010. Sales came in especially strong at year's end with December up 13 percent. Lodging taxes in December 2011 were up 15 percent compared to the same month in 2010.

Aspen/Snowmass defies downward trend in bookings

Area hotels and lodges are have experienced improved bookings so far in 2012, bucking the downward trend at other resorts around the state. A survey by Denver-based Mountain Travel Research Program reported resort occupancy levels have fallen 3.7 percent compared with the same weeks last year. But Aspen is up 4.3 percent Snowmass is up 8.8 percent in 2012.

Aspen now in same climate and plant zone as Rifle

The U.S. Department of Agriculture reclassified Aspen into the same climate and plant hardiness zone as Carbondale and Rifle. The agency uses 13 zones, based on average minimum winter temperature between 1976 and 2005, to guide farmers and gardeners in selecting plants that are suitable for their region.

Aspen had previously been in zone 3, with low temperatures between minus 30 and minus 40 degrees. It is now in zone 5, with temperatures rarely dipping below 10 to 15 degrees below zero.

New restaurant envisioned for 129 year old home

The Hillstone Restaurant Group of Beverly Hills has applied to convert the historic A.G. Sheppard house at the corner of Hopkins Avenue and Monarch Street into a restaurant. Hillstone has developed restaurants in Denver, East Hampton and Palm Beach. The one-time miner's cabin, now used as office space, was built in 1883.

Frontier ending service to Aspen

Frontier Airlines' decision to end Aspen service in April eliminates 16 percent of the commercial airline seats coming into Aspen. Frontier has provided four flights daily in winter and summer, and one during off-season.

Snowmass Village —

Westin construction timeline protects summer events

Snowmass Village officials took steps last month to ensure that work to transform the Silvertree Hotel to the Westin Snowmass Resort doesn't interfere with popular events this summer and fall.

Town Council approved a construction timeline that prohibits noise-generating construction activity and right-of-way work from "negatively impacting known special events."

The timeline is designed to calm construction activity during 13 major events, including Jazz Aspen Snowmass Labor Day Festival, Chili Pepper & Brew Fest, Thursday night concerts and the USA Cycling Pro Ultra Endurance event.

Hypo files another lawsuit against Related

Hypo Real Estate Capital Corp. filed a \$368 million lawsuit against Base Village Owner, a subsidiary of Related Westpac and former developer of Base Village. Hypo and its partners allege the developer has not paid back the majority of \$520 million in loans.

County, banks dispute value of Viceroy, Base Village properties

The banks that own Base Village and the Pitkin County assessor are vying in front of a state review board over \$94 million in a dispute over property tax assessments, primarily at the Viceroy Hotel.

The assessor's office values the hotel's condos and its commercial spaces at \$111,543,000, based on sales of comparable ski-in, ski-out condos in Snowmass during 2009 and the first half of 2010. The banks, however, say those spaces are only worth \$23 million.

The difference is based on how the two sides view the condominiums at the Viceroy. The county reasons that since the condos are individually platted and registered with the town of Snowmass Village, they should be valued like other condominiums. But the banks maintain the units are worth what they can generate when being used as hotel rooms and should be valued based on an "income" approach.

Basalt —

Basalt amends code to allow chickens

The town of Basalt officially is now welcoming chickens in town. Homeowners may keep up to six of the birds. Coops must be set back at least 20 feet from neighboring living spaces. Electrical fencing of up to 2,000 volts is allowed to discourage predators.

Wildlife officer pleads for closures on midvalley lands

Colorado Division of Parks and Wildlife ranger Kevin Wright gave an impassioned presentation in Basalt last month in favor of winter closures in the Crown, Light Hill and Arbaney-Kittle. He said deer and elk herds are in bad shape, and the closure would give animals needed refuge.

A draft of the Bureau of Land Management' new plan for administering half-million acres across six counties, including 27,490 acres in Pitkin County, calls for partial closures in those areas from December through the end of April. Mid-valley residents have protested the plan.

Basalt resists endorsement of El Jebel intersection

Basalt Town Council declined to endorse Eagle County's preferred alternative for improving a major intersection in El Jebel.

The county wants to relocate a section of Valley Road through Crown Mountain Park, south of the Eagle County community center. County officials say the redesign is needed to improve traffic flow for anticipated development.

Basalt town council members were concerned about losing park land to a road, and pointed out the lack of pedestrian and bicycle access.

Pitkin County —

Pitkin County building permits near 20-year low; Aspen sees growth

Construction activity picked up steam in Aspen last year, while it continued to slide in unincorporated Pitkin County to one of the lowest levels in two decades.

Pitkin County issued 79 residential construction permits in 2011, worth \$68.9 million, plus 29 nonresidential projects worth \$7.7 million.

The number of residential building permits issued annually by the county has dropped below 100 only twice since 1992, in 2009 and last 2011. During the peak years of the building boom the county typically issued more than 200 residential

permits each year.

The city of Aspen issued 628 building permits — 339 commercial and 289 residential — in 2011 worth a total of \$134.9 million. In 2010, the city issued 622 permits worth \$70.2 million. The jump in overall project value reflects the Aspen Valley Hospital expansion, which accounts for \$52 million of last year's total.

Historic ranch home may be refurbished if county lifts affordable housing restriction

Owl Creek Ranch homeowner James Gordon is offering to restore a historic ranch house off Owl Creek Road that was built by William E. Stapleton in 1913.

But before he does, Gordon wants the county to eliminate a deed restriction that requires the house and surrounding five acres be used for affordable housing. He is offering to pay \$489,525 into in lieu, or to acquire a condominium in the area as a replacement for the lost potential.

Gordon also wants approval for a 5,750 square-foot free market residence. The refurbished Stapleton house would be used as a caretaker or guest residence.

Thompson Divide Coalition offers \$2.5 million to buy down gas leases

In a Feb. 21 letter of intent, the Thompson Divide Coalition says it is willing to reimburse natural gas leaseholders for any direct investments of public record, estimated at \$2.5 million, in the Thompson Divide area.

The coalition, comprised of ranchers, residents, environmentalists and business owners, is working to protect 220,000 acres of public land between Carbondale, Redstone, Glenwood Springs and the rural area south of Silt.

A deal would require federal legislation withdrawing the compensated leases and barring future energy development on the land.

Morris & Frywald, Chaffin Light announce merger

Two of the Roaring Fork Valley's largest real estate firms, Morris & Fyrwald Sotheby's International Realty and Chaffin Light Real Estate announced their merger last month. The new company will be called Aspen Snowmass Sotheby's International Realty and will operate eight offices in the valley.

County wants to keep USFS parcel in public hands

Pitkin County is lobbying the U.S. Forest Service to keep an acre of land behind its Aspen ranger office and visitor center in public hands. The County is hoping that the USFS will sell the property to either the city or county, although Aspen City Council has shown no interest in getting involved.

Gould, local subcontractors to build RFTA upgrades

Glenwood Springs-based Gould Construction will build new bus stations and park-and-ride lots as part of extensive service upgrades under way by the Roaring Fork Transportation Authority. The company's \$13.77 million bid beat out two other firms from Denver. About \$9 million of that will be spent on local subcontractors.

Cell service on tap at Sundeck

Subscribers of Verizon and AT&T cell phone service can now get a signal at the Sundeck Restaurant and the Aspen Mountain Club. Antennas were added after customers at the private club complained about the lack of service.

Glenwood Springs —

BLM reviewing gas lease at edge of neighborhood

Residents of the Oak Meadows neighborhood along Four Mile Road are alarmed over news that a major natural gas lease application in the Thompson Divide area includes land in their subdivision.

Houston-based SG Interests has sought approval from the Bureau of Land Management (BLM) to unitize 18 gas leases across 32,00 acres, which includes land in the Four Mile area. Unitization would allow the company to develop one producing well and secure future development of all 18 leases in the unit. Most of the leases are set to expire in 2013.

The Oak Meadows Service Co., which provides water and sewer services to the subdivision, is worried that drilling could pollute the subdivision's water supply, which comes from two springs within feet of the boundary of the drilling unit.

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