

# EXHIBIT C

5-29-96

**COMMITMENT FOR TITLE INSURANCE  
ISSUED BY**

S-17511

**PREPARED FOR:**

Mountain Express Mortgage  
1790 Bonanza Suite B-215  
Park City, Utah 84060  
Attn: Lisa



*Sanctity of Contract*

cc: ✓ Skip Mount  
P.O. 3802  
Park City, Utah 84060

cc:

**STEWART TITLE  
GUARANTY COMPANY**

STEWART TITLE GUARANTY COMPANY, A Texas Corporation, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

Signed under seal for the Company, but this Commitment shall not be valid or binding until it bears an authorized Countersignature.

IN WITNESS WHEREOF, Stewart Title Guaranty Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.

**STEWART TITLE  
GUARANTY COMPANY**



*Sanctity of Contract*

*Stewart Morris Jr.*  
Chairman of the Board

*Malcolm S. Morris*  
President

Countersigned by:

*William E. Buchanan*  
Authorized Signatory

HIGH COUNTRY TITLE  
Company

PARK CITY, UTAH  
City, State

Please direct inquiries to:  
J. Scott Buchanan, Title Officer  
(801)649-8777

High Country Title  
1729 Sidewinder Drive  
PO Box 714  
Park City, Utah 84060  
Fax No. (801)649-4839

## CONDITIONS AND STIPULATIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions, the Conditions and Stipulations, and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

## **STEWART TITLE** GUARANTY COMPANY

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252.

SCHEDULE A

05/29/96 dg

Order No.: S-17511

1. Effective date: 05/28/96 at 8:00 AM

2. Policy or Policies to be issued:

X (a) A.L.T.A. Owner's	Amount of Insurance
	\$ 50,000.00
	Premium \$ 380.00

Proposed Insured:

George Mount

X (b) A.L.T.A. Mortgagee's Additional	Amount of Insurance
	\$ 50,000.00
	Premium \$ 228.00

Proposed Insured:

Mountain Express Mortgage, its successors and/or assigns

\$

(c) Leasehold

Proposed Insured:

\$

3. The estate or interest in the land described or referred to in this Commitment and covered herein is: Fee Simple

4. Title to the said estate or interest in said land is at the effective date hereof vested in:

Earl G. Bain, Trustee of the Earl G. Bain Trust dated September 12, 1990 and Lora T. Bain

5. The land referred to in this Commitment is described as follows: Summit County, Utah Lots 42 and 43, Block 2, SILVER CREEK ESTATES, UNIT "I", according to the official plat thereof, recorded March 3, 1965 as Entry No. 100552 of the official records in the office of the Summit County Recorder.

Address: 462 East Earl Street  
Park City, Utah 84098

SCHEDULE B  
SECTION 2

Order Number: S-17511

The policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company:

(Items 1, 2, 3, 5, & 6 below to be waived on additional coverage policy)

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public record.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or materials heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Taxes for the year 1996, now a lien, not yet due or payable. Taxes for the year 1995, have been paid. (Serial No. SL-I-2-42-43) (1995 Tax Amount \$252.84)
8. Said property lies within the boundaries of Snyderville Basin Sewer Improvement District and is subject to any and all charges and assessments thereof.
9. Said property lies within the boundaries of The Snyderville Basin Special Recreation District and is subject to any and all charges and assessments thereof.
10. Said property lies within the boundaries of Summit County Special Service District No. 1 and is subject to any and all charges and assessments thereof.
11. Said property lies within the boundaries of Summit County Service Area # 3 and is subject to all charges and assessments thereof, and is further subject to all of the terms, conditions, restrictions and provisions contained in any ordinances adopted by said Summit County Service Area #3.
12. Declaration of Reservations and Protective Covenants recorded March 3, 1965 as Entry No. 100553 in Book 6A at Page 443 of the Official Records, reference to which is hereby made for the particulars.

Amendment to Reservations and Protective Covenants contained in that certain Notice recorded February 1, 1977 as Entry No. 136544 in Book M90 at Page 796 of the official records, reference to which is hereby made for the particulars.

13. Reservations on the recorded plat set forth as follows:

(Continued)

SCHEDULE B, Special Exceptions, Continued

"County accepts no responsibility for maintenance for roads until formally dedicated and accepted by the County."

14. Reservations contained in mesne deeds of record, set forth as follows:

"EXCEPTING all oil, gas and hydrocarbons and all minerals of every kind, nature and description in, on or under said real property."

15. Easement and Right of Way for Earl Street over, along and across the Southerly 30 feet and Easement for public utilities over, along and across the Northerly, Easterly and Westerly 10 feet as shown on the recorded plat of Silver Creek Estates, Unit I.

16. Subject to the following Notes set forth on the recorded plat:

The following uses shall be permitted for designate lots:

Light Industry: Block 1, Lots 1 thru 14, inclusive and Parcel A.

Commercial: Block 2, Lots 1 and 30 thru 45, inclusive.  
Block 4, Lots 1 thru 16, inclusive.  
Block 7, Lots 1 thru 14.  
Block 8, Lots 1 thru 8.  
All of Block 9.

Multiple Dwellings: Block 2, Lots 2 thru 29.  
Block 5, Lots 1 thru 9.  
Block 6, Lots 1 thru 4.

Apartments and Professional: Block 3, Lots 1 thru 7, inclusive.

17. The interest, if any, of George Mount, as created by that certain option executed by Earl G. Bain in favor of George Mount dated February 14, 1994 and recorded February 17, 1994 as Entry No. 398265 in Book 787 at Page 430 of the Official Records.

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SCHEDULE C

Order Number: S-17511

The following requirements must be met and completed to the satisfaction of the Company before its policy of title insurance will be issued:

1. Show that restrictions or restrictive covenants have not been violated.
2. Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest, mortgage or lien to be issued.
3. Furnish proof of payment of all bills for labor and material furnished or to be furnished in connection with improvements erected or to be erected.
4. Pay all general and special taxes now due and payable including the following:  
( ) Record instrument conveying or encumbering the estate or interest to be insured, briefly described:

Good and sufficient Trust Deed in favor of Proposed Insured lender.

Good and sufficient conveyance in favor of Proposed Insured purchaser.

Judgments have been checked in the names of George Mount, Earl G. Bain, Trustee, and Lora T. Bain, and none have been found.

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**NOTICE TO APPLICANT:** If you require copies of any documents identified in this commitment for title insurance, the company will furnish the same upon specific request, either free of charge or for the actual cost of duplication for those copies requiring payment by the Company to obtain.

**NOTICE TO APPLICANT:** The land described in this Commitment may be serviced by services provided by Cities, Towns, public utility companies and other firms providing municipal type services which do not constitute liens upon the land and for which no notice of the existence of such service charges are in evidence in the Public Records. The applicant should directly contact all entities providing such service and make the necessary arrangements to insure payment for such services and continuation of services to the land.

# EXHIBIT D



Kimber Gabryszak, AICP  
County Planner III

## Memorandum

**From:** Kimber Gabryszak  
**To:** Snyderville Basin Planning Commission (SBPC)  
**Date:** Wednesday, August 8, 2012  
**Meeting:** Tuesday, August 14, 2012  
**Re:** Silver Creek Unit I - rezone  
**Type of item:** Work Session

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### Background

The Silver Creek development is located north of the junction of Interstate 80 and US Highway 40. The development was recorded in phases, with the multiple subdivision plats being identified by letters (Unit A, Unit B, etc.). The Silver Creek plats were recorded prior to the 1977 establishment of zoning in Summit County. As there was no zoning in place, the plats were legally recorded and the parcels created are considered to be legal lots with building rights.

\* Silver Creek Unit I (Unit I) was recorded in March, 1965. Unit I differed from the other Silver Creek plats in that it was intended for more intense residential, commercial, and industrial uses. As these uses were referenced in a note on the subdivision plat, it was the practice of the County for many years to recognize the uses on the plat even though the underlying zoning of the area was for residential use only. As a result, many of the lots in Unit I have been developed for commercial uses.

### Plat I Uses

Unit I is divided into Blocks, and the plat identifies the uses permitted for each block, referencing a set of CC&Rs.

- Light Industry: Block 1, Lots 1 thru 14 incl. & Parcel 'A'
- Commercial: Block 2, Lots 1 and 30 thru 45 incl.  
Block 4, Lots 1 thru 16 incl  
Block 7, Lots 1 thru 14  
Block 8, Lots 1 thru 8  
All of Block 9
- Multiple Dwellings: Block 2, Lots 2 thru 29  
Block 5, Lots 1 thru 9  
Block 6, Lots 1 thru 4
- Apartments and Professional: Block 3, Lots 1 thru 7 incl.

In the review of applications for commercial or multi-family uses, Staff reviews the proposed use against specific uses that are listed in the CC&Rs for the plat (attached). Many of these uses are outdated; however, Staff does not have the ability to switch to the current development code.

### Recent changes and confusion

Just over a year ago, a property owner requested an opinion from the Office of the Utah Property Rights Ombudsman to verify that the plat note had vested the uses. In response, the Ombudsman's office issued a letter to the effect that the County does not have the authority to uphold the plat's uses, and that the County should apply County zoning to any future applications for development. As a result, the County practice changed: all new development applications are subject to the zoning in place at the time of application, which at this time is Rural Residential (RR).

Community Development Department  
Planning Division  
Summit County Courthouse, 60 N. Main St., P.O. Box 128, Coalville, Utah 84017  
Phone (435) 615-3132 Fax (435) 615-3046  
kgabryszak@summitcounty.org

The RR zone does not allow many commercial uses. More property owners began requesting Ombudsman's opinions for their individual lots based on their reliance on the plat note; the Ombudsman has since determined that the plat's uses shall be permitted in instances where an equitable estoppel claim could apply, aka where property owners have relied upon the plat note and moved forward to their detriment. An example would be a lot owner that obtained a grading permit for a commercial use, but had not yet moved forward with a permit for the commercial use itself.

The additional Ombudsman opinions led to several vested rights determination applications, and are allowing additional property owners to move forward with commercial uses. From conversations with other property owners, it is apparent that more vested rights claims will be submitted.

### Rezone application

In the midst of these changes, Staff received an application for a rezone on two of the lots in Unit I, initially to the Service Commercial zone then modified to the Community Commercial zone. The owners of lots 11 and 12 felt that the County's changing practice regarding the applicability of the plat's uses was too unreliable, and requested a zone change to guarantee that their commercial uses would continue to be conforming and so that they could change uses to other commercial uses in the future.

### Comprehensive rezone

Staff began review of the rezone application for Lots 11 & 12, and determined that the best course of action would be to consider the entire plat as a whole based on the following reasons:

- the plat has been treated as commercial for most of its history;
- many lots have been developed as commercial so the area is commercial in nature;
- for long-range planning the location may be appropriate for commercial development more than residential development based on access, freeway noise, interchange capacity, topography, and existing commercial uses; and
- the continuing applications for vested rights determinations and Ombudsman opinions may result in a leapfrog pattern of development, making the application of the RR zone to all other lots impractical.

### Recommendation

Staff has prepared a map (Exhibit E) showing the various blocks in Unit I and the uses for which they are designated on the plat. **Staff recommends that the SBPC discuss the following rezone approach:**

- Based on the development of most multiple dwellings (orange) and apartments/professional (peach) lots as single family homes, Staff recommends that these be subject to the RR zone.
- Based on the inappropriate location, access issues, and presence of sensitive lands, Staff recommends that the area designated as industrial (purple) be subject to the existing RR zone.
- Based on the development of many of the commercial lots for commercial use, the ongoing applications for vested rights determinations on other commercially designated lots, and the compatibility of most developed lots with uses permitted in the Community Commercial (CC) zone, Staff recommends that the area designated for commercial (red) be rezoned to CC.

### Exhibits

- A. Location (page 3)
- B. Current zoning (page 4)
- C. Original Silver Creek Unit I Plat (page 5)
- D. Unit I CC&Rs (pages 6-13)
- E. Uses as designated on the plat (page 14)



Exhibit G

Plat allowed uses

Apartments

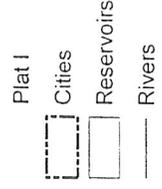
Professional Office

Civic Center

Multiple Dwellings

Commercial

Light Industry



Summit County, Utah  
Vicinity Map

Prepared by Summit County  
Community Development Department

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# EXHIBIT E



Kimber Gabryszak, AICP  
County Planner III

## Staff Report

**From:** Kimber Gabryszak, AICP  
**To:** Snyderville Basin Planning Commission (SBPC)  
**Date:** Wednesday, September 5, 2012  
**Meeting:** Tuesday, September 11, 2012  
**Re:** Silver Creek Unit I - rezone

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**Executive Summary:** the Silver Creek Estates Unit I Subdivision Plat was recorded in 1965 with certain allowed uses listed in a plat note. Over the years, various interpretations of how that note interacted with underlying County zoning have led to inconsistent development in the area.

Due to the development of a significant portion of the subdivision plat for commercial use, as well as pending applications for vested rights determinations for other commercial uses, Staff has suggested that a rezone of portions of the plat to the Community Commercial zone may be appropriate.

### A. Project Description

- **Project Name:** Silver Creek Estates Unit I Rezone
- **Applicant(s):** Summit County
- **Type of Process:** Legislative
- **Type of meeting:** Work Session
- **Future routing:** SBPC public hearing(s) and recommendation;  
Summit County Council (SCC) work session(s) & hearing(s)
- **Property Owner(s):** Multiple
- **Location:** Silver Creek Estates, north of I-80 / US 40 intersection
- **Zone District & Setbacks:** Current: Rural Residential (RR)   
Proposed: Community Commercial (CC) and RR 
- **Adjacent Land Uses:** Vacant; Residential
- **Existing Uses:** Commercial; residential; vacant
- **Parcel Number and Size:** SL-I-parcel, all

### B. Background

The Silver Creek development is located north of the junction of Interstate 80 and US Highway 40. The development was recorded in phases, with the multiple subdivision plats being identified by letters (Unit A, Unit B, etc.). The Silver Creek plats were recorded prior to the 1977 establishment of zoning in Summit County. As there was no zoning in place, the plats were legally recorded and the parcels created are considered to be legal lots with the associated right to develop.

Silver Creek Unit I (Unit I) was recorded in March of 1965. Unit I differed from the other Silver Creek plats in that it was intended for more intense residential, commercial, and industrial uses. As these uses were referenced in a note on the subdivision plat, it was the practice of the County for many years to recognize the uses on the plat even though the

The additional Ombudsman opinions led to several vested rights determination applications, and are allowing additional property owners to move forward with commercial uses. From conversations with other property owners, it is apparent that similar claims will be submitted.

### **Rezone application**

In the midst of these changes, Staff received an application for a rezone on two of the lots in Unit I, initially to the Service Commercial zone then altered to a request for the Community Commercial zone. The owners of lots 11 and 12 in Block 7 felt that the County's changing practice regarding the applicability of the plat's uses was too unreliable, and requested a zone change to guarantee that their commercial uses would continue to be conforming, to obtain a commercial use on one as-yet undeveloped parcel surrounded by commercial uses, and to enable them to change to other commercial uses in the future.

### **Comprehensive rezone**

Staff began review of the rezone application for Lots 11 & 12, and determined that the best course of action would be to consider the entire plat as a whole instead of only the two lots, for the following reasons:

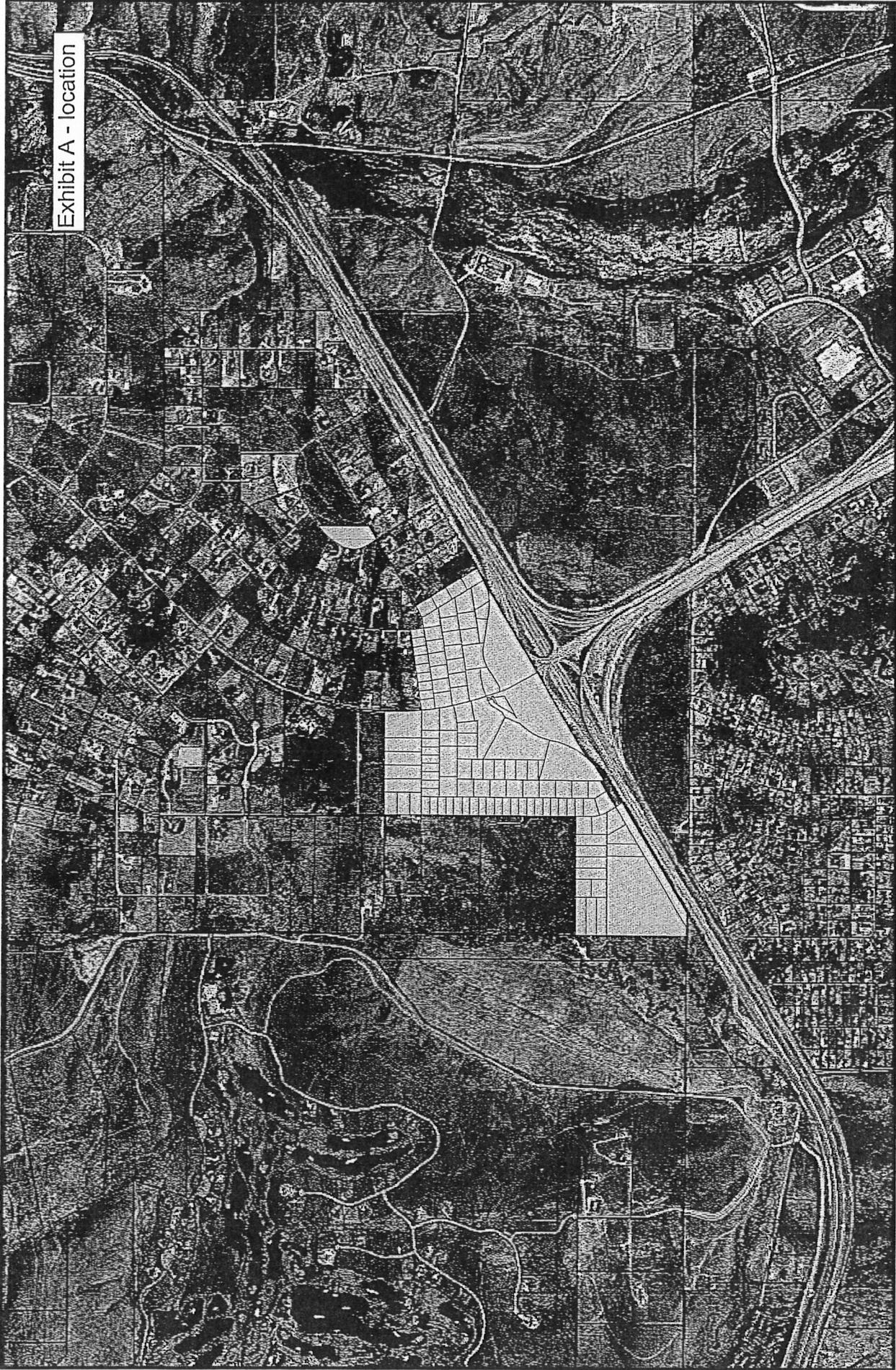
- the plat has been treated as commercial for most of its history;
- many lots have been developed as commercial so the area is commercial in nature;
- for long-range planning the location may be appropriate for commercial development more than residential development based on access, freeway noise, interchange capacity, topography, and existing commercial uses; and
- the continuing applications for vested rights determinations and Ombudsman opinions may result in a leapfrog pattern of development, making the application of the RR zone to all other lots impractical.

### **Service Provider Review**

Staff presented the rezone to a joint meeting of service providers on August 20, 2012. At that meeting several service providers provided input:

- **Snyderville Basin Water Reclamation District (SBWRD):** The nearest trunk line is more than two thousand feet (2000') away; cost to extend service is extreme. Development will have to pay for extension, or develop on septic tanks.
- **Questar:** Has a trunk line and can service development in the area.
- **Snyderville Basin Special Recreation District:** Would like to see connection via trail or commuter path from Bitner to Silver Creek.
- **Mountain Regional Water:** Service doesn't cross under I-80; must be serviced by local water company via Service Area 3.
- **Service Area 3:** Significant concerns.
  - Most concern to the west of Silver Creek Road due to infrastructure and wetlands.
  - Can't continue to support potential level of development on septic tanks.
  - Only one (1) access point is an issue.
  - Wetland drainage and impacts are also concerns.

Exhibit A - location



Page 5 of 20

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-  Plat I
-  Cities
-  Reservoirs
-  Rivers

# Summit County, Utah Vicinity Map

Prepared by Summit County  
Community Development Department



Exhibit B - zoning



0 0.15 0.3  
Miles



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Summit County, Utah  
Vicinity Map

Prepared by Summit County  
Community Development Department



CURVE	RANGE	LINE
1	3119.21	A
2	1257.25	
3	4494.56	
4	6550.03	
5	5409.57	
7	03059.45	
8	07831.28	
9	23056.19	

NOTES:  
 ALL LOTS ABUTTING ON SILVER CREEK ROAD GRANT 50' EASEMENT FOR THAT ROAD.  
 LOTS GRANT 30' EASEMENTS FOR INTERIOR ROADWAYS ON WHICH THEY ABUT.  
 10' EASEMENTS ARE GRANTED ADJACENT TO ALL LOT LINES NOT ABUTTING ON ROADWAYS OUT DE SAC. ARE 60' RADIUS AND EASEMENTS ARE PROVIDED THEREFORE.  
 LOT DIMENSIONS ARE TO CENTER OF ROADWAYS.  
 ALL WATER RIGHTS RESERVED BY OWNER.

The following uses shall be permitted for designate lots.

- Light Industry: Block 1, Lots 1 thru 14 incl. & Parcel A
- Commercial: Block 2, Lots 1 and 30 thru 45 incl.  
 Block 4, Lots 1 thru 16 incl.  
 Block 7, Lots 1 thru 14  
 Block 8, Lots 1 thru 8  
 All of Block 9
- Multiple Dwellings: Block 2, Lots 2 thru 29  
 Block 5, Lots 1 thru 9  
 -Block 6, Lots 1 thru 4

Apartment's and Professional: Block 3, Lots 1 thru 7 incl.

COUNTY SURVEYOR'S CERTIFICATE

HEREBY CERTIFY THAT I HAVE HAD THIS PLAT AND SAID TRACT, AS STAKED, EXAMINED BY THIS OFFICE, AND IT IS CORRECT AND IN ACCORDANCE WITH INFORMATION ON FILE IN THIS OFFICE.

DATE \_\_\_\_\_

\_\_\_\_\_ COUNTY SURVEYOR

APPROVAL AS TO FORM

APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 19 \_\_\_\_\_

\_\_\_\_\_ COUNTY ATTORNEY

COUNTY PLANNING  
 APPROVED THIS \_\_\_\_\_ COUNTY  
 THE \_\_\_\_\_

PRESENTED BY  
 25 D  
 SUBDIVISION

ATTEST: \_\_\_\_\_